



[Robina Foundation](#)

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ROBINA FOUNDATION

file

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May 26, 2009

Ms. Alice H. Henkin, Director
Justice and Society Program
The Aspen Institute
1585 Broadway, 16th Floor
New York, NY 10036

*Aspen
Institute
file*

Dear Ms. Henkin:

We are pleased to inform you that the Board of Directors of the Robina Foundation has awarded a one-time grant of \$130,575 to The Aspen Institute for the Justice and Society Program to hold a judicial seminar on "International Human Rights and Humanitarian Laws: Their Application in National Jurisprudence." As stated in your proposal, "The purpose of the program is to introduce United States judges at both the federal and state supreme court levels to the body of international human rights and international humanitarian laws and norms that has developed over the years, territory largely unfamiliar but increasingly relevant to U.S. judges."

This is a one-time payment so that you can produce this unfunded program this year. Going forward you will need other funders as your organization is outside our domain as stated by our founder and its Bylaws. Also it is our policy that grantees limit overhead to 10% of the grant. However, because this is a one-time gift, we will accept your 18% overhead position.

Please forward your wire instructions to Nancy Gilberg, Administrative Consultant, at ngilberg@robinafoundation.org.

We request, as part of this grant, that you provide a written "annual report" which should state your objectives, goals, outcomes, and budget and did you achieve them.

Sincerely,

Gordon M. Aamo, MD
President, Robina Foundation

Nancy Gilberg

file

From: Garth Meintjes [garthmeintjes@gmail.com]
Sent: Thursday, May 21, 2009 1:22 PM
To: Gordon Aamoth
Cc: ngilberg@robinafoundation.org
Subject: Re: Conference call this morning at 11 a.m. (CDT)

Dear Gordon,

It was good to speak to you by phone today. Barb and I will confer and amend our consultancy plans as you requested.

I am also pleased to hear that the Board has approved funding for the next Aspen judicial training seminar. You can contact Alice Henkin at: alice.henkin@aspeninst.org Please let me know if you have any difficulty reaching her.

Best,
Garth

--
Garth Meintjes
garthmeintjes@gmail.com
(917) 374-3880
285 Windsor Place, Apt 9
Brooklyn, NY 11218

Garth!
Will probably
need a formal
letter to Henkin
asking for wire
info.

Examples
attached

Will this be funded
through Yale or
directly to "Aspen"?

It seems there was
some urgency to the
matter.

D

***International Human Rights and Humanitarian Laws:
Their Application in National Jurisprudence***

Seminar Readings
January 30- February 1, 2009
Greentree, New York

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Louis Henkin, The Age of Rights1

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

JANIS GRAHAM JACK
U.S. DISTRICT JUDGE

1133 N. SHORELINE BLVD.
CORPUS CHRISTI, TEXAS 78401
(361) 888-3525

February 12, 2009

Ms. Alice H. Henkin
The Aspen Institute
1585 Broadway, 16th Floor
New York, NY 10036

Dear Alice:

What can I say! I have had the evaluation form in hand since I left Manhasset and seem to be unable to complete it. I find that my evaluation does not necessarily fit the form.

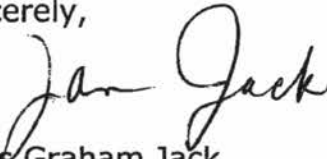
This incredible seminar with its star presenters has expanded my horizons and given me a new understanding of our nation's place in the arena of human rights issues. Though my husband and I have traveled to every continent and over 100 countries witnessing firsthand human rights concerns that affect the most basic survival issues, I have never until this time understood how so few might address the concerns of so many.

I learned so much from the presenters as well as the other participants. I certainly have a new appreciation of the international Red Cross and the work of Human Rights First.

The calm and compelling presentations of Nick, Harold, Jelena, and Sarah while speaking of such horrendous atrocities made the presentations even more compelling. I do not exaggerate in any way when I say that this was the most educational seminar I have had the privilege of attending since I became an attorney. Somehow John Bellinger's presentation, even though personally brave in his attempt to discuss the policy in which he participated, was particularly chilling.

I will never be able to thank you enough for allowing me to participate in such a powerful event with such incredibly interesting people at a magnificent location. These lessons will stay with me forever and I hope to be invited as a recidivist. Thank you.

Sincerely,



Janis Graham Jack

JGJ:mh

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
www.iand.uscourts.gov

CHAMBERS OF
MARK W. BENNETT

U.S. District Court Judge
P. O. Box 838
Sioux City, Iowa 51101

712/233-3909

FAX: 712/233-3913

E-mail Address:
Mark_Bennett@iand.uscourts.gov

February 3, 2009

Alice Henkin
Program Director
Justice and Society Program
The Aspen Institute
1585 Broadway, 16th Floor
New York, NY 10036-8299

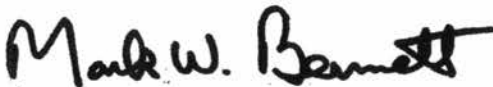
Michael Doyle
Program Coordinator
Justice and Society Program
The Aspen Institute
1585 Broadway, 16th Floor
New York, NY 10036-8299

Dear Alice & Michael:

I want each of you to know how much I learned at the Aspen Institute Seminar on International Human Rights and Humanitarian Law this past weekend. I have spoken at more than 260 continuing legal education seminars and have attended scores more. This was definitely in my top 3! The quality of the speakers and the written materials was exceptional. This is an area of the law where I have been woefully ignorant. This seminar not only sparked my interest, but gave me the analytical framework to study and learn in this area. I already see many opportunities to incorporate foreign human rights law citations into my judicial opinions. I feel like a whole new vista of important information is now readily accessible to me.

One suggestion. It would be nice if all of the written materials were available to us online to download to read and study prior to attending the seminar. Thank you so much for providing me with this truly extraordinary educational opportunity.

Warmest personal regards,



Mark W. Bennett
U.S. District Court Judge

MWB/jg



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Keith P Ellison
United States District Judge

515 Rusk Street
Houston, Texas 77002
713-250-5806
713-250-5503 Fax

Dear Alice,

2 February 2009

Please accept my appreciation for enabling me to take part in the Justice & Society Program. It was the best seminar I've ever attended - timely, meticulously organized, full of exactly the information judges need and fun.

I made many new friends and hope I will see much more of them. With their help, and that of many others, I do hope our country will enter a new era in its attitude toward human rights. Still, I fear it will be many years before recent damage is undone.

You have my best wishes and, again, my genuine thanks.

Cordially,
Keith

A PROPOSAL TO THE ROBINA FOUNDATION

From the Justice and Society Program
The Aspen Institute

INTRODUCTION

No institution of government can afford any longer to ignore the rest of the world...This is true of courts as much as it is of any other governmental body...We have...historically, declined to consider international law and the law of other nations when interpreting our own constitution...But the first indicia of change have appeared.¹

The Justice and Society Program of the Aspen Institute requests a grant of \$130,575 (Appendix A) to assist in increasing the “indicia of change”. We propose holding a judicial seminar on *International Human Rights and Humanitarian Laws: Their Application in National Jurisprudence*. The purpose of the program is to introduce United States judges at both the federal and state supreme court levels to the body of international human rights and international humanitarian laws and norms that has developed over the years, territory largely unfamiliar but increasingly relevant to U.S. judges.

BACKGROUND

Although in earlier years it was not critical for U.S. judges to be knowledgeable about international law, today it is not uncommon for U.S. judges to be asked to render decisions in

¹ Speech by Justice Sandra Day O'Connor, Southern Center for International Studies, October 28, 2003

cases that implicate international human rights and humanitarian laws, treaties and norms, a body of law with which they are typically unfamiliar.

The language of international human rights is now in the public domain: bar associations have committees devoted to human rights, briefs are written and argued in cases brought by lawyers for nonprofit organizations, and international human rights and humanitarian law is now an established part of the law school curriculum. It is no longer possible for the judiciary to deny the relevance of this body of law.

The need to engage judges in the larger world of international human rights and humanitarian law has renewed urgency. The United States has come under sharp criticism both nationally and internationally for warrantless arrests, for prolonged detentions without charges, for extraordinary renditions, for hasty and incoherent immigration proceedings with limited appeals, and for executive orders related to the "war on terrorism."

U.S. courts will be faced with a wide range of cases that require familiarity with international human rights and humanitarian laws, including challenges to the lawfulness of detentions in the United States of permanent residents and citizens deemed to be enemy combatants; the claims of a mistakenly identified German citizen who was rendered by the U.S. to Egypt where he was tortured; the claims of 9 former detainees, picked up in Afghanistan and Iraq, that their torture was authorized by the U.S. Secretary of State; and without doubt the U.S. Supreme Court decision in the Hamdan case holding that the so-called military commissions in Guantanamo were in violation of Common Article 3 of the Geneva Conventions, will generate a host of cases to determine exactly what procedures will satisfy U.S. obligations as a state party to the Convention.

The Alien Tort Claims Act (ACTA), the seminal statute under which perpetrators of gross abuses of human rights are brought to justice, has been under attack, challenging the jurisprudence established a quarter of a century ago in the Filartiga case, and subsequently followed in a long line of cases in the federal courts. Various business organizations, supported by briefs filed by the U.S. government, have argued that ACTA does not confer federal court jurisdiction on claims by foreigners for violation of customary international law. They challenge the use of ACTA in suits brought against corporations doing business in foreign countries, where foreign petitioners claim corporate complicity in gross violations of human rights. These cases call on judges to interpret ACTA and the jurisprudence it has spawned to determine what if any restrictions should be placed on its scope.

Impact of the Aspen Seminars

The Aspen Institute's judicial seminars have a long and well regarded history. We inaugurated "judicial education" series over two decades ago in order to encourage the implementation of international human rights laws and norms through judicial enforcement. Over 300 federal and state court judges plus a number of foreign judges have participated in the Aspen seminars.

Aspen is well positioned to help ensure that the judges learn the law and apply it well. We have already seen some excellent examples of the success of the Aspen seminars. In a range of court opinions, judges have made clear references to the information they learned through the seminars. We have tracked the judicial opinions written subsequent to participating in the seminars and find an unmistakable impact of the program (Appendix B). Specific evidence

include a federal district court judge's decision on the indeterminate detention of an illegal alien. In requiring the INS to grant an immediate fair hearing, the court held that

"this ruling is also consistent with evolving international rights norms, norms which can help shape our own standards of due process ...The United States takes justifiable pride in its Constitution and Bill of Rights, but these international covenants and declarations are reminders of goals yet to be achieved. While not dispositive of the decision in this case, these principles reinforce the conclusion that the statute here.... unconstitutionally deprives [the claimant] of his substantive and procedural due process rights."

In a note to the Director of the Justice and Society Program, the judge wrote, "I added several pages in a plug for also using international human rights law as support. But for your seminar, that wouldn't have happened since I was ignorant (shamefully so) of that whole body of law."

In another instance, a judge who participated in the seminar entered a judgment against former Guatemalan General and defense minister Hector Gramajo, in a suit charging him with responsibility for atrocities committed by soldiers under his command. The lengthy opinion was replete with citations and footnotes to the Aspen seminar material, and specifically to the Resource Guide that we had published and was part of the background material for the seminar. (See letters from participants, Appendix C)

In sum, there has been a progressive incorporation of international human rights jurisprudence in U.S. case law, for which the Aspen Institute judicial seminars can take some credit.

PROJECT DESCRIPTION

We propose organizing a two-and-a-half-day seminar for U.S. judges. The seminar will begin with an introduction to the historical and political background of the international human rights movement and the development of international human rights standards, including treaties, declarations, and customary law. This will be followed by an examination of the implementation of international and foreign law in U.S. case law, including constitutional and federal statutory interpretation. The next part of the agenda will be devoted to international humanitarian law with a particular focus on the Geneva Conventions and the obligations of the U.S. as a state party. The remaining agenda will focus on refugee and immigration law, the implementation of international human rights law in the European system, the Inter-American system, and the United Nations.

Each part of the agenda will be led by a "presenter" chosen from the faculty of the earlier seminars. (These have included professors Alex Aleinikoff, Thomas Buergenthal, Sarah Cleveland, Louis Henkin, Harold Hongju Koh, David Martin, Juan Mendez and Diane Orentlicher; judges Nicolas Bratza, Rosalyn Higgins, Richard Goldstone, Gabrielle McDonald and Jon O. Newman; ICRC legal advisor Jelena Pejic; and nongovernmental advocates Stefanie Grant, Sidney Jones, Anthony Lester, Michael Posner and Jerome Shestack.) The seminar will be held at Greentree Estate in Long Island in late 2009 or early 2010, depending on the availability of funding. We anticipate inviting 35 persons to the seminar, including the faculty and staff.

The sessions will be participatory, informal, and off-the-record. A body of preparatory material distributed in advance will be the focus of the discussion (Appendix D). The participants will be

chosen on the basis of recommendations from former judicial participants and from leading nongovernmental advocates and academics.

CONCLUSION

Former Supreme Court Justice Sandra Day O'Connor in a speech at the 2002 annual meeting of the American Law Institute, said that issues of "international and foreign law are being raised in our courts more often and in more areas than our courts have the knowledge and experiences to address." We intend the Aspen seminar to be one way of expanding knowledge in this field.

We hope the Robina Foundation will support this critical effort to inform the judiciary of international human rights and humanitarian law, to encourage them to make use of it, and to engage them as public servants and leading citizens in the further development of the law.

Alice H. Henkin
Director, Justice and Society Program

The Aspen Institute
Justice and Society Program
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E-mail: justice@aspeninstitute.org

Aspen Institute: Justice and Society Program
Judicial Training on International Law

TYPE OF GRANT:	Project Support
PROGRAM'S ANNUAL BUDGET:	\$415,000
PROJECT BUDGET:	\$130,575
AMOUNT REQUESTED:	\$130,575

SUMMARY

The Aspen Institute ("the Institute") is dedicated to informed dialogue and inquiry on issues of global concern. This grant supports a seminar organized by the Institute's Justice and Society Program to introduce U.S. judges to international law, particularly international human rights and humanitarian law. Expert presenters will lead sessions on different topics of the law, focusing on a comprehensive set of preparatory materials distributed in advance to participants. The sessions will be participatory, informal, and off-the-record. The participants will be chosen on the basis of recommendations from former seminar participants and from leading international law advocates and academics. Depending on the approval of funding, the seminar will be held in late 2009 or early 2010 at the Greentree Estate in Long Island.

ORGANIZATIONAL BACKGROUND

The Institute is an international non-profit organization dedicated to informed dialogue and inquiry on issues of global concern. Founded in 1950, it has pursued its mission of fostering enlightened leadership through seminars, policy studies, and fellowship programs. The Institute is headquartered in Washington, D.C., and has campuses in Aspen, Colorado, and Wye, Maryland.

PROJECT DESCRIPTION

The Institute is organizing a two-and-a-half day seminar to introduce approximately 25 U.S. judges to the body of international human rights and humanitarian law, which is largely unfamiliar to them but increasingly relevant to their work. The seminar will introduce the historical and political background of the human rights movement and the development of international human rights law, including treaties and customs. This introduction will be followed by an examination of the implementation of international and foreign law in U.S. case law and in constitutional and federal statutory interpretation. The seminar will also introduce judges to the body of international humanitarian law, particularly the Geneva conventions and the obligations of the United States as a state

party. And finally, the seminar will review the implementation of international human rights law in the European system, the inter-American system, and the UN.

Inaugurated over two decades ago to encourage the implementation of international human rights through judicial enforcement, the Institute's judicial seminars are well regarded. Approximately 300 federal and state court judges and a number of foreign judges have participated in seminars. However, the need to address the continuing pervasive lack of knowledge of international law among U.S. federal judges is now more critical than ever. In an increasingly globalized world, U.S. judges are more and more frequently being called on to render decisions in cases where international law is relevant.

LEADERSHIP

Alice Henkin directs the Institute's Justice and Society Program. She has been involved with Aspen's judicial seminars since she first came to the Institute as the programs' associate director in 1978. Ms. Henkin is the author and editor of numerous publications on human rights. She is a graduate of Bryn Mawr College and Yale Law School.

Several distinguished judges, lawyers, advocates, and academics regularly serve as seminar presenters. Among the regular presenters are: Richard Goldstone, former judge of South Africa's Constitutional Court; Harold Koh, former dean of Yale Law School; Mike Posner, former executive director of Human Rights First; Sarah Cleveland, Louis Henkin Professor of Human and Constitutional Rights at Colombia Law School; and Nicolas Bratza, judge on the European Court of Human Rights.

RELATIONSHIP TO FOUNDATION GOALS

The Institute seminars are unrivaled in content and effectiveness as a way of introducing U.S. judges to international human rights and humanitarian law. The seminars have been shown to foster a better understanding by U.S. judges of the relevance and application of international law in the adjudication and disposition of cases before them.

OTHER FUNDING

The Robina Foundation will be supporting this project in full.

Appendix A Proposal Budget

Conference-Related Expenses		Total
35 guests including staff and moderators		
Accommodations	\$150/person/night for two nights at Greentree	\$10,500
Meals	\$225/person/day for two days	\$15,750
Travel	Average \$500/flight/person	\$17,500
Readings / Copier Charges / Office Supplies		\$3,000
Moderators' Honoraria		\$5,000
Total Conference-Related Costs		\$51,750

Salaries		
	Alice Henkin Director (25% of 1 year)	\$24,345
	Michael Doyle, Program Coordinator (30% for 1 year)	\$14,968
	Mary Holland, Program Consultant (25% of 1 year, part time)	\$6,000
	Subtotal	\$45,313
	Benefits	\$13,594
Salaries/Benefits Subtotal		\$58,907

Salary/Benefits/Conference Costs Subtotal	\$110,657
18% Overhead to the Aspen Institute	\$19,918

Total Amount Requested	\$130,575
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3/13/09

Decisions by Judges who have taken the Aspen Institute Justice and Society Program
Seminar on International Human Rights and Humanitarian Laws

The list below are cases that the Aspen "alumni" judges have decided following the Aspen Institute seminar on international human rights law. This list tracks decisions that the judges have written; it does not capture cases that judges have joined on appellate review, and it does not capture every case that could arguably be characterized as touching on international human rights norms.

First Circuit

Gertner, Nancy – District Court, Boston MA

U.S. v. Bakeas, 987 F.Supp. 44 (D. Mass. 1997)

Appeal of the severe sentence of a legal permanent resident of United States, citing, in a footnote, the policies contained in the International Covenant on Civil and Political Rights.

Selya, Bruce M. – 1st Cir.

Ungar v. Palestine Liberation Organization, 402 F.3d 274 (1st Cir 2005)

Interlocutory appeal in case between estate of American citizen killed by PLO terrorists while in Israel and PLO. Judge cites to Report by UN Commission on Human Rights in part of opinion.

Stahl, Norman H. – 1st Cir.

U.S. v. Li, 206 F.3d 56 (1st Cir. 2000)

Case against parties accused of smuggling Chinese citizens into the US. In reviewing stipulations of Vienna Convention on Consular Relations, Stahl's *en banc* opinion cites a decision of the Inter-American Court of Human Rights.

Torruella, Juan R. – 1st Cir., San Juan, PR

Igartua-De la Rosa v. US, 417 F.3d 145 (Dissent)

Dissent considers at length the impact of US international treaty obligations, including the Universal Declaration, on voting rights of US citizens in Puerto Rico.

Wolf, Mark L. – District Court, Boston MA

U.S. v. Sampson, 275 F.Supp.2d 49 (D. Mass. 2003)

Citing *Lawrence v. Texas* (539 U.S. 538 (2003)) as an example, the court notes appropriateness of considering the experience of other common law countries on death penalty.

Woodlock, Douglas P. – District Court, Boston, MA

Xuncax v. Gramajo, 886 F. Supp. 162 (D. Mass 1995)

Alien Tort Claims Act (ATCA) case against former Guatemalan Defense Minister regarding human rights abuses perpetrated by military. Decision cites to Universal Declaration of Human Rights, European Convention on Prevention of Torture, American Convention on Human Rights and other treaties, though legal conclusions are based on US law.

