of his selfless commitment to assisting others. Drew is a testament to the high quality character and unwavering work ethic instilled in Iowans both young and old. I know I speak for all of my colleagues in the United States Congress in congratulating Drew, thanking his supportive family, and thanking all the members of ABC, and the staff of Crossroads Park Elementary, for their life-changing efforts now and in the future.

TRIBUTE TO MARY SKEENS ON HER INDUCTION INTO THE WEST VIRGINIA AFFORDABLE HOUSING HALL OF FAME

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 25, 2012

Mrs. CAPITO. Mr. Speaker, I rise today to recognize the accomplishments of Mary Skeens, as she is inducted into the West Virginia Affordable Housing Hall of Fame. Mary was raised in southeastern Kentucky, but has chosen West Virginia as her home to carry out her life's work in affordable housing.

Mary is currently the Executive Director of Community Works in West Virginia, a statewide housing network with a membership of 27 nonprofit housing providers serving the State's moderate to low-income home buyers. Since becoming its Executive Director, Mary has expanded the organization's lending capacity by becoming a qualified Seller/Servicer of loans to Neighborhood Housing Services of America. In addition, Mary has created a Campaign for Excellence, a leadership program designed to empower nonprofit housing managers; and developed an Affordable Housing Internship Program in partnership with West Virginia University, Marshall University and West Virginia Wesleyan University. As a matter of fact, I currently employ one of the first interns in this valuable program.

Prior to joining Community Works, Mary worked for the Federation of Appalachian Housing Enterprises, known as FAHE, and held various positions at the West Virginia Housing Development Fund with the HOME Program and in the Commercial Business and Development Department.

Mary has remained active in many state and local organizations that serve affordable housing solutions such as the West Virginia Interagency Housing Council, NeighborWorks America Rural Initiative Advisory Committee, Board Member of Rea of Hope Fellowship Home for Women and as Board Member and past-Chair of the West Virginia Affordable Housing Trust Fund.

Mr. Speaker, the purpose of the West Virginia Affordable Housing Hall of Fame is to recognize and honor men and women who have made significant and lasting contributions to affordable housing in West Virginia. Mary Skeens is truly a leader in affordable housing and community investment, and deserving of this honor.

I thank Mary for her years of service to the improvement of housing for all West Virginians. West Virginia is fortunate to call Mary one of its own.

IN HONOR OF THE GABRIEL ZIMMERMAN SCHOLARSHIP FUND

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 25, 2012

Mr. FARR. Mr. Speaker, I rise today to offer tribute to The Gabriel Zimmerman Scholarship Fund at University of California, Santa Cruz and the recipient of the inaugural award, Yethzell Diaz, a senior majoring in Latin American and Latino studies and sociology.

Gabriel Zimmerman graduated from UC Santa Cruz in 2002 with a degree in sociology. He served as community outreach director for Representative Gabrielle Giffords. Tragically, he was one of six people fatally wounded in the Tucson, Arizona shooting rampage that also critically injured Representative Giffords. He was the first congressional staffer to give his life in the line of duty. Gabe was a passionate public servant, committed to nonviolent solutions and consensus and was motivated to help people.

Moved by his death, UCSC alumni Jonathan Klein and Alex Clemens established a scholarship fund in his honor and offered an initial gift. The scholarship is designed to support students commited to public service.

On Friday, April 27th Gabe's mother Emily Nottingham will present the first scholarship award to Yethzell Diaz. Yethzell has already demonstrated her commitment to public service and social issues. After high school, she lived in Paraguay for seven months doing human rights work with Amnesty International. At UCSC she has worked with other students to create and implement a program in Watsonville schools to increase computer literacy among Spanish-speaking parents. She has also worked to start ''Strive for College'', a program the will help prepare students from underserved and disadvantaged communities to successfully transition from high school to college.

