AAA Committee for Human Rights (CfHR)

Annual Report Year 2003

Prepared by Janet Chernela, CfHR Chair

Members
Janet Chernela, Chair (retiring 2003)
Ruben Mendoza (retiring 2003)
Kathleen Williamson
Leni Silverstein
Sam Martinez
David Nugent
Marco Jacquemet
David Valentine

Incoming CfHR members December 2003
Laura Graham
Charles Briggs

CfHR ex-officio members:
Don Brenneis, AAA President
Elizabeth Brumfiel, AAA President-elect

AAA Staff:
Richard Thomas, Membership Officer

Introduction: Committee Background, Mission and Objectives
The AAA's permanent Committee for Human Rights (CfHR), established in 1995, is composed of 10 members, 8 of which are elected by the AAA membership and serve three-year terms, with 2 ex-officio members (AAA President and President-elect). The Committee's internal mission is to stimulate informed involvement in human rights among professional anthropologists through publications, panels, and other outreach. The Committee's external mission is to gather information on selected, anthropologically relevant cases of human rights abuse and to propose appropriate related action. CfHR efforts occur at the annual meetings and throughout the year through Committee Task Forces and case-specific actions. This report briefly describes actions and activities taken by the CfHR between Nov. 2002 and Nov. 2003.

PART ONE: INTERNAL ACTIVITIES

CfHR Human Rights Advisory Council. At its Nov. 2003 annual meeting, the Committee formally approved, by unanimous vote, the formation of an Advisory Council. The Council, whose purpose is solely consultative, consists of a body comprised of former CfHR members as well as additional experts who agree to serve. The purpose of the Council is to provide continuity over time and reduce the loss of expertise and investment as the constituency of the committee changes. The Council would serve the Committee by updating Task Force entries, contributing to its web page, list serve, and other resources. Council members may be approached with specific queries within their areas of expertise. The Council
may not, however, direct the Committee or initiate actions. Invitations have been extended to former Chairs and members with favorable results.

CfHR Human Rights Fellows Program

In 2002 the Committee for Human Rights initiated a Fellows Program in the Anthropology of Human Rights. Positions carry no stipends but provide recipients with strong experience in human rights work, possibilities for publication, as well as the opportunity to work closely with the Committee, government agencies, and human rights-based non-governmental organizations (NGOs). The Committee named and defined two positions, the Research Fellow and the DC Liason Fellow. This year the Committee added a third, the Task Force Fellow, who will work on Task Force matters with Committee members.

The position of CfHR Research Fellow entails researching, documenting, and writing a report on a matter of concern to both the Committee and the recipient. Erin Kimmerle, 2003 Research Fellow, is a graduate student in anthropology at the University of Tennessee. As Chief Anthropologist for the forensic team of the UN's International Criminal Tribunal for the Former Yugoslavia (ICTY), Kimmerle led the 2000 and 2001 field missions in Bosnia-Herzegovina and Croatia. Using this case, Kimmerle prepared a report for the CfHR website on the role of anthropology in analyzing physical evidence of war crimes and genocide. An abridged version, "Forensic Anthropology and Human Rights," will be published in the February Anthropology News.

At the November 2003 Meeting the Committee elected John Salyer, an anthropology student at the CUNY Graduate Center and former staff attorney of the American Civil Liberties Union as its 2004 Research Fellow. Salyer’s specific interests include U.S. criminal justice ethics and immigration, priorities established by the Committee at its annual 2002 and 2003 meetings.

The purpose of the Committee Liason Fellow is to serve as a link between the Committee and Washington-based entities in the human rights community, thereby increasing the productivity of the CfHR, avoiding unnecessary redundancies, and providing rights advocacy training to anthropology students. Our first Committee Liason Fellow, Nicole Nowak, a graduate student in anthropology and policy studies at the University of Florida, worked with human rights advocacy organizations in writing up lists of principles and operational steps so that the expertise of both the human rights community and the AAA can be used in a synergetic manner -- improving the work of both organizations. Nicole was also active in bringing the CfHR into the coalition of member organizations that signed CEDAW, a treaty for women's rights.

