



Speaking Out on
JAILS & JUSTICE

Speak!

Vol. 5, Issue 2 - February 2009

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Journalists for Human Rights, McGill Chapter

Journalists for Human Rights at McGill

Journalists for Human Rights at McGill, a club at SSMU since 2003, is one chapter of a growing Canadian NGO currently working in thirteen African countries. The primary mandate of the head organization is to build the capacity of the African media to report effectively on human rights issues.

Our JHR chapter works to increase the visibility of human rights abuses within the community, the country and throughout the world. We publish Speak! Newspaper twice a semester, and in 2007-8 launched Speak! Radio on CKUT 90.3FM. We organize speaker events and movie screenings, and participate in local and Canada-wide fundraisers. In January 2009, we held our first “epic party”, Rights in Black and White, at Club 737; this will become an annual event! In March 2009, we will hold our first Train the Trainers Conference on Media and Human Rights open to all McGill students. Given the overwhelming interest in this event, we intend to hold it again in September 2009.



Beyond providing an outlet for students to discuss and publish articles and broadcast stories on important human rights issues, our JHR chapter also works to provide a voice for all other human rights related groups at McGill. Our publications report on the issues other clubs are covering and publicize the events they are organizing. So far we have collaborated with Amnesty McGill, the McGill Global AIDS Coalition, CKUT, the Baha'i Association, McGill University Law School's Human Rights Working Group, and the North Korea Freedom Network, and we are a member of the Campus Coalition of Progressive McGill Organizations.

JHR McGill also provides students with national and international human rights journalism opportunities. Through the JHR Chapters Program, we have offered McGill students opportunities for publication in national publications (magazines and academic journals) and to participate in internships in Ghana. You can check out the most recent opportunities at <http://jhrmcgill.wordpress.com/opportunities>.

JHR McGill is always open to new members, so if you would like to write and edit articles for Speak!, assist with the radio broadcast, or help fundraise and organize events, send us an email and we will add you to our listserv at jhrmcgill@gmail.com

To learn more about JHR, the NGO, please visit: <http://www.jhr.ca>

To learn more about JHR McGill and view our upcoming activities: <http://jhrmcgill.wordpress.com>

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JHR Voices Opinions About Jails and Justice



JHR is proud to present the unique February issue of Speak!, Speaking out on Jails and Justice. The issue is heavily opinion-based, which reflects how the writers were inspired to express their opinions about the controversial and sensitive topic of Prisoners' Rights. Articles range from point/counterpoint to personal experiences and a first-hand account of incarceration injustice. Enjoy!

*-Sarah Molinari
Editor-in-Chief*

**Cover photo: <http://www.fredmiranda.com/forum/topic/704193/0>
Photographer: Mike Hatam**

Obama Closes Guantanamo Bay Amid Praise and Questions

by Kaitlyn Shannon

Human rights organizations around the world have been rejoicing in US President Obama's decision to put the closure of Guantanamo Bay's infamous detention centre at the forefront of his presidential policy. Since his election campaign, Obama has been adamant that he wants to shut down this centre, which has been a public relations nightmare for Washington since it first began to detain Afghani prisoners in January 2002.

Guantanamo, as Obama has recognized, is the ultimate hypocrisy for the US, which is a nation supposedly grounded in individual rights and freedoms. Since the launching of the "war on terror," the US has broken its own rules on torture and illegal detention. In November 2004 the Red Cross affirmed that prisoners were being tortured in Guantanamo Bay, and in February 2006, the United Nations demanded that the US permanently close this detention centre.

Roughly 250 prisoners are held at Guantanamo. These prisoners have been accused of serious crimes, most notably involving terrorism. However, they have been continually denied their right to a fair trial and thus remain in a state of limbo. UN human rights experts have stated that "the regime applied at Guantanamo Bay neither allowed the guilty to be condemned nor secured that the innocent be released."

US officials under the Bush administration argued that the problem with these potential terrorists is that they fight a completely unconventional war, and thus are far more dangerous than typical offenders. These prisoners do not necessarily fight for any particular country, nor do they follow the rules of conventional warfare. Thus, Prisoner of War status does not seem to apply properly. Furthermore, the US did not think that such dangerous criminals should be tried in federal courts. At the same time, however, they were also wary of releasing them to the hands of international criminal tribunals because of the potentially life-saving information these prisoners might possess about future terrorist attacks. It



Barack Obama puts away his pen after signing an executive order to close the Guantánamo Bay prison, while vice-president Joe Biden and retired military officers look on. Saul Loeb/AFP/Getty Images

was under these premises that the US began to torture and illegally detain prisoners at Guantanamo.

However, as Obama has certainly realized, closing down this facility will not be as easy as it may seem. There are serious complications with trying and releasing prisoners. Under the Bush administration, many suspected terrorists at Guantanamo were scheduled to be tried in military tribunals, although this system of trial is highly debated and much criticized by human rights groups. In an attempt to find a new solution, Washington reviewed the cases of all of the prisoners at Guantanamo and grouped them into two categories: minor cases and major cases. While the US has agreed to release the minor cases, allowing them to return to their original countries for trial, the actual implementation of their release is far more complicated. The US cannot send prisoners back to a country where they might be tortured, which leaves about sixty prisoners stranded at Guantanamo.

The prisoners with major cases mainly include the suspected masterminds behind the 9/11 terrorist attacks. The US is still undecided on how to treat these cases. While trial in the US federal judicial system is an option, Washington is not keen on hosting these potentially dangerous people in its own courts. Moreover, US officials are worried that (continued on page 4)

Controversy over Guantanamo Closure Continues

(continued from page 3) evidence obtained through coercion and secret intelligence might not be accepted in a US court of law.

It has been proposed that special national security courts should be created to try the Guantanamo prisoners and other exceptionally dangerous people. These courts would have far more flexible rules, and sensitive evidence would be viewed in private. However, many people argue that this would be violating American laws and values in the same ways Guantanamo did. In response to this idea, the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism warned that “the US Government’s system of military commissions planned for suspects detained at Guantanamo is not likely to reach international standards on the right to a fair trial.”

Shutting down Guantanamo Bay poses further questions and dilemmas to Obama. Once Guantanamo is closed, what does the US propose to do with future potential terrorists captured in countries like Afghanistan? One possible solution is the formation of a preventative detention centre within the US, which could be used to detain prisoners under special guard. However, where does one draw the line? What rules are there to determine who is too dangerous to be released or tried in federal courts? How would this facility be any different from Guantanamo, other than its location?

While NGOs and human rights organizations have welcomed the prioritization of the Guantanamo issue by Obama,

most are still skeptical of the likelihood of a solution that doesn’t simply replace one form of unlawfulness with another. Amnesty International has said “that the closure of Guantanamo must not be achieved by transferring human rights violations to other locations, including inside the USA.” NGOs continue to urge that “the detainees should either be promptly charged for trials in federal court or released with full protections against further human rights violations,” as stated by Kerri Howard, Deputy Director of Amnesty International’s Americas Program.

