

MAKING A DIFFERENCE

uOttawa Human Rights Clinic
Report | 2014-2021



About the Human Rights Clinic

The Human Rights Clinic (HRC or Clinic) was created in September 2014 as a project-based initiative within the Human Rights Research and Education Centre (HRREC). The Clinic invites uOttawa students to acquire new skills in relation to projects in Canada and abroad. Each project works under the academic guidance of faculty members and aims to:

- Strengthen the protection of human rights, by promoting advocacy, research, training and technical assistance emphasizing their effective implementation.
- Foster capacity-building and to provide recommendations to ensure that policy, law and practice adhere to a human rights-based approach.
- Promote research regarding the effective implementation of human rights standards in Canada and abroad.

Undergraduate and graduate students participate in the Clinic on a volunteer basis. A for-credit option became available for Common Law students, Faculty of Law, starting in 2016-2017. Student recruitment is by means of an application process and open-house sessions are organized once or twice per year. Participating students can receive recommendation letters for university applications, internships and job opportunities which have resulted in several placements in Canada and abroad. The Clinic has trained 187 students since its inception (i.e. some 25-30 per year). [Many of them have spoken over the years about their enriching experience in the Clinic's projects.](#)

The Clinic is led by a Director (Ph.D. Law student) and each project is assigned a Coordinator (normally a graduate student) supported by a Faculty Adviser. The Clinic has received financial contributions from: the Law Foundation of Ontario (institutional grant to Common Law, 2014-2019); the Canadian Human Rights Commission (2016-18); Human Rights Internet (2014-2019); the SSHRC-supported project *Strengthening Justice for International Crimes: A Canadian Partnership* led by Professor Fannie Lafontaine (Université Laval, 2014-2022); the Neuberger-Jesin Professorship of International Conflict Resolution (2021 onward); and the University of Ottawa (HRREC's operating budget, 2014 onward).

Skills Development Workshops

The Centre organizes skills development workshops for the students participating in the HRREC.

Topics have included mapping exercises, writing techniques, fact-finding methodologies, the United Nations Guiding Principles on Business and Human Rights (facilitated by Prof. Tyler Giannini, Co-Director of Harvard's International Human Rights Clinic), human rights fact-finding conducted by civil society organizations and by inter-governmental organizations (led by speakers Alex Neve, former Secretary General of Amnesty International Canada, and HRREC Director John Packer as a former UN and OSCE staff member), advocating for human rights in Latin America (with Daniel Cerqueira, Senior Program Officer, the Due Process of Law Foundation), and the Global Refugee Protection Regime (with Obiora C. Okafor, Professor and York Research Chair in International and Transnational Legal Studies, Osgood Hall Law School, York University).



Current Projects

Business & Human Rights in Latin America (Since 2014)

This project seeks to address the responsibility of “home States” for the activities of private companies operating abroad within the territory of Latin American States, as well as to promote the development of the norms and standards of the Inter-American Human Rights System regarding business and human rights. Research focusses on the legal framework in Canada, international standards set within the Inter-American Human Rights System and illustrative cases.

The team has participated in two Hearings before the Inter-American Commission on Human Rights (the texts are available on the HRREC website):

- Hearing during the 166th Extraordinary Period of Sessions titled *Measures to prevent Human Rights violations by Canadian extractive industries that operate in Latin America* (December 2017).
Hearing Request by the HRREC’s Human Rights Clinic, Due Process of Law Foundation and Justice and Corporate Accountability Campaign (October 2017).
- Hearing regarding *Business, Human Rights and Prior Consultation in the Americas* (March 2015).

To date, the project has produced nine (9) amicus curiae briefs submitted to the Inter-American Court of Human Rights or to Supreme Courts and Constitutional Courts of Honduras, Brazil, Peru and Mexico regarding, respectively, the standing and positions of legal entities before the Inter-American Human Rights System and the question of whether legal entities may be beneficiaries of the human rights protections set out in the American Convention on Human Rights, as follows (from most recent):

