Guantánamo: 9 Years of Arbitrary and Indefinite Detention

This January 11, 2011 marked the beginning of the tenth year of arbitrary and indefinite detention of exclusively Muslim and Arab men at the prison in Guantánamo Bay. Not only has President Obama broken his promise to close Guantánamo within his first year in office, but his administration has extended some of the worst aspects of Bush-era detention policies. These policies include continuing indefinite detentions without charge or trial and new plans to codifying indefinite detention through an executive order; the use of illegitimate military commissions; and the obstruction of accountability for torture by refusing to conduct independent and thorough investigations and actively seeking to prevent the courts from reviewing lawsuits brought by formerly detained men.

CCR marked this grim anniversary by working with allies to organize a “Close Guantánamo with Justice” rally in front of the White House. This rally included 172 individuals wearing orange jumpsuits and black hoods to represent each of the men still detained.

Human Rights in Haiti—1 Year Later

Haitians observed the one year anniversary on January 12, of an earthquake that devastated Port au Prince’s infrastructure, killed at least 200,000, and left 1.5 million people homeless. Some of the worst affected were women and children.

In October CCR travelled to Haiti, and visited two Internally-Displaced Persons (IDPs) camps—out of the estimated 1,300—witnessing a complete dearth of basic human necessities such as water, food and medical care. Further, the camps lack lighting and security which has led to a wave of sexual assault and violence against women and girls.

In response to requests from our long-time ally, the Bureau des Avocats Internationaux (BAI) in Port au Prince, CCR facilitated trainings in international human rights and advocacy for the women’s organizations organizing against the attacks in the camps. CCR then worked with our allies on requests for precautionary measures with the Inter-American Commission on Human Rights (IACHR), asking that it require the government of Haiti and the international community to take immediate action to ensure the security of women and girls.

We are happy to report that in response to the requests from our allies, the Inter-American Commission on Human Rights (IACHR) has issued a precautionary measure requiring the government of Haiti and the international community to take immediate action to ensure the security of women and girls.

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Truth: Either a State Secret or Treason?

If you were to only go by the sound bites coming out of Washington, you might be tempted to think that WikiLeaks and its founder, Julian Assange, are the greatest threats to the republic in American history. Sarah Palin calls Assange an “anti-American operative with blood on his hands” and wants him hunted down like an Al Qaeda chief; Rick Santorum and Peter King want him prosecuted as a “terrorist”; and Joe Lieberman suggests that the five news outlets that published the leaked State Department cables should be investigated for espionage. Attorney General Eric Holder has said that the Justice Department and the Pentagon are conducting “an active, ongoing criminal investigation” and the FBI is reportedly examining everyone who came into possession of the documents that WikiLeaks has released.

What has WikiLeaks done to bring the full weight of the U.S. government down on its shoulders? Nothing except expose the facts the government doesn’t want exposed. In the national security state that the U.S. has become, exposing the facts—especially those concerning illegal government conduct including abuse—has become a serious crime. When CCR seeks to expose the truth about the abuse our clients have suffered, it’s a state secret. When WikiLeaks tries to expose unvarnished information from the government, it’s treason.

As noted journalist Glenn Greenwald describes it, the government increasingly operates through a “one-way mirror” where citizens’ activities are freely surveilled while the government’s activities increasingly take place behind a wall of secrecy. The government sees everything we’re doing whether the law permits it or not, and we are able to see nothing that the government is doing. We at CCR are dedicated to dismantling the national security state. We continue to pursue the twin goals of transparency and accountability through our work in order for the mirror Greenwald describes to work in the opposite direction: where we know more about the government than the government knows about us.

The WikiLeaks organization publishes documents that are an effective tool to expose abuses of power because the information about government wrongdoing flows directly from WikiLeaks’ servers to the public. In litigation, on the other hand, all branches of government get a crack at keeping the genie in the bottle. For example, the Executive can over-classify information (as they do in virtually all of our cases) or claim that information is a state secret (our Arar, NSA and Aulaqi cases); Congress can pass laws that prohibit our clients from bringing certain claims (the Military Commissions Act); and courts can rule the wrong way (our Humanitarian Law Project case).

