March 20, 2008

Gerald F. Uelmen, Executive Director
California Commission on the Fair Administration of Justice
900 Lafayette Street, Suite 608
Santa Clara, California 95050

Dear Director Uelmen:

On February 8, 2008, Human Rights Watch submitted a letter in connection with the Commission’s February 20, 2008 hearing on the administration of the death penalty in California. In that letter, we highlighted our concern that, in California and elsewhere in the United States, capital punishment is often carried out in a racially discriminatory manner, and is accordingly inconsistent with the US obligation to comply with the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”), a treaty ratified by the United States in 1994.

We appreciate the opportunity to submit this follow-up letter to bring to your attention some new information, which we hope will inform the Commission’s consideration of this issue during its March 28, 2008 hearing.

On March 7, 2008, the UN Committee on the Elimination of Racial Discrimination completed its most recent review of US compliance with ICERD and issued its Concluding Observations. The Committee, as it has done in the past, expressed concern about racial disparities in the imposition of the death penalty in the United States, noting:

“The Committee remains concerned about the persistent and significant racial disparities with regard to the imposition of the death penalty, particularly those associated with the race of the

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1 In our February 8, 2008 letter, we highlighted the following statistics from the Death Penalty Information Center: In 96 percent of the states where there have been official reviews of race and the death penalty, there was a pattern indicating discrimination on the basis of either race-of-victim or race-of-defendant, or both. In California, a recent study found that individuals who killed whites were over three times more likely to be sentenced to death than those who killed blacks, and over four times more likely than those who killed Latinos. Death Penalty Information Center, “Facts About the Death Penalty,” March 1, 2008, http://www.deathpenaltyinfo.org/FactSheet.pdf (accessed March 19, 2008).

victim, as evidenced by a number of studies, including a recent study released in October 2007 by the American Bar Association (ABA). (Article 5 (a)).

Based on this concern, the Committee reiterated its recommendation that the United States impose a moratorium on executions:

Taking into account its general recommendations No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party undertake further studies to identify the underlying factors of the substantial racial disparities in the imposition of the death penalty, with a view to elaborating effective strategies aimed at rooting out discriminatory practices. The Committee wishes to reiterate its previous recommendation—contained in paragraph 396 of its previous concluding observations of 2001—that the State party adopt all necessary measures, including a moratorium, to ensure that the death penalty is not imposed as a result of racial bias on the part of prosecutors, judges, juries and lawyers.

Human Rights Watch urges the Commission to respect the concerns and recommendations of the Committee on the Elimination of Racial Discrimination in its consideration of the death penalty. Given the overwhelming evidence of racial bias in the imposition of the death penalty in California and across the country, as highlighted by the UN Committee, we urge the Commission to work toward the abolition of capital punishment in California.

Thank you for your consideration, and please feel free to contact me if I can provide you with any further information.

Sincerely,

Carol Chodroff
U.S. Program Advocacy Director

cc: Commissioners, CCFAJ

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Ibid.