UNITED STATES

A guard walks through a cell block in a United States prison.

UNITED STATES

During the first eight months of George W. Bush's presidency, the promotion of human rights occupied a low priority in the administration's domestic political agenda. The president and Attorney General John Ashcroft were criticized for insufficient concern about violations of individual rights and liberties, particularly in the criminal justice context. Questions about the government's commitment to protect basic rights increased markedly as it developed anti-terrorist measures after the September 11 attacks on New York and Washington. New laws permitting the indefinite detention of non-citizens, special military commissions to try suspected terrorists, the detention of over 1,000 people, and the abrogation of the confidentiality of attorney-client communications for certain detainees, demonstrated the administration's troubling disregard for well established human rights safeguards as it sought to protect national security. Indeed, in taking steps to defend the U.S. from terrorists, the government adopted measures that eroded key values and principles it said it sought to protect, including the rule of law.

Human rights violations prevalent during previous years continued under the new president. They were most apparent in the criminal justice system—including police brutality, unjustified racial disparities in incarceration, abusive conditions of confinement, and use of the death penalty, including the execution of mentally handicapped and juvenile offenders. But extensively documented violations also included violations of immigrants' rights, workers' rights (including those of migrant workers), harassment of gay, lesbian, bisexual, and transgender youth in schools, and of gay and lesbian members of the armed forces.

ANTI-TERRORISM MEASURES IN THE UNITED STATES

By November, over 1,100 people, mostly Arab or Muslim men, had been detained in connection with the government's investigation into the September 11 attacks and its efforts to preempt further acts of terrorism. The government stopped updating the tally of those detained so firm figures were unavailable. After refusing to make any information about the detainees public, including their names, location of detention, or the nature of charges against them, Attorney General Ashcroft finally announced on November 27 that 548 detainees were being held on immigration charges and that federal criminal charges had been filed against 104 people. Senior law enforcement officials acknowledged that only a small number of those in custody were believed to have links to terrorism. The immigration charges were primarily for routine immigration violations, such as overstaying a

visa, and the criminal charges also were primarily for crimes that seemed unrelated to terrorism, ranging from credit card fraud to theft. Another two dozen or so people were being detained as material witnesses. An unknown number of individuals were held in local and state facilities in relation to the investigation of the September 11 attacks.

The government's refusal to reveal all the locations where the detainees were being confined and its failure to grant access to known places of detention to independent monitoring groups left many questions unanswered about the detainees' treatment. Individual detainees reported problems with obtaining prompt access to legal counsel, harsh conditions of confinement, and verbal and physical mistreatment—especially in local jails used by the federal government to house detainees with criminal inmates—but by the end of November it was still too early to determine if there was any pattern of mistreatment.

The apparent refusal of some detainees to answer questions about possible links with the al-Qaeda network led to a debate in the media about the possible need for torture, "truth serums," or sending the detainees to countries where harsher interrogation tactics were common. The Federal Bureau of Investigation (FBI) denied press reports that it had discussed such possibilities. Former military officials, various political and criminal justice analysts, and others publicly argued that "extraordinary times require extraordinary measures." As of late November there were no reports of abusive interrogation measures used against the detainees, but the public debate over such measures underscored the need for greater transparency regarding the location and treatment of the detainees.

The administration successfully secured from Congress a new anti-terrorism law, the U.S. Patriot Act of 2001, that gave the attorney general unprecedented powers to detain non-citizens on national security grounds. Under the law, the attorney general could certify and detain non-citizens if he had "reasonable grounds to believe" they had engaged in any of a broad range of terrorist acts or otherwise threatened national security. After seven days, such individuals had to be charged with a crime or an immigration violation or else be released. Certified aliens who could not be deported could be held in custody indefinitely until the attorney general determined that the person in question no longer presented a threat to national security. The government released no information about the number of people certified under this law.

The possibility of indefinite administrative detention of non-citizens was also raised by the terms of a new interim Immigration and Naturalization Service (INS) rule issued on September 17. This increased from twenty-four to forty-eight hours the period a non-citizen could be detained by the INS before it had to make a determination whether the detainee should remain in custody or be released on bond or recognizance and whether to issue a notice to appear and warrant of arrest. But "in situations involving an emergency or other extraordinary circumstances," the new measure stated, the forty-eight hour rule is suspended and the determinations must simply be made "within a reasonable period of time." The language triggering the exception was signally vague, the time limit for the exception was open ended, and there was no provision for judicial review of the detention—raising the possi-

bility that non-U.S. citizens could be subjected to arbitrary and prolonged indefinite detention without charges or recourse.

On October 31, the Justice Department issued a new rule that permitted the federal government to monitor communications between inmates in federal custody and their attorneys. Inmates were defined to include not only persons convicted of a crime but anyone held as "witnesses, detainees or otherwise." Under the rule, communications could be monitored when the attorney general had "reasonable suspicion" that the inmate would use communications with counsel to "further or facilitate" acts of terrorism. In abrogating the confidentiality of attorney-client communications and subjecting those communications to government surveillance, the rule directly infringed on the right to counsel. Nevertheless, the administration contended the right to counsel was protected because the inmate would be notified before the monitoring began and a court order would be required before any non-privileged information could be used by investigators or prosecutors.

On November 13, President Bush issued a highly controversial military order authorizing the use of special military commissions to try non-citizens accused of supporting or engaging in terrorist acts. Citing the danger to national safety posed by international terrorism, the president claimed it was "not practicable" to try terrorists under "the principles of law and the rules of evidence" that apply in the U.S.'s domestic criminal justice system. Military commissions—ad hoc tribunals not subject to the rules governing regular military courts-martial and their due process safeguards—could function swiftly and secretly. There need be no presumption of innocence, nor protection against forced confessions. Under the president's order, persons convicted by such commissions would have no right of appeal to a higher court, a key fair trial requirement under international law, and they could be sentenced to death by a two-thirds majority of the presiding officers. The language of the order suggested the president may also have sought to preclude habeas corpus petitions. The precise rules under which the commissions would function had not been publicly issued by the end of November.

