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 9.6 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 9,000 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.