But notwithstanding fierce government resistance to accountability for its illegal action, there is a more urgent need for cutting edge legal organizations now that WikiLeaks is in the crosshairs along with the rest of us. Thus, CCR will continue to defend WikiLeaks publicly against the current national security hysteria that is reminiscent of 2002 when Guantánamo opened. Further, if WikiLeaks greatest value is keeping the government and corporations transparent, CCR’s greatest value is holding them accountable for abuse and illegal activity.

Even though only a fraction of the 251,287 secret cables in WikiLeaks’ possession have been released thus far, CCR has learned a great deal that is useful in our human rights work. For example, one cable reveals the U.S. attempts to derail the Spanish prosecution of the senior architects of the Bush administration’s torture program. Another shows that U.S. officials had firmly come to the conclusion that the “arrest and forced removal from the country” of democratically elected Honduran President Manuel Zelaya “violated multiple constitutional guarantees” months before the U.S. State Department supported those who subsequently seized power.

If anything, the Embassy cables, like the Pentagon Papers, show our government was involved in systemic wrongdoing and wide scale deception. But the government puts all of its resources towards trying to put the publisher in jail and none of them into holding people accountable for the acts revealed in the publication.

If the U.S. were following the law, the participants in the Bush torture program, and not Julian Assange, would be hiring defense counsel. But the U.S. does not follow the law, which is why the need for CCR will only increase.

Read more online at http://CCRjustice.org/wikileaks
detained. CCR also issued a statement outlining what the Obama administration must do to close Guantánamo with justice. This statement (which can be viewed and signed on our website) has been rapidly gaining support from prominent human rights organizations, torture survivors, scholars, lawyers, former detainees, artists, and activists all over the world—including from the U.S., the Middle East, Africa, Australia, and Latin America. We are mobilizing this international network to help close the prison, drawing particular attention to the men who need offers of resettlement in safe countries where they can rebuild their lives because they are at risk of persecution in their home countries.

CCR knows from unclassified attorney phone calls with detainees that the men at Guantánamo have also marked the anniversary of Obama’s failure to close the prison with their own peaceful protests, and that they are heartened by those protests on the outside.

CCR is continuing to expand resettlement advocacy for the men who have credible fears of persecution if transferred to their home countries. This work is particularly critical given the Obama administration’s shameful record of forcibly repatriating detained men who have been cleared for release or who have successfully challenged the legality of their detention in court. Just this past January the Obama administration repatriated a second Algerian man against his will; the New York Times called the first such involuntary repatriation by the Obama administration an “act of cruelty that seems to defy explanation.” This underscores the critical and urgent nature of our efforts.

Despite the public outcry surrounding this cruel and reckless act, the government continues to undermine its own promise to close Guantánamo by releasing unsubstantiated statistics on what it persists in calling the “recidivism” or “re-engagement” of released detainees.

The latest report released by the Director of National Intelligence places the recidivism rate at 25%, does not name any alleged recidivists, and is part of a line of reports that have been repeatedly discredited for their lack of transparency and for using dubious classifications to produce unreliable statistics. Earlier reports that did identify individuals by name revealed, for example, that former detainee Moazzem Begg had been classified as a “recidivist” because he participated in a documentary that was critical of Guantánamo.

As we now know from cables released by WikiLeaks, Mr. Begg has been privately championed by the State Department for his lack of animosity towards the U.S. since his release and for his valuable work assisting with the resettlement of other detainees. In short, these periodic “recidivism” reports that do not provide names or any concrete allegations are useless at best and serve only to stoke unwarranted fear.

Rather than fueling fear, the government should acknowledge and educate the public about the fact that most of the men at Guantánamo were wrongly detained and that a great injustice has been done to them.

Rather than fueling fear, the government should acknowledge and educate the public about the fact that most of the men at Guantánamo were wrongly detained and that a great injustice has been done to them.

Please read, sign, and distribute our “Close Guantánamo with Justice” statement, which is gathering support from prominent human rights organizations, activists, scholars, artists, writers, and torture survivors from around the world. http://CCRjustice.org/close-gtmo
CCR Closes in on Bush and Co. (continued from cover)

Since the U.S. has not only failed to investigate the illegal actions of its own officials and, according to diplomatic cables released by WikiLeaks, also sought to interfere in the Spanish judicial process and stop the case from proceeding, this will be the first real investigation of the U.S. torture program and is a major victory for the cause of accountability. CCR had previously filed similar cases against Donald Rumsfeld in Germany and France that were dismissed out of hand, underscoring the magnitude of the Spanish court’s decision.

