United States

As the Clinton Administration’s second term ended in 2000, evidence of its domestic human rights legacy was scant. The country made little progress in embracing international human rights standards at home. Most public officials remained either unaware of their human rights obligations or content to ignore them.

As in previous years, serious human rights violations were most apparent in the criminal justice system—including police brutality, discriminatory racial disparities in incarceration, abusive conditions of confinement, and state-sponsored executions, even of juvenile offenders and the mentally handicapped. But extensively documented human rights violations also included violations of workers’ rights, discrimination against gay men and lesbians in the military, and the abuse of migrant child farmworkers.

The United States in 2000 submitted reports on its compliance with two international human rights treaties—the Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—to the respective treaty monitoring bodies. Both reports acknowledged significant abuses of the rights affirmed in those treaties.

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The initial report of the U.S. to the United Nations Committee against Torture—produced four years after it was due—acknowledged areas of “concern, contention and criticism” with regard to police abuse, excessive use of force in prison, prison overcrowding, physical and mental abuse of inmates, and the lack of adequate training and oversight for police and prison guards. Nevertheless, the initial report was incomplete and misleading in several important aspects. It failed to acknowledge crucial weaknesses in laws and mechanisms to protect the right to be free of torture and cruel, inhuman or degrading treatment or punishment, as well as the serious obstacles abuse victims face in securing legal redress. It failed also to confront forthrightly the prevalence of abuses against detained and incarcerated men, women and children throughout the United States.

The report also glossed over the impact of the reservations, understandings, and declarations the United States made when it ratified the convention. The United States redefined torture, as prohibited by the convention, to include only conduct already prohibited under the U.S. Constitution and to exclude, with few exceptions, mental torture that is not accompanied by physical torture. It also declared the treaty to be non-self-executing, and then failed to enact implementing legislation, with the result that U.S. residents cannot turn to the courts to seek protection of the rights affirmed under the treaty. The U.S., in effect, declined to change its laws to bring them up to international standards.

In May, the U.N. Committee against Torture issued a statement of conclusions and recommendations highlighting a range of U.S. practices that contravened the convention. The committee’s concerns included: ill-treatment by police and prison officials, much of it racially discriminatory; sexual assaults upon female detainees and prisoners and degrading conditions of confinement of female prisoners; the use of electro-shock devices and restraint chairs; the excessively harsh regime of super-maximum security prisons; and the holding of youths in adult prisons. The committee urged the U.S. to enact legislation making torture a federal
crime; to withdraw its reservations and declarations to the convention; to take the necessary steps to ensure those who violate the convention are investigated, prosecuted, and punished; to prohibit stun belts and restraint chains; and to ensure that minors are not incarcerated in adult facilities.

In September, the U.S. produced—five years late—its initial report to the United Nations Committee on the Elimination of Racial Discrimination. With unprecedented and welcome candor, the report acknowledged the persistence of racism, racial discrimination and de facto segregation in the United States. The tenor and content of the report signaled the Clinton Administration’s recognition that despite decades of civil rights legislation and public and private efforts, the inequalities faced by minorities remained one of the country’s most crucial and unresolved human rights challenges.

One of the report’s most significant weaknesses was in its consideration of the role of race discrimination in the criminal justice system. It acknowledged the dramatically disproportionate incarceration rates for minorities, noted the many studies indicating that members of minority groups, especially blacks and Hispanics, “may be disproportionately subject to adverse treatment throughout the criminal justice process,” and acknowledged concerns that “incidents of police brutality seem to target disproportionately individuals belonging to racial or ethnic minorities.” But it did not question whether the ostensibly race-neutral criminal laws or law enforcement practices causing the incarceration disparities violated CERD, nor did it acknowledge the federal government’s obligation, under CERD, to ensure that state criminal justice systems (which account for 90 percent of the incarcerated population) were free of racial discrimination.

The report did acknowledge the dramatic, racially disparate impact of federal sentencing laws that prescribe different sentences for powder cocaine versus crack cocaine offenses, even though the two drugs are pharmacologically identical. The laws impose a mandatory five year prison sentence on anyone convicted of selling five grams or more of crack cocaine, and a ten year mandatory sentence for selling fifty grams or more. One hundred times as much powder cocaine must be sold to receive the same sentences. By setting a much lower drug-weight threshold for crack than powder cocaine, the laws resulted in substantially higher sentences for crack cocaine offenders. Although the majority of crack users were white, blacks comprised almost 90 percent of federal offenders convicted of crack offenses and hence served longer sentences for similar drug crimes than whites. While recounting the Clinton Administration’s unsuccessful effort to secure a limited reform of the cocaine sentencing laws (a reform which, in any event, would still have left black drug defendants disproportionately vulnerable to higher sentences), the report did not venture an assessment of whether the current laws violate CERD. Nor did it consider whether the striking racial differences in the incarceration of drug offenders at the state level was consistent with CERD, reflecting the Administration’s general reluctance to subject the U.S. war on drugs to human rights scrutiny.

