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IS INTERNATIONAL HUMAN RIGHTS LAW ACCESSIBLE AND EFFECTIVE FOR AMERICAN CIVIL SOCIETY? INSIGHTS FROM NGO PARTICIPATION IN THE 2023 HUMAN RIGHTS COMMITTEE REVIEW

Hinako Sugiyama*

This research assesses the access and effectiveness of International Human Rights Law (IHRL) use by U.S. civil society, particularly in light of the 2023 Human Rights Committee review. Recognizing the pivotal role of civil society in leveraging IHRL to influence domestic laws and policies, the study shifts focus from the current limitations of IHRL on domestic policy influence in the United States to the actual and potential use of IHRL by the American civil society.

Through a combination of desk research and semi-structured interviews with 20 representatives from Non-Governmental Organizations (NGO) and law school clinicians who participated in the 2023 Human Rights Committee's review of the United States, the study identifies key factors influencing access and effectiveness. While the research confirms that overall appreciation of IHRL among interviewees, the findings reveal awareness gaps regarding IHRL's utility for the U.S. civil society as a whole. Resource constraints hinder sustained participation, even among those who recognize IHRL's benefits.

The study then proposes actionable strategies for IHRL experts to enhance civil society's access to and effective use of IHRL. Recommendations include fostering awareness through proactive outreach to communities and grassroots organizations, addressing resource disparities, and encouraging strategic integration of IHRL into domestic advocacy. The research concludes with a call for a collaborative effort to reframe perceptions of IHRL as "top-down" or being weakly tied with affected communities and promote its utility, thereby strengthening its impact within the U.S. context through civil society's use of IHRL. Such efforts are especially crucial in an upcoming period in the United States, under an administration driven by neoliberal and nationalistic policies that prioritize American financial interests over the fundamental values of law, democracy, and equity.

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I. Introduction

Existing research emphasizes that the likelihood of IHRL in influencing domestic laws and policies depends, among other factors, on civil society's mobilization in the country.¹ The current lack of a transnational enforcement mechanism naturally makes domestic enforcement more significant. Among various factors at the domestic level, studies across various regions conclude that IHRL's impacts on agencies' decision-making are unlikely without civil society actively using IHRL and pressuring their governments to comply. United Nations bodies also recognize the crucial role of civil society in gaining access to and effectively using international human rights mechanisms such as treaty bodies, viewing them as a key metric of success.²

Given civil society's significant role in advancing IHRL compliance, we can define the thriving of IHRL in a country as civil society's ability to gain access to and effectively use it. Instead of focusing on the current limited actual impact of IHRL within American domestic agencies' decision-making and institutional limitations, this definition emphasizes civil society's engagement. While such a perspective might deviate from long-standing, conventional state-centered views of IHRL,³ the emphasis on civil society's engagement helps us move beyond static skepticism or pessimism about IHRL and foster more productive and dynamic thinking on how it can succeed in the future by becoming more accessible and useful for civil society. This definition aligns with the view of IHRL as a tool for domestic political mobilization.⁴

1. See Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (2009). Cosette D. Creamer & Beth A. Simmons, *The Proof Is in the Process: Self-Reporting Under International Human Rights Treaties*, 114 Am. J. Int'l L. 1, 1-50, at 36-39 (2020) (emphasizing "by mobilizing and empowering groups within and outside of the government, [self-reporting in periodic systems conducted by the human rights treaty bodies] can have a catalytic effect in promoting internal policy reform," (page 36) and "[a]s trends in shadow reporting indicate, domestic civil society mobilization around human rights reporting has intensified overtime, complementing earlier claims about domestic bureaucratic capacity building" (page 37), and concluding that "What is discussed in Geneva does not necessarily stay in Geneva" (page 39)). See also Andrew Moravcsik, *Explaining International Human Rights Regimes: Liberal Theory and Western Europe*, 1 Eur. J. Int'l Rel. 157, 182-84 (1995) (characterizing the autonomous independent civil society as one of the essential factors that brought effective international regimes for the promotion of human rights in Europe). See also Jasper Krommendijk, *The (In)effectiveness of UN Human Rights Treaty Body Recommendations*, 33 Neth. Q. Hum. Rts. 194, 200-202 (2014) (emphasizing that the domestic mobilization is one of the keys to generate "compliance pull" with the Concluding Observations).

2. U.N. GAOR, 75th Sess. at 57-69, U.N. Doc. A/75/601 (November 17, 2020); U.N. Secretariat, *Concept Paper on the High Commissioner's Proposal for a Unified Standing Treaty Body*, ¶ 21 & 25, U.N. Doc. HRI/MC/2006/2 (March 22, 2006).

3. IHRL imposes a set of duties on states to uphold vis-à-vis individuals within their territories or under their effective control. One criticism of this framework is that IHRL's predominant emphasis on state sovereignty creates a 'fragmented' model. That can hinder the effective understanding and addressing of transnational issues, such as racism rooted in colonialism. See Darryl Li, *Genres of Universalism: Reading Race into International Law, with Help from Sylvia Wynter*, 67 UCLA L. Rev. 1686, 1693 - 1694 (2021).

4. Simmons, *supra* note 1.

In this context, does civil society in the United States have access to and utilize IHRL? The Human Rights Committee's review of the U.S. in 2023 suggests a positive trend, highlighted by a record number of civil society actors participating in the periodic review in Geneva through in-person attendance.⁵ The commitment shown, despite the logistical challenges of travel, indicates a growing engagement with international human rights mechanisms. Furthermore, the number of NGO reports submitted for the past reviews by treaty bodies and Human Rights Council's Universal Periodic Review indicates a long-term trend of greater participation.⁶ Existing research also highlights an emerging trend among U.S. grassroots organizations and activists, including those leading the Black Lives Matter movement, who are increasingly motivated to engage with international human rights mechanisms.⁷

However, the number of NGO reports and participants alone does not fully capture the access and effectiveness of this engagement. We must consider whether this rising participation reflects a strategic vision among participants regarding the use of IHRL. What benefits do these organizations perceive, and what methods could expand these advantages? To what extent is awareness of IHRL's potential utility disseminated across the diverse landscape of American civil society? Are the resources necessary for effectively using IHRL distributed equitably among organizations, or are they primarily accessible to those with expert support?