The order authorized military detention and trial for violations of the laws of war or other "applicable laws" of anyone who is not a U.S. citizen if the president should determine that "there is reason to believe" such an individual is or was a member of al-Qaeda; had engaged in, aided or conspired to commit acts of international terrorism; or had harbored terrorists. Terrorism, however, was not defined in the president's order. The order permitted military jurisdiction over non-citizen civilians in the U.S. who otherwise would be subject to regular criminal trials with the full panoply of due process safeguards that accompany such proceedings. Unlike the other domestic anti-terrorism measures, the order provoked strong protests from across the political spectrum. Some members of Congress urged the administration to rescind the order, and Judiciary Committee hearings were scheduled for the end of November and December to assess the order as well as other administration actions following the September 11 attacks.

OVERINCARCERATION, DRUGS, AND RACE

In 2000, the number of adults under the supervision of the criminal justice system—behind bars, on parole or on probation—reached a record 6.47 million, or one in every thirty-two adults. The rate and absolute number of confined persons continued to grow, although less than in previous years, but the number of inmates in state prisons fell slightly in the second half of 2000. The rate of incarceration in prison and jail was 699 inmates per 100,000, making the U.S. the world leader in incarceration, surpassing Russia's rate of 644 per 100,000, and giving the U.S. an incarceration rate that was five to eight times higher than those of European countries. Including inmates locked in prison, jails, juvenile detention and immigration facilities, the number of persons behind bars topped two million. One in every 143 Americans was incarcerated, with racial minorities disproportionately affected. Blacks and Hispanics accounted for 62.6 percent of all state or federal prisoners even though they represent only 24 percent of total U.S. residents. Almost 10 percent of black non-Hispanic men aged from twenty-five to twenty-nine were in prison in 2000, compared to 1.1 percent of white men in the same age group.

The continued growth in the prison population, despite years of falling crime rates, reflected the impact of public policies that lengthened sentences, imposed mandatory prison terms even for minor, nonviolent drug crimes, and restricted opportunities for early release. Also to blame was the high number of parolees returned to prison, many for technical parole violations. Fifty two percent of the state prison population had been convicted of nonviolent crimes, including 21 percent for drug crimes (nearly a quarter of a million persons). Slightly more than 1.5 million state and local arrests were made in 1999 (the most recent year for which data is available) for drug abuse violations, 46 percent of which involved marijuana. Four out of every five drug arrests were for possession of an illegal substance. Some 460,000 persons were behind bars for drug offenses, a tenfold increase over 1980. Blacks constituted 57.6 percent of all drug offenders in state prison, Hispanics 20.7 percent, and whites 20.2 percent.

Confronted with bulging prison populations, soaring costs, and a high percentage of low level nonviolent offenders among inmates, some states began to move away from punitive mandatory sentences for nonviolent offenders. For example, Mississippi enacted a law allowing nonviolent first offenders to seek parole after serving 25 percent of their sentence instead of 85 percent. Louisiana, almost half of whose state prison population was convicted on drug-related charges, ended mandatory prison time for certain nonviolent criminals, including persons convicted of simple possession of small drug amounts, and shortened the length of mandatory sentences for drug sellers. In Indiana, lawmakers repealed mandatory twenty-year sentences for many drug offenders, restoring sentencing discretion to judges. In New York, legislators debated but did not pass reforms of the state's draconian drug laws that would reduce mandate sentences, increase judicial discretion, and expand opportunities for alternatives to prison. In November 2000, Californians approved a ballot initiative mandating treatment instead of incarceration for those guilty of drug possession or use.

PRISON CONDITIONS

Although over 40 billion dollars a year is spent on incarceration, the burgeoning prison population overwhelmed the ability of corrections authorities to provide safe, humane, and productive conditions of confinement. Politicians, who had been eager to enact sentencing laws sending more people guilty of marginal crimes to prison for longer sentences, were less eager to pay for the costs of operating high quality facilities. Corrections officials lacked the funds to recruit, properly train and retain adequate numbers of staff, to provide work, training or educational programs that would keep inmates occupied and help them learn new skills, or to provide substance abuse treatment or other rehabilitative activities. Most prisons were overcrowded, impoverished facilities; many were rife with violence and gangs. Growing recognition of the importance of preparing inmates for reentry to their communities—about 600,000 are released from prison annually—prompted more public attention to the need for rehabilitation programs, but little new funding was made available.

Inmate violence in prisons caused injury and death. There were more than 31,000 inmate upon inmate assaults, a quarter of which resulted in injuries requiring medical attention in 1999 (the most recent year for which data was available). According to the Department of Justice, 10 percent of state inmates reported they had been injured in a fight while in prison.

Rape was a common as well as a psychologically and physically devastating form of violence among inmates. Certain prisoners were targeted for sexual exploitation upon entering a penal facility, particularly those who were young, small, physically weak, white, gay, first offenders or convicted of a sexual offense against a minor. In extreme cases, some prisoners became "slaves" of their rapists. Although no conclusive national data existed regarding the prevalence of prisoner-on-prisoner rape, the most recent statistical survey showed that 21 percent of inmates in seven prisons had experienced at least one episode of pressured or forced sex since entering prison. Some rapes were brutal, leaving victims beaten, injured and, in the most extreme cases, dead. Staff generally ignored or even reacted hostilely to inmates' complaints of rape. Indeed, in many cases, they took actions that made sexual victimization likely. Most correctional authorities denied that prisoner on prisoner rape was a serious problem and failed to implement reasonable prevention and punishment measures.

The use of electric stun and restraint devices against prison and jail inmates caused injury and even death. In Florida, an inmate died after being kept for a day in a restraining chair that immobilized him. Autopsy results were not available. In Virginia, prison officials suspended the use of the Ultron II stun gun, which delivers 50,000 volts of electricity, after an autopsy implicated the weapon in the death in 2000 of Lawrence Frazier, an inmate at Wallens Ridge State Prison. Frazier, an insulin dependent inmate, began struggling with corrections officers during a period when his blood sugar was dangerously low. The officers discharged the stun device three times at him and then placed him in restraints. Frazier lapsed into a coma and died several days later. In February, criminal charges were filed against six

correctional officers in Arkansas who beat handcuffed prisoners and shocked them with a stun gun and a cattle prod on their buttocks and testicles.

