



The **Opportunity** Agenda

*Building the National Will  
to Expand Opportunity in America*

# *Public Opinion*

State Policy Leaders' Views on  
Social Justice and Human Rights



# Acknowledgments

This report was produced through the generous support of The Libra Foundation. The views and opinions expressed in this report are solely those of the author.

# About The **Opportunity** Agenda

The Opportunity Agenda was founded in 2004 with the mission of building the national will to expand opportunity in America. Focused on moving hearts, minds and policy over time, the organization works closely with social justice organizations, leaders, and movements to advocate for solutions that expand opportunity for everyone. Through active partnerships, The Opportunity Agenda uses communications and media to understand and influence public opinion; synthesizes and translates research on barriers to opportunity and promising solutions; and identifies and advocates for policies that improve people's lives. To learn more about The Opportunity Agenda, go to our website at [www.opportunityagenda.org](http://www.opportunityagenda.org).

The Opportunity Agenda is a project of the Tides Center.



# Table of Contents

<b>Introduction</b>	<b>4</b>
<b>Previous Research</b>	<b>5</b>
<b>Executive Summary and Recommendations</b>	<b>6</b>
<b>Detailed Findings</b>	<b>11</b>
<b>A: Conceptualizing human rights in the U.S. and the leaders' states</b>	<b>11</b>
<b>B: Attitudes about the role of states in protecting human rights</b>	<b>14</b>
<b>C: Job performance - how good a job Illinois and California are doing at protecting human rights</b>	<b>15</b>
<b>D: Making human rights part of state-level policy conversations</b>	<b>17</b>
<b>E: The health care conversation at the state level</b>	<b>18</b>
<b>F: Other human rights issues at the state level</b>	<b>26</b>
<b>G: The role of international treaties</b>	<b>30</b>

# Introduction

While health care, racial justice, due process, and economic justice are subjects of conversations on human rights at the national level, much of the policymaking and action on these issues occur at the state level. The Opportunity Agenda asked Belden Russonello & Stewart to explore whether and how policy leaders in California and Illinois see state-level public policy in a human rights context and to look for openings to promote new human rights conversations and related policy making. At the level where state policy is made and where federal policy is received, leaders must grapple with how their beliefs about rights should be and practically can be made real.

The following analysis of the interviews in California and Illinois addresses how fifty policy leaders see human rights issues at the state level. We cover many of the same topics that we included in our public inquiries – but move forward by probing the perspectives of those in a position to influence policy at the state level and who struggle with the political and fiscal realities in their states. Their answers to our questions reflect not just the world as they would like it to be, but how they find it. We also use specific issue areas to look at the likelihood of the leaders using a human rights frame as they go about making and influencing policy. Our analysis seeks to find the entry points for helping activists promote the concept of human rights to advance their social justice goals on the state level.

The report describes the results of 25 interviews in Illinois and 25 in California. Potential respondents were identified by The Opportunity Agenda and allies in the states, which focused a large portion of the interviews on Democrats, a smaller portion on Republicans along with public employees, and a few observers outside government. We carried out interviews with 17 elected officials, 17 senior staff members to elected officials, 12 public health officials, two academics, a human rights official, and one journalist. A profile of the respondents, all of whom were promised anonymity, is appended. The interviews were conducted between April 11 and July 23, 2008 by telephone by two BRS research staff members experienced in elite interviewing.

# Previous Research

The research reported here moves the focus onto those who shape policy and opinion at the state level. A brief review of what we have learned in earlier research on human rights in the United States for The Opportunity Agenda and other organizations helps set the stage for what we covered in the state interviews.

- ▶ We have seen that the public already places many social justice issues in a human rights framework. Issues such as equal opportunity, freedom from discrimination, freedom from torture, equal access to quality education, and access to health care all are viewed as human rights by large majorities.
- ▶ Americans see a recognition of human rights as a sign that the United States has not forgotten its founding principles.
- ▶ Americans value human rights because they believe in treating individuals with dignity and fairness, but they also tell us that respecting human rights contributes to a better society for all – a sentiment that suggests that honoring human rights for others makes life better for oneself.
- ▶ On the other hand, perceptions of the role of government complicate views on human rights. Many Americans believe that the government should function as the provider of human rights and expand government assistance programs in order to ensure that all people have these rights. However, Americans' strong belief in personal responsibility leads others to argue that government should only be expected to protect human rights but not be expected to provide services that ensure those rights are fulfilled.
- ▶ The public is poorly informed and holds ambivalent views on the relevance of international treaties for U.S. policy making.

# Executive Summary and Recommendations

## The challenge

The Opportunity Agenda has asked us to investigate how to move leaders at the state level in California and Illinois to conceive of and treat social justice needs as human rights – thus recognizing them as needs that must be protected and fulfilled by society or government. We found there are some social justice issues that many of the leaders do already consider human rights, including racial equality and due process. On the other hand, areas such as freedom from poverty and access to health care are harder places to find agreement.

The policy leaders in our study are wary of framing many social justice issues as human rights, because of the potentially far-reaching implications of calling something a human right and of their own limitations in fulfilling the promise of that designation. Many believe they *cannot* protect and fulfill all the needs that are suggested by an expansive view of human rights; and some do not *want* to fulfill all of them. Thus the challenge is to find the most likely points of entry for getting leaders to talk about and conceive of social justice needs as human rights.

## Underlying concepts about human rights in the U.S.

The Illinois and California elected officials and other influentials unanimously agree that human rights apply in the U.S. in the same way that they apply anywhere else in the world. When considering why they view an array of rights as human rights in the U.S., the leaders turn to two concepts.

- ▶ **Basic survival needs:** The first concept equates human rights to basic survival needs such as food and shelter. This framing is familiar to many from the international human rights discourse and offers them a way to call (at least basic) health care a human right.
- ▶ **Fundamental American principles:** The second way that policy leaders think about human rights is a particularly American frame based on our nation's founding ideals, rights and freedoms. They see this frame as applying to rights such as freedom from discrimination and due process.

On the other hand there are forces that work against accepting a human rights orientation. Like the general public, some of the leaders back away from naming particular areas, such as comprehensive health care or alleviating poverty, as human rights as that implies an obligation on the part of government – raising several concerns.

- ▶ **Non-essential:** There are those, especially conservatives, who argue that some of the issues we discussed are not essential to human survival or society and thus do not rise to the level of a human right.

- ▶ **Personal responsibility:** Many raise the familiar theme of responsibility. They say that when it comes to financing health care, dealing with poverty, and other issues, personal responsibility trumps government’s obligation.
- ▶ **Practical policy-oriented thinking:** Also many of the Republicans and a smattering of the Democrats in our study reject framing issues such as health care as human rights because they feel it is naive to suggest that the U.S. or their state could afford to fulfill the needs of everyone.

In other words, some say, “I will not call X a human right because I cannot deliver on it, even though I believe we should guarantee it to all.” Others say, “I don’t believe X is so essential as to call it a human right.” And some also say, “These things are not owed to people just because they are human beings; people have to earn the right.”

## The states’ role and performance in protecting human rights

All of the state policymakers and other influentials we spoke with hold a strong belief that state government is obligated to *protect* human rights, meaning that government should enforce laws (for example laws preventing discrimination and upholding due process) that ensure that these rights are not denied.

However, as we have said, the role of the state in *providing* human rights is more difficult for many policy leaders to accept. The debate over state provision of human rights is made sharper by the large budget deficits in both California and Illinois. In light of these deficits, state policy leaders remain interested in human rights but express a desire for advocates of a human rights frame to understand the limitations of the budget and focus on practical, incremental solutions.

The policy leaders express widely differing opinions about how well their states are doing at protecting human rights.

- ▶ **In California,** many of the leaders say that their state is one of the most advanced in terms of protections for human rights, and that while there is always room for improvement, they have little concern about human rights abuses in their state. However, others cite the treatment of undocumented immigrants, limited access to health care, and the death penalty as major concerns.
- ▶ **In Illinois,** many of the Republican leaders cite the fact that there are laws on the books protecting human rights as evidence that their state is protecting those rights. Other leaders, however, cite racial profiling and other racially-oriented cases of discrimination and abuse in Illinois, as well as the treatment of undocumented immigrants, as evidence that rights are not adequately protected.

