

CARDOZO LAW INSTITUTE *in Holocaust and Human Rights*

Spring 2021 Newslettter



CLIHHR Founder Professor Richard H. Weisberg Assuming Emeritus Status in Spring 2021

Richard H. Weisberg, the Walter Floersheimer Professor of Constitutional Law at Cardozo School of Law, announced that he will retire from teaching at the end of this semester after a long and distinguished career as a professor of law, program director and world-renowned scholar. He is widely praised for his legal scholarship and litigation on behalf of victims of the Holocaust and their heirs, and for providing a measure of justice for World War II victims of anti-Semitism.

A longtime member of the Cardozo faculty, he was an inaugural co-director of the Floersheimer Center for Constitutional Democracy, established in 2000 by Dean Paul Verkuil. The Center is the law school's hub for scholarship, symposia and events that advance the functioning of constitutional democracies in the United States and abroad. Under Dean David Rudenstine's tenure, Richard also founded the Cardozo Law Institute in Holocaust and Human Rights, formerly the Holocaust, Genocide and Human Rights Program. Some of the unclaimed funds awarded to victims of banks that liquidated Jewish assets during World War II, cases in which Richard was instrumental, were granted to Cardozo to establish the Institute.

Richard's scholarly research and litigation work advanced Jewish restitution claims in Europe, establishing Richard as a leading legal authority in the field. His work advanced Cardozo's early reputation for its leading global center for the study, teaching, and promotion of human rights and the Holocaust. President Barack Obama appointed Richard to the Commission on the Preservation of America's Heritage Abroad, recognizing him for his work as a legal scholar and litigator on behalf of Holocaust survivors and their looted art and possessions. Richard received the French Legion of Honor in 2008 by then President Nicholas Sarkozy in recognition of his work uncovering the insidious inner workings of French banks during the Holocaust. He was also recently honored with the Monrad Paulsen Award at Cardozo's Commencement on June 1 2021. The award is given each year to a member of the faculty or administration or to an individual who has provided devoted service to the continued vitality of the ideals and purposes of legal education, in memory of Cardozo's founding Dean, Monrad Paulsen.

Case Dismissed Against Trump Administration's ICC Executive Order

Professor Gabor Rona, Director of CLIHHR's Law and Armed Conflict Project, was one of four law professors, along with the Open Society Justice Initiative, who challenged the Trump Executive Order that designated the International Criminal Court's (ICC) prosecutor as a threat to U.S. national security and established criminal and civil sanctions against those who cooperate with the prosecutor. The Biden Administration rescinded the Executive Order, prompting Gabor and the other plaintiffs to dismiss the case. Prior to the dismissal, the plaintiffs' motion for a preliminary injunction against enforcement of the Executive Order on the grounds that it interfered with the plaintiffs' First Amendment rights was granted in January 2021. The other plaintiffs in the case were Prof. Diane Marie Amann of the University of Georgia School of Law, Prof. Milena Sterio of Cleveland-Marshall College of Law, and Prof. Margaret DeGuzman of Temple Law School. The plaintiffs were represented by a team of lawyers at Foley Hoag, LLP, led by Andrew Lowenstein.



Clinic Student Awarded Excelsior Fellowship



Jessie Shaw was selected as a New York State Excelsior Fellow. The Fellowship provides recent graduates the opportunity to advance large policy initiatives for the New York State government working in an executive-branch agency. Jessie's placement is with the Department of Public Service, working in energy and environmental law furthering the State's clean energy initiatives. Through her experience with the Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic, Jessie was driven to obtain a post graduate position working in government which would allow her to advance environmental justice initiatives through public policy. She is deeply honored for the opportunity to participate in the NYS Excelsior Fellowship program.

Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic Project Success



Alexandria Becker ('22) and **Fernanda Canessa ('22)** assisted international criminal law and gender expert Patricia Viseur Sellers to produce an expert report to support the Inter-American Commission on Human Rights in the Inter-American Court of Human Rights case Jineth Bedoya Lima and other v. Colombia. The expert report analyzed the intersection of gender, sexual violence, torture, and freedom of expression in the context of the Colombian state's due diligence obligations toward female journalists. The Inter-American Commission submitted the expert report to the Inter-American Court which used the report in the course of the hearing that took place March 15-17, 2021. Watch the hearing (in Spanish) [here](#).



Khensani Mathebula ('22) and **Ameen Khdair ('22)** supported Sadhana Mahila Sangha (Sadhana) in composing a submission to the United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences. Sadhana, a feminist advocacy NGO based in Bangalore, initiated this report to highlight both the gender-based and sexualized violence that afflicts sex workers in India. Khensani and Ameen led interviews with the Directors and members of Sadhana, who detailed not only harrowing stories of abuse, but also spoke to the impunity with which both State and private actors perpetrated such violence. Drawing on numerous interviews and extensive research, they drafted a 50-page report that was used as the basis for this submission. Their writing analyzed India's domestic law with a focus on the mission and impact of the Immoral Traffic Prevention Act (ITPA), and advocated for reform to bring the law into alignment with international human rights law standards. Read the report [here](#).