As reflected in the report, the Administration also mistakenly believed that U.S. constitutional prohibitions on race discrimination meet its obligations under CERD. Under state and federal constitutional law, racial disparities in law enforcement are constitutional as long as they are not undertaken with discriminatory intent or purpose. But CERD prohibits policies or practices that have the effect of discriminating on the basis of race regardless of intent. By requiring proof of discriminatory intent, U.S. constitutional law erects a frequently insurmountable obstacle to obtaining judicial relief from criminal justice policies that have an unjustifiably discriminatory impact. Instead of championing reforms that would reduce striking racial disparities in, for example, the rates at which blacks and whites are arrested and incarcerated
on drug charges, the Clinton Administration expressed pride in constitutional protections that do not, in fact, meet international standards.

The U.S. maintained its failure to become party to important human rights treaties, including the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It was one of only two countries in the world—with Somalia, which has no internationally recognized government—that had not ratified the Convention on the Rights of the Child. In addition, little progress was made toward signing and ratifying core International Labour Organization conventions intended to protect basic labor rights, though the Clinton Administration did sign ILO Convention No. 182, the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in December of 1999. It also submitted an ILO Convention concerning employment discrimination to the Senate for ratification, but the Senate did not act.

**Death Penalty**

An important and positive human rights development was the heightened criticism of the death penalty. The increasing debate over unfairness in capital cases and the high risk of executing the innocent caused public support for the death penalty to decline to its lowest point in years (60 percent). In September, a bipartisan group of congressmen released a national opinion poll indicating that 80 percent of Americans supported reforming the death penalty, with 64 percent supporting a moratorium on executions until issues of fairness in capital punishment were resolved.

Debate about the death penalty was fueled by the record number of executions (145 at the time of this writing) in Texas under Gov. George W. Bush, the Republican presidential nominee; the publication of important national reports; and the first-ever imposition of a moratorium on executions by a state governor. Governor Bush’s complacency with the high number of executions in Texas, his refusal to acknowledge the extensively documented lack of adequate legal representation for capital defendants in Texas, and his refusal to oppose the execution of even mentally handicapped defendants or youthful offenders generated widespread media attention and criticism.

A comprehensive review of capital cases over a twenty-three year period by a team of university professors revealed that more than two of every three death penalty sentences were overturned on appeal. The study found that capital trials were persistently and systematically fraught with error and injustice, including poor legal representation of capital defendants by incompetent attorneys and prosecutorial misconduct.

Although racial disparities in the application of the death penalty among the states have long been documented, a new study by the U.S. Department of Justice found dramatic racial and geographic imbalances in the administration of the federal death penalty as well. The study found, for example, that 80 percent of federal defendants who faced capital charges, and 74 percent of convicted defendants for whom prosecutors recommended the death penalty, were members of minorities. The study increased public concern that race plays an impermissible role in death penalty decisions.

Driven by the exoneration of thirteen death row inmates—compared to the twelve executed in the state since the death penalty’s reinstatement in 1977—Illinois Gov. George Ryan, a Republican, imposed a statewide moratorium on executions at the end of January. In New Hampshire, the state legislature passed a bill abolishing the death penalty, but the state’s governor, Jeanne Shaheen, a Democrat, vetoed the measure.
the U.S. Congress, legislators introduced the Innocence Protection Act, which would require that competent, experienced attorneys be appointed to represent capital defendants and that capital defendants have access to DNA testing, among other reforms. The bill’s chances for passage appeared slim as the 106th Congress wound down, but its reintroduction during the next Congress seemed likely.

Despite these positive developments, as of October 24, the United States had put seventy persons to death in 2000, and eighteen more persons were scheduled for execution before the end of the year. The vast majority of executions in 2000 occurred in the Southern states, with Texas accounting for nearly half of all executions. Among those executed were individuals who were mentally impaired and four juvenile offenders—persons below the age of eighteen when the crimes for which they were sentenced were committed. Approximately 3,682 persons were on death row as of July 1. The U.S. continued to be one of only five countries in the world that executes juvenile offenders.

Police Abuse

Each year, thousands of allegations of police abuse are filed across the country. While videotaped police actions—such as those documenting Philadelphia police officers beating a man after a vehicle chase, Miami-Dade officers kicking a man in the face after a vehicle pursuit, and Los Angeles police officers using excessive force to disperse political protesters during the Democratic National Convention—displayed the problem vividly in 2000, most incidents of alleged police abuse took place away from public scrutiny. Because of inadequate investigative and disciplinary systems, relatively few police officers who violate departmental rules, or the law, are held accountable. Victims seeking redress faced obstacles that ranged from overt intimidation to the reluctance of local and federal prosecutors to take on police brutality cases.

