

A Message from Section Chair Richard J. Podell

It is a great honor and privilege to serve as Chairman of the Section of Individual Rights and Responsibilities this year. For nearly 50 years, the Section has been the leader in the American Bar Association on civil liberties and human rights. The Section leadership has proudly and bravely stood up and led the fight against discrimination wherever it exists within the law. In the past ten years, I don't believe any Section has passed more resolutions in the House of Delegates or has been as active in the leadership of the American Bar Association as the Section of Individual Rights and Responsibilities.

We are most fortunate that at this time in the nation's history, there is a United States President, his Administration, and a Congress that is receptive to the plight of those who have been oppressed. People join the Section, not to enhance their law practice, but because of their belief in its core principles. Through education and advocacy, the Section expresses the profession's commitment to achieving, through the legal system, the American



ideals of justice, freedom, and equality for all. Since its founding, the Section has continued to fulfill its original purpose by raising and addressing often complex and difficult civil rights and civil liberties issues that arise in a changing and diverse society.

As I have been stating, the theme for my year can be summed up in one word: "Eracism." By "Eracism," I mean to nullify the effect or force of prejudice or discrimination.

Along those lines, we will be drafting resolutions for the ABA House of Delegates (HOD), writing *amicus* briefs, and lobbying Congress and the Administration on core civil liberties and human rights issues.

At the last ABA meeting a Section-sponsored resolution calling for the repeal of Section 3 of the Defense of Marriage Act successfully passed the ABA HOD. It is unconscionable in today's society that there are laws on the books which deny Federal benefits to lawfully married people of the same sex, even though identical benefits are provided to lawfully married people of the opposite sex. As Martin Luther King, Jr. once said, "Any unjust law is no law at all."

In spite of all of the progress in extending civil rights and liberties to people in our country, many challenges still exist. Issues dealing with immigration, same sex marriage, voting rights, and other forms of discrimination still exist. The

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AIDS Coordinating Committee to Host National HIV Law and Practice Conference

The ABA AIDS Coordinating Committee, chaired by IRR Council Member Shelley D. Hayes of Washington, DC, will sponsor its fifth bi-annual national conference on "HIV Law, Practice and Advocacy," on Feb. 3-4, 2010, in conjunction with the ABA Midyear Meeting in Orlando, Florida.

Addressing a broad range of topics, among them, "Access to Treatment and Care," "Mental Health and Substance Abuse," "Housing," "Litigation Developments," and many others, the conference will be the culmination of the Committee's "Road to Vienna" series leading up to the July 2010 International AIDS Conference in Vienna, Austria. The Committee was instrumental in securing the first-ever inclusion of "Law" as a focus of a major International AIDS Conference track, and the Road to Vienna series is designed to generate abstracts for that track.

On Sept. 10-11, 2009, the "Road to Vienna" series passed through the University of Notre Dame in South Bend, Indiana, where program participants considered topics in "HIV and the Rule of Law: Human Rights at Home and Abroad." Amb. Mark R. Dybul, former U.S. Global AIDS Coordinator, gave the keynote address on Sept. 10, followed by an all-day series of panels on Sept. 11. The program was generously sponsored by the McGuire Woods law firm (thanks to Committee member and McGuire Woods-Pittsburgh managing partner, David P. Pusateri), Chevron Corporation, OraSure Technologies, Inc., and several Notre Dame entities, led by the Center for Civil & Human Rights.

For more information about the HIV Law and Practice Conference and the "Road to Vienna" series, visit the Committee's website at <http://www.abanet.org/AIDS/>.

Legislative Update

Following its summer recess, Congress returned this September for its fall session with a full plate of issues to consider. The seeds of health care reform planted by H.R. 3200, "America's Affordable Health Choices Act of 2009," were heavily debated by the public during town hall meetings, discussions in the media, and President Obama's address to Congress. Recently, the bill has moved between various committees for further consideration, who have ordered that it be reported to the House as a whole; it seems that a scaled-down version of the bill is the most likely possibility. In Aug., ABA House of Delegates approved a recommendation that encourages health care reform more generally. Recommendation 10A supports federal legislation that would ensure every American access to quality health care, regardless of the person's income.

