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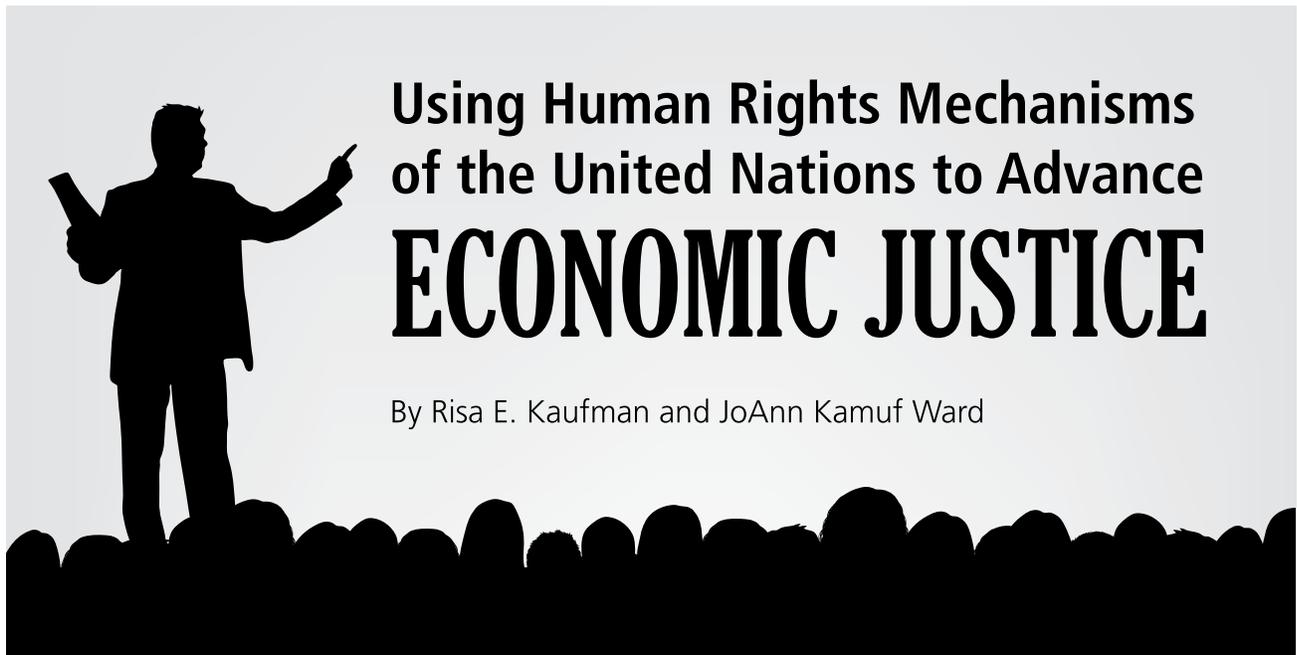
Advancing Human Rights

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Using Human Rights Mechanisms of the United Nations to Advance ECONOMIC JUSTICE

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As a growing number of social justice lawyers employ human rights standards and strategies to advocate for their clients, human rights mechanisms of the United Nations have become a promising way for lawyers to work toward economic justice. These mechanisms are not only an alternative to traditional litigation and administrative advocacy but also unique opportunities for collaboration among U.S. civil society groups and engagement with policymakers. Because they are grounded in international human rights norms, human rights mechanisms have the potential to deal with social and economic issues beyond the reach of traditional domestic protections. By strategically using these mechanisms, legal aid lawyers can make a larger case within local communities, with government officials, and on the international stage for their clients' concerns.

Building upon previous CLEARINGHOUSE REVIEW articles and several appearing in this issue, we draw a primer on the U.N. human rights system as a means of complementing domestic advocacy efforts on behalf of low-income and poor communities and individuals.¹ First, we give an overview of the U.N. mechanisms that monitor and promote human rights compliance in the United States. Second, we cite examples of how social justice organizations have engaged these mechanisms to broaden access to justice and deter violence against women, and we suggest opportunities for future engagement on a range of issues confronting clients of legal aid programs.

