



EJDM Europäische Vereinigung von Juristinnen und Juristen für Demokratie und Menschenrechte in der Welt e.V.

EALDH European Association of Lawyers for Democracy and World Human Rights

AEJDH Asociacion Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo

AEJDH Association Européenne des Juristes pour la Démocratie et les Droits de l'Homme dans le Monde

AEGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i Diritti dell'Uomo nel Mondo

Professor Bill Bowring, President (London)
Professeure Monique CHEMILLIER- GENDREAU, Présidente d'honneur (Paris)
Thomas SCHMIDT (Rechtsanwalt) Secretary General (Duesseldorf)

Hans - Litten – Prize Awarding 2006, Berlin To Michael Ratner, New York

The Hans-Litten-Prize is awarded every two years by the VDJ, the German Association of Democratic Lawyers. The Prize Awarding was supported by EALDH.

Awarding of the The Hans-Litten-Prize

Laudatio

*Bill Bowring, Barrister, Professor for Constitutional Law and International Law at the
Birkbeck College, University of London*

forth Prize Winner

*Michael Ratner, Rechtsanwalt, Präsident des
Center for Constitutional Rights, New York*

It is a great honour for me to introduce to you the eminent lawyer and freedom fighter, Michael Ratner. For Bush, Cheney and Rumsfeld he must be one of the most hated figures of all, not least because he is an American, one of those precious Americans who take liberty and justice seriously.

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One of the most right-wing blog sites pays Michael the following compliment:

“The general leading the force to free the captive enemy from the U.S. detention center in Guantanamo Bay, and inflict a humiliating defeat on the United States is so-called “civil rights” and “Constitutional” attorney Michael Ratner. It was Ratner who led the way in recruiting elite lawyers to defend the enemy combatants being interrogated at Gitmo. But Ratner is a long-time leader of two pro-Communist and anti-American organizations who have for decades lent aid and comfort to America's enemies in the Cold War and beyond.

Michael Ratner began his legal career in the late 1960s at the National Lawyers Guild, a Soviet created front group which still embraces its Communist heritage. He worked his way up through the NLG’s radical ranks to become its president, then moved on to hold the same position at the Center for Constitutional Rights (CCR), which shares the NLG's anti-American radicalism and was founded by pro-Castro lawyers Arthur Kinoy and William Kunstler. Among its many outrages, the CCR has defended domestic and international terrorists, and has honored Ratner's NLG colleague and convicted terrorist enabler Lynne Stewart, a modern Legal Left idol. Since 9/11, Ratner and his comrades have attempted to extend undeserved “civil rights” to Islamist murderers with notable success. On this front, Ratner and the Legal Left have dealt America some of its few setbacks in the War on Terror.”¹

Do I need to say more?



¹ *The Man Behind the Attack on Guantanamo* by Rocco DiPippo FrontPageMagazine.com | June 16, 2005
<http://frontpagemag.com/Articles/ReadArticle.asp?ID=18446>

I believe I am qualified in more than one way to speak to about him. Michael's formative experiences somehow seem to have coincided with my own. As a law student at Columbia University, he was pushed to the ground and beaten by the police in 1968 as he and other students blocked the entrance to a building occupied by protesters. This would turn out to be one of those defining moments. Mr. Ratner, who would graduate second in his class, got up, looked at his bloodied fellow protesters and decided to become a rebel. "That night was crucial," he recently told a journalist. "An event like this created the activists of the next generation. I never looked back. I decided I was going to spend my life on the side of justice and nonviolence."

I was in the USA as well in 1968, and with many others was beaten up by Mayor Daly's police and the national guard he called in, in his attempt to intimidate the anti-Vietnam war protestors who gathered in Chicago at the Democratic Party Convention to oppose Hubert Humphrey and to support Eugene McCarthy.