However, human rights organizations, which had urged Obama to take action within the first 100 days of his presidency to show his commitment to closing the facilities at Guantanamo, were pleasantly surprised. Despite only a brief reference to Guantanamo in his inauguration address, Obama, just hours after the ceremony, began circulating a draft executive order calling for the closure of Guantanamo Bay within a year. The following day, the order was signed and applauded. Simultaneously, Obama ordered a suspension of the controversial military tribunals scheduled to try suspected terrorists. “In the interests of justice,” the war crimes trials will be halted for 120 days, while Washington completes a review of the tribunal system. The cases of 21 men, including Omar Khadr, a Canadian accused of killing an American soldier with a grenade in Afghanistan in 2002, have thus far been suspended. This symbolic act not only shows Obama’s commitment to defending human rights at Guantanamo Bay, but also gives hope for a significant change in American policies towards protecting fundamental human rights globally. §

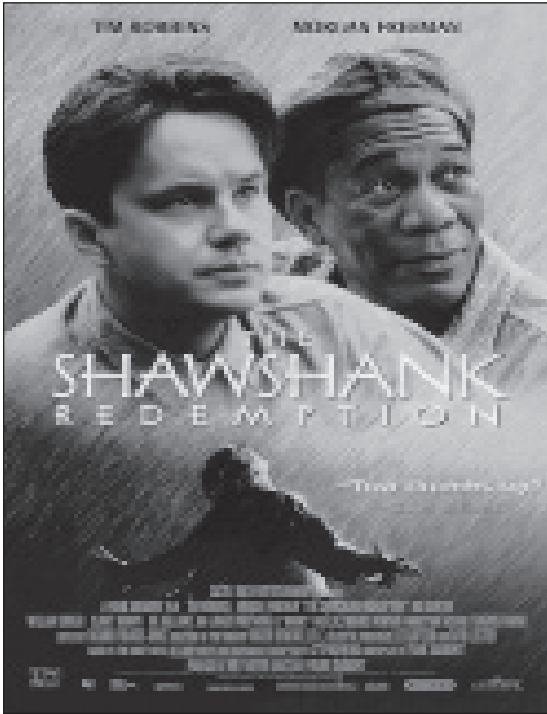
Drawing the Line Between Too Much and Too Little *Rehabilitation and Social Services in Canadian Prisons*

by **Sarina Isenberg**

In the movie *The Shawshank Redemption*, Morgan Freeman’s character, Ellis Boyd “Red” Redding, is released on parole after having served 40 years of a life sentence at Shawshank Prison. When he finds himself in the city having to make a living, he perceives himself useless; he does not have any transferable skills for a job and he does not know how to function in society. He contemplates whether or not he should commit a crime in order to go back to prison. He also toys with the idea of suicide for fear of not being able to manage in this harsh reality he was thrown

into. This is a problem frequently faced by prisoners. How does a government imprison a man for 40 years and yet not teach him how live? Does parole really serve as a good transitory period between prison and complete freedom? Proper and effective rehabilitation is the ultimate goal of Canadian prisons, helping prisoners to realize the wrongs of their actions, while at the same time teaching them to be upstanding citizens.

Large strides are being made in the prison system, but a couple of developments are the cause of questioning. A prime example would be Karla Homolka. In the early nineties, Karla



Courtesy Castle Rock Entertainment

http://i31.photobucket.com/albums/c361/p_imbong/DVD%20Posters/the_shawshank_redemption.jpg

these questions; I am merely going to pique your interest on these subjects and lead you to question the current system in place and your stance towards it.

Another interesting case is that of homeless individuals in large cities with cold winters. There is a growing portion of the homeless population that commits crimes as the temperatures drop in order to secure themselves shelter and food during the harsh winters of cities like Toronto and Montreal. They commit crimes just severe enough so that they can be detained in prison throughout the cold season. While in prison, their needs are tended for and they receive the essentials of life, including the necessary healthcare, which might be inaccessible otherwise. It is true that going to a shelter would seem to be a more desirable option; however, for reasons such as overcrowded shelters, a lack of shelters, or a strong sense of pride (though I am not sure how going to prison could be seen as more “honourable” than receiving charity”), these people choose prison. Should taxpayers’ money be spent on these people? Or by keeping these people in prison for a short period of time and not properly rehabilitating them are we perpetuating the problem of homelessness and ignoring the issues of poverty?

The two examples in the preceding paragraphs show two contrasting cases. In the first situation I called into question whether the current system provides too much in the area of social services to prisoners and in the second scenario I questioned whether we do not provide enough. What is the proper balance? There is no quick fix or easy solution. The government is constantly consulting with psychologists, sociologists, doctors and members of the judiciary system in order to improve the process of rehabilitation in prisons. Progress is being made, but the system is far from perfect. The best we can do is be informed citizens and encourage the government to improve upon the status quo. §

and her then-husband Paul Bernardo raped and murdered three young women. By testifying against her husband, Karla only received charges of manslaughter as opposed to the first-degree murder that Bernardo was convicted of. During her time in prison, Homolka completed a psychology degree that was paid for by the government and inadvertently by taxpayers. Should prisoners be able to receive completely subsidized post-secondary education in prison? Does this seem like an unfair reward for a crime? Or is this a good example of an effective rehabilitation that equips a prisoner with the means to succeed in life post-prison?

Should individuals in prison be privileged to an education that they would not have been able to afford otherwise? In this article, I am not going to answer



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DON'T DROP THE SOAP

Inmate sexual assault: The punishment all prisoners can expect

by Breanna Myles

Surviving a sexual assault and then navigating the health care system to receive adequate counseling and reproductive medical attention is daunting enough for those who walk freely on the outside. For prisoners, these hurdles can seem insurmountable. Sexual assault is a violation against human rights and an act against humanity. However, sexual assault continues to persist, especially in prisons. Too often, sexual assault against criminals is overlooked, but under the Universal Declaration of Human Rights, criminals are persons as well and warrant the same human rights as the free man.

According to Article 5 of the UDHR, no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Although a prison is a place of confinement for prisoners to undergo penalty for their unlawful actions, it should also be a safe and secure place against further crime and not nurture the very crime it is punishing.

Overcrowding and lack of sufficient resources may be a cause of inmate sexual assault. According to Robert W. Du-mond in his article, "Inmate Sexual Assault: The Plague that Persists", as an increasing number of Americans are being incarcerated, the horror of inmate sexual assault continues to increase as well. In the last decade alone, prison populations have doubled and many penal settings are operating well beyond their rated capacities.

Prisons with greater ethnic diversity may also cause an increase of sexual assault. In a world where differences are evident, these differences are also visible within prisons and discrimination can occur in the form of sexual assault.

Although no prisoner is immune from sexual assault, some groups tend to be more vulnerable. According to Du-mond, these include those that are young, inexperienced, weak, middle-class and not gang-affiliated, people with disabilities, homosexual, have been convicted of sexual crimes, have violated the code of silence or have been previously sexually assaulted.

The very nature of the incarcerated setting can be a cause for this behaviour. In a prison, sex is often traded for protection. It causes a vicious cycle in which sexual assault is

used to protect prisoners from the fear of being assaulted.

Sexual assault tends to be more an issue of power, than desire. Sexual assault in prisons can be caused by situational homosexuality, which is a function of sexual desire where there is a need for an emotional outlet due to loneliness. Inmates who participate in this type of homosexuality do so only while incarcerated and do not consider themselves homosexual. Their behavior is a result of uncontrollable human desire and the limitations of their prison environment.

However, sexual assault is not always between inmates, but is also inflicted by prison staff. The boundaries between staff and inmates can sometimes get confused in the alienating and negative environment of the prison milieu. There is a great power imbalance between the guard and the prisoner and sexual abuse in prison can range from forcible rape to the trading of sex for certain privileges.

Although both men and women are victims of sexual assault in prisons, it has become increasingly apparent that women in confinement face substantial risk of sexual assault by a small number of male correctional staff members, who use terror, retaliation, and repeated victimization to coerce and intimidate confined women.

The effects of sexual victimization are pervasive and devastating, with profound physical, social and psychologi-



Inmates are frequently and unjustly victims of sexual assault.

cal components. Dumond defines these risks as HIV and STIs, post-traumatic stress disorder, depression, suicide ideation, and stigmatization. The victim may choose to report the crime, at the risk of breaking the code of silence, or take part in protective pairing, which is when the victim would seek protection from another prisoner.

