



## ***Pragmatic but Ready to Listen:***

### State Policy Leaders' Views on Social Justice and Human Rights

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#### **Overview**

This research is an investigation into 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. Based on this research, 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 the 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.

The research is comprised of 25 interviews in Illinois and 25 in California, including 17 elected officials, 17 senior staff members to elected officials, two academics, a human rights official and a journalist. These interviews are part of a larger project that explores how Americans view human rights in a domestic context, and provides guidance to advocates using a human rights framework to address a range of issues.

#### **Findings**

##### **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 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 the 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 who participated 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 discussed 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**

Several specific areas of state policymaking were investigated— 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. The 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 the study, have just as much right to government protection of their human rights as citizens do, echoing consistently demonstrated public sentiments. 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 a human right is defined as something that all people have a right to have, then it is clear that all policy makers do not consider many of the rights 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 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 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.** The phrase "human rights" can be used 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, 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 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 answers can be shaped 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 have been found in work with other audiences. A useful way to begin conversations about economic security 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 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.

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