

General Comment on IAJ Advisory Opinions

Adopted by the Institute for the Advancement of Justice & Human Rights. Applicable to all advisory opinions, recommendations, and analytical publications issued under the IAJ institutional name.

1. The IAJ, its institutional purpose, and its advisory function

The Institute for the Advancement of Justice and Human Rights is a California non-profit corporation structured by reference to the Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights, commonly known as the Paris Principles (UN General Assembly Resolution 48/134, 1993).¹

The IAJ's purpose includes the autonomous and independent protection and promotion of human rights within the United States. The IAJ carries out this purpose as an independent civil-society institution committed to independence, pluralism, accessibility, transparency, and effectiveness. Its functions include documentation, investigation, public education, advisory analysis, standards development, reporting, and the identification of domestic and international pathways for prevention, accountability, remedy, and reform.

The IAJ does not exercise governmental authority and does not bind courts, agencies, public officials, private parties, or international bodies. Its independence is central to its purpose: the IAJ may assess domestic law, policy, practice, and institutional conduct against international human-rights standards even where domestic authorities have not recognized, adopted, or implemented those standards.

The United States does not maintain a Paris Principles–compliant, GANHRI-accredited² national human rights institution. In that continuing absence, the IAJ performs NHRI-like documentation, investigation, advisory, reporting, and public-education functions that a Paris Principles–compliant U.S. NHRI could be expected to perform, while recognizing that the IAJ lacks the statutory mandate, public powers, treaty-conferred jurisdiction, and GANHRI accreditation of an official NHRI.

The issuance of advisory opinions on matters within the IAJ's institutional purpose is one of these civil-society functions. IAJ advisory opinions document the IAJ's institutional analysis on questions of law, policy, procedure, evidence, and human-rights compliance. They are addressed to complainants,

¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>

² <https://ganhri.org/>

counsel, courts, scholars, civil-society organizations, United Nations treaty bodies, Special Procedures, and the broader human-rights community.

IAJ advisory opinions do not adjudicate rights, impose obligations, issue enforceable orders, determine legal liability, or bind any court, agency, public official, private party, or international body.

2. Advisory opinions in institutional context

Advisory opinions, as a genre, exist across several institutional traditions.

In the international human-rights system, advisory opinions are issued by tribunals: the International Court of Justice under Article 65 of its Statute³, the Inter-American Court of Human Rights under Article 64 of the American Convention on Human Rights⁴, the European Court of Human Rights under Protocol No. 16⁵, and the African Court on Human and Peoples' Rights⁶. These bodies exercise jurisdiction conferred by treaty, and the weight of their advisory opinions derives from that jurisdiction, their case law, and recognition by states parties to the relevant instruments.

In the domestic legal-academy tradition, advisory work is issued by synthesizing institutions including the American Law Institute⁷, the Uniform Law Commission⁸, and analogous bodies. The influence of that work depends on professional reputation, transparent process, expert participation, deliberation, revision, and citation over time by courts, legislatures, counsel, and scholars.

In the national human-rights institutions tradition, Paris Principles–compliant NHRIs accredited by GANHRI issue advisory opinions, recommendations, thematic studies, legislative analyses, and case-based human-rights assessments. Official NHRIs derive their authority from domestic constitutional or statutory mandates within their jurisdictions.

The IAJ does not claim the authority of an international tribunal, a statutory NHRI, a court, a legislature, or an accredited public institution. IAJ advisory opinions are civil-society advisory analyses.

3. The structural absence in the United States

The United States does not have a GANHRI-accredited national human rights institution. GANHRI's membership page, which lists all accredited NHRIs by region and accreditation status, identifies one hundred nineteen accredited members as of December 2025 — ninety-one with "A" status and twenty-eight with "B" status — across Africa, the Americas, Asia-Pacific, and Europe. No United States national human rights institution appears among them.⁹

