

Relevant Human Rights Watch Reports:

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RACIAL DISCRIMINATION AND RELATED INTOLERANCE

HUMAN RIGHTS DEVELOPMENTS

Ethnicity, often combined with religion, fueled and shaped conflict and systemic human rights abuse in many countries around the globe in the year of the third United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). Caste discrimination—based on descent—held an estimated 250 million people locked in conditions of oppression and intolerance. National and local leaders propagated hate and intolerance, seeking political advantage in the discriminatory animus of racist movements. Across the world, racism and related intolerance skewed the administration of justice and denied or limited minorities and other marginalized groups' access to education and employment, to health care and housing—and to protection against exploitation.

The widespread fear generated by the attacks on the United States (U.S.) on September 11—and aspects of the global antiterrorism campaign that followed—added a new dimension to xenophobia and intolerance in many parts of the world. New antiterrorism measures introduced in the United States and under consideration in many other countries reduced safeguards against arbitrary arrest on discriminatory grounds and posed particular challenges to the rights of asylum seekers and migrants.

In Africa, ethnicity remained a potent engine of conflict in years-long wars of secession, inter-communal violence, and in partisan struggles for power as political leaders played the ethnic card to mobilize supporters and to demonize their rivals. Inter-ethnic clashes remained a pervasive feature of conflicts in the Great Lakes region and other parts of Africa. In the Democratic Republic of Congo's (DRC) eastern provinces, spiralling conflicts involved both troops of the regular armies of Uganda and Rwanda and militias sponsored by both regional powers. In Rwanda and Burundi longstanding internal conflicts continued; those leading Rwanda's rebel forces included former leaders of the 1994 genocide. Sudan's long internal war was fueled not only by the ethnic and religious divide between north and south but also by ethnic divisions between the southern rebels. Renewed conflict in Liberia also followed largely ethnic lines; government forces perceived ethnic Mandingo citizens indiscriminately as opposition supporters, and subjected

them to violent attacks because of their ethnicity. Clashes spurred by ethnicity and religion in Nigeria cost thousands of lives. (See Africa Overview.)

Determining who should be considered a national and who a foreigner also generated xenophobia and violence in some African countries. In Côte D'Ivoire, as Human Rights Watch detailed in a report it published in August, officials incited xenophobic violence around elections in October and December 2000. They promoted intolerance based on ethnic and religious differences that led gendarmes and civilian supporters to attack Ivoirians from the largely Muslim north of the country—and others held to be “foreigners.” The report documented more than two hundred killings, as well as torture, rape, and arbitrary detentions, committed with impunity.

In Brazil, indigenous people were moved off their land, threatened, and killed in land disputes in circumstances that suggested the acquiescence of public authorities. Indigenous leader Francisco de Assis Santana was murdered on August 23 in Pesqueira, Pernambuco, apparently in connection with his struggles for Xucuru land rights in the territory. Members of the Guarani community were reportedly fired on in November 2000 by police allegedly hired by a rancher who had taken over their land. In February, several cases were reported of alleged sexual abuse by army soldiers against Yanomami women in the Surucucus region of the Amazon. (See Brazil.)

In Asia, the full complexity of the inter-ethnic and sectarian struggles in Afghanistan burst belatedly upon the international consciousness only after the attacks of September 11 and the launching of the U.S.-led military campaign against the Taliban. Earlier, Human Rights Watch documented a series of incidents in which largely ethnic Pashtun Taliban forces committed gross abuses, including summary executions and the destruction of homes against civilians belonging to minorities it associated with its rivals—Aymaqs, Hazaras, and Uzbeks, suspected of supporting forces linked to the anti-Taliban Northern Alliance. (See Afghanistan.)

In Burma (Myanmar), government troops burned villages and forcibly displaced tens of thousands of villagers in areas affected by ethnic-based insurgencies. Hundreds of thousands were internally displaced in the ethnic minority states while others fled to Thailand. (See Burma.)

In Indonesia, ethnicity and religion were factors shaping regional conflicts—sometimes accentuating divisions between internal migrants and indigenous populations. The conflict in Aceh and communal violence in West Kalimantan resulted in many civilian casualties, while little progress was shown in the resolution of conflicts in the Moluccas, Central Sulawesi, and Papua. Well over one million people were reported displaced, half of them from the Moluccas.

