

# WOMEN'S HUMAN RIGHTS

EVENTS IN 1999 PROVIDED CLEAR EVIDENCE THAT, WITH THE RISE OF CIVIL CONFLICTS IN WHICH CIVILIANS ARE OFTEN THE PRIMARY TARGETS, WOMEN'S RIGHTS ARE EVER MORE AT RISK. DESPITE SIGNIFICANT GAINS IN SECURING INTERNATIONAL CONDEMNATION OF THE HORRORS TYPICALLY VISITED ON WOMEN IN CONFLICT ZONES, ASSAULTS ON WOMEN WERE USED AS A WEAPON OF WAR IN EVERY CONFLICT WAGED IN 1999. IN KOSOVO, SERBIAN PARAMILITARIES SEXUALLY ASSAULTED DOZENS OF WOMEN, DRIVING KOSOVAR ALBANIANS FROM THEIR HOMES. WITH BOSNIA STILL A FRESH MEMORY, OFTEN THE MERE THREAT OF RAPE WAS ENOUGH TO SEND PEOPLE ACROSS THE BORDER INTO ALBANIA OR MACEDONIA. REPORTS FROM ALGERIA, EAST TIMOR, SIERRA LEONE, AND BOSNIA INDICATED THAT WHERE FIGHTING RAGED, WOMEN WERE RAPED; WHERE CONFLICTS SUBSIDED, WOMEN LOOKED FRUITLESSLY FOR PROTECTION, HELP, AND JUSTICE; AND WHERE CONFLICTS ENDED, WOMEN'S HOPES FOR IMPROVED RIGHTS MET WITH DISINTEREST AND DENIAL.

FOR WOMEN COPING WITH CONFLICT AND ITS AFTERMATH, 1999 WAS A CROSSROADS. ON THE ONE HAND, WOMEN'S HUMAN RIGHTS ACTIVISTS MADE REAL PROGRESS IN SECURING MECHANISMS FOR VINDICATING WOMEN'S HUMAN RIGHTS. BUILDING ON THE GAINS OF THE INTERNATIONAL CRIMINAL COURT WITH ITS STRONG PROHIBITIONS AGAINST GENDER-SPECIFIC VIOLENCE, ACTIVISTS WON STATES' AGREEMENT IN MARCH TO CREATE A MEANS FOR WOMEN TO REPORT SPECIFIC HUMAN RIGHTS VIOLATIONS TO THE UNITED NATIONS, WITH THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW). FOLLOWING THE FIRST CONVICTION FOR RAPE AT THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (ICTR), PROSECUTORS BROUGHT ADDITIONAL RAPE CHARGES AGAINST SENIOR RWANDAN POLITICAL AND MILITARY FIGURES. OVERALL, SEXUAL VIOLENCE AGAINST FEMALE CIVILIANS IN CONFLICT WAS PERHAPS THE MOST WIDELY REVILED ABUSE OF WOMEN'S HUMAN RIGHTS, ACKNOWLEDGED AND DENOUNCED BY GOVERNMENTS AND U.N. OFFICIALS ALIKE.

AT THE SAME TIME, IMPROVEMENTS IN THE STANDARDS FOR PROTECTING WOMEN'S HUMAN RIGHTS MADE NO DIFFERENCE FOR WOMEN IN MANY COUNTRIES, PERHAPS IN PART BECAUSE THE GAINS WERE NEW, BUT ALSO BECAUSE PROTECTING WOMEN FROM ABUSES WAS RARELY A PRIORITY. AS CONFLICTS RAGED AROUND THE GLOBE, VIOLENCE AGAINST WOMEN REMAINED A WEAPON OF COMBATANTS. IN SIERRA LEONE REBEL FORCES DRAGGED WOMEN INTO SEXUAL SLAVERY, RAPING THEM REPEATEDLY AND COMPELLING THEM TO COOK AND CLEAN FOR THEIR ABUSERS. U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS MARY ROBINSON REPORTED EVIDENCE OF WELL-PLANNED ATTACKS, INCLUDING RAPE, ON CIVILIANS IN EAST TIMOR. IN VARIOUS CONFLICTS, WOMEN WERE RAPED, THEN KILLED. OTHERS FACED PERMANENT INJURIES AND LONG-TERM HEALTH RISKS, ESPECIALLY THE THREAT OF HIV/AIDS.

THE VIOLENCE THAT DROVE WOMEN INTO FLIGHT ACROSS BORDERS OR WITHIN THEIR OWN COUNTRIES PLAGUED THEM AS THEY SOUGHT REFUGE—a FACT THAT THE INTERNATIONAL COMMUNITY ADDRESSED ONLY IN FITS AND STARTS IN 1999. FROM REFUGEE CAMPS AROUND THE WORLD, WOMEN REPORTED BOTH SEXUAL AND DOMESTIC VIOLENCE. REFUGEE WOMEN WERE OFTEN DOUBLY VULNERABLE, CONFRONTING BOTH THEIR OWN DISLOCATION AND LACK OF SUPPORT AS WELL AS HOST COUNTRY POLICIES THAT DOWNPLAYED VIOLENCE AGAINST WOMEN, REGARDLESS OF THE VICTIM'S NATIONALITY. IN MARCH 1999, THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) TOOK A STRONGER STAND IN PROMOTING GENDER EQUALITY IN ITS WORK. ITS ANNOUNCED STRATEGY INCLUDED CONSULTING REFUGEE WOMEN ABOUT THEIR IMMEDIATE NEEDS, IMPLEMENTING PROGRAMS TO PREVENT AND RESPOND TO VIOLENCE AGAINST WOMEN, AND RECOGNIZING GENDER-BASED PERSECUTION AS GROUNDS FOR ASYLUM.

Neglect of women's rights continued after conflicts ceased and refugees returned home. Reconstruction efforts in Bosnia and Rwanda, for example, included discrete—and underfunded—programs for women, while failing utterly to address women's human rights in their overall programs. Despite years of decrying the exclusion of women from security and reconstruction efforts, women's rights activists saw their concerns downplayed in the agenda of world leaders attempting to forge a Balkans stability pact.

THE ABUSE OF WOMEN IN CONFLICT WAS ROOTED IN THE PERSISTENT HUMAN RIGHTS VIOLATIONS THAT PUSHED WOMEN INTO A LOWER STATUS WITH LIMITED RIGHTS IN ALL SPHERES OF THEIR LIVES, FROM HOME TO WORK. MANY COUNTRIES CONTINUED TO DENY WOMEN'S EQUALITY AS A MATTER OF LAW OR POLICY IN 1999. IN SOUTH AFRICA, WOMEN MARRIED UNDER CUSTOMARY LAWS REMAINED MINORS, UNABLE TO ENTER INTO ANY LEGAL CONTRACT WITHOUT THE CONSENT OF THEIR HUSBANDS OR GUARDIANS. IN PERU, GOVERNMENT HEALTH PROGRAMS STERILIZED TENS OF THOUSANDS OF POOR WOMEN UNDER COERCIVE OR DECEITFUL CIRCUMSTANCES. AFTER AN AUGUST VISIT TO AFGHANISTAN, THE U.N. SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN CRITICIZED THE TALIBAN'S ACTIVE, ALTHOUGH INCONSISTENTLY ENFORCED, POLICIES THAT DENIED WOMEN BASIC RIGHTS AND PUT THEIR HEALTH AND PHYSICAL SECURITY AT RISK.

DOMESTIC VIOLENCE REMAINED A CRITICAL ISSUE FOR WOMEN WORLDWIDE. THE WORLD HEALTH ORGANIZATION ASSERTED THAT VIOLENCE AGAINST WOMEN CAUSES MORE DEATH AND DISABILITY AMONG WOMEN AGED FIFTEEN TO FORTY-FOUR THAN CANCER, MALARIA, TRAFFIC ACCIDENTS, AND WAR. IN PARTICULAR, SEXUAL VIOLENCE, INCLUDING MARITAL RAPE, WAS DENOUNCED AS A MAJOR CAUSE OF THE RAPID

spread of HIV/AIDS among women. In Kenya, for example, the U.N. estimated that 42 percent of women were battered by husbands or partners. Kenyan laws do not specifically criminalize domestic violence, and offenders were seldom punished. In Pakistan, estimates of spousal abuse ranged as high as 90 percent of all married women. Despite occasional signs of progress—Egypt this year repealed a law allowing rapists to go free if they married their victims, and Peru passed legislation requiring prosecutors to pursue rape cases—everyday violence and discrimination against women remained among the most flagrant and overlooked of human rights abuses.

Where women organized against such injustice, they often did so under threat. In Pakistan, government officials denounced women's rights organizations as purveyors of immorality as part of a broad attack on nongovernmental organizations. In Egypt, the government used a new law regulating NGOs to halt the creation of the Egyptian Women's Union and denied that working on women's issues was a legitimate pursuit.

The following section provides an overview of key developments, positive and negative, for women's human rights in 1999. Our investigations and monitoring throughout the year showed that violence and discrimination against women as committed and tolerated by states remained the norm in the countries in which we worked. Reports from activists and press in other countries confirmed the pattern of abuse of women's rights and underscored the need for urgent attention to the problem.

## Human Rights Developments

### Violence against Women in Conflict

Women's rights were in particular jeopardy during times of armed conflict. During these periods, judicial structures that, according to the law, should both prevent violence against women and respond to it were in disarray, could not be relied on and, in some cases, were controlled by the very people who were instigating or participating in rapes. In every civil conflict in recent memory—including East Timor, Afghanistan, Angola, Indonesia, Sierra Leone, Kosovo, the Mexican state of Chiapas, Algeria, Bosnia, the Democratic Republic of Congo—women were targeted for sexual violence. One of the most promising developments of 1999 was that important international actors such as the United Nations successfully identified gender-specific abuses committed against women at the start of conflicts, rather than not at all or only once those conflict were long over, as had been the pattern in the past. This early recognition, however, was still not matched by vigorous investigation and prosecution of perpetrators of rape, tasks that were often left to post-conflict national authorities.

Only in the last decade—as illustrated most clearly by the internal conflicts in Bosnia and Rwanda—was the argument that rape is merely an unavoidable excess of war discredited. Still, the international community was able to do very little to prevent sexual violence in conflict. In fact, combatants defied international standards prohibiting rape and, in some cases, made sexual assault a deliberate weapon. As a consequence, in 1999 many women were treated as reward for soldiers, targeted for forced marriage and domestic labor, and attacked as substitutes for their male relatives or as symbols of communities' honor and reproductive capacity.

