Social justice lawyers in the United States have long engaged with the international human rights system to inform their U.S.-focused work. For example, building on the traditions of abolitionists, early women's rights advocates, and indigenous peoples, civil rights leaders in the post-war period employed human rights norms and mechanisms in their fight for domestic equality for African Americans. Historians Carol Anderson, Mary Dudziak, and others document the resistance these efforts faced in the Jim Crow and Cold War eras. Yet, as Cynthia Soohoo, Scott Cummings, and other legal scholars have detailed, public interest lawyers in the 1970s, '80s, and '90s nevertheless increasingly engaged with the international system and human rights norms to advance their work on issues, including immigration and labor rights.

From this history and rich tradition of human rights in the United States there has emerged a dynamic and growing network of U.S. social justice lawyers engaging human rights standards and strategies in their domestic advocacy efforts. The year 2015 marks the fifteenth anniversary of the Bringing Human Rights Home (BHRH) Lawyers’ Network (the Network), which connects more than 800 lawyers around the country who are integrating human rights to advance domestic advocacy. This profile of the Network offers a look at the activities and some successes of the now-vibrant U.S.

human rights movement.

Why “Human Rights”?
Just why are U.S. lawyers embracing a human rights frame to advance domestic social justice advocacy? The human rights framework offers lawyers new tools, new fora, and a fresh approach to connect seemingly disparate issues, struggles, and communities. Human rights offer an effective way to frame both the issues themselves and the appropriate government response to those issues. Human rights offer protections for the full panoply of rights, including economic and social rights, and a definition of discrimination that in many instances is more expansive than domestic formulations. And the human rights framework requires proactive measures by government to address structural inequalities.

In addition, the human rights frame gives voice and recognition to groups who are by some measures marginalized in U.S. law, including immigrants and people who are incarcerated. It offers opportunities for mobilizing communities and diverse constituencies, and creates opportunities for new alliances. A human rights-based approach offers alternative avenues for advocacy, including the international and regional human rights mechanisms of the UN and the Inter-American Human Rights System.

A Diverse Array of Network Members
Created in 2000 and facilitated by the Columbia Law School Human Rights Institute, the BHRH Lawyers’ Network connects lawyers from the domestic civil rights, human rights, and legal services communities to share information and develop strategies for integrating human rights to advance U.S. social justice advocacy. The Network’s membership, spread across 37 states, draws from advocacy and legal services organizations, universities and law schools, private law firms, and state and local human rights bodies. Members range from law students to attorneys in practice for decades.

Virtually every domestic social justice concern is addressed by some member of the Network. Members work on gender and sexual orientation discrimination, reproductive justice, violence against women, family law, criminal justice (including the death penalty), the rights of incarcerated persons, and national security and counterterrorism concerns. Members also actively engage in advocacy around political participation, racial justice, indigenous peoples’ rights, education, access to civil justice, and immigration. They focus on housing, health, labor rights, public assistance, children’s rights, and rights of persons with disabilities. They work to address corporate accountability, environmental justice, and human trafficking.

Well over 200 organizations are represented in the Network, including international and regional human rights organizations such as Human Rights Watch, Center for Justice and
International Law (CEJIL), Human Rights First, Amnesty International, EarthRights International, and Global Workers Justice Alliance. Many of these international organizations have U.S. programs, with lawyers focused on U.S.-based issues and advocacy.

The Network also includes many domestic nongovernmental organizations (NGOs) such as NAACP Legal Defense and Educational Fund, LatinoJustice, Mexican American Legal Defense and Educational Fund, Asian American Legal Defense and Education Fund, Center for Reproductive Rights, American Civil Liberties Union, Brennan Center for Justice, National Economic and Social Rights Initiative, Center for Constitutional Rights, and the Leadership Conference on Civil and Human Rights. Some of these well-established civil rights organizations engage with human rights occasionally to supplement more traditional advocacy efforts. For example, organizations on occasion reach out to human rights groups to file human rights amicus briefs in federal and state courts. Others have wholly integrated human rights into their advocacy. They regularly raise human rights arguments in U.S. court litigation, file petitions with the Inter-American Commission on Human Rights (IACHR), file shadow reports with UN treaty bodies, enjoy consultative status with the UN Economic and Social Council (ECOSOC), and advocate at the UN Human Rights Council.

