

Mass Dissent

Massachusetts Chapter

National Lawyers Guild

14 Beacon St., Boston, MA 02108

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BOARD MEETING

February 19, 6:00pm

14 Beacon St., 1st Fl.
Boston

Challenges Faced by Lawyers and Activists Around the World

This month's issue of *Mass Dissent* includes articles on the challenges faced by lawyers and activists worldwide in struggles against state-sponsored repression of lawyers, persecution of women and indigenous people, and for the recognition of right of asylum in claims arising from the activities of *maras* in Central America. We also include two reports: one on the rally organized by the Massachusetts Chapter with other bar associations to support the Pakistani lawyers targeted by the Musharraf government, and one from our chapter's delegation to Venezuela to observe the referendum on constitutional reforms in December, 2007.

Maria Muti writes about the "illegal mingling" case of a rape victim known as "The Girl of Qatif" in the Kingdom of Saudi Arabia and about Amina Lawal, a Nigerian woman who was sentenced to death for alleged adultery by a Sharia court. Maria makes the case

for the lawyer's responsibility to advance the struggle for human rights by taking cases which challenge cultural norms, even when there are serious personal risks to the advocate.

Jason Corral's article on the activities of criminal gangs or *maras* in Central America provides an analysis of the status of asylum claims arising from those persecuted by quasi-governmental gangs.

Another article included in this issue gives an update on the status of the workers of the Michael Bianco, Inc. factory in New Bedford who were arrested a year ago in the immigration raid; it also includes a brief history of the community of Mayans that we, as lawyers, have come to know since that raid. And again, we remember that where hope is present, all things are possible.

- Eleanor Newhoff &
David Kelston -

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Join a Guild Committee

Street Law Clinic Project: The Street Law Clinic project provides workshops for Massachusetts organizations, which address legal needs of various communities. Legal education workshops on 4th Amendment Rights (Stop & Search), Landlord/Tenant Disputes, Workers' Rights, Civil Disobedience Defense, and Immigration Law are held at community organizations, youth centers, labor unions, shelters, and pre-release centers. If you are a Guild attorney, law student, or legal worker interested in leading a workshop, please contact the project at 617-723-4330 or nlgmass-slc@igc.org.

"No to MBTA Searches": Works in coalition with the American Arab Anti-Discrimination Committee, American Friends Service Committee and American Civil Liberties Union of Massachusetts to stop searches on the MBTA. If you would like to be involved in the campaign, either on its political or legal end, please call the office at 617-227-7335.

Lawyer Referral Service Panel: Members of the panel provide legal services at reasonable rates. Referral Service Administrative/Oversight Committee members: Neil Burns, Neil Berman, Joshua Goldstein, Jeremy Robin, and Azizah Yasin. For more information, contact the Referral Service Coordinator at 617-227-7008 or nlgmass@igc.org.

Independent Civilian Review Board: In coalition with the American Friends Service Committee and Greater Boston Civil Rights Coalition, the NLG has been pushing for the creation of an independent civilian board to review complaints against Boston police officers. To get involved in the campaign, please contact the office at 617-227-7335.

NLG National Immigration Project: Works to defend and extend the human and civil rights of all immigrants, both documented and undocumented. The Committee works in coalition with community groups to organize support for immigrant rights in the face of right-wing political attacks. Ongoing projects include asylum advocacy and the rights of immigrant minors. For more information contact the NLG National Immigration Project at 617-227-9727.

NLG Military Law Task Force: Provides legal advice and assistance to those in the military and to others, especially members of the GIRights Hotline, who are counseling military personnel on their rights. It also provides legal support and helps to find local legal referrals when needed. The MLTF and the Hotline exchange many questions and information through their listserves. Calls to the GIRights Hotline from phones in New England are handled from the AFSC office in Cambridge. To get involved, please contact Neil Berman (njberman2@juno.com) or Marguerite Helen (mugsm@mindspring.com).

COALITIONS:

Jobs with Justice, a coalition-based organization addressing workers' rights. The NLG is a member of Jobs with Justice; any interested Guild members can attend meetings & events.

