

ACADEMIC FREEDOM

UNIVERSITY CAMPUSES WORLDWIDE PROVED A SENSITIVE BAROMETER OF FREE EXPRESSION IN 1999. UNIVERSITIES PLAYED A CENTRAL ROLE IN SHAPING THE QUALITY AND FLOW OF INFORMATION AND IDEAS BY PROVIDING A SPACE FOR FREE INQUIRY AND OPEN EXPRESSION. IN PART FOR THIS VERY REASON, ACADEMICS WERE DISPROPORTIONATELY REPRESENTED AMONG THE WORLD'S POLITICAL PRISONERS AND UNIVERSITIES WERE FAVORED TARGETS OF REPRESSION. RESEARCHERS, SCHOLARS, TEACHERS, AND STUDENTS IN DOZENS OF COUNTRIES CONTINUED TO BE HARASSED, CENSORED, DISMISSED, IMPRISONED, AND, IN THE WORST CASES, TORTURED OR KILLED FOR OPENLY EXPRESSING THEIR VIEWS OR ADDRESSING CONTROVERSIAL QUESTIONS.

IN A NUMBER OF COUNTRIES, UNIVERSITIES WERE SUBJECTED TO CONTROLS REMINISCENT OF THE COLD WAR ERA. IN COUNTRIES SUCH AS BELARUS, POLITICAL CONTROLS ON CAMPUS LIFE WERE SYSTEMIC, COVERING EVERYTHING FROM THE CURRICULUM TO STUDENT CLUBS. WHILE THE IMMEDIATE EFFECT OF GOVERNMENT SURVEILLANCE AND CONTROL WAS TO CURB POLITICAL DISSENT, SUCH MEASURES ALSO CAST A PALL OVER ACADEMIC INQUIRY AND STIFLED INDEPENDENT RESEARCH. IN IRAN AND MALAYSIA, STUDENTS PUBLICLY RALLIED FOR POLITICAL REFORM DESPITE LAWS BANNING STUDENT POLITICAL ACTIVITY AND EXPRESSION, LEADING TO AT TIMES VIOLENT CONFRONTATIONS WITH SECURITY FORCES AND MASS ARRESTS OF STUDENT DEMONSTRATORS.

ALTHOUGH UNIVERSITY ADMISSIONS POLICIES IN MANY COUNTRIES WERE IMPLEMENTED TO COMBAT ENTRENCHED SOCIETAL PREJUDICES AND DISCRIMINATION, UNIVERSITIES IN SEVERAL COUNTRIES CONTINUED OPENLY TO DISCRIMINATE AGAINST WOMEN AND MEMBERS OF POLITICALLY POWERLESS MINORITIES. PARTICULARLY BLATANT EXAMPLES IN 1999 INCLUDED THE CONTINUING EXCLUSION OF GIRLS AND WOMEN FROM SCHOOLS IN AFGHANISTAN AND INSTITUTIONALIZED DISCRIMINATION AGAINST ADHERENTS OF THE BAHÁ'Í FAITH IN IRAN.

Reprisals against Dissenting Academics

IN MANY COUNTRIES, POLITICALLY OUTSPOKEN ACADEMICS WERE IMPRISONED BY INTOLERANT AUTHORITIES. BECAUSE OF THE HIGH PROFILE OF THE TARGETED ACADEMICS, THE ARRESTS OFTEN HAD A BROAD IMPACT, SERVING AS A WARNING TO INDIVIDUALS THROUGHOUT SOCIETY THAT DISSENT AND POLITICAL OPPOSITION WOULD NOT BE TOLERATED. ACADEMIC INQUIRY SUFFERED UNDER SUCH A CLIMATE OF CENSORSHIP.

ON MARCH 4, PROMINENT VIETNAMESE GEOLOGIST AND WRITER NGUYEN THANH GIANG WAS ARRESTED AND DETAINED FOR TWO MONTHS. THE ONLY REPORTED REASON FOR THE ARREST WAS HIS POSSESSION OF DOCUMENTS SAID TO BE "AGAINST THE INTERESTS OF THE COMMUNIST PARTY." DR. GIANG, ONE OF THE COUNTRY'S LEADING SCIENTISTS AND A MAJOR CONTRIBUTOR TO THE GEOLOGICAL SURVEY OF VIETNAM, ALSO HAD BEEN AN OUTSPOKEN CRITIC OF THE GOVERNMENT AND IS AUTHOR OF WORKS SUCH AS "HUMAN RIGHTS, THE THOUSAND YEAR ASPIRATION" (1996), "ELECTIONS AND THE NATIONAL ASSEMBLY" (1997), AND "LET'S DISCUSS THE VIETNAMESE WORKERS CLASS" (1998).

ON JUNE 10, AN ETHIOPIAN COURT SENTENCED DR. TÁYE WOLDE SEMAYET, PRESIDENT OF THE ETHIOPIAN TEACHERS' ASSOCIATION (ETA), TO FIFTEEN YEARS IN PRISON. DR. TÁYE HAD BEEN ARRESTED MORE THAN THREE YEARS EARLIER AFTER THE ETA HAD SHARPLY CRITICIZED THE GOVERNMENT'S EMBRACE OF ETHNIC FEDERALISM AND DIVISION OF THE COUNTRY ALONG ETHNIC LINES. DR. TÁYE WAS CONVICTED OF CONSPIRING AGAINST THE STATE DESPITE THE FACT THAT THE EVIDENCE WHICH FORMED THE BASIS FOR HIS ARREST HAD BEEN EXTRACTED UNDER TORTURE AND WAS WITHDRAWN IN COURT.

IN THE CONGO, PROFESSOR KAMBAJ WA KAMBAJI, A LECTURER IN SOCIOLINGUISTICS AT THE UNIVERSITY OF LUBUMBASHI, WAS DETAINED ON JULY 29, REPORTEDLY FOR HIS CRITICAL ANALYSES OF THE USE OF ETHNIC HATE LANGUAGE IN POLITICAL DISCOURSE IN THE KATANGA REGION. PRESIDENT KABILA IS KATANGESE. ANALYSIS OF HATE SPEECH HAD BEEN A MAJOR THEME IN PROFESSOR KAMBAJ'S ACADEMIC WORK AND, AT THE TIME OF THE ARREST, AUTHORITIES ALSO SEIZED STUDENT ESSAYS ON THE SUBJECT FROM HIS HOME. PROFESSOR KAMBAJ REPORTEDLY WAS TORTURED IN DETENTION AND WAS DENIED ACCESS TO HIS DOCTOR AND FAMILY. HE WAS STILL IN DETENTION AT THE TIME OF WRITING.

IN COLOMBIA, THREE PROFESSORS WHO HAD BEEN ACTIVELY TRYING TO COUNTER THE ENDEMIC VIOLENCE IN THE COUNTRY WERE MURDERED BY UNKNOWN GUNMEN IN SEPARATE INCIDENTS. ON MAY 4, ANTHROPOLOGIST AND UNIVERSITY OF ANTIOQUIA PROFESSOR HERNÁN HENAO WAS KILLED BY THREE ARMED INTRUDERS WHO BROKE INTO A FACULTY MEETING. DR. HENAO WAS THE DIRECTOR OF THE INSTITUTE OF REGIONAL STUDIES, A UNIVERSITY RESEARCH CENTER COORDINATING STUDIES OF POLITICAL CONFLICT AND COMMUNITY DEVELOPMENT. HE HAD BEEN INSTRUMENTAL IN THE EARLY 1990S IN ORGANIZING SCHOLARS TO WORK WITH COMMUNITY GROUPS IN SOME OF THE MOST VIOLENT DISTRICTS OF THE CITY OF MEDELLIN. IN SEPTEMBER, DARIO BETANCOURT, WHO HAD BEEN SEIZED BY GUNMEN ON APRIL 30, WAS FOUND

dead. Betancourt, a historian, headed the social sciences department at the National University of Educational Sciences and was a well-known specialist on violence. On September 15, former presidential peace advisor Jesus Antonio Bejarano was shot to death as he prepared to teach a class at the National University in Bogotá. None of the cases had been solved at the time of writing, but family members and colleagues of the victims believed that they were targeted for political reasons by either paramilitaries—which were often linked with the armed forces—or opposition guerrillas.

Censorship and Politically Motivated Dismissals

Because the great majority of universities around the world were public institutions or were dependent on public funds, governments had considerable power to influence what took place on campus and an incentive to wield that power. A wide range of governments abused their power in 1999, censoring research and publication on matters of public interest and dismissing researchers and academics based on partisan political considerations.

In Jordan, Dr. Mustafa Harmaneh was ousted as director of the Centre for Strategic Studies at the University of Jordan after seven years of service, reportedly at the urging of the prime minister and a high ranking intelligence official. Dr. Harmaneh submitted his resignation on July 14, 1999 after being told that if he did not resign the center would be closed and its activities, including support for a number of Jordanians studying abroad, would be terminated. Under his leadership, the center had attained regional and international recognition for its research on policy issues in the Arab world and for its use of scientific opinion polling and social survey research in Jordan. Several of the center's reports generated controversial findings, including a 1999 survey showing a decline in the popularity of the government of Prime Minister Rawabdeh; a 1997 report placing unemployment levels at 27 percent, ten points higher than the official estimate at the time; and a 1998 study on public perceptions of Jordanian-Palestinian relations. Colleagues believe that this research, as well as critical comments Harmaneh made to the international media—at least once misrepresented in local papers as insulting the dignity of King Abdallah—contributed to pressures for his removal.

In Egypt, authorities censored a wide variety of books on social and religious themes and instructed universities to remove such works from their curricula.

In Malaysia, Professor Chandra Muzaffar was dismissed as head of the Center for Civilizational Dialogue at the University Malaya in late February. Muzaffar, a vocal supporter of embattled opposition leader Anwar Ibrahim, had joined Anwar's wife Wan Azizah Wan Ismail in founding the Social Justice Movement in December 1998, and his dismissal came amidst a general tightening of controls on campus and arrests of students who joined protests in support of Anwar. The letter of dismissal reportedly set forth two reasons for the university's unexpected decision: economic factors and a government directive calling on the university to optimize existing human resources. According to published reports, however, the center had showed considerable economic promise in its first year of operation.

Ideological Controls

Academic freedom was gravely threatened when political leaders made affirmation of loyalty to the ruling party a precondition of academic promotion and punished deviations from state ideology. Although there were improvements over the past decade in countries on both sides of the former Cold War divide, systemic political controls over the universities remained in place from Serbia to China and from Myanmar to the Sudan. Conditions in Belarus under the authoritarian leadership of President Aleksandr Lukashenka were illustrative of the far reaching effects of such controls.

A pervasive state campaign of political control of the universities had severely limited academic freedom and given rise to a climate of fear and suspicion on Belarusian campuses since Lukashenka assumed power in 1994. Government constraints on academic freedom intersected with those imposed on nongovernmental organizations, the independent media, independent lawyers, and opposition political parties. Institutionally, there was increasing centralization of academic decision making, as well as a resuscitation of institutional forms characteristic of the Soviet era. Most notable in this regard was a flat ban on political activity on campus accompanied by the emergence of the ostensibly apolitical but manifestly pro-Lukashenka Belarusian Patriotic Union of Youth (BPSM) as an omnipresent feature of campus life. Formed on the initiative of the president, and with representative offices in every state university and institution of higher education, the BPSM represented a heavy-handed attempt to recruit students into the ranks of the president's supporters, to actively counter newly formed independent and opposition party youth groups, and to provide a presidential check on academic life at every

LEVEL. BPSM REPRESENTATIVES SAT ALONGSIDE THE COMMITTEES THAT ADMINISTERED ORAL EXAMINATIONS TO ALL APPLICANTS FOR ADMISSION TO STATE UNIVERSITIES. WHEREAS BPSM MEMBERS RECEIVED PRIVILEGES AND DISCOUNTS ON CAMPUS AND IN STORES, STUDENTS WHO OCCUPIED PROMINENT POSITIONS IN THE YOUTH WINGS OF OPPOSITION POLITICAL ORGANIZATIONS FACED WARNINGS, FINES, IMPRISONMENT, AND EXPULSION FROM THEIR PLACES OF STUDY BECAUSE OF THEIR POLITICAL ACTIVITY.

AS DETAILED IN A 1999 HUMAN RIGHTS WATCH REPORT, STUDENTS AND FACULTY ALIKE WHO PEACEFULLY EXERCISED THEIR LEGITIMATE RIGHT TO FREEDOM OF ASSEMBLY AT OPPOSITION DEMONSTRATIONS, WHO JOINED OPPOSITION POLITICAL PARTIES, OR WHO EXPRESSED THEIR VIEWS FREELY ON CAMPUS OR OFF, WERE PUNISHED WITH WARNINGS, REPRIMANDS, EXPULSION, DEMOTION, OR DISMISSAL. IN THE FIELD OF HISTORY, THERE WAS A LITERAL RETURN TO SOVIET-ERA POLICIES, WITH SUPPRESSION OF RESEARCH INTO BELARUSIAN INDEPENDENCE MOVEMENTS, RESTRICTIONS ON THE USE OF THE BELARUSIAN LANGUAGE, AND PRESSURES TO PRESENT A SANITIZED ACCOUNT OF HISTORICAL RELATIONS WITH RUSSIA.

Suppression of Campus Protest

POLITICAL TURMOIL INEVITABLY FOUND AN IMPORTANT OUTLET ON COLLEGE CAMPUSES, PARTICULARLY WHERE OTHER CHANNELS OF EXPRESSION WERE LIMITED OR CLOSED. ALTHOUGH CAMPUS UNREST AT TIMES WAS INSTIGATED BY STUDENT GROUPS WHO ENGAGED IN UNILATERAL ACTS OF VIOLENCE THAT COULD NOT BE CONDONED, THE EVIDENCE IN 1999 AGAIN DEMONSTRATED THAT A FAR MORE COMMON SOURCE OF THE VIOLENCE WAS GOVERNMENT USE OF ARMED FORCE AND COERCION TO SUPPRESS STUDENT OR FACULTY DISSENT.

IN INDONESIA, ALTHOUGH THE CLIMATE FOR FREE EXPRESSION HAD IMPROVED SUBSTANTIALLY AS A RESULT OF THE 1998 STUDENT-LED OUSTER OF PRESIDENT SOEHARTO, SECURITY FORCES CONTINUED TO RESPOND WITH AT TIMES EXCESSIVE AND LETHAL FORCE TO STUDENT DEMONSTRATIONS. ON SEPTEMBER 23, THREE PROTESTERS AND ONE POLICEMAN WERE KILLED IN JAKARTA FOLLOWING A CLASH BETWEEN STUDENT-LED DEMONSTRATORS AND SECURITY FORCES. IN SERBIA, STUDENTS AND FACULTY MEMBERS ONCE AGAIN PLAYED A LEADING ROLE IN PROTESTS DEMANDING POLITICAL REFORM AND WERE AMONG DOZENS OF DEMONSTRATORS INJURED DURING VIOLENT POLICE CRACKDOWNS ON RALLIES IN BELGRADE.

THE MOST EGREGIOUS CASE OF SUPPRESSION OF CAMPUS PROTEST IN 1999, HOWEVER, OCCURRED IN IRAN. POLITICAL LIFE THERE WAS INCREASINGLY VOLATILE IN 1999 AND THAT VOLATILITY WAS DIRECTLY REFLECTED ON CAMPUS. IN JULY, THE TENSIONS ERUPTED INTO VIOLENCE AT TEHRAN UNIVERSITY SHORTLY AFTER THE CLOSURE OF SALAM, ONE OF THE MOST POPULAR PRO-REFORM IRANIAN NEWSPAPERS. THE CLOSURE TRIGGERED A PEACEFUL PROTEST BY STUDENTS AT TEHRAN UNIVERSITY ON JULY 9. DURING THE EARLY HOURS OF JULY 9, MEMBERS OF AN UNIDENTIFIED MILITIA FORCE ENTERED THE UNIVERSITY DORMITORIES, RANSACKED ROOMS, AND ATTACKED SLEEPING STUDENTS, THROWING SOME OUT OF WINDOWS AND TAKING OTHERS AWAY TO UNKNOWN LOCATIONS. ACCORDING TO THE WITNESSES, AT LEAST FOUR STUDENTS WERE KILLED IN THE ASSAULT ON THE DORMITORY, THREE HUNDRED WERE WOUNDED, AND FOUR HUNDRED WERE TAKEN INTO DETENTION.

THE NEXT DAY, STUDENTS TOOK TO THE STREETS TO PROTEST THE ASSAULT ON THE DORMITORIES, TO DEMAND AN INQUIRY, AND TO CALL FOR THE RELEASE OF THEIR COLLEAGUES FROM DETENTION. THE DEMONSTRATION WAS BROKEN UP BY HARD-LINE ENFORCERS ASSOCIATED WITH CONSERVATIVE LEADERS WITHIN THE GOVERNMENT, THE ANSAR-E HEZBOLLAHI (PARTISANS OF THE PARTY OF GOD), WIELDING CLUBS AND CHAINS WHILE MEMBERS OF THE SECURITY FORCES STOOD BY OR JOINED IN THE ASSAULT ON THE DEMONSTRATORS.

Discrimination

INTERNATIONAL HUMAN RIGHTS STANDARDS FORBID DISCRIMINATION IN EDUCATION. THE IMPORTANCE OF THE PRINCIPLE WAS REFLECTED IN THE FACT THAT ONE OF THE FIRST INSTRUMENTS TO IMPLEMENT THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, THE CONVENTION AGAINST DISCRIMINATION IN EDUCATION, WAS ADOPTED BY UNESCO IN 1960, SEVERAL YEARS BEFORE THE ADOPTION OF THE MAJOR HUMAN RIGHTS TREATIES. THE 1960 CONVENTION BANS ALL FORMS OF DISCRIMINATION WHICH HAVE "THE PURPOSE OR EFFECT OF NULLIFYING OR IMPAIRING EQUALITY OF TREATMENT IN EDUCATION."

THE MOST BLATANT DISCRIMINATORY BARRIERS TO EDUCATION WERE PRESENT IN AFGHANISTAN, WHERE GIRLS AND WOMEN CONTINUED TO BE FORMALLY BARRED FROM ALL EDUCATIONAL INSTITUTIONS. ALTHOUGH IN 1999 SOME HOME SCHOOLING OF GIRLS WAS TOLERATED BY TALIBAN AUTHORITIES AND THE MINISTRY OF RELIGION INDICATED IT WOULD PROVIDE SOME EDUCATION FOR GIRLS IN SEGREGATED SETTINGS, GIRLS WERE STILL FORMALLY BANNED FROM THE SCHOOL SYSTEM AND WOMEN WERE KEPT OUT OF INSTITUTIONS OF HIGHER EDUCATION. SOME AFGHANI WOMEN WERE ABLE TO ATTEND CLASSES IN THE BORDER CITY OF PESHAWAR, PAKISTAN.

IN SHARP CONTRAST TO AFGHANISTAN, WHERE WOMEN COULD NOT GO OUTSIDE THEIR HOMES WITHOUT FULL BODY AND HEAD COVERINGS, IN TURKEY AND UZBEKISTAN IT WAS WOMEN WEARING THE FULL VEIL WHO WERE THE OBJECT OF RESTRICTIONS. IN TURKEY, REGULATIONS

BARRING SUCH DRESS ON GOVERNMENT PREMISES, INCLUDING STATE UNIVERSITY CAMPUSES, WERE MADE MORE RESTRICTIVE IN 1999 AND APPLIED MORE WIDELY. IN UZBEKISTAN, THE GOVERNMENT POLICY ON RELIGIOUS ATTIRE WAS MADE EXPLICIT WHEN PARLIAMENT IN 1998 ENACTED A LAW ON FREEDOM OF CONSCIENCE THAT EXPRESSLY FORBODE "RITUAL DRESS" IN PUBLIC. THIS LAW WAS DEEMED TO PROVIDE THE LEGAL JUSTIFICATION FOR A SERIES OF DISMISSALS OF MALE STUDENTS WEARING BEARDS AND FEMALE STUDENTS WEARING THE VEIL, PART OF A LARGER CAMPAIGN AGAINST "ORTHODOX" ISLAM, VIEWED AS A SOURCE OF POLITICAL COMPETITION FOR THE PRESENT GOVERNMENT.

IN IRAN, ADHERENTS OF THE BAHÁ'Í FAITH, VIEWED AS HERETICS BY THE CLERICAL ESTABLISHMENT, HAVE CONTINUED TO BE EFFECTIVELY BANNED FROM TEACHING OR STUDYING AT COLLEGES AND UNIVERSITIES. MEMBERS OF THE RELIGION HAVE ALSO BEEN BARRED FROM PUBLIC EMPLOYMENT, INCLUDING TEACHING POSITIONS AT PUBLIC SCHOOLS. ON APRIL 19, THE ISLAMIC REVOLUTIONARY COURT IN ISFAHAN SENTENCED FOUR BAHÁ'Í TEACHERS TO PRISON TERMS RANGING FROM THREE TO TEN YEARS, RULING THAT THEIR PARTICIPATION IN TEACHING RELIGION TO OTHER BAHÁ'ÍS CONSTITUTED CRIMES AGAINST NATIONAL SECURITY. ACCORDING TO BAHÁ'Í REPRESENTATIVES OUTSIDE OF IRAN, THE FOUR WERE SINA HAKIMAN (TEN YEARS IMPRISONMENT), FARZAD KHAJEH SHARIFABADI (SEVEN YEARS), HABIBULLAH FERDOSIAN NAJAFABADI (SEVEN YEARS), AND ZIAULLAH MIRZAPANAH (THREE YEARS). ALL FOUR TAUGHT FOR THE BAHÁ'Í INSTITUTE OF HIGHER EDUCATION (BIHE, ALSO KNOWN AS THE BAHÁ'Í OPEN UNIVERSITY), WHICH OPERATED OUT OF THE HOMES OF MEMBERS OF THE FAITH. THE FOUR WERE AMONG THIRTY-SIX BAHÁ'ÍS WHO WERE ARRESTED IN LATE SEPTEMBER AND EARLY OCTOBER 1999 IN A CONCERTED GOVERNMENT CRACKDOWN AGAINST BAHÁ'Í EDUCATION IN FOURTEEN CITIES. AUTHORITIES REPORTEDLY RAIDED OVER 500 HOMES, WHICH SERVED AS CLASSROOMS FOR THE INSTITUTE, SEIZING FILES, EQUIPMENT, AND OTHER PROPERTY USED BY THE BIHE. THE OTHER THIRTY-TWO PEOPLE ARRESTED WERE RELEASED.

DISCRIMINATION AGAINST BAHÁ'Í TEACHERS AND STUDENTS WAS DELIBERATE. THE CONSTITUTION OF THE ISLAMIC REPUBLIC DID NOT INCLUDE BAHÁ'ISM AMONG ITS LIST OF RECOGNIZED RELIGIONS, AND BAHÁ'Í ASSEMBLIES WERE OFFICIALLY OUTLAWED IN 1983, MAKING PARTICIPATION IN ANY BAHÁ'Í ACTIVITY A BASIS FOR POSSIBLE CRIMINAL PROSECUTION. AN IRANIAN SUPREME REVOLUTIONARY CULTURAL COUNCIL MEMORANDUM ON "THE BAHÁ'Í QUESTION," DATED FEBRUARY 25, 1991, STATED WITH REFERENCE TO ATTENDANCE AT UNIVERSITIES: "THEY SHOULD BE EXPELLED FROM THE UNIVERSITIES, EITHER AT THE TIME OF THE ADMISSION PROCEDURE OR DURING THEIR STUDIES, AS SOON AS IT BECOMES APPARENT THAT THEY ARE BAHÁ'ÍS." THE IRANIAN DEPUTY MINISTER OF EDUCATION IN DECEMBER 1995 TOLD ABDELFAZZAH AMOR, U.N. SPECIAL RAPPORTEUR ON THE QUESTION OF RELIGIOUS INTOLERANCE, THAT BAHÁ'ÍS WERE FREE TO ENTER INSTITUTIONS OF HIGHER EDUCATION AS LONG AS THEY DID NOT "FLAUNT THEIR BELIEFS." THUS EVEN THE GOVERNMENT'S DEFENSE OF ITS POLICIES PROVIDED FURTHER EVIDENCE THAT PRACTICING BAHÁ'ÍS CONTINUED TO BE DENIED EQUAL ACCESS TO HIGHER EDUCATION.

Relevant Human Rights Watch Reports:

AS FRAGILE AS A CRYSTAL GLASS: PRESS FREEDOM IN IRAN, 10/99

UZBEKISTAN: CLASS DISMISSED: DISCRIMINATORY EXPULSIONS OF MUSLIM STUDENTS, 10/99

SPARE THE CHILD: CORPORAL PUNISHMENT IN KENYAN SCHOOLS, 9/99

REPUBLIC OF BELARUS: VIOLATIONS OF ACADEMIC FREEDOM, 7/99

THE INTERNET IN THE MIDDLE EAST AND NORTH AFRICA: FREE EXPRESSION AND CENSORSHIP, 7/99

CUBA'S REPRESSIVE MACHINERY: HUMAN RIGHTS FORTY YEARS AFTER THE REVOLUTION, 6/99

DEEPENING AUTHORITARIANISM IN SERBIA: THE PURGE OF THE UNIVERSITIES, 1/99

CHILD SOLDIERS

CAMPAIGN EFFORTS TO END THE USE OF CHILDREN AS SOLDIERS GATHERED SIGNIFICANT MOMENTUM DURING 1999. FOLLOWING ITS LAUNCH IN MAY OF 1999, THE COALITION TO STOP THE USE OF CHILD SOLDIERS GREW TO ENCOMPASS NATIONAL CAMPAIGNS IN MORE THAN THIRTY COUNTRIES WORLDWIDE. THE COALITION, WHICH IS CHAIRED BY HUMAN RIGHTS WATCH, CONTINUED TO HIGHLIGHT THE URGENCY OF STRONGER PROTECTIONS FOR CHILDREN AGAINST MILITARY RECRUITMENT AND CAMPAIGNED VIGOROUSLY TO ESTABLISH EIGHTEEN AS THE MINIMUM AGE FOR ANY FORM OF MILITARY RECRUITMENT OR PARTICIPATION IN ARMED CONFLICT. THROUGH MEDIA AND PUBLIC EDUCATION CAMPAIGNS, THE PUBLICATION OF NEW RESEARCH, PARTNERSHIPS WITH SYMPATHETIC GOVERNMENTS, AND ADVOCACY WITHIN REGIONAL AND

international fora the coalition helped place the global abuse of children as soldiers on the international agenda and built new support for an effective ban on the use of child soldiers.