Inmates in Virginia's supermaximum and high security prisons were placed in five point restraints—limbs tied to the four corners of a bed frame with an additional strap across the chest, leaving them fixed in a spread-eagled position unable to move or tend to normal bodily functions. Although U.S. law prohibits corporal punishment and five point restraints should only be used in emergency situations, officers subjected inmates to restraints in response to minor nonviolent offenses, including publicly masturbating, kicking the doors, and swearing at officers. Some were kept restrained on their backs for as long as two or three days and forced to urinate on themselves. The Department of Corrections implicitly acknowledged the improper practice, settled a lawsuit challenging the use of restraints in one of the prisons, and instituted a changed restraints policy. The Federal Bureau of Prisons agreed to pay nearly $100,000 dollars to settle a lawsuit filed by an inmate who was tied to a bed for five days, forced to urinate and defecate on himself.

Plaintiff inmates in class action lawsuits claimed abusive conditions in supermaximum security prisons in Illinois, Ohio, Wisconsin, and Virginia. A lawsuit filed on behalf of Connecticut inmates housed at Virginia's Wallens Ridge State Prison alleged that excessive force was endemic. According to the inmates' lawyer, prison records revealed that guards shocked the Connecticut prisoners with stun weapons thirty-three times, and placed them in five point restraints seventy-nine times over a nineteen month period. In a one-year period, thirty-seven Connecticut inmates were hit when guards fired rubber rounds. In Wisconsin, inmates filed a suit challenging conditions in that state's two-year-old ultra-high security prison in Boscobel—including round the clock confinement for all but a few hours a week in small windowless cells, exercise limited to solitary activity in tiny, unheated rooms without exercise equipment, and twenty-four-hour video surveillance that allowed female guards to watch male inmates shower and urinate. In the most restrictive level of the prison, personal possessions for inmates were limited to one religious text, one box of legal materials, and twenty-five personal letters. Inmates were not permitted to possess clocks, radios, watches, cassette players, or televisions, were subject to extreme seasonal temperature fluctuations, and had to conduct visits other than with lawyers through video screens. They had little natural light and no access to the outdoors. Those confined at the Boscobel prison included eight inmates aged under eighteen. Plaintiffs claimed that the conditions of social isolation, idleness, and limited sensory stimulus aggravated the symptoms of mentally ill inmates. In October, a federal judge ordered the Wisconsin Department of Corrections to remove five seriously mentally ill inmates from the prison, to arrange for an independent psychiatric examination of all inmates with certain characteristics suggesting mental illness, and to remove from the prison any inmate revealed to be seriously mentally ill. The Department of Corrections said that it would not appeal this order.

Mental health claims were also part of a lawsuit filed by inmates at Ohio's supermax prison, a facility that confines only 1 percent of the state's inmate population but which in a two year period had three suicides, accounting for 15 percent of all suicides in the state's prison system.

In recent years, many states enacted laws criminalizing custodial sexual misconduct and corrections departments adopted programs to address this abuse. But the problem remained widespread, and investigation and prosecution of such cases was frequently hampered by lack of commitment or resources. In Alaska, a jury awarded nearly $1.4 million to five women in a civil action arising from their being sexually assaulted by a guard. In Indiana, a woman who cooperated with the authorities after serving her sentence, was subsequently prosecuted for prostitution because she acknowledged during her testimony that a corrections official had given her cigarettes even as he engaged in custodial sexual misconduct. Such response violated the spirit of the law on custodial sexual misconduct that explicitly excluded consent as a defense and was likely to deter women from reporting sexual misconduct.

POLICE BRUTALITY

There were thousands of allegations of police abuse, including excessive use of force, such as unjustified shootings, beatings, fatal chokings, and rough treatment, but overwhelming barriers to accountability remained, enabling officers responsible for human rights violations to escape due punishment. 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 2000, 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 fifty-four officers were either convicted or pled guilty to crimes under the civil rights statute stemming from complaints during 2000 and previous years.

In April, a white police officer, Stephen Roach, shot dead an unarmed black man wanted on misdemeanor warrants in Cincinnati, Ohio. The response to the shooting of Timothy Thomas revealed deep distrust of the police among some in Cincinnati, leading to protests and rioting. Police made hundreds of arrests and dozens of people were injured in three days of violence and property damage.

In September, Roach was acquitted by the county judge, in a non-jury trial that he requested, on misdemeanor charges in relation to the Thomas shooting. In another case, after a jury deadlocked, county prosecutors in Ohio simply dropped charges of involuntary manslaughter against another police officer arising from the asphyxiation death of suspect Roger Owensby, while another officer was acquitted of assault charges in the same case. Prosecutors announced they would not pursue charges against Cincinnati officers who fired beanbag projectiles against persons attending the Thomas funeral.

In October, the Justice Department issued a preliminary findings letter stemming from its inquiry into police policies and practices in Cincinnati. It called for sweeping changes to the police department's policies on the use of force, training of officers in appropriate use of force, and in its record-keeping and mechanisms for investigating allegations of police abuse.

In November 2000, the Los Angeles City Council approved the consent decree negotiated between the Justice Department and city officials following the Justice

Department's inquiry into police policies and practices in the city. In June 2001, a federal judge approved the agreement, making Los Angeles's police department only the third city force to be required to operate under a federal consent decree following Justice Department "pattern or practice" civil rights inquiries. (Police forces in Steubenville, Ohio and Pittsburgh, Pennsylvania operated under similar consent decrees, as did the New Jersey State Police.) The decree established an outside monitor to ensure that the department collects data on the race of people subjected to vehicle and pedestrian stops and implements a computerized system for tracking complaints, disciplinary actions, and other data regarding officers' performance, among other reform requirements.

In New York City, however, it was reported in May 2001 that a Justice Department "pattern or practice" inquiry into the use of excessive force that began after the August 1997 assault on Abner Louima was dropped by the Justice Department, while a separate inquiry into alleged racial profiling by the department's force stalled. Information about progress in approximately fifteen other pending inquiries into other police departments' policies and practices was not made public. In the District of Columbia, city officials and the Justice Department came to an agreement to make reforms in the city's police department after the police chief requested the Justice Department's assistance in dealing with officers' use of excessive force and the department's poor accountability systems.