I. The Mechanics of the U.N. Human Rights System

The U.N. Charter, which established the United Nations in 1945, committed the institution and its members to promote and protect human rights and fundamental freedoms.² The charter was soon followed by the Universal Declaration of Human Rights, adopted by the U.N. General Assembly in 1948.³ The Universal Declaration of Human Rights, though not a legally enforceable document, articulates a specific and comprehensive set of rights—social, economic, cultural, civil and political rights—which all U.N. members pledge to uphold. Following the Universal Declaration of

¹See Gillian MacNaughton, *Human Rights Frameworks, Strategies, and Tools for the Poverty Lawyer's Toolbox*, 44 CLEARINGHOUSE REVIEW 437 (Jan.–Feb. 2011) (sources of economic and social rights and strategies to monitor implementation of these rights); Eric Tars, *Who Knows What Lurks in the Hearts of Human Rights Violators? The Shadow (Reporter) Knows—Human Rights Shadow Reporting: A Strategic Tool for Domestic Justice*, 42 CLEARINGHOUSE REVIEW 475 (Jan.–Feb. 2009) (shadow reporting and the importance of civil society engagement). For an exploration of the Inter-American human rights system of complementary protections (which we do not cover here), see Caroline Bettinger-López, *The Inter-American Human Rights System: A Primer*, 42 CLEARINGHOUSE REVIEW 581 (March–April 2009).

²U.N. Charter art. 55(c).

³Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. GAOR, 3d Sess., U.N. Doc. A/810 at 71 (Dec. 10, 1948).

Human Rights, U.N. member countries drafted, negotiated, and adopted a series of agreements, or treaties, articulating these rights in greater detail. Two types of U.N. mechanisms emerged to promote and monitor countries' compliance with human rights: U.N. treaty-based mechanisms and U.N. Charter-based mechanisms.

A. U.N. Human Rights Treaties and Treaty-Based Mechanisms

A handful of international human rights treaties (along with regional human rights agreements) make up the core of human rights law. The Universal Declaration of Human Rights takes up the full panoply of rights; however, economic, social, and cultural rights and civil and political rights were grouped into separate core treaties for political and historical reasons related to Cold War politics and America's legacy of racial injustice.⁴ Thus, along with the Universal Declaration of Human Rights, two key treaties form the International Bill of Rights: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights.⁵ Nine core U.N. treaties are in force to protect and promote human rights (see table 1).

The United States has ratified the International Covenant on Civil and Political Rights and signed but not ratified the International Covenant on Economic, So-

cial, and Cultural Rights. Indeed, as table 1 reflects, the United States has ratified several core U.N. human rights treaties and signed but not ratified several others. Treaties that the United States has ratified are binding under the supremacy clause.⁶

Although the United States has signed but not ratified the core treaties directly referring to economic and social rights, it has international obligations with respect to those treaties.⁷ A country that has signed a treaty has a specific obligation "to refrain from acts which would defeat the object and purpose of a treaty" until the country expresses its intention not to become a party.⁸ The treaties that the United States has ratified, in particular the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, contain antidiscrimination provisions that can be invoked to protect economic and social rights in such areas as health, education, housing, employment, and social security.⁹ These nondiscrimination provisions have been interpreted more broadly than federal constitutional prohibitions on discrimination, such that policies that have disparate impact but not discriminatory intent may violate norms of nondiscrimination under these treaties.¹⁰ Note that, because the United States ratifies most human rights treaties with a statement that they are "non-self-

⁴See Hope Lewis, "New" Human Rights: U.S. Ambivalence Toward the International Economic and Social Rights Framework, in 1 BRINGING HUMAN RIGHTS HOME 103, 115–21 (Cynthia Soohoo et al. eds., 2008).

⁵International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR, Supp. No. 16, at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (entered into force March 23, 1976); International Covenant on Economic, Social, and Cultural Rights, Dec. 16, 1966, G.A. Res. 2200 (XXI), U.N. GAOR 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966) 993 U.N.T.S. 3 (entered into force January 3, 1976).

⁶U.S. CONST. art. VI, § 2.