Michael was born in Cleveland, Ohio in 1943 and is the brother of radio talk show host and Fox News contributor Ellen Ratner. He has said he still found delight in all battles, big and small. He pushes his two children to demonstrations and proudly explained that his daughter petitioned the Parks Department to change the swings in the local park from baby swings to children's swings. He just read "The Count of Monte Cristo," "a man who was jailed for no reason and went out and got revenge," to his son. His wife of 16 years, Karen Ranucci, runs a nonprofit group that distributes Latin American videos to universities and educational institutions and works for "Democracy Now," a syndicated radio and television program. They live in Greenwich Village. When he is not , he is fly-fishing in streams in upstate New York or exploring the foundations of old houses in the woods. As a boy growing up in Cleveland, he dreamed of being an archaeologist.

Now he is president of the Center for Constitutional Rights, a non-profit organization that litigates civil and human rights cases. He has worked or been affiliated with the advocacy group since graduating from law school. He is also an attorney, lectures on international human rights litigation at Columbia Law School, and he is a lecturer and the Skelly Wright Fellow at Yale Law School.

Michael is also a past president of the National Lawyers Guild. Maybe you all know that the Guild is the counterpart of the VDJ in the USA. The Guild and the VDJ are both members of the International Association of Democratic Lawyers, which has its own proud traditions of struggle with national liberation movements and against imperialism. And the VDJ is the founder member of the European Association of Lawyers for Democracy and Human Rights, which works with IADL, and of which I am proud to have been elected president.

Michael is the author of numerous books and articles, including the books *Against War with Iraq* and *Guantanamo: What the World Should Know*, a textbook on international human rights, and a leading book on Pinochet.

He was co-counsel in representing the Guantanamo Bay detainees in the United States Supreme Court, where his clients won a major victory in June, 2004 that gave them the right to test the legality of their detentions.

This is not the first prize with which Michael has been honoured. He was chosen as the Trial Lawyer of the Year by the Trial lawyers for Public Justice. Other awards include The Columbia Law School Public Interest Law Foundation Award, the Columbia Law School Medal of Honor (January 21, 2005), the North Star Community Frederick Douglass Award and Honorary Fellow University of Pennsylvania Law School (May 16, 2005). In 2006 the National Law Journal named Michael as one of the 100 most influential lawyers in the United States. Michael also received the Brandeis University Alumni achievement award in 2006. In 2006 he received the Lennon Ono Peace Grant from Yoko Ono on behalf of the Center for Constitutional Rights; the Letelier-Moffit award from the Institute for Policy Studies on behalf of the Center for Constitutional Rights and the NYC Jobs with Justice award.

The Center for Constitutional Rights (originally "Law Center for Constitutional Rights") was founded in November 1966 by attorneys Morton Stavis, Arthur Kinoy, Ben Smith and William Kunstler, whose legal work representing civil rights activists in Mississippi convinced them of the need for a privately funded legal center to undertake innovative, impact litigation on behalf of popular movements for social justice. Robert Boehm, who worked with the CCR from its inception, was instrumental in the effort to turn the vision

of the founders into a reality. Peter Weiss became part of CCR early in its history and has played an outstanding role, especially in the area of international human rights.

Born out of the early experiences of its founders, CCR develops pro-active legal strategies to address pressing problems and ensure that the basic rights of all citizens are protected under the law. From the beginning, the Centre used innovative impact litigation to move the law forward and facilitate the construction of a more just society.

Today, CCR continues to craft litigation that exposes the fundamental contradictions in American society that undermine the promise of justice for all: fault lines of race, class and gender; the ascendancy of global corporate privilege over individual rights; the intersection of poverty, race, and industrial pollution; and the indifference with which governments around the world continue to violate the human rights of their citizens.

In 1980, CCR's landmark case *Filártiga v. Peña-Irala* created a right to sue for human rights violations occurring anywhere in the world under the then-obscure Alien Tort Claims Act. For 35 years, CCR has served as an incubator for progressive lawyering, producing numerous important precedents and innovative legal strategies that have become an established part of law and the legal culture.

In January, 2006, he served as an expert witness at a 'tribunal' staged by the Bush Crimes Commission at Columbia University. He owns a baseball cap with the words "Guantanamo Bay Bar Association"

Michael has litigated numerous cases opposing US initiated wars from Central America to Iraq. He is assisting with the criminal complaint in the courts of Germany against U.S. Secretary of Defense Donald Rumsfeld and other US officials seeking the initiation of criminal prosecutions against them for the abuse and torture at Abu Ghraib prison. I am proud to be involved in this initiative, led by my colleague Wolfgang Kaleck.