GUILD NEWS

NLG HAPPY HOUR

The NLG Massachusetts Chapter has launched an **NLG Happy Hour** - for Guild members and non-Guild members - which takes place on the **2nd Wednesday of every month, between 5:30 and 7:30pm, at Felt Billiards Club** (533 Washington St., Downtown Crossing, next to Paramount). We hope you will join us for the next NLG Happy Hour on **February 13** - and bring friends!

we will hold elections of Chapter officers (please read below) and host **Robert Meeropol**, a long time Guild member, who will speak on "**1/20/2009: Light at the End of the Tunnel?**"

ANNUAL MEETING

Guild members are invited to the Chapter's Annual Meeting on **Tuesday, March 4, 2008, 5:30pm (14 Beacon St., Conference Rm, 1st Fl.)**. At the meeting,

All

MENTORSHIP BRUNCH

We hope you will participate in the Chapter's mentorship brunch - **Saturday, March 29, 12:30-3:00pm**, 7 Everett St., Jamaica Plain. The brunch serves as an idea way for Guild students to meet Guild lawyers and establish a mentorship contact, and for Guild lawyers to share their knowledge, experience, and connections with Guild students.

CONGRATULATIONS TO Nancy Kelly & John Willshire-Carrera

on receiving a prestigious recognition and being named "Lawyers of the Year" by Lawyers Weekly.

Way to go, Nancy & John!

NLG & BOSTON COMMUNITY

Last December, **Nelson Brill** represented the Chapter on a panel to commemorate International Migrant Workers Day. The event included presentations on (1) the terms of the International Convention for the Protection of All Migrant Workers and Their Families (to which the U.S. is not a signatory), (2) an analysis of how multinational corporations have shaped and limited protective language of the law, and (3) a discussion on the current legal and political climate characterized by trends that build terror and repression against undocumented and migrant workers.

NLG Massachusetts Chapter Elections of Officers

Please consider joining our Board of Directors. The election of Chapter directors and officers will be held at the Annual Meeting on **Tuesday, March 4, 2008**.

Responsibilities of Board members include:

- current membership in NLG;
- participation in monthly Board meetings (3rd Tuesday, 6:00 – 8:00pm, 14 Beacon St., 1st Fl., Boston);
- participation in defining Chapter's programmatic work;
- participation in July Retreat (half-day, mid-July);
- work on at least one administrative (Membership, Personnel, Finance, Fundraising, Sustainer) or special events committee (Mentorship, Annual Dinner, Happy Hour, Holiday Party);
- work on at least one campaign/project (on-going: Lawyers Referral Service, Street Law Clinic, Mass Defense);
- serve as editor of one issue/year of *Mass Dissent*;
- make phone calls to new and lapsed members.

If you are interested in running, please contact the office at 617-227-7335.

ARTICLES FOR MASS DISSENT

The March issue of *Mass Dissent* will focus on women in law and politics.

If you are interested in submitting an article, essay, analysis, or art work (cartoons, pictures) related to the topic, please e-mail the articles to nlgmass-director@igc.org.

The deadline for articles is February 15th.

NLG RALLIES IN SUPPORT OF PAKISTANI LAWYERS

"I would like to thank the Massachusetts Chapter of the National Lawyers Guild for organizing this demonstration in solidarity with the lawyers and judges of Pakistan, who have been beaten and jailed for standing up for the rule of law in their country," said Mass. Bar Association President David White on Tuesday November 13, 2007. David continued by describing the rights enshrined in the Pakistani Constitution, including the right not to be tortured, and condemning General Pervez Musharraf's usurpation of the rule of law.

He stood on the steps of the State House in Boston along with Judy Somberg, NLG Executive Vice President, Urszula Masny-Latos, Director of the NLG Mass. chapter, long time Guild member Attorney Max Stern, Professor Susan M. Akram, of Boston University School of Law, and Joshua Rubenstein, Amnesty International's Northeast Regional Director. The protest was also co-sponsored by the Boston Bar Association, and the South Asian Bar Association of Greater Boston.



(l.-r.) front: Jeff Feuer and Benjamin Evans; back: Max Stern, David White (Mass Bar Association), Judy Somberg

Max Stern praised the courage of the lawyers and judges of Pakistan who are putting their lives on the line to defend the rule of law and the independence of the judiciary in their country. He pointed out that it is not just civil rights lawyers who are on the front lines in Pakistan, but all types of lawyers; family lawyers, real estate lawyers; tax lawyers; business lawyers; etc. While praising the Pakistani lawyers as an example to lawyers here, Max also connected General Musharraf's attack on the rule of law in Pakistan to the Bush administration's disrespect for the rule of law here in the U.S., both of which are justified by the rhetoric of "anti-terrorism."