⁷Michael H. Posner, Assistant Secretary of State, Bureau of Democracy, Human Rights, and Labor, Address to the American Society of International Law: The Four Freedoms Turn 70 (Mar. 24, 2011) ("While the United States is not a party to the [International Covenant on Economic, Social, and Cultural Rights], as a signatory, we are committed to not defeating the object and purpose of the treaty."), <http://1.usa.gov/mfTONT>.

⁸Vienna Convention on the Law of Treaties, art. 18, 1155 U.N.T.S. 331 (1969) (entered into force on Jan. 27, 1980). While the United States is not a party to the Vienna Convention, the United States recognizes that many of the convention's provisions have become customary international law; the United States has signaled its intention to abide by the principles contained in treaties it has signed (see U.S. Department of State, Vienna Convention on the Law of Treaties (n.d.), <http://1.usa.gov/jE8or0>; see also Posner, *supra* note 7).

⁹International Covenant on Civil and Political Rights, *supra* note 5, art. 26; International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, art. 5(e) (entered into force Jan. 4, 1969).

¹⁰See International Convention on the Elimination of All Forms of Racial Discrimination, *supra* note 9, gen. cmt. 14.

Table 1. Core U.N. Treaties

TREATY	DESCRIPTION	SIGNED BY PRESIDENT	RATIFIED BY SENATE
International Covenant on Economic, Social, and Cultural Rights	Principal human rights treaty on economic and social rights. Protects rights to housing, work, social security, highest attainable standard of health, and continuous improvement of living conditions. Prohibits all forms of discrimination in enjoyment of these rights	Yes	No
International Covenant on Civil and Political Rights	Protects broad range of civil and political rights (e.g., right to life, freedom of association, right to be free from torture and slavery, nondiscrimination, and certain fair trial rights). Nondiscrimination provisions may be invoked to protect economic and social rights	Yes	Yes
International Convention on the Elimination of All Forms of Racial Discrimination	Principal human rights treaty on racial discrimination. Prohibits discrimination in education, health, housing, property, social security and employment, among others	Yes	Yes
Convention on the Elimination of All Forms of Discrimination Against Women	Principal human rights treaty on sex discrimination. Provides for women's equal access to—and equal opportunities in—private, political, and public life	Yes	No
Convention on the Rights of the Child	Principal human rights treaty on rights of children. Has extensive economic and social rights provisions. Most widely ratified treaty in international human rights system (United States is one of only two U.N. member states not to have ratified it)	Yes	United States has not ratified Convention on the Rights of the Child but has ratified two optional protocols to the Convention, one on Sale of Children and the other on Children in Armed Conflict
Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment	Requires states to take measures to prevent and punish torture under any circumstances (even wartime). Forbids states from sending individuals to other countries if there is reason to believe they will be tortured. Prohibits acts of cruel, inhuman, or degrading treatment by public officials	Yes	Yes
Convention on the Rights of Persons with Disabilities	Promotes disabled persons' rights to equal protection, equal participation, and accessibility. Provides special protection for women and children with disabilities	Yes	No
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Stresses fundamental rights of both documented and undocumented migrants	No	No
International Convention for the Protection of All Persons from Enforced Disappearances	Most recent U.N. human rights treaty. Protects against forced disappearance	No	No

Source: U.N. treaty documents.

executing,” ratified treaties are generally not directly enforceable in domestic courts. The U.S. Supreme Court’s recent decision in *Medellin v. Texas* underscores this point.¹¹ Nevertheless, the United States has international legal obligations to adhere to the standards that the treaties set forth and to report on American compliance periodically.¹²

One of the obligations that the United States accepts when it ratifies a human rights treaty is periodic reporting to a committee of independent experts. Monitoring countries’ treaty compliance, these committees (also known as treaty bodies) serve certain functions.