Michael served as a special counsel to Haitian President Jean-Bertrand Aristide, assisting in the prosecution of human rights crimes. Ratner sued the George H. W. Bush administration to stop the Gulf War, the Bill Clinton administration to stop the bombing of Kosovo, and he successfully sued on behalf of victims of the Bosnian Serb leader, Radovan Karadzic, for war crimes.

The Haldane Society of Socialist Lawyers, the VDJ, and the EALDH are all proud and delighted that Michael agreed to accept this year's prize. Indeed, the choice of prize-winner was not a hard task at all. Michael is an outstanding recipient. It is a great honour to have Michael as our comrade in struggle.

But that's enough from me. Let me hand over to tonight's prize-winner.



Michael Ratner and Dieter Hummel (President of VDJ)

Michael Ratner

Remarks on Receiving the Hans Litten Prize

I am really pleased to receive the Hans Litten Prize from Vereinigung Demokratischer Juristinnen und Juristen (Democratic Lawyers of Germany, as well as in the name of EALDH (European Association of Lawyers for Democracy and World Human Rights). I know it is a prize for me, but in many ways it is really a prize for the Center for

Constitutional Rights, the non-profit legal organization of which I am President. The Center is primarily a litigation organization that was founded in the 1960's and emerged out of the struggles in the United States against racial segregation in the South. I have been a lawyer at the Center since almost the beginning and its goals are much the same as at its founding: to aggressively attack injustice and insure constitutional and international human rights for the most disadvantaged, whether in the United States or abroad.



Michael Ratner

We have sought justice for citizens of Myanmar forced into slave labor by an oil company; we have sought to hold Chevron and Shell Oil responsible for killings and torture in Nigeria; we have sought to stop the United States from initiating aggressive wars whether in Central America in the 1980's or in Iraq today and we have been concerned with domestic discrimination against women, Blacks, Hispanics and immigrants. We have a reputation for taking on the hardest cases. We look at our cases legally, but also politically. We believe that winning in court is often only possible if combined with organizing, public speaking and press.

Since 9/11 we have been widely known in the U.S. and in other countries because of our representation of the Guantanamo detainees. We were the first legal organization in the United States to take on these cases and did so shortly after 9/11. It was a time of great fear in the United States and no other organization would step forward. I personally received hundreds of letters of hate. We continue to fight for the rights of Guantanamo detainees and now coordinate some 500 pro bono lawyers in the United States who are working with us to represent the 460 people who are currently in cages at Guantanamo. Murat Kurnaz was one of our early clients. I understand that Kurnaz could have been returned earlier to Germany, but the German government would not accept him---despite his clear innocence.



Michael Ratner

The excesses and utter illegalities of the United States in the so-called war on terror continue to dominate my and the Center's work. We represent Maher Arar the

Canadian citizen kidnapped by the U.S. at Kennedy airport and sent to Syria where he was tortured in a practice the U.S. calls rendition and that I call outsourcing torture. I am sure you are all familiar with the similar case of El Masri, a German citizen, kidnapped and tortured by the United States. Let us hope that the German government stands up for his rights. Recently, my office has filed a case on behalf of Majid Khan, one of those recently sent to Guantanamo by the U.S. after having spent a number of years undergoing torture in a CIA secret prison. Amazingly, our lawyers have so far been denied the right to see him and the U.S. wants to make it impossible for us to disclose the secret site where he was detained and the types of torture to which he was subjected. This describes only some of the work I and my office have been doing to insure that human beings are treated humanely.

As part of our efforts to hold the U.S. officials accountable for authorizing and engaging in torture we brought a case in Germany over a year ago against various U.S. officials including Donald Rumsfeld. I am sure most of you are familiar with the case. I worked with Peter Weiss from CCR, Wolfgang Kaleck and RAV. We chose Germany because, at least as a matter of law, has an excellent law on universal jurisdiction. It was also our belief that there was no possibility for holding U.S. officials accountable for torture in the U.S. as both our criminal law justice system and our military law justice system were headed by the torturers—respectively Attorney General Gonzales and Defense Secretary Donald Rumsfeld. As I am sure you know we lost that case for both legal and political reasons. Politically, Rumsfeld said he would not visit Germany to attend the Munich Security meeting unless the case was dropped. It was dropped a week after he made this threat; he then attended the meeting. The legal reason given by the prosecutor was utterly unjustified. The prosecutor claimed that the U.S. was still involved in investigation those up the chain of command who might have engaged in or authorized torture.

