

ments, particularly when it comes to international obligations undertaken by the former; the fact that the rights proclaimed in international treaties are already said to be a part of domestic legislation does not exempt the Federal government from disseminating their provisions; domestic laws appear *de facto* to prevail over international law, even if they could contradict the international obligations of the U.S.; there is a generalized perception that human rights are a prerogative of international affairs, and not a domestic issue; the fact that only the Department of State has a Human Rights Division, as well as the low level of awareness of international human rights standards within the Department of Justice, are clear indications of this phenomenon; and, while recognizing the important role played by the U.S. in the establishment and monitoring of human rights standards in many countries of the world, it appears that human rights do not seem to be taken seriously enough in the domestic arena.

Other areas of concern taken up in the report include, *inter alia*: the participation of victims in the justice system; the possibility that the strong movement for victims' rights may undermine the rights of the accused, including in such areas as the right to counsel and a further erosion in *habeas corpus* proceedings; the risk of executing the innocent; and, the execution of foreign nationals in light of information indicating that many of the foreigners who are currently sentenced to death were never informed of their rights under the Vienna Convention on Consular Relations and therefore denied their right to consular assistance.

The section on deaths resulting from excessive use of force by law enforcement and custodial officials notes a number of points, including that: deadly force nationwide is more likely to be disproportionately used on racial minorities; many police departments are trying to have a more balanced ethnic representation among their personnel in an effort to make them more representative of the local population; the existence of independent civilian review systems through which persons may file complaints of police misconduct offer the possibility of more impartiality in the investigations of allegations of such brutality; police departments have high written standards in regard to training and guidelines on the use of force but training is required at all levels to ensure they meet international standards; and, the low rate of criminal prosecution in cases of police brutality remains the principal cause for the perpetuation of violations of human rights by the police, in particular violations of the right to life.

On the issue of the low level of prosecution of police officers, the report notes that this is the result of: lack of proper investigations, with the investigations usually carried out by Internal Affairs Departments within police forces which have no independent subpoena power to call witnesses and compel their participation in proceedings; the fact that compensation for damages does not generally come from the police department but rather the municipality and, thus does not act as an incentive for the

police, allowing the situation to be perpetuated; police unions are reported to be an important political entity and make political endorsements, leading to situations in which police are likely to benefit from political protection; and the standards of criminal liability for police are very high, including the requirement that not only does it have to be proven that officers used unreasonable force, but also that they intended to use it.

The report recommends, *inter alia*, that the government:

- ♦ establish a moratorium on executions in accordance with the recommendations made by the ABA and resolution 1997/12 of the Commission on Human Rights;
- ♦ discontinue the practice of imposing death sentences on juvenile offenders and mentally retarded persons, and amend national legislation in this respect to bring it into conformity with international standards;
- ♦ not resume executions of women and respect the *de facto* moratorium in existence since 1984;
- ♦ review legislation, both at federal and state levels, so as to restrict the number of offences punishable by death; address the growing tendency to reinstate death penalty statutes and the increase in the number of aggravating circumstances, both at state and federal levels, in order not to contravene the spirit and purpose of article 6 of the ICCPR and the goal expressed by the international community to progressively restrict the number of offences for which the death penalty is applied;
- ♦ encourage the development of public defender systems so as to ensure the right to adequate legal representation for indigent defendants; reinstate funding for legal resource centres in order to guarantee a more appropriate representation of death row inmates, particularly in those states where a public defender system does not exist;
- ♦ take steps to disseminate and educate government officials at all levels, as well as develop monitoring and appropriate enforcement mechanisms to achieve full implementation of the provisions of the ICCPR, as well as other international treaties, at state level; develop an intensive programme aimed at informing state authorities about international obligations undertaken by the U.S. and at bringing national laws into conformity with these standards; increase the cooperation between the Department of Justice and the Department of State to disseminate and enforce the human rights undertakings;
- ♦ include a human rights component in training programmes for members of the judiciary and establish a campaign on the role of juries aimed at informing the public about the responsibilities of jurors;
- ♦ review the system of election of members of the judiciary at state level, in order to ensure a degree of independence and impartiality similar to that of the fed-