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USING HUMAN RIGHTS TO MOVE BEYOND THE POLITICALLY POSSIBLE

Vermonters rally on May 1, 2010, in support of recognizing health care as a human right.

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The Vermont Workers' Center launched the Healthcare Is a Human Right Campaign in April 2008 to build a grassroots social movement strong enough to pressure the Vermont Legislature into enacting a universal health care system.¹ By framing health care as a human right, the campaign has been able to organize and mobilize thousands of Vermonters, many of whom were not involved in health care reform efforts. In May 2010, through the campaign's efforts, the legislature passed Act 128; the Act calls for the design of three universal health care plans, each of which must incorporate the human rights principles that the campaign advanced.² Act 128 is the first step on the road to universal health care in Vermont.

U.S. Sen. Bernie Sanders (Ind.-Vt.) argues that a successful universal health care program in Vermont can serve as a template for other states.³ Similarly the grassroots social movement that Vermonters have built to achieve universal health care can serve as a model for organizers in other states. The Healthcare Is a Human Right Campaign illustrates how activists can use international human rights principles to advance a domestic agenda.

The Vermont Workers' Center was founded in 1996 by a group of low-income Vermont workers who wanted to confront a variety of socioeconomic problems, among them livable wages, affordable housing, and health care. As a democratic, member-run organization that emphasizes participation and transparency, the center strives to achieve consensus among members in making decisions. It fosters and encourages leadership in as many people as possible in order to build a sustainable grassroots movement.

The center became involved in the single-payer health care movement in the early 2000s. Although Vermont is famous for beautiful landscapes and picturesque small towns, these pastoral scenes belie the state's growing health care crisis. While most states have experienced increasing health care costs, Vermont's costs are higher than the national average and are rising faster.⁴ Although Vermonters spent over \$4.4 bil-

¹Interview with Peg Franzen, Staff Member, Vermont Workers' Center, in Boston, Mass. (July 29, 2010).

²Vt. Act. No. 128, An Act Relating to Health Care Financing and Universal Access to Health Care in Vermont §§ 2, 5 (2010), <http://bit.ly/fEU2mK>.

³Katrina vanden Heuvel, *A Single-Payer Laboratory in Vermont*, NATION: EDITOR'S CUT (May 13, 2010), <http://bit.ly/et3IFD> (blog).

⁴Vermont Workers' Center, *Voices of the Vermont Healthcare Crisis: The Human Right to Healthcare* 8 (2008), <http://bit.ly/f0dXWB> [hereinafter *Voices*].

Human Rights Principles in Vermonters' Health Care Campaign

Universality	Human rights must be afforded to everyone, without exception. Solely by virtue of being human, every person is entitled to human rights.
Equity	Every person is entitled to the same opportunity to enjoy human rights. Health care resources and services must be distributed and accessed according to people's needs, not according to payment, privilege, or any other factor. Disparities and discrimination in health care must be eliminated as must any barriers resulting from policies or practices.
Accountability	Mechanisms must be devised to enable enforcement of human rights. Merely recognizing human rights is not enough. There must be means of holding the government accountable for failing to meet human rights standards.
Transparency	Government must be open with regard to information and decision making. People must be able to know how public institutions needed to protect human rights are managed and run.
Participation	Government must engage people and support their participation in decisions about how their human rights are ensured.

Source: Vermont Workers' Center, People's Toolkit 11 (2010), www.workerscenter.org/sites/default/files/People's%20Toolkit.pdf.

lion on health care in 2008, approximately 10 percent of the population—more than 66,000 state residents, including 11,000 children—were uninsured. Almost a third of Vermont's population was underinsured, meaning they could not use their insurance effectively due to unaffordable deductibles, copayments, and other out-of-pocket expenses.⁶ As an organization focused on problems that affect working Vermonters, the center decided to work on achieving universal health care.