Sri Lanka's civil war, too, continued to claim a steady toll of civilian deaths. Both the government and Tamil secessionist forces were responsible for serious abuses and internal displacement created enormous hardship. (See Sri Lanka.)

In Europe, the question of who belongs in the nation state continued to impact harshly upon displaced populations in the former Yugoslavia and many parts of the former Soviet Union, as well as migrants and refugees seeking a better life in an increasingly hostile Western Europe. Across the region, Roma were victimized by discrimination in every aspect of their lives.

In Bulgaria, discrimination against Roma persisted in virtually every aspect of public life. Roma were beaten by police and private individuals beat and shot at Roma on numerous occasions with impunity. An Open Society Institute study released in September detailed discrimination against Roma in the provision of housing, social services and health care. (See Bulgaria.)

In the Czech Republic, de facto discrimination against Roma affected access to justice, education, housing, employment, and public services. Racist attacks on Roma continued, but police and prosecutors frequently failed to adequately investigate and prosecute Roma complaints. (See Czech Republic.)

The Greek government took steps to address discrimination with an action plan for Roma, designed to address health, education and housing needs. The resettlement of a Roma community under the plan was marred, however, by discrimination against the community's children, whose attendance at local schools was opposed by other residents. One school closed in November 2000 rather than admit thirty-two Roma children. (See Greece.)

In Hungary, Roma faced continuing discrimination in employment, education, and the criminal justice system, as well as physical attacks and the firebombing of their homes. The French government granted asylum to fifteen Hungarian Roma who were part of a group who fled from the Hungarian village of Zamoly to Strasbourg during 2000 to escape threats, physical attacks and the destruction of their homes. Anti-Semitic programming continued on state radio and anti-Jewish statements by the vice-president of the parliamentary Hungarian Truth and Life Party were widely disseminated. (See Hungary.)

In Serbia and Montenegro, too, police brutality against Roma was common, although the Federal Republic of Yugoslavia acceded to the Council of Europe's 1994 Framework Convention for the Protection of National Minorities on May 11.

Roma, Serbs, and other minorities faced continued violence in post-war Kosovo. Organized violence targeting minorities, including attacks on Serb homes, churches, and cultural sites, persisted, while convoys escorted by peacekeepers of the multinational Kosovo Force (KFOR) were attacked by gunmen: eleven people were killed and dozens injured in the most serious attack. United Nations (U.N.) police had at the time of writing failed to bring the perpetrators to justice. (See Federal Republic of Yugoslavia.)

Ethnically-motivated violence also continued to shake Bosnia and Herzegovina. In Republika Srpska and, less frequently, in the Croat parts of the Federation, attackers shot at returnees because of their ethnic identity and destroyed houses reconstructed for them. (See Bosnia and Herzegovina.)

Although European Union (E.U.) states vigorously demanded that Eastern European countries take measures to combat discrimination against Roma, the steps they took themselves to restrict immigration and bar access to their territories and asylum determination procedures for asylum seekers were often discriminatory. The deployment of British immigration officials to Prague's Ruzyně Airport in July followed a wave of asylum claims by mostly-Roma Czech citizens. British officials there barred 120 travellers—the majority of them Roma—before protests at their targeting of Roma led to the temporary suspension of the pre-flight screenings. (See Czech Republic.)

In Greece, following the September 11 attacks in the U.S., authorities fearing a large influx of Afghan refugees refused to allow many asylum seekers even to apply for refugee status, issuing expedited expulsion orders instead. (See Greece.) In Spain, officials equated the global campaign against international terrorism with the fight against illegal immigration.

Some states' concepts of nationality also resulted in severe restrictions of minority rights, even to the extent of denying minorities official recognition or restricting the use of their language. In February, Sotiris Blatsas of the Society for Aromanian (Vlach) Culture was tried in Greece and convicted of "disseminating false information" because he had published a list of minority languages spoken in Greece. He had distributed a publication of the E.U.'s European Bureau for Lesser Used Languages (EBLUL) at an Aromanian festival in July 1995. He was sentenced to fifteen months in prison.

In Turkey, state policies that denied recognition of the Kurdish minority were enforced through censorship and imprisonment. Controls on freedom of expression continued to prevent broadcasting and education in Kurdish. Local governors prohibited the use of Kurdish street names and banned plays, cassettes, and films in Kurdish on the grounds that they were "separatist." Those that challenged or tested state policies on ethnicity in their statements or writings—Kurds and non-Kurds alike—faced prosecution and imprisonment.