A series of high level regional conferences was central to the coalition's 1999 campaign efforts. More than 250 representatives of governments and civil society from over fifty countries participated in the African Conference on the Use of Children as Soldiers, held from April 19-22 in Maputo, Mozambique. Organized by the coalition and hosted by the Mozambican Foreign Ministry, the conference was the largest and broadest meeting ever held in Africa on the use of child soldiers. A strong declaration adopted by participants proclaimed the use of children as soldiers to be wholly unacceptable and called for the rapid adoption of legal standards and measures at every level to prohibit any military service by children under the age of eighteen. The declaration was affirmed by the Organization of African Unity Assembly of Heads of State and Government in July, and member states were urged by the assembly to adopt and promote norms prohibiting the recruitment and use as soldiers of children under age eighteen.

The Maputo conference also built support for ratification of the African Charter on the Rights and Welfare of the Child, the only regional treaty that sets eighteen as the minimum age for recruitment and participation in armed conflict. During 1999, Cameroon became the thirteenth country to ratify the charter, while ten additional governments made commitments to ratify, including Tunisia, Libya, Liberia, South Africa, Ghana, Tanzania, Rwanda, Kenya, and Malawi. Needing fifteen ratifications, the charter is expected to go into force soon.

A second regional conference on the use of children as soldiers in Latin America and the Caribbean was hosted by the Uruguayan government in Montevideo, Uruguay in July, drawing representatives from twenty countries. The conference also resulted in a strong declaration condemning the use of child soldiers and calling for concrete steps to end all recruitment or participation in armed conflict of children under the age of eighteen.

A third conference for the European region was hosted by the German Foreign Ministry in Berlin in October. The event drew 190 participants, including representatives from twenty-nine European governments. Although agreement was not reached on a minimum age for recruitment, conference participants adopted a declaration calling on all states to ensure that no person under the age of eighteen years, within their armed forces, participates in armed conflict. For several European states, this was the first time that they had agreed upon an absolute prohibition on participation by minors in armed conflict.

In June of 1999, the use of child soldiers was recognized as a child labor issue when the International Labor Conference included a prohibition on the forced recruitment of children for use in armed conflict in a new convention on the worst forms of child labor. Trade unions and a broad group of governments, including Canada, Denmark, France, Italy, Mexico, Norway, Spain, Uruguay, and all African states, advocated for a broad prohibition on any participation in armed conflict by children under the age of eighteen. However, the United States, backed by the United Kingdom and the Netherlands, mounted an aggressive—and ultimately successful—lobbying campaign for a much narrower prohibition on the “forced or compulsory recruitment of children for use in armed conflicts.”

The new ILO convention is a landmark in that it is the first international treaty to prohibit certain forms of military service by children under the age of eighteen. Regrettably, however, the convention's narrow language leaves thousands of child soldiers around the world unprotected. Although a great number of child soldiers are recruited by force, most are lured into armed groups by promises of payment, food, or protection. These “voluntary” recruits are not automatically covered by the new convention, although governments who wish to extend the protections of the convention can designate the recruitment and participation of under-eighteens as “work likely to harm health, safety or morals” of a child and thus included among prohibited forms of child labor.

During the year, Olara Ogunnu, the special representative of the secretary-general on children and armed conflict, traveled to several conflict areas in Latin America, Africa, and Europe, where he sought commitments from parties to conflict regarding the nonrecruitment of children. As a result, the governments of Colombia and Sierra Leone (as well as the civilian defense forces affiliated with the Sierra Leonean government) made commitments not to recruit children under the age of eighteen, while Burundi pledged to introduce legislation to raise its recruitment age from sixteen to eighteen. The rebel Congolese Rally for Democracy (RDC) in the Democratic Republic of Congo also pledged not to recruit children under eighteen, while the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, FARC)

pledged not to recruit children under the age of fifteen. However, monitoring and enforcement of these commitments was difficult, and evidence suggested that parties such as the FARC continued to recruit children, despite their promises.

Other governments not engaged in active armed conflicts also took steps to bring their domestic legislation and practice into line with a minimum age of eighteen for recruitment. The Czech Republic, Portugal and South Africa each raised their age of recruitment to eighteen, and measures were introduced into both the German and Norwegian parliaments proposing to raise the minimum age of recruitment to eighteen.

Human Rights Watch and Brussels-based nongovernmental organizations carried out advocacy with the European Union and other European institutions. A briefing for members of the European Parliament resulted in a resolution adopted by the parliament on December 17, 1998, calling on the European Union to support eighteen as the minimum age for military recruitment. A resolution on child soldiers was also adopted by the European Parliament/Africa, Caribbean and Pacific Joint Assembly bringing together seventy members of the European Parliament and representatives from seventy-one countries of the Africa, Caribbean and Pacific from March 29–April 1, 1999.

A group of world leaders lent their support to the campaign by releasing a public statement on the use of child soldiers in July. Initiated at Human Rights Watch's request by former U.S. President Jimmy Carter and former Costa Rican President Óscar Arias Sánchez, the statement was also signed by former heads of state or government including Shimon Peres (Israel), Mikhail Gorbachev (USSR), Helmut Schmidt (Germany), Malcolm Fraser (Australia), Patricio Aylwin Azocar (Chile), and Anand Panyarachun (Thailand).

In August, the foreign ministers of the Nordic countries signed a declaration in Reykjavik committing their support for an optional protocol to the Convention on the Rights of the Child stipulating that no person under the age of eighteen should be recruited into armed forces, nor be allowed to take part in hostilities.

The use of child soldiers was also taken up by the U.N. Security Council during debates on the protection of civilians in February and on armed conflict and children in August. The latter debate resulted in the council's first resolution on the topic, which urged stronger efforts to stop the use of child soldiers, but did not take a position on the age of recruitment. The following month, however, U.N. Secretary-General Kofi Annan recommended to the Security Council that member states support the proposal to raise the minimum age for recruitment and participation in armed conflict to eighteen. During a subsequent Security Council debate, the United Nations High Commissioner for Human Rights, Mary Robinson, argued for raising the minimum age for participation in hostilities to age eighteen, while addressing the Security Council for the first time.

Despite growing international support for effective measures to end the use of child soldiers, the eventual adoption of an international instrument to prohibit the recruitment or participation of under-eighteens is still uncertain. A U.N. working group mandated to produce an optional protocol to the Convention on the Rights of the Child yielded no results during its January 1999 meeting. The U.N. Human Rights Commission requested its chair to conduct informal consultations during 1999, and urged the conclusion of the protocol in the year 2000, the tenth anniversary of the entry into force of the convention.

The United States remained a vigorous opponent of the proposed agreement. It continued to argue for seventeen as the minimum age of recruitment and participation in hostilities, seeking to preserve the Pentagon's ability to recruit seventeen year old youth just completing high school. At the same time, 1997 Defense Department statistics indicated that only 2,980 members of the 1.3 million active duty armed forces were under age eighteen.

The U.S. Campaign to Stop the Use of Child Soldiers, led by a steering committee of Human Rights Watch and other NGOs, grew to include more than fifty member organizations. The campaign worked to shift U.S. policy on child soldiers, meeting with Defense Department officials, educating members of Congress, and conducting public education efforts through the media, the Internet, and the networks of its member organizations.

The future of an international agreement to ban the use of child soldiers lies with the willingness of the large majority of states that favor a strong agreement to refuse to acquiesce to a small number of governments who are willing to sacrifice strong international protections for children in favor of their recruitment convenience. In addition, children who have been caught up in armed conflict must depend on strong advocates within civil society to ensure that governments provide the protections they so sorely need.

CORPORATIONS AND HUMAN RIGHTS

CORPORATIONS FACED CONTINUED SCRUTINY OF THEIR HUMAN RIGHTS PERFORMANCE THROUGHOUT THE WORLD IN 1999. THE TWO KEY SECTORS UNDER FIRE WERE THE APPAREL AND FOOTWEAR INDUSTRY, FOR LABOR RIGHTS VIOLATIONS, AND THE ENERGY INDUSTRY, FOR COMPLICITY IN HUMAN RIGHTS VIOLATIONS COMMITTED THROUGH PARTNERSHIPS WITH REPRESSIVE GOVERNMENTS.

COMPANIES THAT HAD PREVIOUSLY MADE HUMAN RIGHTS COMMITMENTS CONTINUED TO DEVELOP POLICIES AND PROGRAMS TO ADDRESS THE POTENTIALLY NEGATIVE IMPACT OF THEIR OPERATIONS ON HUMAN RIGHTS. HOWEVER, EVEN THOUGH SOME COMPANIES, SUCH AS THE GAP AND ROYAL DUTCH/SHELL (SHELL) PLEDGED TO IMPLEMENT SOCIALLY RESPONSIBLE POLICIES, THEY FACED NEW CONTROVERSIES. A DISTURBING NEW TREND EMERGED AS WELL: COMPANIES THAT WERE Mired IN CONTROVERSY SEEMED TO REJECT HUMAN RIGHTS CONSIDERATIONS OUT OF HAND, EVEN THOUGH A GROWING BODY OF EVIDENCE CLEARLY INDICATED A NEED TO CHANGE THEIR PRACTICES IN ORDER TO AVOID THE RISK OF PUBLIC CRITICISM, THE POTENTIAL IMPACT ON THE COMPANIES' BOTTOM-LINE, AND POTENTIAL LEGAL LIABILITIES.

The Apparel and Footwear Industry

AFTER YEARS OF CRITICISM FOR LABOR RIGHTS ABUSES, THE APPAREL AND FOOTWEAR INDUSTRY CONTINUED TO DEVELOP AND IMPLEMENT MONITORING AND COMPLIANCE PROGRAMS IN ORDER TO ENSURE THAT THE RIGHTS OF WORKERS WERE RESPECTED IN THE GLOBAL WORKPLACE. MOST EFFORTS FOCUSED ON THE DEVELOPMENT OF TWO KEY PROGRAMS: THE WHITE HOUSE-SPONSORED FAIR LABOR ASSOCIATION (FLA)—FORMERLY KNOWN AS THE APPAREL INDUSTRY PARTNERSHIP—AND THE COUNCIL ON ECONOMIC PRIORITIES (CEP) SOCIAL ACCOUNTABILITY 8000 PROGRAM (SA-8000). THE FLA GAINED TWO NEW CORPORATE MEMBERS IN 1999. ADIDAS-SOLOMON AG AND LEVI-STRAUSS JOINED THE ASSOCIATION ON JULY 8 AND 21, RESPECTIVELY. ON SEPTEMBER 10, CHARLES RUFF, FORMER WHITE HOUSE COUNSEL, WAS APPOINTED CHAIRPERSON OF THE FLA'S BOARD OF DIRECTORS.

DESPITE THE GREATER INDUSTRY PARTICIPATION IN THESE PROGRAMS, COMPANIES WERE NOT INSULATED FROM CRITICISM IN 1999. TWO KEY DEVELOPMENTS INCREASED THE PRESSURE ON THE INDUSTRY TO ADDRESS LABOR RIGHTS: A SERIES OF CLASS-ACTION LAWSUITS AGAINST U.S. COMPANIES AND THEIR SUBCONTRACTORS MANUFACTURING IN THE U.S. ISLAND TERRITORY OF SAIPAN AND THE EMERGENCE OF UNIVERSITY STUDENTS AS A POWERFUL FORCE AGAINST WORKPLACE EXPLOITATION.

The Saipan Lawsuit

ON JANUARY 13, A FEDERAL CLASS-ACTION LAWSUIT IN THE U.S., A LAWSUIT IN THE U.S. TERRITORY OF SAIPAN, AND A THIRD LAWSUIT IN CALIFORNIA STATE COURT WERE SIMULTANEOUSLY FILED AGAINST THIRTY-TWO APPAREL AND FOOTWEAR MANUFACTURERS AND THEIR SUBCONTRACTORS BY GLOBAL EXCHANGE AND SWEATSHOP WATCH, TWO CALIFORNIA-BASED LABOR RIGHTS NONGOVERNMENTAL ORGANIZATIONS (NGOs), ON BEHALF OF APPROXIMATELY 40,000 GARMENT WORKERS EMPLOYED BY MANUFACTURERS IN SAIPAN. THE SUIT ALLEGED THAT WORKERS FACED REPEATED HARASSMENT, PHYSICAL ABUSE, AND POOR WORKING CONDITIONS IN THE SOUTH KOREAN-OWNED SAKO FACTORY, GLOBAL MANUFACTURING INCORPORATED, DIOVRA SAIPAN LIMITED, THE CONCORD GARMENT MANUFACTURING CORPORATION, JIN APPAREL INCORPORATED, AND OTHER COMPANIES THAT PRODUCED PRODUCTS FOR LARGE U.S. RETAILERS SUCH AS CUTTER & BUCK, CHADWICK'S OF BOSTON LIMITED, DONNA KARAN INTERNATIONAL, THE GAP, GYMBOREE, J. CREW, PHILLIPS VAN-HEUSEN, NORDSTROM, POLO RALPH LAUREN, TOMMY HILFINGER, AND WAL MART. IN ADDITION, THE U.S. GOVERNMENT JOINED IN AND FILED TWO CIVIL RIGHTS LAWSUITS AGAINST THE SAKO FACTORY ON JUNE 30. ALTHOUGH THE LAWSUIT FILED IN SAIPAN WAS DISMISSED, FOUR OF THE DEFENDANTS—CUTTER & BUCK, GYMBOREE, J. CREW, AND NORDSTROM—REACHED A SETTLEMENT WITH THE PLAINTIFFS ON AUGUST 9 AND AGREED TO PAY U.S.\$1.25 MILLION IN ORDER TO IMPLEMENT AN INDEPENDENT MONITORING PROGRAM THAT WOULD BE ADMINISTERED BY VERITÉ, AN INDEPENDENT MONITORING FIRM. LAWYERS FOR THE PLAINTIFFS ALSO ANNOUNCED THAT THEY HAD REACHED AN "IN PRINCIPLE" SETTLEMENT WITH CHADWICK'S OF BOSTON LIMITED, DONNA KARAN INTERNATIONAL, PHILLIPS VAN-HEUSEN, AND POLO RALPH LAUREN. THE REMAINING COMPANIES CHOSE TO RESOLVE THE ISSUE IN COURT.

IN RESPONSE TO THESE EVENTS THE CLINTON ADMINISTRATION ANNOUNCED ON SEPTEMBER 16 THAT IT WAS CONSIDERING EXPANDING U.S. IMMIGRATION, WAGE, AND TRADE LAWS SO THAT THEY WOULD COVER SAIPAN AND IN ORDER TO PUNISH PAST ABUSES AND PREVENT FUTURE EXPLOITATION.

Student Activism at U.S. Universities

UNIVERSITY STUDENTS EMERGED AS A POWERFUL NEW VOICE IN THE CAMPAIGN AGAINST WORKER EXPLOITATION. THROUGHOUT THE YEAR, STUDENTS STAGED DEMONSTRATIONS AT HARVARD UNIVERSITY, THE UNIVERSITY OF WISCONSIN, DUKE UNIVERSITY, THE UNIVERSITY OF NORTH CAROLINA, THROUGHOUT THE UNIVERSITY OF CALIFORNIA SYSTEM, AND OTHER UNIVERSITIES AROUND THE U.S. DEMANDING THAT THEIR SCHOOLS ONLY AGREE TO LICENSE THEIR UNIVERSITY APPAREL WITH COMPANIES WHO HAVE CREDIBLE MONITORING PROGRAMS TO ENSURE RESPECT FOR LABOR RIGHTS AND ALSO URGING THEIR UNIVERSITIES TO SUPPORT THE FLA. IN RESPONSE TO STUDENT ACTIVISM THROUGHOUT THE U.S., MORE THAN EIGHTY UNIVERSITIES HAD JOINED THE FLA BY THE END OF 1999.

The Energy Industry

FOLLOWING A YEAR IN WHICH OIL PRICES REACHED ALL-TIME LOWS AND PLACED SEVERE ECONOMIC PRESSURES ON THE INDUSTRY AND ENERGY-PRODUCING COUNTRIES, 1999 EMERGED AS A YEAR OF "MEGA-MERGERS" AND ACQUISITIONS—INCLUDING THE MERGER OF EXXON AND MOBIL, BRITISH PETROLEUM (BP) AND AMOCO, BP-AMOCO AND THE ATLANTIC RICHFIELD CORPORATION (ARCO), FRANCE'S TOTAL AND BELGIUM'S FINA, AND THE ANNOUNCED ACQUISITION OF FRANCE'S ELF AQUITAINE (ELF) BY TOTAL—AND RISING OIL PRICES. CONSOLIDATION WITHIN THE INDUSTRY MEANT THAT A SMALLER GROUP OF TRANSNATIONAL CORPORATIONS WOULD HAVE TO ASSUME RESPONSIBILITY FOR THE SECTOR'S HUMAN RIGHTS IMPACT GLOBALLY. TWO KEY ISSUES DOMINATED THE HUMAN RIGHTS DEBATE: THE USE OF REVENUES GENERATED BY ENERGY PROJECTS TO BOLSTER ABUSIVE GOVERNMENTS AND SITUATIONS OF CORPORATE COMPLICITY IN HUMAN RIGHTS VIOLATIONS WHEN COMPANIES RELIED ON ABUSIVE STATE FORCES FOR THE PROTECTION OF COMPANY FACILITIES, PERSONNEL, AND PREROGATIVES. DESPITE EFFORTS BY SOME COMPANIES TO ADDRESS HUMAN RIGHTS, THE OVERALL PERFORMANCE OF THE INDUSTRY WAS POOR. COUNTRIES WHERE COMPANIES WERE CRITICIZED FOR THEIR OPERATIONS ON HUMAN RIGHTS GROUNDS INCLUDED CHAD, INDIA, AND NIGERIA.

Chad

THE PROPOSED U.S.\$3.5 BILLION CHAD-CAMEROON PIPELINE, AN EXXON-LED JOINT VENTURE COMPRISED OF EXXON, SHELL, AND ELF, WAS SHARPLY CRITICIZED BY POLITICAL PARTIES, NATIONAL GOVERNMENT REPRESENTATIVES, AND NGOs THROUGHOUT 1999 BECAUSE OF THE PROJECT'S POTENTIALLY NEGATIVE EFFECT ON THE ENVIRONMENT, GOVERNANCE, AND HUMAN RIGHTS. THE WORLD BANK DELAYED APPROVAL OF APPROXIMATELY \$340 MILLION IN DIRECT AND INDIRECT FINANCING FOR THE PROJECT UNTIL THE END OF 1999 DUE TO CONCERNS OVER THE ENVIRONMENTAL AND HUMAN RIGHTS IMPACTS OF THE PROJECT; AND IN JULY THE BANK ANNOUNCED THAT IT WAS DEVELOPING A "REVENUE MANAGEMENT" PROGRAM TO ENSURE THAT THE PROCEEDS FROM THE PROJECT WERE USED RESPONSIBLY AND DID NOT CONTRIBUTE TO CORRUPTION, MISMANAGEMENT, OR AN OVERALL DETERIORATION IN HUMAN RIGHTS. ALTHOUGH NGOs AND U.S. GOVERNMENT OFFICIALS QUESTIONED EXXON ABOUT ITS SECURITY ARRANGEMENTS AND THE NEED TO MAKE RESPECT FOR HUMAN RIGHTS AN INTEGRAL PART OF THE PROJECT'S DEVELOPMENT, THE COMPANY MADE NO MEANINGFUL EFFORT TO ADDRESS THESE ISSUES DIRECTLY AND WAS DISMISSIVE OF EFFORTS BY NGOs AND REPRESENTATIVES OF THE U.S. CONGRESS TO URGE THE COMPANY TO ADOPT HUMAN RIGHTS POLICIES AND PROGRAMS.

ON A POSITIVE NOTE, CHADIAN PRESIDENT IDRIS DEBY RELEASED FORMER OPPOSITION PARLIAMENTARIAN, NGARLEJY YORONGAR, FROM PRISON ON FEBRUARY 4. YORONGAR HAD BEEN ARRESTED FOR DEFAMATION ON JUNE 3, 1998 BECAUSE HE HAD ACCUSED ELF, A JOINT-VENTURE PARTNER OF EXXON, OF FINANCING AN OPPOSITION CANDIDATE'S PRESIDENTIAL CAMPAIGN AND HAD ACCUSED DEBY OF FOSTERING NEPOTISM AND CORRUPTION IN THE OIL INDUSTRY. HE HAD BEEN CONVICTED AND SENTENCED TO THREE YEARS' IMPRISONMENT (ONE YEAR MORE THAN THE MAXIMUM SENTENCE STIPULATED BY LAW), BUT INTERNATIONAL CONDEMNATION BY GOVERNMENTS, NGOs, AND PLEAS FROM HIS OWN COMMUNITY PROMPTED HIS RELEASE. THE MEMBERS OF THE EXXON-LED CONSORTIUM WERE SILENT ON THIS ISSUE.

India

THE HOUSTON-BASED ENRON CORPORATION TOOK NO MEANINGFUL STEPS TO MAKE RESPECT FOR HUMAN RIGHTS AN INTEGRAL PART OF THE BUSINESS OPERATIONS OF THE DABHOL POWER CORPORATION (DPC), AN ENRON SUBSIDIARY IN THE INDIAN STATE OF MAHARASHTRA. THE DPC CONSTRUCTED AND OPERATES A LARGE POWER PLANT ON THE COAST OF MAHARASHTRA KNOWN AS THE DABHOL POWER PROJECT. SINCE THE PROJECT'S INCEPTION IN 1992, THE DEAL WAS REPEATEDLY CRITICIZED BY KEY INDIAN AND INTERNATIONAL ECONOMISTS AND CONDEMNED BY INTELLECTUALS, ACADEMICS, THE INDIAN PRESS, TRADE UNIONS, OPPOSITION POLITICAL PARTIES, AND NONGOVERNMENTAL ORGANIZATIONS THROUGHOUT INDIA BECAUSE OF ITS LACK OF TRANSPARENCY, ITS PROJECTED HIGH COSTS, AND POTENTIAL ENVIRONMENTAL IMPACTS. THE DEAL WAS SO CONTROVERSIAL THAT IT WAS SUSPENDED WHEN A HINDU NATIONALIST GOVERNMENT COALITION WAS ELECTED TO POWER IN 1995. THEN, IN AN ABOUT-FACE THAT RENEWED ALLEGATIONS OF CORRUPTION SURROUNDING THE PROJECT, THE GOVERNMENT RENEGOTIATED THE PROJECT AND ALLOWED ITS CONSTRUCTION.

On January 25, 1999, Human Rights Watch released *The Enron Corporation: Corporate Complicity in Human Rights Violations*, a 165-page report detailing human rights abuses that had occurred as a result of opposition to the Dabhol Power Project.

Beginning in late 1996 and continuing throughout 1997, leading Indian environmental activists and representatives of villagers' organizations in the affected area organized to oppose the project and, as a direct result of their opposition, were subjected to beatings and repeated short-term detention. In many cases, they were detained for periods ranging from several days to two weeks without being produced before a magistrate as required under Indian law. During mass arrests at demonstrations in villages surrounding the project site protesters have been beaten with canes or otherwise assaulted by the police, in some cases sustaining severe injuries. Police also tear-gassed peaceful demonstrations and frequently used laws providing for preventative detention to arrest demonstrators in anticipation of protests or because police suspected violence. At this writing, many of these charges were still pending against demonstrators and had not been resolved. Under provisions of the Bombay Police Act, the Dabhol Power Corporation was required to reimburse the police charged with providing security to its facilities and some of the same police implicated in the abuses.

Nigeria

In Nigeria, protests against oil production escalated as the handover to civilian rule provided more space for the expression of political demands. In one incident in January 1999, two communities in Delta State were attacked by soldiers using a helicopter and boats commandeered from a facility operated by Chevron, following an alleged confrontation that took place at a nearby Chevron drilling rig. More than fifty people may have died in these incidents. Chevron did not issue any public protest at the killings, nor respond to requests from Human Rights Watch to be informed of its plans to prevent similar incidents in the future.

There was also an increase in kidnappings of oil company staff for ransom, and violence between neighboring communities over matters such as the location of local government headquarters or the oil facilities crucial for the distribution of oil resources. Due to the continuing violence that centered around oil production, flow stations were repeatedly closed down and several companies declared a situation of force majeure. In August, Mobil, speaking for the multinationals operating in Nigeria, said that Nigeria had lost approximately U.S.\$1 billion in oil revenues as of August 1999 as a result of protests in the oil producing communities.

The oil companies responded to the threat of production shut-downs and hostage taking by announcing increased development spending in host communities, much of it poorly targeted, and, despite denials, frequently making ransom payments when hostages were taken. In testimony before the U.S. House of Representatives Subcommittee on Africa in July, chair of the Corporate Council on Africa David Miller suggested that U.S. oil companies would contribute towards efforts to train Nigerian police operating in the delta. However, no statements were made regarding the incorporation of human rights content and oversight for training programs and several companies expressed a reluctance to adopt this type of training program.

