FOREWORD

HUMAN RIGHTS IN THE UNITED STATES

By Sarah Cleveland and Catherine Powell*

This year marks the tenth anniversary of the founding of the Human Rights Institute (HRI) at Columbia Law School. Appropriately, it also marks the sixtieth anniversary of the Universal Declaration of Human Rights, the foundational instrument of the modern international human rights regime.

When HRI was founded in 1998, it was established as a crossroads for human rights at Columbia, which would bridge theory and practice, human rights and constitutional rights, and law and other disciplines. From its inception, HRI has been a partner with the university-wide Center for the Study of Human Rights, which was established twenty years earlier as an interdisciplinary program to bring human rights scholarship into many academic fields. The Law School-based Institute was the brainchild of Professor Louis Henkin, who, as a founder of the university-wide program, recognized the need to train a new generation of human rights advocates, scholars, and teachers through scholarship regarding the law of human rights.

This special volume celebrates one of HRI's signature programs: “Human Rights in the United States.” While the United States played a leading role in the creation and development of modern international organizations and human rights law regimes,\(^1\)

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\(^1\) Indeed, the United States was the primary driver behind the establishment of the United Nations system and the development of
and there has been a bi-partisan commitment to advancing human rights in U.S. foreign policy for many decades; it has been less consistent in promoting international standards guaranteeing human rights as part of U.S. domestic law and policy. The Human Rights Institute was a path-breaker in recognizing that human rights do not involve merely scholarship and activism regarding what happens “out there,” but that human rights are implicated in domestic U.S. policies as well. This goal of affirming human rights at home was part of Henkin’s holistic vision of human rights as protected through a fluid regime of national, sub-national, and international instruments. To Henkin, constitutions have been every


bit as important as treaties. Human rights around the globe are typically protected through domestic law, and the U.S. Constitution and U.S. domestic statutes are no different. Indeed, the U.S. Constitution has a particularly intimate relationship to the international human rights movement, since U.S. constitutionalism featured centrally in the creation of the modern conception of human rights.

Therefore, the “Human Rights in the United States” program was established as a way to create new models of social justice, among other ways, by linking domestic and human rights advocates and scholars through the Institute’s “Bringing Human Rights Home Lawyers Network.” As the founding director and current faculty co-director of HRI, we are co-writing this foreward to celebrate the first ten years of HRI’s progress—particularly its work to bridge the international law of human rights and the domestic law of constitutional rights. In examining HRI’s mission to bring human rights home in the United States, we also examine anew the opportunities and challenges that we face in the broader movement for human rights.

When HRI was established, human rights law and institutions were in a stage of rapid development and expansion. The fall of the Berlin Wall had paved the way for greater international cooperation within the U.N. Security Council, including, for example, the establishment of the International Criminal Tribunals for the Former Yugoslavia and Rwanda. In 1998, when the Institute was founded, the post-Cold War enthusiasm for human rights was near its peak. The treaty to ban landmines had been adopted the year before, breaking new ground in participative treaty drafting. The Rome Conference was putting finishing touches on the Statute founding the International Criminal Court, and Augusto Pinochet was arrested in London, breaking a taboo on prosecution of former heads of state and introducing the world to a new paradigm of universal jurisdiction for international crimes. Mary Robinson, the dynamic former president of Ireland, was bringing a new vision and energy to the position of U.N. High Commissioner for Human Rights. The 1990s also saw the United States finally embrace a number of foundational human rights treaties. The United States ratified the International Covenant on Civil and Political Rights in 1992, as well as the Convention Against Torture and the Convention to Eliminate All Forms of Racial Discrimination in 1994.