

A HUMAN RIGHTS RESPONSE TO JENA:

By Cathy Albisa and Liz Sullivan

Bringing Dignity & Reconciliation to Public Schools

National Economic and Social Rights Initiative (NESRI)



Scores of communities across the country have identified with what is happening to six young men in Jena, Louisiana. On September 20, 2007, tens of thousands of people came to Jena in buses and cars from across the U.S. to take a stand against the kind of abusive environment in which these six young men found themselves. The circumstances surrounding the Jena 6 have resonated with so many because they are a manifestation of the destructive climates and disciplinary policies that plague public schools around the country. Children are subjected to degrading and often discriminatory practices that stifle learning, and schools regularly diverge from their mission to teach and nurture by inappropriately and unnecessarily bringing the criminal justice system into our schools. Furthermore, research studies and human rights documentation have shown that children are often targeted for these punitive approaches based on race.

This climate in our nation's schools reflects a human rights crisis that is denying our children their fundamental human right to a quality education and to human dignity. The human rights framework can provide the tools to both document and expose this crisis, and to frame positive solutions.

A Human Rights Crisis in our Schools

In the case of the Jena 6, the arrest of six African American youth at Jena High School for a fight on school grounds came after several months of escalating conflict and racist incidents which began when an African American student asked to sit under the "white tree" at school, where traditionally only white students sat. The next day, there were nooses hanging from the tree. The specific abusive and threatening gesture in the form of hanging nooses came from fellow students, but the environment and standards of acceptable behavior are always set by the school—specifically by the adults that are responsible for the well-being and development of children. The school in Jena failed to create an environment of dignity and respect, and failed to respond appropriately to the incident.

What happened in Jena is not an isolated incident. Students are the targets of hate-related words and actions in schools around the country. According to the National Center for Education Statistics, 11 percent of all students and 15 percent of African American students ages 12-18 reported being targets of hate-related words in a six-month period in 2005, and 7 percent said the words were related to race.¹

Furthermore, it is not only students but adults who commit these abuses. The National Economic and Social Rights Initiative (NESRI) interviewed middle and high school students and documented the degrading treatment of students by adults in New York City and Los Angeles schools. African American and Latino students reported that teachers made comments such as: "You're too stupid, you can't learn," "You stink," and "You look like an animal." All too often, these

comments are directed at a student's race, class or background. Students reported that staff have said they will "end up in the ghetto like everyone else in their neighborhood."²

Related to the degrading treatment students face is the systemic unfair punishment and denial of education through harsh disciplinary policies. Suspensions and expulsions are often given for relatively minor infractions, and these suspensions are unduly long and severe in their scope. This harsh discipline is clearly administered in a racially biased manner. According to 2004 data from the U.S. Department of Education Office for Civil Rights, while African American students accounted for only 16.9 percent of the national student population, they accounted for 37.3 percent of out-of-school suspensions and 34.5 percent of expulsions.³

Adolescent behavior is also increasingly criminalized in our nation's schools. At Jena High School, when African American students protested the hanging of nooses, there were reports that the local District Attorney came to the school and told students he could "end their life with the stroke of a pen." In December 2006, the six African American students known as the Jena 6 were arrested and initially charged with attempted second degree murder for a fight in which no weapons were used and no serious injuries resulted. While students must face consequences for fights or altercations, the primary role of the school should be to help students develop constructive ways of addressing conflict, not to criminalize their actions and remove them from school.

Yet in many school districts across the country, police roam the hallways every day, intervening in and controlling school matters, such as simple tardiness for class, within a criminal framework. In New York City more than 4,600 school safety agents trained and supervised by the New York Police Department work in the public schools, representing a larger police force than exists in most U.S. cities.⁴ High school students interviewed by NESRI in New York City have been harassed, handcuffed, patted down and in some cases arrested for shouting in hallways, being late to school, and talking back to safety personnel. These behaviors, while inappropriate, often reflect typical adolescent reactions, especially in the context of overcrowded and under-resourced schools.

