

## **HUMAN RIGHTS WATCH/ASIA OVERVIEW**

### **Human Rights Developments**

Human rights was the issue that would not go away for Asia in 1995. It entered security discussions, as fighting resumed or continued in Sri Lanka, Kashmir, Afghanistan, northwestern Cambodia and along the Thai-Burmese border. It became an economic issue, a determinant of aid and an irritant to trade from Burma to Indonesia. Worker rights practices in the region intensified debate over the desirability of a "social clause" in multilateral trade arrangements such as the Asian-Pacific Economic Cooperation (APEC), and human rights abuses led to demands at home and abroad for increased corporate responsibility on the part of foreign businesses as investment in the region continued to grow. The capacity of human rights issues to disrupt bilateral relations was underscored with the row between the Philippines and Singapore over the latter's hanging of Filipina domestic worker Flor Contemplacion and between China and the U.S. concerning China's arrest of American human rights campaigner Harry Wu. Peaceful domestic challenges to authoritarian governments in the region were more often than not couched in terms of a demand for human rights.

At the same time that human rights became so central to political and economic developments in the region, however, the formulation of policies to promote and protect those rights became increasingly complicated. On China, no government succeeded in integrating human rights concerns with other policy interests, and the formula for doing so eluded nongovernmental organizations (NGOs) as well. The release of Burmese opposition leader and Nobel Peace Prize laureate Aung San Suu Kyi on July 10 provided one of the few bright spots in the human rights picture during the year, but it raised new questions about appropriate policy responses from governments, NGOs, and international aid agencies.

In the midst of the policy confusion, however, several trends became apparent. Domestic demands for increased freedom of expression intensified across the region. Local NGOs, foreign businesses, and the international human rights community found common ground in recognizing the importance of an impartial legal system and strengthening the rule of law; Vietnam was increasingly becoming a test case of how law, human rights protection and foreign investment interacted. The vulnerability to abuse of specific groups, such as women, indigenous peoples, minorities and migrant workers was very much at issue, with growing concern that their vulnerability in many cases increased with economic growth. The exclusion of an Asian NGO voice in regional trade and security fora began to be an issue, and for the first time, a parallel NGO conference took place in Japan in November at the time of the APEC summit. While the U.N. and donor governments continued to be major targets of advocacy efforts, both local and international NGOs increasingly turned their attention to the private sector and to multilateral lending institutions, such as the World Bank and Asian Development Bank.

### **Human Rights Developments**

The gravest human rights abuses in Asia continued to take place in areas of armed internal conflict, where both sides were often responsible for summary executions. The resumption of

fighting in Sri Lanka in April led to massacres of villagers by the Liberation Tigers of Tamil Eelam (LTTE) and to the "disappearance" and execution of young Tamil males by the Sri Lankan Special Task Force. International outrage over the beheading of a Norwegian tourist by militants in Kashmir tended to obscure the ongoing human rights violations by the Indian armed forces in the Kashmir Valley, and Burmese military operations along the Thai-Burma border led to refugee outflows, an increase in the internally displaced, and a wide range of army abuses against villagers.

For all the criticism by some Asian governments of the tendency of the West to focus too much on individual civil rights at the expense of communal obligations, it was one of those civil rights—freedom of expression—that became perhaps the paramount political demand of Asians in 1995. In China, Hong Kong, Singapore, Cambodia, Vietnam, Malaysia, Pakistan, India and Indonesia, the freedom to express opinions critical of government leaders and policies became a major issue. On the one hand, the prevalence of the issue supported those who argued that economic growth in Asia would lead to demands for greater civil liberties, as middle-class professionals, for the most part, were the most vocal in seeking greater freedom. On the other hand, the governments in question showed no disposition to make concessions.

In Cambodia, the government's systematic campaign against former finance minister, independent parliamentarian and corruption fighter Sam Rainsy, together with the passage of a new press law, symbolized the steady narrowing of the political space opened up by the United Nations Transitional Authority in Cambodia during its eighteen-month peace-keeping operation. Journalists and editors were charged with criminal defamation for articles, and in one case a cartoon, critical of the government.

In China, delegates to the Fourth World Conference on Women got some inkling of the restrictions faced by ordinary Chinese when they found themselves under surveillance, their meetings restricted or canceled, their papers confiscated and their press coverage censored. Wei Jingsheng, the country's most outspoken advocate of political change and respect for human rights who was re-arrested in April 1994 after only six months of freedom, was formally charged on November 21, 1995, with "conducting activities in [an] attempt to overthrow the Chinese government." As of this writing, Wei continued to be held at an undisclosed location. Other critics remained in prison or faced other forms of persecution. Chinese media were ordered to put a favorable spin on sensitive issues and to rely exclusively on Xinhua, the government news agency, when breaking a story.

In Indonesia, members of the urban middle class protested a range of violations of free expression, from the arrest and conviction of three members of an independent journalists' association, to the police investigation and harassment of a parliamentarian who criticized President Soeharto while on a speaking tour of Germany. These actions, and the government's ban on public appearances of popular opposition figures such as Muslim leader Abdurrachman Wahid, seemed designed more to punish and humiliate outspoken individuals than to restrict the flow of information.

In South Asia, the governments appeared more determined to prevent anti-government views from reaching the public. As civil strife between government forces and the Mohajir Qaumi Movement or MQM intensified in the Pakistani city of Karachi, Prime Minister Benazir Bhutto banned six newspapers and canceled the publishing licenses of 122 other publications under a law that had not been used since the 1960s; public pressure forced her to lift the ban after six days. The Indian government likewise curbed independent access to information about developments in the troubled states of Jammu and Kashmir in an effort to portray all outbreaks of violence there as caused directly by Pakistani machinations.

In Hong Kong, the Hong Kong Journalists' Association noted with alarm the increasing tendency of editors to apply self-censorship on issues related to China as 1997, the year of the colony's return to Chinese rule, approached. The firing of a popular political cartoonist seemed a disturbing harbinger of things to come in a place known as having one of the freest presses in all of Asia.

Controls on freedom of expression throughout the region ran counter to calls from the international community for increased "transparency" as a sign of good governance. Another hallmark of good governance on which Asian governments had a very mixed record was respect for the rule of law. Impartial legal systems, free of corruption and with full independence of the judiciary are as important to businesses as they are to the human rights community, but they have been hard to find in Asia. Developments on this front in 1995 were mixed. In Malaysia, the effect of Prime Minister Mahathir's destruction of judicial independence became clear when a national scandal erupted over a company's purchase of a judge to rule in its favor in a takeover bid. In Hong Kong, pro-democracy activists were outraged at Britain's capitulation to Chinese pressure over the creation of a Court of Final Appeal that is to take the place of the Privy Council after 1997; they believed that implementing legislation approved by the two countries would compromise judicial independence and subject the court to political pressure from China. On the other side of the balance sheet, however, Indonesian courts, generally regarded as among the most corrupt and politicized in the region, made three courageous decisions during the year that went counter to government wishes. One was a ruling that a press law used to ban a popular magazine was unconstitutional; one declared the sacking of a dissident professor to be illegal; and one overturned the conviction of eight people convicted through the use of coerced confessions in a celebrated murder trial.

Several countries in the region repealed or drastically reduced the use of broadly-worded internal security laws that had been the target of international and domestic criticism. In most cases, however, other laws, equally broadly worded, were substituted for the offending legislation and used to arrest government critics. Thus, the Chinese government appeared to use the 1993 state security laws to arrest dissidents in place of the heavily criticized laws on "counterrevolution." Those in Indonesia who five years ago would have been charged under the 1963 Anti-Subversion law were charged instead with "spreading hatred of the government" under Article 154 of the Criminal Code. In one much more positive development, India allowed the notorious Terrorist

and Disruptive Activities (TADA) act to lapse, largely in response to domestic pressure. However more than 6,000 people detained under TADA remained in custody during the year. Vietnam undertook a major overhaul of its criminal code; the results were not yet apparent by the end of the year.

Worker rights issues were a major concern throughout the region, with bonded labor a particular concern in South Asia, abuses of migrant labor a growing concern of NGOs in East and Southeast Asia, and freedom of association and the right to strike an ongoing issue in South Korea, Indonesia and China, among other countries. The South Korean government, seeking entry into the Organization for Economic Cooperation and Development (OECD), the club of industrial democracies, boycotted an OECD seminar on worker rights in Seoul in order to avoid awkward questions about Korea's repressive labor laws and practices. A crackdown on labor activists in May and June led to arrests of key Korean organizers. Throughout the region, concern about violations of worker rights was such that a major NGO meeting to address this issue was planned to take place in Japan just prior to the APEC summit in November.

Ratification of international instruments on human rights proceeded at a snail's pace during the year, and Asia continued to have a poor record on acceptance of international standards. On July 5, 1995, Malaysia ratified the convention on Elimination of all Forms of Discrimination Against Women, just in time for the Beijing Women's conference. At the same time, the generally useful role played by national commissions of human rights in India and Indonesia suggested that the formation of these bodies elsewhere in the region where a strong NGO community was present might aid in the promotion of human rights and acceptance of international standards.

### **The Right to Monitor**

The pattern of restrictions on human rights monitoring was much the same as in previous years. No overt human rights monitoring was possible in North Korea, China/Tibet, Burma, Vietnam, or Singapore. Human rights monitors faced severe difficulties, including denial of access, legal restrictions, or intimidation, in areas marked by civil strife or conflict in the region, such as East Timor, Irian Jaya, Kashmir, Assam (India) and the Jaffna peninsula in Sri Lanka. In the latter case, the main obstacle to monitoring was as much if not more the activities of the LTTE as it was the Sri Lankan government.

In India, Burma, China, Tibet, Indonesia and East Timor, people were arrested or continued to languish in prison for passing information on human rights abuses to outsiders, publishing reports on human rights violations or organizing demonstrations in support of human rights. At least one Indian human rights monitor "disappeared" after being arrested during the year, apparently in connection with such reporting.

Human rights NGOs in many Asian countries faced harassment for their monitoring activities. In Malaysia, Irene Fernandez, director of the women's rights organization, Tenaganita, was called to police headquarters in Kuala Lumpur in late September for interrogation in connection with possible criminal defamation charges after her organization published a report on abuses in

Malaysian immigration detention centers. The U.S. company Freeport McMoran urged the U.S. embassy to cut off funds to the Indonesian human rights and environmental organization, Walhi, after Walhi reported on links between Freeport security guards and the local military in the commission of human rights abuses. In China, where independent human rights organizations do not exist, individuals who tried to circulate petitions demanding more respect for human rights were harassed or imprisoned, with twenty-two people still detained as of November. In Pakistan, human rights lawyers representing Christian defendants were attacked by extremist religious groups. The government has done little to prevent such attacks or to punish those responsible.

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

Multilateralism on Asian human rights issues seemed moribund in 1995. There were almost no examples of international cooperation to set concrete human rights goals and develop strategies for achieving them. The amount of time and resources required to coordinate strategy on human rights was clearly more than most individual governments were willing to spend. The one exception may have been the U.S. effort, ultimately unsuccessful, to push through a resolution on China at the U.N. Commission on Human Rights in Geneva in March.

Even individual governments that professed concern about human rights in Asia found it extremely difficult to come up with coherent, consistent or effective policies to reflect that concern, especially when strategic and economic interests were also strong. The desire to strengthen trade and investment ties to Asian countries often pushed human rights to the sidelines, although there were some efforts in the U.S., Australia and elsewhere to define principles for businesses operating in repressive countries. In some cases, conflicting signals on human rights were the result of contradictory domestic pressures on governments: U.S. policy on China was probably the best example of a grab bag of competing concerns, which ended up addressing none effectively. Within Asia, donor governments were strong on some countries and weak on others, again as the result of different pressures: the business lobby in Germany was stronger on China and Indonesia than on Burma, for example, while the Australian government clearly had to take public opinion more into account in addressing East Timor than in formulating policy on India.

In some cases, what appeared to be lack of coherence may have been a conscious policy choice. Japan, for example, the region's largest aid donor, was willing to exert human rights pressure through the United Nations but emphasized economic incentives rather than economic pressure in its bilateral relations.

The dilemmas that governments face in formulating human rights policy were brought into stark relief with the release of Aung San Suu Kyi. As welcome as it was unexpected, her release raised several questions. To what extent did world attention on Suu Kyi's detention make it more difficult to keep other human rights concerns on the international agenda after her release? Did her release prove the value of economic and diplomatic pressure from the West, or the success of economic incentives (resumed aid) from Japan, or neither? What was the appropriate mix of punitive measures and incentives in approaching a country like Burma? What were the relative

strengths and shortcomings of "constructive engagement" as practiced by the Association of Southeast Asian Nations (ASEAN) or distinct from political isolation, as practiced by the U.S. and most of Europe? How effective was the latter when the same governments placed no curbs on investment? Did governmental and commercial undertakings have to be coordinated for a human rights policy to be successful? How should human rights pressure and humanitarian needs be balanced? These questions remained unanswered, as governments and NGOs sought effective ways of continuing pressure for fundamental reforms and compliance with successive U.N. General Assembly resolutions on Burma.

U.N. staff and agencies had a mixed record in the region. U.N. High Commissioner for Human Rights José Ayala Lasso's critical, if guarded comments during his visit to Kashmir were widely reported in the Indian press, and that in itself was useful. The U.N.'s sponsorship of talks on East Timor in July 1995 were an important first step in bringing key East Timorese factions together, but by the end of the year, it was too early to tell whether they would have any impact on a worsening human rights situation there. The U.N. Special Representative in Cambodia and the office in Phnom Penh of the U.N. Center for Human Rights continued to perform admirably, despite the unhappiness of the Cambodian government with their critical reports. At year's end, it seemed as though Yozo Yokota, U.N. Special Rapporteur on Burma, might recommend an ongoing human rights monitoring presence in Burma.

In Thailand, the office of the U.N. High Commissioner for Refugees (UNHCR) failed to protect refugees from Burma. Indeed, the office in Bangkok did not even complain publicly when refugees were attacked in the camps or when Thai authorities refused to allow refugees asylum from fighting in the Shan State. Meanwhile, Burmese dissidents seeking asylum in Bangkok were subject to a new UNHCR ruling in June that allowed very few of them to be considered refugees. They were left with the option of returning to Burma, with no guarantees for their safety, or seeking illegal employment in Thailand.

### **The Work of Human Rights Watch/Asia**

The year was marked by a heightened emphasis on cooperation and consultation with local NGOs, by an effort to reach out to new constituencies and to establish connections between the business and human rights communities, and by an effort to shift our research agenda to reflect concerns in the region.

We created a new position of NGO liaison to better maintain communication with local NGOs across Asia, understand their priorities and facilitate exchanges of information. The position, filled by a longtime researcher, is still evolving, but in addition to improving overall ties to the NGO community in Asia, it is expected to help researchers formulate more effective strategies for working with local partners on human rights concerns. Individual researchers gave high priority to consultation with local and international NGOs: we responded to a plea from Pakistani NGOs to send an observer to a blasphemy trial in February, we organized roundtable discussions in Europe and the U.S. for organizations active on Burma issues, and we helped arrange visits abroad for Cambodian and Indonesian NGOs. Where possible, advocacy work in Japan, the U.S.

and Europe was preceded by consultation with domestic NGOs. That consultation was particularly important on labor rights issues. The Fourth World Conference on Women in Beijing provided an important forum for communication and cooperation on women's human rights. A brochure written for delegates to that conference, introducing them to Chinese law and practices that might affect their ability to hold meetings, circulate material or take part in demonstrations, was eagerly received and translated into several languages.