For example, in Sierra Leone women faced severe sexual abuse in that country's eight-year civil war, mainly at the hands of Revolutionary United Front (RUF) rebel forces. In January 1999, RUF rebels launched an offensive against the capital, Freetown, temporarily capturing it from government troops and the soldiers of the Nigerian-led peacekeeping force. During this attack, RUF rebels detained women at base camps, raped them daily for weeks, and forced them to cook and clean for rebel leaders. Some rebels claimed individual women as their "wives," thereby gaining exclusive sexual access to them.

In Serbia's attack on Kosovo, paramilitaries entered the homes of ethnic Albanians and raped women and girls in front of their families or outside in their gardens. Some paramilitaries told women that they were expected to commit rapes as part of the campaign of ethnic cleansing. An unknown number of women and girls died after these attacks. In other instances, Serbian paramilitaries, many of them volunteer irregular soldiers bussed in from Serbia, demanded money from fleeing Kosovar Albanians, threatening to rape, kill, or torture those who did not comply. Dragging women from the road or from shelters, Serb paramilitaries subjected an unknown number of women to gang rapes in forests, in trucks, or along the road. They held women captive for periods ranging from twenty minutes to several days. In some cases,

PARAMILITARIES FORCED WOMEN TO UNDRESS AND SUBJECTED THEM TO PHYSICAL SEARCHES AND INTERROGATIONS. MANY WOMEN FOUND THESE SEARCHES TERRIFYING, FEARING THAT THEY WERE A PRECURSOR TO RAPE. WOMEN REPORTED THAT THE MEN COMMITTING THE RAPES GENERALLY WORE CAMOUFLAGE UNIFORMS AND BLACK MASKS COVERING THEIR FACES. WHILE IT APPEARS THAT PARAMILITARIES COMMITTED MOST OF THE RAPES, HUMAN RIGHTS WATCH ALSO DOCUMENTED AT LEAST TWO CASES IN WHICH REGULAR SERB SOLDIERS COMMITTED RAPE.

IN ALGERIA, ALTHOUGH WOMEN WERE NOT BEING TARGETED FOR SEXUAL VIOLENCE BECAUSE THEY BELONGED TO A CERTAIN ETHNIC GROUP, THEY WERE TARGETED FOR THEIR BELIEFS, THOSE BELIEFS IMPUTED TO THEM, OR THOSE HELD BY THEIR MALE FAMILY MEMBERS. ALGERIAN WOMEN WERE IN DANGER OF SEXUAL ASSAULT AND OTHER VIOLENCE BY MILITANT ISLAMIST GROUPS. THIS ONGOING THREAT WAS GROUNDED IN YEARS OF EFFORTS BY THESE EXTREMIST GROUPS TO CIRCUMSCRIBE WOMEN'S FREEDOM IN ORDER TO DEMONSTRATE THEIR POWER IN SOCIETY. EVER SINCE 1992 WHEN ELECTIONS WERE CANCELED, THESE GROUPS HAD INTIMIDATED, THREATENED, AND ASSAULTED WOMEN FOR INAPPROPRIATE DRESS OR BEHAVIOR. THEY ALSO SLAUGHTERED, KIDNAPPED, RAPED, AND ENSLAVED THEM. INCIDENTS WERE ALSO REPORTED IN WHICH THE SECURITY FORCES, IN THEIR EFFORTS TO QUASH THESE MILITANT ISLAMIST GROUPS, TORTURED AND RAPED WOMEN TO COERCE MALE ALLEGED MEMBERS OF THESE GROUPS TO TURN THEMSELVES IN OR TO EXTRACT INFORMATION FROM THE WOMEN ABOUT MALE FAMILY MEMBERS' WHEREABOUTS.

ALTHOUGH THE LEVEL OF VIOLENCE IN ALGERIA'S CIVIL CONFLICT DROPPED DRAMATICALLY IN 1999, VIOLENCE AGAINST WOMEN REMAINED A CONSTANT FEATURE OF THE CONFLICT. PRESIDENT BOUTEFLIKA INTRODUCED A PARTIAL AMNESTY LAW FOR MILITANTS (THE CIVIL HARMONY LAW) IN JUNE, WHICH WAS ADOPTED BY PARLIAMENT AND THEN ENDORSED IN A NATIONAL REFERENDUM IN SEPTEMBER. TO PRESIDENT BOUTEFLIKA'S CREDIT, THE PROPOSED LAW EXEMPTED FROM THE AMNESTY THOSE RESPONSIBLE FOR RAPE. ASIDE FROM THIS POSITIVE STEP, HOWEVER, PRESIDENT BOUTEFLIKA HAD YET TO ADDRESS MORE SYSTEMATICALLY THE SPECIFIC NEEDS OF WOMEN VICTIMS OF SEXUAL VIOLENCE DURING THE CONFLICT BY ORDERING THE INVESTIGATION OF ALL CASES OF ABDUCTION, RAPE, AND KILLING OF WOMEN AND GIRLS TO ENSURE THAT PERPETRATORS WOULD BE PROSECUTED AND BY ESTABLISHING CENTERS FOR THE PROVISION OF SOCIAL AND PSYCHOLOGICAL SERVICES FOR WOMEN VICTIMS OF THE ARMED CONFLICT.

PART OF THE REASON THAT RAPE AGAINST WOMEN IN CONFLICT SITUATIONS REMAINED SO PERSISTENT WAS THAT GOVERNMENTS CONSISTENTLY FAILED TO HOLD PERPETRATORS ACCOUNTABLE POST-CONFLICT. FOR EXAMPLE, THE FRAGILE JULY PEACE AGREEMENT CRAFTED BETWEEN THE GOVERNMENT OF SIERRA LEONE AND THE RUF MERELY RECOGNIZED THE VIOLENCE THAT WOMEN SUFFERED AND CALLED FOR SPECIAL ATTENTION TO INTEGRATING WOMEN INTO POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT, WHILE, AT THE SAME TIME, GRANTING A BLANKET AMNESTY TO COMBATANTS. ANOTHER EXAMPLE WAS THE AUGUST 1999 PEACE AGREEMENT IN THE DEMOCRATIC REPUBLIC OF CONGO, WHICH OFFERED THE POSSIBILITY OF A CESSATION OF THE CONFLICT IN THAT COUNTRY BUT DID NOT ADDRESS THE SEXUAL VIOLENCE PERPETRATED AGAINST WOMEN DURING THE WAR.

WOMEN RAPED IN CONFLICT HAD TO CONTEND NOT ONLY WITH POST-CONFLICT IMPUNITY FOR WHAT HAPPENED TO THEM, BUT ALSO WITH THE DIRE HEALTH CONSEQUENCES OF RAPE. IN ADDITION TO PSYCHOLOGICAL TRAUMA, PHYSICAL INJURIES, AND SEXUALLY TRANSMITTED DISEASES, SEXUALLY ABUSED WOMEN FACED HIV INFECTION, A POTENTIAL DEATH SENTENCE, ESPECIALLY IN COUNTRIES IN WHICH HEALTH CARE AND MEDICINE WERE SCANT. IN THE DEMOCRATIC REPUBLIC OF CONGO, WHERE VIOLENCE FLORED UP AGAIN IN AUGUST 1999, AND IN SIERRA LEONE'S CIVIL WAR, ARMED GROUPS RAPED WOMEN AND GIRLS, IN SOME CASES INFECTING THEM WITH HIV. SOME OF THESE WOMEN DIED OF AIDS IN 1999. OTHERS DISCOVERED THEIR INFECTION WITH LITTLE HOPE OF TREATMENT.

## **Women Refugees, IDPs, and Asylum Seekers**

THE RANKS OF REFUGEES, INTERNALLY DISPLACED PERSONS (IDPs), AND ASYLUM SEEKERS CONTINUED TO SWELL IN 1999, AS LARGE NUMBERS OF PEOPLE FLED CONFLICT AND PERSECUTION AT HOME AND SOUGHT REFUGE ELSEWHERE. THE NUMBER OF REFUGEES AND INTERNALLY DISPLACED PERSONS ASSISTED BY UNHCR IN 1999 EXCEEDED 21 MILLION PEOPLE. THE POPULATIONS OF REFUGEES AND DISPLACED PERSONS AROUND THE WORLD REMAINED PREDOMINANTLY MADE UP OF WOMEN AND THEIR DEPENDENT CHILDREN. IN MANY SITUATIONS WOMEN FACED PARTICULAR PROTECTION AND SECURITY RISKS IN REFUGEE CAMPS, AS WELL AS THE CHALLENGES OF HEADING HOUSEHOLDS WHILE SUFFERING FROM THEIR DISADVANTAGED STATUS AS WOMEN. REFUGEE WOMEN WERE SUBJECTED TO RAPE, SEXUAL ASSAULT, AND OTHER FORMS OF SEXUAL VIOLENCE. LEVELS OF DOMESTIC VIOLENCE WERE ALSO REPORTED TO BE VERY HIGH IN MANY REFUGEE COMMUNITIES, PERHAPS BECAUSE IN THE REFUGEE SETTING, PRESSURES REGARDING HOUSING, FOOD, SECURITY, AND RESOURCES FURTHER STRAINED DOMESTIC SITUATIONS AND ERUPTED IN VIOLENCE. MOREOVER, EXTENDED NETWORKS OF FAMILY, NEIGHBORS, AND COMMUNITY LEADERS THAT MAY HAVE ACTED AS A DETERRENT TO ABUSE NO LONGER EXISTED IN THE UNFAMILIAR TERRITORY OF REFUGEE CAMPS. IN GENERAL, WOMEN REFUGEES HAD LIMITED OR NO LEGAL RECOURSE FOR SEXUAL AND DOMESTIC VIOLENCE, PARTLY AS A RESULT OF THEIR UNFAMILIARITY WITH

and wariness of local police and judicial authorities and partly because of the lack of proactive, systematic, and sensitive responses by the relevant international and local authorities.