First, by conducting periodic reviews, they establish an accountability mechanism, if an imperfect one. As part of the review, countries must submit reports on how they are meeting their treaty commitments; this offers opportunities for advocates to engage with both their governments and the U.N. system on issues of domestic importance. In examining a country report, a treaty body may prepare a list of issues and questions for the country to answer as a supplement to and clarification of its report. The review itself is a public session, intended to serve as a productive dialogue between treaty experts and the government to identify human rights concerns and potential solutions. At the end of a review, treaty bodies issue concluding observations highlighting specific areas of concern. All treaty bodies issue general interpretations of treaty provisions; known as General Comments or General Recommendations, the interpretations have

become influential in defining the scope of treaty obligations.¹³ Although the findings and recommendations of the treaty bodies generally are not binding, advocates may offer them as persuasive authority in U.S. courts and leverage them in domestic nonlitigation advocacy efforts.

A number of the treaty bodies can accept individual complaints or petitions. However, because the United States has not made the necessary declarations or ratified the relevant optional protocols, treaty bodies generally are not authorized to accept individual complaints or petitions directly involving U.S. practice.

Table 2 outlines the most prominent international human rights treaty bodies and U.S. obligations with regard to each.¹⁴

B. U.N. Charter-Based Mechanisms

Besides the treaty-specific monitoring bodies described above, the United Nations human rights system has bodies created by the U.N. Charter. In particular, the Human Rights Council is an intergovernmental body comprising forty-seven countries charged with promoting and protecting human rights around the world.¹⁵ It was created in 2006 to replace the U.N. Commission on Human Rights. Among the council’s monitoring and review mechanisms are the Universal Periodic Review and the appointing of “Special Procedures.”

U.N. Charter-based mechanisms may be of particular use to legal aid attorneys advocating a range of social and economic

¹¹*Medellin v. Texas*, 552 U.S. 491, 505 (2008) (provisions of a ratified treaty are not binding domestic law unless the treaty by its terms is self-executing or Congress has enacted implementing legislation).

¹²See, e.g., Human Rights Committee, General Comment No. 31 [80]: The Nature of the Legal Obligation Imposed on States Parties to the Covenant, 80th Sess., March 29, 2004, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004), <http://bit.ly/nxefv0>. Moreover, nonratified treaties and nonbinding declarations may have acquired the status of customary international law, although the U.S. suggests that customary human rights law is established in a manner different from other customary law because, historically, human rights have been a matter between a state and individuals in that state. For a distillation of the ways in which customary human rights law may be established, see RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 702 reporters’ notes (1987).

¹³The U.N. Universal Human Rights Index is an online tool for accessing U.N. recommendations and observations (see Universal Human Rights Index of United Nations Documents (last updated July 18, 2011), <http://bit.ly/m40sv6>).

¹⁴For a more thorough discussion of U.N. treaty monitoring bodies, see International Service for Human Rights, Simple Guide to the U.N. Treaty Bodies (last updated Oct. 27, 2010), <http://bit.ly/p9A7w0>.

¹⁵The United States won a seat on the Human Rights Council in 2009 (see General Assembly of the United Nations, Election (12 May 2009): Human Rights Council (n.d.), <http://bit.ly/nK7dW4>).

Table 2. International Human Rights Treaty Bodies and U.S. Obligations

TREATY BODY	RELEVANT TREATY	U.S. OBLIGATION
Human Rights Committee	International Covenant on Civil and Political Rights	Reporting every four years (but committee often varies requirement)
Committee on the Elimination of Racial Discrimination	International Convention on the Elimination of All Forms of Racial Discrimination	Reporting every two years (often every four years as two combined periodic reports)
Committee on Economic, Social, and Cultural Rights	International Covenant on Economic, Social, and Cultural Rights	No obligation (not a party)
Committee on the Elimination of All Forms of Discrimination Against Women	Convention on the Elimination of All Forms of Discrimination Against Women	No obligation (not a party)
Committee Against Torture	Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment	Reporting every four years (but committee often varies requirement)
Committee on the Rights of the Child	Convention on the Rights of the Child	Reporting every five years on U.S. compliance with two optional protocols that United States has ratified
Committee on Migrant Workers	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	No obligation (not a party)
Committee on the Rights of Persons with Disabilities	Convention on the Rights of Persons with Disabilities	No obligation (not a party)
Committee on Enforced Disappearances	International Convention for the Protection of All Persons from Enforced Disappearances	No obligation (not a party)

Source: U.N. treaty documents.

rights for their clients. Unlike treaty bodies, they monitor countries' compliance with the full range of rights in the Universal Declaration of Human Rights. Thus U.N. Charter-based mechanisms offer a way to measure the United States' compliance with economic, social, and cultural rights, notwithstanding its failure to ratify treaties focusing specifically on those rights.