During fiscal year 1999, approximately 12,000 civil rights complaints, most alleging police abuse, were submitted to the U.S. Department of Justice, but over the same period just thirty-one officers were either convicted or pled guilty to crimes under the civil rights statute stemming from complaints during 1999 and previous years.

In a positive development, the Department of Justice stepped up efforts to check police abuse through “pattern or practice” inquiries and agreements. These inquiries, authorized in 1994 legislation, allow the Justice Department to conduct civil investigations into law enforcement agencies to determine whether there is a pattern or practice of civil rights violations. Two of the country’s largest police departments, the New York City Police Department (NYPD) and the Los Angeles Police Department (LAPD), were investigated by the Justice Department under these powers and, along with city officials, were negotiating agreements to avoid being sued by the Justice Department and possible, direct Justice Department oversight and court-imposed reforms. At this writing, progress was slow in talks between Justice Department and New York City officials. In Los Angeles, city officials had accepted, in theory, a “consent decree” that addresses some of the reforms required. The legally binding agreement should ensure that an effective, computerized tracking system to identify officers in need of enhanced supervision is created and utilized; the civilian board of commissioners that oversees the police is strengthened; and that a special unit to investigate shootings and use of force by officers is created. Other police departments have also been investigated under these powers.

Several high-profile incidents involving the New York City police, including the assault on Abner Louima in August 1997, the February 1999 shooting death of Amadou Diallo, who was unarmed, and the
March 2000 shooting death of Patrick Dorismond, also unarmed, raised concerns that the city’s police officers were not adequately trained, supervised, or disciplined. Following the assault on Louima, the Justice Department initiated an inquiry into the NYPD’s management. A separate Justice Department investigation focused on the Street Crime Unit and allegations of racial profiling by its officers; Diallo was shot and killed by officers assigned to the unit.

In Los Angeles, the Justice Department’s inquiry focused primarily on the origins of the Rampart scandal. The anti-gang unit based in the LAPD’s Rampart Division brutalized residents and framed suspects. The officer at the center of the scandal, Rafael Pérez, provided information about his and other officers’ misconduct after he was caught stealing cocaine from a police evidence room and sought a lighter prison sentence.

In one LAPD case, Javier Ovando was shot, allegedly by Pérez’s partner, and paralyzed and then served three years in prison. The officers allegedly framed him and placed a gun at the scene to make it appear Pérez had been armed. Approximately one hundred other convictions were overturned as a result of the officers’ tainted testimony and evidence that had sent individuals to prison. The expense facing the city and county of Los Angeles arising from civil lawsuits for excessive force, false imprisonment and other violations, as well as investigating and reviewing all cases related to the expanding number of officers implicated in the scandal, was predicted to cost in the hundreds of millions of dollars.

The wide-ranging Rampart scandal revealed poor management and practices by LAPD officials and the district attorney’s office, and lax oversight by the civilian police commission. It also demonstrated that many of the key Christopher Commission reforms from 1991 had yet to take hold, leading to ineffectual monitoring of officers’ behavior. In a May 2000 letter to the Los Angeles city attorney, the Justice Department stated that it had found, as a result of its investigation, “serious deficiencies in City and LAPD policies and procedures for training, supervising, and investigating and disciplining police officers foster and perpetuate officer misconduct.”

The issue of racial profiling by police received increased attention. Legislation to require the compilation of statistics on vehicle stops and searches, and the race of vehicle occupants, was under consideration in the U.S. Congress. Several police departments, in response to pressure from activist groups and concerned political and community leaders, started to compile these statistics voluntarily. The purpose of the data compilation was to document and end the discriminatory and illegal practice by police of stopping and searching vehicles based on the race of the driver or passengers.

**Overincarceration, Drugs and Race**

The world’s largest prison population continued to grow because of punitive criminal justice policies that mandated harsh prison terms even for minor nonviolent offenses and increased the length of sentences, and because of increases in the number of inmates returned to prison for parole violations. In August, the U.S. Department of Justice revealed that the number of men and women behind bars in the U.S. at the end of 1999 exceeded two million and the rate of incarceration had reached 690 inmates per 100,000 residents—a rate Human Rights Watch believed to be the highest in the world (with the exception of Rwanda). The Department of Justice also revealed that approximately 1.5 million children—2 percent of the country’s children—had a parent in state or federal prison.
Prison was not reserved for notably dangerous or violent offenders: approximately 70 percent of all new admissions to state prison in 1998 (the most recent year for which data was available) were people convicted of nonviolent property, drug or public order offenses. The unrelenting war on drugs continued to pull hundreds of thousands of drug offenders into the criminal justice system: 1,559,100 people were arrested on drug charges in 1998; approximately 450,000 drug offenders were confined in jails and prisons. According to the Department of Justice, 107,000 people were sent to state prison on drug charges in 1998, representing 30.8 percent of all new state admissions. Drug offenders constituted 57.8 percent of all federal inmates.