Sexual victimization can cause serious psychological issues that need to be addressed. According to Dumond, access to counseling after a sexual assault in prison is virtually nonexistent. One of the largest obstacles to eliminating prison sexual assault is the “social invisibility” of prisons. The general public neither knows nor cares about the plight of the incarcerated, and thus cannot demand that its government properly protect prisoners’ rights.

Sexual assault is a crime and in a place where crime is punished, it should not be tolerated. Prisoners have limited ability to stand up for their rights, so it is the responsibility of the free people on the outside to ensure that they are treated with equality and respect, by the staff and other prisoners. Although we cannot speak for them, we can help them.

Prison should not be a place to breed further crime, but instead penalize it in attempt to serve justice and limit its reoccurrence. Even if the prisoners have poisoned our society with their crime, let us not allow them to continue poisoning each other. As Dumond states, “Our inaction in this vital arena portends dire consequences for corrections and society itself.” If sexual assault is tolerated within the prison, it will only permeate into society and continue to inflict harm upon it. §



RIGHTS IN BLACK & WHITE

January 23, 2009 - Club 737
(see back cover for details)



TO HELL AND BACK**A First-Hand Account of Life in a Canadian Prison**by **Ritchy Dubé**

My name is Ritchy D. and I'm an alkie from Sudbury, Ontario. I drank and drugged for almost eight years, from age 13 to 20 and again in my 27th year. During this hazy and crazy period, I was expelled from high school, abandoned my Olympic boxing dream, watched my family break apart, amassed twelve criminal convictions including auto theft, assault, trafficking, break and enter, mischief, armed robbery and manslaughter. I served eight years in Millhaven and Kent Maximum Security Penitentiary where I incurred over 100 institutional charges, which resulted in my serving 400 days in solitary confinement. This experience taught me that prisoners in Canada are civil dead.

We, the prisoners, are not protected by any human rights legislation while inside those mechanical monstrosities. We are simply not afforded any protection under the Canadian Human Rights Code, Universal Declaration of Human Rights, and certainly not under the Ontario Human Rights Code, or any other provincial Human Rights Code. We are the pariahs of the pariahs. We don't deserve protection because we are criminals, not worthy of protection against torture. After all, we deserve what we get. Unlike other groups protected under the Code, we, the prisoners, have actually done something to incur the wrath of society. The Code protects the sexually different, pregnant and single mothers, coloured folks, people of different religions and tongues, but not the prisoner because we have broken the law. Consequently, we cannot form alliances with any of these groups because many of them discriminate against us.

I remember being tossed in the hole after refusing a direct order. After being in the hole for 48 hours without a shower, I de-

cidated to make a bit of noise, so I banged my feet on my cell door. The goon squad responded by spraying me with Mace, drenching me with a powerful fire hose, cuffing me behind my back with the shackles strapped around a leather restraining belt around my waist. I was hogtied like a calf one sees in a rodeo. They cut the clothes off my body with oversized scissors and left me shivering completely naked in this dirty, bacteria infested pool of icy cold water for three days without running water or food. I could not sleep because crickets chirped in the air vents for hours and the door leading to the courtyard was left wide open in the dead of winter, sending an icy chill into my cell that caused my muscles to spasm violently. When I was completely parched and dehydrated, I would slide on the cold and wet cement floor like a worm, and using my chin, I would place it on the edge of my toilet bowl to raise myself up, and once up, I would drop my head into the toilet bowl for a drink like a rabid beast one sees in a cage.

I have been out of prison since 1987 and have accomplished a few goals in the face of overwhelming barriers and obstacles, some of which are internal and others external. I have been clean and sober since 1989, I established a charitable organization for the prevention of substance abuse and crime, wrote an autobiography and got it published by HarperCollins, got my pardon, became a certified counselor, earned my third degree black belt, received a diploma in addictions and a degree in comparative studies and have not committed any crimes.

Unfortunately, I have filed five applications with the Human Rights Tribunal of Ontario for discrimination in employment and contract positions on the basis of my pardoned record of offences and my addiction disability, two prohibited grounds. According to the Ontario Code, it is unlawful to discriminate on the basis of a criminal record if I have a pardon. Employers can discriminate if you do not have a pardon. Employers can also discriminate if you have a pardon if they can prove that they have a bona fide occupational requirement, but it

“We don't
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has to be a good one. For example, pedophiles will not work unsupervised with kids, and multiple convicted drunk drivers will not drive school buses. But the exceptions are rare if you can show the Tribunal you have changed.

I have read the Code and am learning all about the process. In the new system, I have had to file all the forms myself because I can't afford a lawyer. The first step is to file the correct forms on time. It's confusing at first, but I am getting the hang of it. Five companies are being sued because they either fired me, refused to hire me, or treated me very badly while under contract because of my past. The Code does not expressly protect against discrimination in contracts on the basis of a record of offences, so ex-cons need to rely on addictions, since addictions lead to crime.

Pardoned ex-cons and addicted persons are protected by the Code because the courts recognize that we suffer social handicapping, meaning we are cut off from the world. This occurs because of social profiling, a practice that motivates people to assign all kinds of negative attributes to us based on their bigotry. This prejudice leads to differential treatment, or if you prefer, discrimination. Basically, the courts realize that not all ex-cons and addicted persons are incorrigible or beyond permanent recovery. People can and do change for the better, even in a climate of intolerance, fear and contempt. I'm sure I'm not the only guy to change but I need to see more people challenging discrimination. We can win this battle.

I plan to get another job this year and am hopeful that many of my fellow travellers stand up against prejudice and discrimination. We have to unite and let the world know that enough is enough. We will not tolerate this bigotry, hatred and oppression any longer. We have paid our debt and are glad we did, we have hopefully made our amends, have changed ourselves, and now we will not pay beyond what the law specifies. We want to contribute and to help others. We want to raise a family, get a job, take an occasional trip, take the kids to the ball game, put a bit in the bank and live a decent, normal life. We say enough of this abject and shameful poverty and enough of this toxic discrimination. We cannot pay for the rest of our life, lest we develop resentments which may cause us to re-offend or relapse, two scenarios that have characterized the plight of many to date. Discrimination has to be smashed. We, the ex-cons and the recovering people, must form an alliance and to lobby for even more change. §

Very Sincerely Yours,
In Service and Unity,
Ritchy Dubé, BA

*If you would like to contact Ritchy, please email
jhrmcgill@gmail.com and we will pass on your information.*

FACT FILE: Racism in Prison

Compiled by Kartiga Thavaraj

CANADA

- 131 per 100,000 of the adult population are in prison
- Aboriginal adults make up 4% of the total Canadian adult population (2006 Census) – but 24% of admissions to provincial/territorial sentenced custody and 18% of admissions to federal prisons
- In Saskatchewan -- Aboriginal adults make up 79% of the total prisoner population (15% of outside population)
- In the federal system, 25% of female prisoners are Aboriginal. (2005-6 stat)
- Women make up 6% of people in provincial/territorial sentenced custody and 4% of people in federal sentenced custody.
- Cost of incarcerating a Federal prisoner (2006): \$259.05 per prisoner/per day
- Cost of incarcerating a provincial prisoner (2006): \$141.78: per prisoner/per day

USA

- The United States has the highest per capita rate of incarceration of any country in the world—the U.S.A. has 5% of world population & 25% of prison population
- More than 1 in 100 American adults are behind bars. 1 in 14 black men, ages 20 to 34, are serving time, as are 1 in 36 adult Hispanic men.
- In 2007, more than 60 percent of all American executions took place in Texas.
- The United States spends an estimated \$60 billion each year on corrections. It costs an average of \$88 dollars a day per prisoner.

INTERNATIONALLY

- The United States is number one on the list of prisoners per 100,000 civilians (worldwide), with 756 per 100,000. Canada is 117th with 116 per 100,000.