In Morocco, there was freer discussion of the rights of the Berber minority, but authorities twice barred the holding of meetings to address the issues. Authorities seized an issue of the French weekly *Courrier International* which carried a feature on Berbers in Morocco. (See Morocco.)

The United Kingdom's (U.K.'s) response to the September 11 attacks on the United States included proposed emergency measures that threatened to undermine civil liberties and the rights of refugees and migrants. Draft anti-terrorism legislation provided for the indefinite detention of foreigners with limited judicial review and restricted the rights of suspects to seek asylum. September 11 was also followed by a dramatic rise in attacks on Muslims living in the U.K. The attacks were condemned by the government—with measures to toughen enforcement of hate crimes legislation—but new government calls for anti-terrorist measures, more restrictive immigration and asylum controls, and for halting the flow of Afghan refugees into Europe contributed to an increasingly hostile climate toward refugees and migrants in the U.K.

In the United States, longstanding patterns of discrimination in the criminal justice system persisted, with the U.N. Committee on the Elimination of Racial Discrimination highlighting police brutality, notably against minority groups and foreigners; disproportionately high incarceration rates of black and Hispanic Americans; racial disparities in the application of the death penalty; and the effect of felony disenfranchisement on minorities. Measures introduced in the aftermath of the September 11 attacks raised concerns that minorities and foreigners distinguished by their ethnicity would be subject to new forms of abusive discriminatory treatment. New laws and other measures permitted the indefinite detention of non-citizens and over 1,000 people were detained, mostly Arab or Muslim men.

The September 11 attacks were followed in the United States by a wave of racist

attacks against Muslims, Sikhs, and people of Middle Eastern and South Asian descent—with almost 1,000 reported by November. President Bush and other officials condemned the violence and urged the public to reject national or religious stereotyping that would blame whole communities for the acts of terrorism committed by a few, simply because they shared the same religious, ethnic, or national identity. (See United States.)

WHO BELONGS?

In an era of “ethnic cleansing,” ethnic and religious pogroms, genocide, and massive displacement across borders, the question “who belongs?” in a community or in a nation came to assume life and death proportions. In some cases the designated outsiders faced oppression and exploitation at home—for example India’s Dalits or Europe’s Roma—locked in a subordinate status and vulnerable to violence by private citizens and authorities alike. In others, as in parts of Indonesia, Africa’s Great Lakes region, and West Africa (and in the 1990s, the former Yugoslavia), minorities became outsiders overnight, caught up in political movements of terror and exclusion whose leaders were bent upon the physical destruction or expulsion of those not of the dominant ethnicity or religion.

Although “who belongs?” was often defined in terms of citizenship, this too became an increasingly mutable concept as new independent states emerged and multiethnic states broke down. The denial or deprivation of citizenship could turn solely on the basis of ethnicity or national origin—particularly in conflict situations and periods of political transition. In some cases, however, whole communities of “nationals without nationality” had long been denied citizenship on discriminatory grounds.

States that defined citizenship in terms of racial or national Apurity@ often discriminated both on grounds of ethnicity and national origin and on the basis of gender. As citizenship was restricted to the children of male nationals, female citizens were discouraged from marrying men of another nationality because their children would be denied citizenship. Naturalization policies, too, were often wholly or largely founded on discriminatory grounds, while shielded from criticism as a sovereign prerogative of states.

Racial and gender discrimination intersected where citizenship was restricted to the children of male nationals, the norm in many countries of the Middle East, North Africa, and parts of Sub-Saharan Africa. Ethnic Kurdish women who were classified as stateless “foreigners” in Syria could marry Syrian citizens with prior authorization from the interior ministry, but ethnic Kurdish men with this status were not permitted to marry female Syrian citizens. If they did so, the marriages were not legally recognized and both spouses were described as unmarried on their identity cards. “[I]n the case that a Syrian female should have the audacity to marry any foreigner . . . that marriage is considered illegal,” the government stated in 1996. “As a result, neither it nor the children that ensue will be registered in the civil registers.”

In Kuwait, authorities continued to deny citizenship to some 120,000 of the

minority Bidun, many of whose families had lived in Kuwait for generations and had no claim to citizenship of another country.