At its November 2003 Meeting, the Committee elected Maria Weir, anthropology graduate student at the U Maryland, as its 2004 DC-based Committee Liason Fellow. In addition to furthering the work begun by Nowak with non-governmental organizations, it is hoped that Weir will also follow legislative items of relevance to the Committee and work with members of government offices on human rights. The Committee hopes to work with Liason Fellows of 2003 and 2004 to develop a statement on "strategies of alliance" appropriate to the CfHR of the AAA.

Communication, Outreach, and Education

The Committee’s internal mandate is to provide reliable materials with which professional anthropologists may stimulate involvement in human rights through writing and teaching. In this capacity, the Committee creates, prepares, and compiles publications, syllabi, bibliographies, web reports, electronic bulletins, panels, and other forms of outreach. Materials are supplied by members of
the Association, internally distributed through Committee, edited, and, if approved, dated and posted. Materials are reviewed regularly for timeliness.

Listserve. The CfHR listserve, humanrights-request@lists.aanet.org, established in 2000, provides members with news of CFHR activities. It disseminates information regarding human rights cases, coordinated actions, teaching materials, and conference plans.

Web-based outreach. Presently coordinated by incoming Chair Sam Martinez, the Committee maintains a service of syllabi and bibliographies for teaching courses in Anthropology and Human Rights. In 2003 the Committee added several new components to the website. The first is a section devoted to correspondence from anthropologists world-wide reporting on human rights work. The first posting in this category is from Chilean anthropologists Debra Guerra and Juan Carlos Skewes. The second new addition provides a section for resources on international human rights instruments. The first report, compiled by Janet Chernela, is the posting "International Instruments on the Human Rights of Indigenous Peoples."

Anthropology News. At the invitation of Stacy Lathrop, Paul Magnarella and Janet Chernela published a discussion of the 2002 Public Policy Forum "Violences Legitimate and Illegitimate: Playing with the Word." The article, "Anthropology on the Front Lines," was published in the AN.

2003 ANNUAL MEETING EVENTS
Human Rights events at the 102nd AAA Annual Meeting, Nov. 19-23, 2003, Chicago
In addition to the Annual Business Meeting (Nov. 18, 2003), the CfHR sponsored the following events at the Chicago meeting of the AAA in November 2003:

1. AAA Presidential Session and CfHR Invited Session: Indigenous Peoples and Human Rights: A global perspective on the development and future challenges to the indigenous peoples movement. Organizer and Chair: Søren Hvalkof, participation: Naomi Kipuri, Arid Lands Institute, Nairobi; Lottie Cunningham, Indian Law Resource Center & URACCCAN, Managua; Chumpol Maniratanavongsiri, COERR, Mae Hong Son Nils Oskal, Saami University, Kautokeino; Jens Dahl, IWGIA. Discussants Janet Chernela and Terence Turner. (See Appendix A.)

2. Co-sponsor, with the Committee on Public Policy, two-part AAA Public Policy Forum, "Locating the Human in Human Rights in the US: The Constitution, the Death Penalty and Legal Regimes," co-organized by Kathleen Williamson and MacArthur Fellow Brackette Williams. The forum brought together anthropologists; attorneys involved in capital litigation in the US as well as the International Court of Justice; scholars of legal practice and policy; and representatives of human rights NGOs Amnesty International and the American Civil Liberties Union. The goal of the forum was to provide opportunities to presenters and audience to consider policy, law, and practices underlying accusations of US human rights violations relating to the retention and administration of the death penalty, in order to consider how anthropology might engage these matters practically, methodologically, and theoretically. The panel's participants included Kamari Clarke (Yale), Allen Feldman (NYU), Austin Sarat (Amherst), Eleanor Eisenberg (ACLU-Arizona) Carla Ryan (capital litigator), Michael Shortnacy (American U), Laura Nader (UCLA), Robert Schultz (Amnesty International Death Penalty Project, Chicago), and Kathleen G. Williamson (U Arizona). The presentations are being organized into a compilation intended as an educational resource for policy-makers, litigators, and anthropologists (See Appendix B).
3. Open Forums on Indigenous Rights, Nov. 20 and 22. In addition, the CfHR organized and sponsored a series of Open Forums with indigenous anthropologists from Asia, Africa, Europe, and the Americas regarding new international instruments to protect the rights of indigenous peoples. These Forums included: 1) Conversations with Saami Speakers: Self-determination in the Modern Norwegian State and Problems of Contemporary Reindeer Herding; 2) Conversations with Indigenous Anthropologists on the Human Rights of Indigenous Peoples in Africa and Asia; and 3) The Inter-American Court of the OAS and the case of the Awas Tingni. This session was organized in collaboration with the IWGIA, the International Working Group on Indigenous Peoples.