In part this explains why we and Wolfgang Kaleck are back here again to file another case against Rumsfeld and others. Another year has passed and still impunity is the rule for U.S. officials who authorized torture. In fact, it is far worse now that the U.S. has passed legislation that pardons those officials who engaged in war crimes and

torture they committed from after 9/11 until the present. Of course, such a pardon is illegal: war crimes cannot be pardoned as we know from efforts to do so in Argentina and Chile after the "dirty wars." Now the German prosecutor can no longer dismiss our new case on the basis he did before. This new case will really be a test of whether the system of universal jurisdiction is to be applied only to the weaker nations of the world. Our hopes for this case and additional cases that may be filed in other countries is that there will be no safe haven for U.S. officials as they travel. Our goal is prosecution and no safe haven. In the early 1980's my co-counsel Peter Weiss won a significant civil damage human rights case in the U.S. against a Paraguayan torturer. It was the first case of its kind. In that decision the judge not only found that torture was never permitted under any circumstances, but that there was universal jurisdiction to prosecute torturers. As the judge said: "a torturer is an enemy of all human kind and can be brought to justice wherever found:" he is Hostis Humani Generis.

In this new filing of the Rumsfeld complaint we also added some of the lawyers as defendants in the case. These lawyers wrote some of the key legal memos that were the building blocks of the torture program in the United States. Some of our lawyer friends both in the United States and Germany did not favor the addition of lawyers. They argued that it was merely legal advice. But it was not merely legal advice. [Here I will discuss the legal case against the U.S. lawyers.]

So here I am again in Germany to again make an effort with Peter Weiss, Wolfgang, RAV, FIDH and other organizations to end the impunity of U.S. officials for torture.

It was on one of my last trips here, in connection with the earlier case, that I first heard of Hans Litten and was moved to tears. He has remained in my thoughts ever since. I consider the awarding of the prize to me to be one of the significant events of my life. Hans Litten is a hero to me and the best example of the role we lawyers must play in standing for justice no matter the cost.

When I was in Germany a year or so ago the Berlin Bar Association hosted a reception for me and others who were participating in a Universal Jurisdiction Conference. The woman President introduced herself and told the story of how and why the Bar

Association was named The Hans Litten Bar Association. I am sure you all know the story. The name had been agreed upon by lawyers from East and West Germany. She explained that

Hans Litten was a well-known lawyer of only 29 years old in 1931. In that year, two years prior to Hitler's taking power, he had been the lawyer representing two workmen who had been stabbed by Hitler's Nazi Storm Troopers. In presenting his case, Litten called Hitler to the witness stand and cross-examined him for two hours. He tried to establish that acts of violence by the Nazis were planned by the Nazi party and part of its program. The storm troopers were convicted and sentenced to long prison terms.

Hitler never forgot that trial, his embarrassing cross-examination or Hans Litten. On the night of the Reichstag fire, February 28, 1933, the SS placed Litten under arrest--if that is the right word—as there were no charges and no crime. He was taken into what the Nazi's called "protective custody;" and was considered an enemy of the state. Litten was sent from camp to camp, from Spandau to Dachau and tortured by beatings and mock executions as a means of obtaining a confession---a confession admitting that he knew defendants he had represented were guilty of murder. He confessed under torture only to take it back a short time later and then he was tortured again. His mother, although well connected, could do nothing to free him. On one of her visits to a top Nazi official she was told that no legal steps could be taken, that as there was no court to go and, therefore, no lawyer was necessary. After enduring five years of detention and torture, Litten committed suicide in 1939.