Throughout the year, we sought to examine the role of trade and investment in Asia as it affects human rights issues. At one level, this meant continuing our efforts to identify common interests linking the business and human rights communities, such as increasing the transparency of government procedures, strengthening the rule of law and improving industrial relations and the treatment of workers. Recognition of these interests facilitated dialogue with businesses working on Indonesia, Vietnam and China, in particular. At another level, we did not hesitate to criticize companies whose practices we believed contributed to human rights abuses, and we became a major voice within the human rights community seeking enhanced corporate responsibility for businesses operating in Asia. We urged a freeze on all investment in Burma until the Burmese government was willing to provide verifiable guarantees that the use of forced labor had ceased. We met with representatives of the Swiss pharmaceutical corporation, Sandoz Limited, Basel, Switzerland, the producer of the main drug used in Chinese transplant operations, and stressed their responsibility to press for an end to the use of executed prisoners as organ donors.

Human Rights Watch/Asia called on foreign investors to avoid any involvement with the Three Gorges Dam project until the Chinese government provided verifiable guarantees that the rights of the more than one million people scheduled to be relocated would be protected. In the spring, we met with representatives of a major U.S. company involved in the construction of the Three Gorges Dam. We raised concerns about the use of forced or prison labor in the project.

We strengthened direct communication with Asian governments during the year and were in regular and ongoing dialogue with Pakistani, Sri Lankan, Vietnamese, Cambodian, and Indonesian officials, as well as with the Hong Kong government. In meetings with representatives of the Indian and Indonesian national human rights commissions, we raised the possibility of discussing our policy recommendations prior to the publication of our reports. The exact nature of our relationship to those commissions was still being discussed at year's end.

During the year, we made a concerted effort to reach out to the broader human rights community, especially those organizations working on development, environment, and migrant worker issues. A report on human rights and forest management in the Philippines, for example, and another on the Three Gorges dam in China, as well as ongoing concerns about logging in Cambodia and mining in Indonesia, helped strengthen ties to environmental activists. One result was a much wider advocacy network.

Widening of advocacy possibilities was also furthered by much more frequent discussions with staff of the World Bank and other multilateral lending institutions such as the Asian

Development Bank (ADB.) After the ADB opened an office in Washington, D.C., and adopted a policy on "governance" late in the year, we laid the groundwork for a series of meetings with senior staff there to discuss the possible human rights impact of specific ADB projects.

Reflecting priorities in the region, our long-term research and advocacy agenda included a strong focus on worker rights, including migrant workers. A mission to the Republic of Korea in June focused exclusively on labor rights, a report on Pakistan examined bonded labor, and a petition to the U.S. Trade Representative urging a review of Indonesian labor rights practices was based on new research on abuses against workers in export-oriented manufacturing. For the first time, Human Rights Watch mounted a campaign to raise labor rights concerns in conjunction with deliberations by the Organization of Economic Cooperation and Development (OECD) as it considered the Republic of Korea's bid to become a member. We also worked through our Brussels office to forge a coalition with international labor groups that filed the first ever petition under the terms of a new European Union Generalized System of Preferences (GSP) scheme linking tariff benefits to human rights; the petition was on bonded child labor in Pakistan.

At year's end, research was underway on abuses against migrant workers across the region: Burmese in Thailand, Thais in Japan, Indonesians in Malaysia and Filipinas in Hong Kong and Taiwan.

## **BURMA**

### **Human Rights Developments**

The most significant human rights event in Burma in 1995 was the release on July 10 of Nobel laureate and opposition leader Daw Aung San Suu Kyi after six years of house arrest.

Paradoxically, the governing military State Law and Order Restoration Council (SLORC) took an increasingly hard-line stance during the year, and there was no overall improvement in the human rights situation. In some areas abuses increased, notably in the Karen, Karenni and Shan States where there was fighting, while throughout the country thousands of civilians were forced to work as unpaid laborers for the army. The SLORC continued to deny basic rights such as freedom of speech, association and religion and the right of citizens to participate in the political process.

Daw Suu and more than 200 other political prisoners were released in 1995, but at least 1,000 people, including sixteen members of parliament elected in 1990—all representing Daw Suu's party, the National League for Democracy (NLD)—remained in jail, and there were new political arrests. In February, nine students were arrested at the funeral of former prime minister U Nu when they began singing a pro-democracy anthem and were later sentenced to seven years in prison. A month later, six more students were arrested for allegedly obstructing soldiers preparing for Armed Forces Day. In June, four veteran politicians in their late sixties were arrested and sentenced to seven years in prison. On September 27, a student, Ye Htut, was

arrested for having sent information to Burmese abroad; as of November, his trial was still pending. All of these people were tried under Section 5 (j) of the 1950 Emergency Provisions Act, for "spreading false news about the government."

The treatment of those detained remained an issue of concern. Two of the students were known to have been beaten immediately after their arrest, but the fate of the other is not known. In June, Dr. Thida, a twenty-nine-year-old medical doctor who was sentenced to twenty years of imprisonment in 1993 under the 1950 Act, was reported to have contracted tuberculosis while in Rangoon's Insein jail. She was also diagnosed in June as needing surgery to remove ovarian cysts. Dr. Thida reportedly received inadequate medical treatment.

The year opened with a renewed offensive against the Karen National Union (KNU) following a split within the KNU and the formation of the Democratic Karen Buddhist Army (DKBA), which was supported by the SLORC. By January 27, the KNU headquarters at Manerplaw near the confluence of the Salween and Moei rivers had fallen, and on February 23 the KNU retreated from its base at Kawmoora. Since early November 1994, the SLORC army had arrested as many as 5,000 men from towns and villages in the Karen and Mon states and even from Rangoon to work as porters in preparation for this offensive. Although the offensive was relatively short, scores, and possibly hundreds, of forced porters are believed to have died from beatings or exhaustion compounded by lack of food. Others were caught in the cross fire during the fighting or were killed by landmines laid by both the SLORC and the KNU.

In early February the offensive took a new turn as DKBA and SLORC troops launched the first of several raids into refugee camps in Thailand. There were already more than 70,000 refugees in these camps, joined by some 10,000 people after the fall of Manerplaw. Many camps were situated along the banks of the Salween and Moei rivers, which mark the border between Burma and Thailand, and were easily accessible by the DKBA/SLORC troops. The raids, which were intended to terrify the refugees into returning to Burma, continued from February to May. They left fifteen refugees and Thai civilians dead, scores injured, and at least 1,000 houses in different camps razed. In addition, the DKBA/SLORC forces kidnaped more than twenty-five individuals and took them back to Burma at gunpoint, forcing hundreds of others to return through a campaign of fear and intimidation (see Thailand section). Following its defeat in these areas, the KNU made several offers to the SLORC to engage in cease-fire talks. While there were meetings between the two sides, at the end of October there was no sign of any progress.

Talks with other ethnic groups were more successful, but the weakness of the military cease-fires as solutions to long-term ethnic insurgencies became apparent as the SLORC failed to deliver the promises of reconciliation and economic development that formed the basis of the agreements. Moreover, the SLORC continued to refuse to discuss lasting political solutions with the ethnic groups, claiming that as a temporary, military government, it had no authority to discuss political matters.

In the Karenni State, the Karenni Nationalities Progressive Party (KNPP) signed a cease-fire agreement at a ceremony in Loikaw on March 21, making it the fourth and final armed group in the Karenni State to do so. But on June 28, the KNPP issued a statement claiming that the SLORC had broken the terms of the agreement by sending an additional 2,000 troops into its territory and continuing to take porters from the area. Two days later, fighting broke out after the SLORC launched an attack on the KNPP headquarters near the Thai border. The SLORC insisted that the offensive was launched in order to chase away illegal Thai loggers and to secure a route through the KNPP territory to that of drug warlord Khun Sa. In later addresses, the SLORC also claimed that it had positioned so many troops in the area, close to the Thai border, because of possible threats to national security during the time of the general election in Thailand.

During the fighting some porters escaped into Thailand, but these were relatively few, given the total numbers believed to have been taken in Loikaw township alone. Those who did arrive in Thailand told of witnessing the deaths of fellow porters from landmines, stories which were confirmed by medical workers who reported that in just one day seven porters arrived in a refugee camp all close to death as a result of landmine injuries. These reports led observers to believe that landmines planted by both sides may have killed many porters who fled.

The fighting died down during the rainy season in August and September, though skirmishes were still reported. By October, despite the arrival of SLORC intermediaries in Thailand, there was no sign of any new settlement, and the KNPP claimed that the SLORC was preparing for a major offensive against it and had brought in a further 6,000 troops.

In the south, the New Mon State Party (NMSP) signed a cease-fire on June 29. Discussions that had started between the NMSP and the SLORC in 1993 were helped in 1995 by three intermediaries, one of whom was an elected member of parliament for the Mon National Democratic Front who had been in jail from 1991 until November 1994. While the agreement itself, like all other previous agreements, was not made public, it was known to have included the right of NMSP troops to retain their arms within twenty small circles of territory. However, the SLORC did not agree to the right of the Mon to receive developmental assistance from international nongovernmental organizations (NGOs) in Thailand, nor were there clear decisions made on rights to the natural resources of the area, especially logging and fishing rights. The agreement did include a program to repatriate the 11,000 Mon refugees in Thailand, with no international monitoring or guarantees of safety on return, fueling speculation that Thailand had played a major part in pressuring the Mon to accept the terms.

In the northeast, fighting continued against drug warlord Khun Sa in the Shan State. In January the SLORC had announced its resolve to crush his Muang Tai Army (MTA) by the end of the year. SLORC had also made this promise in 1994, but by October the much-heralded final offensive had not materialized. However, Khun Sa suffered a major blow in August when one of his military commanders broke off to form his own Shan nationalist group, taking between 1,000 and 2,000 troops with him. Then, in September, the United Wa State Party, a group that has had

a cease-fire agreement with the SLORC since 1989, joined in the attack against Khun Sa, allegedly in order to secure its own stake in the drug trafficking market.

As in other areas, the Burmese army impressed thousands of civilians to work as porters in the offensive against Khun Sa. In January, indiscriminate aerial bombardments by the SLORC forced hundreds of people to flee from villages near Kengtung, and in March and April heavy fighting forced others to seek refuge in Thailand (see Thailand section).

At the same time, inside the Karen State, thousands of villagers living in areas where the Karen had been active were forcibly relocated to areas under DKBA/SLORC control. At first these relocations were restricted to areas in Hlaingbwe township near the DKBA headquarters, but by July relocations were also reported to have taken place as far south as Kyaukkyi, Kawkereik and Pa-an townships. Relocated families either were forced to live in encampments guarded by the army, or they fled to the forests. From the camps, they were forced to work as laborers on road-building and other infrastructural projects for the army.

Indeed, forced labor was endemic in Burma. As the SLORC sought to open up the economy to international investors, it forced tens of thousands of civilians and prisoners to rebuild the country's long-neglected infrastructure. During the year, scores of people died on such projects from beatings, lack of medical care and food, and sheer exhaustion. In the southwest, at the site of the Rangoon-Kyaukpyu road in Arakan State, at least twelve people died during December 1994 and January 1995 from untreated fevers. In the far north, some 3,000 people were taken from Putao, Kachin State, in late 1994 to work at a remote site on the Putao-Sumprabum road. After walking for six days to reach the site, they found that the rice supplies that had been promised by the army had not arrived, and they had to walk back. Many died on the journey from malaria and other diseases, exacerbated by lack of food. In the northwest, soldiers supervising the work killed a woman working on the Pakokku-Kalemyo railway line in Chin State after she had stopped working twice to feed her young baby. In the south, in Mon State, two to three families each week fled from the site of the Ye-Tavoy railway to refugee camps in Thailand.

In Arakan, Burma's most western state, refugees who had fled into neighboring Bangladesh in 1992 returned to Burma. Of the 270,000 refugees, only 40,000 remained in camps by October, though it was unclear how many of these would eventually be accepted by the Burmese authorities. Despite the presence of fifteen UNHCR staff in Arakan and two NGOs running programs to reintegrate the refugees, reports continued of abuses of Muslims, especially of those Muslims who had not left Burma in 1992. In their Bulletin of June, the UNHCR claimed that it had succeeded in getting an agreement to limit the amount of forced labor for returnees to one day a week. However, the government had plans to build more than 1,200 miles of road in the area, and it was unclear how the UNHCR would be able to monitor the many forced labor sites in Maungdaw and Buthidaung townships. Muslims who remained in 1992 were also subject to forced relocations and forced labor and religious persecution, and villages in Mro Haung and Myauk Oo townships were forced to move to Buthidaung, forming a Muslim enclave on the border with Bangladesh.

Following Daw Suu's release from house arrest in July, members of her party, the NLD, were able to visit her freely. Among her first visitors were former chairmen of the NLD, U Tin Oo and U Kyi Maung, who had been released from jail in March. She was also able to meet foreign journalists, ambassadors and other international representatives, including the U.S. ambassador to the U.N. Madeleine Albright, who visited in early September. Daw Suu's international profile was enhanced by the showing of a videotaped speech she gave to open the NGO Forum of the U.N. Women's Conference in Beijing. Daw Suu also held regular Sunday morning gatherings outside her home, at which up to 200 people would come to hear her speak. She made her first trip outside Rangoon on October 4, visiting the famous Thanmanyat monk in the Karen State. In press interviews Daw Suu continued to take a reconciliatory line, calling on the SLORC to begin dialogue with her. On October 11, the NLD re-elected Daw Suu, U Tin Oo and U Kyi Maung as general secretary and vice-chairmen of the party respectively. This was a move intended to deprive the SLORC of their main justification for not talking to her: she was not just an ordinary individual, but re-instated as a party representative.

The National Convention, the SLORC's constitutional assembly, had begun deliberations on a new constitution in January 1993, sat for six months from September 1994 to March 1995 and was then suspended for six months until October 24. Nearly 600 of the 700 delegates were hand-picked by the SLORC. During this session, the question of representation at the local and national level for ethnic groups was discussed, including representation for those groups that were not included under previous constitutions—the most contentious issue for Burma's political future. Despite strong statements opposing the government proposals by ethnic representatives and members of the NLD, the National Convention approved the formula of 'self-administered zones' entitling groups to one representative in the House of Nationalities. In early October the convention was again postponed for a further month, leading analysts to suggest that the SLORC feared an NLD walk-out if Daw Suu was not invited to attend the convention.

### **The Right to Monitor**

There are no indigenous human rights organizations in Burma, and no international human rights organizations were permitted to visit the country during the year.

U.N. bodies, however, were given limited access. In January the International Labor Organization conducted a preliminary mission to investigate the government's compliance with Article 87 of the ILO Convention concerning freedom of association. By the end of the year, however, the ILO had not decided to conduct a formal mission. In October, U.N. Special Rapporteur to Burma Prof. Yozo Yokota went to Burma for the fourth consecutive year and met with Daw Aung San Suu Kyi for the first time; his previous requests to see her had all been denied.

At the same time, the government refused to allow international monitoring of prisons. The International Committee of the Red Cross (ICRC) announced on June 16 that it would close its

office in Rangoon the following month due to the failure of negotiations with the SLORC on allowing the ICRC regular and confidential access to prisoners.

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

On December 13, 1994, the U.N. General Assembly passed the toughest ever resolution on Burma. A key part of the resolution called on the secretary-general of the U.N. to assist in implementing the resolution, including facilitating a political dialogue between the SLORC, the democratic opposition and ethnic minorities. On that basis, Alvaro de Soto, the assistant secretary-general for political affairs, spent two days in Rangoon in February 1995 to follow up meetings held in Rangoon in November. At the U.N. Commission on Human Rights in March, the mandate of the special rapporteur to Burma was once again renewed. At the same meeting, the U.N. secretary-general presented a report in which he complained that Mr. de Soto had not been permitted to meet with Daw Suu, but made it clear that meetings with the SLORC would continue in the spring. No further meetings took place until after the release of Daw Suu. Mr. de Soto went to Burma again in August and met with Daw Suu, but was unable to see Gen. Khin Nyunt, the Secretary-1 of the SLORC. Press reports suggested that the SLORC was not prepared to enter into meaningful discussions with the U.N.'s representatives.

