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Legislative Watch

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LEGISLATIVE WATCH

Legislative Watch's purpose is to report on pending U.S. legislation relevant to human rights and humanitarian law. This list is not meant to be comprehensive.

A bill to amend title II of the Americans with Disabilities Act of 1990 (ADA) and section 504 of the Rehabilitation Act of 1973 to exclude prisoners from the requirements of that title and section, S. 33

Major Sponsors: Sen. Strom Thurmond (R-SC), Sen. Jesse Helms (R-NC)

Status: Referred to the Senate Committee on Health, Education, Labor, and Pensions on January 19, 1999.

Substance: The bill amends the ADA to exclude prisoners from eligibility under the ADA for prison-related "services, programs, activities, and treatment (including accommodations)." The bill also amends the Rehabilitation Act of 1973 by disqualifying prisoners from the term "individual with a disability," with respect to prison-related programs and activities (including accommodations).

A concurrent resolution expressing the sense of the Congress regarding support for the formation of the China Democracy Party (CDP) and to urge the Government of the People's Republic of China to guarantee the rights and safety of the CDP organizers, H. Con. Res. 6

Major Sponsor: Rep. Dana Rohrabacher (R-CA)

Status: Referred to the House Committee on International Relations on January 6, 1999.

Substance: The bill directs the United States to encourage China to respect the UN Convention on Civil and Political Rights and permit the registration of the China Democracy Party, without "discrimination or penalties" for its organizers. The bill also provides that the United States should encourage China to release all peaceful advocates of democracy and human rights who have been detained, and to refrain from the "intimidation and persecution" of such advocates in the future.

Children's Environmental Protection Act, H.R. 199

Major Sponsor: Rep. James Moran (D-VA)

Status: Referred to the House Committee on Commerce on January 6, 1999, which referred the bill to the House Subcommittee on Health and Environment and the House Subcommittee on

Finance and Hazardous Materials on January 20, 1999.

Substance: The bill amends the Toxic Substances Control Act to include a statement regarding the U.S. policy to protect "vulnerable subpopulations," including children, pregnant women, elderly persons, and individuals with a history of serious illness, from environmental pollutants. The bill includes provisions directing the Environmental Protection Agency administrator to evaluate environmental health risks to vulnerable subpopulations, create and review an annual list of substances with known health risks to children, and create a family right-to-know information kit.

Civil Rights Amendments Act of 1999, H.R. 311

Major Sponsor: Rep. Edolphus Towns (D-NY)

Status: Referred to the House Committee on the Judiciary and the House Committee on Education and the Workforce on January 6, 1999; referred to the House Subcommittee on Employer-Employee Relations on February 5, 1999; and referred to the House Subcommittee on the Constitution on February 25, 1999.

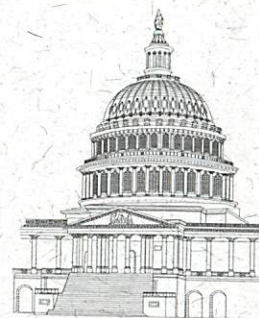
Substance: The bill amends the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination based on "affectional or sexual orientation," defined as "homosexuality, heterosexuality, and bisexuality by orientation or practice, by and between consenting adults." The amendment provides protection in areas such as public facilities, programs receiving federal assistance, employment opportunities, housing sale and rental, residential real estate transactions, and brokerage services.

Civil Rights of Infants Act, S. 41

Major Sponsor: Sen. Jesse Helms (R-NC)

Status: Placed on the Senate Calendar on January 20, 1999.

Substance: The bill amends section 1979 of 42 U.S.C. 1983, making it a violation of rights "secured by the Constitution and laws of the United States" for an individual to give a woman an abortion with the knowledge that the woman is seeking the abortion due to the fetus's



gender. The bill does not impose liability on women seeking abortions due to the gender of the fetus.

Drug Importer Death Penalty Act of 1999, H.R. 295

Major Sponsor: Rep. John E. Sweeney (R-NY)

Status: Referred to the House Committee on the Judiciary and the House Committee on Commerce on January 6, 1999; referred to the House Subcommittee on Health and Environment on January 20, 1999; and referred to the House Subcommittee on Crime on February 25, 1999.

Substance: The bill amends the Controlled Substances Import and Export Act to require courts to sentence defendants convicted of importing into the United States a quantity of controlled substances equal to or exceeding 100 usual dosage amounts, to life imprisonment without possibility of release. If a defendant has violated this provision on more than one occasion and also has intentionally killed or inflicted a lethal injury, the court is required to sentence the defendant to death.

Freedom to Market Act, H.R. 212

Major Sponsors: Rep. George R. Nethercutt (R-WA), Rep. Jose E. Serrano (D-NY)

Status: Referred to the Committee on International Relations and the Committee on Agriculture on January 6, 1999.

