

WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

HUMAN RIGHTS WATCH BACKGROUNDER August 2001

Human Rights Watch is addressing the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in five principal areas:

CASTE DISCRIMINATION

More than 250 million people worldwide suffer under a hidden apartheid of segregation, modern-day slavery, and other extreme forms of discrimination because they were born into a marginalized caste. Caste discrimination has been a shameful secret for too long—and some of the governments which most need to fight caste discrimination have been most strident in demanding this issue be excluded from the World Conference.

- The World Conference should recognize that caste-based discrimination blights the lives of hundreds of millions—and that international programs are required to remedy its consequences and to establish practical measures to facilitate its abolition.

REFUGEES, ASYLUM SEEKERS, MIGRANTS, AND INTERNALLY DISPLACED PERSONS

Throughout the world, refugees, asylum seekers, migrants and internally displaced persons are the victims of racial discrimination, racist attacks, xenophobia and ethnic intolerance. Racism is both a cause and a product of forced displacement, and an obstacle to its solution. In 2000, some 150 million migrants were living outside their countries of birth. Of these, some 50 million people were forcibly displaced as a result of persecution, conflict, and human rights violations. Industrialized states have introduced a barrage of restrictive policies and practices over the past decade targeting asylum seekers, refugees, and migrants. Even traditionally generous host countries in the developing world, often over-burdened with their own social and economic problems, have become increasingly reluctant to host large refugee populations.

- The World Conference should recognize discrimination against refugees, asylum seekers, migrants, and internally displaced persons as a contemporary form of racism. It should call on governments to reverse policies and practices that discriminate against refugees, asylum seekers, and migrants; to reinforce the existing international refugee protection regime; and to introduce new protection standards where necessary.

DISCRIMINATION AND CITIZENSHIP

Whole populations have been denied nationality in their own countries—or been stripped of their citizenship—because of their race or ethnicity. Some have been present in a country for generations, often predating their country's independence; others are indigenous peoples. When citizenship is restricted to the children of male nationals, female citizens are

discouraged from marrying men of a different race or nationality because their children would be denied citizenship. Disputes over nationality have generated refugee crises, where particular ethnic groups have been arbitrarily stripped of their citizenship prior to their forced expulsion.

- The World Conference should place the issue of racial discrimination in the conferring of citizenship firmly on the agenda.

DISCRIMINATION IN THE ADMINISTRATION OF JUSTICE

Members of racial, ethnic, and other minorities or vulnerable groups often face harassment, arbitrary detention, abusive treatment by law enforcement, and disparate treatment by prosecutors and the courts. The Convention on the Elimination of All Forms of Racial Discrimination (CERD), to which 157 states are party, obliges states to nullify any law or practice *which has the effect* of creating or perpetuating racial discrimination. But drafts of the World Conference program of action have called for measures to address discrimination in the administration of justice only where discriminatory *intent* can be discerned. Ostensibly race- or descent-neutral laws can have a disparate impact on vulnerable minorities—or even majorities—as a consequence of prosecutorial discretion, or sentencing policies, or the nature of the law itself.

- The World Conference should recommend measures to identify and to remedy the racist *effect* of law or practice in the administration of justice, even in the absence of racist *intent*.

REPARATIONS

Governments responsible should provide reparations to counter the most severe continuing effects of slavery, segregation, and other extreme forms of racism. National and international panels should be created with maximum transparency and public participation to identify and acknowledge past abuses, and to guide action to counter their present-day effects. These panels should educate the public, acknowledge responsibility, and propose methods of redress and making amends. They would focus on tracing these effects not for particular individuals but for groups.

A primary purpose of reparations would be to address the social and economic foundations of victims' marginalization today—through means such as investment in education, housing, health care, or job training.

- The World Conference should call for reparation to address the continuing effects of slavery, segregation, and other extreme forms of racism.

Please see other related materials at <http://www.hrw.org/campaigns/race/index.htm>