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## Human Rights And The 2008 Elections

**Tuesday, July 22, 2008, 9:00 – 10:30am**

*Facilitator:*

**John Kowal**, Director of Constitutional Democracy Initiatives, OSI

*Panelists:*

**Catherine Powell**, Associate Professor of Law & Director of the International Law & the Constitution Initiative at Fordham Law School

Session facilitator **John Kowal** introduced the session by providing an overview of the way human rights, and the language of human rights, has been playing out in the elections thus far.

The phrase “human rights” is not frequently invoked on the campaign trail – particularly in the domestic context – even though issues understood to be human rights issues – e.g., access to health care – may play a very big role in the campaign. When issues of human rights do come up, it is often in connection with the war on terror and in matters of US trade and foreign policy.

Domestic human rights have not been a mainstream campaign issue. Domestic issues are not framed as “human rights” issues in our political discourse. Dennis Kucinich spoke about labor unions as “essential to uphold human rights” – but he is viewed as far to the left. Sam Brownback and Mike Huckabee referred to trafficking and the sanctity of life in human rights terms – but they are viewed as far to the right (or idiosyncratic).

The concept of human rights is most often invoked in the context of United States’ free trade policies with countries like China and Colombia. McCain went to Colombia and repeated his support for free trade, saying he discussed the problem of human rights abuses with Colombia’s president. Obama opposes the free trade accord with Colombia – not on “human rights” grounds but on “fairness to workers” grounds. Nancy Pelosi similarly came out against the treaty with Colombia, citing human rights (including unsolved killings of trade unionists) as a primary reason, though with the Democrats this may be cover to conceal another motive of avoiding a confrontation with the growing protectionist faction within the party (particular organized labor).

On issues of foreign policy, McCain, Obama, and Clinton all will occasionally use the language of human rights. Hillary Clinton had the most explicit use of human rights as a theme, publishing an article in Foreign Affairs saying, “We must once again make human rights a centerpiece of US foreign policy and a core element of our conception of democracy.” Obama also speaks of human rights as central to our foreign policy and McCain articulates a similar need.

The intersection of human rights and national security – including related issues of torture, rendition, and habeas corpus – has been difficult to navigate for the candidates and led to the most political posturing. Obama speaks repeatedly about the need to respect human rights around the world as a way to restore America's reputation, but he also supported the recent FISA bill. McCain has been a forceful advocate on behalf of the Geneva Convention, but he also brokered the compromise Military Commissions Act, recently overturned by the Supreme Court.

The role of multilateral institutions and treatise in enforcing international law and human rights has exposed additional differences between two political parties. The matter came up most often during the Republican primary campaign. Romney and Huckabee were vocal opponents of US participation in the International Criminal Court. Romney also said the US should withdraw from the UN Human Rights Council. McCain would like to see the US join the ICC but with more protections for US personnel, though McCain voted to withhold funds from the Human Rights Council, and his proposed league of democracies would possibly sidestep the United Nations. Obama and Clinton are both in favor of participation in the ICC and generally supportive of the Human Rights Council even though they have sometimes criticized its execution.

Transitioning from an overview of the issues to a discussion of how they are playing out currently, **Catherine Powell** discussed some of her current work in the Obama campaign, with the American Constitution Society ("ACS"), and with the Center for American Progress ("CAP"). A disclaimer was issued that Catherine was not there to speak in any way on behalf of the Obama campaign.

Catherine observed that there is a tension between foreign policy realism and the more ideological aspects, and the complicated approach to human rights in US foreign policy is reflective of this. She went into details about some of the work going on right now to drill down into what the US can do to bring human rights home.

For groups that have been working on national security and human rights, there has been talk about waiting until after the election to push their agenda. The concern is that by elevating human rights in the national security discussion Republicans will pounce on this as evidence of the left being "soft" on national security issues. The feeling, however, is that as November gets closer now is the time to begin pressing on these issues.

When a new administration arrives in November, advocates will meet and likely craft a 6-9 month plan for institutionalizing human rights at home. This will also involve a congressional strategy, which will also be important but especially so if an unfriendly candidate is elected.

Catherine has been working most closely with the CAP and ACS on how to integrate human rights into US institutions, like the Civil Rights Commission or a new parallel structure, to further solidify US support for human rights. Different groups are pushing a Congressional Select Committee or a Presidential Committee on human rights, but there is a need to figure out a way to talk about broader human rights and social justice mechanisms. In this regard, the community can learn from the experience of the Civil Rights commission. Another thought that has come up involves a proposed body that would coordinate other agencies whose work relates to human rights in the US.

In terms of expanding strategies, there is also a lot of current activity at the state and local levels. Local commissions have expressed an interest in the human rights framework. The US human rights

community should bring these groups in. The states may be where the action is at in an unfriendly administration. They can develop the best practices for national structures.