In addition to this exciting development, earlier in February, CCR stood poised to use an appearance by former President Bush in Switzerland to request a criminal inquiry into his role in the US torture program—since Swiss law requires a torturer to be present to be charged, it is no surprise that Bush abruptly canceled the trip. The effort, however, was not a loss, as the detailed complaint was made public and provides a strong legal basis to hold Bush accountable for having authorized torture—in any of the 147 countries which have ratified the Convention Against Torture. This indictment compiles over 2,500 pages of publicly available material, and is supported by two Nobel Peace Prize winners, more than 60 NGOs, and two former UN Special Rapporteurs on Torture and on the Independence of Judges and Lawyers. CCR’s partner in these cases is the European Center for Constitutional and Human Rights. The canceled trip and the indictment, as well as the extensive media coverage that resulted, has made this clear: former President Bush and his administration have been put on notice – the only question is when and where he will be held accountable to the rule of law.

For more information visit: http://ccrjustice.org/ourcases/current-cases/bush-torture-indictment

Our Thanks to Our Donors

CCR is grateful to our donors whose gifts sustain our work. We also appreciate those who cannot give financially, but who support the Center by encouraging their communities to be involved.

CCR offers a special thank you to those who joined the Founders Circle whose members make leadership gifts totaling $1,000 or more to the Center during the year, and with that, provide critical core support.

Aris Anagos
Claudine Bacher
Margo Baldwin
Judith Belsky
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Stefan Budac
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Craig & Cynthia Corrie
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Neville Singham
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Nancy Stearns
Amanda Stent
Martha Tompkins
Victoria Ward
Anne Widmark
Thomas Wolf
Evelyn Wolfe

Thelma Newman Society

We also welcome and thank the newest members of the Thelma Newman Planned Giving Society, a group of individuals who decided to include CCR in their estate plans or established annuities with the Center. These gifts build our endowment, ensuring CCR’s progressive legal work for future generations.

Frank and Blythe Baldwin
Martha and Donald Farley
Donald Lipmanson
Richard H. Yurman

If you would like to find out more about joining the Founders Circle or making a planned gift to CCR, contact Sara Beinert at 212-614-6448 or SBeinert@CCRjustice.org

Our donors and supporters make our cutting-edge human rights work possible. Thank you so much!

The individuals listed joined between October 2, 2010-March 1, 2011.
January 2011 the IACHR responded to this petition with sweeping recommendations to improve the security situation of women and girls living in the IDP camps: increased security patrols, improved lighting, and access to medical care (including emergency contraception for survivors of rape and sexual assault in the camps) and legal accountability measures. In response to the request, the IACHR has also recommended that the Haitian government ensure the full participation and leadership of grassroots women’s groups in anti-violence policies and practices in the camps.

On another issue affecting Haitians—namely, forced evictions from the squatter camps and “tent-cities” set up in the aftermath of the earthquake—CCR again joined with allies to file a Request for Precautionary Measures with the IACHR. This request demanded an immediate moratorium on forced evictions; an investigation into these violations; and the implementation of human rights monitoring mechanisms that will protect the rights of Haiti’s most vulnerable populations.

Despite the egregious conditions under which most Haitians still suffer, in December the U.S. began deporting Haitians with criminal convictions back to Haiti after a year long suspension post-earthquake. CCR and other advocates were alarmed, particularly as the deportees would inevitably be housed in disease-ridden facilities where there is scarce access to food, water or medical attention. Cholera has already claimed at least 48 lives in detention centers. CCR sent a letter to President Obama demanding that the Administration halt the deportations. In early January, we worked with allies to file a Request for Precautionary Measures with the IACHR, urging an immediate stop to the deportations.

More than 80 organizations and nearly 200 legal experts, advocates and others sent a follow-up letter to the IACHR stating their support for our action, demonstrating widespread opposition to this practice. Despite all of this, including meetings at the White House where Haitian-American leaders asked the Administration to stay the removals, the first of the deportations began on January 20, 2011.

