

## 2008 Castan Centre Global Interns

### Witnessing International Diplomacy, Warts and All

By Jihan Mirza

My time as an intern at the Human Rights Council in Geneva, the pre-eminent human rights body in the UN machinery, was one of the most fascinating experiences of my life. This is not to romanticise the Human Rights Council. It is a new body that was set up in 2006 to remedy glaring deficiencies in the UN Human Rights bureaucracy, but there are many that is has not fixed.

My internship involved being the eyes and ears, and occasionally the mouth of Australia, by attending the 7<sup>th</sup> session of the Human Rights Council, as well as being in attendance for the first Universal Periodic Review, the Working Group on the Optional Protocol to the *International Covenant on Economic, Social and Cultural Rights* and numerous side-events.

The Palais des Nations was my workplace for two months. It is a building that is made up of bits and pieces gathered from the generosity of States, labyrinthine like corridors, and a one-legged peacock that roams the grounds and hobbles to meet delegates near the parking lot. It is also full of diplomats, academics, NGO representatives and interns, all chomping at the bit to be part of the human rights debate.

As part of the Australian delegation I was given the task of attending the distinctive horse-shoe plenary session within the Palais, where the bulk of the activity occurred. I spent a lot of time with other members of the delegation behind the 'Australie' sign, reporting on the action. But I was also privileged to be able to address the plenary on behalf of Australia on numerous occasions, including giving Australia's response to human rights situations in countries such as North Korea and Zimbabwe (the latter of which drew a very heated re-

sponse from the State in question). And although Australia only has observer status in the Council, our recent change of government, combined with the Rudd government's apology to Indigenous Australians, meant that there was a keen interest in Australia. As a result, I met with and fielded questions from activists and NGOs who came to lobby Australia and to gauge what policy position our new government would be taking on a range of issues.

Other than the plenary sessions, I was also given a backstage pass to the wheelings and dealings of international law in the smaller, informal meetings. Meetings ranged from regional group policy meetings such as WEOG (Western European and Others Group) and JUSCANZ (Japan, United States, Canada, Australia New Zealand and others), to discussions on the extension of the mandates of various Special Rapporteurs, discussions on emerging areas within the UN (such as a possible Special Rapporteur on Laws that Discriminate Against Women) and forums for NGOs and human rights activists to discuss pressing human rights situations.

But it was in meetings where draft resolutions were haggled over that I fully realised what close bed-fellows law and politics really are. The skilful language in a diplomat's arsenal is very similar to the legalese of a lawyer; it is chosen with pinpoint accuracy and it can be used as a sword or a shield. Resolutions were picked over with a fine tooth comb; and what a State lobbied to have removed from a resolution, was often just as poignant as what was it fought to keep in. It was a rare chance to see how the cogs of international human rights law turn and I was lucky enough to be given the opportunity to negotiate the text of some resolutions on behalf of Australia.

The experience of sitting in the Council was described by my predecessor as something akin to an existential crisis, and I don't think I could have said it better myself. No country has a perfect human rights record, but listening to some of the most serious transgressors of human rights calmly deny that any violations had occurred on their soil was frustratingly painful. And yet I was inspired by discussions on issues ranging from women's rights and sexual identity, to climate change and human rights defenders, leading me to believe that the Council could be a constructive, albeit slow arena in which to create and disseminate new human rights norms.

But in a city as beautiful as Geneva, it wasn't all work! As well as the odd diplomatic soiree, I was surrounded by interns from around the world which meant, in true UN-speak, that I was able to engage in a lot of 'intercultural dialogue' after hours (i.e. learning how to say cheers in multiple languages and becoming



Jihan Mirza represents Australia at a Session of the Human Rights Council

friends with many interns.) This in itself was a true UN experience of cultural cohesion.

I cannot thank the Castan Centre enough for letting me experience the intricacies of human rights in the International arena. And likewise, I must thank the Australian Per-

manent Mission to the United Nations in Geneva, for not just giving an eager law student a backstage pass to see some of the most interesting and challenging processes of international law in action, but for welcoming me as part of the team and allowing me to participate so fully.