- Amicus to the Court of Appeals in Honduras related to international standards related to the arbitrary detention of human rights and environmental defenders of the Guapinol river (January 2021)
- Amicus to the Civil Court of Amazon State in Brazil related to the protection of land and territory of Indigenous Peoples in Voluntary Isolation and Initial Contact in the Brazilian Amazon Forest (April 2020)
- Amicus to the Constitutional Court of Peru in a case related to the protection of land and territory of Indigenous Peoples in Voluntary Isolation and Initial Contact in the Peruvian Amazon Forest (June 2019)
- Amicus to the Federal Supreme Court of Brazil in a case related to the recognition and protection of the right to land, territory and traditional knowledge of the Xokleng Indigenous People (January 2019)
- Amicus to the Inter-American Court of Human Rights in the case of *Lhaka Honhat v. Argentina*, related to social, economic, cultural and environmental rights of Indigenous Peoples (March 2019)
- Amicus to the Superior Court of Brazil related to the right of due process and access to justice in their own language on behalf of the Kaingang Indigenous Peoples (July 2017)
- Amicus to the Inter-American Court of Human Rights on the case of *Xucuru Indigenous People v. Brazil* (April 2017)
- Amicus to the Federal Supreme Court of Mexico regarding the international standards of prior consultation regarding the use of genetically modified soybeans in the territory of Mayan communities (September 2015)

- Amicus to the Inter-American Court of Human Rights (March 2015)
 - Unofficial summary of the Advisory Opinion made by the Human Rights Clinic of the Human Rights Research and Education Centre, University of Ottawa (June 2016)
 - Advisory Opinion of the Inter-American Court of Human Rights *Entitlement of legal entities to hold rights under the Inter-American Human Rights System* (February 2016)

One significant achievement for the Clinic was its contribution to the creation of an Indigenous reserve in the Peruvian Amazon, the Yavarí Tapiche Reserve, in spring 2021. The Peruvian Ministry of Culture created the reserve of over one million hectares (the largest in the country) which is home to at least three communities of Indigenous Peoples living in voluntary isolation. This followed a request for precautionary measures that the HRC (with IDL and ORPIO – two leading Peruvian NGOs) filed before the Inter-American Commission of Human Rights.

Business & Human Rights in Latin America

PROJECT PARTNER

Due Process of Law Foundation (DPLF), Washington, D.C.

ACADEMIC ADVISOR

Professor Penelope Simons

PROJECT COORDINATOR

Salvador Herencia, HR Clinic Director, Ph.D. Candidate in Law

Canadian Partnership for International Justice (2016-2022)

This project is part of a major research grant awarded by the Social Sciences and Humanities Research Council (SSHRC) to Principal Investigator Prof. Fannie Lafontaine of the Université Laval entitled *Strengthening Justice for international Crimes: A Canadian Partnership*. The partnership comprises a team of 22 academic researchers and 12 NGO partners. Together they seek to contribute to the effectiveness of the global effort to hold accountable those persons responsible for the most serious international crimes, while enhancing Canada's role as a global leader in this field.

Part of the work includes providing users with legal information, digests and an application to work more effectively with core international crimes cases through the [ICC Legal Tools Project \(ICCLT\)](#) which is the leading information service on international criminal law. By conducting research and selecting relevant international decisions, resolutions and doctrine, the ICCLT teams empower practitioners and help create the preconditions for criminal justice globally.

Since the start of the project in 2016, the Human Rights Clinic has processed and catalogued more than 2000 documents from the International Criminal Tribunal for Rwanda as well as national legislation from Gabon, Guinea, Haiti, Madagascar, Maldives, Mali, Nepal, Niger, Senegal, Togo, Vanuatu, Cameroon, Luxembourg, Mongolia, Seychelles, Brunei and Bhutan.

In 2018, HRREC/HRC restructured the project to better respond to the needs of partners Avocats sans frontières and the former Canadian Centre for International Justice while offering a richer experience to participating students. This included the elaboration of legal memos on questions submitted by these organizations. The Clinic produced research on transitional justice and military courts in Mali and international standards regarding contemporary forms of slavery and sexual violence against women.

Most recent reports include:

- *Handbook on International Standards to Address Crimes of Sexual Violence*
- *Military Courts in Mali*
- *Amicus Curiae to the International Criminal Court on the situation of the Rohingya (June 2018)*

Canadian Partnership for International Justice

PROJECT PARTNERS

Canadian Partnership for International Justice
Lawyers Without Borders Canada
Former Canadian Centre for International Justice

ACADEMIC ADVISORS

Professors João Velloso, Penelope Simons & John Packer

PROJECT COORDINATOR

Aboubacar Dakuyo, Ph.D. in Law

Independence of Judges & Lawyers (2017-2022)

Starting in spring 2017, the Clinic provides research support to Diego García-Sayán, United Nations Special Rapporteur (UNSR) on the Independence of Judges and Lawyers, focusing mainly on thematic reports submitted to the UN Human Rights Council (HRC) and the United Nations General Assembly (UNGA).

