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Cover Page Footnote

* Executive Director, The Opportunity Agenda; B.A., Harvard College, 1985; J.D., Harvard Law School, 1989. Thank you to Kate Stewart of Belden, Russonello & Stewart, Loren Siegel and Jesse Serrins of Loren Siegel Consulting, and Nora Ferrell of Valerie Denney Associates for their research, analysis, and writing of the report on which this essay is based. Julie Rowe of The Opportunity Agenda envisioned and managed this research project and shaped it into its final form. This research would not be possible without the advice and suggestions of our public research working group; Ajamu Baraka, Ann Beason, Gillian Caldwell, Tanya Coke, Jason Corum, Mallika Dutt, Dalia Hashad, Susan Osnos, Rose Reyes, and Marsha Weissman. Finally a special thank you to Catherine Powell for organizing this Symposium. ** Associate Counsel and Robert L. Carter Fellow, The Opportunity Agenda; B.A., University of California, San Diego, 2004; J.D., Georgetown University Law Center, 2007. Thank you to our Law and Human Rights Interns, Basil Kim and Lili Nguyen, for their research assistance.

AMERICAN IDEALS & HUMAN RIGHTS: FINDINGS FROM NEW PUBLIC OPINION RESEARCH BY THE OPPORTUNITY AGENDA

*Alan Jenkins**

*Kevin Shawn Hsu***

INTRODUCTION

Dignity, fairness, opportunity, and the belief in creating a better society for all are values that Americans widely share and view as important to our progress as a nation. In many other nations, and on the global stage, those values are expressed and understood in terms of “human rights”—the rights that all people hold simply by virtue of their humanity, and which the world’s governments have, with few exceptions, agreed to protect through an international system of human rights treaties and mechanisms.¹ Yet,

* Executive Director, The Opportunity Agenda; B.A., Harvard College, 1985; J.D., Harvard Law School, 1989. Thank you to Kate Stewart of Belden, Russonello & Stewart, Loren Siegel and Jesse Serrins of Loren Siegel Consulting, and Nora Ferrell of Valerie Denney Associates for their research, analysis, and writing of the report on which this essay is based. Julie Rowe of The Opportunity Agenda envisioned and managed this research project and shaped it into its final form. This research would not be possible without the advice and suggestions of our public research working group: Ajamu Baraka, Ann Beason, Gillian Caldwell, Tanya Coke, Jason Corum, Mallika Dutt, Dalia Hashad, Susan Osnos, Rosi Reyes, and Marsha Weissman. Finally, a special thank you to Catherine Powell for organizing this Symposium.

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1. For example, all countries except for eight nonsignatory states and the United States have ratified the Convention on the Elimination of All Forms of Discrimination Against Women. See Office of the U.N. High Comm’r for Human Rights, Convention on the Elimination of All Forms of Discrimination Against Women New York, 18 December 1979, <http://www2.ohchr.org/english/bodies/ratification/8.htm> (last visited Oct. 16, 2008). All U.N. member-states except for Somalia and the United States have ratified the Convention on the Rights of the Child. See, e.g., Gabriella Blum, *Bilateralism, Multilateralism, and the Architecture of International Law*, 49 HARV. INT’L L.J. 323, 345 (2008); Jimmy Carter, *What’s Right for Children*, 20 EMORY INT’L L. REV. 1 (2006). A majority of U.N. member-states, the United States not among them, have ratified the Rome Statute of the International Criminal Court. See COALITION FOR THE INTERNATIONAL CRIMINAL COURT, FACTSHEET, STATES PARTIES TO THE ROME STATUTE OF THE ICC, *available at* http://www.iccnw.org/documents/RatificationsbyUNGGroup_18_July_07.pdf. One hundred and fifty-nine countries, the United States not among them, have ratified the International Covenant on Economic, Social and Cultural Rights. See Office of the U.N. High Comm’r for

although the United States played a leading role in the creation of the international human rights system and its specific protections, most Americans are unaware of that system and discuss many societal justice issues solely in terms of civil rights, constitutional rights, and civil liberties. Many economic or social justice issues, such as poverty, education, or health care, are not discussed as rights issues at all but, rather, as matters of charity, good government, or consumer choice.

In recent years, however, a growing number of Americans, and American institutions, have begun to express domestic concerns and policy solutions in terms of human rights. They include advocacy organizations addressing issues from police misconduct, to extreme poverty, to immigrant detention, to discrimination based on race, gender, and sexual orientation. They also include the U.S. Supreme Court, which has increasingly cited international human rights treaties and decisions as persuasive authority in interpreting domestic legal protections, as well as a range of legal scholars.²

As many commentators have noted, the recognition of international human rights principles and standards in U.S. legal and political discourse would both facilitate satisfaction of our nation's obligations as a signatory to several treaties and a member of the global community, and advance core American values and constitutional principles more effectively. For example, international protections against racial discrimination in the International Convention on the Elimination of All Forms of Racial Discrimination go beyond the prohibition of intentional discrimination set out in current Equal Protection Clause jurisprudence to prohibit policies with unjustified discriminatory effects.³ Provisions of the Universal Declaration of Human Rights and the Covenant on Economic, Social and Cultural Rights include guarantees of basic education and health care that exist in some state constitutions,⁴ but are generally lacking in our national policies. And international humanitarian and human rights agreements afford due process and protections against torture irrespective of nationality.⁵

Human Rights, International Covenant on Economic, Social and Cultural Rights New York, 16 December 1966, <http://www2.ohchr.org/english/bodies/ratification/3.htm> (last visited Oct. 16, 2008).

2. See, e.g., *Roper v. Simmons*, 543 U.S. 551, 575–76 (2005); see also *Grutter v. Bollinger*, 539 U.S. 306, 344 (2003) (Ginsburg, J., concurring) (noting the international understanding of the need for and limits to affirmative action embodied in the International Convention on the Elimination of All Forms of Racial Discrimination).

3. See International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. 2106 (XX), U.N. Doc A/6014 (Dec. 21, 1965).

4. See International Covenant on Economic, Social and Cultural Rights, *opened for signature* Dec. 19, 1966, 993 U.N.T.S. 3; Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948); N.Y. CONST. art. XVII, §§ 1, 3. See generally Martha Davis, *The Spirit of Our Times: State Constitutions and International Human Rights*, 30 N.Y.U. REV. L. & SOC. CHANGE 359 (2006); Helen Hershkoff, *Welfare Devolution and State Constitutions*, 67 FORDHAM L. REV. 1403 (1999); Burt Neuborne, *State Constitutions and the Evolution of Positive Rights*, 20 RUTGERS L.J. 881 (1989).