On February 4th, the IACHR responded to our request, urging the U.S. government to suspend deportations of the five Haitians named in our request until Haiti is able to guarantee that detention conditions and access to medical care for persons in custody comply with applicable minimum standards and the U.S. has in place procedures that take into account their right to family life and their family ties in the United States. This IACHR response follows the tragic death of Wildrick Guerrier, 34, one of the deportees, after he exhibited cholera-like symptoms in Haitian detention. In its decision, the IACHR expressed concern that “detention centers in Haiti are overcrowded, and the lack of drinking water and adequate sanitation or toilets could facilitate the transmission of cholera, tuberculosis, and other diseases.”

CCR has long stood in solidarity with Haiti to address the undemocratic forces at play there and the interests in the U.S. and elsewhere that have supported them and we will continue to stand with Haiti as it works to rebuild and renew itself in the wake of this devastating natural disaster.

CCR will also place four Ella Baker Program Interns in Port-au-Prince for the summer to assist human rights advocates and to give hands-on legal training to students. This is a pilot program expansion of the Ella Baker Program which to date has only existed at our New York office. In addition we will place 4-6 “Ella Bakers” in New Orleans.
Judge Rules that Yes Indeed, the US has Unchecked Authority to Carry Out Targeted Killings of Americans

On November 8, 2010, during oral arguments, Judge John Bates indicated that he recognized the gravity of a CCR and ACLU case challenging the Obama administration’s decision to authorize the targeted killing of a U.S. citizen in Yemen, outside any zone of armed conflict. “How is it,” the judge asked, “that government surveillance of a U.S. citizen overseas requires review by a judge; government seizure of overseas property of a U.S. citizen can be challenged in front of a judge; but government killing of a U.S. citizen overseas is beyond the purview of a judge?”

Judge Bates ultimately left his own question unanswered. Without reaching the merits of the claims, he dismissed the case on the grounds that our client—the father of the U.S. citizen being targeted—did not have standing to bring claims on behalf of his son, and that the executive’s unilateral decision to kill his son overseas was a “political question” beyond judicial review. Judge Bates acknowledged that his conclusion was “somewhat unsettling,” but nonetheless held that the court had no role to play in reviewing the executive branch’s actions and determining the right of a U.S. citizen not to be arbitrarily killed by his own government.

Our lawsuit against the Obama administration’s authorization for the targeted killing of a U.S. citizen in Yemen must be understood in the wider context of expanding covert military operations by the CIA and secret U.S. military forces globally. While the visible bloodshed in Afghanistan continues into its tenth year, an invisible, unaccountable parallel “war” is also being fought both in and beyond Afghanistan. For example, the secretive Joint Special Operations Command (JSOC) of the U.S. military, which is tasked with killing or capturing individuals deemed by the president to be threats to U.S. national security, now has forces in Afghanistan, Pakistan, Yemen, Iraq, the Horn of Africa and elsewhere around the world. JSOC faces even less accountability than the CIA, over which Congress at least has nominal oversight.

CCR will continue to challenge extrajudicial killings by the administration in its expanding, indefinite “war” on terror, which has terrorized and devastated entire countries and communities, and is increasing violence and instability globally. As lawyers, activists, and conscientious human beings, we must work together to build a vibrant movement that demands an end to unjust U.S. wars and occupations. Ultimately, this is not merely a legal matter, but a political and ethical one, essential to a more just and peaceful future.

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CCR and the ACLU won a separate but significant victory in a related case challenging Treasury Department regulations that required attorneys to seek permission from the government to provide pro-bono representation to individuals the government has labeled as terrorists, thereby violating the free speech rights of attorneys and the due process rights of designated individuals. Prior to the challenge, CCR and the ACLU’s representation of our client on behalf of his son would have been under threat of criminal prosecution and fines. Because of the lawsuit, the Office of Foreign Asset Control has revised the regulations so that uncompensated lawyers no longer need to seek the government’s permission before filing lawsuits that challenge the lawfulness of government conduct.

Connect with CCR Online!

CCR’s online community has been a critical component in advancing our social justice work. Social networking has organized, strengthened and connected movements around the world. Join our network, take action and stay up-to-date on CCR’s work:

- Like the “Center for Constitutional Rights” on Facebook
- Follow @theCCR on Twitter
- Subscribe to CCRmedia on YouTube
On February 16, 2011, CCR filed a federal lawsuit in the Eastern District of Louisiana on behalf of eight individuals convicted of Crime Against Nature by Solicitation and have been forced to register as sex offenders as a result.