## Making human rights part of state-level policy conversations

We investigated several specific areas of state policymaking – including health care, racial justice, due process, economic justice, and immigration – in order to learn whether and how state policy leaders think about human rights when applied to these issues. Our analysis suggests the most immediate entry points for framing social justice issues as human rights are due process and racial justice, followed by education for all. Health care, an area of focus for this project, offers some openings although it is heavily burdened by the fiscal situations in both California and Illinois. And bringing up the rear, economic security is the most difficult area to generate agreement.

- ▶ **Due process:** The policymakers and influentials agree that unequal treatment in the criminal justice system and having inadequate counsel in court are violations of human rights. They believe these rights are grounded in American law and the Constitution, and accept freely the idea that their states have due process obligations they must fulfill.

- ▶ **Racial justice:** The leaders in both states unanimously agree that freedom from discrimination and equal opportunities regardless of race are human rights. They see these rights as embodied in the Constitution and as essential to fulfilling American ideals of equality and fairness. Racial justice, like due process, is easy for the policy leaders to call human rights, because, the leaders believe, their fulfillment relies on enforcement of existing law rather than expansion of seemingly expensive obligations that would be needed to fulfill other areas.
- ▶ **Education:** Access to quality education is an easy sell as a human right for most of the leaders because to them it is the ultimate symbol of providing opportunity. Education for all offers an important transition in the conversations about human rights, as it is a costly undertaking that Americans are already accustomed to financing (sometimes kicking and screaming, but nonetheless pervasive), and because its promise to give individuals capacity to provide for themselves is so appealing.
- ▶ **Health care:** Many of the Illinois and California policy leaders, especially the Democratic and nonpartisan public health officials, agree that basic health care is a human right. Most agree that this implies the state government has a responsibility to ensure that everyone has basic care. Many, however, are pessimistic that this can happen in the foreseeable future due to the state budget crises and the policy proposals that have failed in both states.
- ▶ **Economic security:** Economic security-based rights like freedom from poverty and living wages are the hardest to identify as human rights. Some of the Democratic legislators easily make the connection between living in poverty and a lack of survival or bodily rights. However, for other Democrats and all of the Republicans, objections based on personal responsibility for one's own income leads to doubts over whether fair pay and freedom from poverty can truly be classed as human rights.

## Immigration and human rights

Legal immigrants, according to every policy leader in our study, have just as much right to government protection of their human rights as citizens do, echoing public sentiments we have consistently found. However, views on state government's appropriate role in protecting and providing human rights for *undocumented* immigrants are divided.

- ▶ Putting immigrant status into the conversation provides an important test for belief in human rights. If we say that the definition of a human right is something that all people have a right to have, then it is clear that all policy makers do not consider many of the rights we have discussed as human rights—since they do not believe they should be secured for undocumented immigrants in our country.
- ▶ When speaking about due process for immigrants, almost all of the leaders agree that state government should protect the rights of all immigrants – regardless of their immigration status – to a fair judicial process.
- ▶ On the other hand, providing access to health care for undocumented immigrants gains agreement from some liberal leaders, but also strong opposition from conservatives.
- ▶ Finally, most of the policy leaders feel that enforcing economic security for undocumented immigrants by protecting their right to a fair wage is impractical and would overstep government's role.

## The role of international treaties

The state policy leaders have very little awareness of international treaties or their implications. In the current fiscal environments in Illinois and California, international agreements play little role – although they may be of limited help in providing those who are already on board with human rights a way to articulate their goals.

## CONCLUSIONS AND RECOMMENDATIONS

The challenge that The Opportunity Agenda and other activists confront in speaking to policy leaders about human rights is not convincing these leaders that human rights apply within the U.S. Rather it is how to help them conceive of more social justice needs as human rights and therefore as requiring the leaders' efforts to fulfill the needs. Eleven key conclusions derive from our conversations with the leaders in Illinois and California.

**1) The views of the leaders in the study divide along partisan lines, when discussing human rights.** There is a familiar schism between progressives' endorsement of rights and efforts to fulfill them broadly and conservatives' opposition to government provision beyond the most basic needs. This is most evident in a discussion of health care, an area of focus for this research. Clearly activists have the best chance of getting human rights concepts introduced into the policy mix with liberals and Democrats.

**2) Introduce the human rights frame in manageable parts.** In other research we have advised The Opportunity Agenda to use the phrase "human rights" broadly when speaking to the public, in order to familiarize the public with the concept and the term in a U.S. context. In the state policy-making context of the current study, familiarity is not the problem, but rather reluctance to commit to a broad human rights frame is problematic. Thus we believe activists will have more success if they posit that social justice needs are human rights one issue at a time.

### Health care messaging

**3) Equate health care to other essential survival needs.** Policy leaders see health care and freedom from poverty as part of the basic right to take care of one's bodily survival, just like food or shelter.

**4) Include the perspective of the common good: it is better for us all to live in a society that respects human rights and where people are healthy.** This concept performs as well among policy leaders as it did with the public in our 2007 research. Arguing that it is better for us all, for example, to live in a society where everyone has access to health care gains no serious opposition.

**5) Thus, sample language to express these concepts is as follows:**

Health care is a human right because it is as essential to the ability to lead a healthy productive life as are food and shelter. Access to health care is part of the American belief that everyone has the right to life, liberty and the pursuit of happiness. This human right is important for the success of individuals and communities.

### Strategic considerations on health care as a human right

**6) Take advantage of the fact that most of the leaders call "basic" health care a human right—providing an opening for activists.** The health care issue is top of mind for the state leaders, as it is for the nation. In both California and Illinois, many leaders are dismayed at the budget crises that have nixed efforts to expand health care coverage in their states, but they will have to confront the issue time and again. This is a matter that is in flux, as policy makers and the public sort through what are the possible and what are desirable policy goals. So while there is a broad range of views on what should be included in basic health care, legislators and others are actively discussing and weighing the issue. The Opportunity Agenda has the chance to help shape the answers by promoting the concept of basic health care as a human right and addressing what belongs in the category of "basic."

**7) In early efforts, use the human rights theme to support practical, policy-based solutions to state provision of health care and other human rights.** For human rights that require a substantial state investment, such as health care, the interviews suggest that your focus of communications should be on concrete policy solutions – not on a demand for immediate broad scale solutions only. This will allow policy leaders to resist rejecting a human rights frame as demanding the impossible.

## Other areas of rights

**8) Address issues such as racial justice and due process as principles embodied in American founding principles.** Many of the leaders in Illinois and California are already willing to call racial justice and due process human rights and respond positively to calls for upholding these as our founding principles. Racial justice and due process require government enforcement, but policy leaders do not see them as requiring expensive government provision that is not already in place. Thus, they provide a comfortable place for both liberal and conservative policy leaders to agree.

**9) Similarly, reinforce the belief that basic education is a right everyone should be afforded.** Access to education is accepted as a human right by most of the leaders, because it is the ultimate symbol of providing opportunity and giving individuals the capacity to take on the personal responsibility to provide themselves with other basic necessities.

**10) Go carefully into conversations that call economic security a human right.** This is the most challenging area because it suggests a wide array of programs that would be necessary to fulfill the right and raises questions about personal responsibility. The conversations with policy leaders demonstrate that they share with the public many of the same hesitations about economic security that we have found in work with other audiences. A useful way to begin conversations about economic security, that we have seen, is to suggest that as a society we should work to remove obstacles from the path so that individuals have the opportunity and can take responsibility for their economic needs.

**11) Give the already receptive state policy makers and leaders evidence that a social justice issue is a human right that they can use to make the case with their colleagues.** While the leaders appear more familiar with the concepts of human rights than the general public in our other research, they do not usually see a benefit in framing their appeals for legislation or other policy making in human rights terminology. A goal for activists will be to demonstrate to legislators and others who influence policy how employing the view that a social justice need is a human right can make their issue more compelling.

**12) Provide examples of how international treaties have been applied in states or local jurisdiction and offer technical assistance to receptive policy makers.** Many of the policy leaders were intrigued by the example set by the City and County of San Francisco which evaluated and changed local policies in light of CEDAW principles. Building on this model would require both demonstrating to state and/or local officials how this has been accomplished and providing them with the technical support they would need to figure out how to write policies based on international treaties. Ideally examples other than San Francisco can be found in the US, but if not, examples from other countries may be helpful in defining the concept to policy leaders unfamiliar with the treaties and the concept of applying them locally.

# Detailed Findings

## A. Conceptualizing human rights in the U.S. and the leaders' states

The Illinois and California policymakers and other influentials with whom we spoke unanimously agree that human rights apply in the U.S. in the same way that they apply anywhere else in the world. Though a minority says that human rights are more familiar to them in an international context, none of the leaders hesitate to agree that human rights are a salient concept when speaking about issues within the U.S.