Second Circuit

Katzmann, Robert – New York

Abdullahi v. Pfizer, Inc., 2009 WL 214649 (2d Cir. January 30, 2009) (Maj.)

Reverses and remands dismissal by District Court of ATCA suit against drug company for involuntary medical testing of antibiotic in Nigeria. It holds that treatment without informed consent constitutes a violation of customary international law. The decision includes an extensive discussion on the relationship between customary international law and US law.

Khulumani v. Barclay Nat. Bank Ltd., 504 F.3d 254 (2d Cir 2007) (Conc.)

ATCA case against multinational corporations doing business in South Africa. Judge Katzmann discusses various issues of international criminal law, including recognition of individual responsibility of a defendant who aids and abets violations of international law.

Newman, Jon O. — Hartford, CT

Smith v. Socialist People's Libyan Arab Jamahiriya, 101 F.3d 239 (2d Cir. 1996)

Dismissal of ATCA suit against Libya for PanAm 103 bombing. Includes analysis of relationship between US and international law.

Kadic v. Karadzic, 70 F.3d 232 (2d Cir. 1995)

ATCA case against Karadzic for war crimes in Bosnia. In reversing District Court's dismissal, Newman conducts an extensive analysis of international customary law and jus cogens norms.

Nickerson, Eugene – USDC – Brooklyn, NY

Filartiga v. Peña-Irala, 577 F. Supp. 860 (EDNY 1984)

Suit on behalf of a torture victim against the former official in the Paraguayan government who committed the torture. Judge Nickerson cites the American Convention on Human Rights, Universal Declaration of Human Rights and resolution against torture by UN General Assembly.

Sack, Robert – 2nd Cir., New York

Arar v. Ashcroft, 532 F.3d 157 (2nd Cir. 2008)

Judge Robert Sack dissented from majority's decision to deny claims of torture survivor in "extraordinary rendition" case; case reheard *en banc* Dec. 9, 2008.

Schwartz, Allen G. – USDC, New York

Presbyterian Church of Sudan v. Talisman Energy, Inc., 244 F.Supp.2d 289 (SDNY 2003)

Denied motion by defendant to dismiss ATCA suit against energy company for perpetrating human rights violations in Sudan. The decision cites international human rights law norms.

Cabiri v. Assasie-Gyimah, 921 F.Supp. 1189 (SDNY 1996)

Denied defendant's motions to dismiss ATCA suit against Ghanaian police officers for torture. Decision cites *Filartiga*, notably section referring to Universal Declaration of Human Rights and other international human rights norms.

Walker, John M. — New York

US v. Yousef, 327 F.3d 56 (2d Cir. 2003)

World Trade Center bombing case, in which judge conducts analysis of international customary law and treaty obligations of US in granting that district court had proper jurisdiction.

Weinstein, Jack B. – USDC – Brooklyn, NY

Nicholson v. Williams, 203 F.Supp.2d 153 (EDNY 2002)

Class action against NYC Child Services for removing children from their mothers. Case cites Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and Convention on Rights of the Child as persuasive authority.

Beharry v. Reno, 183 F.Supp.2d 584 (EDNY 2002)

Habeas writ filed by alien during removal proceedings. Citing numerous US treaty obligations, including the Universal Declaration, the American Convention on Human Rights as well as customary international law.

Maria v. McElroy, 68 F.Supp.2d 206 (EDNY 1999)

Habeas writ filed by alien during removal. Decision cites numerous treaties and customary international law preventing ex post facto application of statutes to plaintiff.

Mojica v. Reno, 970 F.Supp. 130 (EDNY 1997)

Predecessor case to *Beharry* and *Maria*.

US v. Ekwunoh, 888 F. Supp. 369 (EDNY 1994)

Remanded drug conviction, reducing sentence imposed. Cites European Court of Human Rights decision.

Ahmad v. Wigen, 726 F. Supp 389 (EDNY 1989)

Denial of habeas writ in extradition case, citing European Court of Human Rights decision and other international precedents.

Third Circuit

Bassler, William G. – USDC, Newark, NJ

In re Application of Sasson v. Sasson, 327 F.Supp.2d 489 (DNJ 2004)

Child custody case turning on Hague Convention on the Civil Aspects of International Child Abduction.

McKee, Theodore A. – 3rd Cir.

Senathirajah v. I.N.S., 157 F.3d 210 (3rd Cir. 1998)

In appellate review of deportation order, Judge McKee notes that torture is not government investigation, citing Universal Declaration of Human Rights and American Convention on Human Rights.

Robreno, Eduardo – USDC, Philadelphia, PA

Perry v. Levegood, 2005 WL 2296716 (ED Pa. September 21, 2005)

In memorandum opinion, judge cites Universal Declaration of Human Rights in finding for prisoner against two prison nurses who forced prisoner to submit to a tuberculosis test against his will.

Fourth Circuit

Butzner, John D. — Richmond, VA

Breard v. Pruett, 134 F.3d 615 (4th Cir. 1998)

Concurrence in appeal from conviction of murder and rape by foreign national. Majority affirms conviction and holds that defendant waived right to consular communication by not raising the issue at trial. Butzner reviews the relationship between Vienna Convention on Consular Relations and US law.

Selgeka v. Carroll, 184 F.3d 337 (4th Cir. 1999)

Overturning a deportation order, judge cites the UN Protocol Relating to the Status of Refugees.

Motz, Diana Gribbon — Baltimore, MD

Al-Marri v. Pucciarelli, 534 F.3d 213 (4th Cir. 2008)

Concurrence in war on terror case, in which Judge Motz reviews US treaty obligations relative to law of war, including Third and Fourth Geneva Conventions, especially concerning the seizure of civilians in war zones.

US v. Moussaoui, 336 F.3d 335 (4th Cir. 2003)

Judge Motz filed a separate dissent in this *en banc* ruling.

Hamdi v. Rumsfeld, 337 F.3d 335 (4th Cir. 2003)

Judge Motz filed a dissent in this 9/11 case; case was later decided by the Supreme Court.

Ellis, Thomas S., III – USDC, Alexandria VA

Allmond v. Alexandria Sheriff's Dept., 2002 WL 32514956 (June 4, 2002, E.D. Va.)

Granting Defendant's motion to dismiss, judge considers and dismisses plaintiff's argument that assault and battery by police was covered by the Convention on the Prevention and Punishment of the Crime of Genocide.

Hazbun Escaf v. Rodriquez, 200 F.Supp.2d 603 (E.D. Va. 2002)

In child welfare case, Judge Ellis cites the Hague International Child Abduction Convention.

Fifth Circuit

Berrigan, Helen

Mendonca v. Tidewater, Inc., 159 F. Supp.2d 299 (E. D. La. 2001)

Discusses Alien Tort Statute in employment discrimination case, including reference to American Convention on Human Rights.

U.S. v. Fraguera, WL351851 (E.D. La. 1998)

Cites U.N. Universal Declaration on Human Rights, finding that no customary international law violation occurred.

U.S. v. Caplinger, 914 F.Supp. 1374 (E.D. La. 1996)

Cites to international norms in case on indefinite detention of an alien.

Sixth Circuit

Boggs, Danny J. – 6th Cir.

Buell v. Mitchell, 274 F.3d 337 (6th Cir. 2001)

Habeas review containing interpretation of several international agreements and covenants regarding the death penalty.

State of Ala. ex rel. Governor and Atty. Gen. v. Engler, 85 F.3d 1205 (6th Cir. 1996)

In dicta, Judge Boggs refers to chain gangs in Alabama prisons as contrary to international human rights norms.

Spiegel, S. Arthur – USDC, Cincinnati, OH

Jamison v. Collins, 100 F.Supp.2d 647 (S.D. Ohio 2000)

Habeas review containing interpretation of several international agreements and covenants regarding the death penalty.

Seventh Circuit

Aspen, Marvin E. – USDC, Chicago, IL

Rajaratnam v. Moyer, 832 F.Supp. 1219 (N.D. Ill. 1993)

Asylum case overturned because the immigration judge and Bureau of Immigration Appeals failed to properly consider human rights violations.

Castillo, Ruben – USDC, Chicago, IL

Martinez v. Village of Mount Prospect, 92 F.Supp.2d 780 (N.D. Ill. 2000)

National origin discrimination case brought by police trainee against village; the village undertakes a human rights review board.

Crabb, Barbara B. – USDC Madison, WI

Johnson v. Raemisch, 557 F. Supp. 2d 964 (W.D. Wisc. 2008).

§ 1983 case, holding that prison had no ground to prevent inmates from reading material critical of federal government.

West v. Frank, 2004 WL 848194, (W.D.Wisc., Apr. 19, 2004)

Granting prison inmate's right to proceed under § 1983 in civil suit against prison warden and others for denying him access to medical information sent by family.

Hamilton, David – USDC, Indianapolis, IA

John Roe I v. Bridgestone Corp., 492 F.Supp.2d 988 (S.D. Indiana, 2007)

Alien Tort Statute claim filed by Liberian child laborers in rubber plantations against Bridgestone, Firestone and other corporations. Judge Hamilton denied defendant's motion to dismiss regarding international child labor claims, citing both international and US standards.

Wood, Harlington Jr. — Chicago, IL

Jogi v. Voges, 480 F.3d 822 (7th Cir. 2007)

ATCA case by Indian national against county law enforcement officials who failed to inform the arrested plaintiff of his right to see a consular officer guaranteed under the Vienna Convention on Consular Relations.

Wood, Diane P. — Chicago, IL

Garza v. Lappin, 253 F.3d 918 (7th Cir. 2001)

Habeas review of death penalty sentence. Petitioner alleges that his sentence violates international human rights norms and a decision by the Inter-American Commission on Human Rights. Wood denies petition for stay of execution, holding that commission's ruling didn't give petitioner a judicially cognizable right to stay of execution.

Eighth Circuit

Arnold, Richard S. — 8th Cir.

Chambers v. Bowersox, 157 F.3d 560 (8th Cir. 1998).

Death penalty case considering several Privy Council decisions and a European Court of Human Rights decision, although finding them not dispositive.

Murphy, Diana — USDC, Minneapolis, MN

Habtemicael v. Ashcroft, 370 F.3d 774 (8th Cir. 2008)

Asylum case citing to the Convention against Torture and the Universal Declaration of Human Rights.

Ninth Circuit

Fisher, Raymond

Sarei v. Rio Tinto, PLC, 487 F.3d 1193 (9th Cir. 2007)

ATCA claim against Rio Tinto mining corporation based on its activities in Papua-New Guinea. Judge Fisher reverses the district court's grant of a motion to dismiss.

Fletcher, Betty B.

Hilao v. Estate of Marcos, 103 F.3d 789 (9th Cir. 1996)

ATCA claim against estate of Ferdinand Marcos for human rights violations committed under his regime. The decision cites the Convention against Torture, Universal Declaration of Human Rights and European Convention.

Siderman de Blake v. Republic of Argentina, 965 F.2d 699 (9th Cir. 1992)

Foreign Sovereign Immunities Act exempt claim against Argentina for torturing one of its citizens and expropriating property. Citing Universal Declaration of Human Rights, Convention Against Torture and customary int'l law.

Paez, Richard A. USDC – Los Angeles, CA

Nat'l Coalition Gov't of Union of Burma v. Unocal, 176 F.R.D. 329 (C.D. Cal. 1997)

One of many ATCA claims against UNOCAL in Burma. Judge Paez dismissed several other ATCA claims against UNOCAL, but he ruled that John Doe I's claims of torture were in clear violation of customary international law.

Doe v. UNOCAL, 963 F. Supp. 880 (C.D. Cal. 1997)

Clarifying order in *Doe v. UNOCAL* actions.

Pregerson, Dean — Los Angeles, CA

Mansour v. Ashcroft, 390 F.3d 667 (9th Cir. 2004) (dissenting)

Dissents from majority opinion that applicant, a Coptic Christian, had not proved that he was subject to torture and persecution in Egypt. Judge Pregerson discusses special application of the Convention on the Rights of the Child, UNHCR guidelines, and general international law to the persecution of children; he argues that because victims were children, persecution should be viewed as particularly heinous and sufficient to grant relief.

Reinhardt, Stephen

Gherebi v. Bush, 352 F.3d 1278 (9th Cir. 2003)

In reviewing habeas petition from detainee at Guantanamo, Judge Reinhardt reviews US obligations to prisoners of war under the Third Geneva Convention and the International Covenant on Civil and Political Rights.

Doe I. v. Unocal Corp., 395 F.3d 932 (9th Cir. 2002) (Concurring)

ATCA case against Unocal for human rights violations, including use of slave labor during construction of a pipeline in Burma. In his concurrence, Judge Reinhardt discusses at length the international law on forced labor, including the Universal Declaration and International Covenant on Civil and Political Rights, although he ultimately concludes that international law does not apply.

Kim Ho Ma v. Ashcroft, 257 F.3d 1095 (9th Cir. 2001)

Habeas petition by alien challenging ability of INS to detain him indefinitely. Reinhardt applies the *Charming Betsy* rule to the detention statute to hold that US law must be construed so as not to conflict with international law, noting that the International Covenant on Civil and Political Rights specifically outlaws indefinite detention.

Tenth Circuit – no cases

Eleventh Circuit

Evans, Orinda – USDC, Atlanta GA

Barrera Casimiro v. Pineda Chavez, 2006 WL 2938713 (N.D. Ga. Oct. 13, 2006)

Child custody case decided according to Hague Convention on the Civil Aspects of International Child Abduction.

Gonzalez, Jose A, Jr. – USDC, Fort Lauderdale, FL

U.S. v. Benitez, 28 F.Supp.2d 1361 (S.D. Fla. 1998)

Foreign nationals were charged and convicted in Colombia of assault on US Drug Enforcement Agency agents and were then brought to the US. Judge Gonzalez interpreted the International Covenant on Civil and Political Rights to state that double jeopardy does not apply in trials by two separate countries.

Hatchett, Joseph W. — Tallahassee, FL

Abebe-Jira v. Negewo, 72 F.3d 844 (11th Cir. 1996)

ATCA claim against official of former Ethiopian government. Court upholds awards of compensatory and punitive damages, holding that ATCA provides private right of action and that political questions did not bar claim.

Haitian Refugee Ctr., Inc. v. Baker, 949 F.2d 1109 (11th Cir. 1991) (Dissent)
Applying international customary law, UN Protocol on Refugees and 1951 Convention on the Status of Refugees to US actions to intercept and turn back Haitian refugees in international waters. Judge Hatchett would allow the Center access to refugees held at Guantanamo Bay.

Hoeveler, William M. – USDC, Miami FL

U.S. v. Noriega, 808 F.Supp. 791 (S.D. Fla. 1992)

Court ruling on Geneva Conventions regarding Manuel Noriega's detention. Court held that Noriega could be held in federal penitentiary as long as he was afforded full benefits of the Conventions.

Tjoflat, Gerald Bard — Jacksonville, FL

U.S. v. Duarte-Acero, 208 F.3d 1282 (11th Cir. 2000)

In affirming district court's denial of motion to dismiss on double jeopardy grounds, Tjoflat reviews double jeopardy provisions in several international treaties. Judge Tjoflat notes that double jeopardy does not govern relationships between sovereign states, and that double jeopardy provisions relates only to cases where a final judgment was rendered.

D.C. Circuit

Green, Joyce Hens – USDC, Washington DC

In re Guantanamo Detainee Cases, 355 F.Supp.2d 443 (D.D.C. 2005)

11 different cases regarding Guantanamo detainees

Elahi v. Islamic Republic of Iran, 124 F. Supp.2d 97 (D.D.C. 2000)

Case against Iran for state-sponsored assassination; judgment for plaintiff.

Judge Green cites documentation of Iranian human rights abuses.

Lamberth, Royce C. – USDC, DC

Flatow v. Islamic Republic of Iran, 999 F. Supp. 1 (D.D.C. 1998)

Wrongful death suit by estate of university student killed in suicide bomb attack in Israel.

Mikva, Abner J.

Committee of U.S. Citizens Living in Nicaragua v. Reagan, 859 F.2d 929 (D.C. Cir. 1988).

Appeal from dismissal in the district court of US citizens in Nicaragua against President Reagan for funding the contra rebel forces. Judge Mikva held that: (1) if a statute violates an international obligation, the courts have no authority to remedy the violation; (2) U.N. Charter does not confer rights on private individuals to bring actions to enforce decisions of the International Court of Justice; (3) a statute inconsistent with customary international law modifies or supersedes that law to the extent it is inconsistent; and (4) judgments of the International Court of Justice do not fall within the definition of *jus cogens* or peremptory norms of international law.

Roberts, Richard D. -- USDC, DC

Arias v. Dynacorp, 517 F. Supp.2d 221 (D.D.C. 2007)

ATCA claim against makers of defoliants used in Plan Colombia. Judge Roberts discusses aspects of international law.

Robertson, James – USDC, DC

Hamdan v. Rumsfeld, 344 F. Supp.2d 152 (D.D.C. 2004)

Citing the International Covenant on Civil and Political Rights and the Protocol Additional to the Geneva Convention, Judge Robertson finds that international law supports having a trial “in one’s presence.” Judge Robertson holds that proceedings of enemy combatant detainees must be held in the presence of their counsel and themselves.

Williams, Stephen F.

Belhas v. Ya’alon, 515 F.3d 1279 (D.C. Cir. 2008) (Concurrence)

In concurrence with dismissal of ATCA and Torture Victim Protection Act claims by Lebanese citizens against Israeli general for bombings in

Southern Lebanon in 2006, Judge Williams reviews the application of *jus cogens* in US law (specifically the Foreign Sovereign Immunities Act) and states that violations of *jus cogens* norms do not necessarily represent waiver of FSIA.

Hamdan v. Rumsfeld, 415 F.3d 33 (D.C. Cir. 2005) (Concurrence)

In short concurrence with decision to reverse grant of habeas petition by district court, Williams states that non-state actors cannot sign the Geneva Conventions and are not eligible for its ordinary protections and that Common Article 3, which covers non-state actors, obliges US to provide certain protections to groups like al Qaeda.

Supreme Court of the United States

Justices Anthony Kennedy, Ruth Bader Ginsburg and Stephen Breyer have all taken this Aspen seminar, as have Justices Harry Blackmun and Sandra Day O'Connor, both post-retirement. While it is particularly difficult to trace any unique influence at the Supreme Court level because there are so many other influences, it is worth noting that most of the recent key human rights decisions -- on terrorism, the applicability of the Geneva Conventions, the rights of detainees, the death penalty, racial discrimination, the Alien Tort Statute -- have been authored or joined by the Justices who took the course. We list a few of those decisions.

Boumediene v. Bush, 128 S. Ct. 2229 (2008)

Writing for the majority, Kennedy finds that alien detainees at Guantanamo Bay have the privilege of habeas corpus and are entitled to prompt opportunity to challenge the legality of their detention.

Hamdan v. Rumsfeld, 548 U.S. 557 (2006)

The Court held that the military commissions set up by the Bush administration to try detainees at Guantanamo Bay violate the Uniform Code of Military Justice and the four Geneva Conventions.

Roper v. Simmons, 543 U.S. 551 (2005)

On appeal from the Missouri Supreme Court on a juvenile death penalty case, Justice Breyer affirms the Missouri Supreme Court's decision to commute the death penalty for an individual who committed murder while under 18 years of age, citing the United Nations Convention on the Rights of the Child and American Convention on Human Rights.

Sosa v. Alvarez-Machain, 542 U.S. 692 (2004)

The majority uphold the validity of the Alien Tort Claims Act and the need to harmonize interpretation of US law with international norms.

Grutter v. Bollinger, 539 U.S. 306 (2003)

The Ginsburg concurrence discusses the relevance of international legal standards for affirmative action.