5. E.g., Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, U.N. Doc. A/39/51 (Dec. 10, 1984); International Covenant

While many commentators and political leaders welcome the rebirth of a U.S. “human rights culture” as profoundly American and long overdue, others have condemned the rise of human rights at home as antidemocratic and elitist.⁶ At this crucial juncture in the development of human rights in the United States, The Opportunity Agenda sought to understand where Americans stand, and where they might go, in their knowledge and support for these ideas. In 2007, the organization commissioned the largest body of opinion research to date on Americans’ views about human rights as they apply to U.S. domestic issues. The research included interviews with leaders in the nascent U.S. human rights movement; interviews and an online poll of U.S. social justice advocates; focus groups of diverse segments of the American public; and a nationwide poll of the public as a whole.

The findings of this research, presented at this Symposium, provide considerable new insight into the American public’s views in this area. After briefly discussing the research methodology and the relevance of human rights to domestic issues, this essay discusses the four main findings of the research: (1) the concept of human rights is clear and positive for Americans; (2) the public places many social justice issues in a human rights framework; (3) perceptions of the role of government complicate the public’s views on human rights; and (4) communicating with mass audiences about international treaties is a long-term challenge. This essay then discusses the implications of the findings for the growing U.S. human rights movement.

I. THE HUMAN RIGHTS FRAMEWORK

Discussion of human rights in the United States generally takes one of two forms: a values-based discourse about the rights that all people hold by virtue of their humanity, or a more legalistic discourse rooted in specific

on Civil and Political Rights, *opened for signature* Dec. 19, 1966, 999 U.N.T.S. 171; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3517, 75 U.N.T.S. 287.

6. See, e.g., Roger P. Alford, *Misusing International Sources to Interpret the Constitution*, 98 AM. J. INT’L L. 57, 58–61 (2004) (finding some applications of international law to be “countermajoritarian”); Jed Rubenfeld, *Unilateralism and Constitutionalism*, 79 N.Y.U. L. REV. 1971, 2017–18 (2004) (describing international law as “undemocratic” and declaring international legal institutions “famous for their . . . opacity, remoteness from popular or representative politics, elitism, and unaccountability”); John O. McGinnis & Ilya Somin, *Democracy and International Human Rights Law* (Nw. Univ. Sch. of Law, Pub. Law & Legal Theory Series, Working Paper No. 08-08, 2008), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1116406 (arguing that international human rights laws are created through undemocratic processes by “unrepresentative legal elites” and are thus less legitimate than domestic law, especially with regard to substantive economic rights); Christian G. Vergonis, *The Federalism Implications of International Human Rights Law* 11–12 (Mar. 25, 2007) (unpublished white paper), *available at* http://www.fed-soc.org/doclib/20070325_vergonishumanright.pdf (arguing that applying international human rights legal norms to domestic federal law is “anti-democratic” and unrepresentative).

laws, mechanisms, and obligations. Over the last decade and a half, U.S. human rights advocates have used both types of arguments to make a case that universal human rights apply as much within the United States as anywhere else in the world, and that the human rights standards that the American government promotes outside of our borders are equally legitimate within our borders.⁷

While courts and commentators disagree about the scope, reach, and enforceability of particular human rights treaties, there is little question that the United States is bound by treaties that it has signed and ratified, as well as by international law. Under our federalist system, moreover, states are similarly bound by treaties, pursuant to the Supremacy Clause,⁸ as to subject matter—such as family law or public education—within their purview. Nonetheless, as Professor Carol Anderson has detailed, soon after championing the adoption of the Universal Declaration of Human Rights and the international human rights system, U.S. officials moved to thwart the enforcement of those rights domestically.⁹ Moreover, though the economic and social rights identified in the Universal Declaration and its progeny derive in significant part from President Franklin Delano Roosevelt's idea of a "Second Bill of Rights," U.S. officials have, since the cold war, frequently contested the legitimacy of those rights, deeming them socialistic.¹⁰

Today, opposition to economic rights continues in some quarters, on traditional grounds such as the equation of guaranteed, affordable healthcare for all with "socialized medicine," as well as on the grounds that recognizing economic rights negates the role of personal responsibility or is simply too expensive.¹¹ In the jurisprudential context, opponents of a

7. See e.g., NESRI: National Economic & Social Rights Initiative, Human Rights in the United States, http://www.nesri.org/human_rights_us/index.html (last visited Oct. 16, 2008).

8. U.S. CONST. art. VI, § 2.

9. CAROL ANDERSON, EYES OFF THE PRIZE: THE UNITED NATIONS AND THE AFRICAN AMERICAN STRUGGLE FOR HUMAN RIGHTS, 1944–1955, at 131–38, 151, 227–30 (2003).

10. *Id.* at 218–23.

11. E.g., Daniel Gallington, Commentary, *Health Insurance Disinformation*, WASH. TIMES (D.C.), Aug. 18, 2008, at A16 (“[I]n countries with ‘socialized medicine’ (e.g., the United Kingdom and Canada) . . . there are simply not enough health-care resources to go around, and there has remained a separate and better-quality system for people who can pay for it, much like in countries without socialized medicine.”); Matt Henderson, Letter to the Editor, *Health Care Problems*, TRI-CITY HERALD (Wash.), July 15, 2008, at A9 (“The only fix for the health care crisis is to take personal responsibility of your health. We’re the ones generating the claims. The lack of accountability within socialized medicine is simply unsustainable long term, just ask Canada!”); Editorial, *Labor Disputes*, LIMA NEWS (Ohio), Sept. 1, 2008, http://www.limaohio.com/articles/labor_27580__article.html/care_union.html (“The debate over government-provided health care—socialized medicine, universal coverage or whatever you want to call it—also is back. . . . But getting government further out of the way—driving down the costs of regulatory burdens—should be a goal.”); Carla Marinucci, *Teenager’s Pregnancy, Storm Roil Opening Day*, S.F. CHRON., Sept. 2, 2008, at A1 (“Wilson told the delegates that ‘class warfare . . . has been the staple of the [Democratic Party] even since the New Deal days,’ and that the party offers nothing more than ‘taxing and spending’ and ‘socialized medicine’ as its agenda.”).

human rights approach have argued that international legal principles simply have no place in the interpretation of our laws and Constitution. Others have challenged the very notion of applying international human rights domestically on the ground that doing so inherently violates U.S. sovereignty.¹²

This essay does not attempt to resolve those substantive arguments, though rigorous scholarship in this Symposium issue and elsewhere does so in significant depth.¹³ In describing Americans' attitudes on human rights, however, we do discuss their views on many of the issues that define the scholarly and legal debate, including the relationship between values and legal mechanisms, the role of economic rights, and questions of personal responsibility and U.S. sovereignty.