RACIAL DISCRIMINATION

In August, the U.N. Committee on the Elimination of Racial Discrimination issued its first report reviewing U.S. compliance with the Convention on the Elimination of All Forms of Racial Discrimination (CERD). The committee commended the "detailed, frank and comprehensive" U.S. compliance report despite its being submitted five years late, and noted U.S. progress in some areas in addressing racial discrimination and the extensive constitutional and legislative framework for the protection of civil rights.

The committee also expressed many concerns about continuing racial discrimination and the U.S. failure to live up to key provisions of CERD, noting that the U.S. had failed to implement the treaty and had too limited an understanding of the scope of the treaty's protections. In particular, the committee pointed to the obligation on the U.S. to prohibit racial discrimination in all its forms, including practices and legislation that, while not discriminatory by intent, may be so in effect. The committee recommended that the U.S. review existing laws and policies to ensure effective protection against discrimination and the elimination of any unjustifiable disparate impact, as required by CERD.

Other areas of concern highlighted by the committee included police brutality, notably against minority groups and foreigners; disproportionately high incarceration rates of African-Americans and Hispanics and the need to ensure equal treatment in the criminal justice system; racial disparities in the application in the death penalty; felony disenfranchisement, particularly affecting minorities after they have served criminal sentences; treatment of indigenous peoples; and racial discrimination and disparities in housing, employment, education, and health

care. The committee also noted that officials at the federal, state, and local level failed to collect statistics necessary to determine the extent of discrimination and official response to it.

Responding to questions put by the committee, U.S. officials failed to accept the scope and obligations of CERD: they repeated the contention that intentional discrimination is prohibited by U.S. law, while ignoring the disparate impact provisions of CERD. For example, the written response of the U.S. to the committee's questions, dismissed concerns about disparate incarceration rates by pointing to various causes for those disparities but without offering any clear plan to comply with the treaty's provisions regarding disparate impact.

The U.S. response also stated that there was no need to enact legislation to implement CERD domestically, arguing that U.S. law was already in compliance with its provisions. It acknowledged that the U.S. had no centralized data system for recording complaints of racial discrimination at the local, state, or federal levels, and at the same time insisted that there was no pervasive discrimination problem without providing any data to support this contention.

In September, the U.S. abruptly and publicly withdrew its delegation from the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) in Durban, South Africa, citing concern about references to Zionism in draft documents before the conference. However, it was clear that the Bush administration also felt serious unease about calls made within the WCAR context for reparations for slavery and other forms of severe racial discrimination in the United States. The administration had already signaled its lack of support for the conference through its failure to contribute significant funding or to identify goals it hoped to achieve other than preventing examination of past practices in the U.S. By not participating, the administration missed an important opportunity to review both the positive and negative aspects of its record on racial discrimination and plans to address continuing shortcomings. Many U.S. nongovernmental civil rights groups attended the WCAR, however, and contributed to its declaration and program of action to intensify the struggle against racial, ethnic, and other forms of discrimination.

HATE CRIMES

Following the September 11 attacks on New York and Washington, private individuals committed xenophobic acts of harassment and aggression against Muslims, Sikhs, and people of Middle Eastern and South Asian descent. By November, monitoring groups around the country had received almost 1,000 complaints alleging crimes apparently motivated by bias and hate, including four murders. Violent assaults, death threats, shootings, and vandalism at mosques and Sikh temples were reported; at several U.S. universities foreign students from the Middle East and South Asia were attacked; and members of the affected communities feared to leave their homes, go to work, or wear traditional clothing in public for fear of attack. Investigations into, and prosecutions of, those responsible for various attacks against members of the affected minority groups were pending in November.

The initial response of key political leaders was commendable. President Bush,

Attorney General Ashcroft, New York City Mayor Rudolph Giuliani, and other officials 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.

IMMIGRANTS' RIGHTS

The anti-immigration sentiment that led to the enactment of the stringent 1996 Illegal Immigration Reform and Immigrant Responsibility Act seemed to have weakened prior to the September 11 attacks. Many public figures commented favorably on the contribution of immigrants to U.S. economic and cultural life, and President Bush announced that he would seek to regularize the status of the more than three million undocumented Mexican workers residing in the U.S.

Immigrants' activists gained ground not only in the political arena but also before the U.S. Supreme Court. In June, the country's highest court ruled that the government could not continue to imprison deportable immigrants whose home countries either would not accept them or no longer existed: the decision most immediately affected more than 3,400 non-citizens then subject to indefinite detention by the Immigration and Naturalization Service (INS). Supreme Court Justice Stephen Breyer, for the majority, wrote: "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the constitution] protects. The serious constitutional problem arising out of a statute that, in these circumstances, permits an indefinite, perhaps permanent, deprivation of human liberty without any such protection is obvious."

In June, the Supreme Court also issued a ruling that affirmed the right of legal immigrants to have their cases reviewed by a court before facing deportation. The court also ruled that immigration laws passed in 1996—making deportation automatic for an expanded group of immigrants—could not be applied retroactively.

Detention practices following the September 11 attacks were especially troubling. As noted, law enforcement officials detained at least 1,100 people in connection with the investigation into the September attack. In late November, the government announced that 104 were being held on federal criminal charges and 548 were being held on immigration charges. While it released the names of persons charged with federal crimes, it continued its refusal to release the names, places of detention, or specific violations of those held on immigration charges. Human Rights Watch and other U.S.-based civil and human rights group filed a Freedom of Information Act request in October to seek information about the detainees. Human Rights Watch also sought direct access to detainees in custody in relation to the investigation of the September 11 attacks. By late November, INS officials had denied the Human Rights Watch request to visit one New Jersey jail holding INS detainees and authorities had failed to respond to other, similar requests for access at other facilities.

Some attorneys representing detainees reported difficulty in locating and advising their clients; others said that the authorities did not properly advise their clients

of their rights. It took days for some families to find out where their detained relatives were being held.