In Chicago in 2003, 8,539 students were arrested in public schools. Almost 10 percent were children age 12 or younger. African American students made up 77 percent of the arrests but only 50 percent of the school population. Approximately half of the students arrested in Chicago schools are sent to juvenile or criminal court.⁵

¹ "Deprived of Dignity: Degrading Treatment and Abusive Discipline in New York City and Los Angeles Public Schools," National Economic and Social Rights Initiative, March 2007.

² Civil Rights Data Collection, U.S. Department of Education Office for Civil Rights, 2004. <http://vstatesdemo.beyond2020.com/ocr2004-rv30/xls/2004Projected.html>

³ "Criminalizing the Classroom: The Over-Policing of New York City Schools," New York Civil Liberties Union, 2007.

⁴ "Education on Lockdown: The Schoolhouse to Jailhouse Track," The Advancement Project, 2005.

As a result of these tactics, many children face such overwhelming educational losses that they cannot graduate from high school and continue their education. This is a phenomenon that many advocates and researchers refer to as "pushout," where degrading treatment and abusive discipline literally push children out of school. And this pushout phenomenon is a human rights crisis in our education system.

A Human Rights Vision for Education

We know that the right to education is deeply valued in American society, as it is within international human rights standards and principles. And at the center of the human right to education lies the principle of human dignity. It is common sense that children cannot learn unless they are treated with respect and dignity. It is difficult enough for adults to function in hostile environments; it is unconscionable that we would put our children in such environments and expect them to learn.

How would a human rights vision, if vigorously implemented, transform our schools? The Convention on the Rights of the Child, a human rights treaty ratified by every country in the world except the United States and Somalia, clearly requires that schools be child-friendly and that they be consistent in all respects with the dignity of the child. This convention also defines the aims of education as the full development of each child's potential, the teaching of respect for human rights, and the preparation of each child for a responsible life in a free society in the spirit of peace, understanding and tolerance. We have not recognized these as educational goals in our country.

Human rights treaties and guidelines also speak to the purpose of discipline, focusing on positive support and the use of discipline as an opportunity to teach conflict resolution and other essential social skills. Discipline in schools, under a human rights vision, is part of the educational process and should present an educational opportunity. Furthermore, human rights treaties and guidelines oppose the criminalization of students. The Convention on the Rights of the Child states that extreme measures such as the arrest, detention or imprisonment of a child shall only be used as a measure of last resort and for the shortest appropriate period of time.

The situation in Jena, Louisiana is a case study for everything gone wrong, and a reflection of the severe crisis we face. The school in Jena failed to take effective measures to combat the prejudices that led to racial discrimination when the nooses appeared, as required by the International Convention on the Elimination of All Forms of Racial Discrimination. Once the school failed to take those measures, conflict inevitably deepened. When fights broke out among adolescent students, the school once again failed to take the opportunity to teach conflict resolution skills and address the underlying issue of racial discrimination. Instead, it immediately brought in the criminal justice system and threatened severe and punitive measures against the six African American students.

The result is that the entire student body lost an educational opportunity, and faces a poorer educational environment. The six youths have faced a brutal denial of the right to education over the last

year, and the extreme reactions of Louisiana officials have called into question their legitimacy and credibility in the arenas of both education and justice.

Can we re-vision the events from the perspective of human rights? One model consistent with human rights is known as restorative justice. Rather than viewing misbehavior by students as an act against school authorities, restorative justice models define misbehavior as an act against the entire community. Accountability and discipline involve taking responsibility for one's behavior and repairing the harm resulting from those behaviors. Students and the school community are directly involved in resolving conflict and play a key role in determining disciplinary responses to behavior.