Lawrence v. Texas, 539 U.S. 558 (2003)

On appeal from the Texas Court of Appeals, *Lawrence* finds unconstitutional a Texas statute criminalizing homosexual sodomy. The decision cites decisions by foreign courts, the European Court of Human Rights and the European Convention on Human Rights.

Elledge v. Florida, 525 U.S. 944 (1998)

In a dissent from a denial of a writ of certiorari in a death penalty case, Justice Breyer cites the European Convention on Human Rights and a decision of the European Court on Human Rights.

State Court

O'Hern, Daniel J. – New Jersey Sup. Ct., Red Bank NJ

State v. Nelson, 155 N.J. 487, 715 A.2d 281 (1998)

In reviewing appeal in a capital case, Justice O'Hern notes that US is not party to any international agreement barring the death penalty. He cites to a discussion of public international law and the death penalty in a case before the South African Constitutional Court.

Kennard, Joyce L. — California Sup. Ct.

People v. Mungia, 189 P.3d 880 (Cal. 2008)

In dismissing defendant's argument that death penalty contravenes international law norms and the International Covenant on Civil and Political Rights, Justice Kennard notes the "most serious crimes" clause of the Covenant, as well as US's specific reservation regarding the death penalty upon ratification of the treaty. This line of argument is repeated in multiple California decisions almost verbatim, this being the most recent iteration of a long-standing opinion.



July 8, 2009

Gordon M. Aamoth, MD
Robina Foundation
4900 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Dear Dr. Aamoth:

On behalf of the Aspen Institute, I want to express my sincere appreciation to you and your colleagues at The Robina Foundation for your support of the Justice & Society Program and their Judicial Seminar.

The grant, in the amount of \$130,575.00 encompasses the period May 26, 2009 through December 31, 2009.

Your support of the Aspen Institute and our Justice & Society Program is appreciated and we are most grateful.

Sincerely,

Amy Margerum
Executive Vice President of Operations

One Dupont Circle, NW

Suite 700

Washington, DC 20036-1133

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Cc: Alice Henkin, Director of Justice & Society Program
Michael Jean, Financial Director of Policy Programs



Yale Law School

*File Copy
emailed to BOO
on 8.9.09
year-end
Report*

KATE STITH

Acting Dean and

Lafayette S. Foster Professor of Law

June 8, 2009

Gordon Aamoth, MD
President
Robina Foundation
4900 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Dear Gordon,

As Yale Law School's Acting Dean, I want to thank you and the Robina Foundation for your grant of \$3,000,000 in support of the Robina Foundation Human Rights Fellowship Initiative at Yale Law School. I am delighted to provide a formal report outlining the many fellowships and scholarships that were awarded during the first year of the grant, and I hope that you will be pleased to know that the Initiative has already made a huge impact on the intellectual life of the School, allowing us to increase our capacity to advance human rights on a global scale. We have organized our report per the guidelines presented in your recent letter to Kenna Barrett.

I. PROGRAMMATIC GOALS AND OBJECTIVES

As you know, the goals of the Initiative were to:

- A. Provide *Robina JD Scholarships* for 15-20 students interested in pursuing human rights careers;
- B. Provide *Robina Summer Human Rights Fellowships* to 30-35 students interested in spending a summer working for human rights-based organizations;
- C. Provide *Post-Doctoral Fellowships* to emerging professionals interested in entering the human rights field;
- D. Provide *Robina International* and *Robina Senior Fellowships* to experienced human rights professionals who will teach, write, conduct research, lecture and/or participate in the School's legal clinics and centers, and who will generally inspire future generations of international lawyers, judges, and scholars;
- E. Provide support for a *Robina Project Director*, who will assess the Initiative's impact; evaluate needs in the field and coordinate students' work in these areas; and coordinate litigation and advocacy efforts across various human rights groups.

II. PROGRESS TOWARD GOALS

A. Robina Human Rights JD Scholarships

Yale Law School is pleased to report that we provided *Robina Human Rights Scholarships* to 13 JD students interested in studying and pursuing careers in human rights. The names of the scholarship recipients are listed below with short biographies.

Amanda Andrade, Class of 2010

Amanda Andrade is from Grosse Pointe, Michigan and attended the University of Michigan, where she graduated with highest distinction, having received her BA in Political Science and Psychology.

At Yale Law School, Amanda's particular interest is criminal prosecution and international law. She is an articles editor for the *Yale Journal of Law and Feminism*, as well as an Editor on the *Yale Law Journal*. Although her career goals are not firmly set, Amanda is interested in a public sector job, most likely in government.

Elisabeth Centeno, Class of 2011

A native of Los Angeles, CA, Elisabeth M. Centeno received a BA in International Relations and Art History, with distinction, from Stanford University in 2007. During her senior year, Elisabeth was awarded the John Gardner Fellowship, a 10-month post-graduate fellowship that supports the professional development of the next generation of leaders in public service. Elisabeth spent her fellowship in New York, NY, at Human Rights First, where she worked with the Law & Security Program, on initiatives aimed at ending US policies that condone torture, and the Refugee Protection Program, which operates a pro bono asylum representation project and works on strategic legislative and community-based advocacy.

At Yale Law School, Elisabeth intends to pursue academic and professional opportunities relating to international human rights. She is currently a member of the *Yale Law and Policy Review* and the *Yale Human Rights Project*, through which she conducts research for a civil society organization in Nicaragua. She also has domestic law interests and looks forward to improving access to legal representation in under-resourced communities.

Bram Elias, Class of 2009

Bram Elias grew up in San Diego, California, and received his BA degree at the University of Michigan (Political Science and English, with high honors) and postgraduate degrees at the Queen's University of Belfast (MA, Politics and Comparative Ethnic Conflict) and Harvard's Kennedy School of Government (MPP, Public Policy and Urban Policy).

Bram has worked for the city governments of San Diego and San Francisco, CA; Saginaw, MI; Washington, DC; as well as in regional government agencies in Massachusetts and Northern Ireland. At Yale Law School, Bram has focused on clinical education (he is a member of the National Litigation Project and of Yale's Workers' and Immigrants' Rights and Advocacy Clinics). He has also taught two undergraduate courses in Yale's Department of Political Science

and worked as a teaching assistant in the Fall 2009 1L Civil Procedure Course, taught by Harold Koh. Bram is also a member of the *Yale Journal of Law and Feminism* and the Yale chapter of the American Constitution Society.

Clark Gard, Class of 2009

Clark Gard grew up Orange County, CA, and attended boarding school at the Webb School of California in Claremont. He received a BA in Economics and Art History from Columbia College, graduating *magna cum laude* in 2003. Clark also has an MA in Middle East Studies from the American University in Cairo, where he was an International Graduate Fellow from 2004-2006. Before moving to Cairo, Clark worked as a litigation legal assistant at Hughes Hubbard & Reed LLP in New York.

While in Cairo, Clark was a teaching fellow in international human rights law, and was part of a research clinic focused on Islamic and humanitarian law with the Harvard Program on Humanitarian Policy and Conflict Research. Clark spent the summer of 2005 doing human rights work in Afghanistan with the Afghan Independent Human Rights Commission, and returned to Columbia in 2006 as a Parker Scholar of International and Comparative Law. In May 2007, Clark was named the 2007 Michael Ratner Human Rights Fellow by Columbia Law School, and he spent the summer of 2007 working with the International Center for Transitional Justice, focusing on the Iraqi High Tribunal and the prosecution of former regime officials for genocide, crimes against humanity, and war crimes. Clark is interested in both international human rights advocacy and scholarship, and has been a Presenter on humanitarian law and transitional justice panels at the Second World Congress for Middle East Studies in Amman, Jordan (June 2006) and the Second Annual Conference on Democracy and Reform in the Arab World in Doha, Qatar (May 2007).

While at Yale, Clark worked as a first-year editor on the *Yale Journal of International Law*, the Student Director of the Middle East Legal Forum, a student organizer of the Middle East Legal Studies Seminar, a Teaching Assistant for *International Human Rights Law* and *Computers and the Law*, and is a Student Director in the Lowenstein International Human Rights Clinic. After graduation, Clark hopes to combine his public and private sector interests with his Middle East expertise, and is particularly interested in shari'a-compliant microfinance.

Zachary Herz, Class of 2011

Zachary Herz is from Brooklyn, NY, and attended the University of Chicago. In 2008, he was inducted into the Phi Beta Kappa Society and received a BA in Classical Studies. His senior thesis dealt with modern receptions of the *Iliad* in translation and their relation to Western attitudes towards aging.

Zachary is currently pursuing a joint degree at Yale Law School and at Columbia University, in the Classics Department of the Graduate School of Arts and Sciences. He plans to perform a comparative study of how modern and ancient law codes deal with socially constructed categories, with the goal of proposing a more structurally coherent approach to modern civil rights and discrimination laws. Zachary hopes to pursue an academic career.

Suneela Jain, Class of 2010

Suneela Jain is from San Rafael, CA, and graduated *summa cum laude* in 2004 with a BA in Political Science and Public Policy from the University of California, Los Angeles. As an undergraduate, Suneela was active on the debate team; she also studied international trade policy at the University of Ghana in Accra, and US agricultural policy while interning at the USDA in Washington, DC with the UC Center for the Study of American Politics and Public Policy. After graduation she was hired to research and write about international trade, and worked as a Legal Assistant at a civil rights law firm in Washington, DC.

At Yale Law School, Suneela has continued her studies in international trade as part of her larger interest in studying mechanisms to promote sustainable development around the world. Next year, she will be an Articles Editor for the *Yale Human Rights and Development Law Journal*, and a Student Director for the Orville H. Schell, Jr. Center for International Human Rights. She will also continue her involvement with the Community Development and Financial Institutions Clinic.

Karen Kudelko, Class of 2010

Karen Kudelko is originally from Livonia, MI, and attended Brown University, where she graduated *magna cum laude* in 2007, with honors from the History Department and a joint concentration with the International Relations Department. She wrote her undergraduate history thesis based on oral histories collected from Liberian refugees at a refugee camp in Ghana and at a resettlement program in Providence, RI.

Karen's mother immigrated to the US from Poland as a teenager, and her father's family immigrated from Mexico and Poland. At the Law School, Karen has focused on international human rights and direct client services, focusing particularly on the exploration of transnational law, peacemaking, and the European Convention on Human Rights. Karen has been a member of the Lowenstein International Human Rights Clinic for two semesters, and is also a member of the Domestic Violence Clinic. In addition, she is a co-director of the Lowenstein Human Rights Project, and a co-chair of the Latino Law Students Association. In the future, Karen hopes to pursue a career that incorporates direct client services and international human rights research.

Ira Lindsay, Class of 2009

Ira K. Lindsay is from Shutesbury, MA, and attended Swarthmore College, where he graduated with Highest Honors, having majored in History and minored in Philosophy. Ira received a Fulbright Scholarship to study in St. Petersburg, Russia, from 2001 to 2002. He worked as a management consultant for Monitor Group from 2002 to 2004. In 2007, Ira received an MA from the University of Michigan's Philosophy Department; Lindsay is currently on leave from the University of Michigan to study law.

At Yale Law School he has been a research assistant to Jules Coleman and participated in the National Litigation Project. He has received the Felix S. Cohen award for a paper in legal philosophy. Ira was a summer intern at the Open Society Justice Initiative in Budapest, Hungary, for the summer of 2007 and was a summer associate at Cleary, Gottlieb, Steen, & Hamilton LLP in 2008, where he conducted pro bono work on behalf of Guantánamo detainees. Ira has accepted a clerkship with the Hon. Stephen Williams of the DC Court of Appeals for 2010-2011.

Kristin Macleod-Ball, Class of 2010

Kristin Macleod-Ball received a BA in Political Studies and Human Rights from Bard College, where she received the Lockwood Prize for critical writing for her undergraduate thesis. She has worked for human rights and environmental NGOs including WITNESS, the Coalition for Environmentally Responsible Economies, and Clean Water Action, and participated in media collectives such as the New York City Independent Media Center and Paper Tiger Television.

At Yale Law School, Kristin is a Comments Editor for the *Yale Journal of Law and Feminism*. She is also a member of the Lowenstein International Human Rights Clinic, where she has collaborated with Human Rights Watch and the Center for Constitutional Rights, and the Lowenstein Human Rights Project, where she worked with the ACLU's Immigrants' Rights Project.

Katherine McGriff, Class of 2011

Katherine McGriff grew up in Birmingham, Alabama, and received a BA from Smith College, where she majored in English and minored in Government. During her senior year, she participated in the Picker-Semester-in-Washington Program, where she worked for the American Constitution Society and wrote a thesis-style paper on Section 5 of the Voting Rights Act. Katherine graduated in 2007, Phi Beta Kappa and with numerous departmental honors. She is interested in civil rights and constitutional law and plans to work in some government or public interest capacity after graduating from Yale Law School.

Matthew Pearl, Class of 2011

Matthew Pearl, a native of Novi, Michigan, graduated cum laude from Kalamazoo College with a major in Philosophy and a minor in History. While there, Matthew received honors for his senior thesis titled "Kant's Rediscovery of the Self and Its Influence on Fichte." In addition, Matthew received the Hemmes Award for the student who displayed "the most promise to continue and excel in the study of philosophy," and the Department of Philosophy Prize for "excellence in the year's work in philosophy." Matthew focused his studies on legal and political philosophy, with a particular emphasis on issues of social justice and multiculturalism.

After college, Matthew was employed through Americorps in a home-based program for children with emotional disabilities in Detroit. Matthew worked closely with social workers and psychiatrists to provide appropriate social services to clients and their families. Matthew went on to serve in Teach for America for two years in Chicago, where he taught underprivileged students of all ages. While completing his Teach for America commitment, Matthew earned a teaching certification from Dominican University.

At Yale Law School, Matthew plans to continue studying legal philosophy and examining issues of social justice. Matthew hopes to clerk for a federal judge after finishing law school, and he intends to eventually pursue a career in legal academia teaching jurisprudence. Matthew also wishes to continue collaborating with organizations, both nationally and internationally, that are committed to ending educational inequality.

Sohail Safdar Ramirez, Class of 2011

Sohail Ramirez is a Dominican native who was raised Brooklyn, NY, and attended Fordham University. He graduated *summa cum laude* as well as Phi Beta Kappa with a BA in Philosophy and History and with a minor in Latin American studies. As an undergraduate, he spent a semester in Yucatan, Mexico.

At Yale Law School, Sohail is an editor on the *Yale Law & Policy Review*, and is interested particularly in studying criminal law and constitutional law. He has participated in the National Litigation Project clinic and is currently the Social Chair of the Latino Law Students Association. In 2008, he spent the summer working for the New York District Attorney's Office; this summer he is exploring other public defense internships.

Ashwini Vasanthakumar, Class of 2011

Ashwini Vasanthakumar was born in Sri Lanka, but grew up in Zambia and Papua New Guinea before moving to Canada at the age of 14. After completing high school in Canada, she headed to Harvard, graduating *magna cum laude* in Social Studies; her undergraduate thesis, which focused on transnational political activism, won the Alexis de Tocqueville prize. She went on to complete a Masters at the University of Toronto, where she was awarded a Masters Grant of CAD 170000, before heading to Oxford on a Rhodes Scholarship. While there, she completed a DPhil in Political Theory on the Ethics of Exile.

Ashwini has spent most of her summers working on human rights issues, with a particular focus on the Sri Lankan civil conflict. She has worked with international human rights organizations in Sri Lanka and India on such issues as refugee rights; access to education for internally displaced children; police brutality and torture; child recruitment into armed groups; and violence within the Tamil diaspora. At Yale Law School, Ashwini hopes to focus on refugee, forced migration, and asylum issues in both academic and advocacy contexts.

B. Robina Summer Human Rights Fellowships

The Robina Foundation grant enabled us to expand our summer fellowship program, at a time when budget cuts and a reduction in grants would have otherwise brought serious cutbacks to the program. Through your grant, we funded 36 fellowships.

Typically, international Summer Public Interest Fellowships are named in honor of Kirby Simon, the son of Professor John Simon and a Foreign Service officer who died in 1995 while serving in Taiwan. In order to continue to honor Kirby's memory as well as acknowledge the generous support provided by the Robina Foundation, the 36 fellowships awarded this year were called the *Kirby Simon Summer Fellows, supported by the Robina Foundation*. Below is a list of the names of students who received fellowships, as well as brief biographies and descriptions of summer projects.

Ryan Abbott, Class of 2010

Ryan Abbott, MD (cand.), JD (cand.), MTOM, LAc, is currently completing a dual degree in law and medicine at Yale Law School and the University of California at San Diego School of Medicine. Ryan graduated *summa cum laude* from Emperor's College, in Santa Monica, CA,

with a Masters degree in Traditional Oriental Medicine; he is also a *summa cum laude* graduate of the University of California at Los Angeles with a Baccalaureate of Science in “Integrative Medical Theory.” Ryan has served as an advisor to international organizations, academic universities, and private enterprises including World Intellectual Property Organization (WIPO), and the University of California at Los Angeles (UCLA). He consults on issues related to health care policy and regulation, intellectual property, traditional knowledge, funding mechanisms, and clinical research design.

Last summer, Ryan worked at the World Health Organization (WHO) in Geneva, Switzerland, where he interned at the Department of Traditional Medicine. While there, he drafted a chapter for a book on the sustainable development of traditional medicine in developing nations. He also helped organize the first WHO Congress on traditional medicine.

Mary Adkins, Class of 2010

Mary Adkins is currently involved with the *Yale Journal of Law and Feminism*, where she is on the Board as Co-Chair of the Symposium Committee. The committee hosted a symposium in November 2008 on the Pregnancy Discrimination Act, which celebrated the thirtieth anniversary of its passage. Mary is also a supervising student in the Domestic Violence clinic and a teaching assistant for the first semester students’ Civil Procedure class with Professor Owen Fiss.

Mary spent half of the 2008 summer working on domestic violence issues at the Matrimonial and Family Law Unit of the New York Legal Assistance Group. In addition, she worked in Guatemala at *Proyecto Lingüístico Quetnalteco de Español*, a nonprofit organization with a long history of working with human rights and popular organizations.

Mytili Bala, Class of 2009

Mytili Bala is from Indianapolis, IN, and attended the University of Chicago. In 2005, she received an AB in Economics with Honors. Mytili has used her economics background to write two papers in law school, using econometric techniques to address whether the death penalty has a deterrent effect, and to ask whether affirmative action programs help minimize tokenization of minority students in US colleges.

At Yale Law School, Mytili has demonstrated a strong interest in intellectual property and human rights. In intellectual property, Mytili has focused her inquiries on whether a new intellectual property regime could better address the needs of developing countries.

Mytili has undertaken many activities in law school that demonstrate her commitment to public service, including participation in the Legal Services for Immigrant Communities Clinic and the Temporary Restraining Order Project. Public service and social justice remain her primary motivators and guide all her intellectual inquiries in the law. After graduation, she plans on shifting her focus on the intersection of world intellectual property regimes, human rights, and development through either an academic position or through work with a NGO.

Last summer Mytili worked at an organization called People’s Watch in India, studying and writing about issues related to caste abuse and police torture. Specifically, Mytili helped publish reports on police torture occurring across India and assisted with two people’s tribunals on torture in different states. The tribunals recognized the victims of police torture and held state

and national human rights organizations accountable for their reluctance to prosecute human rights abuses committed by state actors.

Anand Balakrishnan, Class of 2009

Anand Balakrishnan graduated *magna cum laude* with a BA in History (Middle Eastern and Southeast Asian) from Brown University. While there, he received the History Department Chairman's Award for Distinguished Honors Thesis; he was also honored as a Watson Institute Smoke Fellow.

Before law school, Anand spent two years working in Sudan and Egypt for the American University in Cairo's Social Research Center. At the Center, he helped coordinate an interdisciplinary project on torture and prison conditions in the region, focusing on the collateral effects of detainee torture on their families and social networks.