Denial of citizenship affected minority populations that were indigenous to a country or had been present for generations—as well as majorities. The end of the apartheid regime in South Africa spelled an end to denationalization taken to an extreme: a “homelands” policy whose advocates aimed to make black South Africans citizens of “bantustans”—and no longer citizens of South Africa. Moves to strip the citizenship of more than a million Zairean nationals of the Banyarwanda ethnic group after 1991 spurred domestic and interstate conflict there. Ethiopia summarily denationalized and expelled some 70,000 Ethiopian citizens of Eritrean origin after war broke out with Eritrea in May 1998—while Eritrea carried out summary expulsions to Ethiopia on a lesser scale. Progress in post-war negotiations offered hope of a review of the administrative measures by which Ethiopians of Eritrean origin were summarily stripped of their citizenship.

The military junta ruling Burma excluded hundreds of thousands of members of Burma’s minorities from citizenship with a 1982 citizenship law. In the 1990s more than 250,000 Rohingya Muslims fled to neighboring Bangladesh. In 2001, most Rohingya remained without full citizenship rights.

In Southeast Asia, the government of Thailand had issued special identity documents to some 300,000 members of the country’s ethnic minority hill tribes, but these indigenous people were denied a nationality or full citizenship rights. Hundreds of thousands of other hill tribe villagers were unregistered and officially considered illegal immigrants. This particularly affected hill tribe women who were victims of trafficking to Japan and who, once free of their traffickers, could not gain readmission to Thailand.

In South Asia, the government of Bhutan stripped of citizenship and expelled more than 100,000 Bhutanese of ethnic Nepali origin in the early 1990s, the majority of whom were still refugees. Bhutanese refugees spent a tenth year in exile in camps in southeast Nepal, deprived of their right to return home. Despite the start in early 2001 of a joint Nepal-Bhutan verification program to determine the status of these refugees, no refugees had returned as of late November.

In the Americas, racial discrimination and related intolerance colored the treatment of migrants as well as the implementation of laws concerning nationality. Over half a million Haitians and Dominicans of Haitian descent lived in the Dominican Republic, where certain government policies reflected racial discrimination and xenophobia. Because the Dominican government made it difficult for Haitians to obtain legal residency documents, the vast majority were undocumented. In violation of the Dominican constitution, Haitians’ Dominican-born children were frequently denied Dominican citizenship. Haitians’ precarious legal status left them vulnerable to economic exploitation, arbitrary expulsion, and violations of basic rights.

In Europe, the disintegration of the Soviet Union led to discriminatory norms for citizenship in several newly independent countries. In the breakup of the former Yugoslavia, the terrorizing and physical expulsion of minorities coincided with measures to deny citizenship to members of ethnic minorities residing there or seeking to return to their homes. Elsewhere in Europe, citizenship laws enacted by

Slovakia and the Czech Republic after the division of Czechoslovakia served directly to exclude Roma citizens from citizenship in the new republics: international pressure led to reforms of the relevant laws, although obstacles remained, and Roma continued to suffer discrimination.

UNITED NATIONS WORLD CONFERENCE AGAINST RACISM

The third United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance was held in Durban, South Africa from August 31 to September 8, 2001. The first such conference since the end of apartheid, this WCAR provided governments with an opportunity to combat both the overt and more subtle forms of racial discrimination that existed abroad and at home—a potential, sadly, that was largely unrealized. A great failing of the conference was the inability of participants—governments and nongovernmental organizations alike—to forge a common front to combat racism and related intolerance in the spirit and within the framework of the International Convention on the Elimination of All Forms of Racial Discrimination.

The WCAR was plagued by a series of acrimonious disputes over the Israel/Palestine question; the issue of reparations for slavery and colonialism; and other issues. Both the United States and Israel withdrew at an early stage, citing anti-Israel sentiment, and there was divisiveness and intolerance within the NGO community itself on this and other issues. Yet in some respects, including on questions such as the protection of migrants and refugees, repairing the legacy of slavery, and equal nationality rights for women, significant progress was made.

The WCAR process led to an unprecedented mobilization of victims of racism from communities around the world, which served to reinforce and reinvigorate many community, national, and regional anti-racism movements. Groups seeking to break the bonds of discrimination forged new alliances across continents with hitherto unknown partners—not least as the United States civil rights movement and black Latin Americans found common cause with South Asia's Dalit movement. The heightened international profile given to caste discrimination—despite India's successful efforts to prevent the WCAR from addressing the issue head on—was a significant outcome.

