

Bringing Human Rights Home

An Open Memo to President-elect Obama

Submitted by the Franklin and Eleanor Roosevelt Institute, the Eleanor Roosevelt Center at Val-Kill, and the Albert Schweitzer Institute at Quinnipiac University

On December 5 and 6, 2008, the Franklin and Eleanor Roosevelt Institute, the Eleanor Roosevelt Center at Val Kill and the Albert Schweitzer Institute at Quinnipiac University convened a special conference on the Roosevelt estate in Hyde Park, New York, to mark the 60th anniversary of the Universal Declaration of Human Rights.

The host organizations believe that the American public has, for too long, tended to think of human rights as something applicable to other countries. The conference sought to lift the veil of this misconception and demonstrate how many of the domestic and foreign policy challenges Americans face today are in fact human rights issues.

Entitled “**Bringing Human Rights Home**” the conference brought together a diverse group of individuals and organizations to examine how the Declaration might apply to the United States in six key areas: international law, counter-terrorism, criminal justice, health care, employment, and education with the goal of establishing a human rights action agenda for the incoming Obama administration in each of these six areas.

The work was based on the premise that one of the most compelling arguments in favor of policies that address such domestic issues as the current health care or unemployment crisis stems from the belief that access to medical care and a decent livelihood are basic human rights; human rights the United States can no longer afford to ignore.

To this end the host organizations wish to submit this memo to the new administration’s transition team in the hope that it will help inform the policies that are developed in these six key areas over the coming months and years.

The participants also felt strongly that there is an **urgent** need for the incoming administration to reclaim America’s status as a champion of human rights both at home and around the world. Indeed, given the severe domestic and international challenges we face today, a consensus soon emerged among the participants that certain steps should be taken immediately.

We have, therefore, divided this memo into two parts. The first part examines how the new Administration might immediately position itself as firmly committed to the cause of human rights as it makes the transition to power in the coming weeks and months. Here we examine how the new administration might use the inaugural address, executive orders, the State of the Union Address and other steps to make it clear to the American people and the world community that a new day has dawned in America. The second part contains the action agendas developed by the working participants of the conference in the six topic areas already mentioned: international law, counter-terrorism, criminal justice, health care, employment, and education.

Part I: Re-affirming America's Commitment to Human Rights

Sadly, America's reputation as a nation committed to basic human rights for all peoples, everywhere in the world, has suffered greatly in the past few years. This degradation of our moral standing has seriously jeopardized our ability to carry out an effective foreign policy, work towards the peaceful resolution of armed conflict, maintain world-wide respect for the rule of law, and protect and promote America's national interests. We therefore urge the incoming Obama administration to do all it can to make a clean break with the recent past by pursuing the following four strategies:

1. Make as strong and sweeping a statement as possible embracing America's commitment to human rights and the rule of law both at home and abroad in President Obama's inaugural address;
2. Name specific actions in the inaugural address that the Obama administration will take to affirm its commitment to human rights abroad and at home: e.g. end the practice of torture, close Guantanamo, introduce legislation to ensure universal health and equal access to education;
3. Issue a number of Executive Orders within the first few days of the new administration that will make it clear to the public at home and abroad that our commitment to human rights is real, not rhetorical;
4. Use the State of the Union message to lay out how the new administration intends to incorporate a commitment to human rights into its executive and legislative strategy by developing policies that address the most pressing issues within the six policy areas mentioned above.

The Inaugural Address

In preparing for the inaugural, we would urge the President-elect to reflect on the words of **Franklin and Eleanor Roosevelt**.

On January 6, 1941, during the darkest days of the Second World War, FDR urged the nation to support the British war effort and become the "great arsenal of democracy," so that

In the future days which we seek to make secure, we look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression—everywhere in the world. The second is freedom of every person to worship God in his own way—everywhere in the world. The third is freedom from want...—everywhere in the world. The fourth is freedom from fear...—anywhere in the world. That is no vision of a distant millenium. It is a definite basis for a kind of world attainable in our own time and generation.

The four freedoms became in essence the war aims of the United States. They also formed part of the United Nations Charter and were incorporated into the Universal Declaration of Human Rights, whose drafting Eleanor Roosevelt spearheaded at the UN as chair of the Human Rights Commission.

On March, 27, 1953, Eleanor Roosevelt, further articulated her support for human rights in an address to the United Nations General Assembly when she said:

Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person: the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.