II. METHODOLOGY

The findings discussed in this essay result from a four-part research effort. Phase one consisted of in-depth interviews with forty U.S. human rights leaders regarding their core audience, their existing communications methods, and the opportunities and challenges that they faced in discussing human rights with those audiences. Phase two examined the views of a large number of U.S. social justice advocates and service providers, most of whom were not then using a human rights approach in their work. Phase three consisted of focus groups of a diverse population of registered voters and elicited information as to whether certain human rights messages prove more resonant in the public's ear. Finally, phase four gathered detailed information regarding the American public's perceptions of human rights through a large national telephone survey.

Social justice advocates were engaged directly in the first two phases: first, seven moderated discussion groups were conducted in four cities (Atlanta, Chicago, Minneapolis-St. Paul, and New York City); and second, an online survey was administered to organization staff members.¹⁴ Phase one—the ninety-minute, in-person discussion sessions—engaged a total of

12. See *supra* note 6.

13. See, e.g., Kathryn Burke et al., *Application of International Human Rights Law in State and Federal Courts*, 18 TEX. INT'L L.J. 291 (1983); Martha Davis, *International Human Rights and United States Law: Predictions of a Courtwatcher*, 64 ALA. L. REV. 417 (2000); Connie de la Vega, *Protecting Economic, Social and Cultural Rights*, 15 WHITTIER L. REV. 471 (1994); Paul L. Hoffman, *The Application of International Human Rights Law in State Courts: A View from California*, 18 INT'L LAW. 61 (1984); Harold Hongju Koh, *International Law as Part of Our Law*, 98 AM. J. INT'L L. 43 (2004); Symposium, *International Law and the Constitution: Terms of Engagement*, 77 FORDHAM L. REV. 399 (2008); Symposium, *International Law in the United States Legal System: Observance, Application, and Enforcement*, 45 SANTA CLARA L. REV. 807 (2005).

14. Loren Siegel Consulting, *Human Rights in the United States: Enthusiasm Tempered by Skepticism, Findings with Social Justice Advocates*, in THE OPPORTUNITY AGENDA, HUMAN RIGHTS IN THE U.S.: OPINION RESEARCH WITH ADVOCATES, JOURNALISTS, AND THE GENERAL PUBLIC 1 (2007) [hereinafter THE OPPORTUNITY AGENDA], available at <http://www.opportunityagenda.org/atf/cf/%7B2ACB2581-1559-47D6-8973-70CD23C286CB%7D/HUMAN%20RIGHTS%20REPORT.PDF>.

forty staff members of social justice organizations, with diversity in both the subject matter areas of their work and the types of positions the advocates held.¹⁵ Using the feedback and input from advocates gathered in the moderated discussions, a questionnaire was constructed and administered online in phase two to 650 staff members of social justice organizations, with the same diverse make-up in terms of job categories and issue area foci.¹⁶ Whereas the discussion groups followed a uniform discussion guide seeking to elicit thinking on human rights in advocates' own words, the survey sought to quantify that thinking.

The research effort then turned to the exploration of the American public's thinking on human rights. In phase three, six focus groups of voters were held, two in each of the cities of Atlanta, Chicago, and Minneapolis.¹⁷ The six demographic groups represented in the discussions were Latino men, African American women, Latino women, White women, younger Whites of both genders, and African American men.¹⁸ The Latino and African American participants ranged from moderate to liberal in their political leanings, while the White groups were made up of liberals.

Finally, the national poll was a random sample survey of all adults in the United States, weighted by age and race.¹⁹ In addition to disaggregating survey results by gender, age, race, income, level of education, region, and political identification, the research findings also underwent a segment analysis that grouped the American public into five audience clusters differentiated by the ways in which they perceive, support, or oppose human rights.²⁰

15. Position categories of discussion group participants included executive directors, communications staff, development staff, organizers, program staff, and attorneys. Subject matter areas covered by the participants' organizations were civil rights, rights of the homeless, lesbian, gay, bisexual, and transgender rights, labor, living wage, poverty law, racial equity, women's health, and urban revitalization. *Id.*

16. Advocacy staff members were selected by The Opportunity Agenda and by foundations focused on human rights work in the United States. The online survey tool SurveyMonkey was used to administer, analyze, and cross-tabulate findings. *Id.* at 1. Recipients were unaware of the subject matter of the poll before agreeing to complete it. *Id.*

17. Each focus group consisted of between eight and ten participants, with a total of fifty-two participants across the six groups. Belden Russonello & Stewart, *Human Rights in the United States: "The Thing to Strive For," A Report of Six Focus Groups*, in THE OPPORTUNITY AGENDA, *supra* note 14, at 1, 2 [hereinafter Focus Groups].

18. The groups were distributed geographically as follows: Latino men and African American women in Atlanta, Latino women and liberal White women in Chicago, and liberal Whites (without regard for gender) and African American men in Minneapolis. *Id.*

19. The survey was conducted by Belden Russonello & Stewart using a computer-assisted telephone interviewing (CATI) system, from June 20 to July 8, 2007, and with a random sample of 1633 adults. Interviewers were professional, fully trained, and supervised. Interviews averaged eighteen minutes in length, and interviews and data collection were monitored to ensure quality. The margin of sampling error for the survey is plus or minus 2.4 percentage points at the 95% level of confidence. Belden Russonello & Stewart, *Human Rights in the United States: Findings from a National Survey*, in THE OPPORTUNITY AGENDA, *supra* note 14, app. B, at 2 [hereinafter National Survey].