Corporate Initiatives to Address Human Rights

Norway's Statoil and BP-Amoco, two companies that have human rights policies and programs, each put them to the test in 1999. On January 4, the Norwegian Oil and Petrochemical Workers Union (NOPEF) announced that Statoil had informed the Baltimore-based Crown Central Petroleum that it would not renew its refining contract with Crown or discuss any expansion of its activities with Crown until "normal relationships" were established with the Oil, Chemical, and Atomic Workers International Union (OCAW) at the company's Pasadena, Texas refinery. Crown had been involved in a heated labor dispute and lockout with OCAW since 1996 and had been the target of a national boycott due to alleged race and sex discrimination and environmental damage. Statoil had signed a global collective bargaining agreement with OCAW in July 1998 that required the company to respect the labor rights of its employees and to ensure respect for human rights in the company's areas of operations in order to "affirm their support for fundamental human rights in the community and in the place of work." Commenting on Statoil's decision, OCAW president Robert Wages said, "[E]y pairing one of the worst oil companies with Statoil—which became the first multinational oil company to sign an international agreement to support labor and human rights—the contradiction became too much for Statoil to bear."

On May 19, BP-Amoco announced that it had signed security agreements with Azerbaijan, Georgia, and Turkey, the three countries involved in the transportation of oil and gas through the proposed Baku-Ceyhan Main Export Pipeline (MEP). However, the company stated that it could not begin construction of the pipeline until it received guarantees from the governments involved that their security forces would comply with the company requirements of ethical conduct, respect for human rights, and adequate third-party monitoring of security forces guarding the pipeline. BP-Amoco, the lead operator in the Azerbaijan International Operating Company (AIOC) and other consortia that are developing offshore oil and natural gas fields in the Caspian Sea, was also expected to have significant involvement in the construction of the proposed MEP.

The Role of Governments

Governments that subordinated human rights to the promotion of commercial and strategic interests remained another focus of the efforts to promote corporate responsibility. The most blatant example of this phenomenon in 1999 was the U.S. government's policy towards Turkmenistan.

Turkmenistan

Although the Turkmen government under President Saparmurad Niyazov continued to deny its citizens their civil and political rights and relied on a powerful, Soviet-style secret police to do so, pipeline politics continued to dominate bilateral relations between Turkmenistan and the U.S. government—the most forceful proponent of a proposed \$2.4–\$2.8 billion trans-Caspian gas pipeline that would originate in Turkmenistan and terminate in Turkey—often at the expense of human rights. This approach sent the message that the U.S. government's stated commitment to international human rights protection may be set aside where geopolitical and energy interests are concerned.

In late January, at the invitation of the Turkmen government, several human rights watch representatives, including Human Rights Watch's executive director Kenneth Roth, went to Ashgabat on an official visit and fact-finding trip. At approximately 11:00 p.m. on February 2, less than twenty-four hours after Roth had left the country, three agents from the Committee for National Security (KNB) detained Human Rights Watch's Moscow-based researcher Alexander Petrov in his hotel room in Ashgabat. The authorities accused him of unspecified offenses and held him incommunicado, refusing to allow him to notify his colleagues or his consulate (he is a Russian citizen) that he had been detained and was being forced out of the country. The security officers then took Petrov directly to the Ashgabat airport, where he was forced to wait until morning for the next available flight to Moscow.

Nine days later, on February 11, Turkmen Foreign Minister Boris Shikmuradov announced that the government awarded PSIG International, a joint-venture of two U.S.-based companies, the General Electric Capital Corporation and the Bechtel Corporation, the lead role in a consortium to build the trans-Caspian gas pipeline. Later, on August 5, Shell announced its intent to join the consortium. According to press reports, Shikmuradov said that part of the reason for the choice of U.S. companies to lead the project was because the project needed political support from the U.S. government and that, "You do not need to discover America to be able to work out that America is important to Turkmenistan."

The Turkmen government imprisoned political activists and detained a number of potential opposition candidates for the upcoming parliamentary elections on December 12. For example, on May 28, the Tashauz municipal court convicted Shakhmat Razmetov of "hooliganism," for having sought contact with the U.S. Embassy in Ashgabat. Razmetov had repeatedly been in contact with foreign diplomats and was sentenced to three years of imprisonment after a court hearing in which witnesses openly stated that authorities had coerced their testimony against him.

On August 5, a court sentenced Ayli Meredov, a former deputy head of the Balkan province education department, to five years imprisonment for failing to report the sale of his automobile. Shortly before his arrest, Meredov had expressed his intention to stand for election to parliament. Later, a judge released Meredov from custody under a recent amnesty and after Meredov signed a statement confessing to the "crime." He remained ineligible to run for elected office for ten years under Turkmenistan's Law on Elections.

On August 14, the same day U.S. Secretary of Energy, Bill Richardson, departed on a tour of Azerbaijan, Turkey, and Turkmenistan, three of the countries slated to participate in a trans-Caspian pipeline, Dr. Pirguli Tangrikuliev was sentenced to eight years imprisonment by an Ashgabat court for purported "abuse of office." Tangrikuliev—a prominent

MEDICAL SCIENTIST, CLINICIAN, PUBLIC HEALTH ADMINISTRATOR, AND A MEMBER OF THE REPUBLICAN SUPREME SOVIET UNTIL 1994—HAD LONG BEEN KNOWN FOR HIS CRITICAL VIEWS OF THE GOVERNMENT AND HAD REPEATEDLY EXPRESSED TO DIPLOMATS AND OTHERS IN ASHGABAT'S INTERNATIONAL COMMUNITY HIS INTEREST IN RUNNING FOR PARLIAMENT IN ORDER TO EFFECT POLITICAL CHANGE IN TURKMENISTAN.

ALTHOUGH HE HAD BEEN ARRESTED ON JUNE 29, STATE SECURITY OFFICERS HELD DR. TANGRIKULIEV, WHO HAD NO PRIOR CONVICTIONS, FOR SIX WEEKS BEFORE CHARGING HIM. BUT IMMEDIATELY FOLLOWING HIS ARREST AND BEFORE AUTHORITIES HAD FORMALLY CHARGED HIM, TURKMENISTAN'S STATE NEWSPAPERS RAN ARTICLES ACCUSING HIM OF FINANCIAL MALFEASANCE. IN ADDITION, SEVERAL WEEKS BEFORE HIS TRIAL AND CONVICTION, THE TURKMENISTAN EMBASSY PRESS ATTACHE IN MOSCOW, IN AN ARTICLE IN NEZAVISIMAYA GAZETA, CALLED DR. TANGRIKULIEV A "CRIMINAL" WHO WAS THEREFORE UNABLE TO RUN FOR PARLIAMENT.

HUMAN RIGHTS WATCH BELIEVES THAT THE CHARGES WERE MERELY A PRETEXT AND THAT HE WAS ACTUALLY ARRESTED AND IMPRISONED IN ORDER TO PUNISH HIM FOR HIS OUTSPOKEN CRITICISM OF STATE POLICIES, AND TO PREVENT HIM FROM FORMING A POLITICAL PARTY AND CONTESTING A SEAT IN THE UPCOMING PARLIAMENTARY ELECTIONS.

SIX DAYS AFTER TANGRIKULIEV WAS SENTENCED, U.S. SECRETARY OF ENERGY, BILL RICHARDSON, JOHN WOLF, THE SPECIAL ADVISOR TO THE PRESIDENT AND SECRETARY OF STATE FOR CASPIAN BASIN ENERGY DIPLOMACY, AND J. JOSEPH GRANDMAISON, THE DIRECTOR OF THE U.S. TRADE AND DEVELOPMENT AGENCY (USTDA), MET WITH PRESIDENT NIYAZOV TO DISCUSS THE PROPOSED TRANS-CASPIAN GAS PIPELINE AND TO RELEASE A U.S.\$150,000 USTDA GRANT SO THAT THE TURKMEN GOVERNMENT COULD "FORMULATE DOCUMENTS" RELATED TO THE PROJECT. THE U.S. GOVERNMENT WAITED UNTIL AUGUST 23—THREE DAYS AFTER RICHARDSON LEFT THE COUNTRY—to ISSUE A CONDEMNATION REGARDING THE SENTENCING AND IMPRISONMENT OF TANGRIKULIEV.

FREEDOM OF EXPRESSION ON THE INTERNET

EVEN AS GOVERNMENTS AROUND THE WORLD ACKNOWLEDGED THE DIFFICULTIES INHERENT IN CENSORING THE INTERNET, LEGISLATIVE PROPOSALS CONTINUED TO THREATEN FREE SPEECH. WHILE HUMAN RIGHTS AND CIVIL LIBERTIES GROUPS POINTED OUT THE GLOBAL IMPLICATIONS FOR THE RIGHTS TO PRIVACY AND FREE EXPRESSION REPRESENTED BY SUCH PROPOSALS, REGULATORS AROUND THE WORLD WERE QUICK TO REFINE ONLINE MONITORING, SCREENING, AND OTHER CONTROLLING TECHNOLOGIES.

Filtering and Blocking

ARGUING THAT NATIONAL REGULATORY FRAMEWORKS ARE NOT APPROPRIATE TO THE GLOBAL NATURE OF THE INTERNET, INDUSTRY LEADERS JOINED FORCES TO CREATE AN INTERNATIONAL INTERNET CONTENT RATING SYSTEM TO "PROTECT CHILDREN AND FREE SPEECH" ON THE WEB. IN MAY THEY FORMED THE INTERNET CONTENT RATING ASSOCIATION (ICRA) TO FACILITATE THE DEVELOPMENT OF AN INTEGRATED SELF-REGULATORY APPROACH TO DEALING WITH "HARMFUL AND ILLEGAL" CONTENT ON THE INTERNET.

HUMAN RIGHTS WATCH, ALONG WITH OTHER MEMBERS OF THE GLOBAL INTERNET LIBERTY CAMPAIGN (GILC), ARGUED FOR MORE DELIBERATE CONSIDERATION OF SO-CALLED SELF-REGULATORY APPROACHES TO INTERNET CONTENT CONTROL. THE GLOBAL INTERNET LIBERTY CAMPAIGN MEMBER STATEMENT (SUBMITTED IN SEPTEMBER TO THE INTERNET CONTENT SUMMIT) FURTHER EMPHASIZED THE DANGER THAT RATING AND FILTERING SYSTEMS COULD, IN FACT, FACILITATE GOVERNMENT CENSORSHIP.

THE WIDE-SCALE DEPLOYMENT OF RATING AND BLOCKING SYSTEMS COULD BE USED BY REGULATORS TO STIFLE EXPRESSION AND MARGINALIZE ANY WEB SITES THAT FAILED TO ADOPT RATINGS. THE EXISTENCE OF A STANDARDIZED RATING SYSTEM FOR INTERNET CONTENT—WITH THE ACCOMPANYING TECHNICAL CHANGES TO FACILITATE BLOCKING—WOULD ALLOW GOVERNMENTS TO REQUIRE INTERNET SERVICE PROVIDERS (ISPs) AND OTHER CONTENT ACCESS PROVIDERS (PUBLIC LIBRARIES, SCHOOLS, ETC.) TO EMPLOY SUCH REGIMES.

EXEMPLIFYING THIS POSSIBILITY, THE AUSTRALIAN GOVERNMENT ON JUNE 30, 1999 APPROVED THE BROADCASTING SERVICES AMENDMENT (ONLINE SERVICES) ACT (SCHEDULED TO GO INTO EFFECT IN 2000), WHICH WOULD FORCE AUSTRALIAN ISPs TO REMOVE OBJECTIONABLE MATERIAL FROM AUSTRALIAN SITES AND TO BLOCK ACCESS TO SIMILAR SITES OVERSEAS. MATERIAL SUITABLE FOR BLOCKING WAS TO BE IDENTIFIED BASED ON EXISTING NATIONAL FILM AND VIDEO CLASSIFICATION STANDARDS. THE NEW LAW PLACED SWEEPING RESTRICTIONS ON ADULTS PROVIDING OR GAINING ACCESS TO MATERIAL DEEMED UNSUITABLE FOR MINORS.

IN Bahrain, Iran, Saudi Arabia, the United Arab Emirates, and Yemen, ISPs—either under government orders or pressure—all blocked web sites on the basis of their content. At least in the first four of these countries, blocking extended to cultural and/or political content. Proxy servers such as the ones in place in the U.A.E. and Saudi Arabia could be used by authorities to track which computer terminals were accessing which web sites and for how long. While U.A.E. authorities denied monitoring individual web use, Saudi Arabian users who requested blocked sites received a message on their screens warning that all access attempts were logged.

State-controlled or state-influenced ISPs in Tunisia, Iran and Bahrain blocked web sites containing political or human rights criticism of their governments. Tunisia acknowledged blocking only those sites that offended moral values, but apparently this included the sites of various human rights organizations critical of the government.

Videsh Sanchar Nigam Ltd. (owned by the Indian government) was the nation's largest Internet service provider and controlled the international Internet gateways used by ISPs in India. During the last week of June, at the height of the Kashmir crisis, Internet users in India could not reach the online news site of the Pakistan daily Dawn, which was known for its independent coverage of the crisis. Fearing that VSNL gateways blocked access to the newspaper site, other web sites began posting information explaining how surfers from India could break the blockade, and a number of mailing lists began circulating articles from Dawn in text format.

Radio B92, the leading independent radio station in Belgrade, Yugoslavia, was banned in March but continued to broadcast news on the Internet. Renamed B2-92, it re-launched its web site <<http://www.freeb92.net/>> in August. Online users around the world were able to continue to access Radio B2-92's independent news via the web as a daily digest with headline updates every hour.

In late 1998 the United States Congress passed the Child Online Protection Act (COPA), making it a crime to publish "any communication for commercial purposes that includes any material that is harmful to minors, without restricting access to such material by minors." In April the U.S. Department of Justice appealed a federal appeals court ruling declaring the law unconstitutional, the result of a lawsuit brought by opponents of the COPA.

Monitoring and Surveillance

Governments rarely admit to "eavesdropping" on e-mail, and it is extremely hard to ascertain whether government monitoring is occurring when most information about monitoring mechanisms is classified. But during 1998 official disclosures in Europe and Australia provided a glimpse into one such system, a monitoring process referred to as ECHELON. According to a January 1998 report published by the Scientific and Technological Option Assessment (STOA) unit of the European Parliament, ECHELON formed part of the UKUSA spy system and was designed for primarily non-military targets: governments, organizations and businesses. The system operated in virtually every country and intercepted fax, e-mail and telephone messages routinely and indiscriminately.

In Britain, the Home Office announced a number of proposals in a June 1999 consultation paper on the interception of communications. Future laws based on these proposals would require "communications service providers" to integrate government interception facilities into their networks, including the Internet, at their own expense. These proposals followed the specifications secretly agreed by European police officials in ENFOPOL plans revealed the previous year. (ENFOPOL was a standard European Commission classification for documents concerned with law enforcement matters.) The British consultation paper also argued that the maintenance of an interception capability was a basic requirement for providers of communication services in countries such as France, Germany, the Netherlands, Sweden, Canada, the United States and Australia.

On April 2, the Second Chamber of the Dutch Parliament approved a new Telecommunications Act that included a chapter intended, among other things, to force ISPs to facilitate monitoring by the police and intelligence services.

In April, an Internet service provider, Singnet of Singapore, apologized to its subscribers after scanning their computers without their knowledge. Singnet had asked the Home Affairs Ministry to check the computers of its 200,000 subscribers during a computer virus scare.

In Russia rules requiring ISPs to provide the security service with complete access to users' e-mail were challenged by an ISP based in Volgograd. The rules, known as System of Efficient Research Measures 2 (SORM-2), were written by the Russian Federal Security Services and the State Communications Agency in 1998.

IN THE MIDDLE EAST AND NORTH AFRICA, WHERE MANY GOVERNMENTS ROUTINELY TAPPED THE PHONES OF POTENTIAL DISSIDENTS, INTERNET USERS IN MANY COUNTRIES, INCLUDING BAHRAIN AND TUNISIA, SUSPECTED THAT THE RIGHT TO PRIVACY OF CORRESPONDENCE WAS BEING VIOLATED BY GOVERNMENT SURVEILLANCE OF E-MAIL COMMUNICATIONS. ONE BAHRAINI SPENT MORE THAN A YEAR IN JAIL ON SUSPICION OF E-MAILING "POLITICAL" INFORMATION TO DISSIDENTS ABROAD. UNDER INDIA'S LICENSE AGREEMENT PROVISION OF INTERNET SERVICE (PROVISION 1.10.3), ISPS HAD TO MAINTAIN LOGS OF ALL INTERNET USERS AND THE SERVICE THEY WERE USING. THESE LOGS, AS WELL AS COPIES OF ALL THE PACKETS ORIGINATING FROM THE CUSTOMER PREMISES EQUIPMENT (CPE) OF THE ISP, HAD TO BE AVAILABLE IN REAL TIME TO THE GOVERNMENT TELECOM AUTHORITY (IN OTHER WORDS, THE TELECOM AUTHORITY HAD ACCESS TO LIVE COMMUNICATIONS).

ACCORDING TO BBC NEWS ONLINE, A SRI LANKAN GOVERNMENT MINISTER ADMITTED IN AUGUST THAT HE HAD INTERCEPTED A PERSONAL E-MAIL SENT TO THE LEADER OF THE COUNTRY'S OPPOSITION.

CHINA CONTINUED ITS CRACKDOWN ON INTERNET DISSENT BY EXPLICITLY PROHIBITING THE TRANSMISSION OR POSTING OF WHAT THE GOVERNMENT CONSIDERED "ANTI-GOVERNMENT PROPAGANDA." IN JANUARY 1999, A COMPUTER TECHNICIAN, LIN HAI, WAS SENTENCED TO TWO YEARS' IMPRISONMENT BY A SHANGHAI COURT FOR GIVING THE E-MAIL ADDRESSES OF 30,000 CHINESE SUBSCRIBERS TO A DISSIDENT SITE THAT PUBLISHED AN ONLINE MAGAZINE FROM THE UNITED STATES.

IN A WORRYING DEVELOPMENT, INTERNET PROVIDERS AND TELECOMMUNICATIONS COMPANIES IN MANY COUNTRIES COULD BE FORCED TO BUILD SPECIAL DATA TAPS INTO THEIR INTERNET SERVERS TO ALLOW GOVERNMENT SECURITY AGENCIES REAL-TIME MONITORING OF EVERY E-MAIL MESSAGE AND WEB PAGE SENT TO OR FROM THEIR SERVERS. THIS COULD ALLOW GOVERNMENT AGENCIES TO CIRCUMVENT NATIONAL PRIVACY LAWS (SUCH U.S. LAWS THAT BAR THE GOVERNMENT FROM SPYING ON ITS CITIZENS), ALLOWING THEM TO RELY ON SURVEILLANCE MECHANISMS IN OTHER COUNTRIES. CITING NATIONAL SECURITY CONCERNS, GOVERNMENTS CONTINUED TO AVOID RELEASING INFORMATION ON MONITORING MECHANISMS.

Encryption

THE PROMISE THAT THE INTERNET HELD FOR HUMAN RIGHTS WAS LIMITED BY THE FACT THAT ELECTRONIC COMMUNICATIONS WERE HIGHLY VULNERABLE TO INTERCEPTION, WITH POTENTIALLY DEADLY CONSEQUENCES FOR THOSE WHO WOULD EXPOSE ABUSES OF STATE POWER. THE DEVELOPMENT OF AND FREEDOM TO USE ENCRYPTION SOFTWARE COULD PROVIDE SUBSTANTIAL PROTECTION FOR THE PRIVACY OF ONLINE USERS. YET CONTRARY TO THE SPIRIT OF INTERNATIONAL NORMS THAT RECOGNIZE PRIVACY AS A FUNDAMENTAL HUMAN RIGHT, GOVERNMENTS CONTINUED TO USE EXPORT CONTROLS OR OTHER NATIONAL LAWS LIMITING THE PUBLIC'S ACCESS TO ENCRYPTION TECHNOLOGIES AND INHIBITING THE DEVELOPMENT OF NEW ENCRYPTION PRODUCTS. IN DECEMBER 1998, THE WASSENAR ARRANGEMENT (A GROUP OF THIRTY-THREE STATES) ANNOUNCED, LARGELY DUE TO UNITED STATES PRESSURE, NEW GUIDELINES THAT WOULD AUTHORIZE RESTRICTIONS ON THE EXPORT OF MOST COMMERCIAL CRYPTOGRAPHY PRODUCTS ABOVE A FIFTY-SIX OR SIXTY-FOUR BIT STRENGTH.

BUT THERE WERE OTHER, MORE ENCOURAGING DEVELOPMENTS IN THIS AREA. IN GERMANY, AS OF SEPTEMBER 1, AN EXPORT LICENSE WAS NO LONGER REQUIRED FOR THE EXPORT OF ENCRYPTION PRODUCTS TO THIRD-COUNTRY MARKETS. IRELAND, COUNTER TO THE WISHES OF ITS E.U. NEIGHBORS, WAS WILLING TO ADOPT POLICIES THAT FAVORED THE USE OF STRONG ENCRYPTION TO ENCOURAGE INTERNET TRADING. THE FRENCH PRIME MINISTER ANNOUNCED IN JANUARY THAT DUE TO THE THREAT OF ELECTRONIC ESPIONAGE AND OTHER DANGERS TO PRIVACY FRANCE WOULD ALLOW ENCRYPTION STRENGTHS UP TO 128 BITS, AND WOULD REMOVE THE COMPULSORY OR THIRD-PARTY ESCROW OF ENCRYPTION KEYS.

AS SHOULD BE EVIDENT, THE FIELD OF INTERNET REGULATION AND SURVEILLANCE WAS STILL VERY MUCH IN FLUX IN 1999. IT WAS CLEAR, HOWEVER, THAT THE PRIVACY AND FREE EXPRESSION RIGHTS OF USERS OF THIS GLOBAL MEDIUM WOULD BE SHAPED BY A MULTIPLICITY OF REGULATIONS AND POLICIES, INCLUDING SELF-REGULATORY APPROACHES PROMOTED BY INTERNET INDUSTRY LEADERS AS WELL AS MYRIAD NATIONAL AND INTERNATIONAL RULES ON SURVEILLANCE AND ENCRYPTION.

HUMAN RIGHTS WATCH INTERNATIONAL FILM FESTIVAL

The Human Rights Watch International Film Festival was created in 1998 to advance public education on human rights issues and concerns using the unique medium of film. Each year, the festival exhibits the finest human rights films and videos in theaters and on cable television throughout the United States and elsewhere—a reflection of both the scope of the festival and its increasingly global appeal. The 1999 festival featured thirty-five films (seventeen of which were premieres), from fifteen countries. The festival included feature-length fiction films, documentaries, animation and experimental works. In 1999, selections of the festival were presented in four countries and within the U.S. selected films showcased in seven cities. Time Out magazine remains the principal sponsor of the festival in New York and London.

In selecting films for the festival, Human Rights Watch concentrates equally on artistic merit and human rights content. The festival encourages filmmakers around the world to address human rights subject matter in their work and presents films and videos from both new and established international filmmakers. Each year, the festival's programming committee screens more than 500 films and videos to create a program that represents a range of countries and issues. Once a film is nominated for a place in the program, staff of the relevant division of Human Rights Watch also view the work to confirm its accuracy in the portrayal of human rights concerns. Though the festival rules out films that contain unacceptable inaccuracies of fact, we do not bar any films on the basis of a particular point of view.

The 1999 festival was first presented over a two-week period in New York, as a collaborative venture with the Film Society of Lincoln Center, and then a selection of the festival was presented in Los Angeles at the Museum of Tolerance.

The 1999 festival reached out to a broader audience by co-presenting selected films with four important New York festivals: the African Film Festival, the Margaret Mead Film Festival, the Urban World Film Festival, and The New Festival/New York Lesbian and Gay Film Festival. A majority of the screenings were followed by discussions with the filmmakers and Human Rights Watch staff on the issues represented in each work.

Two documentaries featured in this year's festival had dramatic effects on their protagonists. The Russian Supreme Court reviewed the case of Alexander Biryukov, the subject of Alexander Goutman's "Three Days and Never Again," following the international attention garnered by the film. The court then commuted Biryukov's sentence from life to fifteen years (of which he has already served nine). Filmmaker Maria Fuglevaag Warsinski successfully used her film, "Crime and Punishment," to lobby influential members of the U.S. government and the U.N. to bring pressure on the Serbian authorities concerning three men featured in her film who had been languishing without charges or trial in Serbian jails. At the festival's first screening of her film, Ms. Warsinski announced the release of all three men.

The 1999 opening night celebration and the entire festival were dedicated to film producer and director Alan J. Pakula. Mr. Pakula was a devoted friend of the festival and received the Irene Diamond Lifetime Achievement Award in 1997 for his continuing contribution to human rights and social justice through film. The festival's opening night featured Mr. Pakula's 1974 ground breaking thriller, "The Parallax View," a probing study of political manipulation in the United States starring Warren Beatty.

As part of the opening night program, the festival annually awards a prize in the name of cinematographer and director Nestor Almendros, who was also a cherished friend of the festival and Human Rights Watch. The award, which includes a cash prize of \$5,000, goes to a deserving and courageous filmmaker in recognition of his or her contributions to human rights through film. In an unusual break with tradition, the 1999 festival awarded two Nestor Almendros Prizes to acknowledge the extraordinary work of two emerging filmmakers: David Riker, for his compassionate fictional film, "La Ciudad," about the plight of Hispanic immigrants living in New York City, and Barbara Sonneborn, for her provocative Academy Award nominated documentary, "Regret to Inform," about the lives of Vietnam war widows from both sides of the conflict.