Courts Must Acknowledge Aboriginal Cultural Circumstances

by **Kallee Lins**

In many Canadian prisons, especially those in provinces like British Columbia with a significant Aboriginal population, the over representation of aboriginal offenders is striking. In efforts to decrease this inequality, judges across Canada must now take the adverse cultural circumstances of Aboriginal offenders into account during the sentencing process.

This requirement has only been in effect since 1999, after the Supreme Court ruling of *R v. Gladue*. As a result of this case, judges must look at any inauspicious circumstances of an aboriginal offender as a factor that may have contributed to their offence. If these factors, often known as ‘Gladue factors,’ are present within a case, the judge may call for an alternative sentence rather than jail time. Gladue factors may include personal or institutional abuse, discrimination, dislocation from culture or family, past substance abuse, or many other possible circumstances.

These considerations within a Gladue analysis are not only useful in leading to a more restorative sentence, but also serve as a way to bridge western and aboriginal ideals of justice. Whereas western justice tends to emphasize denunciation and deterrence, traditional aboriginal justice focuses more on a healing process. Therefore, since restorative justice programs focus on correcting the harm caused by the offence and rehabilitating the offender, they are more in sync with aboriginal values. Although restorative justice methods like diversion programs and conditional sentences are commonly found in Canada’s traditional sentencing methods as well, different approaches to the process can make it very culturally specific.

The Aboriginal approach to restorative justice revolves around the practice of a healing circle. This process brings together elders of the community, the offender, and often the victim, in order to discuss underlying causes of the offence, the affects on the victim and the community, and how to repair the damages. Together, the members of the healing circle reach an agreement on the best course of action for the offender to take. These settlements can include direct compensation to the victim, counseling, community service work under the guidance of an elder’s counsel, or other traditional remedies for justice based on traditional customs. These measures are usually combined with other limitations, such as curfews or restraining orders, which are set out by the court before a restorative justice program begins. Many Aboriginal communities have legal institutions to coordinate this sort of justice program, but if this organization is missing, the responsibilities of the court go one step further in order to craft a restorative justice program that falls in sync with the offender’s aboriginal culture.

The steps that the Canadian justice system have taken in order to recognize adverse circumstances of Aboriginal offenders and to adhere to cultural values in sentencing whenever the severity of the offence permits it is a great step toward creating judicial equality. However, even with these measures in place, the severe inequality within Canadian prisons seems to reveal strong racism within the entire judicial system. According to the Canadian Race Relations Foundation, aboriginal Canadians face an incarceration rate of six to seven times those of provincial averages. However, the possibility of a Gladue analysis has the potential to act as a safeguard to ensure the recognition of Aboriginal rights and circumstances.

By following the model of a healing circle, victims gain a greater empowerment and are generally more satisfied with the outcome of the case than with traditional sentencing and the offender completes his or her program with far less trauma than what is often caused by traditional sentencing. Perhaps Aboriginals and non-Aboriginals alike can benefit from a stronger focus on restorative justice. §



Prime Minister Stephen Harper addresses Aboriginal leaders in a Canadian court.

A Documentary Captures the Realities of Aboriginal Political Imprisonment

by Pamela Fillion

In 1995, world renowned filmmaker Alanis Obomsawin released a short documentary entitled *My Name is Kahensiiotoa* (29mins 50s) which focuses on a Mohawk woman named Kahensiiotoa who took part in the 78 day standoff between members of a First Nations reserve near Oka and the Canadian government, the Oka Crisis of 1990. *My Name is Kahensiiotoa* is the second of four Obomsawin films that focus on the events of and related to the Oka Crisis, including the award winning *Kanehsatake: 270 Years of Resistance* (1993), *Spudwrench-Kahnawake Man* (1997), and *Rocks at Whiskey Trench* (2000).

The Oka crisis was a stand still moment in Canadian History and around which much human rights violations were committed. At the end of the siege, Kahentiiosta (in picture below), a young Mohawk woman who came from Kahnawake to help her relatives protest the destruction of a Mohawk cemetery to enlarge a golf course for the community of Oka, is arrested along with many others during a peaceful walk out from the Treatment Centre in which they were forced to take refuge. Following the arrests of the men and women who had tried to protest peacefully and were met by guns and misled by negotiators, Kahentiiosta was detained longer because the prosecutor representing Quebec refused to accept her Mohawk name despite having her address, the address of her relatives, and the school which her children attended. In *My Name is Kahentiiosta*, the camera follows the young Mohawk and her contemporaries as they are arrested for what can be termed as a “thought” crime against the government: They would not remain silent as their human rights were violated and their cemetery and sacred pine trees desecrated.

In the documentary, Kahentiiosta explains to Obomsawin that one of the lawyers involved in the trial warned her that she should do as the prosecutor demanded because prolonged detention meant that she would face possible rape, harassment, and abuse both verbal and physical. Canadian prisons are characterized by poor conditions. Indeed, prisoner rights and justice are often overlooked because of the connotations associated with the word “prisoner.” To imagine an evil person deviant and uncaring simplifies and dehumanizes the person whose actions and decisions have been judged and lead to the loss of that persons right

to making more choices—his or her liberty.

The state of Canada’s prisons today shows that the image of an evil wrongdoer serves to “liberate” those outside of the system to imagine a nonexistent utopian Canadian legal system that does not imprison the innocent and provides adequate representation for all. Furthermore, to pinpoint the entire responsibility of the actions and decisions leading individuals to imprisonment is hypocritical. Canada does not provide equal opportunity and choices for all and any anthropologist, sociologist, and/or psychologist would not be comfortable placing an act solely within the realm of the individual primarily because the individual, psychologically and socially, is shaped by culture and social conditions from the time of birth. Furthermore, prisoners are stripped of their liberty and should in no way be stripped of their humanity and dignity.



Kahentiiosta accounts her experience as a political prisoner in the documentary *My Name is Kahensiiotoa*.

Aboriginal women come from many diverse cultures and socio-economical conditions and putting them into a category is indeed reductive. Nonetheless, statistics demonstrate that the Aboriginal women in Canada are faced with similar pressures and social realities. The Elizabeth Fry Committee, which focuses on women prisoners, has compiled statistics on Aboriginal women in the prison system and the conditions and treatment they are subjected to. According to them, Aboriginal women who make up about 3% of the Canadian population represent 32% of women in federal prisons. Furthermore, from 1997 to 2007, that number has increased by 151%. According to a Correctional Investigator of the Correctional Service of Canada (CSC), Aboriginal women are usually released later in their sentences than non-aboriginal women and that their conditional releases are more easily revoked. Furthermore, on Prison Justice.ca, it is reported that from 2004-2005 incarcerated Aboriginal women represented: 83% of all incarcerated women in

Yukon and Manitoba, 87% in Saskatchewan, and 84% in Alberta.

Furthermore, the CSC has made a profile of the average Aboriginal women prisoner as: “27 years-old, with a limited education (usually grade nine), is unemployed- or underemployed, and the sole supporter of two or three children... She has often left home at an early age to escape violence. She may be forced to sell her body because she needs money and is unable to obtain a job. She is likely to have been subjected to (Continued on page 13

<http://www3.nfb.ca/collection/films/fiche/?id=32864>

Burmese Protestors Punished for “Thought Crimes”

by Pamela Fillion

In 2005, an American journalist under the pseudonym of Emma Larkin published the very intriguing novel entitled *Finding George Orwell in Burma*. This novel is the account of her travels throughout Myanmar in search of traces of the famous novelist who was born in Burma and was later positioned to work as an imperial officer in the country for several years. The account describes Larkin’s discussions with the people she encountered as well as her observation of the state of Burmese life under a totalitarian regime.