Racial minorities comprised a strikingly disproportionate percentage of the prison population. African Americans constituted 46.5 percent of state prisoners and 40 percent of federal prisoners, although they constituted only 12 percent of the national population. Nationwide, black men were eight times more likely to be in prison than white men, with an incarceration rate of 3,408 per 100,000 black male residents compared to a white male rate of 417 per 100,000. But in eleven states, black men were incarcerated at rates that were between twelve and twenty-six times greater than those of white men. The Department of Justice estimated that 9.4 percent of all black men in their late twenties were in prison in 1999 compared to 1 percent of white men in the same age group.

Female incarceration rates, though much lower than male, reflected similar racial disparities, with black women eight times more likely to be in prison than white. Racial disparities were also pronounced in the incarceration of youths: although juveniles belonging to minority groups constituted one-third of the adolescent population in the United States, they comprised two-thirds of the juveniles confined in local detention and state correctional systems. Minority youths were transferred to adult courts and sentenced to incarceration more frequently than white youths charged with similar offenses.

Drug law enforcement practices that disproportionately target black Americans contributed to wide disparities in black and white incarceration rates. Nationally, black men were admitted to state prison on drug charges at a rate relative to population that was 13.4 times greater than that of white men. Black youths with no prior admissions were admitted to public correctional facilities for drug offenses at forty-eight times the rate of white youths. In some states the racial disparities were even worse: in seven states, blacks constituted between 80 and 90 percent of all drug offenders sent to prison and, in at least fifteen states, black men were sent to prison on drug charges at rates that were from twenty to fifty-seven times greater than those of white men. The concentration of drug law enforcement in low income minority neighborhoods and higher arrest rates for black drug offenders than white were primarily responsible for the remarkable racial disparities in drug offender incarceration.

Political timidity by legislators meant scant progress in reducing the inordinately high sentences for drug and other nonviolent offenses required under mandatory minimum sentencing laws. In New York, for example, the legislature once again adjourned without reforming twenty-five year old drug law legislation that required the same length of prison sentence for first-time offenders convicted of selling two ounces of cocaine as for murderers—a minimum of fifteen years to life.

A growing number of citizens were unable to vote because of laws that disenfranchise people convicted of felonies who are in prison, on probation or parole—and even, in one quarter of the states, who have finished serving their sentences. An estimated 3.9 million U.S. citizens were disenfranchised, including over one million who had fully completed their sentences. Black Americans were particularly hard hit by
disenfranchisement laws: 13 percent of black men—1.4 million—were disenfranchised; in two states, almost one in three black men was unable to vote because of a felony conviction. Legislative efforts and local initiatives across the country to reform disenfranchisement laws proliferated, but most were blocked by conservative opposition. Lawsuits challenging disenfranchisement laws were proceeding in Florida, Pennsylvania and Washington.

**Conditions of Confinement**

Prisons remained overcrowded: twenty-two states and the federal prison system operated at 100 percent or more of their highest capacity. Overcrowding contributed to the growth of private prisons: according to the Department of Justice privately-operated facilities held 5.5 percent of all state prisoners and 2.5 percent of federal prisoners.

Most inmates had scant opportunities for work, training, education, treatment or counseling because of taxpayer resistance to increasing the already astonishing U.S. $41 billion spent annually on corrections and because of the prevailing punitive ideology that applauds harsh prison conditions. Idle inmates with long sentences, little hope of early release (and hence little incentive for good behavior) and jammed into poorly equipped facilities, sometimes became violent: in 1998 (the most recent year for which data was available), fifty-nine inmates were killed by other inmates, and assaults, fights, and rapes left 6,750 inmates and 2,331 correctional staff injured seriously enough to require medical attention. Rivalry and tension between race-based prison gangs lay behind many individual assaults and sometimes escalated into violent riots.

Men in prison were subject to prisoner-on-prisoner sexual abuse, whose effects on the victim’s psyche were serious and enduring. Inmate victims reported nightmares, deep depression, shame, loss of self-esteem, self-hatred, and considering or attempting suicide. Victims of rape, in the most extreme cases, were literally the slaves of the perpetrators, being “rented out” for sex, “sold,” or even auctioned off to other inmates. Despite the devastating psychological impact of such abuse, few if any preventative measures were taken in most jurisdictions, while perpetrators were rarely punished adequately by prison officials.

