

Human Rights Advocacy: An Introduction for Immigration Advocates

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Human rights advocacy can be a useful tool for those who seek to advance the cause of social justice for immigrants in the United States. This practice advisory summarizes the basic ways in which domestic immigration advocates can effectively incorporate human rights norms and strategies into both individual case and policy advocacy. It provides an overview of relevant international human rights standards and tribunals, strategies for incorporating human rights norms into more traditional advocacy, and the basics of how to bring a case before the Inter-American Commission on Human Rights (IACHR). To demonstrate how human rights advocacy can intertwine with domestic advocacy on behalf of immigrants, case examples are discussed as well.

BENEFITS AND CHALLENGES OF HUMAN RIGHTS ADVOCACY

Utilizing a human rights approach to advocacy in the United States on behalf of immigrants presents both opportunities and challenges. Increasingly, a human rights framing of social and legal issues resonates with the U.S. general public, especially young people.¹ The United States touts itself as a leader in respecting human rights

¹ The Opportunity Agenda, *Human Rights in the U.S.: Opinion Research with Advocates, Journalists, and the General Public*, (Aug. 2007), <http://opportunityagenda.org/pdfs/HUMAN%20RIGHTS%20REPORT.PDF>.

domestically and internationally. In some cases, courts may be more open today than in the past to arguments that rely upon international law standards.²

The United States has not ratified the majority of international human rights treaties and has adopted reservations, understandings, and declarations that undercut those treaties it has ratified. A central challenge for advocates is that human rights norms are soft or aspirational, meaning that there is no enforcement mechanism. Winning a case before an international tribunal may seem like a symbolic victory and may have no concrete effect on a client's life. Moreover, international law-based arguments still have far less persuasive power to courts and policymakers than arguments based on U.S. statutes and the Constitution. It may be a long-haul project to infuse human rights norms throughout our advocacy and court system. The pay-off, however, may well be worth our collective effort. Human rights norms tend to respect and protect human dignity more than U.S. immigration laws. Because international human rights protections are often more expansive than U.S. law, it may be possible to obtain a judgment from an international tribunal that would be impossible in a domestic court. Any movement of domestic law towards international human rights standards will likely increase the protections for immigrants in our domestic legal system. Increasing acceptance of a human rights analysis of social or legal issues can also influence the immigration policy shaped by the political branches of our government.³

RELEVANT HUMAN RIGHTS NORMS

Courts have held that the United States is only bound by an international convention or treaty if it has specifically ratified the instrument.⁴ Even if ratified, an international instrument may not be self-executing and therefore not judicially enforceable unless Congress has passed implementing legislation. However, international norms are persuasive authority even if they lack the same force as domestic law.⁵ Before international tribunals, certain international law instruments have the force of law. Others

² See generally, R. Steinhardt, "The Role of International Law as a Canon of Domestic Statutory Construction," 43 *VAND. L. REV.* 1103 (1990). See also, *Lawrence v. Texas*, 539 U.S. 558 (2003) (citing to international law principles); *Atkins v. Virginia*, 536 U.S. 304, 316 n. 21 (2002) (citing to amicus brief of European Union); *Roper v. Simmons*, 543 U.S. 551, 575-78 (2005) (citing to international law principles); *Wanjiru v. Holder*, --- F.3d ---, 2013 WL 135712 (7th Cir. 2013) ("We should not lightly presume that Congress has shut off avenues of judicial review that ensure this country's compliance with its obligations under an international treaty"); *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1114 & n.30 (9th Cir. 2001) ("we generally construe Congressional legislation to avoid violating international law"; "[a]lthough Congress may override international law in enacting a statute, we do not presume that Congress had such an intent when the statute can reasonably be reconciled with the law of nations.").

