

Obama Spells New Hope for Human Rights

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Celebrations of Barack Obama's election as President of the United States erupted in countries around the world. From Europe to Africa to the Middle East, people were jubilant. After suffering through eight years of an administration that violated more human rights than any other in U.S. history, Obama spells hope for a new day.

While George W. Bush was President, I wrote *Cowboy Republic: Six Ways the Bush Gang Has Defied the Law*, which chronicled his war of aggression, policy of torture, illegal killings, unlawful Guantánamo detentions, and secret spying on Americans. When the book was published, it seemed unimaginable that we could elect a President who would turn those policies around. But the election of Obama holds that potential.

This is the first in a series of articles in which I will suggest how the Obama administration can start undoing some of the damage Bush wrought, by ratifying three of the major human rights treaties and the Rome Statute for the International Criminal Court.

Although the U.S. government frequently criticizes other countries for their human rights transgressions, the United States has been one of the most flagrant violators. We have refused to ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and the Convention on the Rights of the Child (CRC). And while the United States worked with other countries for 50 years to create the International Criminal Court, it has failed to ratify that treaty as well. When we ratify a treaty, it becomes part of U.S. law under the Supremacy Clause of the Constitution.

In this article, I will explain why the United States should ratify the ICESCR, which is particularly relevant now that we are in the midst of the most serious economic crisis since the Great Depression.

In 1941, President Franklin D. Roosevelt, whose New Deal helped lift us out of the Depression, gave his famous Four Freedoms Speech, focused on freedom of speech and expression, freedom to worship, freedom from want, and freedom from fear. Roosevelt fleshed out the freedom from want and fear principles in his Economic Bill of Rights. It contained equality of opportunity, the right to a job and a decent wage, the end of special privileges for the few, universal civil liberties, and guaranteed old-age pensions, unemployment insurance and medical care.

FDR's bill of rights formed the basis for the Universal Declaration of Human Rights, which Eleanor Roosevelt helped draft, and which the U.N. General Assembly adopted in 1949. The Declaration embraced two types of human rights: civil and political rights on the one hand;

and economic, social and cultural rights on the other.

These rights were codified in two binding treaties: the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The United States ratified the ICCPR in 1992. But it has refused to commit itself to the protection of economic, social and cultural rights. Since the Reagan administration, there has been a policy to define human rights in terms of civil and political rights, but to dismiss economic, social and cultural rights as akin to social welfare, or socialism.

Indeed, the United States ' inhumane policy toward Cuba exemplifies this dichotomy. The U.S. government has criticized civil and political rights in Cuba while disregarding Cubans' superior access to universal housing, health care, education and public accommodations, and its guarantee of paid maternity leave and equal pay rates.

The refusal to enshrine rights such as employment, education, food, housing, and health care in U.S. law is the reason the United States has not ratified the ICESCR. This treaty contains the right to work in just and favorable conditions, to an adequate standard of living, to the highest attainable standards of physical and mental health, to education, to housing, and to enjoyment of the benefits of cultural freedom and scientific progress. It also guarantees equal rights for men and women, the right to work, the right to form and join trade unions, the right to social security and social insurance, and protection and assistance to the family.

In the United States , more than 10 million people are unemployed, 2 to 3 million families are homeless each year, and 46 million have no health care benefits. Untold numbers lost their retirement savings when the stock market crashed. Obama has pledged to give the rebuilding of our economy top priority after he is sworn in as President. He promised to create jobs and to ensure that all Americans are covered by health insurance. When Obama said he would cut taxes for 95 percent of the people but end the tax cuts for the rich, he was criticized for wanting to "spread the wealth." But Obama's plan is fully consistent with our progressive income tax system. After the election, 15,000 physicians called for a single-payer health care plan, which Obama and Congress should seriously consider.

The United States ' flouting of the United Nations in its unilateral war on Iraq , and torture of prisoners in Afghanistan , Guantánamo Bay , Cuba , and Iraq , has engendered widespread condemnation in the international community. Yale Law School Dean Harold Koh, citing Professor Louis Henkin, summarized the hypocrisy of the United States in the area of human rights as follows: "In the cathedral of human rights, the U.S. is more like a flying buttress than a pillar - choosing to stand outside the international structure supporting the international human rights system but without being willing to subject its own conduct to the scrutiny of the system."

We should encourage President Obama to send the ICESCR to the Senate for advice and consent to ratification. Becoming a party to that treaty will help not only the people in this country; it will also engender respect for the United States around the world.

Marjorie Cohn is a professor at Thomas Jefferson School of Law and the President of the National Lawyers Guild. Her new book, *Rules of Disengagement: The Politics and Honor of Military Dissent* (with Kathleen Gilberd), will be published this winter by PoliPointPress. Her

articles are archived at www.marjoriecohn.com. The next article in this series will explain why the United States should ratify the Convention on the Elimination of All Forms of Discrimination Against Women.

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