In recent years, the number of people in INS detention has grown dramatically to an average nationally of 22,000 per day, compared to 6,700 per day in 1995. This increasing population continued to seriously impact the capacity of the INS to provide humane and safe detention conditions, and a lack of adequate space in federal facilities caused the INS to disperse some detainees to local jails. In 2001, 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, who by conservative estimates made up at least 5 percent of the detainee population, continued to be detained as the rule, not the exception, in breach of international standards relating to the treatment of asylum-seekers. In its own facilities, the INS implemented some standards regarding treatment and conditions, but INS detainees assigned to jails were under the direct control of jail officials and INS monitoring of such jails was minimal.

The INS continued to detain unaccompanied children for lengthy periods before releasing them to family members or appropriate guardians, and acknowledged that it held about 5,000 children in its custody annually. Rights groups criticized the INS for denying full access to independent monitors and lawyers who represented the detained children in a successful class-action lawsuit challenging the conditions of confinement for youth in INS custody. In a positive development, Senator Dianne Feinstein proposed legislation that would correct these and other abusive conditions for unaccompanied children in the United States.

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 September 11 attacks sparked several legislative proposals to tighten control of U.S. borders by employing more Border Patrol agents, whose number had already increased rapidly to over 9,000, more than double the 1993 total. This rapid increase raised concern that serious oversight deficiencies that have affected the Border Patrol, particularly its capacity to investigate complaints of abuse by Border Patrol agents, would become more acute. As in previous years, in 2001, Border Patrol agents shot a number of border-crossers in questionable circumstances, in some cases fatally wounding them. Agents, who were not required to wear protective gear although this would reduce their risk of injury, said they shot migrants who they feared were about to throw rocks at them.

Migrants who sought to enter the U.S. illegally by crossing the border with Mexico continued to die of exposure or drowning in high numbers. In the first half of 2001, 188 perished; in 2000, 499 died. In 1996, the first year for which there was

comprehensive data, there were eighty-seven deaths. As a result of the current INS strategy of concentrating border control in urban centers, many migrants opted to cross the border at remote locations that required them to traverse particularly hazardous desert terrain and to depend on smugglers. Many also crossed through private ranches, to which local ranchers responded by carrying out armed patrols along the border, in some cases beyond their own property, and organizing volunteer-based "missions" to hold border crossers. This resulted in the death or injury of several migrants at the hands of ranchers, and an inadequate response by the authorities to abuses committed against migrants by ranchers. In August, a rancher charged in connection with the death of a Mexican border crosser who had entered his property a year before to ask for water, but whom he shot dead, was convicted on a misdemeanor deadly conduct charge, given a 180-day suspended sentence and fined $4,000.

DEATH PENALTY

By November, the U.S. had carried out sixty-two executions since the beginning of 2001 (compared to a total of eighty-five in the whole of 2000) and 3,717 men and women were on death row. In Texas, the authorities carried out fifteen executions compared to forty in 2000, and Virginia executed two prisoners compared to eight in the same period of 2000. Against this trend, Oklahoma executed sixteen inmates, a record number for the state.

Public confidence in the fairness and reliability of the death penalty continued to erode, despite strong support for the June 11 execution of Timothy McVeigh, convicted of the 1995 bombing of the Oklahoma City federal center that killed 168 people. Polls showed support for the death penalty fell to its lowest point in years—63 percent—and dropped even further to 46 percent—when life in prison was offered as an option. Flaws in the death penalty process were highlighted by the revelation, five days before McVeigh was originally scheduled to be executed, that in one of the most prominent cases of the decade, the FBI had failed to turn over thousands of pages of documents to McVeigh's lawyers, forcing the U.S. Department of Justice to delay his execution for a month.

The mishandling of the McVeigh case, the first federal execution since 1963, exemplified the fallibility of the capital punishment process that continued to be documented in reports from around the country of judicial error, false testimony, incompetent defense lawyers, and poor laboratory work in capital cases. In May, following an Oklahoma City Police Department report on multiple errors by local police chemist Joyce Gilchrist, the Oklahoma State Bureau of Investigation launched an investigation into all the cases—including twenty-three capital cases—in which she had been involved. Oklahoma death row inmate Alfred Brian Mitchell's death sentence was overturned because of what the court called Gilchrist's "untrue" testimony.

Supreme Court Justice Sandra Day O'Connor, long considered a supporter of the death penalty, publicly expressed her concern that "the system may well be allowing some innocent defendants to be executed. " She cited statistics showing

that defendants in Texas who were represented by court-appointed counsel, were far more likely to be convicted and to receive a death sentence than those who retained their own attorneys. By September, five men had been exonerated and released in 2001 after years on death row, bringing the total of innocent persons released from death row since 1973 to ninety-eight.

The fairness of the federal death penalty system, particularly in relation to racial and geographic disparities, was also called into question. A September 2000 report issued by the Justice Department documented stark racial and geographic disparities in the prosecution of federal capital cases, leading President Bill Clinton to issue a temporary reprieve for Juan Raul Garza, who faced execution in December 2000.

In June 2001, the Justice Department issued a supplemental report concluding that there was no evidence that minority defendants were subjected to bias in federal capital cases. That conclusion was not supported by the data in the report, which acknowledged the impossibility of acquiring the necessary data during the review period allowed. The June report, however, did put forward several explanations for the disproportionate number of minorities on death row, though none of these appeared adequate when closely examined by Human Rights Watch and others. Acknowledging the shortcomings of the June report, the Justice Department stated that it would undertake a comprehensive study of racial and geographic disparities in the application of the federal death penalty, but by November the report had not been released.

The June report concluded that there was no racial inequity in the administration of the federal death penalty because there was no evidence of discriminatory intent or actual bias on the part of prosecutors. Under the CERD, however, the U.S. is obligated to prohibit practices that have either the purpose or effect of discriminating on the basis of race. Commenting in its August report on the U.S., the U.N. committee observed: "there is a disturbing correlation between race, both of the victim and the defendant, and the imposition of the death penalty."

The continued use of the death penalty by U.S. federal and state authorities was strongly criticized by European countries, notably European Union (E.U.) states, as inconsistent with human rights principles. In April, as in previous years, the U.N. Commission on Human Rights adopted a resolution sponsored by the E.U. that urged the U.S. to move toward abolition of the death penalty, and called particularly for the U.S. to cease executing juvenile offenders and prisoners with any form of mental disorder. In June, the Council of Europe voted to remove the observer status of the U.S. and Japan if they did not end their use of the death penalty by January 1, 2003. Prominent former U.S. diplomats also spoke out on the issue in the press and in a court brief, stating that the U.S. executions of prisoners with mental retardation hampered U.S. diplomatic relations and damaged the country's reputation as a leader in human rights and its foreign policy interests.