³ <https://www.icj-cij.org/statute>

⁴ https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm

⁵ https://www.echr.coe.int/documents/d/echr/Protocol_16_ENG

⁶ <https://www.african-court.org/>

⁷ <https://www.ali.org/>

⁸ <https://www.uniformlaws.org/>

⁹ <https://ganhri.org/membership/>

The Committee against Torture^{10,11}, the Human Rights Committee^{12,13}, the Committee on the Elimination of Racial Discrimination¹⁴, and the Universal Periodic Review¹⁵ have on multiple occasions recommended that the United States establish a national human rights institution or comparable domestic mechanism.¹⁶ Civil-society organizations including Amnesty International USA,¹⁷ the American Civil Liberties Union¹⁸, and the Leadership Conference on Civil and Human Rights have also called for the establishment of a U.S. NHRI.¹⁹ A comprehensive scholarly treatment of the United States NHRI question, including models, design considerations, and the constitutional and federalism questions an American NHRI would have to address, was published in December 2022 by the International Justice Clinic at the University of California, Irvine, School of Law.²⁰

In December 2022, a coalition of more than eighty-five civil-society organizations and individuals led by the American Civil Liberties Union sent a joint letter to the Chair of the Domestic Policy Council urging the establishment of a presidential study commission for a U.S. NHRI.²¹ In March 2023, nine members of Congress urged the Biden administration in writing to establish such a commission, joined by additional civil- and human-rights organizations.²² These calls have not resulted in the establishment of an accredited domestic mechanism. Documentation of the sustained civil-society advocacy for a United States NHRI — including the December 2022 coalition letter, the March 2023 Congressional and IAOHRA letters, the September 2023 Shadow Report to the United Nations Human Rights Committee, and related materials — is collected at the Campaign for an NHRI in the USA²³. The IAJ's own reporting to United Nations treaty bodies and Special Procedures, including its Shadow Reports, is available at <https://iaj.institute/publications/IAJ-CAT-20250919-002-PUB.pdf>. These calls have not resulted in the establishment of an accredited domestic mechanism.

In August 2025, the United States informed the Office of the United Nations High Commissioner for Human Rights that it would not participate in its fourth-cycle Universal Periodic Review. On November 7, 2025, the Human Rights Council suspended the session that had been scheduled to conduct that review,

¹⁰ <https://www.ohchr.org/en/treaty-bodies/cat>

¹¹ <https://atlas-of-torture.org/entity/i7j9rwkun5ezj3fizkadu0udi?page=1&file=1535003360389dm5wtf30yjkmozjggioi27qfr.pdf>

¹² <https://www.ohchr.org/en/countries/united-states-america>

¹³ <https://www.ohchr.org/en/treaty-bodies/ccpr>

¹⁴ <https://www.ohchr.org/en/treaty-bodies/cerd>

¹⁵ <https://www.ohchr.org/en/hr-bodies/upr/upr-main>

¹⁶ <https://www.ohchr.org/en/hr-bodies/upr/us-index>

¹⁷ <https://www.amnestyusa.org/>

¹⁸ <https://www.aclu.org/>

¹⁹ <https://civilrights.org/>

²⁰ See International Justice Clinic, UC Irvine School of Law, *Establishing a National Human Rights Institution in the United States* (Dec. 2022).

²¹ https://www.aclu.org/sites/default/files/field_document/nhri_presidential_commission_letter_final_w_signatures.pdf

²² <https://www.aclu.org/documents/congressional-letter-president-biden-studying-national-human-rights-institution>

²³ <https://nhriforusa.org/>

adopted a decision regretting the United States' non-cooperation with the UPR mechanism, and rescheduled the review of the United States to 2026.²⁴

The IAJ's institutional position is that the continuing absence of a Paris Principles–compliant U.S. NHRI is both a structural gap and a compliance gap in domestic human-rights implementation, documentation, prevention, public education, and accountability.

The IAJ does not claim that this absence confers official governmental authority on the IAJ. The IAJ acts as an independent civil-society institution seeking to document the gap, model the functions that a U.S. NHRI should perform, and provide advisory analysis for use by affected persons, counsel, courts, scholars, civil-society organizations, and international mechanisms.