Over twenty thousand prisoners were confined in special super-maximum security facilities. They typically spent all their waking and sleeping hours locked alone or with a cellmate in small sometimes windowless cells from which they were released for only a few hours each week for solitary recreation or showers. Super-max prisoners had almost no access to educational or recreational activities or other sources of mental stimulation and were handcuffed, shackled and escorted by officers whenever they left their cells. Although super-max confinement was ostensibly designed to control incorrigibly violent or dangerous inmates, many inmates so confined did not meet those criteria. An inmate committed suicide at the super-max in Ohio in April, the third suicide since it opened in 1998, while draconian rules and restrictions prompted a prolonged hunger strike at the super-max in Illinois. Inmates at Wisconsin’s new super-max prison filed a lawsuit challenging the constitutionality of the conditions to which they were subjected, including round-the-clock confinement in isolation, constant fluorescent lighting in their cells, twenty-four hour video monitoring that permitted female staff to watch prisoners shower and urinate, and inadequate recreation.

Reports of frequent incidents of physical abuse, racial harassment and excessive use of force continued at Virginia’s two super-maximum security prisons. Between January and June 2000, two inmates—who had
both been transferred from Connecticut—died at one of these prisons, Wallens Ridge State Prison. One of the deaths was a suicide; the other occurred after the inmate had been stunned several times with a 50,000 volt electronic stun device and left in five-point restraints. New Mexican inmates transferred to Wallens Ridge in 1999 complained of gratuitous and malicious physical abuse by prison guards, including beatings and shocks from electric stun devices. In January 2000, the Federal Bureau of Investigation initiated a preliminary investigation into their claims at the request of the New Mexico attorney general.

According to the Virginia Department of Corrections, between January 1999 and June 2000, prison guards at Red Onion State Prison, Virginia’s first super-max, fired 116 blank rounds and twenty-five stinger rounds of rubber pellets and discharged hand-held electronic stun devices 130 times. Most other prison systems controlled inmate fights without recourse to firearms or electric shocks. In June, three inmate bystanders at Red Onion were injured by rubber pellets when guards fired shotguns to break up an inmate scuffle. Inmates at the prison complained in 2000 of an apparently new staff practice of placing inmates in five-point restraints for as long as forty-eight hours because they masturbated or displayed their genitals in front of female staff. In September, the U.S. Department of Justice announced that it was opening a formal investigation to determine whether inmates’ constitutional rights were being violated at Red Onion.

A fourteen month long Department of Justice investigation of conditions at Nassau County Jail resulted in a scathing report released in September. The report said the jail had an “institutional culture that supports and promotes abuses.” The documented abuses included brutal beatings by officers and officers paying inmates to beat other inmates, especially targeting sex offenders.

Hampered by lack of counsel, inadequate access to legal materials and legal restrictions on inmate litigation, prisoners rarely obtained judicial relief against abusive officers, though some did. In March, a county jail in Oregon paid $1.75 million to settle an excessive force lawsuit brought by an inmate who had been strapped into a restraint chair, doused with large amounts of pepper spray and subjected to choke holds. He lapsed into a coma for 71 days and suffered permanent brain damage.

Criminal prosecution of brutal correctional officers was rare, and convictions in such cases even rarer. In February, four guards from Florida State Prison were indicted on murder charges in connection with the July 1999 beating death of Frank Valdez. An autopsy revealed that all his ribs had been broken and there were boot marks imprinted on his body. The guards contended that Valdes injured himself. They were awaiting trial at this writing. In California, eight prison guards were acquitted in June of federal charges that they staged gladiator-style fights among inmates at Corcoran State Prison. Similarly, in November 1999, four Corcoran guards were acquitted of setting up the rape of an inmate by a notoriously violent prisoner. Independent investigations and state legislative hearings in 1998 confirmed a pattern of brutality at Corcoran and the failure of the Department of Corrections to investigate abuses and discipline those responsible. In both court cases, the authorities faced the daunting tasks of breaking through officer solidarity and a code of silence, and of prosecuting prison guards before juries drawn from the rural communities in which the guards lived—and in which prisons were a major source of employment.

Over 100,000 children in the United States were confined in juvenile facilities. Many of them faced appalling conditions of abuse and neglect. In South Dakota, a class action suit was brought challenging widespread physical abuses against girls detained at the State Training School. The suit charged that guards
routinely shackled youths in spread-eagled fashion after cutting off their clothes, sprayed them with pepper spray while naked, and routinely placed them in isolation for twenty-three hours each day for extended periods. Although the state government conducted an investigation of juvenile detention facilities in 1999, it did not implement any reforms to end abusive policies and practices.

After twenty-seven years of litigation, the state of Louisiana agreed in September to significant changes in its juvenile detention system to protect youth from the extensively documented physical, sexual, and mental abuse that had been prevalent, and to provide youth with rehabilitative services and medical, dental, and mental health care. In May, the Louisiana Department of Public Safety and Corrections moved the last remaining detainees out of the Jena Juvenile Justice Center, a for-profit institution run by the Wackenhut Corrections Corporation. The move came four months after the U.S. Department of Justice’s mental health expert reported that “Jena’s environment is unsafe, violent and inhumane for the juveniles incarcerated there.”