³ The Human Rights Institute at Columbia Law School has issued a report on how "states, cities and counties are integrating human rights into local law, policy and practice" and "offers concrete recommendations to advance local policy using a human rights framework." See *Bringing Human Rights Home: How State and Local Governments Can Use Human Rights to Advance Local Policy*, Columbia Law School, Human Rights Institute (Dec. 2012), <http://web.law.columbia.edu/human-rights-institute/human-rights-us/treaty-implementation/state-and-local-work/state-local-report>.

⁴ See, e.g., *Beharry*, 183 F.Supp. 2d 584, 593 (E.D.N.Y. 2002) ("[a] treaty has been sometimes said to have force of law only if ratified"), *rev'd on other grds*, *Beharry v. Ashcroft*, 329 F.3d 51 (2d Cir. 2003).

⁵ See *supra* note 2.

are persuasive authority. As explained below, the main international tribunal that hears individual cases against the United States is the IACHR.

A pivotal international human rights instrument is the 1948 Universal Declaration of Human Rights (Universal Declaration), which serves as the inspiration for many others.⁶ The Universal Declaration includes a broad range of civil and political rights, including, among others, the rights to life, liberty, and security of person.⁷ The Universal Declaration was written at the end of World War II in response to the atrocities of the war. The United States was one of the 48 United Nations member nations to vote in favor of the Universal Declaration and played a large role in drafting the international human rights agreement.

Since the creation of the Universal Declaration, nations have signed onto more than nine international instruments considered the core human rights treaties.⁸ The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, together with the Universal Declaration, make up the International Bill of Rights. The other international treaties and conventions encompassing core human rights principles include the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention of the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention of the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Convention of the Rights of Persons with Disabilities.

The United States, however, has ratified only three of these core human rights treaties: 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 and Other Cruel, Inhuman or Degrading Treatment or Punishment. Of these documents, Congress has implemented only parts the Convention Against Torture into domestic law.⁹ Moreover, the Senate did not fully consent to the ratification of the Convention and included significant reservations and declarations.¹⁰

In immigration court, people fearing torture at the hands of government actors, may apply

⁶ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (1948).

⁷ *Id.*, art. 3.

⁸ See *Human Rights Bodies*, Office of the United Nations High Commission for Human Rights, <http://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx> (last visited Feb. 20, 2013).

⁹ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 108 Stat. 382, 1465 U.N.T.S. 85, 113. The regulations incorporating the Convention's protection provisions in immigration proceedings appear at 8 C.F.R. § 208.18.

¹⁰ See 136 Cong. Rec. 36198-99 (daily ed. Oct. 27, 1990) (referencing reservations and declarations). The immigration regulations implementing the protections under the Convention reflect these reservations and declarations.

for relief under Article 3 of the Convention.¹¹ The incorporation of Article 3 into U.S. immigration law is an important example of how international law can expand protections for immigrants.

HUMAN RIGHTS NORMS IN DOMESTIC ADVOCACY

A variety of strategies exist for incorporating human rights norms into domestic advocacy, including immigration court cases and federal court cases. When domestic law is based on international law principles, interpretations of those principles by international tribunals are persuasive authority regarding interpretation of domestic law. For example, the U.S. system for protection of refugees is founded on international law refugee and non-refoulement principles. International law should inform the ways in which immigration judges, the Board of Immigration Appeals, and the federal courts interpret the scope of protection, including any bars to protection.¹²

It may also be appropriate and effective to brief relevant international law principles in cases involving domestic statutes that lack an international law basis. Such briefing can be done as a separate section in a brief or as a separately filed amicus brief. The adjudicator may rule that she or he lacks the authority to rule in accordance with those principles, especially if they conflict with domestic law. However, such briefing can be persuasive and, at the very least, raise the adjudicator's awareness regarding how domestic law may be out of step with international law. For example, in a cancellation case, an international law argument section or amicus brief could discuss the relevant standards on preserving family unity and the rights of children contained in the Convention on the Rights of the Child. Although the Convention has not been ratified by the United States, it remains a respected document in international fora.