In addition, Congress must pass legislation to provide funding for the federal government for the fiscal year which extends from Oct. 1, 2009 to Sept. 30, 2010. Currently, the House has passed all thirteen of its appropriations bills, while the Senate has only passed five. While Congress works to pass the remainder of these bills, it can provide interim funding to federal programs through continuing resolutions (CR).

Children/Families

On Sept. 25, Rep. Judy Biggert (R-IL) introduced a resolution expressing recognition and support of the goals and ideals of National Runaway Prevention Month. The bill was referred to the House Committee on Oversight and Government Reform.

On Sept. 29, Sen. Mary Landrieu (D-LA) introduced a resolution expressing support for the goals of National Adoption Day and National Adoption Month such as promoting awareness of adoption and the children awaiting families, celebrating children and families involved in adoption, and encouraging Americans to secure safety, permanency, and well-being for all children. The resolution was referred to the Committee on Health, Education, Labor, and Pensions.

Civil Rights/Constitutional Law

On Sept. 15, Rep. Jerrold Nadler (D-NY) introduced H.R. 3567, the Respect for Marriage Act of 2009, to repeal the Defense of Marriage Act and to ensure the respect for state regulation of marriage. The bill was referred to the House Committee on the Judiciary.

In Aug., the ABA House of Delegates approved a Section-sponsored policy calling for the repeal of Section 3 of the Defense of Marriage Act.

Criminal Law

On Oct. 1, Sen. Patty Murray (D-WA) introduced S. 1740, a bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes. The bill was referred to the Committee on Health, Education, Labor, and Pensions.

On Oct. 1, Rep. John Boozman (R-AR) introduced H.R. 3702, a bill to amend the Controlled Substances Act to provide enhanced penalties for marketing controlled substances to minors. The bill was referred to the House Committee on Energy and Commerce.

On Oct. 1, Rep. Christopher Murphy (D-CT) introduced H.R. 3695, a bill to authorize funding for, and increase accessibility to, the National Missing and Unidentified Persons System, to facilitate data sharing between such a system and the National Crime Information Center database of the F.B.I., and to provide incentive grants to help facilitate reporting to such systems. The bill was referred to the House Committee on the Judiciary.

Disability Law

On Sept. 18, H.R. 3325, the WIPA and PABSS Reauthorization Act of 2009, was enacted into law. The act, introduced by Rep. John Tanner (D-TN), amends title XI of the Social Security Act to reauthorize for one year the Work Incentives Planning and Assistance Program and the Protection and Advocacy for Beneficiaries of Social Security program. WIPA provides assistance for SSA

beneficiaries with disabilities with job placement, benefits planning, and career development.

On July 13, Rep. Kennedy (D-RI) introduced H. Res. 3191, to amend the Public Health Service Act to provide for integration of mental health services and mental health treatment outreach teams. The bill was referred to the House Committee on Energy and Commerce.

Elder Law

On Sept. 23, the Senate passed H. Con. Res. 59, supporting the goals and ideals of senior caregiving and affordability.

On August 6, Sen. Klobuchar (D-MN) introduced S. 1604, to amend the Internal Revenue Code of 1986 to provide an income tax credit for eldercare expenses. The bill was referred to the Senate Committee on Finance.

On June 15, Rep. Rogers (R-AL) introduced H. Res. 2881, to amend Titles II and XVIII of the Social Security Act to waive certain waiting periods for Social Security disability and Medicare benefits in the case of a terminally ill, disabled individual. The bill was referred to the House Committee on Energy and Commerce.

Environmental Law

On Sept. 30, Sen. John Kerry (D-MA) introduced S. 1733, a bill to create clean energy jobs, promote energy independence, reduce global warming pollution, and transition to a clean energy economy. The bill was referred to the Committee on Environment and Public Works.

