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May 11, 2000

In Geneva, U.S. Defends Its Record on Torture

By ELIZABETH OLSON

GENEVA, May 10 -- In its first report on its compliance with the United Nations Convention Against Torture, the United States today defended its efforts to eliminate any such practices, including police brutality and inmate abuse, which human rights advocates maintain are regular occurrences in America.

The United States, like the 117 other countries that have signed the 1984 convention, is obliged to detail to the body's review committee every four years incidents of torture and other cruel, inhuman or degrading treatment of its citizens and to describe the steps taken to stamp out such practices.

Although the United States ratified the convention in 1994, this was its first report to the United Nations committee monitoring compliance.

Still, Harold H. Koh, the assistant secretary of state for human rights, told the committee that the 74-page report "makes clear our unequivocal and unambiguous condemnation of torture as a tool of governmental policy."

Human rights groups disagreed. On Tuesday, Amnesty International filed its own 45-page report with the torture committee that described specific cases that it said violated the international pact.

Since 1994, Amnesty officials said they had documented "numerous instances of the torture or ill treatment of men, women and children by U.S. police or custody officials as well as cruel, inhuman and degrading prison conditions," and mistreatment "disproportionately directed at racial and ethnic minorities."

Such incidents are "fast becoming institutionalized across the country," said William F. Schulz, executive director of Amnesty's United States branch.

Mr. Koh conceded today that there are "continuing areas of concern within the United States."

"Although our commitment is unambiguous, our record is not perfect," he told the committee. "Torture does not occur in the United States, except in aberrational situations and never as a matter of government policy. When it does occur, it constitutes a serious criminal offense."

The American report acknowledges that there have been instances, "and in some cases even patterns or practices of" police abuse, brutality and unnecessary or excessive use of force, that included tear gas, pepper spray, stun guns, stun belts, police dogs, handcuffs and leg shackles.

The report also listed racial bias and well as sexual abuse of prisoners by guards and other prisoners as problem areas, along with lack of police accountability, overcrowded prisons and confinement of children in substandard or abusive correctional facilities.

Frank admissions of possible treaty violations before the United Nations

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committee are unusual, but this did not spare the American officials from extensive questioning. The committee's chairman, Peter Thomas Burns, a Canadian law professor, labeled the reported use of stun guns and belts by federal marshals "quite alarming." This was particularly true, he said, because they can be set off accidentally and administer a substantial voltage and serious pain.

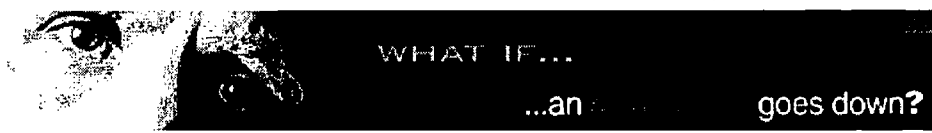
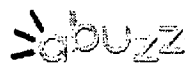
Mr. Koh insisted that no legal cases had been brought to substantiate any charges of deaths or serious injuries to prisoners as a result of stun belt use. The belts are used only in transporting dangerous prisoners, he said. Misuse of stun guns by local police departments can be challenged in court, he added.

In an interview after the hearing, he also rejected committee criticism that American insistence on applying its own definitions of torture rather than those specified in the international treaty created loopholes in its enforcement. "There is no act that constitutes torture that cannot be or is not prosecuted under federal or state law," argued Mr. Koh, himself a former law professor.

The United States record on fighting torture "ranks near the very top," he said. "Other countries ratify treaties but they don't obey them. We obey these treaties."

The committee will make formal criticisms and recommendations on the American report next week. Last week, the experts reviewed China's record, and urged it to step up efforts to eliminate torture.

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INTERAGENCY WORKING GROUP ON HUMAN RIGHTS TREATIES

Revised Agenda

April 6, 2000

2:00 -- OEOB 208

1. Update on INS proposed bill on human rights abusers

2. Status of CERD report - Ray

- holes from DOJ - circulating in EDP, including
- NGO briefing - April 17 2-3 pm

Peter Remondet
WH Counsel's office
end of next week

3. Torture Convention update

May 10-11 in Geneva - Harold = primary speaker

Staff level - DOJ GC

? Bill Lan Lee - speech, High Commissioner's office sent to Justice

4. ICCPR report

5. Update on promoting state and local awareness of international human rights obligations

6. Treaty Signature and Ratification

- ✓ CEDAW - increased interest on Hill - waiting for Harold to ask for WH involvement
- ✓ Convention on the Rights of the Child - no package yet put together - Not reported to the Committee
- Child Soldiers Protocol
- InterAmerican Convention on VAW
- others?
- * Inter Am Conv. on HR - happened
- Protocol Against Sale of Children

L- US shouldn't propose reservations -
but SPPC discuss reservations
hasn't been sent to the Hill

AG said could sign it consistent with domestic law
we haven't signed it yet
State follows up

7. Upcoming meetings --

Special meeting on visits by human rights abusers - April 12, 2:30, OEOB 208 *

Next regular meeting - May 11, 2:00, OEOB 208 - postponed week after

April 7 - Room 324 - 11 am HR Legislation

get from Wendy

act to agencies by end of May

being written - GA may adopt soon

4/6/00

Summary of Conclusions
Human Rights Treaty IWG
March 1, 2000

It was agreed that:

- State/L will bring to the next meeting a proposal for formalizing the referral process for human rights complaints that arise in international fora. *- waiting for a tangible case - Civil Rights at Justice has agreed to jump in*
- State and Justice will work with NAAG to determine the feasibility of including a session on international human rights in the March meeting of NAAG. *Not on agenda, Harold talked to James - possible for, what to say, AVSA=*
- Justice will consider the idea of establishing an office or designating a person with responsibility for handling international human rights issues within the Justice Department. *the Justice Dept. has a person who handles these issues*
- Justice will consider the incorporation of a human rights module into its training programs for federal officers.
- Justice/INS will finalize its legislative proposal on human rights abusers who are in the United States.
- State will work with NSC and COS to prepare a letter to the CERD Committee describing our efforts to submit our report under the CERD.

- NSC will work with State to set up a meeting to discuss the second periodic report under the ICCPR. *we made promises in our first report we need to follow up on report was due abt 1 year ago*

HR Committee reviews ICCPR - reviewing treaty obligations
HR Commission meeting now

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UNITED STATES

On December 10, 1998, President Bill Clinton issued an executive order affirming the U.S. commitment to honor its obligations under the international human rights treaties to which it is a party. By doing so, the president raised expectations that the United States would begin to embrace international human rights standards at home, ending the country's longstanding failure to acknowledge human rights law as U.S. law. As 1999 ended, however, little progress stemming from the executive order was apparent. Most public officials remained either ignorant of their human rights obligations or content to ignore them.

As in previous years, serious human rights violations continued to be committed by federal, state, and local officials. The courts, administrative agencies, and legislatures were often unable or unwilling to hold abusers accountable, to provide protection to victims, or to secure the changes needed to bring laws and practice in line with international standards. Among the results of these shortcomings were rampant impunity for brutal police and prison officers; discrimination against ethnic minorities and gay men and lesbians; and the curtailment of internationally-recognized rights of asylum-seekers and other immigrants. State-sponsored executions, even of juvenile offenders and the mentally ill, continued at a record pace, while many of the nation's prisons and jails-increasingly populated by racial minorities convicted for nonviolent property or drug crimes-continued to be overcrowded, violent places where inmates' basic rights to health, sanitary conditions, and productive activities were frequently ignored and where sexual abuse by male inmates and, in women's prisons, by male guards, was persistent and unchecked by disciplinary measures or prosecution.

Police Abuse

In May, New York City police officer Justin A. Volpe stunned observers when in mid-trial he pleaded guilty on charges that he tortured Abner Louima by forcing a stick into his rectum. The August 1997 incident took place in the bathroom at a police station house. A federal jury convicted another officer who allegedly assisted Volpe during the assault. Volpe's guilty plea followed the testimony of fellow officers who implicated him in the attack. The traditional code of silence among officers was weakened in this case, in part due to the gruesome details of the attack and in part due to pressure brought by prosecutors. Some officers face additional conspiracy and perjury charges related to the assault and its aftermath.

In February, West African Amadou Diallo was shot at forty-one times and struck by nineteen bullets fired by New York City Police Department (NYPD) officers. Diallo, who was unarmed, was shot by officers from the NYPD's Street Crime Unit. The shooting put the unit's practices, and the NYPD generally, under increased scrutiny, and the police commissioner and the mayor on the defensive. Investigations by the New York State Attorney General's office, the city's Public Advocate's office, the U.S. Justice Department, and the U.S. Civil Rights Commission proceeded, but few significant reforms appeared on the horizon.

These incidents crystallized concerns over the practices of the country's largest police force because of the viciousness of the attack reported by Abner Louima and the number of shots fired at Amadou Diallo-and the fact that neither were involved in criminal activities-but they were just the latest examples of a problem that has plagued the United States for decades. Unjustified shootings, severe beatings, fatal chokings, and unnecessarily rough treatment by police and sheriffs' officers occur in cities and towns throughout the country.

The Diallo shooting, and protests surrounding it, prompted Attorney General Janet Reno to give her first detailed statement regarding police brutality, six years into her term. She made several important recommendations for police departments to improve their accountability systems and to reduce incidents of abuse. She recommended: that complainants be allowed to file complaints without intimidation; that police and sheriffs' departments institute a vigorous system for investigating allegations thoroughly and fairly; that swift discipline be imposed when complaints are sustained; that early warning systems to identify "repeat offenders" on forces be created and utilized; that superior

officers send a signal that abuses will not be tolerated; and that the rank and file make it unacceptable to remain silent about other officers' misconduct. She called for improved screening and training of recruits, and for empowered independent auditors or inspector generals to provide an external check on law enforcement practices and policies. These were all among recommendations made by Human Rights Watch in a report published in July 1998. But the attorney general's recommendations were just that-suggestions for police departments to accept or ignore. Thus far, the Justice Department has refused to consider conditioning the millions of dollars in grants to police departments on their taking steps toward curtailing abuses and holding brutal officers accountable.

In June, the attorney general convened a conference focusing on police brutality and allegations of racial profiling-targeting of suspects on racial grounds-by police in vehicle stops. The conference, attended by civil rights leaders, police officials, Justice Department representatives, and briefly by the president, produced no tangible results on the brutality front. There was more progress on the issue of racial profiling as the president ordered all federal law enforcement agencies to collect data relating to the race of drivers whose vehicles are stopped and searched. The purpose of the data collection was to identify and end the discriminatory practice of racial profiling.

The Justice Department began using its powers to initiate more frequent investigations into whether a police department exhibited a "pattern or practice" of unchecked abuse. In addition to the investigation of the NYPD, the police departments in Washington, D.C., Los Angeles and Riverside, California, Columbus, Ohio, and New Orleans, Louisiana were among those already under review. The purpose of the investigations was to determine whether there was a pattern or practice of unaddressed abuse, and to compel departments to make reforms to address poor training, supervision, or other failures. Investigations into racial profiling in New Jersey, Michigan, and Florida were also initiated.

Overincarceration, Drugs, and Race

Despite the continuing drop in crime rates, the world's largest prison population continued to grow because of punitive criminal justice policies that mandated prison terms for increasing numbers of offenses, increased the length of sentences, and reduced the availability of parole. In 1999, the U.S. Department of Justice revealed that the number of men and women behind bars in the United States reached 1.8 million at the end of 1998. The rate of incarceration rose to 668 inmates for every 100,000 residents. One in every 149 residents was a sentenced prisoner. The number of women in prison reached 84,427-double the number in 1990.

Prison was not reserved for notably dangerous or violent offenders: 53 percent of inmates sentenced by state courts were convicted of nonviolent drug, property, or public order offenses. National drug control policies continued to emphasize a criminal justice response to drug abuse. In 1998, nearly 1.6 million arrests were made for drug law violations, three-quarters of them for possession offenses. At the end of 1997, the most recent year for which such data was available, some 227,400 men and women were in state prisons for drug felonies; 150,000 more drug felons were sentenced to jail. Available research indicated most were nonviolent, low-level offenders. Offenders convicted in state courts received a mean sentence of fifty-one months; in federal courts the mean was eighty-nine months. Indeed, federal courts sentenced convicted drug offenders almost as severely as violent offenders-average prison sentences were only a year and a half longer for violent offenders.

Current criminal justice policies continued to have a disproportionate impact on African Americans. Although they comprised about 12 percent of the national adult population, they comprised 49.4 percent of the prison population. On average, black men were at least six times more likely than whites to be in prison, with an incarceration rate of 3,253 per 100,000 residents compared to a white male rate of 491. Twelve states and the District of Columbia incarcerated blacks at a rate more than ten times that of whites. The Department of Justice calculated that 8.6 percent of black non-Hispanic males between the ages of twenty-five and twenty-nine were in prison, compared to 0.9 percent of white males in the same age group. Black non-Hispanic females were eight times more likely than white to be in prison.

The extraordinary disparity between black and white incarceration rates reflected in part the fact that black men constituted a disproportionate share-44 percent-of all felons convicted of the violent crimes that receive long sentences. But it also reflected the impact of the country's war on drugs. Although drug use and selling cut across all racial, socio-economic, and geographic lines, law enforcement strategies targeted street-level drug dealers and users from low-income, predominantly minority, urban areas. As a result, the arrest rates for drug offenses were six times higher for blacks than for whites. Although blacks constituted an estimated fifteen percent of all drug users, they constituted 36 percent of arrests for drug possession and 49 percent of state felony convictions for possession. Fifty-six percent of all drug offenders in state prison were black.

