

FINAL TEXT

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Amnesty International Focus

Rights for all

Human rights in the USA

The USA was founded in the name of democracy, political and legal equality, and individual freedom. It has established many institutions to protect individual civil liberties and played a key role in the development of international human rights standards for the protection of all people. However, the USA is still failing to deliver the fundamental promise of rights for all.

For more than a century the rights guaranteed by the US Constitution were denied to whole communities. Indigenous tribes were slaughtered, relocated and their cultural traditions destroyed. Slavery was not abolished until 1865 and racial segregation remained legal until the 1960s. Women were denied the right to vote until 1920.

Today federal and state laws protect a wide range of civil rights. Legislation bars race, gender or other discrimination. Yet large sectors of society continue to suffer inequalities.

The USA has not succeeded in eradicating the discriminatory treatment of racial and ethnic minorities; the poor; people with disabilities; women; children; juvenile offenders; gay men, lesbians, bisexual and transgendered people; religious communities; immigrants; refugees and others.

Across the USA people are being injured and killed by police using excessive force or deliberately brutal treatment. In many prisons and jails inmates are being tortured or ill-treated.

Asylum-seekers are being detained indefinitely in conditions that are sometimes inhuman and degrading. More than 350 people have been executed since 1990, some for crimes committed when they were under 18 years old.

Human rights are universal and indivisible; all human rights should be enjoyed by everyone, whatever their position in society, their racial or ethnic origin, their sexual orientation or their level of income.

The need to sustain the legacy of civil and political rights in the USA and to demand the additional human rights protection enshrined in international standards is pressing. Amnesty International is calling on the US government to act now to ensure rights for all in the USA.

Human rights standards

The international community has adopted a wide range of human rights standards for the protection of all humankind. These articulate the criteria against which the human rights record of all states can be judged.

The USA helped to formulate many of them. It played a fundamental role in the adoption in 1948 of the Universal Declaration of Human Rights, which proclaims the right of every human being to life and to freedom from cruel, inhuman or degrading treatment or punishment.

Yet the USA is reluctant to commit itself to those same standards, for example, it is one of only 10 countries that have not ratified the UN Convention on the Elimination of All Forms of Discrimination against Women, and one of only two countries which have not ratified the UN Convention on the Rights of the Child.

Even when the USA has ratified human rights treaties it has often done so half-heartedly. For example, it has made numerous reservations to the International Covenant on Civil and Political Rights, including reserving the right to execute juvenile offenders.

Police brutality

Throughout the USA people are being injured and even killed by police using excessive force or deliberately brutal treatment. Police officers are punching, kicking, beating and shooting people who pose no threat; they cause serious injuries, and sometimes death, by misusing restraints, chemical sprays or electro-shock weapons. Most reported incidents take place during arrest, searches, traffic stops or in street incidents.

William J. Whitfield 3rd, an unarmed African American man, was shot dead in a New York supermarket on 25 December 1997 by police who said they mistook the keys he was carrying for a gun. Although the officer who shot him was cleared of wrongdoing, it was revealed that he had been involved in eight prior shootings. The New York Police Department Police Commissioner subsequently set up a monitoring system for officers involved in three or more shootings.

Every year there are thousands of reports of assault and ill-treatment by police officers. Inquiries into some of the largest urban police departments have uncovered systematic brutality and a “code of silence” in which police officers refuse to report or confirm misconduct by fellow officers.

Most US police departments have strict guidelines on the use of deadly force. However, it is clear that these standards are frequently breached and that all too often the authorities have turned a blind eye to abuses.

Investigations into complaints of police brutality are often subject to delays and there are concerns about the quality and impartiality of internal investigations. Disciplinary action is rare. Sanctions, when they are imposed, are often lenient.

Many police shootings raise serious doubts as to whether the victims posed an immediate threat. Caroline Sue Botticher, an unarmed African American woman, died after police from West Charlotte, North Carolina, fired 22 rounds at the car in which she was a passenger when it failed to stop at a police check-point in April 1997. There was no evidence to suggest that anyone in the car was armed. Some police departments have introduced guidelines to bar police from firing at moving vehicles unless they are directly threatened with deadly force, but many have not.