As one teacher in a school using restorative justice programs in New York City stated, the process "validates students as thinkers and decision-makers, and reinforces the idea that they have a voice and stake in their communities."⁶ In Minnesota, researchers found that in a number of schools that implemented restorative justice, suspensions and expulsions dropped 25-30 percent after just two years.⁷

Creating a positive school climate and support for positive student behavior is also essential. The Positive Behavior Support (PBS) model for discipline is a school-wide approach to developing positive student behavior where: 1) school staff and students define expectations for student behavior; 2) schools then teach those expectations and support students in learning the skills to meet them in a predictable environment where all adults provide consistent reinforcers for that behavior; 3) appropriate behaviors are acknowledged; and 4) behavioral problems are addressed proactively.

PBS policies have been implemented successfully in schools in Illinois, Maryland and elsewhere around the country. In February 2007, after a parent-led human rights campaign by the grassroots organization CADRE (Community Asset Development Re-defining Education), the Los Angeles Unified School District passed a district-wide positive behavior support policy.

In Jena High School, imagine if expectations for student behavior had been clearly defined, and in a way consistent with human rights standards. The very notion of a "white tree" would have been unacceptable. And it would have been imminently clear that menacing and racist gestures such as hanging nooses would not be tolerated, not just by the school authorities, but by the entire school community.

Let us say that despite best efforts, however, those nooses still appeared. Using restorative justice approaches, the nooses would have been considered an offense against the entire school community. The students involved with the initial hanging of the nooses would have been obligated to engage the key stakeholders impacted

⁶ Hantzopoulos, Maria, "Deepening Democracy: How one school's fairness committee offers an alternative to discipline," *Rethinking Schools*, Volume 21, No. 1, Fall 2006.

⁷ Karp, David R. and Beau Breslin, "Restorative Justice in Schools Communities," *Youth & Society*, Vol. 33, No. 2, December 2001.

¹ Indicators of School Crime and Safety Survey conducted by the National Center for Education Statistics (NCES), 2005. http://nces.ed.gov/programs/crimeindicators/ind_10.asp

by the incident, specifically the African American students, and to take responsibility for their actions directly before their peers. Such engagement would have been geared towards creating understanding and reaching consensus by the school community on how to repair the damage.

One can imagine outcomes such as "undoing racism" workshops in the school or further study by the perpetrators of the history of lynching and key aspects of the civil rights movement, all of which— if positive behavior support models were in place – would be accompanied by ongoing counseling for all impacted parties. This would not exclude the options of suspensions or even expulsions depending on the circumstances, but those options alone are unlikely to restore peace to the community.

Such a process described above is geared towards accountability but also reconciliation and community building. If fights had still followed the events, they also would have been viewed in this context and dealt with as a community matter. Had a human rights model been applied in Jena from the outset, it is unlikely we would be where we are today.

The challenge we face in Jena and elsewhere is how to transform our schools from places with punitive and degrading environments to places where human dignity is at the center of all policy and practice, and all students are nurtured and supported in their full development.

The students known as the Jena 6 have suffered grave injustices and human rights violations. This incident has galvanized a large number of people who care about the human right to education, and are committed to struggle to defend it. But we have much work to do if we are to transform this moment into an opportunity for turning the tide away from human degradation in schools and towards human development, human rights and human dignity. The education and human rights communities must come together to promote a common vision that ensures that there will be no more Jenas in our children's lives.

Catherine Albisa is the Executive Director of NESRI, and a constitutional and human rights lawyer with a background on the right to health. Ms. Albisa also has significant experience working in partnership with community organizers in the use of human rights standards to strengthen advocacy in the United States. She is committed to a community-centered and participatory human rights approach that is locally anchored, but universal and global in its vision. She received a BA from the University of Miami and is a graduate of Columbia Law School.