The trend toward trying more children in the adult criminal system continued in 2000, depriving those affected of the variety of rehabilitative dispositions available in juvenile proceedings. In California, for example, voters approved a measure in March that made transfer to the adult system mandatory in some cases and gave prosecutors the final word in many others; before the measure’s passage, juveniles were transferred to the adult system only after a judicial hearing.

In Maryland, a public outcry over the treatment of children in adult jails, prompted in part by a Human Rights Watch report released in November 1999, led to some improvements in the education provided the incarcerated children. The Baltimore City Detention Center’s school appointed additional teachers and began to offer a full school day to juveniles in the general and protective custody sections, but those held in the segregation and other sections continued to be deprived of regular classroom instruction. In Prince George’s County—where youths were receiving no education at the time of Human Rights Watch’s July 1998 visit—the Department of Corrections and the county board of education began to provide educational services in September 2000.

In October, the Civil Rights Division of the U.S. Department of Justice notified Maryland that it would investigate conditions of detention at the Baltimore City Detention Center. The Justice Department planned to examine whether youths were subjected to excessive periods of isolation. The investigators were also to determine whether all detainees, including youths, received adequate medical and mental health care and whether they were protected from harm.

Minority youths in the United States were significantly more likely to be sent to adult courts than their white counterparts. Compared to white youths, children of color in California were 2.8 times more likely to be charged with violent crimes, 6.2 times more likely to be tried in adult court, and seven times more likely to be sentenced to prison when they were tried as adults.

Sexual abuse against women by correctional officers remained widespread despite new laws prohibiting it and greater public awareness of the problem. A U.S. government study in December 1999 found pervasive allegations of sexual abuse and misconduct by corrections officers. Criminal prosecutions of abusive staff appeared to increase. Cases since December 1999 included, for example, eleven former guards and a prison official who were indicted on charges of sexually assaulting or harassing sixteen female prisoners at a county jail operated by a private corrections company; the conviction of a New Mexico jail guard on federal civil rights charges stemming from the sexual assault of jail prisoners; the sentencing of a New York jail guard
to three years of probation after pleading guilty to sodomizing two female prisoners; and the sentencing of an Ohio jail officer to a four year prison term for sexually assaulting three female prisoners. In Michigan, however, legislators passed a law that took effect in March that exempted prisoners from the protection of the state civil rights act, which prohibits discrimination based on race and gender. Through this legislation, Michigan suppressed prisoners’ efforts to seek redress for sexual abuse through lawsuits against the Corrections Department. In California, although a law went into effect in January that increased the criminal penalties for sexual misconduct, the state failed to ensure that women could safely report abuse. Women prisoners in one California prison, for example, claimed that their cells were ransacked and personal items damaged or taken after they reported abuse. Others reported being held in “protective” custody pending investigation of their “allegation.”

A federal circuit court upheld federal legislation, the Prison Litigation Reform Act, that bars lawsuits by inmates seeking damages for mental or emotional injury suffered while in custody where there is no proof of significant physical injury. Georgia inmates had filed a lawsuit alleging that in 1996 prison officers had made them remove their clothes in front a female guard, tap dance while naked and shave with an unlubricated razor. Under the court’s ruling, inmates cannot sue for humiliation, mental torture or non-physical sadistic treatment by guards unless, in effect, they have broken bones or blood to show for it. This restriction on the ability of inmates to vindicate their rights in court was one of many ways in which U.S. laws and judicial mechanisms failed to meet the standards mandated by the Convention against Torture.

**Labor Rights**


Each year thousands of workers in the United States are spied on, harassed, pressured, threatened, suspended, fired, deported or otherwise victimized by employers in reprisal for their exercise of the right to freedom of association. In the 1950’s, victims numbered in the hundreds each year. In 1969, the number was more than 6,000. By the 1990’s, more than 20,000 workers each year were dismissed or otherwise victims of discrimination serious enough for the government-appointed National Labor Relations Board (NLRB) to issue a reinstatement and “back-pay” or other remedial order—nearly 24,000 in 1998, the last year for which official figures were available when the Human Rights Watch report was published.

Loophole-ridden laws, paralyzing delays, and feeble enforcement have created a culture of impunity in many areas of U.S. labor law and practice. Employers intent on resisting workers’ self-organization can drag out legal proceedings for years, fearing little more than an order to post a written notice in the workplace promising not to repeat unlawful conduct.