Mr. Speaker, this scholarship not only honors the efforts to which Gabe Zimmerman devoted his life, it also will support the work of Yethzell Diaz and future students who are involved in helping average citizens improve their quality of life.

CONGRATULATING THE USAF JUNIOR RESERVE OFFICER TRAINING CORPS UNIT AT SOUTHERN NASH HIGH SCHOOL

HON. RENEE L. ELLMERS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 25, 2012

Mrs. ELLMERS. Mr. Speaker, I rise today to recognize the United States Air Force Junior Reserve Officer Training Corps Unit at Southern Nash High School in Bailey, North Carolina.

Since 2006, Unit NC–935 has been selected by Headquarters, United States Air Force Air University as a Distinguished Unit, ranking in the top 25 percent of units worldwide.

For the 2010–2011 School-Years, Unit NC–935 was selected by Headquarters, United States Air Force Air University as a Distinguished Unit with Merit, the highest honor bestowed in the United States Air Force Junior Reserve Officer Training Corps.

In March, Cadets Trevon Davis, Lorell Dupree, Austin Fennell, Samantha Hill, Cristal Raya, and Trebor Walker flew on an Air Force mission with a KC–135 Tanker crew from the 77th Air Refueling Squadron to refuel a C–17 in flight.

And most recently, Unit NC–935 placed first overall at the annual Capital City Invitational Drill Meet in Raleigh, North Carolina. The Regulation Armed Flight placed third, commanded by Cadet John Setera. The Regulation Flight placed third, commanded by Cadet Lance Burnett. The First Year Cadet (AS–1) Element placed third, commanded by Cadet Eric Wall. The Regulation Color Guard placed third, commanded by Cadet Raya. The Relay Team placed third. The AS–1 Flight placed second, commanded by Cadet Davis. The Innovative Element Armed placed second, commanded by Cadet Trebor Walker. The Innovative Duo placed second, performed by Cadets Walker and Burnett. The Regulation Element Male placed first, commanded by Cadet Fennell. Cadet Burnett placed first in the Best Individual Drill with Rifle competition. Cadet Fennell placed first in the Best Individual Drill competition. Cadet Fennell also received an award for most sit ups performed in two minutes.

I would also like to congratulate Lt. Col. John Coulter, CMSgt John Wedding, Commander Luis Lewis Pimentel, and all the cadets at Southern Nash High School, on the accomplishments of this impressive unit. The 2nd district of North Carolina thrives on strong leaders like these, and I am proud to represent these fine young men and women.

KEYNOTE SPEECH FOR THE AFRICA AND INTERNATIONAL LAW CONFERENCE

HON. STEVE COHEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 25, 2012

Mr. COHEN. Mr. Speaker, I submit the following remarks given by Willy Mutunga, Chief Justice and President Supreme Court of Kenya on April 13, 2012.

Fellow Africans and our Friends: I thank the Albany Law School and Professor James Gathii for inviting me to this conference. I am delighted to be among so many practitioners and scholars of international law who share a commitment to Africa. There is a very special reason for me to be delivering this address today. April 13th was the late President—Mwalimu-Julius Nyerere's birthday. He would have been 88 today. Nyerere was a special and inspirational leader—he believed in the solidarity of the African people as well as in human dignity.

Nyerere was interested in both constitutional law and international law. There is a picture of him as a student at Edinburgh holding a copy of Dicey's Law of the Constitution. His interest was both scholarly and practical. It fell to him to develop a constitution suitable for his country—where his commitment to a one party state, although intended to increase democracy, must have come sorely in conflict with the Diceyan preference for the rule of law. As far as international law goes, he was greatly concerned to promote African unity, redefine the relationship between Africa (indeed the whole of

the South) and the West—as well as deal with Tanzania's colonial legacy, including that relating to treaty succession. He ruled out automatic succession, so the newly independent country was not burdened with unfair and unequal obligations.