The center began planning the health care campaign in 2007. In launching the campaign, rather than working to enact a particular form of universal health care, the center chose to focus on the idea of health care as a human right, placing people at the focal point of the debate rather than on the margins. Although members and organizers had been involved in previous efforts to enact single-payer health care, they were willing to forgo a single-payer

system provided that a new program incorporated the human rights principles of universality, equality, transparency, accountability, and participation (see box).⁸

Before reaching out to legislators, the campaign made a conscious choice to spend the first year building a strong base of support from Vermont citizens. Many legislators had expressed support for the idea of universal health care but explained that they did not believe that enacting universal health care legislation was politically possible. The center realized that the first step toward reform was to mobilize ordinary Vermonters to demand that legislators change their perception of what was politically possible.⁹

The campaign used varied tactics. Volunteers staffed tables outside grocery stores and at local farmers' markets, marched in local parades, wrote letters to the editor, and canvassed neighborhoods. The vol-

⁶See Ronald Deprez et. al, Robert Wood Johnson Foundation, *Achieving Universal Coverage Through Comprehensive Health Reform: The Vermont Experience* (Oct. 2009), <http://bit.ly/hv3uDD>; Terry Doran et al., *GRIDLOCK: THE UNHEALTHY POLITICS OF HEALTHCARE IN VERMONT* 5–6 (2009).

⁸Voices, *supra* note 4, at 8.

⁷Telephone Interview with James Haslam, Director, Vermont Workers' Center, and Kate Kanelstein, Organizer, Vermont Workers' Center (Aug. 27, 2010).

⁹Franzen, *supra* note 1.

¹⁰*Id.*

unteers used these opportunities to explain their belief that health care should be available to all Vermonters regardless of their ability to pay; that the cost should be shared fairly; that the system should be transparent, efficient, and accountable to the people it serves; and that government should be responsible for ensuring that the health care system complies with these principles.¹⁰

While some Vermonters were skeptical of the concept of health care as a human right, many embraced it. The campaign found that framing health care as a human rights issue made it easier to connect with working people.¹¹ While people may not have understood terms like “single-payer” or the “public option,” they recognized that the current health care system was hurting their families, friends, and neighbors. The human rights framework enabled the center to make health care reform more understandable and to reach a broader group of Vermonters.

The campaign organized a series of human rights hearings throughout the state. Community leaders were invited to listen and respond to ordinary Vermonters who testified about their experiences in the health care system. The hearings helped establish that the current health care system caused needless suffering for thousands of Vermonters and needed to

If you’re talking about public financing of the health care system, those are policy terms that don’t necessarily resonate with people. When we say that health care is a human right and that the government’s responsibility is to provide that for everybody, we find that people relate better to that than “single-payer” or the “public option.”

—James Haslam, Director, Vermont Workers’ Center

be reformed. The hearings created solidarity among Vermonters and empowered the participants.

Throughout 2008 volunteers also asked Vermonters to complete a short survey and share personal stories about how the current health care system jeopardized their health and their finances; the campaign garnered over 1,000 survey respondents by the end of 2008.¹² More than 90 percent of the respondents stated their belief that health care is a human right. Survey results highlighted the links between access to health care and homelessness, employment discrimination, bankruptcy, and domestic violence.¹³ The survey also revealed that six in ten Vermonters surveyed had forgone health care in the past year because they did not believe they could afford it.¹⁴ The center used the sur-

In a lot of ways people were really suffering in silence. It wouldn’t have been that hard to think you’d just had some bad luck or the system just screwed you or that it was your fault somehow. So having people publicly tell their stories was an opportunity for people who attended those events to see that they weren’t alone. The act of sharing their stories was really empowering for people and deepened their commitment and gave them a sense that they could actually do something about and use their story to create change.

—Kate Kanelstein, Campaign Organizer, Vermont Workers’ Center

¹⁰Vermont Workers’ Center, People’s Toolkit, 6 (2010), <http://bit.ly/eMbZKt> [hereinafter Toolkit].

¹¹Haslam & Kanelstein, *supra* note 7.

¹²Vermont Workers’ Center, Massive Turnout for Historic Healthcare Is a Human Right Rally (May 1, 2009), <http://bit.ly/efsKJh>.

¹³Haslam & Kanelstein, *supra* note 7.