Human Rights Watch found that millions of workers, including farm workers, household domestic workers, and low-level supervisors, were expressly excluded from protection under the law guaranteeing the
right of workers to organize. In Washington and North Carolina, Human Rights Watch found evidence of campaigns of intimidation against migrant workers.

Other findings included: one-sided rules for union organizing that unfairly favor employers over workers, allowing such tactics as “captive-audience meetings” where managers predict workplace closures if workers vote for union representation; workers being caught up in a web of labor contracting and subcontracting that effectively denied them the right to organize and bargain with the employers holding the real power over their jobs and working conditions; employers having the legal power to permanently replace workers who exercise the right to strike; and harsh rules against “secondary boycotts” that frustrate worker solidarity efforts.

In another investigation into labor rights in the United States, Human Rights Watch found that the rights of migrant domestic workers with special temporary visas were often violated. The special visas allowed such workers, most of whom are women, to be employed in the U.S. by foreign diplomats, officials of international organizations, and others. Because the domestic workers’ visas are employment-based, they lose their legal immigration status in the U.S. if they flee abusive employers, and may face deportation. These workers were especially vulnerable to abuses by their employers because they live and work in virtual isolation and often without basic knowledge regarding their rights or the American legal system. Meanwhile, the U.S. government has failed to establish procedures to monitor employer compliance with employment contracts, humane treatment of workers, and other mandatory terms of these workers’ special visas.

In a report describing the treatment of child farmworkers in the United States, Human Rights Watch found that over 300,000 children worked as hired laborers on commercial farms, frequently under dangerous and grueling conditions. The child farmworkers worked long hours for little pay and risked pesticide poisoning, heat illnesses, injuries, and life-long disabilities. They accounted for 8 percent of working children in the United States but suffered 40 percent of work-related fatalities.

Children working on U.S. farms often worked twelve-hour days, sometimes beginning at 3:00 or 4:00 am. They reported routine exposure to dangerous pesticides that cause cancer and brain damage, with short-term symptoms including rashes, headaches, dizziness, nausea, and vomiting. Young farmworkers became dizzy from laboring in excessive temperatures without adequate access to drinking water, and were forced to work without access to toilets or hand washing facilities. Long hours of work also interfered with the education of children working in the fields, causing them to miss school and leaving them too exhausted to study or stay awake in class. Only 55 percent of farmworker children in the United States completed high school.

Even to the limited extent that U.S. laws did protect farmworker children, they were not adequately enforced. The U.S. Department of Labor, charged with enforcement of the child labor, wage and hour provisions of federal labor law, cited only 104 cases of child labor violations in fiscal year 1998, even though an estimated one million child labor violations occur in US agriculture every year. Compounding the problem, penalties were typically too weak to discourage employers from using illegal child labor.

**Gay and Lesbian Rights**

The July 1999 murder of Private First Class Barry Winchell at Fort Campbell, Kentucky, by a fellow soldier who believed Winchell to be gay brought overdue attention to the problem of anti-gay harassment in the military. Six years after the Clinton Administration’s “Don’t Ask, Don’t Tell” policy was codified as
law and implemented, the military’s own surveys and investigations found that training on how to implement the law was deficient and that anti-gay harassment remained pervasive in the military. Many military personnel who faced verbal or physical harassment and feared for their safety made statements acknowledging they were gay, knowing that it would mean the end of their careers but also that if they complained officially about anti-gay harassment they would probably themselves face an intrusive inquiry and discharge. They also knew that harassers were rarely punished.

Although the “Don’t Ask, Don’t Tell” policy was ostensibly intended to allow gay, lesbian, and bisexual service members to remain in the military, discharges increased significantly after the policy’s adoption. From 1994 to 1999, a total of 5,412 service members were removed from the armed forces under the policy, with yearly discharge totals nearly doubling, from 617 in 1994 to 1,149 in 1998. In 1999, the number of such separations dropped slightly, to 1,034; nevertheless, the discharge rate was still 73 percent higher than it had been prior to the implementation of the policy. Women were discharged at a disproportionately high rate, while the policy provided an additional means for men to harass women service members by threatening to “out” those who refused their advances or threatened to report them, thus ending their careers.

The U.S. was increasingly out of step internationally in maintaining restrictions on homosexuals serving in the military. Most of its NATO and other allies either allowed homosexuals to serve openly or had no policy on the issue. In September 1999, the European Court of Human Rights rejected a United Kingdom ban on homosexuals serving in the military based on similar grounds as the “Don’t Ask, Don’t Tell” policy.

In U.S. schools, lesbian, gay, bisexual, and transgender students were frequently targeted for harassment by their peers, according to initial findings of a Human Rights Watch investigation. They were nearly three times as likely as their peers to have been involved in at least one physical fight in school, three times as likely to have been threatened or injured with a weapon at school, and nearly four times as likely to skip school because they felt unsafe, according to the 1999 Massachusetts Youth Risk Behavior Survey. Most alarmingly, the survey found that those who identified as lesbian, gay, or bisexual were more than twice as likely to consider suicide and more than four times as likely to attempt suicide than their peers.