These leaders do not tend to have a specific definition of human rights beyond the idea that they are broad principles that apply to everyone in the world. When asked what the phrase “human rights” brings to mind, many cite fundamental principles such as freedom or equality. Others mention bodily requirements such as the right to food and shelter. Still others turn first to violations of human rights, such as torture or restrictions on freedom of speech.

When considering the ways that human rights apply in the U.S., the leaders turn to two separate concepts:

- ▶ **Basic survival needs:** One conceptualization of human rights is as basic survival needs, such as food and shelter, which is familiar to many of the state leaders from the international human rights discourse. For many, health care fits this concept neatly as something essential to sustaining life. For the progressive-minded respondents (but not more conservative ones), economic rights, such as fair pay and freedom from poverty, also derive from these basic needs to sustain one’s body, as poverty prevents people from obtaining food, shelter, *etc.*

Food, shelter, clothing, those are your essential human rights. The minimum standards of what people should have. *–Democratic state senator, Illinois*

I think that human rights are basic things like the right to food and shelter. And to not be tortured or to have your personal integrity violated. And I think in the U.S. and in California we do a pretty good job at that, so I think it’s more a problem in third world countries and other places. *–Republican Senate staffer, California*

[Health care is] one of those basic needs that people have to live a reasonable life, and I think that with basic needs like nutrition and health and safety and housing, I think we should frame them all the same way, and health care belongs in that. It’s a basic need, so I would think of it as a human right in that sense. *–Democratic state representative, Illinois*

- ▶ **American principles:** The second way that policy leaders think about human rights is a particularly American frame based on Constitutional rights and freedoms. This concept comes into play when these state policy leaders consider such rights as due process of law and freedom from discrimination, which they see as Constitutional rights that reflect the broader principles of equality and fairness on which America was founded.

When I hear the phrase human rights I think of the basic human rights as they are talked about in the Constitution. *–Republican state senator, Illinois*

[Human rights are] life, liberty and pursuit of happiness, equality—those types of things. *–Public health official, Illinois*

I think it's basic rights for all. That includes civil & political rights like the right to life and liberty. It's also freedom of expression, freedom of speech, and equality before the law. *–Democratic Senate staffer, California*

[Human rights are] providing for policies that protect the rights of all people regardless of race, religion, class, or social status. *–Democratic state representative, Illinois*

On the negative side, we can see two ideas on the minds of the California and Illinois policymakers and influencers, which work against accepting a human rights orientation to policy making. As with the general public, some of the leaders back away from naming particular areas, such as health care or alleviating poverty, as human rights if that would imply an obligation on the part of government. There are two themes here:

- ▶ **Personal responsibility:** First, many say that when it comes to financing health care or dealing with poverty, personal responsibility trumps government's obligation.

I think people are, should be guaranteed a standard, a substance of living. But the government really has no, in my opinion, the government really has no requirement to assure that you don't fail. I mean, people have to take some responsibility for themselves. *–Democratic state senator, Illinois*

I think you should be able to have access to a job through doing what you need to do; personal responsibility getting your education, knuckling down and saving money and you know what I mean. It's more something that if you want it you should be able to feasibly get it without going to the poor house over it. So I think it takes personal responsibility. *–Democratic Senate staffer, California*

- ▶ **Practical policy-oriented thinking:** A second concept that competes with a human rights frame among policy leaders is that of hard-nosed practicality. Many of the Republicans and some of the Democrats in our study tend to feel that posing issues such as health care as human rights takes us down a path of commitment to fulfill the health care needs of everyone – which they say is unrealistic. Their evidence is close at hand in the fiscal consequences in both Illinois and California of expansion of health care and other programs. While many of these leaders agree in principle that social justice issues are human rights, they say that there is no sense in identifying them as human rights without a concrete policy plan that includes funding to implement those rights in the form of government programs.

“How do you pay for it if you're going to give everyone access? We can't do it. The proposals in California have been sort of, well, let's just extend the system we have to everyone and I just don't think it's financially possible, because the system we have is not very efficient and we're already spending a much larger percentage of GNP on healthcare than a lot of other countries that have universal healthcare. So I just don't know that that model is really viable from a financial standpoint. Inevitably [in] those other countries there are waiting lists for certain services and so forth and so, anyway, I'm just trying to be practical, realistic.” *—Public health official, California*

“Well, I guess in a sense we say of course everybody has a right to healthcare and I think especially in Illinois if you look at a lot of what the governor has done, healthcare has kind of been at the top of his priority list. Unfortunately, some of the things that he has tried to do, we as legislators don’t go along with, because, quite simply, fiscally here in Illinois we can’t afford to right now. So I guess that’s how I’m looking at this — going of course on a human rights angle.” —*Democratic state senator, Illinois*

“I mean we’re 13.5 billion dollars in deficit right now in the last five six years we’ve bonded, gee oh, with debt service and everything, between 20 to 30 billion dollars; doesn’t make a whole lot possible; doesn’t make a whole lot sound like a good idea. Yes, I’d love to mint the money, but my goodness, I’m a very liberal person, I read my Chomsky every night so that’s me. But working in this building and dealing with people who deal with finance, I have to be able to balance my wishes with the practicality of moving a concept through legislature or through the initiative process or something like that, cause you know be careful what you ask for you may just get it.” —*Democratic Senate staffer, California*

- **The language of human rights:** The challenge that The Opportunity Agenda and other activists confront in speaking to leaders about human rights is finding the places where an expression of human rights will help the development of progressive public policy.

Although most of these legislators and influentials accept that the term “human rights” can be applied to social justice issues, few are currently using the phrase in public settings. This is largely because they feel it is not useful to them. Some say their constituents would not understand it; they would confuse it with other efforts such as the Human Rights Campaign for gay and lesbian rights, or they simply would not find it to be a more convincing argument than those based on the practical benefits of expanding access. The leaders are inclined to deal with statistics and policy-oriented arguments rather than ideological framing. To further a human-rights-based agenda on social justice issues, policymakers and other leaders will have to see that human rights and practical policy are not competing concepts but are rather compatible approaches.

I’ve talked to coworkers about [health care as a human right, but] whether or not it’s something that’s said publicly on the assembly floor or the senate forum, I’m not totally sure. —*Democratic Assembly member, California*

I’m trying to balance a personal goal and dream and value system with what is practically politically feasible. And I wouldn’t frame it, I wouldn’t frame any of these issues as human rights because I don’t think it’s a politically useful way to do that. —*Democratic state representative, Illinois*

Sure I can imagine that happening [people speaking about health care as a human right]. I just don’t hear those terms that often because I tend to be on the policy level trying to figure out how to get it done. We don’t talk in terms of human rights. —*Republican Assembly staffer, California*

I think [these issues] are [human rights]. But I also think there’s a risk in blatantly framing it that way. ... That people who disagree on the definition of human rights will not respond because they would say that kids are getting an education and inequities are another issue and not a human rights issue kind of thing. This to me—I think this can trip us up. There’s some emotion attached to it. —*Democratic state representative, Illinois*

## B. Attitudes about the role of states in protecting human rights

As we have seen in previous research, the role of government in ensuring human rights for U.S. residents is a contentious one for the American public. For state policymakers and other influentials, this question is even more difficult because they know that many resources are required to ensure that people have health care, fair pay, or any other right fulfilled, and are aware of the budget constraints they must confront.

The leaders agree that it is government's job to *protect* human rights. This means that government should enforce laws that ensure that rights are not denied, including such laws as those preventing discrimination and upholding due process for everyone in the U.S. State policymakers and other leaders accept the idea that their states have obligations to ensure that these rights are protected by passing laws and by maintaining state institutions that make sure the laws are enforced properly.

*Providing* human rights – ensuring that everyone in the U.S. has access to them – is a more difficult proposition, and views on this question tend to be divided by political ideology.

- ▶ Almost all the Democrats in our study agree that access to health care and freedom from poverty are human rights, and that the state government should continue to work on developing government programs that help fulfill these rights for state residents.

I think ultimately the goal would be for the government to be the provider for everyone...I think we're all hoping it will be the federal government. That may or may not work out. And I think the states have to be ready to step in if there's no solution from the next administration. –*Democratic Senate staffer, California*

- ▶ Republicans are more likely to see a conflict between personal responsibility and the provision of human rights by the state government. They tend to advocate programs that do not involve government provision of services, but that do ensure that people can access essential services and pay for them – exemplified by the California Republicans' proposal to increase the number of urgent care health clinics that accept payment for a limited range of services.