The efforts of the secretary-general's office failed to receive adequate support from the international community. No governments took concerted action to exert pressure on the SLORC to ensure that the resolution's recommendations were implemented. Indeed, when the SLORC launched its attack against the KNU, just days after the resolution was passed, only the U.S. government reacted with a strong statement, condemning the use of civilian porters in the January offensive. In mid-February, the European Union issued a similar statement, but days later the German Deputy Foreign Minister, Helmut Schaefer visited Rangoon to continue the policy of "critical dialogue" adopted by the European Union in 1994.

Worse yet, governments did not back up their rhetoric on Burma by denying the SLORC the benefit of bilateral aid and investment. Instead, at the end of February, the British embassy in Rangoon launched the second "British Week" aimed at encouraging British business in Burma. On March 18—as the SLORC-backed DKBO attacks on refugees in Thailand were at their height—Japan announced an agreement to give Burma an \$11 million grant for "agricultural development." In April, Tokyo also granted Burma debt relief worth \$4 million.

Following the release of Daw Suu in July, the attitude of some governments toward the SLORC further softened—notably Japan, which had previously maintained support for the international consensus on Burma. Differences in approach emerged even on the day of her release, with Western countries reacting in a spirit of "cautious optimism" and Asian governments, such as Japan and Thailand, welcoming the move as "substantive progress." Later, Tokyo indicated it planned to resume some Official Development Assistance (ODA) projects suspended in principle

since 1998 (see Japan section). South Korea also rewarded the SLORC with a government loan of \$16.8 million in October.

China continued to be a key supporter of the SLORC. The relationship was enhanced by the visit to Rangoon of Chinese Premier Li Peng in December 1994, followed by a flurry of diplomatic trips between the two countries during the year, including a delegation of 150 Burmese officials and businessmen who took part in the Yunnan trade fair in August. Arms supplies remained a crucial element of the Sino-Burmese relationship. Throughout the year, arms shipments arrived in Rangoon from a November 1994 deal reportedly including \$400 million worth of helicopters, armored vehicles, rifles and parachutes. Several Chinese naval vessels, purchased with a \$40 million interest-free loan, also arrived in June.

The ever increasing closeness between China and Burma was disquieting for Burma's other neighbors, notably India, and prompted India to reopen official border trade in April for the first time since the 1962 military coup. The Association of South East Asian Nations (ASEAN) also sought to increase its economic influence in Burma, and by March Singapore had become the second largest investor, with projects totaling \$294 million.

However, relations with Thailand, which had been the originator of ASEAN's "constructive engagement" policy, soured during the year. When DKBA/SLORC troops attacked refugees, Thai police and villagers in Thailand, the Thai government maintained a policy of appeasement, barely even criticizing the SLORC for the attacks. The SLORC, on the other hand, showed no such restraint in condemning what it saw as Thailand's un-neighborly acts. It accused Thailand of supporting Khun Sa by allowing his forces to seek medical care and obtain food supplies in Thailand, and in August the SLORC condemned the murder of a Burmese fisherman by his Thai bosses, who were also illegally fishing in Thai waters. The construction of the Mae Sot-Myawaddy "Friendship Bridge" was suspended in June, and by September all border crossings between the two countries were closed.

Nevertheless, Thailand still supported the SLORC in its bid to become a member of ASEAN. Bangkok's position was made public at the ASEAN Ministerial Conference in July when Foreign Minister U Ohn Gyaw acceded to the Treaty of Amity and Cooperation, the first step towards membership. During the ASEAN meeting, Australia and the European Union urged the ASEAN countries not to grant Burma membership too rapidly, insisting that the SLORC needed to do much more than release Daw Suu. But the ASEAN governments ignored this warning and arranged for a special conference to take place in December to assess ways in which they could facilitate Burma's and Cambodia's entry into the forum in the shortest possible time. In the U.S., the Clinton administration faced congressional pressure to respond to the "further deterioration of human rights in Burma," as described by sixty-one members of the House of Representatives in a letter to President Clinton on June 1, 1995. On June 21, the administration announced that it would reward SLORC's cooperation in allowing the Drug Enforcement Administration (DEA) to undertake a joint opium yield survey by stepping up some forms of anti-narcotics assistance to Burma. This included an agreement to provide limited in-country training for SLORC's

anti-narcotics enforcement agencies as well as an exchange of information on anti-drug operations. This decision contradicted earlier administration statements that without progress on each of the three fronts of human rights, democratization, and narcotics control, an upgrading of U.S. cooperation could not take place. In June, the House of Representatives adopted by a decisive 359-38 vote an amendment to the fiscal year 1996 foreign appropriations bill prohibiting anti-narcotics assistance to Burma, including training. As of the end of October, the bill was still awaiting final approval by Congress.

Following the release of Daw Suu, President Clinton issued a statement welcoming the news but expressing "concern about a number of serious and unresolved human rights problems in Burma." The White House then dispatched Ambassador Albright to visit Daw Suu and senior members of the SLORC in early September. She delivered a tough message, calling for "fundamental progress toward democracy and respect for human rights" before relations with the U.S. could be improved or the U.S. would consider lifting the ban on World Bank loans to Burma imposed since 1988.

However, while the State Department did not rule out the possibility of further economic sanctions, such as prohibitions on private U.S. investment, the administration took no moves to implement this option. By 1995, the U.S. was the fourth largest investor in Burma, with investment primarily in the oil sector, totaling some \$203 million. An abortive attempt to impose comprehensive sanctions, including a ban on all U.S. investment in Burma, was led by Senator Mitch McConnell, who introduced legislation in July. But he failed in his attempt to insert the bill as a last minute amendment to the 1996 foreign aid legislation.

### **The Work of Human Rights Watch/Asia**

Human Rights Watch/Asia continued to press governments and the international community to exert effective political and economic pressure on the SLORC for fundamental improvements in human rights. It sponsored regular "Burma Roundtable" meetings in Washington, London and Brussels; sent missions to discuss Burma policy with government officials in Paris and Tokyo and at conferences in Europe and Seoul; and maintained close contacts with key offices of the European Union, the U.S. State Department, the World Bank, and the relevant U.N. agencies carrying a mandate on Burma. Human Rights Watch/Asia also provided information and briefings to the U.N. special rapporteur to Burma throughout the year. When Daw Aung San Suu Kyi was released, Human Rights Watch/Asia laid out specific recommendations for an international response, putting her release in perspective and laying the groundwork for a long-term strategy aimed at focusing attention on the broader situation in Burma. These recommendations were presented in congressional testimony in both the House and Senate and in a major report.

Human Rights Watch/Asia published three reports on Burma during the year. The first, *Burma/Thailand: The Mon—Persecuted in Burma, Forced out by Thailand*, was published in December 1994 and documented abuses by the Burmese army of forced laborers on the Ye-Tavoy railway and the history of the treatment that refugees from the area received in

Thailand. A second report released on March 27, Abuses since the Fall of Manerplaw, was based on research in Thailand in January and February and included testimony from more than fifty men who had been taken to work as porters for the army. The third report, Entrenchment or Reform?: Human Rights Developments and the Need for Continued International Pressure, released on July 26, assessed the human rights situation in light of the release of Daw Suu.

## **CAMBODIA**

### **Human Rights Developments**

The human rights situation deteriorated markedly during the second year of Cambodia's new Royal Government, which continued to avoid punishing abuses committed by its own military and police forces and instead vigorously attacked opposition political figures and the press. The governing coalition also condoned the expulsion of dissident parliamentarians from the legislature despite worldwide protests, and encouraged the legislature to enact a series of laws that left the independence of the judiciary and freedom of the media on an insecure footing. In September, the worst political violence since the 1993 election broke out, raising the prospect of yet further violence should local elections proceed in 1996.

Low-level war with the Khmer Rouge continued. In late 1994 and continuing into 1995, the guerrillas shifted tactics, directly attacking civilian settlements in an effort to exacerbate internal displacement and food shortages. A stream of defections from Khmer Rouge ranks continued even after the official amnesty period expired, and some defectors reported that in response the guerrilla leadership mounted purges and stepped up extrajudicial executions of those it deemed disloyal. The kidnaping of civilians for profit and political advantage continued to be a staple Khmer Rouge tactic, and finally came to the attention of the international community when a series of young Europeans were abducted, and in some cases, killed. The Khmer Rouge continued to engage in and endorse the planting of landmines and hidden booby traps even while the government declared a ban on the use of landmines, a ban that has not been scrupulously enforced. Both sides to the conflict engaged in instances of rape and widespread pillage, in contravention of the international laws of war.

The government outlawed the Khmer Rouge in July 1994, and the first prosecutions under the law took place at the conclusion of a statutory amnesty period in February 1995 (amnesties for voluntary military defectors, however, continued). These cases, involving two men accused of laying mines in Battambang, realized fears that the law could be misused for abusive prosecutions. The accused, both returnees from a Khmer Rouge border camp in Thailand, were convicted and sentenced to twenty-five years of imprisonment each, although the government's case rested on confessions obtained by torture; the cases are now on appeal on the basis of numerous substantive and procedural flaws. The political pressures and lack of due process evident in these trials cast in an ominous light the tendency of government authorities to accuse

all critics of being "Khmer Rouge," an accusation voiced by Second Prime Minister Hun Sen as recently as September 23.

Sam Rainsy, a former finance minister and member of the royalist FUNCINPEC party and the most prominent political critic of the government, came in for repeated attack throughout the year, including threats to his life and safety that appeared to emanate from the highest levels of the government. In March 1995, the government withdrew his bodyguards, some of whom later left the Ministry of Interior and continued in Sam Rainsy's private employ. In May, the FUNCINPEC party expelled Rainsy in an irregular proceeding, and on June 22, the National Assembly expelled him as a parliamentarian, despite concerns raised as to the legality of such a move by the Interparliamentary Union, the U.N. Special Representative, former U.N. officials closely involved with the drafting of Cambodia's constitution and election law, and legislators around the world. On the night of July 13-14, three of Rainsy's bodyguards and another man were abducted and taken to a Ministry of Defense installation where several dozen soldiers beat one and pointed guns at their heads, demanding that they identify Rainsy as a "Khmer Rouge."

The government confirms that the four men were interrogated, but denies there was any wrongdoing and claims that they spontaneously and inexplicably drove to the military base on their own accord.

Sam Rainsy's expulsion opened the prospect that other independent legislators would be stripped of their position and their parliamentary immunity. In July, a rift opened in the small Buddhist Liberal Democratic Party (BLDP) between Ieng Mouly, currently minister of information, and Son Sann, the party's founder. Ieng Mouly called an ad hoc party congress (boycotted by Son Sann's supporters) at which his faction voted to expel Son Sann's from the executive committee and announced a vote of "no confidence" in Son Sann and five other BLDP members; the Ieng Mouly faction subsequently voted to expel the six in August, among them four sitting legislators.

The prime ministers recognized Ieng Mouly as the new party leader and warned Son Sann not to proceed with his own party congress unless he first reconciled with Ieng Mouly. Son Sann's group went ahead with plans, asking the Interior Ministry for protection, which was denied. On the evening before the congress, September 30, grenades were thrown at a pagoda and at the party headquarters where Son Sann's supporters had gathered, injuring between thirty and fifty bystanders. The meeting proceeded anyway on October 1, with more than a thousand participants crowding the party headquarters and the street outside. Government military police, however, waited until the U.S. ambassador had left the meeting and then dispersed most of the participants on the excuse that they were blocking street traffic; the police then cordoned off the street.

Although government officials strongly condemned the attacks by unknown perpetrators, these statements rang hollow in view of the government's condemnation of Son Sann's plans to go ahead with the meeting against its wishes. Both Second Prime Minister Hun Sen and Minister of Information Ieng Mouly prior to the incident had predicted that were the meeting to go ahead, agitators might disrupt it by throwing "grenades." Once the attacks occurred, broadcast stations

reported they were told to limit their coverage of the meeting to a government-provided script that implied Son Sann was to blame for rejecting government protection at party headquarters. In fact, BLDP members had asked the government for protection and permission to hold the meeting at the Olympic Stadium, and they moved it to party headquarters only after these requests were denied.

Government efforts to control the press included criminal prosecution as well as intimidation. In February, the Phnom Penh municipal court sentenced Chan Rotana, the editor of Samleng Yu Vachon Khmer (Voice of Khmer Youth) to a year of prison and a U.S. \$2,000 fine for publishing a cartoon of First Prime Minister Ranariddh carting a bag of money on his head and an essay that criticized him as both autocratic and subservient to Hun Sen; his appeal was rejected in October but he will appeal to the Supreme Court. Thun Bun Ly, the editor of Odom K'tek Khmer (Khmer Ideal) was charged with "disinformation" for five articles and editorial cartoons that satirized government leaders; mid-trial, the prosecution added the charge of defamation over the objection of defense counsel. He was convicted of all charges, fined approximately \$4,000 and ordered to spend two years in jail should he fail to pay; the court also ordered his newspaper closed pending appeal. The government confirmed it was pressing charges against at least five other newspapers that had yet to receive official notice; one was the English-language Phnom Penh Post. The government also acted during the year to confiscate print runs and suspend publication of several critical newspapers, all under dubious legal authority, and banned from the country two foreign correspondents from the French newspaper Libération who had reported on atrocities by government military personnel in the northwest. According to the Phnom Penh Post, the government has also tried to limit the influence of critical reporting by forbidding teachers to discuss politics or use newspaper articles critical of the government in teaching foreign languages.

After intensive pressure from the international community and King Sihanouk, the government did free six men who had been arrested for tying petitions onto balloons at the time of U.S. Secretary of State Warren Christopher's visit to Phnom Penh in August.

The most recent journalist to be murdered was Chan Dara, who was shot to death on the night of December 8, 1994, just after he was seen leaving a restaurant in Kampong Cham with a colonel named Sath Soeun. A correspondent with the newspaper Koh Santepheap (Island of Peace), Chan Dara had also published exposés of corrupt timber and rubber deals by government and military figures, among them Sat Soeun, in the paper Preap Noam Sar (The Carrier Pigeon). Ministry of Interior police arrested Sat Soeun, who still continued to send threats to the two papers and to Chan Dara's wife. The colonel, however, was acquitted at trial and released, although two other serious criminal charges were still pending against him. The government has not apprehended any further suspects in the case. Violence directed at journalists continued when a grenade exploded in front of the office of Damneung Pelpreuk (Morning News) on September 7, exactly a year from the date that Noun Chan, former editor of Samleng Yu Vachon Khmer, was gunned down in public by still-unknown perpetrators. Although a neighbor was hit by shrapnel, Damneung Pelpreuk editor Nguon Nonn was upstairs at the time.

The threat to the press was not lightened by a new press law adopted in July that left open the possibility of criminal prosecution for material that negatively "affects national security or political stability." The government has usually prosecuted journalists under criminal "misinformation" or "defamation" charges, with judges typically refusing to make distinctions between articles purporting to report fact and opinion pieces or editorials. The new law also gives government ministries broad powers to suspend or confiscate publications. Positive features of the new law include a prohibition on pre-publication censorship and guidelines for access to official information.

Other legal developments included the passage of a law establishing the Supreme Council of Magistracy, a body charged with ensuring the independence and integrity of the judiciary and supervising the appointment, promotion and discipline of judges and prosecutors. The law, however, gives the minister of justice or his representative a place on the council, which some observers feared might perpetuate the ministry's close direction of the judiciary. A council stipulated by the Cambodian constitution to rule on the constitutionality of laws and government decisions had yet to be created, although King Sihanouk had put forward his nominations two years before. The government supported programs designed to help professionalize the legal system and to improve military accountability, although the actual impact of these programs has yet to be measured.