After years of public endorsement of the incarceration binge, increasingly prominent voices joined numerous federal judges and activist groups to decry mandatory minimum sentences and the overincarceration of drug and other nonviolent offenders. General Barry R. McCaffrey, the retired general who directed the White House's drug control policy, warned of prisons becoming a "drug gulag" and pointed out that harsh sentencing laws "have caused thousands of low-level and first-time offenders to be incarcerated at high cost for long sentences that are disproportionate to their crimes." While the use of drug courts and a preference for treatment over incarceration was gaining momentum in some states, legislative reform of mandatory sentencing laws proved elusive. In New York, for example, the legislature

adjourned once again without succeeding in rewriting twenty-five year old drug law legislation that had been roundly condemned as draconian, ineffective and counterproductive. In California, the legislature failed to reform the state's "three strikes" law that required a life sentence for individuals convicted of three felonies. The law had led to life sentences for such petty offenses as stealing a \$20 bottle of vitamins, or breaking into a church to steal food.

Conditions in Custody

Prisons remained overcrowded, with thirty-seven states, the District of Columbia, and the federal prison system operating at 100 percent or more of capacity; the largest prison system in the country, California, was operating at over twice its reported capacity. Most inmates had scant opportunities for meaningful work, training, education, treatment, or counseling because of taxpayer resistance to increasing the already astonishing \$20 billion spent annually on prison operating expenses and the prevailing punitive ideology that applauded harsh prison conditions.

Idle inmates with long sentences jammed into overcrowded, poorly equipped facilities could become violent: in 1998 seventy-nine inmates were killed; assaults, fights, and rapes left thousands injured seriously enough to require medical attention; extortion and intimidation were commonplace.

Although most correctional officers did not physically abuse inmates, too many did. News stories and court records documented inmates being maliciously beaten with fists and batons, fired at unnecessarily with shotguns or stunned with electronic devices, slammed face first onto concrete floors and even raped by officers whose jobs were to protect them. Inmates ended up with broken jaws, bruised faces, smashed ribs, perforated eardrums, missing teeth, and damaged vision. A federal district court concluded in March that Texas prisons were pervaded by a "culture of sadistic and malicious violence." In July, a federal corrections officer in Colorado pleaded guilty to being part of a group of officers who beat inmates to punish them for being "troublemakers," falsified records, and intimidated other officers into not reporting their activities.

Staff violence and abuse in Florida prisons led to widely publicized inmate injuries and death. During a trial in January, three Florida prison guards testified that a group of officers in 1997 had terrorized and brutalized an inmate in retaliation for his having bitten another guard, and then conspired to cover it up. After three days of abuse, the inmate slashed his wrists and then, while in restraints in a prison medical wing, was further abused and subsequently bled to death. In July, Frank Valdez, an inmate on death row at Florida State Prison who had been convicted of murdering a prison guard, was beaten to death during a violent confrontation with correctional officers who were attempting to remove him from his cell. Valdez's autopsy revealed he died from "multiple blunt force trauma from the result of a severe beating," and nine officers were suspended pending final results of the official investigation. The Federal Bureau of Investigation also announced it would conduct its own investigation into the inmate's death as well as numerous complaints by prisoners there that they were routinely abused and beaten. Another inmate at the Florida State Prison filed a lawsuit in July against several officers, including two implicated in the Valdez case, claiming they beat him severely the previous year, causing multiple rib fractures, a collapsed lung and spinal injuries. At the end of 1998, two female inmates committed suicide in Florida while held in solitary confinement at the Jefferson Correctional Institution. One, Florence Krell, had repeatedly complained of abuse by guards and said she had been left naked, handcuffed, and without water in her cell.

Although some instances of guard abuse resulted in criminal indictments and civil lawsuits, and a few even resulted in verdicts against the guards and awards to injured inmates, impunity remained prevalent. Internal investigators conducted superficial investigations, if any, and state district attorneys lacked the resources and political will to bring charges against abusive officers. In California, not one district attorney in the state had ever prosecuted a guard for any of the shooting deaths of thirty-nine inmates and the wounding of 200 more in the last decade, even though state investigations and trials had established pervasive brutality at certain prisons. In July, the California corrections officers union used its enormous political power to kill an important piece of reform legislation that would have removed prison brutality cases from the purview of local prosecutors and placed them with the state attorney general.

Violence, escapes, and sexual abuse also further darkened the record of private prison operators. Many of the prisons run by for-profit companies operated with uniformed staff that were insufficient in number, poorly trained, and inadequately supervised. Oversight from public correctional authorities was lax. At new facilities operated in New Mexico by Wackenhut Corrections Corporation, inmates killed four other prisoners in a nine month period, culminating in August with a riot involving nearly three hundred prisoners during which a Wackenhut guard was stabbed to death. The violence prompted renewed criticism of the state's decision to place one-third of its prison population in private hands and concern that corporate profits were achieved by sacrificing appropriate security and safety measures. In Texas, state corrections authorities canceled a contract with Wackenhut in response to allegations of staff sexual assault of inmates, cover-ups, and mismanagement.

In the aftermath of the violence in New Mexico, the state precipitously shipped over a hundred inmates from the Wackenhut facility to Red Onion State Prison, a super-maximum security prison in Virginia. That facility was the focus of a Human Rights Watch report released in April that documented excessive and dangerous use of force by correctional officers, including use of electronic stun devices and shotguns filled with non-lethal munitions, as well as unnecessarily harsh and degrading conditions.

A January 1999 analysis of super-maximum security prisons prepared for the National Institute of Corrections of the U.S. Department of Justice endorsed their use to provide extended control of inmates known to be violent, major escape risks, or likely to promote disturbances in the general population, but criticized their use for problem inmates for whom lesser control would be satisfactory. Human Rights Watch documented just such inappropriate placement of inmates in Virginia, where the Department of Corrections sent men to its super-maximum security facilities simply because they had long prison sentences, regardless of their behavior while behind bars. Human Rights Watch charged the state with trying to fill prisons that exceeded the state's legitimate need for high security beds and that had, indeed, been built primarily to further a "tough on crime" political agenda.

In March, a federal judge ruled unconstitutional stark and severe conditions in Texas' administrative segregation units which deprived prisoners of "almost all human contact, mental stimulus, personal property and human dignity." Even within the harsh world of super-maximum security confinement, in which inmates usually spend at least twenty-three hours a day in their cells, conditions in Texas were notably extreme. Inmates were denied, for example, such items as books, other educational materials, soap, and deodorant, and out-of-cell time for many was limited to three hours a week. Inmates were barred from, or subject to highly restricted access to religious services, commissary, counseling, and library services.

A new survey by the Department of Justice reported that about 16 percent of inmates in prisons and jails were mentally ill. Many of them were homeless prior to incarceration and were convicted of petty crimes, for example, public intoxication, loitering, and other minor violations that often resulted from their mental condition and life on the street. Once in prison, the mentally ill were more likely to present discipline problems than other inmates because the nature of their illnesses made it harder for them to handle the stresses of prison life and because of inadequate mental health services and treatment.

Although mentally ill inmates should not be punished for actions arising from their illnesses or placed in the conditions of social isolation and extreme security measures that prevail in super-maximum facilities, in too many states they were. In Illinois, mentally ill inmates filed a lawsuit challenging their placement in the state's new supermax prison. The inmates alleged that the conditions of extreme social isolation, limited environmental stimulation, severely restricted movement, and harsh punishment for problematic behavior caused by their illness brought tormenting pain and possibly permanent psychological damage. In July, a class action suit was settled that had been brought by mentally ill inmates against the New Jersey Department of Corrections. The inmates complained that they were denied adequate mental health treatment and described a vicious circle of rule infractions caused by mental illness, with punishment in solitary confinement that aggravated mental disorders, leading to more infractions, leading to more time in solitary. In Texas, a federal district judge ruled that the confinement of mentally ill inmates in conditions of extreme isolation and reduced environmental stimulation that exacerbated their illness violated the U.S. constitution's ban on cruel and unusual punishment. Plaintiffs' experts in that case had provided harrowing descriptions of inmates smearing themselves with feces, engaging in self-mutilation, babbling, screaming, and banging their heads against their cell walls. As in New Jersey, mentally ill inmates placed in segregation in Texas suffered such psychological deprivations that their behavior became worse and they became even less able to conform to prison rules. At least three inmates were known to have committed suicide in super-maximum facilities in 1999, two in the Ohio State Penitentiary and one in the U.S. Penitentiary (Administrative Maximum) in Colorado.

The disproportionate impact of the criminal justice system on blacks was reflected in their rates of felony disenfranchisement. A 1998 report by Human Rights Watch and the Sentencing Project revealed that 13 percent of all black Americans were disenfranchised because of felony convictions, and that in ten states more than one in five black men were disenfranchised. The report's findings were widely publicized around the country and spurred several state legislative and litigation efforts; members of Congress also introduced legislation to restore the federal vote to felons upon release from incarceration.

The U.S. government has bungled its response to the sexual abuse women face in state prisons. During the year, the Justice Department reached negotiated settlements-court-enforced agreements with state officials-in only two cases under consideration that involved sexual abuse of incarcerated women in two states. The settlement reached in the Arizona case in March was flawed and weak. It allowed Arizona Department of Corrections officials to place women in solitary confinement after they file a complaint of sexual abuse, an act the women perceived to be punitive. The settlement failed both to set up a secure mechanism through which women could safely file complaints without fear of retaliation and to establish independent oversight of the system.

The settlement reached with the Michigan Department of Corrections was a travesty, with all of the flaws of the Arizona settlement, but also including elements that actually placed the women at increased risk of sexual abuse. One of its most disturbing aspect was the imposition of uniforms on the women. This sent a message to the women that they "provoked" sexual assaults and provided another means for corrections staff to punish them.

The U.S. government avoided addressing the substantive findings in the report of the U.N. special rapporteur on violence against women on human rights violations of women in detention in the U.S. Her report detailed extensive sexual

misconduct and systematic violations of the women's right to privacy. The U.S. delegation to the U.N. Commission on Human Rights insisted that women incarcerated in the U.S. had protection from and recourse against human rights violations, even though passage of the Prison Litigation Reform Act of 1995 made it extremely difficult for women to bring legal claims against corrections departments, especially in cases of sexual assault and abuse.

Men in prison suffered from sexual abuse committed by fellow inmates. Prison staff often allowed or even tacitly encouraged sexual attacks by male prisoners. Despite the devastating psychological impact of such abuse, there were few if any preventative measures taken in most jurisdictions, while perpetrators were rarely punished adequately by prison officials.

Responding to a perceived outbreak in violent juvenile crime, many states across the country continued to incarcerate large numbers of children even though the number of juvenile offenders had consistently fallen in recent years. According to Federal Bureau of Investigation (FBI) data, juvenile arrests declined each year from 1994 to 1997, an overall decrease of nearly 4 percent for the period. Juvenile arrests for violent crimes were down by 6 percent during the same time period.

Many youth were charged in the adult criminal system under state statutes that made it easier for children to be tried as adults. Between 1992 and 1998, at least forty U.S. states adopted such legislation; in 1999, a similar measure was pending at the federal

level. Forty-two states detained children in adult jails while they awaited trial. As a result, whether or not they would ultimately be found innocent, many children faced the prospect of spending six months to one year or more behind bars in adult facilities.

In Maryland, Human Rights Watch found that youth held in adult jails were subjected to the risk of violence at the hands of other juveniles and, in some facilities, from adult detainees. These risks were particularly high in the Baltimore City Detention Center, where some 150 adolescents faced daily risks to their personal safety, at times from "square dances," fights that were condoned and even organized by corrections officers. Disciplinary measures in the city detention center often appeared to be arbitrary and excessive, with many youths receiving the maximum sanction of ninety days of restriction to their cells, with telephone calls, family visits, and religious services banned. Staff at the detention center frequently imposed such sanctions on the entire juvenile section for extended periods of time. Mental health services at the city detention center were minimal to nonexistent. With few exceptions, all of the jails we visited suffered from serious deficiencies in the amount of education provided, a dearth of age-appropriate recreational opportunities, and an apparent lack of specialized training programs for staff in adolescent development and behavior management. Finally, children in all facilities reported that they did not receive enough to eat.

Immigrants and Asylum Seekers

The human rights ramifications of the 1996 Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) became increasingly apparent during the year. Increasing numbers of INS detainees strained the ability of the Immigration and Naturalization Service (INS) to provide humane and safe conditions. Hunger strikes by detainees and their families, court orders to release long-term detainees, and continuing reports of abuse and poor living conditions signaled a detention crisis.

In response to court decisions and protests, the INS revised two of its policies guiding detention practices during the year. In July, it announced that case-by-case reviews would be conducted to decide whether detainees may be released pending hearings to determine whether they would be deported (removal hearings). Detainees would be released if they were able to show that they were not a danger to society, that they had family or community ties, and were likely to appear for future hearings. In April, the INS announced that it would perform mandatory reviews of detainees who had final orders of removal but could not be repatriated. The new policy would allow individuals to be released pending any political or other developments that would allow their deportation.