On Sept. 9, H.R. 445 was passed in the House. The bill, introduced by Rep. James Sensenbrenner (R-WI), calls for the establishment of a research, development, demonstration, and commercial application program to promote research of appropriate technologies for heavy duty plug-in hybrid vehicles.

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Legislative Update

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Health Law

On Sept. 29, Rep. Allyson Schwartz (D-PA) introduced H.R. 3664, known as the Healthcare Innovation Zone Pilot Act of 2009, to direct the Secretary of Health and Human Services to establish a Healthcare Innovation Zone pilot program. The program aims to increase health care provider integration and align health care provider incentives to reduce the rate of growth of health care costs while improving quality of care for Medicare, Medicaid, and privately insured patients. The bill was referred to the House Committee on Ways and Means.

On Aug. 6, Sen. Whitehouse (D-RI) introduced S. 1624, to amend Title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems. The bill was referred to the Senate Committee on the Judiciary.

On July 14, Rep. John Dingell (D-MI) introduced H.R. 3200 to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes. The bill was referred to the House Committee on Energy and Commerce, who ordered it be reported to the House as a whole.

HIV/AIDS

On Sept. 17, the Senate passed H.R. 3288, the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act of 2010, which includes a provision to grant funds to the Housing Opportunities for Persons with AIDS Program for the 2010 fiscal year.

On July 14, Sen. Gillibrand (D-NY) introduced S. 1446, to amend Title XIX of the Social Security Act to provide incentives for increased use of HIV screening tests under the Medicaid program. The bill was referred to the

Senate Committee on Finance.

Immigration Law

On Oct. 1, Sen. Frank Lautenberg (D-NJ) introduced S. 1736, a bill to provide the spouses and children of aliens who perished in the September 11th terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence. The bill was referred to the Committee on the Judiciary.

On Oct. 1, Rep. Darrell Issa (R-CA) introduced H.R. 3687, a bill to amend the Immigration and Nationality Act to eliminate the diversity immigrant program and to re-allocate those visas to certain employment-based immigrants who obtain an advanced degree in the U.S. The bill was referred to the House Committee on the Judiciary.

On July 30, Sen. Menendez (D-NJ) introduced S. 1550, to ensure that individuals detained by the Department of Homeland Security are treated humanely, provided adequate medical care, and granted certain specific rights. The bill was referred to the Senate Judiciary Committee.

American Indian Law

On Sept. 24, Sen. Byron Dorgan introduced S. 1703, a bill to amend the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") to affirm the authority of the Secretary of the Interior to take land into trust for Indian tribes.

On Aug. 6, the Senate Committee on Indian Affairs approved S. J. Res. 14, to acknowledge a long history of official depredations and ill-conceived policies by the federal government regarding Indian tribes and offer an apology to all native peoples on behalf of the United States.

International Law

On Sept. 23, the Senate passed S. Res. 253, expressing the sense of the Senate that the government of Libya should apologize for the welcome home

ceremony held to celebrate the release of convicted Lockerbie bomber Abdel Baset al-Megrahi.

On Sept. 23, Rep. Christopher Smith (R-NJ) introduced a resolution expressing the sense of the House of Representatives on the importance of inter-religious dialogue and the protection of religious freedom and related human rights for persons of all faith and nationalities in the Islamic Republic of Pakistan. The resolution was referred to the House Committee on Foreign Affairs.

On July 22, the House passed H. Res. 1511, to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign programs and centers for the treatment of victims of torture.

National Security

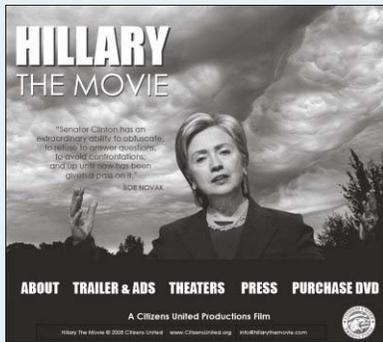
On Sept. 29, S. Res. 285, introduced by Sen. Dianne Feinstein (D-CA), passed in the Senate without amendment. The resolution supports the goals and ideals of national cybersecurity awareness month and raising awareness and enhancing the state of cybersecurity in the U.S.