The justice system remained plagued by corruption, however, and government officials, particularly police and military, continued with rare exceptions to enjoy virtual impunity for criminal behavior. Symptomatic of this was the way an official inquiry into the behavior of military intelligence officers accused of abducting, extorting and murdering civilians in the northwest stalled this year. Following several trips by a special commission of inquiry to Battambang province that interviewed witnesses in this sensitive case in the presence of the military and a press corps, the commission concluded that the temple of Che K'mau was not being used as a "secret prison" for victims. This conclusion hardly closed the matter, as human rights monitors had alleged that imprisonment and murders had taken place in a variety of locations in Battambang over a period of at least eighteen months.

Cold-blooded murder of ethnic Vietnamese civilians in Cambodia continued, with the Khmer Rouge the likely perpetrators in most instances. On May 20, approximately thirty men identified as Khmer Rouge killed four ethnic Vietnamese, one Khmer policeman, and wounded at least five others in Phat Sandai village in Kompong Thom province. In September, another band of men identified as Khmer Rouge attacked the floating village of Tonle Chhmar in Siem Reap province, killing an as yet unconfirmed number of ethnic Khmer and Vietnamese civilians. Ethnic Vietnamese in Cambodia also faced harassment from the government, as local officials confiscated identity documents and drew up plans for large-scale confinement of ethnic Vietnamese as "illegal aliens" pending repatriation. Although local officials sometimes hindered international delegations from gaining access to ethnic Vietnamese who were stranded at the Vietnamese border at Chrey Thom since 1993, by mid-year the government had agreed to allow a small number of these families to return to their homes in Cambodia.

In September, First Prime Minister Ranariddh called for reinstatement of the death penalty in Cambodia for drug trafficking and murder during robberies and abductions. The Cambodian constitution currently forbids the use of the death penalty, and King Sihanouk went on record as opposing its reintroduction.

### **The Right to Monitor**

Human rights groups continued to raise concern over abuses despite the worsening political atmosphere and persistent government attempts to register and monitor their members and activities. Important work continued in prison monitoring, education, and investigations, with groups often able to interact constructively with government authorities as advocates or intermediaries. The independence and vigor of the Cambodian nongovernmental movement was reflected in a series of international conferences hosted in Phnom Penh during the year, among them an international conference on the banning of landmines, a regional conference on child prostitution, and several other conferences that raised human rights in the context of environment and development problems.

However, the government's increasing intolerance of criticism produced an intimidating atmosphere for all groups. In the days following the international donors' meeting in April, the prime ministers called for the closure of the U.N. Human Rights Centre office in Phnom Penh, a request that was withdrawn under intense local and international pressure. The government, however, continued to criticize Justice Michael Kirby, the special representative of the U.N. secretary-general. Justice Kirby's detailed reports on the human rights situation and his frank criticism of serious abuses led the government to complain it had been inadequately consulted; nevertheless, the prime ministers were unavailable to meet with Kirby on his most recent visit.

Kem Sokha, the head of the National Assembly's human rights commission, also received death threats at various points in the year and became a target of condemnation by both prime ministers, particularly Hun Sen who in July called for his removal as commission chairman. Other members of the commission who come from the two governing coalition parties were instructed by their party leadership to cease cooperating with Kem Sokha in investigations of human rights complaints and other matters. Kem Sokha is also one of the six BLDP members who have been "expelled" from the party on the initiative of Ieng Mouly.

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

The U.S. administration expressed concern about the government's abuses through private diplomatic channels but publicly tended to downplay the Cambodian government's dismal human rights performance, urging the swift passage of legislation that would grant Cambodia Most Favored Nation trading status and celebrating "progress" as gauged from the darkest years of Cambodia's recent history. Mid-year the administration certified Cambodia as an "emerging democracy" for the purpose of eligibility for agricultural credits, a designation that by law requires a country to be taking steps toward respect for internationally recognized human rights. In August, Warren Christopher was the first U.S. secretary of state to visit Cambodia in forty

years, signing aid agreements and hosting a lunch that included government officials, NGO representatives, and dissident politicians. Christopher praised Cambodia's democracy, but warned that "elections are not enough" and suggested that U.S. aid levels would depend on the government's human rights performance. As usual, Congress was less reticent in publicly voicing dismay at the deteriorating state of human rights, with Senators Thomas, Feinstein and Roth and Representatives Neal, Frank and Rohrabacher among others offering strong statements and letters of concern.

The ASEAN countries that were investors in Cambodia, particularly Malaysia, assumed more prominent influence as the government concluded major deals with them, such as logging concessions, a casino project, and an airlines contract; this support was especially important as an alternative source of government revenue apart from international aid. International donors, on the other hand, expressed concerns regarding the government's accountability and transparency at the 1995 donors' conference, and a proposal for a special working group to address these concerns was aired, but at year's end not implemented. Japan, Cambodia's largest aid donor, protested the government's request to close the Phnom Penh office of the U.N. Human Rights Centre, but otherwise kept a low profile on human rights issues.

Thailand continued to play a pivotal role in the Cambodian conflict, diplomatically supporting the Royal Government on the one hand, while continuing to allow trade in logs and gems across its borders, a critical and vast source of revenue for the Khmer Rouge. According to the London-based environmental monitor Global Witness, Thailand was still issuing import permits for logging businesses operating in Cambodia that inevitably pay the Khmer Rouge protection money for safe passage of their haul. The summary of the U.S. administration's report to Congress on Thai military support for the Khmer Rouge (the only unclassified part of the document) acknowledged "unofficial" contacts between Thai military personnel and the Khmer Rouge, "generally in the context of business transactions."

In its March 1995 report *Cambodia at War*, Human Rights Watch documented gross violations of the international laws of war committed by both sides and called on all nations to halt aid and trade in arms and military equipment to the parties. Among the nations that have supplied arms to the Khmer Rouge in the past were China and Thailand; the guerrillas still draw on these stockpiles and buy current supplies from local arms brokers who sometimes deal in weapons intended for the Royal Cambodian Armed Forces (RCAF). The RCAF, in turn, has purchased military supplies and upgrades from North Korea, South Africa, the Czech Republic, Israel, Poland, Russia, Singapore, Indonesia and Malaysia since 1994.

The U.N. Commission on Human Rights passed a resolution expressing concern about the continuing serious violations of human rights and requested Special Representative Michael Kirby to present a report to the General Assembly and to the 1996 session of the commission.

### **The Work of Human Rights Watch/Asia**

In March, on the eve of the Paris donors' meeting, Human Rights Watch/Asia issued a major report titled Cambodia at War. The book-length report detailed grave military abuses on both sides and the increasing constraints placed upon the press. It called upon participants in the donors' meeting to insist on accountability and transparency in Cambodia's justice system, and called on all nations to cease supplying the warring sides with weapons. Human Rights Watch/Asia also sent numerous letters and press releases concerning the press law and legal actions against journalists to the Cambodian authorities throughout the year. In September, the organization followed up with a short report on the government's actions against the press and published an English translation of Cambodia's new press law. Human Rights Watch/Asia staff met with visiting Cambodian officials and explained its concerns on these issues. Throughout the year, Human Rights Watch/Asia urged U.S. and other government representatives to protest human rights abuses. The organization provided extensive information on Cambodia's human rights situation to the U.S. House and Senate committees considering bills that would grant Cambodia Most Favored Nation Trading status and urged that any grant be accompanied by a requirement that the president report at least once a year on human rights developments, in addition to the annual report on human rights prepared by the State Department.

## **CHINA AND TIBET**

### **Human Rights Developments**

Throughout 1995 the Chinese government continued to demonstrate its disdain for fundamental human rights guarantees and the rule of law. Obsessed with national "stability" as inflation, unemployment, and corruption worsened and an internal power struggle intensified, authorities continued to round up, imprison, and physically abuse activists engaged in peaceful dissent. Security officials continued to hamper independent religious practice, censored the media and publications industry, and escalated their efforts to stamp out "splittism" in Tibet. Some dissidents continued to be "disappeared"; others remained in lengthy incommunicado pre- or post-trial detention; still others had their movements constantly monitored. Members of dissidents' families were threatened and harassed.

The Chinese government continued to subvert the rule of law, violating its own criminal procedure code, using trumped-up criminal charges against political dissidents, and re-interpreting some laws and regulations to ensure specific outcomes. The November 21 formal arrest of Wei Jingsheng for "conducting activities in [an] attempt to overthrow the Chinese government" was the most blatant example. Wei, China's most famous dissident, has been missing since April 1, 1994, and as of his arrest date, his whereabouts were still unknown. At the time of his disappearance, in violation of China's own Criminal Procedure Code, no warrant for his arrest was issued and family members were not notified. Authorities also moved to blunt criticism of the use of counterrevolutionary charges to sentence political dissidents, by turning to the 1993 State Security Law to charge dissidents with the crime of "leaking state secrets." On September 19, former student Li Hai became the latest to be so charged. Bi Yimin, director of the Institute

of Applied Science and Technology of Beijing, was sentenced to a three-year prison term in February 1995 for allegedly misappropriating public funds. The money in question was legally transferred to two well-known dissidents serving thirteen-year terms for 1989 pro-democracy activities. In December 1994, Tong Yi, Wei Jingsheng's former secretary, was sentenced to "re-education through labor" on a trumped-up charge of "disturbing the public order." An attempt to pin a morals charge on her for cohabiting with Wei had already failed, and the original charge of forging an official seal on an application for study in the U.S. was deemed too minor to prosecute.

Chinese courts levied harsh sentences, up to twenty years, on those who challenged the one-party system. Where evidence was weak, courts substituted spurious criminal charges, or "re-education committees" administratively imposed shorter "labor re-education" terms, a form of punishment that the U.N. Working Group on Arbitrary Detention had earlier labeled "inherently arbitrary in character." Severely ill political prisoners remained in detention under conditions that violated the U.N.'s Standard Minimum Rules for the Treatment of Prisoners.

Chinese officials blatantly attempted to censor delegates' participation in and press coverage of the Fourth World Conference on Women and the parallel nongovernmental organization (NGO) Forum held in Beijing and Huairou in August and September. Even before the meetings convened, China challenged the U.N. accreditation of independent organizations with whose views it disagreed. Despite U.N. challenges and China's public promise to issue visas to all those registered by the NGO Forum, China used its position as host to deny visas to selected individuals. Security personnel monitored and disrupted NGO workshops and meetings, videotaping participants, their materials, and members of the audience. There were also attempts to confiscate NGO videotapes and to remove video equipment. Members of human rights organizations attempting to monitor Chinese violations of free expression and association were themselves under surveillance.

Members of the press were hampered in their coverage of the conference. Some hotel managers selectively refused reporters pre-arranged access to guests. As a condition of publishing, editors at the Earth Times, a daily newspaper that had been freely distributed at all major U.N. conferences and summits since 1992, were forced to comply with Chinese restrictions, including prohibitions on distribution at hotels and at the NGO Forum site and a ban on criticism of the host country.

In preparation for the conferences, Chinese officials cleared Beijing of prominent dissidents not already in custody so as to prevent meetings with outsiders. Tong Zeng, a leading campaigner for Japanese compensation to Chinese war victims, had expected to participate in a workshop about Japan's use of conquered "comfort women" during World War II. Instead, he was ordered to go on "vacation." Wang Zhihong, wife of dissident Chen Ziming who is serving a thirteen-year term for his 1989 pro-democracy activities, was "offered" a two-week prison visit with her husband. Dai Qing, who exposed fallacies and inconsistencies in the government's assessment of

the Three Gorges dam project, had to leave the city. In yet another move to "ensure the security" of delegates, the government announced the executions of sixteen "criminal elements."

That same month, Shanghai activist Dai Xuezhong, a member of the unofficial Human Rights Association, received a three-year sentence for alleged tax evasion. On April 10, labor activist Xiao Biguang went on trial on "swindling" charges; as of November, a sentence had not been announced. On August 18, Ding Zilin and her husband Jiang Peikun were detained in Wuxi, Jiangsu Province, for some forty days for "economic reasons," then released without explanation. The couple, whose seventeen-year-old son was killed during the June 1989 massacre in Beijing, compiled a list of those killed and maimed in the crackdown and tried to persuade the government to reverse its finding that the 1989 demonstrations were counterrevolutionary. Gao Yu, a dissident journalist imprisoned in October 1993, was finally sentenced in November 1994 to a six-year prison term after the procuracy twice returned the case to the court. Despite a ruling that "the evidence...is partial....," no new evidence was ever offered to justify the verdict.

In December 1994, in one of the most important political trials since those that followed the 1989 protests, the Beijing Intermediate Court sentenced nine dissidents, including medical researcher Kang Yuchun, lecturer Hu Shigen, Democracy Wall activist Liu Jingsheng, and printing plant worker Wang Guoqi, to terms ranging from three to twenty years. They were among sixteen arrested in May and June 1992 and charged with "leading a counterrevolutionary group and with "counterrevolutionary propaganda and incitement." A human rights monitor, U.S. citizen Harry Wu, was arrested on June 19, sentenced on August 24 to a fifteen-year prison term for spying and immediately expelled from the country.

Despite the release in July of Shanghai activist Yang Zhou for treatment of an esophageal condition, reports of serious and untreated illness among jailed political prisoners continued in 1995. One of the most egregious cases was that of Chen Ziming, sentenced to a thirteen-year term in early 1991 and released on medical parole in May 1994. Still under treatment for urinary tract cancer, he was returned to Beijing No. 2 Prison on June 25, 1995, on the pretext that the skin condition that had led to his parole had cleared up. The medical condition of long-term prisoner Bao Tong, former principal aide to ousted Party Secretary Zhao Ziyang, did not improve; he remained in a prison hospital, and his family lacked access to his medical records and was refused permission to choose his doctor.

Released dissidents and the families of those still imprisoned continued to be harassed. Five months before he was re-arrested in May, Public Security Bureau officials threatened Wan Dang with death if he continued to speak out. Liu Gang, released in June after completing a six-year term, was prohibited from leaving his home in Liaoning Province for two years and from talking with foreign journalists. Police broke into Liu's house in June and July, tried to run over family members on the street, and threatened friends and relatives who maintained contact with him. On September 1, Liu was again detained, this time for ten days, for refusing to "share his thoughts" with security officials. Gou Qinghui, the wife of Xiao Biguang, was prohibited from returning to her job at Yanqing Theological Seminary, attending church or meeting at home with

co-religionists. Tong Yi's father was warned that his job could be jeopardized if his daughter refused to comply with prison regulations. On January 16 and 17, Tong was beaten by fellow inmates in collusion with prison guards after protesting sixteen-hour work days.

Restrictions surrounding religious practice continued during 1995, and the official drive to register and subject to lay control all congregations, including the smallest family churches, escalated. Harsh crackdowns came in areas where foreigners were active proselytizers and trainers of lay leaders, where evidence of indigenous networks of unofficial churches surfaced, where evangelists were especially active, and where "underground" church members challenged the authorities through public worship. In April, during the Easter season, more than forty Catholics were detained in Jiangxi Province. Most were released, but several were sentenced to terms ranging between two and five years. At the end of October, Catholic lay persons and clergy arrested between February and June in Hebei, Inner Mongolia, and Jilin Provinces, remained in detention. But the more usual pattern during 1995 was to detain and physically abuse Catholics and Protestants until their families, the local church community or foreign evangelical organizations paid onerous fines. During a gathering of some 500-600 Protestants in Jiangsu Province in late January or early February, Protestant leaders from the province and from Wenzhou in Zhejiang Province were detained, severely beaten, heavily fined, and released. More than 300 were detained in Yingshang County, Anhui Province, at the end of May.