1. Universal Periodic Review

The Universal Periodic Review is a mechanism by which the Human Rights Council reviews the human rights records of all U.N. member states every four years.¹⁶

Created in 2006 as an opportunity for each country to discuss actions it has taken to fulfill its human rights obligations, the Universal Periodic Review offers civil society a unique platform to advocate greater human rights protections. The United States' first Universal Periodic Review occurred in November 2010 with unprecedented civil society engagement.¹⁷

2. Special Procedures

Special Procedures are the mechanisms established by the United Nations to serve as its "eyes and ears" in evaluating and dealing with human rights concerns

¹⁶More information is available at U.N. Human Rights, Office of the High Commissioner for Human Rights, Universal Periodic Review (April 28, 2011), <http://bit.ly/kDr44D>.

¹⁷For an exploration of the utility of the Universal Periodic Review for economic justice advocacy, see Sarah H. Paoletti, *Using the Universal Periodic Review to Advance Human Rights: What Happens in Geneva Must Not Stay in Geneva*, in this issue.

in specific countries or pertaining to particular thematic issues.¹⁸ Special Procedures are either an individual (usually called a special rapporteur, special representative, or independent expert) or a working group with deep subject-matter expertise. They serve independently of governments, in their personal capacities and on a voluntary basis. Each Special Procedure has its own mandate, defined by the resolution that created it. Current mandates are for thirty-three thematic and eight country-specific Special Procedures. Thematic mandates cover a broad range of issues—adequate housing, education, extreme poverty, and health among them.¹⁹ There is no Special Procedure with a mandate specific to the United States.

Special Procedures base their evaluations on standards drawn from the Universal Declaration of Human Rights and internationally recognized human rights standards relevant to their mandates. Special Procedures are not limited by a country's failure to ratify a certain treaty—a fact particularly useful to legal services attorneys working on economic and social rights. Special Procedures' core functions are receiving information about specific human rights abuses and sending urgent appeals to governments seeking clarification of the allegations. Country visits are also conducted to investigate human rights concerns on the ground.

II. Opportunities for Engagement

Taken together, U.N. treaty bodies and Charter-based mechanisms offer a range of opportunities for advocates to publicize their clients' concerns within their

clients' communities, with government officials, and in the international arena.

A. Treaty Review

Treaty review is an opportunity for advocates to document human rights concerns by submitting “shadow reports” to treaty-monitoring bodies to supplement or clarify information from governments' official reports. The review is also an opportunity for direct government engagement. For example, the U.S. government often holds civil society consultations before drafting its official report for review by a treaty body. At these consultations, advocates can draw attention to and urge action on specific issues. After the review, advocates can request that local officials hold hearings to consider the concluding observations in light of local policy and practice, submit the treaty bodies' observations as support for domestic administration and litigation advocacy, and, through media and other outreach, raise general public awareness on issues raised during the review.

U.S. advocacy to establish the right to counsel in civil cases illustrates how advocates can engage with treaty bodies.²⁰ This so-called Civil Gideon movement is attempting to secure the right to counsel for individuals in civil cases where basic human needs are at stake. Although the U.S. Supreme Court established the right to counsel for criminal defendants in *Gideon v. Wainwright*, the Court held that there was no general federally protected right to counsel in civil proceedings.²¹ Some state and municipal legislatures nevertheless have provided indigent parties with the right to counsel in certain categories of civil cases, such as those involving child custody or

¹⁸See Office of the U.N. High Commissioner for Human Rights, Special Procedures of the Human Rights Council (n.d.), <http://bit.ly/g69gju>. For a discussion of the effectiveness of these procedures, see Ted Piccone, Catalysts for Rights: The Unique Contribution of the U.N.'s Independent Experts on Human Rights: Final Report of the Brookings Research Project on Strengthening U.N. Special Procedures 9 (Oct. 2010), <http://bit.ly/ieBqdf>.