Now of course most of you know this story—so why am I telling it to you again? I am telling it to show you how important I consider this award and what Litten stood for, but also because his story can tell us something about the rights we are losing in the so-called war on terror, particularly as exemplified by the Bush administration.

A few weeks after this Berlin Bar Association meeting I bought the book Litten's mother wrote about her struggle to free her son, "Beyond Tears." It makes chilling reading and not just for what the Nazis did then, but for where the Bush administration is taking us today. Litten's mother thought she had a chance to free her son, because as she said, "I still imagined that we were living in a legal state." But as she says, "law had become weaker and weaker as a guardian of justice."

I tell this story not to say that we in the United States are living in Germany of the 1930's, but to emphasize the dangers of the direction in which the Bush administration is taking us. In a number of respects we in the United States are no longer living in a legal state; and law has become weaker as a guardian of justice. The constraints on the executive, an executive under law and beholden to law are rapidly evaporating. This is particularly so regarding detention and torture. For if the state can, as it did in Germany, arrest and detain you without charges, there is no freedom. That is what the Magna Carta prohibited in 1215—detention without trial and detention at the whim of the King. Out of that prohibition grew the guarantor of our freedoms—the writ of habeas corpus. That writ required the state, the king or the executive to legally justify in a court the detention of any prisoner.

Han's Litten's story struck close to home. I, as I said, along with the Center for Constitutional Rights and hundreds of other lawyers represent some 460 Guantanamo detainees. Many of them have been imprisoned for five years. They were picked up all over the world, and like Litten they have never been charged, tried or sentenced. They can be and some may be detained forever merely at the whim of the President. And like Litten they have been tortured. Litten committed suicide when he could no longer stand the detention and the torture; three Guantánamo detainees have done so and countless others have tried to do so a number of times. The administration calls the Guantánamo detainees "enemy combatants;" Litten was called an "enemy of the state." But both terms signify that for the governments detaining them, those so labeled have no rights, need not be charged with a crime and can be detained forever.

In Germany, as Litten's mother soon found out, there was no court to complain to; it was simply not allowed. It is similar for the Guantanamo detainees. The Bush administration asserted that no court could hear the case of any of the Guantanamo detainees. No writ of habeas corpus could be filed and no legal steps could be taken to challenge a Guantanamo detainee's detention. But, this is where Litten's case and that of the Guantanamo detainees parted ways, or so I thought. The Center for Constitutional Rights made the first efforts to challenge the Guantanamo detentions and in June 2004 the Supreme, citing the Magna Carta, upheld the detainees' right to file writs of habeas corpus. The detainees could require the Bush administration to legally justify their detentions in a federal court. We all breathed a sigh of relief. The President was not above the law.

For over two years and since the decision, we have struggled to get hearings for our many clients. The Bush administration has fought us every step of the way despite the Supreme Court ruling. We did get attorneys to Guantánamo and those visits exposed the mistreatment and torture to which our clients had been subjected. We have yet to have a court hearing in which the government was forced to justify any one of the hundreds of detentions. But we are getting closer or were.

Now, tragically, it appears that the Guantanamo detainees, like Litten, may not get the chance to challenge their detentions in court. In December 2005 Congress passed legislation, Graham-Levin Amendment that purported to strip the courts of the right to hear habeas corpus cases brought by detainees at Guantanamo. This restriction on the right of habeas corpus nullifies the Supreme Court ruling and once again will make it almost impossible for Guantanamo detainees to challenge their imprisonment. We went to court again and in June 2006 the Supreme Court found that Congress did strip the courts of Habeas Corpus jurisdiction. It was our second Supreme Court victory, but it was a close 5-4 decision. We may not be so lucky again.

Despite this victory we are no closer to getting hearings for our clients in court, Once again the administration went to Congress and the Republican dominated Congress in October of this year again took away the right of habeas corpus from our clients. In fact, the Congress went even further. It stripped the right of habeas corpus not just from the Guantánamo detainees, but every non-citizen detained by the United States, even legal permanent residents of the United States. Think about this; the power given to the President is breathtaking. He can detain any non-citizen even one living as a permanent resident in the United States and hold them in prison forever. Detainees can be held without ever getting into court and without any chance to test their detentions. Their identities may never be known—they are disappeared-- and under this new legislation, known as the Military Commissions Act, Vice President Cheney claims that Congress has given legal authority for torture.