During 1995, Chinese officials tightened restrictions on freedom of expression. At the beginning of the year, the press was notified that it was required to put a favorable spin on sensitive issues, such as double-digit inflation, failing enterprises, and demonstrations by unemployed workers. On May 19, the party's propaganda chief ordered the twenty largest national newspapers not to cover issues that "have not been resolved" or are "impossible to resolve" and to use reports by Xinhua, the official news agency, for all breaking stories. In July, the Hong Kong-based Apple Daily was banned from covering a Beijing meeting about the colony's future. Its owner had angered the government with criticism of Premier Li Peng.

Information flows were further restricted in connection with the sixth anniversary of the June 4, 1989, crackdown. At the end of May, Nick Rufford of the London Sunday Times, was questioned for thirteen hours by officials who demanded the names of his Chinese contacts. From June 2-6, officials cut the CNN feed to hotels in Beijing, concerned that commemorative footage might include shots of the 1989 massacre. Also in June, the Ministry of Post and Telecommunications moved to limit local users' access to the Internet. Invoking China's sovereign status, he declared that "by linking with Internet, we do not mean absolute freedom of information." In August, when Greenpeace members from outside China tried to stage a demonstration in Tiananmen Square protesting China's nuclear testing, they were detained for thirty hours, interrogated about the involvement of Chinese citizens, and deported.

Films did not escape censorship. When New York Film Festival officials refused to cancel a showing of *The Gate of Heavenly Peace*, about the June 1989 crackdown in Beijing, Chinese officials asked Zhang Yimou, whose Shanghai Triad opened the festival, to cancel plans to

attend. He agreed. Zhang's work as a filmmaker in China has been entirely dependent on government approval.

Officials further curtailed freedom of association and assembly during 1995. An April law forbade Chinese citizens from attending foreign-run schools. That same month, police broke up a peaceful demonstration against corruption by some thirty entrepreneurs in Guangzhou. In April, security agents broke up a series of marches by former Nanjing residents who had been banished to the countryside during the Cultural Revolution (1966-76) and who were attempting to return. In June, authorities denied permission to two female war victims to demonstrate outside the Japanese embassy.

Human rights conditions in Tibet deteriorated throughout 1995. During the first quarter of the year, at least 123 dissidents were detained, more than in all of 1994. The government intensified its campaign challenging the legitimacy of the Dalai Lama, even as a religious leader, and the battle over who was to choose the new Panchen Lama, the second most important spiritual leader and the most important Tibetan leader residing there, resulted in the detentions of at least forty-eight people between May and July. The six year old identified by the Dalai Lama as the legitimate successor, but rejected by Chinese officials, disappeared, along with his immediate family. Authorities further curtailed religious activity by limiting the number of monks and nuns in any one nunnery or monastery, and by instituting an absolute cap on the total number in all of Tibet and a ban on the building of monasteries and nunneries.

Pro-independence activities, such as possession of the Tibetan flag, resulted in raids on the offending monasteries. In May, after independence posters surfaced at Labrang Monastery in southern Gansu Province, an area inhabited by Tibetans, five monks were arrested and two badly beaten, one so severely he suffered neurological damage. In 1994-95, two nuns, Gyaltzen Kelsang and Phunstog Yangkyi, were unexpectedly released from custody shortly before they died from injuries sustained in prison. In an attempt at restricting news flows, on three separate occasions women tourists leaving Tibet were stopped at the airport and strip-searched. Confiscated items included private letters, film, audio cassettes, and a diary.

### **The Right to Monitor**

There is no right to monitor in China. To form a legal human rights or monitoring organization, members would have to comply with the 1989 "Regulations on the Registration and Management of Social Groups," which require approval by the "relevant professional leading organs," presumably the official China Society for Human Rights Studies. Furthermore, the "monopoly" stipulation in the regulations, which mandates that an "identical or similar social group cannot be set up within the same administrative area," further restricts independent organizational efforts. In 1995, the authorities blocked several informal attempts at monitoring, such as the dissident petition drives which began in March and culminated in May, and which initially resulted in the detention and questioning of some fifty dissidents. In November, some twenty signatories were still detained.

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

In 1995, human rights concerns were further marginalized on the international agenda, as governments actively pursued trade and investment with China unhindered by any linkage to human rights. Chinese authorities aggressively offered human rights "dialogues" in exchange for business deals, sending the president and premier to visit Western capitals. At the U.N. Human Rights Commission, China defeated the most intensive, high-level campaign yet waged on behalf of a mildly worded resolution. As if to underline its growing confidence, the Chinese government made a travesty of its commitments to NGOs at the U.N. Fourth World Conference on Women with nearly total impunity.

The Clinton human rights policy of "constructive engagement" toward China lacked both substance and clout, with a few notable exceptions. The administration indicated in October that certain post-1989 sanctions would remain in place for the time being, namely a prohibition on weapons sales, denial of licenses for transfer of dual-use technology, and suspension of the Overseas Private Investment Corporation (OPIC) program in China. But for the most part, the administration downplayed human rights while concentrating on "stabilizing" relations with China at the economic and political level. The detention of the Chinese-American human rights activist Harry Wu pushed human rights to the top of the U.S.-Sino agenda, but only temporarily. The Chinese government used both Wu's detention and the controversy over the Taiwanese President Li Teng-hui's visit to the United States in June 1995 as bargaining chips to secure a summit meeting between Clinton and Jiang Zemin which took place in New York on October 24.

Clinton raised human rights concerns in his discussions with Jiang Zemin, but he declined to issue a public appeal for the release of any specific political prisoners, as he had following a previous meeting with Jiang in 1993. The two presidents agreed to meet again in Osaka in November, and the administration described the summit as "very positive" though it resulted in no concrete progress on human rights.

"Constructive engagement" got off to a shaky start in 1995 with the United States threatening a trade war over Chinese copyright and trademark violations. As the administration set a deadline for imposing sanctions, Energy Secretary Hazel O'Leary led a "presidential mission" to China in February, accompanied by more than seventy-five corporate executives. O'Leary used the opportunity to go after business deals in the energy sector, signing more than U.S. \$1 billion worth of agreements. In meetings with Premier Li Peng and other senior officials, she raised human rights concerns privately but avoided any public criticism of China's human rights practices.

In March, Vice-President Al Gore held a frosty meeting with Li Peng in Copenhagen around the edges of the U.N. Social Summit. Li Peng denounced U.S. interference "in other people's affairs," while the vice-president stressed the administration's desire to maintain "constructive relations" with China while "strengthening dialogue" in areas where the two governments have differences. Gore was publicly silent about human rights.

The Copenhagen meeting occurred just days after a vote in the U.N. Human Rights Commission on a resolution criticizing China's human rights practices. Co-sponsored by the European Union, the U.S., Japan and others, the measure attracted broad support from Eastern Europe, Latin America and Africa. For months, the United States, in particular, had lobbied in capitals around the world to line up votes in favor of the resolution. China responded in kind, warning European governments, for example, that support for the resolution could endanger their prospects for doing business in China and offering to engage in bilateral "human rights dialogues" with various governments in lieu of facing action at the United Nations. Although the Chinese government failed to prevent passage of a no-action motion, resulting in the first-ever debate on a China resolution, it narrowly won the final vote, with twenty-one countries voting against, twenty for and twelve abstaining.

It was clear by May that the international community would do little to come to the defense of beleaguered activists in China waging a petition campaign. At the height of their protests in the weeks leading up to the June 1989 anniversary, President Clinton renewed Most Favored Nation (MFN) trading status for China for one more year. The president reiterated his belief that "broad engagement with China, including on human rights issues, offers the best prospect in all areas of concern to us." He denounced China's human rights record as "unacceptable," but defended the administration's "vigorous" approach to human rights, including bilateral and multilateral efforts, as well as its work with the private sector to develop "voluntary business principles."

Nearly a year after the president's initial promise to develop a voluntary code of conduct for businesses, the White House officially announced the fruit of its efforts just prior to the MFN decision. The principles did not focus exclusively on China, as originally promised, but instead were designed for universal application. Half-heartedly endorsed by eight major companies who said they would serve as a "useful reference point" in framing their own codes, the principles did contain several positive elements, but were vaguely worded and lacked any concrete details as to how they would be implemented.

In Congress, resolutions to overturn the president's MFN decision never came to a vote in the House. Instead, a consensus bill (the 1995 China Policy Act) was formulated and adopted by a huge bipartisan margin (416 to 10) in July, demanding that the administration take diplomatic initiatives to improve human rights in several specific areas. In addition to giving the administration a clear human rights mandate, the bill required a report in thirty days on what actions had been taken at the World Bank, the U.N. and elsewhere. The Chinese government expressed "strong resentment" and opposition to the bill, but clearly was relieved that MFN was not challenged. The bill was referred to the Senate; as of November, no action had been taken.

The administration reacted strongly to the reimprisonment of Chen Ziming in late June; he had been released on medical parole in May 1994 as a gesture just prior to Clinton's MFN decision. Shortly thereafter, Harry Wu was detained, and the administration launched a campaign of high-level public and private lobbying to secure consular access to Wu and, ultimately, his release. Wu's case was a top item of discussion at a key meeting between Secretary of State

Warren Christopher and Chinese Foreign Minister Qian Qichen in Brunei on August 1, in conjunction with the annual conference of the Association of South East Asian Nations. The meeting coincided with a decision by the World Bank's executive directors on a \$260 million non-basic human needs loan for a major highway project. Several influential members of Congress wrote to the administration and World Bank officials urging the Bank to postpone considering the loan as a way of indicating concern over Wu and the deterioration of human rights in China generally. But the Treasury Department opposed the suggestion, and the administration claimed that it did not have the authority to hold up a loan on its own, although it had previously prevented loans to Vietnam and Iran from being considered by the executive directors. Furthermore, the administration argued that seeking a delay would "undercut [its] ability to pursue our human rights objectives in our ongoing bilateral discussions with China." World Bank lending to China, despite occasional abstentions or no votes by the U.S., continued to outstrip loans to any other government. According to the Bank's annual report, in the fiscal year ending June 1995, China received \$2.9 billion from the Bank.

Meanwhile, the White House continued an interagency review on possible Export-Import Bank funding for U.S. companies involved in the highly controversial Three Gorges dam project in China. In late September, the White House completed the review and recommended against Ex-Im Bank funding the project, both on environmental and human rights grounds. By November, no decision had been made by the Bank on an initial request from a U.S. company seeking funding.

As the year ended, prospects for developing a multilateral strategy to promote human rights in China through concerted political or economic pressure appeared dim. In July, the European Union's trade commissioner, Leon Brittan, outlined a long-term strategy to expand dramatically the E.U.'s ties with China while removing human rights as an impediment. His proposal acknowledged that both public pressure and private discussion would be needed to bring about human rights improvements, but stressed cooperative efforts to develop the rule of law in China over the long-term, rather than pressure. He also endorsed the E.U.'s political dialogue as a venue for raising human rights concerns. A meeting of the E.C.-China Joint Committee took place in Brussels in early October to review overall Sino-E.U. relations. Human rights concerns were discussed only briefly; Leon Brittan again affirmed the E.U.'s interest in playing a "constructive role" to improve China's judicial system. While Brittan was unveiling his proposal, President Jiang Zemin was preparing to visit Germany, Hungary and Finland. The visit was aimed at countering the effect of the Taiwanese president's trip to the U.S., but it also provided Jiang with an opportunity to generate greater recognition and acceptance, as well as new trade deals. In 1994 and 1995, Germany was China's largest European trading partner, with bilateral trade in the first five months of 1995 totaling over \$4 billion. The president of Germany, Roman Herzog, and Foreign Minister Klaus Kinkel presented China's foreign minister with a list of political detainees; Chancellor Kohl stressed the universality of human rights, but undercut these moves by stating that different levels of economic development and varying cultural traditions had to be taken into account. Demonstrators were kept away from Jiang, as the German government tried to prevent a replay of Li Peng's visit in 1994 which was cut short by protests.

With economic and political relations on track, Kohl planned another visit to China in mid-November.

In the weeks preceding Jiang Zemin's meeting with President Clinton in New York, Canada's prime minister, Jean Chretien, welcomed Li Peng to Montreal in mid-October as a featured speaker at a conference of the Canada China Business Council. Canada's policy towards China was similar to that of the U.S. and Europe, discreetly raising human rights in official discussions and U.N. fora, while concentrating on improving relations through "constructive engagement." In an even more subdued way, Japan followed a similar approach (see Japan section).

By the end of 1995, Beijing had successfully insulated its economic and political relations and ambitions from being seriously affected by its human rights record. For the most part, the Chinese government escaped accountability for its egregious violations of human rights, even as it sought recognition as an emerging superpower. No government was willing to exert the consistent political and economic pressure needed to compel the Chinese government to comply with its international obligations. The prospect of instability and greater repression in the wake of Deng Xiaoping's passing, however, raised doubts about the long-term prospects for economic reform and development of the rule of law in China without greater attention to human rights by the international community.

### **The Work of Human Rights Watch/Asia**

In 1995, Human Rights Watch/Asia worked to keep attention focused on human rights in China and to counter the trend towards downplaying rights concerns. Simultaneously, we attempted to widen the circle of those willing to work for improved human rights conditions by appealing to new constituencies, broadening our research to encompass abuses committed in conjunction with environmental and medical concerns.

After the February publication of *The Three Gorges Dam in China: Forced Resettlement, Suppression of Dissent and Labor Rights Concerns*, Human Rights Watch/Asia campaigned to limit involvement in the dam project by U.S. investment houses. Major institutional investors, many of whom represented public employee pension funds, were apprised of the human rights abuses and asked to eschew purchase of Three Gorges bonds. The initiative represented a continuation of our ongoing corporate social responsibility project which has included advocacy for a code of conduct for corporations active in the Chinese business community. We also provided our information to the Export-Import Bank, the White House, and to U.S. agencies involved in a review of possible U.S. funding for companies involved in the Three Gorges project.

Throughout the year, our New York, Washington, Brussels and Hong Kong offices engaged in advocacy, pressing for the release of prominent prisoners and detainees such as Wei Jingsheng, Tong Yi, Chen Ziming, and Harry Wu, and making specific policy recommendations to the European Union and the U.S. government. A major campaign was conducted on behalf of the U.N. Human Rights Commission resolution. The Brussels and Washington staff routinely

briefed European Union commission staff, members of the European Parliament, and the U.S. Congress and State Department, including those traveling to China. Human Rights Watch/Asia followed up Energy Secretary O'Leary's February visit to China by contacting members of the corporate delegation who traveled with her. China was a major focus of discussions in Japan during a Human Rights Watch/Asia mission in September.

Human Rights Watch/Asia maintained an ongoing dialogue with U.S. companies involved in China regarding human rights/worker rights, the Three Gorges project, and the administration's voluntary code of conduct. Human Rights Watch/Asia urged U.S. businesses to intervene on behalf of Harry Wu, and some companies and trade associations did make private appeals for his release.

In May, the Senate Foreign Relations Committee held a hearing on the harvesting of executed prisoners' organs for medical transplantation purposes, at which Human Rights Watch/Asia testified, updating information contained in our 1994 report. The issue of organ transplants received new prominence as part of the broader debate in Congress on China's human rights record.

At the United Nations Commission on Human Rights, a speech by Human Rights Watch condemned the practice of re-education through labor, arbitrary detentions, and overall prison conditions in China.

Reports and press releases kept the focus on Chinese attempts to find new avenues for limiting dissent. Enforced Exile of Dissidents revealed the Chinese policy of effectively exiling dissidents under the guise of permission to go abroad for medical treatment or scholarly pursuits.

In response to the crackdown on dissident activities before the sixth anniversary of the June 1989 Beijing crackdown, we published *China: Keeping the Lid on Demands for Change*, an assessment of human rights between the June 1994 decision "delinking" MFN and human rights and May 1995. A similar analysis was given in congressional testimony in the House of Representatives.