U.S. government participation in the WCAR process was marked with scarcely veiled hostility—although hundreds of U.S. NGOs participated actively and enthusiastically in the preparatory meetings and NGO forum. The administration warned NGOs and governments that the conference should not lead to any new programs to combat racism, any new legal standards, any additional money to fund anti-racism efforts, or any follow-up. It warned the conference not to call for reparations for slavery and the trans-Atlantic slave trade or to adopt language specifically criticizing Israel.

In the end, attending governments did reach compromise language on the Middle East, which included specific reference to “the plight of Palestinian people under foreign occupation,” but no specific reference to Israel's or any other gov-

ernment's human rights practices. Compromise language was also reached on reparations, calling for governments to take "appropriate and effective measures to halt and reverse the lasting consequences of [racism, racial discrimination, xenophobia and related intolerance]."

The U.S. government's decision to withdraw from the conference meant that the administration lost a paramount opportunity for the administration to join and shape the collective voice of the international community in moving forward together in the struggle against racism. The U.S. lost a chance to lead by example, while appearing to duck the international spotlight thrown on its own problems of racial discrimination—to the dismay of the large NGO delegation attending from the United States.

The summit called for far-reaching programs to address intolerance and discrimination against the 150 million migrants in the world, including education campaigns and prevention of workplace bias. It asked countries to combat intolerance against refugees, and included a reference reminding governments of the standards agreed in the 1951 U.N. Refugee Convention. It called on states to protect the more than 30 million people displaced in their own countries, referring to the U.N. guidelines on the internally displaced. It asked countries to monitor and ensure accountability for police misconduct and to eliminate "racial profiling." The conference called on countries to fund anti-racism efforts and public awareness campaigns in schools and the media and to promote tolerance and openness to diversity. It urged governments to collect data disaggregated by race, as a first means of identifying and then addressing discrimination in access to health care and the provision of government services.

The conference acknowledged that slavery and the slave trade "are a crime against humanity and should always have been so," and said that states had a "moral obligation" to "take appropriate and effective measures to halt and reverse the lasting consequences of those practices." This was an historic recognition of the criminality of slavery and the moral obligation to repair its lasting damage.

In a significant step pressed by its women's caucus, the conference urged countries to allow women the right, on an equal basis with men, to pass on their nationality to their children and spouses, a right denied in many countries. The conference program of action also acknowledged the multiple and unique ways in which racism and sexism interact to deny women their human rights.

Discrimination by reason of caste was a constant theme of the conference, not least through public demonstrations and effective lobbying by the International Dalit Solidarity Network (IDSN) and by India's National Campaign on Dalit Human Rights (NCDHR). Caste or "work and descent" discrimination was referred to in many plenary speeches by government delegates. Reflecting the emphasis on caste in the WCAR's preparatory process, the Sub-Commission on the Promotion and Protection of Human Rights in August 2001 passed by consensus a decision to continue a study on work and descent-based discrimination.

India's actions to keep caste out of the final conference documents served effectively to stimulate international press coverage of the issue and to heighten pressure for scrutiny through the international machinery of human rights. The conference did not formally extend the desired recognition that caste-based discrimination blighted the lives of hundreds of millions—but the attendant awareness generated

by the conference sent a clear message that international programs were required to remedy its consequences and to establish practical measures to facilitate its abolition.

Despite the conference's failings and lost opportunities, South African Foreign Affairs Minister Nkosazana Dlamini-Zuma described the final agreements as "a new road-map for the fight against racism." But the conference was only a first step; the real test is whether governments will deliver on what they agreed. Human Rights Watch, for its part, will be working to ensure that they do.

THE WORK OF HUMAN RIGHTS WATCH

The fight against racism, racial discrimination, and related intolerance was an integral part of Human Rights Watch's regional and thematic research and advocacy program. In the context of the WCAR, the organization focused especially on caste discrimination; the protection of migrants and refugees; discrimination in the denial of citizenship rights; on racial discrimination in criminal justice and in the administration of state institutions, services, and resources; and the link between racial or ethnic and gender discrimination. In the run-up to the conference, Human Rights Watch also pressed for the WCAR to adopt a policy on reparations for past abuses to address the most pressing needs arising from slavery, the slave trade, certain especially racist aspects of colonialism, and other extreme official racist practices. Our program of action included the publication of a series of short reports, campaign action with partner nongovernmental organizations (NGOs), and participation in official and informal preparatory meetings and the conference itself.