Prof. Akram spoke about the importance of lawyers and legal workers here in the U.S. standing in solidarity with demonstrators in Pakistan. She pointed out that the current

regime in Washington has taken no steps to stop the billions of U.S. dollars flowing to Pakistan's military, despite General Musharraf's suspension of Pakistan's Constitution, arrest of Pakistani Chief Justice Iftikhar Mohammed Chaudhry, and the beating and jailing of lawyers and judges. She said that the United States could not be the advocate for democracy in the Islamic world it claims to be by funding a military dictatorship that postpones elections.

Judy Somberg spoke about the 2,500 lawyers jailed in Pakistan since November 3rd, including the President of the Supreme Court Bar Association and officials of the Democratic Lawyers Association of Pakistan. She voiced the NLG's demands for the immediate release of all those detained, the immediate reinstatement of the Supreme Court and Provincial High Courts, the immediate revocation of the Provisional Constitution Order and the scheduling of fair and free general elections monitored by international observers.

About 100 lawyers and others joined the lunch hour demonstration. These professionals, dressed for court in suits and ties, applauded calls for international solidarity with their fellow legal workers and condemnations of U.S. support for foreign dictators. They listened as the speakers connected the need for democracy and rule of law here to events in Pakistan. Local bar associations acknowledged the Guild's work in initiating and organizing the event. This demonstration was a rare chance for the NLG chapter here in Massachusetts to provide leadership to lawyers who are not Guild members or progressive activists. And, most importantly, it was an appropriate tribute to the courage of the Pakistani lawyers.

Benjamin Evens is an attorney at Rhode Island Public Defenders Office.



Massachusetts lawyers and legal professionals attending the rally.

photos by Robin Trangsrud

Challenging Cultural Norms Around Women's Rights

by *Maria Muti*

When lawyers take on cases that test deep-rooted cultural norms, the challenges they face can pose both the greatest risk as well as the greatest possibility for change. Everyday, lawyers around the world incrementally advance the struggle to increase awareness for human rights, often at great peril to themselves and their families. Two recent women's rights cases highlight the substantial barriers these lawyers face and the successes that can result from their efforts.

In a recent case in Saudi Arabia, a rape victim's lawyer found himself threatened with suspension and disbarment for speaking out against the conviction of his client. In March 2006, the victim, known only as "The Girl of Qatif," was sitting in a car with a male acquaintance when seven men kidnapped the pair and gang raped the woman. In the subsequent trial dictated by the strict Wahabi interpretation of Islamic law, the court convicted the perpetrators of kidnapping, because prosecutors could not prove rape despite the submission of a video taken by the perpetrators during the attack. The court then sentenced the victim to 90 lashes for "illegal mingling" with the man in the car. During the time leading up to her appeal, both the victim and her lawyer, Abdulrahman al-Lahem, spoke to the media about the case and revealed that the court had refused to turn over the case file or verdict, despite repeated requests. In retaliation for con-

versing with the media, the court more than doubled the victim's sentence to 200 lashes and 6 months in prison. The court also banned al-Lahem from the case and suspended him for raising his voice in court and being "ignorant of the law." A report from Human Rights Watch revealed that disciplinary charges against al-Lehem were recently dropped after international outcry against the case. King Abdullah pardoned the victim as well, saying "The woman and the man in her company have experienced enough torture which should be enough punishment for them and a lesson to learn from."

In 2004, a Nigerian case thrust the victim and her lawyer into the international spotlight, both for the sentence imposed and for the lawyer's successful fight to have it overturned. Amina Lawal was tried and convicted of adultery in a Sharia court after the police discovered she was pregnant and unmarried. During her trial, she had no representation, and did not fully understand the charges against her. The court sentenced Lawal to death by stoning. Upon learning of the conviction, Hauwa Ibrahim, a Nigerian human rights attorney, launched a fight to have it dismissed. Working within the rules of Sharia law, Ibrahim argued that the due process rights of her client were violated and that she was never formally caught in an adulterous act. As the legal battle continued, Ibrahim sheltered Lawal in her home, and she and her family endured numerous threats by religious leaders and civilians who were angered by her questioning the status quo.

Her mother's house was also bombed. In the end, however, the Nigerian court ruled in Lawal's favor, and overturned the conviction. Her case is now considered precedent in Sharia cases, as well as respect for the rule of law.

For every case like these that makes it onto the international stage, many more are being fought behind the scenes, where lawyers represent clients with the belief that the law can be an agent of change and of hope. Each victory comes with a cost, however, whether it be a risk to career or a threat to life. As Hauwa Ibrahim puts it, "It's somebody's life, so let me also put my own on the line." The full recognition of human rights demands that the lawyers who fight these battles do so by slowly changing established cultural norms; it is resistance to these changes that poses the greatest challenge. But with the courage to pursue justice at any cost and the creativity to work within the confines of the legal system instead of against it, these lawyers continue to overcome these challenges with inspiring and groundbreaking results.