20. *Id.* at 33.

Taken together, this comprehensive research paints an encouraging, though nuanced, picture for advocates, policymakers, jurists, and others seeking to advance human rights principles in U.S. law, policy, and political discourse.

III. RESEARCH FINDINGS

Analysis of the research resulted in four main findings: (1) the concept of human rights is clear and positive for Americans; (2) the public places many social justice issues in a human rights framework; (3) perceptions of the role of government complicate support for human rights; and (4) communicating about international treaties is a long-term challenge.

A. *The Concept of Human Rights Is Clear and Positive for Americans*

Perhaps the most striking research finding is that a large majority of Americans strongly believe in human rights, specifically in the notion that “every person has basic rights regardless of whether their government recognizes those rights or not,” with 80% of those surveyed agreeing with that statement, and 62% agreeing strongly.²¹ Similarly, very few respondents believed that rights stem solely from the government deciding to afford them to an individual; only 19% agreed that “rights are given to an individual by his or her government.”²² These findings are consistent with a survey conducted ten years earlier in which 76% of respondents agreed that “every person has basic rights common to all human beings” and only 17% “believed rights are given by government.”²³ Nor do Americans see human rights as inherently international or foreign; 81% agree that “we should strive to uphold human rights in the U.S. because there are people being denied . . . human rights in our country.”²⁴ This finding, that the American public is “very comfortable with the term human rights,”²⁵ was also reflected in the focus groups, confirming that, while the issue of human rights is an infrequent topic of discussion for most Americans, it is one that they are fully comfortable having.

Americans not only believe in human rights as a concept, they also believe that the United States should be working to improve human rights at home, with 77% strongly agreeing that government should “protect” human rights for everyone, and 69% strongly agreeing that government should “provide” human rights.²⁶ Addressing human rights problems aggressively is not a top priority for most Americans, however. Only 27% believe that, compared to other challenges facing the country, human rights should be

21. *Id.* at 3.

22. *Id.* at 53.

23. *Id.* at 12 (citing Peter D. Hart Research Assocs., Inc., Adult Survey Data, <http://www1.umn.edu/humanrts/edumat/adultsur.htm> (last visited Oct. 16, 2008)).

24. *Id.* at 3.

25. *Id.*

26. *Id.* at 53.

put “near the top of the list,” and half of respondents believe instead that we should “[m]ove cautiously, trying to make regular progress on human rights problems.”²⁷

B. *Americans Place Many Social Justice Issues in a Human Rights Framework*

Just as the public shows broad support for the general concept of human rights, Americans are also open to viewing specific social justice issues through a human rights lens and consider many substantive freedoms and guarantees to be human rights. The national survey asked respondents whether each of fifteen social justice principles and issue areas “should be considered a human right.”²⁸ That inquiry found three tiers of support, which we discuss below.

1. Social Justice Issues as Human Rights

There is broad and emphatic public recognition of social justice guarantees related to equal opportunity, nondiscrimination, and freedom from abuse by law enforcement as human rights. Nearly all Americans found the following protections to be human rights, with over eight in ten “strongly agree[ing]” that they are human rights: equal opportunity regardless of gender (86%), equal opportunity regardless of race (85%), fair treatment in the criminal justice system for the accused (83%), freedom from discrimination (83%), freedom from torture or abuse by law enforcement (83%), and equal access to quality public education (82%).²⁹ Focus group findings suggest that these protections are particularly closely aligned with the values of dignity, fairness, and opportunity that Americans identify with the notion of human rights.³⁰ Each right, moreover, has roots in the U.S. Constitution, and Americans see the protection of these rights as building upon human rights guarantees.³¹

In the “second tier,” only slightly smaller majorities of the public also recognized the following four guarantees to be human rights, with over six in ten “strongly agree[ing]” that they are human rights: access to health care (72%), living in a clean environment (68%), fair pay for workers to meet their basic needs for food and housing (68%), and keeping personal behavior and choices private (60%).³² Most of these guarantees relate to the opportunity for people to meet their basic human needs, indicating public support for positive rights alongside negative prohibitions against discrimination. Support for protection of privacy in personal behavior may

27. *Id.* at 56.

28. *Id.* at 3.

29. *Id.*

30. Focus Groups, *supra* note 17, at 3, 9.

31. *Id.* at 13.

32. National Survey, *supra* note 19, at 4.

have served as a proxy for such issues as contraception and same-sex intimacy.

The “third tier” represents guarantees which were recognized by a majority of respondents, but for which only approximately half of respondents “strongly agree” that they are human rights: equal opportunities regardless of whether you are gay or lesbian (79% total agree; 57% “strongly”), freedom from extreme poverty (78%; 52% “strongly”), adequate housing (77%; 51% “strongly”), ensuring economic opportunity (77%; 47% “strongly”), and the right to an abortion (64%; 40% “strongly”).³³ Within this tier, the issue of abortion as a human right produced the most evenly split result, with 40% strongly supporting a human right to abortion, 24% only somewhat supporting the notion that abortion is a human right, and 35% believing that abortion should not be a human right.³⁴ Majorities of liberals (58%), Democrats (53%), and residents of the Northeast (50%) strongly recognized a human right to abortion, whereas majorities of Republicans (52%) and conservatives (51%), and a plurality of residents of the South (44%) believe that abortion should not be considered a human right.³⁵ Though this final tier of issues received less “strong” support than the other ten issues, there is still significant support for approaching these issues from a human rights framework.³⁶

2. Specific Contemporary U.S. Problems as Human Rights Violations

In addition to inquiring whether Americans view social justice issues as human rights, the research also examined whether Americans consider six specific, ongoing situations in the United States to be human rights violations. Respondents were asked to state whether they strongly agreed, somewhat agreed, somewhat disagreed, or strongly disagreed that each of the following was a human rights violation—with the percentages for total “agree” and “strongly agree” listed, respectively, in parentheses: police stop and search based solely on race or ethnicity (84%; 70%), lack of quality education for children in poor communities (81%; 62%), torturing prisoners suspected of terrorism (67%; 43%), treatment of New Orleans

33. *Id.* at 17–18.

34. *Id.* at 18.

