

Law Offices of Judith L Wood
201 S Santa Fe Ave, Suite 101
Los Angeles, CA 90012
tel: 213 680 7801
fax: 213 680 0401

Conference in TJ on DACA, US immigration, and human rights law

Skip Conde
Robert Pauw
Judith L. Wood
Patty Gittelson
Juan Jose Gutierrez
Federica Dell'Orto Hadar
Gregory Russel

Given the current immigration scenario with possible mass DACA/Dreamer expulsions and immigrant detentions, our purpose at the conference will be the following: explore the possible legal avenues and legal norms for legal, political, judicial and quasi-judicial recourse on behalf of DACA/DREAMERS in particular, and immigrants in general using international and comparative human rights law and related areas(such as refugee law, and both domestic and international institutions and procedures). It is crucial to address what international human rights law is and how it fits within the spectrum of law of the United States and what it can add to US law and Constitution as legal weapons.

The issue to be discussed is whether US and Mexican lawyers can engage in advocacy and litigation on behalf of DACA/Dreamers and immigrants in general using the field of international law known as human rights law both in US litigation and in international inter-governmental fora.

International tribunals can be used while seeking to prevent deportations; tribunals that might be relevant are: IACHR: Inter-American Court in Costa Rica; U.N.

With regard to the Inter-American Court, the possibility of getting a receiving country to petition against the U.S. should be discussed, as that would allow access to the

Inter-American Court, which decision might be more effective than an IACHR decision.

Generally speaking these international tribunals have enacted multiple treaties or agreements, which would potentially be violated if the US goes ahead with the mass expulsion. Some of these treaties, relevant for our purpose, are: the American Declaration on the Rights and Duties of Man, the American Convention on Human Rights, as well as various UN treaties.

An action could be filed at the UN in Geneva under Article 41 of the Charter. There are nine core international human rights treaties. Each of these treaties has established a “treaty body” (Committee) of experts to monitor implementation of the treaty provisions by its States parties. Relevant for this issue could be: the Human Rights Committee, the Committee on Elimination of Racial Discrimination, the Committee Against Torture and the Committee on the Rights of the Child. Potential issues in this regard to be analyzed are: (1) requirement to exhaust domestic remedies; (2) delays in getting a decision; (3) getting the U.S. to comply.

Additionally, US and Mexican attorneys can cooperate in using human rights law and together explore new possibilities. Some options to be jointly explored could be:

-Can Mexico file a petition against the US?

-Could Mexico (and other Central American Countries) refuse to issue travel documents for those in removal on grounds of humanitarian aid (e.g. Myanmar does not want to take citizens back)

US human rights and international law attorneys could also cooperate for the creation of a US National Human Rights Institution, established by US immigration and human rights NGOs to monitor US compliance with international norms -with special attention to

immigration- and to educate Americans on the basics of international human rights law and institutions.

Finally organizations with significant media relevance (e.g. Human Rights Watch) could be involved in making special reports on the current situation and help creating the momentum for action to be brought in one of the indicated international tribunals.