I guess I look more to human rights more in terms of Constitutional rights than to...when you say it's a right, on the other hand, then you're saying somebody has the obligation to provide that. And the question is who, and define what that means, then who's responsible, so I'm a little careful or a lot careful to say something is a right. –*Republican state representative, Illinois*

The conflict over provision of human rights by creating government programs is made sharper by the large budget deficits that both California and Illinois are currently confronting. In light of these deficits, state policy leaders remain interested in human rights but express a desire for advocates of a human rights frame to understand the limitations of the budget and focus on practical, incremental solutions.

The way I would think of it is if you've got fifty million people in this country who aren't covered, and you want to kind of phase in that coverage. You don't have to, but it seems to me it's just understanding the way that the political world works. That it is unlikely that something like that, that big a change would happen overnight. So to the extent that you

say that you're going to cover kids first, you're going to cover the emergency services, which arguably are already covered, but the way that the responsibility for payment is shifted is obviously not helpful. And then you're going to kind of build up.

–*Democratic Assembly staffer, California*

## C. Job performance – how good a job Illinois and California are doing at protecting human rights

The policy leaders express widely differing opinions about how well their states are doing at protecting human rights.

### 1. Positive human rights record

About half of the policy leaders in California and a third of those in Illinois say that their states are doing remarkably well and they have no concerns about the state's level of protection for human rights. Policymakers and influentials who hold this viewpoint express slightly different rationales depending on their state.

- **California:** The view that there are few problems with state protection of human rights is more common in California than in Illinois. Some of the California leaders compare their state's human rights record with that of other states and say that their state is one of the most advanced in the country in terms of protections for human rights. Even those who do cite concerns about human rights hold this view to some extent, with many Democratic policymakers mentioning the state's new authorization of gay marriage as a human rights achievement of which they are proud.

I think we're good. I think we're doing well. Compared to other states I'd say we're on top...I'd say there are always areas for improvement, but overall I think we're fine. I can't think of any major problems off the top of my head.

–*Democratic Assembly member, California*

I think we do a pretty good job. Especially when you compare it to other states, I think we have a lot of policies designed to ensure that people have equal treatment and equal access and things that other states don't necessarily have. Now, I'm not saying we're perfect, but I think that overall I'm not too concerned about our record.

–*Public health official, California*

As inefficient as government is in general, I think the state does a relatively good job. Is it perfect? Absolutely not. Could it be made better? Yes. Does it need tons of money? Absolutely. –*Democratic Senate staffer, California*

I think in the U.S. and in California we do a pretty good job at [protecting human rights], so I think it's more a problem in third world countries and other places.

–*Republican Assembly staffer, California*

- **Illinois:** The Illinois policy leaders who are not particularly concerned about human rights violations in their state usually point to laws protecting rights that are on the books. Some mention the fact that the state government has a Department of Human Rights dedicated to investigating cases of job and housing discrimination. Most of these leaders say that if there is any problem, it lies not with a lack of laws but with the fact that, like most functions of the Illinois state government, the agencies dedicated to enforcement of human rights are overburdened and understaffed.

We are reactive. When there is discrimination we have rules and laws in place to deal with it, I mean I guess on some level we deal with it, we have departments of human rights at every level, city, local, county state, but it is reactive and how often it happens in a proactive way, at the workplace or on a street corner or when a taxi pulls up and doesn't want to take a black person, I don't know what government can do to prevent all that.

–*Democratic state representative, Illinois*

Well, I guess the sense is that we have an adequate remedy and people have the capacity and are able to exercise those rights and contest [human rights] violations...I have not heard that we're falling down on the job. If anything, there's a concern that the agencies that are supposed to report or to investigate reports, and to follow through to follow through on those issues where there's a finding, whether they have adequate staffing and resources. There's probably a substantial backlog. I know there has been in the past. But I assume that like most of state government right now, most of those staff positions are very starved.

–*Democratic Assembly staffer, Illinois*

I think generally Illinois does very well in putting those rights on the written page. We probably don't do quite as well so far as our institutions at effecting those rights.

–*Republican state senator, Illinois*

I think we're probably ahead of the curve. –*Democratic state senator, Illinois*

Well, I think they are doing a good job. I mean, obviously you can always do better, but on the whole I think they're doing the best they can and it's an evolving process. I think we get better as time goes on and there's enough interest in people who want to make things get better. –*Republican state representative, Illinois*

Well, I'm concerned about people that don't have health care, there's probably always going to be some...I think there are laws in place to protect against discrimination, it just depends on how far you're pushing that social agenda. So I'll say that things are basically okay. –*Republican state representative, Illinois*

## 2. Weak human rights record

The minority of leaders in both Illinois and California, who are much less optimistic about their states' human rights records, cite a range of human rights problems in their states.

- ▶ **California: focus on immigration and health care:** Concerns about immigration and access to health care are prominent among the California policymakers and influentials. The Democratic elected officials and staff, as well as public health officials, express numerous concerns about a lack of access to health care for immigrants whom they see as contributing greatly to the state's economy; about local ordinances that prohibit landlords from renting to immigrants; and about local police cooperating with immigration officials. In addition to these immigration and health care concerns, many of our Californian respondents mention the death penalty as a violation of human rights in their state.

The problem is that ... the people who usually have their rights violated tend to be groups that are more socio-economically disadvantaged or English as a second language or we tend to find those things out later on as opposed to on the front end because there's just no one there to fight for them. –*Democratic Senate staffer, California*

Well, (the state is doing) fine in some respects and not so well in others. I mean, I think that capital punishment is a violation of human rights....We have a large immigrant population

here and some significant portion of those immigrants are not here legally and so...I don't know. I mean I guess I don't know that I would call it human rights abuses as much as I would just say that we're not a very compassionate people and we sort of go out of our way to limit services to people impoverished people whether they're legal or illegal immigrants or otherwise. *–Democratic Senate staffer, California*

Last year, I think it was in the fall, with the wildfires in Southern California...some of the individuals were being turned away from assistance in the wildfires. There were instances where families, whole families were basically kicked out of the stadium because they couldn't provide identification or authorities were going around asking families to show me a utility bill... show me your ID. So there were families that couldn't produce that being basically kicked out in the middle of the night. *–Democratic Senate staffer, California*

- **Illinois: focus on race and discrimination:** The Illinois leaders who have concerns about human rights focus primarily on racial tensions and discrimination. This includes expressing concerns about racial profiling; recalling the infamous police torture of African Americans in the 1980s and 1990s in Chicago; mentioning current lack of access to health care and quality schools in inner-city neighborhoods; and citing discriminatory hiring practices by state and local governments. Some also mention immigration and gay rights as issues on which the state should act.

There's been a lot of concern about the inadequate percentage of minorities who are in Springfield, Illinois. There's a continuous issue going on about the lack of minority police and fire personnel. The local NAACP and other related groups have continuously criticized city authorities for not being as aggressive as they should be in recruitment. And even our school district has been criticized for a lack of minority hiring. So in that context there are probably claims of discriminatory practices, sort of institutional racism if you will. *–Democratic Assembly staffer, Illinois*

Well, interesting you ask, we have an agenda right now which has to do with, in fact, immigrants who are being held in county jails and on their way to deportation hearings or amnesty hearings or other (instances when) there's something that they're awaiting, some kind of a hearing. They're being held in county jails without an opportunity to visit with even religious workers. So I'd say we're not as conscious of human rights as we could be. We haven't provided for a lot of rights for gay, lesbian, bisexual, transgender people. It took us 30 years to pass the Human Rights Act that even allowed for basic anti-discrimination. *–Democratic state representative, Illinois*

## D. Making human rights part of state-level policy conversations

In our interviews, we looked into five specific areas of state policymaking – including racial justice, due process, economic justice, immigration and – most in depth—health care. Our objective was to learn whether and how state policy leaders think about human rights when applied to these issues. We found that many of the leaders accept the view that each of these social justice issues is a human right or see each as part of a broader framework of basic human rights such as fairness, dignity, American principles, and basic survival needs. That does not mean that they are ready to argue for these rights as human rights.

