

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Subcommittee Hearing On
"The Law Of The Land: U.S. Implementation Of Human Rights Treaties"
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I scheduled this hearing for the Subcommittee on Human Rights and the Law to consider U.S. implementation of human rights treaty obligations.

President Obama and Secretary Clinton have begun to restore the image of America around the world, and through their work and that of others, we are beginning to reassume our historic role as a beacon to the world on human rights issues. Just last week, a measure of the world's renewed belief in that role was evident as our President was awarded the Nobel Peace Prize. On that occasion he spoke of "our highest aspirations--that for all the cruelty and hardship of our world, we are not mere prisoners of fate." He spoke to the nature of the peace that we seek, "a just peace based on the inherent rights and dignity of every individual."

I applaud the Obama administration's progress in taking steps to fulfill our obligations under the Geneva Conventions and the United Nations Convention Against Torture. I hope today to encourage the Obama administration to fully implement the human rights treaties we have ratified and to consider signing treaties that the previous administration blocked. Under the Supremacy Clause of our Constitution, "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land." Furthermore, for more than 100 years, we have upheld the Supreme Court's decision in 1900 of *The Paquete Habana*, which stated that "international law is part of our law."

Just last year, in *Medellin v. Texas*, the Supreme Court introduced additional hurdles to the implementation of international treaties by the United States and hollowed America's commitment to its treaty obligations. That case involved a Mexican national who was denied the right to access his consulate after arrest in the United States. Although the International Court of Justice ruled that the failure to honor consular rights violated the United States' obligations under the Vienna Convention on Consular Relations, the Supreme Court held that "while treaties may comprise international commitments . . . they are not domestic law unless Congress has either enacted implementing statutes or the treaty itself conveys an intention that it be 'self-executing' and is ratified on these terms."

In order to protect the rights of Americans abroad, we must uphold our treaty obligations here at home. I joined four other Senators in writing to the administration to request its views on the most effective way to implement our treaty obligations under the Vienna Convention. This is an important matter and we eagerly await a timely response.

I would hope that our courts would resolve any ambiguities in existing implementing statutes in favor of an interpretation that is in compliance with international law, and that they would not undermine the object and purpose of the underlying treaty. We have enacted implementing legislation for several treaties, including the Convention Against Torture, the Genocide Convention, and the 1951 Refugee Convention and its 1967 Protocol. I would hope those would not be undercut by judicial interpretation.

The courts' interpretation of the 1980 Refugee Act, which was meant to implement our obligations under the 1951 Refugee Convention and its 1967 Protocol, underscores how Congress must remain vigilant to ensure that we fulfill our international commitments. The 1980 Refugee Act was exceptionally clear. Congress chose language that closely tracked that of the Convention. The legislative history stated that our purpose was to "to bring United States refugee law into conformance" with our obligations under international law. Yet the Board of Immigration Appeals and reviewing courts have too often interpreted provisions of the 1980 Refugee Act in ways that are inconsistent with international law. I am hopeful now that the Obama administration is taking corrective action. I stand ready to support congressional action as needed to bring us into compliance with our treaty obligations on human rights.

I hope that this administration will also consider signing long overdue treaties. For example, the Convention on the Rights of the Child entered into force in 1990, and has been ratified by every country in the world except the United States and Somalia. Our failure to ratify the Convention on the Elimination of All Forms of Discrimination Against Women, which entered into force in 1981, places us in the company of Iran, Somalia, and Sudan. Finally, I am encouraged that the administration has undertaken a comprehensive review of its policy on landmines. This review should identify any remaining obstacles to joining the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, so the administration can develop a plan to overcome them as soon as possible and send the Convention to the Senate for its advice and consent.

I look forward to working with members of this subcommittee and other Senators to ensure that the United States lives up to its human rights obligations.

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