In June, the World Court ruled that the U.S. had violated the Vienna Convention on Consular Relations in the case of two German nationals executed by the state of Arizona in 1999. Karl and Walter LaGrand had not been informed of their right under the Vienna Convention to seek assistance from the German consulate; Amnesty International reported that fifteen other foreign nationals executed in the U.S. since 1993 had also not been informed of their consular rights. In June, Okla-

homa Governor Frank Keating granted a thirty-day reprieve to a Mexican national, Gerardo Valdez, who had not been told of his right to contact his consulate. In September, the state's highest court granted Valdez an indefinite stay of execution. As of November 2001, 119 foreign nationals remained on death row.

In March, Human Rights Watch reported that at least thirty-five men with mental retardation had been executed in the U.S. since 1976, even though their mental impairment limited their moral culpability and harmed their ability to protect their legal rights. Mounting domestic and international criticism of executing the mentally retarded spurred five states to enact legislation this year prohibiting such executions. In Texas, where at least six prisoners with mental retardation have been executed, and where others remained on death row, the legislature passed a similar bill, only for Governor Rick Perry to veto it. The Supreme Court agreed to hear the appeal of North Carolina death row inmate Ernest McCarver, who sought to obtain a ruling that the U.S. constitution prohibited the execution of prisoners with mental retardation as "cruel and unusual" punishment, and then agreed to substitute the case of Daryl Atkins, a Virginia death row inmate, when McCarver benefited from North Carolina's enactment of legislation barring the execution of prisoners with mental retardation. Previously, in 1989 the Supreme Court ruled that the U.S. constitution did not bar the execution of prisoners with mental retardation, noting the absence of a national consensus against such executions. At that time, only two states prohibited such executions, but that number had increased by November 2001 to eighteen states, as well as the federal government, while a further twelve permitted no executions at all. The Atkins case was awaiting consideration by the Supreme Court in November 2001. In June, the Supreme Court overturned the death sentence of Johnny Paul Penry, because the sentencing instructions that the trial court gave to the jury did not permit it to give due consideration to his mental abilities.

Prompted by a request from Human Rights Watch, the McAlester Regional Health Center decided to cease providing the Oklahoma Department of Corrections with the drugs used in lethal injections. The health center agreed that assisting the state in the implementation of the death penalty was inconsistent with its mission as a hospital.

The United States was virtually alone in imposing sentences of death on those who were children at the time of the crimes for which they were convicted. Eighty-five juvenile offenders were on death rows in fifteen U.S. states as of July 1, 2001. With thirty-one juvenile offenders on its death row, Texas accounted for over one-third of the national total. In all, twenty-three U.S. states continued to allow the death penalty to be imposed for crimes committed by those below the age of eighteen.

Two juvenile offenders received last-minute stays of execution after their attorneys presented new evidence or raised constitutional issues on appeal. On August 15, Napoleon Beazley, convicted in Texas for a murder he committed at age seventeen, came within hours of execution when the Texas Court of Criminal Appeals issued a stay to enable it to consider whether his first appellate attorney provided ineffective assistance. Earlier, in March, Missouri death row inmate Antonio Richardson received a stay from the U.S. Supreme Court. Sixteen at the time of his

crime, Richardson may have mental retardation; his case was on hold pending the Supreme Court ruling on the constitutionality of imposing the death sentence on persons with mental retardation.

LABOR RIGHTS

There were continuing labor rights violations affecting workers in many sectors. One particularly vulnerable group was the more than 4,000 migrant domestic workers with special temporary visas. These special visas, termed A-3, G-5, and B-1, allowed migrant domestic workers, most of whom were women, to work for U.S.-based foreign diplomats and officials of international organizations, as well as for other foreigners temporarily in the United States and U.S. citizens who resided abroad but were temporarily in the United States. In a report published in June 2001, Human Rights Watch detailed how these special visa programs were conducive to and facilitated violations of the workers' human rights.

In the worst cases, domestic workers were victims of trafficking—deceived about the conditions of their employment, brought to the United States, and held in servitude or performing forced labor. They worked excessive hours for wages significantly below the statutory minimum, were rarely allowed to leave their employers' premises, and were subject to psychological, physical, and sometimes sexual abuse. As their visas were employer-based, however, workers who left their employer even to escape abuse lost their legal immigration status in the U.S. If, alternatively, a worker lodged a legal complaint, it was unlikely that her rights would be protected as none of the relevant authorities—the Department of State, the INS and the Department of Labor-monitored employer treatment of these workers or kept effective records on them and their employers. Also, there was no guarantee that the INS would allow a complainant to remain in the U.S. to seek legal redress or that her rights would be protected under U.S. law, as live-in domestic workers were excluded from important U.S. labor legislation. This included the overtime provisions of the Fair Labor Standard Act, the National Labor Relations Act, the Occupational Safety and Health Act, and, in practice, Title VII protections against sexual harassment in the workplace.

GAY AND LESBIAN RIGHTS

Lesbian, gay, bisexual, and transgender youth in many U.S. schools were another vulnerable group whose rights were violated. They were harassed and targeted for violence by their peers, including physical attack, mock rape, unwelcome sexual advances, taunts, obscene notes or graffiti, and the destruction of personal property. Adding to the problem, as Human Rights Watch showed in a report based on research in seven states that it published in May, school officials and teachers often failed to intervene to stop the harassment or to hold the abusive students accountable, and, in the worst cases, participated in acts of harassment. Teachers who were lesbian, gay, bisexual, or transgender were themselves reluctant to openly acknowl-

edge their sexual orientation at school for fear of losing their jobs. The problem was further exacerbated by the failure of federal, state, and local authorities to enact laws expressly protecting students from discrimination on the basis of sexual orientation or gender. The discrimination, harassment, and violence inflicted on students interfered with their right to obtain an education. The emotional impact may have been a factor contributing to the disproportionately high incidence of alcohol abuse and drug addiction as well as suicide attempts among lesbian, gay, bisexual, and transgender youth.