¹⁹For a complete listing of the thematic mandates and the mandate holders, see Office of the U.N. High Commissioner for Human Rights, Special Procedures Assumed by the Human Rights Council (May 1, 2011), <http://bit.ly/mKfsEp>.

²⁰With thanks to Martha F. Davis at Northeastern Law School for this example.

²¹*Gideon v. Wainwright*, 372 U.S. 335 (1963); see *Lassiter v. Department of Social Services*, 452 U.S. 18, 31–32 (1981) (due process does not require states to appoint counsel for parents in all parental termination proceedings, but courts must consider right to counsel on case-by-case basis). In *Turner v. Rogers*, 131 S. Ct. 2507 (2011), the U.S. Supreme Court affirmed *Lassiter's* central holding that there is no categorical civil right to counsel, yet held that trial court judges must nevertheless assess whether basic procedural safeguards are in place for unrepresented litigants in civil contempt proceedings in which personal liberty is at stake.

a person's liberty. Yet these policies are not consistent, and, funding for legal aid programs being inadequate, many low- and moderate-income people lack necessary legal assistance in protecting or vindicating their rights in civil matters.

The absence of a right to counsel in civil cases concerning basic needs is both out of step with practices in many European and commonwealth countries and an abdication of the United States' responsibilities under at least two ratified treaties: the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights.²² Advocates of Civil Gideon have engaged U.N. treaty bodies to apply international pressure to U.S. policymakers.

In 2007, during the last International Convention on the Elimination of All Forms of Racial Discrimination review, Northeastern University School of Law's Program for Human Rights in the Global Economy spearheaded the drafting of a shadow report highlighting the disproportionate impact of the absence of a right to civil counsel on racial minorities in the United States. At the formal review of the United States in Geneva, Switzerland, in 2008, representatives from the program and other advocates spoke directly with International Convention on the Elimination of All Forms of Racial Discrimination delegates and urged the U.N. Committee on the Elimination of Racial Discrimination to take up the United States' failure to meet its obligations. As a direct result, the committee admonished the United States for failing to provide civil counsel to low-income individuals. The committee noted "with concern the disproportionate impact [of existing practice] on indigent persons belonging to racial, ethnic and national minorities" and urged the United

States to "allocate sufficient resources to ensure legal representation of [these persons] in civil proceedings, [particularly] where basic human needs, such as housing, health care, or child custody, are at stake."²³

The United States is up for review of its compliance with the International Convention on the Elimination of All Forms of Racial Discrimination again in 2012. Legal services lawyers and their allies can use this opportunity to measure U.S. progress in responding to the 2008 recommendations. At civil society consultations and in shadow reports, advocates can highlight the growing momentum around the right to civil counsel. For instance, the American Bar Association's Model Access Act, drafted in August 2010, provides for counsel to low-income individuals in situations where their basic needs are at stake.²⁴ And several states have established pilot programs to provide counsel to low-income individuals in certain civil cases.²⁵ Advocates can also note the serious gaps that persist and exert additional pressure on federal, state, and local policymakers to meet the legal needs of low-income individuals.

A number of other opportunities for treaty review-based advocacy will arise in the coming year as the United States is required to report on its compliance with the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention Against Torture. For example, the Human Rights Committee, which reviews compliance with the International Covenant on Civil and Political Rights, raised concerns about the disproportionate number of African Americans who are homeless in the United States, de facto segregation in schools, and em-

²²Justice Earl Johnson Jr., *Equal Access to Justice: Comparing Access to Justice in the United States and Other Industrial Democracies*, 24 *FORDHAM INTERNATIONAL LAW JOURNAL* 83 (2000); Raven Lidman, *Civil Gideon: A Human Right Elsewhere in the World*, 40 *CLEARINGHOUSE REVIEW* 288 (July–August 2006); Martha F. Davis, *In the Interests of Justice: Human Rights and Right to Counsel in Civil Cases*, 25 *TOURO LAW REVIEW* 147 (2009); Sarah Paoletti, *Deriving Support from International Law for the Right to Counsel in Civil Cases*, 15 *TEMPLE INTERNATIONAL AND COMPARATIVE LAW JOURNAL* 651 (2006).

