

In the course of 2006, the United States (US) government continued to act in ways that undermined its credibility as a defender of human rights. The US continued to effectively protect rights such as freedom of assembly, expression and religion but fell short of its international commitments with respect to some of the most fundamental freedoms, in particular the prohibition on torture and arbitrary detention.

In its counter-terrorism campaign, the Bush administration engaged in systematic violations of international law, including “disappearances,” and detentions without trial. The administration attempted to redefine the principles of the Geneva Conventions and flouted the international ban on torture by authorizing certain abusive interrogation techniques. In October, US Vice-President Dick Cheney publicly stated that water-boarding – a form of mock drowning – was an important tool used in the interrogation of terrorist suspects.<sup>1</sup> Both the Military Commissions Act adopted by the Congress in October and a new Field Army Manual on Intelligence Interrogation issued in September prohibited these practices, but neither applies to CIA personnel.

The use of secret overseas detention facilities was suspended during the year, but there were concerns that adequate preventive steps had not been taken to ensure that such practice did not resume. Indefinite detention without charge of terrorist suspects at overseas detention facilities continued, and the administration asserted that such detention facilities would exist until the end of the global “war against terrorism.”

Human rights groups emphasized that the government strategy of sacrificing human rights in the name of protecting global security was based on a false dichotomy. These groups stressed that abusive practices can be counterproductive, and can spur the recruitment of new terrorist suspects, concluding that promoting



*A shackled Guantánamo detainee transported away from his annual Administrative Review Board hearing. The treatment of detainees in Guantanamo, and violations of their right to a fair trial, remained one of the main human rights problems in the US. © AP/Llinsley*

human rights, democracy, good governance and the rule of law is the best guarantee of security.

### Anti-terrorism measures

The US response to terrorism continued to pose serious challenges to human rights protection. The illegal transfer of terrorism suspects to places where they were at risk of torture, as well as the detention of prisoners in secret CIA facilities undermined human rights standards. New cases of “extraordinary rendition,” in which people were sent to countries with a notorious record of torture, were documented by human rights organizations. In an attempt to get around the international ban on torture, the US government sought “diplo-

<sup>1</sup>According to the Human Rights Watch (HRW) internal division of country responsibilities, the Europe and Central Asia Division, which is affiliated with the IHF, does not monitor human rights developments in the United States. As a result of this, in relation to human rights developments in the United States, the IHF relies upon the research results of the United States Program, Refugee Policy, Terrorism/Counterterrorism and Lesbian, Gay, Bisexual and Transgender Rights Programs of HRW.

matic assurances," promises made by receiving governments that a particular person would not be tortured upon his or her return. Such agreements have proven to be no safeguard against torture or ill-treatment, inter alia because of the secrecy surrounding the practice of torture and problems related to post-return monitoring.

In 2006 the Parliamentary Assembly of the Council of Europe and the European Parliament launched investigations into CIA rendition and secret detention activities in Europe.<sup>2</sup> In September, President Bush publicly admitted, for the first time, that the CIA was operating secret prisons at overseas facilities and announced that the last 14 terrorist suspects held at such facilities would be transferred to military custody and subsequently prosecuted. Thousands of detainees remained subject to indefinite detention without trial or charge in US detention facilities at Guantánamo Bay, Cuba, and in Afghanistan and Iraq.

The Military Commissions Act of 2006 established procedures for military pro-

ceedings against foreign terrorist suspects that did not meet international human rights standards. While the act criminalized the most abusive interrogation techniques previously used in the US "war on terrorism," it introduced a dangerously broad definition of the term "unlawful enemy combatant." Under the new law, anyone who has "purposefully and materially supported" hostilities against the US can be classified as a combatant. This could result in ordinary civilians, who do not have any direct connection to terrorist groups, being placed in military custody and tried before a military commission. The law also deprived detainees held in US custody abroad of the possibility of challenging the legality of their detention (*habeas corpus*).

### Right to life

#### *Death penalty*

Use of the death penalty continued to decline in the US, consistent with a pattern over the past six years, with the number of



*The execution chamber at Central Prison in Raleigh, N.C. Between January and mid December, 53 individuals were executed in the US - while public support for the death penalty was decreasing.*  
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executions during 2006 reaching the lowest level in ten years. Nevertheless, between 1 January and 14 December, 53 individuals were executed, and as of 1 July, 3,366 prisoners were on death row. For the first time, the Gallup Poll reported in 2006 that more persons surveyed were in favor of a sentence of life without parole over the death penalty.<sup>3</sup>

There was growing concern about the use of lethal injections in death penalty executions, a practice that was used in 37 US states. Mounting evidence indicated that some prisoners were not sufficiently anesthetized, and experienced pain and suffering during their executions, in violation of the constitutional ban on "cruel and unusual punishment."

◆ Death penalty opponents criticized Florida's 13 December execution of a convicted murderer who had suffered burns on his arms during an execution that lasted 34 minutes because lethal chemicals intended for his veins had mistakenly entered the soft tissue in his arms. In response to the criticism, Florida's governor said that a Commission on Administration of Lethal Injection would be created.

State protocols regulating the use of lethal injections were subjected to increasing scrutiny in the US because of the concern over the unnecessary amount of pain they caused. Some prison officials involved in injections were not qualified to administer them and there was often no supervision by professional medical personnel. There were more than 41 lethal injection challenges in federal courts across the country.<sup>4</sup>

Human rights advocates emphasized that if the US insisted on keeping the death penalty, it should at least ensure that the executions were implemented in a manner that inflicts minimal pain.