1999 witnessed one of the largest refugee exoduses in Europe since the Second World War. "Ethnic cleansing" and atrocities in Kosovo forced at least 750,000 refugees to flee to neighboring countries. A further 600,000 to 700,000 people remained displaced within Kosovo, forced to travel in circles from village to village for months, often on foot. People hiding in forests inside Kosovo lacked health care. Internally displaced women interviewed after the intervention by North Atlantic Treaty Organisation's peacekeepers in Kosovo, KFOR, described a stark example of the difficulties women suffered during flight: pregnant women delivered outdoors without medical assistance. The overwhelming majority of Kosovar Albanian refugees were women, children, and elderly persons. In the initial weeks of the crisis, those who attempted to flee to neighboring states stumbled into chaos. For women, the international community's lack of preparation was particularly problematic. According to UNHCR, sanitary napkins were made available for women in the camps in Albania or Macedonia, although not until several weeks after the refugee crisis began. On a more positive note, UNHCR and the U.N. Population Fund (UNFPA) did include reproductive health kits in the supplies sent to camps.

In 1998 Human Rights Watch and other rights groups found that Burundian refugee women in Tanzanian camps suffered high levels of rape and domestic violence. In the latter half of 1998 and the first half of 1999, these groups urged UNHCR to adopt and implement policies and procedures that would afford refugee women greater protection from and recourse for sexual and domestic violence. Our research in 1999 found that women were regularly attacked while carrying out routine daily tasks such as gathering firewood, collecting vegetables, or searching for employment from local Tanzanian villagers.

In a particularly serious May 1999 incident that received international press attention, a group of approximately fifty refugee women collecting firewood were reportedly raped by a large group of Tanzanian men. Many of the women were repeatedly raped by multiple assailants, in what was said to be an act of revenge for the death of a local schoolteacher that local villagers blamed on refugees. More than one hundred local villagers were believed to have taken part in the rapes, but only seven men were arrested for the brutal attack. Statistics on rape and domestic violence in the Tanzanian camps in 1999 remained scattered and unreliable, in part because of the high number of unreported cases and the lack of comprehensive reporting mechanisms.

In 1999, UNHCR and its implementing partners began to put into place programs to address the problem of violence against women in the Tanzanian camps. Although UNHCR budget cuts and dwindling support from the international community limited the resources available for implementing programs to protect refugee women in Tanzania, UNHCR received a U.S. \$1.65 million grant from the U.N. Foundation in October 1999, specifically to fund projects to prevent sexual violence against refugee women in several African countries, including Tanzania. From March 1999 onwards, UNHCR began to use this grant to finance a projects to prevent and respond to sexual and gender violence in the Tanzanian camps. At this writing, it was too early to evaluate the impact of these programs on the lives of refugee women.

The year 1999 was also marked by uncertainty and setbacks for women seeking political asylum. For example, Bosnian women temporarily residing in Germany while awaiting an opportunity to testify before the International Criminal Tribunal for the Former Yugoslavia (ICTY) in rape cases, remained vulnerable to deportation to Bosnia. The looming threat of involuntary repatriation forced many potential witnesses to weigh the dangers of testifying against alleged war criminals—some with powerful connections—without a guarantee of resettlement outside Bosnia. Before a witness testified, the ICTY encouraged authorities in her country of temporary residence to extend the validity of her temporary residence permit. However, the ICTY did little or nothing to protect Bosnian women from future dangers stemming from their testimony, even though many women were witnesses in high profile cases and thus faced significant personal risk if they returned to Bosnia.

Women's rights activists decried a June 11, 1999 decision by the United States Board of Immigration Appeals (BIA) that denied asylum to a domestic violence victim. In this case, a Guatemalan woman sought asylum to escape brutal spousal violence from which she claimed the Guatemalan government had failed to protect her. The BIA overturned a grant of asylum on the grounds that, despite her undisputed suffering, she did not establish that she was persecuted on account of her membership in a social group or her political opinion.

In reaching its decision, the BIA refused to recognize a social group based on gender, relationship to an abusive partner, and the asylum seeker's opposition to domestic violence. The BIA also failed to credit her claim that her

HUSBAND'S ABUSE WAS AT LEAST IN PART IN RESPONSE TO HER POLITICAL OPINION THAT HER HUSBAND HAD NO RIGHT TO BEAT HER—REVERSING THE IMMIGRATION JUDGE'S FINDING THAT HER HUSBAND'S VIOLENCE HAD ESCALATED IN RESPONSE TO HER RESISTANCE AND FUTILE ATTEMPTS TO SEEK OFFICIAL AID.

## Post-Conflict Discrimination

WOMEN'S REINTEGRATION INTO SOCIETY POST-CONFLICT WAS OFTEN HAMPERED BY RECONSTRUCTION AND DEVELOPMENT PROGRAMS THAT FAILED TO ADDRESS WOMEN'S RIGHTS OR EXPECTED WOMEN TO RETURN TO TRADITIONAL HOMEMAKER ROLES, REGARDLESS OF THEIR CHANGED CIRCUMSTANCES. DESPITE ASSURANCES MADE IN 1995 AT THE U.N. CONFERENCE ON WOMEN IN BEIJING, MANY GOVERNMENTS CONTINUED TO DISCRIMINATE AGAINST WOMEN DIRECTLY OR TO ALLOW OTHERS TO DO SO UNIMPEDED. WHEN THE OPPORTUNITY AROSE TO REMEDY THIS DISCRIMINATION, PARTICULARLY DURING POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT PERIODS, THE INTERNATIONAL COMMUNITY PASSED IT BY, CHOOSING INSTEAD TO REINFORCE PREVIOUSLY EXISTING PATTERNS OF DISCRIMINATION. AS A CONSEQUENCE, WOMEN FACED MANY BARRIERS IN THEIR ACCESS TO JUSTICE, SERVICES, AND RESOURCES, WITH MANY GOVERNMENTS REFUSING TO RECOGNIZE, LET ALONE REMEDY, THE LAWS AND PRACTICES PERPETUATING WOMEN'S INEQUALITY. WHILE SOME COUNTRIES TOOK POSITIVE STEPS TOWARD ENSURING WOMEN'S EQUALITY, IN GENERAL, PATTERNS OF DISCRIMINATION AGAINST WOMEN SURFACED IN THE LAWS, POLICIES, AND PRACTICES OF GOVERNMENTS AND NONGOVERNMENTAL BODIES AROUND THE WORLD.

AS THE RECONSTRUCTION PROGRAM ENTERED ITS FOURTH YEAR, POST-CONFLICT DISCRIMINATION AGAINST WOMEN CONTINUED IN BOSNIA AND HERZEGOVINA. DONOR GOVERNMENTS AND INTERNATIONAL AGENCIES POURED RESOURCES INTO RECONSTRUCTION EFFORTS, YET WOMEN WERE TYPICALLY OVERLOOKED AND IN SOME CASES DELIBERATELY EXCLUDED FROM THE BENEFITS OF THIS ASSISTANCE. WOMEN THROUGHOUT THE COUNTRY REPORTED THAT PREFERENCES FOR DEMOBILIZED SOLDIERS SIGNIFICANTLY DECREASED WOMEN'S EMPLOYMENT OPPORTUNITIES. DESPITE CRITICISM FROM WOMEN'S ORGANIZATIONS, TRAINING AND JOBS PROGRAMS FOR WOMEN CONTINUED TO FOCUS ON STEREOTYPICAL "WOMEN'S WORK" INCLUDING HAIRDRESSING, KNITTING, AND SEWING.

ON A MORE POSITIVE NOTE, WOMEN'S POLITICAL REPRESENTATION IN THE BOSNIA AND HERZEGOVINA HOUSE OF REPRESENTATIVES JUMPED FROM A POST-WAR LOW OF 2 PERCENT TO 26 PERCENT. THE UNPRECEDENTED INCREASE CAME AFTER THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE) ADOPTED A NEW ELECTION RULE MANDATING THAT AT LEAST THREE OF EACH PARTY'S TOP TEN CANDIDATES BE FEMALE. ACCORDING TO THE OSCE, THE RULE WAS DESIGNED TO "COMBAT THE SYSTEMATIC DISCRIMINATION AGAINST WOMEN WITHIN POLITICAL PARTIES."

IN BOSNIA, WOMEN WERE NOT HIRED FOR THE POLICE DEPARTMENT, MAKING IT MORE DIFFICULT FOR WOMEN TO REPORT RAPE AND DOMESTIC VIOLENCE. HAVING FEMALE POLICE OFFICERS WOULD PROVIDE A CONDUCTIVE ATMOSPHERE FOR INVESTIGATING CRIMES AGAINST WOMEN, ESPECIALLY CASES OF DOMESTIC AND SEXUAL VIOLENCE WHERE VICTIMS OFTEN FEEL UNCOMFORTABLE DISCUSSING THEIR EXPERIENCE WITH MALE OFFICERS. IN KOSOVO, ONE DEVELOPMENT OFFERED HOPE THAT SOME OF THE MISTAKES OF BOSNIA MIGHT BE AVOIDED: THE FIRST CLASS OF KOSOVO POLICE TRAINEES INCLUDED FORTY WOMEN.

IN AFGHANISTAN, THE TALIBAN MILITIA, HAVING GAINED TERRITORIAL CONTROL OF 90 PERCENT OF THE COUNTRY, CONTINUED TO ENFORCE OFFICIAL GENDER-BASED DISCRIMINATION UNPARALLELED IN ITS HARSHNESS. THE DISCRIMINATORY MEASURES IMPOSED BY THE TALIBAN NOT ONLY COMPLETELY MARGINALIZED AFGHAN WOMEN FROM THE MAINSTREAM OF POLITICAL LIFE, THEY PLACED WOMEN'S VERY SURVIVAL, AND THAT OF THEIR FAMILIES, AT RISK. THE ENFORCEMENT OF THE TALIBAN'S STRICTURES ON WOMEN VARIED TO SOME EXTENT IN DIFFERENT AREAS OF THE COUNTRY, BUT THIS GEOGRAPHICAL VARIATION IN ENFORCEMENT WAS LARGELY A MATTER OF DEGREE RATHER THAN SUBSTANCE. THE RESTRICTIONS HAD A SEVERELY DETRIMENTAL EFFECT ON WOMEN'S HEALTH, SECURITY, AND PERSONAL FREEDOMS IN ALL AREAS UNDER TALIBAN CONTROL. IN MOST PARTS OF THE COUNTRY, THE EDUCATION OF GIRLS AND THE EMPLOYMENT OF WOMEN OUTSIDE THE HEALTH SECTOR REMAINED BANNED OR SEVERELY RESTRICTED. IN SOME AREAS, HOWEVER, HOME- OR MOSQUE-BASED EDUCATION FOR GIRLS WAS REPORTEDLY PERMITTED. IN MOST AREAS, WOMEN COULD NOT APPEAR IN PUBLIC WITHOUT A BURQA, A GARMENT THAT CLOAKS THE HEAD, FACE, AND BODY. WOMEN'S FREEDOM OF MOVEMENT WAS SEVERELY CURTAILED AS THEY WERE GENERALLY REQUIRED TO APPEAR IN PUBLIC ESCORTED BY A MALE RELATIVE OR MAHRAM. PUNISHMENTS FOR VIOLATIONS OF THESE EDICTS WERE EXTREMELY HARSH AND FREQUENTLY INCLUDED WHIPPING AND BEATING BY MEMBERS OF THE TALIBAN.