Rather the interviewees' answers to our inquiries reveal that introducing human rights into the state-level policy dialogue will be easier for some social justice issues than others. We have already pointed to two problems: fears about costs of fulfilling needs or rights if they are raised to the human right level, and the idea that calling something a human right lets people off the responsibility hook.

Thus, issues that fit within the frames of founding principles or basic survival needs, and do not compete with the insistence on personal responsibility, are the most easily identified as human rights by many of the leaders. These issues include freedom from discrimination, equal opportunities regardless of race, and fair treatment in the criminal justice system.

Issues that require government provision of programs that appear to replace market-based or personal solutions are championed by most of the Democrats we spoke with, but are more difficult for most Republican legislators and a few Democratic legislators to accept as human rights. These issues include health care, freedom from poverty, and fair pay for workers to meet the basic needs for food and housing.

I think we should try to provide [health care] but I don't put it in the same category as, you know, you're guaranteed a trial, you're guaranteed a fair trial by our Constitution, you can face your accuser, you have the right to freedom of speech. Those are things I see as guaranteed to us. —*Republican state representative, Illinois*

## E. The health care conversation at the state level

### 1. Health care as a human right

Much of our conversations with the leaders concentrated on how to frame health care as a human right. We find that views on health care as a human right are divided along partisan lines.

- ▶ Almost every Democratic elected official or staffer says health care is a human right, as do the nonpartisan public health officials.

To me human rights includes, for example, health care and the notion that we have over fifty million people who don't have health coverage at any given time in this country is, I think, a fundamental gap in what I view as human rights because your ability to live with dignity and honor is in part predicated on your ability to have proper health care.

—*Democratic Assembly staffer, California*

I think everybody should have access to healthcare regardless of their economic status.... You look at a child who...doesn't have insurance and he goes to the hospital, and the hospital turns him away, I mean that's something that is inhuman. And I believe that's a right everybody has regardless of their status.

—*Democratic state senator, Illinois*

- ▶ Most of the Republican elected officials and staff agree that some very basic level of health care for people with life-threatening illnesses should be provided, but they disagree about how much or what level of care should be seen as a human right. When it comes to anything beyond the level of emergency care, most of these leaders say that individuals should be responsible for holding jobs and contributing to society in a way that will allow them to buy private health insurance.

I don't see the government guaranteeing health care. It's great if we can provide it. It comes with a high cost, and when we can...when we can pay for it that's great. The stronger our economy, the better jobs we have, and the more health care we're also going to have. Because health care usually comes with good jobs. So part of providing that is creating a climate that encourages business to stay and encourages business to grow and attracts new business. Good jobs...not the fast-food jobs, jobs you can raise a family on. And they would have health care. I see that as the role of government to try to encourage that.  
*–Republican state representative, Illinois*

The primary rationale employed by those who support the idea of health care as a human right is the idea that health care is a basic matter of survival, just as food and shelter are.

I mean, health care is a broad issue, but the basic provision of health care to all people is not a luxury, I mean, it's essential to people's well-being. I guess you could, sort of by definition you could see it as being a right that attaches to the individual.  
*–Democratic Senate staffer, California*

When I think about health care, when I think about food, shelter, clothing, and health, those are all, they're critical parts of...if I don't have shelter I end up with health issues, if I don't have access to health care I end up with greater health issues and become even a larger issue for the general public to deal with. *–Academic, Illinois*

I guess if you talk about basic human rights, sure, I think everyone should have access to health care. I don't know that anybody would ever argue that. I don't care...Sheila Kuehl proposed universal health care. And then you have Governor Schwarzenegger and the one that was the Speaker, Nunez, and they put their plans together. And theirs I guess probably could be described as, can you have semi-universal coverage? ... And then ours is more free-market. But there isn't one, whoever you are and whatever you believe in, whatever you would vote for, whatever plan, there isn't one person who doesn't think that people should have access to health care. If you run into a man on the street or a woman who needs medical attention, there isn't a reasonable person, whether you love or hate universal health care, who wouldn't say that person needs to have medical attention.  
*–Republican Senate staffer, California*

## 2. The problem of fulfilling the right

Although there is fairly widespread acceptance of basic health care as a human right, the question for many is what that fact means in concrete policy terms. Most Democrats and public health officials say that it implies that the state government or the federal government must act to make sure that everyone has access to health care, citing the belief that if health care is a human right then it should not depend on a person's ability to pay for that care. Others say that the ideal solution, given the limited resources of government, would be a partnership between the federal government, the state government, employers, and private insurance to ensure that everyone is covered by some means.

I mean I think that in an ideal world it would be the federal government [that ensured access to health care for everyone]. It seems to be what's been done in other countries and it's just really a travesty that we haven't taken that action here but I think that absent action by the [federal] government it's the responsibilities of the states to try and make up for that.  
*–Democratic Assembly staffer, California*

State government is always responsible, I feel, for being involved as a safety net, but I also think we can't do it all when it comes to health care. We do need to engage and work with the private sector to find out how we learn from their experiences and broaden their—if people can have access to employer-sponsored, private programs, let's do it. There's just not enough resources to go around and then build a system to make sure there is a safety net for people. *—Democratic state representative, Illinois*

I think everybody, all sectors, private, the government should forge together to find something that's affordable 'cause I think even in the private sector we have companies that are not government-related. Sometimes they don't even offer healthcare to people and I think if we can find a simple inexpensive way to include everybody, especially in the private sector, I think we will have a much better system here.

*—Democratic state senator, Illinois*

I think it's everybody. I don't think there's one entity in particular that's responsible for it. I think it's sort of one of those things that as a human community we should all be doing for each other. *—Democratic Assembly staffer, California*

So what is basic health care? None would turn away anyone with a true emergency from an emergency room – but opinions beyond this point are varied, moving from emergency and preventive care to comprehensive coverage or coverage with some limits placed on expensive and end-of-life care.

- ▶ **Emergency and preventive:** Some of the leaders say that government should provide emergency care and preventive care, but that all other health care such as treatment of chronic illnesses, treatment of severe illnesses, and reproductive treatments should continue to be covered by private insurance. This view is especially common among the Republicans who believe that emergency care fulfills the human right, and that preventive care will prevent expensive overuse of the ER.

At government expense, I don't necessarily think that we're in a position where government can pay for any and all treatments and services. So I think a more basic approach which provides at least for emergency care and catastrophic care, and then maybe preventative care... preventative would be a good idea, but...I personally believe that government cannot right now afford to pay for any and all services in vastly expansive medical health care plans.

*—Democratic state representative, Illinois*

Basic triage, I mean, our federal law says anyone can go to the emergency room and if your life is in danger they have to treat you. So that's already in place. Beyond that I think people are responsible for making sure they have medical care.

*—Republican Senate staffer, California*

I think we should increase the number of health care dollars we spend on prevention. Wellness physicals, inoculations, things like that. Anytime you can spend a dollar to prevent something, it's better than dealing with it afterwards.

*—Republican state representative, Illinois*

So I think the right is emergency care. But then it would be good policy, if we could figure out how to do it, to make preventative care more widely available because you don't want everyone going to the ER for everything, it's too expensive. And I don't think that means preventative care is a right but it's something we should try to do.

*—Republican Assembly staffer, California*

Emergency care, the early basic prevention type of activities like immunizations and stuff like that, that prove cost effective and help prevent diseases for the general population.

*—Public health official, Illinois*

- ▶ **Comprehensive coverage:** The majority of the leaders with whom we spoke, given our focus on Democratic lawmakers and staff, say that government insurance programs ought to provide comprehensive coverage and include everything private insurance would cover, including emergency care, preventive care, treatment for severe and chronic illnesses, birth control, and abortion.

People should be able to get all the things that are available to them...whether or not a system can afford to do something, I think it's something that we should strive for as a goal to allow everybody access to every possible life saving and life extending treatment that could be applied in any given case. *–Democratic Assembly staffer, California*

It's immoral to assume some people should have access and others not.  
*–Democratic state representative, Illinois*

I would cover all the necessities that are affiliated with diseases and other maladies that people get, and the treatment of those things, and also prevention for many of those things relating to it. What I wouldn't probably cover off the top are a lot of the elective things.  
*–Democratic Assembly staffer, California*

I think it should be basic well-rounded healthcare...I think it needs to be a good basic comprehensive healthcare program and you can draw the line at certain totally optional cosmetic type surgeries and I think you can say something about that not being necessary but I think things that are medically necessary for a good quality of life should be covered.  
*–Public health official, Illinois*

- ▶ **Limit expensive and end-of-life care:** A subset of those who espouse comprehensive care raise end-of-life care and other highly expensive treatments as an important caveat. They say that the government should provide comprehensive coverage, but should limit the amount they will pay for end-of-life care and treatment options like those for very rare diseases. Those who hold this view are often public health officials who exhibit a triage approach to the issue.