On Sept. 29, Sen. Jon Kyl (R-AZ) introduced S. 1726, a bill to reauthorize the expiring intelligence tools of the USA PATRIOT Improvement and Reauthorization Act of 2005 and defend against terrorism through improved classified procedures and criminal law reforms. The bill was referred to the Committee on the Judiciary.

On July 23, Sen. Pryor (D-AR) introduced S. 1505, to provide immigration reform by securing America's borders, clarifying and enforcing existing laws, and enabling a practical employer verification program. The bill was referred to the Senate Committee on Finance.



Supreme Court Update



In an unusual move the United States Supreme Court ordered re-argument in **Citizens United v. Federal Election Commission**, No. 08-205 for September 9, 2009, to focus on the constitutionality of limiting corporations' independent spending during campaigns for the Presidency and Congress (earlier, the Court heard arguments addressing whether federal campaign finance laws applied to a movie about Senator Hillary Clinton shown in a few theaters and intended to be shown to on-demand cable subscribers).

Citizens United produced and aired *Hillary: The Movie*. It maintains that the movie is a biographical documentary about Senator Hillary Clinton and that neither the movie's narrator nor any of the individuals interviewed during the movie expressly advocated her election or defeat as President. Instead, they said, the movie presents a critical assessment of Senator Clinton's record as a U.S. Senator and as First Lady (the Clinton Administration's termination of White House Travel Office staff; incidents of retaliation against a woman who accused President Clinton of sexual harassment; Senator Clinton's record on complying with campaign finance restrictions while a candidate for U.S. Senate; her record on job-creation, health care, and national security issues; and the Clinton Administration's use of the pardon power). The production of *Hillary* and proposed advertising campaign for the movie were financed with Citizen United's general treasury funds (of the 25 donations of \$1,000 or more made to fund

the movie, two - totaling just \$2,000 - came from for-profit corporations).

Hillary was released in Jan. 2008 and shown in theaters in six cities that month. It was simultaneously made available for purchase on DVD through Citizens United's website and commercial retailers. To promote the movie, Citizens United produced three advertisements that it intended to run on broadcast and cable television. Citizens United received an offer from NCC, a company owned by three of the Nation's largest cable companies, to make *Hillary* available through Video On Demand to households that subscribe to digital cable television.

Citizens United filed suit against the Federal Election Commission in the United States District Court for the District of Columbia to bar the FEC from banning the broadcast of the movie and of the ads, and from enforcing the disclosure and disclaimer rules. Citizens United explained that, in the absence of judicial relief, it would be unable to finalize its deal to distribute the movie through Video On Demand because the FEC considered the movie to be a prohibited electioneering communication. Citizens United further explained that, even though its television advertisements for *Hillary* were not express advocacy, it was unable to run those advertisements because complying with the Bipartisan Campaign Reform Act's (BCRA) reporting and disclosure requirements would require it to reveal the identity of its donors - thereby subjecting them to potential retaliation and chilling further donations.

The district court ultimately held that a Video On Demand broadcast of the movie "was within the definition of 'electioneering communication' set forth in BCRA and its implementing regulations, and that, the FEC could constitutionally proscribe the movie's broadcast. According to the district court, the movie could not be interpreted as anything other than to inform the electorate that Senator Clinton is unfit for office, that the United States would be a dangerous place in a President Hillary Clinton world, and that viewers should vote against her."

The district court also held that application of BCRA's reporting, disclosure, and disclaimer requirements to Citizens United's advertisements does not violate the First Amendment. The district court thereafter granted summary judgment to the FEC (because the District Court ruling was by a three-judge court, appeals went directly to the Supreme Court).