Carse Ramos ('12) Joins CLIHHR as Consultant



Carse Ramos ('12) is a research consultant for the Confronting Structural Violence: Law Teaching Guides Project. Having been involved off and on since the project's inception in 2016, she is currently gathering information from professors on how the guides are used, improvements to be made, and ideas for future directions in order to increase the awareness of the guides. Additionally, Carse is drafting additional guides. She is an Assistant Professor at Rhode Island College, where she teaches in Sociology and Justice Studies. Carse is also currently writing a book on how socialization processes are introduced into and discussed by parties at the International Criminal Court, focusing particularly on the recent trial of Dominic Ongwen. She looks at the Court's potential to delineate victim-perpetrator categories and to reinforce or challenge legally-acceptable parameters and narratives of victimhood.

CLIHHR Hosts First HRAP Clinic Alumni Chat Series

To provide more networking and professional development opportunities for the Clinic's students, CLIHHR organized five conversations with various alumni throughout the Spring 2021 semester. Alumni shared their career paths, professional advice, and tips for how to look for a job both during the COVID-19 pandemic and in general.

Many thanks to our amazing alumni for sharing their time and expertise!



- Ali O'Brien ('16)
- Yonah Diamond ('16)
- Ryan Lavigne ('17)
- Shoshana Smolen ('14)
- Gabriela Y. Gonzalez ('15)

Spring 2021 Events



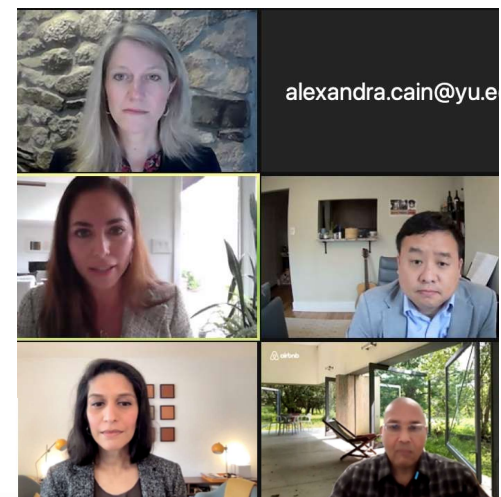
On February 3, 2021, CLIHHR hosted “The Folly of U.S. Sanctions against the International Criminal Court (ICC)” with Gabor Rona (Benjamin N. Cardozo School of Law); Betsy Apple (Open Society Justice Initiative); Andrew Loewenstein (Foley Hoag); Adam Smith (Gibson, Dunn and Crutcher); and Beth Van Schaack (Stanford Law School). The panel focused on the role of the ICC, sources of its legitimacy, and history of U.S. engagement with the ICC. It also discussed the scope of the sanctions regime that the Trump Administration imposed on the ICC and those who work with the ICC’s prosecutor, the basis of the case against the previous administration, that is now dismissed.

On February 26, 2021, CLIHHR hosted a panel on the United States Commission on International Religious Freedom’s (USCIRF) new report *Violating Rights: Enforcing the World’s Blasphemy Laws* and the film *Blasphemy* by Moses Znaimer and Martin Himel. Panelists discussed how blasphemy laws are fundamentally flawed as they protect religious establishments and violate freedom of expression. The *Violating Rights* report, co-authored by CLIHHR’s Director Professor Jocelyn Getgen Kestenbaum and Joelle Fiss, found that 84 countries have blasphemy laws on the book and that there were 732 reported blasphemy-related incidents from 2014–2018. Znaimer and Himel’s *Blasphemy* film explores the negative consequences of blasphemy laws, such as those of panelist Shaan Taseer whose father Salman Taseer, former Punjabi governor, was killed for defending someone accused of blasphemy.



On April 12, 2021 CLIHHR hosted “100 Days of Dissent: Unpacking the Ongoing Farmers’ Protests” with Jasjit Singh (California Change Lawyers) and Vinay Sreenivasa (Alternative Law Forum). The panel discussed how Indian farmers are organizing against three new laws passed by the Indian government in September 2020 that disregard state subsidies for farmers and allow large companies to take over more land. Singh and Sreenivasa also discussed increasing debt and suicide among farmers and the history of state violence against the Sikh community, which is disproportionately impacted by these laws.