This research aims to achieve two primary objectives. First, it will assess the access and effectiveness of U.S. civil society in utilizing IHRL through an in-depth analysis of NGO participation in the 2023 Human Rights Committee reviews. By that, it also seeks to contribute to existing scholarship on the effectiveness of IHRL in the US and globally, particularly regarding the treaty body monitoring system, and potential improvement. Second, the research aims

5. *United States Under the Microscope: Vast Participation of American Civil Society Organizations at the Committee*, CENTER FOR CIVIL AND POLITICAL RIGHTS (Nov. 2, 2023, at 5:18 PT) <https://ccprcentre.org/ccprpages/united-states-under-the-microscope-vast-participation-of-american-civil-society-organizations>.

6. Office of the High Commissioner for Human Rights, Sessions for CCPR—International Covenant on Civil and Political Rights, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/SessionsList.aspx?Treaty=CCPR (last visited Nov. 29, 2024, at 5:14 PM); Office of the High Commissioner for Human Rights, Sessions for CAT—Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/SessionsList.aspx?Treaty=CAT (last visited Nov. 29, 2024, at 5:15 PM); Office of the High Commissioner for Human Rights, Sessions for CERD—International Convention on the Elimination of All Forms of Racial Discrimination, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/SessionsList.aspx?Treaty=CERD (last visited Nov. 29, 2024, at 5:15 PM); Office of the High Commissioner for Human Rights, Universal Periodic Review—United States of America, <https://www.ohchr.org/en/hr-bodies/upr/us-index> (last visited Nov. 29, 2024, at 5:16 PM).

7. Citalli Ochoa, *Bridging Movement Lawyering & International Human Rights Advocacy*, 66 BOS. COLL. L. REV. 1833, 1835-36 (2025).

to identify actionable strategies for IHRL experts to enhance civil society's access to and use of IHRL, thereby fostering its growth in the U.S., particularly through collaboration with domestic civil society organizations, including those at the grassroots level.

The remaining sections of this research consist of four key pillars. The first is a summary of IHRL in the United States, providing readers with basic information relevant to this study (Section II). The second outlines the methodology employed to assess U.S. civil society's access to and effective use of IHRL (Section III). The third presents the findings of the research (Section IV). The fourth part, informed by these findings, proposes actionable strategies for IHRL experts, defined as anyone with expertise in IHRL who aims to promote its effectiveness in the U.S., to foster the growth of IHRL in the United States (Section V). The final section (Section VI) concludes with key messages from this study and outlines areas for future research.

II. What IHRL Means for the United States and How IHRL has been Used by the American Civil Society

A. What IHRL Means for the United States

i. At the International Level

a. Legal effects of IHRL

Post–World War II, the IHRL has been significantly developed with the establishment of the United Nations and adoption of human rights instruments such as declarations and treaties with the US' contribution. The Universal Declaration of Human Rights (UDHR), a major milestone of IHRL adopted in 1948,⁸ laid the foundation for the development of the nine binding treaties for human rights. A well-known heroic tale of the US' contribution to the development of IHRL is that Eleanor Roosevelt played an important role in the drafting and negotiation of UDHR. After the adoption of UDHR, nine sets of different human rights treaties have been adopted so far.

Despite its contribution to the development of those instruments highly regarded at least in the US, the US' ratification rate of those instruments has been poor. The United States has ratified only three treaties out of nine, i.e., International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (adopted in 1965 and signed by the United States in

8. G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

1966 but ratified in 1994⁹); International Covenant on Civil and Political Rights (ICCPR) (adopted in 1966 signed by the United States in 1977 and ratified in 1992¹⁰); and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted in 1984 and signed by the United States in 1988 and ratified in 1994¹¹). The United States has not yet ratified the optional protocols of these three treaties, which grant the relevant treaty bodies the authority to accept and adjudicate individual complaints regarding violations of those treaties.

As a result of ratifying these treaties, the United States is obligated to perform them in good faith vis-à-vis other countries.¹² This means that if the United States—whether at the federal or state level, and through its executive, legislative, or judicial branches—fails to fulfill its duties under the human rights treaties it has ratified, and such nonperformance amounts to a violation of its “good-faith” obligations, the noncompliance constitutes a breach of public international human rights law.

Those three international human rights treaties ratified by the United States consist of both substantive and procedural duties on the signatories. As substantive duties, states must respect and ensure the rights guaranteed under those treaties vis-à-vis the persons in their territories or under their effective control, as well as ensure victims have access to effective remedies. As procedural duties, states must be subject to periodic compliance monitoring by independent bodies associated with the relevant treaties (as known as treaty bodies), which is called “periodic reviews.” Periodic reviews give civil society opportunities to participate.

b. Political Commitments

Aside from the legal effects stemming from the past ratification of three human rights treaties, the United States, as a member of the United Nations, is

9. Office of the High Commissioner for Human Rights, Ratification Status for CERD—International Convention on the Elimination of All Forms of Racial Discrimination, tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CERD (last visited Nov. 29, 2024, at 5:26 PM).

10. Office of the High Commissioner for Human Rights, Ratification Status for CCPR—International Covenant on Civil and Political Rights, tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR (last visited Nov. 29, 2024, at 5:27 PM).