(For more information on the Victim Rights Center, visit their website: www.victimrights.org.)

Maria Muti is a staff attorney at the Victim Rights Law Center, providing legal services to victims of sexual assault. She is a member of the NLG Massachusetts Chapter Board of Directors.

When Does Crime Become Politically Motivated Crime?

by Jason Corral

In order to be granted asylum in the United States, applicants need to show that they fear that they will be persecuted on *account of* their race, religion, nationality, political opinion, or membership in a particular social group. The "on account of" language is often referred to as the nexus requirement. In other words, a person needs to show a connection between the fear of persecution and one of the five enumerated grounds. In this way, immigration laws attempt to differentiate between crime and persecution. It is not enough to say, "I fled my home country because there is a lot of crime and I feared I would be a victim of crime."

In this article, I will argue that the distinction between activity which is criminal and that which is politically-based is often artificial. It is impossible to talk about the reasons for the existence of crime without first understanding the social/political/economic underpinnings of the society in which the crime is occurring. Leaving aside this more philosophical discussion, I am encouraged by a recent decision by an immigration judge that recognizes the artificiality of the distinction between crime and political persecution.

I first started learning about asylum law during my internships in law school. I remember doing an intake for a man from El Salvador. He told me that his brother had been killed by the *maras* (gangs) in El Salvador after he had reported to the police the fact that he had been the victim of an armed robbery. This man reported the murder of his

brother to the police and now the *maras* were coming after him. I remember how terrified this man was. I wanted to find some way to help. I interviewed him over the course of three days. Each time I went back to my supervisor with more information and each time I got the same response, "It's not an asylum case, it's just crime."

As an attorney at Greater Boston Legal Services, I began to see an influx of cases from Guatemala, El Salvador and Honduras that were similar to the intake I had done while I was on my internship. I learned that the *maras* were largely American-made. One of the largest and most feared gangs, *Mara Salvatrucha 13* (MS-13), formed in Los Angeles when newly arrived Salvadoran immigrants, many of which were refugees from the civil war, united in order to defend themselves against other gangs that were targeting them in streets. In 1996, immigration law made it easier to deport immigrants who committed crimes in the US. As a result, many members of MS 13 found themselves back in El Salvador with connections to gang members in the United States.

These *marreros* (gang members) are often times the children of families in which parents were either killed or fought in the civil war. Many of them saw their fathers forcibly recruited into the military. Their families were torn apart by civil war. As *marreros*, they found a new family support system. Once back in El Salvador the *marreros*, with no family, no education, no money or real possibilities for the future, learned to survive the only way they knew how...by waging war.

In the United States we have heard of the Central American problem of "gang warfare." But when and how does gang warfare become significant enough that we must be willing to recognize refugees fleeing that war and grant them asylum in the U.S.?

Max Manwaring states in his article, *Street Gangs: The New Urban Insurgency*,

"In describing the gang phenomenon as a simple mutation of the violent act we label as insurgency, we mischaracterize the activities of non-state organizations that are attempting to take control of the state. We traditionally think of insurgency as primarily a military activity, and we think of gangs as a simple law-enforcement problem. Yet, insurgents and third generation gangs are engaged in a highly complex political act-- political war."

I would argue that in some instances the *maras* operate as *de facto* governments. Clients relate that the *maras* in their neighborhoods routinely "patrol" their street (in Spanish, the term "surveillance" is often used). The *maras* also "tax" local businesses, residences, and even bus drivers for entering the area controlled by them. And in some neighborhoods, there is a curfew imposed by the gangs where residents are not permitted to go outside after a certain hour.

Children are often recruited while in route to school as they are forced to cross gang boundaries in order to go to a school. They may live in an area that is controlled by one *mara* and go to school in an area that is controlled by an other gang. The choice often becomes to either drop out of school to join the *mara*

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or drop out of school to hide from the *maras*.

The *maras* are able to build their economic base through illicit activities that are typically associated with criminal gangs, such as through sales of drugs, guns, and prostitution. However, there is also increasing evidence that the *maras* are being used as death squads by extreme right wing paramilitary elements. These are the same elements that were responsible for some of the worst human rights abuses conducted during the Central American civil wars that occurred in the 1980s and into the early 1990s.