Efforts to provide a safe, supportive environment for these students were hampered by discriminatory legislation in several states. For example, a South Carolina statute provided that health education in public school “may not include a discussion of alternate sexual lifestyles from heterosexual relationships including, but not limited to, homosexual relationships except in the context of instruction concerning sexually transmitted diseases.” Similarly, a measure on the November ballot in Oregon would provide that “the instruction of behaviors relating to homosexuality and bisexuality shall not be presented in a public school in a manner which encourages, promotes, or sanctions such behaviors.”

Several states had legislation or programs in place to address harassment and violence toward lesbian, gay, bisexual, and transgender youth. California, Connecticut, Massachusetts, and Wisconsin explicitly prohibited harassment and discrimination against teachers or students on the basis of sexual orientation. Massachusetts and Vermont, the only states to include questions relating to sexual orientation on statewide, youth risk behavior surveys, had state programs to provide support to gay, lesbian, and bisexual youths. Challenges remained in implementing these programs and statutory protections and in preventing their erosion; in Vermont, for example, a backlash against civil union legislation enacted in April threatened funding for the state’s youth program.
Immigrants’ Rights

In September 2000, the number of detainees held in the custody of the Immigration and Naturalization Service (INS), on average per day, reached a record high of 20,000. In 1995, there was a daily average of 6,700 detainees. The dramatic increase stemmed from the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, which broadened the criteria that require detention and eventual deportation.

The increasing numbers of detainees strained the ability of the INS to provide humane and safe conditions in its detention facilities, and the influx of detainees led to a space crisis. More than half of all INS detainees were held in prisons or local jails intended for criminal inmates, exposing them to treatment and conditions inappropriate to their administrative detainee status and hampering their access to legal assistance. Asylum-seekers continued to be detained as the rule, rather than the exception, as the INS continued to ignore international standards relating to the treatment of asylum-seekers. In its own facilities, the INS implemented some standards, but INS detainees assigned to jails were under the direct control of jail officials and INS monitoring of such jails was minimal. In late October, the INS planned to issue additional detention standards that would apply to its own facilities and to jails, but they had not been made public at this writing. Congress, however, failed to fund the monitors requested by the INS to ensure that the standards prescribed for its own facilities and the jails with which its contracts were upheld.

The INS continued to detain unaccompanied children for lengthy periods before releasing them to family members or appropriate guardians. Human Rights Watch was particularly concerned that more than a third of the children in INS custody—nearly 2,000 children during the year ending in September 1999—were held in juvenile detention centers and county jails. Of the nearly 1,300 children held in secure confinement for more than three days, 58 percent were waiting to be transferred to a shelter care or similar facility or were held in such confinement simply because the INS lacked any alternative for them. By failing to place children in the least restrictive setting appropriate to their circumstances, the INS violated international standards, its own regulations, and the terms of a legal settlement.

During the year, the INS reportedly released more than a thousand long-term detainees who had orders of deportation but could not be repatriated for political or other reasons to countries such as Cuba, Vietnam, Cambodia, and Laos. The INS plan put in place during 1999 required mandatory reviews for detainees who were ordered deported but who could not actually be sent to their home countries, and who were thus facing indefinite detention. Those who were released had to meet certain criteria, such as having community sponsors, evidence of rehabilitation, and proof that they would not pose a danger to society.

The 1996 Illegal Immigration Reform and Immigration Responsibility Act’s expedited removal proceedings, intended to process and deport individuals who enter the United States without valid documents with minimum delay, imperiled genuine asylum seekers and resulted in immigrants’ being detained in increasing numbers. Asylum seekers with questionable documents were sent to “secondary inspection” where they had to convey their fears regarding return to their country of origin. The expedited process was characterized by excessive secrecy, making it virtually impossible to monitor the fairness of INS officials’ decisions at each stage of the initial review.

The size of the U.S. Border Patrol continued to grow rapidly to number approximately 8,000 agents, double the 1993 total, raising concerns about the quality, training, and supervision of its agents. In particular,
the agency’s capacity to investigate complaints of abuse against its agents, and to take disciplinary actions in appropriate cases, was in question. Little information was made public relating to the investigation and discipline stemming from such allegations.

Yet, Border Patrol agents shot border-crossers in questionable circumstances and were accused of sexual assaults, beatings, and reckless vehicle pursuits that caused injuries. Border Patrol agents said they shot at some border-crossers because they reached for, or attempted to throw, rocks at the agents. Border Patrol agents are not required to wear protective gear even though this would reduce the risk to agents and the stated justification for resorting to deadly force.

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