

SUMMARY

Human Rights at Home: A Domestic Policy Blueprint for the New Administration

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As a new Administration takes office in January 2009, it will have an opportunity to reaffirm and strengthen the longstanding commitment of the United States to human rights at home and abroad. This commitment is one that has been expressed throughout U.S. history, by leaders from both parties.

An overwhelming majority of Americans (80%) endorse the notion of human rights, meaning they believe that “every person has basic rights regardless of whether their government recognizes those rights or not.”¹

In fact, a majority of Americans *strongly* believe that the following should be considered a human right:²

- **Freedom from discrimination (83%);**
- **Being treated fairly in the criminal justice system if accused of a crime (83%);**
- **Freedom from torture or abuse by law enforcement (83%);**
- **Access to health care (72%); and**
- **Fair pay for workers to meet basic needs for food and housing (68%).**

This Blueprint suggests ways in which the new Administration can take concrete steps to ensure that human rights principles are considered and implemented within the process of U.S. domestic policymaking. Most importantly, it *identifies and evaluates mechanisms* by which human rights principles can be integrated into policymaking in all areas of U.S. domestic policy where they are relevant.

RECOMMENDATIONS

Actions During the First 100 Days

- *The President should issue an Executive Order to reconstitute and revitalize an Interagency Working Group on Human Rights which will serve as a coordinating body among federal agencies and departments for the promotion and respect of human rights and the implementation of human rights obligations in U.S. domestic policy. Such a working group was created by Executive Order 13107 issued by President Bill Clinton on Human Rights Day in December 1998, but it was effectively disbanded during the administration of President George W. Bush. The next President should issue a new Executive Order modeled on E.O. 13107, but containing an expanded list of relevant agencies as well as other refinements to ensure the success of the new Working Group. A proposed Executive Order with these revisions is attached to the full Blueprint as Appendix B.*
- *To underscore the new President’s commitment to leadership on human rights, he should speak out forcefully, early in his tenure, in support of human rights principles both abroad and at home. The occasion could be the Inaugural Address, the first State of the Union Address, or a separate, high-profile*

*This fact sheet is a summary of *Human Rights at Home: A Domestic Policy Blueprint for the New Administration*, authored by Professor Catherine Powell of Fordham Law School and released by the American Constitution Society for Law and Policy. The full Blueprint is available at <http://www.acslaw.org/files/C%20Powell%20Blueprint.pdf>.

¹ The Opportunity Agenda, *Human Rights in the U.S.: Findings from a National Survey*, in HUMAN RIGHTS IN THE U.S.: OPINION AND RESEARCH WITH ADVOCATES, JOURNALISTS, AND THE GENERAL PUBLIC 12 (Aug. 2007), available at <http://www.opportunityagenda.org>.

² *Id.* at 14.

speech devoted to this topic. To demonstrate the seriousness of his commitment, the address should be accompanied by concrete action—such as issuance of the Executive Order described above.

- *From the outset of his Administration, the new President should ensure that human rights principles are incorporated into the mainstream of U.S. policymaking.* He can do this by, for example, ensuring that individuals with a demonstrated commitment to human rights are selected for key appointments in the Department of Justice, Department of State, Department of Defense, Department of Homeland Security, National Security Council, and elsewhere.
- *The new Administration should also seize opportunities for action on specific treaty obligations early on.* For example, there will be an opportunity for action in early 2009 for the U.S. to report on its progress under the International Convention on the Elimination of All Forms of Racial Discrimination.

Beyond the First 100 Days

- *The new Administration should build and support two distinct types of human rights institutions: an implementation body and a monitoring body.*
 - **Implementation Body.** Following issuance of an Executive Order revitalizing the Interagency Working Group on Human Rights (as outlined above), the Working Group should become an effective focal point for *implementing* human rights domestically. With high-level leadership in the White House, the Working Group should play a proactive role, crossing the domestic-international divide by ensuring that U.S. international human rights responsibilities are implemented and coordinated among all relevant executive branch agencies and departments.
 - **Monitoring Body.** In addition to establishing an effective implementation body, the new Administration should work toward the creation of a human rights *monitoring* body that would be established and financed by the government but would operate as an independent, nonpartisan entity. This new body should take the form of a national human rights commission, which would provide expertise and oversight to ensure human rights progress in the United States. The new Administration should support legislation to establish such a body, which could be created by restructuring and strengthening the existing U.S. Commission on Civil Rights, and converting it into an effective U.S. Commission on Civil and *Human Rights*.
- *The Administration should support the ratification, accompanied by fully adequate implementing legislation, of important human rights treaties to which the United States is not yet a party, as well as legislation to implement ratified treaties.* In addition to supporting ratification of important treaties, the new President should work with Congress to develop legislation to implement the treaties that have already been ratified.
- *The new Administration should undertake periodic review of reservations, understandings, and declarations (RUDs) that the United States has adopted in ratifying treaties, and should take steps to withdraw those that are unnecessary and harmful.* The only RUDs that should be retained are those that are strictly required due to irreconcilable differences between U.S. constitutional law and treaty law.
- *The Administration should take steps to support the judicial branch in its efforts to recognize and honor human rights principles.* The new President should nominate judges who will follow the rule of law, which includes recognition that ratified treaties and customary international law are the law of the land. Additionally, the Administration should support judicial human rights education and support the role of courts in providing full and appropriate hearings on allegations of human rights violations.