In **Graham v. Florida**, No. 08-7412, petitioner pled guilty to burglary with assault and the trial court sentenced him to three years probation as an adult and certified him as an adult for any future violations of Florida law. He was 16 years old at the time he committed the crimes. Later that year, petitioner was arrested and charged with home invasion burglary and violating his probation. The trial court sentenced Petitioner to life in prison. This case raises the question of whether the Eighth Amendment's ban on cruel and unusual punishment prohibits the imprisonment of a juvenile for life without the possibility of parole as punishment for violating his probationary sentence for a violent felony by committing another violent felony neither resulting in homicide.

Sullivan v. Florida, No. 08-7621, raises the same question for the Court. In this case, Petitioner, Joe Sullivan, and two other juveniles broke into an elderly woman's home and stole jewelry and coins. Later the same day, Sullivan returned with Gullett (one of the juveniles with him earlier) to the home but the owner was there. After forcing their way into the home, Sullivan beat and raped the elderly woman. Sullivan's seventeen prior criminal offenses included among other acts burglary and assault.

On Dec. 12, 1989, the trial court found that an adult sentence was appropriate and sentenced him to life in prison on the sexual batteries and imposed 30 year sentences on the burglaries but later reduced the 30 year sentence to 15 years.

The ABA filed an *amicus* brief in **Graham v. Florida, Sullivan v. Florida**, Nos. 08-7412, 08-7621 arguing that

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Supreme Court Update

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sentencing a juvenile offender to life in prison without parole (JLWOP) was inconsistent with the lesser culpability of juvenile offenders. In its brief the ABA maintained that the sentence was grossly disproportionate because the offender's youthful age made for a much longer sentence. Second, relying on the "evolving standards of decency" cited in *Roper v. Simmons*, 543 U.S. 551 (2005), the ABA argued that the justifications for criminal justice sentencing were not served by JLWOP, and that, JLWOP should not be allowed because the parole system contained safeguards to protect the public from those juvenile offenders who require continued imprisonment and finally international authorities oppose JLWOP. Oral arguments are set to be heard on Nov. 9, 2009.

The United States Supreme court has heard or soon will hear, in its Oct. 2009 term, a number of other cases addressing issues relevant to the work of the Section:

In **Salazar v. Buono**, No. 08-472, the Court will decide whether an individual has Article III standing to bring an Establishment Clause suit challenging the display of a religious symbol, a cross, on government land ("Sunrise Rock" in the Mojave National Preserve). The Court will also decide if an Act of Congress directing that Sunrise Rock be transferred to a private entity in exchange for privately owned land somewhere else in the Mojave National Preserve continues to violate the Establishment clause when the cross remains designated as an official memorial by the government.

In **Padilla v. Commonwealth of Kentucky**, No. 08-651, the Court will determine whether the Sixth Amendment's guarantee of effective assistance of counsel requires a criminal defense attorney to advise a non-citizen client that pleading guilty to an aggravated felony will result in deportation. The Court will also decide whether that lack of correct advice about deportation, because it induced a guilty plea, amounted to ineffective assistance of counsel and whether it warrants setting aside the guilty plea.

In **United States v. Stevens**, No. 08-769, the Court will decide whether 18 U.S.C. 48 is facially invalid under the Free Speech Clause of the First Amendment. (18 U.S.C. 48 provides a penalty for creating, selling, or possessing a depiction of animal cruelty with the intention of placing the depiction in interstate or foreign commerce for commercial gain).

In **Wood v. Allen**, No. 08-9156, the Court will decide whether the state court's decision (the state court decided that during the sentencing phase of a capital case the novice defense attorney's failure to present the defendant's impaired mental functioning was a strategic decision and did not constitute ineffective counsel while ignoring evidence in the record demonstrating otherwise) was based on an unreasonable determination of the facts and whether the circuit court erred in its application of the Antiterrorism and Effective Death Penalty Act (AEDPA) to the review of the state court decision.