I think the basics should be provided that are cost effective, [but] like on something for a 97 year old who has all kinds of issues or another case would be like the crack babies that you hear so much about or you used to. That have no future at all and they spend like two million dollars; there's got to be a balance somewhere. *–Public health official, Illinois*

I think that in that context I would put that as a basic level of healthcare, life saving measures—you're bleeding, you've got a broken leg, things like that. I think when you get into the conversation about cancer treatments, and not that I'm adding this, but things like cancer treatments, things like infertility, things like that could maybe be determined to be elective. *–Democratic Assembly staffer, California*

Whatever system of health care any civilized society establishes, it should guarantee a basic level of health care that includes primary, preventive, and secondary and tertiary care, for all citizens, and all residents, not just citizens, up to a threshold where there's been a collective social decision that above that threshold, people can buy it if they can afford it but if they can't afford it then it's not going to be universally available.  
*–Public health official, California*

### 3. The policy context

Legislators' opinions on health care are formed in a context of conflicting needs: hoping to satisfy the demands of constituents who increasingly are unable to afford good health insurance and the need to balance state budgets in Illinois and California that are already deeply in the red.

In both states, the policy leaders' perspectives on health care are greatly colored by recent efforts to reform state-funded health care programs that failed due to budget woes. Many cite the current struggles with health care policy as examples of the difficulties that policymakers will face when looking at health care in a human rights context.

- **Illinois:** Health care is currently the cause of a great deal of turmoil in the Illinois legislature due to the governor's efforts in the last session to expand coverage to underinsured and uninsured Illinoisans. Although the governor used executive authority to force the expansion into effect, the resulting cancellation of health care contracts and cuts in other state programs have angered state legislators. Many say that the expanded program is still not functional, as its payments to doctors and health care providers are often delayed by six months or more, and the delay has caused many doctors to cease accepting government insurance altogether.

The one bright spot for many legislators is the All Kids program, which has successfully ensured (at least on the books) that all children in Illinois have coverage. Despite this success, state legislators appear united in the belief that the governor's unilateral efforts have harmed Illinois' public health care programs, and although many believe health care to be a human right, they are leery of promising to expand coverage any further.

It's no secret our governor is really pushing health care. And that's been on the top of his agenda. Unfortunately to pay for it so far he's either had to cut other health care contracts because his was better, or he's tried to strip other funds to try to find other ways of paying for it. My attitude is, I have no disagreement with his goals, but the process...I mean, we're paying our bills for providers by not paying the current bills for health care providers, something doesn't add up. *—Republican state representative, Illinois*

I would say we could [provide universal coverage in Illinois] if it were not for the political gridlock that we're in....The leaders [are] not even engaging in the policy issue of health care. And the leader on the policy issue of health care, being the governor, [has] done a disservice by not engaging the stakeholders before laying out the program. *—Democratic state representative, Illinois*

There's a lot of talk but not a lot of action. The state is not in great financial state and has basically run businesses out of the city....they delay the payments to the providers so providers move out of state, they have terrible liability practices for malpractice and different things so family physicians move out of state. I would say that it's probably one of the worst states. I think they talk a lot but they don't do much. *—Public health official, Illinois*

The state has...improved access, or I should say they have increased access, but because they haven't had reimbursement follow that access to physicians, they have physicians who take themselves out of the queue and in fact what they end up doing is diminishing access to health care, not increasing it....They extend the program but they do it without any money... so they don't pay the pharmacy, they don't pay the nursing home, and suddenly nobody wants to do business with that kind of a payer. And if they won't do business with that kind of payer, that will put everyone out. *—Academic, Illinois*

- **California:** The health care debate of 2007 and early 2008, which produced competing bills from the Senate, the Assembly and governor, and the Republican caucus, ultimately ended in stalemate owing to the large state budget deficit. While almost every member of the Democratic

majority with whom we spoke agrees that health care is a human right and would like to find a way to provide it, they say that a viable solution may be years in the making if the federal government does not act.

Certainly there's been some great strides, but then there's also a lot of systemic failures. So, like from a health care perspective we continue to work on reforms, and I do think that the foundation that was built last year...basically, that collection of universal or new universal health care coverage bills was kind of split up into several other bills... So we couldn't get it all done this year, unfortunately, but we're tackling it from an incremental angle.

—*California Senate staffer, Democrat*

Most of the Democrats in Illinois and California in our study believe that the ultimate goal of their states should be to ensure everyone has health insurance coverage that approximates the same level of coverage as good private insurance presently gives. They argue that unless a government health insurance plan provides coverage equivalent to private insurance, those who already have good private coverage will not support the government plan. However, policymakers and other leaders in both states have seen the consequences of hasty action on health care and are unwilling to commit to anything beyond an incremental schedule for extending health care to all.

#### 4. Health care for immigrants

The leaders from both sides of the aisle in our study unanimously agree that legal immigrants should be treated the same way as citizens when it comes to health care, and that the state government has the same obligations to someone with a green card as it does to someone with legal citizenship. They reason that legal immigrants have fulfilled their responsibility by coming into the U.S. “through the system” to work and contribute, and that we should repay that responsibility by providing them with equal access to health care.

Undocumented immigrants, however, are a different story. Perspectives on this issue differ by political party and degree of liberalism in both states.

- ▶ All the Republicans say that there is no need to do anything for undocumented immigrants beyond what we do for them already. They say that current federal law mandates emergency treatment for everyone regardless of immigration status and that they would not strive to change that law. Beyond that, they say that undocumented immigrants should have their human rights fulfilled by their own countries, and they see no responsibility for state government to help undocumented immigrants obtain more health care.

I think that would make this system overly cumbersome to try to find a way to fit in an illegal component of it. The same way that citizens of the United States should be covered protected by their government I think citizens of Mexico should be protected by their government. Citizens of the Philippines should be protected by their government so on and so forth. If someone from Mexico crosses the burning sands or swims the deepest river to get to the United States without becoming a citizen then I'm not sure they need to be recognized as such nor get the same benefits that a citizen would get.

—*Republican Assembly staffer, California*

I believe that in an emergency room situation, where the person's life or health is at risk, people should be treated equally there... so the current law is certainly supportive of that.

—*Republican state representative, Illinois*

I think if they're here illegally it's different. So no I wouldn't [provide health care to illegal immigrants]. —*Public health official, Illinois*

- ▶ Many of the Democrats and public health officials accept the human rights frame and say that because health care is a human right, immigrants are entitled to the same degree of care citizens would receive. But others take an intermediate perspective, saying that undocumented immigrants should continue to be able to access emergency care and that it would be wise to include them in preventive care programs, but that the states cannot afford to do anything more than that when citizens are still in need of care. Many of these leaders cite the fact that the federal reimbursement system does not pay states for care given to undocumented immigrants, meaning that every immigrant who receives care adds to the state's budget deficit.

If we're going to be a compassionate nation, a compassionate state, these are the things we need to be thinking about. People are here, they get sick while they're here, if you got a problem with the fact that they're here—deal with it some other way but don't say just because somebody's status is not what you'd like it to be that they're not deserving of the same basic human rights that everybody else is deserving of.

—*Democratic Assembly staffer, California*

Those are 12 million people that affect everything around us as far as living next door to your home, working with you, I mean I really believe that we have to be able to do whatever we can of course to work on their illegal status, whatever it may be but not turn away them in an emergency room or anywhere deny them any kind of healthcare.

—*Democratic state senator, Illinois*

The short answer is yes. Now there is a difference between someone who is a U.S. citizen versus someone who is not in terms of other their legal obligations and ramifications and things like that, but when you ask about the protection of basic human rights there's absolutely no doubt in my mind. —*Democratic Assembly staffer, California*

I think there are some barriers there, and the barriers there. That's why we need to fix the health care system, because right now there are illegal people that can't get a liver... a kidney, a lung, because they're illegal. That's ridiculous! If they've been here over 10 years...if they've been here over a certain time, please, and they've been over here, they've been working into the system, there should be something, some way to say, okay, they've been here and they've worked for a length of time, that something should be done in regards to giving them health care. —*Democratic state representative, Illinois*

[Immigrants should be provided with] healthcare, prenatal care, immunizations, care for asthma, I'm not sure I'd go as far as experimental cancer treatment or transplants.