In Louisiana, people accused of soliciting sex for a fee can be criminally charged in two ways: either under the prostitution statute, or under the solicitation provision of the Crime Against Nature statute. This archaic statute, adopted in 1805, outlaws “unnatural carnal copulation,” which has been defined by Louisiana courts as oral and anal (but not vaginal) sex. Police and prosecutors have unfettered discretion in choosing which to charge. But a Crime Against Nature conviction subjects people to far harsher penalties than a prostitution conviction. Most significantly, individuals convicted of a Crime Against Nature are forced to register as sex offenders.

The registry law imposes many harsh requirements that impacts every aspect of our clients’ lives. For example, they must carry a state driver’s license or non-drivers’ identification which brands them as a sex offender in bright orange capital letters. They must disclose the fact that they are registered as a sex offender to neighbors, landlords, employers, schools, parks, community centers, and churches. Their names, addresses, and photographs appear on the internet.

Many of our clients have been unable to secure work or housing as a result of their registration as sex offenders. Several have been barred from homeless shelters. One has been physically threatened by neighbors. And another has been refused residential substance abuse treatment because providers will not accept sex offenders at their facilities.

Our clients are not alone in being forced to register as sex offenders solely as a result of a Crime Against Nature by Solicitation conviction. Indeed, almost 40 percent of registered sex offenders in Orleans Parish are on the registry as a result of such a conviction. 76 percent of these individuals are women, and 80 percent of them are African American.

CCR argues that being forced to register as a sex offender because of a Crime Against Nature conviction (which is the only offense requiring registration that includes no element of force, coercion, lack of consent, use of a weapon, or the involvement of a minor) serves no legitimate purpose whatsoever. As such, it is unjustifiable and unconstitutional. CCR further contends that the only reason our clients are registered sex offenders is that they were convicted under the provisions of a 200-year-old statute that condemns non-procreative sex acts and sex acts traditionally associated with homosexuality, solely on grounds of moral disapproval.

CCR filed the lawsuit along with the Stuart H. Smith Law Clinic and Center for Social Justice at Loyola University College of Law, and Andrea J. Ritchie, Esq.

Read more online at http://www.ccrjustice.org/crime-against-nature

CCR Challenges Louisiana’s Archaic Crime Against Nature Statute

CCR would like to thank the creative folks at CREDO Mobile for consistently thinking of new and exciting ways to support the Center. Thanks to their generous support and innovative campaigns, CCR has received more than $50,000 from CREDO Mobile/Working Assets this year alone. We thank CREDO for implementing their progressive vision for social change by sharing their profits with social justice organizations like the Center. We also would like to thank all of our supporters who signed petitions at CREDO which directed funds towards CCR and/or voted for us in their end of year profit sharing pool!
Secure Communities or Racial Profiling?

In April 2010, CCR, the Immigration Justice Clinic of the Benjamin N. Cardozo School of Law and the National Day Laborer Organizing Network (NDLON) filed a lawsuit demanding records related to the “Secure Communities” program, a little-known program run by the U.S. Immigration and Customs Enforcement Agency (ICE) that further involves local and state law enforcement agencies in federal immigration enforcement.

The “Secure Communities” (S-Comm) program has quickly spread around the country causing immediate concerns around public safety, community policing, racial profiling and unlawful arrests. Further, publicly available data and statistics suggest the program is misused by local police as it diverts stretched state financial resources and endangers communities that already have tenuous relationships with local law enforcement.

On December 9, 2010, a federal judge in the Southern District of New York ordered ICE, the FBI, the Department of Homeland Security, and the U.S. Department of Justice Offices of Legal Counsel and the Executive Office for Immigration Review to produce documents including a comprehensive record of the impact of S-Comm on states and communities. The judge also ordered documents including those pertaining to misinformation provided by federal agencies to local decision makers and the data and statistics reflecting who has been removed as a result of the program, by the end of March 2011.