Policy advocacy and media strategies can also benefit from a human rights approach. As mentioned above, the general public increasingly understands critical social and legal issues as human rights issues. In this respect, the United States is becoming more like other countries where the human rights framework is already well accepted. A growing group called the Bringing Human Rights Home Lawyer's Network seeks to hold the United States accountable to the same human rights standards that it seeks to enforce abroad.¹³

¹¹ A significant limitation on protection under the Convention as implemented by the United States is the requirement that torture be inflicted with specific intent. *See, e.g., Pierre v. Att'y Gen.*, 528 F.3d 180 (3d Cir. 2008) (holding that severe pain and suffering that is practically inevitable to flow from a government agent's actions does not rise to the level of specifically intended torture unless there is also a purpose to inflict pain).

¹² *See, e.g., INS v. Cardoza-Fonseca*, 480 U.S. 421, 439 n. 22 (1987) ("the Handbook provides significant guidance in construing the Protocol, to which Congress sought to conform."); *Ndom v. Ashcroft*, 384 F.3d 743, 753 n. 4 (9th Cir.2004) (UNHCR Handbook is "persuasive authority in interpreting the scope of refugee status under domestic asylum law").

¹³ Information about this movement is available at <http://web.law.columbia.edu/human-rights-institute/bhrh-lawyers-network>.

Efforts are already underway to integrate human rights advocacy into legal services offices in the United States. The Center for Human Rights and Humanitarian Law at Washington College of Law at American University has developed the Local Human Rights Lawyering Project “to promote human rights at the local level,” partnering with Maryland Legal Aid and Texas RioGrande Legal Aid.¹⁴

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

The primary international forum for bringing a case against the United States alleging a violation of human rights is the IACHR, based in Washington, DC.¹⁵ The IACHR is part of the Organization of American States (OAS), which also includes the Inter-American Court of Human Rights in San Jose, Costa Rica. The OAS Charter includes a statement of human rights norms, as do the other governing instruments: the American Declaration on the Rights and Duties of Man (American Declaration) and the American Convention on Human Rights (American Convention).

While the United States has ratified the OAS Charter, it has not ratified the American Convention. Because the United States is a party to the Charter and must follow the provisions in the American Declaration, the IACHR asserts jurisdiction over the United States to enforce the rights and duties conferred by the American Declaration. The United States, however, typically takes the position that the IACHR lacks jurisdiction over it. However, high-level U.S. representatives appear before the IACHR and engage with the merits of the cases filed against the United States.

The Commissioners are independent human rights experts from different countries who are elected by the OAS General Assembly. Their duties include adjudicating cases brought by petitioners alleging human rights violations by government actors. The Commission also holds hearings on issues of importance and promotes respect for human rights in other ways, including issuing reports and recommendations.

It is possible for immigrants to file cases against the United States alleging that deportation or mistreatment violates the norms encompassed in the OAS Charter and American Declaration. Other international law instruments and cases may also be relevant to interpreting the rights in the Charter and Declaration. The Commission considers both “merits petitions” and requests for “precautionary measures.” The latter request is for protection in cases in which individuals are facing imminent harm.

A petitioner must first exhaust any domestic remedies before filing a merits petition with the Commission. An individual or group may petition on her own behalf or on the behalf of another. A petition must be filed within six months of the exhaustion of domestic

¹⁴ Information about this initiative is available at www.wcl.american.edu/humright/center/locallawyering.cfm.