More than half of the INS's 17,400 detainees around the country were housed in state prisons and county and city jails designed for short-term detention of pre-trial and convicted criminals. After our September 1998 report on the conditions and treatment of INS detainees held in jails and pressure from immigrants' rights groups, the INS moved to create minimum standards for jails to meet before INS detainees were sent there. Human Rights Watch believed that the INS should end its use of jails to house immigration detainees, as their punitive and rehabilitative function was never appropriate for INS detainees who were simply awaiting immigration hearings, or deportation after already serving sentences for crimes in the past. Asylum seekers should be detained in only exceptional circumstances, and never held in jails. High-level United Nations High Commissioner for Refugees (UNHCR) officials had criticized the U.S.'s detention practices in relation to asylum seekers.

INS officials acknowledged that, even if the jails claimed to meet the requirements, it would be difficult for the INS to monitor actual compliance in the hundreds of jails with which it contracts. The American Bar Association, which had

been working closely with the INS on the jail standards, harshly criticized the INS's failure to create meaningful standards and ensure jails' compliance. INS representatives did report that they would receive funding during 2000 to hire ten inspectors to check on compliance at twenty-five of the largest jails the agency uses to house its detainees. At this writing, congressional proposals called for a number of changes that would affect INS detainees held in jails, including one recommending the transfer of detainees to federal Bureau of Prisons facilities.

The treatment of children held by the INS was also troubling. Investigations by Human Rights Watch in three states found that with few exceptions these children received little or no information about their right to be represented by an attorney in their immigration proceedings, in violation of international standards and in breach of a consent decree which bound the INS. Some unaccompanied minors were housed with juvenile offenders, locked up, and made to wear prison uniforms even though they were held for administrative reasons only.

The IIRIRA's expedited removal proceedings, intended to process and deport individuals who enter the United States without valid documents as quickly as possible, imperiled bona fide refugees and resulted in immigrants' being detained in increasing numbers. If an asylum seeker prevailed in initial summary procedures at the port of entry, he or she was detained pending a "credible fear" interview, i.e., an interview to determine whether there was a credible fear of endangerment in the country of origin, the grounds for granting asylum. Asylum seekers who had proven credible fear could have been released at the discretion of district directors of the INS, but usually they were detained throughout the process and until asylum hearings were completed. Asylum seekers could be held for years in detention, thus exacerbating overcrowding in the INS's facilities and in jails where most detainees were held.

The U.S. Border Patrol continued to grow at an alarming pace, doubling since 1993, when there were roughly 4,000 agents, to the current force of approximately 8,000 agents. The INS stated that a hiring freeze was necessary to consolidate the force, noting that nearly 40 percent of the force had less than two years of service. Human Rights Watch raised concerns about the growth rate and whether the agency was able to carefully recruit new agents and train supervisors properly. Human Rights Watch had longstanding concerns regarding the agency's capacity to investigate abuse complaints lodged against agents fairly and thoroughly, and whether disciplinary actions were taken against those found responsible for violations. The process remained excessively secretive, with the agency releasing little information about investigations into complaints.

Several fatal shootings by the Border Patrol from 1998 remained unexplained publicly a year later. Three individuals were shot dead by agents after allegedly throwing or holding rocks. The Justice Department's investigation into the shootings cleared the officers of criminal wrongdoing, but it was unclear whether any disciplinary action or policy changes had been taken within the Border Patrol. Human Rights Watch urged the INS to outfit its agents along the border with protective gear so that rock-throwing incidents did not lead to shootings by agents fearful of injury.

Death Penalty

As of September 24, the United States set a new record by executing seventy-six persons in 1999, more than in any year since the death penalty's reinstatement in 1976. Nearly half of the 1999 executions through September were carried out in Texas and Virginia. Among those executed in 1999 were foreign nationals, a juvenile offender, and individuals who may have been mentally ill or retarded. Approximately 3,500 people were on death row.

Doubts about the death penalty were particularly acute in Illinois: three of the six persons exonerated on grounds of innocence and released from death row during 1999 had been tried and imprisoned there. Illinois' dramatic cases in 1999—one of the death row inmates had come within two days of execution five months before his exoneration—sparked a number of investigations into the state's use of the death penalty. Governor George Ryan also signed legislation devoting public funds for prosecution and defense in capital trials, including monies for attorneys, investigators, and forensic specialists.

The U.S. continued to be one of only six countries to execute persons who were younger than eighteen when the crimes for which they were sentenced were committed. The imposition of the death penalty on persons who were under eighteen years of age at the time of their offense violated the provisions of international and regional human rights treaties to which the United States is party. Despite nearly unanimous international condemnation of the use of the death penalty for juvenile offenders, six countries in the world—Iran, Nigeria, Pakistan, Saudi Arabia, the United States, and Yemen—were known to have executed juvenile offenders in the 1990s. The United States led the list with ten such executions between 1990 and 1999. In 1999, the United States carried out the execution of one juvenile offender, Sean Sellers, marking the first time in forty years that the United States has executed someone for crimes committed as a sixteen-year-old. Seventy juvenile offenders were on death row in the United States as of July 1, 1999.

In positive developments, the highest court of the U.S. state of Florida ruled that the imposition of the death penalty on sixteen-year-old offenders was cruel and unusual punishment in violation of the state constitution; and effective October 1, 1999, the state of Montana abolished the death penalty for those under eighteen at the time of their crimes. As a result, of the forty states that retained the death penalty after October 1999, six allowed offenders sixteen years of age or older

to be put to death. Nineteen states limited the death penalty to those seventeen or older at the time of their crimes, and fifteen states restricted capital punishment to adult offenders.

State authorities and U.S. courts continued to disregard violations of the rights of defendants who were not U.S. citizens. Under the Vienna Convention, these defendants were supposed to be advised, upon arrest, of their right to contact their embassies for assistance. In 1999, five foreign nationals were executed despite reports that their right to consular notification had been breached: Jaturun Siripongs of Thailand; Karl and Walter LaGrand, brothers from Germany; Alvaro Calambro of the Philippines; and Stanley Faulder of Canada. Pleas from their governments were ignored, as were appeals from the

International Court of Justice in the cases of the LaGrand brothers and Stanley Faulder. The U.S. State Department did show signs of increased concern about Vienna Convention violations: Secretary of State Madeleine Albright wrote to Texas Governor George Bush in an attempt to halt the execution of Stanley Faulder, and the department was reportedly publishing and distributing training materials for police regarding their obligations under the convention. In October, the Inter-American Court of Human Rights issued an advisory opinion regarding U.S. obligations under the Vienna Convention and opined that the failure to notify foreign nationals about their right to seek consular assistance was in all cases a violation of due process under the International Covenant on Civil and Political Rights and the American Convention on Human Rights.

Gay and Lesbian Rights

Gays and lesbians continued to confront discrimination in the workplace, hate crimes in communities around the country, and anti-gay rhetoric from legislators and some religious leaders. Legislation to address anti-gay employment discrimination was introduced but made little progress and remained pending in the U.S. Congress. The Clinton Administration called for an expansion of federal hate crime statutes to include anti-gay hate crimes, but Congress did not act on the legislation. Some hate crime monitors reported increases in violent crimes against gay, lesbian, bisexual, and transgendered persons. Intolerance among legislators regarding homosexuals was evident during the year as some members of Congress vigorously fought the appointment of a gay man to serve as an ambassador simply because of his sexual orientation.

Private First Class Barry Winchell was beaten to death in July 1999 in an apparent anti-gay hate crime committed by fellow soldiers. The attack focused attention again on the treatment of gays in military. Soldiers had harassed Winchell, a soldier based at Fort Campbell, Kentucky, for months before one apparently beat him to death with a baseball

bat at the base. The trials of two soldiers implicated in the killing continued as of this writing.

Gay men and lesbians serving in the U.S. military did so within the confines of the "don't ask, don't tell, don't pursue" policy. The policy required that military officials refrain from asking military personnel about their sexual orientation, required that service members not disclose that they were gay, lesbian, or bisexual, and prohibited harassment of allegedly gay service members by military personnel. Members of the military services were not allowed to make any statement that he or she was gay or bisexual and prohibited acts, including hugging and holding hands, among service members of the same sex.

After the implementation of the policy began, discharges increased dramatically, with 1,145 discharges in 1998, up from 617 in 1994 when the policy took effect, calling into question whether the stated intention of the policy—to allow gay and lesbian service members to serve if they did not disclose their sexual orientation—was being implemented properly or whether the policy was workable at all.

In addition to the direct effects of the policy, incidents of anti-gay hate crimes against service members, on and off bases, went unreported because the victims feared their sexual orientation would be disclosed in the course of any investigation—information that would end their careers. The policy also undermined efforts at curtailing sexual harassment. Women reported that male service members harassed them and then threatened to "out" them as lesbians. In those cases, the victims could be investigated and discharged, while the harasser escaped punishment.

In August, the Pentagon announced that it would issue new guidelines to curtail abuses of the "don't ask, don't tell" policy. Personnel at all levels would receive training to end anti-gay harassment and investigations would be handled by senior officers only. Nevertheless, critics of the policy and its implementation noted that training about the policy and tolerance thus far had been limited to a few minutes during long briefings, raising concerns that superficial training at all levels would mean little.

Harassment of gay adults in the military paralleled the harassment of students perceived to be gay, lesbian, bisexual, or transgendered in public schools. Instead of providing a safe learning environment, school was experienced by many of these students as a place that accepted intolerance, hatred, ostracization, and violence against youth who were perceived

as different. For the most part, school officials refused to intervene to protect these students, and what began as harassment escalated in many cases to physical violence. Studies conducted by the U.S. Department of Health and Human Services and the states of Massachusetts and Vermont had concluded, gay, lesbian, bisexual, and transgendered youth were two to three times more likely to attempt suicide than their heterosexual counterparts.

In a welcome development, California Gov. Gray Davis signed legislation in October 1999 to ban harassment and discrimination against students and teachers on the basis of their sexual orientation. Three other U.S. states-Connecticut, Massachusetts, and Wisconsin-had similar nondiscrimination provisions.

Labor Rights

Trade unions, international organizations, academic researchers, and numerous press reports detailed widespread violations of workers' freedom of association in the United States. Prompted by these accounts, Human Rights Watch undertook a U.S. labor rights research project with a report due for publication in 2000.

Preliminary interviews with workers, trade unionists, employers, and enforcement officials throughout the country confirmed grounds for serious concern. Indications of flawed labor laws, recurring violations by employers, and ineffective enforcement by labor law authorities and courts suggested that the United States was failing its duty to protect freedom of association for workers under international human rights standards.

Human Rights Watch's preliminary research found cases where local government officials apparently joined employers in making threats of plant closing and job losses if workers formed unions. In other instances, it appeared that local police officials and gun-wielding security guards intimidated workers seeking to form unions.

The most vulnerable workers in the U.S. labor force were frequent victims of abusive interference with their freedom of association-migrant workers, welfare-to-work employees, part-time, temporary, and subcontracted employees, low-wage service sector workers, and others in precarious employment relationships. But many full-time workers in well-established firms also could face harassment, threats, discrimination, and discharge when they sought to exercise rights of association by organizing and bargaining collectively.

International Human Rights Scrutiny

In 1999, the U.S. continued to exempt itself from many of its international human rights obligations, particularly where international human rights law granted protections or redress not available under U.S. law. In ratifying international human rights treaties it typically carved away added protections for those in the U.S. by adding reservations, declarations, and understandings. Even years after ratifying key human rights treaties, the U.S. still failed to acknowledge international human rights law as U.S. law. Moreover, the U.S. was behind the rest of the developed world by failing to ratify the key international instruments on women's rights and workers' rights, and virtually alone in the world in failing to ratify the Convention on the Rights of the Child (the only other nation that had not ratified the treaty was Somalia, which had no functioning government).

In response to the president's December 1998 executive order to implement human rights treaties, an Interagency Working Group on Human Rights Treaties (IWG) started to examine relevant issues such as the application of the death penalty and treatment of refugees in the United States. According to the executive order, the IWG was required to institute training and guidance for local and state governments so that they honor the U.S.'s human rights obligations; to review reservations, declarations, and understandings that the U.S. attached to ratified treaties to ensure that they were warranted; to review proposed legislation to ensure that it was in conformity with human rights obligations; to facilitate the production of treaty compliance reports; and to promote the ratification of human rights treaties. To its credit, the IWG-which included representatives from the National Security Council, Justice Department, Labor Department, and from other agencies-consulted with human rights groups, but the working group's plan of action was unclear and as of October there had been no measurable improvement in U.S. compliance with key treaties.

Four years after it was due, the U.S. submitted its first compliance report on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in October 1999. The report acknowledged the existence of treaty violations in the U.S., but insisted that they were "aberrational" and unauthorized. Unfortunately, the report failed to confront adequately the limitations of legal protections for victims of abuse, ignored the widespread impunity enjoyed by abusive officials, exaggerated officials' commitment to implement human rights obligations, and failed to delineate steps it would take to address violations it acknowledged. The U.S.'s compliance report on the Convention on the Elimination of Racial Discrimination was four years overdue and a second International Covenant on Civil and Political Rights compliance report became due.

The U.S. disregard for international human rights standards was not limited to domestic matters. During the year, it continued to oppose human rights initiatives on issues of broad international interest, including antipersonnel landmines,

child soldiers, and the International Criminal Court (ICC). The U.S. refused to sign a comprehensive anti-landmine treaty, signed by 135 other nations, while announcing that it would sign the treaty in 2006 if it is able to come up with alternative weapons before that date. It continued to block international efforts to end the use of child soldiers, arguing against a proposed optional protocol to the Convention on the Rights of the Child that would raise the minimum age for military recruitment and participation to eighteen. It also opposed a broad prohibition on the use of child soldiers as part of an ILO convention on the worst forms of child labor. And contrary to the principle of equal treatment under the law, the U.S. continued to oppose the ICC treaty and insisted upon special exemptions for United States citizens.