I also felt honored as I read the biographies of the other participants in this conference: they read like a ''Who's Who?'' of international law and Africa. One only has to look at the conference program to see the broad depth of international law work relating to Africa. The papers submitted are impressive. I am looking forward to the deliberations here and the opportunity to get to know you and to talk about our common commitments and concern about Africa. My challenge to you always is to continue making transformative contributions in your work on Africa and international law. This will at times require those of you who are based outside Africa to return home and help contribute to the growing use and practice of international law in Africa.

My focus this morning is the new Constitution of Kenya and the role of the judiciary within it. First I want to tell you about that constitution and the vision that it espouses. We are now engaged in the challenging but difficult task of implementation in which a key role has been assigned to the judiciary. The judiciary has already made a good start on a progressive, indeed in some respects, radical jurisprudence—and now enjoys great public support.

The Constitution is one of the most progressive in the world. It was overwhelmingly approved in a referendum as a result of the most consultative and participatory processes of Constitution making anywhere in the world. The long period before the Constitution was upheld in the referendum was characterized not only by delays and deadlock, but by a series of governance challenges familiar in many countries of Africa:

An absence of a political culture of obedience to and respect for rules, and a cavalier treatment, even of constitutional texts;

Failed systems including the electoral system;

Failed institutions including a corrupt judiciary and police force;

A population tortured and inhibited from fulfilling its full potential;

Exclusion of women and many groups from full participation in society;

Gross manipulation of ethnic, racial, regional, religious, generational, clan, class, and occupational divisions by politicians for their personal ends;

Extreme inequality, great poverty and failure of even development;

An institutional culture of timidity, even where no threats existed;

A society and politics characterized by violence, fragility and instability; and

An international community that excelled in perfidy and double standards and that could not be relied upon to consistently support progressive constitutional reforms.

The result of the above has been a massive culture and practice of impunity and the marginalization of the constitution. The Constitution, which was, as my old teacher, and one of the leading constitutional scholars in Africa and the world, Yash Ghai is fond of saying, ''forced upon the rulers by the ruled.'' Here Yash's reference to rulers means both internal and external rulers—for Ghai, the Constitution has to be written to address these ills.

The 2010 Constitution of Kenya seeks to incorporate such rules in a number of ways. For example, it constantly emphasizes the sovereignty of the people, and is full of people oriented values. So Article 10 enumerates the national values and principles of governance that bind all state organs as well as everyone who applies or interprets the Constitution or any law or performs any public duty:

Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;

Human dignity, equity, social justice, inclusiveness, equality, human rights, nondiscrimination and protection of the marginalized;

Good governance, integrity, transparency and accountability; and

Sustainable development.

I had argued before its promulgation that our constitution should establish a human rights state and society whose vision is radical social democracy. It is my view that this has now happened. It is, therefore, not surprising that there is considerable internal and external resistance to the constitution from people who have a vested interest in bad old habits—tribalism, nepotism and corruption. This increases the responsibility of the judiciary to ensure the enforcement of the constitution, as indeed is envisaged in Art. 20(3), which requires that a court develops the law where the Bill of Rights fails to give effect to a right or fundamental freedom.

The extent of my personal pride, sense of responsibility, and hope, as head of the judiciary, can perhaps be judged from the fact that I once wrote a book about efforts for a new Constitution, in the 1990s, in which I said ''The process of making the new constitution, the credibility of the final document and whether the people would be convinced that they own the new constitution are all issues at the root of the problem of constitution making. It is a fact that the judiciary has not fully implemented the Bill of Rights to protect the rights of the people against encroachment by the executive and state apparatuses. The overhauling of the judiciary and judicial system is also at the root of these issues.''