¹⁵ For an introduction to the Inter-American human rights system, see C. Bettinger-Lopez, “Primer on the Inter-American Human Rights System,” *Clearinghouse Review* (Mar. 2009), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1550865.

remedies. There are two phases to the Commission's consideration of a merits petition. The first phase is to determine "admissibility" of the petition. In this phase, the Commission asks whether the petition complies with all procedural requirements and whether it has the competence to hear the case. If the petition is found admissible, it is sent to the State for a response (normally within two months) and proceeds on the merits. The Commission evaluates the evidence presented and may hold a hearing or conduct its own field investigation. The Commission encourages the parties to engage in settlement talks, including holding working meetings in which the parties appear before the Commission. If the Commission finds that a human rights violation has occurred, it transmits its findings and recommendations and gives the offending country three months to come into compliance. If the country does not comply, the Commission issues a decision on the merits and states what remedy it believes appropriate. Formal working meetings may then be held to discuss implementation. Hearings and working meetings are generally held twice a year during sessions in Washington, DC.

Many cases brought before the IACHR are filed by law school human rights clinics or the Center for Justice and International Law (CEJIL), a nonprofit organization that specializes in advocacy before the IACHR. Advocates considering filing a merits petition or request for precautionary measures before the IACHR may wish to seek co-counsel from CEJIL or a law school clinic.

IACHR CASE EXAMPLES

Mortlock v. United States

On July 28, 2008, the IACHR issued its decision in *Mortlock v. United States*, an important case that held for the first time that the United States must balance its sovereign control over immigration with the human rights of people being deported.¹⁶ The case started on August 15, 2005 when the IACHR received a merits petition and a petition for precautionary measures to protect Andrea Mortlock, a Jamaican national suffering from AIDS/HIV who was subject to a final order of removal.¹⁷ The petitions argued that Ms. Mortlock's rights to health and to protection against cruel, infamous and unusual punishment under the American Declaration would be violated if she were deported because she would not receive critical, life-saving medication and treatment in Jamaica. Ms. Mortlock had come to the United States as a lawful permanent resident at the age of 15. She was ordered removed in absentia in 1995. Her criminal record included a drug trafficking conviction, among other offenses.

The IACHR granted precautionary measures to Ms. Mortlock on August 19, 2005, asking the United States to not deport her. Ms. Mortlock had been in immigration detention, but U.S. Immigration and Customs Enforcement (ICE) officials released her about three

¹⁶ *Mortlock v. United States*, Case 12.534, Inter-Am. Comm'n H.R., Report No. 63/08 (2005).

¹⁷ The petitions were brought by Olivia Cassin, of The Legal Aid Society, Richard J. Wilson of the International Human Rights Law Clinic, American University, Washington College of Law, and Sarah Loomis Cave, of Hughes Hubbard & Reed LLP against the United States of America.

weeks after the precautionary measures were granted.

Because of the “exceptional circumstances” of the case, the IACHR considered both admissibility and the merits of the petition at the same time pursuant to Article 37(3) of its rules. The IACHR granted her merits petition, finding that the United States had violated her right to be free of cruel, infamous, and unusual punishment. The IACHR did not find that the United States had violated Ms. Mortlock’s right to health.

The United States opposed the case, arguing that the IACHR lacked jurisdiction, that the petition did not establish a human rights violation, and that Ms. Mortlock had failed to exhaust domestic remedies because she had not sought either administrative review before the Board of Immigration Appeals or judicial review before the court of appeals. The United States argued that the American Declaration was a non-binding document that did not create a right to health or medical care. The United States also argued that it had an absolute sovereign right to formulate and implement its immigration policy.

The IACHR ruled on the merits on July 28, 2008. The IACHR recognized that “[m]ember States have the right, as matter of well-established international law, to control the entry, residence, and expulsion of aliens,” but also found that “in exercising this right to expel such aliens, the Member States must have regard to certain protections which enshrine fundamental values of democratic societies.”¹⁸ Specifically, the IACHR held that “immigration policy must guarantee to all an individual decision with the guarantees of due process; it must respect the right to life, physical and mental integrity, family, and the right of children to obtain special means of protection.”¹⁹ It further held that “the execution of this immigration policy cannot give rise to cruel, degrading and inhumane treatment nor discrimination based on race, color, religion or sex.”²⁰