²³Committee on the Elimination of Racial Discrimination, Consideration of Reports Submitted by States Parties Under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America, 72d Sess., Feb. 18–Mar. 7, 2008, U.N. Doc. CERD/C/USA/CO/6, ¶ 22 (May 8, 2008).

²⁴ABA MODEL ACCESS ACT § 3(A) (2010).

²⁵National Coalition for a Civil Right to Counsel, Pilots (n.d.), <http://bit.ly/jVYuLb>.

ployment discrimination on the basis of sexual orientation.²⁶ The International Convention on the Elimination of All Forms of Racial Discrimination treaty body focused on residential segregation and, like the Human Rights Committee, de facto segregation in schools.²⁷ Legal services lawyers and other advocates can raise awareness, both internationally and domestically, about these and other issues by detailing their continuing concerns in shadow reports and governmental consultations. And advocates can work creatively to parlay success from the international arena into domestic efforts—for example, by citing U.N. committee recommendations in litigation and other advocacy and bringing recommendations to the attention of local policymakers, state and local human rights and human relations commissions, and the public at large.²⁸

B. Country Visits by Special Procedures

Fact-finding missions by U.N. Special Rapporteurs and independent experts present opportunities for domestic advocates to increase the visibility of domestic causes, garner media coverage, raise awareness of human rights violations, meet with government officials, and build networks. The recent U.S. visits by the U.N. Special Rapporteur on Violence Against Women, Its Causes and Consequences, Rashida Manjoo (discussed below), and by the U.N. Indepen-

dent Expert on the Human Right to Water and Sanitation are paradigmatic.²⁹

Since at least 1993, when the U.N. General Assembly adopted the Declaration on the Elimination of Violence Against Women, the United Nations has recognized violence against women as a human rights concern.³⁰ Manjoo's 2011 visit was not the first time that U.N. mechanisms have focused on this issue in the United States; the Committee on the Elimination of Racial Discrimination has also drawn attention to violence against women, and in 1999, focusing on violence in prisons, the first Special Rapporteur on Violence Against Women visited the United States. This international scrutiny can be attributed to several factors, such as the persistently high rates of violence against women in the United States.³¹ Domestic legal developments, such as the critical gaps in the protections afforded by the federal Violence Against Women Act, have contributed to the international attention.³² The U.S. Supreme Court rejected an attempt to establish a civil remedy for victims of gender-based violence, and the Court held that a domestic violence victim whose husband violated an order of protection had no constitutional right to police enforcement of that order.³³

In this context Manjoo's visit created opportunities for engagement. In a two-week fact-finding mission, Manjoo met across the country with government officials and civil society, members, domestic violence

²⁶Human Rights Committee, Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee: United States of America, 87th Sess., July 10–28, 2006, U.N. Doc. CCPR/C/USA/CO/3/Rev.1, ¶¶ 22–23, 25 (Dec. 18, 2006).

²⁷Committee on the Elimination of Racial Discrimination, *supra* note 23, ¶¶ 16–17.

²⁸See Tars, *supra* note 1.

²⁹See Mona Tawatao & Colin Bailey, *Toward a Human Rights Framework in Homelessness Advocacy: Bringing Clients Face-to-Face with the United Nations*, in this issue.

³⁰See Declaration on the Elimination of Violence Against Women, G.A. Res. 48/104, U.N. Doc. A/RES/48/104 (Dec. 20, 1993), <http://bit.ly/mkNBLT>; World Conference on Human Rights, June 14–25, 1993, *Vienna Declaration and Programme of Action*, ¶¶ 18–19, U.N. Doc. A/CONF.157/23 (July 12, 1993), <http://bit.ly/nvMAgv>.

³¹See Shannan Catalano et al., Bureau of Justice Statistics, *Female Victims of Violence 1* (revised October 23, 2009), <http://bit.ly/kIZ1Xu> (in 2008 females 12 and above experienced approximately 552,000 instances of intimate partner violence).