The documents are likely to reveal a large amount of new information that will be critical to the work of local activists and groups around the country who are working to stop or stall the implementation of S-Comm in their communities. Advocates argued that ICE’s unwillingness to provide clear information about the program’s provisions for opting out of participation—especially at a time when municipalities such as San Francisco and Santa Clara in California and Arlington, Virginia voted to opt-out and numerous others localities are deliberating their participation—requires court-ordered immediate access to key documents. The immigration authorities in charge of S-Comm have been dishonest and inconsistent in regard to the relationship between local governments and the federal program and the option to “opt-out.” The documents also will provide critical information for consideration by elected officials as they make decisions as to their involvement with S-Comm.

As reported in the last newsletter, in July 2010, the Maricopa County Sheriff’s Office arrested CCR Staff Attorney Sunita Patel as she stood on a public sidewalk acting as a Legal Observer monitoring police response to protestors opposing SB1070 and other programs of collaboration between immigration and local law enforcement. In January 2011, attorneys representing Patel and other Legal Observers argued that they were illegally targeted for arrest during the July protest by the Sheriff’s office and therefore asked the judge to order discovery to assist them in bringing such a defense. At the hearing, the court decided “in the interest of justice” the defendants must have access to all evidence needed to defend their cases. The case is still pending.

Read more online at: http://ccrjustice.org/secure-communities
CCR was born out of the Civil Rights movement and, as a result, racial, social and economic justice formed (and form) the cornerstones of our work. We consistently find innovative ways to challenge the status quo and support activists and movements engaged around central questions of racial and socio-economic injustice.

Some historic victories in this work include: the Mississippi Challenge in 1965 successfully setting aside election results that were achieved through racially discriminatory voting practices—laying the groundwork for the later passage of the Voting Rights Act; winning the first ever damages case against the Ku Klux Klan; successfully challenge the NYPD’s practice of racial profiling leading to the disbanding of the notorious “Street Crimes Unit;” and, most recently, winning a challenge on behalf of candidates of color to the NYC Fire Department ensuring that they would no longer be subject to a discriminatory system of job testing which had rendered the FDNY the least diverse fire department of any major metropolitan area in the nation.

To honor this legacy, CCR Board Chair and former Executive Director, Greg Finger, created the Gregory H. Finger Racial Justice Fellowship at the Center. In December of last year, CCR lost Greg—a deeply involved supporter, ally, and friend—when he passed away after a courageous battle with cancer. Prior to his death, he generously established this Fellowship so that his legacy would live on.

The Fellowship will be offered, for the first time, in the summer of 2011 to a second year law or other student with a demonstrated commitment to public interest law and advocacy. The student will work on CCR’s broad ranging racial justice docket. The Finger Fellowship is intended to increase diversity within the fellowship program and support students who would otherwise not be able to participate for financial reasons. People of color and from low income communities will be especially encouraged to apply.

This Fellowship is an incredible legacy for a man like Greg, who walked the walk each and every day with his powerful commitment to youth, public service, and CCR’s mandate to “train the next generation of people’s lawyers.” His legacy and his vision will live on because of this generous gift. With this support CCR will continue to challenge racially unjust policies, and work for a world of deeper equality that we all envision.

To make a donation, go to CCRjustice.org/donate and scroll down to Specialized Funds: Finger Racial Justice Fellowship.
Dr. Julia Rauch began supporting the Center for Constitutional Rights in 1999 when she read a New York Times article featuring a CCR case. This case challenged the detention and proposed deportation of an individual by Federal officials based on secret evidence. Dr. Rauch agreed with CCR’s stance that the government was violating the Constitution and admired our principled approach.

Dr. Rauch’s interest in social justice started at a young age with the influence of her mother, who strongly opposed anti-Semitism and racism. In 1955, when Dr. Rauch went on a date with an African-American friend, they were devastated by the reaction of their peers and community. She decided to devote her life to social issues, focusing her career on maternal and child health. As a Professor Emerita in Social Work, she has been researching child hunger in the United States, including its root causes, and found that even mild undernourishment in utero or in the first three years of life had devastating effects on the child’s brain.

In 2004, Dr. Rauch became a recurring monthly donor to the Center, so that she could focus her giving to the few organizations she really cares about. She says she has a limited amount of money so she wants to donate it wisely, which to her means spreading out her giving to CCR throughout the year.

Democracy and democratic rights are fragile and need to be protected. That’s what CCR does. It chooses situations that are important, such as Guantánamo and people being locked up without trial, and fights against these real violations of democracy.

To join Julia Rauch and make a donation to CCR please visit www.CCRjustice.org/donate