“A number of retired military officers with ties to violent, organized crime continued to have significant influence within the army, police, judiciary, and executive branch. Some members of the security forces committed human rights abuses. . .” *U.S. Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices 2004-Guatemala.*

Additionally, Amnesty International points out:

“Numerous people died in mob lynchings. These were commonly portrayed as the result of communities’ frustration at the failure of the law to deal adequately with real or perceived human rights violations and ordinary crimes. However, there were claims that villagers were being manipulated and incited to attack targeted individuals whom local politicians or the security forces wished to have eliminated. The instigators of many of these lynchings were reported to be former members of the Civil Patrols.”

Finally, in a report by the Washington Office on Latin America entitled *Hidden Powers: Illegal Armed Groups in Post-*

Conflict Guatemala and the Forces Behind Them, it is reported:

“2002 was the single most violent year to date in post—conflict Guatemala, and that downward trend has continued in 2003. The human rights situation has deteriorated dramatically, and is reaching a crisis point. Hundreds of cases involving civil society organizations and their leaders — ranging from intimidation to assassinations — were reported in 2002, and reports continue to come in even as this publication goes to press in August of 2003. Escalating threats and attacks undermine the implementation of the historic 1996 Peace Accords that marked the end of Guatemala’s bloody 36-year internal armed conflict.

“The abuses are clearly targeted. While many appear on the surface to be acts of common crime, the number and patterns of the cases point to a systematic targeting of civil society actors and others involved in anti-impunity initiatives — both those who seek justice for past abuses (human rights groups, forensic experts, judges, lawyers, witnesses, etc.) and those who denounce present day corruption by state agents. Those who fight for economic and social rights — particularly land rights — and for the end to discrimination against indigenous people are also singled out for attacks.

“The perpetrators of these abuses have not been brought to justice. Local and international observers believe that they are members of illegal armed groups, colloquially called ‘clandestine groups.’ These clandestine groups are the armed wing of a larger phenomenon in Guatemala today that is known as the hidden powers.”

The State Department, Amnesty International, and the Washington Office on Latin American Affairs all recognize in their publications that powerful criminal elements in

Central America are committing acts of violence that are clearly distinguishable from common crime. These acts are more clearly identifiable as human rights abuses, or persecution in the legal sense, because the targets are often known human rights leaders, civic leaders, judges, lawyers, or religious workers. So, the question becomes how do we link the persecution committed against known human rights leaders to the violence committed against children and families living in areas that are controlled by the gangs?

The “clandestine groups”, as they are referred to in Guatemala, are able to remain clandestine because they do not have to commit the acts of violence themselves. They have a plethora of soldiers in the form of *marreros* who have access to sophisticated weapons brought in from the United States. The clandestine groups are able to use the *maras* like mercenaries. With the additional money that the *maras* receive from right wing ex-paramilitary groups, they are able to increase their power by corrupting local police officers, judges, and government officials.

With a corrupted or ineffective judicial system, the *maras* are able to act with impunity. It is this impunity that transforms the struggle against the *maras* into a political struggle, and it is this impunity that turns common crime into persecution. In order to maintain their level of control over cities, towns, or what is referred to as “la colonia”, the *maras* need to constantly recruit new members. Every young person over the age of about 12 is considered for recruitment into a *mara*. Young men are often used to commit acts of violence and young women are often used as sex

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objects for the *maras*.

Many of the cases that we have been seeing at GBLS are cases in which teenagers or young adults fled to the United States because they did not want to join the *maras*. For many of these young people, it is overwhelming for them to explain their situation and even more difficult to do so in terms that fit the nexus requirements necessary to win an asylum case. They have often come to the U.S. because they or their family members have experienced some form of violence from the *maras*. Often times these individuals were persecuted because either they refused to join the *maras*, a family member refused to join, or because they or a family member joined in the past and are now seeking to get out of the *mara*. At the core of these young peoples' belief systems is a fundamental opposition to the use of violence as a means of controlling the population. For these reasons, they refuse to participate in the *mara*. By refusing to participate in the *mara*, they are putting their lives in danger.

Asylum cases brought on behalf of people who refused to join the *maras* have been met with mixed results. In describing the persecution that these individuals have faced in a manner that is consistent with immigration law, lawyers have chosen differing bases among the five enumerated grounds, such as defining these individuals as a targeted "social group". The "social group" category in asylum law is often thought of as a "catch all" group. The problem with this ground is that the judges do not want to open the flood gates to every person who meets certain character-

istics. For example, to say a person had a well founded fear of persecution from the *maras* because the person is a young male was not enough. Some years ago, "the family" was recognized as a social group for asylum law purposes. (see *Gebremichael v. INS*, 10 F. 3d 28 (1st Cir. 1993)). Lawyers have successfully been able to use this argument in gang cases where family members of *marreros* were targeted by rival gangs.