Relevant Human Rights Watch reports:

Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States ,

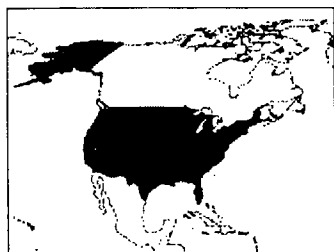
10/98.

Detained and Deprived of Rights: Children in the Custody of the U.S. Immigration and Naturalization Service , 12/98.

Red Onion State Prison: Super-Maximum Security Confinement in Virginia , 5/99.

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AI REPORT 1999: UNITED STATES OF AMERICA

Sixty-eight prisoners, including three juvenile offenders, were executed in 18 states. More than 3,500 people remained on death row. There were continuing reports of torture and ill-treatment by police and prison officers, and of shootings by police in disputed circumstances.

In January the un Special Rapporteur on extrajudicial, summary or arbitrary executions issued a report on his 1997 visit to the usa. The report called for a moratorium on executions and concluded that "race, ethnic origin and economic status appear to be key determinants of who will, and who will not, receive a death sentence." In February the un Special Rapporteur on religious intolerance visited the usa. In August the un Special Rapporteur on violence against women visited prisons and immigration detention facilities in New York, New Jersey, Connecticut, Georgia, California and Minnesota. The state authorities refused her entry to three Michigan prisons where it was alleged that female inmates had been sexually abused by guards.

The death penalty continued to be used extensively. Sixty-eight people were executed, bringing the total number executed since the end of the moratorium on the death penalty in 1977 to 500.

Three juvenile offenders were executed, the first in the usa since 1993. All three had serious mental health problems and were put to death for crimes committed when they were 17 and emerging from abusive, poverty-stricken childhoods. Joseph Cannon and Robert Carter were executed in Texas in April and May respectively. Dwayne Wright was executed in October in Virginia. At Joseph Cannon's execution, the needle delivering the chemicals into his arm "blew out". Witnesses were removed while the needle was reinserted. Joseph Cannon's mother collapsed and needed hospital treatment after seeing her son killed.

Paraguayan citizen Ángel Francisco Breard was executed in April, despite an International Court of Justice (icj) order that his execution be suspended. Under the un Vienna Convention on Consular Relations, to which the usa is a party, Ángel Breard had the right to assistance from Paraguayan consular officials. Paraguay took the case to the icj on the grounds that he had been denied this assistance, in breach of the Convention. Five days after the icj ordered the execution to be suspended until it had considered the case, Ángel Breard was executed. In November the us government issued an apology to the government and people of

Paraguay for the violation of Ángel Breard's rights under the Convention. Seventy-three foreign nationals remained under sentence of death in the USA; almost all had been denied their rights under the Convention.

Eleven death-row prisoners were executed after abandoning their appeals and "consenting" to their execution. Jeremy Sagastegui was executed in Washington State in October. At his trial, Jeremy Sagastegui represented himself, refusing the assistance of an attorney, entered a guilty plea and requested that the jury sentence him to death. He had been diagnosed as suicidal three months before the crime for which he was condemned and had previously been diagnosed as a manic depressive and schizophrenic.

There were new reports of police shootings in disputed circumstances and of torture or ill-treatment of people by police and prison officers. Several unarmed teenagers were shot by police following car chases. They included 14-year-old black teenager Jenni Hightower, who was killed in March in New Jersey after police officers fired 20 shots into the stolen car in which she was a passenger. In April, three young black and latino men received multiple gunshot wounds when police fired into a car stopped for alleged speeding on the New Jersey Turnpike. The incident reinforced accusations that police officers along the New Jersey Turnpike stopped black and Latino drivers solely on the basis of race. Such arrests for "driving while black" were allegedly common in several states. In June the Maryland branch of the American Civil Liberties Union filed a class-action lawsuit alleging racial bias in traffic stops.

In October sheriff's deputies in Humboldt County, California, applied OC (pepper) spray-soaked pads to the eyes of four female anti-logging protesters who had chained themselves together. Later that month, a federal judge dismissed a lawsuit brought by protesters who had received similar treatment in 1997 (see *Amnesty International Report 1998*) on the grounds that the procedure caused only "transient pain" and did not amount to excessive force. Amnesty International had condemned the treatment as torture in that instance and called for the use of OC spray against non-violent demonstrators to be banned (see *Amnesty International Report 1998*).

In July a police Use of Force Review Board report concluded that police in Eugene, Oregon, had acted within policy when they sprayed demonstrators with OC spray during a non-violent protest in June 1997 (see *Amnesty International Report 1998*); however, the report was critical of some aspects of the operation.

In October a former New York City Police Department (nypd) officer was sentenced to seven and a half years in prison by a federal judge for violating the civil rights of Anthony Baez who died after a confrontation with officers in 1994 (see *Amnesty International Reports 1996 to 1998*). An appeal by the officer was pending at the end of the year.

The trial of four nypd officers for the 1997 assault on Abner Louima was still pending at the end of the year (see *Amnesty International Report 1998*). In December, two other nypd officers were arrested and charged with lying to federal investigators in the case.

There were reports of abusive use of restraints and of electro-shock weapons, and allegations of sexual and physical abuse in several prisons and jails. A prisoner in the El Paso Criminal Justice Center in Colorado died in May after being strapped for hours to a restraint board. Other prisoners in the Center alleged in a lawsuit

filed in May that they had been strapped to the board for up to 12 hours during which time they had had difficulty breathing, were forced to urinate and defecate in their clothing, and were taunted by guards. Use of the board was suspended in the prison following the death, and a review of the jail's restraint policies was undertaken.

In July the Immigration and Naturalization Service (ins) removed 34 detainees from Jackson County Jail in Florida following allegations that they had been tortured with electro-shock shields while held in four-point restraints, and subjected to beatings and excessive periods of punitive solitary confinement. The case was still under investigation by the Justice Department at the end of the year.

There were allegations of sexual abuse of women prisoners in states including California, Michigan and New York. There were allegations that prison staff in Michigan had threatened or harassed inmates and staff who reported complaints. In March a federal court agreed to pay three women us\$500,000 to settle a lawsuit in which they claimed that they had been beaten, raped and sold for sex to male inmates by guards at the Federal Detention Center in Pleasanton, California.

In February, eight guards were indicted on federal charges for staging fights between rival inmates in Corcoran State Prison in California, between 1988 and 1994, during which seven inmates were fatally shot by guards (see *Amnesty International Report 1997*). In October, five guards at the prison were indicted on state charges for arranging and covering up the rape of an inmate by another prisoner in 1993. In October state legislative hearings on systematic brutality in the prison ended with recommendations for a series of policy changes, including tighter guidelines controlling the use of lethal force and more training for prison guards.

In February inmates beaten and injured by guards at Hays State Prison in Georgia in 1996 received us\$283,000 in damages to settle a federal lawsuit against the authorities (see *Amnesty International Reports 1997 and 1998*).

An appeal lodged by the State of California against a 1997 ruling by a lower court that Geronimo ji Jaga (Pratt) should be granted a retrial (see *Amnesty International Report 1998*) was heard by the California Court of Appeals in December. No ruling had been given by the end of the year.

Amnesty International launched a worldwide campaign against human rights violations in the usa with the publication in October of a 150-page report, *usa: Rights for All*. The report focused on police brutality, ill-treatment in prisons and jails, the treatment of detained asylum-seekers, the death penalty, the us government's failure to abide by international standards, and concerns surrounding us arms trading. Amnesty International made over 40 recommendations for changes to bring us policies and practice into line with international standards at the federal, state and local level. It recommended, among other things, establishing independent monitoring bodies to investigate allegations of police brutality and abuses in jails and prisons; a ban on electro-shock stun belts and other dangerous restraint procedures as well as on the routine shackling of pregnant women; restrictions on interactions between male staff and female inmates to prevent rape and sexual abuse in jails and prisons; a ban on the death penalty for juvenile offenders and a moratorium on executions as a first step toward total abolition; the adoption of a binding code of conduct covering transfers of military, security and police equipment, services and expertise; and ratification, without reservation, of the un Conventions on the Rights of the Child and on the Elimination of All

Forms of Discrimination against Women.

Amnesty International had not received a direct response from the government to its report by the end of the year. -

During the year, the organization published several other reports. In May it issued *usa: Human rights concerns in the border region with Mexico*, on ill-treatment by Border Patrol ins officers. In October Amnesty International delegates met senior ins officials in Washington dc to discuss the organization's concerns.

Amnesty International published *usa: The death penalty in Texas, lethal injustice* in April, and *On the wrong side of history: children and the death penalty in the usa*, highlighting the cases of juvenile offenders on death row, in October. In November Amnesty International launched *usa: Fatal flaws _ innocence and the death penalty* at a major conference in Chicago attended by nearly half the 75 wrongfully convicted prisoners released from us death rows since 1973.

Also in November, Amnesty International released *usa: Betraying the young _ human rights violations against children in the us justice system* which described ill-treatment of children in both the juvenile justice and the general criminal justice systems.

During the year Amnesty International wrote to numerous federal, state and local authorities about issues including the death penalty; police shootings and brutality; ill-treatment in prisons, jails and juvenile detention centres; and the cruel use of restraints and stun weapons. It called for a ban on the use of oc spray against non-violent demonstrators. It raised concern about the shackling of pregnant women and called for an independent, comprehensive inquiry into the Maine Youth Center, in Portland, Maine, following reports of ill-treatment.

In March Amnesty International wrote to the Federal Bureau of Prisons expressing concern about the alleged punitive conditions under which Oscar López Rivera, a supporter of Puerto Rican independence imprisoned on criminal charges, was held at Marion Federal Prison; he was subsequently transferred to another facility where conditions improved.

In July Amnesty International submitted an *amicus curiae* brief to the California Appeals Court concerning the case of Geronimo ji Jaga (Pratt), arguing that the failure to disclose crucial information about a key prosecution witness to the defence should result in a final reversal of his conviction.

Amnesty International wrote to the Los Angeles court authorities and the Los Angeles Sheriff's Department calling on them to ban the use of remote control electro-shock stun belts after a defendant Ronnie Hawkins was stunned with the belt on the order of a judge during a Los Angeles court hearing in June; the order was given after he had repeatedly verbally interrupted the proceedings. Amnesty International said that use of stun belts constituted inherently cruel, inhuman or degrading treatment and that, in Ronnie Hawkins' case, the deliberate infliction of pain as punishment, by or at the instigation of a public official, fell within the definition of torture under international standards. The organization reiterated its concerns in October in an *amicus curiae* brief to a federal district court, which heard a lawsuit filed on behalf of Ronnie Hawkins and others, seeking, among other things, a preliminary injunction to prevent the use of the stun belt in Los Angeles county and municipal courtrooms. A ruling on the case was pending at the end of the year. In November Amnesty International raised concern

with the authorities about the use of stun belts on low security hiv-positive inmates in New Orleans Parish Jail in Louisiana, while they were being transported to hospital and awaiting treatment.

In September Amnesty International wrote to the us government about the air strikes in Afghanistan and Sudan, seeking clarification on the measures taken to protect civilian lives. Amnesty International also wrote to the un Secretary-General asking for an investigation into the bombing of Sudan. In December the organization called on the us government to ensure maximum protection of civilian lives in accordance with international humanitarian law in its air strikes against Iraq after un weapons inspectors reported non-cooperation by the Iraqi authorities.

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Amnesty International - Report - AMR 51/46/98
6 October 1998

**United States of America
United States of America: Rights for All - Amnesty
International's Recommendations to the United States
Government to Address Human Rights Violations in
the USA**

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[EMBARGOED FOR: 6 October 1998]

AMNESTY INTERNATIONAL

UNITED STATES OF AMERICA

AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE UNITED STATES GOVERNMENT TO ADDRESS HUMAN RIGHTS VIOLATIONS IN THE USA

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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

AMNESTY INTERNATIONAL'S
RECOMMENDATIONS TO
THE UNITED STATES GOVERNMENT
TO ADDRESS HUMAN RIGHTS VIOLATIONS IN THE USA

Recommendations to address human rights violations committed by the police

Federal, state and local authorities should take immediate action to halt human rights violations by police officers. They should make clear that abuses including torture, brutality and other excessive force by police officers will not be tolerated; that officers will be held accountable for their actions; and that those responsible for abuses will be brought to justice. Victims of abuse by police officers should be guaranteed effective and timely reparation.

International human rights standards should be fully incorporated into police codes of conduct and training.

1. The administration should seek, and Congress should provide, adequate funding to enable the Justice Department to fulfill its mandate under the Police Accountability Act provisions of the Violent Crime Control and Law Enforcement Act of 1994. The Special Litigation Section should be enabled to fulfill its task of pursuing "pattern and practice" lawsuits against police agencies nationwide which commit widespread abuses. The Justice Department should compile and regularly publish detailed national data on police use of force (including all police fatal shootings and deaths in custody), with analysis of patterns of concern and policy recommendations.

2. The federal government should increase its use of Title VI of the Civil Rights Act of 1964 to seek to eliminate racially discriminatory treatment by law enforcement agencies. Funding should be contingent upon agencies which engage in discriminatory practices taking effective steps to eliminate them.