I still believe in the key importance of the judiciary. And the Constitution does give it a central role. Article 259 requires that the Constitution be interpreted in a way that promotes its purposes, values and principles, an obligation placed specifically upon courts and tribunals by Article 159(2)(e). And it provides a practical basis for this central role of the courts by its provisions designed to make them truly accessible, including through the institutionalization of public interest litigation. It destroys old concepts of standing by providing that anyone may bring an action to protect rights or enforce the constitution, even if they have no interest other than that of concerned citizen. It prohibits the charging of court fees for actions to enforce the Bill of Rights. It endorses the practice that the Indian Courts call ''epistolary jurisdiction''—the possibility of actions being commenced by informal documentation. And while requiring the rules of natural justice to be observed, it denies the possibility of ''unnatural justice'' in the form of procedural technicalities standing in the way of justice. Much of this comes ultimately from the jurisprudence of the Supreme Court of India, some by way of the South African Constitution.

The judiciary was one of the most criticized of the institutions of the old order. The legacy of the one party state was still discernible in judicial pandering to executive wishes. And I do not mean merely the sort of deference to the legislature that lawyers may legitimately argue about, but judges who would adjourn matters before them to take instructions from State House. The judiciary was one aspect of the machinery of impunity. Simple financial corruption was also rife. And, if you are auctioning your judgment to the highest bidder, it is probably counter-productive to exhibit much legal skill! For many years law reports were not up to date, and legal literature was all but non-existent.

Radical measures were needed. And they are found firstly in a process of subjecting all serving judges and magistrates to an examination of their suitability to remain in office. This process is under way, in the hands of an independent body, a process with which I have nothing to do, and on which it is of course improper for me to comment. Secondly, the appointment system was revamped. Now judges are interviewed and nominated by a Judicial Service Commission truly independent of government. The President is to have no discretion but must act on the Commission's recommendation. The Chief Justice and Deputy must be approved by Parliament. I was myself interviewed by the parliamentary committee, on live television, and questioned about, among other things, my finances, my attitudes to certain sensitive issues, my sexuality and my earring!

The judiciary has embarked upon many organizational changes intended to realize the Constitution's vision. These include the recruitment of judges and magistrates and professional administrative staff. Recently we appointed 26 judges to the High Court (that is the court of first instance of unlimited jurisdiction)—half of them women. The Court of Appeal now has 7 more judges, 5 of them women. We will recruit 160 Magistrates before the end of May, 2012. We have delinked judicial functions from administrative functions, boldly set out to stamp out corruption in the judiciary while speeding up reforms in computerization and other electronic justice measures. We have achieved some significant progress in reducing the backlog of cases and changing backward judicial culture. The 12 clusters that reflect these reforms, including the creation of progressive, indigenous and patriotic jurisprudence that I touch on later are contained in a write-up named the Judicial Transformation Framework that I will launch in May, 2012.

The constitution also provides for the decentralization and democratization of the judiciary. Unlike previous years when the old constitution made the Chief Justice a judicial autocrat and monarch, under the new constitution I do not control everything from the top. I have already set up a management and leadership committee that is representative and participatory.

Organization is of course important, even essential, to make the courts accessible, to end the interminable delays, the strain on the pockets and the patience, and to end impunity and, as far as the courts can, injustice. But I want briefly to emphasize something else.

I preside over the Supreme Court. As I understand the reasoning of the Constitution makers when creating this new court, apart from the desire to reintroduce the possibility of a second appeal, was similar to that that motivated the drafters of the South African Constitution when they created the Constitutional Court: to have at the apex of the system a court that would be respected, was committed to the Constitution and could set a new standard, and a new tone. In my view, one of the most important tasks that court will perform will be as a source of a new, highly competent and indigenous jurisprudence.

I link this last adjective to the Constitution's value of patriotism. Patriotism (when not being abused as the ''last refuge of the scoundrel'' in Samuel Johnson's words) requires putting love of country above love of self. For a judge it does not mean putting country above justice. I conceive that it requires the judge to develop the law, for, as

we all know, in the common law system that is what judges do, in a way that responds to the needs of the people, and to the national interest. I call this patriotic and indigenous jurisprudence. Above all, it requires a commitment to the Constitution and to the achievement of its values and vision.