The Network contains a growing number of legal aid and legal services providers, including providers from Florida, New York, Maryland, Texas, Montana, Oregon, California, North Carolina, and Indiana. Maryland Legal Aid was the first direct legal services organization to explicitly adopt a human rights frame to guide its work. It now engages with international mechanisms, draws on human rights law as persuasive authority in all manner of civil cases, including housing and public benefits cases, embraces a human rights–based code of conduct to guide its attorney-client relationship, and builds capacity and raises awareness of human rights laws in Maryland through dialogue and trainings within the legal community as well as in the communities it serves.

Also in the Network are several local and regional domestic organizations, including the Vermont Workers’ Center, Sanctuary for Families, Southern Poverty Law Center, New Mexico Environmental Law Center, Northwest Justice Project, and the Public Justice Center in Baltimore. Many of these are doing cutting-edge human rights organizing and policy advocacy. Vermont Workers’ Center is a strong example. In 2011, through a grassroots human rights campaign, the organization helped form the coalition achieving universal health care legislation in Vermont.

The Network has members from private law firms as well. Many of these members are engaged in litigation under the Alien Tort Statute, or otherwise engage in pro bono human rights litigation. Also represented in the Network are over 50 universities and law schools, including a growing number of law school human rights clinics and centers. An important feeder for new Network members, law school human rights clinics are innovating strategies and engaging students in emerging domestic human rights efforts. They also create a space for experimentation, cross-fertilization, and collaboration.

Finally, the Network contains several key non-lawyer advocates, including the leadership of the U.S. Human Rights Network (USHRN). USHRN serves an important coordination and capacity building function for the U.S. human rights movement of grassroot organizations. The Network regularly collaborates with USHRN, as it did, for example during the UN human rights treaty reviews and Universal Periodic Review (UPR).

A Varied Spectrum of Advocacy Approaches

BHRF Lawyers’ Network lawyers engage in a broad range of human rights strategies. Litigation, of course, is a key component of any human rights legal advocacy strategy. Many Network members are engaged in litigation under the Alien Tort Statute. Occasionally, Network members litigate in non-U.S. jurisdictions (for example, the European Court of Human Rights), including by filing amicus briefs as a means of norm development. Increasingly, members use international human rights and foreign comparative law as persuasive authority in constitutional and statutory cases in federal and state courts. As Martha Davis describes in her article in this issue, rather than arguing relief is required under a treaty or customary international law, lawyers use human rights standards and comparative foreign law to inform courts’ interpretation of U.S. law.

It is difficult to ascertain the impact of this approach on judges’ analysis. But courts do occasionally support their reasoning with international and foreign law discussed in human rights amicus briefs. For example, in Graham v. Florida, 560 U.S. 48 (2010), challenging the practice of sentencing juveniles to life in prison without the possibility of parole (JLWOP), human rights organizations and bar associations, including Amnesty International, Human Rights Watch, Human Rights Advocates, the Center for Constitutional Rights, and Columbia Law School’s Human Rights Institute, filed an amicus brief urging the Court to consider international and foreign law and practice in its interpretation of the Eighth Amendment’s clause prohibiting cruel and unusual punishment. Justice Kennedy’s majority opinion explicitly acknowledged that JLWOP sentences have been “rejected the world over,” and the Court continued its “longstanding practice” of looking “beyond our Nation’s borders for support for its independent conclusion that a particular punishment is cruel and unusual.” Id. at 80.