Established in 1994, the UNSR's mandate includes: identifying and recording not only attacks on the independence of the judiciary, lawyers and court officials but also progress achieved in protecting and enhancing their independence; identifying ways and means to improve the judicial system and making concrete recommendations; and studying, for the purpose of making proposals, important and topical questions of principle with a view to protecting and enhancing the independence of the judiciary, lawyers and court officials.

To date, the Clinic has drafted nine (9) United Nations reports:

- *The Coronavirus Disease (COVID-19) Pandemic: Impact and Challenges for Independent Justice*, to the Human Rights Council, UN doc. A/HRC/47/35 (09/04/2021).
- *Disciplinary Proceedings Against Judges for Alleged Misconduct in the Exercise of Their Functions*, to the United Nations General Assembly, UN doc. A/75/172 (17/07/2020).
- *Influence of Corruption on Public Prosecution Services and on the Effective Enjoyment of Human Rights*, to the Human Rights Council, UN doc. A/HRC/44/47 (23/03/2020).

- *Basic Principles on the Independence of the Judiciary*, to the United Nations General Assembly, UN doc. A/74/176 (16/07/2019).
- *Freedom of Expression, Association and Peaceful Assembly*, to the Human Rights Council, UN doc. A/HRC/41/48 (29/04/2019).
- *Bar Associations*, to the United Nations General Assembly, UN doc. A/73/365 (08/09/2018).
- *Judicial Councils*, to the Human Rights Council, UN doc. A/HRC/38/38 (02/05/2018).
- *Organized Crime and Its Impact on the Judicial System*, to the United Nations General Assembly, UN doc. A/72/140 (25/07/2017).
- *Perspectives on the Mandate of the Special Rapporteur on the Independence of Judges and Lawyers*, to the Human Rights Council, UN doc. A/HRC/35/31 (09/06/2017).

Independence of Judges & Lawyers

PROJECT PARTNER

Diego García-Sayán, UNSR on the Independence of Judges & Lawyers

ACADEMIC ADVISOR

Professor John Packer

PROJECT COORDINATOR

Jordi Feo Valero, HRREC Fellow

Scholars at Risk in the Americas (Since 2018)

Since January 2018, the Human Rights Clinic has monitored situations that may affect academic freedom in Brazil, Canada, Colombia, Haiti, Honduras, Mexico and Venezuela as contributions to the Scholars at Risk (SAR) Academic Freedom Monitoring Project which publishes the [Free to Think Reports](#) every year. The University of Ottawa joined the SAR Network in 2014 and this initiative is part of the activities of the [SAR uOttawa Program](#).

The Clinic also actively participates in advocacy actions with Scholars at Risk, including the submission of two (2) *Amicus curiae* in paradigmatic cases affecting scholars in Colombia and Chile.

- *Amicus curiae to the Inter-American Court of Human Rights in the case Urrutia Laubreaux vs. Chile* (February 2020).
- *Amicus curiae to the Constitutional Court of Colombia to protect the right to academic freedom of a University Professor* (May 2018, in Spanish); Decision of the Constitutional Court of Colombia, July 2018.

The team requested and participated in the first hearing before the Inter-American Commission of Human Rights (IACHR) on threats to academic freedom and university autonomy in the Americas in February 2019. The brief highlighted situations of violence against academics in Nicaragua, Venezuela and Brazil, as well as the persecution of students in Bolivia and Mexico.

The Clinic also contributed to the United Nations General Assembly report on academic freedom prepared by the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (UN doc. A/75/261 of 28 July 2020). The document includes legal arguments and findings submitted by the Clinic and summarized in a document titled [Threats to Academic Freedom in the Americas](#).

In spring 2021, the Clinic launched a project called *Academic Freedom in the Americas: Advocacy and Network Building* with the University of Monterrey (Mexico) and SAR. The goals are: to build on and develop human rights norms through state and regional case law for the Inter-American Human Rights Commission; increase public understanding of the crucial importance of academic freedom to a democratic society; help entrench relevant norms at an institutional level throughout the hemisphere; and accompany and train activists and experts who will be well-positioned to serve as advocates for academic freedom in the Americas region. The two-years project is funded by the Open Society Foundation in the amount of US\$150,000.

