

## **Human Rights Watch**

### **A HUMAN RIGHTS AGENDA FOR THE BUSH ADMINISTRATION**

**January 17, 2001**

#### **HUMAN RIGHTS IN THE UNITED STATES**

##### **Condition aid to U.S. police and corrections departments on rights improvements and support "pattern or practice" inquiries**

A small but important number of U.S. police and corrections officials engage in torture or cruel, inhuman or degrading practices. Your administration should condition federal funding for police and corrections departments on their taking concrete steps to hold abusive officers accountable. The Justice Department's power under the Violent Crime Control and Law Enforcement Act of 1994 to initiate inquiries to determine whether there is a "pattern or practice" of abuse and poor accountability has become an essential tool in combating unchecked police misconduct. These inquiries, and the necessary reforms that stem from them, not only lead to improvements in the departments targeted, but also send a strong signal to all police departments about "best practices." While prosecutions of law enforcement officers by the Justice Department's Civil Rights Division are important, these civil powers allow the department, working with local officials, to promote broader reforms that are not addressed by individual criminal prosecutions. In Pittsburgh, PA, Steubenville, OH, and New Jersey, reforms have been, or are being, implemented following "pattern or practice" inquiries. Currently, the Civil Rights Division reports that it is reviewing fourteen police departments; negotiations are underway in Los Angeles and New York City following inquiries in those cities. We strongly urge you to support these inquiries and to provide adequate support to the Civil Rights Division to allow it to fulfill its mandate.

##### **Support a moratorium on the death penalty**

Regardless of what one thinks of the death penalty, one must be touched by the arbitrariness and racial discrimination with which it is applied and the inadequate legal representation often given to poor defendants. As recent studies have shown, since 1973, 92 people in 22 states have been released from death row due to evidence of their innocence. In January 2000, after the exoneration of thirteen death-row inmates, Governor George Ryan issued an open-ended moratorium on executions in Illinois. We urge you as well to support a moratorium on the federal death penalty at least until there are adequate assurances that it is not applied in an arbitrary or discriminatory manner. Your administration should also press states to provide indigent capital defendants with skilled, committed and adequately funded legal counsel; to provide meaningful remedies for race discrimination in capital cases; and to prohibit the execution of persons who are mentally impaired or who committed capital crimes before they were eighteen years old, as required by law.

### **End overly harsh sentences for nonviolent offenders**

More than one million Americans are behind bars for nonviolent crimes. Many are low-level drug offenders drawn disproportionately from minority communities. Their incarceration results from excessively punitive and ill-conceived policies spawned during a decade of "tough on crime" political campaigns and the "war on drugs" which emphasized punishment as an answer to the drug problem. You should press for elimination of harsh mandatory minimum sentences for nonviolent drug offenders and for equal sentences for crack and powder cocaine offenses. Your administration should encourage alternatives to incarceration, increase support for the prevention and treatment of substance abuse, and discourage lengthy sentences for nonviolent and drug offenders.

### **Protect the rights of immigrants held in administrative detention**

Poor planning and new laws requiring detention for broader categories of immigrants have created a detention crisis, forcing the INS to contract with local jails and prisons across the country. Thousands of detainees awaiting INS determinations who are not accused of any crime are held indefinitely in INS detention centers, county jails, and other secure facilities, in violation of international law. Just this month, the INS for the first time issued standards addressing conditions and treatment at all facilities where INS detainees are held. This is a positive development, but the real challenge remains adequate monitoring that leads to prompt improvements when violations of the standards are identified. The administration should prohibit the detention of asylum seekers barring exceptional circumstances, conduct parole hearings for indefinite detainees who cannot be deported to their countries of origin, enforce detention standards, and ensure access to effective legal representation.

### **Protect child farmworkers**

While the United States has become a world leader in fighting abusive child labor internationally, it tolerates such practices domestically within U.S. agriculture. Hundreds of thousands of child farmworkers—primarily Latino—often work twelve- and fourteen-hour days under grueling conditions, sacrificing their education and risking pesticide poisoning, heat illness, injuries and life-long disabilities. Under the Fair Labor Standards Act, child farmworkers are allowed to work at younger ages, for longer hours, and under more hazardous conditions than children in other jobs. This law, dating back to 1938, exempted agriculture from child labor standards during a time when family farming was the norm. These exemptions are no longer appropriate. Due to mechanization and the phenomenal growth of large-scale agriculture, most child farmworkers today are hired laborers for commercial enterprises and deserve the same protection as children working in other jobs. We urge your support for amendments to update the Fair Labor Standards Act to ensure that all working

children are protected equally.

### **Stop the use of child soldiers**

Last year, the United States joined a global consensus to address the tragedy of child soldiers—a practice that affects some 300,000 children in more than thirty countries. The new Optional Protocol on the Involvement of Children in Armed Conflict raises the age for forced recruitment or participation in armed conflict from fifteen to eighteen. Since the protocol's formal adoption six months ago, seventy-five governments—including the United States—have signed it, indicating strong international concern and commitment to ending the use of child soldiers. We urge your administration to explicitly support ratification, and to encourage the Senate to act swiftly to ratify the protocol. To ensure full compliance with the protocol, the Department of Defense should devise and implement policies to ensure that the very few seventeen-year olds in the U.S. Armed Forces are not assigned to combat-related units until they reach their eighteenth birthdays. We also urge you to eliminate U.S. military aid that facilitates the use of child soldiers by other governments or armed opposition groups, and to support programs for the rehabilitation and social reintegration of former child soldiers.

### **Ratify and implement international human rights treaties**

It is increasingly difficult for the United States to speak out on human rights issues internationally, because of the United States' dismal record in ratifying human rights treaties. When it does ratify rights treaties, the U.S has typically carved away any new protections for those in the United States by adding reservations, declarations, and understandings—on such issues as stopping ongoing execution of juvenile offenders or providing enhanced protection from invidious discriminatory treatment. Moreover, the United States is behind the rest of the developed world in ratifying the key international instruments on women's rights, economic rights and workers' rights, and alone with Somalia among all the countries in the world in failing to ratify the Convention on the Rights of the Child. Ironically, in light of its long stated commitment to upholding human rights at home and in its foreign policy, the U.S. government today poses a threat to the universality of human rights. Consistent efforts to exempt the United States from the international system for protecting human rights will be mimicked by far less savory regimes. Moreover, the U.S. government's unwillingness to subject itself to international human rights standards risks diminishing what should be one of the most important voices defending human rights.