But don't get me wrong: by ''patriotic and indigenous'' I do not mean insular and inward looking. The values of the Kenyan Constitution are anything but that. We need to learn from other countries. And we need to learn from scholars like this assembled company. We intend to build up a network of interested and highly qualified academics who share our vision. I hope that some of you here will form part of that network. My concern, when I emphasize ''indigenous'' is simply that we should grow our jurisprudence out of our own needs, without unthinking deference to that of other jurisdictions and courts, however, distinguished. The Kenyan judiciary has, therefore, a great opportunity to develop a robust, indigenous, patriotic and progressive jurisprudence that will give the country direction in its democratic development. This transformative mission is a duty to all judicial officers. They have all undertaken a constitutional obligation to undertake it and I have challenged them to make a personal obligation to help accomplish it.

Former Justice Krishna Iyer of the Indian Supreme Court expressed the same ambition, in his inimitable style:

Jurisprudence must match jurisdiction and jurisdiction must broaden to meet the challenges of the masses hungry for justice after a long night of feudal-colonial injustice. . . . The rule of law must run close to the rule of life and the court, to be authentic, must use native jural genius, people-oriented legal theory and radical remedial methodology regardless of Oxbridge orthodoxy, elitist petulance and feudal hubris.

Far from being inward looking, it would be my hope that we could learn from, and even emulate, distinguished courts in other countries, including, for example, the Supreme Court of India and the South African Constitutional Court. The Kenyan courts do not need to be as bold as the Indian apex court: many of its procedural innovations in public interest litigation are already enshrined in our constitution. And I would argue that the types of jurisprudence that that court has been so creative in developing are already part of our constitution. Protection of the environment, recognition of rights of communities especially in land, affirmative action, rights of persons with disability, rights to education, health and food—and the redress of past injustices—are engraved in our constitutional text.

What the first Chief Justice of the South African Constitutional Court, Arthur Chaskalson, said of their constitution could just as well be said of ours:

We live in a society in which there are great disparities in wealth. Millions of people are living in deplorable conditions and in great poverty. There is a high level of unemployment, inadequate social security, and many do not have access to clean water or to adequate health services. These conditions already existed when the Constitution was adopted and a commitment to address them, and to transform our society into one in which there will be human dignity, freedom and equality, lies at the heart of our new constitutional order.

For these reasons, including that our Constitution is couched often in language similar to that of South Africa, I anticipate that we shall learn a great deal from them, though always, as I say, suiting the decisions to our own realities.

Upendra Baxi wrote, of Public Interest Litigation (PIL),

The Supreme Court of India is at long last becoming . . . the Supreme Court for Indians. For too long the apex court had become ''an arena of legal quibbling for men with long purses''. Now increasingly, the court is being identified by the Justices as well as people as ''the last resort of the oppressed and bewildered.''

I would hope that the Supreme Court of my country will be the Supreme Court for Kenyans where the oppressed and bewildered will find justice.

But it is not enough for the Supreme Court to shine in jurisprudential terms. Most cases will never get beyond the High Court. The corollary of the decision to create a new, final, court of general, not specifically constitutional jurisdiction, was the desire that courts at all levels could confront constitutional issues and deal with them in a way that fulfills the constitutional dream. We are hoping to raise standards of judging and standards of advocacy, including through the work of the Judicial Training Institute, and by adopting frequent use of written briefs, rather than just skeleton oral arguments. The development of a new jurisprudence must be a collaborative effort between judges at all levels, and practicing and academic lawyers.

The internet is making access to precedents much easier, and there is an improvement in the law reporting situation. There is even some sign of a resurgence of interest in writing about Kenyan law. Do add your bit!

If I may turn now to the focus of concern of most of you: international law. The Constitution took a bold step and provides that ''The general rules of international law shall form part of the law of Kenya'' and ''Any treaty of convention ratified by Kenya shall form part of the law of Kenya under this Constitution''. Thus Kenya has become a monist state rather than a dualist one!