Anand came to Yale Law School with the desire to pursue work in international human rights. While at Yale Law School, Anand participated in the Workers and Immigrant Rights Clinic as well as at the Prison Legal Services Clinic, where he represented individual clients in removal proceedings in the federal court system. He was also an intern for the Liberty and National Security Division at the Brennan Center for Justice, where he co-wrote amicus briefs on international human rights law and domestic surveillance, and assisted in the creation of strategies through which lawyers can enforce human rights norms. Last summer Anand spent ten weeks working as a clerk for Justice Frank Stock, a Judge on Court of Appeals on the Hong Kong High Court. Anand intends to continue doing human rights work after graduation.

Laurie Ball, Class of 2010

Raised in Sudbury, Massachusetts, Laurie Ball graduated in 2004 from Duke University, having majored in Public Policy and minored in Economics. Shortly after graduation, she moved to Bosnia and Herzegovina as a Hart Fellow, where she worked for two years as the research and policy manager at the Bosnian Foundation *Mozaik*. While there, Laurie conducted community-based research related to the Foundation's community organizing and community development program area.

Laurie is a dual degree student at the Yale Law School and the Woodrow Wilson School at Princeton University. Laurie has continued her work related to the Balkans through law school internships with the Special Department for War Crimes of the State Prosecutor of Bosnia and Herzegovina and with Human Rights Watch's Western Balkans researcher. Laurie is also committed to anti-torture work, having become interested in this topic during her internship with a torture survivors' group years ago. Laurie has also discovered a passion for immigration law and policy through Yale's Immigration Legal Services clinic. Laurie hopes to pursue a career in human rights. Last summer, Laurie worked at Human Rights Watch and Human Rights First.

Sadie Blanchard, Class of 2010

Sadie Blanchard is from Houma, Louisiana, and attended the Honors College at Louisiana State University. In 2002, she received a BA in Economics *summa cum laude*, with a minor in English Literature. While at LSU, she won multiple scholarships and awards, including an LSU Study Abroad Scholarship to study in London. After college, Sadie worked as an economist at the Bureau of Labor Statistics in Washington, DC. While living in DC, she developed a strong

interest in public policy and constitutional issues, particularly in civil liberties and domestic and international adoption law.

While at Yale Law School, Sadie has become interested in human rights, particularly international criminal law dealing with human rights abuses. She is an editor on the *Yale Journal of International Law* and a mentor to a New Haven high school student through Women and Youth Supporting Each Other (WYSE). This year Laurie has co-directed the Lowenstein Human Rights Project and the Yale Law School Project Assisting the Extraordinary Chambers in the Courts of Cambodia (ECCC)--the tribunal that will be trying former leaders of the Khmer Rouge. Last summer, Sadie worked in Phnom Penh at the Documentation Center of Cambodia, which works to promote memory and justice related to the Khmer Rouge regime.

Connie Chan, Class of 2010

Connie Chan is from Scarsdale, New York and attended Yale College, where she received a BA in English Language & Literature *cum laude* with distinction in the major. After Yale College, she worked for the Department of Justice, Antitrust Division, in Washington, DC, and for the Beijing office of the Natural Resources Defense Council, where she served as a Research Fellow for the China Environmental Law Project.

At Yale Law School, Connie has continued to pursue her interests in international environmental and development law. In addition to her work as an Articles Editor for the *Yale Journal of International Law*, she has served as a teaching fellow in the Yale College Department of Political Science and Program of International Studies, for a course on the Law and Politics of Globalization. During her two years here, she has also cultivated a strong interest in domestic public interest work and has been actively involved in the clinical programs. Through the Immigration Legal Services Clinic, she has represented clients seeking asylum or other forms of immigration relief, and through the Landlord-Tenant Clinic, she has represented indigent tenants facing summary process evictions. Last summer, Connie worked at the Social and Economic Rights Action Center.

Jonathan Cochran, Class of 2010

Jon Cochran is from Richmond, VA, and graduated *summa cum laude* from Washington and Lee University. Since his arrival at Yale Law School in 2007, Jon has become increasingly interested and involved in international law, human rights and gender-based violence. He is an articles editor on the *Yale Human Rights and Development Law Journal* and co-director of the TRO Project, a student organization that helps victims of domestic violence obtain temporary restraining orders. His long-term plans involve international law, diplomacy, and possibly law teaching.

Jonathan worked at the Ministry of Health and Social Welfare of Liberia. While there, he worked specifically on government contracts, new legislation impacting the government's work, and researching human rights issues related to new adoption law, which was being written at the time.

William Collins, Class of 2010

Raised in Elkridge, MD, William Collins completed a Bachelor of Arts, *summa cum laude*, in Criminology and Criminal Justice and a Master of Public Policy, Social Policy Concentration at the University of Maryland, College Park. His master's thesis explored policy interventions to reduce the transmission of HIV in detention facilities. During his undergraduate education, he received the Peter P. Lejins Award for Excellence in Criminology, the John Hope Franklin Academic Excellence Award, and membership the Omicron Delta Kappa Honor Society.

At Yale Law School, William is interested in studying criminal and international human rights law. In addition to being a submissions editor on *Yale Law and Policy Review*, he is the Community Service and the Recruitment and Development Co-chair for the Yale Black Law Students Association. Upon graduation, William would like to pursue his interest in social justice through a public interest fellowship.

Last summer, William worked as a legal intern at the Civil Liberties Organization in Lagos, Nigeria, the oldest civil rights NGO in Nigeria. While there, he participated in a protest rally, published an article in the Organization's quarterly digest, and drafted significant legal documents.

K. Thomas Dannenbaum, Class of 2010

Tom is concurrently pursuing a PhD in Political Theory at Princeton University. A native of London, England, he received his BA Phi Beta Kappa, with honors and distinction, from Stanford in 2003. His honors thesis, which focused on the moral and ethical complexities of western criticisms of Islamic veiling, won two awards. Tom's primary academic interest (and the subject of his prospective doctoral dissertation) is in the moral philosophy of transitional justice. He aspires to a career in legal academia.

Last summer, Thomas worked in the President's Office at the International Criminal Tribunal for the former Yugoslavia, where he witnessed firsthand the initial appearance of Radovan Karadzic.

Nwamaka Ejebe, Class of 2010

Nwamaka Ejebe is from Plymouth, Minnesota and received her BA from Washington University in St. Louis in 2006. She graduated *magna cum laude* with a joint degree in History and Economics. While there, Nwamaka received a full tuition scholarship as a John B. Ervin Scholar and was captain of her mock trial team and a Mellon Mays Undergraduate Fellow. After graduation she worked as an Honors Paralegal for the Federal Trade Commissions' Bureau of Competition.

Nwamaka's focus at Yale Law School has been on international economic law and human rights. She has served as a Submissions Editor for the *Yale Journal of International Law* and a teaching fellow and research assistant for Professor Alec Stone Sweet. She has also worked as a law student intern for the Community and Economic Development Clinic and the Allard K. Lowenstein International Human Rights Clinic. During her second year, she served as the Co-Chair of the Women of Color Collective and the Co-Chair of the Black Law Students Association's Alumni Affairs Committee.

Last summer Nwamaka spent ten weeks working as a Fellow for the Constitutional Rights Project, a human rights NGO based in Abuja, Nigeria. Nwamaka studied the opportunities and obstacles facing human rights NGOs, the challenges of Nigeria's criminal justice system, and the relationship between domestic and international human rights organizations. In addition, Nwamaka drafted memos analyzing the possibility of court-monitoring remedies, researched constitutional bases for prisoner's rights, and interviewed potential class action participants.

Jacqueline Esai, Class of 2010

Jacqueline Esai is originally from Nikolai, Alaska. She attended the University of Denver where she received her BS in International Business. At Yale Law School, she continues to pursue her interest in human rights law through participation in the Lowenstein Human Rights Clinic. Last summer, Jacqueline worked for the Open Society Institute's Mental Health Initiative in Budapest, Hungary.

Brian Finucane, Class of 2010

Brian Finucane grew up on a farm in the coal fields of eastern Kentucky. While studying archaeology and anthropology at Cornell University, Brian worked as a firefighter and emergency medical technician for the Ithaca Fire Department. He graduated Phi Beta Kappa and *summa cum laude*. As a Rhodes Scholar at Oxford he continued his archaeological research in Peru and Mali, completing both a master's degree and a doctorate. While at Yale Law School, Brian has been active in the National Litigation Project clinic. He also serves as a submissions editor for the *Yale Journal of International Law*.

Brian spent the summer of 2008 working for the Prosecutor at the Registry for War Crimes for the State Court of Bosnia and Herzegovina. During his time there, he examined evidence (including forensic evidence and witness statements), interviewed witnesses, and visited massacre sites with survivors. Using this evidence, he drafted an indictment against the perpetrators. Next summer, he intends to return to Sarajevo to work on the trial phase of the case.

Ronan Farrow, Class of 2009

Ronan Farrow is a writer and human rights advocate. His columns have appeared in the Los Angeles Times, the International Herald Tribune, The Washington Post, the Wall Street Journal, and other publications. He has served as a UNICEF Spokesperson in Angola, Nigeria, and Sudan and has testified on African issues before numerous UN groups. He has appeared as an expert witness before the US Congressional Human Rights Caucus and as a commentator for MSNBC, ABC, and CNN.

During his time at Yale Law School, Ronan worked for the Chief Counsel of the US House Committee on Foreign Affairs and as a Summer Associate at Davis Polk & Wardwell. He is currently working on a book on America's use of proxy armies. Last summer, Ronan was also able to supervise a study for the Centers for Disease Control and Prevention (CDC) on post-traumatic stress disorder in the slums of Nairobi, Kenya.

Sam Ferguson, Class of 2009

Sam Ferguson was born and raised in Berkeley, California, and graduated in 2004 with highest honors from the University of California at Berkeley. After graduation, he organized and ran the

first municipal ballot initiative in the country for full public financing of elections. In 2005, he lived in Argentina and traveled throughout South America for a year. Upon returning, he worked at the Rockridge Institute under George Lakoff. He is also a contributing author to *ThinkingPoints: A Progressive's Handbook*, a guide to progressive framing.

At Yale Law School, Sam participated in the Latin America Linkages Program, where he became interested in Argentine transitional justice. He spent the summer after his 1L year reporting for *TruthOut.org* on the trial of Cristian Federico Von Wernich, the first catholic priest indicted and convicted for abuses committed during Argentina's last military regime. He also authored an extensive article entitled "Argentina's Unending War" for the May/June edition of the *Boston Review* on the re-opening of human rights prosecutions against Argentine military officials from the 70's.

Sam spent last summer pursuing independent research in Argentina, transforming his earlier article, published in the Boston Review, into a book on the subject of Argentina's pursuit of delayed justice since repealing a set of amnesty laws which had formerly protected the perpetrators of Argentina's "Dirty War." Sam interviewed over forty people (including three current or former Supreme Court Justices) for source material and observed two trials over the course of the summer. He plans to return to Argentina this summer to continue to work on this book.

Clark Gard, Class of 2009

Clark's biography is included in the "Robina Human Rights Scholarships" section. Last summer, Clark worked for the International Center for Transitional Justice (ICTJ), where he continued his past work on the Iraqi High Tribunal, which brought to justice Saddam Hussein as well as other officials of his regime. Clark continued working with the ICTJ throughout the 2008-09 academic year.

Ilana Gelfman, Class of 2009

Ilana Gelfman is from Sharon, MA, and graduated *magna cum laude* from Harvard College, with highest honors in the Study of Religion. At Yale Law School, she has focused primarily on legal work on behalf of under-resourced individuals. She is a director of the Landlord-Tenant Clinic, a supervisor of the Domestic Violence Clinic, and a director of the Temporary Restraining Order Project. In the summer of 2007, she worked at Greater Boston Legal Services in the Shelter Working Group of the Housing Unit. She hopes to continue her public service efforts professionally in a legal services organization after graduation.

Last summer, Ilana spent several weeks working at the Welfare Unit at Greater Boston Legal Services. In addition, she spent time working at a nonprofit organization called *La Hermandad Educativa* in rural Guatemala, where she studied intensive Spanish and human rights abuses that occurred during the civil war.

Rebecca Heller, Class of 2010

Rebecca Heller is originally from Oakland, CA. She graduated *summa cum laude* and Phi Beta Kappa from Dartmouth College in 2005, where she majored in government and did a senior fellowship on AIDS, poverty, and malnutrition. After college, she spent a year in Malawi on a

Fulbright Scholarship, where she directed the research and writing of Malawi's National Nutrition Policy for 2006-2011.

Rebecca is interested in human rights work, focusing particularly on refugee and immigration law. At Yale Law School, she serves as an Articles Editor for the *Yale Journal of International Law*, a student director of the Immigration Legal Services Clinic, a teaching assistant for Professor Owen Fiss, and a research assistant for Professor Robert Gordon. She is also a co-founder of the Iraqi Refugee Assistance Project, a student in the Lowenstein Human Rights Clinic and a volunteer with the Temporary Restraining Order Project.

This past summer, Rebecca interned with the Global Workers Justice Alliance in New York City, doing legal advocacy on behalf of migrant workers, and at Gisha: Center for the Legal Freedom of Movement in Tel Aviv, doing human rights work on behalf of Palestinians in Gaza. At Gisha, Rebecca worked on cases of students with foreign scholarships who were prevented by leaving Gaza as well as urgent medical cases that could not get the health care they needed inside Gaza.

Julie Holt, Class of 2010

Julie Holt holds a BA *summa cum laude* in Economics from Columbia University. Prior to coming to Yale Law School, she worked for the Federal Reserve Board of Governors in Washington DC and danced for the Metropolitan Opera Ballet. Her main interest in law school is criminal defense work. She is also involved with the *Yale Journal of Law and Feminism*. After graduation, Julie would like to work as a public defender, eventually doing capital defense.

Julie spent last summer working in Namibia at the Legal Assistance Centre. She focused her efforts particularly on women's rights work, helping promote society's acceptance of progressive gender laws.

Andrew Iliff, Class of 2010

Andrew Iliff grew up in Harare, Zimbabwe. He studied Social Studies and African Studies at Harvard College, graduating *magna cum laude* in 2004, winning the Phillippe K. Wamba prize and the W.E.B. Du Bois Thesis prize for his thesis entitled "Arresting Impunity: Towards a Transitional Justice Paradigm for Zimbabwe." Following graduation from Harvard, Andrew worked for the Open Democracy Advice Centre in Cape Town, South Africa as a Third Millennium Human Rights Fellow. After returning to the United States, he coordinated "The Future of Human Rights Practice: Innovations in Africa" conference at Harvard University.

Currently in his second year at Yale Law School, Andrew is a joint degree student in African Studies, focusing on the law and policy of transitional justice in southern Africa. He is currently a Student Director at the Orville H. Schell, Jr. Center for International Human Rights. Andrew hopes to return with his wife, a medical student, to Zimbabwe after graduation to continue his work in human rights.

During the summer of 2008, Andrew worked at Human Rights Watch's International Justice Program in New York and at the International Center for Transitional Justice in Cape Town, South Africa. Last summer was his first chance to practice human rights work and post conflict justice issues.

Suneela Jain, Class of 2010

Suneela's biography is included in the "Robina Human Rights Scholarships" section. As a recipient of a 2008 *Robina Summer Human Rights Fellowship*, Suneela worked at the Center for the Implementation of Policies Promoting Equity and Growth (CIPPEC) in Buenos Aires, Argentina, where she worked developing strategies to promote an equitable distribution of wealth, equal opportunities, and strong public institutions in Argentina.

Craig Konnoth, Class of 2010

Craig grew up in Mumbai, India. He graduated from Fordham University *summa cum laude* in 2005 with departmental honors in Mathematics-Economics and History, focusing on Real Analysis and the origins of Fascist Political Thought, and Cambridge University with an MPhil in the History of Political Thought, focusing on seventeenth century Protestant constitutional theory. At college, Craig restarted the gay student's organization and was active in issues related to equal treatment for sexual minorities.

At Yale Law School, Craig has worked with international gay rights organizations to address human rights abuses that gay individuals face in countries where human rights violations are routine. He has also worked with the ACLU on domestic gay rights issues, and has clerked with both international and national gay rights organizations over the summer with the aid of a Sonnenschein scholarship and a Kirby Simon Fellowship. He is in the process of co-founding a gay rights clinic at Yale to help indigent LGBT plaintiffs as well as impact litigation organizations. Craig is the Co-Chair for the Student Division of the National LGBT Bar Association, Co-Chair of the Yale South Asian Law Students Association, Activism Co-Chair for Yale OutLaws, and Business Manager for the *Yale Journal of Law and Feminism*. His writing focuses on legal history and gay rights issues. Over the summer, Craig worked for the International Gay and Lesbian Human Rights Council, located in New York.

Karen Kudelko, Class of 2010

Karen's biography is included in the "Robina Human Rights Scholarships" section. Last summer, as a recipient of a 2008 *Robina Summer Human Rights Fellowship*, Karen worked on policy- and government-based work at the Ministry of Health and Social Welfare in Monrovia, Liberia. At the Ministry, she worked on legal research and drafting new adoption legislation jointly with the Ministry of Justice.

Nadia Lambek, Class of 2010

Nadia Lambek grew up in Toronto, Canada. She attended Brown University, where she concentrated in International Development Studies and Political Theory and studied abroad in Dakar, Senegal. She wrote her thesis, *Access and Meaning: Nairobi's Marginalized and a Theory of Property*, on recognizing housing and property rights for the over 1.5 million residents of Nairobi that live in informal settlements without any legal tenure over their homes. After graduating, Nadia moved to Nairobi, Kenya where she worked with a small local NGO engaged in housing rights advocacy and organizing within these settlements.

At Yale Law School, Nadia has been very involved with human rights programming. She is a student director for the Allard K. Lowenstein Human Rights Project, the Editor-in-Chief of the *Yale Human Rights and Development Law Journal*, and a two-time recipient of the Kirby Simon Summer Fellowship. She has also been involved with the Yale Information Society Project. Nadia is very interested in poverty law and community lawyering. She has been a member of the Legal Services for Immigrant Communities clinic since her second semester and this summer will continue with direct client work at the Ontario Human Rights Legal Support Center. After graduating in the spring of 2010, Nadia will clerk at the Court of Appeal for Ontario.

Last summer Nadia worked in Bangalore, India at the Alternative Law Forum, a social justice legal center involved in litigation, direct services, lobbying and research in India. While there, she worked on intellectual property policy reforms to help developing countries.

DeLisa Lay, Class of 2010

DeLisa Lay is originally from Houston, TX, and graduated *summa cum laude* as a member of the inaugural class of Eugene McDermott Scholars from the University of Texas at Dallas. There she earned a BA in Government and Politics and wrote her honors thesis on the topic of the use of force in humanitarian intervention. Following graduation from UTD, she moved to Washington, DC to work in campaign politics and later as a Legislative Assistant for Foreign Affairs for her hometown congressman, Rep. Judge Ted Poe (TX-2).

At Yale Law School, DeLisa has continued to develop her interest in international law and human rights as a member and student director of the Lowenstein Project, a student director of the Lowenstein International Human Rights Clinic, and as a student director of the Orville H. Schell, Jr. Center for International Human Rights. DeLisa has also served on the board of the Yale Law Federalist Society and remains an active member of the Yale Law Christian Fellowship. She looks forward to returning to Washington, DC in the summer of 2009 as a Summer Associate for Gibson, Dunn & Crutcher, LLP and then as a clerk for Senator John Cornyn (TX) on the Senate Judiciary Committee. Last summer, DeLisa worked for the International Justice Mission in Kigali, Rwanda, researching sexual violence against minors and how Rwandan law addresses these issues.

Jake Lucchi, Class of 2010

Jake Lucchi is from Branson, MO, and graduated *summa sum laude*, Phi Beta Kappa in 2007 from University of Missouri-Columbia with a BA in Philosophy and Political Science. His honors thesis in the philosophy department focused on a “capabilities” approach to justice.