In the tradition of Franklin and Eleanor Roosevelt, we urge the President-elect to champion the cause of human rights in his inaugural:

- At home this means that we shall not abandon those millions of our fellow citizens who struggle to find work, health care, or access to a decent education for themselves and their children;
- To the global community this means that the United States will once again lead—not by military strength or economic power alone—but by moral example and persuasion, secure in the knowledge that we are a nation that believes in the promise of human dignity; of the right of all people everywhere to enjoy basic human rights.

The President-elect may want to remind the American people that we are not strangers to this cause. Our founding fathers embraced it, our brothers and sisters who marched in the streets of Birmingham and Selma embraced it, and the generation that led us to victory in the greatest conflict in human history embraced it.

Out of respect for their legacy, we urge the new Administration to take up this great cause again, so that sixty years after the creation of the Universal Declaration of Human Rights—a document that Eleanor Roosevelt called “the international Magna Carta” for all humanity—the United States will once again stand as a beacon of hope to all those who suffer the indignity of poverty, oppression and injustice.

Executive Orders and other Immediate Steps

In addition to making a clear statement in the inaugural address, one of the most effective means to re-establish America's commitment to human rights in the eyes of the world community would be for the new President to take a number of immediate steps that would re-affirm our belief in the rule of law. Here we suggest:

1. Prohibit by Executive Order of the President the practice of torture by all agencies of the United States, including the CIA.
2. Prohibit by Executive Order of the President the practice of extraordinary rendition.
3. Announce the prompt closing of the Guantanamo Bay detention facilities.

4. Ratify international human rights treaties, starting with CEDAW.
5. Recommit the federal government to judicial oversight of surveillance practices and revise the expansion of FISA powers to restore the privacy rights of U.S. citizens and residents.
6. Establish immediately a federal inter-agency commission on criminal justice to identify and promote programs and policies that have proven effective and will end the failed policy of mass incarceration, ensure public safety, and prepare prisoners to become responsible citizens.

Laying the Groundwork for a Long-term Commitment to Human Rights in the State of the Union Speech

President Roosevelt asserted in his 1944 State of the Union message to Congress, known as his “Economic Bill of Rights” speech, it is not enough for our citizens to possess political freedom—“true individual freedom cannot exist without economic security and independence.” Nor should we “be content, no matter how high our general standard of living may be, if some fraction of our people—whether it be one-third, one-fifth or one-tenth—is ill-fed, ill-clothed, ill-housed, and insecure.”

Like President Roosevelt the participants of the “Bringing Human Rights Home” conference assert that it is high time we recognized health care, education, and employment as human rights, and begin the process of ensuring those rights through the policies and legislation developed by the new Administration and Congress.

We urge President-elect Obama to use his State of the Union Address as an opportunity to frame the challenges we face in providing adequate health care, employment and education to *all* Americans as a human rights challenge that we can no longer afford to ignore. As a first step in meeting these critical human needs we suggest that the State of the Union address include: a commitment to the establishment of a universal non-discriminatory health care system, the passage of the Employee Free Choice Act, and the establishment of a free, national pre-school program within the next three to five years.

Part II: Detailed Action Agendas for the Six Topic Areas

As noted above, the conference “Bringing Human Rights Home” examined six key domestic and domestic/international topic areas: international law, counter-terrorism, criminal justice, health care, employment, and education.

Over the course of two days, the participants in the conference—which included representatives of a number of human and civil rights organizations, as well as individual scholars (please see the appendix for the complete list of participants)—deliberated in working groups with the assigned task of developing an action agenda within their topic area for the new administration and Congress. The working groups were assisted in this effort by rapporteurs, who took notes and compiled the agendas listed here. Because each of these groups worked independently, the reports below differ somewhat in style and structure. But their goal—to provide the new administration with a human rights action agenda in each of their selected areas—remains the same.

ACTION AGENDA: International Law and the Ratification of International Human Rights Treaties

The conference working group that examined America’s record on international law and the ratification of international human rights treaties makes the following recommendations to the Transition Team on human rights treaty obligations:

1. Demonstrate early on a sustained political commitment to human rights and the rule of law throughout all levels and all branches of government.