35. *Id.*

36. Interestingly, public recognition of abortion as a human right is significantly higher than the level of support for the legality of abortion captured in most recent national polls. For example, when asked, “Do you think abortion should be legal in all cases, legal in most cases, illegal in most cases, or illegal in all cases?” 18% responded “Legal in all cases” and 35% responded “Legal in most cases,” for a total of 53%. Polling Report, Inc., Abortion, <http://www.pollingreport.com/abortion.htm> (last visited Oct. 18, 2008) (listing the results from a June 12–15, 2008, ABC News/Washington Post poll). Similarly, when asked the same question in October, 2007, by the Pew Research Center, 21% responded “Legal in all cases” and 32% responded “Legal in most cases,” also for a total of 53%. *Id.* (listing the results from an October 17–23, 2007, survey conducted by the Pew Research Center for the People & the Press).

residents after Hurricane Katrina (60%; 41%), and denying “illegal immigrants” access to medical care (49%; 24%).³⁷ These results indicate that Americans are amenable to a human rights framework not only for broad values or high-level thinking about social justice, but also as applied to specific, real-life problems.

A particular pair of survey results bears further discussion. While 72% of Americans strongly agree that access to health care is a human right,³⁸ the public is split regarding the proposition that denial of access to medical care for undocumented immigrants is a human rights violation, with 49% of Americans saying that it is.³⁹ More of the public strongly disagrees with the latter proposition (32%) than strongly agrees (24%).⁴⁰ This reflects the sharp division in the United States around the issue of immigration.⁴¹ These results no doubt reflect the current divisive debate about immigration reform and the future of undocumented immigrants. For example, there are deep demographic and ideological distinctions in how different groups responded to the question of immigrants and medical care.⁴² Yet, the disconnect in overall responses to the two survey items does raise questions about the extent to which audiences view all human rights as inalienable and universal.

Overall, however, this research demonstrates that Americans are open to thinking about domestic social justice issues in a human rights framework. Some areas of social justice work gain stronger support for consideration through a human rights lens than others, but each of the fifteen issues tested garnered at least a plurality of strong support. Majorities of Americans also viewed a variety of contemporary social problems as human rights violations, with the exception of denial of access to medical care for undocumented immigrants, which provided a divided response.

37. National Survey, *supra* note 19, at 19.

38. *Id.* at 4.

39. *Id.* at 19.

40. *Id.*

41. The focus group of moderate-to-liberal voters found that most of those participants did believe that “the treatment of illegal immigrants is an instance in which the U.S. is in violation of human rights,” specifically in the case of abusive treatment by employers or violations of fairness and dignity, such as the separation of children from parents due to deportation. Focus Groups, *supra* note 17, at 15. It is thus not clear that the specific problem posed in the national survey regarding access to medical care is reflective of the resonance of the human rights framework in all immigration-related issues.

42. Majorities of African Americans (67% total agree; 40% “strongly”), Latinos (61%; 40% “strongly”), Asian Americans (62%; 30% “strongly”), those with postgraduate degrees (57%; 30% “strongly”), Democrats (61%; 33% “strongly”), liberals (65%; 34% “strongly”), urbanites (54%; 27% “strongly”), and those living in the Northeast (52%; 26% “strongly”) and the South Atlantic (55%; 28% “strongly”) agree that denying undocumented immigrants access to medical care is a human rights violation. National Survey, *supra* note 19, app. A, at 7. Majorities of Whites (53% total disagree), those with less than a college degree (51%), Republicans (64%), moderates (53%), conservatives (55%), rural residents (54%), and those living in the Midwest (52%) and South (51%) disagree that denial of medical care to undocumented immigrants is a human rights violation. *Id.*

C. *Americans Have Mixed Beliefs About the Role of Government*

Given Americans' acceptance of human rights as a concept and as a set of substantive protections, it is not surprising that the public also believes that government should play a role in upholding those human rights. Large majorities of the public "strongly agree" that the government should be both a "protector" (77%) and "provider" (69%) of human rights, and 67% "strongly" or "somewhat" agree that such protection and provision of rights may require expansion of government assistance programs in areas such as housing, food, health care, and jobs.⁴³

This belief in the need for government action, however, is tempered by Americans' belief in the role of "personal responsibility." For example, Americans are evenly split in assigning responsibility for poverty, with 47% believing that poverty results from personal lack of effort, while 48% believe that it results from circumstances beyond the control of those who are impoverished.⁴⁴ While a majority agrees that the expansion of government assistance for jobs is required to protect and provide human rights, nearly two-thirds (64%) disagree that it is the government's responsibility to "provide a job to everyone who wants one."⁴⁵ Significantly, despite recognizing a need to expand government assistance programs, nearly three-quarters (71%) of the public believes that poor people have become too dependant on government programs.⁴⁶

These mixed views—a strong belief in a role for government in upholding human rights and a strong concern that the poor are insufficiently self-reliant—suggest that communications that begin with the values and goals of human rights protection, then move to the specific governmental action needed, will garner greater public support than those that begin with government programs and mechanisms. Similarly, the research shows that framing government as "protector" rather than "provider" of rights increases support for enforcement, irrespective of the right in question. This is not to say that advocates and others concerned with human rights in the United States should not speak in specifics, but rather that in *starting* conversations and framing the issues at stake, the values and goals inherent in human rights such as dignity and fairness will be more effective in engaging audiences than immediately delving into the details or mechanisms of government action that is required.

D. *Communicating About International Mechanisms Is a Long-Term Challenge*

Just as discussion around the process of government programs that uphold human rights may provide a challenge for the human rights movement, so also might communicating to audiences about the

43. *Id.* at 5, 22.

44. *Id.* at 5, 23.

45. *Id.* at 24.

