

Introduction

The UDHR at Sixty ... Human Rights Begin at Home

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Sixty years ago the United Nations adopted the Universal Declaration of Human Rights (UDHR). The UDHR has since become the foundation of the modern human rights system or, in the words of Eleanor Roosevelt, “the international Magna Carta.” The UDHR laid the foundation for a system of rights which are universal, indivisible, and interdependent. The UDHR recognizes that full realization of one’s civil and political rights is contingent upon access to economic, social and cultural rights as well.

Its passage brought about worldwide awareness of the basic rights and protections to be enjoyed by all human beings everywhere and it established the legal and moral basis for governments, NGOs and advocates to take action anywhere human rights are threatened. Sadly, as a result of eight years of ruinous Bush administration policies, one place where those rights are in jeopardy is right here at home.

Under the guidance of Eleanor Roosevelt, the United States was a driving force in the creation of the UDHR and the document was clearly influenced by the U.S. Bill of Rights. But, like the Bill of Rights, the UDHR has suffered as U.S. policies and practices have not always lived up to the ideals they stand for. Particularly in the last eight years, the U.S. has fallen disastrously behind in its commitment to recognize and protect human rights at home and abroad. The UDHR describes how, “... disregard and contempt for human rights have resulted in barbarous acts

which have outraged the conscience of mankind.” It is extraordinary to realize that this description has come to apply so aptly to our own government.

Although the notion of universal rights to be enjoyed by all persons was a great step forward, the decisions of the U.S. government during the past 60 years have greatly hindered the ability of people to enjoy these rights, both abroad and at home. Beginning with the debate, during and immediately following World War II, over the creation of an international human rights system, the U.S. pushed for and ultimately succeeded in creating a non-binding declaration, instead of a binding covenant. This decision was taken to pacify segregationists in the U.S. Congress. A further impediment to the realization of the UDHR has been the view, by supporters of U.S. exceptionalism, that the UDHR and international human rights law are unnecessary at home, and should be used exclusively as a tool of U.S. foreign policy.

Indeed, when most Americans think about human rights, they tend to associate them with what happens overseas. This common misperception is largely a result of a deliberate policy to exempt the U.S. from domestic human rights obligations. We are told that human rights are a foreign concept which belong to the realm of U.S. foreign policy, within the exclusive jurisdiction of the State Department and the congressional foreign relations committees. Ironically, and quite tragically, the consequences of the 9/11 attacks,

and the U.S. government response, resulted in bringing the debate about human rights back home with the expansion of abusive and unchecked powers of the executive branch. This imperial approach, and assumption of unauthorized power, led to unfounded claims that national security takes precedence over human rights obligations. These claims were further used to justify the use of torture, secret and indefinite detention, unfair trials, unfettered governmental surveillance, and ethnic profiling.

The failure by the Bush administration to adopt and adhere to clear standards that prohibit the use of torture, cruel, inhuman or degrading treatment or punishment, led to the widespread and systemic abuse of detainees and prisoners, in U.S. custody, in Afghanistan, Guantánamo Bay, Iraq and elsewhere. These standards, as codified in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), offer more expansive protections than the standards set forth in the 5th and 8th amendments to the U.S. Constitution. In 1994, the U.S. Senate ratified CAT based on the recommended ratification 'package' from the Clinton administration. This package included reservations, understandings and declarations (RUDs) which, in effect, circumvented the full applicability of CAT, and made it easier for the Bush administration to design and justify torture and other abusive interrogation policies.

More generally, the U.S. govern-

ment's current policies, from the failure to adequately abide by existing human rights treaty obligations, to the failure to ratify the majority of international human rights treaties—including the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women—continue to hinder our ability to realize many basic rights and protections. They also negatively impact upon the U.S. moral and political standing in the world.

It is equally important to examine the state of human rights at home. Recent compelling examples include: the government's inadequate response in the wake of hurricanes Katrina and Rita; pervasive discrimination against racial minorities in the areas of education, housing, and criminal justice, including the death penalty; the imposition of life sentences on juveniles without possibility of parole; discriminatory and unfair treatment of immigrant and migrant workers; the abhorrent conditions in immigration detention facilities; and the existence of family detention facilities such as the T. Don Hutto Center in Texas.

One of the most important challenges facing President Barack H. Obama is to reassert the commitment of the United States to the rule of law and restore respect for the U.S. Constitution and international law.

Obama's statement on International Human Rights Day, as well as his inaugural speech and first address to Congress, are encouraging signs that

the new administration is serious about committing itself to live up to the ideals of the UDHR and to use it as a beacon for setting policy at home and abroad. Obama made the following statement on December 10, 2008 as President-elect:

The United States was founded on the idea that all people are endowed with inalienable rights, and that principle has allowed us to work to perfect our union at home while standing as a beacon of hope to the world. Today, that principle is embodied in agreements Americans helped forge—the Universal Declaration of Human Rights, the Geneva Conventions, and treaties against torture and genocide—and it unites us with people from every country and culture.

When the United States stands up for human rights, by example at home and by effort abroad, we align ourselves with men and women around the world who struggle for the right to speak their minds, to choose their leaders, and to be treated with dignity and respect.... So on this Human Rights Day, let us rededicate ourselves to the advancement of human rights and freedoms for all, and pledge always to live by the ideals we promote to the world.

Furthermore, in his first hours and days in the White House, President

Obama acted on his pledge to restore America's moral leadership by shutting down Guantánamo within one year, suspending the military commissions, prohibiting CIA secret prisons, and enforcing the ban on torture. While these are major positive steps in the right direction, we think they should be followed by the institution of other bold accountability and transparency measures and the restoration of fundamental human rights such as the right to effective remedy, due process and fair trial.

Opening a new chapter in promoting and protecting human rights at home will require all branches of government to engage proactively to bring current policies and laws into compliance with human rights commitments. To do so, President Obama will have to work with Congress to implement these commitments by transforming them into detailed domestic laws, policies, and programs with effective enforcement and monitoring mechanisms. A good first step would be to reconstitute the Interagency Working Group on Hu-

man Rights. This would 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 1998, but was effectively disbanded during the Bush administration.

Many more robust steps will be required on the federal, state and local level in order to make a clean break with the past and ensure that the U.S. will once again be a nation that respects the rule of law, not one that considers itself above the law. Reaffirming the commitment to the rights and freedoms laid out in the UDHR will send a clear message to the world that the U.S. is ready to reclaim its role as a leader in human rights; but this long journey must begin here at home, with the U.S. leading by example.

Finally, at this transitional moment, the ACLU along with our peer organizations has an historical oppor-

tunity to engage the American people and the new administration by building on the phenomenal grassroots mobilization that brought about an unprecedented electoral victory. We need to adopt an integrative approach to human rights advocacy that incorporates community organizing and coalition building, in addition to utilizing litigation and legislative strategies. We must strengthen our commitment to holding the government accountable to implementing fair and transparent policies that place human dignity at the center of their actions.



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