In 1995, in honor of Irene Diamond, a longtime board member and supporter of Human Rights Watch, the festival launched the Irene Diamond Lifetime Achievement award, which is presented annually to a director whose life's work demonstrates an outstanding commitment to human rights and film. Previous recipients have included Costa Gavras, Ousmane Sembene, Barbara Kopple and Alan J. Pakula. This year, in honor of the festival tribute to Mr. Pakula the Lifetime Achievement award was not presented.

Highlights of the 1999 festival included a special screening of acclaimed Indian director Deepa Mehta's latest work, "Earth." Set in 1947, with India in the turmoil caused by independence, the film portrays a close group of friends caught on the dividing line between the new Pakistan and India. "Earth" is a powerful statement about the inherent fragility of

social fabrics. Another highlight was "Odds Against Tomorrow," the 1959 film noir classic that featured the first black protagonist in a Hollywood film. A panel discussion following the screening included key artists involved in the making of this film: Harry Belafonte, John Lewis, and the film's blacklisted screenwriter, Abraham Polansky.

Each year the festival holds a series of special film screenings for high school students and their teachers in an effort to encourage dialogue about human rights in the classroom. Daytime screenings are followed by discussions among the students, their teachers, visiting filmmakers, and Human Rights Watch staff. In 1999 the program included a special collaborative screening of "Blind Faith" with The New Festival.

In 1996 the festival expanded to London. The 1999 London festival produced with its new partner, the Ritzy Theater in Brixton, was extremely successful. The timely screenings of two searing documentaries by acclaimed Chilean filmmaker Patricio Guzman, indicting General Augusto Pinochet's dictatorship, played to sold-out audiences and demanded additional showings. Mr. Guzman was on hand to answer questions about his film and to give his thoughts on the current situation in Chile. The next London festival will take place in early March 2000.

In a further effort to expand the festival's scope, the Global Showcase, a selected package of traveling films from the festival, was created in 1994. The Global Showcase is presented annually in a growing number of sites and cities around the world. The 1999 showcase traveled internationally to both Melbourne and Sydney, Australia; Moscow, Russia; Port au Prince, Haiti; and Edinburgh, Scotland. The Global Showcase was also featured as part of the first annual Human Rights Film Festival in Prague, Czechoslovakia and the third annual Human Rights Film Festival in Seoul, South Korea. The showcase was also presented in seven U.S. cities: Los Angeles, Houston, Norwalk, Hampshire, St. Louis, Columbia and Washington, D.C.

In previous years, the showcase has been featured in festivals in Minsk, Belarus; Bogotá, Colombia; San Jose, Costa Rica; and Gent, Belgium.

Human Rights Watch/Film Watch, an association of the film festival and a group of internationally renowned filmmakers, was created to monitor and protect the human rights of filmmakers and film programmers who are threatened or censored or otherwise abused for their expression through film. In November 1997, Korean film festival organizer and human rights activist Suh Joon-sik was arrested in Seoul for publicly screening the documentary "Red Hunt" as part of the Korean Human Rights Film Festival. "Red Hunt" details government collusion in a 1948 massacre of suspected pro-communist sympathizers on Cheju island, off the coast of South Korea. Mr. Suh was arrested under the National Security Law, under which penalties may be imposed upon anyone who "benefits North Korea" by praising, encouraging, propagandizing for, or siding with the activities of an anti-state organization, or by importing or disseminating materials in support of such an organization. A strong international outcry was followed by a letter-writing campaign, organized by Film Watch, from the international filmmaking and festival community. On February 5, 1999, Mr. Suh was released on bail, rarely an option for political prisoners. However, the charges against Mr. Suh were not dropped, and in mid-June 1999 Mr. Suh's trial was set for September 7, leading Film Watch to organize a new letter-writing campaign. At trial, Mr. Suh was found not guilty of violating the National Security Law, but guilty of violating the Security Surveillance Law, and was placed on probation. Mr. Suh plans to appeal the guilty verdict to the high court of justice.

INTERNATIONAL CAMPAIGN TO BAN LANDMINES

The International Campaign to Ban Landmines (ICBL), launched in 1992 by Human Rights Watch and five other organizations, continued to expand its size and activities. It is now comprised of over 1,400 organizations in ninety countries worldwide.

It brings together human rights, humanitarian demining and victim assistance, children's, peace, disability, veterans, medical, development, arms control, religious, environmental, and women's groups who work locally, nationally, regionally, and internationally to ban antipersonnel (AP) landmines. The ICBL is coordinated by a committee of fourteen organizations, including Human Rights Watch, which remained one of the most active campaign members. The ICBL and Human Rights Watch Arms Division advisory board member Jody Williams were co-recipients of the 1997 Nobel Peace Prize.

THE ICBL CONTINUED ITS INTENSE PACE OF GLOBAL ACTIVITY ADVOCATING FOR THE COMPLETE ERADICATION OF ANTIPERSONNEL MINES, PRIMARILY THROUGH THE UNIVERSALIZATION AND EFFECTIVE IMPLEMENTATION OF THE 1997 MINE BAN TREATY. THE ICBL UNDERTOOK NEW INITIATIVES TO MONITOR THE TREATY, AND TO ENHANCE MINE CLEARANCE AND VICTIM ASSISTANCE PROGRAMS. NEW CAMPAIGNS WERE LAUNCHED IN MORE THAN A DOZEN COUNTRIES, INCLUDING IN THE PROBLEMATIC AREAS TARGETED BY THE ICBL IN 1999: THE MIDDLE EAST/NORTH AFRICA REGION AND THE FORMER SOVIET STATES. REGIONAL OR THEMATIC CONFERENCES PROMOTING A BAN WERE HELD IN MEXICO, TUNISIA, LEBANON, NORWAY, SOUTH AFRICA, INDONESIA, MOZAMBIQUE, KENYA, GERMANY, CROATIA, SOMALILAND, AZERBAIJAN, AND GEORGIA. ICBL MEMBERS UNDERTOOK SPECIAL ADVOCACY MISSIONS TO KOSOVO, GEORGIA, EGYPT, UNITED ARAB EMIRATES, NICARAGUA, HONDURAS, AND ELSEWHERE. THE ICBL ALSO PUT GREATER EMPHASIS ON ITS EFFORTS TO EDUCATE NON-STATE ACTORS AND ENCOURAGE THEM TO COMMIT TO A COMPREHENSIVE MINE BAN.

IN A CROWNING ACHIEVEMENT THE MINE BAN TREATY ENTERED INTO FORCE ON MARCH 1, 1999 THEREBY BECOMING BINDING INTERNATIONAL LAW MORE QUICKLY THAN ANY MAJOR TREATY EVER. EARLY ENTRY INTO FORCE HAD BEEN A MAJOR OBJECTIVE OF, AND FOCUS OF ACTIVITIES FOR, THE ICBL AND PRO-BAN GOVERNMENTS. IN THE FIRST NINE MONTHS OF 1999, THE NUMBER OF GOVERNMENTS RATIFYING THE TREATY, AND THEREBY BECOMING FULL STATE PARTIES, ROSE FROM FIFTY-EIGHT TO EIGHTY-SIX. AMONG THOSE WERE NATIONS WHERE MINES HAD BEEN EXTENSIVELY USED, SUCH AS CAMBODIA, UGANDA, AND TUNISIA, AND NATIONS WHICH FORMERLY PRODUCED AND EXPORTED MINES, SUCH AS ARGENTINA AND SPAIN. TWO NEW COUNTRIES SIGNED THE TREATY: UKRAINE, WITH THE WORLD'S FOURTH LARGEST STOCKPILE OF AP MINES, AND LITHUANIA, THE FIRST BALTIC NATION.

SOME KEY COUNTRIES CONTINUED TO REFUSE TO JOIN THE BAN TREATY, INCLUDING THE UNITED STATES, RUSSIA, AND CHINA. ONE MINE BAN TREATY SIGNATORY, ANGOLA, USED MINES EXTENSIVELY, AS DID UNITA REBEL FORCES THERE. THERE WERE HIGHLY DISTURBING ALLEGATIONS OF NEW USE OF MINES BY RUSSIA IN DAGESTAN, AND IN THE PAKISTAN-INDIA AND ERITREA-ETHIOPIA CONFLICTS, AS WELL AS OTHER LOCATIONS.

DURING THE FIRST MEETING OF STATES PARTIES TO THE BAN TREATY IN MAY IN MAPUTO, MOZAMBIQUE, THE ICBL LAUNCHED THE LANDMINE MONITOR REPORT 1999: TOWARD A MINE-FREE WORLD. THE 1,100-PAGE REPORT CONTAINED INFORMATION ON EVERY COUNTRY IN THE WORLD WITH RESPECT TO MINE USE, PRODUCTION, TRADE, STOCKPILING, HUMANITARIAN DEMINING, AND MINE SURVIVOR ASSISTANCE. LANDMINE MONITOR IS AN UNPRECEDENTED INITIATIVE BY THE ICBL TO MONITOR IMPLEMENTATION OF AND COMPLIANCE WITH THE 1997 MINE BAN TREATY, AND MORE GENERALLY TO ASSESS THE EFFORTS OF THE INTERNATIONAL COMMUNITY TO RESOLVE THE LANDMINES CRISIS. IT IS THE FIRST TIME THAT NONGOVERNMENTAL ORGANIZATIONS ARE COMING TOGETHER IN A COORDINATED, SYSTEMATIC, AND SUSTAINED WAY TO MONITOR A HUMANITARIAN LAW OR DISARMAMENT TREATY, AND TO REGULARLY DOCUMENT PROGRESS AND PROBLEMS. THE LANDMINE MONITOR SYSTEM IS COORDINATED BY FIVE ICBL MEMBERS, WITH HUMAN RIGHTS WATCH SERVING AS THE LEAD AGENCY.

IN MAPUTO, GOVERNMENTS, IN CLOSE COOPERATION WITH THE ICBL, ESTABLISHED AN "INTERSESSIONAL" WORK PROGRAM TO ENSURE THAT PROGRESS IS MADE IN IMPLEMENTING THE TREATY IN BETWEEN THE ANNUAL MEETINGS OF STATES PARTIES. THE ICBL WORKING GROUPS ON THE TREATY (CHAIRIED BY HUMAN RIGHTS WATCH), MINE CLEARANCE, AND VICTIM ASSISTANCE WORKED CLOSELY WITH THE FIVE NEW INTERSESSIONAL STANDING COMMITTEES OF EXPERTS (SCES). THE PARTNERSHIP BETWEEN PRO-BAN GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS THAT RESULTED IN THE HISTORIC BAN TREATY CONTINUED TO FUNCTION SO THAT THE WORDS ON PAPER WOULD BECOME A REALITY.

INTERNATIONAL CRIMINAL COURT

DEVELOPMENTS IN 1999 UNDERScoreD THE URGENCY OF THE EARLY ESTABLISHMENT OF THE INTERNATIONAL CRIMINAL COURT (ICC) AS VICTIMS OF CONFLICTS FROM EAST TIMOR TO SIERRA LEONE LACKED ACCESS TO AN INDEPENDENT AND EFFECTIVE INTERNATIONAL TRIBUNAL TO INVESTIGATE AND TRY THOSE ACCUSED OF CRIMES AGAINST HUMANITY AND WAR CRIMES. FURTHER PROPELLED BY THE PINOCHEZ CASE, INTERNATIONAL SUPPORT GREW FOR THE ICC AS A PILLAR OF AN EMERGING SYSTEM OF INTERNATIONAL JUSTICE.

Growing Political Support

AS OF THIS WRITING, EIGHTY-SEVEN STATES HAD COMMITTED THEMSELVES POLITICALLY TO THE ICC'S OBJECTIVES AND PURPOSES BY SIGNING THE ROME TREATY. HEADS OF STATE AND FOREIGN MINISTERS FROM FRANCE, THE UNITED KINGDOM, GERMANY, ARGENTINA, CANADA, AND UGANDA, AMONG MANY OTHERS, CITED THE IMPORTANCE THEIR GOVERNMENTS ATTACHED TO THE RATIFICATION OF THE ROME TREATY AT

THE SEPTEMBER OPENING OF THE FIFTY-FOURTH GENERAL ASSEMBLY SESSION AT UNITED NATIONS HEADQUARTERS IN NEW YORK. THE NUMBER AND CONTENT OF STATEMENTS DELIVERED FROM THIS HIGH PROFILE PODIUM REPRESENTED A QUALITATIVE LEAP FROM YEARS PAST. THIS SUPPORT WENT BEYOND RHETORICAL POSTURING. ON A BILATERAL LEVEL, SEVERAL STATES, INCLUDING GERMANY, FRANCE, SPAIN AND ITALY, PLAYED PARTICULARLY ACTIVE ROLES IN URGING RATIFICATION. IN ADDITION, INTERGOVERNMENTAL ORGANIZATIONS AND ENTITIES INCLUDING THE EUROPEAN PARLIAMENT, THE COUNCIL OF EUROPE'S PARLIAMENTARY ASSEMBLY, THE COMMONWEALTH LAW MINISTERS, AND THE FRANCOPHONIE ALL ADOPTED STRONGLY WORDED RESOLUTIONS EXPRESSING THEIR COMMITMENT TO THE TREATY'S EARLY ENTRY INTO FORCE. THESE STATEMENTS OF POLITICAL SUPPORT INCREASINGLY LAID THE FOUNDATION OF MEANINGFUL TECHNICAL ASSISTANCE TO FACILITATE STATE RATIFICATION. SIMULTANEOUSLY, NONGOVERNMENTAL ORGANIZATIONS RENEWED THEIR EFFORTS TO HIGHLIGHT THE IMPORTANCE OF ICC RATIFICATION AMONG CIVIL SOCIETY WORLDWIDE.

SINCE THE END OF THE ROME CONFERENCE, ALL FIFTEEN MEMBER STATES OF THE EUROPEAN UNION HAVE VOICED A STRONGLY SUPPORTIVE COMMON POSITION ON THE COURT. AT THE FEBRUARY AND AUGUST PREPARATORY COMMISSION SESSIONS IN NEW YORK, THE GERMAN AND THEN THE FINNISH PRESIDENCY OF THE E.U. ISSUED STATEMENTS ON BEHALF OF THE EUROPEAN UNION. IN ADDITION, AT THE JUNE SUMMIT OF EUROPEAN UNION AND LATIN AMERICAN AND CARIBBEAN STATES IN RIO DE JANEIRO, THE E.U. EMPHASIZED THE IMPORTANCE OF RATIFICATION, A POSITION APPROVED IN THE SUMMIT'S FINAL COMMUNIQUE. DURING THE JULY-AUGUST PREPARATORY COMMITTEE MEETINGS, E.U. MEMBER STATES MET WITH E.U. ASSOCIATE STATES TO DISCUSS TECHNICAL ASSISTANCE ON RATIFICATION FOR THE LATTER. BUILDING ON THIS INITIATIVE, AT ITS SEPTEMBER MEETING THE PUBLIC INTERNATIONAL LAW WORKING GROUP OF THE EUROPEAN COMMISSION FURTHER REFINED THESE PLANS.

ON MAY 26, THE STANDING COMMITTEE OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE ADOPTED RECOMMENDATION 1408 URGING ALL MEMBER AND OBSERVER STATES TO RATIFY THE ROME TREATY AS QUICKLY AS POSSIBLE AND ADOPT THE LEGISLATION NECESSARY TO MAKE NATIONAL LAW CONSISTENT WITH THE OBLIGATIONS OF THE TREATY. RECOMMENDATION 1408 TRIGGERED CONSIDERATION BY COUNCIL OF EUROPE EXPERT BODIES OF TECHNICAL ASSISTANCE FOR MEMBER AND OBSERVER STATES DRAFTING NATIONAL LAWS. AS OF THIS WRITING, THE COUNCIL OF EUROPE WAS PLANNING A CONSULTATIVE MEETING FOR EARLY 2000 TO DISCUSS COMMON PROBLEMS ARISING FROM RATIFICATION.

AT THE FRANCOPHONIE SUMMIT IN MONCTON, NEW BRUNSWICK, FRENCH PRESIDENT JACQUES CHIRAC ANNOUNCED A COMMITMENT BY THE FRANCOPHONIE TO ASSIST POORER FRANCOPHONE STATES WITH ICC RATIFICATION. AT THE ANNUAL MEETING OF COMMONWEALTH LAW MINISTERS IN TRINIDAD AND TOBAGO, THE MINISTERS ADOPTED A DECLARATION PUTTING PRIORITY ON RATIFYING THE TREATY. AT THE OAS GENERAL ASSEMBLY SUMMIT IN GUATEMALA CITY IN JUNE THE FINAL COMMUNIQUE INCLUDED A REFERENCE TO THE ICC AS PART OF A RESOLUTION ON THE ENFORCEMENT OF INTERNATIONAL HUMANITARIAN LAW. IN AN IMPORTANT SHOW OF SUPPORT FOR THE ROME TREATY, THE 102ND CONFERENCE OF THE INTER-PARLIAMENTARY UNION, AS PART OF A LARGER FOCUS ON INTERNATIONAL HUMANITARIAN LAW, ADOPTED A RESOLUTION IN OCTOBER CALLING ON MEMBER PARLIAMENTS TO "RATIFY THE TREATY AS SOON AS POSSIBLE SO THAT IT MAY ENTER INTO FORCE."

Ratification

THESE RESOLUTIONS AND DECLARATIONS SET A POSITIVE CONTEXT FOR THE COMPLEX TASK OF RATIFICATION. DURING 1999 THE FOUNDATIONS WERE LAID FOR AN ACCELERATED ROUND OF RATIFICATIONS DURING 2000. AS OF THIS WRITING FOUR STATES - SENEGAL, TRINIDAD AND TOBAGO, SAN MARINO, AND ITALY - HAD RATIFIED THE TREATY. WHILE THESE FOUR PROCEEDED WITH RATIFICATION BEFORE PASSING THE DOMESTIC LEGISLATION NECESSARY TO IMPLEMENT THE TREATY, MANY OTHER STATES WERE GRAPPLING WITH THE CONSTITUTIONAL AND LEGISLATIVE CHALLENGE OF PUTTING SUCH LAWS INTO PLACE BEFORE RATIFYING. AMONG OTHER COUNTRIES, BELGIUM, SOUTH AFRICA, AND FRANCE WERE FAR ADVANCED IN THIS PROCESS.

FOR MANY STATES THE PROCESS OF COMPLETING AN ACCURATE AND VERIFIED TRANSLATION OF THE TREATY WAS LONG AND PAINSTAKING. STATES ALSO WEIGHED THE NECESSITY OF MAKING CHANGES TO HARMONIZE THEIR CONSTITUTIONAL NORMS ON EXTRADITION, THE IMMUNITY OF HEADS OF STATE AND OTHER OFFICIALS, AND POSSIBLE LIFE IMPRISONMENT, WITH THE REQUIREMENTS OF THE TREATY.

AS IN THE PRE-ROME CONFERENCE PHASE, IMPORTANT DISCUSSION OCCURRED IN REGIONAL AND SUB-REGIONAL FORA. STATES USED SUCH MEETINGS TO COORDINATE RATIFICATION PLANNING. IN MARCH, REPRESENTATIVES OF THE MEMBER STATES OF THE CARIBBEAN COMMUNITY AND COMMON MARKET (CARICOM) MET IN TRINIDAD AND TOBAGO TO DISCUSS RATIFICATION AT A CONFERENCE JOINTLY SPONSORED BY THE GOVERNMENT OF TRINIDAD AND TOBAGO AND THE NON-GOVERNMENTAL ORGANIZATION NO PEACE WITHOUT JUSTICE. IN JULY, REPRESENTATIVES OF ELEVEN SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) STATES MET FOR FOUR DAYS IN PRETORIA, SOUTH AFRICA. THEY ADOPTED A MODEL ENABLING ACT TO GUIDE SADC MEMBER STATES IN DRAFTING ENABLING LEGISLATION. IN EARLY OCTOBER

REPRESENTATIVES OF SIXTEEN CENTRAL AND EAST EUROPEAN AND FORMER SOVIET STATES MET IN BUDAPEST FOR A TWO-DAY CONFERENCE ON RATIFICATION CONVENED BY THE CONSTITUTIONAL AND LEGISLATIVE POLICY INSTITUTE. THE NORDIC STATES MET REGULARLY TO DISCUSS AND COORDINATE THEIR RATIFICATION EFFORTS.

The Work of the Preparatory Commission

THE FINAL ACT OF THE ROME TREATY MANDATED THE ESTABLISHMENT OF A PREPARATORY COMMISSION TO COMPLETE WORK DRAFTING THE ELEMENTS OF CRIMES FOR THE OFFENSES WITHIN THE ICC'S JURISDICTION AND THE COURT'S RULES OF PROCEDURE AND EVIDENCE BY JUNE 30, 2000. IN ADDITION, BUT WITHOUT A SPECIFIC TIME LIMIT, THE PREPARATORY COMMISSION WAS CHARGED WITH DRAFTING THE DEFINITION OF THE CRIME OF AGGRESSION, THE RELATIONSHIP AGREEMENT BETWEEN THE COURT AND THE UNITED NATIONS, AND THE HEADQUARTERS AGREEMENT BETWEEN THE ICC AND THE HOST COUNTRY. AT ITS FIFTY-THIRD SESSION IN DECEMBER 1999, THE GENERAL ASSEMBLY APPROVED A RESOLUTION CONVENING THE PREPARATORY COMMISSION. THE RESOLUTION INCLUDED AN ADDED DIRECTIVE TO THE PREPARATORY COMMISSION TO "DISCUSS WAYS TO ENHANCE THE ACCEPTANCE AND THE EFFECTIVENESS OF THE COURT." THIS EXPANSION OF THE PREPARATORY COMMISSION'S MANDATE WAS A CONCESSION TO THE U.S. GOVERNMENT AIMED AT SIGNALING AN OPENNESS TO CONSIDERING ADDITIONAL PROPOSALS CONSISTENT WITH THE INTEGRITY OF THE STATUTE.

THE PREPARATORY COMMISSION HELD TWO SESSIONS IN THE FIRST PART OF 1999. DELEGATES MET FOR TWO WEEKS IN FEBRUARY AND CONVENED AGAIN FOR THREE WEEKS AT THE END OF JULY. ANOTHER THREE-WEEK SESSION WAS SCHEDULED FOR NOVEMBER AND DECEMBER. BEFORE THE PREPARATORY COMMISSION SESSIONS, HUMAN RIGHTS WATCH ISSUED A COMMENTARY TO ASSIST DELEGATES IN DRAFTING THE ELEMENTS OF CRIMES AND RULES OF PROCEDURE AND EVIDENCE. CONSISTENT WITH ITS MANDATE, THE PREPARATORY COMMISSION CONVENED A WORKING GROUP ON ELEMENTS OF CRIMES AND A WORKING GROUP ON RULES OF PROCEDURE AND EVIDENCE. DRAWING ON AN INITIATIVE BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS, THE SWISS AND HUNGARIAN DELEGATIONS CIRCULATED VALUABLE PROPOSALS. THE DEGREE OF KNOWLEDGE AND THE SPECIFICITY OF INTENT FOR PROVING CULPABILITY WERE THE MOST CONTROVERSIAL ASPECTS OF THE DEBATE ON ELEMENTS.

THE WORKING GROUP ON RULES OF PROCEDURE AND EVIDENCE BENEFITTED FROM IMPORTANT INTERSESSIONAL WORK. THE FRENCH GOVERNMENT CONVENED AN IMPORTANT FOUR DAY CONFERENCE ON THE ROLE AND INTERESTS OF VICTIMS BEFORE THE ICC IN APRIL. THE INTERNATIONAL INSTITUTE OF HIGHER STUDIES IN CRIMINAL SCIENCES HOSTED A WEEK-LONG SESSION IN SIRACUSA TO DRAFT A TEXT COVERING THE DIFFICULT PROCEDURAL AND EVIDENTIARY ISSUES IN PARTS 5 (INVESTIGATION) AND 6 (TRIAL) OF THE COURT'S STATUTE. THROUGH COOPERATION BETWEEN THE FRENCH AND AUSTRALIAN DELEGATIONS, WHICH PRESENTED THE PRINCIPAL PROPOSALS ON THESE ISSUES, SIGNIFICANT PROGRESS WAS MADE IN CRAFTING PROCEDURAL MECHANISMS THAT MELDED THE BEST ASPECTS OF THE WORLD'S DIFFERENT LEGAL SYSTEMS.

IN RESPONSE TO STRONG CONCERNS BY ARAB LEAGUE STATES OVER THE IMPORTANCE OF PROGRESS IN DEFINING THE CRIME OF AGGRESSION, THE BUREAU DECIDED TO CONVENE A WORKING GROUP ON AGGRESSION THAT WOULD MEET THREE TIMES DURING THE NOVEMBER-DECEMBER SESSION.

THE LIKE-MINDED GROUP OF STATES FORMED IN THE PRE-ROME PERIOD, NOW NUMBERING NEARLY SEVENTY, CONTINUED TO MEET DURING 1999. AT THE FEBRUARY PREPARATORY COMMISSION THEY ADOPTED SEVERAL PRINCIPLES OF UNITY SUITED TO THE NEEDS OF THE PREPARATORY COMMISSION AND RATIFICATION.