PART TWO: External Human Rights Initiatives: CfHR Case Involvement

Task Force on Violence and Human Rights Abuse related to Plan Colombia

The CfHR Task Force on Plan Colombia was begun in 2000 when the US initiative to eradicate coca cultivation and combat violence by non-state entities in Colombia resulted in increasing violence by illicit armed forces, aerial spraying of herbicides that threatened the health and well-being of rural populations, and large-scale displacement. Among the affected communities are fifty-eight groups of indigenous peoples. In 2002 a letter was sent from the Committee to Congress and the President. In 2003 the Committee participated in a joint collaboration by scientists questioning the impacts of militarization and chemical fumigations on indigenous peoples. The initial report, written by CFHR Task Force co-chairs Jean Jackson and Janet Chernela, was updated by Jean Jackson and posted on the Website in the spring of 2003.

With the retiring of Chernela from the CfHR, this Task Force will be transformed into a new Task Force on the Andean Countries, headed by David Nugent. The new Task Force, comprised of anthropologists working collaboratively to assess human rights in Andean nations, will expand its sphere of concerns to address marginalized and subaltern groups, and how their lives have been affected by the contradictory engagements between international forces (neoliberalism, multinational corporations, NGOs, drug interdiction, U.S. military training), reconfigurations of national sovereignty in response to these forces, and social movements of the left and right that have emerged in the context of these reconfigurations. The group hopes to release a series of Interim Reports that focus on specific, human rights related issues as well as a summary final report.

Task Force on Migrants' Rights. The new Task Force on Migrants' Rights produced a panel at the 2003 Annual AAA Meetings, organized by (then) Chair-elect, Samuel Martínez, on the topic, "National Security and International Migration: Perspectives on US Policy." The panel brought together leading scholars of migration and human rights to give critical scrutiny to the implications of US homeland security agenda and "war on terror" for immigrants in the US, for non-US-citizens seeking to enter this country, and for international migrants worldwide. Participants included Josiah Heyman (U Texas El Paso), Samuel Martínez (U Connecticut), Linda Greene (U Arizona), Josh DeWind (Social Science Research Council), Susan Gzesh (U Chicago), Sameer Ashar (U Maryland), Mary Meg McCarthy (Midwest Immigrant & Human Rights Center), Allison Werner (U Notre Dame) and Juan Méndez (Inter-American Commission on Human Rights). The papers are the core of an edited volume in preparation by Sam Martinez and former Fellow Chaudhry-Campbell, whose research on INS/Coast Guard treatment of Haitian boat people and the US military's treatment of the irregular combatants captured in Afghanistan contributed to this panel. The volume is intended primarily as a teaching resource, with which anthropologists can study the implications and consequences of heightened "securitization" for world-wide immigration.
Former Fellow Chaudhry-Campbell is expected to co-author the introduction and background of the volume.

Martínez and Chaudhry-Campbell are also compiling a list of web and print resources on migrants' rights as well as a network of anthropologists concerned with issues relating to the rights of immigrants and refugees.

Task Force on Sexual and Gender Minorities. Committee member David Valentine proposed a new Task Force to investigate the human rights of gender and sexual minority communities globally. The first goal of the project is to outline what "sexual and gender minorities" include, and how to conceptualize human rights in this context. Valentine plans to collaborate with members of the Society for Lesbian and Gay Anthropologists.