The IACHR held that the deportation of Ms. Mortlock to Jamaica would be punishment, stating that “knowingly sending Ms. Mortlock to Jamaica with the knowledge of her current health care regime and the country’s sub-standard access to similar health for those with HIV/AIDS would violate Ms. Mortlock’s rights, and would constitute a *de facto* sentence to protracted suffering and unnecessarily premature death.”²¹ In coming to this conclusion, the IACHR found that it was appropriate to interpret the principles of the American Declaration in light of decisions of other international tribunals interpreting other international instruments. As a result of the advocacy on Ms. Mortlock’s behalf, the United States did not deport her and instead issued her an order of supervision.

Smith & Armendariz v. United States

On July 12, 2010, the IACHR issued a second landmark immigration decision, *Smith and Armendariz v. United States*, holding that the restrictive 1996 amendments to

¹⁸ *Mortlock v. United States*, Case 12.534, Inter-Am. Comm’n H.R., Report No. 63/08, para. 78 (2005).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*, para. 94.

immigration law violated the American Declaration's rights to family life and due process.²² The case was the first by an international tribunal to find that the United States' immigration policy violated human rights norms relating to issues of family separation and the "best interest of the child."

This IACHR litigation began in March 2001, when three individuals, Alfredo Reyes, Vera Frost, Samuel Segura, along with CEJIL and the law firm of Gibbs Houston Pauw, filed a merits petition arguing that their removal orders violated international law. These individual petitioners had been subject to mandatory deportation based on very minor offenses. The initial petition was dismissed, however, because none the petitioners had pursued judicial review before the U.S. court of appeals. The Commission found the petition inadmissible because domestic remedies had not been exhausted.

In July 2003, a second petition was filed with the IACHR by Wayne Smith and Hugo Armendariz. These petitioners had exhausted their domestic remedies by appealing to the court of appeals. Mr. Armendariz had also filed a petition for certiorari to the U.S. Supreme Court, which was denied.²³ As before, CEJIL and Gibbs Houston Pauw were co-petitioners.

Both Wayne Smith and Hugo Armendariz were longtime permanent residents who had been placed in removal proceedings on account of a criminal record. Because of the 1996 changes to immigration law, however, neither was given an opportunity to apply for relief from deportation. Both petitioners were deported by the time the IACHR issued its decision in 2010.

After the petition was filed, the United States argued that the petition was inadmissible and should be dismissed. The United States argued, *inter alia*, that the American Declaration is only a recommendation and does not create legally binding obligations; that as a member state of the OAS it had no obligation to allow non-citizens to remain within its territory if it determined that they posed a threat to public safety or the well-being of its citizens; and that the petition as to Mr. Smith should be dismissed because he had not exhausted domestic remedies by filing a petition for certiorari to the Supreme Court. The IACHR rejected these arguments and found the case admissible.²⁴

The parties then submitted a merits brief concerning whether U.S. deportation policies violated the American Declaration. Several organizations submitted amicus briefs in support of the petitioners' arguments. On the merits, the IACHR found that the United States' refusal to allow the petitioners an opportunity to apply for a waiver led to the substantive violations of Mr. Smith's, Mr. Armendariz', and their families' right to

²² *Wayne Smith, Hugo Armendariz, et al.*, Case 12.562, Inter-Am. Comm'n H.R., Report No. 81/10, (2010).

²³ See *Smith v. Ashcroft*, 295 F.3d 425 (4th Cir. 2002), and *Armendariz v. Sonchik*, 291 F.3d 1116 (9th Cir. 2002).