There have been numerous deaths in custody after police used restraint procedures known to be dangerous, such as “hogtying”, in which the suspects’ ankles are tied to their wrists behind their backs. Police use of weapons intended to stun or temporarily disable suspects – such as chemical sprays and electro-shock weapons – have also led to serious injuries and deaths. In July 1996, a 29-year-old woman, Kimberly Lashon Watkins, died in Pomona, California, after being shot by police with a taser – a hand-held device which shoots into the victim two barbed hooks attached to wires through which a high voltage current is transmitted.

The use of so-called “less than lethal” weapons is increasing – at least 3,000 police departments authorize the use of Oleoresin Capsicum (“pepper”) spray. The use of these technologies, some of which invite abuse, is of particular concern given the absence of adequate monitoring systems and national standards for their use.

It is time that the US government took steps to end abusive practices by police and to make police forces more accountable.

Torture and abuse of prisoners

Everyone has the right not to be tortured or ill-treated. However, every day in jails and prisons across the USA, this right is being violated.

More than 1.7 million people are in prisons or jails in the USA. More than 60 per cent are from racial or ethnic minorities and over half are black. Since 1980 the number of inmates has more than tripled; the number of women inmates has quadrupled.

Physical and sexual violence are endemic in many prisons and jails. In some institutions, rape and sexual abuse have persisted because inmates fear retaliation and feel too vulnerable to complain. In 1997 the Department of Justice sued the states of Michigan and Arizona for failing to protect

women from sexual misconduct, including sexual assaults and “prurient viewing during dressing, showering and use of toilet facilities”.

Inmates across the country, including mentally ill prisoners, are being restrained in ways that are cruel, inhuman and sometimes life-threatening. Scott Norberg died of asphyxia in Madison Street Jail, Maricopa County, Arizona, in June 1996. He had been placed in a restraint chair – a specially designed chair which allows inmates to be immobilized – with a towel wrapped over his face. In 1997 officials said that the jail system’s 16 chairs had been used 600 times in six months.

It is common practice for prisoners and detainees to be shackled during transportation, whether or not they pose any threat. Pregnant women, for example, are usually held in some form of mechanical restraint while being transported and sometimes while in hospital. Shackling can greatly increase the risk of falling and of injury to the woman or the foetus because she cannot use her hands to protect her body.

Chemical sprays and electro-shock devices are also used. Some have been banned in a number of countries because of the risks they pose. There is particular concern over the increasing use of remote control electro-shock stun-belts which, at the push of a button, inflict a powerful electric current causing severe pain and knocking the prisoner to the ground.

In 1997 some 13,000 prisoners were being held in Supermaximum security (“supermax”) units, and the number is increasing. These units are designed for the long-term isolation of dangerous or disruptive prisoners and conditions in some constitute cruel, inhuman or degrading treatment or punishment. For example, in August 1997 Texas opened the W.J. Estelle High Security Unit, where prisoners are isolated in windowless cells for 23 hours or more a day. The concrete cells have no natural light and the solid steel doors have narrow slits which allow only a minimal view of the corridor outside.

Health care in many facilities is seriously inadequate. Complaints include grossly deficient treatment for the mentally ill; lack of provision for women’s health needs; failing to deliver prescribed drugs; and refusing or delaying necessary medical treatment. Annette Romo, a young pregnant woman in a Maricopa jail, pleaded in vain with staff for medical help when she began bleeding in 1997. She eventually lost consciousness and was rushed to hospital. Her baby died. US authorities must act now to end torture and ill-treatment in prisons and jails.

Asylum-seekers

Everyone forced to flee their country to escape persecution has the right to seek asylum. Yet the USA fails to recognize international standards which state that the detention of asylum-seekers should normally be avoided and that asylum-seekers should not be accommodated with criminal offenders.

In the past few years the number of people detained by the USA’s Immigration and Naturalization Service (INS) has soared. Among them are many asylum-seekers who have fled human rights violations and look to the USA for protection.

Of those that are detained, many are treated like criminal offenders. They are confined with criminal prisoners; stripped and searched; shackled and chained; physically and verbally abused; and denied access to families, lawyers and organizations which could help them.

Because of their smaller number, women asylum-seekers are more likely to be mingled with criminal offenders within a detention facility, be it an INS detention centre or a jail. Women detainees have reported that they were verbally and physically abused, subjected to strip searches, denied the basics for personal hygiene, and put in solitary confinement for minor transgressions of prison rules that they did not understand.