3. All allegations of human rights violations and other police misconduct should be fully and impartially investigated, in line with best practice for such investigations. All officers responsible for abuses should be adequately disciplined, and, where appropriate, prosecuted.

4. There should be greater transparency in the investigation of complaints of human rights violations. Complainants should be kept informed of the progress of these investigations. The outcome of all criminal, disciplinary and administrative investigations into alleged violations, and into all disputed shootings and deaths in police custody, should be made public promptly after the completion of the investigation.

5. Police departments should provide information on the internal disciplinary process by publishing regular statistical data on the type and outcome of complaints and disciplinary action. They should also publish regular statistics on the number of people shot and killed or injured by police officers and other deaths in custody.

6. City and county authorities should be required to forward information on civil lawsuits alleging police misconduct to the police department and to relevant oversight bodies. They should regularly make public information on the number of lawsuits filed, and judgments and settlements.

7. Police departments should ensure that their policies on the use of force and firearms conform to international standards. All police departments should ban hogtying and choke holds.

8. The federal authorities should establish an independent review of the use of OC (pepper) spray by law enforcement agencies. Police departments which continue to authorize the spray should introduce strict guidelines and limitations on its use, with clear monitoring procedures.

9. Law enforcement and correctional agencies should suspend the use of electro-shock weapons such as stun guns and tasers pending the outcome of a rigorous, independent and impartial inquiry into the use and effects of the equipment.

10. Federal, state and local authorities, including police departments, should ensure that training programs include: international standards on human rights, particularly the prohibition on torture and ill-treatment; how to deal with situations which have often led to excessive force, including pursuits and how to cope with disturbed individuals; gender issues; and sensitivity to minority groups.

11. Police departments should establish early warning systems to identify and deal with officers involved in human rights violations. They should establish clear reporting systems and keep detailed records of every officer's conduct. They should conduct regular audits of these records in order to identify, and take remedial action in respect of, any patterns of abuse, including racial bias or other discriminatory treatment. These audits should be open to inspection or view by independent oversight bodies.

12. Police departments should issue clear guidelines requiring officers to report abuses, and officers with chain-of-command control should be held responsible for enforcing those guidelines and strictly enforcing penalties for failing to report, or covering up, abuses.

13. State, local and federal authorities should establish independent and effective oversight bodies for their respective police agencies. In particular, these bodies should:

- have the authority to investigate or review complaints of human rights violations by the public against the police;**

- be able to conduct regular audits of the police internal complaints and disciplinary process and, where necessary, conduct their own investigations;**

- have the power to require witnesses to appear and to insist on cooperation from police departments and individual officers;**

- require police agencies to provide information on action taken in individual cases, with reasons for inaction;**

- have the authority to review and make recommendations on policy and training;**

- provide detailed public reports, at least annually, giving relevant data, including the type of complaint and the race and gender of the complainant and the accused officer.**

- publicize the complaints procedure within the community and ensure that it is accessible to the public; information about complaints procedures should be prominently displayed in all police stations.**

Recommendations on the treatment of inmates in Prisons and Jails

Federal, state and local authorities should develop, implement and rigorously enforce standards for correctional facilities that are consistent with international human rights standards forbidding torture and ill-treatment.

1. The authorities should make clear that brutality and excessive force will not be tolerated and should establish independent bodies to investigate all allegations of abuse thoroughly and impartially. Officials responsible for abuses -- including failure to report misconduct -- should be disciplined and, where appropriate, prosecuted.

2. The authorities should take all measures to make sure that sexual abuse of inmates, including rape, does not take place in correctional facilities. All alleged incidents should be independently investigated and those responsible brought to justice.

3. Federal, state and local authorities should ensure that adequate medical care is provided whenever necessary, free of charge. Health care and treatment should accord with

professionally recognized standards. Medical personnel who have grounds for suspecting that torture or ill-treatment have taken place should be required to report cases to independent authorities.

4. Measures to prevent and punish torture and ill-treatment, including rape and other sexual abuse, of women should include an explicit prohibition of sexual abuse by staff; informing staff and inmates of inmates' rights and that offenders will be subject to punishment; restricting the role of male staff with regard to female inmates in line with Rule 53 of the Standard Minimum Rules for the Treatment of Prisoners; investigating all complaints in line with best practice for the investigation of sexual assault; protecting women who make complaints from retaliation; and providing appropriate redress and care to victims of abuse. The routine use of restraints on pregnant women should be prohibited, and women should never be restrained during labour; restraints should only be used on pregnant women as a last resort and should never put the safety of a woman or the foetus at risk. Health care for female inmates should meet recognized community standards and should recognize the particular health needs of women.

5. Children in prisons and jails should be completely separated from adults, unless it is considered in the child's best interests not to do so.

6. The authorities in charge of supermax units should amend their policies to ensure that no prisoner is confined long-term or indefinitely in conditions of isolation and reduced sensory stimulation. The authorities should improve conditions in such units so that prisoners have more out-of-cell time; better access to fresh air and natural light; improved exercise facilities; increased association, where possible, with other inmates and access to work, training or vocational programs; and are not housed in windowless cells. The mentally ill or those at risk of mental illness should be removed from supermax units. The authorities should establish clear criteria for and regular review of placement in supermax units.

7. The authorities should ban the use of remote control electro-shock belts by law enforcement and correctional agencies. Law enforcement and correctional agencies should suspend the use of other electro-shock weapons pending the outcome of a rigorous, independent and impartial inquiry into the use and effects of the equipment.

8. The federal authorities should establish an independent review of the use of OC (pepper) spray by law enforcement and correctional agencies. Authorities who continue to authorize the spray should introduce strict guidelines and limitations on its use, with clear monitoring procedures.

9. Four-point restraints should only be used when strictly necessary as an emergency short-term measure to prevent damage or injury, and in accordance with international and US professional medical standards. The federal authorities should institute an urgent national inquiry into the use of restraint chairs in prisons and jails.

10. Federal and state authorities should establish and fund agencies completely independent of correctional authorities to monitor conditions in prisons and jails, with powers to take action to remedy problems.

11. The federal government and Congress should use their legislative, financial and other powers to encourage, and if necessary require, recalcitrant states to comply fully with international standards for the protection of the rights of people in prisons and jails.

12. The federal government should review the impact of legislation which restricts inmates' access to courts, including the Prison Litigation Reform Act, and ask Congress to amend provisions that have unduly restricted inmates' ability to use the courts to end ill-treatment. The federal government and Congress should provide the necessary additional funds to allow

the Justice Department to fulfill its mandate under the Civil Rights of Institutionalized Persons Act of 1980 to investigate conditions in correctional facilities and to take action when necessary.

Recommendations regarding the Treatment of Asylum-Seekers

International standards guarantee everyone the right to seek and to enjoy asylum from persecution, and provide that no one should be returned to a country where they would be at risk of human rights violations. They require that the detention of asylum-seekers should normally be avoided. If detention is necessary, this should be demonstrated by means of a prompt, fair individual hearing before a judicial or similar authority whose status and tenure afford the strongest possible guarantees of competence, impartiality and independence. The decision to detain should be reviewed regularly by an independent body. Asylum-seekers should be advised of the reasons for their detention, of their rights and release options, and of access to assistance.

In line with these minimum international standards, Amnesty International believes that the US authorities should institute systems to differentiate between asylum-seekers and other migrants, and should treat them according to international standards for the protection of refugees, whether they are held in private or public facilities. In particular:

1. The practice of holding asylum-seekers in jails should be ended. If detention is necessary and justified, asylum-seekers should be detained in facilities appropriate to their circumstances, in line with international standards.
2. Asylum-seekers should be allowed adequate access to counsel and others who could provide assistance at all stages of the asylum procedure. NGOs should be given ready access to any facility where asylum-seekers are detained.
3. Children seeking asylum should be detained only as a last resort and in facilities appropriate to their status as children. They should not be separated from their families. Guardianship arrangements should be made to protect their interests.
4. Asylum-seekers who have demonstrated a "credible fear" of persecution should be released unless there are exceptional and compelling reasons to keep them in detention. An INS appeal against a decision to grant asylum may never be used to justify continued detention. The procedure for examining the validity of detention (the so-called "asylum pre-screening process") should be stipulated in binding regulations and should require any detention of asylum-seekers to be justified in line with international standards.
5. The INS, as the body responsible for protecting the rights of asylum-seekers, should be publicly accountable for its fulfilment of this obligation. Conditions of detention for asylum-seekers -- regardless of the type of facility in which they are held -- should be monitored by an independent and impartial body, using standards appropriate to the situation of asylum-seekers.

Recommendations on the Death Penalty

The death penalty is a violation of human rights, rights that belong to every human being, even those convicted of serious crimes. In the USA its application is arbitrary, unfair and prone to racial bias.

1. The US government and all state authorities whose laws provide for capital punishment should abolish the death penalty for all crimes.

2. Pending abolition, the US federal and state governments should impose an immediate moratorium on executions.
3. The 24 states that allow for the use of the death penalty for crimes committed under the age of 18 should raise the minimum age to 18. The US government should withdraw its reservation to Article 6(5) of the International Covenant on Civil and Political Rights.
4. All states which allow the use of the death penalty against mentally impaired defendants should enact legislation to prevent this practice.
5. The federal and state authorities should ensure that capital defendants are represented by attorneys who are adequately trained and resourced, and experienced in the complexities of capital proceedings.

Recommendations on International Human Rights Standards

In order to live up to its stated commitment to universal human rights, the USA should:

1. Ratify, without reservations, human rights treaties that it has not yet ratified, in particular the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, the Convention relating to the status of refugees, the American Convention on Human Rights and other Inter-American human rights treaties.
2. Withdraw its reservations to the International Covenant on Civil and Political Rights and the Convention Against Torture, in particular those that restrict the implementation of Articles 6 and 7 of the International Covenant on Civil and Political Rights and Articles 1, 3 and 16 of the Convention against Torture. It should also withdraw reservations that restrict the USA's fulfilment of international obligations in its domestic law.
3. Ratify the first Optional Protocol to the International Covenant on Civil and Political Rights (allowing the right of individual petition to the Human Rights Committee) and recognize the competence of the Committee against Torture to receive and act on individual cases; on ratification of the American Convention on Human Rights, recognize the competence of the Inter-American Court of Human Rights.
4. Submit to the Committee against Torture the USA's initial report on its implementation of the Convention against Torture, which was due in November 1995.
5. Support an Optional Protocol to the Convention on the Rights of the Child which prohibits the recruitment of people under 18 years of age into governmental or non-governmental armed forces and their participation in hostilities.

Recommendations on the supply of Police, Security and Military Equipment and Expertise

In order to reinforce the USA's stated commitment not to contribute to human rights abuses in other countries through the supply of military, security and police equipment or expertise, certain immediate changes are necessary in US law and its implementation. Particularly in light of its prominent role in the global arms market, the US government should:

1. Provide clear, detailed, regular and comprehensive information about all prospective and

completed transfers of arms and security equipment, technology, expertise, training and services by both private companies and government agencies. All companies involved in such transfers to foreign customers using third countries should be publicly registered with a US agency and subject to the same rules as those that govern all transfers from the USA.~

2. Adopt a binding Code of Conduct, based on international humanitarian law and international human rights standards, to monitor and control all US transfers of military, security and police equipment, services and expertise. All proposed transfers, including those brokered through third countries and those involving licensed production arrangements in other countries, should require prior public scrutiny and approval. If there is good reason to assume that a transfer will contribute to human rights abuses or breaches of international humanitarian law, it should not be approved.
3. Strengthen the capacity to monitor the end uses of US transfers of military, security and police equipment, services and expertise in order to ensure that if such transfers are subsequently used to facilitate human rights abuses or breaches of humanitarian law, further supplies of such transfers can be stopped. All end-use certificates should require recipients to undertake in advance not to use the transfers for human rights abuses or breaches of international humanitarian law; failing this the contracts for the supply of those types of transfers can be rendered null and void and further equipment, spare parts, training and repair services halted.
4. Prohibit the manufacture and export of equipment solely used for executions or for torture or cruel, inhuman or degrading treatment (including remote controlled electro-shock stun belts). Suspend the manufacture, use and export of any type of equipment where credible evidence has shown that it may inherently lend itself to human rights abuse, pending the outcome of a rigorous, independent and impartial inquiry into the use and effects of that type of equipment.
5. Promote the inclusion of the above provisions in international binding agreements. Sign and encourage ratification of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the Ottawa Convention).

[Topic/Regional Index](#) | [AI Publication Index](#) | [Home](#)

THE WHITE HOUSE

WASHINGTON

April 3, 2000

Dear Mr. Tuybens:

I am responding to your facsimile to the President expressing concerns that officials in Mohave County, Arizona, are seeking a death sentence for James Davolt. I have passed your views along to the relevant officials.

Thank you for writing and for sharing your views on this issue.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Beth Nolan', with a stylized flourish at the end.