Anti-gay harassment was also pervasive in the military. Seven years after the "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 widespread. Many military personnel who faced verbal or physical harassment and feared for their safety made statements declaring that 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 face an intrusive inquiry and discharge. Harassers, however, 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 2000, more than 6,500 servicemembers were discharged under the policy, with a record number of 1,231 separations during 2000. Women were discharged at a disproportionately high rate, while the policy provided an additional means for men to harass women servicemembers 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 North Atlantic Treaty Organization (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—the ban's justifications were nearly identical to those used to support the "Don't Ask, Don't Tell" policy.

Relevant Human Rights Watch Reports:

Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States, 6/01

Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in U.S. Schools, 5/01

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

Beyond Reason: The Death Penalty and Offenders with Mental Retardation, 3/01

ARMS

Victims of landmines in Afghanistan.

ARMS

The arrival of the Bush administration in the White House in January ushered in an approach to U.S. foreign policy that could only be described as a reflexive unilateralism. It seemed there was not a single multilateral treaty that the new government was willing to join or retain. Treaty negotiations soon ran up against freshly drawn "red lines," that is, baseline positions that, it was made clear, were essentially nonnegotiable. As a result, these negotiations were either scuttled or resulted in watered-down documents that reflected a common denominator heavily colored by what the United States presented as its vital national interests.

This was true especially for negotiations involving issues of international arms control. In 2001, these included talks on the 1972 bilateral Anti-Ballistic Missile Systems (ABM) treaty, the 1972 Biological Weapons Convention (BWC), and small arms and light weapons (at a U.N. conference in July). The review of the 1980 Conventional Weapons Convention (CCW) was scheduled for December; negotiations at preparatory committee meetings ("prepcoms") took place in April and September. In mid-September, States Parties to the 1997 Mine Ban Treaty met to review that treaty, as they had every year since 1997; as a non-signatory, the U.S. was not involved in this review.

After the September 11 attacks on New York and Washington, D.C., the U.S. government no longer could hew to a strict unilateralist line. It suddenly was faced with the need to build a broad international coalition to respond to the attacks. However, in the middle of November it remained unclear whether this would bring a renewed U.S. commitment to multilateral treaties. Moreover, one victim of the new U.S. preoccupation with its self-proclaimed fight against terrorism was the effort to curb the proliferation of small arms and small weapons. While this remained an issue of pressing concern for those who suffered directly from the impact of the spread of small arms, especially those living in zones of armed conflict in Africa and elsewhere, the fear was that supplier countries would turn their attention away from the urgent need to impose stricter export controls.

Consistent with its emphasis on small arms and light weapons, in 2001, Human Rights Watch was engaged primarily in the U.N. conference on small arms, and in the review of the Mine Ban Treaty.

ANTIPERSONNEL LANDMINES

Important strides were made in 2001 in the effort to eradicate antipersonnel landmines, despite the reality that antipersonnel mines continued to be laid and to take far too many victims. It was evident that the 1997 Mine Ban Treaty, and the ban

movement more generally, were making a significant difference. A growing number of governments joined the Mine Ban Treaty and there was a decreased use of antipersonnel mines, a dramatic drop in production, an almost complete halt to trade, and progress in the rapid destruction of stockpiled mines. There were also fewer mine victims in key affected countries and more land was demined.

Between November 2000 and November 12, 2001, the number of States Parties to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and On Their Destruction (Mine Ban Treaty) grew to 122. Among the new adherents were Romania and Chile, both major producers and exporters in the past, and Eritrea, which was using antipersonnel mines in combat as recently as June 2000. An additional twenty countries had signed but not yet ratified the Mine Ban Treaty. The foreign ministers of Greece, Turkey, and Yugoslavia pledged to ratify or accede to the treaty shortly.

Fifty-two countries had not yet joined the treaty. This included most of the Middle East, most of the former Soviet republics, and many Asian nations. Major producers such as the United States, Russia, China, India, and Pakistan were not part of the treaty. Yet virtually all of the nonsignatories had endorsed the notion of a comprehensive ban on antipersonnel mines at some point in time, and many had already at least partially embraced the Mine Ban Treaty. United Nations General Assembly Resolution 55/33v calling for universalization of the Mine Ban Treaty was adopted in November 2000 by a vote of 143 in favor, none opposed, and twenty-two abstentions. Nineteen nonsignatories voted for the resolution.

The Mine Ban Treaty intersessional work program, with week-long meetings in Geneva in December 2000 and May 2001, successfully fulfilled its intended purpose in helping to maintain a focus on the landmines crisis, in becoming a meeting place for all key mine action players, and in stimulating momentum to fully implement the Mine Ban Treaty. The four intersessional Standing Committees on Victim Assistance, Mine Clearance, Stockpile Destruction, and General Status and Operation of the Convention helped to provide a global picture of priorities, as well as to consolidate and concentrate global mine action efforts. Compliance with all key articles of the convention became an overall focus of the second intersessional year. A Universalization Contact Group was formed, coordinated by Canada, with participation by a number of States Parties, the International Campaign to Ban Landmines (ICBL) and International Committee of the Red Cross (ICRC). In addition to many bilateral efforts to promote adherence to the Mine Ban Treaty, there were important regional conferences aimed at universalization, notably in Bamako, Mali in February.

The Third Meeting of States Parties to the Mine Ban Treaty was held in Managua, Nicaragua in September. States Parties, in close cooperation with the ICBL, developed an action plan for the year and issued a strong final declaration.

Just prior to the Managua meeting, the ICBL released the 1,175-page *Landmine Monitor Report 2001*, its third annual report looking at the landmine situation in every country of the world. The report, the product of a network of 122 researchers from ninety-five countries, cited many positive developments, including more than 185 million square meters of land cleared of mines in 2000; a revised estimate of new mine casualties of 15,000–20,000 per year, compared to previous

estimates of 26,000 per year; destruction of another five million stockpiled antipersonnel mines, bringing the total to 27 million in recent years; no known significant exports of antipersonnel mines; and a reduction in the number of producers from fifty-five to fourteen (with Turkey and Yugoslavia being removed from the list in the past year). However, the Landmine Monitor also identified use of antipersonnel mines in twenty-three conflicts by fifteen governments and more than thirty rebel groups in this reporting period (May 2000 to mid-2001). It reported a "strong possibility" of use by Mine Ban Treaty state party Uganda in June 2000 in the Democratic Republic of Congo, and called on states parties to seek clarification urgently.