For the uninitiated, George Orwell is a pen name for the critical essayist, journalist, and writer Eric Arthur Blair (1903-1950) who wrote intensively on and is best known for his themes concerning social injustice and the dangers of totalitarianism: themes dominating and manifest in the lives of contemporary Burmese citizens. In *Finding George Orwell in Burma*, Larkin follows Orwell’s footsteps and the traces of his work while verifying her theory and the Burmese joke that Orwell wrote not one novel on the country but, in fact, three: *Burmese Days* (1934), *Nineteen-Eighty Four* (1949), and *Animal Farm* (1945).

In the novel Larkin reports how local Burmese jokingly refer to Orwell as “the prophet.” Indeed, the shocking plots of *Nineteen-Eighty Four* and *Animal Farm* are considerably non-fictional in contemporary Myanmar. Much like Wilson, the main character of *Nineteen Eighty Four* who is imprisoned for his deviant thoughts (“thought-crimes”) and then tortured into compliance, advocates for a democratic Myanmar are also violently silenced by the dictatorship of the State Law and Order Restoration Council renamed the State Peace and Development Council (SPDC). Presently, nearly a decade after the turn of the 20th Cen-

tury, Myanmar is governed by a military junta who staged a coup denying the National League for Democracy (NLD) party their win for government and forcing the party leader Aung San Suu Kyi into house arrest (which she has been under in some form or another for over twelve years). The Union of Myanmar, formerly the Union of Burma, is a country contemporarily under international scrutiny and infamous for its human rights infringements. For the past decade, an alarming number of supporters of Nobel Peace Prize recipient Aung San Suu Kyi and of protestors, including economic protestors and Burmese Buddhist monks who led an emblematic march, are being arrested, tortured, silenced and denied fundamental human rights.

According to The Burma Campaign UK, in Myanmar there are “over 2,100 political prisoners” who “have been impris-



Burmese monks protest peacefully in front of police forces.

http://pensador.org/wp-content/uploads/2008/08/peaceful_protest_by_monks_in_burma.jpg

oned just for peacefully calling for democracy and freedom in Burma. Once in prison, democracy activists face horrific torture, including electric shocks, rape, iron rods rubbed on their shins until the flesh rubs off, severe beatings and solitary confinement. Many prisoners are kept in their cells 24 hours a day, given inadequate food and are in poor

health.” The prisoners are also denied medical treatment and risk infection and disease.

Notably, in 2007 the Saffron Revolution made headlines as 30,000 Monks and Nuns marched in the first giant protest against the dictatorship since the bloody events of 1988. These monks and nuns marched towards Aung San Suu Kyi’s house where they chanted, “Long life and health for Aung San Suu Kyi, may she have freedom soon,” as reported to the Times Magazine. The protestors were fired upon and many were arrested. Also, the junta began attacking the monasteries and raiding them. Imme-

diately following the public prayer and protestation, the events were followed by a cut off of internet services from which protesters communicated to one another and to the outside world.

The Assistance Association for Political Prisoners (Burma) reports that approximately 138 political prisoners have died in custody and that as of their news release on January 15, Zaw Naing Htwe, a political prisoner whose sentence was made harsher following a letter communication with his brother, is in danger of becoming the 139th because he is being forced to conduct physical labour while being under fed. Each week new activists, supporters, and “thought criminals” are arrested by the military junta and sentenced to harsh terms in prisons where malnutrition, mistreatment, and torture are common.

Political prisoners in Burma are jailed for their beliefs and their association with democratic movements within the country. Indeed, these people are being punished by the military junta for presenting an ideological threat to the continuation of the dictatorship which radically benefits those at the apex of this totalitarian state. The situation in Burma demands international attention, which is indeed mounting and pressuring for change and must continue to do so. However, the mistreatment and human rights violations in Burma should not be looked at as particular only to those countries far from our home. Indeed, the extreme case of Burma commends a look at those cases in which our own states are presently jailing or constricting the movement of those who demand change through corrective and punitive forces such as riot police, SWAT teams, and the “batonnet.” To be critical of another government is insufficient for real change. Myanmar is a contemporary social nightmare straight out of science fiction, a genre dedicated to the cognitive estrangement that forces the reader to reflect on the conditions of his or her own society and to be critical of it.

The frightening state of the political prisoners in Burma commands a critical review of how we conceive of “prisoners.” What is a prisoner and what does this title connote? “Prisoners” are those who have been found guilty of not following civil regulations, established by particular groups for their best interests. In his 1999 report on behalf of Amnesty International on the state of prisoner justice in Brazil, Amnesty International Secretary General Pierre Santé stated that “Prisoners forfeit their liberty, not their rights.” Santé’s statement is short but powerful. To be a prisoner is not to be a slave or to have lost one’s humanity. To be a prisoner is to have been reprimanded by the society in which one lives through a system established by parties and regulated by parties and whose social conditions may, and often do, conflict radically with those of the condemned. Thus, if a prisoner is stripped of his liberty, he or she becomes a ward of the state and deserves fundamental human rights. The denial of these is a reflection on the State itself and this judgement applies to far away countries like Myanmar, governed by a dictatorship, and also those close to home, which claim the title of democratic. §

Documentary Examines Aboriginal Political Imprisonment

(continued from page 11) racism, stereotyping, and discrimination based on her race and color... She is likely to become involved in an abusive relationship. The cycle of an unhealthy family situation continues.”

In the same report, statements on statistics for violence against Aboriginal women include that Aboriginal women are three times more likely to experience spousal abuse, eight times more likely to be killed by their spouse and significantly more likely to be choked, beaten, and threatened with a knife or gun in their life time.

It is hypocritical to demand that individuals who are constantly made to suffer and to face racism and misunderstanding follow the rules and regulations that are designed to mostly protect a society that is profoundly ignorant of their social and historical situations. Thus, the fact that Aboriginal women are overrepresented in the criminal system is deeply rooted in colonialism and racism and highlights the fact that the legal system often perpetuates social problems that result from the former. The individuals who are incarcerated should not then be faced with rape, physical and emotional abuse, and unhygienic living conditions while in prison. These are not only criminals; they are also humans and deserve basic human rights.

Notably, women like Kahentiiosta and others who stood up for their communities and their rights during the Oka Crisis are wrongly silenced and often brutalized by police officers, legislators, and uncaring politicians. There are further examples of women jailed for their convictions such as Innu Women in Labrador who protested against the military test flights over their homes by occupying an air strip. Also, more recently, women of the Algonquin Barrier Lake Community blocked a highway in protest of the government not respecting an agreement signed with the community. A negotiator was not sent to talk to the community but rather, the men, women, and children were met with a line of riot police. Subsequently, several people were brutalized and then arrested. Stories like that of Kahentiiosta and the statistics demonstrating the number of Aboriginal women incarcerated as a result of crimes committed in part due to difficult living conditions and racism within the judicial system, show that perhaps Aboriginal Women in Canada, both in prison and out of prison represent a large number of political prisoners kept through force and coercions under the thumb of the Canadian State which, one should never forget, was born out of colonialism. §

Évaluer l'impact de Guantanamo sur les Droits de l'Homme

par Claire Dile

L'article 5 de la Déclaration universelle des droits de l'homme de 1948 stipule que « nul ne sera soumis à la torture, ni à des peines ou des traitements cruels, inhumains ou dégradants » tandis que l'article 9 proclame que « nul ne peut être arbitrairement arrêté, détenu ou exilé ».

Que penser alors des arrestations sommaires par la CIA de ces gens qui, soupçonnés d'être des « combattants ennemis illégaux », définition large, sont encagoulés, enlevés et envoyés de l'autre côté de la planète dans la prison la plus controversée au monde, symbole des travers dramatiques de la guerre globale contre le terrorisme ? Sans parler de ceux qui sont détenus dans les prisons secrètes de la CIA, dont le sort est encore moins enviable.