46. *Id.*

international laws, treaties, and conventions that form the basis of international human rights standards. Similar to the way in which Americans simultaneously believe in a need for government action and that the poor are too reliant on such government action, the public holds somewhat conflicting beliefs regarding the application of human rights to the United States and the international mechanisms that uphold those human rights. Regarding the idea of “American exceptionalism”—the notion that the United States should be exempted from an international human rights regime because of its unique Constitution and rights-respecting culture—public opinion is mixed. On one hand, the public soundly rejects the notion that “because the U.S. has the Constitution and Bill of Rights we do *not* need to strive to uphold human rights here in America,” with 81% of Americans disagreeing with that proposition and 61% strongly disagreeing.⁴⁷ On the other hand, Americans are more resistant to the use of international laws and institutions to enforce human rights at home. In considering whether the United States signing and following international human rights treaties “would violate our sovereignty and our government’s right to protect our interests,” the public is split in opinion, with 49% rejecting the idea but 46% supporting it.⁴⁸ Likewise, support for the United Nations is relatively weak. Only 12% of Americans express “a great deal” of confidence in the United Nations, 45% have “some” confidence, but a full 42% have “not very much” or “no confidence” in the international institution.⁴⁹ Specifically, Americans do not believe that the United Nations can effectively enforce human rights around the world, with two-thirds (67%) agreeing that the institution is an ineffective enforcer.⁵⁰

Given the public’s ambivalence about U.S. participation in international mechanisms, educating Americans about these laws and institutions is a long-term communications challenge. This is especially true given prior research showing that only 8% of Americans could name the Universal Declaration of Human Rights.⁵¹ In a way, these findings are consistent with Americans’ belief that human rights are inherent and do not derive from governments; it is perhaps not surprising that they also do not believe that these rights derive from international bodies and conventions. In any event, the finding reinforces the conclusion that, in order to build an environment in which Americans are comfortable discussing international treaties and declarations, it is likely that advocates must first encourage a human rights discourse rooted in shared values and goals.

47. *Id.* at 6.

48. *Id.*

49. *Id.*

50. *Id.*

51. Peter D. Hart Research Assocs., Inc., *supra* note 23.

IV. KEY AUDIENCES AND EFFECTIVE VALUES-BASED MESSAGES

In addition to identifying broad views and attitudes of the public as a whole, the research has helped to identify different segments of the public that view human rights differently. Using a technique called “cluster analysis,”⁵² which segments respondents in terms of their convergent views on major themes and questions, five groups emerged from the research: (1) Human Rights Champions, who are the core constituency for human rights; (2) a persuadable group of Young Cautious Human Rights Supporters; (3) another persuadable cluster, the U.S. Human Rights Supporters; (4) the “unpersuadable” Anti-U.N.ites; and (5) another “unpersuadable” category, Anti-Government Bedrock Conservatives.⁵³ The first three groups comprise the likely population from which a U.S. human rights movement will grow, and total 69% of the population.⁵⁴

Several values-based messages were also tested for their effectiveness as frames of human rights campaigns. Three messages strongly resonated with Americans when asked why upholding human rights is necessary: (1) “Because it is important to treat people fairly and with dignity,” (2) “Because it is better for everyone to live in a society that pays attention to human rights, rather than one that ignores human rights,” and (3) “Because America was founded on Thomas Jefferson’s belief that we all have rights that no government should take away.”⁵⁵ The remainder of this essay will discuss the characteristics of each cluster group and the messages that are most effective in connecting them to a human right frame. While there are individual members of the fourth and fifth categories who may, in fact, be persuaded to support one or more human rights issues, those groups do not represent fertile ground for organizing or communications efforts.

A. *Human Rights Champions*

Human Rights Champions comprise 29% of Americans, the largest of the cluster groups, and are the most supportive of the concept of human rights and its application to the United States.⁵⁶ Members of this group are most likely to believe that the United States should move “aggressively” on human rights and make it one of the country’s top priorities.⁵⁷ They are

52. Cluster analysis separates the population into groups based on attitudes, as opposed to “cross-tab” reporting that looks at survey results based on demographic characteristics, such as age, race, income, and level of education. National Survey, *supra* note 19, at 33. Attitudinal segmentation views survey results in terms of opinions and likelihood of action, a useful analysis when studying framing of messages. In this survey, groups were segmented based on five themes: (1) belief in human rights, (2) perception that human rights violations exist in the United States, (3) belief in the need for government program expansion to protect human rights, (4) concerns regarding human rights and U.S. sovereignty, and (5) feeling of urgency in the need to address human rights in the United States. *Id.*

53. *Id.*

54. *Id.*

55. *Id.* at 7.

56. *Id.* at 10.

57. *Id.*

also the most likely to agree strongly that the fifteen issue examples should be considered human rights, and agree the most strongly of any cluster group with the examples of human rights violations provided. Notably, while the public as a whole is split as to whether denial of medical care to undocumented immigrants is a human rights violation, 100% of Human Rights Champions view it as a violation, including 48% who “strongly” agree that such a health care denial is a human rights violation—respective rates that are each twice that of the general public.⁵⁸ This cluster group is also the most supportive of international law and institutions, with 95% rejecting the notion that international human rights treaties violate America’s sovereignty and 71% expressing either a “great deal” of or “some” confidence in the United Nations.⁵⁹

Strong support for human rights principles and action among this group, however, does not mean that this component of the American public is already engaged in the U.S. human rights movement; only that they are the most open to such engagement, and that there are few barriers to engaging them. The values-based messages which are most strongly supported by Human Rights Champions include the need to address human rights at home “[b]ecause it is important to treat people fairly and with dignity” (78% view this value as “extremely important”) and “[b]ecause it is better for everyone to live in a society that pays attention to human rights, rather than one that ignores human rights” (68% view this value as “extremely important”).⁶⁰ The second values frame, regarding a “better” society, is also the frame most closely associated with a belief that the United States needs to prioritize progress on human rights and move aggressively around a human rights agenda;⁶¹ this should be considered in conjunction with the fact that Human Rights Champions are also the most likely to support such aggressive progress.

Demographically, Human Rights Champions are more likely to be women (57%), have college degrees (50%; 23% postgraduate degrees), and to be under 45 years old (57%; 37% are under 35 years old).⁶² They are the most likely among any group to live in a city (49%), to be a professional (39%), and to be liberal (42%) or a Democrat (46%).⁶³ They are dedicated news consumers, regularly listening to public radio or reading national newspapers or blogs, and are also the most likely among any group to have

58. *Id.* at 35.

59. *Id.* at 36. Note, however, that even among Human Rights Champions, a majority (55%) agree that the United Nations is *not* an effective human rights enforcer around the world. *Id.* Although this is the smallest percentage amongst any cluster to view the United Nations as ineffective, it is perhaps reflective of a broader discourse regarding the international body that has pervaded American discourse. It is also a possible reflection of the reality of the United Nations’ efforts to stop human rights abuses around the world.

60. *Id.* at 37.

61. *Id.* at 7.