*Your Rights in Beijing: A Brief Guide for Delegates to the 1995 NGO Forum on Women* was the culmination of efforts to document attempts by the Chinese government to restrict NGO participation in the Fourth World Conference on Women and the parallel forum meeting. With the help of other human rights and women's rights organizations, some 10,000 copies of the brochure were distributed. A French translation was available, and the document was posted to several sites on the Internet.

## **HONG KONG**

### **Human Rights Developments**

Tension over Hong Kong's future continued in 1995, even as the people of the territory voted for their first completely elected legislature. Upsetting predictions, the September elections gave a decisive victory to candidates who favored a more confrontational attitude toward China, such as those of the Democratic Party. Yet even before the polls closed, the Chinese government repeated its promise to dissolve the legislature when China resumes its rule on July 1, 1997. The new legislature, the first not to have appointed members, is likely to present a more confrontational face to the Hong Kong government as well, revisiting a number of the year's most controversial issues in the next legislative session.

Prominent among those issues is the Court of Final Appeal described in the 1984 Joint Declaration between China and the U.K. that was to replace the Privy Council in London as the court of last resort. The agreement provided that the Court "may as required invite judges from other common law jurisdictions to sit," a provision designed both to ensure an adequate pool of high-caliber judges and to insulate the court from political pressure after the transition. A 1991 bilateral agreement that only one foreign judge would be able to sit on at most half of the Court's sessions drew protests from legislators and the bar, as did the restriction of the Court's jurisdiction to exclude "acts of state," a common law term that might be expansively interpreted by China to include a large range of cases involving government interests.

Nevertheless, in June of this year China and the U.K. agreed on implementing legislation that would preserve the limit of one foreign judge, the acts of state exception, and delay the establishment of the Court until the 1997 transition. This foreclosed the possibility that some of the jurisdictional uncertainty might be resolved in advance through the precedent of the Court's own decisions. The Legislative Council narrowly approved the legislation in July of this year, but key political figures such as Martin Lee, the leader of the Democratic Party, remained convinced that the compromise has jeopardized Hong Kong's judicial independence, and appeared eager to try to amend the legislation. The government, for its part, argued that these features do not threaten the Court's independence and that the alternative was to risk having China dissolve the Court and fashion its own institution in 1997.

The power of this argument illustrated how profoundly Beijing's threats have begun to shape the future of the territory. The Chinese government has promised to appoint a temporary legislature in place of the one elected this year, and it is this appointed body that would be called upon to approve the most basic institutional arrangements for the post-colonial era, including confirming the judges for the Court of Final Appeal. The Chinese government has also threatened to repeal the 1991 Bill of Rights, and it has so far refused to report to the U.N. Human Rights Committee on the application of the International Covenant on Civil and Political Rights (ICCPR), a breach of its bilateral obligation to ensure the covenant's application to Hong Kong. The Chinese government has also threatened to dissolve the lower tiers of elected representation in Hong Kong, the municipal councils and district boards, and in October a Beijing-appointed committee declared that the system of executive appointments to these bodies should be reintroduced.

While strenuously lobbying for its own legislative proposals, the Hong Kong government opposed initiatives by individual legislators, such as a trio of anti-discrimination bills introduced by appointed member Anna Wu. Private discrimination, particularly in employment, remained endemic in Hong Kong, where job advertisements frequently specified age, sex and even race as qualifications. Arguing that the measures were too radical, the government proposed its own more limited version and successfully lobbied to have Wu's drafts voted down in July. Other legislators promised to reintroduce the bills. The governor also refused to allow the legislature to consider a bill for an equal opportunity commission.

The Hong Kong government made progress in reforming the archaic colonial laws of the colony to be in conformity with the Bill of Rights, although the pace and extent of reform did not satisfy many human rights advocates. One example was the government's striking out a number of restrictive subsidiary laws enacted under the authority of the Emergency Regulations Ordinance, including provisions that allowed the government to censor and suppress publications. The government, however, left untouched the ordinance itself, which permits the governor to declare an emergency and issue laws and regulations on any subject, leaving open the prospect that new regulations will be promulgated under its authority. In October, a Beijing-appointed committee called for reinstatement of the emergency regulations, of the governor's power of censorship, of the former ban on societies not registered with the police, and an end to the Bill of Rights' power to override legislation.

Other government-proposed legislative amendments scrapped or modified licensing, permit or registration procedures for demonstrations, megaphones, public performances, and news organizations. A bill introduced by legislator Martin Lee passed in December 1994, repealing a section of the Film Censorship Ordinance that had been used to censor Taiwanese films, such as a documentary on the pro-democracy movement, because they might "seriously damage relations with other territories." The government submitted to China its proposed legislative amendments to the Official Secrets Act, and it planned to submit amended laws on treason and sedition to the legislature later next year.

Self-censorship in the media continued to be a serious problem, albeit difficult to document. A poll of journalists conducted in February by the University of Hong Kong revealed that more than 80 percent believed that self-censorship took place occasionally or frequently and that press freedom would decrease during the next three years. The Hong Kong Journalists Association reported several potential incidents of self-censorship. ATV television in December 1994 dropped the popular talk show *News Tease* after its confrontational host, Wong Yuk-man, was accused by pro-Beijing newspapers of being "anti-China" and "hostile." In January, Hong Kong's two land-based television stations refused to air a British Broadcasting Corporation documentary on the sale of organs from executed prisoners in China. In May, the *South China Morning Post* abruptly canceled the popular and controversial "Lily Wong" cartoon strip, citing financial reasons but refusing to run the balance of cartoons that were already paid for. One of the last strips had shown a Chinese official assuring an observer that there will be no future shortage of

organs for sale from executed prisoners because "by then it'll be 1997 and we got all the democrats and over a dozen cartoonists!"

Pressure on journalists took less subtle forms as well. Both Xi Yang, a reporter for Ming Pao, and Gao Yu, a free-lance contributor to Hong Kong publications, continued to languish in Chinese prisons for their reporting, which the Chinese government prosecuted as "espionage" (see China section). The Chinese government continued to deny entry to journalists it considered untrustworthy.

The Chinese government also tried to control access to the mainland by perceived political opponents. In July, it denied an entry permit to Cheung Man-Kwong, a member of the government's Education Commission and a Democratic Party legislator. Rosie Young, the chairwoman of the commission, canceled its planned official visit to China in response. Later in the month, China banned Martin Lee from attending a law seminar.

Serious abuses against Vietnamese asylum seekers took place again this year, as Hong Kong authorities increasingly resorted to force in connection with deportation procedures and camp inmates resisted ever more violently. The most serious incident took place on May 20, when police and correctional service officers moved some 1,500 asylum seekers from a section of the Whitehead Detention Centre to High Island in preparation for deportation. The officials fired 3,250 tear gas canisters during a period of eight hours, also using truncheons and mace against the Vietnamese. The asylum seekers responded initially by barricading themselves, but as the assault progressed, neighboring sections hurled home-made spears and projectiles at the oncoming force. Nearly 170 officers were treated for injuries, most for heat exhaustion, and seventy-eight Vietnamese reported injuries from batons, gas canisters, mace and shields, in addition to the hundreds who suffered the effects of tear gas, among them women, children and babies. Among the injured was a sixty-five-year-old woman who was sprayed with mace, kicked in the ribs and struck by a truncheon, and a baby who had fainted from the tear gas and was accidentally scalded when an inexperienced officer tried to revive her under what turned out to be a hot water tap. Few Vietnamese complained to the authorities, however, because of the experience of almost 400 other asylum seekers who pressed complaints of injury and loss of property from a similar raid that took place on April 7, 1994; few of these complainants had yet had their request for legal aid processed, and many were deported in the meantime.

Despite the massive use of tear gas and the injuries produced during the raid, the Hong Kong government refused to appoint a commission of inquiry, or indeed, to release video footage of the operation. It relied on its own account of events and a sketchy report by four independent monitors, two of whom questioned the use of tear gas. In the next operation, on June 8, authorities again deployed large amounts of tear gas in response to what they said was violent resistance, a claim disputed by Vietnamese who witnessed the events. Independent monitors arrived after the conflict was virtually over, as the authorities did not notify them that disturbances had caused police and correctional officers to move in ahead of the scheduled time. Incidents of violence by both officials and Vietnamese continued to plague camp transfers and

deportations, and the authorities continued to incarcerate Vietnamese whom they deemed "troublemakers" or "protesters" without any legal hearing or review in punitive detention facilities such as Victoria Prison. In July, Vietnamese brought allegations that camp guards had beaten two Vietnamese youths during an otherwise peaceful demonstration of children protesting the decision to terminate secondary schooling for asylum seekers; officials denied the allegations but again refused to release videotapes they had made of the incident.

### **The Right to Monitor**

Hong Kong remains one of the most hospitable environments in the region for local human rights and civil liberties advocates. In October, approximately a dozen nongovernmental organizations lobbied and observed Great Britain's report to the U.N. Human Rights Committee on its application to Hong Kong of the ICCPR. To emphasize the urgency of China assuming the reporting requirement, the Legislative Council also dispatched a delegation to the Geneva hearing.

The government continued to restrict press access to detention centers for Vietnamese asylum seekers, and in August banned reporters from observing deportation actions as well. Lawyers for asylum seekers continued to have access to their clients, but under highly restricted conditions.

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

The U.S. administration tended to frame its interest in Hong Kong in terms of achieving a "smooth transition," a term raised repeatedly by Deputy Assistant Secretary of State Kent Wiedemann before a House hearing on July 27. The administration generally supported Hong Kong government positions, from the electoral reforms to the compromise on the Court of Final Appeal, and tended to gloss over human rights issues and the Chinese government's threats to reconstitute basic governmental arrangements in favor of expressing confidence in the territory's future. Members of Congress were more forceful in reflecting the concerns raised by Hong Kong residents and legislators, with Senator Craig Thomas and Representatives Benjamin Gilman and Howard Berman taking particular interest in transitional arrangements and the continuity of the legislature.

The administration continued to support Hong Kong's deportation policy regarding Vietnamese asylum seekers and expressed no concern at the increasingly forceful measures used and the violence they provoked. It was taken by surprise when a legislative measure to facilitate U.S. resettlement of boat people proposed by Representative Chris Smith passed the House by a wide margin. The measure, premised on concerns that the screening process to identify genuine refugees was flawed or corrupt, would have made reintegration assistance for returnees in Vietnam conditional on the re-screening of the more than 40,000 Vietnamese asylum seekers in the region for determination of their refugee status. The bill had an immediate effect in both Asia and Washington: voluntary repatriation dropped sharply as asylum seekers waited to see the fate of the legislation, and the administration then produced an alternative proposal whereby Vietnamese who volunteered to return home would be eligible for resettlement screening by U.S. officials in Vietnam.

The Sino-British agreement over the Court of Final Appeals marked one of the first significant points of cooperation between the two countries since Governor Patten's proposals for electoral reform in 1993. At an October meeting the foreign ministers of China and the U.K. agreed on further measures, including the establishment of liaison structures between Chinese officials and Hong Kong government offices and civil servants, an agreement to resolve disputes over port development, and a committee to oversee the transition ceremonies. Critical issues such as the survival of the current legislature, however, did not come up at the talks, although Britain did agree to provide China with approximately \$150 million in soft infrastructure loans. In September, Governor Patten mentioned that Britain ought to give the 3.2 million holders of British Dependent Territories Citizen passports in Hong Kong the right of abode in Britain, a proposal immediately ruled out by Home Secretary Michael Howard.

At the conclusion of its hearing in October, the U.N. Human Rights Committee told a joint U.K.-Hong Kong government delegation that it considered China obligated to continue to report on the application of the ICCPR to the territory, and called on the delegation to return next year to explain exactly how this responsibility would be transferred. Members of the committee stated that China should maintain Hong Kong's Bill of Rights and the recently elected legislature, and also criticized the British administration's treatment of Vietnamese asylum seekers.

### **The Work of Human Rights Watch/Asia**

Human Rights Watch/Asia brought its concerns regarding human rights in Hong Kong to the attention of Congress twice this year, once in testimony submitted to the Senate in May and again in testimony given before the House in July. Among its principal recommendations were that the U.S. urge China to live up to its obligations in the Joint Declaration, and that it urge the Hong Kong government to act swiftly on law reform and allow legislators to introduce private bills on subjects such as a human rights commission and an equal opportunity commission. Also in July, Human Rights Watch/Asia wrote Governor Patten expressing concern over the pattern of escalating violence between government authorities and Vietnamese asylum seekers, recommending that the government conduct a public review on the use of tear gas against confined populations and allegations of excessive use of force, that it release all videotapes of these incidents and increase the use of independent monitors. The government responded, denying that it had in any way mishandled the situation.

## **INDIA**

### **Human Rights Developments**

The Indian government took several significant steps toward addressing human rights concerns in 1995, most notably by agreeing to permit the International Committee of the Red Cross (ICRC) to visit detention facilities in the disputed territory of Kashmir and by allowing a widely-criticized security law to lapse. However, the government continued to deny human rights

groups access to Kashmir, the site of the most severe abuses by security forces and armed militant groups. The government's proclaimed policy of "transparency" offered little protection for human rights activists in Kashmir and Punjab, who continued to be arrested and "disappeared." Other endemic abuses, including trafficking of women, officially-sanctioned communal violence and police abuse, received scant attention from the government or from India's allies and trading partners.

Two dramatic events focused international attention on the continuing crisis in Kashmir. A two-month-long standoff between militants and the Indian army at a Sufi shrine in the town of Charar-e Sharief ended in catastrophe on May 11 when the shrine was torched and it and most of the town burned to the ground. It was not clear who set the fire; the Indian government blamed the militants while most Kashmiris blamed the army. Because the press was barred from the site, no independent reports were available. Several Kashmiri leaders who attempted to visit the area were arrested. According to the Committee for Initiative on Kashmir, a human rights group, the government claimed that twenty-nine militants were killed in the fighting, yet only fourteen bodies were recovered, five of which were identified as civilians, including a disabled seventy-year-old woman. The disaster forced the Rao government to cancel its plans to hold elections in July; polls were tentatively scheduled for later in the year, but as of November, no date had been announced. All the militant groups in the valley vowed to boycott any election, demanding instead that a plebiscite be held under U.N. auspices.

In July, a previously unknown militant group, Al Faran, kidnaped six tourists in Kashmir: two Americans, one of whom later escaped, two Britons, one German and one Norwegian. The group, believed to be associated with Harakat-ul-Ansar, a militant organization responsible for several 1994 kidnappings and bus bombs, demanded the release of twenty-one detained militants. On August 13, police discovered the beheaded and mutilated body of the Norwegian hostage, Hans Christian Oster. The murder was widely condemned by political leaders and most other militant groups in the Kashmir valley. As this report went to press, the remaining hostages were still in Al Faran's custody. Other groups also engaged in kidnappings; at least four Kashmiris were kidnaped by militant organizations in the same month that the foreign hostages were taken.

Throughout the year, Kashmiri militant groups resorted to the indiscriminate use of explosives, including car bombs and letter bombs, not only in Jammu, but in heavily-trafficked areas of Srinagar, where such attacks had been rare. Civilians were the principal victims. As with the kidnappings, many of these attacks appeared to be the work of Islamist groups whose leadership included Afghans and other non-Kashmiris. Harakat-ul-Ansar claimed responsibility for a July 20 bomb blast in Jammu that killed sixteen and wounded forty-five. According to a statement by the group, the attack was meant to frighten Hindus on pilgrimage to the area. On September 7, a letter bomb delivered to the office of the British Broadcasting Corporation (BBC) in Srinagar killed photojournalist Mushtaq Ali, and wounded BBC correspondent Yusef Jameel. A militant group was believed responsible.

Militant violence also resumed in Punjab. Beant Singh, the chief minister of the north Indian state of Punjab, was assassinated by a car bomb explosion on August 31. His driver and twelve security officers were also killed, and some thirty others were injured. The militant organization Babbar Khalsa claimed responsibility. On September 26, bomb blasts in Delhi and Panipat in neighboring Haryana injured nine. The Khalistan Liberation Force, a Punjab militant group, claimed responsibility for blasts that injured about fifty persons in Delhi on September 25.