Les informations qui filtrent du camp sont peu nombreuses mais alarmantes. Prenons le cas de Mohammed Jawad. Arrêté à 17 ans en Afghanistan il est encagoulé, jeté à terre et battu par l'armée Américaine puis envoyé à Gitmo où il fut changé régulièrement de cellule afin de l'empêcher de dormir. Ces faits sont rapportés par Darrel Vandeveld, le procureur militaire chargé de son dossier dans une interview au journal le Monde après avoir donné sa démission auprès de l'armée Américaine.

Selon Amnesty International les détenus sont exposés à des privations sensorielles, un certain nombre de prisonniers qui ont entamé une grève de la faim ont été nourris de force et de façon douloureuse et dégradante, en les forçant à ingérer via un tube enfoncé dans les narines ou dans la bouche. En outre, les membres présumés d'Al Qaeda ne bénéficient pas d'un jugement équitable et sont traduits devant des commissions militaires tout à fait inconstitutionnelles.



A detainee is brought to Guantanamo by U.S. soldiers

Peut-on parler de torture à Guantanamo ? On trouve la définition de la torture dans la Convention contre la torture et autres peines ou traitements inhumains ou dégradants de 1984. L'article 1 en donne une longue définition que l'on peut résumer comme « tout acte par lequel une douleur ou des souffrances aiguës, physiques ou mentales, sont intentionnellement infligées à une personne aux fins notamment d'obtenir d'elle ou d'une tierce personne des renseignements ou des aveux ».

Officiellement et à l'heure actuelle il n'y a pas eu de jugement rendu pour torture à Gitmo et le président George Bush affirme que la torture n'est pas pratiquée sur la base installée à Cuba. L'ancienne juge militaire Susan Crawford est la première à reconnaître un cas de torture, celui de Mohammed Al-Qhatani, participant présumé aux attentats du 11 septembre, dans une interview au Washington Post mercredi 14 janvier.

Quelles conséquences pour le respect des droits de l'homme dans le monde ?

« Œil pour œil, dent pour dent », en l'absence d'autorité centrale c'est la revanche qui prime, or c'est exactement la caractéristique de notre système international.

En d'autres termes la Déclaration universelle des droits de l'homme constitue du droit programmatoire, elle n'est pas liante et, qui plus est, il n'y a aucun mécanisme de sanction pour la faire respecter. Il appartient donc aux Etats de montrer par leur comportement qu'ils la respectent. Ce n'est pas forcément dans leur intérêt mais la raison d'Etat a rarement fait les affaires de la communauté internationale. Les droits de l'homme sont pourtant un sujet capital qui fait que nous vivons libres et dans un monde civilisé, en les bafouant au nom de la guerre contre le terrorisme, les Etats Unis encouragent leurs ennemis à les imiter et mettent un doigt dans l'engrenage de la violence.

Les droits de l'homme sont loin d'être respectés universellement mais le fait que ce soit les Etats Unis qui soient en question change la donne. Historiquement, c'est l'un des plus anciens Etats de droit qui s'est battu pour la défense des droits de l'homme dans le monde. Par ailleurs, ils sont la première puissance mondiale et la grande majorité des autres pays suivent leur exemple, ils ont donc l'énorme responsabilité de montrer le bon chemin à suivre.

Quelle solution à proposer ? (continued on page 18)

Omar Khadr's Fate Still Undetermined Following Guantanamo Decision

by Humera Jabir

He is the first child soldier since Nuremberg to stand trial for war crimes. Omar Khadr, a Canadian, captured in Afghanistan at the age of 15 has been imprisoned at Guantanamo Bay for the past six years. He is accused of killing an American soldier during a firefight in July 2002. Recent evidence released by the Pentagon in February 2008 reveals that although Khadr was present during the fire fight, there is no evidence to suggest that he was directly responsible for the soldier's death.

At first glance Khadr's story is slow to evoke empathy. The son of a known Al-Qaeda financier, Khadr and his family moved from Canada to Afghanistan in 1996. Khadr was only nine years of age at the time. While the prejudice of his family background may shape some opinions, the fact remains that Khadr was a child at the time of capture, impressionable and vulnerable to harm, and subsequently denied the consideration due to minors under international law.

Khadr is a child soldier who had been used as a tool of war, and who is now being tried for war crimes in a system incapable of providing justice. The US Supreme Court has declared the military trial of Guantanamo prisoners to be illegal and in violation of the Geneva Convention. In 2006, a military appointed Defense Attorney resigned feeling disgusted, calling the tribunals a sham. All U.S. prisoners have been removed from Guantanamo to face trial within the Federal Court System. Great Britain, Australia and New Zealand have made arrangements to repatriate their citizens to face trial within their home countries. In fact, all western developed countries have removed their citizens from the embarrassment that is Guantanamo - except for Canada.

Prime Minister Stephen Harper has stated that Khadr should be charged through a judicial process and that he is being treated well at Guantanamo. The arbitrary military tribunals commissioned by Dick Cheney, under which prisoners may be tried and even sentenced to death without once seeing the evidence held against them is not representative of fair judicial process. Furthermore, the Federal Court of Canada has stated that Guantanamo violates the UN Convention Against Torture. Upon arrival at Guantanamo, Khadr was immediately subjected to routine humiliation and abuse, including extreme temperatures, forced nudity and sexual humiliation. In one incident, Khadr was short-shackled until he urinated on himself, at which point guards poured pine-scented cleaning fluid on him, then using him as a human mop.



Omar Khadr awaits trial as he is detained at Guantanamo Bay.

While the United States has not ratified the UN Conventions on the Rights of a Child, Canada has not only ratified the agreement but has also supported programs to rehabilitate child soldiers from countries such as Sierra Leone. Ishmael Beah, UNICEF Ambassador and former child soldier captured at age 15 commented on Canada's apparent double standard: "If a 15 year old kid in Sierra Leone, in Congo, in Uganda, in Liberia, if they kill somebody and shoot somebody in the war it's fine, but as soon as that kid shoots an American soldier...they are no longer a child soldier, they are a terrorist."

While U.S. President Barack Obama has called Guantanamo "a sad chapter in American history," Prime Minister Stephen Harper has demonstrated an astonishing unwillingness to take leadership on the issue, stating that the Canadian government will work with the new American administration on their policies. Khadr's attorney has called Canada a gutless country unable to negotiate even meager concessions from the United States. He said, "My client is a boy who was shot twice and is blind in one eye, but they won't even let an independent medical person in to visit him. Out of all the cases I have done, Khadr is the one that gives me nightmares. He has been completely abandoned — and we in Canada have done this. I feel sometimes as if I'm representing Charlie Manson, instead of some youth being held in Guantanamo Bay who has not been proven to have done anything wrong."

On the day of his inauguration, President Barack Obama issued an executive order to halt all trials until the fate of Guantanamo Bay is decided. Khadr, who was scheduled to face trial by military commission on January 26, will now await news of the new administration's change in policy. It seems that justice may be on its way for this young Canadian. Shamefully, Canada will have played no part in bringing about this change. It is time for the Canadian government to uphold Canadian values, to repatriate Omar Khadr and provide him with the rights and freedoms to which he is entitled. §

Debate Space: For the Death Penalty

by **Kartiga Thavaraj**

One evening in October 1989, in a small Texas town, the mutilated body of Sarafia Parker was found. Her murderer was Kenneth Allen McDuff, one of the most reviled names in Texas criminal history. Only three days prior, McDuff had been released from death row where he had been sentenced for the shooting of Robert Brand, 17, and Marcus Dunnam, 15, and the vicious rape-strangulation of Brand's girlfriend Edna Sullivan, 16. McDuff's death sentence had been overturned when the U.S. Supreme Court abolished capital punishment in 1972 (it was reinstated in 1976,) and he was paroled due in part to pressure that stemmed from the case of Ruiz vs. Texas, which called attention to the state of overcrowding and poor conditions in Texan prisons. Reforms resulting from this case meant that hardly any prisoner was serving

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tial victims and their families,
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his full sentence. In addition to the rape and murder of the aforementioned children, McDuff was charged with bribery (a felony) while in prison, when he attempted to bribe a parole office with \$10,000 for an early release. Despite this, McDuff became eligible for parole in October of 1989, and was released. Three days later, Sarafia Parker was discovered dead, and McDuff fled the state. Three years, many DUIs, narcotics convictions, stolen cars and fake IDs, and five rape-murdered women later, McDuff's profile was featured on “America's Most Wanted,” and on May 2, 1992, McDuff was finally apprehended. Charged with the abduction and murder of Coleen Reed, as well as persecuted for the other women that had died, he received his second death sentence. On November 17, 1998 Kenneth McDuff was put to death by lethal injection, 32 years after the murders for which he procured his first death sentence.