Key immediate steps:

- Ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- Sign the Convention on the Rights of Persons with Disabilities (CRPD) and Send to Congress for Ratification
- Issue an Executive Order reinstating Inter-Agency Working Group for implementation
- Create a Special Envoy for Human Rights in the office of Secretary of State
- Promote and Implement meaningful signs of openness and reengagement around human rights by:
 - Setting up a Commission of Inquiry on accountability for human rights abuses perpetrated by the US
 - Opening Guantanamo to Special Procedures visit
 - Engaging in Universal Period Review (UPR)
 - Re-signing the Rome Statute
- End current policies that permit discrimination and commit to full inclusion of people with disabilities within the foreign service and all US foreign operations abroad

Longer term steps:

- Push for ratification of all human rights treaties with strong political leadership:
 - Convention on the Rights of the Child (CRC)
 - Convention on the Rights of Persons with Disabilities (CRPD)

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- International Covenant on Economic, Social and Cultural Rights (ICESCR)
 - American Convention
 - Rome Statute
 - Reassess and remove inappropriate reservations, understandings and declarations (RUDs) for existing and future commitments
 - Commit to extending principles of nondiscrimination and inclusion to people with disabilities in our foreign assistance efforts (such as UN, USAID, State Dept grants)
2. Recommitment to the rule of law at home and abroad consistent with human rights treaty obligations.
- Adopt Executive Orders to recommit to core principles (such as the absolute prohibition against torture)
 - Clear reference that people will be held accountable
 - Reengage on the treaties that we have ratified
 - Pass implementing legislation for the treaties which have been ratified
 - Create an independent Commission to examine US human rights treaty commitments/implementation as well as treaties not yet adopted.
 - Re-engage with the United Nations (join the Human Rights Council, Durban Conference). The United States should “lead not leave.”
 - Ensure the appointment of engaged and expert human rights leaders to international bodies with a commitment to diversity including women and people with disabilities (such as Inter-American Commission on Human Rights, and relevant UN bodies)

ACTION AGENDA: Human Rights and Counter Terrorism

There is no question that the counter-terrorism practices employed by the United States since September 11, 2001 have greatly undermined the reputation of the United States at home and abroad. Moreover, such practices have had the additional impact of emboldening repressive regimes around the world to enact or to excuse practices which abuse human rights in the name of counter-terrorism. The most important thing that can be done is to make a clean break from the practices that have tarnished United States’ reputation so severely over the past seven years.

To restore U.S. global standing, credibility and influence on human rights, the Obama administration must take concrete and immediate action to end torture and other cruelty; close the detention facility at Guantanamo; suspend military commission’s proceedings; cease the practice of extraordinary rendition; limit expanded surveillance practices; and reestablish U.S. commitment to the primacy of human rights with multilateral institutions.

In terms of immediate domestic policy steps, the working group on counter-terrorism strongly recommended prompt action in the following four areas:

1. Immediate renouncement of torture and cruel, inhuman or degrading treatment. Prohibit treatment that violates the U.S.’s international legal obligations or domestic law. Set a single

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standard of humane treatment for all agencies that clearly prohibits conduct that would be considered unlawful if perpetrated against captured Americans.

- This means the formal adoption of the Army Field Manual or a comparable inter-agency guideline that fully details all acceptable interrogation techniques for all U.S. agencies engaged in the interrogation of any and all detainees
 - Rescind, repudiate and make public all memoranda authorizing cruel treatment or secret detention.
 - End by executive order of the president all secret detentions; give the International Committee of the Red Cross (ICRC) information on and access to all persons being held overseas.
 - Full adherence by all agencies to Common Article 3 of the Geneva Conventions and international human rights treaty obligations.
 - Announce the establishment of a non-partisan commission to investigate the facts and circumstances related to USG detention and interrogation practices since 9/11, to make these findings public, and make recommendations to avoid abuses.
 - The Attorney General, should investigate these facts and circumstances, and if warranted, prosecute any violations.
2. Immediate announcement of the prompt closing of Guantanamo Bay detention facilities.
 - Immediately suspend all pending military commission proceedings at Guantanamo Bay.
 - Conduct a full review by the Department of Justice to determine which prisoners have criminal charges against them that can be tried in a court of law
 - Those prisoners for whom the government can establish criminal charges should be subject to prosecution and tried in existing U.S. federal courts
 - Those prisoners for whom it will not be possible to bring to trial should either be returned to their country of origin, or, in the event that they will be in danger of being subjected to torture or indefinite detention, they should be given refugee status in either the United States or in a third country
 3. Immediately prohibit the practice of renditions or other transfer of any person to countries where there is a reasonable likelihood the person will be subjected to torture, cruel, inhumane or degrading treatment, or detention without charge.
 - Any person subject to transfer shall have the right of due process to challenge the transfer before an independent adjudicator.
 4. Recommit to judicial oversight of surveillance practices and revise the expansion of powers under the Foreign Intelligence Surveillance Act (FISA) in order to restore privacy rights of U.S. citizens and residents.

Internationally, the U.S. should pursue the following recommendations:

1. Reestablish the U.S. commitment to the promotion of human rights within multi-lateral institutions, especially the United Nations.