Caste Discrimination

In much of Asia, parts of Africa, and in the South Asian diaspora caste was coterminous with race in the definition and exclusion of groups distinguished by their descent. Over 250 million people worldwide suffered under a hidden apartheid of segregation, modern-day slavery, and other extreme forms of discrimination because they were born into a marginalized, subordinate caste. Although India was home to the largest affected community—some 160 million people—caste-based abuse was also rampant in Nepal, Sri Lanka, Bangladesh, Pakistan, Japan, and parts of West Africa—and in the South Asian diaspora.

Caste discrimination was within the scope of the International Convention on the Elimination of All Forms of Racial Discrimination, which defined racial discrimination to include discrimination by reason of "race, colour, *descent*, or national or ethnic origin . . ." (emphasis added). The Committee on the Elimination of Racial Discrimination affirmed that caste discrimination was founded on descent—and constituted racial discrimination in the terms of the convention. It did so most expressly in a 1996 comment on India's report on compliance with the convention—India had denied that caste discrimination was a form of racial discrimination that it must address to meet its treaty obligations.

Human Rights Watch helped ensure that the WCAR brought caste discrimina-

tion to international attention and to overcome the efforts to exclude its discussion by the very governments which displayed complacency about caste discrimination at home. India's government argued that efforts to raise the caste issue were part of an "external agenda"—echoing what South Africa's former white minority government long contended when the international community spoke out against apartheid.

In *Caste Discrimination: A Global Concern*, Human Rights Watch challenged the efforts of certain governments to keep caste discrimination a shameful secret—excluded even from the World Conference. The report, which documented the global scope of caste discrimination, cited the language of international law and intergovernmental human rights bodies that brought caste discrimination—a form of discrimination by reason of descent—squarely within the current of the international fight against racism.

Refugees and Migrants

Xenophobia toward migrants, refugees, and asylum seekers became a global trend over the past decade, while a barrage of new, restrictive policies in industrialized countries emerged even before the events of September 2001. But the antiterrorism measures instituted in many countries after the September attacks promised to further restrict access to asylum determination procedures and to curtail the civil liberties of migrants. New measures under the antiterrorism rubric threatened further grave consequences for migrants and refugees—compounded by the strains of the burgeoning world economic crisis.

In its work to combat discrimination against refugees and migrants, Human Rights Watch pressed for countries to ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, identify measures to reinforce the international refugee protection regime, and develop an international monitoring system by which to better detect and remedy discriminatory treatment of migrants and refugees. (See *Refugees, Asylum Seekers, Migrants, and Internally Displaced Persons*.)

Citizenship Rights

We sought to win recognition of the problem of denial or deprivation of citizenship on racial and related grounds, and the intersection of race and gender in discriminatory citizenship laws and practices. To this end, we encouraged U.N. committees created by the treaties on women's rights and on children's rights to put this issue on their agendas, and for the U.N. High Commissioner on Human Rights to set in motion a study of potentially discriminatory norms by which states determined who was a citizen or naturalized citizen. We said international measures of conflict resolution and early warning should address questions of citizenship and denationalization founded on discriminatory grounds. These issues should be recognized as major factors in the generation of massive human rights abuse, including genocide, and armed conflict, and the generation of refugee flows.

In some countries with large populations of "citizens without citizenship,"

where particular ethnic groups were singled out as less than citizens, although they were not mere aliens, a remedy to this discriminatory practice was within ready reach even under existing law. Members of Syria's native Kurdish population who were denied official Syrian nationality were not permitted to own land, housing, or a business, or to register a motor vehicle—and their children faced major obstacles to formal education. Yet the Syrian government's 2000 report to the U.N. Human Rights Committee made clear that the nationality law specifically provided for the granting of citizenship to all Kurdish children born in Syria, irrespective of the legal status of their parents, if the Syrian government should choose to invoke it. An important first step against discrimination in citizenship rights was to implement international norms to combat statelessness.