### Fighting for Justice in South Africa's Overworked Courts

By Chris Holt



Mention South Africa to someone and invariably the topic will turn to Apartheid. As an intern with the Legal Aid Board in Cape Town, I quickly realised that although the process of dismantling Apartheid began almost twenty years ago, the damage caused by racial segregation and widespread human rights abuses is visible across South African society.

Cape Town itself is a city of contrasts. Undeniably a beautiful place to visit, for tourists it is synonymous with white sandy beaches, blue seas and the picturesque Table Mountain. However, head out of the gated communities and into the townships and you are presented with a very different picture. Violent crime, drug offences and theft have a pervasive presence in South African townships. They also constitute the majority of matters on which Legal Aid attorneys work.

The Legal Aid Board offers legal assistance to those who cannot afford to pay for private representation, with potential clients means tested to ensure they fit the criteria. As mentioned, generally the Legal Aid Board deals with criminal matters and many of the clients I worked with had lengthy criminal records and lived in communities where crime and violence were endemic. Indeed, many of the Legal Aid Board's clients are the very same people who suffered under Apartheid, or are the children of those who were persecuted. It was manifestly apparent that although the law in South Africa was no longer an instrument of oppression, a large percentage of South Africans have little opportunity to lead a life where they do not struggle to feed their family or educate their children.

The work I was given included researching case law, shadowing attorneys and closing files. I was also given the opportunity to interview clients and attend court, including the High Court and I was able to get a glimpse of the challenges faced by everyone involved in a judicial system that must accommodate eleven national languages. Sitting in court was certainly an eye opener and revealed just how overwhelmed the South African Legal Aid Board is. Aside from the cramped holding cells, which I was able to visit, the backlog of cases is extraordinary and often defendants must remain in custody for months before their case goes to trial. Attorneys even told me of clients who had to wait several years before their matter went to appeal.

Interns at the Legal Aid Board are thrown in at the deep end. Unfortunately the Board is under resourced and the amount of cases at any one time can seem overwhelming. Legal Aid Board attorneys do not have the time to offer constant supervision, so for interns it is often a matter of approaching an attorney and asking if they need some help. More often than not the answer was yes, and a glance at the desks buried in files indicated why. However, despite the work load, the attorneys were always friendly and happy to assist when I didn't understand something. The work was also rewarding and I learnt much from my time as an intern.

Considering the state of South Africa's judicial system and the pattern of crime within townships and disadvantaged communities, attorneys could be forgiven for feeling disheartened. Nevertheless the staff within the Legal Aid Board work tirelessly, with little remuneration, and always strive to do the best for their clients, with the small amount of time and resources they have. I thoroughly enjoyed my time at the South African Legal Aid Board and I greatly appreciate the opportunity given to me by the Castan Centre to be part of such an important institution. The vision of the Legal Aid Board is "a just South Africa in which the rights enshrined in our Constitution are promoted, respected, defended, protected and fulfilled to ensure justice for all." I hope one day that vision is realised and I am confident the attorneys working at the Board will continue to fight for it.

#### Where Are They Now? Jacqui Zalberg

Monash Law graduate Jacqui Zalberg has found her dream job in the United States, working with Earthrights International, an NGO based in Washington DC. "It's really exciting, and a good feeling after all these years to finally be working in what I want", said Jacqui, who undertook an LLM degree at New York's Columbia University in 2007 on an international law fellowship.

Jacqui is currently working on Earthrights International's landmark federal court trial in San Francisco against Chevron, alleging that the US company violated human rights on an offshore oil rig in Nigeria by engaging Nigerian soldiers, who killed and tortured peaceful protesters.

The trial is due to commence this month. For more information on Earthrights International's pro bono case, and to donate to the cause, please visit [www.earthrights.org](http://www.earthrights.org).