Liz Sullivan is the Human Right to Education Program Director at NESRI. She works with parents and advocates to promote policy change in public education to guarantee students' right to dignity and a quality education. She has carried out research projects to document human rights violations in U.S. public schools, and has provided trainings to parents, youth and organizers about how to incorporate human rights standards and strategies into their advocacy. She authored the report Civil Society and School Accountability: A Human Rights Approach to Parent and Community Participation in NYC Schools. She holds a BA from Brown University and a Masters degree in Public Policy from the John F. Kennedy School of Government at Harvard University

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In January of 2006, sanitation workers in Charlotte made their presence felt at one of the City Council's bi-monthly Citizens' Forums. The workers, in coordination with UE 150, dominated the forum, holding signs and speaking out about the improper discharge of a worker in the city's solid waste department who was fired for his union activism and had no access to a grievance procedure or any kind of due process to challenge

his discharge. More general issues were also brought to light, particularly work speed-ups and disrespect on the job. One of the most troubling complaints was the lack of sanitary facilities in the workers' locker room. Workers reported that the toilets had been out of order for weeks, and the stench and leaking sewage had created a severe health problem. This led to the initiation of a meet-and-confer process which began to address these issues.

Raleigh City Workers Strike in September 2006. This unprecedented and unplanned strike by Raleigh City workers clearly demonstrated the reasons why collective bargaining is necessary for public sector workers. The workers confronted the City over issues of forced overtime, unpaid overtime hours and immensely heavy workloads. Without a formal grievance procedure or other means of bargaining with management, these workers were left with little choice but to walk off the job. They sought out UE 150 and the IWJC, which provided them with the tools and knowledge they needed to make their position known in ways that have led to their demands being met. The city responded with a wage and benefits increase and by making temporary workers permanent, and the mayor publicly called for the state to legalize collective bargaining so that issues can be resolved through negotiation rather than walkouts.

The Road Ahead

In the past three years, the NCIWJC has succeeded in putting the issue of collective bargaining rights for public employees on the political agenda in North Carolina, something few thought possible when we started. We still have a lot of work ahead of us to win a repeal of the ban on collective bargaining, but we are well-positioned to do that work.

One of the key strategies of the NCIWJC has been the filing of complaints in international forums. The most successful such effort to date has been with the ILO, where both the filing of the complaint and the strong decision generated significant publicity. A petition signed by 153 labor organizations from the U.S., Canada and Mexico, filed under the North American Agreement on Labor Cooperation (NAALC), is still pending. On December 10, 2007, International Human Rights Day, the IWJC will be filing another international human rights complaint with the Inter-American Commission on Human Rights (IACHR) of the Organization of American States. If accepted, the complaint will lead to hearings in February or March, which will present another opportunity to expose North Carolina's denial of human rights on an international stage.

Looking ahead to the next few years, human rights will and should remain an integral and powerful context for the struggle for collective bargaining. This will help to deepen and strengthen use of the human rights framework for struggles for justice inside the U.S. We recognize that we cannot do this work alone, and that for this struggle to be successful, we will have to be part of a broad movement to demand human rights in the U.S. We look forward to working more closely with other organizations to build that movement.

Ashaki Binta is a member, organizer and national officer of Black Workers For Justice (BWFJ), a workplace-based community organization whose primary mission is to build a broad-based labor movement in the South.

Jonathan Kissam is a part-time customer service worker and Secretary-Treasurer of UE Local 221 in Burlington, Vermont.

The UE is an independent, democratic national union founded in 1936 with a strong history of fighting for social and civil rights both within and beyond the workplace. The UE is strongly committed to anti-racist and internationalist principles. UE 150, a statewide UE local in North Carolina, has been fighting for the rights of public-sector workers in North Carolina since 1997. The International Worker Justice Campaign was begun in August 2004, and brings together UE leaders with community, faith and student organizations to challenge North Carolina's ban on collective bargaining as a violation of international human rights standards.

Hold the US Accountable!!!!