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- Implement the international norm of respecting human rights while countering terrorism as detailed in Security Council Resolutions 1456 and 1624.
- Implement the recommendations of the Committee Against Torture, Human Rights Committee and the Committee for the Elimination of all Forms of Racial Discrimination
- Take leadership in the Security Council to build in human rights and due process guarantees in the listing and de-listing of suspected terrorists under the Security Council sanctions regime.

ACTION AGENDA: Criminal Justice

The Criminal Justice working group discussed the general framework for a criminal justice system that respects human rights.

A system of criminal justice that respects human rights and human dignity must provide for the possibility of hope and an opportunity for redemption. Such a system reflects a view of humanity reflected in something Bryan Stevenson, an Alabama human rights and criminal justice advocate, has often said: “each person in our society is better than the worst thing he or she has done.” Such a system is also consistent with the themes of the Obama Campaign: Hope, Change, and “Yes we can.”

The criminal justice system should promote three related goals:

1. respect for human dignity and individualized fairness, which are catalysts for personal responsibility;
2. public safety; and
3. effective investment of scarce public financial resources.

The current criminal justice system fails to promote any of these objectives. Moreover, evidence-based studies uniformly show that the decades-long use of mass incarceration as a means to deal with pervasive crime has also failed. The cost of this approach has been too high in financial resources and human lives.

A human rights-based criminal justice system should contain the following components:

1. With respect to juveniles, the system should first focus on prevention and early intervention: invest in turning children into responsible citizens rather than inadvertently into more dangerous criminal.
2. Provide for appropriate screening and assessment prior to final sentencing to permit individualized placement and treatment.
3. Permit judges to impose sentences that are fair and proportionate, thereby reflecting the individual’s culpability and the needs of justice. Sentencing should not extinguish hope or eliminate the opportunity for redemption.

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4. Ninety-five percent of individuals sentenced to prison eventually are released back into the community. Use their incarceration to prepare these individuals to be responsible citizens by providing appropriate health care, education, and skills.
5. Use the states as laboratories for development and identification for human rights-based policies and programs that work. Allocate resources in a way to promote adoption of reforms and policies that are right and smart.
 - There are effective human rights-base programs in such states as Texas (diversion for first-time offenders), Missouri (juvenile programs), Washington (justice reinvestment), New York (depopulation of prisons), and Massachusetts.

Finally, the Criminal Justice Group encourages the Obama Administration to establish immediately a federal inter-agency commission to identify evidence-based programs and policies that are promising or effective and that promote human rights; to evaluate existing programs that are funded by these agencies; and to ensure that federal funds and state funds that can be influenced are invested in promising and effective programs and policies. The Commission would include representatives from such agencies as the Department of Justice (Policy), Health & Human Services, the Department of Education; Department of Labor, and the Bureau of Prisons. The commission would be directed by a prominent person whose appointment would reflect the administration's commitment to the Commission's work.

ACTION AGENDA: Health Care

The conference working group on health care took heart from President-elect Obama's comment during the campaign that he thinks health care "should be a right for every American."

This is an urgent moment. If we're going to realize the right to health the new administration will need to move quickly on healthcare reform. In recognizing health care as a human right President-elect Obama stands in a long tradition of American leaders. In 1944, President Roosevelt included in his Economic Bill of Rights, "the right to adequate medical care and the opportunity to achieve and enjoy good health." Eleanor Roosevelt, in drafting the Universal Declaration of Human Rights wrote in Article 25: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family."

We firmly believe that in implementing this health care reform the administration should take inspiration from this earlier acknowledgement that healthcare is a human right, based on equality and non-discrimination.

To this end, the health care working group recommends that the United States reverse its position on international economic, social and cultural rights, including the right to health, and stand with other nations in acknowledging health to be a human right. Recognizing these human rights can be an important step in the administration's plan to restore American standing and credibility in the world. We also recommend that the United States play a more active role in such institutions as the WHO, UNFPA, UNDP and the World Bank to reinforce and encourage taking a human rights based approach to health care.

To use a human rights approach to health reform has distinct advantages over a technocratic approach in that it captures the moral imperative and the policy priorities that are needed to

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improve the lives of people everywhere. We strongly urge the Obama administration to build on his position that health care is a right for everyone, not a privilege for the few and embrace health as a human right. This means that everyone, without discrimination on the basis of sex, race, ethnicity, national origin, language, income, religion, sexuality, age, or disability, must enjoy the highest attainable level of physical and mental health. In achieving universality, health care reform must place a high priority on the needs of the most vulnerable and disadvantaged.