As an immediate bulwark against the discriminatory denial of nationality, we encouraged the WCAR to promote the ratification of international agreements on statelessness, and for children's rights activists to demand the implementation of the Convention on the Rights of the Child's strong safeguards against statelessness. We urged the Committee on the Rights of the Child to call on states to describe their safeguards against racial, ethnic, and gender discrimination in citizenship laws and practices in their regular reports to the committee. Populations with longstanding claims to nationality in their country of residence whose children remained stateless required particularly urgent attention. Similarly, we encouraged the Committee for the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women to consider the discriminatory manner in which race, ethnicity, and national origin intersected with gender in citizenship and naturalization policies, and request states to address these issues when reporting to these committees.

Discrimination in Criminal Justice and Public Administration

Discrimination in the administration of justice—whether in policing, criminal prosecutions, trials, sentencing, or imprisonment—caused extraordinary harm to individuals and societies alike. Members of racial, ethnic, and other minorities or vulnerable groups often faced harassment, arbitrary detention, and abusive treatment by the law enforcement apparatus and disparate treatment by prosecutors and the courts.

Police disproportionately targeted members of marginalized groups for arrest in many countries. Members of these groups also faced disproportionate prosecutions, unfair trials, and disproportionately severe sentences on criminal charges. Humiliating treatment, beatings, sexual abuse, and shooting deaths of members of marginalized groups often contrasted starkly with treatment accorded to others and members of these groups often had little recourse to legal remedies to abuse.

Ostensibly race- or descent-neutral laws could 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 resulting impact on particular descent-based groups could be vastly disproportionate to the actual involvement of members of these groups in the overall pattern of criminal activity.

For example, although there were more white drug offenders than black in the United States, blacks constituted 57.6 percent of all drug offenders sent to state prison. In racial profiling, stop and search provisions were abused to target suspects on discriminatory grounds: A 1998 study of police stop and search patterns in England and Wales by the British Home Office found that blacks were 7.5 times more likely to be stopped and searched than whites. A 1997 Australian study, in turn, found that Aboriginal people in Australia were 9.2 times more likely to be arrested, 23.7 times more likely to be imprisoned as an adult, and 48 times more likely to be imprisoned as juveniles than non-Aborigines.

Criminal penalties that were accompanied by temporary or permanent disenfranchisement further excluded members of groups already facing discriminatory treatment from participation in political life and accentuated and perpetuated their economic, social, and political marginalization. In 1998 it was reported that an estimated 3.9 million U.S. citizens were disenfranchised, including over one million who had fully completed their sentences. This hit black men in particular, with 13 percent—1.4 million—disenfranchised.

The discriminatory effect of public policy and administrative practice often prevented the enjoyment of fundamental human rights even in the absence of overt discriminatory intent. This was often most evident in the administration of social services, education, and public housing to exclude or marginalize members of particular groups.

The denial of equal access by minorities to education was a major concern in several regions. In certain countries in Asia, including Nepal, Sri Lanka, and Japan, children whose parents belonged to lower-caste or shunned, descent-based social groups faced widespread discrimination in access to education and had markedly lower literacy rates and school attendance rates than the general population. In India, children of Dalits who attended school were largely restricted to the worst government schools, where they faced discriminatory and abusive treatment at the hands of their teachers and fellow students.

In August, the U.N. Committee on the Elimination of Racial Discrimination issued “concluding observations” following review of China’s report on its implementation of the convention. The committee expressed concern about discrimination in education, particularly in Tibet.

In Europe, Romani children suffered extreme discrimination in their access to education, through relegation to segregated schools, routine assignment to “special” facilities intended for children with learning disabilities, or no schooling at all. In schools that were not segregated, Romani children faced harassment from students—and sometimes by teachers—as well as racial slurs and lowered expectations, contributing to a high dropout rate.

In Bosnia and Herzegovina, a Human Rights Watch investigation identified concern at discrimination in schools—including a discriminatory grade-school curriculum—as a major impediment to the return of minority displaced families to their pre-war homes.

A 2001 Human Rights Watch investigation found pervasive and systematic discrimination against nearly one-fourth of Israel’s 1.6 million schoolchildren—Palestinian Arab citizens—who were educated in a public school system that was wholly separate from the Jewish majority. The Israeli government spent less per

Palestinian Arab child than per Jewish child, and Arab schools were inferior to Jewish schools in virtually every respect. Among Palestinian Arabs, the Negev Bedouin and children in villages denied legal status by the Israeli government fared worst in every respect. In its 2001 report to the Committee on the Rights of the Child, Israel acknowledged the gap between Arab and Jewish education, but despite a commitment to closing the gap it had failed to take necessary steps to equalize the two systems. (See Children's Rights.)