United States

AS STATE SIGNATORIES AND EXPRESSIONS OF POLITICAL SUPPORT FOR THE COURT INCREASED, SOME WITHIN THE CLINTON ADMINISTRATION RECOGNIZED THE EMBARRASSMENT THE UNITED STATES FACED OVER ITS ISOLATED OPPOSITION TO THE COURT. THE U.S. HAD CRITICIZED THE ROME TREATY, CLAIMING IT CONTRAVENED INTERNATIONAL LAW, AND HAD VOWED TO OPPOSE THE COURT. IN 1999, WITH THE REALITY OF AN INTERNATIONAL CRIMINAL COURT GROWING, U.S. GOVERNMENT OFFICIALS INDICATED A SHIFT IN THE U.S. POSITION IN ORDER TO ALLOW PRESIDENT CLINTON TO SIGN THE TREATY. AT BOTH THE FEBRUARY AND JULY-AUGUST SESSIONS OF THE PREPARATORY COMMISSION, THE U.S. DELEGATION CONDUCTED EXTENSIVE BILATERAL MEETINGS WITH DELEGATES. WHILE NOT PRESENTING ANY WRITTEN PROPOSALS, U.S. OFFICIALS FLOATED VARIOUS IDEAS TO GAUGE THE DELEGATES' REACTIONS. BY THE END OF AUGUST IT APPEARED THAT THOSE MOST DIRECTLY INVOLVED IN THE NEGOTIATIONS UNDERSTOOD THAT PREVIOUS CALLS FOR A MAJOR SUBSTANTIVE REVISION OF THE COMPLETED TREATY BY AMENDMENT OR PROTOCOL WERE NOT VIABLE.

AT THIS WRITING, THE SPECIFIC CONTENT OF THE U.S. PROPOSAL EXPECTED FOR THE NOVEMBER-DECEMBER PREPARATORY COMMISSION SESSION WAS UNKNOWN. WHILE MANY IN THE LIKE-MINDED GROUP SOUGHT TO EXTEND A COOPERATIVE HAND TO THE AMERICANS, THIS

WILLINGNESS WAS LIMITED BY THE REALITY OF A COMPLETED TREATY AND THE STATED COMMITMENT OF THE LIKE-MINDED GROUP AND MANY OTHER STATES TO DEFEND ITS INTEGRITY. AT THE JULY-AUGUST PREPARATORY COMMISSION EUROPEAN UNION STATES AND THE LIKE-MINDED GROUP RESOLVED THAT A COORDINATED RESPONSE TO THE EXPECTED U.S. PROPOSAL WAS AN APPROPRIATE AGENDA ITEM FOR THEIR RESPECTIVE GROUPINGS. WHETHER THE CLINTON ADMINISTRATION WOULD ABANDON ITS PREVIOUS INSISTENCE ON THE DEPARTMENT OF DEFENSE REQUIREMENT OF AN ABSOLUTE, "100 PERCENT GUARANTEE" THAT NO AMERICAN WOULD EVER BE INVESTIGATED OR TRIED BY THE COURT, AND WOULD ADVANCE REASONABLE PROPOSALS REMAINED TO BE SEEN. THE UNITED STATES WOULD RISK A MAJOR DIPLOMATIC REBUFF IF IT WERE TO PROCEED WITHOUT FORMULATING A REALISTIC BOTTOM LINE.

The Role of the NGO Coalition (CICC)

THE COALITION OF NONGOVERNMENTAL ORGANIZATIONS (CICC) THAT CAME TOGETHER IN THE YEARS BEFORE THE ROME CONFERENCE AND PLAYED AN IMPORTANT ROLE IN ROME ADJUSTED TO THE DEMANDS OF THE NEW AND GREATER CHALLENGES TO PRESS THE INITIAL SIXTY STATES TO RATIFY THE TREATY. THE CICC CONTINUED TO CIRCULATE INVALUABLE INFORMATION ON ICC DEVELOPMENTS AND THE CICC STAFF COORDINATED EFFORTS TO GATHER THE INFORMATION NECESSARY TO MAKE AN OBJECTIVE WORLDWIDE ASSESSMENT OF THE POSSIBILITIES FOR RATIFICATION.

THE CICC LAUNCHED A WORLDWIDE CAMPAIGN FOR RATIFICATION AT THE HAGUE APPEAL FOR PEACE IN MID-MAY. AS THE LOCUS OF RATIFICATION SHIFTED TO CAPITALS, MEMBERS OF THE CICC PLANNED AND PARTICIPATED IN IMPORTANT REGIONAL CONFERENCES AND THE CICC BECAME MORE ACTIVE IN SOUTH AMERICA. IN PARTICULAR, IT COORDINATED A NETWORK OF NGOS INTERESTED IN PROMOTING ICC RATIFICATION IN LATIN AMERICA, WHERE IT WAS ORGANIZING A SERIES OF SIX REGIONAL SEMINARS. THOSE IN MEXICO AND CHILE WERE TO TAKE PLACE IN 1999. THOSE PLANNED FOR COLOMBIA, COSTA RICA AND BRAZIL WERE SCHEDULED FOR THE FOLLOWING YEAR. THESE SEMINARS WERE TO BRING TOGETHER PARLIAMENTARIANS, MINISTRY OFFICIALS AND NGOS. CICC STAFF AND ACTIVISTS FROM REGIONAL MEMBER ORGANIZATIONS ATTENDED THE GENERAL ASSEMBLY SESSION OF THE OAS TO ADVOCATE ON BEHALF OF THE ICC WITH DELEGATIONS FROM THE REGION'S CAPITALS.

The Work of Human Rights Watch

HUMAN RIGHTS WATCH VIEWED AN INDEPENDENT AND EFFECTIVE INTERNATIONAL CRIMINAL COURT AS A CRITICAL PILLAR OF AN EMERGING SYSTEM OF INTERNATIONAL JUSTICE, COMPLEMENTING MORE VIGOROUS NATIONAL PROSECUTIONS. BUILDING ON ITS COMMITMENT TO THE COURT, HUMAN RIGHTS WATCH STAFF MEMBERS SOUGHT TO DEVELOP STRATEGY AND TACTICS APPROPRIATE FOR THE DEMANDS OF RATIFICATION. TO THIS END, STAFF MEMBERS TRAVELED TO CAPITALS IN LATIN AMERICA, EUROPE, THE MIDDLE EAST AND NORTH AFRICA, SOUTHERN AFRICA, AND THE SOUTH PACIFIC TO MEET WITH GOVERNMENT OFFICIALS AND COLLEAGUES FROM NONGOVERNMENTAL ORGANIZATIONS TO BE ABLE TO BETTER ASSESS RATIFICATION POSSIBILITIES. FROM SUCH MEETINGS, HUMAN RIGHTS WATCH DECIDED TO FOCUS ON OBTAINING BOTH POLITICAL SUPPORT AND TECHNICAL ASSISTANCE ON A MULTILATERAL AND BILATERAL BASIS AS KEY LEVERS TO ACCELERATE THE TREATY'S EARLY ENTRY INTO FORCE. IN PARTICULAR, HUMAN RIGHTS WATCH WORKED WITH THE COUNCIL OF EUROPE, THE EUROPEAN UNION AND THE ORGANIZATION OF AMERICAN STATES. RECOGNIZING THE IMPORTANCE OF REGIONAL AND SUBREGIONAL CONCENTRATIONS, HUMAN RIGHTS WATCH IDENTIFIED THOSE REGIONS WHERE THE INITIAL SIXTY RATIFICATIONS WERE MOST LIKELY AND FORMULATED A SERIES OF REGIONAL ACTIVITIES TO FACILITATE COORDINATED DISCUSSION AND PLANNING. HUMAN RIGHTS WATCH ALSO ASSISTED IN PLANNING AND PARTICIPATED IN THE IMPORTANT RATIFICATION CONFERENCES THAT TOOK PLACE IN PRETORIA AND BUDAPEST, AS WELL AS ATTENDING OTHER IMPORTANT CONFERENCES AND EVENTS WHERE THE ICC WAS DISCUSSED. THESE INCLUDED THE HAGUE APPEAL FOR PEACE, THE OAS GENERAL ASSEMBLY, AND REGIONAL NGO MEETINGS IN CASABLANCA AND BEIRUT.

INTERNATIONAL JUSTICE

THE WORLD IS BECOMING A SMALLER PLACE FOR PEOPLE WHO COMMIT CRIMES AGAINST HUMANITY.

UNTIL RECENTLY, IT SEEMED THAT IF YOU KILLED ONE PERSON, YOU WENT TO JAIL, BUT IF YOU HAD THE POWER TO MURDER THOUSANDS, YOU ALSO HAD THE POWER TO ARRANGE OR IMPOSE YOUR IMMUNITY. THE POST-WAR NUREMBERG TRIALS OF NAZI LEADERS, HOWEVER, ESTABLISHED THE PRINCIPLE THAT THERE SHOULD BE NO IMMUNITY FOR PERPETRATORS OF THE GRAVEST OUTRAGES, NO MATTER WHO THEY ARE OR WHERE THEIR CRIMES WERE COMMITTED. THAT PRINCIPLE WAS RECOGNIZED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS AS

international law and repeated in the Genocide Convention, in the statutes establishing tribunals for the former Yugoslavia and Rwanda, and in the treaty for the new permanent international criminal court adopted in 1998 in Rome. In addition, the 1984 Convention against Torture—ratified by 117 countries—requires that states try or extradite alleged torturers found in their territories. Yet few states have had the courage to put these lofty principles into practice.

Then in October 1998, Spanish lawyers pursuing charges of crimes against humanity by Southern Cone military leaders were tipped off that Gen. Augusto Pinochet was visiting England. Spanish judge Baltasar Garzón, who was conducting the investigation, quickly issued a request for Pinochet's arrest. When the London Metropolitan Police learned that Pinochet was planning to leave for Chile the next morning, officers obtained a provisional warrant from a magistrate at his home and placed Pinochet under arrest in a hospital room later that night.

General Pinochet challenged his arrest before the British courts and the case went up to the House of Lords, where Human Rights Watch was granted leave to intervene and present arguments. In two landmark rulings, the Lords held that General Pinochet had no immunity against the charges. In the first case, a three-two majority concluded, in the words of one judge, that "international law condemns genocide, torture, hostage taking and crimes against humanity," making it difficult, "to maintain that the commission of such high crimes may amount to acts performed in the functions of a head of state."

When the case had to be re-argued before a new panel of seven Law Lords because of the appearance of bias in the first ruling, the Convention against Torture took center stage. Pinochet's lawyers sought to discount the convention's requirement that states parties prosecute or extradite suspects found in their territories. As pointed out by Human Rights Watch in terms adopted by the presiding judge, however, the very purpose of the convention was to introduce the principle *aut dedere aut punire*—either you extradite or you punish. Six of the seven judges agreed that Pinochet had no immunity. But a majority also ruled that he could not be extradited to Spain for acts committed before Britain enacted the Convention against Torture in late 1998, thus eliminating most of the charges against him.

On October 9, following an extradition hearing, a London magistrate ruled in favor of the continued detention of General Pinochet, who was awaiting the final decision of the Secretary of State. The magistrate's ruling opened the door for a much wider examination by the Spanish courts of Pinochet's crimes than might have been thought possible after the Lords' second decision in the case. First, the magistrate held that Pinochet's conduct before 1988—which would include the creation of the secret police and the establishment of Operation Condor targeting Pinochet's opponents abroad—could be examined in proving the conspiracy. Second, he ruled that "the effect on the families of those who disappeared can amount to mental torture," and that Spanish prosecutors could seek to prove that this was Pinochet's intention. This ruling was not only a historic acknowledgment of the families' continuing anguish, it was also an invitation to Spain to show that Pinochet used this cruel practice as a form of terror.

Human Rights Watch described the Pinochet case as a "wake-up call for tyrants around the world," but it was also a wake-up call for victims. Almost immediately after the dictator's arrest, human rights groups began exploring avenues to bring other former despots to justice.

Seeking to take advantage of this momentum, Human Rights Watch adopted as its "strategic direction" for 1999–2000 the pursuit of international justice. The initiative aimed to reinforce the principle and support the practice of "universal jurisdiction" for the worst atrocities, by laying the intellectual groundwork for an extension of the "Pinochet precedent" and assisting, through research and advocacy, in bringing to justice other significant human rights criminals—the next "Pinochets."

"Universal jurisdiction" reflects the principle that some crimes so offend humankind (e.g., "crimes against humanity") that courts anywhere have jurisdiction to try them. International law thus authorizes the courts of a country to try cases of genocide, crimes against humanity, serious war crimes or torture, no matter where they were committed. Human Rights Watch, together with other nongovernmental organizations such as Amnesty International and Redress, campaigned for all countries to enact legislation allowing their courts to exercise this jurisdiction.

Human Rights Watch's work on universal jurisdiction complimented its efforts in favor of the International Criminal Court and in combating impunity at the national level. National justice was obviously the most important, because it was the most comprehensive, because crimes were far easier to prove in the country in which they were committed, and because justice delivered locally allowed victims the greatest role and was perhaps the most meaningful to the victims. But there

was also an essential role for international justice when national authorities were unwilling or unable to proceed against an accused. For an international group such as Human Rights Watch, the comparative advantage lay in building this system of international and transnational justice as a complement to national jurisdictions to ensure that the worst crimes do not go unpunished and that there is no "safe haven" for their perpetrators.

In an April 1999 presentation to the U.N. Commission on Human Rights, Human Rights Watch called on all governments that provide shelter to major human rights violators to bring them to justice or to hand them over to countries where they could receive fair trials. Among those countries cited were:

- Saudi Arabia, where former Ugandan dictator Idi Amin took refuge. During his dictatorship in Uganda from 1971 to 1979, Amin expelled the entire Asian community. He is also blamed for the deaths of 100,000 to 300,000 people.
- Zimbabwe, which rejected Ethiopia's request for the extradition of Mengistu Haile Miriam, accused of genocide and crimes against humanity committed during his 1974 to 1991 rule of terror. Mengistu's forces are blamed for than 200,000 deaths.
- France, which took no steps toward bringing Jean-Claude "Baby Doc" Duvalier to trial. The 1971 to 1986 Duvalier dictatorship is accused of thousands of political assassinations and arbitrary arrests.
- Senegal, which gave shelter to Hissene Habre, president of Chad from 1982 to 1990, whose regime is alleged to be responsible for up to 40,000 killings.
- The United States, which turned down requests from Haiti for the extradition of Emmanuel "Toto" Constant, leader of the Haitian death squad FRAPH, financed by the U.S. Central Intelligence Agency (CIA). Prosecutors in Haiti want Constant to stand trial on charges of torture and murder.
- Panama, which turned down Haiti's request for the extradition of Raoul Cedras, who led the military coup that overthrew President Jean-Bertrand Aristide in 1991. During Cedras' de facto regime, some 3,000 people were killed and hundreds of thousands displaced.
- Brazil, which provided asylum to Alfredo Stroessner, who ruled Paraguay from 1954 to 1989. Under Stroessner, torture was systematically used against political opponents of the regime. Stroessner was also Pinochet's ally in "Operation Condor," an international network that used torture, disappearances and assassinations in the "dirty war" against opponents of Southern Cone military dictatorships.

While none of these men were disturbed in the year since Pinochet's arrest, a growing number of suspected human rights criminals found justice closing in on them. The New York Times labeled this phenomenon the "Pinochet syndrome":

- In France, two Mauritanian refugees, with the help of the International Federation of Human Rights (FIDH), persuaded prosecutors in Montpellier to use the Convention against Torture to arrest a Mauritanian colonel, Ely Ould Dah, in July 1999 for allegedly torturing suspects in his country in the early 1990s.
- When Ezzat Ibrahim al-Douri, a key aide to Iraqi President Saddam Hussein, visited Austria, a Vienna city councilman, Peter Pilz, filed a criminal complaint accusing Ibrahim of torture and genocide in the Anfal campaign against Iraqi Kurds. Austria, however, placed expediency above justice and politics above the law and allowed Ibrahim to return home.
- A team of Portuguese lawyers sought to try Indonesia's former ruler, Soeharto, for the murder of thousands of civilians during Indonesia's long occupation of East Timor. When Soeharto fell ill, he reportedly canceled a trip to Germany for treatment because of the case.

HUMAN RIGHTS WATCH also explored, together with national groups, the possibility of assisting, through research, advocacy and networking, to bring the most appropriate cases. As the Pinochet case demonstrated, effective prosecutions in one country of crimes that took place in another country can be difficult and expensive. All the witnesses and documents may be in the state of the crimes. Foreign prosecutors may be reluctant to expend resources on crimes committed outside their country. The laws of the host country may not be adequate.

The Pinochet prosecution in Spain was made possible by the compilation of information over decades, first by Chilean human rights activists, then by the Chilean National Commission on Truth and Reconciliation, and finally by Spanish lawyers and judges. Unlike many other situations of mass killings, as in Central Africa, East Timor or Central America, every Chilean victim—even the “disappeared”—had a name and a story, and the chain-of-command leading up to General Pinochet was clear.

Another key hurdle expected in future prosecutions has to do with the political will of the countries involved. Britain's Home Secretary Jack Straw twice made the difficult and diplomatically costly decision to allow Spain's extradition bid for Pinochet to proceed. Other countries might have made a more expedient calculation, as Austria did with Ezzat Ibrahim al-Douri. When Abu Daoud, accused of the massacre of Israeli athletes in the 1972 Munich Olympics, was apprehended in France in 1976, Paris gave short shrift to extradition requests from West Germany and Israel, freeing him four days after his capture. Italy similarly dispatched Mohammed Abbas when he was arrested in 1985 for the hijacking and killing aboard the Achille Lauro. No European country was eager to try Kurdish rebel leader Abdullah Ocalan when he was apprehended in Italy in November 1999.

But the precedent was set. Augusto Pinochet was the first former head of state to be arrested by another country for human rights crimes. He was not to be the last. Future leaders were alerted: the next time they attempted to get away with atrocities, they could be brought to justice.

Recent Human Rights Watch Reports:

CHILE: WHEN TYRANTS TREMBLE: THE PINOCHET CASE, 10/99

LESBIAN AND GAY RIGHTS

GAY MEN AND LESBIANS WERE PERSECUTED AND DISCRIMINATED AGAINST IN MANY COUNTRIES THROUGHOUT THE WORLD IN 1999 AND WERE OFTEN THE TARGETS OF HATEFUL INVECTIVE BY PROMINENT STATE OFFICIALS. THE FEW POSITIVE DEVELOPMENTS THAT OCCURRED DURING THE YEAR WERE MAINLY IN THE AREA OF LEGISLATION, RATHER THAN IN PRACTICE.

ACCORDING TO THE INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION (IGLHRC), IN 1999, SOME EIGHTY-FIVE COUNTRIES MAINTAINED LAWS THAT CRIMINALIZE SEXUAL ACTIVITY BETWEEN CONSENTING ADULTS OF THE SAME SEX. IN SOME COUNTRIES THE STATUTES REGULATED SPECIFIC SEXUAL ACTS REGARDLESS OF THE GENDER OF THE PEOPLE INVOLVED, WHEREAS OTHER COUNTRIES MAINTAINED LAWS THAT PROHIBIT A WIDE RANGE OF SAME-SEX PRACTICES. MANY LAWS WERE BROAD IN SCOPE, DEALING WITH “UNNATURAL ACTS,” “IMMORAL ACTS,” OR ACTS CAUSING “PUBLIC SCANDAL.” IN SOME COUNTRIES, GENERAL LAWS AGAINST “LOITERING” OR “HOOLIGANISM” WERE USED TO ARREST OR PERSECUTE HOMOSEXUALS. LAWS IN OTHER COUNTRIES DISCRIMINATED BY IMPOSING DIFFERENT STANDARDS FOR HOMOSEXUALS, FOR EXAMPLE, WITH REGARD TO THE LEGAL AGE OF CONSENT.

SOUTH AFRICA, WHICH ACCORDED CONSTITUTIONAL PROTECTION FOR GAY MEN AND LESBIANS, CONTINUED TO SET A GOOD EXAMPLE IN 1999. IN FEBRUARY, THE CAPE HIGH COURT RULED THAT THE ALIENS CONTROL ACT UNFAIRLY DISCRIMINATED AGAINST GAY AND LESBIAN COUPLES BY DENYING FOREIGN PARTNERS OF SOUTH AFRICANS THE RIGHT TO LIVE AND WORK IN SOUTH AFRICA. THE CASE WAS HEARD ON APPEAL BY THE CONSTITUTIONAL COURT IN AUGUST, AND JUDGMENT WAS PENDING AT THE TIME OF THIS WRITING.

THE MEDICAL SCHEMES ACT, APPROVED IN SOUTH AFRICA IN 1999, INCLUDED PARTNERS IN THE DEFINITION OF DEPENDENT, ENABLING GAY MEN AND LESBIANS WITH HEALTH CARE COVERAGE TO INCLUDE THEIR PARTNERS IN THEIR COVERAGE. THE PROMOTION OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION BILL, INTRODUCED IN THE PARLIAMENT IN THE FALL OF 1999, WOULD CREATE MECHANISMS, OTHER

than the Constitutional Court, to enforce the constitutional provision that prohibits discrimination based on sexual orientation. According to the constitution, it would have to be adopted by February 2000.

Edwin Cameron, a South African High Court judge who openly declared his homosexuality three years ago, declared that he had AIDS during an April 1999 hearing for a position on the Constitutional Court. He said he had done so to highlight the plight of millions of other AIDS sufferers less fortunate than he. In late December 1998, Gugu Dlamini, a volunteer AIDS worker, was beaten to death by neighbors in her township of Kwamashu for making her HIV status public.

A potentially positive development occurred in the Czech Republic in October where a bill that would legalize homosexual partnerships and afford such partners all the rights of conventional marriage was put before the parliament.

On September 27, the European Court of Human Rights declared unanimously that Britain's long-standing ban on homosexuals in the military was a violation of the basic human right to privacy. Homosexuality had been legal in Britain for some thirty years, but gays and lesbians had been forbidden to serve in the armed forces. According to local activists, at least 600 gay men and lesbians, and probably many more, had been discharged from the military because of their sexual orientation. Britain was party to the European Convention on Human Rights which required it to follow the court's rulings, even, if necessary, to change its domestic laws.

The British government introduced a bill to equalize the age of consent for gay men. It passed overwhelmingly in the House of Commons in March, but was defeated for a second time in the House of Lords on April 14.

On April 18, Swiss citizens approved a new constitution which prohibited discrimination on the basis of "way of life," a phrase generally acknowledged to cover sexual preference.

On May 20, the Supreme Court of Canada ruled that same-sex couples must be accorded the same recognition as heterosexual couples under Canada's Charter of Rights. Quebec was the first province to comply with the decision by changing its definition of "spouse" to include same-sex couples.

In October, the French parliament passed a law giving legal status to unmarried couples, including gay men and lesbians. Under the law, couples, whether of the same sex or not, could enter into a union and be accorded the same rights as married couples in areas such as income tax, inheritance, housing, and social welfare. The new form of legal coupling, known by the acronym PACS, required couples to register before a court clerk and could be dissolved by either party in writing, giving three months' notice. Couples were required to register and then live together for three years before they could file a joint income tax return.

In October in the United States, the state of California passed three new laws to protect gay rights. The first outlawed the harassment of gay and lesbian students and teachers in public schools and colleges; three other states—Connecticut, Massachusetts, and Wisconsin—had similar laws. The second established a state domestic partners registry for couples who are homosexual or over age 62, extending hospital visitation rights and allowing state and government workers to get health benefits for their partners. The third law blocked job and housing discrimination on the basis of sexual orientation and gave the State Fair Employment and Housing Department authority over such cases.

The Employment Non-Discrimination Act, a bill that would protect workers in every state from discrimination based on sexual orientation, was introduced but not acted upon by the U.S. Congress at the time of this writing.

Despite criminal prosecutions and public outrage over the October 1998 torture and killing of Matthew Shepard, a twenty-one-year-old openly gay student at the University of Wyoming, only eleven states in the U.S. had legislation that specifically prohibited anti-gay hate crimes, and eight states had no hate crime laws at all. The two men charged in the Shepard case were accused of kidnapping, aggravated robbery, and murder: one pleaded guilty and was given consecutive life sentences; the other faced the same charges and the death penalty at the time of this writing.

Gay men and lesbians in the U.S. military continued to face harassment within the confines of the "don't ask, don't tell, don't pursue" policy. The policy required that military officials refrain from asking military personnel about their sexual orientation, while also requiring that members of the armed forces not disclose that they are gay, lesbian, or bisexual, and prohibiting "witch hunts" by setting limits on investigations of allegedly gay servicemen and women by military personnel. Members of the armed forces were not allowed to make any statements indicating that they were gay or bisexual and were prohibited from any sexual acts, including hugging or holding hands, with others of the same sex.

Since the policy took effect in 1994, discharges increased dramatically, with 1,145 discharges in 1998, up from 617 in 1994. This called into question whether the policy is being implemented properly and whether the policy was workable at

ALL. IN AUGUST THE PENTAGON ANNOUNCED THAT IT WOULD ISSUE GUIDELINES TO CURTAIL ABUSES OF THE "DON'T ASK, DON'T TELL" POLICY BY GIVING MILITARY PERSONNEL AT ALL LEVELS TRAINING TO END ANTI-GAY HARASSMENT AND REQUIRING THAT ONLY SENIOR OFFICIALS HANDLE INVESTIGATIONS. HOWEVER, TRAINING WAS LIMITED AND SUPERFICIAL, RAISING CONCERNS THAT SUCH TRAINING AT ALL LEVELS WOULD MEAN LITTLE.