Too often refugee children are not getting the special help they need. Thirteen-year-old Rajakumar, who fled Sri Lanka with his mother after his father was seized by government soldiers and “disappeared”, was separated from his mother and locked up for more than a month in a New York hotel room with a group of strangers. He was then taken to an INS juvenile facility in

Florida without his mother's knowledge. Many refugee children are held in juvenile facilities with juvenile offenders.

The USA's treatment of asylum-seekers is seen by many governments as an indicator of how much respect they must give international mechanisms for the protection of refugees. It is vital that the US government takes steps to honour its commitment to those seeking protection within its borders.

The death penalty

More than 350 people have been executed in the USA since 1990 and more than 3,400 others are on death row. Thirty-eight states currently have the death penalty on their statute books.

International standards seek to restrict the scope of the death penalty – they forbid the use of the death penalty against children; see it as an unacceptable punishment for the mentally impaired; and demand the highest legal safeguards for capital trials. On all these counts the USA is failing. In April 1998 Joseph John Cannon, 38, was executed by lethal injection in Texas for a murder that he committed when he was 17 years old. The first attempt to kill him failed when the needle “blew out of his arm” as the lethal solution began to flow. Observers were led away while the needle was reinserted.

Joseph John Cannon's execution was a clear violation of international standards, which ban the use of the death penalty against people who commit a capital crime when less than 18 years old. In 1992, when it ratified the International Covenant on Civil and Political Rights (ICCPR), the USA reserved the right to execute juvenile offenders. The UN Human Rights Committee has ruled that this reservation is incompatible with the object and purpose of the ICCPR and is therefore void.

Whenever the USA sentences a juvenile offender to death it is breaking international law.

In 1989 the US Supreme Court ruled that it was not unconstitutional to execute mentally retarded people. Since then some 30 mentally impaired people have been executed.

Whether someone is sentenced to life or death can depend more on their lawyer than on the crime. A defendant who cannot afford an experienced and competent lawyer is more likely to be sentenced to death than someone who can. Calvin Burdine, who is openly homosexual, was sentenced to death in Texas after a trial at which he was represented by a lawyer who referred to homosexuals as “queers” and “fairies”, did not interview a single witness in preparing the defence, and was seen to fall asleep repeatedly during the trial. Calvin Burdine remains on death row and has twice come within hours of execution.

No one knows how many prisoners have been executed in the USA for crimes they did not commit. Amnesty International has documented numerous cases of people who went to their deaths despite serious doubts about their guilt. Curtis Kyles was released and the charges against him were dropped in 1997. He had been in prison for 14 years, twice coming close to execution. He became the 75th wrongly convicted person to be released from death row since 1973.

The application of the death penalty is racist. Black and white people are the victims of violent crime in roughly equal numbers, yet 82 per cent of people executed since 1977 have been convicted of killing white victims. Other factors, such as aggravating circumstances, cannot explain the disparity in sentencing linked to the race of the defendant and of the victim. Blacks make up just 12 per cent of the US population, but 42 per cent of those on the nation's death rows. The judicial system which tried and sentenced them remains overwhelmingly white.

There can be no denying the cruelty of the death penalty, no matter what method is used. A person rendered helpless by the state is confined, sometimes for years, under threat of death, often in harsh conditions. Most executions are carried out by lethal injection. But this is not a painless, clinical process as is sometimes claimed.

Tommy Smith was executed in Indiana in 1996. The execution team searched for 16 minutes for a vein in his arm before calling a doctor who tried unsuccessfully to insert a needle into his neck.

After 36 minutes the poison was finally injected through a vein in his foot. Tommy Smith was fully conscious throughout.

Many of those sentenced to death have been involved in brutal crimes. But the death penalty is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment – rights that belong to all human beings, whoever they are and whatever they have done.

US arms and human rights abuses

The US government has supplied arms and security equipment to governments and armed groups that have committed torture, political killings and other human rights abuses in countries around the world. It has trained military officers who have committed human rights violations.

Current oversight by public bodies is inadequate to the task of ensuring that US supplies do not contribute to further human rights violations. The USA should adopt and enforce a code of conduct to regulate all military, security and police sales and assistance to other countries, in order to ensure that US transfers of equipment or expertise do not contribute to human rights abuses elsewhere.

Rights for all

Civil and political rights in the USA have been fought for and won, sometimes after bitter battles. However, despite this long and proud tradition, many people are unaware of the importance of the rights they possess.

The USA has a responsibility to ensure respect for its own laws and for international human rights standards, many of which it has been instrumental in developing. It must take steps to safeguard basic human rights at home and to ensure respect for the rights enshrined in the Universal Declaration of Human Rights.