In **Maryland v. Shatzer**, No. 08-680, the Court will determine whether an interrogation that took place nearly three years after the initial questioning is subject to *Edwards v. Arizona*, 451 U.D. 477 (1981), which prohibits interrogation of a suspect who has invoked the Fifth Amendment right to counsel.

In **Pottawattamie County et al. v. McGhee et al.**, No. 08-1065, the Court will decide whether a prosecutor may be subjected to a civil trial and potential damages for a wrongful conviction and incarceration where the prosecutor procured false testimony during the criminal investigation, and then introduced that same testimony against the criminal defendant at trial.



New Toolkit for LGBT and Domestic Violence Issues

The American Bar Association Section on Individual Rights and Responsibilities, Commission on Domestic Violence, and Criminal Justice Section, in partnership with the National LGBT Bar Association announce the upcoming publication of a toolkit for lawyers working with LGBT clients, victims of domestic violence, and LGBT victims of domestic violence. The toolkit will include several resources for lawyers, including tools to help lawyers identify and work with LGBT victims of domestic violence, fact sheets on the legal rights of LGBT victims of domestic violence, case summaries of civil orders of protection for LGBT victims of domestic violence cases, and family law legal resources for LGBT victims of domestic violence. The toolkits will be available in hardcopy and electronically at <http://www.abanet.org/irr/enterprise/LGBT/> in winter 2009.

For more information, or to reserve your copy, contact Amanda Kloer at kloera@staff.abanet.org.



A Message from Richard Podell, IRR Section Chair

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continued need for the Section's involvement in addressing these issues is clear. In the words of Senator Ted Kennedy, "For you and for me, the work begins anew. The hope rises again, and the dream lives on." We need your help to continue the fight. The choice is yours. Please consider remaining active in our Section, and together we will make a difference.

Section Sponsors Successful Annual Meeting Events



In August, the ABA held its annual meeting in Chicago. More than 9,000 attorneys from the U.S. and abroad gathered for a week of policy meetings, CLE programming, and awards. As always, the Thurgood Marshall Award Dinner and Reception highlighted Section programming during the meeting, which also included six programs covering important human and civil rights issues. The ABA House of Delegates approved a Section-sponsored Report with Recommendation that “[u]rges Congress to repeal 1 U.S.C. § 7, which denies federal marital benefits and protections to lawfully married same-sex spouses.”

The Section also held its annual meeting, during which new Council members and officers were elected for the new ABA year. C. Elisia Frazier was selected to serve as Chair-Elect, Kay Hodge as Vice Chair, James Silkenat as Secretary, and Patrick McGlone as Financial Officer. Richard Podell formally took over the office of Chair, and Robert A. Stein and Kristen Galles were elected to serve on the Council.

Thurgood Marshall Award Dinner

On Aug. 1, the Section presented the Honorable Janet Reno with the 2009 Thurgood Marshall Award in recognition of her outstanding career as a public servant devoted to civil rights, transparency in government, and reform of the justice system.

Attorney General Reno, appointed by President Clinton in 1993 and reappointed in 1997, was the first woman to serve as the U.S. Attorney General and the longest-serving Attorney General of the 20th Century. Since her

departure as Attorney General, Reno has been a steadfast advocate for the improvement of the justice system. She has focused on judicial independence, forensic science, and eyewitness identification.

The Honorable Abner J. Mikva delivered the keynote address. Judge Mikva, a former Section Chair, has served in all three branches of government and was the 2005 Thurgood Marshall Award Recipient.