³²See, e.g., Mary B. Clark, *Falling Through the Cracks: The Impact of VAWA 2005's Unfinished Business on Immigrant Victims of Domestic Violence*, 7 MARYLAND JOURNAL OF RACE, RELIGION, GENDER AND CLASS 37 (2007); *The Increased Importance of the Violence Against Women Act in Times of Economic Crisis*, Before the S. Comm. on the Judiciary, 111th Congress 8–11 (2010), <http://1.usa.gov/kVgTro> (statement of Susan B. Carbon, Director, Office on Violence Against Women, U.S. Department of Justice) (limits of current Violence Against Women Act on prevention and sexual assault).

³³*United States v. Morrison*, 529 U.S. 598 (2000); *Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005).

survivors among them.³⁴ She visited local communities, detention centers, and women's shelters to document and evaluate the causes and consequences of various forms of violence against women; she probed the role of discrimination in perpetuating these human rights abuses.³⁵

In anticipation of the visit, advocates organized a roundtable with Manjoo on the domestic legal framework and gaps in protection for women in the United States. Several participants agreed to draft reports on particular issues—gun violence, women in detention, women in the military, and U.S. compliance with the international legal obligations to “exercise due diligence to prevent, investigate and ... punish acts of violence against women.”³⁶ From the roundtable and briefing papers Manjoo gained a more nuanced understanding of the facts on the ground.³⁷

Local, national, and international organizations ensured that Manjoo heard the perspectives of multiple stakeholders, from affected individuals to policy-oriented organizations and academics. In Cherokee, North Carolina, for example, Manjoo learned about the prevalence of violence against Native American women (one out of three of whom will be raped during her lifetime) and the lack of adequate legal protections to deter this violence.³⁸ These firsthand accounts underscored the need for a more comprehensive approach to violence against women in the United States. Manjoo also met with federal, state, and local government officials to learn about replicable local practices in confronting some types of violence and strengthening domestic protections.³⁹

At the conclusion of her visit, Manjoo noted some recent positive steps by the U.S. government but stated that further protections were needed, calling for the creation and full implementation of laws and policies preventing acts of violence and calling for resources and improved services. In their litigation and advocacy efforts, advocates can draw upon Manjoo's final report's comprehensive overview of the human rights violations occurring across the country.⁴⁰



U.N. human rights mechanisms are platforms for legal services lawyers to raise their clients' concerns nationally and internationally and leverage international attention to advance advocacy at home. Treaty reviews and visits by U.N. Special Procedures are opportunities to build alliances among advocates, empower local communities to voice their experiences, engage government officials in conversations on human rights practices and the need for change, and advance change on critical issues by using international standards. For legal services and poverty lawyers, U.N. human rights mechanisms are another avenue to advance rights-based protections and fight systemic human rights abuses.

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³⁴See Press Release, U.N. Office at Geneva, Violence Against Women: U.N. Expert to Launch Fact-Finding Visit to the United States (Jan. 21, 2011), <http://bit.ly/lqdwPN>.

³⁵See Press Release, U.N. Office of the High Commissioner on Human Rights, Special Rapporteur on Violence Against Women Finalizes Fact Finding Mission to the United States of America (Feb. 8, 2011), <http://bit.ly/iGiNBv>.

³⁶Declaration on the Elimination of Violence Against Women, *supra* note 30, art. 4(c).

³⁷See, e.g., Human Rights Program, University of Virginia School of Law, Charlottesville, Roundtable of U.S. Gender and Human Rights Experts with Rashida Manjoo, U.N. Special Rapporteur on Violence Against Women, Briefing Paper for Participants (Feb. 5–6, 2010), <http://bit.ly/lyc6in>.

³⁸See Press Release, Indian Law Resource Center, U.N. Expert Investigates Violence Against Indian Women (June 2, 2011), <http://bit.ly/lUdAJq>.

³⁹See Press Release, U.N. Office of the High Commissioner on Human Rights, *supra* note 35.

⁴⁰Special Rapporteur on Violence Against Women, *Its Causes and Consequences, Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences: Mission to the United States of America*, Human Rights Council, 17th Sess., U.N. Doc. A/HRC/17/26/Add.5 (June 6, 2011) (by Rashida Manjoo).



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