The human right to health does not mean that everyone has a right to be healthy since genetic and other factors are beyond the control of the health system. However, external factors such as environment, housing, food, and workplace conditions can be improved as part of the realization of the right to health. Health care and medical services are critical in this context. A human rights approach to health care reform places a priority on universality, accountability, equity and participation, within the context of government's obligation to protect our health and to help us be as healthy as possible.

Specifically, hospitals, clinics, medicines and doctor's services must be accessible, available, acceptable, and of good quality for everyone, on an equitable basis. Access is more than just insurance; health care is more than just access; it must be financed and delivered in a non-discriminatory way that enables the participation of individuals and communities; it must provide access to information, ensure transparency of institutions and processes, and have effective mechanisms to hold both private sector and government agencies accountable.

The human right to health is based on risk and income solidarity and can be realized through a wide range of public and private responsibilities. It includes a role for insurance, health care management organization and other private sector providers but in a way that maximizes health outcomes and minimizes costs as part of a system of health protection.

ACTION AGENDA: Employment

The working group on employment felt it was important that the new administration recognize that dignified work is a human right, and that living wages, decent working conditions, and job security are no less fundamental in times of crisis than in times of prosperity.

Now is the time for us to work together by passing The Employee Free Choice Act and investing in Green Jobs, including the creation of public and private employment to rebuild our nation's infrastructure.

The new administration should not see the passage of employment legislation as a singular act. The package should be similar to the FDR's New Deal and address not merely employment relief, but housing, education, and job creation. It should emphasize human development and aspire to develop the full human potential of the American populace. We should also insist that no one who is working should be living in poverty.

The employment working group also recommends that the new administration:

1. Create public works jobs which include direct employment by local, regional and national government agencies;

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2. Use new technologies to train a new generation of workers;
3. Provide employment opportunities by strengthening broadband access in every community;
4. Improve the value of technical schools and the other workforce development programs so that students who are not college bound still have a chance to compete in the global economy;
5. Support programs like Skills2Compete and provide each adult with a two-year guarantee to further educational or technical training over his or her lifetime;
6. Open a discussion of progressive economic policies that create more equity in our society, including reducing the income disparity between top executives and workers and using price controls to ensure living wages;
7. Insist on accountability and national responsibility for all the profiteering that we have seen in the Wall Street debacle;
8. Seek innovative solutions to social and economic problems from both business and government;
9. Change the public's attitude toward taxes; make sure taxes are valued and put to good use.

ACTION AGENDA: Education

The working group on education sees access to education as a basic human right, and as called for in Article 26 of the Universal Declaration of Human Rights, we believe all children and young people should have access to a free quality education that allows each individual to reach his or her full potential.

Moreover, as called for in the Preamble of the Declaration, the group agrees that the Universal Declaration of Human Rights stands as a "common standard of achievement for all peoples and all nations..." and that "every individual and every organ of society...shall strive by teaching and education to promote respect for these rights and freedoms..."

We acknowledge that the United States has made great progress in providing quality education to its citizens, but the goal of providing quality education to all within our borders has not yet been realized. To achieve this goal and to place our country on a competitive footing with other modern industrialized nations, we must do more to close the significant opportunity gaps that exist in the United States today. For too long those who need help the most receive the least. We must reverse this trend and do all we can to eliminate educational discrimination based on race, ethnicity, economic circumstances, first language and disability.

To achieve our full educational potential we recommend that the incoming administration establish a national program aimed at eliminating inter-state disparity in education and address itself to the following priorities as soon as possible:

1. Establish a free, national pre-school program within five years, with an immediate emphasis on providing free pre-school classes to low income children as soon as possible;

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2. Establish rigorous national standards that will render the United State educational system among the top performing nations in the world;
3. Work to eliminate the fiscal inequity between states and districts;
4. Elevate teaching to the highest rank among the professions in our country, on par with the study of medicine and law. Set much higher standards for *entering* teaching colleges and set outcome expectations to match; use programs like “Teach for America” to attract the best and the brightest to the teaching profession;
5. Make it a goal of public education to prepare each student for at least two years of post-secondary education and training. Use National Service as a means to make higher education affordable to all Americans and attract gifted people to teach in our most challenging schools;
6. Make sure our schools and school districts are rooted in their communities; take cognizance of the changed family structure within our society and recognize that some families and some communities need extra time for learning and additional financial resources to meet these needs;
7. Stress the need for accountability among parents, teachers, and local, state, and national officials involved in education;
8. Do not be afraid to use—as FDR suggested—“bold, persistent, experimentation” to build one of the best educational systems in the world.

Bringing Human Rights Home Conference Participants

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