Task Force on Human Rights and Violent Conflict: Terrorism, Genocide, and Ethnic Cleansing. The Task Force on Human Rights and Violent Conflict, initiated by former Chair Barbara Rose Johnston, and continued by Paul Magnarella, was further developed in the 2002 AAA Public Policy Forum, "Violences legitimate and illegitimate: Terrorism, the Word," organized by Janet Chernela. In 2003 the Chernela and Magnarella published a two-part article on the limitations to civil liberties imposed by nations through anti-terrorism laws in the aftermath of 9/11. The articles were published in the Anthropology Newsletter. Under the leadership of Sam Martinez and Fellow Chaudhry-Campbell, the Task Force has begun a list of resources for teaching human rights issues surrounding the War on Terrorism and homeland security legislation.

ACTIONS: Letters were written to government officials of Paraguay on behalf of the Ache, an indigenous peoples whose rights to their traditional lands have been threatened. Background research was provided by Magdalena Hurtado, anthropologist of the University of New Mexico.

ORGANIZATIONAL MATTERS: Discussion and Recommendations for Long Term

The work of the Committee is limited by budget constraints. This year an already inadequate budget was reduced so that the number of annual face-to-face meetings was cut back from two to one. The Committee also lacks adequate funding for publication, outreach, and AAA session participation. For the 2003 AAA meeting chairperson Chernela raised over $15,000 in travel funds through outside sources to bring six indigenous spokespersons and two officials from Asia, Africa, Europe, and the Americas for two open forums and one invited session. For the 2002 meetings CfHR members Leni Silverstein and Sheila Dauer raised $5000, and Chernela $5200 to increase conference participation by non-anthropologist lawyers and indigenous spokespersons. The strong record of our Committee in obtaining outside funding testifies to the strength of CfHR projects in drawing outside interest and financial commitment. Our sessions are enriched by the diversity and expertise of speakers, including indigenous leaders, legal specialists, and other non-academic participants. We strongly urge the AAA to seek funding for non-academic participants and suggest that the meeting registration fee be waived for these participants. We also urge the AAA to restore our additional meeting so that we may meet between Annual AAA events.

APPENDICES

Appendix A
Nov. 22, CFHR Invited Session and Presidential Session Indigenous Peoples and Human Rights: A global perspective on the development and future challenges to the indigenous peoples movement. Organizer and Chair: Søren Hvalkof. Participation: Naomi Kipuri, Arid Lands Institute, Nairobi; Lottie Cunningham, Indian Law Resource Center & URACCAN, Managua; Chumpol Maniratanavongsiri, COERR, Mae Hong Son Nils Oskal, Saami University College, Kautokeino (Discussants Janet Chernela and Terence Turner)

1. Rodolfo Stavenhagen: (presented by Jens Dahl)

MAJOR HUMAN RIGHTS ISSUES CONFRONTING INDIGENOUS PEOPLES AND THE ROLE OF THE U.N. SPECIAL RAPPORTEUR. Indigenous peoples around the world have during the last two decades become increasingly engaged in struggles to advance their human rights. Indigenous organisations have struggled very hard to open and create political space for themselves in international institutions dealing with human rights, and have consistently demanded to be accepted as participants on a more equalitarian base. Some of the concrete achievements have been the elaboration of specific studies on the situation of indigenous peoples, the elaboration of a UN draft declaration on the rights of indigenous peoples, elaboration of guidelines and policies regarding indigenous peoples rights and lately the establishment of the UN Permanent Forum on Indigenous issues. One of the latest achievements has been the appointment of a UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people by the UN Commission on Human Rights. The presentation will sketch the historical development in indigenous peoples rights work and provide an overview of the main human rights issues faced by indigenous peoples. It will summarize the mandate and the activities of the UN Special Rapporteur, and set out the agenda for his future activities, reviewing some of the major challenges posed by the changing global order.