Beth Nolan
Counsel to the President

Mr. Bruno Tuybens
President
Amnesty International
Kerkstraat 156
2060 Antwerpen
België

PRESIDENTIAL/NSA CORRESPONDENCE

IMMEDIATE ACTION REQUIRED

ACTION OFFICER: *Nepton*

LOG NUMBER: *1231*

DUE DATE: *3.6*

DATE STAFFED: *2.23*

CORRESPONDENCE ADDRESSED TO:



PRESIDENT



NATIONAL SECURITY ADVISOR

FROM: *B Tu byens*

*3/28 (Rose - transferred to WH Counsel
for reply - see enclosed letter*

PREPARE A RESPONSE FOR THE PRESIDENT'S OR NATIONAL SECURITY
ADVISOR'S SIGNATURE WITHIN 10 DAYS. IF A LETTER DOES NOT REQUIRE A
RESPONSE, PLEASE RETURN IT TO RECORDS MANAGEMENT (RM 379) WITH
THIS FORM, ANNOTATED ACCORDINGLY.

THE WHITE HOUSE
WASHINGTON

Dear Mr. Tuybens:

I am responding to your facsimile to the President expressing concerns that officials in Mohave County, Arizona, are seeking a death sentence for James Davolt.

You urged federal authorities to intervene to stop what you describe as a violation of U.S. international obligations. Mr. Davolt is being prosecuted by local authorities in Arizona. Decisions regarding his prosecution and sentencing will therefore be made by local officials in Arizona, rather than by federal officials, and are not within the President's authority.

Thank you for writing and for sharing your views on this issue.

Sincerely,

Beth Nolan
Counsel to the President

Mr. Bruno Tuybens
President
Amnesty International
Kerkstraat 156
2060 Antwerpen
België

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 0001231
RECEIVED: 23 FEB 00 12

TO: PRESIDENT

FROM: TUYBENS, BRUNO

DOC DATE: 09 FEB 00
SOURCE REF:

KEYWORDS: HUMAN RIGHTS LEGAL ISSUES
 PRESIDENTIAL CORRESPONDENCE

PERSONS: DAVOLT, JAMES EDWARD

SUBJECT: AMNESTY INTL PRESIDENT RE DEATH PENALTY FOR DAVOLT IN ARIZONA

ACTION: APPROPRIATE ACTION DUE DATE: 06 MAR 00 STATUS: S

STAFF OFFICER: NAPLAN

LOGREF:

FILES: PA

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION
NAPLAN

FOR CONCURRENCE
BAKER

FOR INFO
PATTEN
SCHWARTZ

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSDMK

CLOSED BY:

DOC 1 OF 1

UNCLASSIFIED



Amnesty International

1231
Amnesty International
Vlaanderen vzw

Kerkstraat 156
2060 Antwerpen
België
Tel.: 03/271 16 16

FAX Cover Sheet

To : His Excellency President Clinton

From : Bruno Tuybens, President

Date : February 9, 2000

This FAX contains (1) page(s), this one included.

If you didn't receive all of the pages, or if they are not fully legible, please contact the above-mentioned person.

Re : Death Penalty - James Edward DAVOLT

Dear Mr President,

Our organization perfectly acknowledges the seriousness of the crime of which the above named person is accused, and wishes to express sympathy for the relatives of Nicholas and Eleanor Zimmer.

Without intending to express an opinion on the guilt or innocence of the defendant, our organization does feel concerned that Mohave County, Arizona, is seeking a death sentence against James Davolt, despite the international ban on the death penalty against child offenders - those under 18 at the time of the crime. This ban is globally adhered to, so that a principle of customary international law is being rendered, binding on all jurisdictions in all countries, indeed.

Our organization regrets having to point out that the USA has earned the shameful distinction of being world leader in such use of the death penalty. Indeed, only Iran carried out one execution of a child offender, whilst the USA realized seven executions of minors since October 1997.

We wish to draw your attention to the fact that the global ban is not an attempt to excuse violent crimes by children, but is a recognition of their immaturity and capacity for change.

In the light of the above, our organization respectfully urges that the federal authorities intervene to stop what would be a violation of the USA's international obligations. Moreover, the continuing executions of child offenders are giving rise to a feeling of outrage. Indeed, such use of the death penalty directly contradicts the USA's claims to be a world leader in human rights.

Your consideration of the above and positive intervention will mostly oblige.

Respectfully yours,

Bruno Tuybens

Summary of Conclusions
Human Rights Treaty IWG
December 21, 1999

It was agreed that:

- State/L, in consultation with Justice, will seek to formalize the referral process for human rights complaints that arise in international fora.
- State/L, in close consultation with Justice, will further develop an outline of a presentation on human rights treaties to be used with state and local officials and will propose the conferences and meetings where this presentation can first be tested.
- Justice will develop a proposal for a network of state and local human rights officials with whom information on our international human rights obligations will be shared and discussed.
- State/DRL will contact nongovernmental organizations or law schools that may have developed materials on our international human rights treaty obligations.
- Justice will consider the incorporation of a human rights module into its training programs for federal officers.
- Justice will continue to move forward its legislative proposal on human rights abusers who are in the United States with the objective of having it ready to transmit to the Hill by the beginning of the next legislative session.

INTERAGENCY WORKING GROUP ON HUMAN RIGHTS TREATIES

Agenda

March 1, 2000

2:30 -- OEOB 208

1. State and Local Compliance with Human Rights Obligations
2. Draft Bill on Human Rights Abusers
 - status of INS proposal
 - hearing on Foley bill
 - roll out
 - information sharing regarding human rights violators
4. Status of CERD Report
5. Torture Convention update
6. ICCPR Report
7. Treaty Signature and Ratification
 - CEDAW
 - Convention on the Rights of the Child
 - Child Soldiers Protocol
 - InterAmerican Convention on VA
 - others?
8. Other Business
9. Next Meeting – **April 6, 2:00, OEOB 208**

NATIONAL SECURITY COUNCIL

OFFICE OF MULTILATERAL AND HUMANITARIAN AFFAIRS

FAX COVER SHEET

NATIONAL SECURITY COUNCIL

17th & Penn, N.W.
Washington, D.C.
20504

Did you get a complete,
clear transmission? If not,
please call:

(202) 456- 9141

From: Wendy Patten 456-9141 (phone) /456-9140 (fax)

FAX

To: Harold Koh, State/DRL	647-5283
Steve Wagenseil, State/DRL	647-4344
Andre Surena/Chris Camponovo, State/L	736-7116
Nancy Rubin, State/IO	686-9058
Beverly Zweiben, State/IO	647-4628
Jon Levitsky, State/P	647-0844
David Killion, State/H	647-9667
Anita Botti, State/G/PICW	647-5337
James Castello, DOJ/DAG	514-6897
Richard Jerome, DOJ/AAG	307-3904
Julie Fernandes, DOJ Civil Rights	307-2839
Bo Cooper, DOJ/INS	514-5491
David Koplow/Iliana Davidson, DoD/GC	(703) 614-9789
Jim Schear/DoD	(703) 614-0442
Mac DeShazer, DOL	219-5980
Joel Fishman, USIA	619-5646
Elizabeth Wilcox, Treasury	622-8378
Alex Wohl/Francisco Garcia, Education	401-3130
Irene Bueno, Domestic Policy Council	6-5581
Caroline Krass, NSC Legal	6-9110
Reynaldo Valencia, COS	6-1121
Adrian Miller, One America Office	6-2977

Date: 5/19/99

RE: The Human Rights IWG meeting scheduled for Thursday, Feb.24 2:00 has been POSTPONED until Wednesday, Mar. 1, at 2:30, OEOB 208. Please call Dora at 456-9141 with clearance information. Last meeting's summary of conclusions is attached. Agenda to follow.



United States Department of State

Washington, D.C. 20520

February 23, 2000

UNCLASSIFIED
MEMORANDUM

To: Inter-Agency Working Group on Human Rights

From: L/HRR - Andre M. Surena *AUS*

SUBJECT: Second US Periodic Report to the Human Rights
Committee on Implementation of the International
Covenant on Civil and Political Rights

In 1994, the United States submitted its Initial Report on compliance with the International Covenant on Civil and Political Rights (ICCPR) to the UN Human Rights Committee (HRC). We are now preparing our [Second] Periodic Report to the HRC. The goal is to submit the report before the end of this year.

We recently reviewed documents pertaining to our 1994 Report, in particular, the USDEL's oral presentation to the HRC in 1995, as well as the HRC's Concluding Observations. We note that during the discussions between US delegates and members of the HRC, the United States offered to undertake certain steps with respect to ICCPR reporting and implementation. (See attached Annex 1 for US undertakings; see attached Annex 2 for HRC Response to US Undertakings). Some of those undertakings were later reflected in the HRC's Concluding Observations of the US report and presentation. Also included in those Observations are other recommendations of the HRC. (See attached Annex 3).

In preparation of an outline for the Second Periodic Report, we recommend that this Working Group consider items that were contained in US delegates' oral undertakings or included in the HRC's Concluding Observations and determine what, if any, steps should be taken. Accordingly, this Group could address the following issues or tasks (drawn from attached Annexes 1-3):

- Undertaking that regular consultations between the US Government and state authorities on the implementation of the ICCPR would be established;
- Undertaking to make use of the Federal Judicial Center and state judicial centers to increase judiciary awareness of the ICCPR;
- Undertaking that the US Government would conduct a review of how its responsibilities under the Covenant were being implemented and the need for maintaining its reservations, understandings and declarations with the aim of achieving full implementation of the Covenant within the framework of representative democracy;
- Undertaking to broaden public information efforts;
- Undertaking that efforts would be made to expand the knowledge of the Covenant and its relationship to United States law at the state level and among the judiciary;
- Committee recommendation to increase involvement of the states in the review process and in the preparation of subsequent reports.

We will also need to address the other recommendations before we complete our report to the HRC.

ANNEX I

Oral Undertakings of Mr. Shattuck in April 1995 before HRC

- He agreed with the Committee's recommendation that the US Government should engage in regular consultation with state authorities to discuss state involvement in implementation.
- He stated that the US Government would consider establishing an inter-agency working group at the federal level to centralize implementation activities.
- He agreed that the Government should make use of the Federal Judicial Center to increase awareness of the Covenant.
- (It should be noted that the HRC in its Concluding Observations to the US initial report stated: "The Committee regrets that members of the judiciary at the federal, state and local levels have not been fully made aware of the obligations undertaken by the State party under the Covenant, and that judicial continuing education programmes do not include knowledge of the Covenant and discussion on its implementation. Whether or not courts of the United States eventually declare the Covenant to be non-self-executing, information about its provisions should be provided to the judiciary.")
- He agreed that the US Government should make use of state judicial centers to increase awareness of the Covenant.
- He stated that there would be a continued effort to ensure that new legislation would be in conformity with the Covenant.
- The US Government would conduct a review of how its responsibilities under the Covenant were being implemented and the need for maintaining its reservations, understandings and declarations with the aim of achieving full implementation of the Covenant within the framework of representative democracy.

- He stated that public information efforts would be broadened and efforts would be made to expand the knowledge of the Covenant and its relationship to United States law at the state level and among the judiciary.
- He stated that note had been taken of recommendations from Committee members regarding increased involvement of the states in the review process and in the preparation of subsequent reports.

ANNEX II

Oral Response of HRC to U.S. Undertakings

Mr. Lallah:

The initial report of the US did not provide very much information about implementation of the Covenant at the state and grass-roots level. It was encouraging to learn about the administrative arrangements envisaged to involve states in that effort. Such arrangements would help states determine how best to carry out the obligations undertaken on their behalf and would bring together all the groups involved in ensuring the enjoyment of human rights. He hoped that NGOs would be informed about such arrangements.

Mr. Pocar:

He noted with satisfaction that the Government would take full responsibility for the implementation of the Covenant and was ready to adopt all necessary measures to encourage states to bring their legislation into accordance with it.

Mr. Prado Vallejo:

He was reassured to hear that the federal Government was prepared to enact new laws and cooperate with states in order to ensure that the rights set out in the Covenant were protected.

Mrs. Medina Quiroga:

It was reassuring to hear that there would be a continuing review not only of federal statutes but also of state laws and practices. It would not be enough to request information from state attorneys-generals, the Government needed to find out what was happening, even in rural communities, and, to that end must listen to NGOs.

Mr. El-Shafei:

He was gratified to hear that the Government would regularly review its laws in the light of the Covenant.

He was gratified to hear that the Government would regularly review its reservations, understandings and declarations in the light of future developments.

Mr. Klein:

The second periodic report should include information on state as well as federal law and practice.

The question of the theoretical duty of states to protect human rights should also be given the kind of consideration that the signatories to the ECHR were giving it.

He suggested that the USG rethink several positions, including:

the attitude that the US accepts international obligations only on a strictly territorial basis.

(It should be noted that the HRC in its Concluding Observation stated: "The Committee does not share the view expressed by the Government that the Covenant lacks extraterritorial reach under all circumstances. Such a view is contrary to the consistent interpretation of the Committee on this subject, that, in special circumstances, persons may fall under the subject-matter jurisdiction of a State party even when outside that State's territory.")

Mr. Bhagwati:

He welcomed the fact that all sectors of the federal and state Governments would be involved in efforts to implement the rights conferred by the Covenant.

He was pleased to note that information on the rights conferred by the Covenant would be incorporated in the curriculum of the Federal Judicial Center.

An ongoing review of federal and state legislation would make it possible to monitor the extent to which such legislation was compatible with the obligations undertaken under the Covenant.

Mrs. Evatt:

She was pleased to learn that serious thought was being given to establish appropriate machinery, institutions and processes to undertake an ongoing review of federal and

state laws and practices with a view to assessing their compatibility with the Covenant.

The commitment to consider corrective legislation where needed also was welcome.

It was to be hoped that regular consultation with the states would, where indicated, extend beyond the attorneys-general.