11. Office of the High Commissioner for Human Rights, Ratification Status for CAT—Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CAT (last visited Nov. 29, 2024, at 5:29 PM).

12. While the United States has not yet ratified the Convention, it is a common view that most of the clauses of Convention is a part of customary international law. Vienna Convention on the Law of Treaties art. 26, May 23, 1969, 1155 U.N.T.S. 331; Malgosia Fitzmaurice, *Treaties*, OXFORD PUB. INT’L L., <https://opil.ouplaw.com> (last visited Nov. 29, 2025).

politically committed to respecting human rights. As part of this commitment, the United States is responsible for abiding by the declarations and resolutions adopted by the UN General Assembly or the Human Rights Council, particularly those the United States voted in favor of.

One mechanism within the Human Rights Council is the Universal Periodic Review (UPR), a system of peer review designed to assess the human rights compliance of UN member states.¹³ In addition to the periodic reviews conducted by treaty bodies, the UPR provides an additional avenue for civil society to engage and influence the outcomes of these reviews. Beyond the UPR, another key component of the Human Rights Council is the Special Procedures, which appoints thematic or country-specific experts to report on pertinent human rights issues, providing recommendations to the Council for decision-making.¹⁴ Special Procedures also offers opportunities and relies on civil society's engagement, through calls for inputs for their reporting purposes as well as complaints of human rights violations.

ii. At the Domestic Level

Despite its legal obligations under public international law, the United States acknowledges that the three treaties it has ratified (i.e., ICERD, ICCPR, and CAT) are not self-executing, which limits the ability of litigants to directly enforce these treaties in domestic courts. However, under the Charming Betsy doctrine, U.S. courts are required to interpret federal law in a manner consistent with international law, including the provisions of these treaties.¹⁵ As a result, while the treaties may not be directly enforceable in domestic courts, they still exert *some* influence on legal interpretation and decision-making.

B. How IHRL has Been Used by the American Civil Society

It is a widely known notion that the United States government and advocates applied the civil rights concept to its domestic human rights matters and applied IHRL to its foreign human rights matters. As early as the time of Eleanor Roosevelt's contribution of UDHR, she herself "urged the leaders of the [human rights] movement to keep their struggle internal to the United States, making the beginning of the practiced conception that human rights was

13. Office of the High Commissioner for Human Rights, Universal Periodic Review, <https://www.ohchr.org/en/universal-periodic-review> (last visited Nov. 29, 2025).

14. Office of the High Commissioner for Human Rights, Special Procedures of the Human Rights Council, <https://www.ohchr.org/en/special-procedures-human-rights-council> (last visited Nov. 29, 2025).

15. *Murray v. Schooner Charming Betsy*, 6 U.S. (2 Cranch) 64, 118 (1804) ("Federal statutes ought never to be construed to violate the law of nations if any other possible construction remains.").

something that happened outside of the United States, and civil rights is what happened inside of the United States.”¹⁶

As is widely recognized, concerns over potential international backlash that emerged even immediately after the adoption of UDHR have led to the norm that U.S. civil society should avoid engaging with IHRL for domestic issues while utilizing IHRL for human rights violations outside the United States. As the tension between the United States and the Soviet Union grew, organizations which engaged with IHRL for domestic racial issues were often labeled as un-American or communist. Eleanor Roosevelt, who played a major role in the creation and negotiation of the UDHR, urged that the issue of racial discrimination be addressed through domestic law rather than through IHRL.¹⁷

Such pressing but artificial urge gradually formed an unwritten rule: domestic issues should be handled within the framework of civil rights, while IHRL should be used for international matters.¹⁸ Over time, civil society itself adopted a strategic civil rights framework for domestic matters as demonstrated in, for example, the *Brown v. Board of Education* case.¹⁹

However, existing scholarship highlights recent visible shifts (since around 2000) in the American advocates’ civil rights approach. For example, “Redefining Human Rights Lawyering” points to a new trend of civil society organizations more actively engaging with IHRL, driven by stagnation in civil rights-based domestic advocacy and a conservative shift in domestic courts.²⁰ Civil society is now increasingly involved in IHRL mechanisms, such as participating in treaty bodies and Universal Periodic Review (UPR) proceedings and is also developing IHRL-based claims within domestic litigation. Courts, albeit in limited instances, have begun to reference IHRL in their decisions, sometimes in favor of plaintiffs in response to the advocates’ human rights arguments.²¹ American civil society coalitions such as the International Human Rights Law Group, the US Human Rights Network, and Bringing Human Rights Home Network, robustly support the civil society’s engagement with IHRL.²² As more recent and notable examples, advocates for the Black Lives

16. Carol Bettinger-Lopez et al., *Redefining Human Rights Lawyering Through the Lens of Critical Theory: Lessons for Pedagogy and Practice*, 18 GEO. J. ON POVERTY L. & POL’Y 337 (2011).

17. Bettinger-Lopez et al., *supra* note 16, at 323; *see supra* notes 11-13.

18. *Id.* at 344.

19. *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

20. Bettinger-Lopez et al., *supra* note 16, at 345.

21. *Id.* at 346; *see supra* note 16, at footnotes 30-35.

22. Ochoa, Citlalli, *Bridging Movement Lawyering and International Human Rights Advocacy* (February 17, 2024). Boston College Law Review, Vol. 66, No. 1, 2025, American University, WCL Research Paper Forthcoming, at page 25.