Victims of abuse in Punjab and their families continued to file court cases against police responsible for torture, disappearances and extrajudicial executions during the government's decade-long conflict with Sikh separatists in the state. According to the official National Human Rights Commission (NHRC), the government initiated prosecutions of fifteen Punjab police officers in five cases of disappearances and other abuses. No convictions were announced. In May, the NHRC decided to intervene in the case of Harjit Singh, who disappeared after being arrested by the Punjab police in April 1992. The commission appointed an advocate to pursue an inquiry at the High Court. At the same time, human rights groups continued to report "disappearances," including that of Jaswinder Kaur, who disappeared after she and her father were arrested on February 26, 1995. Her father was later released, but police, seeking to arrest her husband, continued to deny that Jaswinder Kaur was in custody. Human rights activist Jaswant Singh Khalsa disappeared after being taken into custody on September 6. (See The Right to Monitor, below).

In Assam, police continued to murder detainees in what they claimed were "encounters." On February 16, Ripunjay Acharjya and Hem Chandra Sharma were arrested from their homes in Nayakpura, Assam, and accused of links with a militant organization, the United Liberation Front of Assam (ULFA). Their bodies, bearing bullet injuries, were later found at a local hospital. In another case, Samarendra Sharma of Tamuligaon village was arrested on February 2. After his body was discovered at a local hospital, the police superintendent claimed that Sharma had been killed in an "encounter."

On May 16, the government decided not to renew the Terrorist and Disruptive Activities Act (TADA), a widely criticized security law that permitted, among other things, the use in trial of coerced confessions. The law had prohibited any act that questioned the integrity of India, thereby criminalizing free speech. The government's decision appeared to be prompted by its interest in winning Muslim support in the 1996 general election; TADA had been widely used against Muslims and other minorities. A draft bill for a criminal law to replace TADA and incorporate many of its offensive provisions was submitted to parliament, but no action was taken. Meanwhile, some 6,000 prisoners detained under TADA remained in custody; human rights groups and the NHRC called for a review of their cases.

Official complicity in "communal" violence received scant attention from either the central or state governments. Following elections in the western state of Maharashtra, the extremist Hindu Shiv Sena party formed a coalition government with the Hindu nationalist Bharatiya Janata Party (BJP). The Shiv Sena, believed to have wide support among the Bombay police, was responsible

for instigating violence against Muslims that left hundreds dead in the January 1993 "riots." Police participated in many of the attacks, and, nearly two years later, an official inquiry into the violence dragged on without result, despite criticism by human rights groups and the NHRC which urged that the authorities take action to expedite the work of the commission. With the election of the Shiv Sena-BJP government, however, it appeared increasingly unlikely that any police would be prosecuted. The election also raised fears about the security of Muslims in Bombay, particularly migrant workers from other parts of India. Almost immediately after the government was formed, Shiv Sena leader Bal Thackeray vowed to deport "illegal Bangladeshi immigrants," and police raids targeted poor Muslim neighborhoods of the city.

Women and girls continued to be trafficked from Nepal into Indian brothels in Bombay and other cities for the purpose of prostitution and kept in conditions tantamount to slavery. Held in debt bondage for years at a time, they have been raped and subjected to severe beatings, exposure to AIDS, and arbitrary imprisonment. Both the Indian and Nepali governments have been complicit in the abuses suffered by trafficking victims, and neither government took significant steps to end the practice by arresting and prosecuting traffickers and punishing police who protect brothel owners.

### **The Right to Monitor**

Although many human rights groups continued to function freely throughout India, those working in areas of conflict, such as Kashmir, the northeast, and Punjab, faced considerable risks.

In Punjab, Jaswant Singh Khalra, general secretary of the human rights wing of the Akali Dal political party, was arrested outside his home in Amritsar on September 6. In January 1995, his office had filed a petition in the High Court claiming that hundreds of individuals had been killed and secretly cremated by the Punjab police. As of November, Khalra had not been produced in court and his whereabouts were unknown.

On the night of June 15, Sheikh Mohammad Ashraf, president of the Baramulla branch of the Jammu and Kashmir bar association, which regularly documented abuses by Indian security forces, was arrested by the Rashtriya Rifles unit of the Indian army. He was released on September 9; throughout his detention, his family was denied access to him. Earlier, on May 1, Mohammad Ashraf, an advocate at the High Court in Srinagar, was reportedly arrested and charged under the Public Safety Act, a preventive detention law. On April 22, two unidentified gunmen opened fire on Mian Abdul Qayoom, president of the Jammu and Kashmir bar association, seriously injuring him. Qayoom had vigorously investigated human rights violations by Indian security forces in Kashmir.

On April 14, Parvez Imroz, secretary of the local branch of the People's Union for Civil Liberties (PUCL, a human rights group), was shot and injured, reportedly by militants who later claimed that Imroz had been shot by accident. On March 31, journalists protesting against human rights abuses by security forces were beaten by police in Srinagar.

India's official human rights commission, the NHRC, continued to perform a useful though limited role, undertaking investigations of a range of abuses, particularly deaths in custody, and recommending prosecutions of police officers responsible. According to the commission, state governments initiated prosecutions of police involved in eighteen cases of deaths in custody; the NHRC intervened to recommend prosecutions in two additional cases, and the accused police officers were arrested and tried. In other cases, however, the commission appeared to accept at face value official accounts of alleged abuse, despite contradictory reports by local human rights groups. Earlier in the year, the NHRC pushed for the repeal of TADA and for granting the ICRC access to Kashmir.

On June 22, the government of India signed an agreement to permit the ICRC to visit detainees and undertake its other humanitarian services in Kashmir. The ICRC was scheduled to begin its operations by November 1. The government decision followed years of pressure by domestic and international human rights groups. Earlier in the year, the ICRC conducted human rights training courses for Indian security personnel.

In July, the Indian government unsuccessfully attempted to prevent the accreditation of two human rights groups—Physicians for Human Rights (PHR) and Freedom House—at the U.N. committee on NGO consultative status. Both groups had been critical of India's human rights policies, particularly in Kashmir.

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

In April, U.N. High Commissioner for Human Rights José Ayala Lasso made an unprecedented visit to Kashmir. As had been the pattern in his visits elsewhere, Ayala Lasso opted for caution over clout, expressing concern about reports of human rights violations while refraining from hard-hitting criticisms about Indian abuses in Kashmir. However, he criticized the lack of judicial action against police officers accused of human rights violations and urged the government to grant access to international human rights groups. The high commissioner also joined with other human rights groups to call for the repeal of TADA.

### **European Community Policy**

Under the provisions of the cooperation agreement between India and the European Community which came into force in 1994, the European Union has an obligation to raise human rights concerns and to make an effort to improve human rights through trade and diplomatic channels. However, while the E.U. actively pursued commercial interests in India in 1995, there was little evidence of any effort to raise human rights concerns. Early in the year, Daniela Napolì, head of the human rights and democracy unit of the European Commission, traveled to India to evaluate possible human rights projects with Indian NGOs, and, to some extent, with the Indian government. The European Commission approved two major development projects in India in July.

Commercial interests dominated British Foreign Secretary Douglas Hurd's visit to India in January. Endorsing India's policy on Kashmir, he promoted the sale of British military aircraft to India.

### **U.S. Policy**

The U.S. continued the policy adopted in 1994 not to criticize India's human rights record publicly and to raise human rights concerns only in private. The administration also continued to promote commercial relations, dispatching a stream of high-level officials to India early in the year.

In January, U.S. Commerce Secretary Ron Brown led a trade delegation to India, clinching business deals worth billions of dollars, and stating publicly that since "commercial diplomacy" was a way to effect human rights improvements, "one doesn't have to wait for the other." In the first such visit by a defense secretary since the mid-1980s, Secretary William Perry signed a historic "framework of understanding" to pave the way for more military cooperation between India and the U.S. In a welcome move, Secretary Perry called on India to permit the ICRC to operate freely in Kashmir.

Visits to India by senior administration officials reflected the administration's concern with reassuring Indian government officials anxious about a U.S. "tilt" toward Pakistan. On a visit to India in March, Assistant Secretary for South Asia Robin Raphael denied that the U.S. had downplayed human rights issues for the sake of commercial interests. However, her harshest public criticism—that human rights in practice was "not always consistent with the guarantees in the Indian constitution"—was conspicuously mild in contrast to her praise for government measures and what she called the end of India's "denial" phase about human rights abuses.

In testimony before Congress on March 7, Secretary Raphael again praised "positive developments," particularly the work of the official NHRC, but acknowledged that "more needs to be done." Her observation that the Punjab police "often do not respect normal criminal procedures" was notably lame. In fact, the Punjab police have routinely resorted to torture and murder. Her remarks suggesting that the conflict with Pakistan over Kashmir would hinder Indian efforts to gain a seat on the U.N. Security Council angered Indian officials, and the administration was quick to respond. Visiting India several weeks later, Under Secretary for Political Affairs Peter Tarnoff reassured Indian officials that the U.S. had not ruled out a seat for India on the security council.

In its efforts to walk a fine line on the question of elections in Kashmir, the administration sent mixed messages on its view of the value of such a vote. While reiterating the administration's official policy recognizing Kashmir as a disputed territory, Secretary Raphael observed in January that "it would be premature" to say whether the government's controversial plans for elections in Kashmir would be an appropriate part of the political process. Later in the year, Ambassador Frank Wisner called for Kashmiri leaders to participate, even though most have

questioned India's right of control over the territory and have raised questions about whether a fair election would be held.

First Lady Hillary Rodham Clinton visited India on her South Asia tour in March, and although she met with a wide range of women's organizations, her public remarks did not focus on human rights abuses affecting women.

The human rights officer and other staff at the U.S. Embassy met regularly with Indian human rights groups. In a welcome move, Ambassador Frank Wisner raised the case of "disappeared" human rights activist Jaswant Singh Khalra during a visit to Punjab later in the year.

### **The Work of Human Rights Watch/Asia**

Throughout 1995, Human Rights Watch/Asia put pressure on the Indian government, exposing its failure to live up to its publicized policy of "transparency" and pointing out where it had fallen short in holding its security personnel accountable for abuses. In April, the Indian government granted a visa to Human Rights Watch/Asia Executive Director Sidney Jones, reversing two years of government policy. She met with local human rights groups, members of the NHRC and officials of the Home Ministry, who stated that the government would not permit Human Rights Watch/Asia to undertake a mission in Kashmir.

While furthering its contacts with the official NHRC and nongovernmental human rights groups, Human Rights Watch/Asia continued its work on areas of endemic abuse, particularly communal violence and the trafficking of women and girls.

In July, Human Rights Watch published *Rape for Profit: Trafficking of Nepali Women and Girls into India*. The report documented Indian and Nepali police complicity in the trafficking and abuse of Nepali women and girls, thousands of whom have been abducted or coerced into prostitution in Indian brothels.

In March, Human Rights Watch published *Playing the "Communal Card": Communal Violence and Human Rights*, a report that analyzed the role of the police and other government agents in many parts of the world in fostering "ethnic" and "communal" violence. The chapter on India documented the government's failure to prosecute police and security forces responsible for abuses in incidents of violence following the destruction of the Babur mosque in Ayodhya in December 1992 and in the Bombay "riots" of January 1993.

Human Rights Watch/Asia pressured U. N. High Commissioner for Human Rights José Ayala Lasso to visit detention centers in Kashmir and to be outspoken about abuses by all parties. We also urged that human rights issues be raised by India's donors at the World Bank-convened meeting in June.

Human Rights Watch/Asia also challenged the U.S. government's new "commercial diplomacy" in India and its failure to speak out critically about continuing abuses in India. In January, we wrote to Commerce Secretary Ron Brown and Defense Secretary Perry, asking them to meet with

nongovernmental human rights groups and raise human rights issues publicly. Following Secretary Brown's visit, Human Rights Watch/Asia published an opinion piece in the Boston Globe, accusing Secretary Brown of squandering an important opportunity to demonstrate the administration's avowed commitment to human rights.

## **INDONESIA AND EAST TIMOR**

### **Human Rights Developments**

As Indonesia celebrated the fiftieth anniversary of its independence in 1995, widespread abuses of basic human rights continued, including arbitrary arrests and detentions, a renewed assault on freedom of expression, and restrictions on freedom of association. A long-standing pattern of abuses by members of the Indonesian military persisted with cases of arbitrary detention, the use of torture and summary killings of civilians in East Timor and Irian Jaya. Top army officials warned of communist-inspired "formless organizations" as a way of explaining criticism of the government and discrediting individual dissidents. The government-appointed National Commission on Human Rights (Komnas), operating within the limits of its mandate, continued to play a useful and active role, conducting investigations and issuing reports on sensitive, high-profile cases.

The government renewed its crackdown on freedom of expression with the arrest of two journalists and an office assistant from the Alliance of Independent Journalists (AJI) in March 1995. The journalists, Ahmad Taufik and Eko Maryadi, both officers of AJI, and staff member Danang Kukuh Wardoyo were charged with "spreading hatred against the government" and publishing the AJI newsletter, *Independen*, without a government license. *Independen* was cited by the prosecution for printing articles critical of President Soeharto and other government officials. In September 1995, Taufik and Maryadi were sentenced to two years and eight months each in prison; Danang Kukuh Wardoyo earlier received a sentence of twenty months.

Also in September, Tri Agus Susanto, a journalist who edited a newsletter for the Pijar Foundation, a Jakarta-based nongovernmental activist organization, was sent to prison for two years after being convicted of insulting the president. The newsletter, *Kabar dari Pijar*, had published an article in 1994 quoting a human rights lawyer's criticisms of Soeharto.

Freedom of expression was also curbed through the break-up of seminars and other public discussions. In June 1995, the police broke up a seminar on democracy and detained seven people, including the sole speaker, Robert Hefner, an American professor from Boston University; they were held overnight for questioning.

Gag orders were issued in an attempt to silence controversial speakers, such as Abdurrahman Wahid, leader the largest Islamic organization, Nahdatul Ulama, who was banned twice from giving speeches in East Java. Coordinating Minister for Political Affairs and Security Soesilo

Soedarman stated in June 1995 that the government would pass new regulations on permits for public speaking, declaring that many of the bans imposed by security forces represented an effort to prevent actions that might jeopardize national stability.

The government tried to prosecute some of its most outspoken critics. Sri Bintang Pamungkas, a parliamentarian from the United Development Party, was charged with "defaming the president" for a lecture he delivered in Berlin in April 1995. The lecture coincided with demonstrations against Soeharto, who was visiting Germany at the time. In October, it was announced that the case would come to trial in November. In May, the president issued an executive order terminating Bintang's term as a member of parliament, and he was banned from all foreign travel. Bintang filed a lawsuit challenging the international travel ban in July; in a separate suit, he demanded reinstatement in the parliament. As of November, neither case had yet been heard.

Similar tactics were used against Permadi, a lawyer, NGO activist and mystic who was accused of blasphemy for remarks he made about the Prophet Mohammed during a 1994 seminar. He was arrested in May 1995, tried and convicted in September and released on a technicality immediately after the verdict. It was widely believed that his arrest and conviction stemmed more from critical remarks he made about government leaders than from his references to Islam.

George Aditjondro, a lecturer at Satya Wacana University and frequent critic of government policy in East Timor was accused in April 1995 of insulting the government during a lecture he gave in 1994 at the Indonesian Islamic University in Yogyakarta. When the charges were announced, Aditjondro was in Australia as a guest lecturer and Canberra said it had no plans to return Aditjondro.