Despite the recognition of "family as social group" cases, those people suffering persecution who had no personal or family gang affiliation, individuals who truly fear being killed by the gangs, are still not eligible for a grant of asylum. I would argue that the answer to this problem is to recognize opposition to the *maras* as a political position. In defense of this view, and in anticipated response to the argument that recognizing opposition to the *maras* to be a political position would legitimize the *maras* and accept their actions as being governmental in nature, I would argue that when governmental actors are either complicit or unable to protect their citizens from the violence and persecution of the *maras*, then real power and control of the affected area falls into the hands of those organizations that are corrupting and overwhelming the government. In this way, the *maras* become a *de facto* government. And thus, opposition to the violence perpetrated by the *maras* becomes political and violence "on account" of opposition to the *maras* becomes persecution. The all-important nexus has been established.

Many lawyers have lent a sympathetic ear to the young people who fled Central America

because of *maras*. Some lawyers were unwilling to bring the cases forward believing that they were sure to lose because they were based on "common crime". But many lawyers, including Guild lawyers, have decided to fight out these cases in immigration court. Their hard work is beginning to pay off. Recently an immigration judge in Boston granted asylum to the daughter of a man who vocalized that he would seek justice for the gang killing of his nephew. The judge granted her asylum both on account of her political opinion and on account of her membership in a particular social group. The judge stated:

"These *mareros* specifically told the Respondent that they were seeking her father to make him pay for saying that they needed to be brought to justice and that he planned to report them to the police. Thus, the *mareros* sought the Respondent's father because he had expressed opposition to their illegal activities or an anti-*marero* political opinion. Additionally, the statements made by the Respondent's father could reasonably be interpreted as opposition to the system of impunity that exists in [country name excluded for confidentiality purposes]."

This decision is a step in the right direction that recognizes not only the effects of civil war but also the complexity of crime within a social structure that has been destroyed by civil war.

Hats off to the lawyers and judges who are willing to understand the struggle of young people plagued by violence and who are willing to provide redress for their suffering.

Jason Corral is on the NLG Massachusetts Chapter Board of Directors.

Michael Bianco, Inc. Update - The Mayan Story

by Eleanor Newhoff

Since March 6, 2007, the date of the ICE worksite enforcement action at Michael Bianco, Inc. in New Bedford, the remaining community of arrested workers has diminished to approximately 210 to 240 people. The Massachusetts legal services, pro bono community and private bar has rallied to provide legal representation to all those seeking it. In the course of preparing defensive applications to charges of removability filed in immigration court against the workers, we as lawyers have become more acquainted with our clients, their histories and who they are as human beings. The story of the MBI raid is a saga in itself, but the story of the lives of the MBI workers is a legend of persecution and survival which begins many years ago in Guatemala, El Salvador, Honduras, and elsewhere.

The workers arrested on March 6, 2007 are nearly all skilled, hard-working people who endured the often fifteen hour a day workdays and marginal pay without complaint. We have consistently seen evidence that their earnings were saved in order to provide for families in the US or sent regularly to family members most often in Central America who are living in conditions of extreme hardship. The trauma, chaos and raw emotion which infected the months following March, 2007, have been replaced with determination and community resiliency and, as a result, better opportunities to share the personal story of each individual. What emerges is an astonishing picture of the forces and events that have driven the MBI workers from their homes in Guatemala,

El Salvador and Honduras to the US. Almost without exception, stories of the hardship suffered by each family during the civil wars of the 1980s provide a marker in the life of each person. We would like to share with you, on behalf of our clients, a brief glimpse into their lives of some of our clients from Guatemala.

The Maya Quiche people, an indigenous community from Guatemala, represent a large percentage of the MBI worker community. The history of the Mayans in Guatemala is continuous over thousands of years. But as the influence of Spanish invaders spread through Central America, including Guatemala, the population became divided into ladino and indigenous segments. And as time passed, Mayans, who were most often living and farming in the countryside, became targeted for persecution, including violence and widespread discrimination by elements of the ladino population, including the Guatemalan army. The relevance of this struggle to the lives of our MBI clients was most keenly felt during the years of the civil war in Guatemala in the 1980s, when a popular movement involving the working class and including the Mayans triggered a military campaign against them.