¹⁴Voices, *supra* note 4, at 14.

vey results to compile a report entitled *Voices of the Vermont Healthcare Crisis*; it was released in December 2008 in celebration of the sixtieth anniversary of the Universal Declaration of Human Rights.

The campaign continued to hold hearings and to canvass throughout the winter and spring of 2009, culminating in a rally at the Vermont statehouse on May 1. More than 1,200 people attended, making it the largest weekday rally in Vermont history.¹⁵ The rally heard speeches by Senator Sanders and nurses from Vermont's largest hospital as well as personal stories of Vermonters' experiences with the health care system. More than 100 organizations and religious communities endorsed the rally; the center invited Vermont legislators to attend as well.

The center continued the campaign throughout the summer and fall of 2009. In the fall the campaign began a concerted effort to reach out to legislators and demand legislative reform in the 2010 session. The campaign organized a series of people's forums in ten counties, which more than seventy legislators attended.¹⁶

Each forum began with extensive personal testimony from Vermonters regarding their experiences with the health care system. Some legislators had argued that health care reform was not needed because the current system was working well.¹⁷ The campaign used personal testimony to show legislators that while the current system was better than systems in many other states, it still caused thousands of Vermonters to forgo medical care because they could not afford it.

The personal testimony made it difficult for legislators to continue to argue that the status quo was acceptable.

The campaign used the personal testimony and the forums to educate legislators about human rights principles and to pressure legislators to state their position on universal health care. When the center first approached legislators about enacting universal health care, responses were discouraging. Even legislators who supported the idea listed reasons why a universal health care bill was a political impossibility in 2010.¹⁸ But the strength of the social movement that the campaign had built soon made it impossible for legislators to ignore the demand.

Legislators began publicly pledging to work on health care reform in the 2010 legislative session. For example, on October 1, ten legislators in Burlington expressed their commitment to ensuring that Vermont health care policy reflects human rights principles.¹⁹ At a people's forum on December 2, 2009, Vermont Sen. Douglas A. Doug Racine, chairman of the Vermont Senate Health and Welfare Committee, stated his support for recognizing health care as a human right and announced his committee's taking up single-payer legislation in the next legislative session, to begin the following month.²⁰

On January 1, 2010, more than 200 campaign volunteers delivered 4,000 postcards signed by Vermonters and demanding health care as a human right.²¹

During its 2010 session the legislature considered several health care reform proposals.²² People's Toolkit, a document

¹⁵*Id.*

¹⁶Vermont Workers' Center, Campaign Highlights (n.d.), <http://bit.ly/ewyuKr>.

¹⁷Telephone Interview with Cassandra Edson, Volunteer, Vermont Workers' Center (Aug. 19, 2010).

¹⁸Haslam & Kanelstein, *supra* note 7.

¹⁹Vermont Workers' Center, 150+ Chittenden County Residents Fill the Imani Center for Healthcare Is a Human Right People's Forum (Oct. 2, 2010), <http://bit.ly/dQs2mU>.

²⁰Vermont Workers' Center, Healthcare Is a Human Right Campaign Succeeds in Getting Single-Payer Healthcare Taken Up in 2010 Vermont Legislature (Dec. 2, 2010), <http://bit.ly/fYkak5>.

²¹Vermont Workers' Center, 200+ Pack Statehouse Event Delivering Thousands of Postcards Calling for VT to Lead the Way on Healthcare (Jan. 1, 2010), <http://bit.ly/hrm3sn>.

²²Vermont Workers' Center, Times Argus Article on Jan. 12 Hearing: "A Call for Health Reform" (Jan. 13, 2010), <http://bit.ly/glhLEo>.

intended to familiarize participants with the campaign, the human rights principles in evaluating proposed health care reform legislation, proposed legislation, and talking points with legislators, was revised during the session to include a human rights analysis of the various proposals as well as a human rights analysis of the federal health care reform bill.²³ These analyses were easy to read and understand and enabled Vermonters to remain engaged in the legislative process.