The Second Annual Conference of States Parties to Amended Protocol II (Landmines) of the Convention on Conventional Weapons (CCW) was held in Geneva in December 2000, and there were preparatory meetings in December 2000, April 2001, and September 2001 for the Second CCW Review Conference, to be held in December 2001. Proposals presented and discussed at these meetings included: extension of the treaty's scope, compliance issues, antivehicle mines, wound ballistics, and the explosive remnants of war.

In the United States there were indications in late 2000 that the Clinton administration would announce several significant steps toward a ban on antipersonnel mines prior to departing office, but this did not materialize. Decisions were left to the incoming administration on controversial issues such as procurement of RADAM (a new "mixed" system combining existing antitank and antipersonnel mines) and a "man-in-the-loop" munition developed as an alternative to antipersonnel mines but which contains a feature to revert the munition to mine status. The Bush administration had not made a formal policy statement on antipersonnel mines by mid-November, and key developments were on hold pending completion of a comprehensive review of landmine policy and actions that began in June. The U.S. continued to be the leader in contributions to global mine clearance, devoting nearly U.S. $100 million in both FY 2000 and FY 2001.

SMALL ARMS AND LIGHT WEAPONS

The United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, mandated in December 1999 by the General Assembly, was held in July 2001 in New York. Flawed both in concept and in execution, it was considered a near-total failure by the human rights and humanitarian communities. While participating states did manage to produce a conference document (the program of action) despite a long list of contentious issues, the document was weak. The program of action ascribed primary responsibility for dealing with the black-market trade in small arms to states, yet did not allude to, much less prescribe, any measures to curb the flow of weapons to abusive actors through the irresponsible arms trade practices of governments themselves. The document did not codify any standards for the arms trade based on international humanitarian law or human rights, and made only a few vague references to the humanitarian urgency of the unchecked proliferation of small arms. It did not establish a transparent uni-

versal system for marking and tracing weapons, or record-keeping and reporting mechanisms (such as an international public register of small arms transfers). Finally, the program of action was not legally binding, nor did it mandate the negotiation of other legally binding documents, such as a treaty on measures to regulate the activities of independent brokers.

Confusion over the conference mandate hampered progress from the beginning, and the scope of the conference was still being debated by the third and final prepcom in March. The conference title referred specifically to the "illicit" trade in small arms, but by adding the phrase "in all its aspects," the door was left open for states to tackle a critical facet of the problem: the legal, government-sponsored trade. However, while many states were adamant that battling the illicit trade in small arms was the responsibility of governments (as opposed to nongovernmental organizations, which were marginalized throughout the process), the same states insisted that the conference should not address government responsibility for creating the problem. Ignoring the fact that virtually every illicitly traded weapon was first traded legally, and that weapons were routinely traded "legally" to abusive forces, the conference rejected demands from civil society and some government delegations to develop stronger export controls and international standards governing the arms trade practices of states.

From the beginning, it was expected that major arms exporters, including most of the Permament Five members of the U.N. Security Council, would try to water down any program of action. The surprise was the emergence of the United States, rather than Russia or China, in this respect. The U.S. had itself boasted relatively decent arms trade control mechanisms, including curbs on exports to human rights abusers and measures to ensure transparency. Yet with the change in administration following immediately after the second prepcom in January, the U.S. delegation began taking a blatantly obstructionist approach. An uncompromising U.S. position was articulated in an opening statement to the conference which shocked most observers and reflected the Bush administration's disdain for multilateral arms control and multilateralism in general. The statement set down several positions which were said to be nonnegotiable, rejecting a mandatory Review Conference, the participation of nongovernmental organizations, and all "measures that would constrain legal trade and legal manufacturing of small arms." It was clear throughout the conference that the domestic gun lobby wielded heavy influence in the U.S. delegation, imposing on the conference a belief that talk of international arms trade control would lead to the demise of the putative constitutional right of U.S. citizens to own guns. Other states antagonistic to the conference's objectives were all too willing to let the U.S. dismantle the conference.

Other factors also hampered progress at the conference. Lack of interest in the process in general, and in the humanitarian dimension in particular, was evident in the make-up of most delegations. Many states refused to send senior Foreign Ministry representatives to the conference, and most delegations were staffed primarily by arms control experts (where staffed with any expertise at all) who were unfamiliar with human rights and international humanitarian law. Further distracting states from turning their focus to the humanitarian and human rights implications of small arms, where it belonged, were debates over peripheral issues, such as non-

state actors, self-determination, and self-defense, as well as myriad disputes over definitions.

Civil society was effectively excluded from participating in the conference. Limitations on NGO access were not officially agreed until the beginning of the conference itself, where it was decided that NGOs would be allowed to watch plenary proceedings from the gallery but could be sent out at any point if delegates opted for a closed session. (NGOs were also allowed one three-hour session to address delegates at each prepcom and during the conference.) States also debated whether or not to include language calling for civil society participation in the program of action. The U.S. in its opening statement opposed this, claiming that such participation was not "consistent with democratic principles," and other delegations insisted that implementation of the program of action was the exclusive realm of states. The document did, however, contain language on civil society cooperation in some areas.

In addition, negotiating the program of action was a consensus-driven process that allowed rejectionist states such as the U.S. to hijack the outcome by simply refusing to compromise on key issues, resulting in a document based on the lowest common denominator that was predictably weak, even on those issues that were not cut from the final draft. One positive outcome was the commitment to a review conference after five years, making this the only red-line position on which the U.S. delegation was eventually willing to back down. The conference also served to raise the profile of small arms proliferation internationally, and allowed civil society organizations to rally around a specific event and develop momentum and focus for future work.

Relevant Human Rights Watch Reports:

Landmine Monitor Report 2001: Toward a Mine-Free World, 9/01
Crisis of Impunity: The Role of Pakistan, Russia, and Iran in Fueling the Civil War in Afghanistan, 07/01