What would have happened if McDuff had been put to

death by the sentence he was originally charged with? The lives of at least five, and probably more, women would have been saved, not to mention the trauma caused to their families, who will feel the loss for the rest of their lives.

Capital punishment (colloquially known as the death penalty) is one of the most controversial debates in the world today, and a topic that creates tensions from both extremes. By acting as a deterrent on future crime, the death penalty is in fact an effective way to lower crime rates and protect the lives of many potential victims and their families, and should be permissible as a mandate for capital crimes such as murder. The main effort of enforcing the death penalty is to protect the victims, not punish the offenders. The fear of death alone is typically enough to deter potential assailants from engaging in criminal activity, and the death penalty itself guarantees that a known criminal cannot reenter society to pose another risk to innocent victims.

The most common argument against capital punishment is that a life term in prison serves the same purpose as the purported death. However, as illustrated in the example of Kenneth McDuff, his “life term” in prison did not prevent him from obtaining parole and cutting his sentence short. “Life without parole” rarely sees the severity of its title played out, as past crimes fade over time as though no longer important. Equally regrettable, the practical problem of overcrowding in prisons often overlooks the brutality of a crime, and vicious offenders are unexpectedly turned loose upon the public. The number of crimes committed even while in prison is likewise exorbitant, and include drug trafficking, bribery and even murder. Even more disastrous is the rationale that life imprisonment, while attempting to curb a prisoner's ability to commit more crimes, actually creates an environment for them to commit crimes in. If life imprisonment is the worst possible punishment a criminal can receive, what is to keep him from committing more crimes while carrying out his life sentence, knowing no worse punishment can be imparted?

There are many mitigating social factors that are used to discredit the use of capital punishment; however none of them are solvable by removing the death penalty. Some say the money spent on lethal injection could be put to better use in helping the families of the victims. However, logically speaking, if the criminals are alive the money is being put to use to feed, clothe and shelter them—and in the end it should not matter how much it costs, it is cheaper than the lives that are at danger otherwise. Rehabilitation is at best uncertain, and also uses tax payers dollars. The chance that an innocent person may be executed is quite slim, as even most countries that currently maintain the death penalty only use it for crimes that are especially vicious and brutal, where those who end up on death row are undoubtedly guilty. There are also widespread complaints, especially (continued on page 18)

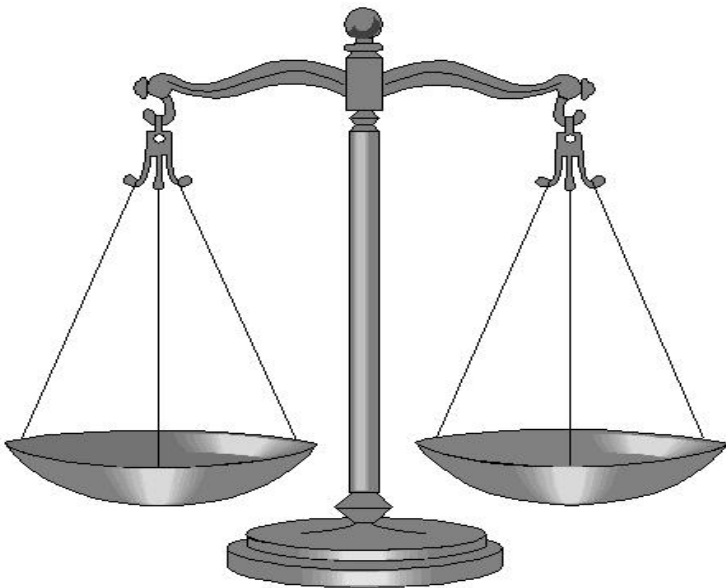
Debate Space: Against the Death Penalty

by Maggie Knight

Since 1973, the United States of America has released 130 people from death row upon accepting evidence of their innocence. There is significant evidence to suggest that at least 8 other innocent citizens were not so lucky. In 2005, the Georgia Board of Pardons and Paroles issued a formal pardon for the execution of Lena Baker, a black woman who, on one day in 1945, was tried, convicted, and issued the death penalty by an entirely white male jury. Baker shot her employer after he imprisoned her and threatened her with a metal pipe; many would agree she should have been charged with manslaughter.

Canada is not short of cases of wrongful conviction: David Milgaard, Donald Marshall Jr., and William Mullins-Johnson spent a cumulative 46 years in prison for murders they did not commit. How much worse would this have been had they been killed for their supposed crimes?

Yet even in the case where the criminal is justly convicted, does the government have the moral authority to kill him or her? As Gandhi said, “an eye for an eye makes the whole world blind.” Murder and other capital offenses may not be justifiable, but they do occur for reasons. These may be related to mental illness, substance abuse, poverty, or a history of mental or physical abuse, for instance. Often, perpetrators of capital crimes have been the victims of crime themselves, and have gone unaided. Furthermore, the Universal Declaration of Human Rights states that every person has the right to life (Article 3) and that no person shall be subjected to cruel, inhuman, or degrading treatment or punishment (Article 5).



<http://www.milehilaw.net/images/justice-scales-001.JPG>

Certainly society needs the ability to restrain people when they are truly dangerous to others. Prison should be a place where people can undergo rehabilitation and receive training that will allow them to find a place in society upon their release—assuming that they are ever deemed to be safe enough to society to be released. There have indeed been cases in which criminals have been released early and have gone on to kill again—but surely this is a flaw in the system of evaluating the mental and emotional state of the prisoner upon release, rather than a failure of the judicial system to impose the death penalty. There is a significant moral distinction between killing someone and incarcerating an individual to prevent harm to others.

Some argue that the death penalty acts as a meaningful deterrent against criminals. Yet Texas, which has executed 423 individuals since 1976, has a significantly higher homicide rate than most states which do not impose the death penalty. Louisiana, which has executed 88 people, has the second highest homicide rate in the country (after the District of Columbia). The American Death Penalty Information Centre provides data showing that

“ There is a significant moral distinction between killing someone and incarcerating an individual to prevent harm to others.”

since 1990, states which allow the death penalty have had higher homicide rates than states which do not—the difference in homicide rates has been as high as 44%, and was 42% in 2007. Indeed, homicide rates appear to be more closely correlated to rates of poverty than to the presence or absence of the death penalty, suggesting that resources put into mitigating the root causes of homicide might be a much more effective way of decreasing the number of homicides. The USA is the only Western industrialized country to institute the death penalty, yet its crime rate is by far the highest.

The death penalty is certainly scary to criminals—but it is also terrifying to the innocent. Jeanette Popp, the mother of rape murder victim Nancy DePriest, explains that the two men who confessed to her daughter’s death, Chris Ochoa and Richard Danziger, did so under coercion: the threat of the death penalty. The men were sentenced to life in jail, and eventually released after Achim Marino, an inmate in another prison, repeatedly confessed to the crime and expressed his bewilder- (continued on page 18)

Debate Space

(continued from page 16) in areas of ethnic diversity such as North America, that race, gender, and ethnicity play large roles in crime and sentencing; the detail that justice is not equally applied between classes and races however, begs social reform, not judicial.