—*Public health official, California*

I think that when you're talking, when you're speaking about someone that has slipped into the country in an illegal manner and illegal has its own definitions as in not legal then I think that requires certain modifications of what you're entitled to. Emergency treatment, sure. Public health, sure. But then as you move up the hierarchy in treatment such as primary care, secondary, tertiary, I think that many of those rights go along with citizenship and to me that becomes problematic and we can get into that discussion if you want but I think that becomes problematic. —*Public health official, California*

## 5. Message frames for communicating about health care and human rights

We offered the research participants statements designed to communicate four central ideas about why health care is important and found three that are particularly useful, though different messages work best for different people. Using a life, liberty and pursuit of happiness theme excites the kind of leaders who are most likely to be advocating for human rights already. For leaders who are less

committed, a theme about the benefits to the community as a whole is helpful. Third, referencing the importance of health care for individuals' self reliance and dignity is useful when connected to specific cases but harder to communicate in the abstract. The top two statements do not call health care a human right explicitly, but make the case for why it is fundamental.

- ▶ *Language tested: The reason to make sure everyone has access to health care is because it is good for the community as a whole. We are all better off if others around us are healthy and functioning well.*

This statement garners approval from all but the most liberal and the most conservative legislators and influentials. Most say that they have heard similar arguments in the past and that this type of argument provides a good reason to expand coverage. The argument is less of an individual-rights view of human rights popular with liberals, but for many it is the most convincing reason to agree with increasing access to health care to as many people as possible. Those who do not agree with other arguments that describe health care more explicitly as an individual human right tend to be more accepting of this idea.

I don't think there's anybody who's against that statement. Everybody shares the desire for every child, for every adult to have access to quality, affordable health care. But at the end of the day, the problem we have is that someone has to pay.

–Democratic state senator, Illinois

Well, I guess I agree with that in order for us to function and to be able to be productive, like I mentioned earlier, I think it's essential to have a healthy community and I think it just would be detrimental to us if this continues and we see what we've seen lately with the whole health care thing. It's just all these hospitals are closing and individuals can't get to the health care that they need. –Democratic Assembly staffer, California

Well, I would agree with that statement. I think that is a case in favor of, sure, health care. That's what you asked, so yeah. But I always acknowledge that everything comes with a price. –Republican state representative, Illinois

Exactly. It's a matter of good policy. It's like recycling energy conservation or good roads and bridges ... those are not rights, those are policy matters that make the state better and hopefully its people better. That's what it's about, it's a policy distinction.

–Republican state senator, Illinois

- ▶ *Language tested: America was founded on the belief that everyone has the right to life, liberty, and the pursuit of happiness – and having access to health care is essential to practicing these rights.*

This message gains a mixed response. It resonates very well with some of the Democrats, especially those who are more strongly in favor of a human rights frame to begin with and who believe that the message about being good for our communities does not go far enough in identifying health care as a right. These legislators see a strong connection between the founding American principles and the ability to live a healthy, productive life. However, many of the Republicans and other Democrats who are less familiar with human rights discourse say that this link seems contrived. These leaders say that health care is not in the Constitution and that the nation's founders never intended it to be a right.

That's how I think about it, definitely. You know it kind of corresponds with what I said earlier that we seem to have these expectations that people will participate and be productive members of society and that our economy functions on how well our workforce does and yet we don't really see the correlation between the health of those in the workforce and their productivity on the back end and so yes I definitely would agree with that statement on your part. –Democratic Assembly staffer, California

I think it's people using parts of the Constitution to make a case for what they want...Look, I think we have the right to pursuit of happiness. I'm not sure the right to pursuit of happiness is the same thing as free health care. –Democratic state senator, Illinois

- ▶ *Language tested: Health care is a human right because the ability to lead a healthy life affects people's dignity – without appropriate and effective health care, people cannot support themselves and contribute to society.*

This message gains strong approval from many leaders, but others find that it is too generic or too sweeping, saying many people do not need health care in order to remain productive citizens. Those leaders who find this message compelling tend to think about it in terms of stories they have heard about people who were harmed by poor health care. (A recent example that some reference is a woman who died on the floor of the Kings County hospital in Brooklyn after nurses ignored her collapse.) Others tell stories about people who thought they had health insurance but were actually not covered. This suggests that a message about dignity may be more compelling in the context of specific examples of people who should have been able to get health care but were somehow denied their rights.

A message that the leaders find less compelling than the first three refers to human potential.

- ▶ *Language tested: Health care should be a human right because it is necessary for people to have the opportunity to fulfill their potential as human beings.*

This language is vulnerable to the objection that it makes too much of a generalization. Even policy leaders who are sympathetic to the claim that health care is a human right often point out that many people who do not have good health care are still able to lead productive lives, and that this message only applies to the small percentage who become seriously ill. They also feel that there are more important rights that contribute to people's opportunity to fulfill their potential, citing education especially.

I'm not buying that one. And the reason I wouldn't is that, is it a human right that you should live to be 150? I don't think so. I think quality is much more important sometimes than length. –Democratic state senator, Illinois

## F. Other human rights issues at the state level

While most of our inquiry focused on health care as a human right, we also touched on racial justice, due process, education, and economic justice.

### 1. Racial justice

Almost all the policy leaders in Illinois and California agree that **freedom from discrimination** and **equal opportunities regardless of race** are human rights. They see these rights as grounded in American law and the Constitution, and believe that these rights are already protected by their state laws, though many say that problems remain.

We hear that racial justice is a matter that is intimately linked with immigration. Many of the California legislators cite racial profiling of Hispanics and Latinos as a major problem, especially in the southern part of the state.

In Illinois, many are also concerned about racial profiling. A few legislators, especially those from Chicago and the surrounding areas, are acutely aware of disparities in education and access to health care, and most of the legislators we spoke with readily accept these as human rights issues.

Race relations in America, we still are still struggling with those issues. If you don't believe me, look at the high correlation between poverty areas and African-American communities. —*Democratic state senator, Illinois*

There is a great achievement gap in terms of my schools in the way that black and brown people are treated due to the funding mechanism for education. And that's totally unacceptable. And so as we look at what is the end result of that, Alex, the end result is that over the decades we have not gotten this right and our children are constantly being funneled into the prison system, going from the juvenile centers into the prison system. Because they can't make it. Education is number one. That is key for people to succeed.

—*Democratic state representative, Illinois*

## 2. Education

**Access to quality education** is an easy sell as a human right for most of the leaders because it is the ultimate symbol of providing opportunity; education ensures that people will be able to take on the personal responsibility to provide themselves with other basic necessities. A few object to including the word “quality” because it seems vague and may impose an undue burden on the educational system. In our other research on rights, we have found the public agrees with the importance of education, but also objects to calls for “quality” education for all for similar reasons.

I think that's the most fundamental human right of all. I think quality education is a great equalizer, and that it allows all people, regardless of background, status, upbringing, it leaves a chance to make their life better. And fundamentally, at the end of the day, that's what a human right does is give everybody the same footing. —*Democratic state senator, Illinois*

Certainly we have guarantees of compulsory education, and certainly we hope that it's of quality, there are variations in the abilities of the different communities to support their educational system and sometimes that's through no fault of their own, though they do provide an education to the limit of their resources. Again, I don't know what 'quality' means in that context. —*Democratic Assembly staffer, Illinois*

I think that everyone in the world should be able to get an education. And I guess it would depend on how you were defining quality but I think that if that is just talking about education, then I think that an education is a human right.

—*Republican Assembly staffer, California*

The California leaders tend to mention problems with the educational system in the state more than the Illinois leaders. In California, leaders cite systematic problems with quality across the state, though many are especially concerned about rural areas. Illinois legislators mention educational problems less often, but when they do they speak most often about disparities in inner-city schools.

### 3. Economic security

**Rights relating to economic security, such as fair wages and freedom from poverty,** are the hardest to present as human rights—and embody the overarching problem of positioning a need as a human right when it is costly. Some of the Democratic legislators easily make the rights connection between living in poverty and a lack of survival—and are happy to use the human rights frame. However, for some Democrats and public health officials and all of the Republicans, objections based on personal responsibility lead to big questions over whether fair pay and freedom from poverty can truly be classified as human rights. In addition, the practical implications of classifying economic rights as human rights overwhelm their thinking about the topic.