Consideration should be given to entrusting the responsibility for the consultation process to a permanent federal agency or office.

She had been pleased to learn that judges would be drawn into that process.

She hoped that questions of gender bias would be addressed. The Government would encourage judges to refer to the Covenant in court submissions.

She hoped that the conformity review envisaged for federal laws would be extended to the states as well. State compliance must be evaluated on a case-by-case basis.

ANNEX III

Some Concluding Observations and Recommendations of HRC

The Committee recommends that the State party review its reservations, declarations and understandings with a view to withdrawing them, in particular reservations to article 6, paragraph 5, and article 7 of the Covenant.

The Committee hopes that the Government of the United States will consider becoming a party to the First Optional Protocol to the Covenant.

The Committee recommends that appropriate inter-federal and state institutional mechanisms be established for the review of existing as well as proposed legislation and other measures with a view to achieving full implementation of the Covenant, including its reporting obligations.

The Committee emphasizes the need for the Government to increase its efforts to prevent and eliminate persisting discriminatory attitudes and prejudices against persons belonging to minority groups and women including, where appropriate, through the adoption of affirmative action. State legislation which is not yet in full compliance with the non-discrimination articles of the Covenant should be brought systematically into line with them as soon as possible.

The Committee urges the State party to revise federal and state legislation with a view to restricting the number of offences carrying the death penalty strictly to the most serious crimes, in conformity with article 6 of the Covenant and with a view eventually to abolishing it. It exhorts the authorities to take appropriate steps to ensure that persons are not sentenced to death for crimes committed before they were 18. The Committee considers that the determination of methods of execution must take into account the prohibition against causing avoidable pain and recommends the State party to take all necessary steps to ensure respect of article 7 of the Covenant.

The Committee urges the State party to take all necessary measures to prevent any excessive use of force by the police; that rules and regulations governing the use of weapons by the police and security forces be in full conformity with the United Nations Basic Principles on the

Use of Force and Firearms by Law Enforcement Officials; that any violations of these rules be systematically investigated in order to bring those found to have committed such acts before the courts; and that those found guilty be punished and the victims be compensated.

Regulations limiting the sale of firearms to the public should be extended and strengthened.

The Committee recommends that appropriate measures be adopted as soon as possible to ensure to excludable aliens the same guarantees of due process as are available to other aliens and guidelines be established which would place limits on the length of detention of persons who cannot be deported.

The Committee does not share the view expressed by the Government that the Covenant lacks extraterritorial reach under all circumstances. Such a view is contrary to the consistent interpretation of the Committee on this subject, that, in special circumstances, persons may fall under the subject-matter jurisdiction of a State party even when outside that State's territory

The Committee expresses the hope that measures be adopted to bring conditions of detention of persons deprived of liberty in federal or state prisons in full conformity with article 10 of the Covenant. Legislative, prosecutorial and judicial policy in sentencing must take into account that overcrowding in prisons causes violation of article 10 of the Covenant.

Existing legislation that allows male officers access to women's quarters should be amended so as to provide at least that they will always be accompanied by women officers.

Conditions of detention in prisons, in particular in maximum security prisons, should be scrutinized with a view to guaranteeing that persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person, and implementing the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Code of Conduct for Law Enforcement Officials therein.

Appropriate measures should be adopted to provide speedy and effective remedies to compensate persons who have been subjected to unlawful or arbitrary arrests as provided in article 9, paragraph 5, of the Covenant.

The Committee recommends that further measures be taken to amend any federal or state regulation which allow, in some states, non-therapeutic research to be conducted on minors or mentally-ill patients on the basis of surrogate consent.

The Committee recommends that the current system in a few states in the appointment of judges through elections be reconsidered with a view to its replacement by a system of appointment on merit by an independent body.

The Committee recommends that steps be taken to ensure that previously recognized aboriginal Native American rights cannot be extinguished. The Committee urges the Government to ensure that there is a full judicial review in respect of determinations of federal recognition of tribes. The Self-Governance Demonstration Project and similar programs should be strengthened to continue to fight the high incidence of poverty, sickness and alcoholism among Native Americans.

The Committee expresses the hope that, when determining whether currently permitted affirmative action programs for minorities and women should be withdrawn, the obligation to provide Covenant's rights in fact as well as in law be borne in mind.

The Committee recommends that measures be taken to ensure greater public awareness of the provisions of the Covenant and that the legal profession as well as judicial and administrative authorities at federal and state levels be made familiar with these provisions in order to ensure their effective application.

Summary of Conclusions
Human Rights Treaty IWG
December 21, 1999

It was agreed that:

- State/L, in consultation with Justice, will seek to formalize the referral process for human rights complaints that arise in international fora.
- State/L, in close consultation with Justice, will further develop an outline of a presentation on human rights treaties to be used with state and local officials and will propose the conferences and meetings where this presentation can first be tested.
- Justice will develop a proposal for a network of state and local human rights officials with whom information on our international human rights obligations will be shared and discussed.
- State/DRL will contact nongovernmental organizations or law schools that may have developed materials on our international human rights treaty obligations.
- Justice will consider the incorporation of a human rights module into its training programs for federal officers.
- Justice will continue to move forward its legislative proposal on human rights abusers who are in the United States with the objective of having it ready to transmit to the Hill by the beginning of the next legislative session.

CHAPTER 228—DEATH SENTENCE

- Sec.
3591. Sentence of death.
3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
3593. Special hearing to determine whether a sentence of death is justified.
3594. Imposition of a sentence of death.
3595. Review of a sentence of death.
3596. Implementation of a sentence of death.
3597. Use of State facilities.
3598. Special provisions for Indian country.

HISTORICAL AND STATUTORY NOTES

Codification

A prior chapter 228 entitled "IMPOSITION, PAYMENT, AND COLLECTION OF FINES", consisting of sections 3591 to 3599, was enacted by Pub.L. 98-473, Title II, § 238(a), Oct. 12, 1984, 98 Stat. 2034, to be effective, pursuant to section 235 of Pub.L. 98-473 (set out as a note under section 3551 of this title), on Nov. 1, 1986 (effective date extended by Pub.L. 99-217, § 4, Dec. 26, 1985, 99 Stat. 1728, to Nov. 1, 1987). However, that chapter was repealed by Pub.L. 98-596, § 12(a)(1), Oct. 30, 1984, 98 Stat. 3139, which repeal, pursuant to section 12(b) of Pub.L. 98-596, was effective on Oct. 12, 1984. See Prior Provisions note under sections 3591 to 3599. The chapter 228, which was to have gone into effect on Nov. 1, 1986 (extended to Nov. 1, 1987), but for the repeal by section 12(a)(1) of Pub.L. 98-596.

§ 3591. Sentence of death

(a) A defendant who has been found guilty of—

(1) an offense described in section 794 or section 2381; or

(2) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

(A) intentionally killed the victim;

(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

(D) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a

hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

(b) A defendant who has been found guilty of—

(1) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)) committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B); or

(2) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)) committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

(Added Pub.L. 103-322, Title VI, § 60002(a), Sept. 13, 1994, 108 Stat. 1959.)

HISTORICAL AND STATUTORY NOTES

Prior Provisions

A prior section 3591 provided for imposition of fines. See Codification note preceding this section.

Short Title

Section 60001 of Pub.L. 103-322 provided that: "This title [enacting this chapter (section 3591 et seq.) and sections 36, 37, 1118, 1119, 1120, 1121, 2245, 2280, 2281, and 2332a of this title, amending sections 34, 241, 242, 245, 247, 794, 844, 924, 930, 1091, 1111, 1114, 1116, 1117, 1201, 1203, 1503, 1512, 1513, 1716, 1958, 1959, 1992, 2113, 2119, 2251, 2332, 2340A, 3005, and 3432 of this title, and section 1324 of Title 8, Aliens and Nationality, redesignating former section 2245 of this title as 2246, repealing section 46503 of Title 49, Transportation, and enacting provisions set out as notes under this section and sections 36, 37, and 2280 of this title] may be cited as the 'Federal Death Penalty Act of 1994'."

NATIONAL SECURITY COUNCIL

OFFICE OF MULTILATERAL AND HUMANITARIAN AFFAIRS

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Anthony Sariti	619-6520
Elizabeth Wilcox, Treasury	622-1956
Alex Wohl/Francisco Garcia, Education	401-3130
Irene Bueno, Domestic Policy Council	6-5581
Caroline Krass, NSC Legal	6-9110

Date: November 8, 1999

No. of pages to follow: 2

RE: Attached please find a summary of conclusions from the last meeting of the Human Rights Treaty IWG.

Usual guidance:

issue handled State-by-State

Summary of Conclusions
Human Rights Treaty IWG
November 5, 1999

It was agreed that:

- NSC will schedule a meeting the week of November 15 with relevant NGOs to obtain their reactions to our Torture Report.
- State will confirm the date on which our Torture report will be considered by the Committee Against Torture and organize an inter-agency team to participate in the briefing.
- • State and DoJ will follow-up with monitoring in the al-Sayegh case.
- Agencies will prepare their contributions to the Race Report by November 15.
- NSC will reach out to representatives from the Departments of Interior, Agriculture and Labor for purposes of preparing our Race Report.
- State/IO will cross-hatch to NSC all cables relating to the World Conference on Racism.
- DoJ will finalize in the near future its legislative proposal on human rights abusers and circulate through OMB for interagency clearance.
- DoJ will work further with Senator Leahy's staff on his legislative proposal on human rights abusers.
- [• White House Counsel will determine whether the Administration has previously taken a position on the juvenile death penalty.
- NSC will draft another letter from the President to the Senate on CEDAW.
- State and NSC will both make efforts to contact key Senators (Bayh and Snow or Collins) on CEDAW.
- NSC will consider including a reference to CEDAW in the next State of the Union address.

- NSC will prepare draft action plan on state and local compliance and will convene a meeting on the issue in the next two weeks.
- Pending higher level approval, NSC will arrange meeting of senior IWG members with Pierre Sane, Director General of Amnesty International, in response to his request for a meeting with the President.

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To: Andre Surena 736-7116
Steve Wapenaar 647-4344
Date/Time: Janet Castello 514-6897

No. of pages to follow: Richard Jerome 307-3904

RE: Julie Fernandez 616-3413
2 Caroline Kruei 69110

Here's a first effort at a concept
paper on enhancing state +
local implementation of international
human rights norms. Let me

know your thoughts.

Based on the discussion we had.

Proposals for Enhancing State and Local Compliance with
International Human Rights Treaty Obligations

1. General Training Program for State and Local Officials

- Joint State/Justice Training Team
 - How to staff?
 - Budget?
- Four Categories of Officials
 - Judges
 - ABA's Judicial Division
 - Appellate Judges Conference
 - Council of Chief Judges Annual Seminar
 - National Conference of State Trial Judges
 - National Center for State Courts
 - American Judges Association
 - Prosecutors
 - National Association of Attorneys General
 - annual conference in March
 - need to identify an issue for a presentation at the upcoming conference
 - National District Attorneys Association
 - National College of District Attorney
 - Law Enforcement Personnel
 - Police Officers
 - Prison Guards
 - Government Civil Rights Offices
 - National Organization of Civil Rights Organizations
 - State and Local Civil Rights Organizations
- Curriculum
 - Develop with Law School?
 - Look at what L/CA has done on consular access

The objective here is to develop a comprehensive training program that would reach out to various state and local officials on human rights issues.

2. Designating State and Local Officials as POCs on Federal Human Rights Issues

The notion here is to identify official liaisons at the state and local level who would be responsible in their area for investigating and responding to human rights complaints, communicating relevant human rights information and generally ensuring compliance with international human rights norms.

3. Develop Human Rights Webcite for Use by State and Local Officials

The goal here would be to develop a webcite containing information on relevant international human rights norms that would be user-friendly for state and local officials. (Such a webcite would be a useful component of the training program laid out in no. 1.)

4. Human Rights Foreign Exchange Program for State and Local Officials

The goal here would be to expose state and local to other countries where human rights norms are actively applied. Could also send state and local officials to human rights training institutes (e.g., Strasbourg).

5. Standardizing Investigation of Human Rights Complaints

DoJ Civil Rights would conduct standard civil rights investigation of all relevant human rights complaints filed in international fora or under international procedures (e.g., 1503 procedure, Inter-American Commission, Special Rapporteurs).



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**International Convention on the Elimination of All Forms of Racial Discrimination,
660 U.N.T.S. 195, *entered into force* Jan. 4, 1969.**

● Ratification Information

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side

even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article I

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.
4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division. 2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

(c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including one's own, and to return to one's country;

(iii) The right to nationality;

(iv) The right to marriage and choice of spouse;

(v) The right to own property alone as well as in association with others;

(vi) The right to inherit;

- (vii) The right to freedom of thought, conscience and religion;
- (viii) The right to freedom of opinion and expression;
- (ix) The right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
 - (ii) The right to form and join trade unions;
 - (iii) The right to housing;
 - (iv) The right to public health, medical care, social security and social services;
 - (v) The right to education and training; (vi) The right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral

standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5.

(a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee;

(b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention:

(a) within one year after the entry into force of the Convention for the State concerned; and

(b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary General, to the General

Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The secretariat of the Committee shall be provided by the Secretary General of the United Nations.
4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1.
 - (a) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or

may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention;

(b) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.
5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.
6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.
8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.
3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.
3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.
4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.
5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.
6.
 - (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications;
 - (b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
7.
 - (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is

unreasonably prolonged;

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

Article 15

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2.