At Yale Law School, Jake has been interested in comparative constitutional law and legal/political philosophy. He has worked on the *Yale Journal of Law and Feminism*, the LGBT Litigation Clinic, and is currently co-authoring an empirical study of legal positivism with Alec Stone Sweet. Jake decided to study at Yale Law School because of the School’s strong public interest law initiatives and the impact its alumni have made in shaping public policy. After Yale he will likely pursue a PhD in political/legal philosophy and aspires to a career in legal academia.

In the summer of 2008, Jake worked in Thailand for an NGO called “The Asia Foundation,” where he developed strategies so that a stateless group of Thais living near the Burmese border could attain citizenship. He also analyzed the affects of a legal aid nonprofit that assists tsunami victims by identifying discriminatory barriers to the fruitful use of Thai courts.

Kristin Macleod-Ball, Class of 2010

Kristin’s biography is included in the “Robina Human Rights Scholarships” section. As a 2008 recipient of a *Robina Summer Human Rights Fellowship*, Kristin worked last summer in New York at the National Economic & Social Rights Initiative, an organization that promotes a human rights vision for the United States that ensures dignity and access to the basic resources needed for human development and civic participation. Towards this end, NESRI works with organizers, policy advocates and legal organizations to incorporate a human rights perspective into their work and build human rights advocacy models tailored for the United States.

Lucas Mills, Class of 2010

Lucas Mills is from Evanston, IL, and attended Yale College. He studied cultural history as an American Studies Intensive Major, graduating *summa cum laude* and a member of the Phi Beta Kappa honor society in 2005. With the help of the Chase Coggins Memorial Scholarship, the Paul Mellon Undergraduate Research Grant, the Richter Summer Fellowship, and the John E. Linck and Alanne Linck Summer Fellowship, he traveled to the Mississippi Delta to study legendary blues harmonica player Sonny Boy Williamson. His travels led to his senior essay: “Blues and the Trickster Myth.”

At Yale Law School, Lucas is interested in intellectual property and the entertainment industry. He is also interested in legal issues affecting indigenous peoples, and is writing a paper on the promise of wind energy on Native American reservations.

Last summer, Lucas pursued his interest in working in the legal representation of indigenous peoples in Broome, Australia. Specifically, Lucas worked for a legal aid organization that represented aboriginal clients; while there he also learned about the issues and challenges facing aboriginal client populations.

Daniel Mullkoff, Class of 2010

Daniel Mullkoff grew up in Ann Arbor, MI, and received his BA in history and political science from the University of Michigan in 2005. After college, he lived on a farm in Costa Rica and then worked for AFS Intercultural Programs in Portland, Oregon. Before law school, he also interned with the ACLU of Michigan and with *Fray Bartolomé de las Casas Grupo de Derechos Humanos* in Chiapas, Mexico.

At Yale Law School, he is active in the Civil Liberties and National Security Clinic, the Legal Services for Immigrant Communities Clinic, the American Constitution Society, and the Rebellious Lawyering Conference. He plans to continue to focus on civil rights and civil liberties litigation after law school.

Last summer, Daniel worked as a legal intern for an NGO called *Asociación por los Derechos Civiles* (Civil Rights Association) in Buenos Aires, Argentina. He specifically worked on issues

related to the humaneness of the justice system, especially prison conditions. Daniel researched how other countries have addressed issues of violations of prisoners' rights, such as overcrowding, denial of medical care, prolonged isolation, searches, and denial of visitation rights. Daniel wrote summaries of cases from the US and European Court of Human Rights and organized them by the type of rights at issue. In addition, he conducted interviews with American clinical professors and wrote an article in Spanish, which discussed the consideration and difficulty in creating law school clinics focused on prisoners' rights.

Joseph Pace, Class of 2010

Prior to coming to Yale Law School, Joseph worked at Human Rights Watch in Egypt. Before that, he spent several years working with civil society groups in Syria. Joseph aspires to be an international human rights lawyer after graduation from Yale Law School.

Joseph spent the summer working for Gisha: The Legal Center for Freedom of Movement. Gisha is a nonprofit organization in Tel Aviv, Israel that specializes in international humanitarian and human rights law, with a specific focus on representing Palestinians living in Gaza.

Rebekah Perry, Class of 2010

Rebekah (Becky) Perry graduated with High Honors from the University of Texas at Austin with a BA in Government and Philosophy. As an undergraduate, Becky served as an intern at the Texas Legislature, a weekly opinion columnist for the *Daily Texan*, and a mentor for local high school students through the *Speak Up! Speak Out!* civic participation program. A recipient of the Harry S. Truman Scholarship, Becky spent her final semester in college studying Mandarin and International Relations in Shanghai. While in China, she reported about one-child policy practices in rural Anhui province for *WORLD* magazine, the fifth-largest US newsweekly.

Upon graduation, Becky worked as the DC correspondent for *WORLD*, covering events and politics in the nation's capital. At Yale Law School, Becky serves as the Symposium Director for the 2009 Federalist Society National Student Symposium and the Co-Chair of the Yale Law Christian Fellowship. Becky spent the summer of 2008 working with the International Justice Mission, a faith-based anti-trafficking organization, in Bangalore, India.

Elizabeth Phelps, Class of 2010

Elizabeth Phelps is from Martha's Vineyard Island and attended Wellesley College, where she received a B.A. in History and Political Science, *magna cum laude*, in 2004. After graduation she was awarded a Wellesley fellowship to teach English at a women's college in Nanjing, China.

Elizabeth has traveled extensively on four continents and this, combined with her time in China, led her to Stanford's School of Education, where she received an MA in International Comparative Education in August 2007. She brings her background in international development and education to her study at Yale Law School, where she is particularly interested in international and human rights law, rule of law in developing countries, and the relationship between law and economic development. She is a projects editor for the *Yale Human Rights and Development Law Journal*, has been a member of the Lowenstein Project, and led New Haven high school students through the college admissions process as a volunteer for *College*

Acceptance. She is committed to a career in public service, most likely in international human rights.

Last summer, Elizabeth worked at an NGO called Room to Read, based in San Francisco, CA, which builds schools and other educational infrastructures and funds girls' scholarships in eight developing countries. In the second half of the summer, Elizabeth traveled to Zambia to work for a grassroots nonprofit organization called The Chikumbuso Project, which serves women and children affected by HIV/AIDS.

Robert Silverman, Class of 2010

Born in Newton, Massachusetts, Robert graduated from Harvard College in 2002 *magna cum laude* with a degree in American History. Following graduation, Robbie worked for four years in the field of affordable housing, including two years at Habitat for Humanity in New York City and one year in Israel on a public interest fellowship.

At Yale, Robert has continued his focus on public service. He participated in the Legal Services for Immigrant Communities clinic through the Legal Services Organization, and he will add a second clinic, Complex Federal Litigation and Prison Legal Services, in his second year. He also co-chairs the American Constitution Society's Poverty subcommittee and serves as an Articles Editor for the *Yale Human Rights and Development Law Journal*. He plans to continue his focus on human rights and public interest law throughout his career.

Last summer, Robert worked for the South Africa Human Rights Commission in Cape Town, South Africa. While there, he spent most of the summer in refugee camps set up by the government to house individuals who fled from xenophobic violence which occurred in May 2008, killing 60 people. Robert monitored the camps for human rights violations and drafted official reports calling for the Human Rights Commission to make immediate policy changes to meet the urgent needs of the adults and children in the camps.

Thomas Stutsman, Class of 2010

Hailing from Winthrop, Minnesota, Thomas graduated *summa cum laude* with a BA in Psychology from Minnesota State University, and earned an LLM in Chinese criminal law and procedure at Sichuan University in Chengdu, China. In addition to studying Chinese language and Chinese law over the past six years, Thomas has worked as an English teacher, a manager of an English school, and a translator. He also researched human rights and rule of law issues during a six-month internship at the Congressional-Executive Commission on China in Washington, DC.

While at Yale Law School, Thomas has taken numerous courses on comparative law, criminal law and procedure, and the sociology of law. He is highly involved with the Yale China Law Center, working part-time as a research assistant and participating in many of the Center's activities. Thomas plans to pursue a career in academia.

Last summer Thomas spent his time working at the Georgian Young Lawyers' Association, an NGO dedicated to promoting legal reform and the rule of law in the Republic of Georgia. He

primarily wrote research reports on how criminal justice institutions in the United States could be adapted to Georgian context. He also evaluated drafts of proposed legislation.

Benjamin Taibleson, Class of 2010

A native of Milwaukee, Wisconsin, Benjamin Taibleson holds a BS with honors in Economics and Political Science from the University of Wisconsin. While there, Benjamin spent a semester studying at the University of Cape Town and working for a housing and microfinance NGO. He has also traveled to more than sixty countries.

At Yale Law School, Benjamin has taken a particular interest in the intersections of development, public policy and law. He is an Articles Editor on the *Yale Human Rights and Development Law Journal*, and was an Editor on the *Yale Law Journal*. One of Benjamin's IL papers will also soon be published as a full article in the *Quinnipiac Law Review*. Benjamin hopes to clerk after graduating, then to work for the Department of Justice.

Last summer, Benjamin spent his summer working for the American Bar Association's Rule of Law Initiative in Pristina, Kosovo. He also spent part of the summer working at the Extraordinary Chambers for the Courts of Cambodia, aiding in the prosecution of the Khmer Rouge leaders.

Aaron Zelinsky, Class of 2010

Aaron Zelinsky grew up in New Haven, CT. He attended Yale College, graduating *magna cum laude* in 2006. His senior essay, "*Terrorist Groups and Business Firms: A New Typological Framework*" was published in the peer-reviewed journal *Terrorism and Political Violence*. While at Yale College he received the Roosevelt L. Thompson Award for dedication to public service, the Daniel F. Merriman Award for outstanding leadership, and the Thacher Memorial Prize for extemporaneous debate.

Aaron is interested in international law and national security. He is an Articles Editor for the *Yale Law Journal* and a former Executive Editor for the *Yale Law & Policy Review*. He co-authored an article on terrorist group funding mechanisms for the peer-reviewed journal *Defense and Security Analysis* and is a regular writer for the Huffington Post. Aaron is also a student representative for the Class of 2010, and will be a Coker Fellow for fall 2009. He has worked as a foreign law clerk for Chief Justice Dorit Beinisch of the Israeli Supreme Court, and will be working in the Legal Adviser's Office at the State Department this summer. Aaron worked last summer for the Israeli Supreme Court, where he began working on a comparative law paper with Aharon Barak, former Chief Justice of the Israeli Supreme Court.

C. Robina Foundation Post-Doctoral Fellowships

Because the Robina grant arrived after the 2008-09 fellowship cycle had closed, we only awarded one Post-Doctoral Fellowship. The recipient of this fellowship was Brittan Heller, a recent graduate of the Law School, who applied for a half-year fellowship so that she could work from January to May 2009 as an intern at the Prosecution Section of the Office of the Prosecutor at the International Criminal Court ("ICC") at the Hague. Brittan was one of sixteen people on the Prosecutor's team in the ICC's prosecution of Thomas Lubanga Dyilo.

In addition to earning her JD at Yale Law School, Brittan is also a graduate of Stanford University, having earned a BA with distinction, and an MA in English. In 2006, she interned for the United Nations Human Rights Committee and the International Criminal Tribunal for Rwanda. From 2006-08, she was the Director of Operations for Orphans of Rwanda, a nonprofit organization focused on assisting Rwandan students by providing scholarships to Rwandan universities. She also interned for the International Crisis Group's Africa Program and at the Office of the Secretary of State for the War Crimes Issues Division at the US Department of State. In the future, Brittan intends to practice international criminal law.

D. Robina Foundation International and Senior Fellowships

Yale Law School appointed **Dapo Akande**, **Ryan Goodman**, and **Luzius Wildhaber** as the *Robina Foundation International* and *Senior Fellows* during the 2008-09 academic year. The following paragraphs describe their backgrounds and activities at the Law School.

Dapo Akande was a 2008-09 *Robina International Fellow* at Yale Law School. In addition to this title, Professor Akande also held the position of *University Lecturer in Public International Law* and *Yamani Fellow* at St Peter's College, University of Oxford. Professor Akande received his LLB from the University of Ife, Nigeria in 1992; his LLM from the London School of Economics in 1994; and his MA from the University of Oxford in 2004. Prior to his appointment at Oxford, he held Lectureships at the Universities of Durham and Nottingham. He has also been a Visiting Professor at the University of Miami Law School and has taught at the London School of Economics as well as at Christ's and Wolfson Colleges, Cambridge.

Professor Akande has varied research interests within the field of international law and has published several articles on aspects of the law of international organizations, international criminal law, and international dispute settlement. Specifically, his articles have been published in the *American Journal of International Law*, the *British Yearbook of International Law* and the *European Journal of International Law*. His article in the *Journal of International Criminal Justice* on the "Jurisdiction of the International Criminal Court over Nationals of Non-Parties: Legal Basis and Limits" was awarded the 2003 Giorgio La Pira Prize.

Professor Akande is a member of the Scientific Advisory Board of the *European Journal of International Law*; the Editorial Board of the *African Journal of International and Comparative Law*; the Advisory Council of the British Institute of International and Comparative Law; the Advisory Committee of International Lawyers for Africa; and the Executive Council of the British Branch of the International Law Association. He has acted as Consultant for the African Union and provided training on international humanitarian law and international criminal law to diplomats, military officers and other government officials, and has advised and assisted counsel in several cases before international and national courts. In addition, he has advised and assisted counsel or provided expert opinions in cases involving questions of international law. In particular, he has worked on litigation in the International Court of Justice, the International Tribunal for the Law of the Sea, international arbitral tribunals, WTO and NAFTA Dispute Settlement Panels as well as cases in England and the United States of America.

While at Yale Law School, he taught *International Law and Armed Conflicts*. The course examined the international law issues which arise in relation to armed conflicts, focusing specifically on how international law regulates cross-border conflicts involving non-State actors. The course began by examining the international laws which govern whether States are entitled to use armed force. In this part of the course, the course examined the powers of the United Nations and regional organizations, like the African Union, to authorize the use of force and the prohibition of the use of force contained in the UN Charter, as well as the exceptions to that prohibition. During the second part of the course, students examined the law that applies during an armed conflict, specifically addressing the distinction between the law applicable to international armed conflicts and that applicable to non-international armed conflicts. Students gained an overview of the “Geneva law” relating to the humanitarian protection of victims of war and the “Hague law” relating to the means and methods of warfare. The class examined the distinction between international and non-international armed conflicts, between combatants and civilians, as well as the law that applies to the conduct of hostilities. The conclusion of the course examined a few aspects of international criminal law, i.e. the enforcement of international humanitarian law and other norms prohibiting human rights violations through criminal prosecutions.

In addition to teaching *International Law and Armed Conflict*, Professor Akande also worked as an Editor for Cassese et al, *The Oxford Companion to International Criminal Justice* (2009, OUP), in which he edited the following chapters: “The Sources of International Criminal Law”; “Civil Remedies for International Crimes”; “The Protective Principle”; “The Active Nationality Principle”; “The Passive Personality Principle”; “The Territoriality Principle”; “Arrest Warrant Case”; “Pius Nwaoga v. The State.” He also worked on the following journal articles: “International Crimes, Human Rights Violations and Foreign Domestic Courts” (with Sangeeta Shah); “The Legal Nature of Security Council Referrals to the ICC and its Impact on Al Bashir’s Immunities,” (*forthcoming 2009, Journal of International Criminal Justice*). A copy of the second article is attached to the report.

Professor Akande delivered the following addresses during his tenure as a *Robina International Fellow*:

- “The Future of Immunities in International Criminal Justice,” Luncheon Speech, *Future of International Criminal Justice Symposium*, University of Santa Clara, California, USA, (March 2009)
- “International Crimes, Human Rights Violations and Foreign Domestic Courts,” Faculty Seminar, *University of Miami School of Law* (Feb 2009)
- “The Underpinnings of the Act of State Doctrine in US Law and International Law,” Presented at *Georgetown Law Centre, International Legal Theory Colloquium* (Nov 2008)
- “The Application of Human Rights Law in Time of War,” Human Rights and War Round Table, *Oxford Institute for Ethics, Law and Armed Conflict/Carnegie Council for Ethics and International Affairs*, New York (Sept 2008)
- “Head of State Immunity and the ICC Indictment of Sudanese President Bashir,” at the *British Institute of International and Comparative Law* (July 2008)

In addition, Professor Akande began a blog which discusses international law issues, which is entitled EJIL:Talk!, and which can be accessed via the Internet at www.ejiltalk.org.

Ryan Goodman was the 2008-09 *Robina Senior Fellow* at Yale Law School. Ryan is the *Rita E. Hauser Professor of Human Rights and Humanitarian Law* and the *Director of the Human Rights Program* at Harvard Law School. Professor Goodman graduated with a BA from the University of Texas in 1993; received his JD from Yale Law School in 1999 and his PhD in Sociology from Yale University. While a student at Yale Law School, Professor Goodman served as an articles editor of *The Yale Law Journal*; he then went on to serve as a clerk for Judge Stephen Reinhardt of the US Court of Appeals for the Ninth Circuit. His research interests include public international law, international human rights law, and international relations.

Professor Goodman has also worked at the US Department of State, the International Criminal Tribunal for the former Yugoslavia, and nongovernmental organizations in India, South Africa, Switzerland, Thailand, and the United States. His publications have appeared in the *American Journal of International Law*, the *California Law Review*, the *Duke Law Journal*, the *European Journal of International Law*, the *Harvard Law Review*, the *Stanford Law Review*, and the *Yale Law Journal*. His publications include *Understanding Social Action, Promoting Human Rights* (Oxford University Press, forthcoming 2009) (with Derek Jinks & Andrew K. Woods), and *International Human Rights in Context* (Oxford University Press, 3d ed., 2007) (with Henry Steiner & Philip Alston). He is a member of the Board of Editors of the *American Journal of International Law* and a member of the Board of Editors of the new interdisciplinary journal, *International Theory* (Cambridge University Press).

While at Yale Law School, Professor Goodman taught *Laws of War*. The course explored the international legal regime governing armed conflicts, specifically introducing the topics of status determinations for POW and civilian detainees, protection of civilians during military attacks, and empirical studies of compliance with the laws of war. In addition, Professor Goodman worked on the following two publications (attached): "The Detention of Civilians in Armed Conflict," 103 *American Journal of International Law* 48-74 (2009); and "Rationales for Detention: Security Threats and Intelligence Value," 85 *International Law Studies* (forthcoming 2009, Naval War College). He also made substantial progress on chapters of the following two books: *International Humanitarian Law* (forthcoming 2010, Oxford University Press, with Derek Jinks & Michael Schmitt); and *Socializing States: Promoting Human Rights through International Law* (forthcoming 2010, Oxford University Press, with Derek Jinks).

We were pleased to welcome your attendance at the Law School on December 16, 2008, when Professors Goodman and Akande presented an informal lecture about their research. The lecture was attended by over 30 students, as well as several professors.

Luzius Wildhaber was a 2008-09 *Robina International Fellow* at Yale Law School. Professor Wildhaber graduated from Basel University (Switzerland) in 1961 and completed the Bar Exam in 1964; he received his LLM and JSD degrees from Yale Law School in 1965 and 1968, respectively. From 1971 – 1977, Professor Wildhaber taught courses on International Law, Constitutional Law and Administrative Law at Fribourg University (Switzerland); from 1997-98 he taught similar courses as well as Comparative Law at Basel University. He was later appointed Dean of the Law Faculty at Basel University.

In addition to his academic career, Professor Wildhaber has had a very successful judicial career: from 1975-1988 he served as Judge at the Liechtenstein Supreme Court; from 1989-1994 he was Judge at the Administrative Tribunal of the Inter-American Development Bank. In 1991, Professor Wildhaber was appointed Judge at the European Court of Human Rights, and in 1998, was elected President of the European Court of Human Rights. He continued in this role until January 2007. From 1974-1978, Professor Wildhaber was also the Chief Coordinator and member of the Steering Committee of the Experts' Commission. In 1997, he served as an Expert for the Canadian Federal Government before the Supreme Court of Canada on the question of the legality of unilateral secession by Quebec.