Matter movement have actively and strategically engaged with IHRL mechanisms, such as the UN Human Rights Council.²³

Furthermore, there is a growing trend that civil society, especially grassroots organizations, is using IHRL in its campaigns, extending its influence beyond legal channels into broader social and political activism.²⁴

III. Methodology

To gauge the current access to and effectiveness of IHRL use by U.S. civil society, I have chosen to focus on the 2023 Human Rights Committee's review of the United States for the following reasons: (i) it is the most recent review procedure regarding the U.S.'s compliance with IHRL; (ii) the treaty body's review session provides a notable opportunity for civil society engagement; and (iii) the Human Rights Committee's review is relevant to particularly a wide range of civil society organizations in the U.S., as the human rights covered by the ICCPR encompass a broad array of issues that these organizations address. Although the Human Rights Committee's 2023 review of the United States does not represent all the advocacy opportunities available to U.S. civil society, it nonetheless reflects a substantial portion of the human rights advocacy windows in the United States.

To gauge the general access to and effectiveness of civil society organizations in the U.S. during the 2023 Human Rights Committee's review, I, in addition to the desk research on the past NGO reports submitted in the reviews by Committees which are accessible online,²⁵ conducted semi-structured interviews with twenty representatives from NGOs and law school clinicians who participated in the review. These interviews were conducted remotely via Zoom or phone between August 26, 2024, and September 30, 2024, lasting thirty to sixty minutes each. Participants were invited through a WhatsApp chat group comprising ninety-two individuals who had engaged in the review, either in writing or in person. To ensure a balanced representation of the subjects the interviewees work on, I reached out to specific individuals within each working group within the coalition of civil society participants,²⁶ in

23. *Human Rights Council Holds an Urgent Debate on Current Racially Inspired Human Rights Violations, Systemic Racism, Police Brutality, and Violence Against Peaceful Protests* (Jun. 17, 2020), U.N. HUMAN RIGHTS, <https://www.ohchr.org/en/statements/2020/06/human-rights-council-holds-urgent-debate-current-racially-inspired-human-rights>.

24. Bettinger-Lopez et al., *supra* note 16, at 346-47.

25. U.N. HUM. RTS. TREATY BODIES, *Sessions for CCPR - International Covenant on Civil and Political Rights*, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/SessionsList.aspx?Treaty=CCPR, (last visited Mar. 4, 2026).

26. The working group consisted of: Indigenous rights and self-determination, including U.S. territories (Puerto Rico and Guam); Voting rights; Discrimination, racism, hate speech, and hate crimes; Criminal legal

addition to soliciting participants through the WhatsApp chat group, where civil society participants to the review session exchange information. I also employed snowball sampling by asking interviewees to recommend other potential participants. The questions broadly addressed their motivations for participating in the review, whether their experiences met their expectations, how to enhance the significance of participation, and their intentions for future involvement. To ensure honest responses, the names and organizations of the respondents are kept confidential, with only the subject matter that each person works on or the working group they belong to disclosed below.

A key limitation of the method used in this research is that all interviewees participated in the Committee's 2023 review sessions, meaning that organizations that did not participate are not represented in the interviews. Since all interviewees already have access to the Human Rights Committee's review, the findings on the access of IHRL by American civil society reflect the perceptions of those who already have access to IHRL.

IV. Findings

The key findings regarding the access and effectiveness in the use of IHRL are as follows:

A. Access to IHRL

Awareness of the potential utility of international human rights law as well as resources for participation can be more equitably distributed within U.S. civil society.

There are several avenues through which U.S. civil society can gain access to IHRL. Depending on the subject matter, some organizations are already members of international coalitions focused on similar issues. In such cases, the international network serves as an entry point to IHRL.²⁷ Aside from that avenue, many interviewees cited reasons for starting to use IHRL, such as connecting with international human rights experts, establishing strong partnerships,²⁸ or having sufficient internal resources—like staff members

system, including use of force, racial profiling and the death penalty; Housing and criminalization of poverty; Privacy, freedom of expression, assembly and association; Women's rights, gender equality, violence against women; LGBTQI+ rights Disability rights; Children's rights; Refugees, asylum seekers, and immigrants; Human trafficking and forced labor; Food Justice/Right to Food/Nutrition Security; Water rights; and NHRI & domestic implementation of ICCPR at the federal, state and local levels.

27. Interview with Anonymous Member, Disability Rts. (2024) (on file with author).

28. Interview with Anonymous Member, Hous. and Criminalization of Poverty (2024) (on file with author).

taking specialized international human rights courses not typically offered in mainstream law school curricula.²⁹

Importantly, many participants noted that these circumstances are often incidental and may not apply to other organizations.³⁰ This finding highlights basic awareness gaps regarding the existence of IHRL and its potential utility within U.S. civil society.

The actual or perceived weakness of IHRL as a “top-down” approach can hinder awareness of its utility among civil society in the U.S.

Some interviewees noted that, in addition to a general lack of awareness of IHRL within U.S. civil society, there is a perception that IHRL prioritizes its own agenda and movement, potentially causing tension with the interests of those directly affected and their communities, further marginalizing and disempowering the communities, and masking more effective solutions outside of IHRL.³¹ This perception, characterized by a diluted client, or community-centered approach, and a lack of sufficient humility regarding the limitations of IHRL, could disappoint and discourage U.S. civil society from recognizing the utility of IHRL.

For instance, an interviewee who leads a women’s rights advocacy group in the U.S. shared an experience from an NGO review in Geneva, where an international human rights law expert with whom she collaborated did not appear to show sufficient respect for the perspectives of persons directly affected by domestic violence, imposing the expert’s views, which were drawn from IHRL. Fortunately, this tension did not disrupt their planned advocacy in Geneva. However, the interviewee, who has long recognized the challenges of meaningful engagement with IHRL, reaffirmed the need for IHRL to evolve toward a more good-faith, collaborative relationship with civil society organizations and affected communities that acknowledge their own limitations.³²

29. Interview with Anonymous Member, Priv., Freedom of Expression, Assembly and Ass’n (2024) (on file with author); Interview with Anonymous Refugees, Asylum Seekers, and Immigrants (2024) (on file with author).