Section-sponsored Programming

The Section presented an ABA Presidential Showcase program entitled, “May the Source Be With You: The Debate Over Journalists and a Federal Shield Law.” The discussion, co-sponsored with the ABA Section of Litigation and the Forum on Communications Law, examined the legal protection of journalists from revealing confidential sources, a protection which exists on a state level but not in federal law. The panel included Patrick J. Fitzgerald, the U.S. Attorney for the Northern District of Illinois and former Chief of the Organized Crime-Terrorism Unit in the Southern District of New York; the Honorable Reggie B. Walton, who presided over the trial of I. Lewis “Scooter” Libby; Guylyn Cummins, a media defense partner and leading First Amendment attorney at Sheppard Mullin Richter & Hampton LLP; and Abdon Pallasch, a political reporter for the Chicago Sun-Times. The program was moderated by IRR First Amendment Committee Co-Chair Stephen J. Wermiel.

The Section-housed AIDS Coordinating Committee sponsored a program on the legal and policy ramifications of the disproportionately HIV-infected prison population. The program, entitled, “HIV and the Rule of Law: Should HIV Testing Be Mandatory in Incarcerated Settings?” included a distinguished group of panelists who discussed how HIV transmission might be prevented, both within prison and after community re-entry.

Three other CLE program offerings addressed current topics of interest to the Section. “The Right to Quality

Education in America: What is it? What Should it Look Like?” examined the core elements of a quality education and how those elements might be implemented to benefit all children in America. “Representing Clients with Diminished Capacity: Ethical Challenges and Strategies in an Age of Elder Abuse” identified key challenges attorneys face when representing clients with diminished or questionable mental capacity, and the Section-housed ABA Center for Human Rights sponsored “‘Never Again’ for Real? Genocide, Mass Atrocities and the Responsibility to Protect Doctrine,” that examined the emerging “Responsibility to Protect” doctrine.

The Section’s Committee on Native American Concerns sponsored a panel discussion at the law firm of Holland & Knight on “Urgent Native American Issues.” The program focused on several critical issues affecting American Indian and Alaska Native Tribes, including law enforcement, tribal governmental gaming, health care reform and self-governance, and federal tax policy.

Section Calls for Nominations for the 2010 Thurgood Marshall Award

The Section is pleased to announce that it is now accepting nominations for the 2010 Thurgood Marshall Award. The award recognizes long-term contributions by members of the legal profession to the advancement of civil rights, civil liberties, and human rights in the United States. Past recipients include such distinguished men and women as Hon. Janet Reno, Hon. Abner J. Mikva, and Stephen B. Bright. Nominees for the award should demonstrate a substantial commitment to the furtherance of civil and human rights in this country. If you would like to nominate someone, the deadline for submissions is Jan. 8, 2010. For more information about the award and to download the 2010 submission forms, please visit <http://www.abanet.org/irr/marshall-award.html>.

ABA President Lamm Launches Presidential Diversity Program Series

ABA President Carolyn Lamm recently announced an initiative to create a new Diversity Commission “to provide practical resources and guidance that will help women lawyers, lawyers of color, disabled lawyers, lawyers of differing sexual preferences and young or old lawyers navigate the cultures and practices in law firms and corporations to pierce the glass ceiling.” In conjunction with the initiative, Lamm is presenting the ABA Presidential Diversity Program Series, which is devoted to examining diversity through the lenses of race, ethnicity, class, disability, gender, sexual orientation, and gender identity. The first program in the series is a 90 minute webcast entitled “Removing Bias from Attorney Evaluations.”

The program features a distinguished panel of ABA staff and commission members who will focus on two main issues: 1) how to identify bias in the advancement process, and 2) how to design a bias-free evaluation system. In addition, the panel will address how fair evaluations help ensure opportunities for associates to work on complex matters for important clients as well as for a variety of partners, to improve their skills, to increase their referral base, and to achieve a high level of satisfaction with law practice that is sometimes missing among diverse lawyers. Panelists include **Roberta D. Liebenberg**, Chair of the ABA Commission on Women in the Profession, **Linda Chanow**, Assistant Director of the Project for Attorney Retention, **Charles Brown** from the ABA Commission on Mental and Physical Disability Law, **Paulette Brown** from the Section of Individual Rights and Responsibilities, and **James J. S. Holmes** from the ABA Commission on Sexual Orientation and Gender Identity.