[Scholars at Risk in the Americas](#)

PROJECT PARTNER
Scholars at Risk Network

ACADEMIC ADVISORS
Professors Isaac Nahon-Serfaty & João Velloso

PROJECT COORDINATOR
Catalina Arango, HRREC Member

Strengthening the Equality Council of Moldova (Since 2021)

The purpose of this project is to support the resolution of inter-ethnic conflict by preventing discrimination in the Republic of Moldova (Eastern Europe). Activities include research and advisory memoranda on human rights and discrimination issues under examination by the Equality Council of Moldova.

[Strengthening the Equality Council of Moldova](#)

PROJECT PARTNER
Equality Council of Moldova

ACADEMIC ADVISOR
Professor John Packer

PROJECT COORDINATOR
Vaaceslav (Slava) Balan, Ph.D. Candidate in Law

Past Projects

[Aging in the Workplace \(2016-2018\)](#)

The project *Legal Barriers Affecting Older Workers in the Workplace* was part of a Cooperation Agreement between the HRREC and the Canadian Human Rights Commission (CHRC). The purpose was to contribute to the CHRC's research on aging in the workplace that could assist in the development of relevant policy on this matter.

PROJECT PARTNER | Canadian Human Rights Commission (CHRC)
ACADEMIC ADVISOR | Professor John Packer
PROJECT COORDINATORS | Janine Lespérance & Kirsten van Houten

[International Human Rights and Canada Database \(IHRCanadaDb, 2014-2019\)](#)

The project consisted of designing and implementing an online platform of Canada's international human rights obligations and commitments. By providing free access to such information, in both English and French, users would acquire a greater understanding of international human rights and how they apply to Canada, which could foster dialogue on Canada's implementation of its international human rights obligations and commitments. The project covered international legal instruments within the domains of international human rights, refugees, humanitarian and criminal law. HRREC and HRI contacted the Canadian Human Rights Commission in September 2019 to donate the fully developed database so they could make good use of this valuable resource.

PROJECT PARTNER | Human Rights Internet (HRI)
ACADEMIC ADVISOR | Professor John Packer
PROJECT COORDINATOR | Janine Lespérance

[Social Condition as a Prohibited Ground of Discrimination in Canada \(2017\)](#)

This project was part of a Cooperation Agreement between the HRREC and the Canadian Human Rights Commission (CHRC). The purpose of the project was to contribute to the CHRC's research on socio-economic rights to the development of relevant policy on this matter.

PROJECT PARTNER | Canadian Human Rights Commission (CHRC)
ACADEMIC ADVISORS | Professors John Packer & David Wiseman
PROJECT COORDINATOR | Kirsten van Houten

[Right to Adequate Housing \(2014-2015\)](#)

This project provided support and facilitated various needs associated with the mandate of the former United Nations Special Rapporteur (UNSR) on the Right to Adequate Housing, Leilani Farha (2014-2020). The focus was to assist the UNSR in meeting the goals of her mandate, which included producing research to inform annual thematic reports to the General Assembly and the Human Rights Council, developing accessible materials and tools regarding the right to adequate housing globally and producing a newsletter on the right to housing with global reach. The UNSR was supported financially by the German Government.

PROJECT PARTNER | United Nations Special Rapporteur on the Right to Adequate Housing
ACADEMIC ADVISOR | Professor John Packer
PROJECT COORDINATOR | Sharmila Mahamuni

[Prevention of Genocide \(2014-2015\)](#)

The Clinic provided research assistance to the Office of the United Nations Special Advisor on the Prevention of Genocide on the relationship between land disputes, Indigenous Peoples and mass atrocities. The findings contributed to the development of a framework that informs UN guidelines for analysing atrocities.

PROJECT PARTNER | United Nations Special Advisor on the Prevention of Genocide
ACADEMIC ADVISOR | Professor John Packer
PROJECT COORDINATOR | Tenille Brown

HUMAN RIGHTS CLINIC

Human Rights Research and Education Centre (HRREC)
University of Ottawa
Fauteux Hall | FTX550
57 Louis-Pasteur Private
Ottawa (ON) K1N 6N5

613-562-5775
HRREC@uOttawa.ca
cdp-hrc.uOttawa.ca



[Facebook.com/uOttawaHRREC](https://www.facebook.com/uOttawaHRREC)



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