Human rights belong to everyone, or they are guaranteed to no one. It is time to demand rights for all.

Quotations

“A black teenager pedalling rapidly is fleeing crime. A white teenager pedalling at the same speed is feeling the freedom of youth”

National Association for the Advancement of Colored People commenting on the case of a black teenager shot by police after falling off his bicycle in Indianapolis, Indiana, March 1993

“Everyone says America is the place for human rights. I thought maybe I had arrived in the wrong country.”

Hawa Abdi Jama, a Somali refugee who was detained in harsh conditions for 14 months before being granted asylum

“From hanging to electric chair, to lethal injection: how much prettier can you make it? Yet the prettier it becomes, the uglier it is.”

Scott Blystone, a Pennsylvania death row inmate, 1997

“Each of us has a part to play in upholding human rights for men and women of all political, ethnic, religious and racial backgrounds”

US President Bill Clinton, 1997

Recommendations

Action for human rights

Amnesty International has launched a major campaign against human rights violations in the USA. The campaign is part of the continuing work of Amnesty International's members around the world to promote the rights contained in the Universal Declaration of Human Rights. The aim of the campaign is to increase public awareness of human rights violations in the USA, to strengthen cooperation with the human rights constituency in the USA and to achieve the following specific improvements in the protection of human rights in the USA.

Amnesty International is calling on the US authorities to:

1. establish independent and effective monitoring bodies to investigate allegations of abuses by police and of abuses in prisons and jails;
2. ban inherently dangerous and cruel restraint procedures, including "hogtying" and the use of electro-shock stun-belts;
3. ban the routine use of restraints on pregnant women prisoners and all restraints during labour;
4. act to prevent sexual abuse, including rape, in prisons and jails by restricting and regulating the role of male staff with regard to female inmates;
5. ensure that asylum-seekers are detained only as a last resort and that they are never held in jails;
6. ban the death penalty for juvenile offenders as a first step towards total abolition;
7. ratify, without reservations, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women;
8. adopt and rigorously enforce a binding code of conduct, based on human rights, covering all transfers of military, security and police equipment, services and expertise.

What you can do

1. Please write to the US government, calling for the promotion and protection of human rights. Send your letters to: President Bill Clinton, The White House, Office of the President, 1600 Pennsylvania Avenue, Washington DC 20500, United States of America. Urge him to take the steps outlined above.
2. Write to the US Ambassador or other US diplomatic representative in your country asking them to forward your concerns to the relevant authorities in the USA.
3. Visit the campaign website at: <http://www.rightsforall-usa.org>

Photo captions

Police arrest demonstrators at a non-violent rally for "Food not Bombs" in San Francisco, 1994
Copyright: Judi Parks

Many instances of police abusing their power only come to light through the work of human rights campaigners, civil rights lawyers and victims' relatives
Copyright: AI

Paraguayan citizen Ángel Francisco Breard was executed in Virginia in 1998, despite an International Court of Justice order that his execution be suspended
Copyright: HO/Reuters

Prisoner tied to a restraint pole in Limestone County, Alabama
Copyright: Donna Binder/Impact Visuals
Death row, Kentucky State Penitentiary
Copyright: Valentine Schmidt

Demonstrators outside the prison where Karla Faye Tucker was executed on 3 February 1998
Copyright: David Leeson/ The Dallas Morning News

Demonstrators protest against the beating and alleged sexual torture of a Haitian immigrant, Abner Louima, by white police officers
Copyright: Peter Morgan/Reuters

Protesters on the US/Mexican border, California, in April 1996 after completing a march to protest against the beatings by police of two illegal immigrants in Riverside County
Copyright: David McNew/Reuters

Detainees at the Port Isabel, Texas INS facility. In the USA asylum-seekers are often detained with criminal offenders and have difficulty accessing legal assistance and the special care they need as people who have fled serious human rights violations.
Copyright: Barbara Karl/SND

The Maricopa County Jail's all female "chain gang", Phoenix, Arizona
Copyright: Stan Grossfeld/The Boston Globe

Sixteen-year-old Shareef Cousin became the USA's youngest death row inmate when he was sentenced to death in 1996 in Louisiana

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For further information please see the USA campaign report United States of America: Rights for all (AI Index: AMR 51/35/98), and photo briefing Rights for all: Human rights in the United States of America (AI Index: AMR 51/40/98)

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