IN RWANDA, HOPES FOR PROMOTING WOMEN'S RIGHTS TO EQUALITY BEFORE THE LAW IN THE AREA OF PROPERTY OWNERSHIP AND INHERITANCE WERE RAISED AND THEN DASHED. IN JUNE 1999 THE RWANDAN PARLIAMENT ADOPTED AN INHERITANCE BILL THAT GUARANTEED WOMEN THE RIGHT TO INHERIT PROPERTY FROM THEIR MALE RELATIVES. BUT THEN RWANDA'S SUPREME COURT, WHICH BY LAW MUST APPROVE ALL NEW LEGISLATION BEFORE IT BECOMES BINDING AND ENFORCEABLE, OPPOSED THE INHERITANCE BILL AND REFERRED IT BACK TO PARLIAMENT FOR FURTHER DELIBERATIONS.

THE SUPREME COURT'S FAILURE TO APPROVE THE BILL SLOWED DOWN THE LEGAL REFORM PROCESS THAT RWANDA HAD INITIATED TO ADDRESS THE INEQUALITY WOMEN FACED IN THE AREA OF PROPERTY RIGHTS. CUSTOMARY INHERITANCE PRACTICE MADE IT DIFFICULT FOR WOMEN TO OWN OR INHERIT PROPERTY. THESE CUSTOMARY RULES PRESENTED PARTICULAR PROBLEMS FOR WIDOWS WHOSE HUSBANDS WERE KILLED DURING THE 1994 GENOCIDE. MANY WIDOWS WERE DISPOSSESSED OF THEIR HOUSES AND OTHER PROPERTY BY THEIR HUSBANDS' MALE RELATIVES, WHO WERE CONSIDERED THE LEGITIMATE HEIRS UNDER CUSTOMARY LAW. EFFORTS BY RWANDAN LEGAL RIGHTS GROUPS TO ASSIST WOMEN TO RECLAIM THEIR HOUSES AND OTHER PROPERTY OFTEN PROVED FUTILE.

AS THE RWANDAN EXAMPLE DEMONSTRATES, DISCRIMINATION AGAINST WOMEN IN POST-CONFLICT SETTINGS OFTEN REFLECTED THE DISCRIMINATION WOMEN ENDURED DURING TIMES OF PEACE, PARTICULARLY DISCRIMINATION WITHIN THE FAMILY, EITHER BY LAW OR BY PRACTICE.

## Women's Status in the Family

GUARANTEES OF EQUAL RIGHTS AND PROTECTION UNDER THE LAW DID NOT PREVENT DISCRIMINATION AGAINST WOMEN IN THE FAMILY. DESPITE GOVERNMENTS' PROMISES TO GUARANTEE WOMEN'S EQUALITY AND FULL RIGHTS UNDER THE CONSTITUTIONS OF THEIR COUNTRIES, GOVERNMENTS DENIED WOMEN LEGAL FREEDOM TO ACHIEVE SUCH RIGHTS. IN MANY COUNTRIES STATUTORY RESTRICTIONS CURTAILED, AMONG OTHER THINGS, WOMEN'S ABILITY TO INHERIT PROPERTY, CONTRACT MARRIAGE, AND SEEK DIVORCE. IN SOUTH AFRICA, WOMEN MARRIED UNDER CUSTOMARY LAW WERE STILL CONSIDERED MINORS AND COULD NOT ENTER INTO ANY LEGAL CONTRACT WITHOUT THE CONSENT OF THEIR HUSBANDS OR GUARDIANS. IN INDIA, SYRIA, AND PAKISTAN WOMEN WERE DISCRIMINATED AGAINST IN DIVORCE AND INHERITANCE LAWS.

IN A STRIKING SETBACK, ZIMBABWE'S HIGHEST COURT RULED IN FEBRUARY IN *MAGAYA VS. MAGAYA* THAT WOMEN WERE PERPETUAL MINORS WITHOUT THE LEGAL CAPACITY TO INHERIT PROPERTY AND THAT IT WAS NOT CONTRARY TO THE ANTI-DISCRIMINATION CLAUSE OF THE ZIMBABWEAN CONSTITUTION TO GIVE PREFERENCE TO MALE HEIRS IN INHERITANCE RIGHTS. VENIA MAGAYA, THE ELDEST DAUGHTER OF SHONIWA LENNON MAGAYA, WHO DIED INTESTATE, WAS DENIED THE RIGHT TO INHERIT HER FATHER'S HOME ON THE BASIS THAT CUSTOMARY LAW PROHIBITS A WOMAN FROM BEING THE HEIR TO HER FATHER'S ESTATE IF THERE IS A MALE HEIR, IN THIS CASE A YOUNGER SON FROM A POLYGAMOUS SECOND MARRIAGE.

THE ZIMBABWEAN CONSTITUTION'S ANTI-DISCRIMINATION CLAUSE DID NOT APPLY TO CUSTOMARY LAW. THIS CONSTITUTIONAL LIMITATION EFFECTIVELY UNDERCUT WOMEN'S RIGHTS AND STATUS IN THE FAMILY, ESPECIALLY IN INSTANCES WHERE CUSTOMARY LAW GOVERNED CASES OF MARRIAGE, DIVORCE, INHERITANCE, AND OTHER PERSONAL MATTERS. THE *MAGAYA* CASE WAS MET WITH OUTRAGE BY WOMEN'S GROUPS IN ZIMBABWE, WHO CONSIDERED IT A MAJOR SETBACK IN THEIR EFFORTS TO ACHIEVE EQUAL STATUS FOR WOMEN UNDER THE LAW. THE OFFICIAL RESPONSE TO THIS OUTRAGE CONSISTED OF A MAY LETTER FROM THE ASSISTANT REGISTRAR OF THE SUPREME COURT, WHO CHARACTERIZED THE REACTIONS OF WOMEN'S RIGHTS GROUPS AS UNFOUNDED AND EMOTIONAL, AND WHO THREATENED TO CHARGE ZIMBABWEAN LAWYERS PUBLICLY PROTESTING THE DECISION WITH CONTEMPT OF COURT.

IN OTHER SETTINGS, HOWEVER, WOMEN WERE ABLE TO OVERTURN SIMILARLY DISCRIMINATORY LAWS. AS A RESULT OF A CASE BROUGHT BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR), BY MARIA EUGENIA MORALES DE SIERRA, REPRESENTED BY THE CENTER FOR JUSTICE AND INTERNATIONAL LAW (CEJIL), IN 1999 GUATEMALA AMENDED OR REPEALED TWELVE PROVISIONS OF ITS CIVIL CODE THAT DISCRIMINATED AGAINST WOMEN IN THE FAMILY, INCLUDING A STATUTE THAT PREVENTED A WOMAN FROM WORKING OUTSIDE THE HOME WITHOUT HER HUSBAND'S PERMISSION. WHILE THESE REFORMS WERE LONG OVERDUE AND MUCH CELEBRATED, THEY WERE EXCLUSIVELY DIRECTED AT THE STATUTES AT ISSUE IN THE MORALES DE SIERRA CASE AND DID NOT ADDRESS THE MAJORITY OF THE REFORMS SOUGHT BY WOMEN'S RIGHTS GROUPS IN THEIR 1998 AND 1999 PROPOSALS TO CONGRESS. MOREOVER, WOMEN'S RIGHTS GROUPS AND CEJIL CRITICIZED SOME OF THE REFORMS AS NOT HAVING GONE FAR ENOUGH EVEN IN ADDRESSING THE PROBLEMS IDENTIFIED BY THE MORALES DE SIERRA CASE, PARTICULARLY WITH REGARD TO ENSURING THAT WOMEN COULD PARTICIPATE MEANINGFULLY IN THE ADMINISTRATION OF PROPERTY AND ACT AS MEANINGFUL REPRESENTATIVES OF THE MARITAL UNION. AT THE TIME OF THIS WRITING, CEJIL WAS URGING THE IACHR TO ISSUE A FINAL REPORT ON GUATEMALA'S COMPLIANCE WITH THE AMERICAN CONVENTION ON HUMAN RIGHTS, AND WOMEN'S RIGHTS GROUPS WERE CONTINUING TO CALL FOR BROADER REFORMS.

IN MOROCCO, WOMEN'S RIGHTS ACTIVISTS CONTINUED THEIR STRUGGLE TO REFORM THE FAMILY CODE, WHICH BLATANTLY DISCRIMINATED AGAINST WOMEN WITH RESPECT TO LEGAL CAPACITY, MARRIAGE, DIVORCE, CHILD CUSTODY, AND INHERITANCE. THE FAMILY CODE GRANTED DIFFERENT RIGHTS TO WOMEN AND MEN, AND CONSISTENTLY RENDERED WOMEN'S AUTONOMY SUBJECT TO MALE GUARDIANSHIP AND AUTHORITY.

MOROCCAN WOMEN'S INEQUALITY IN MARRIAGE BEGAN BEFORE THEIR UNIONS WERE FINALIZED. WHILE MEN OVER THE AGE OF EIGHTEEN WERE NOT REQUIRED TO SEEK PERMISSION TO MARRY, WOMEN OF ANY AGE HAD TO OBTAIN THE PERMISSION OF A MALE GUARDIAN IN

contracting marriage. The Moroccan Family Code required that a woman obey her husband and submit to his authority. Men could divorce their wives without cause or a court proceeding, while women had to have specific grounds and court approval.

Moroccan law classified rape as a crime of morality and not a crime against bodily integrity. Because rape was considered a crime against honor, the law allowed rapists to go unpunished when they married their victims. Moroccan family law did not grant women the same rights as men to make decisions about the upbringing of their children. The law denied divorced women legal guardianship of their children even when they acted as custodial guardians. Where the mother had a custodial guardianship of her children, she risked losing custody should she remarry or establish residence in another city.