The campaign also organized a People's Team to counteract the pressure that elected officials were receiving from lobbyists representing hospitals, insurance companies, and the pharmaceutical industry.²⁴ Campaign volunteers were present at every committee meeting related to health care reform; they outnumbered lobbyists on many occasions.²⁵

The People's Team created a legislative directory with every legislator's contact information and position on health care. To help Vermonters who wanted to come to the statehouse to meet with their legislator, a People's Team volunteer would meet them, orient them to the statehouse, and sometimes walk them to the door of the legislator's office. People's Team volunteers made it easier for Vermonters who had never been to the statehouse or met with their legislators to feel comfortable engaging in this type of political action.²⁶

The legislature eventually coalesced around Senate Bill 88 (S. 88). In its original version S. 88 and the corresponding House Bill 100 would have established a comprehensive, publicly financed universal health care system. The revised version simply established a health care commission charged with proposing three universal health care models that

incorporate the human rights principles laid out by the campaign.²⁷ However, the legislation did not explicitly state that health care was a human right.

Overall the campaign viewed the revised version of S. 88 as a victory. Although some were disappointed that S. 88 merely called for a study rather than for immediate implementation of universal health care, the campaign supported the legislation because it incorporated the human rights principles that the campaign had been demanding for the past two years.²⁸

Some campaign staff members and volunteers were also disappointed by the legislative compromise to omit any statement proclaiming health care to be a human right. One of Gov. Tim Winters's aides informed the campaign that the governor would veto any legislation proclaiming health care to be a human right.²⁹ As a result, the language was rewritten to declare that health care was a public good for all Vermonters.³⁰ This compromise was difficult for some, while others were satisfied because the final bill incorporated human rights principles.

The campaign continued to gain momentum throughout the spring of 2010, as both the House and the Senate passed

What we heard from someone who works for the governor was that the governor would not sign the bill with that phrase ["human rights"] in it and our response was "What a victory." If the governor is down to the point where he's refusing to give us words but we've got all our principles in there, we've won. That's how powerful we are.

—Cassandra Edson, Campaign Volunteer

²³Toolkit, *supra* note 10.

²⁴Edson, *supra* note 17.

²⁵Franzen, *supra* note 1.

²⁶Edson, *supra* note 17.

²⁷Vt. Act. No. 128, *supra* note 2, § 6.

²⁸*Id.* § 2.

²⁹Edson, *supra* note 17.

³⁰Vt. Act. No. 128, *supra* note 2, § 8, amending Vt. STAT. ANN. tit. 18, § 9401(a) (2010).

versions of S. 88 in April.³¹ The campaign organized another large rally at the state-house on May 1, 2010, with 1, 00 people in attendance.³²

S. 88 became law on May 2, 2010, without the signature of Governor Douglas. In two short years the Vermont Workers' Center and thousands of volunteers and supporters had built a movement, changed what was politically possible, and put Vermont on the road toward a system that recognizes health care as a basic human right.

Campaign staff members and volunteers remain vigilant, working to ensure that the final health care proposals make health care a basic human right for all Vermonters. They have met with Mr. William Hsiao, the independent consultant hired to design the three health care plans, and

have reminded him that Vermonters are demanding universal health care as a human right. The campaign also continues to organize Vermonters throughout the state.

The passage of S.88, now Act 128, was a major victory, but the campaign is bracing for a fierce battle in the 2011 legislative session. The campaign believes that it will face intense and well-funded opposition from national interest groups opposed to any health care reforms that treat health care as a human right regardless of ability to pay, rather than as a profit center. While the opposition to health care reform is formidable, the Campaign has already accomplished more than anyone imagined two years ago. Greg Franzen, a longtime staff member, said after meeting with Mr. Hsiao that the power of the grassroots was impossible to calculate.³³

³¹Vermont Workers' Center, Big News: Senate Passes S. 88 28-2 (April 7, 2010), <http://bit.ly/hWp8ld>.

³²Vermont Workers' Center, Vermont Will Lead the Way in Healthcare (May 2, 2010), <http://bit.ly/i3zFkz>.

³³Franzen, *supra* note 1.



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