While at Yale Law School, Professor Wildhaber and Alec Stone Sweet, Leitner Professor of International Law, Politics and International Studies, co-taught a class entitled *European Convention Human Rights*. The course served as an introduction to the legal system established by the European Convention on Human Rights, and was divided into three parts: the first section provided an overview of the legal system, focusing on the foundational texts, organizational machinery, and processes of rights protection. The second part was devoted to studying the evolution of the case law of the Court in selected areas; the third portion examined the impact of the ECHR and of the Court's case law on national legal orders.

During his time at the Law School, Professor Wildhaber also conducted research and writing on the topic of the European Court of Human Rights. Specifically, Professor Wildhaber worked on writing a major text about the European Court of Human Rights, which will appear in a book edited by Jonas Christoffersen and Mikael Rask Madsen of the University of Copenhagen (forthcoming 2009, Oxford University Press). A condensed version of this text will also be published in a *Liber Amicorum* by Yale Law School Professor Michael Reisman. Lastly, Professor Wildhaber wrote a description of the management tasks of the President of the European Court of Human Rights in an article entitled, "Court Management and Independence of Judges," which will appear in German in the *Deutsche Richter-Zeitung* (German Judges' Journal).

In addition to his writing and teaching, Professor Wildhaber participated in a September 9, 2008 conference at New York University that discussed the selection process for judges of international courts; he also took part in a conference on October 12, 2008, entitled "The Future of Sexual and Reproductive Rights" that was hosted by the Law and Media Program at Yale Law School. Professor Wildhaber tells us, "I am grateful to the Robina Foundation for having allowed me to spend an inspiring and stimulating time in the fall of 2008 in the always wonderful atmosphere of Yale Law School."

E. Robina Project Director

We have not yet appointed a permanent project director; instead, the position was filled by Alisha Bjerregaard, a 2008 graduate of the Law School, for several months. In addition, Jim Silk, Executive Director of the Schell Center for International Human Rights, Megan Barnett, Associate Dean for Academic Affairs, and Elizabeth Brundige, Associate Research Scholar in Law, spent time helping facilitate the program. We plan to hire a full-time Project Director by August 15, 2009, and will notify the Foundation when this is accomplished.

III. UNANTICIPATED RESULTS AND POTENTIAL CHANGES

Besides the delay in hiring the project director and the (anticipated) delay in appointing Post-Doctoral Fellows, there were no significant unanticipated results. We do not expect to make any significant changes to the objectives originally included in our proposal.

IV. PLANS FOR NEXT YEAR AND FOR SHARING RESULTS

In the coming year, the Law School will welcome several outstanding Fellows. **Lucas Guttentag** has accepted a position as the *Robina Foundation Senior Fellow*. Mr. Guttentag is the national director of the Immigrants' Rights Project at the ACLU in New York. He has litigated major immigrants' rights cases, including regional and national class actions, for almost twenty years. He is a graduate of UC-Berkeley and Harvard Law School.

In addition, we have chosen **Sam Ferguson** and **Matiangai Sirleaf** as the inaugural *Robina Foundation Post-Doctoral Fellows*. Sam Ferguson will spend his fellowship year conducting independent research in Argentina for a book he is writing about the trials of officials responsible for human rights abuses during Argentina's "Dirty War"; and Matiangai Sirleaf will serve as a law clerk for Justice S. Sandile Ngcobo of the Constitutional Court of South Africa.

Our plans measuring and sharing results of the Fellowship Initiative will take further shape with the appointment of the *Robina Foundation Project Director*. She or he will coordinate the Initiative, help the current and former Fellows interact with one another and with others in the human rights field, and assess the Fellows' longer-term involvement in human rights. Our first step in assessment will be to record participants' substantial human rights work during their time as Robina participants. With further resources, it may be possible to conduct longitudinal surveys. Here are our specific plans with respect to both short- and long-term assessment:

- Track Robina Scholars' participation in human rights clinics and programs at the Law School
- Record major projects undertaken by Robina Summer Fellows
- Record major projects accomplished by Robina Post-Doctoral Fellows
- Keep a file of publications, speaking engagements, and other major scholarship generated by Robina Senior and International Fellows
- With proper resources and in coordination with the Career Development Office, we may regularly survey participants and qualitatively analyze the results of projects begun as Fellows and after their Fellowships have ended

In terms of publicity, we will market the Robina Initiative to students through our website and publications. To external audiences we will issue press releases announcing Robina Senior, International, and Post-Doctoral Fellows (see a recent general fellowship release at <http://www.law.yale.edu/news/9561.htm>). If appropriate, we would be happy to share results of our assessment efforts with the Foundation and its partners. We welcome the Foundation's advice in this regard.

V. FINANCIAL REPORT

A. Proposed Annual Expenses

Robina Human Rights Scholarships	\$250,000
Robina Summer Fellowships and Travel Support	\$200,000
Robina Post-Doctoral Fellowships	\$120,000
<i>Includes salary and benefits</i>	
Robina Senior and International Fellows	\$260,000
<i>Includes salary and benefits</i>	
Robina Project Director	\$100,000
<i>Includes salary and benefits</i>	
Clerical Support and Associated Expenses	<u>\$70,000</u>
TOTAL ESTIMATED COST	\$1,000,000

B. Actual 2008-09 Expenses

Below is a brief overview of the funds that have been expended from May 2008 to the current reporting date.

Robina Human Rights Scholarships	\$253,000
Robina Summer Fellowships and Travel Support	\$210,486
Robina Post-Doctoral Fellowships	\$18,333
<i>Includes salary and benefits</i>	
Robina Senior and International Fellows	\$198,212
<i>Includes salary and benefits</i>	
Robina Project Director	\$27,899
<i>Includes salary and benefits</i>	
Clerical Support and Associated Expenses	\$70,000
TOTAL 2008-09 ACTUAL COST	\$777,930

C. Explanation of Financial Report

The *Robina Human Rights Scholarships* include the support provided to 13 JD students chosen as 2008-09 Robina Human Rights Scholars. The scholarships ranged in value from \$30,600 to \$1,600; the average scholarship was \$19,527.

The *Robina Summer Fellowships and Travel Support* includes all of the travel, living, and related expenses associated with providing summer support to students working in human rights jobs throughout Africa, South America, the Middle East, Asia, Europe, and North America. The fellowships ranged from \$1,000 to \$8,300, with the average fellowship costing \$5,540.

The *Robina Post-Doctoral Fellowships* include salary and benefits for Brittan Heller, who spent one-half of a year working at the International Criminal Court in the Office of the Prosecutor.

The *Robina Senior and International Fellows* costs include the salary, benefits and associated expenses of Professors Dapo Akande, Ryan Goodman, and Luzius Wildhaber. We also directed a small amount of funds to supplement the appointment of celebrated human rights activist Michael Posner, the founding Executive Director and current President of Human Rights First. Although Mr. Posner was not a named Robina Fellow, his residence at the School spurred student interest in human rights; for that reason we hope the Foundation will be receptive to supporting his visit. While in residence, Mr. Posner worked on writing his personal reflections on the state of the human rights movement and gave several guest lectures in Harold Koh's *International Human Rights Law and Policy* class.

The *Robina Project Director* expenses reflect the costs of Alisha Bjerregaard, the temporary Project Director, as well as the time of other administrators helping to run the program, including Jim Silk, Megan Barnett, and Elizabeth Brundige.

The *Clerical Support and Associated Expenses* include the costs of administrator Barbara Mianzo as well as associated supplies and facility expenses necessitated by the program.

As you may note, a balance of \$222,070 remains to be carried forward. Most of this balance (\$173,768) is accounted for by the timing of naming the first Post-Doctoral Fellows and the delay in appointing a Project Director. We expect that we will have three full years of Post-Doctoral Fellows, so when we reach the last year of the grant, we will likely request a no-cost extension to appoint the final group of Post-Doctoral Fellows. We may request to extend the appointment of the Project Director to coincide with the time frame of the third cohort of Post-Doctoral Fellows. *We expect that all other funds will be spent within the three-year grant period.* Indeed, to address the balance for Senior and International Fellows, Professor Silk and his colleagues are discussing whether additional senior and international appointments will be possible.

VI. BROADER, ONGOING HUMAN RIGHTS WORK AT YALE LAW SCHOOL

Human rights activity remains strong at YLS. The Orville H. Schell, Jr. Center for International Human Rights, whose scope of work was described in our proposal, organizes the School's human rights programming. Several highlights of this year included:

- YLS hosted a conference, supported by the MacArthur Foundation, on international justice and the case of Darfur. Keynoting was Luis Moreno Ocampo, Prosecutor of the International Criminal Court. For details, see <http://www.law.yale.edu/news/8690.htm>.
- The National Litigation Project continued its trend-setting work to combat the loss of civil rights and liberties in the post 9-11 landscape; this year the NLP represented detainees held without trial in Guantánamo and Bagram, Afghanistan in habeas actions and before the military commissions. Those representations yielded the first-ever recognition of habeas rights for individuals detained at Bagram, as well as path-breaking judicial review of the medical treatment of hunger strikers at Guantánamo. The NLP also continues to press for accountability of US actors for torture and other human rights

violations. The NLP is co-counsel in multiple damages actions on behalf of torture survivors, including Jose Padilla, a US citizen who was detained as an enemy combatant for years without a hearing and subjected to the same “enhanced interrogation” techniques as those held at Guantánamo. Finally, the NLP continues its coalition-building work on issues ranging from countering proposals for new preventive detention regimes to calling for a commission of inquiry to provide accountability and a full vetting of interrogation, detention and rendition practices after 9/11.

- While in residence as a Senior Fellow, Christine Chung—the first senior trial attorney appointed at the Office of the Prosecutor of the International Criminal Court—pursued research and writing relating to human rights and international jurisdiction, including writing two articles as well as a comprehensive manuscript on the scope and effectiveness of the International Criminal Court. With Harold Koh, she co-taught an international human rights course on law and policy. She planned the MacArthur conference on international criminal justice and advised students interested in human rights legal careers.
- The appointment of Muneer Ahmad as Clinical Professor of Law (see <http://www.law.yale.edu/news/9721.htm>) will bring depth to our human rights clinical offerings. Professor Ahmad specializes in immigration law and international human rights and has argued and written about Guantánamo cases.
- Paul Kahn, Director of the Schell Center, completed a book called *Sacred Violence: Torture, Terror, and Sovereignty*, investigating the reasons for the resort to violence characteristic of premodern states. Professor Kahn contends that law will never offer an adequate account of political violence. Instead, he maintains, we must turn to political theology, which reveals that torture and terror are, essentially, forms of sacrifice.
- James Silk, Executive Director of the Schell Center, continued to teach the Lowenstein Clinic, supervise all Fellows affiliated with the Schell Center and advise students about human rights activities at Yale and pursuing human rights careers. He spent the spring semester on sabbatical, working on various human rights issues in Guatemala and South Africa.

VII. CONCLUSION

Thanks to the generous support provided by the Robina Foundation, Yale Law School has been able to invest in tomorrow’s human rights leaders at all stages of their training. I hope that this report serves as overwhelming evidence that James Binger’s desire to make a difference to humankind is being well served by Yale Law School, as we help students make their mark through human rights advocacy.

Thank you again for your investment in the Robina Foundation Human Rights Fellowship Initiative at Yale Law School. I understand you and your fellow trustees will be visiting Yale in February, and want to extend my advance welcome. Should I still occupy the Dean’s chair, I will

look forward to welcoming you more officially; regardless, it would be a great pleasure to meet in person when you arrive. Until then, best wishes for a wonderful summer.

Warm wishes,

A handwritten signature in cursive script, appearing to read "Kate Stith". The signature is fluid and elegant, with a long horizontal flourish extending from the end.

Kate Stith

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year end 2009
Report
file copy
cc to BAD on 6.16.09

The Legal Nature of Security Council Referrals to the ICC and its Impact on Al Bashir's Immunities

Dapo Akande*

1. Introduction

In issuing the arrest warrant for the Sudanese President, Al Bashir,¹ the Pre-Trial Chamber (PTC) of the International Criminal Court (ICC) directed the Registry to transmit a request for arrest and surrender of Al Bashir to (i) all states Parties to the ICC Statute and (ii) all UN Security Council members that are not states parties to the Statute. States parties to the ICC Statute are under an obligation to cooperate with the Court and this includes obligations to comply with requests for arrest and surrender.² The issuance of that arrest warrant raises the question whether the states receiving a request for arrest are under an obligation to arrest Al Bashir were he to travel to their territory. In fact, one may go so far as to ask whether other states are even permitted by international law to arrest Al Bashir?

These questions arise because under international law, serving heads of state are accorded immunity from the criminal jurisdiction of foreign states.³ Under customary international law, the person of the head of state is regarded as inviolable⁴ when abroad and the immunity from criminal jurisdiction

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1 Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir, *Al Bashir* (ICC-02/05-01/09), Pre-Trial Chamber I, 4 March 2009 (henceforth: 'Al Bashir Arrest Warrant').

2 Arts 86 and 89, ICCSt.

3 R. Van Alebeek, *The Immunity of States and Their Officials in International Criminal Law and International Human Rights Law* (Oxford: Oxford University Press (OUP), 2008), 169; D. Akande, 'International Law Immunities and the International Criminal Court', 98 *American Journal of International Law* (2004) 407, 409; A. Watts, 'The Legal Position in International Law of Heads of States, Heads of Governments and Foreign Ministers', 247 *Recueil des Cours* (1994-III) 13; C. Wickremasinghe, 'Immunities Enjoyed By Officials of States and International Organizations', in M. Evans (ed.), *International Law* (2nd edn., Oxford: OUP, 2006), 407.

4 H. Fox, *The Law of State Immunity* (2nd edn., Oxford: OUP, 2008), 667 *et seq.*

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includes immunity from arrest.⁵ In addition, treaties may also confer immunity on the serving head of state when abroad, for example where the serving of head of state is part of that state's delegation to an international organization he will covered by the immunity which attaches to representatives of states to international organizations.⁶ Or where both states are parties to it, the UN Convention on Special Missions (1969)⁷ will also afford immunity. In the context of the Al Bashir arrest warrant, it is important to note that the immunity accorded to a serving head of state, *ratione personae*, from foreign domestic criminal jurisdiction (and from arrest) is absolute and applies even when he is accused of committing an international crime. The International Court of Justice made this clear in the *Arrest Warrant Case*.⁸ Although it was speaking of the position of the Foreign Minister, the rule enunciated by the Court applies with greater force for the head of state. The ICJ stated that: '[i]t has been unable to deduce ... that there exists under customary international law any form of exception to the rule according immunity from criminal jurisdiction and inviolability to incumbent Ministers for Foreign Affairs, where they are suspected of having committed war crimes or crimes against humanity'.⁹

The answers to the questions of whether states are entitled to act on the arrest warrant issued by the ICC and arrest Al Bashir and surrender him to the Court depend on whether the immunities that Al Bashir would ordinarily be entitled to enjoy have been removed. This, in turn, depends on the legal nature of Security Council referrals of situations to the ICC. Many have noted the significance of an international tribunal issuing an arrest warrant for a serving head of state. Of course, this is not the first time that this has happened. The ICTY issued a warrant for Milošević while he was head of the state of the Federal Republic of Yugoslavia and the Special Court for Sierra Leone indicted Charles Taylor while he was President of Liberia. One commentator has stated¹⁰ that there has been no hand-wringing by other states about Al Bashir's immunity and suggest that this is a matter of interest only to academics. This is incorrect. The Arab League, in a resolution expressing concern at the decision of the PTC to issue the arrest warrant against Al Bashir

5 *Arrest Warrant Case (Democratic Republic of Congo v. Belgium)*, 2002 ICJ Reports (2002), §§54–55 ('*Arrest Warrant Case*'). The ICJ was speaking of the Foreign Minister but the same principles apply to the Head of State: 'that immunity and that inviolability protect the individual concerned against any act of authority of another State which would hinder him or her in the performance of his or her duties'. Furthermore, 'if a Minister for Foreign Affairs is arrested in another State on a criminal charge, he or she is clearly thereby prevented from exercising the functions of his or her office'. (§54)

6 See, for example, Art. IV Convention on the Privileges and Immunities of the United Nations, 13 February 1946, 90 UNTS 327.

7 Arts 21, 39 and 31.

8 *Arrest Warrant Case*, *supra* note 5.

9 *Ibid.*, §58.

10 C. Chung, 'Justice for Bashir: What's Different Today?', *EJIL: Talk! Blog of the European Journal of International Law*, 5 March 2009, available at <http://www.ejiltalk.org/justice-for-bashir-whats-different-today/> (visited 1 April 2009).



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XXX

Rationales for Detention: Security Threats and Intelligence Value

Ryan Goodman*

In the armed conflict with Al Qaeda inside and outside Afghanistan,¹ the US government has had to grapple with difficult legal issues concerning who can be detained. In this brief essay, I discuss whether US practices have been consistent with the law of armed conflict (LOAC). Three specific issues are considered. The first is a threshold question: Does LOAC regulate who can be detained in a non-international armed conflict? After concluding that it does, I address two questions that implicate the substantive criteria for detention. First, is it lawful to detain civilians who have not directly participated in hostilities? Second, is it lawful to detain individuals for a long or indefinite period for the purpose of gathering intelligence? Since September 11, the US government has adjusted its detention practices to overcome various legal defects. These three issues remain among the fundamental challenges to the detention regime.

It is not obvious that LOAC regulates the substantive grounds for detention in non-international armed conflict. Neither Common Article 3 nor Additional Protocol II explicitly addresses the subject. They contain no language expressly prohibiting arbitrary detention or unlawful confinement. Similarly, the Rome Statute for the International Criminal Court includes "unlawful confinement" in a list of war crimes in international armed conflict.² Unlawful confinement, however, is

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Rationales for Detention: Security Threats and Intelligence Value

conspicuously absent from the Statute's list of war crimes in non-international armed conflict. Additionally, a 2004 expert meeting—which included Louise Doswald-Beck, Knut Dörmann, Robert Goldman, Walter Kälin, Judge Theodore Meron, Sir Nigel Rodley and Jelena Pejic—concludes that LOAC does not contain rules precluding unlawful confinement in non-international armed conflicts:

Non-International Armed Conflicts

The experts noted that there are no provisions requiring certain reasons for detention, nor any procedures to prevent unnecessary detention. It was further observed that there are no specific supervisory mechanisms other than the minimal requirement that the ICRC [International Committee of the Red Cross] be allowed to offer its services. It was stated, therefore, that only national law is relevant, as well as international human rights law.³

Some legal advisers at the International Committee of the Red Cross (ICRC) have helped support this view. A presentation at the 2004 meeting by Dörmann, Deputy Head of the Legal Division of the ICRC, states: "International humanitarian law applicable to non-international armed conflicts contains no provisions requiring certain grounds for detention/internment nor are there any procedures defined to check the need for such detention."⁴ An important article in the *International Review of the Red Cross* by Jelena Pejic, Legal Adviser in the ICRC Legal Division, is more equivocal. She states:

In non-international armed conflicts there is even less clarity as to how administrative detention is to be organized. Article 3 common to the Geneva Conventions, which is applicable as a minimum standard to all non-international armed conflicts, contains no provisions regulating internment, i.e. administrative detention for security reasons, apart from the requirement of humane treatment.⁵

Pejic does not elaborate whether or to what extent the requirement of humane treatment might directly regulate the use of security rationales or other grounds for confinement.