Women were married without their consent, forced to undergo virginity exams, denied access to divorce and to child custody, and left virtually without recourse in situations of domestic violence. Moreover, although women's political rights and their access to education and employment were in theory protected by Moroccan law, discrimination in the family code limited women's autonomy and thus created obstacles to women's full enjoyment of these rights.

Two years after the victory of the opposition in the 1997 parliamentary elections, the socialist government's pledge to address the plight of Moroccan women had yet to materialize in significant steps to eliminate discrimination against women. In a July speech made shortly after King Mohammed VI succeeded his father, the king expressed his support for a draft bill to strengthen women's rights. The bill sought to outlaw polygamy, raise the legal age of marriage for girls, and give divorcees and widows the right to half of their husband's property. Women activists welcomed King Mohammed's speech, describing the draft bill proposed by the government as "long overdue."

## State Response to Violence against Women

In 1999, Human Rights Watch continued to investigate the state response to sexual assault and domestic violence against women in Peru, Russia, South Africa, and Pakistan. We also monitored the state response to "honor killings" in Jordan and to the sexual abuse of female prisoners in the United States. Despite some positive efforts by state and non-state actors, abuses against women were carried out frequently and with virtual impunity, as states largely failed to fulfill their obligations to prevent and provide redress for such crimes. States were particularly negligent in addressing violence in the family. This problem received widespread international attention in recent years, but concrete action was slow in coming. Japan, for example, only began to consider specific legislation and support services to combat domestic violence in mid-1999. There were also disturbing indications that such violence was increasing. UNICEF reported in 1999 that violence against women was rising in post-communist countries as economic crises increased women's financial dependence upon men. In many of these states, domestic violence was not prohibited by law and marital rape was not recognized as a crime. Speaking on a more global level, in her 1999 report to the U.N. Commission on Human Rights, the special rapporteur on violence against women noted the "growing prevalence of violence against women generally and domestic violence specifically," and concluded that "[o]verwhelmingly, states are failing in their international obligations to prevent, investigate and prosecute violence against women in the family."

In a move that women's rights NGOs applauded as long overdue, Peru promulgated a rape law that made the prosecution of rape cases mandatory. Until the adoption of this law, the government was obligated to prosecute rape only when the victim was under fourteen years old or when the rape was aggravated. Women victims of sexual violence were thus often denied legal redress. The woman, rather than the state, was the named party in the suit against the perpetrator. Since women were frequently unfamiliar with the legal system, could not afford to hire a lawyer, and could not bear the emotional and financial cost of being the engine behind the prosecution of their case, rape prosecutions were frequently dropped. Peru's new law labeled rape a serious crime that harms not just the individual woman, but all of society. At this writing, however, it was too soon to judge the effectiveness of this new legislation. Peruvian NGOs were monitoring its implementation closely and cautioned against premature celebration, noting that, especially with regard to women's rights, the government has failed to enforce vigorously laws that protect women from domestic violence, laws that guarantee women access to free medical exams for the documentation of domestic or sexual violence, and laws that guarantee mothers child support during separation or divorce.

In Russia, where women continued to be subject to domestic violence, attempts to pass national legislation on the topic failed, and little was done to improve the state response to the abuse. The federal government did not make financial resources available for combating violence against women. Activists, expressing frustration with the lack of progress nationally, focused their attention on local level initiatives, establishing cooperative links with local law enforcement, city officials, and journalists. The number of nongovernmental crisis centers grew across the country, while the few existing government-sponsored centers and shelters closed due to budget cuts. Crisis center leaders traveled throughout Russia, training judges, police, and activists on rape and domestic violence issues. The Russian Association of Crisis Centers for Women officially registered in 1999 and held a national meeting in September to coordinate its activities. But according to crisis center workers, despite educational campaigns and continuing advocacy, police still failed to report cases of rape and domestic violence, and few such cases made it to court.

As South Africa celebrated its fifth year of democratic rule, it continued to face staggering levels of domestic and sexual violence against women. In a 1999 study by the South African Medical Council, 25 percent of the women interviewed in three rural provinces had been assaulted by an intimate partner. Victims of rape and domestic violence confronted significant obstacles to legal redress. Even at a handful of new one-stop rape crisis centers, women were often unable to receive adequate examinations by forensic doctors, whose reports were needed for a legal case. These doctors were criticized—by NGOs and the head of forensic medicine at a leading South African medical school—for being poorly trained and often biased against rape victims. Proposals for reform of the forensic medical service moved forward only slowly. On National Women's Day, President Mbeki tied judgment of the country's progress toward total liberation to advancement in combating violence against women. Still, to the dismay of women's groups, South Africa's ground-breaking 1998 Domestic Violence Act languished, its implementation delayed, according to the government, by the cost of drafting regulations and training personnel to implement the legislation in the courts. At this writing, the government was still using a flawed 1993 domestic violence law.

In Pakistan, it was estimated that eight women were raped every twenty-four hours and 70 to 95 percent of women had experienced domestic or familial violence. Extreme forms of familial violence included so-called honor killings and bride burnings, with both practices claiming the lives of hundreds of women every year. In April 1999, Samia Sarwar was gunned down in a much publicized honor killing at the behest of her parents for seeking a divorce. Other women were attacked, by or at the instigation of family members, for choosing their spouses. The government appeared uninterested in combating impunity for these acts. Women victims of violence who turned to the criminal justice system confronted a discriminatory legal regime, venal and abusive police, untrained doctors, incompetent prosecutors, and skeptical judges. As a result, few women reported crimes of violence, and fewer still saw their attackers punished. In the case of Sarwar's murder, a police report was registered, but as of October 1999 her killers remained free despite exceptionally strong and credible evidence against them. In August 1999, Pakistan's Senate refused even to consider a resolution sparked by Sarwar's murder condemning the practice of honor killing, sending a clear message of government acquiescence in the climate of impunity surrounding acts of violence against women.

Honor killings continued to plague women in Jordan, too, where seventeen women were killed in the name of "family honor" from January to mid-October 1999. According to Jordanian government statistics, since 1994 there were on average between twenty-five and thirty honor killings annually, constituting approximately one third of the country's homicides. Articles 340 and 98 of the Jordanian Penal Code exempted or reduced the punishment for murder when a woman was killed in the name of honor, and this legal bias was compounded by inadequate investigations and lenient sentences. In July 1999 a Ministry of Justice committee recommended to the Cabinet elimination of article 340 of the Penal Code, and in September 1999 the Cabinet approved the proposed amendment from the Ministry of Justice sending the proposal to Parliament for review. In addition official sources indicated that article 98 would be amended to eliminate the exemption from prosecution it offered to males who killed in the name of family honor.

While activists welcomed these legal reforms, they continued to organize to demand greater and more immediate accountability for these crimes. For example, in August 1999 Jordanian activists launched a national campaign in which they gathered over 9,000 signatures to call for the government to abolish laws protecting men who kill female family members in the name of honor. Activists also called for the government to adopt better means of protecting women from honor crimes. Official efforts to protect women threatened by their families consisted of placing them into the protective



CUSTODY OF PRISONS OR OTHER CORRECTIONS FACILITIES. Official statistics indicated that fifty to sixty women were placed in administrative detention each year for periods ranging from a few months to over three years. Treated as minors, these women were prohibited from leaving the facility. In 1998, the government established a family protection unit within the Public Security Directorate to handle crimes committed within the family, including crimes of honor. But more than one year later it operated only one office and remained largely unknown to the public.

In the United States, officials began to pay more attention to the problem of custodial sexual misconduct and, in some cases, to address it through legislative reforms and improved oversight. Human Rights Watch's research demonstrated that poorly-designed mechanisms within the prison system to detect, investigate, and remedy custodial sexual violence contributed to silence about and impunity for such abuses. In June 1999, a major U.S. government report on sexual misconduct by corrections staff in the Federal Bureau of Prisons, the California Department of Corrections, the Texas Department of Criminal Justice, and the correctional system of the District of Columbia confirmed that the problem had not been eradicated. The report also found that the four corrections departments studied lacked reliable, comprehensive data to describe the number, nature, and outcomes of staff-on-inmate sexual misconduct allegations, rendering it impossible to know the full extent of the problem.

Human Rights Watch continued to receive reports of custodial sexual misconduct and sexual assaults in the United States, in both state and federal prisons, including at the Federal Correctional Institution in Dublin, California, where the Federal Bureau of Prisons agreed to re-evaluate the screening and training of guards to prevent sexual abuse as part of a civil settlement reached in 1998. In Florida, a woman who complained of sexual harassment and abuse by corrections staff committed suicide in October 1998 after being placed in solitary confinement, reportedly for being branded a "troublemaker" by guards. Gov. Jeb Bush named an independent investigator to the case in January. Laws in six states were either passed or put into effect in 1999 criminalizing custodial sexual misconduct in prisons, although the new West Virginia law was seriously flawed, permitting the prosecution of the inmate as well as the corrections officer. Eight states still did not have laws criminalizing custodial sexual misconduct, including Oregon, where a proposed bill on the topic was defeated in the state legislature.

## Women Workers

The International Labour Organisation estimated that in ten years 80 percent of all women in industrialized countries and 70 percent globally would work outside the home. As the numbers of women in the labor market swelled, their disproportionate responsibility for uncompensated domestic labor did not diminish. On average, in a review of the issue in selected developing countries, the United Nations Development Program (UNDP) reported that women's work burden was 113 percent that of men. In industrialized countries, women's share was 105 percent that of men. Nonetheless, women's wages lagged behind male earnings worldwide.

In 1999 women continued to face discriminatory hiring practices, sexual harassment, and even violence in the workplace. The U.S. government, for example, reported that murder continued to be the leading cause of women's death in the workplace. In Mexico, the government sidestepped its duty to protect women in the export-processing (maquiladora) sector from corporate discrimination. Human Rights Watch's research in 1998 and 1999 demonstrated that corporations operating in this sector subjected virtually all women applicants to pregnancy exams or other methods of determining pregnancy status as a condition of work; denied employment to those who were pregnant; and put those who became pregnant after being hired at risk of being fired. These problems continued despite local, national, and international efforts to improve conditions in the maquiladoras.