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THE JENA 6
A CALL FOR JUSTICE SPEECH

By Juanita Smith

AUC March and Rally for Jena 6
 September 18th, 2007 Atlanta, Georgia

The gathering of thousands of human rights activists in Jena, Louisiana on September 20 spotlighted both specific and general human rights concerns that demand public attention. The problems with the prosecution of the Jena 6 have been well documented: The young men were charged with major crimes vastly disproportionate to the circumstances of the case (and in stark contrast to the way the cases of the white students involved in the incidents were handled); the lack of appropriate response by the authorities to the incidents that led to the violence and resulting charges; and the fundamental lack of fairness during the trial.

More generally, however, the case of the Jena 6 is particularly disturbing in light of the fact that the modern criminal justice system in the United States has disproportionately incarcerated people of color, particularly young African Americans and Latinos. The policies and practices that have created this distortion are collectively referred to as the "School-to-Prison Pipeline." They include charging minors as adults and forcing them from schools into a system that has yet to reconcile historical inequalities based on race.

The overincarceration of Blacks and Latinos in this country constitutes ongoing human rights violations and must be addressed at every level. In 2003, African Americans only



comprised 16 percent of the juvenile population yet accounted for nearly half of the juvenile arrests. Furthermore, while African Americans only constitute 12 percent of the nation's population, 44 percent of all prisoners in the U.S. are black. Under the Convention on the Elimination of all Forms of Racial Discrimination (CERD), which the US ratified in 1994, local, state and national policies must conform to their treaty obligations. According to the CERD, "Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists."

Therefore, we call on federal authorities to ensure that local officials in Louisiana rectify any act or practice of racial discrimination in the case of the Jena Six, and that these and other human rights violations not be replicated in other communities. We will be watching!

Juanita A. Smith is currently an intern for the United States Human Rights Network. She presently attends Clark Atlanta University (CAU) as a Political Science major. Smith plans to graduate from Clark Atlanta University in the fall of 2008 and go on to get her Master's Degree in International Studies where she hopes it will lead her to a successful career in Government.

UPDATE FROM THE
**"Hold the US Accountable:
 Internally Displaced Persons (IDPs)
 Human Rights Campaign"**

By Tonya Williams

In March 2006, the US Human Rights Network (USHRN) launched the "Hold the US Accountable: Internally Displaced Persons (IDPs) Human Rights Campaign." We recognized that those who were the most vulnerable in the immediate aftermath of the storm represented the most marginalized, invisible and silenced population. Moreover, the massive displacement of nearly one million people constituted one of the largest internally displaced populations in the Hemisphere. We also understood that the events before, during and after the hurricanes made landfall could only be properly understood (and remedies found for them) within a human rights framework. Therefore, USHRN staff and activists from member organizations took the lead in rearticulating the issues that the hurricanes brought to the surface within the context of human rights.

The principle objective of the Campaign is to increase grassroots pressure on the U.S. government to recognize Hurricane Katrina and Rita survivors as internally displaced people and ensure that policies and practices comply with the United Nations Guiding Principles on Internal Displacement in its treatment of survivors from the Gulf Coast. Securing the "right to return" is the centerpiece of this initiative. The campaign has sought to leverage U.S. government acknowledgement of the legitimacy of the category of internal displacement within its borders, as it has in the United States Agency for International Development (USAID) Internally Displaced Persons Policy, and compliance with the spirit of the U.N. Guiding Principles on Internal Displacement in order to ensure the human rights of Gulf Coast residents are protected and assistance is afforded throughout the duration of the crisis. The Campaign's goal is being realized through the promotion, education and training of stakeholders including internally displaced persons, service providers, grassroots community-based organizations and the general public about the U.N. Guiding Principles of Internal Displacement, particularly the "right to return", enhancing the capacity of Gulf Coast organizations to effectively utilize the UN Guiding Principles as a framework for advocacy in support of reconstruction, rehabilitation and repatriation policies, elevating the national consciousness regarding displacement, supporting advocacy efforts towards the passage of national legislation that provides legal protection to IDPs and utilizing the campaign to provide general human rights education to the broader domestic population. Furthermore, the Campaign seeks to expand the USHRN's "Internally Displaced Person-Human Rights Campaign" by developing and implementing a strategy that integrates a cadre of student/youth leaders into the planning and implementation phases. To this end, a number of activities have been undertaken to pursue the most essential elements of the project since June. On September 1, 2007, member organizations of the US Human Rights Network convened a consultation/training for Southern based activist, organizations, students and faculty on the human rights provisions and governmental obligations under the International Convention on the Elimination of all Forms of Racial Discrimination (CERD). One of the goals of the training was to provide activists from the Gulf Coast region an opportunity to expose to the international community the continued human rights violations experienced by communities of color in the Gulf Coast region, before and after Hurricanes Katrina and Rita. The Coordinating Center has organized forums on the reconstruction movement in New Orleans with Malcolm Suber at Clark Atlanta University and a discussion on the right to housing, education and healthcare at Georgia State University. On November 10th, the staff facilitated a well attended human rights training for students and youth in Atlanta. The Coordinating Center also has four interns from three