30. Interview with Anonymous Members, Voting Rts. (2024) (on file with author); Interview with Anonymous Members, Criminal Legal Sys. (2024) (on file with author); Interview with Anonymous Members, Hous. and Criminalization (2024) (on file with author); Interview with Anonymous Members, Priv., Freedom of Expression, Assembly and Ass’n (2024) (on file with author); Interview with Anonymous Members, Women’s Rts., Gender Equal., and Violence Against Women (2024) (on file with author); Interview with Anonymous Members, Disability Rts. (2024) (on file with author); Interview with Anonymous Members, Refugees, Asylum Seekers, and Immigrants (2024) (on file with author).

31. Knuckey, Sarah et al., *Power in Human Rights Advocate and Rightsholder Relationships: Critiques, Reforms, and Challenges*, 33 HARV. HUM. RTS. J. 1, 6–25 (2020).

32. Interview with Anonymous Members, Women’s Rts., Gender Equal., and Violence Against Women (2024) (on file with author).

Nonetheless, the interviewees remain committed to using IHRL and engaging with international human rights mechanisms, as they seek meaningful engagement with IHRL. However, they emphasized that the perceived “top-down” approach of IHRL and its perceived attitude to keep distance from the communities they serve pose hurdles for U.S. civil society, particularly grassroots organizations, in understanding the actual utility of IHRL.

Another interviewee raised the perception that IHRL experts are more aligned with United Nations bodies than with civil society, causing frustration among civil society in the U.S. For instance, they seem often less willing to support advocacy efforts that criticize the institutions at the United Nations and seek to transform its human rights mechanisms.³³

The lack of resources hinders participation, even when civil society organizations are aware of the potential or actual utility of IHRL.

Interviewees generally expressed optimism about future participation in UN human rights review sessions, including those conducted by the Human Rights Committee.³⁴ However, some conditioned their actual participation on the availability of resources at that time. Further, while the involvement of civil society in the Human Rights Committee’s review sessions has expanded over time, the sustainability of participation is limited for some organizations.³⁵ Some do not continue their involvement after the initial engagement, suggesting the resource lack as a potential reason for the discontinuation of the participation.

33. Interview with Anonymous Members, Priv., Freedom of Expression, Assembly, and Ass’n (2024) (on file with author).

34. Interview with Anonymous Members, Priv., Freedom of Expression, Assembly, and Ass’n (2024) (on file with author); Interview with Anonymous Members, Refugees, Asylum Seekers, and Immigrants (2024) (on file with author); Interview with Anonymous Members, Voting Rts. (2024) (on file with author); Interview with Anonymous Members, Criminal Legal Sys. (2024) (on file with author); Interview with Anonymous Members, Hous. and Criminalization of Poverty (2024) (on file with author); Interview with Anonymous Members, Priv., Freedom of Expression, Assembly, and Ass’n (2024) (on file with author); Interview with Anonymous Members, Women’s Rts., Gender Equal., and Violence Against Women (2024) (on file with author); Interview with Anonymous Members, Disability Rts. (2024) (on file with author); Interview with Anonymous Members, LGBTQI+ Rts. (2024) (on file with author); Interview with Anonymous Members, Refugees, Asylum Seekers, and Immigrants (2024) (on file with author); Interview with Anonymous Members, NHRI and Domestic Implementation of ICCPR (2024) (on file with author).

35. U.N. HUM. RTS. TREATY BODIES, *Sessions for CCPR - International Covenant on Civil and Political Rights*, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/SessionsList.aspx?Treaty=CCPR, (last visited 2024).

B. Effectiveness in the Use of IHRL

Participants in the Human Rights Committee's review identified several benefits that are unlikely to emerge from advocacy using the domestic framework, contributing to an overall satisfactory experience.

Civil society actors in the U.S. recognize the legal or advocacy impact which the Concluding Observations themselves have; however, they generally share a positive outlook—or “a good faith belief”—that, over time, international human rights law will become a more powerful tool for influencing policy and litigation. However, they also acknowledge that a “cultural shift” is necessary for that day to come.³⁶

Despite the current limitations of the Concluding Observations, civil society actors are generally satisfied with their experiences participating in the Human Rights Committee's review sessions. Key benefits they identified include: engagement with Committee members and other human rights experts within the United Nations, such as those at OHCHR; raising awareness of issues and encouraging knowledge sharing among different human rights bodies at the UN; direct interaction with U.S. government agencies; giving victims and their communities the opportunity to voice their concerns directly to Committee members; obtaining reference points in the Concluding Observations for future advocacy; benchmarking and gauging the current rightsholders' status with a global standard; and networking and cross-learning with other civil society participants. The interviewees characterized these benefits as unique to international human rights mechanisms, which are unlikely to be achieved through advocacy using the domestic framework alone.³⁷

Within civil society organizations which use IHRL, there is a disparity in the degree of strategic reasoning that organizations apply to the use of international human rights law.

Despite the perceived unique benefits of using IHRL, many interviewees acknowledged gaps in integrating these benefits with their domestic advocacy. They expressed a desire to further strategize the use of IHRL to better achieve their organizational goals through learning other organizations' strategies and their implementations.³⁸

36. Sugiyama Interviews, *supra* note 34.

37. *Id.*

38. Interview with Anonymous Members, Criminal Legal Sys. (2024) (on file with author); Interview with Anonymous Members, Hous. and Criminalization of Poverty (2024) (on file with author); Interview with Anonymous Members, Priv., Freedom of Expression, Assembly, and Ass'n (2024) (on file with author); Interview with Anonymous Members, Women's Rts., Gender Equal., and Violence Against Women (2024)

On one end of the spectrum, some organizations use IHRL alongside with or as part of their domestic advocacy to achieve specific objectives. In these cases, participation in IHRL is often clearly supported by grassroots organizations or individuals within a coalition.³⁹ Many of these organizations continue to engage with various international human rights bodies and seize various windows for engagement, leveraging the outcomes and lessons learned from past involvement to maximize their impact.⁴⁰

On the other hand, some organizations participate in the Human Rights Committee's review for more abstract purposes, viewing it as just one of several alternative advocacy tools.⁴¹ Others find themselves somewhere in between. Many of these organizations expressed a need for wider and more frequent cross-learning opportunities with other organizations with respect to the strategic use of IHRL.⁴²

There are some suggestions from civil society organizations in the United States on the modality of the Human Rights Committee's review session.