62. *Id.* at 37, 50.

63. *Id.* at 37.

engaged in volunteer work or to have made a charitable donation.⁶⁴ Thus, communications strategies for this group should consider focusing on national media and blogs, as well as traditional progressive and social service organizations.

For human rights advocates, this cluster group should be the core target for communications and the most supportive of audiences.

B. *Young Cautious Human Rights Supporters*

Young Cautious Human Rights Supporters comprise 19% of Americans and are supportive of human rights in the United States to a certain point.⁶⁵ They are named for their supermajority belief (57%) that the country should move “cautiously” in making progress on human rights, and because they are the youngest of the cluster (60% under 45 years old; 36% under 35 years old).⁶⁶ Like Human Rights Champions, they have confidence in the United Nations but view the institution as an ineffective enforcer of human rights. They also reject the notion that signing and following international human rights treaties violates our sovereignty. Also like the Human Rights Champions, they believe that there are inherent human rights, and also strongly believe that each of the fifteen social justice issues presented are human rights. However, they are less likely to view contemporary social problems as human rights violations, perhaps signaling a more theoretical and less practical understanding of human rights. The most striking example is that of denial of medical care to undocumented immigrants, where Young Cautious Human Rights Supporters are the mirror image of Human Rights Champions; 100% of the Young Cautious Human Rights Supporters disagree that such a denial of health care access is a human rights violation, with a full 50% “strongly” disagreeing with the proposition.⁶⁷ On the other hand, they are strong proponents of a government role in protecting and providing human rights, with 100% believing that expansion of government assistance programs may be necessary to uphold human rights, and 71% holding that “it is the government’s responsibility to make sure everyone in the U.S. has enough to eat.”⁶⁸

This group should also be an important target audience for U.S. human rights advocates. The most effective values-based message to engage this cluster is the concept that human rights in the United States are important “[b]ecause it is important to treat people fairly and with dignity.”⁶⁹ Demographically, Young Cautious Human Rights Supporters are more likely to be women (58%) and earn lower incomes (54% under \$50,000;

64. *Id.*

65. *Id.* at 10.

66. *Id.* at 40.

67. *Id.* at 38.

68. *Id.* at 39.

69. *Id.* at 40.

22% under \$25,000).⁷⁰ Among all the cluster groups, they are the most likely to be single (31%), and the most moderate (36%).⁷¹ A plurality of this cluster is Democratic (41%).⁷² They are the most likely to perform volunteer work of any of the cluster groups, with a full 60% having performed volunteer work in the last year, and like Human Rights Champions, they listen to public radio at a higher rate than the other cluster groups.⁷³ Among all cluster groups, they are the least likely to attend religious services, with 18% never attending services.⁷⁴

Generally speaking, Young Cautious Human Rights Supporters do not fundamentally disagree with moving forward with a U.S. human rights agenda, but are characterized by a preference for cautious but regular progress, rather than the aggressive prioritization of human rights over other national concerns. While they are open to domestic human rights advocacy, forcing unpopular issues or enforcement strategies on this group may lead to backlash.

C. U.S. Human Rights Supporters

U.S. Human Rights Supporters are the second-largest cluster group—comprising 21% of Americans—and are supportive of human rights in the United States, despite reservations regarding human rights interventions abroad.⁷⁵ The group is named for its strong support for the concept and application of human rights in the United States, but also for its hesitation in connecting U.S. human rights to international human rights and a belief that different cultures and values make it impossible to have a single set of rights applicable to everyone in the world.⁷⁶ After Anti-U.N.ites, they are the most likely to oppose the United States signing and following international human rights treaties for fear of violating our sovereignty; similarly, a substantially larger majority of this cluster views the United Nations as an ineffective enforcer of human rights than amongst Human Rights Champions and Young Cautious Human Rights Supporters.⁷⁷

On the other hand, U.S. Human Rights Supporters are the strongest supporters among all the clusters in terms of viewing economic rights—such as fair pay to meet basic needs and ensuring economic opportunity and adequate housing—as human rights.⁷⁸ U.S. Human Rights Supporters stand alone amongst the clusters in having a majority who agree that the government has the “responsibility to provide a job for everyone who wants one.”⁷⁹ Like Human Rights Champions, they strongly agree that the six

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.* at 40, 57.

74. *Id.* at 40.

75. *Id.* at 10.

76. *Id.* at 10, 41.

77. *Id.* at 53.

78. *Id.* at 42.

79. *Id.* at 43.

examples of contemporary problems are human rights violations. Also like Human Rights Champions, it is notable that almost all (95%) of U.S. Human Rights Supporters believe that the denial of access to medical care for undocumented immigrants is a human rights violation, with 52% “strongly agree[ing]” that it is a violation.⁸⁰

The focus of U.S. Human Rights Supporters on human rights within the United States shapes the values-based frames that are most effective in engaging this group. The messages that resonate most strongly with this group as to why upholding human rights is important are “[b]ecause it is important to treat people fairly and with dignity,” “[b]ecause America was founded on Thomas Jefferson’s belief that we all have rights that no government should take away,” and “[b]ecause respecting human rights follows the will of God.”⁸¹ The final message reflects the fact that this group is among the most likely to attend religious services frequently, with 45% attending service once a week.⁸²

Among other demographic characteristics of this group, they are mostly women (57%) and under 45 years old (56%; 36% under 35 years old).⁸³ They are the most likely to be parents (45%), African American (21%) or Latino (15%), have the lowest incomes (56% under \$50,000; 29% under \$25,000), and have the least education (50% high school graduate or less; 14% less than high school).⁸⁴ A plurality of U.S. Human Rights Supporters live in cities (48%) and in southern parts of the country (18% South; 23% South Atlantic).⁸⁵ They are also among the highest news consumers, being the most likely to read a local newspaper and watch television news; they also listen to local talk radio at a high rate.⁸⁶ Politically, they trend conservative (46%) and Democratic (41%), but are the least likely of any cluster group to vote, with only 55% voting.⁸⁷

With a powerful commitment to domestic human rights and the need for aggressive progress toward human rights protection and provision, U.S. Human Rights Supporters are an important audience for advocates. Their beliefs are rooted both in religion and in personal experiences with human rights violations; they are the most likely to feel that they have had their own human rights violated.⁸⁸ Yet their concerns about international mechanisms and the idea of universal rights for different cultures suggests that advocates should engage this cluster on a local level, focusing on the American heritage and religious underpinnings of human rights and focusing on economic rights.