2. Naomi Kipuri:

DEVELOPMENT PARADIGMS AND INDIGENOUS RIGHTS IN AFRICA: OPPORTUNITIES AND CHALLENGES. The international struggle for indigenous rights has made enormous gains globally over the past few decades. In Africa, it seems the discussion has merely started. For many decades the question of indigenous rights in the context of Africa were raised mainly in international fora and conferences. Issues too sensitive or too dangerous to be discussed at home where violations were openly taking place. Despite stiff resistance, however, the question has now been broached in meetings of the African Commission for Human and Peoples' Rights, a body created by the Organization of African Unity. And for several years now, it became a regular item on the agenda of all meetings of the Commission, eliciting a great deal of controversy. The controversy has centered on questions ranging from the simple who, what, when, to resistance of the term "indigenous" on account that it threatens national unity of fragile nations. The lack of knowledge about indigenous rights led to the creation of a Working Group charged with the responsibility of informing the Commission on issues relating to indigenous rights in an African context. Indigenous rights in Africa are promoted or protected depending on the particular development paradigm pursued by states. Resources are expropriated to meet development priorities of states and of dominant communities leading to the violation of political, social and cultural rights. The paper seeks to outline the development paradigms and indigenous rights in Africa and assesses opportunities and challenges posed.

3. Lottie Cunningham:

INDIGENOUS TERRITORIAL RIGHTS: THE AWAS TINGNI CASE OF NICARAGUA. The Awas Tingni case is the first case before the Inter-American Human Rights Court, which directly addresses the territorial rights of indigenous communities. Awas Tingni is a Mayagna Indian (Sumu) community on the Atlantic Coast of Nicaragua. In 1995 the Nicaraguan Government was about to give a Korean company the right to log on their territory. The Community took its case to the courts of Nicaragua, which failed to address the
Community’s property rights. Then the case went to the Inter-American Commission on Human Rights. Nicaragua ignored the Commission’s decision. Consequently the Commission asked the Inter-American Court of Human Rights to hear the case. The Community’s lawyers demonstrated that the Government of Nicaragua purposely maintains a policy to frustrate all efforts by indigenous communities to secure legal protections for their traditional lands. The Community’s legal team drew upon a broad range of witnesses, including expert anthropologists, international development workers, national indigenous leaders, local lawyers, and indigenous leaders. Finally the Court took a historic decision and ruled in favour of Awas Tingni. In its ruling the Court affirmed that the government of Nicaragua violated the Awas Tingni Community's rights to property and judicial protection. The Court ordered the government to demarcate and recognize the Community's title to its lands and to establish legal procedures for the demarcation and titling of the traditional lands of all indigenous communities in Nicaragua. The paper analyses the case and its implications for the indigenous scenario in Latin America.

4. Chumpol Maniratanavongsiri:
THE IMPACT OF CONSERVATION POLICIES ON TRIBAL PEOPLE IN THAILAND. The traditional way of life for the tribal people began to undergo major change in the 1960s when the Thai government passed new forest and wildlife legislation, expanding protected areas into tribal lands. The creation of strictly regulated national parks severely affected tribal life and created undue hardship in the communities. Ban on swidden agriculture in national parks reduced the already marginal size of family farmland and most development assistance to villages located within park territory was blocked. The effect has been to relegate tribal villages in national parks to a lower standard of living in comparison to villages located outside park boundaries. In contrast, tribal villages located outside parks have had a better quality of life because of greater flexibility permitted in local use of natural resources. Moreover, the government has provided development programmes here that have helped people cope with legislative change. People have stopped practising swidden agriculture, but continue to cultivate wet rice for subsistence and have adopted the cultivation of cash crops with government assistance. Government conservation efforts have effectuated change in tribal villages. Villages located outside national parks have shown no less concern in conservation efforts. Traditional community management of forest resources have been maintained so that environmentally sustainable agriculture is practised even without the regulatory restrictions of national parks. Many villages have responded to park pressures by forming conservation networks for lobby purposes. These new organisations work to develop common conservation practices among highland villages, while giving tribal villagers a hitherto unheard political voice.