As the Guatemalan army battled with the guerrillas, the Mayans were targeted as part of the opposition and subjected to widespread killing, including massacres. These most often began with the killing of eldest member of the family, often accused, without proof or trial, of assisting or advising the guerrillas. Anyone accused or suspected of being a guerilla sympathizer would be killed, their house would be burned, and small children or others who were hiding in the house

would be burned alive. Those surviving would flee or be driven out of their ancestral homes and lands. Those who could fled into the forests, many ultimately seeking refuge there and remaining for months without shelter or adequate food. Others fled to the large coffee, banana or sugar cane plantations, owned by US corporations; they were employed, in the words of one of our clients, "as slaves" harvesting those crops. Strangely, and perhaps not by accident, while working on these plantations, the Mayans would be left alone by the Guatemalan military.

Following the end of the civil war, those who could returned to their ancestral homes found that their land had been taken over by others, their domestic animals killed or stolen, and their houses burned. Many of those returning had lost their parents, and were now young adults with small children of their own. There was neither legal process nor redress available to retrieve these lands. There was no choice for them but to work for others as laborers, and to rebuild as much as they could afford to do. This often consisted of a small house on a tiny plot of land which did not yield enough crops to sustain the family. Many of the families tried their best to survive, but not having enough food (and almost never being able to have the luxury of attending school) resulted in a decision to send a son, daughter or other family member to the city, to work for others and send what they could to the rest of the family. Some of our clients were in their early teenage years when they left for the city. They traveled alone and found work without help from anyone. Being an

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REPORT FROM THE NLG DELEGATION TO VENEZUELA

Where Is Your Vote More Likely To Count: Venezuela or the U.S.A?

by David Conforto

Nothing is sacred in America. I don't mean this in a negative way. When our elected leaders err, the American populace responds. Harshly. It was as difficult for Lyndon Johnson to live down Vietnam as it is for Bill Clinton to erase the memory of the Starr Report. And as Venezuelan President Hugo Chávez can attest, American criticism transcends all borders. Deemed a "left-wing dictator" by the popular press in the United States, Venezuela's democratically elected leader is no stranger to America's sting.

Perhaps in this respect alone, Presidents Chávez and Bush stand on common ground. Indeed, over the past eight years, I've watched with nervous laughter as the American media artfully documented our beloved President's verbal snafus and mental hiccups. President Bush put it best when he once addressed a group of recently sworn-in immigrants on Ellis Island: "It's my honor to speak to you as the leader of your country. And the great thing about America is you don't have to listen unless you want to."

Fortunately for democracy in Venezuela, as in the United States, elected leaders cannot escape their critics' watchful eyes. On December 2, 2007, I, along with Urszula Masny-Latos and Judith Somberg, had the opportunity to witness the Referendum on Constitutional Reforms in Venezuela. The results suggest a bright future for democracy in Venezuela in 2008.

Like the popular press in the United States and Europe, several Venezuelan media outlets were highly skeptical that the National Electoral Council (CNE) would carry out an equitable electoral process. In the months, weeks, and days preceding the election, allegations of corruption ran rampant as the opposition loudly voiced complaints, stating that the voting process was fixed and the results pre-determined. Tibisay Lucena, the President of the CNE, candidly described the Venezuelan press as "merciless."

Directly confronting the allegations of impropriety, the CNE welcomed observers from all over the world. In total, the international observers numbered over 100 and came from 39 countries. The voting process implemented by the CNE was remarkably fair and transparent. Each voter cast his or her vote electronically. As a check on the electronic system, every voting machine generated a paper ballot that the voter placed in a sealed ballot box. At the end of the day, the paper ballots were counted in more than half of the voting centers and compared against the electronic vote count.

From the standpoint of President Chávez and the National Assembly, the proposed constitutional amendments would enhance the government's ability to man-

age the country's resources, provide citizens with a stronger voice in local affairs, and promote equality. In contrast, the opposition viewed the amendments as an attempt to consolidate power under the Executive Branch. At issue, for instance, were constitutional reforms abolishing the number of terms that the President could hold office, organizing the Central Bank under the authority of the Executive, and creating regional Vice Presidents responsible for the even distribution of resources across territories.

But in Venezuela, you don't have to agree with the President if you don't want to. The Venezuelan electorate made that abundantly clear on election day. By the time the polls closed, more than 9 million votes had



The CNE Headquarters - waiting for the announcement of the results: (front row l.-r.) Urszula Masny-Latos, David Conforto, Judy Somberg

been cast. In impressive fashion, the CNE announced the official results within just six hours after the polls had closed. In the end, the Referendum lost by the narrowest of margins: 51% to 49%.