²⁴ *Smith v. United States*, Report No. 56/06 (July 20, 2006), para. 33, 44 and 50. This decision was based in part on the fact that Mr. Armendariz had filed a petition for cert to the Supreme Court, which had been denied. There was no reason to believe that if Mr. Smith had filed a petition for cert (which would have raised similar issues), his petition for cert would have been granted.

protection against abusive attacks on family life and on the right to establish a family (Arts V and VI of the American Declaration). The United States government also violated the special protections that should be accorded to children who are affected by deportation proceedings as established in Article VII (the right to protection for mothers and children) of the American Declaration. The IACHR found that Mr. Smith and Mr. Armendariz “had no opportunity to present a humanitarian defense to deportation or to have their rights to family duly considered before deportation. Nor were the best interest of their U.S. citizen children taken into account by any decision maker.”²⁵

The IACHR reasoned that countries have the right to control the entry, residence, and expulsion of non-citizens. However, when implementing immigration policy, countries “must guarantee to all an individual decision with the guarantees of due process; it must respect the right to life, physical and mental integrity, family, and the right of children to obtain special means of protection”.²⁶ Therefore, where a decision-making process involves the potential separation of family, a “balancing test” must be applied, whereby the interference with family life may only be justified where necessary to meet a pressing need to protect public order, and where the means are proportional to that end. The IACHR found that “a balancing test is the only mechanism to reach a fair decision between the competing individual human rights and the needs asserted by the State.”²⁷ The IACHR also found the United States violated Mr. Smith and Mr. Armendariz’s rights to due process and a fair trial by failing to provide a judicial mechanism to hear their humanitarian defenses and offer an effective remedy to preserve their fundamental rights to protection of their family life and protection of their children.²⁸

The IACHR recommended that the United States allow Wayne Smith and Hugo Armendariz to return to the United States to be reunited with their families, at least pending an individualized review that takes into account humanitarian factors. On a more structural level, the IACHR recommended that the United States reform its policies of mandatory deportation and mandatory detention in order to protect the fundamental human rights of family unity and to protect the best interests of children.²⁹

Although the IACHR’s ruling is directed to the United States, it is the U.S. Department of State (DOS) that appears before the IACHR. The IACHR does not have direct contact with any of the agencies that might actually implement its recommendations. The Department of State has been less than enthusiastic about implementing the IACHR’s recommendations. The parties representing Smith and Armendariz had several meetings with DOS and have submitted requests to the U.S. Department of Homeland Security (DHS) that Smith and Armendariz be paroled back into the United States so that they could pursue their waiver applications. These requests have been denied. Unfortunately,

²⁵ *Smith and Armendariz v. United States*, Report No. 81/10 (July 12, 2010), para. 59.

²⁶ *Id.*, para. 50.

²⁷ *Id.*, para. 58.

²⁸ *Id.*, para. 64.

²⁹ *Id.*, Part VI (Recommendations).

Wayne Smith passed away in Trinidad and was never reunited with his family. Hugo Armendariz remains in Mexico to this day.

The petitioners plan to submit a request to the IACHR for a public hearing during the Commission's session in October 2013. The proposal is to bring together a hearing to consider how the principles of international human rights law set forth by the IACHR's decisions should be applied to U.S. immigration law and practice, including, *inter alia*: (i) efforts that can be taken to ensure consideration of humanitarian defenses to removal; (ii) use of a balancing test by a judge when evaluating removal cases, (iii) efforts that can be taken to ensure that the right to family life and the best interests of children are taken into account before a decision is made to remove someone from the United States; and (iv) ensuring that the decisions are made on a case-by-case base rather than on the basis of broad general policies under which whole classes of individuals need to be removed from the United States.

Specifically, the petitioners propose that the IACHR should request that the United States: (1) publish the *Smith and Armendariz* and *Mortlock* decisions on U.S. government websites, including those of DOS, DHS, ICE, and the Executive Office for Immigration Review; (2) encourage immigration judges to consider IACHR guidelines in making discretionary decisions whether to grant waivers of removal and whether to administratively close removal proceedings; (3) incorporate the IACHR's guidelines into the criteria used by immigration officials exercising prosecutorial discretion; (4) report the IACHR's decisions to the U.S. Congress; and (5) issue a special report evaluating the impact of deportations on family life and the interests of children, and the extent to which U.S. deportation policy is in compliance with the recommendations that have been made by the IACHR.