In 1999, as a part of a Human Rights Watch-initiated review under the labor rights side agreement of the North American Free Trade Agreement (NAFTA), the United States engaged Mexico in ministerial-level consultations on the issue of pregnancy-based sex discrimination against women. One component of the ministerial consultation agreement was a trilateral conference in Mérida, Yucatán, in March 1999. At that conference, Mexico continued to vacillate on the issue of women's right to equality in the labor force. Mexican officials avoided the issues under consideration, disseminated misinformation, and denied their labor law obligations. In one such episode, the Mexican government at long last admitted that pre-hire pregnancy testing violated its labor law, but then undermined the significance of its admission by justifying pregnancy testing as long as it was intended to protect the woman's reproductive health or the health of her fetus. In

fact, no provision of Mexico's labor code allowed this exception. Despite excellent organization and planning by local women's NGOs, the NAFTA process in this case produced only slim results in 1999. In contrast to the slow progress of the NAFTA process, two days after being sworn in as Mexico City's first female mayor at the end of September 1999, Rosario Robles signed into force a new law that would punish Mexico City businesses that required women to take a pregnancy test before being hired. This addition to the penal code established prison sentences for those breaking the law.

Human rights violations continued for women trapped in forced labor throughout the world. Through coercion, deception, and debt bondage, traffickers held women in involuntary servitude and slavery-like conditions. Trafficking of women from Thailand to Japan remained a large-scale problem in 1999, as thousands of women from Thailand traveled to Japan to work. Although their initial decisions to migrate were voluntary, the vast majority found themselves trapped in debt bondage and forced into prostitution by the agents who facilitated their travel. Recruiters and agents regularly deceived women about the nature of the work, wages, debt amounts, and/or working conditions. Once in Japan, women were given no choice over their occupation or terms of employment. While in debt, women could not refuse clients or clients' demands and received no compensation for their labor. Agents and traffickers enforced the repayment of debts through abusive tactics such as passport deprivation, illegal confinement, physical violence, and threats of "resale" into renewed levels of debt.

The government of Japan, as in many other destination countries, approached trafficking as an immigration problem, summarily deporting women found working illegally. In rare cases, the Japanese government prosecuted abusive traffickers and agents for employing illegal aliens. But victims of trafficking did not have access to justice or compensation for the severe human rights violations they had suffered while in Japan. And while Thai government officials helped women return to Thailand, they made no effort to assist them in seeking redress for labor or other human rights violations.

U.S. government sources estimated that between 45,000 and 50,000 women and children were trafficked into the United States in 1999. In Atlanta, Georgia, U.S. federal law enforcement officials brought indictments against thirteen ringleaders of a nation-wide trafficking network. Federal prosecutors alleged that the traffickers had brought hundreds of young women and girls from Asia to work in forced prostitution in cities throughout the United States. According to press accounts, traffickers held the women in debt bondage, forcing them to perform approximately six hundred sex acts without salary before their debt was cleared. According to a reporter familiar with the case, most, if not all of the women and girl trafficking victims in the case were deported.

In many trafficking cases in the United States, women were arrested, detained, and deported without any opportunity to file charges or demand compensation from employers. In one unusual case in 1999, however, Rogerio Cadena, a trafficker who brought women from Mexico to Florida and placed them in forced prostitution, was ordered to pay U.S. \$1 million in restitution to seventeen women victims.

Trafficking of women into Bosnia and Herzegovina for forced prostitution also surged in 1999. Hundreds of women from the former Soviet Union and Eastern Europe, some of them promised lucrative employment opportunities in West European countries, found themselves sold into slavery-like conditions and held as virtual prisoners in cafe-bars throughout the Federation and Republika Srpska. The women had no legal redress; instead, local law enforcement officials in Bosnia and Herzegovina often forced the women to stand trial, fined them, and deported them across county lines, allowing traffickers to pick them up and sell them to another bar owner.

## **The Role of the International Community**

In 1999, the international community again confronted the challenges of protecting and promoting women's human rights in conflict and post-conflict situations. Although some significant steps were taken toward greater protection of women's rights, the conflict in Kosovo reminded human rights defenders yet again how sexual violence against women paradoxically can be used to rally support for military intervention and yet risk being ignored when holding perpetrators of human rights violations accountable.

### **United Nations**

In a speech commemorating the twentieth anniversary of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Deputy Secretary-General Louise Fréchette recognized how violence and discrimination against women pushes them to society's margins: "Women are more commonly found in part-time work in the informal sector, among

THE UNEMPLOYED AND THE UNDEREMPLOYED. WOMEN'S WORK IN SUBSISTENCE FARMING AND IN FAMILY ENTERPRISES IS IGNORED AND THERE ARE NO SOCIAL SECURITY, HEALTH OR OLD AGE BENEFITS ATTACHED TO SUCH WORK." AWARE OF ITS ROLE IN ENDING THE HUMAN RIGHTS VIOLATIONS THAT REDUCE WOMEN'S STATUS, THE UNITED NATIONS AND ITS VARIOUS PROGRAMS AND AGENCIES CONTINUED THEIR SLOW PROGRESS IN INTEGRATING PROTECTION OF WOMEN'S RIGHTS INTO THEIR WORK. FOR EXAMPLE, THE U.N. FOOD AND AGRICULTURAL ORGANIZATION (FAO) CONDUCTED AN ANALYSIS OF THE IMPACT OF EDUCATION OF WOMEN ON FOOD PRODUCTION AND DETERMINED THAT INCREASING WOMEN'S PRIMARY SCHOOLING ALONE COULD INCREASE AGRICULTURAL OUTPUT WORLDWIDE BY 24 PERCENT. AFTER DETERMINING THAT INFORMATION PROVIDED BY AGRICULTURAL EXTENSION AGENTS TO MALE HEADS OF HOUSEHOLDS IS RARELY CONVEYED TO WOMEN IN THE SAME HOUSEHOLDS, FAO IMPLEMENTED PROGRAMS TO ENSURE THAT WOMEN, PARTICULARLY THOSE CULTIVATING SUBSISTENCE CROPS, RECEIVED INFORMATION AND SERVICES. IN ADDITION, UNESCO ORGANIZED, IN PARTNERSHIP WITH GOVERNMENTAL AND NONGOVERNMENTAL GROUPS, A PAN AFRICAN WOMEN'S CONFERENCE ON A CULTURE OF PEACE IN ZANZIBAR IN MAY TO DESIGN WAYS FOR WOMEN TO INFLUENCE THE MAKING OF POLICY, PARTICULARLY AS THE POLICIES PERTAIN TO CONFLICT PREVENTION, CONFLICT RESOLUTION, AND PEACE BUILDING. THE FINAL ZANZIBAR DECLARATION AND WOMEN'S AGENDA FOR A CULTURE OF PEACE WAS TO BE SUBMITTED TO THE UNITED NATIONS, THE ORGANIZATION FOR AFRICAN UNITY (OAU), AND THE WORLD BANK FOR APPROVAL AND FINANCIAL SUPPORT. AT THE SAME TIME, DIMINISHING VOLUNTARY CONTRIBUTIONS FROM GOVERNMENTS THREATENED TO CLOSE THE INTERNATIONAL RESEARCH AND TRAINING INSTITUTE FOR THE ADVANCEMENT OF WOMEN (INSTRAW), THE ONLY U.N. INSTITUTE FOCUSING EXCLUSIVELY ON WOMEN. THE U.N.'S ABILITY TO GALVANIZE SUCCESSFULLY GOVERNMENT FUNDING TO SAVE INSTRAW HAS TO BE A MEASURE OF ITS COMMITMENT TO PROGRAMS SUPPORTING WOMEN'S RIGHTS.

THE COMMISSION ON THE STATUS OF WOMEN TOOK A SIGNIFICANT STEP TOWARD PROTECTING WOMEN FROM HUMAN RIGHTS VIOLATIONS BY ADOPTING, AFTER FOUR YEARS OF NEGOTIATIONS, AN OPTIONAL PROTOCOL TO CEDAW AT ITS FORTY-THIRD SESSION IN MARCH. THE PROTOCOL, WHICH WAS TO ENTER INTO FORCE AFTER RATIFICATION BY TEN STATES, WOULD ENABLE WOMEN TO SUBMIT CLAIMS OF RIGHTS VIOLATIONS TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, AND WOULD CREATE AN INQUIRY PROCEDURE ENABLING THE COMMITTEE TO INITIATE INVESTIGATIONS INTO SITUATIONS OF GRAVE OR SYSTEMATIC VIOLATIONS OF WOMEN'S RIGHTS. ON OCTOBER 6, 1999, THE U.N. GENERAL ASSEMBLY ADOPTED WITHOUT VOTE THE OPTIONAL PROTOCOL TO CEDAW, THUS OPENING THE PROTOCOL FOR SIGNATURES BY STATES IMMEDIATELY.

THE WORK OF THE TWO AD HOC TRIBUNALS CONTINUED WITH MIXED RESULTS FOR WOMEN. JUDGE NAVANETHEN PILLAY OF SOUTH AFRICA, AUTHOR OF THE LANDMARK 1998 *AKAYESU* DECISION, WAS ELECTED PRESIDENT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (ICTR), BRINGING TO THE POST HER DEMONSTRATED COMMITMENT TO WOMEN'S ISSUES. IN THE WAKE OF THE *AKAYESU* DECISION, PROSECUTORS AMENDED TWO INDICTMENTS TO ADD CHARGES OF RAPE. IN THE *MUSEMA* CASE, AS IN THE *AKAYESU* CASE, THE INDICTMENT WAS AMENDED AFTER THE TRIAL BEGAN. THESE BELATED AMENDMENTS RAISED SERIOUS CONCERNS ABOUT THE INVESTIGATION INTO THE ADMITTEDLY PERVERSIVE SEXUAL VIOLENCE PERPETRATED DURING THE GENOCIDE: DID INVESTIGATORS FAIL TO DOCUMENT SEXUAL VIOLENCE IN A TIMELY MANNER OR DID PROSECUTORS, EVEN WITH SUFFICIENT EVIDENCE, FAIL TO INDICT SUSPECTS FOR SEXUAL VIOLENCE? AMONG THOSE CHARGED WITH RAPE AND GENOCIDE WAS PAULINE NYIRAMASUHUKO, FORMER MINISTER FOR WOMEN'S DEVELOPMENT AND FAMILY WELFARE. NYIRAMASUHUKO, THE FIRST WOMAN TO BE CHARGED WITH RAPE BY THE ICTR, ENTERED A PLEA OF NOT GUILTY. THE ICTR CONTINUED TO STRUGGLE TO ESTABLISH AN EFFECTIVE WITNESS PROTECTION AND ASSISTANCE UNIT, WITH SOME WITNESSES REPORTEDLY REFUSING TO TESTIFY ONCE THEY REALIZED HOW PRECARIOUS PROTECTION MEASURES WERE.