The ability of judicial systems to hand out the death penalty for proportionally appropriate crimes constitutes not only a safer society, but by demanding the highest penalty for the taking of human life, expresses in reality the highest respect for the value of human life. The Supreme Court of the United States of America gave as its mandate for reinstating the death penalty, that “Indeed, the decision that capital punishment may be the appropriate sanction in extreme cases is an expression of the community’s belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the penalty of death.” If in executing murderers we have deterred other murders, and this makes society and its citizens safer, the deaths of the murderers are diminutive compared to the salvation of the innocent would-be victims. Capital punishment is less about retribution as opposed to restitution, but about prevention rather than cure—because there is no cure for a dead or emotionally damaged victim. The hard-working, respectable majority of society should not need to live their lives in constant fear. No longer can we sit back and watch criminals “rehabilitated” and released only to kill again. For the victims that have been and would be, and the wellbeing of society, capital punishment is the only true justice. §

(continued from page 17) -ment at why Ochoa and Danziger confessed when they had nothing to do with the murder. In these situations, the threat of the death penalty can only contribute to the perversion of justice.

Popp is part of the anti-death penalty advocacy group Murder Victims for Human Rights (MVFHR), which argues that the use of the death penalty is harmful to victims’ families. MVFHR argues that the repeated appeal cases and often lengthy wait on death row which often accompany a capital case pose a significant strain on the victim’s family and do nothing to help them heal. The organization’s website highlights the problem of this kind of offender-focussed system with the example of the Oklahoma Bombing: the community of Oklahoma was given \$250,000 to provide victims services to the families of the victims, while the trial and execution of Timothy McVeigh cost \$13 million. At the 2001 cost of \$22,650 per inmate per year (Bureau of Justice Statistics), McVeigh could have been imprisoned for 574 years for the same cost.

MVFHR also contends that some victims who are anti-death penalty (for ethical or spiritual reasons, for instance) are refused victims services when they are labelled “pro-defendant.” Surely a truly just justice system should be focussed on healing the pain caused by crime, not merely on punishing the offender. While there is life there is the possibility of change, and the return of the offender to his or her family and to society. After death, there are no more options: new testimony of innocence, medical treatment, or counselling can have no effect. The death penalty does nothing to enhance society or to break the cycle of violence that can cause to much pain to so many. §

Evaluer l’impact de Guantanamo sur les Droits de l’Homme

(continued from page 14) Elle semble toute trouvée en la personne de Barack Obama mais les choses ne sont pas si simples. Si la fermeture de Guantanamo semble certaine et la gestion des 225 détenus actuels paraît bien organisée en collaboration avec l’Union Européenne, ce n’est pas l’enjeu principal. Le tout est de savoir dans quelle mesure Barack Obama est-il capable d’établir la rupture avec son prédécesseur et de rétablir une image positive de l’Amérique dans le monde.

Malgré les élans d’enthousiasme que provoque l’élection de M. Obama dans le monde, la partie est loin d’être gagnée.

Il s’agit de changer la pratique des services secrets Américains depuis huit ans ainsi que les modalités de la lutte anti-terroristes.

Pour être en accord avec elle-même et avec l’Histoire, l’Amérique va aussi devoir s’employer à juger honnêtement les événements de Guantanamo et condamner tout acte de torture avéré. L’administration Bush a malmené les droits de l’homme. Si l’Amérique ne veut pas y laisser ses valeurs et tourner la page alors leur respect n’a jamais été autant vital. §

THE DISCARDED POPULATION: PRISONERS & PSYCHIATRIC PATIENTS

Reflecting on Experiences in Low-Income Countries

by **Mary MacLennan**

Of the multitude of problems facing low-income countries today, I feel that the lack of adequate health care has the most far-reaching negative impact. It is something so vital to every aspect of life yet, is often not properly addressed by many governments and institutions. One aspect particularly troubling of this problem is how these struggling countries provide medical care to some of society's least valued persons—prisoners and psychiatric patients. In terms of equity and fairness, this presents an interesting dynamic, which I had the opportunity to witness in two very different low-income countries: The Dominican Republic and Former Yugoslav Republic of Macedonia (FYROM).

Last year, I traveled to The Dominican Republic to assist doctors in providing medical care in communities, shantytowns and prisons. Out of these places, by far the worst cases I witnessed were in the prisons. Many of the illnesses volunteer doctors saw were almost unrecognizable by North American standards since these diseases had progressed for so long without receiving any medical attention. I remember one doctor remarking, “The resilience of the human body is amazing” in reference to a piece of metal that had been absorbed by the skin of a prisoner after about six months. The doctors treated a wide variety of illness: everything from likely situations of cancer to very advanced cases of sexually transmitted infections.

For many prisoners our work was greatly appreciated. In a lot of these cases, if it were not for our intervention, many of these people would not have received medical attention at all. However, the amount of care that our clinic was able to provide was only a band-aid on a much larger wound. At the end of the day when we left to go back to our camp, I remember the loud mob of prisoners begging for the doctors' assistance. We had to be physically escorted out by prison guards. With our limited supplies and short time with the patients, many of the medical problems could not be properly addressed. The issue of inefficient medical care is extremely complicated, in addition to being intimately intertwined with other development issues, and therefore deserves attention on a macro- as well as a micro- level.

Another low-income country dealing with the problem of how to address their prisoners' medical care is the Former Yugoslav Republic of Macedonia (FYROM). This former Yugoslavian country is in a poor economic state, which is the root of many of the country's societal and infrastructural problems. During the summer of 2008, I interned with a human rights NGO where I spent part of my time exploring human rights issues associated with prisoners and patients in psychiatric institutions by writing reports and going on fact-finding missions. After participating in a questioning of psychiatric officials on how they were treating prisoners and patients, I witnessed first-hand the terrible living conditions.

I saw patients in gowns that had not been changed in days, bathrooms that had not been cleaned in weeks and people begging for attention. In many respects, it was even worse than the jail in the Dominican Republic, however one key difference is that FYROM has a greater amount of infrastructure and rules than the Dominican Republic. Therefore, contributions on a macro level are more efficient. The human rights NGO that I worked with submitted reports to the government about the devastating condition of the institutions with positive results in the past; and I am confident that the reports I worked on will influence the government to make constructive changes as well.

From these two very different experiences I learned many lessons, but a common thread is that the good work that people do, no matter how big or small, is worthwhile and greatly appreciated by those in need. Everything from the simple task of handing someone their pills to the larger one of writing reports to the government can make a difference in the lives of many people. When governments and institutions fail, such as the case with the health care of prisoners, it is up to others to help. Everyone's voice deserves to be heard, and everyone should have the right to adequate medical care. §

*JHR Fundraiser **Rights in Black and White** a huge success!*



On Friday, January 23rd 2009, JHR McGill was the first JHR chapter in Canada to pull off an “Epic” Fundraiser Party. On what truly was an epic night, several hundred McGillians dressed up in their finest black and white gear to attend the classiest night of the year. The event was hosted at Club 737, the only club in Montreal with a view of the entire city and beyond. For a party that has never been thrown before, the night was an overwhelming success, with the dance-floor packed from wall-to-wall and consistently a lineup stretching down the block .



The success of the event is due to the hard work of JHR’s committed fundraising team who spent weeks poster-ing, selling tickets and promoting the party in every possible way. Despite various other competing parties, we raised a total of \$1600, more than JHR McGill has ever raised through a fundraising event. All of the proceeds will go towards helping us put out future issues of Speak! and towards helping out JHR’s head office carry out many of the many incredible activities they do. If you missed out, fret not, because if all goes as planned Rights in Black and White will be back next year! \$

(see page 7 for more photos of the evening!)

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