On April 21, CLIHHR hosted “Mass Incarceration in New York: Creating Meaningful Reform.” Professor Kathryn Miller (Benjamin N. Cardozo School of Law) moderated the panel. Stephen Chu (Office of the Appellate Defender), Anthony Dixon (Parole Preparation Project), and Insha Rahman (Vera Institute for Justice) spoke about mass incarceration in New York. The state has the second largest incarcerated population, behind California, and has one of the highest populations of elderly inmates. Panelists discussed the Cuomo administration’s failures to grant clemency, implement much needed reforms on parole, and take important safety measures to keep inmates safe during the COVID-19 pandemic. They also spoke about current legislation being considered by the New York State Senate including the “Fair and Timely Parole Act” and “Elder Parole Bill”.



Clinic Alumni Spotlight: Shoshana Smolen ('14)



After the Darfur Genocide began, Shoshana Smolen developed a strong interest in human rights and genocide prevention. At Cardozo, she was a student fellow with CLIHHR and then participated in the Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic. Shoshana currently works as the Director of Immigrant Eligibility and Access at the NYC Human Resources Administration.

How would you describe your experience with the HRAP Clinic and CLIHHR?

My experience working with CLIHHR was the highlight of my law school experience. As a 2L, I worked as a student fellow with the program, putting on a series of lunchtime lectures and evening panel programs, and assisting with the Preventing Genocide Conference which drew over 200 participants and experts. As a 3L, I was able to join the clinic and work on a human rights project for the Office of the UN Special Adviser on the Prevention of Genocide as well as assist a client through her affirmative asylum proceedings. Both of these experiences were unparalleled and helped me build a strong foundation with important connections within the human rights field that I have drawn upon ever since. In addition, the Clinic exposed me to a world of asylum and immigration law with which I had not previously been familiar, and has since heavily influenced my career and focus of my work.

Tell us about your work as the Director of Immigrant Eligibility and Access at NYC Human Resources Administration.

As Director of Immigrant Eligibility and Access, my primary responsibility is to oversee the provision of benefits to non-citizen New Yorkers, making sure that those non-citizen clients receive the benefits for which they are eligible. This involves overseeing a team that reviews client documents and determines benefits eligibility. In addition, I provide policy updates and advise on policy changes that need to be made within the agency to better assist non-citizen clients. This can include providing updates on legislative and other changes that need to be reflected in agency policy as well as updating and encouraging staff trainings, and advocating for different ways the agency may be able to change to better ensure that non-citizen clients are aware of and in receipt of the benefits they need. In addition, I oversee the NYCitizenship Project which assists disabled, elderly, and homebound New Yorkers who are eligible to become U.S. Citizens by providing legal assistance to file and go through the naturalization process.

What advice would you give to our current students?

The best advice I can give is to soak up all of the experiences you can and to keep track of the relationships you make through CLIHHR because they will serve you very well after law school. I would also say keep an open mind to new areas because you never know what may surprise you and really capture your interest. And lastly, if you feel very strongly about a career in human rights, persistence is key!

CLIHHR Out & About

Panels



On January 25, 2021, CLIHHR Director Jocelyn Getgen Kestenbaum participated in "The importance of a label: understanding the impunity gap for conflict-related sexual violence crime" held by Columbia University's Institute for the Study of Human Rights and United Nations Team of Experts (UNTOE). The panel was part of the UNTOE's Digital Dialogue Series Event on Slavery, Slave Trade and Trafficking. The panel can be viewed [here](#).

Co-sponsored Events

On February 17, 2021, CLIHHR co-hosted a panel entitled, "Law & Ethics of Fast Fashion: A conversation on the intersectionality between Human Rights, Environmental Justice, and Fashion" with the Cardozo Environmental Law Society and Fashion Law Society

On April 16, 2021, CLIHHR co-hosted "Risks and Realities of Mass Atrocities facing Brazil's Indigenous Peoples" with Binghamton University's Institute for Genocide and Mass Atrocity Prevention (IGMAP). View the panel [here](#).



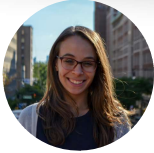
Publications

Jocelyn Getgen Kestenbaum, "[Three Ways To Build an Antiracist Law Classroom That Confronts Structural Violence](#)," *Law.com*, March 12, 2021.

Gabor Rona, "[Can a Pardon Be a War Crime? When Pardons Themselves Violate the Laws of War](#)," *Just Security*, December 24, 2020.

Jocelyn Getgen Kestenbaum, "[Disaggregating Slavery and Slave Trade](#)," 16 *FL. INT'L U. L. REV.* *forthcoming*, 2021.

CLIHHR Team



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Ramya Jawahar Kudekallu, Visiting Instructor of Clinical Law and Telford Taylor Teaching Fellow for the Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic



Gabor Rona  (@GaborRona1), Professor of Practice and Director of the Law and Armed Conflict Project



Richard H. Weisberg, CLIHHR Founding Director and Walter Floersheimer Professor of Constitutional Law

CARDOZO LAW INSTITUTE IN HOLOCAUST AND HUMAN RIGHTS

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