Civil society actors in the U.S. observe that there is potential to improve the modalities of the review sessions to maximize benefits for civil society in the U.S. Specific suggestions from the interviewees include the following.⁴³ Some of those suggestions are already proposed by various stakeholders in the review of the treaty body mechanisms conducted by the United Nations or independently, as cited in the footnotes.

- To increase the accessibility,
 - o Treaty body should accept various formats of NGO reports, such as short videos;

(on file with author); Interview with Anonymous Members, Refugees, Asylum Seekers, and Immigrants (2024) (on file with author); Interview with Anonymous Members, NHRI and Domestic Implementation of ICCPR (2024) (on file with author).

39. Interview with Anonymous Members, Disability Rts. (2024) (on file with author).

40. Interview with Anonymous Members, Criminal Legal Sys. (2024) (on file with author); Interview with Anonymous Members, Hous. and Criminalization of Poverty (2024) (on file with author); Interview with Anonymous Members, Priv., Freedom of Expression, Assembly, and Ass'n (2024) (on file with author); Interview with Anonymous Members, Women's Rts., Gender Equal., and Violence Against Women (2024) (on file with author); Interview with Anonymous Members, Disability Rts. (2024) (on file with author); Interview with Anonymous Members, Refugees, Asylum Seekers, and Immigrants (2024) (on file with author).

41. Interview with Anonymous Members, Refugees, Asylum Seekers, and Immigrants (2024) (on file with author).

42. Interview with Anonymous Members, Criminal Legal Sys. (2024) (on file with author); Interview with Anonymous Members, Hous. and Criminalization of Poverty (2024) (on file with author); Interview with Anonymous Members, Priv., Freedom of Expression, Assembly, and Ass'n (2024) (on file with author); Interview with Anonymous Members, Women's Rts., Gender Equal., and Violence Against Women (2024) (on file with author); Interview with Anonymous Members, Disability Rts. (2024) (on file with author); Interview with Anonymous Members, Refugees, Asylum Seekers, and Immigrants (2024) (on file with author).

43. Sugiyama Interviews, *supra* note 34.

- Review sessions should be held in a place which is closer to the United States than Geneva;⁴⁴ and
- To maximize the effectiveness of the use,
 - The United States government should secure attendance by state agencies and members of legislative and judicial bodies who are more connected with the subject matter reported at the review sessions;⁴⁵
 - Treaty bodies should allocate more time for the review sessions concerning the United States, given the limited number of international human rights treaties that the U.S. has ratified; and
 - Treaty bodies should coordinate more effectively with the other human rights bodies to share knowledge and analysis.

V. Implications of the Findings for Human Rights Experts' Efforts to Enhance the Effectiveness of IHRL in the United States

Considering these findings, to achieve greater access to and effective use of the treaty body monitoring mechanisms, or IHRL more broadly, by civil society in the United States, experts in IHRL can allocate greater focus and resources to at least the following points. In this context, IHRL experts refer to those with knowledge and expertise in IHRL who aspire to promote its thriving in the United States, regardless of their capacity or workplace. This group includes clinicians at law schools, doctrinal scholars, public interest lawyers working for non-profit organizations, and private practice lawyers engaging in pro bono work leveraging their expertise in IHRL. It also encompasses law students who have studied IHRL in law schools.⁴⁶

The following is neither a comprehensive nor definitive set of strategies to be pursued by IHRL experts. Rather, the aim of this section is to spark and strengthen future discussions among IHRL experts by highlighting key work that can be addressed and potential approaches to achieving them.

A. Enabling Greater Awareness and Access to the IHRL

Continuous outreach and effective communication of the utility of IHRL to raise awareness within U.S. civil society.

44. CLAIRE CALLEJON, ET AL., GENEVA ACADEMY, OPTIMIZING THE UN TREATY BODY SYSTEM 35 n.64 (2018); Creamer & Simmons, *supra* note 1, at 48 n.312.

45. Creamer & Simmons, *supra* note 1, at 47.

46. Given the scarcity of resources as a key challenge for the use of IHRL by U.S. civil society, the role of students and recent graduates is crucial and should never be underestimated.

The findings indicate that awareness of the existence and utility of IHRL has not been sufficiently disseminated within U.S. civil society. This highlights the need to document the practical utility of IHRL and share this information, particularly with those who are unaware of it, including grassroots organizations and persons engaged in direct client representation. Initiating good-faith conversations about how they can benefit from the use of IHRL and vice versa is essential.

Possible measures to address this gap include creating scholarships, publishing op-eds, and producing reports that showcase meaningful applications of IHRL in ways that effectively reach audiences beyond those already familiar with and supportive of IHRL.⁴⁷ To start the conversation, one interviewee suggested that law school clinics specializing in IHRL can proactively reach out to community organizers in their areas to better understand their needs and explore how IHRL can help bridge those gaps and foster collaboration.⁴⁸

Awareness: Acknowledge the weakness and perception of IHRL advocacy model as “top-down” and continuously make efforts to remove and overcome the weakness and that perception.