The live video webcast will take place on Friday October 16th from 11:30am to 1:00pm Eastern Standard Time. If you are unable to participate, this program will be available for purchase as a download a week following the live program. Please visit the ABA Web Store at <http://www.abacatalog.org/> and search by product code **CET09RBFPOD**.

Look for the next installment of the Presidential Diversity Program Series entitled “Smart Soloing: Success Strategies for Diverse Lawyers” coming in Winter 2010.

Death Penalty Implementation Project Forum at Florida State University

The ABA’s Death Penalty Moratorium Implementation Project co-sponsored a forum and CLE program entitled “The Florida Death Penalty: A Retrospective on the ABA Assessment on Capital Punishment in Florida” on Sept. 16, 2009. The three-hour forum took place at the Florida State University College of Law Rotunda. Panelists discussed the findings of the ABA Assessment on the Florida Death Penalty three years after the ABA completed one of the most comprehensive studies to date on the fairness and accuracy of Florida’s capital punishment system. Panelists included former ABA President Sandy D’Alemberte, Moratorium Project Steering Committee Chair Stephen Hanlon, state court judges, respected capital defense attorneys, a former Florida State Attorney, academic researchers, and a citizen who was exonerated after spending 17 years on Florida’s death row. Panelists focused on a range of problems identified in the 2006 ABA report, such as ineffective defense counsel, prosecutorial issues, juror confusion, clemency, wrongful

conviction, fiscal implications of the death penalty, and the propriety of alternatives to capital punishment. Over 150 lawyers, students, and citizens attended the forum in person and countless others watched the program online through a live webcast feed. The forum also garnered significant press from local, state, and national media markets, with coverage from Associated Press, Gannett, the Tallahassee Democrat, and a local radio station. An op-ed piece authored by a former Florida Supreme Court Justice and a member of the ABA Assessment team ran in several state-wide newspapers on the day of the forum, discussing the importance of the ABA report and the need for reform of Florida’s broken capital punishment system.

For more information about the Project and the assessment reports please visit <http://www.abanet.org/moratorium/home.html>.

Staff Arrivals and Returns

This September, the Section welcomed its newest staff member Katherine Incantalupo. As Program Assistant, Katherine will provide administrative and programmatic support for the Section, such as managing the website, editing this newsletter, and facilitating member communication. She received her undergraduate degree from Georgetown University, where she studied English and Women’s and Gender Studies. While attending Georgetown, Katherine was a member of the Varsity Softball team and the Women’s Rugby Football Club. In addition, she was involved with the GU AIDS Coalition and Georgetown’s campus

group devoted to fighting sexism in the community called United Feminists. Katherine is excited to be a part of the IRR family and looks forward to working with the Section’s members and leadership.

The Section also welcomes back law clerks Maria Jacob and Michelle Stevens, who served as interns during the summer for the Death Penalty Moratorium Implementation Program. Maria and Michelle are second year law students at the Georgetown University Law Center.

Support the ABA Section of Individual Rights & Responsibilities

Show your support for the Section’s ongoing work by making a tax-deductible contribution to the ABA Fund for Justice and Education (FJE). Download and mail in a contribution form from the Section website at <http://www.abanet.org/irr/fje/pledge.pdf>. Contributions may also be made online via the FJE webpage at <https://www.abanet.org/fje/donate/>. Be sure to designate your gift for the IRR Support Fund or the Thurgood Marshall Individual Rights Fund.



Section of
**Individual Rights
and Responsibilities**

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Upcoming Events

ABA Midyear Meeting

Feb. 3-9, 2010
Orlando, Fl.

IRR Spring Council Meeting

Apr. 15-18, 2010
New Orleans, La.

ABA Annual Meeting

Aug. 5-10, 2010
San Francisco, Calif.

IRR Fall Council Meeting

Oct. 21-22, 2010
Memphis, Tenn.

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