BLATANT DISCRIMINATION AGAINST HOMOSEXUALS CONTINUED IN ROMANIA IN 1999, AND THE GOVERNMENT FAILED TO PROVIDE PROTECTION TO THOSE WHO CAME UNDER ATTACK. THE GOVERNMENT DID NOT FULFILL ITS PROMISES TO THE COUNCIL OF EUROPE TO REPEAL THE ARTICLES OF THE PENAL CODE THAT CRIMINALIZE HOMOSEXUALITY, NOR DID THE COUNCIL RESTART ITS MONITORING PROCEDURE ON ROMANIA. PRESIDENT CONSTANTINESCU FAILED TO FULFILL THE PROMISE HE MADE TO HUMAN RIGHTS WATCH REPRESENTATIVES AND OTHERS IN JANUARY 1998 TO PARDON ALL PERSONS JAILED UNDER THESE ARTICLES. THE NUMBER OF SUCH IMPRISONED PERSONS STILL REMAINED UNKNOWN.

IN JUNE, HUMAN RIGHTS WATCH SENT AN OBSERVER TO MALAYSIA TO ATTEND THE BEGINNING OF THE SECOND TRIAL OF FORMER DEPUTY PRIME MINISTER ANWAR IBRAHIM. TOGETHER WITH SUKMA DERMAWAN, HIS ADOPTED BROTHER, ANWAR WAS CHARGED WITH SODOMIZING AZIZAN ABU BAKAR, THE FORMER DRIVER OF ANWAR'S WIFE. SUKMA WAS CHARGED WITH AIDING AND ABETTING ANWAR. MALAYSIA'S PENAL CODE PROHIBITED "CARNAL INTERCOURSE AGAINST THE ORDER OF NATURE." IN APRIL, ANWAR HAD BEEN CONVICTED ON FOUR COUNTS OF MISUSING HIS OFFICE TO COVER UP ALLEGED SEXUAL MISCONDUCT AND HAD BEEN SENTENCED TO SIX YEARS IN PRISON. THE FIRST TRIAL WAS MARRIED BY PROCEDURAL AND EVIDENTIARY IRREGULARITIES AND BY THE BEATING OF ANWAR IN PRISON, PROMPTING AN INTERNATIONAL OUTCRY. THE SECOND TRIAL WAS STILL IN PROGRESS AS OF THIS WRITING. BOTH TRIALS WERE WIDELY VIEWED AS ASPECTS OF A POLITICALLY MOTIVATED VENDETTA AGAINST ANWAR, WHO HAD GROWN INCREASINGLY VOCAL IN HIS CRITICISM OF CORRUPTION AND CRONYISM IN THE GOVERNMENT OF PRIME MINISTER MAHAATHIR.

IN JULY 1999, TWENTY-THREE MUSLIM MEN WHO TOOK PART IN A MAY 1998 DRAG BEAUTY CONTEST IN ALOR STAR, THE CAPITAL OF THE MALAYSIAN STATE OF KEDAH, WERE FOUND GUILTY AND FINED BY AN ISLAMIC COURT FOR WEARING DRESSES AND ACTING LIKE WOMEN. THE NON-MUSLIM PARTICIPANTS IN THE PAGEANT WERE NOT TRIED.

IN DECEMBER 1998, THE STATE OF TASMANIA IN AUSTRALIA PASSED NEW ANTI-DISCRIMINATION PROTECTIONS THAT INCLUDED SEXUAL ORIENTATION, GIVING IT THE BEST PROTECTIONS IN AUSTRALIA, ACCORDING TO LOCAL ACTIVISTS. THE LAW PROHIBITED BOTH DISCRIMINATION AND INCITEMENT OF HATRED OR SEVERE RIDICULE ON THE BASIS OF SEXUAL ORIENTATION.

THE RECENTLY APPROVED CONSTITUTION AND BILL OF RIGHTS OF FIJI, WHICH RECEIVED INTERNATIONAL ACCLAIM FOR THEIR DEMOCRATIC CHARACTER, WERE UNDER THREAT FROM A PROPOSAL TO AMEND THE BILL OF RIGHTS TO MAKE SAME-SEX MARRIAGE AND HOMOSEXUAL RELATIONSHIPS ILLEGAL.

IN 1999, SODOMY LAWS WERE REPEALED IN ECUADOR AND IN CHILE, ALTHOUGH SAME-SEX RELATIONSHIPS IN CHILE WERE STILL NOT AFFORDED THE SAME STATUS AS HETEROSEXUAL RELATIONSHIPS. ECUADOR'S NEW CONSTITUTION, PASSED IN DECEMBER 1998, EXPLICITLY GUARANTEED NON-DISCRIMINATION FOR GAY MEN AND LESBIANS.

MEXICO'S PENAL CODE WAS REFORMED TO ELIMINATE HOMOSEXUAL ACTIVITY AS AN AGGRAVATING FACTOR IN CORRUPTION-OF-MINOR CASES, AND MEXICO CITY'S PENAL CODE WAS REFORMED TO CRIMINALIZE DISCRIMINATION ON GROUNDS OF SEXUAL ORIENTATION. YET AUTHORITIES IN MEXICO SHOWED LITTLE INCLINATION TO INVESTIGATE HOMOPHOBIC CRIMES. IN JULY THE MAYOR OF CORDOBA CITY IN VERACRUZ STATE LAUNCHED A CLEANUP CAMPAIGN AIMED AT RIDDING THE CITY OF GAYS, LESBIANS, AND PROSTITUTES, AMONG OTHERS.

SIMILAR VILIFICATION OF GAY MEN AND LESBIANS WAS HEARD IN AFRICA DURING 1999, MOST DISTRESSINGLY FROM THE PRESIDENTS OF KENYA, UGANDA, AND ZIMBABWE. HOMOSEXUALITY REMAINED ILLEGAL IN THESE COUNTRIES. IN OCTOBER, KENYAN PRESIDENT DANIEL ARAP MOI DENOUNCED WHAT HE CALLED THE "SCOURGE" OF HOMOSEXUALITY; HE SAID THAT HOMOSEXUAL BEHAVIOR WAS "ABNORMAL" AND CONTRADICTED BIBLICAL TEACHING AND AFRICAN TRADITIONS. IN UGANDA, PRESIDENT YOWERI MUSEVENI ORDERED THE ARREST OF HOMOSEXUALS FOR CARRYING OUT WHAT HE DESCRIBED AS "ABOMINABLE ACTS." IN UGANDA, HOMOSEXUALS COULD BE PUNISHED WITH LIFE IMPRISONMENT UNDER A PENAL CODE PROVISION THAT BARRED GAINING "CARNAL KNOWLEDGE OF ANOTHER AGAINST THE ORDER OF NATURE." ZIMBABWEAN PRESIDENT ROBERT MUGABE HAS BEEN ESPECIALLY OUTSPOKEN IN RECENT YEARS, VILIFYING HOMOSEXUALS AND BLAMING THEM FOR HIS COUNTRY'S ILLS. YET DESPITE MUGABE'S VIRULENT ANTI-GAY CAMPAIGN, THE GAY COMMUNITY IN ZIMBABWE WAS ACTIVE AND ORGANIZED. KEITH GODDARD, A ZIMBABWEAN GAY ACTIVIST WITH THE ORGANIZATION GAYS AND LESBIANS OF ZIMBABWE (GALZ), WHO WAS ARRAIGNED IN JUNE 1998 ON SODOMY CHARGES AFTER HE COMPLAINED TO POLICE ABOUT ATTEMPTS TO BLACKMAIL HIM, HAD THE CHARGES OF SODOMY DROPPED IN MARCH 1999, ALTHOUGH FURTHER, SIMILAR CHARGES WERE REINSTATED AND PENDING.

HUMAN RIGHTS WATCH WORKED WITH LOCAL GROUPS IN SEVERAL AFRICAN COUNTRIES IN 1999 TO HELP THEM BUILD A CONSENSUS AROUND THE NEED FOR POLITICAL AND LEGAL REFORMS. IN SEPTEMBER A HUMAN RIGHTS WATCH STAFF MEMBER PARTICIPATED IN A WEEK-

LONG TRAINING SESSION FOR HUMAN RIGHTS ACTIVISTS FROM SEVEN AFRICAN COUNTRIES, ORGANIZED IN JOHANNESBURG BY THE INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION (IGLHRC) AND THE COALITION FOR GAY AND LESBIAN EQUALITY.

PRISONS

PRISONERS AROUND THE WORLD, A LARGE PROPORTION OF WHOM HAD NOT BEEN CONVICTED OF ANY CRIME, WERE FREQUENTLY CONFINED IN CRUEL, INHUMAN, AND DEGRADING CONDITIONS. WHILE CONDITIONS OF DETENTION VARIED GREATLY FROM COUNTRY TO COUNTRY AND FACILITY TO FACILITY, STANDARDS ALMOST EVERYWHERE WERE SHOCKINGLY LOW. PRISONS AND JAILS IN EVEN THE RICHEST AND MOST DEVELOPED COUNTRIES WERE PLAGUED BY SEVERE OVERCROWDING, DECAYING PHYSICAL INFRASTRUCTURE, A LACK OF MEDICAL CARE, GUARD ABUSE AND CORRUPTION, AND PRISONER-ON-PRISONER VIOLENCE. WITH THE PUBLIC PRIMARILY CONCERNED ABOUT KEEPING PRISONERS LOCKED UP RATHER THAN ABOUT THE CONDITIONS IN WHICH PRISONERS WERE CONFINED, LITTLE PROGRESS WAS MADE TOWARD REMEDYING THESE ABUSES. INDEED, PRISON POPULATIONS IN MANY COUNTRIES CONTINUED TO INCREASE, EXACERBATING EXISTING PROBLEMS.

IN SOME STATES, THE PUBLIC'S TENDENCY TO IGNORE PRISON ABUSES WAS REINFORCED BY HIGH LEVELS OF OFFICIAL SECRECY. BY BARRING HUMAN RIGHTS GROUPS, JOURNALISTS, AND OTHER OUTSIDE OBSERVERS ACCESS TO THEIR PENAL FACILITIES, PRISON OFFICIALS SOUGHT TO KEEP EVEN EGREGIOUS ABUSES HIDDEN FROM PUBLIC VIEW. SEVERAL COUNTRIES, MOREOVER, REFUSED TO DISCLOSE THE MOST BASIC FACTS ABOUT THEIR PRISONS—TO THE EXTENT OF KEEPING INMATE NUMBERS SECRET—WHILE PROHIBITING ALL OUTSIDE SCRUTINY OF CONDITIONS. IN THE MOST EXTREME CASES, INCLUDING CHINA AND CUBA, THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) WAS BARRED FROM PROVIDING BASIC HUMANITARIAN RELIEF TO PRISONERS. YET IN 1999 THERE WERE ENCOURAGING DEVELOPMENTS IN THIS REGARD. IN BURMA, MOST NOTABLY, THE ICRC BEGAN CONDUCTING PRISON VISITS IN MAY AND BY SEPTEMBER ICRC DELEGATES HAD INSPECTED NINE PLACES OF DETENTION, VISITING MORE THAN 19,000 DETAINEES.

Abusive Treatment of Prisoners

INMATES IN SOME FACILITIES FACED DEATH AT THE HANDS OF PRISON GUARDS OR OTHER PRISONERS. TWENTY-NINE INMATES IN A NIGER PRISON REPORTEDLY DIED OF SUFFOCATION IN LATE AUGUST AFTER BEING CROWDED INTO A SMALL WINDOWLESS CELL BY GUARDS. INMATES OF THE CIVIL PRISON IN NIAMEY HAD RIOTED THE WEEK BEFORE; THOSE SUSPECTED OF LEADING THE RIOT WERE CRAMMED INTO THE AIRLESS SECURITY CELL. WITNESSES REPORTEDLY SAW GUARDS RESPOND TO THE CRIES OF SUFFOCATING PRISONERS BY FIRING TEARGAS INTO THE CELL.

ELEVEN PRISONERS WERE KILLED BY GENDARMES IN LATE SEPTEMBER AT A PRISON IN ANKARA, TURKEY, AN INCIDENT THAT LOCAL HUMAN RIGHTS ACTIVISTS TERMED A MASSACRE. THE GENDARMES STORMED THE CELL BLOCK TO PUT DOWN A RIOT, REPORTEDLY BEATING ONE OF THE INMATES SO BADLY THAT HIS BODY COULD NOT BE IDENTIFIED. IN AZERBAIJAN IN JANUARY, ELEVEN INMATES WERE REPORTEDLY KILLED AT GÖBÜSTAN PRISON WHEN SECURITY FORCES FORCIBLY QUELLED A PRISON MUTINY. THE PREVIOUS MONTH, IN VENEZUELA, TEN INMATES WERE KILLED AND 104 INJURED IN A SIMILAR INCIDENT.

WHILE MASS KILLINGS SUCH AS THESE MERITED AN OCCASIONAL MENTION IN THE PRESS, THE VAST MAJORITY OF INMATE DEATHS WENT UNNOTICED. IN SOME COUNTRIES—VENEZUELA BEING A PARTICULARLY SALIENT EXAMPLE—PRISON HOMICIDES WERE A ROUTINE OCCURRENCE, HAPPENING ON AN ALMOST DAILY BASIS. INDEED, FOUR INMATES WERE KILLED DURING THE FIRST TWO DAYS OF 1999 IN A SINGLE VENEZUELAN PRISON, ONE ON JANUARY 1 AND THREE ON JANUARY 2. OTHER COUNTRIES WITH CHRONICALLY HIGH LEVELS OF PRISON VIOLENCE INCLUDED BRAZIL, KENYA, AND SOUTH AFRICA. INMATES WERE MOST FREQUENTLY KILLED BY OTHER INMATES RATHER THAN BY GUARDS, BUT INMATE-ON-INMATE VIOLENCE WAS USUALLY THE PREDICTABLE RESULT OF OFFICIAL NEGLIGENCE. BY NEGLECTING TO SUPERVISE AND CONTROL THE INMATES WITHIN THEIR FACILITIES, BY FAILING TO RESPOND TO INCIDENTS OF VIOLENCE, BY CORRUPTLY ALLOWING THE ENTRY OF WEAPONS INTO THE PRISONS, AND BY GENERALLY ABETTING THE TYRANNY OF THE STRONGEST PRISONERS OVER THE WEAKEST, PRISON AUTHORITIES WERE DIRECTLY RESPONSIBLE FOR THE VIOLENCE OF THEIR CHARGES.

PRISON DEATH RATES WERE OFTEN FAR HIGHER THAN CORRESPONDING NUMBERS FROM OUTSIDE THE PRISON CONTEXT. WHILE VIOLENCE WAS A FACTOR IN SOME PENAL FACILITIES, DISEASE—OFTEN THE PREDICTABLE RESULT OF SEVERE OVERCROWDING, MALNUTRITION, UNHYGIENIC CONDITIONS, AND LACK OF MEDICAL CARE—REMAINED THE MOST COMMON CAUSE OF DEATH IN PRISON. FOOD SHORTAGES IN ZAMBIAN AND MALAWI PRISONS, FOR EXAMPLE, COMBINED WITH TERRIBLE OVERCROWDING, CREATED IDEAL CONDITIONS FOR THE SPREAD OF COMMUNICABLE DISEASES. ONE MALAWI PRISONER REPORTEDLY DIED OF HUNGER IN FEBRUARY, WHILE THOUSANDS OF OTHER PRISONERS WERE SAID TO BE STARVING. CASES OF SEVERE MALNUTRITION WERE ALSO REPORTED IN PRISONS IN MONGOLIA, TAJIKISTAN, AND MADAGASCAR.

Fostered by poor conditions, cholera struck prisons in Zambia and Malawi, causing a reported eighteen deaths in February at Malawi's Chichiri Prison, and at least two deaths in March at facilities in Lusaka. In Mozambique, the justice ministry confirmed in February that at least twenty-five inmates had died in 1998 for lack of medical care.

Tuberculosis continued to ravage prison populations around the world. The spread of TB was especially worrisome in Russia, in light of the country's enormous inmate population—over one million prisoners as of May 1999—and the increasing prevalence of multi-drug resistant (MDR) strains of the disease. One of out every hundred inmates was reported to have active tuberculosis, with more than 10 percent of sick inmates being affected by MDR strains, constituting a serious threat to public health. The epidemic of tuberculosis was not confined to Russia but instead swept through prisons all over the former Soviet Union. In March, the ICRC announced that among prisoners in the Commonwealth of Independent States (CIS) the incidence of this serious infectious disease was on average fifty times greater than in the general population.

The HIV/AIDS epidemic also rampaged through prison populations, with penal facilities around the world reporting grossly disproportionate rates of HIV infection and of confirmed AIDS cases. For example, the U.N. reported that by October 1998 some 18 percent of the total number of reported cases of HIV infection in Russia were found among the prison population. Because the onset of AIDS left prisoners more vulnerable to tuberculosis, the two diseases often occurred together.

Physical abuse by guards remained another chronic problem. Some countries continued to permit corporal punishment and the routine use of leg irons, fetters, shackles, and chains. The heavy bar fetters used in Pakistani prisons, for example, turned simple movements such as walking into painful ordeals. In many prison systems, unwarranted beatings were so common as to be an integral part of prison life.

Women prisoners were particularly vulnerable to custodial sexual abuse. In July, a warden of a German prison was convicted of forcing two women inmates to participate in a wide range of sexual activities. Custodial sexual misconduct was also widespread in the United States, where male guards outnumbered female guards in many women's prisons. The corrections department of the state of Arizona settled a lawsuit in March in which thirty-four cases of forced sexual contact between prisoners and prison staff were alleged; the department agreed to take effective steps to protect women inmates from future abuse.

In contravention of international standards, juvenile inmates were often held together with adults. Many of Pakistan's jails and police lockups mixed juvenile and adult prisoners, as did detention facilities in Honduras, Kenya, and Zambia. Children in such circumstances frequently fell victim to physical abuse, including rape, by adult inmates.

Extortion by prison staff, and its less aggressive corollary, guard corruption, was common in prisons around the world. Given the substantial power that guards exercised over inmates, these problems were predictable, but the low salaries that guards were generally paid severely aggravated the situation. Frequently, therefore, inmates resorted to bribes in exchange for contraband or special treatment. Powerful inmates in some facilities in Colombia, India, and Mexico, among others, enjoyed cellular phones, rich diets, and comfortable lodgings, while their less fortunate brethren lived in squalor. A teenage girl reportedly died in December 1998 while attending a lavish Christmas party—complete with champagne, whisky, cocaine, and live music—held in the cell of high-level Colombian drug trafficker.

Overcrowding—prevalent in almost every country for which information was available—was at the root of many of the worst abuses. In Madagascar, for example, more than 20,000 inmates were squeezed into prisons whose total capacity was reported to be 12,000. The problem was often most severe in smaller pretrial detention facilities, where, in many countries, inmates were packed together with no space to stretch or move around. In some Brazilian police lockups, where a large proportion of the country's approximately 180,000 detainees were held, overcrowding was so acute, and floor space was at such a premium, that inmates had to tie themselves to the cell bars to sleep. In Brazil, as in many other countries, inmates often suffered long stays in these dreadful conditions.

Another common problem was governments' continued reliance on old, antiquated, and physically decaying prison facilities. Nineteenth-century prisons needing constant upkeep remained in use in a number of countries, including the United States, Mexico, Russia, and the United Kingdom, although even many modern facilities were in severe disrepair due to lack of maintenance. Notably, some prisons lacked a functional system of plumbing, leaving prisoners to "slop out" their cells, that is, to defecate in buckets that they periodically emptied.

A DIFFERENT SET OF CONCERNS WAS RAISED BY THE SPREAD OF ULTRA-MODERN "SUPER-MAXIMUM" SECURITY PRISONS. ORIGINALLY PREVALENT IN THE UNITED STATES, WHERE POLITICIANS AND STATE CORRECTIONS AUTHORITIES PERSISTED IN THEIR POLITICALLY POPULAR QUEST FOR MORE "AUSTERE" PRISON CONDITIONS, THE SUPERMAX MODEL WAS INCREASINGLY FOLLOWED IN OTHER COUNTRIES. PRISONERS CONFINED IN SUCH FACILITIES SPENT AN AVERAGE OF TWENTY-THREE HOURS A DAY IN THEIR CELLS, ENDURING EXTREME SOCIAL ISOLATION, ENFORCED IDLENESS, AND EXTRAORDINARILY LIMITED RECREATIONAL AND EDUCATIONAL OPPORTUNITIES. WHILE PRISON AUTHORITIES DEFENDED THE USE OF SUPER-MAXIMUM SECURITY FACILITIES BY ASSERTING THAT THEY HELD ONLY THE MOST DANGEROUS, DISRUPTIVE, OR ESCAPE-PRONE INMATES, FEW SAFEGUARDS EXISTED TO PREVENT OTHER PRISONERS FROM BEING ARBITRARILY OR DISCRIMINATORILY TRANSFERRED TO SUCH FACILITIES.

FISCAL CONSTRAINTS AND COMPETING BUDGET PRIORITIES WERE TO BLAME FOR PRISON DEFICIENCIES IN SOME COUNTRIES, BUT, AS THE SUPERMAX EXAMPLE SUGGESTS, HARSH PRISON CONDITIONS WERE SOMETIMES PURPOSEFULLY IMPOSED.

CONDITIONS IN MANY PRISONS WERE, IN SHORT, SO DEFICIENT AS TO CONSTITUTE CRUEL, INHUMAN, OR DEGRADING TREATMENT, VIOLATING ARTICLE 7 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS. THEIR SPECIFIC FAILINGS COULD ALSO BE ENUMERATED UNDER THE MORE DETAILED PROVISIONS OF THE U.N. STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS. A WIDELY KNOWN SET OF PRISON STANDARDS, THE STANDARD MINIMUM RULES DESCRIBE "THE MINIMUM CONDITIONS WHICH ARE ACCEPTED AS SUITABLE BY THE UNITED NATIONS." ALTHOUGH THE STANDARD MINIMUM RULES HAVE BEEN INTEGRATED INTO THE PRISON LAWS AND REGULATIONS OF MANY COUNTRIES, FEW IF ANY PRISON SYSTEMS OBSERVED ALL OF THEIR PRESCRIPTIONS IN PRACTICE.

Unsentenced Prisoners

EVEN THOSE UNSYMPATHETIC TO CONVICTED CRIMINALS AND ENTIRELY SKEPTICAL OF THE IDEA OF REHABILITATION HAD REASON TO BE CONCERNED ABOUT THE INHUMAN TREATMENT OF PRISONERS. ALTHOUGH COMPREHENSIVE FIGURES WERE IMPOSSIBLE TO OBTAIN, THE AVAILABLE STATISTICS SHOWED THAT A LARGE PROPORTION OF THE WORLD'S PRISONERS HAD NOT BEEN CONVICTED OF ANY CRIME, BUT WERE INSTEAD BEING PREVENTIVELY DETAINED AT SOME STAGE OF THE TRIAL PROCESS. IN COUNTRIES AS VARIED AS BANGLADESH, BURUNDI, CHAD, THE DOMINICAN REPUBLIC, ECUADOR, EL SALVADOR, GUATEMALA, HAITI, INDIA, MALI, NIGERIA, PAKISTAN, PERU, RWANDA, UGANDA, AND VENEZUELA, UNSENTENCED PRISONERS MADE UP THE MAJORITY OF THE PRISON POPULATION. INDEED, SOME 90 PERCENT OF HONDURAN, PARAGUAYAN, AND URUGUAYAN INMATES WERE UNSENTENCED.

WORSE, SUCH DETAINEES WERE IN MANY INSTANCES HELD FOR YEARS BEFORE BEING JUDGED NOT GUILTY OF THE CRIME WITH WHICH THEY WERE CHARGED. IN NIGERIA, WHERE SOME 60 PERCENT OF PRISONERS WERE PRETRIAL DETAINEES, MANY UNCONVICTED INMATES WERE HELD OVER FOUR YEARS BEFORE BEING RELEASED. PRISONERS ALSO CONTINUED TO BE HELD AFTER THE EXPIRATION OF THEIR SENTENCES IN SOME COUNTRIES. IN MOZAMBIQUE, FOR EXAMPLE, A LOCAL REPORTER VISITING THE INHAMBANE PROVINCIAL JAIL IN MAY DISCOVERED TEN INMATES WHO HAD ALLEGEDLY COMPLETED THEIR SENTENCES, INCLUDING SOME WHO SHOULD HAVE BEEN RELEASED SIX MONTHS EARLIER.

WITH FEW MEANS TO DRAW PUBLIC ATTENTION TO VIOLATIONS OF THEIR RIGHTS, PRISONERS AROUND THE WORLD FREQUENTLY RESORTED TO HUNGER STRIKES, SELF-MUTILATION, RIOTING, AND OTHER FORMS OF PROTEST. THE MOST DRAMATIC SUCH INCIDENTS IN 1999 TOOK PLACE IN KAZAKHSTAN AND VENEZUELA. IN MARCH, AND AGAIN IN MAY, DOZENS OF INMATES IN KAZAK PRISONS REPORTEDLY SLASHED OPEN THEIR OWN STOMACHS TO PROTEST ABUSIVE CONDITIONS OF CONFINEMENT. IN APRIL, 135 VENEZUELAN INMATES HELD IN A REMOTE JUNGLE FACILITY TOOK PART IN WHAT THEY TERMED A "BLOOD STRIKE," SLICING UP THEIR LEGS AND ARMS TO DRAW ATTENTION TO THEIR DEMAND FOR TRANSFERS BACK TO PRISONS LOCATED CLOSER TO THEIR FAMILIES. OTHER OUTBREAKS OF PRISON UNREST WERE REPORTED IN BRAZIL, COLOMBIA, THE DOMINICAN REPUBLIC, EL SALVADOR, MEXICO, NIGER, TURKEY, AND VENEZUELA.

