

**Testimony of the National Association of Social Workers
on
U.S. Implementation of Human Rights Treaties**

**for the Senate Judiciary Subcommittee on Human Rights and the Law Hearing
December 16, 2009**

The United States has been a leader in the defense and support of human rights. As a country we strongly believe in justice and equality. Implementing human rights measures is a means to achieving and sustaining justice and equality. Treaties can and do set standards that ensure human rights for all persons - children and adults, individuals and communities. Support of human rights as basic entitlements is central to the profession of social work and is a necessary part of creating and sustaining healthy communities. Discrimination and social exclusion based on racial and religious intolerance; gender inequality and violence; denial of the rights of women and children, refugees and older people – all are social justice issues of concern to social work.

The National Association of Social Workers (NASW) thanks the Senate Judiciary Subcommittee on Human Rights and the Law for creating this important opportunity to address human rights. We commend the U.S. government's implementation of human rights treaties, yet gaps remain. NASW supports four primary ways in which the U.S. government can fulfill its obligations under the treaties being discussed: eliminating the practice of torture; implementing comprehensive immigration reform; combating all forms of discrimination; and promoting services to victims of human rights violations. The failure to address these areas has a particularly profound effect on certain groups of people: unaccompanied children arriving in the U.S. who are often victims of gang violence, sexual abuse, abandonment and human trafficking; asylum seekers and undocumented immigrants in U.S. immigration detention; detainees held in U.S.-operated overseas facilities; people of color and the poor who are incarcerated by our criminal justice system in disproportionate numbers and at increasing rates; victims of human rights violations based on sexual orientation; and children affected by armed conflict around the world.

Social workers recognize the importance of national security and ensuring that the country is protected from those who intend to conduct violent acts. The challenge is to determine the reasonable balance between human rights and security.

Our recommendations are as follows:

1. Eliminate the practice of torture

NASW policies advocate against torture and for the support of international human rights. Specifically, NASW's position is to: support the right not to be subjected to dehumanizing treatment and punishment; advocate for the elimination of the practice of torture; protect individuals from being detained and held indefinitely in secret. In addition, we advocate for U.S.

government implementation of practices and methods of providing homeland security and combating terrorism that are consistent with human rights values and ethics, as well as observing the obligation to prosecute violations of the Geneva Conventions and the Convention against Torture.

We applaud the U.S. government's concern about these matters but more must be done to eliminate the practice of torture. The United States must not condone or permit torture, nor deny due process to victims. The international conventions against torture cannot be ignored without further damage to the international standing of the United States. We call for:

- Conditions in U.S. detention facilities and the treatment of detainees that comply with human rights standards
- Detentions conducted with transparent and legal processes
- Holding perpetrators of prisoner abuse accountable
- Rejecting testimony extracted under torture or ill-treatment in any criminal prosecution
- Access by all detainees in U.S. custody and facilities operated overseas to the International Committee of the Red Cross
- Access by all detainees in U.S. custody and facilities operated overseas to appropriate medical care

2. Replace the current patchwork of immigration laws and procedures with a fair, equitable, and comprehensive national plan

Throughout history, social workers have been instrumental in helping newcomers of all descriptions make the transition into American society. Social workers have also worked with communities that receive immigrants, preparing them to address complexities of new cultural dynamics. NASW promotes policy that provides for fair and humane U.S. immigration law in accordance with international human rights treaties.

NASW applauds U.S. efforts to uphold the Refugee Protocol and the Covenant on Civil and Political Rights. However, there is much to be done to ensure that U.S. policies support equity and human rights while at the same time recognizing the importance of national security. NASW is deeply concerned about the escalation of arbitrary detention of immigrants and asylum seekers in U.S. facilities typically used for punishment of criminal violations. Article 9 of the International Covenant on Civil and Political Rights states: "No one shall be subjected to arbitrary arrest or detention." However, over 350,000 men, women, and children are detained by U.S. Immigration and Customs Enforcement each year.¹ Most do not have a criminal history and yet are sent to criminal detention facilities that lack the capacity to address their particular needs.² Immigration detention procedures must be reformed to be consistent with international human rights standards. In order to fully comply with international human rights treaties, NASW recommends that the U.S. government:

¹ "[Immigration Detention Overview and Recommendations](#)," by Dr. Dora Schriro, Immigration and Customs Enforcement, Department of Homeland Security, October 6, 2009.

² Ibid

- End the use of arbitrary arrest and detention of undocumented immigrants
- Ensure fair treatment and due process in accordance with international human rights for all asylum seekers and immigration detainees
- Ensure adequate conditions of care for unaccompanied immigrant children (inclusive of health care and education) in the custody of the U.S. government
- Address the root causes and conditions that force people to flee their home countries

3. Combat all forms of discrimination

Social workers around the globe are committed to ending discrimination in all forms. The United States government has worked to address our own country's history of racial discrimination through legislation, policy, and regulation. U.S. ratification of the Convention on the Elimination of Racial Discrimination was a critical step in confirming our commitment to recognizing the equality and rights of all persons, without distinction as to race, color, or national or ethnic origin.

Discrimination is often based on more than race, nationality and ethnicity, but also on age, disability, health status, and sexual orientation. The U.S. has made strides in recognizing the full range of bases for discrimination, such as by lifting the travel ban that discriminated against persons with HIV/AIDS. We applaud our government for these positive steps and recommend that the U.S. government:

- Implement policy and legislation that acknowledges, maintains, or enhances the sovereign rights and religious freedom of indigenous populations
- Address practices of discrimination and exclusion based on sexual orientation
- Address policies and practices that allow racial profiling as an acceptable component to homeland security
- Address policies and practices that have led to our nation having the highest incarceration rate in the world with disproportionate incarceration rates of people of color and those who are poor
- Ratify the Convention on the Elimination of All Forms of Discrimination Against Women

4. Promote services to child victims of human rights violations

A component of the social work profession for over a century has been combating child maltreatment and coordinating services for victims of maltreatment. Concepts of working with people in their environments and of the primacy of family help social work professionals understand that when dealing with child maltreatment, helping the child means working with the whole family and with other environmental factors in a culturally competent way. This especially applies when working across cultures with children from other countries.

When reviewing compliance with human rights treaties such as the two Optional Protocols to the Convention on the Rights of the Child, several gaps come into view in the U.S. government's provision of services to child victims of human rights violations.

First, we must do more to address the multi-faceted needs faced by former child soldiers once they return home to their communities, where they are too often victims of stigma,

discrimination and maltreatment. Article 7 of the Optional Protocol to the Convention on the Rights of the Child on Children in Armed Conflict obliges nations to contribute to the demobilization, rehabilitation, and social reintegration of persons who are victims of acts contrary to the Protocol. The U.S. has supported extensive international programs for the disarmament, demobilization, and reintegration of children associated with the armed forces. However, much more focused attention on reintegration assistance and psychosocial support to children, their families and communities is greatly needed.

Second, each year, children around the world are at increased risk of being trafficked, often into or through the U.S. More must be done to ensure the protection and care of child victims as well as to address the root causes of trafficking. Systems in place to protect children should be adequately staffed and funded, and they should provide services that reflect evidence-based practice and comply with general child welfare practices.

NASW strongly supports the U.S. ratification of the Convention on the Rights of the Child. Supporting the two optional protocols to the CRC is not enough. Child soldiers, child prostitution and trafficking are only a few of the many violations of children's human rights that need to be fully recognized and addressed by the U.S.