80. *Id.* at 42.

81. *Id.* at 41.

82. *Id.* at 44.

83. *Id.*

84. *Id.*

85. *Id.* at 51.

86. *Id.* at 44.

87. *Id.*

88. *Id.*

D. *Anti-U.N.ites and Anti-Government Bedrock Conservatives*

Finally, two cluster groups were identified by the research analysis that are highly resistant to the notion of human rights in the United States and may well form the opposition to a U.S. human rights movement. They are the Anti-U.N.ites, comprising 17% of the population and identified by broad opposition to international mechanisms, and Anti-Government Bedrock Conservatives, comprising 14% of the population and identified by rejection of government programs.⁸⁹ Both groups hold a very narrow view of human rights, mostly rejecting the idea that the fifteen social justice issues presented are human rights. Both clusters also believe that the country should either “move slowly” on human rights, dealing with one problem at a time, or simply allow human rights to “evolve naturally.”⁹⁰

Demographically, Anti-U.N.ites and Anti-Government Bedrock Conservatives are predominantly men (58% and 56%, respectively), over 45 years old (56% and 52%; 24% and 15% over 65 years old, respectively), married (60% and 66%), and conservative (55% and 57%).⁹¹ They are also the most likely to be White (80% each) and Republican (37% and 43%).⁹² Anti-U.N.ites are the cluster most likely to be retired (25%) and most likely to live in rural areas (42%).⁹³ They are also the most religious group, with 48% attending religious services once a week and 75% contributing to a church or religious organization.⁹⁴ Anti-Government Bedrock Conservatives are the wealthiest cluster group (41% \$75,000+; 23% \$100,000+).⁹⁵ Both groups are politically engaged, voting at high levels (77% Anti-U.N.ites; 74% Anti-Government) and more likely than the other three cluster groups to write to their elected officials (30%; 35%).⁹⁶ These characteristics make these two cluster groups potentially powerful opposition to a U.S. human rights movement, despite totaling only 31% of the population.

These two cluster groups are not persuadable on issues of human rights and should not be target audiences for advocates. However, some individuals within these clusters may nonetheless be more supportive of—or at least less opposed to—certain specific human rights. The values-based justification of upholding human rights to treat people “fairly and with dignity” garnered a majority of support amongst both Anti-U.N.ites (55%) and Anti-Government Bedrock Conservatives (56%), suggesting that this frame may be helpful in reducing oppositional views.⁹⁷ A significant majority (62%) of Anti-U.N.ites also found the message that “America was

89. *Id.* at 45, 47.

90. *Id.* at 46, 48.

91. *Id.* at 46, 48, 50.

92. *Id.*

93. *Id.* at 46.

94. *Id.*

95. *Id.* at 48.

96. *Id.* at 46, 48.

97. *Id.*

founded on Thomas Jefferson's belief that we all have rights that no government should take away" to be "extremely important."⁹⁸ While a human rights movement will be least effective in focusing its resources on these cluster groups, it is important to note that such values as fairness, dignity, and the American heritage of rights that no government can take away resonate even with those generally unsupportive of human rights.

CONCLUSION

There is considerable support among the American public for the ideal of human rights in the United States, as well as many of its specific applications. Most Americans are open to framing domestic social issues as issues of human rights. Moreover, a majority of the public accepts social, economic, civil, and political rights as human rights, and supports a role for the government as protector and provider of those rights. However, concerns about the role of government, personal responsibility, and international mechanisms temper Americans' enthusiasm for aggressive human rights enforcement. For U.S. human rights advocates and proponents, the research offers a number of important implications for communicating with different audiences:

- **Lead with values:** The strongest way to frame communications is by tapping into the values that the public already holds most closely and that reflect positively upon human rights work. As demonstrated in the research, the values of dignity, fairness, and opportunity resonate with the vast majority of Americans. Emphasizing these values at the outset with messages such as "expanding human rights in the United States is a priority because it is important to treat people fairly and with dignity" is most likely to build support. By contrast, leading with treaties or specific government programs is likely to close off productive conversations.
- **Begin with supportive audiences, and work outward:** Human Rights Champions will be the core audience and early adopters of human rights in the public discourse. By targeting early communications and organizing among this group, advocates can increase enthusiasm for human rights and start a drumbeat of messages that will assist in engaging other persuadables.
- **Emphasize issues of broad agreement:** First- and second-tier issues tested in this research are topics that the public already considers human rights by consensus. Directing initial educational efforts toward issues of equality, fairness, freedom from mistreatment and discrimination, and equal access to quality education and health care will help audiences to make the

98. *Id.* at 46.

connections to other human rights that are not yet as completely understood within the human rights frame.

- **Focus on the goal—upholding human rights—rather than on the process:** The American public widely understands and supports human rights conceptually; the barriers to communicating about human rights are lack of understanding of, and concerns about, international treaties, the United Nations, and public fears of excessive reliance on the government by individuals. By centering conversations around the goal and ideal of upholding human rights—and by moving more slowly into the processes by which those rights are enforced—U.S. human rights proponents can build the nexus between human rights and social justice issues. This is a necessary step before broad public education on treaties and international bodies will prove successful.

This research shows that concerns that Americans view human rights as inherently foreign, reject economic rights, or are threatened by an unfamiliar human rights paradigm⁹⁹ are less serious than predicted and perhaps unfounded. Rather, the findings seem to show that a human rights framework can allow organizations and constituencies concerned with specific social issues to organize across traditional categories. In the words of a youth organizer in Minneapolis-St. Paul, by using a human rights framework, “We can really join together.”¹⁰⁰ A great opportunity exists for growing the U.S. human rights movement; while 88% of advocates agree that the human rights approach is relevant to their work, only 40% have described their work to others as “human rights work.”¹⁰¹ Given the surprisingly broad public ownership and support for human rights, and the ability of the approach to bring together diverse advocacy organizations and grassroots constituencies across traditional public interest areas, advocates should not hesitate to begin using human rights language and values as they talk about social justice in the United States.

99. Loren Siegel Consulting, *supra* note 14, at 4–5.

100. *Id.* at 3.

101. *Id.* at 9.