Once again we are going to court. But meanwhile 460 Guantanamo detainees, countless others at Bagram and in Iraq and at CIA secret sites remain imprisoned. Assuming we win the case again, it will have meant seven years in prison without any court hearing for our Guantanamo clients.

Sometimes I get asked or rather told that I should not focus so much on the United States—after all there are countries where much worse human rights violations are occurring. I have at least two answers to this question. First, I live in the United States and it is my government that is committing these abuses. I do not want to stand idly by and let these fundamental human right violations by my country continue. But there is another reason. The U.S. is the most powerful country in the world and at one time stood for the rule of law and for human rights. It sharply criticized torture abroad, military trials and disappearances. It published and continues to publish human rights reports on countries throughout the world. What amazing hypocrisy! Of what value are these reports if the U.S. is leading the torture bandwagon? If the U.S., in the name of fighting terror, can go off the page of law and human rights, why cannot every country do the same thing? We are at a serious moment in our world and may well be entering a dark age. We must do all we can to bring ourselves back toward the light. Holding

those U.S. officials accountable for torture is a first step and I hope we can count on all of you.

We still have a chance, a small but important one, to change course. There is plenty to do and not just in the United States. We are all Democratic Lawyers. Those of you here in Germany have a role to play. From Germany's role in the Iraq war, to its failure to insist on rights for Kurnaz, to its possible cooperation in rendition, Germany too is cooperating with the dark side. It must not be allowed to do so.

Hans Litten's story should be a warning to us all.

Michael Ratner, biography

Michael Ratner is President of the Center for Constitutional Rights, a non-profit human rights litigation organization deeply involved in defending civil liberties in the United States, post 9/11. Most recently, the Center for Constitutional Rights published **Articles of Impeachment Against George W. Bush** and filed a case against the President and NSA for warrantless wiretapping. He was co-counsel in representing the Guantanamo detainees in the Supreme Court where a major victory was won in June 2004. He and his office have sued two of the private contractors in Iraq alleging their employees were involved in the abuses and torture at Abu Gharib. In 2005 he filed a criminal complaint in the courts of Germany against Secretary of Defense Rumsfeld and other U.S. officials seeking the initiation of criminal prosecutions against them for the Abu Ghraib abuse and torture. Other related cases include a challenge to the Patriot Act and a lawsuit on behalf of post 9/11 immigration detainees in the U.S. and representation of Maher Arar, a Canadian citizen, sent, or rendered, to Syria where he was tortured.

In the past he acted as a principal counsel in the successful suit to close the camp for HIV-positive Haitian refugees on Guantanamo Base, Cuba and has litigated numerous cases opposing U.S. initiated wars from Central America to Iraq.

He has written extensively on the Patriot Act, military tribunals and civil liberties in the Post 9/11 world. He has also been involved in opposing the Iraq war and co-authored the book, **Against War with Iraq**. His most recent book is **Guantanamo: What the World Should Know**.

Other work include: Adjunct Professor at The Columbia Law School, where he teaches international human rights litigation, and Lecturer at Yale Law School; former President of the National Lawyers Guild; Special Counsel to Haitian President Jean-Bertrand Aristide to assist in the prosecution of human rights crimes; Author and co-author of several legal texts and numerous articles including: Stephens & Ratner, *International Human Rights Litigation in U.S. Courts* (Transnational Publishers, Inc., 1996); Brody and Ratner, *The Pinochet Papers* (Kluwer 2000); Lobel and Ratner, *Bypassing the Security Council: Ambiguous Authorizations to Use Force, Cease Fires, and the Iraqi Inspection Regime*, 93 AJIL124 (January 1999)

Among his many honors are: Trial Lawyer of the Year from the Trial Lawyers for Public Justice; Columbia Law School Medal of Honor; Honorary Fellow University of Pennsylvania Law School; ABA John Minor Wisdom Public Service & Professionalism Award. He is on various boards including The Culture Project and The Brandeis Center for Ethics, Justice and Public Life.



Klezmer Music after the Prize Awarding