5. Nils Oskal:
INDIGENOUS RIGHTS AS INTEGRAL PART OF HUMAN RIGHTS. ON POLITICAL SELF-DETERMINATION AND LAND RIGHTS FOR SAAMIS IN NORWAY. The paper analyses human rights as providing necessary and enabling conditions for the exercise of political self-determination but also inducing restrictions to the exercise of this autonomy. The discussion focuses on the actual situation for the Saamis in Norway in regard to the right to self-determination and cultural protection, and to protection of land and land rights. The first issue concerns the question of Saami participation in the political process of forming the collective will. This involves Saami political participation and self-determination, and the relation between Saami Parliament and the central government of Norway, Saami NGOs and governmental bodies. The second issue relates to the question of legal protection of the Saami’s customary usage rights to land and water, and boundaries and restrictions in the regulation of Saami customary usage rights to land. The situation has been that the internal law has not protected indigenous peoples' customary rights to the use of land. The state has been able to remove aboriginal peoples' usage rights, without following the rules and procedures that are otherwise required according to internal law and the principles of international human rights, which states that no one must lose his pre-established
customary usage rights to land for the sake of public interest, without being duly recognized as being deprived according to the conditions provided for by law and the general principles of international law. A specific attention will be given the Saami pastoral nomadic usage of land with changing seasonal pasture landscapes through a pastoral year.

6. Discussant: Terence Turner
7. Discussant: Janet Chernela

Appendix B


As the international world moves to put legal teeth in criminal litigation for the prosecution of "crimes against humanity," the United States stands accused of becoming a "pariah" nation for its stands in the international criminal court for its violations of human rights within its court and penal systems. The United States breaches various international conventions concerning the retention and administration of death penalty schemes. These problems include the execution of persons who commit crimes while juveniles, detention without due process, and the creation of privatized and/or special prisons that become spaces of torture, abuse, and neglect for incarcerated persons. Also, disparate capital punishment outcomes along lines of age, class, race, gender, and sexual orientation, documented as "flaws" in the administration of capital sentencing in the United States, further raises questions about the practical and theoretical meaning for ongoing efforts in past civil rights legislation to reform inequities-based status and other identity distinctions. At the same time, exonerations and high reversal rates in death and other sentences in connection with "faked" or flawed scientific evidence are alarmingly high. The highly selective uses of scientific knowledge, such as access to DNA testing and inconsistent methodology or selective subjection to the pseudo-science of "future dangerousness" factors based on what a "hypothetical person" might do, provide additional evidence of problems for civil and human rights protections in US capital punishment determinations. This forum brings together anthropologists and sociologists whose work focuses on law, violence, and human rights violation nationally and internationally, attorneys involved in capital litigation in the United States and its extension into the International Court of Justice, legal scholars whose work examines historical and contemporary legal practices and policies, and representatives of Amnesty and the ACLU, organizations long-involved in efforts to maintain protection of human and civil rights nationally and internationally, which are now intensely involved in legal matters pertinent to capital punishment, prisoner rights, and new patterns of extra-judicial violence. The goal of the forum is provide an opportunity for the presenters and audience to consider the complexities of policy, law, and formal and informal practices underlying accusations of such US human rights violations in order to address the question of how the discipline of anthropology might engage these matters practically, methodologically, and theoretically. In light of the anthropology's contemporary attention to globalization, transnationalism, and the development of international legal institutions, what can or should count as basic rights for humans and how should members of the discipline publicly engage these US actions and Policy implications for the global distribution of rights and resources of differing views of status and identity distinctions? In ways can anthropologists aid in understanding these provocative practical and theoretical issues at home for an understanding of what these findings might apply to views of terrorism and torture in connection to "ordinary" versus "extraordinary" national and international institutional forms.
1. Kathleen Williamson and Brackette Williams / Opening statement 2. Austin Sarat (Empirical big picture situation and shifting patterns in jurisdiction scholarship on capital punishment) 3. Lorna Rhodes (maximum security isolation for making humans) 4. Alan Feldman (shifting elaborations of state power) 5. Eleanor Eisenberg (Constitutional challenges/esp border, privacy and free speech issues Brackette Williams discussant (same as below) Williamson/Williams moderators (open discussion closing with set for next part) Audience questions/comments/discussion


Discussants: RHODES, Lorna A. (University of Washington); CLARKE, Kamari (Yale); FELDMAN, Allen (Postgraduate Center for Mental Health); SARAT, Austin (Amherst); EISENBERG, Eleanor (ACLU-Arizona); RYAN, Carla (capital litigator); SHORTNACY, Michael (American University); NADER, Laura (UCB); SCHULTZ, Robert (Amnesty International Death Penalty Project, Chicago); WILLIAMSON, Kathleen G. (University of Arizona)

Audience questions/comment