Defending Prisoners' Human Rights

BY STRUGGLING AGAINST THE NATURAL TENDENCY TOWARD SECRECY AND SILENCE ON PRISON ABUSES, THE EFFORTS OF NUMEROUS LOCAL HUMAN RIGHTS GROUPS AROUND THE WORLD—WHO FOUGHT TO OBTAIN ACCESS TO PRISONS, MONITORED PRISON CONDITIONS, AND PUBLICIZED THE ABUSES THEY FOUND—WERE CRITICAL IN 1999, AS IN THE PAST.

IN SOME COUNTRIES, MOREOVER, GOVERNMENT HUMAN RIGHTS OMBUDSPERSONS, PARLIAMENTARY COMMISSIONS, AND OTHER OFFICIAL MONITORS HELPED CALL ATTENTION TO ABUSES. IN THE UNITED KINGDOM, NOTABLY, THE CHIEF INSPECTOR OF PRISONS CONTINUED HIS VIGOROUS INVESTIGATIONS OF THE COUNTRY'S PENAL FACILITIES. THE COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES SIMILARLY PRESSED THE GOVERNMENT TO IMPROVE THE COUNTRY'S DEPLORABLE PRISON AND JAIL CONDITIONS.

AT THE REGIONAL LEVEL AS WELL, PRISON MONITORING MECHANISMS WERE ACTIVE. THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE (CPT) CONTINUED ITS IMPORTANT WORK, INSPECTING PENAL INSTITUTIONS IN MORE THAN TEN COUNTRIES IN 1999, INCLUDING

Latvia, Romania, Turkey, Portugal, Bulgaria, Ukraine, Russia, and the Netherlands. As of September 1999, forty-one countries were party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the treaty authorizing the CPT's monitoring.

In Africa, the special rapporteur on prisons and conditions of detention, an adjunct to the African Commission on Human and Peoples' Rights, completed his third year, inspecting prisons in Benin and the Gambia.

U.N. Monitoring Efforts

The vast scale and chronic nature of the human rights violations in the world's prisons have long been of concern to the United Nations, as demonstrated by the 1955 promulgation of the U.N. Standard Minimum Rules for the Treatment of Prisoners. Indeed, the international community's failure to adopt these standards in practice, even while it has embraced them in theory, has inspired the United Nations' most recent prisons effort.

For the past several years, a U.N. working group has been hammering out a draft treaty that would establish a U.N. subcommittee authorized to make regular and ad hoc visits to places of detention in states party to the treaty, including prisons, jails, and police lockups. The working group opened its seventh two-week session in October 1999. As described in the draft treaty—conceived as an optional protocol to the Convention Against Torture—the primary goal of the subcommittee would be to prevent torture and other ill-treatment. Accordingly, based on the information obtained during its periodic and ad hoc visits, the subcommittee would make detailed recommendations to state authorities regarding necessary improvements to their detention facilities, and the authorities would be expected to implement these recommendations.

Although the proposed monitoring mechanism had great promise, it also had serious potential flaws. Notable among them was the possibility that the subcommittee could be entirely barred from reporting publicly on abuses it discovers, pursuant to a strict rule of confidentiality that some countries have advocated. Although the draft treaty favored cooperation between governments and the subcommittee as a means of instituting remedial measures, it must, if it is to create an effective mechanism, leave open the possibility of public reporting, at least in situations where governments stubbornly refuse to cooperate with the subcommittee or to implement its recommendations.

Other U.N. bodies pressed countries to improve their prison conditions. In April, the U.N. Commission on Human Rights adopted resolutions in which it expressed concern over deficient prison conditions in Cambodia and Haiti. In June, U.N. High Commissioner for Human Rights Mary Robinson visited overcrowded pretrial detention facilities in Russia.

Relevant Human Rights Watch reports:

Behind Bars in Brazil, 12/99

Red Onion State Prison: Super-Maximum Security Confinement in Virginia, 4/99

Prison Bound: The Denial of Juvenile Justice in Pakistan, 10/99

REFUGEES, DISPLACED PERSONS, AND ASYLUM SEEKERS

The plight of refugees and displaced persons received much international attention throughout 1999. The mass exodus of hundreds of thousands of ethnic Albanian refugees fleeing the atrocities in Kosovo; the continuing displacement of hundreds of thousands of Sierra Leoneans as violent conflict gripped the country; the prolonged uprooting of 1.5 million Colombians; the panicked flight of nearly three-quarters of the population of East Timor in the violence following the pro-independence vote in September; the forced displacement of more than 155,000 Chechen civilians escaping the renewed bombardment of Chechnya by Russian troops in October, were vivid demonstrations of how violence, conflict, and human rights abuses can uproot innocent people leaving them displaced and dispossessed.

The ability of the global media and communications networks to instantaneously broadcast news of these and other crises to people across the world undoubtedly led to a greater awareness of the plight of refugees and the displaced. The

Kosovo crisis, in particular, proved that the international community could still respond with solidarity and generosity to the plight of those uprooted by conflict and violence.

But, as Human Rights Watch found, a growing public consciousness of the problems faced by refugees from Kosovo did not result in better conditions for those in other countries who were forced to flee their homes and seek refuge elsewhere. Governments continued to violate the rights of refugees, asylum seekers, and displaced persons; countries continued to close their doors to them; displaced persons continued to suffer physical abuse and discrimination; and xenophobia and anti-refugee sentiments persisted in many countries around the world.

The challenge for the coming millennium was to harness the international concern generated by the Kosovo crisis, and translate it into political action to ensure the rights of those refugees and displaced persons who did not command the same strategic value as the Kosovar refugees and whose plight was not the focus of the international media spotlight.

Through our monitoring of the treatment of refugees and displaced persons over the past year, several important patterns and trends were identified in the international response to the problem of forced displacement.

Kosovo in Perspective

The crisis in Kosovo brought unprecedented international attention to the plight of refugees. Between March and July 1999, the world's eyes were focused on those forced to flee the atrocities in Kosovo. Not only was this one of the largest and most rapid refugee exoduses witnessed in Europe since the second world war, but it was also one of the fastest refugee returns ever witnessed. In a few weeks some 750,000 refugees were forced to flee into neighboring Albania, Macedonia, Montenegro, and Bosnia and Herzegovina; within ten weeks of the withdrawal of Serb forces from Kosovo, the majority of refugees and displaced persons had returned to their homes.

The international response to the crisis was also unprecedented. As well as the large amounts of international aid and assistance that flowed into the refugee camps in neighboring countries, governments also agreed to take quotas of refugees from the region. Reminiscent of the Comprehensive Plan of Action (CPA) instituted in 1979 to respond to the Indo-Chinese refugee crisis in Southeast Asia, the international community established a comprehensive burden-sharing mechanism to respond to the crisis.

The level of public concern for the Kosovar refugees and the willingness of western governments to share the burden with neighboring countries were a positive demonstration of how generously the international community can respond to a refugee crisis. At the same time, several worrying precedents and trends emerged from the Kosovo crisis.

Unwilling Hosts

The actions of the Macedonian government, which ultimately forced other countries to evacuate refugees out of Macedonia, set a very disturbing example for refugee hosting countries elsewhere in the world. Fearful that a mass influx of Kosovar Albanians would tip the fragile ethnic balance within Macedonia and permanently destabilize and impoverish the country, the government was very reluctant to admit the refugees.

Repeatedly, the Macedonian authorities violated the universally binding norm of non-refoulement by closing its borders, pushing refugees back into Kosovo, and obstructing and delaying access into Macedonia through unnecessarily bureaucratic border procedures. Once the refugees were in Macedonia, the government forcibly relocated them to third countries, separated families, and denied refugees access to humanitarian assistance.

At the same time, the international community failed to hold Macedonia accountable to its international obligations. Overriding political and strategic concerns to maintain stability within Macedonia, to protect its territorial integrity, and to prevent the conflict in Kosovo from spilling over, led the international community to turn a blind eye to Macedonia's treatment of the refugees.

Events in Macedonia reached a crisis point in early April, as the influx of refugees out of Kosovo steadily increased. By April 6, some 65,000 refugees were trapped, some of them for days, in terrible conditions in the "no-man's land" at the border with Kosovo, unable to enter the country. The Macedonian government declared that it was unable to cope with the influx and called for international help. The government's terms were clear: it would only allow refugees access into its territory if the international community would play its part and evacuate refugees out.

ON APRIL 6, THE MACEDONIAN AUTHORITIES SUDDENLY DECIDED TO CLEAR THE REFUGEES STRANDED IN THE "NO-MAN'S LAND." IN THE MIDDLE OF THE NIGHT, POLICE AND SOLDIERS FORCIBLY ROUNDED UP THE REFUGEES AND PUSHED THEM ONTO BUSES. MANY REFUGEES REPORTED BEING BADLY BEATEN BY THE POLICE AS THEY WERE FORCED ONTO THE BUSES. WHILE THE MAJORITY OF PEOPLE WERE TAKEN TO CAMPS IN MACEDONIA, THOUSANDS WERE TAKEN, MOSTLY AGAINST THEIR WILL, TO THIRD COUNTRIES INCLUDING TURKEY AND ALBANIA. IN THE CHAOS THAT ENSUED, MANY REFUGEES WERE SEPARATED FROM THEIR FAMILIES, AND MANY CHILDREN WERE SEPARATED FROM THEIR PARENTS.

Evacuation of Refugees

IN ORDER TO PREVENT A REPEAT OF THESE EVENTS, AND TO PERSUADE THE MACEDONIAN GOVERNMENT TO KEEP ITS BORDERS OPEN AND ALLOW REFUGEES INTO THE CAMPS, THE INTERNATIONAL COMMUNITY RAPIDLY ESTABLISHED A HUMANITARIAN EVACUATION PROGRAM. THE PROGRAM WAS AN EMERGENCY RESPONSE TO A PENDING HUMANITARIAN DISASTER IN MACEDONIA. IT WAS ALSO A POLITICAL RESPONSE DESIGNED TO MAINTAIN STABILITY IN MACEDONIA AND IN THE REGION—AN OVERRIDING CONCERN FOR WESTERN GOVERNMENTS.

UNFORTUNATELY, THE MACEDONIAN GOVERNMENT ALSO USED THE HUMANITARIAN EVACUATION PROGRAM AS A MEANS TO HOLD THE REFUGEES TO RANSOM UNTIL THE INTERNATIONAL COMMUNITY MET ITS DEMANDS TO EVACUATE REFUGEES. IN EFFECT THE MACEDONIAN GOVERNMENT MADE ACCESS TO ASYLUM CONDITIONAL UPON INTERNATIONAL BURDEN SHARING, THUS VIOLATING INTERNATIONAL REFUGEE AND HUMAN RIGHTS STANDARDS AND ENDANGERING THE LIVES OF THOSE REFUGEES WHO WERE REFUSED ACCESS AND LEFT STRANDED AT THE BORDER.

The Threat to Asylum

HUMAN RIGHTS WATCH RECOGNIZES AND SUPPORTS THE NEED FOR THE INTERNATIONAL COMMUNITY TO SHARE RESPONSIBILITY FOR REFUGEE CRISES AND TO HELP HOST COUNTRIES TO COPE WITH OVERWHELMING AND POTENTIALLY DESTABILIZING REFUGEE INFLOUES. THE NEED FOR "BURDEN SHARING" DOES NOT, HOWEVER, JUSTIFY A GOVERNMENT'S FAILURE TO OBSERVE FUNDAMENTAL OBLIGATIONS UNDER INTERNATIONAL REFUGEE LAW. GOVERNMENTS THROUGHOUT THE WORLD, REGARDLESS OF THEIR INTERNAL POLITICAL, ECONOMIC, OR STRATEGIC CIRCUMSTANCES, HAVE AN OBLIGATION NOT TO RETURN REFUGEES TO A COUNTRY WHERE THEY COULD FACE PERSECUTION OR SERIOUS HUMAN RIGHTS VIOLATIONS.

SUCH ACTIONS SEND A WORRYING MESSAGE TO REFUGEE HOSTING COUNTRIES ELSEWHERE. MOST REFUGEE CRISES OCCUR IN ECONOMICALLY AND POLITICALLY UNSTABLE AREAS OF THE WORLD, WHERE HOST COUNTRIES FACE SIMILAR PROBLEMS TO MACEDONIA AND ARE EQUALLY ILL-EQUIPPED TO COPE WITH THE STRAINS OF A MASS INFLOUX OF REFUGEES. IF THESE COUNTRIES REFUSED TO GRANT REFUGEES ACCESS TO THEIR TERRITORY UNTIL THE INTERNATIONAL COMMUNITY INTERVENED, THE CONSEQUENCES COULD BE DISASTROUS. MOREOVER, IT IS HIGHLY QUESTIONABLE WHETHER UNDER DIFFERENT POLITICAL CIRCUMSTANCES AND IN OTHER PARTS OF THE WORLD, THE INTERNATIONAL COMMUNITY WOULD BE WILLING TO INTERVENE IN THE SAME WAY AS IT DID DURING THE KOSOVO CRISIS.

The Role of the Military

THERE IS NO DOUBT THAT NORTH ATLANTIC TREATY ORGANIZATION (NATO) TROOPS AND NATIONAL MILITARY CONTINGENTS PLAYED AN INVALUABLE ROLE DURING THE EARLY DAYS OF THE REFUGEE CRISIS IN PROVIDING URGENTLY NEEDED LOGISTICAL SUPPORT AND IN HELPING TO ESTABLISH THE FIRST REFUGEE CAMPS, PARTICULARLY IN MACEDONIA. NEVERTHELESS, THE CONTINUING INVOLVEMENT OF THE MILITARY IN THE HUMANITARIAN OPERATION LED TO CONCERNS ABOUT THE "MIXING" OF HUMANITARIAN, POLITICAL, AND MILITARY MANDATES. SOME COMMENTATORS ARGUED THAT NATO'S CONTINUING AND HIGH PROFILE INVOLVEMENT IN THE HUMANITARIAN ASSISTANCE OPERATION WAS PART OF A PUBLIC IMAGE EXERCISE. MOREOVER, THE INVOLVEMENT OF A PARTY TO THE ONGOING CONFLICT IN THE FEDERAL REPUBLIC OF YUGOSLAVIA IN THE HUMANITARIAN RESPONSE COULD UNDERMINE THE INDEPENDENCE OF HUMANITARIAN ACTION AND THE IMPARTIAL AND NON-POLITICAL NATURE OF REFUGEE WORK, COMPROMISE THE STRICTLY CIVILIAN AND HUMANITARIAN CHARACTER OF REFUGEE CAMPS AND SETTLEMENTS, AND JEOPARDIZE THE SECURITY OF REFUGEE POPULATIONS.

Bilateralism

THE ROLE OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) AS "LEAD AGENCY" DURING THE KOSOVO CRISIS WAS SERIOUSLY COMPROMISED BY DONOR GOVERNMENTS' TENDENCY TO BYPASS THE AGENCY IN FUNDING ARRANGEMENTS, AND TO PROVIDE FUNDING EITHER DIRECTLY TO NEIGHBORING COUNTRIES, OR THROUGH NATIONAL NONGOVERNMENTAL ORGANIZATIONS (NGOS). AT THE SAME TIME SOME DONOR GOVERNMENTS VOCALLY CRITICIZED UNHCR FOR ITS WEAKNESS IN COORDINATING THE HUMANITARIAN RESPONSE TO

the crisis. While UNHCR was ill-prepared for the crisis and its initial response was slow and uncoordinated, this situation was not helped by the abundance of bilateral funding arrangements and the plethora of NGOs and other actors involved in the humanitarian response. Coupled with the heavy engagement of the military in the humanitarian operation, a chaotic situation ensued in which it was very difficult for UNHCR to assert its leadership role and coordinating functions.

The move towards humanitarian bilateralism witnessed during the Kosovo crisis set a worrying trend for other major emergencies and posed a significant challenge to coordinated multilateral action.

Disparity in Response

The Kosovo emergency also demonstrated an extreme disparity in the international response to humanitarian crises. While international aid and assistance poured into Macedonia and Albania, and western countries opened their doors, refugees in Africa, Asia, and the Middle East continued to be neglected and forgotten. The reality of this disparity was most acute for those countries that had struggled to host thousands of refugees for decades with limited international attention or support.

Guinea, for example, was host to the largest refugee population in Africa in 1999: nearly half a million people. Of these, 300,000 refugees came from Sierra Leone, many of them having fled from horrific atrocities over the past two years.

Sadly, the refugees in Guinea, and elsewhere in Africa, did not benefit from the same level of international assistance enjoyed by the Kosovar refugees. In February 1999, UNHCR requested U.S. \$4 million to move Sierra Leonean refugees in Guinea away from the border with Sierra Leone where they were vulnerable to cross-border attacks and incursions. By July, UNHCR had not received any contributions toward this appeal. At the same time, UNHCR had a weekly budget of U.S.\$10 million for the Kosovar refugees.

Not only were significant disparities evident in the level of international assistance provided to the Kosovar refugees in comparison to refugees elsewhere, but also in the level of political will exerted by the international community to find a solution to their plight. Indeed, NATO asserted that one of the primary objectives of its operation was the rapid return of the refugees.

Meanwhile, millions of refugees in other regions of the world had spent years in refugee camps with little hope of any solution. The 3.5 million Palestinian refugees dispersed throughout the Middle East remained one of the world's largest and oldest refugee populations, some of whom were living in exile for over fifty years. For the past twenty years Pakistan and Iran hosted the world's second largest refugee population—2.6 million Afghan refugees. 100,000 Bhutanese refugees, one sixth of the entire population of that country, were in exile in Nepal for nearly a decade. Millions of refugees in the Balkans, the Caucasus, South Asia, and the Horn of Africa were unable to return to their country because the conditions that caused their flight persisted. Whole generations of children and young people knew no other life but that of a refugee camp. The international community did little in 1999 to find durable and just solutions to the plight of these refugees.

Gaps in Protection for Internally Displaced Persons

Events in the South Balkans, Southeast Asia, South America, and the Northern Caucasus during 1999 demonstrated the serious gaps in protection for internally displaced persons and the lack of an effective international protection regime for those who were forcibly displaced within their own countries. In Kosovo, East Timor, Colombia, and Chechnya hundreds of thousands of civilians were internally displaced by violent conflicts and gross human rights abuses. Throughout 1999 and 1999, some 600,000 to 700,000 Kosovar Albanians were displaced from their homes by Serb forces and authorities. An estimated 308,000 Colombians were forced to flee their homes in 1999—an increase of 20 percent over the previous year—bringing the total number of internally displaced persons in Colombia to 1.5 million. Forced displacement intensified in some regions of Colombia in 1999, and in June, for the first time, 3,500 Colombians crossed the border and sought refuge in Venezuela. In the weeks following the September 4 announcement of the pro-independence vote in East Timor, virtually the entire pre-referendum population of East Timor was forcibly displaced, with hundreds of thousands expelled to West Timor. Meanwhile, more than 155,000 civilians were forced to flee the renewed Russian bombardments in Chechnya in October 1999, most of them into neighboring Ingushetia, some to Dagestan and other parts of Russia.

Lack of Humanitarian Access

IN ALL THESE REGIONS THE VIOLENT AND POLITICALLY COMPLEX NATURE OF THE CONFLICTS, THE TOTAL ABSENCE OF SECURITY, THE STRENGTH OF STATE SOVEREIGNTY INTERESTS, AND THE LACK OF AN INTERNATIONALLY RECOGNIZED AND ENFORCEABLE PROTECTION REGIME FOR THE INTERNALLY DISPLACED SEVERELY HINDERED ACCESS BY INTERNATIONAL HUMANITARIAN AGENCIES AND MADE IT DIFFICULT TO PROVIDE URGENTLY NEEDED PROTECTION AND ASSISTANCE TO INTERNALLY DISPLACED POPULATIONS.

Forced Displacement, Relocations, and Restrictions on Freedom of Movement

MOREOVER, IN KOSOVO, CHECHNYA, AND EAST TIMOR, THE RULING AUTHORITIES FORCIBLY DISPLACED AND "RELOCATED" DISPLACED PERSONS, IN SOME CASES WITH THE EXPRESS INTENTION OF PERMANENTLY ALTERING THE POLITICAL AND DEMOGRAPHIC PROFILE OF THE AREA. IN KOSOVO, THE OBJECTIVE OF THE SERB AUTHORITIES WAS TO ETHNICALLY "CLEANSE" KOSOVO OF ITS ALBANIAN POPULATION. NOT ONLY WERE KOSOVAR ALBANIANS EXPELLED TO NEIGHBORING COUNTRIES, BUT MANY WERE STRIPPED OF THEIR IDENTITY DOCUMENTS, AND THEIR PROPERTY, LAND, AND BELONGINGS DESTROYED IN ORDER TO OBSTRUCT THEIR RETURN TO KOSOVO.

IN EAST TIMOR, THE INDONESIAN AUTHORITIES AND MILITIA GROUPS PARTICIPATED IN THE DELIBERATE FORCED DISPLACEMENT OF OVER 200,000 PEOPLE FROM EAST TIMOR INTO WEST TIMOR. AS IN KOSOVO, SOME OF THOSE DISPLACED WERE STRIPPED OF THEIR IDENTITY DOCUMENTS, AND THEIR HOMES AND PROPERTY WERE DESTROYED. HUMAN RIGHTS WATCH URGED THE INDONESIAN GOVERNMENT, UNHCR, AND OTHER INTERNATIONAL AGENCIES TO ENSURE THAT REFUGEES WERE NOT MOVED AGAINST THEIR WILL, THAT THEY WERE ABLE TO MAKE FREE AND INFORMED DECISIONS ABOUT WHERE THEY WOULD GO, AND ABOVE ALL THAT THEIR RIGHT TO RETURN TO EAST TIMOR WAS UPHOLD.

IN CHECHNYA, THE RUSSIAN GOVERNMENT ANNOUNCED IN EARLY OCTOBER THAT IT WOULD SET UP A COMMISSION TO ASSIST DISPLACED PERSONS IN DISTRICTS OF CHECHNYA UNDER THE CONTROL OF RUSSIAN FEDERAL TROOPS. THIS WOULD INVOLVE MOVING DISPLACED PERSONS FROM THE AREAS OF CHECHNYA TO WHICH THEY HAD FLED TO CONFLICT ZONES UNDER THE CONTROL OF RUSSIAN TROOPS, WHERE THEIR SECURITY COULD NOT BE GUARANTEED. THE RUSSIAN AUTHORITIES ALSO FORBODE DISPLACED PERSONS FROM LEAVING INGUSHETIA FOR OTHER CITIES IN RUSSIA, WHERE MANY HAD RELATIVES WHO COULD CARE FOR THEM, UNLESS THEY HAD RESIDENCE PERMITS FOR THESE CITIES. IN MID-OCTOBER, THE RUSSIAN GOVERNMENT CLOSED ONE OF ITS BORDERS WITH CHECHNYA TO ETHNIC CHECHEN CIVILIANS FLEEING THE BOMBING, WHILE POLICE POSTS AT THE ADMINISTRATIVE BORDER BETWEEN CHECHNYA AND THE REPUBLIC OF NORTH OSSETIA TURNED BACK ETHNIC CHECHENS FLEEING THE FIGHTING, BUT ALLOWED ETHNIC RUSSIANS TO CROSS THE BORDER. ALL OF THESE ACTIONS WERE IN VIOLATION OF RUSSIA'S OBLIGATIONS TO PROTECT DISPLACED PERSONS AND TO GUARANTEE FREEDOM OF MOVEMENT FOR ITS CITIZENS, AS STIPULATED UNDER INTERNATIONAL AND RUSSIAN LAW.

The Distinction between Refugees and Internally Displaced Persons

ALL OF THESE CRISES PROVIDED VIVID DEMONSTRATIONS OF THE SOMEWHAT ARTIFICIAL AND ARBITRARY DISTINCTION BETWEEN REFUGEES AND INTERNALLY DISPLACED PERSONS. IN KOSOVO, COLOMBIA, AND EAST TIMOR, FOR EXAMPLE, REFUGEES AND INTERNALLY DISPLACED PERSONS FLED SIMILAR ATROCITIES AND SITUATIONS OF VIOLENT CONFLICT. IN THE CASE OF KOSOVO, HOWEVER, THOSE WHO FLED ACROSS THE BORDER TO NEIGHBORING COUNTRIES FOUND HIGHER LEVELS OF INTERNATIONAL PROTECTION AND ASSISTANCE THAN THOSE DISPLACED WITHIN THEIR COUNTRY, FOR WHOM HUMANITARIAN ACCESS AND PROTECTION WAS SEVERELY LIMITED, AND NONEXISTENT THROUGHOUT THE DURATION OF THE NATO BOMBING CAMPAIGN. COLOMBIANS WHO FLED INTO VENEZUELA, ON THE OTHER HAND, DID NOT RECEIVE FULL REFUGEE PROTECTION. INSTEAD, THE VENEZUELAN GOVERNMENT REFERRED TO THEM AS "DISPLACED IN TRANSIT" RATHER THAN REFUGEES. SOME REFUGEES REPORTED FEELING INTIMIDATED INTO RETURNING TO COLOMBIA DESPITE WELL-FOUNDED FEARS OF PERSECUTION FROM THE PARAMILITARIES.

THERE WAS VIRTUALLY NO PROTECTION FOR INTERNALLY DISPLACED PERSONS IN EAST TIMOR DURING THE EARLY DAYS OF THE CRISIS. MILITAS, AT TIMES AIDED BY GOVERNMENT TROOPS, DELIBERATELY TARGETED PLACES OF REFUGE, BURNED BUILDINGS, AND ATTACKED AND KILLED DISPLACED PERSONS. HUMANITARIAN ACCESS TO THE DISPLACED WAS SEVERELY RESTRICTED, PARTICULARLY AFTER THE CLOSURE OF ALL UNITED NATIONS MISSION TO EAST TIMOR (UNAMET) FIELD OFFICES AND THE EVACUATION OF U.N. STAFF. WITH THE ARRIVAL OF THE INTERNATIONAL FORCE IN EAST TIMOR (INTERFET) IN LATE SEPTEMBER, HOWEVER, ACCESS FOR HUMANITARIAN AGENCIES TO THE DISPLACED POPULATIONS IMPROVED.