universities in Atlanta committed to advancing the objectives of the campaign. USHRN and member organization, the People's Hurricane Relief Fund, in November 2007 launched an initiative to pass local resolutions calling on the US Congress to recognize displaced Gulf Coast residents as internally displaced persons and develop long term sustainable solutions to their housing, employment, healthcare needs and their right to return consistent with internationally recognized standards concerning victims of natural or human made disasters. The second phase of this advocacy and legislative process will be the development of national legislation governing natural disasters that is premised on the Guiding Principles on Internal Displacement. A toolkit designed to provide human rights and social justice activists the instruments to frame their work in the Gulf Coast, exact pressure upon local, state and federal agencies and officials through organized and coordinated advocacy campaigns and inform its constituents, within a framework grounded in human rights is being developed. We have also developed and maintained an Online Communication and Resource Center that serves to provide stakeholders with a comprehensive understanding of international standards concerning internal displacement, the scope of the global internal displacement crisis particularly natural disaster induced displacement as well as the breadth of the humanitarian crisis that continues in the Gulf Coast and Diaspora communities. On December 7th, a discussion on the impact of the hurricane from the perspective of youth led by young New Orleans activist S. Mandisa Moore will be convened at the Student/Youth Summit in Chicago, IL. And finally, the USHRN has been invited to guest produce a show on WRFG 89.3 with a segment dedicated to a discussion on the continuing human rights violations in the Gulf Coast.

More than two years after the storms, many of the human rights issues that surfaced as a result of the hurricanes are still unresolved, and public interest in the issue has significantly declined along with attention and support from philanthropic sources. But as a USHRN of human rights defenders committed to U.S. human rights accountability and facing the most egregious ongoing human rights crisis in the country, the USHRN has no other choice but to continue to work on this issue.

Tonya M. Williams is a Research Associate at the US Human Rights USHRN. She also serves as the Campaign Coordinator for the US Human Rights USHRN's HOLD THE US ACCOUNTABLE: Internally Displaced Persons (IDP) Human Rights Campaign. This campaign calls on the US government to acknowledge Gulf Coast residents displaced by Hurricane's Katrina and Rita as internally displaced persons and develop policies and best practices consistent with international standards, particularly the Guiding Principles on Internal Displacement. Ms. Williams is also Ph.D. Candidate in the Department of Political Science at Clark Atlanta University. Prior to obtaining her present position, Tonya formerly served as a Senior Fellow at the US Human Rights USHRN and as an intern in the Constituency Building Unit at CARE USA and held a number of graduate assistantships. Ms. Williams has also held adjunct teaching positions at Clark Atlanta University and more recently Spelman College in the Department of Political Science.



WEBSITE ANNOUNCEMENT

The new site has been redesigned to better meet the needs of USHRN Members and other activists that are part of the Internet community. The new website provides enhanced access to USHRN information and resources. A clear and clean structure, simplified navigation and improved search functions make finding Human Rights information easier than before.

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