IN CONTRAST TO THE ICTR, THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (ICTY) APPEARED TO HAVE INCREASED ITS CREDIBILITY AMONG WOMEN REPORTING CONFLICT-RELATED VIOLATIONS. WOMEN MEETING AT A JULY CONFERENCE IN VIENNA ON RAPE IN THE KOSOVO CONFLICT EXPRESSED HOPE THAT PERPETRATORS OF SEXUAL VIOLENCE IN KOSOVO WOULD BE BROUGHT BEFORE THE ICTY. HOWEVER, ALL PARTICIPANTS AGREED THAT THE WOMEN VICTIMS AND WITNESSES NEEDED TO BE REPRESENTED BY THEIR OWN COUNSEL TO PROTECT THEIR INTERESTS. WOMEN VICTIMS OF RAPE IN KOSOVO INTERVIEWED BY HUMAN RIGHTS WATCH INDICATED THAT THEY WOULD BE WILLING TO MEET WITH ICTY INVESTIGATORS AND TESTIFY BEFORE THE TRIBUNAL.

AS WITH THE ICTR, THE ICTY STILL HAD NOT CREATED A WITNESS PROTECTION AND ASSISTANCE UNIT WHICH WOMEN TRUSTED. BOSNIAN WOMEN SCHEDULED TO TESTIFY BEFORE THE ICTY ON RAPE CHARGES TOLD HUMAN RIGHTS WATCH THAT THEY HAD NO LUCK SEEKING HELP WITH IMMIGRATION CLAIMS AND RELOCATION ISSUES. WITH THE THREAT OF FORCED REPATRIATION HANGING OVER THEIR HEADS, WITNESSES TEMPORARILY RESIDING IN GERMANY AND OTHER THIRD COUNTRIES FEARED WHAT THEY PERCEIVED AS THE POTENTIALLY DEADLY CONSEQUENCES OF TESTIFYING WITHOUT A GUARANTEE THAT THEY WOULD NOT BE FORCIBLY RETURNED TO BOSNIA. IN INTERVIEWS WITH WOMEN LIVING IN GERMANY, HUMAN RIGHTS WATCH FOUND THAT THEIR IMMIGRATION STATUS WAS SO UNCERTAIN THAT IN AT LEAST ONE CASE, A WITNESS MOVED TO A THIRD AND DISTANT COUNTRY OFFERING MORE PERMANENT IMMIGRATION STATUS. IN GERMANY, THE POLICY

was that once a witness had testified, she had to return home. Until she testified, the ICTY would send letters to the local bureau for aliens and the local police encouraging the extension of her temporary permit to remain in the country. But the ICTY did nothing to consider the long-term implications of testifying for these women.

The disparate response of the international community to crises—which varied according to geographic location and, in particular, the skin color of the victims—became glaringly apparent when the Kosovo conflict erupted, forcing hundreds of thousands of Kosovar Albanians to seek refuge across international borders. UNHCR was inundated with funds to provide for the refugees, and the media tracked its every move. This contrasted sharply with the inattention of the international community and media to ongoing and larger refugee crises in Africa. Yet UNHCR demonstrated in Kosovo that, if adequately resourced, it could respond better to these crises and the specific protection needs of women refugees.

For Burundian women languishing in Tanzanian refugee camps, however, improved protection by UNHCR was slow in coming. UNHCR largely ignored sexual and domestic violence in the emergency phase of the camps and later responded to the problems in an ad hoc manner. Only in the first half of 1999 did UNHCR adopt a more comprehensive and coordinated response to violence against women in the camps. In February 1999, Human Rights Watch met with UNHCR staff in Geneva to discuss UNHCR's response to sexual and domestic violence in the Tanzanian camps and to underscore the need to better implement UNHCR's policies on protecting refugee women in all refugee settings and to adopt policies addressing domestic violence. At that meeting, UNHCR officers acknowledged that domestic and sexual violence were a serious problem in Tanzanian camps.

UNHCR's new protection initiatives included providing firewood to vulnerable refugees, i.e., unaccompanied minors living alone, unaccompanied elderly men and women, elderly couples, handicapped and terminally ill persons, trauma victims, and some single female and male heads of household. UNHCR also reportedly initiated food distribution systems designed to improve women's access to food. UNHCR provided some victims of domestic violence with alternative shelter on a short-term basis, and strengthened ongoing community education on gender violence and counseling services to victims of sexual attacks. In late 1999 UNHCR also recruited two Tanzanian lawyers to assist refugee women victims of rape in pursuing their cases in court. Although at this writing it was still too early to evaluate the impact of UNHCR's programs in the Tanzanian camps, these efforts were evidence that, with staff training, institutional commitment and support, and sufficient funding and resources, UNHCR could design programs that could better respond to the needs of refugee women. Nevertheless, the contrast between UNHCR's response to Kosovar refugees and Burundian refugees highlighted the need for the international community and UNHCR to respond effectively to all crises.

In this context, the U.N. recognized with a May policy statement its failure to provide adequate protection for women in times of humanitarian crises, especially armed conflict. The U.N. Inter-Agency Standing Committee, the coordinating body for major humanitarian agencies, committed itself to improving the U.N.'s response to such crises, in part by including women in the decision making process.

## **European Union**

The European Union focused increased attention on violence against women in 1999, declaring a campaign against violence against women in Western Europe. As part of the campaign, the European Commission supported a comprehensive study on the prevalence of domestic violence in the region. The commission also funded a meeting on rape as a war crime in Kosovo, which brought together activists and experts from the Balkans, other parts of Europe, and the United States.

Other developments, however, were not so positive. The Balkan Stability Pact Summit for South Eastern Europe, held in July in Sarajevo and attended by President Clinton and fifty other world leaders, was designed to develop a comprehensive strategy for political stability and economic reform in the Balkans. But women's groups in the region, and even in the Sarajevo office of the OSCE, protested that planners had left women off the agenda and excluded them from the meeting. An appeal signed by women's human rights activists throughout the region demanded "an equal and active role for women in the development and implementation" of the pact.

## **Organization for Security and Cooperation in Europe (OSCE)**

The Organization for Security and Cooperation in Europe (OSCE) made some moves to integrate women's human rights into its efforts to monitor human rights violations and develop policies to curtail such abuses. In December 1998, the

PERMANENT COUNCIL ALLOCATED FUNDS FOR GENDER ISSUES AND ACTIVITIES, SUCH AS "WOMEN IN POLITICS" TRAININGS IN KAZAKHSTAN AND POLAND, AND CALLED ON MEMBER STATES TO PROVIDE VOLUNTARY CONTRIBUTIONS FOR STAFFING. THE BRITISH AND SWISS GOVERNMENTS EACH SECONDED A STAFF MEMBER TO SERVE AS GENDER ADVISORS TO THE OSCE, ONE IN WARSAW AND ONE IN VIENNA. A GENDER FOCAL POINT PERSON CONTINUED TO WORK IN THE SECRETARIAT IN VIENNA. THESE GENDER ADVISERS WERE AN IMPORTANT FORCE FOR CHANGE INTERNALLY.

IN THE FIELD, THE PICTURE WAS MIXED. TO SOME EXTENT, HUMAN RIGHTS REPORTING AND FIELD ACTIVITIES INCREASED THEIR ATTENTION TO WOMEN'S HUMAN RIGHTS. IN TAJIKISTAN, A LOCAL OSCE STAFF MEMBER INITIATED A PROJECT WORKING WITH TRAUMATIZED WOMEN SURVIVORS OF THE CIVIL WAR. DURING THE CRISIS IN KOSOVO, FEMALE OSCE HUMAN RIGHTS OFFICERS SUCCESSFULLY DOCUMENTED CASES OF RAPE AND OTHER VIOLATIONS AGAINST WOMEN. THEIR ACHIEVEMENT WAS ALL THE MORE NOTEWORTHY GIVEN THAT NONE OF THE OSCE MONITORS RECEIVED INSTRUCTION IN THE CHALLENGES OF INTERVIEWING FEMALE RAPE VICTIMS AND ONLY 3 PERCENT OF THE OSCE STAFF IN KOSOVO WAS FEMALE.

THE OSCE'S PUBLIC COMMITMENT TO WOMEN'S RIGHTS DID RESULT IN SEVERAL POSITIVE DEVELOPMENTS. THE OSCE HELD A SUPPLEMENTARY HUMAN DIMENSION MEETING ON GENDER ISSUES, WHERE NONGOVERNMENTAL ORGANIZATIONS WERE ALLOWED TO PARTICIPATE ACTIVELY IN CREATING RECOMMENDATIONS FOR THE INSTITUTIONS OF THE OSCE. UNFORTUNATELY, MEMBER STATES DID NOT MAKE FUNDING AVAILABLE IN A TIMELY MANNER FOR THE PARTICIPATION OF BALKAN WOMEN'S RIGHTS ACTIVISTS, LEAVING BOSNIA AND HERZEGOVINA COMPLETELY UNREPRESENTED AND HOBBLING THE DISCUSSIONS ON POST-CONFLICT ISSUES. AT THIS WRITING, IT ALSO REMAINED UNCLEAR WHETHER ANY OF THE CONFERENCE RECOMMENDATIONS WOULD BE IMPLEMENTED. A REVIEW OF RECOMMENDATIONS PROMULGATED AT THE 1997 OSCE MEETING ON GENDER INDICATED THAT FEW OF THOSE RECOMMENDATIONS HAD BEEN PUT INTO EFFECT.

## United States

IN 1999, THE UNITED STATES GOVERNMENT'S COMMITMENT TO WOMEN'S RIGHTS AROUND THE WORLD WAS JEOPARDIZED BY TWO COMPETING FOREIGN POLICY CONCERNS: THE DESIRE TO PROMOTE ADVANTAGEOUS ECONOMIC AND STRATEGIC RELATIONS WITH OTHER GOVERNMENTS REGARDLESS OF HUMAN RIGHTS CONSIDERATIONS, AND THE DESIRE TO PROTECT U.S. PRACTICES AT HOME AND ABROAD FROM SCRUTINY AND CRITICISM ON HUMAN RIGHTS GROUNDS. IN THIS CONTEXT OF CONFLICTING INTERESTS, THE GOVERNMENT'S ATTENTION TO WOMEN'S HUMAN RIGHTS WAS OFTEN COMPROMISED.