THE MORE SERIOUS PROBLEM LAY WITH PROVIDING ASSISTANCE AND PROTECTION TO THOSE DISPLACED IN WEST TIMOR AND OTHER PARTS OF INDONESIA. DESPITE SOME QUESTION AS TO WHETHER THE EAST TIMORESE THERE SHOULD BE CONSIDERED "DISPLACED," BECAUSE INDONESIA MAINTAINED THAT THEY HAD ONLY CROSSED A PROVINCIAL BORDER, OR "REFUGEES," BECAUSE INDONESIA'S ANNEXATION OF EAST

TIMOR WAS NEVER RECOGNIZED BY THE UNITED NATIONS, UNHCR DECLARED THEM TO BE IN A REFUGEE-LIKE SITUATION, OF CONCERN TO THE ORGANIZATION, AND THEREFORE DESERVING OF INTERNATIONAL PROTECTION AND ASSISTANCE.

NEVERTHELESS, DESPITE HAVING A LEGAL MANDATE TO ASSIST REFUGEES IN WEST TIMOR, THE CHALLENGE FOR UNHCR AND OTHER HUMANITARIAN AGENCIES WAS TO NEGOTIATE WITH THE INDONESIAN GOVERNMENT FOR FREE, SAFE, AND UNIMPEDED ACCESS TO THE DISPLACED WITH FULL SECURITY GUARANTEES. ACCESS TO THE REFUGEES WAS SEVERELY RESTRICTED. IN SOME CASES, REFUGEES IN GOVERNMENT-RUN CAMPS WERE HELD IN HOSTAGE-LIKE CONDITIONS AND CAMPS WERE INFILTRATED BY THE SAME MILITIA GROUPS RESPONSIBLE FOR TERRORIZING THE REFUGEES IN EAST TIMOR. THE MILITAS SUBJECTED REFUGEES TO PHYSICAL ATTACKS, INTIMIDATION, KILLINGS, AND "DISAPPEARANCES," AND BOTH THE MILITIA AND SOLDIERS REPORTEDLY CONDUCTED "SWEEPS" OF THE CAMPS TO IDENTIFY PRO-INDEPENDENCE SUPPORTERS, SOME OF WHOM WERE THEN TAKEN AWAY, DETAINED, AND PHYSICALLY ASSAULTED. MEANWHILE, THE POLICE AND INDONESIAN AUTHORITIES DID LITTLE TO CONTROL THE MILITIA OR TO PROVIDE REFUGEES WITH ADEQUATE PROTECTION. AT THE TIME OF WRITING, UNHCR WAS IN THE PROCESS OF NEGOTIATING FULL AND SAFE ACCESS TO THE REFUGEES, AND SEEKING ASSURANCES FROM THE INDONESIAN GOVERNMENT THAT IT WOULD GUARANTEE THE SECURITY OF REFUGEES AND HUMANITARIAN WORKERS, AND ENSURE THE CIVILIAN NATURE OF THE REFUGEE CAMPS AND SETTLEMENTS.

Government Accountability

IN ALL THREE OF THE ABOVE CASES, THE CONCERNED GOVERNMENTS VIOLATED THEIR OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW TO PROTECT THE RIGHTS, FREEDOMS, AND SECURITY OF THEIR CITIZENS AND TO ALLOW FULL, SAFE, AND UNIMPEDED ACCESS TO DISPLACED PERSONS BY INTERNATIONAL HUMANITARIAN AGENCIES. MOREOVER, THE ACTIONS OF THE INDONESIAN, RUSSIAN, AND YUGOSLAV AUTHORITIES WERE IN VIOLATION OF THE FUNDAMENTAL PRINCIPLES OUTLINED IN THE U.N. GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT. THESE INCLUDE: PRINCIPLES OF NONDISCRIMINATION; PROTECTION AGAINST FORCED DISPLACEMENT; RIGHTS OF LIBERTY OF MOVEMENT AND FREEDOM TO CHOOSE ONE'S PLACE OF RESIDENCE; THE RIGHT OF FREE, SAFE, AND UNIMPEDED HUMANITARIAN ACCESS TO DISPLACED PERSONS; PROTECTION AGAINST FORCIBLE RETURN OR RESETTLEMENT TO PLACES WHERE SAFETY CANNOT BE GUARANTEED; AND THE RIGHT TO RETURN VOLUNTARILY, IN SAFETY AND WITH DIGNITY, TO HOMES OR PLACES OF HABITUAL RESIDENCE. THE FAILURE OF THE ABOVE GOVERNMENTS TO ABIDE BY ANY OF THESE PRINCIPLES ACCENTUATES THE NEED FOR THE GUIDING PRINCIPLES TO BE GIVEN A HIGHER LEGAL STATUS AND FOR GOVERNMENTS TO BE HELD ACCOUNTABLE FOR THEIR TREATMENT OF INTERNALLY DISPLACED POPULATIONS.

Groups with Special Protection Needs

THROUGHOUT 1999 HUMAN RIGHTS WATCH CONTINUED TO FOCUS ON THOSE REFUGEES WITH SPECIAL PROTECTION NEEDS, WITH PARTICULAR EMPHASIS ON THE PROTECTION OF REFUGEE WOMEN AND CHILDREN. DESPITE THE EXISTENCE OF COMPREHENSIVE UNHCR GUIDELINES ON THE PROTECTION OF THESE GROUPS, IT WAS EVIDENT THAT IN MANY COUNTRIES THESE POLICIES WERE NOT EFFECTIVELY IMPLEMENTED, UNHCR STAFF WERE NOT FULLY APPRISED OF THEIR CONTENT, AND SERIOUS PROTECTION GAPS REMAINED.

Violence against Refugee Women

THE SUBORDINATE STATUS OF WOMEN IN MANY REFUGEE COMMUNITIES—COMBINED WITH PROBLEMS OF PHYSICAL INSECURITY, LACK OF ADEQUATE FOOD AND HOUSING, THE BREAKDOWN OF FAMILIAL AND SOCIAL STRUCTURES, AND THE LOSS OF MEANINGFUL OCCUPATION FOR REFUGEE MEN THAT ACCOMPANIED MANY REFUGEE SITUATIONS—CONTRIBUTED TO HIGH RATES OF SEXUAL AND DOMESTIC VIOLENCE AGAINST WOMEN AND GIRLS IN REFUGEE CAMPS AND SETTINGS. IT WAS FOUND THAT IN COUNTRIES RANGING FROM TANZANIA, KENYA, GUINEA, AND PAKISTAN, UNHCR STAFF AND GOVERNMENT AUTHORITIES FAILED TO ACTIVELY PREVENT AND APPROPRIATELY RESPOND TO THE HIGH INCIDENCE OF SEXUAL AND DOMESTIC VIOLENCE IN REFUGEE CAMPS, OR TO ENSURE THAT PERPETRATORS WERE BROUGHT TO JUSTICE. IMPUNITY FOR THESE CRIMES AND LACK OF LEGAL RECOURSE FOR WOMEN VICTIMS CONTRIBUTED TO THE PERSISTENCE OF SEXUAL AND DOMESTIC VIOLENCE IN REFUGEE SETTLEMENTS.

OF PARTICULAR CONCERN WAS THE PREVALENCE OF DOMESTIC VIOLENCE IN REFUGEE SETTINGS — A PROBLEM THAT CONTINUED TO BE VIEWED BY UNHCR AND GOVERNMENT STAFF AS A "PRIVATE ISSUE" THAT DID NOT WARRANT OFFICIAL INTERVENTION. HUMAN RIGHTS WATCH ADVOCATED FOR GREATER RECOGNITION BY UNHCR AND GOVERNMENTS OF DOMESTIC VIOLENCE AS A SERIOUS PROTECTION PROBLEM IN REFUGEE SITUATIONS. WE URGED UNHCR TO ADOPT GUIDELINES ON THE PREVENTION OF AND RESPONSE TO DOMESTIC VIOLENCE AGAINST WOMEN AND GIRLS AND TO INCORPORATE THEM INTO EXISTING GUIDELINES ON THE PROTECTION OF REFUGEE WOMEN. WE ALSO CALLED FOR MORE EFFECTIVE IMPLEMENTATION OF UNHCR POLICIES ON THE PROTECTION OF REFUGEE WOMEN AND ON THE PREVENTION OF AND RESPONSE

to sexual violence. In addition, Human Rights Watch advocated for a greater recognition by states of gender-based persecution as a legitimate grounds for granting refugee status.

Protection for Refugee Children

REFUGEE CHILDREN SUFFERED DISPROPORTIONATELY DURING THESE CRISES, OFTEN WITH LITTLE OFFICIAL ATTENTION TO THEIR PARTICULAR VULNERABILITY. CHILDREN MADE UP 52 PERCENT OF THE WORLD'S REFUGEE POPULATION AND 65 PERCENT OF THE POPULATION OF THE 300,000 SIERRA LEONEAN REFUGEES IN GUINEA, WHERE HUMAN RIGHTS WATCH INVESTIGATED THE PROTECTION OF REFUGEE CHILDREN IN 1999. LARGE NUMBERS OF SIERRA LEONEAN REFUGEE CHILDREN WERE SEPARATED FROM THEIR FAMILIES EITHER IN SIERRA LEONE OR DURING FLIGHT, AND LIVED WITH CARE GIVERS IN THE REFUGEE CAMPS. NOT ONLY HAD THESE CHILDREN EXPERIENCED AND WITNESSED HORRIFIC ABUSE IN SIERRA LEONE, INCLUDING SEXUAL AND PHYSICAL ABUSE, MUTILATION, KILLING, FORCED RECRUITMENT, AND FORCED LABOR, BUT THEY WERE ALSO VULNERABLE TO PHYSICAL AND SEXUAL ABUSE AND EXPLOITATION, HAZARDOUS LABOR, DENIAL OF EDUCATION, AND OTHER ILL-TREATMENT IN THE REFUGEE CAMPS IN GUINEA.

HUMAN RIGHTS WATCH FOUND THAT REFUGEE CHILDREN IN GUINEA DID NOT ENJOY FULL PROTECTION FROM UNHCR STAFF, AND THAT THEIR NEEDS WERE FREQUENTLY IGNORED OR FORGOTTEN. MANY OF THE PROBLEMS FACED BY CHILDREN WERE RELATED TO A CHRONIC LACK OF ASSISTANCE AND THE UNSAFE LOCATION OF THE REFUGEE CAMPS CLOSE TO THE BORDER WITH SIERRA LEONE, WHICH LEFT THE REFUGEES VULNERABLE TO CROSS-BORDER ATTACKS, KILLINGS, ABDUCTIONS, "DISAPPEARANCES," AND FORCED RECRUITMENT. A SHORTAGE OF FUNDS AND SEVERE LOGISTICAL PROBLEMS IN THE DELIVERY OF ASSISTANCE MEANT THAT MANY CAMPS IN THE GUECKEDOU REGION OF GUINEA WERE WITHOUT FOOD DISTRIBUTION FOR THREE MONTHS, FROM THE END OF 1998 TO EARLY 1999. AT THE SAME TIME, FAILURES TO REGISTER "VULNERABLE" GROUPS IN THE FEBRUARY 1999 CENSUS OPERATION MEANT THAT LARGE NUMBERS OF SEPARATED CHILDREN, AND OTHER REFUGEES WHO WERE ENTITLED TO SPECIAL ASSISTANCE WERE EXCLUDED FROM RECEIVING ASSISTANCE.

LACK OF ASSISTANCE WAS THE ROOT CAUSE OF MANY OF THE HUMAN RIGHTS ABUSES IDENTIFIED IN THE CAMPS. REFUGEE GIRLS FELT THEY HAD NO CHOICE BUT TO ENGAGE IN PROSTITUTION IN ORDER TO MEET THEIR DAILY NEEDS, AND CHILDREN RISKED THEIR LIVES CROSSING THE BORDER IN SEARCH OF FOOD. KAMAJOR militia—SIERRA LEONEAN GOVERNMENT CIVIL DEFENSE FORCES WHO FOUGHT IN CONJUNCTION WITH THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES MONITORING GROUP (ECOMOG)—WERE ALSO PRESENT IN THE REFUGEE CAMPS AND WERE KNOWN TO USE REFUGEE CHILDREN AS SOLDIERS.

UNHCR FACED SIGNIFICANT POLITICAL, FINANCIAL, AND LOGISTICAL CHALLENGES IN PROVIDING ASSISTANCE AND PROTECTION TO REFUGEES IN GUINEA. NOT LEAST WAS THE INTERNATIONAL COMMUNITY'S SHAMEFUL NEGLECT OF THE SIERRA LEONEAN REFUGEE CRISIS AND THE CHRONIC LACK OF FUNDING SERIOUSLY HAMPERED THE REFUGEE PROGRAM. NEVERTHELESS, HUMAN RIGHTS WATCH EXPRESSED CONCERN THAT THE PROBLEMS IDENTIFIED IN GUINEA WERE SYMPTOMATIC OF A MORE GENERAL FAILURE TO PROVIDE EFFECTIVE PROTECTION TO REFUGEE CHILDREN WORLDWIDE. UNHCR STAFF MUST BE HELD ACCOUNTABLE FOR THE IMPLEMENTATION OF THE GUIDELINES ON THE PROTECTION OF REFUGEE CHILDREN; SEPARATED AND VULNERABLE CHILDREN MUST BE IDENTIFIED AND PROVIDED WITH ADEQUATE PROTECTION; GIRLS MUST BE PROTECTED FROM SEXUAL ABUSE AND EXPLOITATION; THE CIVILIAN NATURE OF REFUGEE CAMPS MUST BE PRESERVED TO PROTECT REFUGEE CHILDREN FROM RECRUITMENT INTO ARMED FORCES; AND THE INTERNATIONAL COMMUNITY MUST PROVIDE SUFFICIENT FUNDS TO PROTECT REFUGEE CHILDREN WHEREVER THEY ARE.

Security and Asylum

IN A CONTINUING TREND, GOVERNMENTS ACROSS THE WORLD ASSOCIATED REFUGEE MOVEMENTS WITH THREATS TO NATIONAL AND REGIONAL SECURITY, AS WITNESSED MOST RECENTLY IN MACEDONIA. CONSEQUENTLY, REFUGEE POLICIES AND RESPONSES TO REFUGEE INFLOUES WERE DESIGNED TO RESTRICT AND CONTAIN REFUGEE POPULATIONS AND TO MINIMIZE POTENTIAL SECURITY THREATS, OFTEN WITH LITTLE RESPECT FOR THE RIGHTS OF THE REFUGEES THEMSELVES.

The Great Lakes and East Africa

NOWHERE WAS THIS MORE APPARENT THAN IN THE GREAT LAKES REGION OF AFRICA, WHERE CONTINUING INSTABILITY AND CONFLICT IN RWANDA, BURUNDI, AND THE DEMOCRATIC REPUBLIC OF CONGO (DRC) CAUSED A PERSISTENT FLOW OF REFUGEES INTO NEIGHBORING COUNTRIES, AND AT TIMES CREATED SERIOUS SECURITY PROBLEMS. TANZANIA, IN PARTICULAR, WAS A GENEROUS HOST TO HUNDREDS OF THOUSANDS OF REFUGEES FROM THE GREAT LAKES REGION SINCE THE START OF THE RWANDA CRISIS IN 1994. IN OCTOBER 1999, THE TANZANIAN GOVERNMENT STATED THAT IT WAS HOST TO SOME 900,000 REFUGEES. OF THESE, 473,700 BURUNDIAN REFUGEES, 59,200 REFUGEES FROM THE DRC, AND 4,700 REFUGEES FROM RWANDA WERE ASSISTED BY UNHCR, WHILE THE OTHERS LIVED SELF-SUFFICIENTLY.

THERE IS NO DOUBT THAT YEARS OF HOSTING SUCH LARGE NUMBERS OF REFUGEES PLACED A CONSIDERABLE STRAIN ON TANZANIA'S SCARCE ECONOMIC AND ENVIRONMENTAL RESOURCES. MOREOVER, THE GENERAL TENDENCY FOR CONFLICTS IN THE GREAT LAKES REGION TO SPILL OVER NATIONAL BORDERS AND THE ACTIVE PRESENCE OF ARMED ELEMENTS AMONGST THE REFUGEE POPULATIONS POSED SERIOUS THREATS TO SECURITY IN TANZANIA. OF PARTICULAR CONCERN TO THE TANZANIAN GOVERNMENT WAS THE BORDER AREA BETWEEN BURUNDI AND TANZANIA, WHERE THE MAJORITY OF BURUNDIAN REFUGEES WERE LOCATED. A SERIES OF CROSS-BORDER INCURSIONS AND MILITARY ACTIVITY ALONG THE BORDER BETWEEN THE TWO COUNTRIES SINCE 1997 LED TANZANIA TO IMPOSE RESTRICTIVE MEASURES ON THE REFUGEE POPULATION. IN LATE 1997, THE TANZANIAN GOVERNMENT FORCIBLY ROUNDED UP TENS OF THOUSANDS OF REFUGEES LIVING IN THE BORDER AREA AND RELOCATED THEM TO CAMPS. MANY OF THE REFUGEES HAD LIVED IN TANZANIA SINCE THE 1970S, OWNED PROPERTY, WERE SELF-SUFFICIENT AND FULLY INTEGRATED INTO TANZANIAN SOCIETY. NEVERTHELESS, THESE REFUGEES, ALONG WITH OTHERS WHO HAD ARRIVED IN TANZANIA MORE RECENTLY, WERE FORCIBLY UPROOTED WITH LITTLE OR NO NOTICE. FAMILIES WERE SEPARATED AND WERE FORCED TO LEAVE BEHIND THEIR PROPERTY AND BELONGINGS.

WHILE MEASURES WERE REQUIRED TO SECURE THE BORDER REGION, THE INDISCRIMINATE ROUNDUP AND CONFINEMENT OF ALL REFUGEES, INCLUDING THOSE WHO HAD LIVED IN TANZANIA FOR OVER THIRTY YEARS, ON THE GROUNDS THAT THEY ALL POSED A NATIONAL SECURITY RISK, WAS NOT A LEGITIMATE RESPONSE TO THE PROBLEM. HUMAN RIGHTS WATCH ARGUED THAT STRENGTHENING SECURITY COULD NOT BE ACHIEVED THROUGH INDISCRIMINATE CRACKDOWNS ON REFUGEES AND A CURTAILMENT OF THEIR FUNDAMENTAL RIGHTS. WE CALLED ON THE INTERNATIONAL COMMUNITY TO PROVIDE TANZANIA WITH URGENTLY NEEDED RESOURCES TO STRENGTHEN SECURITY IN THE BORDER AREA, TO IMPROVE LAW ENFORCEMENT CAPACITIES THROUGH THE RECRUITMENT AND TRAINING OF ADDITIONAL POLICE, AND TO UNDERTAKE JUDICIAL CAPACITY BUILDING AND REFORM.

CONCERN AT THE DIMINISHING RESPECT FOR REFUGEES' RIGHTS IN TANZANIA WAS HEIGHTENED BY THE INTRODUCTION OF THE DECEMBER 1998 REFUGEE ACT, WHICH SUPERCEDED THE 1965 REFUGEE CONTROL ACT. OF PARTICULAR CONCERN WAS THE LACK OF TRANSPARENCY WHICH CHARACTERIZED THE GOVERNMENT'S INTRODUCTION OF THE ACT. NGOS, INCLUDING HUMAN RIGHTS WATCH, WERE NOT GIVEN AN OPPORTUNITY TO OPENLY REVIEW OR COMMENT ON THE BILL AS IT PASSED THROUGH PARLIAMENT. EVEN UNHCR HAD ONLY A MINIMAL ROLE DURING THE DRAFTING STAGES AND WAS NOT INVOLVED IN DELIBERATIONS ABOUT THE CONTENT OF THE BILL, ALTHOUGH SUCH TECHNICAL ADVISORY FUNCTIONS FELL WITHIN ITS MANDATE. UNDER ARTICLE 35(2)(c) OF THE 1951 REFUGEE CONVENTION, TANZANIA IS OBLIGED TO PROVIDE UNHCR WITH INFORMATION CONCERNING "LAWS, REGULATIONS AND DECREES" RELATING TO REFUGEES. A NUMBER OF PROVISIONS INCLUDED IN THE ACT COULD BE DETRIMENTAL TO REFUGEE PROTECTION, INCLUDING GRANTING GREATER POWERS TO CAMP COMMANDERS, THE LACK OF ADEQUATE DUE PROCESS PROTECTIONS IN THE APPEALS PROCESS FOR STATUS DETERMINATION INTERVIEWS, AND THE GREATER POWERS DEVOLVED TO LOCAL AUTHORITIES.

SADLY, SUCH TRENDS WERE OBSERVED ELSEWHERE IN THIS REGION. INCREASINGLY, GOVERNMENTS SOUGHT TO ADDRESS SECURITY CONCERNS THROUGH RESTRICTIONS ON REFUGEES, MIGRANTS, AND ASYLUM SEEKERS, RESULTING IN A CURTAILMENT OF THEIR RIGHTS AND FREEDOMS. IN THE WAKE OF THE BOMBING OF THE U.S. EMBASSY IN NAIROBI IN AUGUST 1998, FOR EXAMPLE, ALL FOREIGNERS, AND ESPECIALLY MIGRANTS, REFUGEES, AND ASYLUM SEEKERS, WERE VIEWED AS POTENTIAL SECURITY THREATS BY THE KENYAN GOVERNMENT.

HOLDING REFUGEES RESPONSIBLE FOR THE RISING CRIME RATE AND INSECURITY IN KENYA, THE GOVERNMENT DECLARED THAT ALL REFUGEES IN NAIROBI SHOULD BE ROUNDED UP AND SENT TO REMOTE, RURAL CAMPS IN THE NORTH OF THE COUNTRY. THE CONDITIONS IN THESE CAMPS WERE HARSH AND THEIR REMOTE LOCATION CONDEMNED THE REFUGEES TO VIRTUAL CONFINEMENT. MOREOVER, SECURITY IN THE CAMPS WAS POOR AND THE SAFETY OF MANY REFUGEES, ESPECIALLY POLITICAL ACTIVISTS, COULD NOT BE GUARANTEED.

Conclusion

THE YEAR 2000 MARKED THE FIFTIETH ANNIVERSARY OF UNHCR—THE INTERNATIONAL AGENCY ESTABLISHED TO PROVIDE PROTECTION AND ASSISTANCE TO REFUGEES WORLDWIDE. FIFTY YEARS LATER, DESPITE SOME IMPROVEMENTS IN REFUGEE PROTECTION, GOVERNMENTS' ATTITUDES TOWARD REFUGEES AND ASYLUM SEEKERS WERE DICTATED BY DOMESTIC POLITICAL INTERESTS AND RANGE FROM ACTIVE HOSTILITY TO INDIFFERENCE AND NEGLECT. WESTERN GOVERNMENTS, IN PARTICULAR, SEEMED WILLING TO ASSIST REFUGEES AND SEEK SOLUTIONS TO THEIR FLIGHT ONLY WHEN IT WAS POLITICALLY AND STRATEGICALLY EXPEDIENT TO DO SO. ALTHOUGH UNHCR MADE SOME ADVANCES IN ITS RESPONSE TO THE PROTECTION OF CERTAIN GROUPS, SUCH AS WOMEN, CHILDREN, THE ELDERLY, AND INTERNALLY DISPLACED PERSONS, SERIOUS GAPS REMAINED, AND POLICIES DESIGNED TO FURTHER THEIR PROTECTION WERE NOT ALWAYS UNIVERSALLY OR COMPREHENSIVELY APPLIED.

AS THE KOSOVO CRISIS SO VIVIDLY DEMONSTRATED, ASYLUM IS THE LAST RESORT WHEN HUMAN RIGHTS HAVE BEEN VIOLATED AND ALL OTHER REMEDIES HAVE BEEN EXHAUSTED. THE RIGHT TO ASYLUM IS A LIFESAVING MECHANISM THAT CANNOT BE COMPROMISED. HUMAN

RIGHTS WATCH SEEKS TO ENSURE THAT, REGARDLESS OF GOVERNMENTS' DOMESTIC ECONOMIC, OR STRATEGIC INTERESTS—OR THE NATIONALITY, RACE, OR STRATEGIC IMPORTANCE OF REFUGEES—THE RIGHT TO ASYLUM AND REFUGEE PROTECTION REMAINS INTACT INTO THE TWENTY-FIRST CENTURY.

Relevant Human Rights Watch reports:

DEMOCRATIC REPUBLIC OF CONGO: CASUALTIES OF WAR: CIVILIANS, RULE OF LAW, AND DEMOCRATIC FREEDOMS, 3/99

CROATIA: SECOND CLASS CITIZENS: THE SERBS OF CROATIA, 3/99

GUINEA: FORGOTTEN CHILDREN OF WAR: SIERRA LEONEAN REFUGEE CHILDREN IN GUINEA, 7/99

INDONESIA: THE VIOLENCE IN AMBON, 3/99

TANZANIA: IN THE NAME OF SECURITY: FORCED ROUND-UPS OF REFUGEES IN TANZANIA, 7/99

UNITED STATES: DETAINED AND DEPRIVED OF RIGHTS: CHILDREN IN THE CUSTODY OF THE U.S. IMMIGRATION AND NATURALIZATION SERVICE, 12/98

FEDERAL REPUBLIC OF YUGOSLAVIA: ABUSES AGAINST SERBS AND ROMA IN THE NEW KOSOVO, 9/99