I think once you extend the definition of human right to things, the economic issues and whatnot, you begin to dilute the importance of that phrase in the first place. I'm not sure I would characterize that as a human right. —*Republican state senator, Illinois*

- ▶ Casting **freedom from poverty** as a human right brings up a central dilemma of the effort to expand the view that components of social justice are human rights: what does asking for a definition that is expansive mean for practical policy making *and* what does it imply philosophically about what people should expect of themselves versus government? The Republicans and a few of the Democrats in both Illinois and California answer philosophically: defining freedom from poverty as a human right implies there is no personal responsibility to raise one's self up. Others, especially some of the more liberal Democratic elected officials and their staff members implicitly reject that point of view and move to practical implementation. And they say that the U.S. has the resources to help lift people out of poverty and that it would be a “good” use of those resources to do so.

I think that one should have an opportunity to get out of poverty, but I also think there needs to be some personal responsibility in you provide them with the tools and they can either choose to strive or not. —*Public health official, Illinois*

Hard to answer. I don't know what poverty is, [it's] different things to different people. I mean our government measures it, human rights organizations would measure it differently, I wouldn't know how to answer that question....I mean it's pretty arbitrary I mean it's hard to compare economies of scale, that's my difficulty with that one.  
—*Democratic Senate staffer, California*

Certainly in the world which we live in, with all the technological advances that [we've made], nobody in the world should live in poverty.  
—*Democratic Assembly staffer, California*

- ▶ **Fair pay to meet the basic needs for food and housing** is acceptable as a human right to more of our study participants. For one thing, it conflicts less with the idea of personal responsibility, since “fair pay” implies that a person is already working. Also it invokes the value of fairness. However, many of the policy leaders in Illinois and California turn to logistical problems with determining what counts as fair pay for a particular job in a given location and ultimately conclude that such a right is too vague to lead to any effective policy.

Fair pay, people should be paid fairly and that should be enough to pay for their basic needs, yes. —*Republican state representative, Illinois*

I think the tough part there is the definition of fair...You can't really define fair.  
—*Public health official, Illinois*

I mean, would I call that a human right? I don't think so. I guess probably not. Because it's not one of those things, I mean, it's not universal, fair pay in China or India is a lot different from fair pay in the U.S. *–Republican Assembly staffer, California*

I'm not sure if that is a human right also... I would think that if you're unwilling to work for what's being offered then you should always be offered a minimum, I've always voted for minimum wage increases...and there probably is some standard, but the problem with that standard is it continues to change. *–Democratic state senator, Illinois*

- **Economic rights for immigrants:** We asked whether the right to a fair wage should be protected for legal and undocumented immigrants. As with health care, these leaders agree that legal immigrants ought to have the same protections as citizens. However, the majority of policymakers and other influentials disagree that there can be formal protection of a right to fair pay for undocumented immigrants. They point out that these immigrants work under the table, thus state regulations would not be effective. Some do agree that the state should punish employers who hire undocumented immigrants at unduly low wages.

If someone's here illegally, I certainly don't owe them a fair wage. Now, personally, I would pay them a fair wage. But I can't tell someone else that they have to pay this person a fair wage. I think, frankly, that the employers bear as much responsibility as the immigrants who are coming here to better their families. *–Democratic state senator, Illinois*

I can't say there's a right to a fair wage until they become citizens.  
*–Democratic state representative, Illinois*

#### 4. Due process

Due process offers one area that is a good opening for activists to promote a human rights frame. The leaders overwhelmingly agree that **unequal treatment in the criminal justice system** and having **inadequate counsel in court** are violations of human rights. They see these rights as grounded in American law and founding principles and believe that these rights are currently protected by their states in general.

Well, it's a Constitutional issue, it's also a failing of our criminal justice system, because we do convict too many innocent people. And we in fact put them on Death Row in Illinois. And I think that's a very serious problem that we should all pay attention to and I think it is a human right to not be convicted for something you did not do.  
*–Democratic state representative, Illinois*

Yeah, it's the law that you have a Constitutional right to have an attorney, and if that attorney does not provide an adequate defense, then it is a right, right now in court that you can have a new trial based on the fact that that is an issue, on the adequacy of our defense. So that is already a right. *–Republican state representative, Illinois*

Even though they say their states are providing due process generally, some of the leaders point out failures such as racial or ethnic violations in terms of the number of incarcerated minorities in the system. A few of the leaders in Illinois and California mention that their criminal justice systems are currently overburdened and believe that they might be able to do more in terms of building up the institutional structure responsible for enforcing these laws – for example, giving more resources to the public defender system.

- **Due process for immigrants:** When it comes to due process and the right to a fair trial for undocumented immigrants, every leader in our study agrees that these immigrants should be able to be treated fairly by the justice system. Of course, most assume that if the immigrants are undocumented a hearing or trial will result in their deportation, and none of the leaders wants to endorse the possible deportation of someone who is legally in the country.

We have individuals who are not legal residents, who get involved in our criminal justice system. They are in a process just like anybody else, but then ultimately because of their immigration status they are deported to their country of origin, and that, yes. Absolutely. Human beings have, in my opinion, inalienable human rights and that's to be respected whether they're here or in Western Europe or on Latin America or in Asia or in Africa or anywhere else that they might be. *—Democratic Assembly staffer, California*

Yes, [illegal immigrants should have the right to a fair trial] because I think that, because it is a statement about our nation, and I think it is a rule of law that we should establish for all people that happen to be within our borders. I think it affects all of us.

*—Democratic state representative, Illinois*

The crucial words here are illegal immigrants. Legal or illegal, it puts them in a different category. I guess they're still entitled to their day in court, so I'll say yes.

*—Republican state representative, Illinois*

## G. The role of international treaties

In our 2007 focus groups and survey on human rights for The Opportunity Agenda, we found that the American public has very little awareness of international human rights treaties. The same applies to the state policy leaders we interviewed; their knowledge of treaties is minimal. A few named the Universal Declaration of Human Rights or the Geneva Convention as examples of treaties to which the U.S. is a party. Most say they believe some international human rights treaties exist but cannot name the treaties or recall any of their provisions.

Because of the dearth of awareness of the contents of any of these international treaties, these state policy leaders are also unable to think of a way in which treaties could be useful in developing legislation or furthering a social justice agenda. Most believe that the treaties have to do with very basic issues, such as prohibitions of torture or establishing freedom of speech, and the leaders believe that these rights are already well-protected in their states.

To figure out whether a more concrete case would be useful in convincing these leaders that treaties could be useful, we added an example from San Francisco to the questionnaire which showed how a treaty was useful in establishing policies that helped women:

In San Francisco they signed onto an international treaty to end discrimination against women. After they did that, the Board of Supervisors decided that they should evaluate city policy to see where the treaty might apply. They ended up making a lot of reforms, everything from improving lighting on the streets to decrease violence against women to improving science and math programs for girls and young women.

Some of these leaders become more enthusiastic about the possibilities of international treaties when they hear this example, and say that they could see a treaty acting as a beneficial influence in their state. (Although some also point out that San Francisco is an unusually liberal area and express doubts that such a thing could occur at the state level in California or in Illinois.)

The Democrats are the most receptive audience to treaties, and it is likely that they will benefit most from an education campaign designed to inform people about the provisions of international treaties having to do with health, education, and other social justice issues.

A stimulus, yes, if you define that as maybe a document which can engender a discussion, a policy discussion. Absolutely. Now, again, you and I have been talking about this: there's a difference between making good policy choices and labeling something a right or an entitlement. I mean, let's use the example that you described...a treaty talking about the rights or safety of women, does that trigger a right in Illinois to adequate street lighting in all municipalities? I don't think so. Now is adequate and reliable street lighting just a good policy? Yes it is. *–Republican state senator, Illinois*

I think it gives us great cover in Illinois to say this is what our country stands for and this is what they've committed to, and we need to follow that same model.  
*–Democratic state representative, Illinois*



# Appendix A

## Profile of Interviewees

	Illinois	California	Total
<b>Total</b>	<b>25</b>	<b>25</b>	<b>50</b>
Male	12	13	25
Female	13	12	25
Senator	6	1	7
Staff for Senator	0	7	7
Representative or Assembly member	9	1	10
Staff for Representative or Assembly member	1	9	10
<i>Among legislators and staff:</i>			
Republican	6	3	9
Democrat	10	15	25
Human rights official	1	0	1
Public health official	5	7	12
Academic	2	0	2
Journalist	1	0	1





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