The implications of this will have to be worked out over time, as cases come before the courts. I would not have you imagine that Kenyan judges have ignored international law. I know firsthand from Kenya's supercharged civil society that constantly makes claims of international law to hold the government accountable, exemplifies the growing importance of international law in our courts. The courts have often applied the familiar common law approach, and indeed quoted the Bangalore Principles on Domestic Application of International Human Rights Norms, including:

It is within the proper nature of the judicial process and well-established judicial functions for national courts to have regard to international obligations which a country undertakes—whether or not they have been incorporated into domestic law—for the purpose of removing ambiguity or uncertainty form, national constitutions, legislation or common law.

However, where national law is clear and inconsistent with the international obligations of the State concerned in common law countries the national court is obliged to give effect to national law. In such cases the court should draw such inconsistency to the attention of the appropriate authorities since the supremacy of national law in no way mitigates a breach of an international legal obligation, which is undertaken by a country.

Now, however, the courts have greater freedom. Many issues will have to be resolved: what precisely are the ''The general rules of international law''?; what is the effect of the direct application of a treaty of which the language is not self-executing, such as ''States Parties shall take all appropriate measures'' rather than ''everyone has the right''? And what is the effect of a treaty provision that does not fill a gap in domestic law but inescapably conflicts with it? And what if the general rules of international law are exploitative, oppressive and subvert the radical social democratic vision of our constitution? All these questions clearly identify where the scholarship of people like yourselves, will be much appreciated by both bar and bench.

I should also like to quote another Bangalore Principle, relevant to my theme of indigenous jurisprudence:

While it is desirable for the norms contained in the international human rights instruments to be still more widely recognized and applied by national courts, this process must take fully into account local laws, traditions, circumstances and needs.

How can we achieve this marriage consistent with international law obligations?

Let me also emphasize that Kenya does not intend to be a ''user'' of international law, but a producer, shaper and developer of it as well. This is the link to the Nyerere Doctrine where I began. Nyerere refused to accede to existing international rules on treaty succession and came up with his own innovation. Kenyan judiciary will not just import all international legal rules including those which are disempowering to the South as a political and economic category. Instead, as I pointed above in our strategy to create an indigenous, patriotic and progressive jurisprudence, the Kenyan judiciary will use our new constitution to begin a dialogue with international legal communities to nudge the jurisprudence of social justice in a progressive direction. In particular, we have a chance to develop jurisprudence on economic and social rights in ways that are unique to our social and economic development. We intend, therefore, to be able to export progressive jurisprudence to the rest of the world.

Finally, let me not give the impression that I am negative about the work of my judicial colleagues. There are many competent and committed members of the bench. Even under the former constitution with its inadequate Bill of Rights (more limitations than rights!) creative judges were doing their best. And now many of them, new and longer established, are responding with enthusiasm to the challenges and opportunities of the new Constitution. I cannot really comment on individual cases—none has come before us yet, and some will undoubtedly do so. But I personally feel encouraged by signs of willingness to draw on international instruments, not only treaties, and by reliance on the values including those of Article 10—as Article 259 requires.

As we say in Kenya in Kiswahili—Asante Sana. We also say Shukrani, shukran and shukria. Thank you very much.

HONORING THE LIFE AND SERVICE OF CHARLES WALTER ''WALT'' RUCKEL, JR.

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 25, 2012

Mr. MILLER of Florida. Mr. Speaker, on behalf of the United States Congress, it is an honor for me to rise today to recognize the life of Northwest Florida's beloved Charles Walter ''Walt'' Ruckel, Jr. Throughout Northwest Florida, Walt Ruckel was known for his warm nature, immense generosity, dedicated service to his local community and, above all, his never-ending love for his family. Walt Ruckel is survived by 8 children, 12 grandchildren and 15 great-grandchildren.