Free speech and the right to vote are the heart of any democracy. The power of the citizenry prevailed in Venezuela on December 2. In gracefully accepting the Referendum's defeat, President Chávez opined that the people of Venezuela had spoken and that, as in any democratic country, the voice of the people would be heard.

Rather than collapse under the criticisms, the CNE viewed December 2 as an opportunity to cast aside doubts about its impartiality. In doing so, it once again showcased its capacity to manage the complexities of a nationwide vote. Venezuela can rightly be proud of the steps it has taken to bolster the legitimacy of its electoral process. As a democratic developing country, it has set an important precedent from which developed countries, like the United States, can learn.

There can be little doubt that the United States has much to learn. Venezuela is home to a transparent and sophisticated voting system that is, by any measure, remarkable. In contrast, the electoral process in the United States leaves much to be desired. A few deba-

Massachusetts Chapter Sustainers

In the spring of 2003, the Massachusetts Chapter of the NLG initiated the Chapter Sustainer Program.

Since its inception, the Program has been very successful and has been enthusiastically joined by the following Guild members:

Adkins, Kelston & Zavez; Jane Alper; Samuel Berk; Neil Berman; Howard Cooper; Melinda Drew & Jeff Feuer; Howard Friedman; Benjie Hiller; David Hoffman; Stephen Hrones; Martin Kantrovitz; David Kelston; Leslee Klein & Mark Stern; William Newman; Petrucelly & Nadler; Allan Rodgers; Martin Rosenthal; Sharryn Ross; Anne Sills & Howard Silverman; Judy Somberg; and Stern, Shapiro, Weissberg & Garin.

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NLG DELEGATION TO VENEZUELA

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cles come to mind. The 1996 Democratic primary for a House seat in Massachusetts was ultimately decided, not by the Massachusetts electorate, but by the Supreme Judicial Court. The legal issue before our state's highest court: dimpled ballots. The seven-member SJC combed through nearly 1,000 disputed ballots before declaring Representative William Delahunt (Dem.) the winner. The analysis: Dimpled ballots count as votes.

Unfortunately, we don't seem to learn. The same issue reared its head in Illinois in 1990 when the election hinged on 30 partially punctured ballots. The Supreme Court of Illinois ruled that the disputed ballots should be counted. Political ideology aside, to every American's embarrassment, the term "hanging chad" gained notoriety in our 2000 Presidential Election.

If history is any indicator, a vibrant electorate will be Venezuela's trademark in 2008. Hopefully for the United States, past will not equal prologue when it comes to the administration of our voting system.

David Conforto is a member of the NLG Mass. Chapter Board of Directors. He is founder of Conforto Law Group in Boston and practices employment law.

Michael Bianco, Inc. Update

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indigenous person would almost always subject them to mistreatment and discrimination. Sometimes they managed to live and work in the city for awhile, but frequently there would be problems with the *maras* or criminal gangs, which operate nearly with impunity, targeting the family members, robbing, attacking and/or pressuring them to join the gang. Some would return to the family in the countryside; it was then decided by the family that they must make the trip north to the U.S.

The trip north was accomplished most often on foot with few resources and at considerable risk, and took about a month from Guatemala to the U.S. border. Crossing the U.S./Mexico border had its own hazards, and during the travel to a destination in the US it was very likely that they would encounter the U.S. Border Patrol and be arrested.

But with all of this, some made it to New Bedford, Massachusetts, took up quiet residence in that city, and began to devote their considerable talents on behalf of Michael Bianco, Inc. That is, until March 6, 2007. Now the struggle begins again -- but this time, we promise that they will not be alone.

Eleanor Newhoff is a Co-Chair of the Mass. Chapter and an immigration attorney in Cambridge.

Mass Dissent

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" ... an association dedicated to the need for basic change in the structure of our political and economic system. We seek to unite the lawyers, law students, legal workers and jailhouse lawyers of America in an organization which shall function as an effective political and social force in the service of people, to the end that human rights shall be regarded as more sacred than property interests. Our aim is to bring together all those who regard adjustments to new conditions as more important than the veneration of precedent; who recognize the importance of safeguarding and extending the rights of workers, women, farmers, and minority groups upon whom the welfare of the entire nation depends; who seek actively to eliminate racism; who work to maintain and protect our civil rights and liberties in the face of persistent attacks upon them; and who look upon the law as an instrument for the protection of the people, rather than for their repression."

Preamble to the Constitution of the National Lawyers Guild, originally adopted February 22, 1937, and most recently amended in July 1971.

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