Many of these experts find some solace in the notion that gaps in LOAC are intolerable (else a legal black hole) and that those gaps would be filled by international human rights law. The 2004 expert meeting, in which Pejic, Dörmann and others participated, concludes:

The experts stated that as IHL does not provide procedural guarantees to persons detained during non-international armed conflict, human rights standards must always apply The general view was that instead of trying to amend humanitarian



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EDITORIAL COMMENT

THE DETENTION OF CIVILIANS IN ARMED CONFLICT

By Ryan Goodman*

In the armed conflict between the United States and Al Qaeda,¹ the legality of the government's detention scheme has been mired in confusion. The lack of clarity is especially acute with respect to the substantive criteria for defining who may be detained. A crucial determinant of the lawfulness of the scheme is whether international humanitarian law (IHL) permits the preventive detention of civilians, or particular groups of civilians. In addressing that issue, leading lawmakers, litigators, and adjudicators have misconstrued or misappropriated aspects of the IHL regime.² Indeed, the confusion surrounding the current and future direction of U.S. detention policy stems in significant part from those misconceptions or misuses of the law.

First, policymakers and advocates of U.S. practices improperly conflated two classes of individuals subject to detention: civilians who directly participate in hostilities ("unlawful combatants") and civilians who have not directly participated but nevertheless pose a security threat.³ Congress and the Bush administration acted to detain the latter. They did so, however, by eschewing legal authority that clearly supports such detentions and by resorting, instead, to

* I owe special thanks to Philip Alston, Gabriella Blum, Jack Goldsmith, Derek Jinks, and Gerald Neuman. I am also grateful to Laura Pedraza-Fariña for extraordinary background research, and to Katy Glenn, Laura Pedraza-Fariña, Julianne Stevenson, and the Harvard Law School Library for assistance during the publication process.

¹ I work with the assumption that since September 11, 2001, the United States and Al Qaeda have been engaged in an armed conflict that is regulated in part by international humanitarian law—a proposition that all three branches of the U.S. government have accepted. See, e.g., *Hamdan v. Rumsfeld*, 548 U.S. 557, 630–31 (2006); Military Commissions Act of 2006, Pub. L. No. 109-366, 120 Stat. 2600 (codified at 10 U.S.C. §§948a–950w and other sections of titles 10, 18, 28, and 42 (2006)); Deputy Secretary of Defense Gordon England, Memorandum for Secretaries of the Military Departments et al. (July 7, 2006), available at <<http://www.defenselink.mil/news/Aug2006/d20060814comm3.pdf>>; cf. Exec. Order, Ensuring Lawful Interrogations (Jan. 22, 2009), available at <http://www.whitehouse.gov/the_press_office/EnsuringLawfulInterrogations/>.

Accepting the existence of an armed conflict for the purpose of this analysis is not meant to express any view on the merits of the war model versus the criminal law model. The existence of an armed conflict would not preclude the Obama administration from confronting the Qaeda threat through the criminal justice system and ordinary administrative measures rather than instruments of war. The administration might also take steps to alter the situation so that it is no longer classifiable as an armed conflict. Indeed, many of the indicia of an armed conflict in the present situation are the result of military and diplomatic actions adopted by the U.S. government after September 11. See Derek Jinks, *September 11 and the Laws of War*, 28 YALE J. INT'L L. 1 (2003). Some of those actions could be revised if not reversed. I take no position on those policy choices, which are beyond the scope of this essay.

For so long as the situation remains an armed conflict with Al Qaeda—whether in Afghanistan, Iraq, or globally—the present analysis of the IHL regime is relevant.

² Some of these errors may have understandably resulted from trepidation about approving the preventive detention of civilians, from the perceived novelty of a conflict with a transnational armed group, or from insufficient expertise in IHL. I am agnostic as to which (combination) of these or other reasons led to distorted representations of existing law.

³ See *infra* text at notes 65–75.

excessively broad definitions of combatancy to reach the same individuals. Second, opponents, in response, improperly disaggregated or omitted actors. That is, they criticized the government for expansive definitions of combatancy without acknowledging the existing legal authority to detain the same individuals regardless of nomenclature.⁴ Third, commentators on both sides have also improperly equated rules governing two coercive measures: administrative detention and military tribunals. A temptingly useful, but wholly distinct, set of norms concerns whether civilians can be tried before a military tribunal. Nevertheless, litigators and judges imported rules peculiar to that context into the separate domain of administrative detention.⁵

This essay is intended to shed greater light on the IHL regime that constitutes the legal background against which U.S. detention policies have been enacted and debated. Such an endeavor has special importance given the review of these issues by the Obama administration and by Congress, and the Supreme Court's decision to grant certiorari in *Al-Marri v. Pucciarelli*.⁶ The central question is whether IHL prohibits the preventive detention of civilians who pose a security threat on account of their direct or indirect participation in hostilities. It bears noting, however, that the authority to detain does not depend only on the substantive criteria for detention. As Derek Jinks and I have argued elsewhere, IHL conditions the authority to detain on compliance with procedural guarantees and humane treatment of detainees.⁷ For example, a party to a conflict that is unable or unwilling to respect the strictures of common Article 3 of the Geneva Conventions for the Protection of Victims of War with regard to conditions of confinement has no authority to detain. This essay pursues a separate question, however, by focusing on the scope of authority to detain particular groups of individuals. I argue that a careful analysis of the IHL regime should distinguish four classes of individuals (across a spectrum from combatants to "innocent civilians") and three coercive measures to restrain those actors (targeting, detaining, and prosecuting). Mapping these distinct actors and coercive measures, as well as their interconnections, helps to identify and correct existing category mistakes. Failure to do so—to appreciate and repair these persistent errors—threatens both humanitarian values and security interests in present and future conflicts.

In part I, I map the contemporary IHL regime, discussing features that pertain to detention of particular individuals in armed conflict. In part II, I analyze conceptual errors involving U.S. detention law and practice. And, in part III, I examine the humanitarian and security implications of the types of errors made by proponents and opponents of U.S. detention policy.

I. THE STRUCTURE OF INTERNATIONAL HUMANITARIAN LAW AND DETENTION

Material Field of Application: Noninternational Armed Conflicts

Status-based categories (such as prisoner of war) do not exist in noninternational armed conflict. And IHL treaty provisions regulating noninternational conflicts do not include or

⁴ See *infra* text at notes 78–86.

⁵ See *infra* text at notes 87–100.

⁶ *Al-Marri v. Pucciarelli*, 534 F.3d 213 (4th Cir. 2008) (en banc), cert. granted, 77 U.S.L.W. 3148 (U.S. Dec. 5, 2008) (No. 08-368).

⁷ Ryan Goodman & Derek Jinks, *International Law, U.S. War Powers, and the Global War on Terror*, 118 HARV. L. REV. 2653, 2659–61 (2005). For example, detainees in all armed conflicts are at least protected by the fundamental humanitarian requirements of common Article 3. See, e.g., Convention Relative to the Protection of Civilian Persons in Time of War, Art. 3, Aug. 12, 1949, 6 UST 3516, 75 UNTS 135 [hereinafter Fourth Geneva Convention].



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ROBINA FOUNDATION
FINANCIAL STATEMENTS

August 6, 2009

(Compiled)

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ACCOUNTANT'S COMPILATION REPORT

Board of Directors
Robina Foundation

We have compiled the accompanying statements of financial condition (excise tax basis) of Robina Foundation as of June 30, 2009 and 2008, and the related statements of activities (excise tax basis) for the periods indicated and supplementary information, which is presented only for supplementary analysis purposes, as listed in the accompanying index, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

A compilation is limited to presenting in the form of financial statements and supplementary schedules information that is the representation of the trustees. We have not audited or reviewed the accompanying financial statements and supplementary information and, accordingly, do not express an opinion or any other form of assurance on them.

Management has elected to omit substantially all of the disclosures and the statements of cash flows required by U.S. generally accepted accounting principles. If the omitted disclosures and statements of cash flows were included in the financial statements, they might influence the user's conclusions about the Foundation's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters. We are not independent with respect to Robina Foundation.

Mayer Hoffman McCann P.C.

Minneapolis, Minnesota
August 6, 2009

Robina Foundation
STATEMENTS OF FINANCIAL CONDITION
(Excise Tax Basis)
June 30, 2009 and 2008

	<u>2009</u>	<u>2008</u>
ASSETS		
CURRENT ASSETS		
US Bank checking account	\$ 42,591	\$ 50,065
Prepaid federal excise tax	<u>0</u>	<u>2,691</u>
TOTAL CURRENT ASSETS	<u>42,591</u>	<u>52,756</u>
INVESTMENTS		
US Bank	40,670,641	24,321,930
TIFF Mutual Funds	9,533,906	9,210,790
Land	<u>0</u>	<u>0</u>
TOTAL INVESTMENTS	<u>50,204,547</u>	<u>33,532,720</u>
PROPERTY AND EQUIPMENT		
Furniture and fixtures	13,311	13,311
Less: accumulated depreciation	<u>3,294</u>	<u>1,448</u>
TOTAL PROPERTY AND EQUIPMENT	<u>10,017</u>	<u>11,863</u>
TOTAL ASSETS	<u><u>\$ 50,257,155</u></u>	<u><u>\$ 33,597,339</u></u>

See Accountants' Compilation Report

Robina Foundation
STATEMENTS OF FINANCIAL CONDITION
(Excise Tax Basis)
June 30, 2009 and 2008

	<u>2009</u>	<u>2008</u>
LIABILITIES		
CURRENT LIABILITIES		
Accounts payable	\$ 0	\$ 0
Accrued expenses	0	0
Grants payable	<u>0</u>	<u>0</u>
TOTAL CURRENT LIABILITIES	<u>0</u>	<u>0</u>
NET ASSETS		
Foundation equity	<u>50,257,155</u>	<u>33,597,339</u>
TOTAL NET ASSETS	<u>50,257,155</u>	<u>33,597,339</u>
TOTAL LIABILITIES AND NET ASSETS	<u><u>\$ 50,257,155</u></u>	<u><u>\$ 33,597,339</u></u>

See Accountants' Compilation Report

Robina Foundation
STATEMENTS OF ACTIVITIES
(Excise Tax Basis)

Six Months Ended June 30, 2009 and 2008

	<u>Current Quarter This Year</u>		<u>Current Quarter Last Year</u>		<u>Year-To-Date This Year</u>		<u>Year-To-Date Last Year</u>	
	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>
REVENUES								
Investment income:								
Interest income	\$ 173,885	118.4%	\$ 259,539	89.8%	\$ 442,613	2.2%	\$ 553,010	90.5%
Dividend income	0	0.0	42,749	14.8	0	0.0	80,586	13.2
Capital gain distributions	0	0.0	0	0.0	0	0.0	0	0.0
Realized gains and losses	(19,605)	(13.3)	2,835	1.0	(101,091)	(0.5)	4,872	0.8
Investment fees	(7,393)	5.0	(16,052)	5.6	(18,864)	0.1	(27,187)	4.4
Total investment income	146,887	100.0	289,071	100.0	322,658	1.6	611,281	100.0
Contributions	0	0.0	0	0.0	20,000,000	98.4	0	0.0
Miscellaneous income	0	0.0	0	0.0	0	0.0	0	0.0
TOTAL REVENUES	146,887	100.0	289,071	100.0	20,322,658	100.0	611,281	100.0
EXPENSES								
Grants paid	1,130,575	769.7	2,000,000	691.9	1,130,575	5.6	4,000,000	654.4
Administrative expenses	107,473	73.2	93,325	32.3	195,598	1.0	192,150	31.4
TOTAL EXPENSES	1,238,048	842.9	2,093,325	724.2	1,326,173	6.5	4,192,150	685.8
OPERATING INCOME (LOSS)	(1,091,161)	(742.9)	(1,804,254)	(624.2)	18,996,485	93.5	(3,580,869)	(585.8)
Federal excise tax	2,000	1.4	17,664	6.1	2,000	0.0	17,664	(2.9)
INCREASE (DECREASE) IN NET ASSETS	<u>\$ (1,093,161)</u>	<u>(744.2)%</u>	<u>\$ (1,821,918)</u>	<u>(630.3)%</u>	18,994,485	93.5%	(3,598,533)	(588.7)%
NET ASSETS, BEGINNING OF YEAR					31,262,669		37,195,872	
TOTAL NET ASSETS					<u>\$ 50,257,154</u>		<u>\$ 33,597,339</u>	

See Accountants' Compilation Report

Robina Foundation
SUPPLEMENTARY INFORMATION
SCHEDULES OF INVESTMENTS
(Excise Tax Basis)
Six Months Ended June 30, 2009 and 2008

	<u>US Bank Investment</u>		<u>Tiff Mutual Funds</u>	
	<u>6/30/2009</u>	<u>6/30/2008</u>	<u>6/30/2009</u>	<u>6/30/2008</u>
Cost basis	\$40,670,639	\$24,321,931	\$ 9,533,906	\$ 9,210,790
Market value	<u>40,677,856</u>	<u>24,273,773</u>	<u>6,913,544</u>	<u>8,296,835</u>
Unrealized gains (losses)	<u>\$ 7,217</u>	<u>\$ (48,158)</u>	<u>\$ (2,620,362)</u>	<u>\$ (913,955)</u>

See Accountants' Compilation Report

Robina Foundation
SUPPLEMENTARY INFORMATION
SCHEDULES OF ADMINISTRATIVE EXPENSES
(Excise Tax Basis)
Six Months Ended June 30, 2009 and 2008

	<u>Current Quarter This Year</u>		<u>Current Quarter Last Year</u>		<u>Year-To-Date This Year</u>		<u>Year-To-Date Last Year</u>	
	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>
ADMINISTRATIVE EXPENSES:								
Accounting & audit fees	\$ 3,200	2.2	\$ 6,000	2.1	\$ 4,375	0.0	\$ 10,320	1.7
Bank charges	0	0.0	1	0.0	25	0.0	(17)	0.0
Contract services:								
Gordon Aamoth	43,752	29.8	43,752	15.1	87,504	0.4	87,504	14.3
Jean Sazevich	2,373	1.6	18,525	6.4	16,023	0.1	31,025	5.1
Nancy Gilberg	0	0.0	0	0.0	0	0.0	0	0.0
Baker Management	6,930	4.7	6,855	2.4	13,860	0.1	13,710	2.2
Tim Harrison	0	0.0	0	0.0	0	0.0	0	0.0
Other consultants	23,200	15.8	450	0.2	29,000	0.1	7,950	1.3
Depreciation expense	448	0.3	475	0.2	895	0.0	951	0.2
Directors' fees	10,000	6.8	0	0.0	10,000	0.0	0	0.0
Insurance:								
Directors' and officers	4,800	3.3	4,800	1.7	4,800	0.0	4,800	0.8
Property	502	0.3	506	0.2	502	0.0	506	0.1
Legal fees	0	0.0	1,772	0.6	1,654	0.0	9,685	1.6
Meeting expense	7,279	5.0	1,058	0.4	12,091	0.1	9,512	1.6
Membership dues	0	0.0	500	0.2	495	0.0	500	0.1
Miscellaneous expense	0	0.0	25	0.0	0	0.0	25	0.0
Office expense	21	0.0	0	0.0	1,779	0.0	0	0.0
Office supplies	0	0.0	147	0.1	131	0.0	555	0.1
Parking & mileage	311	0.2	687	0.2	525	0.0	1,908	0.3
Postage & delivery	262	0.2	363	0.1	683	0.0	1,144	0.2
Printing, web design & maintenance	204	0.1	1,200	0.4	699	0.0	1,358	0.2
Professional development	0	0.0	47	0.0	0	0.0	47	0.0
Publications & subscriptions	0	0.0	0	0.0	21	0.0	0	0.0
Rent expense	3,685	2.5	5,527	1.9	9,212	0.0	9,069	1.5
Telephone & internet	506	0.3	635	0.2	1,324	0.0	1,598	0.3
TOTAL ADMINISTRATIVE EXPENSES	\$ 107,473	73.2	\$ 93,325	32.3	\$ 195,598	1.0	\$ 192,150	31.4

See Accountants' Compilation Report

Robina Foundation
SUPPLEMENTARY INFORMATION
SCHEDULES OF ADMINISTRATIVE EXPENSES WITH BUDGETS
(Excise Tax Basis)
Six Months Ended June 30, 2009

	<u>Current Quarter This Year</u>		<u>Year-To-Date This Year</u>			<u>Annual Budget</u>
	<u>Actual</u>	<u>Budget</u>	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>	
ADMINISTRATIVE EXPENSES:						
Accounting & audit fees	\$ 3,200	\$ 6,250	\$ 4,375	\$ 12,500	\$ 8,125	\$ 25,000
Bank charges	0	0	25	0	(25)	0
Contract services:						
Gordon Aamoth	43,752	43,750	87,504	87,500	(4)	175,000
Jean Sazevich	2,373	13,650	16,023	27,300	11,277	54,600
Nancy Gilberg	0	0	0	0	0	0
Baker Management	6,930	6,855	13,860	13,710	(150)	27,420
Other consultants	23,200	2,500	29,000	5,000	(24,000)	10,000
Depreciation expense	448	448	895	895	0	1,790
Directors' fees	10,000	11,250	10,000	22,500	12,500	45,000
Insurance:						
Directors' and officers	4,800	1,250	4,800	2,500	(2,300)	5,000
Property	502	125	502	250	(252)	500
Legal fees	0	3,750	1,654	7,500	5,846	15,000
Meeting expense	7,279	5,000	12,091	10,000	(2,091)	20,000
Membership dues	0	0	495	0	(495)	0
Miscellaneous expense	0	250	0	500	500	1,000
Office expense	21	575	1,779	1,150	(629)	2,300
Office supplies	0	250	131	500	369	1,000
Parking & mileage	311	750	525	1,500	975	3,000
Postage & delivery	262	375	683	750	67	1,500
Printing, web design & maintenance	204	500	699	1,000	301	2,000
Professional development	0	750	0	1,500	1,500	3,000
Publications & subscriptions	0	63	21	125	104	250
Rent expense	3,685	5,048	9,212	10,097	885	20,193
Telephone & internet	506	750	1,324	1,500	176	3,000
TOTAL ADMINISTRATIVE EXPENSES	\$ 107,473	\$ 104,139	\$ 195,598	\$ 208,277	\$ 12,679	\$ 416,553

See Accountants' Compilation Report



WILKERSON ASSOCIATES

August 3, 2009

Dr. Gordon Aamouth
The Robina Foundation
4900 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Seven bound copies of the Financial Statements, Additional Information, and Independent Auditor's Report for the year ended December 31, 2008.

Seven copies of our Management Letter for the year ended December 31, 2008.

Two copies of Required Communication Letter for the year ended December 31, 2008.

Two copies of Communication of Significant Deficiencies Letter for the year ended December 31, 2008.

JRR/dlr



WILKERSON ASSOCIATES

July 28, 2009

To the Audit Committee of
Robina Foundation
Minneapolis, MN 55415

Required Communication Letter

We have audited the financial statements of Robina Foundation for the year ended December 31, 2008, and have issued our report thereon dated July 28, 2009. Professional standards require that we provide you the following information related to our audit.

Our Responsibility under Generally Accepted Auditing Standards

As stated in our engagement letter dated September 25, 2008, our responsibility, as described by professional standards, is to express an opinion about whether the financial statements prepared by management with your oversight are fairly presented, in all material respects, in conformity with the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. Our audit of the financial statements does not relieve you or management of your responsibilities.

Planned Scope and Timing of the Audit

We performed the audit according to the planned scope and timing previously discussed with you.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. In accordance with the terms of our engagement letter, we will advise management about the appropriateness of accounting policies and their application. The significant accounting policies used by Robina Foundation are described in Note 2 to the financial statements.

To the Audit Committee of
Robina Foundation
Page 2 of 3
July 28, 2009

We noted no transactions entered into by the Foundation during the year for which there is a lack of authoritative guidance or consensus. There are no significant transactions that have been recognized in the financial statements in a different period than when the transaction occurred.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected.

No significant accounting estimates affecting the financial statements were noted at December 31, 2008.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. The attached schedule summarizes uncorrected misstatements of the financial statements. Management has determined that their effects are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. We also brought to the attention of management one audit adjustment which was posted by management. This adjustment resulted in a decreased change in net assets of \$2,691.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated July 28, 2009.