In addition to litigation, Network members routinely engage with international and regional human rights mechanisms, including the human rights treaty bodies, the UN Human
Rights Council, UN special procedures, and the IACHR. The Obama administration’s re-engagement with the UN human rights system has provided important opportunities for U.S. advocates. The U.S. government more regularly reports on its compliance with human rights treaties and seeks to set a gold standard for participation in the UPR. The IACHR has become an increasingly utilized venue for U.S. human rights advocacy as well. Network members frequently file IACHR petitions and requests for precautionary measures and thematic hearings.

With no enforcement authority over the United States, what do these international and regional mechanisms offer U.S. lawyers? The reporting cycles provide an opportunity to engage in conversation with the U.S. government around its treaty commitments. And “naming and shaming” can be a powerful way of exposing injustices and exerting international pressure on federal, state, and local officials. U.S. lawyers have found that raising issues on the international stage focuses international and media attention on a local or isolated problem and starts a dialogue that may exert pressure back home.

One strong example is the Chicago torture cases. From the early 1970s until the early 1990s, the Chicago police, under the command of Jon Burge, tortured well over 100 African-American men in order to induce false confessions. Yet, until 2008, state and federal authorities failed to prosecute Burge and his deputies. Chicago advocates sought justice and accountability for the torture and abuse. As part of their advocacy, they filed shadow reports and engaged in other advocacy with the UN Committee against Torture (CAT) and UN Human Rights Committee, in conjunction with the U.S. human rights treaty reviews, resulting in specific CAT recommendations that the United States investigate the case to bring the perpetrators to justice. The international attention resulted in a reframing of the issue domestically, with the media regularly referring to Burge’s acts as “torture” and referencing the UN committee’s condemnation. Building on this attention, advocates urged hearings, resulting in local officials calling for state and federal investigation and prosecution. The U.S. attorney’s office eventually indicted Burge, though on lesser charges of obstruction of justice and perjury. After Burge was convicted and sentenced to four and a half years in federal prison, advocates continued to seek accountability, including reparations. In 2014, Chicago anti-torture activists again filed a shadow report with the CAT, and the committee recommended that the United States provide effective remedies and redress to torture survivors. In spring 2015, the Chicago City Council approved $5.5 million dollars in reparations for the torture victims, drawing on CAT principles and human rights practices around the world.

Network members likewise engage with state and local governments to integrate human rights into local policy and practice. Strong examples can be found in the 24 and counting local resolutions declaring freedom from gender-based violence a human right. Many law school clinics spearheaded these initiatives, and they are beginning to have an impact. Miami-Dade County adopted such a resolution in 2012 in response to advocacy by the University of Miami School of Law Human Rights Clinic. Two years later, the Miami-Dade County Commission amended its antidiscrimination ordinance to add victims of domestic violence, dating violence, or stalking to the list of protected classes regarding discrimination in employment, family leave, public accommodations, credit and financing practices, and housing. The amendment’s preamble cites the language from the 2012 Miami-Dade County domestic violence resolution.

In addition to these strategies, members engage in (and support) human rights fact finding and reporting, policy advocacy, communications work, and community mobilization, among other efforts.

Conclusion
As the BHRH Lawyers’ Network continues to grow, examples of successful domestic human rights advocacy proliferate. And the added value of human rights becomes clearer. Of course, Network members understand that the human rights framework requires lawyers to partner with impacted communities and that human rights strategies are most successful when integrated in a larger advocacy effort drawing on a broad range of legal and non-legal strategies.

Stay tuned. In this rapidly evolving field, the next 15 years promise new challenges, as well as inspiring examples of human rights brought home.

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Human Rights Hero, from back cover
Georgetown Law Center and Fordham Law School. She currently is Distinguished Scholar-in-Residence at the Leitner Center for International Justice at Fordham Law School. She was recently reelected by 128 countries of the UN General Assembly for another four-year term as a member of the UN Committee on the Elimination of Racial Discrimination. She was married to civil rights pioneer John Payton, president and director-counsel of the NAACP Legal Defense and Educational Fund, who died in 2012.

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