One challenge that IHRL faces in advocacy is its potential or perceived tendency to be top-down. Research in the field has long highlighted the challenges stemming from the power imbalance among IHRL framework and experts and the communities they aim to support, with, for example, applying the perspectives of critical legal theories. This disconnect can result in: the objectification and disempowerment of affected persons and communities; the erosion of trust; the over-professionalization of IHRL experts;⁴⁹ the marginalization of communities by excluding their voices, needs, and perspectives; and, ultimately, the damaging of the effectiveness of civil society’s work and IHRL experts’ efforts.⁵⁰

47. Recent notable examples would include: AM. UNIV., *Local Human Rights Lawyering Project*, <https://www.american.edu/wcl/impact/initiatives-programs/center/pastprojects/lhrl-project.cfm> (last visited 2024); Tamar Ezer et al., *Integrating Human Rights in Domestic Clinical Practice*, 30 CLINICAL L. REV. 345 (2024).

48. Interview with Anonymous Members, Women’s Rts., Gender Equal., and Violence Against Women (2024) (on file with author).

49. Knuckey et al., *supra* note 31, at 12 n.24.

50. Bettinger-Lopez et al., *Redefining Human Rights Lawyering Through the Lens of Critical Theory: Lessons for Pedagogy and Practice*, 18 GEO. J. ON POVERTY L. & POL’Y 337, 354–357 (2011) (“The Victim within the human right metaphor is characterized as “a powerless, helpless innocent”); Knuckey et al., *supra* note 31, at 10–13; *see also*, in the domain of participatory action research: Fran Baum et al., *Participatory Action Research*, J. EPIDEMIOLOGY & CMTY. HEALTH 854, 854 (2006); Jossey-Bass, *Community-Based Participatory Research for Health*, (Meredith Minkler & Nina Wallerstein eds., 2003).

The existing research also confirms that there is “a notable shift in recent years in attention to the role of rights holders in advocacy, with the field moving, if slowly in some parts, toward more rightsholder-centered models.”⁵¹ However, the interview results show that the re-orientation of IHRL advocacy toward a community-centered approach cannot be achieved overnight, nor is there a one-size-fits-all strategy. This underscores the need for continuous peer learning, ongoing evaluation, and the improvement of the existing tactics deployed by IHRL experts to overcome the actual and perception of the weakness in IHRL.⁵²

Resources: Develop capacity in IHRL within civil society organizations

The findings show that, while U.S. civil society organizations want to continue using IHRL, their resources do not permit them to do so. Possible solutions to bridge this gap include: IHRL experts can take a more deliberate and strategic approach in their docket creation to collaborating with U.S. domestic organizations to best foster their internal IHRL expertise. Instead of merely providing expertise on the spot (for example, supporting the drafting of NGO reports or submissions), experts can prioritize enabling those organizations to use IHRL with their own resources, thereby helping to sustain its continuous use in their advocacy efforts moving forward.

Communicate more effectively with funders about the value of U.S. civil society organizations' engagement with international human rights mechanisms.

To address the resource challenges faced by U.S. civil society in utilizing IHRL, one solution is to expand funding opportunities for organizations seeking to engage with United Nations human rights mechanisms, particularly those requiring physical presence in Geneva. Leveraging their deep understanding of the utility of IHRL for domestic advocacy, these organizations can actively communicate with potential funders to create and enhance programmatic funding for participation in UN human rights mechanisms. This would help open doors for U.S. civil society actors who currently lack the internal resources or access to external support necessary to

51. Knuckey et al., *supra* note 31, at 13.

52. For practical tips and lessons from IHRL experts on mitigating the 'top-down' nature of advocacy, see Knuckey et al., *supra* note 31, at 25–53. See also Citlalli Ochoa, *Bridging Movement Lawyering and International Human Rights Advocacy*, 66 B.C.L. REV. 1 (2025) explores the integration of IHRL and democratic lawyering as a means to mitigate the 'top-down' nature of advocacy. The application of participatory action research would be a way to mitigate the top-downness.

cover the expertise and costs involved. As a groundwork, research into funders' perceptions of the effectiveness of engagement with IHRL could be valuable.⁵³

B. Enabling more effective use of IHRL

Supporting U.S. civil society in strategizing their use of IHRL alongside their domestic work.

The findings indicate that some organizations using IHRL have not yet identified a clear strategy to maximize the return on their investment to achieve their organizational goals. This gap is critical, given the resource-intensive nature of using IHRL. U.S. civil society can make rigorous, ongoing efforts to develop such strategies through external consultation and cross-learning opportunities.

To foster this strategic development, IHRL experts can assist civil society organizations in identifying long-term strategic values in the use of IHRL, rather than merely providing support for on-the-spot or one-off interactions with UN agencies or with amicus filings. This can involve integrating IHRL into long-term strategies that align with and enhance domestic advocacy.

To effectively implement this, IHRL experts can deepen their understanding of civil society movements in the U.S., such as community organizing and movement lawyering, and explore how IHRL can be integrated into and strengthen these approaches. Finding the nexus between these domestic strategies and IHRL can help overcome the perception that IHRL is top-down and prioritize the agendas and movements of IHRL communities.⁵⁴ An existing research emphasizes that the international human rights lawyering has largely “divorced from contributions of U.S. movement lawyers and movement lawyering scholarship,”⁵⁵ and to make effective use of IHRL, the international human rights experts can make more effort to explore and demonstrate ways that IHRL will be helpful for movement lawyering.

There is existing literature that introduces the success stories where IHRL advocacy achieved a positive policy change in tandem with domestic advocacy.⁵⁶ Among other work, one notable example is the work by advocates

53. There is a 2004 report by the Ford Foundation; however, more recent research may be needed. See FORD FOUNDATION, *Close to Home: Case Studies of Human Rights Work in the United States* 50–56 (2004), http://www.fordfoundation.org/pdfs/library/close_to_home.pdf.