4. The IAJ's position and limits

The IAJ is a young institution. It does not have treaty-conferred jurisdiction. It does not have GANHRI accreditation. It does not have a statutory mandate within the United States. It does not possess subpoena power, compulsory process, official access rights, or authority to compel compliance by courts, agencies, or public officials.

IAJ advisory opinions are not adjudications. They are not promulgations of law. They are not legal advice. They do not create an attorney-client relationship with any reader, complainant, or party. They do not represent that any litigation, petition, motion, complaint, administrative process, or international submission relying on their analysis will succeed.

What IAJ advisory opinions offer is reasoned analysis, issued under the IAJ's institutional name and consistent with its self-adopted Paris Principles framework, on questions within its competence. Their weight depends on the quality of their reasoning, the transparency of their methods, the reliability of their sources, the care with which they distinguish binding law from proposed extensions, and the use made of them by affected persons, counsel, courts, treaty bodies, scholars, and the human-rights community.

The IAJ publishes its advisory opinions on the premise that institutional credibility must be earned through transparent methods, careful sourcing, correction of error, and practical usefulness to persons seeking to document, prevent, or remedy human-rights violations.

5. Use of IAJ advisory opinions

IAJ advisory opinions may synthesize domestic and international human-rights law; identify possible domestic legal pathways; distinguish settled law from proposed doctrinal extensions; analyze whether domestic remedies appear available, unavailable, ineffective, futile, or structurally inadequate; provide evidentiary and methodological frameworks for documentation; assist counsel, complainants, scholars, and civil-society organizations; inform treaty-body submissions, Special Procedures communications,

²⁴ <https://www.ohchr.org/en/press-releases/2025/11/human-rights-council-reschedules-human-rights-review-united-states-america>

shadow reports, and other international human-rights processes; and document how courts and agencies respond when human-rights arguments are raised.

IAJ advisory opinions should not be read as guarantees of relief or predictions of success in any individual matter. In many contexts, including those involving judicial conduct, custody systems, disability non-accommodation, family separation, retaliation, or structural governmental practices, domestic courts may reject or avoid the analysis through doctrines including standing, ripeness, abstention, immunity, non-self-execution, finality, pleading standards, or discretionary case management.

Where an IAJ publication proposes a developing or untested legal pathway, the publication should identify it as such and distinguish binding domestic law, authoritative treaty text, treaty-body interpretation, persuasive international or comparative material, customary international law claims, IAJ analytical positions, proposed doctrinal extensions, anticipated domestic barriers, and the practical pathways that flow from each.

6. Cross-references among IAJ publications

The IAJ publishes substantive analyses of international human-rights norms and procedural-pathway analyses of how domestic legal mechanisms relate to those norms. The two genres are complementary. A substantive-norm analysis articulates the IAJ's institutional position on the content, scope, and authority of an international human-rights norm and on the obligations it places on the United States. A procedural-pathway analysis examines whether and how a particular domestic legal mechanism — an equitable doctrine, statutory cause of action, procedural vehicle, or remedy — can carry that norm into domestic litigation or other domestic processes.

Where one IAJ publication addresses a substantive norm and another addresses a procedural pathway connected to that norm, the two are intended to be read together. A procedural-pathway analysis is not a restatement of the IAJ's position on the substantive norm; it presupposes that position and asks how the domestic legal architecture relates to it. Readers seeking the IAJ's institutional position on a substantive norm should consult the IAJ's published substantive analyses on that norm. Readers seeking the IAJ's analysis of a particular domestic mechanism's relationship to a norm should consult the IAJ's published procedural-pathway analyses on that mechanism.

Where a procedural-pathway analysis concludes that a domestic mechanism is foreclosed, ineffective, futile, or structurally inadequate, that conclusion is a finding about the domestic mechanism — not about the substantive norm. The international substantive norm continues to bind the United States on the international plane regardless of any domestic doctrinal foreclosure on the procedural plane. The two-plane distinction is fundamental to the IAJ's analytical architecture and applies across all IAJ publications.

7. Application

This General Comment applies to all advisory opinions, recommendations, and analytical publications issued under the IAJ institutional name. Individual IAJ publications may incorporate this General Comment by reference and need not restate its contents.

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