Human Rights Watch encouraged the WCAR to give a new impetus for states to systematically collect and report data on law enforcement and the administration of justice, with a view to identifying and remedying any discriminatory purpose or effect; and to monitor the administration of public affairs in such areas as education, health care, housing, and the enforcement of labor rights, with a view to identifying and remedying any discriminatory purpose or effect in public policy and programs.

Reparations

In advance of the World Conference, Human Rights Watch called for governments to make reparations to counter the most severe continuing effects of slavery, segregation, racist aspects of colonialism, and other extreme forms of racism in the past. We said efforts should focus first on groups that continue to suffer the most severe hardships, with long-term commitments to correct the damage done to the groups left most seriously disadvantaged. We encouraged the WCAR to adopt proposals in favor of providing reparations to the descendants of past victims. To this end we pressed for priority to be given measures to address the social and economic foundations of today's victims' continuing marginalization—through means such as investment in education, housing, health care, or job training.

Human Rights Watch argued that the descendants of a victim of human rights abuse should be able to pursue claims of reparations—that the right to reparations was not extinguished with the death of the victim. Reparations would consist of compensation, acknowledgment of past abuses, an end to ongoing abuses, and, as much as possible, restoration of the state of affairs that would have prevailed had there been no abuses. To establish priorities for reparations, Human Rights Watch proposed the establishment of national panels as well as one or more international panels to look at the effect of the slave trade and other international forms of systemic abuse. These panels would focus on tracing these effects not for particular individuals but for groups. The panels would serve as a form of truth commission aiming to determine how a government's past racist practices had contributed to contemporary deprivation domestically and across world regions. They would educate the public, acknowledge responsibility, and propose methods of redress and making amends.

Relevant Human Rights Watch Reports:

Israel: Second Class: Discrimination Against Palestinian Arab Children in Israel's Schools, 12/01

Under Orders: War Crimes in Kosovo, 10/01

Crimes Against Civilians: Abuses by Macedonian Forces in Ljuboten, August 10-12, 2001, 9/01

Caste Discrimination: A Global Concern, 8/01

The New Racism: The Political Manipulation of Ethnicity in Cote D'Ivoire, 8/01

Unequal Protection: The State Response to Violence Crime on south African Farms, 08/01

The War in Aceh, 8/01

Violence and Political Impasse in Papua, 7/01

Hidden in The Home: Abuse of Domestic Workers with Special Visas, 6/01

No Escape: Male Rape in U.S. Prisons, 4/01

The "Dirty War" in Chechnya: Forced Disappearances, Torture, and Summary Executions, 3/01

Uganda in Eastern DRC: Fueling Political and Ethnic Strife, 3/01

Massacres of Hazaras in Afghanistan, 2/01

REFUGEES, ASYLUM SEEKERS, MIGRANTS, AND INTERNALLY DISPLACED PERSONS

INTRODUCTION: THE YEAR IN PROFILE

Fiftieth Anniversary of the 1951 Refugee Convention

2001 was a critical year for refugee protection. The year marked the fiftieth anniversary of the 1951 Convention Relating to the Status of Refugees (Refugee Convention)—the foundation of the international refugee protection regime. A series of global consultations on international refugee protection organized by the office of the United Nations High Commissioner for Refugees (UNHCR) was due to culminate in December 2001 at the first ever meeting of state parties to the Refugee Convention to reaffirm their commitment to the treaty. The Inter Parliamentary Union, the Council of Europe, the Organization of American States, and the Organization of African Unity all adopted resolutions and recommendations reaffirming their commitment to the convention in 2001.

Nevertheless, the Refugee Convention came under relentless attack—not least by the same industrialized states that were responsible for its formulation. Many states failed to accede to the 1951 Refugee Convention and its 1967 Protocol. Asian countries, including Bangladesh, Bhutan, Burma, India, Indonesia, Malaysia, Nepal, Pakistan, Singapore, Sri Lanka, Thailand, and Vietnam, were particularly remiss in this regard.