54. For the concept of movement lawyer, see Citlalli Ochoa, *Bridging Movement Lawyering and International Human Rights Advocacy*, 66 B.C. L. REV. 1, 11–14 (2025).

55. *Id.* at 4.

56. The literature which demonstrates those positive case studies include: Citlalli Ochoa, *Bridging Movement Lawyering and International Human Rights Advocacy*, 66 B.C. L. Rev. 1 (2025); Tamar Ezer et al., *Integrating Human rights in Domestic Clinical Practice*, 30 CLINICAL L. Rev. 2 (2024); Bettinger-Lopez et al.,

at the National Homeless Law Center and the Human Rights Law Clinic at the University of Miami School of Law, which focuses on the decriminalization of homelessness. The clinic also participated in the 2023 Human Rights Committee's review of the United States. As documented in their scholarly articles, they have progressively integrated international human rights law into their domestic advocacy, raising awareness and accountability around the criminalization of homelessness.⁵⁷

The Law Center's Executive Director was first exposed to how advocates in other countries leverage international human rights law in 1996. They realized that the human rights framework allowed for a more strategic allocation of resources compared to the piecemeal solutions they had been employing against cuts to anti-poverty programs, ultimately aiming to end homelessness.

They then began by self-educating and conducting training for grassroots organizations and government agencies in the U.S. on human rights law. They also engaged with multiple human rights mechanisms, such as Special Procedures, periodic reviews by treaty bodies, and the Universal Periodic Review (UPR), in a tactical manner.

Although the international covenants on social, economic, and cultural rights are not ratified in the United States, advocates have argued that the criminalization of homelessness violates the right to life, the right to be free from arbitrary and inhumane treatment, and other civil and political rights. This interpretation has led to meaningful recommendations from various U.S. human rights bodies, leveraging opportunities for direct engagement with agencies through international mechanisms. This advocacy has contributed to federal legislation and reports published by agencies that incorporate human rights language. They have also used this language in domestic litigation, arguing that the criminalization of homelessness violates the Eighth Amendment, which prohibits cruel and unusual punishment. For more information, the journal article "Challenging Domestic Injustice" documents these innovative strategies and their implementation.⁵⁸

Take the opportunity to advocate for transformation in the modalities of reviews by international bodies.

Redefining Human Rights Lawyering Through the Lens of Critical Theory: Lessons for Pedagogy and Practice, 18 GEO. J. ON POVERTY L. & POL'Y 337 (2011).

57. Eric Tarst et al., *Challenging Domestic Injustice Through International Human Rights Advocacy: Addressing Homelessness in The United States*, 42 CARDOZO L. REV. 913, 912–917 (2021). While the act of being homeless is not illegal, many necessary actions for survival—such as eating, sleeping, using the bathroom, and storing belongings—are criminalized by various states or municipalities in the absence of adequate housing.

58. See generally *id.* § 3.

In response to interviewees' calls for changes in the modalities of the review sessions by the Human Rights Committee, IHRL experts can advocate for these changes by leveraging their access to constituencies at the United Nations and other IHRL experts. While some demands may currently be impractical due to logistical or financial hurdles, IHRL experts can envision a long-term strategy to promote the thriving of IHRL in the U.S.

For example, among the suggested changes by the interviewees, the proposal to hold review sessions at the United Nations Headquarters in New York is crucial for increasing access to the mechanism for U.S. civil society actors. IHRL experts can promote this idea whenever they have the opportunity to advocate for such changes. Such IHRL experts' support for the transformation of the international human rights mechanism can also help mitigate IHRL's perception that it has been reproducing the inherent power imbalances infused in the IHRL.

By supporting civil society's efforts to transform IHRL, IHRL experts can help address the criticism and frustration within U.S. civil society that IHRL experts often lack critical legal perspectives, a dynamic that perpetuates and reinforces the underlying issues that generate specific human rights problems.⁵⁹ IHRL experts can, although fully recognizing the risk of compromising the objectivity of their work—which undermines their unique leverage⁶⁰—be tactically competent in mitigating these risks and can explore ways to propose the transformations sought by civil society in the United States.

Conclusion

This research demonstrates that U.S. civil society recognizes the unique and important benefits of engaging with International Human Rights Law to better achieve its goals, which can be broadly applied to a range of rights violations within the United States. However, it also highlights gaps in the equitable distribution of IHRL knowledge and resources across broader civil society, as well as the need for a more strategic application of IHRL.

To enable IHRL experts to address these gaps incrementally, further research and monitoring with wider civil society actors in the United States are necessary to more comprehensively assess the actual and potential use of IHRL by U.S. civil society organizations. Continuous efforts by IHRL experts in the U.S. are essential to evolving both the practical and perceived relevance of

59. Interview with Anonymous Members, Priv., Freedom of Expression, Assembly and Ass'n (2024) (on file with author); Interview with Anonymous Members, Women's Rts., Gender Equal., and Violence Against Women (2024) (on file with author).

60. See also Knuckey et al., *supra* note 31, at 24 (emphasizing 'independence' vis-à-vis perpetrators, governments, and human rights mechanisms as a unique leverage of human rights actors—leverage that may not necessarily be held by the affected communities or individuals).

IHRL, ensuring that knowledge, expertise, and resources are more equally and meaningfully distributed. Cross-learning within the IHRL expert community is also crucial to strengthening these efforts. Another key area for future research is an international comparative analysis, exploring how civil society in other countries perceives and uses IHRL.

At the time of finalizing this report, the U.S. presidential election had taken place, and Mr. Trump was re-elected. Given his strong support for neoliberal policies, which often prioritize American economic interests while compromising or degrading the fundamental values such as rule of law, democracy, and equity, efforts to advance human rights are now more critical than ever. These efforts are essential to overcoming the challenges posed by the volatility of democratic processes.