Substance: The bill requires the U.S. General Accounting Office to prepare an annual report "assessing the impact and effectiveness of economic sanctions" that the United States has imposed on foreign

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governments. The bill prohibits unilateral sanctions, either those that are ongoing or those that may take effect in the future, on exports of food, other agricultural products, medicines, medical supplies, and other equipment. The president may waive this prohibition for a period of not more than one year if necessary for U.S. national security.

Mass Immigration Reduction Act, H.R. 41

Major Sponsor: Rep. Bob Stump (R-AZ)
Status: Referred to the House Committee on the Judiciary on January 6, 1999, and referred to the House Subcommittee on Immigration and Claims on February 25, 1999.

Substance: The bill calls for significant reductions on levels of legal immigration, including complete moratoriums on certain categories of family and employment-based immigration for a five year period, until "the first fiscal year after" 2004. In that fiscal year, the bill requires the president to certify that fewer than 10,000 illegal immigrants enter the country each year. The president must also certify that any increases in immigration over the levels permitted

during the five year period do not adversely affect a number of factors, including environmental quality, public school capacity, or employment conditions of U.S. workers.

No Frills Prison Act, H.R. 370

Major Sponsor: Rep. Robert Franks (R-NJ)

Status: Referred to the House Committee on the Judiciary on January 19, 1999, and referred to the House Subcommittee on Crime on February 25, 1999.

Substance: The bill seeks to amend the Violent Crime Control and Law Enforcement Act of 1994 by preventing prisoners from enjoying prison conditions and opportunities that are "more luxurious" than what the "average prisoner" would experience outside of prison. The bill imposes a number of restrictions and requirements on inmates, such as limiting prisoners' recreation and leisure activities. The bill further restricts the rights of prisoners serving time for violent crimes through requirements such as mandatory physical labor, a total prohibition on television viewing, and limitations on the amount of personal property such inmates may possess.

United States Federal Government Preservation Act of 1999, H.R. 62

Major Sponsors: Rep. Bob Barr (R-GA)

Status: Referred to the House Committee on International Relations on January 6, 1999.

Substance: The bill prohibits the use of funds to administer or enforce the provisions of Executive Order 13107, which states that the policy of the U.S. government shall be to fully "respect and implement its obligations under international human rights treaties to which it is a party." The bill objects to U.S. compliance with these treaties because the U.S. Senate has not ratified a number of them. As such, the bill finds that the Executive Order "circumvented" the Constitution. ☹

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Ultimately, the value of the TRC's work is that it has established an irrefutable historical record of knowledge and acknowledgment: knowledge that apartheid crimes indeed occurred, and acknowledgment that they should never happen again. During the WCL discussion, however, Van Zyl highlighted that there is no magical connection between truth and reconciliation. Although providing the truth about South Africa's history has allowed some to forgive, for others it has led only to bitterness and anger.

Sibanda described how the TRC has affected the new political and social order in South Africa. He contended that the TRC was a catalyst for South Africa's new bifurcated judicial system, which consists of a Constitutional Court and ordinary courts. The Constitutional Court's role is to rule on constitutional issues, such as the president's proper execution of his constitutional duties or the constitutionality of legislative acts. Although the ordinary courts have concurrent jurisdiction on most of these issues, an appeal concerning a constitutional issue from the High Court, the highest ordinary court, goes to the Constitutional Court.

Furthermore, Sibanda contended that, under the new political and social order, South Africa is now more open to political discourse and international involvement, which is a positive sign for South Africa's future. He commended the government's Gender Commission for working to undo past prejudices against women. He also noted that nongovernmental groups are playing a particularly important role in

helping the country overcome intolerance. He specifically noted Street Law, Inc., an international organization dedicated to teaching human rights, and the Freedom of Expression Institute, a South African nongovernmental organization that advocates for all facets of freedom of speech. Although isolated instances of violence still occur, Sibanda is confident that, with continued support, South Africa will overcome the intolerance of the past.

The speakers concluded by emphasizing that the apartheid era left an indelible mark on South Africa and that it will take generations to restore faith in the state institutions that perpetuated and promoted apartheid. As Madala noted, the South African judiciary was one of the chief institutions involved in maintaining and applying discriminatory laws and policies that harmed thousands of people. All the panelists agreed that, although many important positive changes have occurred in South Africa, many challenges still lie ahead. To undo the effects of more than 30 years of this judicially condoned oppression, a new culture of tolerance must develop. The development of a judiciary system that will truly serve as an independent check on the other branches of government is a critical factor in this process. Once there is faith that the judiciary will not validate acts of oppression, South Africans will finally have peaceful means through which they may advocate for change. ☹

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