### **Sentencing policy and prison conditions**

The US had the highest incarceration rate in the world. Many prisons did not

have adequate rehabilitation programs and prisoners were sometimes subjected to cruel or degrading treatment. A Human Rights Watch (HRW) report published in October documented the use of aggressive dogs to threaten or attack prisoners who refused to leave their cells voluntarily, in five states.<sup>5</sup> At the end of 2006, this practice remained in use in two states, one of which decided to abolish the practice after release of the HRW report.

In July 2006 a Bureau of Justice Statistics report found that formal complaints of sexual violence filed in adult prisons and jails by male and female prisoners increased nearly 16% between 2004 and 2005. In more than half of these complaints the perpetrators were prison staff.

### **Young offenders**

US courts continued to impose life imprisonment on youth without the possibility of parole. As of mid 2004, there were at least 2,225 child offenders (persons below the age of 18 at the time of offense) serving life sentences without parole.<sup>6</sup> African-American youths were ten times more likely to receive this sentence than white youths.

After publication of a joint HRW/Amnesty International report on this subject, Colorado eliminated life sentence without parole, but substituted a 40-year minimum sentence for child offenders. At this writing, Michigan was also considering doing away with life sentences without parole for juvenile offenders.

US and Somalia were the only countries that had not ratified the Convention on the Rights of the Child, which prohibits child offenders from being sentenced to life without parole.

### **Migrants, asylum seekers and refugees**

During the year, Congress engaged in debate over the correct approach to immi-

gration reform. A wave of protests over current immigration policy also took place in more than 100 cities across the country.

Some of the measures under consideration by Congress would grant some undocumented immigrants the right to work legally in the country and potentially acquire US citizenship. However, other provisions under consideration would introduce new restrictions on the rights of immigrants, refugees and asylum seekers and increase the risk of non-citizens being deported, prosecuted or unfairly detained for extended periods of time. While these measures remained under consideration, Congress passed and President Bush approved legislation authorizing the construc-

tion of a 700-mile fence along the US-Mexico border.

The immigration law in force in 2006 also discriminated against thousands of US citizens and their foreign same-sex partners, whose relationship and therefore right to gain legal entry into the country was not recognized under federal law as it was for heterosexual spouses. As of 2000, there were almost 40,000 bi-national same-sex couples in the US<sup>7</sup>; in many cases the foreign partner was forced to live in another country, causing financial and emotional distress. The Uniting American Families Act (UAFSA), which also was pending in Congress at the end of the year, would give these couples the right to reunite.

## SOURCES FOR FURTHER INFORMATION:

◆ Human Rights Watch, at [www.hrw.org](http://www.hrw.org)

### Publications:

#### On anti-terrorism measures:

- ◆ Human Rights Watch, "U.S.: Vice President Endorses Torture," 26 October 2006, at <http://hrw.org/english/docs/2006/10/26/usdom14465.htm>
- ◆ Human Rights Watch, *Questions and Answers on Diplomatic Assurances*, 10 November 2006, at [www.hrw.org/backgrounder/eca/ecaqna1106/](http://www.hrw.org/backgrounder/eca/ecaqna1106/)
- ◆ Human Rights Watch, *Briefing Paper on U.S. Military Commissions*, background briefing, 28 June 2006, at [www.hrw.org/backgrounder/usa/gitmo0606/](http://www.hrw.org/backgrounder/usa/gitmo0606/)
- ◆ European Parliament, *European Parliament resolution on the alleged use of European countries by the CIA and transportation and illegal detention of prisoners, adopted midway through the work of Temporary Committee*, 6 July 2006, at [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0316+0+DOC+XML+V0//EN&language=EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0316+0+DOC+XML+V0//EN&language=EN)

#### On conditions in prisons:

- ◆ Human Rights Watch, *Cruel and Degrading: The Use of Dogs for Cell Extractions in U.S. Prisons*, vol. 18, no. 5(G), October 2006, at <http://hrw.org/reports/2006/us1006/>

#### On young offenders:

- ◆ Human Rights Watch and Amnesty International, *The Rest of Their Lives: Life without Parole for Child Offenders in the United States*, October 2005, at <http://hrw.org/reports/2005/us1005/>

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**On right to life:**

- ◆ Death Penalty Information Center, at [www.deathpenaltyinfo.org/](http://www.deathpenaltyinfo.org/). See, for example, *The Death Penalty in 2006: Year End Report*, December 2006.
- ◆ Human Rights Watch, "Florida, California: Lethal Injection under Attack," 15 December 2006, at <http://hrw.org/english/docs/2006/12/15/usdom14889.htm>

**On gay rights:**

- ◆ Human Rights Watch, "Family Unvalued: Discrimination, Denial, and the fate of Binational Same-Sex Couples under U.S. Law," 2 May 2006, at <http://hrw.org/reports/2006/us0506/>
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**Endnotes**

- <sup>1</sup> Human Rights Watch, *U.S.: Vice President Endorses Torture*.
- <sup>2</sup> For more information about these investigations see the chapter on counter-terrorism measures and the ban on torture in part 2 of this report.
- <sup>3</sup> The Death Penalty Information Center, *The Death Penalty in 2006: Year End Report*.
- <sup>4</sup> Human Rights Watch, *Florida, California: Lethal Injection Under Attack*.
- <sup>5</sup> Human Rights Watch, *Cruel and Degrading: The Use of Dogs for Cell Extractions in U.S. Prisons*.
- <sup>6</sup> Human Rights Watch/Amnesty International, *The Rest of Their Lives: Life without Parole for Child Offenders in the United States*.
- <sup>7</sup> Human Rights Watch, *Family Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples under U.S. Law*