THE UNITED STATES DEMONSTRATED LEADERSHIP IN THE AREA OF TRAFFICKING, AN ACTIVITY THAT TRAPS HUNDREDS OF THOUSANDS OF WOMEN IN EXPLOITATIVE WORKING CONDITIONS AND DEBT BONDAGE WITH LITTLE LEGAL RECOURSE. IN 1999, THE UNITED STATES PLAYED A CRITICAL ROLE IN CRAFTING A NEW, MARKEDLY IMPROVED INTERNATIONAL PROTOCOL ON TRAFFICKING OF PERSONS. THE PROTOCOL, PROPOSED IN THE PROCESS OF NEGOTIATING A NEW CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME, WOULD CREATE A NEW INTERNATIONAL STANDARD ON TRAFFICKING TO AFFORD TRAFFICKED PEOPLE GREATER RIGHTS AND PROTECTIONS. DURING THE NEGOTIATIONS, THE U.S. ADVOCATED A BROAD, INCLUSIVE DEFINITION OF TRAFFICKING. DESPITE THIS POSITIVE STEP, THE U.S. STOPPED SHORT OF FURTHER ADVANCING TRAFFICKED PEOPLE'S RIGHTS BY FAILING TO PROVIDE SUFFICIENT SUPPORT FOR PROTOCOL PROVISIONS THAT WOULD OFFER GREATER PROTECTIONS TO VICTIMS OF TRAFFICKING, SUCH AS PSYCHOLOGICAL, MEDICAL, LEGAL, AND FINANCIAL ASSISTANCE.

THE ICC STOOD AS THE SINGLE GREATEST HOPE AT THE TURN OF THE MILLENNIUM FOR STRONGER ACCOUNTABILITY FOR VIOLENCE AGAINST WOMEN IN CONFLICT SITUATIONS. HOWEVER, PREOCCUPIED WITH KEEPING U.S. CITIZENS OUTSIDE THE COURT'S JURISDICTION, THE U.S. PLAYED AN OBSTRUCTIONIST ROLE AT THE FEBRUARY AND AUGUST PREPARATORY COMMITTEE MEETINGS FOR DRAFTING THE RULES OF EVIDENCE AND PROCEDURE AND ELEMENTS OF CRIME FOR THE ICC; IT SEEMED INTENT ON EITHER UNDERMINING THE POWER OF THE COURT OR NEGOTIATING A BLANKET AGREEMENT THAT WOULD EXEMPT ANY U.S. NATIONAL FROM BEING TRIED BEFORE IT. MOREOVER, THE U.S. DELEGATION REMAINED A REACTIONARY FORCE IN AREAS THAT DIRECTLY AFFECTED WOMEN'S RIGHTS. FOR EXAMPLE, THE U.S. OBJECTED TO ADOPTING A DEFINITION OF RAPE BASED ON THE *AKAYESU* DECISION OF THE ICTR, INSISTING THAT ANY DEFINITION OF RAPE HAD TO INCLUDE FORCE AND PENETRATION AS ELEMENTS OF THE CRIME. THE U.S. POSITION DISREGARDED THE REALITY OF RAPE IN CONFLICT, WHERE, BECAUSE GENERAL LAWLESSNESS PREVAILS, PHYSICAL FORCE DURING THE COMMISSION OF RAPE MAY NOT BE NECESSARY. THE U.S.'S INSISTENCE ON PENETRATION AS AN ELEMENT OF RAPE IGNORED THE SERIOUS PHYSICAL AND OTHER HARM DONE TO WOMEN BY SEXUAL ACTS THAT DO NOT INCLUDE PENETRATION BUT ARE NEVERTHELESS AGAINST A WOMAN'S WILL.

THE U.S. COMMITMENT TO PROTECTING WOMEN'S RIGHTS IN THE REFUGEE CONTEXT WAS EVIDENCED BY ITS ATTENTION TO KOSOVAR WOMEN REFUGEES. IN JULY 1999, THE U.S. GOVERNMENT PLEDGED \$10 MILLION FOR THE KOSOVAR WOMEN'S INITIATIVE (KWI), WHICH WAS BEING IMPLEMENTED BY UNHCR. THIS INITIATIVE, WHICH WILL CONTINUE THROUGH SEPTEMBER 2000, ADDRESSED THE IMMEDIATE SURVIVAL NEEDS OF KOSOVAR WOMEN REFUGEES AFFECTED BY RAPE AND OTHER GENDER VIOLENCE BY, AMONG OTHER THINGS, PROVIDING

PSYCHO-SOCIAL SUPPORT AND COUNSELING, PROGRAMS TO REESTABLISH WOMEN INTO THEIR COMMUNITIES, AND EVENTUALLY PROGRAMS FOR INCOME-GENERATION ACTIVITIES. WHILE THE KWI WAS CRITICIZED FOR BEING DESIGNED WITHOUT SUFFICIENT LOCAL NGO INPUT, IT WAS IN FACT A SWIFT RESPONSE TO A DIRE SITUATION.

Failing to see the connection between its credibility abroad in condemning human rights abuses and its forthrightness in addressing human rights concerns at home, the U.S. government continued to founder in response to the violence that U.S. women faced in state prisons. In 1999, the U.S. Department of Justice settled its only two cases that involved sexual abuse of incarcerated women. The March settlement reached in the Arizona case was flawed and weak, allowing the Arizona Department of Corrections to place women in solitary confinement after they filed complaints of sexual abuse, an action the women inmates perceive as punitive. The settlement failed both to set up a secure mechanism through which women could safely file complaints without fear of retaliation and to establish independent oversight for the system. The settlement reached with the Michigan Department of Corrections was a travesty, with all the flaws of the Arizona settlement, but also including elements that threatened to increase the women's risk of abuse. One of its most disturbing aspects was the requirement that women inmates wear uniforms, which sent them the message that they "provoked" sexual assaults, and provided another means for corrections staff to punish them. Although the Department of Justice settled the Michigan suit, a private suit initiated by the women continued, as their legal representatives were excluded from the settlement negotiations.

AMONG THE MOST SALIENT MEASURES OF U.S. COMMITMENT TO WOMEN'S RIGHTS WAS HOW VIGOROUSLY IT EMBRACED THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS CONVENTIONS IN THE U.S. AND HOW EFFECTIVELY IT RESPONDED TO INTERNATIONAL SCRUTINY OF ITS HUMAN RIGHTS RECORDS. ON THESE TWO FRONTS, THE U.S. FAILED MISERABLY. THE U.S. GOVERNMENT AVOIDED ADDRESSING THE SUBSTANTIVE FINDINGS OF THE REPORT OF THE U.N. SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN THAT DETAILED HUMAN RIGHTS VIOLATIONS OF WOMEN IN DETENTION IN THE U.S., INCLUDING EXTENSIVE SEXUAL MISCONDUCT AND SYSTEMATIC VIOLATIONS OF WOMEN'S RIGHT TO PRIVACY. THE U.S. DELEGATION TO THE U.N. COMMISSION ON HUMAN RIGHTS INSISTED THAT WOMEN INCARCERATED IN THE U.S. HAVE PROTECTION FROM AND RECOURSE AGAINST HUMAN RIGHTS VIOLATIONS, EVEN THOUGH PASSAGE OF THE PRISON LITIGATION REFORM ACT OF 1995 MADE IT EXTREMELY DIFFICULT FOR WOMEN TO BRING LEGAL CLAIMS AGAINST CORRECTIONS DEPARTMENTS, ESPECIALLY IN CASES OF SEXUAL ASSAULT AND ABUSE.

MOREOVER, AS OF THIS WRITING, 1999 WAS EXPECTED TO PASS WITHOUT U.S. RATIFICATION OF THE WOMEN'S RIGHTS TREATY, THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, WHICH LANGUISHED IN THE SENATE FOREIGN RELATIONS COMMITTEE. WHILE THE CLINTON ADMINISTRATION STEPPED UP ITS EFFORTS TO PROMOTE RATIFICATION OF THIS TREATY, WHICH INCLUDED ATTEMPTS TO CULTIVATE SENATE LEADERSHIP ON THIS ISSUE AND THE UNVEILING OF A WHITE HOUSE RATIFICATION STRATEGY, THOSE EFFORTS WERE, AS OF LATE OCTOBER, MINIMAL, AND HAD NOT YET RESULTED IN THE TREATY BEING OFFERED FOR A VOTE.

THE CLINTON ADMINISTRATION WAS A STEADFAST CRITIC OF WOMEN'S RIGHTS VIOLATIONS IN AREAS WHERE THE SHEER SCALE AND SEVERITY OF THE PHYSICAL VIOLENCE COULD NOT BE IGNORED. HOWEVER, THE U.S. GOVERNMENT WAS MUCH LESS CRITICAL ABOUT BLATANT SEX DISCRIMINATION PRACTICED IN PLACES LIKE MEXICO, ITS SECOND LARGEST TRADING PARTNER. BEGINNING IN EARLY 1999, THE U.S. GOVERNMENT WAS ENGAGED IN MINISTERIAL-LEVEL MEETINGS WITH THE MEXICAN GOVERNMENT ON THIS ISSUE, IN RESPONSE TO A POORLY-CONCEIVED NAFTA-BASED AGREEMENT IT ENTERED INTO WITH MEXICO IN OCTOBER 1999. ONE OF THE SHOWCASE COMPONENTS OF THIS AGREEMENT WAS A MARCH CONFERENCE HELD IN MÉRIDA, YUCATÁN, A CITY WITH A FEW AND ONLY RECENTLY ESTABLISHED MAQUILADORAS. THE U.S. GOVERNMENT DID NOT SET ANY GOALS FOR THE CONFERENCE AND PROVIDED FOR NO SUBSTANTIVE PARTICIPATION BY THE NGO COMMUNITY, EXCEPT FOR BRIEF QUESTION AND ANSWER PERIODS. A PUBLIC REPORT REFLECTING THE ISSUES CONSIDERED DURING THE MINISTERIAL CONSULTATION PROCESS WAS DUE IN JULY, BUT WAS EXPECTED IN THE FIRST HALF OF 2000.