To the Audit Committee of
Robina Foundation
Page 3 of 3
July 28, 2009

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Foundation's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Foundation's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

This information is intended solely for the use of Board of Directors and Management of Robina Foundation and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

Wilberson, Luthmann & Johnson, LLC

Client:
Engagement:
Period Ending: 1/0/1900
Trial Balance:
Workpaper:

Account	Description	W/P Ref	Debit	Credit
Proposed JE # 201		wtb		
To pass on recording on payment made to Gordon in Jan recorded as a liability at 12/31/07 and prepaid excise tax				
6182	Contract Services - Gordon		14,584.00	
3100	Foundation Equity			11,893.00
9000	Federal Excise Tax			2,691.00
Total			14,584.00	14,584.00



July 28, 2009

To the Audit Committee of
Robina Foundation
Minneapolis, MN

Communication of Significant Deficiencies

In planning and performing our audit of the financial statements of the Robina Foundation for the year ended December 31, 2008, in accordance with auditing standards generally accepted in the United States, we considered the Foundation's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Robina Foundation's internal control. Accordingly, we do not express our opinion on the effectiveness of the Foundation's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or a combination of control deficiencies, that adversely affects the organization's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the organization's financial statements that is more than inconsequential will not be prevented or detected by the organization's internal control. We consider the following deficiency to be a significant deficiency in internal control.

To the Audit Committee of
Robina Foundation
Page 2 of 2
July 28, 2009

One of the circumstances described in the standard as constituting a control deficiency is when the Foundation relies on its outside auditors to prepare its audited financial statements and related footnote disclosures because the Foundation does not have the internal capacity to do so, meaning the resources and/or expertise to ensure that there is full and complete reporting and disclosure. While it is acceptable to have us as your outside auditors perform this role, the standard in essence indicates we cannot be a substitute for management or employees related to your internal controls.

While we recognize this circumstance as a control deficiency based on the auditing standard, we also recognize that most organizations the size of the Robina Foundation choose not to allocate resources to this very specialized activity, rather to rely on outside resources to do so. It is the role of the Board together with management to determine whether the Foundation is willing to accept the degree of risk that financial reports could be misstated due to this circumstance.

This information is intended solely for the use of the Board of Directors and Management of Robina Foundation and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

Wilkinson, Guthmann & Johnson, Ltd.



WILKERSON ASSOCIATES

July 28, 2009

To the Board of Directors of
Robina Foundation
Minneapolis, MN

Management Letter

We have completed our audit of the financial statements of Robina Foundation for the year ended December 31, 2008. The following comments are for your information and review.

Alternative Investments

The Robina Foundation is invested in the TIFF Multi-Asset Fund. This fund represents approximately 30% of the Foundation's total investment portfolio. This fund is a private pool of capital, with limited number of investors and is not registered. Not all of the underlying assets of this fund are listed on any national exchange or over-the-counter markets and thus, quoted market prices are not available.

The Foundation is required by Generally Accepted Accounting Principles to report its investments at fair value. Alternative investments have increased risk of misstatement because they do not have readily determinable market values. 72%

The responsibility for establishing fair value of alternative investments rests with the management of the Foundation. A system of internal control over the estimation of fair value of these investments should be established. This responsibility cannot be outsourced or assigned to a party outside of management. While management may look to the investment manager for the mechanics of the valuation, it must have sufficient information to evaluate and challenge the investment valuation.

The procedures required to determine fair value will vary depending on the complexity of the alternative investments. A fund, such as the TIFF Multi-asset Fund, that is mostly invested in readily marketable securities ordinarily requires a less sophisticated process and related controls than an alternative investment with underlying investments that are more complex and difficult to value.

Some procedures that can be performed by the Foundation's management include:

- Gain an understanding of the investment manager's strategy, positions and valuation policies. ✓
- Review a detail listing of the underlying investments to determine their characteristics and review their fair values ✓
- Review the fund's audited financial statements noting basis of accounting, summary of significant accounting policies and procedures related to valuation, name of audit firm, and type of opinion. ✓

Executive Compensation

The Internal Revenue Service (IRS) has significantly increased its enforcement efforts in the area of excessive compensation and recently assessed millions of dollars in penalties for these types of violations. In addition, the IRS has indicated that it will now include excess compensation analysis in every future audit it conducts. To help charities comply with this sometimes complex area of the law, the IRS has outlined steps a charity can take to establish a "rebuttable presumption" that payments to insiders are presumed to be reasonable and not excessive.

Excess compensation falls under "the private inurement prohibition." The private inurement prohibition requires that a public charity operates so that none of its income or assets unreasonable benefits any of its board members, trustees, officers or key employees – commonly referred to as "insiders."

It is important to note that individuals working for a charitable organization are not required to donate their services and are allowed to be reasonably compensated. The private inurement prohibition simply requires that the total compensation paid be *fair and reasonable*. For an insider's compensation to be fair and reasonable there must be an approximately equal exchange of benefits between the charity and the insider so that the insider does not receive an unreasonable or unwarranted benefit from the charity.

If the IRS determines that unreasonable compensation has been paid, the IRS can revoke a charity's tax-exempt status and/or impose "intermediate sanctions." If the sanctions are imposed, a tax equal to 25% of the excess benefit would be assessed to the insider who received the payments. A repayment of the excess benefit would also be required. The IRS can also impose a 10% tax on any board member who knowingly approved the excess benefit.

To the Board of Directors of
Robina Foundation
Page Three
July 28, 2009

To help charities comply with this sometime complex area of the law, the IRS has established a "rebuttable presumption" that payments to insiders are presumed to be reasonable and not excessive if the following steps were taken:

- The charity's board obtained and relied on appropriate comparability data prior to making its determination;
- The total compensation was approved in advance by the charity's board, and no individuals who had an actual or potential conflict of interest with respect to the compensation arrangement participated in the deliberations; and
- The charity's board adequately and contemporaneously documented the basis for its determination.

It was noted during the audit that the Board approved the executive director's contract salary in 2006 and is in the process of reevaluating the contract. It is also our understanding that the Board is following the above guidelines in determining the executive director's compensation for 2009. We suggest that along with performing the steps noted above that are necessary to establish a "rebuttable presumption", the executive director's compensation be formally approved by the Board annually and noted in the minutes.

Board Approval of Grants

It was noted during the audit that final board approval of grants sometimes takes place outside of regular board meetings. Board approval is an important internal control of the granting process. We suggest that when final approval happens outside of regular meetings that those actions are noted in the minutes of the next meeting.

Investment Policy

It was noted during the audit that the Foundation temporarily suspended application of the investment policy due to current market conditions. We suggest that if the Foundation determines that the current investment policy is no longer valid, then a new investment policy should be developed.

This report is intended for the information of and use by the Board of Directors and Management.

Respectfully submitted,

Wilkinson, Guthmann & Johnson, Ltd.

Robina Foundation

Financial Statements, Additional Information,
and Independent Auditor's Report

December 31, 2008

Robina Foundation

Financial Statements, Additional Information,
and Independent Auditor's Report

December 31, 2008

Robina Foundation

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December 31, 2008

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WILKERSON ASSOCIATES

Independent Auditor's Report

To the Board of Directors of
Robina Foundation
Minneapolis, Minnesota

We have audited the accompanying statement of assets, liabilities, and net assets (cash basis) of Robina Foundation as of December 31, 2008, and the related statement of support, revenue and expenses, and changes in unrestricted net assets resulting from cash transactions for the year then ended. These financial statements are the responsibility of the Foundation's management. Our responsibility is to express an opinion on the financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 2, the Foundation's policy is to prepare its financial statements on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities and unrestricted net assets of Robina Foundation as of December 31, 2008, and its support, revenues, and expenses and changes in its unrestricted net assets for the year then ended on the basis of accounting as described in Note 2.

Wilkerson, Guthmann & Johnson, Ltd.

Saint Paul, Minnesota
July 28, 2009

Robina Foundation

Statement of Assets, Liabilities, and Net Assets (Cash Basis)

<i>As of December 31,</i>	2008
ASSETS	
Cash	\$ 39,292
Investments at Cost:	
US Bank	21,789,120
TIFF Mutual Fund	9,423,347
Furnitures and Fixtures, Net of Depreciation of \$2,399	10,911
Total Assets	\$ 31,262,670
NET ASSETS	
Unrestricted Net Assets	31,262,670
Total Liabilities and Net Assets	\$ 31,262,670

Robina Foundation

Statement of Support, Revenue and Expenses, and Changes in Unrestricted Net Assets Resulting From Cash Transactions

<i>Year Ended December 31,</i>	2008
Revenue and Support	
Dividend and Interest Income	\$ 1,285,653
Realized Net Gains on Sale of Investments	19,819
Investment and Custodian Fees	(57,908)
Total Revenue and Support	<u>1,247,564</u>
Expenses	
Grants and Awards	6,678,535
Management and General	476,876
Federal Excise Tax	25,355
Total Expenses	<u>7,180,766</u>
Change in Net Assets	<u>(5,933,202)</u>
Unrestricted Net Assets, Beginning of Year	37,195,872
Unrestricted Net Assets, End of Year	\$ 31,262,670

December 31, 2008

1. Organization

The Robina Foundation (the Foundation), a Minnesota-based private grantmaking foundation, seeks to positively impact critical social issues by primarily encouraging innovation and financially supporting transformative projects of its four institutional partners. These partners, selected by the Foundation's founder, James H. Binger, are: Abbott Northwestern Hospital, Minneapolis, MN; The Council on Foreign Relations, New York, NY; University of Minnesota Law School, Minneapolis, MN; and Yale University, New Haven, CT.

2. Summary of Significant Accounting Policies

Basis of Presentation

The Foundation maintains its accounts on a cash basis. As a result, the financial statements do not include investment income receivable or excise tax payable at year-end. Deferred taxes on unrealized appreciation in investments and other liabilities are not recorded, and grants are recognized when paid.

Revenue Recognition

Contributions are recognized when received and are recorded as restricted, temporarily restricted or permanently restricted support, depending on the existence and/or nature of any donor restrictions. All contributions are considered to be available for unrestricted use unless specifically restricted by the donor. Contributions of donated noncash assets are recorded at their fair values in the period received.

Interest and dividend income is recognized when received. Investment earnings available for distribution are recorded as unrestricted net assets. Premiums on government obligations and bonds are amortized over the term of the investment while discounts are recognized at the time of sale or maturity. Gains and losses in the market value of investments are recognized at the time of the sale.

Grant Distributions

Distributions of grants are recorded as expenses when paid. All organizations receiving grants are required to provide evidence of tax-exempt status before grants are made.

December 31, 2008

2. Summary of Significant Accounting Policies (Continued)***Concentrations and Credit Risk***

The Foundation maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Foundation has not experienced any losses on such accounts and does not believe it is exposed to significant credit risk on cash.

The Foundation invests in various securities, including U.S. government securities and domestic and foreign corporate debt and equity securities. Investment securities, in general, are exposed to various risks, such as interest rate, credit and overall market volatility. Due to the level of risks associated with certain investment securities, it is reasonably possible that changes in the value of investment securities could occur in the near term and that such changes could materially affect the value of investments.

Investments

Investments in securities are stated at cost or unamortized cost, or for contributed securities, at the donor's tax basis. For short-term investments, market value and cost are approximately equivalent. Investment transactions are recorded as of the investment "trade date".

The Board of Directors, with consultation from outside investment advisors, is responsible for the investment of the Foundation's assets. Various investment companies provide safekeeping and other custodial services for the Foundation's investments. The Foundation's investment policy is aimed primarily at preserving the purchasing power of the principal of the underlying funds through investment in both fixed income securities and equity securities.

Property and Equipment

Property and equipment are stated at cost. Expenditure for renewals and betterments are capitalized. Repairs and maintenance costs are charged to expense. When items are disposed of, the cost and accumulated depreciation are eliminated from the accounts, and any gain or loss is reflected in the statement of support, revenues, and expenses.

Depreciation of property and equipment is computed using the straight-line method over the estimated useful lives of the related assets. Depreciation expense for the year ended December 31, 2008 was \$1,902.

December 31, 2008

2. Summary of Significant Accounting Policies (Continued)

Income Taxes

The Foundation is exempt from income taxes under section 501(c)(3) of the Internal Revenue Code. The Foundation is subject to a two percent excise tax on net investment income. The excise tax is reduced to one percent if distributions meet certain requirements. Excise taxes are charged to expense when paid and are net of any tax refunds received.

The Company has elected to defer the provisions of FIN 48, Accounting for Income Taxes, under the provisions of FSP FIN 48-3. The Company uses a FAS 5, Loss Contingencies, approach for evaluating uncertain tax positions and continually evaluates expiring statutes of limitations, examinations, proposed settlements, changes in tax law and new authoritative rulings.

Fair Value of Financial Instruments

The provisions of Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* ("SFAS 157") were effective for the Foundation's financial statements beginning on January 1, 2008.

SFAS 157 establishes a hierarchal disclosure framework which prioritizes and ranks the level of market price observability used in measuring investments at fair value. Market price observability is affected by a number of factors, including the type of investment, the characteristics specific to the investment and the state of the marketplace including the existence and transparency of transactions between market participants. Investments with readily available active quoted prices or for which fair value can be measured from actively quoted prices in an orderly market generally will have a high degree of market price observability and a lesser degree of judgment used in measuring fair value.

The fair value hierarchy is broken down into three levels based on the observability of inputs as follows:

Level 1 – Valuations based on quoted prices in active markets for identical assets or liabilities that the Foundation has the ability to access. Valuation adjustments and block discounts are not applied to Level 1 instruments. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment.

Level 2 – Valuations based on one or more quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly. Fair values for these instruments are estimated using pricing models, quoted prices of securities with similar characteristics, or discounted cash flows.

Level 3 – Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

December 31, 2008

2. Summary of Significant Accounting Policies (continued)

Fair Value of Financial Instruments (Continued)

The availability of observable inputs can vary by types of investments and is affected by a wide variety of factors, including for example, whether the investment is established in the marketplace, the liquidity of markets and other characteristic particular to the transaction. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. Accordingly, the degree of judgment exercised by the Foundation in determining fair value is greatest for investments categorized in Level 3.

Use of Estimates

The financial statements include management's estimates and assumptions that may affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

3. Investments

The investments are required to be measured annually at fair value as defined by Statement of Financial Accounting Standards No. 157, "Fair Value Measurements" ("SFAS 157"). SFAS 157 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value.

Investments as of December 31, 2008 consisted of the following:

	Cost	Fair Values (Level 1)	Fair Values (Level 2)	Fair Values (Level 3)
Money Market Funds	\$ 8,118,370	\$ 8,118,370	\$ -	\$ -
U.S. government and government agency obligations	3,150,000		3,177,389	
Corporate bonds	10,520,750		10,227,989	
TIFF Multi-Asset Fund	9,423,347			6,356,617
Total Investments	\$ 31,212,467	\$ 8,118,370	\$ 13,405,378	\$ 6,356,617

December 31, 2008

3. Investments (Continued)

Net unrealized gains (losses) on investments as of December 31, 2008 consisted of the following:

Unrealized Gains	\$ 35,179
Unrealized Losses	<u>(3,367,281)</u>
Net Unrealized Losses	<u>\$ (3,332,102)</u>

Because the Foundation has chosen to report its financial position using the cash basis of accounting, net unrealized gains (losses) on investments are not recognized in the financial statements.

The fair value of the Foundation's Level 3 assets is determined based on the most recent estimated value provided by the management of the private investment, as well as any other relevant information reasonably available at the time the fund values its portfolio. Fair value is intended to represent a good faith approximation of the amount that a fund could reasonably expect to receive from the pooled investment fund if the fund's interest was sold at the time of valuation. Determination of fair value involves some subjective judgment. Accordingly, the difference between fair value and the value that would be received in a sale could be significant.

Changes in the fair value of the Foundation's Level 3 assets consisted of the following for the year ended December 31, 2008:

Fair Value January 1, 2008	\$ 6,176,220
Total Gains (Losses)	
Realized and Unrealized, Net	549,413
Purchases, Issuances, and Settlements	<u>(369,016)</u>
Fair Value December 31, 2008	<u>\$ 6,356,617</u>

4. Excise Taxes and Charitable Contributions

Although the Foundation is exempt from income taxes, it is subject to an excise tax on net investment income. For the year ended December 31, 2008, the Foundation paid excise taxes of \$25,355. To avoid penalties, the Foundation is required to make minimum charitable contributions equal to an imputed income amount, which is approximately 5% of the average fair value of the Foundation's assets. For 2008, the minimum distributions, excluding carryovers, were approximately \$1,600,000. The Foundation met the minimum distribution requirements through current year grants, and at December 31, 2008, the excess of charitable distributions over the required amount was approximately \$8,937,800.

December 31, 2008

4. Excise Taxes and Charitable Contributions (Continued)

The amount that may be carried forward for five years is listed by the year of expiration:

Year Ending December 31,

2012	\$ 3,371,500
2013	5,566,300
Total	<u>\$ 8,937,800</u>

5. Related Party Transactions

The law firm of Faegre & Benson LLP (the Firm) acts as legal counsel to the Foundation. A partner in the Firm is also a member of the Foundation's Board of Directors. Amounts paid to the Firm for legal services were \$25,421 for the year ended December 31, 2008.

6. Lease Commitment

The Foundation entered into a non-cancelable operating lease agreement for office space which expires on May 31, 2009. The office lease provides for a base monthly rental payment of \$1,031 per month, plus additional rent of \$758 per month for property taxes and operating expenses. Rent expense was \$20,123 for the year ended December 31, 2008.

7. Grant Commitments

The Foundation's grant commitments for the year ended December 31, 2008 and payments are as follows:

Grant commitments at the beginning of the year	\$ -
Grants authorized during the year	24,186,399
Grant payments made during the year	<u>(6,678,535)</u>
Grant commitments at the end of the year	<u>\$ 17,507,864</u>

The Foundation's grant commitments are payable as follows:

Year Ending December 31,

2009	\$ 7,559,983
2010	8,203,570
2011	850,854
2012	<u>893,397</u>
Total	<u>\$ 17,507,804</u>

December 31, 2008

8. Subsequent Event

In March 2009 the Foundation received an additional \$20,000,000 contribution from the James Binger Estate. The Foundation expects to receive additional distributions from the James Binger estate over the next few years.

**Independent Auditor's Report on
Additional Information**

To the Board of Directors of
Robina Foundation
Minneapolis, MN

Our report on our audit of the basic financial statements of Robina Foundation for 2008 appears on page 1. That audit was performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The schedule of management and general expenses – cash basis and schedule of unrestricted net assets, at market are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Willkerson, Luthmann & Johnson, Ltd.

Saint Paul, Minnesota
July 28, 2009

Robina Foundation

Schedule of Management and General Expenses (Cash Basis)

<i>Year Ended December 31,</i>	2008
Contract Services	\$ 290,746
Property Taxes	53,067
Directors' Fees	39,998
Legal Fees	20,883
Office Rent	20,123
Meeting Expense	18,603
Accounting Fees	12,390
Insurance Expense	5,110
Parking & Mileage	3,456
Telephone & Internet	2,755
Office Supplies & Postage	2,436
Printing, Web Design, & Maintenance	2,134
Depreciation Expense	1,902
Professional Development	1,736
Miscellaneous Expense	1,007
Membership Dues	500
Publications & Subscriptions	30
Total Management and General Expenses	\$ 476,876

Robina Foundation

Schedule of Unrestricted Net Assets, at Market

<i>As of December 31,</i>	2008
Unrestricted Net Assets at End of Year, at Cost	\$ 31,262,670
Unrealized Depreciation in Market Value of Securities (Note 3):	
Balance at Beginning of Year	(515,491)
Net Depreciation During the Year	<u>(2,816,611)</u>
Balance at End of Year	<u>(3,332,102)</u>
Unrestricted Net Assets at End of Year, at Market	\$ 27,930,568