Haiti Deportations Case

A recent collaboration between law school clinics and nonprofit advocacy organizations illustrates how domestic and human rights advocacy can dovetail.³⁰ After the January 2010 earthquake that devastated Haiti, immigration authorities suspended deportations for a period but then restarted them a year later, focusing on people who had a criminal record. Immigration authorities rounded people up from their communities and deported them to Haiti in the midst of a cholera outbreak. Upon arrival in Haiti, Haitian authorities, following a longstanding practice, jailed the deportees in extremely cramped and bare concrete cells smeared with feces, blood, and vomit. Within one week, one man got sick and died.³¹ In June 2012, the U.N. Independent Expert on the Situation of Human Rights in Haiti, Michel Forst, urged countries to halt deportations to Haiti, stating that "individuals returned to Haiti are vulnerable to human rights violations, especially the

³⁰ Information about this advocacy, including the IACHR case, can be found at www.StopHaitiDeportations.org.

³¹ J. Kay, "Activists Seek to Stop US from Deporting Haitians After Deportee Dies After Being Sent Back" *The Associated Press*, (Feb. 2, 2011), available at www.startribune.com/templates/Print_This_Story?sid=115036584.

fundamental rights to life, health, and family.”³²

The Haitian nationals facing deportation had already received the due process required by our immigration system and had exhausted, or waived, all rights to appeal. Moreover, the group was too large for the clinic to provide individual representation. The lack of the usual legal remedies pushed advocates of different types to join forces and pursue alternate strategies. Individual domestic representation remained but it constituted only a part of the effort. Other strategies included human rights advocacy through the Inter-American Commission on Human Rights and before the United Nations.

The advocacy groups filed multiple petitions for precautionary measures with the IACHR for individuals facing deportation to Haiti. At last 60 were granted. Although the United States deported at least 23 individuals who had been granted precautionary measures, the U.S. government acknowledged that they factored into their calculation of whether to deport someone the fact that precautionary measures had been granted. The IACHR’s involvement also facilitated meetings with the DOS, DHS, and White House officials. The IACHR has held four formal working meetings on the issue of the Haiti deportations and precautionary measures. It also issued news releases expressing concern regarding deportations to Haiti.³³ The advocacy before the IACHR raised the profile of the issue and provided a forum in which the U.S. government was called on to account for its treatment of people facing deportation to Haiti.

CONCLUSION

The clients and causes of immigration advocates can benefit in significant ways from human rights advocacy. Human rights advocacy can take various forms, including bringing human rights norms into individual domestic cases, using a human rights framing for messaging about immigration policy, and litigating before international tribunals. Human rights advocacy can complement domestic advocacy, making both types of advocacy more powerful. Together, immigration and human rights advocates can and should work together to better align U.S. immigration policy and law with international human rights standards.

³² Michel Forst, Rep. of U.N. Indep. Expert on the Situation of Human Rights in Haiti, Human Rights Council, 20th Sess., Agenda item 10, at 16, U.N. Doc. A/HRC/20/35/Add.1 (June 4, 2012), www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-35-Add1_en.pdf.

³³ The IACHR held its latest formal working meeting on deportations to Haiti on November 3, 2012. On November 16, 2012, the commission issued a press release again calling on the United States “to suspend deportations to Haiti of persons of Haitian origin who are seriously ill or who have family members in the United States.” The full text of the IACHR’s statement relating to the Deportation of Haitian Nationals by the United States is located in Part II of the press release, available at http://www.oas.org/en/iachr/media_center/PReleases/2012/134A.asp. See also Inter-American Commission on Human Rights, *IACHR Urges United States to Suspend Deportations to Haiti* (Feb. 4, 2011), available at http://www.oas.org/en/iachr/media_center/PReleases/2011/006.asp.