(a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies;

(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in subparagraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall

be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.
2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to this Convention object to it.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the

Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary General.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

2. International Convention on the Elimination of All Forms of Racial Discrimination

Opened for signature at New York on 7 March 1966

ENTRY INTO FORCE: 4 January 1969, in accordance with article 19.1

REGISTRATION: 12 March 1969, No. 9464.

TEXT: United Nations, Treaty Series, vol. 660, p. 195.

STATUS: Signatories: 77. Parties: 152.

Note: The Convention was adopted by the General Assembly of the United Nations in resolution 2106 (XX)2 of 21 December 1965.

Participant	Signature	Ratification, accession (a), succession (d)	Participant	Signature	Ratification, accession (a), succession (d)
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Afghanistan 6 Jul 1983 a

Albania 11 May 1994 a

Algeria 9 Dec 1966 14 Feb 1972

Antigua and Barbuda 25 Oct 1988 d

Argentina 13 Jul 1967 2 Oct 1968

Armenia 23 Jun 1993 a

Australia 13 Oct 1966 30 Sep 1975

Austria 22 Jul 1969 9 May 1972

Azerbaijan 16 Aug 1996 a

Bahamas 5 Aug 1975 d

Bahrain 27 Mar 1990 a

Bangladesh 11 Jun 1979 a

Barbados 8 Nov 1972 a

Belarus 7 Mar 1966 8 Apr 1969

Belgium 17 Aug 1967 7 Aug 1975

Benin 2 Feb 1967

Bhutan 26 Mar 1973

Bolivia 7 Jun 1966 22 Sep 1970

Bosnia and Herzegovina 16 Jul 1993 ^d

Botswana 20 Feb 1974 ^a

Brazil 7 Mar 1966 27 Mar 1968

Bulgaria 1 Jun 1966 8 Aug 1966

Burkina Faso 18 Jul 1974 ^a

Burundi 1 Feb 1967 27 Oct 1977

Cambodia 12 Apr 1966 28 Nov 1983

Cameroon 12 Dec 1966 24 Jun 1971

Canada 24 Aug 1966 14 Oct 1970

Cape Verde 3 Oct 1979 ^a

Central African
Republic 7 Mar 1966 16 Mar 1971

Chad 17 Aug 1977 ^a

Chile 3 Oct 1966 20 Oct 1971

China^{3,4} 29 Dec 1981 ^a

Colombia 23 Mar 1967 2 Sep 1981

Congo 11 Jul 1988 ^a

Costa Rica 14 Mar 1966 16 Jan 1967

Côte d'Ivoire 4 Jan 1973 ^a

Croatia 12 Oct 1992 ^d

Cuba 7 Jun 1966 15 Feb 1972

Cyprus 12 Dec 1966 21 Apr 1967

Czech Republic⁵ 22 Feb 1993 ^d

Democratic Republic
of the Congo 21 Apr 1976 a

Denmark 21 Jun 1966 9 Dec 1971

Dominican Republic 25 May 1983 a

Ecuador 22 Sep 1966 a

Egypt 28 Sep 1966 1 May 1967

El Salvador 30 Nov 1979 a

Estonia 21 Oct 1991 a

Ethiopia 23 Jun 1976 a

Fiji 11 Jan 1973 d

Finland 6 Oct 1966 14 Jul 1970

France 28 Jul 1971 a

Gabon 20 Sep 1966 29 Feb 1980

Gambia 29 Dec 1978 a

Germany 6, 7 10 Feb 1967 16 May 1969

Ghana 8 Sep 1966 8 Sep 1966

Greece 7 Mar 1966 18 Jun 1970

Grenada 17 Dec 1981

Guatemala 8 Sep 1967 18 Jan 1983

Guinea 24 Mar 1966 14 Mar 1977

Guyana 11 Dec 1968 15 Feb 1977

Haiti 30 Oct 1972 19 Dec 1972

Holy See 21 Nov 1966 1 May 1969

Hungary 15 Sep 1966 4 May 1967

Iceland 14 Nov 1966 13 Mar 1967

India 2 Mar 1967 3 Dec 1968

Iran (Islamic
Republic of) 8 Mar 1967 29 Aug 1968

Iraq 18 Feb 1969 14 Jan 1970

Ireland 21 Mar 1968

Israel 7 Mar 1966 3 Jan 1979

Italy 13 Mar 1968 5 Jan 1976

Jamaica 14 Aug 1966 4 Jun 1971

Japan 15 Dec 1995 a

Jordan 30 May 1974 a

Kazakhstan 26 Aug 1998 a

Kuwait 15 Oct 1968 a

Kyrgyzstan 5 Sep 1997 a

Lao People's
Democratic
Republic 22 Feb 1974 a

Latvia 14 Apr 1992 a

Lebanon 12 Nov 1971 a

Lesotho 4 Nov 1971 a

Liberia 5 Nov 1976 a

Libyan Arab
Jamahiriya 3 Jul 1968 a

Lithuania 8 Jun 1998 10 Dec 1998

Luxembourg 12 Dec 1967 1 May 1978

Madagascar 18 Dec 1967 7 Feb 1969

Malawi 11 Jun 1996 a

Maldives 24 Apr 1984 a

Mali 16 Jul 1974 a

Malta 5 Sep 1968 27 May 1971

Mauritania 21 Dec 1966 13 Dec 1988

Mauritius 30 May 1972 ^a

Mexico 1 Nov 1966 20 Feb 1975

Monaco 27 Sep 1995 ^a

Mongolia 3 May 1966 6 Aug 1969

Morocco 18 Sep 1967 18 Dec 1970

Mozambique 18 Apr 1983 ^a

Namibia 11 Nov 1982 ^a

Nepal 30 Jan 1971 ^a

Participant	Signature	Ratification, accession (a), succession (d)	Participant	Signature	Ratification, accession (a), succession (d)
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Netherlands 24 Oct 1966 10 Dec 1971

New Zealand 25 Oct 1966 22 Nov 1972

Nicaragua 15 Feb 1978 ^a

Niger 14 Mar 1966 27 Apr 1967

Nigeria 16 Oct 1967 ^a

Norway 21 Nov 1966 6 Aug 1970

Pakistan 19 Sep 1966 21 Sep 1966

Panama 8 Dec 1966 16 Aug 1967

Papua New Guinea 27 Jan 1982 ^a

Peru 22 Jul 1966 29 Sep 1971

Philippines 7 Mar 1966 15 Sep 1967

Poland 7 Mar 1966 5 Dec 1968

Portugal 24 Aug 1982 ^a

Qatar 22 Jul 1976 a

Republic of Korea 8 Aug 1978 5 Dec 1978

Republic of Moldova 26 Jan 1993 a

Romania 15 Sep 1970 a

Russian Federation 7 Mar 1966 4 Feb 1969

Rwanda 16 Apr 1975 a

Saint Lucia 14 Feb 1990 d

Saint Vincent and
the Grenadines 9 Nov 1981 a

Saudi Arabia 23 Sep 1997 a

Senegal 22 Jul 1968 19 Apr 1972

Seychelles 7 Mar 1978 a

Sierra Leone 17 Nov 1966 2 Aug 1967

Slovakia⁵ 28 May 1993 d

Slovenia 6 Jul 1992 d

Solomon Islands 17 Mar 1982 d

Somalia 26 Jan 1967 26 Aug 1975

South Africa 3 Oct 1994

Spain 13 Sep 1968 a

Sri Lanka 18 Feb 1982 a

Sudan 21 Mar 1977 a

Suriname 15 Mar 1984 d

Swaziland 7 Apr 1969 a

Sweden 5 May 1966 6 Dec 1971

Switzerland 29 Nov 1994 a

Syrian Arab Republic 21 Apr 1969 a

Tajikistan 11 Jan 1995 a

the former Yugoslav
Republic of Macedonia 18 janv 1994 d

Togo 1 Sep 1972 a

Tonga 16 Feb 1972 a

Trinidad and Tobago 9 Jun 1967 4 Oct 1973

Tunisia 12 Apr 1966 13 Jan 1967

Turkey 13 Oct 1972

Turkmenistan 29 Sep 1994 a

Uganda 21 Nov 1980 a

Ukraine 7 Mar 1966 7 Mar 1969

United Arab Emirates 20 Jun 1974 a

United Kingdom⁴, ⁸ 11 Oct 1966 7 Mar 1969

United Republic
of Tanzania 27 Oct 1972 a

United States
of America 28 Sep 1966 21 Oct 1994

Uruguay 21 Feb 1967 30 Aug 1968

Uzbekistan 28 Sep 1995 a

Venezuela 21 Apr 1967 10 Oct 1967

Viet Nam 9 Jun 1982 a

Yemen⁹ 18 Oct 1972 a

Yugoslavia 15 Apr 1966 2 Oct 1967

Zambia 11 Oct 1968 4 Feb 1972

Zimbabwe 13 May 1991 a

Declarations and Reservations

régime, the United Kingdom must sign subject to a reservation of the right not to apply the Convention to Rhodesia unless and until the United Kingdom informs the Secretary-General of the United Nations that it is in a position to ensure that the obligations imposed by the Convention in respect of that territory can be fully implemented.

"Secondly, the United Kingdom wishes to state its understanding of certain articles in the Convention. It interprets article 4 as requiring a party to the Convention to adopt further legislative measures in the fields covered by sub-paragraphs (a), (b) and (c) of that article only in so far as it may consider with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention (in particular the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association) that some legislative addition to or variation of existing law and practice in those fields is necessary for the attainment of the end specified in the earlier part of article 4. Further, the United Kingdom interprets the requirement in article 6 concerning 'reparation or satisfaction' as being fulfilled if one or other of these forms of redress is made available and interprets 'satisfaction' as including any form of redress effective to bring the discriminatory conduct to an end. In addition it interprets article 20 and the other related provisions of Part III of the Convention as meaning that if a reservation is not accepted the State making the reservation does not become a Party to the Convention.

"Lastly, the United Kingdom maintains its position in regard to article 15. In its view this article is discriminatory in that it establishes a procedure for the receipt of petitions relating to dependent territories while making no comparable provision for States without such territories. Moreover, the article purports to establish a procedure applicable to the dependent territories of States whether or not those States have become parties to the Convention. Her Majesty's Government have decided that the United Kingdom should sign the Convention, these objections notwithstanding, because of the importance they attach to the Convention as a whole."

Upon ratification:

"First, the reservation and interpretative statements made by the United Kingdom at the time of signature of the Convention are maintained.

"Secondly, the United Kingdom does not regard the Commonwealth Immigrants Acts, 1962 and 1968, or their application, as involving any racial discrimination within the meaning of paragraph 1 of article 1, or any other provision of the Convention, and fully reserves its right to continue to apply those Acts.

"Lastly, to the extent if any, that any law relating to election in Fiji may not fulfil the obligations referred to in article 5 (c), that any law relating to land in Fiji which prohibits or restricts the alienation of land by the indigenous inhabitants may not fulfil the obligations referred to in article 5 (d) (v), or that the school system of Fiji may not fulfil the obligations referred to in articles 2, 3 or 5 (e) (v), the United Kingdom reserves the right not to apply the Convention to Fiji."

UNITED STATES OF AMERICA

Upon signature:

"The Constitution of the United States contains provisions for the protection of individual rights, such as the right of free speech, and nothing in the Convention shall be deemed to require or to authorize legislation or other action by the United States of America incompatible with the provisions of the Constitution of the United States of America."

Upon ratification:

"I. The Senate's advice and consent is subject to the following reservations:

(1) That the Constitution and laws of the United States contain extensive protections of individual freedom of speech, expression and association. Accordingly, the United States does not accept any obligation under this Convention, in particular under articles 4 and 7, to restrict those rights, through the adoption of legislation or any other measures, to the extent that they are protected by the Constitution and laws of the United States. *

(2) That the Constitution and laws of the United States establish extensive protections against discrimination, reaching significant areas of non-governmental activity. Individual privacy and freedom from governmental interference in private conduct, however, are also recognized as among the fundamental values which shape our free and democratic society. The United States understands that the identification of the rights protected under the Convention by reference in article 1 to fields of 'public life' reflects a similar distinction between spheres of public conduct that are customarily the subject of governmental regulation, and spheres of private conduct that are not. To the extent, however, that the Convention calls for a broader regulation of private conduct, the United States does not accept any obligation under this Convention to enact legislation or take other measures under paragraph (1) of article 2, subparagraphs (1) (c) and (d) of article 2, article 3 and article 5 with respect to private conduct except as mandated by the Constitution and laws of the United States. }

(3) That with reference to article 22 of the Convention, before any dispute to which the United States is a party may be submitted to the jurisdiction of the International Court of Justice under this article, the specific consent of the United States is required in each case.

II. the Senate's advice and consent is subject to the following understanding, which shall apply to the obligations of the United States under this Convention:

That the United States understands that this Convention shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the state and local governments. to the extent that state and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfilment of this Convention.

III. The Senate's advice and consent is subject to the following declaration:

That the United States declares that the provisions of the Convention are not self-executing."

viet nam13

Declaration:

(1) The Government of the Socialist Republic of Viet Nam declares that the provisions of article 17 (1) and of article 18 (1) of the Convention whereby a number of States are deprived of the opportunity of becoming Parties to the said Convention are of a discriminatory nature and it considers that, in accordance with the principle of the sovereign equality of States, the Convention should be open to participation by all States without discrimination or restriction of any kind.