In a positive development of at least symbolic value, the Jakarta Administrative Court ruled in May that the ban by Minister of Information Harmoko on the popular magazine Tempo in June 1994 was arbitrary and illegal. Harmoko, backed by Soeharto, said he would appeal the verdict at a higher court. The Semarang (Central Java) Administrative Court made a similarly courageous ruling that dissident Arief Budiman, sacked by Satya Wacan University for his outspokenness, had been fired illegally.

In a move apparently aimed at quelling complaints about its limits on openness, the government announced in August 1995 that it planned to abolish the practice of requiring permits for public gatherings, including political gatherings. It said that police notification would still be required, and a 1965 law on political activities still gave the government great discretion in defining and repressing "political gatherings."

In an effort to dampen criticism of its worker rights record, the government implemented various labor reforms announced in 1994, including an increase in the minimum daily wage which took effect in April 1995. But these reforms failed to address the core issues of the denial of freedom of association and the widespread intervention of the military in peaceful labor disputes.

In May, Mochtar Pakpahan, chairman of the banned Serikat Buruh Sejahtera Indonesia (SBSI, or Prosperous Workers Union), an independent labor union, was released from prison while an appeal was pending with the Supreme Court. Pakpahan was arrested in 1994 and sentenced to four years in prison in January 1995. He was charged under Article 160 of the Penal Code with inciting a riot in conjunction with a huge rally in Medan, Sumatra, in April 1994, although he was not even in the area at the time. The Supreme Court overturned Pakpahan's conviction in October 1995. Other SBSI leaders sentenced for their alleged involvement in the Medan riot were also released.

Throughout the year, SBSI and other independent labor organizations were harassed, unable to organize meetings without military interference, and detained and interrogated.

There was no perceptible change in the widespread involvement by the security forces in labor negotiations or peaceful demonstrations by workers. For example, a strike and demonstration by workers at the Great River Garment Company took place in Bogor, West Java, in July 1995. Security forces used sticks to beat demonstrators and prevent workers from reaching the nearby provincial parliamentary compound where they planned to meet with representatives after attempts at negotiation had failed. Police later charged seven students—members of a nongovernmental labor rights organization, Pusat Perjuangan Buruh Indonesia (PPBI or Center for Worker's Struggle)—with instigating and organizing the protests. As of November, their trials had not yet taken place.

In a surprise move in May 1995, the Supreme Court ordered the release of eight individuals convicted and sentenced for the torture and murder of Marsinah, a young labor organizer. The defendants were all company staff at the watch factory where Marsinah worked before her abduction and murder in 1993. Indonesian human rights groups had long suspected military involvement in the murder. The Supreme Court's decision prompted a reopening of the investigation into the case. The police finally named five new suspects, but did not reveal whether any of them were members of the military.

In October, the chief of staff of the armed forces, Lt. Gen. Soeyono, began warning of the "latent threat" of communism, saying that the communist-inspired "formless organizations" were gaining in influence, using the struggle for human rights and democracy as their cover. Others in the government and military picked up the theme, and by the year's end, it seemed as though a witch hunt of known dissidents might be underway.

Human rights conditions in East Timor deteriorated significantly following the Asia-Pacific Economic Cooperation (APEC) conference in Indonesia in November 1994. There were several riots and demonstrations early in 1995, all of which were broken up violently by the Indonesian military. The most egregious case occurred in Liquica, outside of Dili, on January 12, when six East Timorese civilians were shot and killed by Indonesian troops.

Initially the army reported that six guerrillas had been killed in cross fire during an army clash with a Fretilin rebel group. This report was contradicted by local clergy, who said that the victims were innocent civilians. International attention to the killings spurred President Soeharto to order a military investigation, and the National Commission on Human Rights (Komnas) announced it would conduct its own investigation. Both the military's report and the Komnas inquiry, announced in March 1995, concluded that the six men had been summarily executed. But the military was adamant in insisting that the six men were guerrillas, while Komnas maintained that the victims were all civilians who had been tortured prior to being killed. A lieutenant and a private under his command were tried by a military court; in June 1995, they received sentences of four years and six months and four years in prison respectively. However, the soldiers were punished not for the killings, but for violating an order from a superior and for failing to report the incident.

In September, riots broke out in Maliana and in Dili, sparked by religious and ethnic tensions. Dili's Roman Catholic bishop, Carlos Belo, said an underlying cause was the government's failure to address the underlying problems in East Timor, a view echoed by Komnas.

In the Timika area of Irian Jaya, a remote province dominated by copper and gold mining interests, a series of incidents took place between October 1994 and May 1995, involving the detention, torture, killing and "disappearance" of indigenous people by Indonesian security forces. Some of the incidents reportedly took place on property and using facilities and equipment owned by a U.S. mining company, Freeport McMoran. A highly credible report by the Catholic church of Jayapura, based on eyewitness testimony, was released in August, documenting the abuses. After two missions to Timika, Komnas issued a report in late September, confirming that sixteen people had been killed, including women and children, in conjunction with military operations against a separatist group, the Free Papua Movement (OPM). It called on the government and armed forces to investigate and punish those responsible, to identify the whereabouts of four missing people, and to "clarify" the respective roles of the military, local government and Freeport management in maintaining security and protecting the human rights of the region's residents. Freeport flatly denied any involvement in the abuses. The army said that four soldiers would be prosecuted in January 1996 for "violations of military procedures."

### **The Right to Monitor**

Prior to the November 1994 APEC meeting, the Ministry of Interior drafted a presidential decree imposing tighter restrictions and monitoring requirements on nongovernmental organizations (NGOs), including human rights groups, provoking widespread domestic and international complaints; as of November 1995, it had not yet been issued. But a crackdown on NGOs continued nonetheless, with human rights groups, labor rights organizations and other NGOs facing routine harassment and surveillance. The Indonesian Legal Aid Institute reported that its offices and vehicles in Jakarta and Palembang were vandalized in January and February 1995. There was no attempt by the government to investigate or prosecute those responsible.

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

The Indonesian government was only partially successful in blunting criticism by extolling the work of its own human rights commission and by enhancing its economic and military ties abroad. East Timor and Irian Jaya were potent lightning rods for international criticism, as was the government's clamp down on journalists.

Soeharto's visit to Germany in April was disrupted by protest rallies focusing attention on Indonesia's poor human rights record, though a trade fair in Hanover and the signing of major business deals overseen by Chancellor Helmut Kohl were obvious successes for the government. Similarly, in September Queen Beatrix of The Netherlands visited Indonesia to mark the fiftieth anniversary of the country's independence and express regret over Holland's former colonial role. Human rights concerns in East Timor were clearly de-emphasized; Dutch business people traveling with her completed some \$800 million worth of contracts.

Also in September, Australian Prime Minister Paul Keating met with Soeharto in Bali and emphasized the two governments' common interests at the upcoming APEC meeting in Japan. East Timor was also on the agenda, fueled in part by the domestic controversy over the Australian government's initial acceptance of Indonesia's newly nominated ambassador, a general who had defended the military's actions in the Dili, East Timor, killings in 1991. The nomination was withdrawn in July. The incidents in Irian Jaya also sparked official concern, particularly since the abuses were first publicized by an Australian-based development organization. Australia's ambassador in Jakarta conducted an inquiry, and Gareth Evans, foreign minister, raised "serious" concerns with his Indonesian counterpart in August.

At the World Bank-convened consultative group donor meeting in Paris in July, a number of governments, including the U.S. delegation, expressed concern, either publicly or privately, about East Timor and the Liquica killings in particular, as well as the issue of press freedom and free expression. However, the bank's public statement following the meeting did not reflect these concerns. When the World Bank's vice-president for the Asia-Pacific region met with Soeharto in March, there was no indication that "governance" issues were addressed. The bank pledged \$1.2 billion to Indonesia in 1995.

The Clinton administration dispatched Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck to Indonesia and East Timor in April. Shattuck criticized the government's muzzling of the press, urged the government to give the people of East Timor "more influence over their affairs," and pressed for greater freedom of association for workers. He made no comments publicly about the administration's efforts to restore International Military Education and Training (IMET) to Indonesia, cut off by Congress in 1992 in response to the massacre that took place in Dili in 1991, or about the worker rights case pending before the U.S. Trade Representative.

Just prior to his trip, Shattuck testified before the House International Relations Committee and condemned the "deteriorating" human rights situation in East Timor at precisely the same time as

a senior Pentagon official, Admiral William Owens, was in Jakarta calling for a renewal of IMET training because "appropriate action" had been taken to ease the situation in East Timor.

In fact, the administration seemed determined to deepen its ties to the Indonesian military, despite its atrocious human rights record, arguing that greater engagement and training would produce a more professional armed forces. At a meeting with Indonesia's foreign minister in August, Secretary of State Warren Christopher offered to sell to Jakarta F-16 fighter planes originally ordered by Pakistan; by October, it was clear the deal was going through. Admiral Owens, on another visit to Jakarta in September, announced that the U.S. and Indonesian military would begin regular bilateral meetings in Honolulu in November.

The administration made a deal with Congress in September, agreeing to continue its ban on the sale or licensing of small and light weapons and crowd control equipment in Indonesia in exchange for congressional approval of expanded-IMET (military education and training, which is said to include a human rights component) for the Indonesian military in the budget for fiscal year 1996. The administration requested \$600,000 for IMET. The U.S. Trade Representative (USTR) planned to send a delegation to Indonesia in early November, but had not yet ruled on a petition by Human Rights Watch/Asia submitted in June 1995 urging the USTR to reinstate the formal review of Indonesia's access to Generalized System of Preferences (GSP) trade benefits in light of the government's failure to make meaningful progress on labor rights. The review had been suspended in February 1994 after Jakarta promised to make certain reforms.

The administration supported adoption of a compromise "chairman's statement" on East Timor at the U.N. Human Rights Commission in Geneva in March. U.S. Ambassador to the U.N. Madeleine Albright, meeting with Soeharto in Jakarta in early September, expressed concern about the unrest in East Timor and expressed support for a continuing dialogue under U.N. auspices. U.N. High Commissioner on Human Rights José Ayala Lasso was expected to visit East Timor late in the year.

The European Parliament, responding to reports of further killings and arrests in East Timor in September, decided to send a fact-finding delegation to East Timor. It passed a joint resolution condemning abuses and calling on governments to cease arms sales and military assistance to Indonesia.

On October 27, President Clinton welcomed President Soeharto to the White House for their first summit meeting in the United States. Clinton privately raised concerns about human rights, particularly in East Timor.

The U.S. embassy in Jakarta was supportive of Indonesian NGOs and outspoken on human rights. The embassy publicly protested the arrests of the AJI members in March and sent observers to their trial.

### **The Work of Human Rights Watch/Asia**

Human Rights Watch/Asia continued to place a high priority on Indonesia and East Timor, publishing a short report, *Press Closures in Indonesia One Year Later*, plus a report on the government's attack on freedom of association, *Soeharto Retaliates against Critics*, as well as an analysis of worker rights based on our GSP petition. We used various advocacy strategies to press for specific improvements: briefing U.S. Assistant Secretary Shattuck before his trip to East Timor; testifying on East Timor before the U.N. Decolonization Committee in July and on human rights in Indonesia before Congress in March; filing a petition with the U.S. Trade Representative on worker rights in June; participating in a briefing for the newly appointed ambassador to Jakarta in August.

In advance of Soeharto's visit to the U.S., our Washington office worked with members of Congress to circulate a letter urging President Clinton to stress human rights and worker rights and making specific recommendations.

Recognizing the growing importance of the private sector, Human Rights Watch/Asia expanded an ongoing dialogue with U.S. companies involved in Indonesia. We also hosted a meeting between NGOs and a delegation of Indonesian corporate officials visiting the United States in September.

## **JAPAN**

### **Human Rights Developments**

#### **Within Japan**

While Japan generally had a good human rights record, social and legal discrimination continued against indigenous people, Koreans, alien workers and residents. In addition, women experienced discrimination in the workplace, despite legal protections; at least three executions took place; and trafficking of women from Southeast Asia was a major problem. But the most serious abuses of all were those that occurred in prisons and during pre-trial detention.

In March 1995 the results of a 1994 Human Rights Watch delegation's visit to Japan were published, simultaneously in English and Japanese, in a major report, *Prison Conditions in Japan*. The report analyzed the Japanese prison and police detention systems, and criticized the widespread use of solitary confinement, restrictions on legal representation, and other abuses. It called on the government to undertake a thorough reform of the system and to adopt new prison legislation in conformity with international standards. The Justice Ministry declined to make any public comments on the report.

In February, the United Nations Special Rapporteur on Torture raised concerns about the Japanese practice of extended police detention, a case of severe mistreatment of a Chinese resident by police, and another case of prolonged solitary confinement.

### **In Japan's Foreign Policy**

Under socialist Prime Minister Tomiichi Murayama, Japan continued to emphasize its ties with its Asian neighbors while maintaining a fundamental security relationship with the U.S. The Foreign Ministry tried to strike a balance in its human rights policies toward other countries by supporting the universality and importance of human rights in general terms, while at the same time avoiding creating political tensions with its most important trading and aid partners over their abusive rights practices. In the process, Tokyo tended to downplay human rights and often failed to use its substantial political and economic leverage to promote human rights in the Asia-Pacific region.

According to the Foreign Ministry's annual "white paper" (published in September 1995), Japan's Official Development Assistance (ODA) bilateral aid program was the world's largest in 1994, totaling over \$13.2 billion. In 1995 the government also indicated that it planned in the future to redirect some of its ODA away from Asian countries with booming economies and toward Africa, the Middle East and elsewhere, while within Asia the ODA program would increasingly be used to enhance the development of "democratization" and free-market economies in countries such as Cambodia, Vietnam, and Mongolia. However, the bulk of both yen loans and grant assistance was again given to Asian governments (slightly less than 60 percent of all ODA), with China the number one aid recipient.

The "white paper" reiterated the government's commitment to its ODA Charter, first adopted in 1992, which specifies promotion of human rights and democratization as well as opposition to military exports/imports and nuclear proliferation as guiding principles for ODA decisions. But application of the Charter's human rights provisions remained spotty and highly inconsistent. The Foreign Ministry's Annual Report on ODA in 1994 (published in March 1995) stated that "when there are clear problems in light of these principles...Japan reviews its aid policy to such countries" but avoids applying the guidelines "mechanically because it could hinder flexible implementation of official development assistance." The report gives several examples of situations in which ODA was actually suspended, at least in part, on human rights grounds, most of them in Africa (Sudan, Nigeria, Kenya, Malawi and Sierra Leone—see Human Rights Watch World Report 1995 for details); no examples were cited in Asia, except for Burma (described below).

The Foreign Ministry also invoked the Charter's human rights language, but usually only in general terms, in its regular "policy dialogues" with ODA recipient governments and also at the time of high-level political visits. For example, in the case of Vietnam, Prime Minister Murayama met with Communist Party Secretary Do Muoi when he visited Tokyo in April 1995 and alluded to the ODA Charter's human rights clause. But the Japanese government did not link specific ODA decisions to Vietnam's human rights performance, nor did it intend to raise human

rights concerns at the November 1995 donors' meeting convened by the World Bank. In 1995, Japan was again Vietnam's largest single aid donor. In January, notes were signed committing the Overseas Economic Cooperation Fund to \$480 million infrastructure loans for 1995, initially pledged at the November 1994 international donors' meeting. During Do Muoi's visit, Japan pledged a \$700 million infrastructure loan plus \$36 million in grant assistance.

On the other hand, in the case of Indonesia, Japan's representatives used the occasion of an annual development aid conference in Paris in July 1995 to raise concerns about restrictions on press freedom in Indonesia, as well as human rights problems more generally. Tokyo also pledged \$1.8 billion in ODA to Jakarta. Following the killings by Indonesian troops of six civilians in Liquica, East Timor, in January 1995, the Japanese government quickly urged an investigation into the incident, but did not hint that Indonesia's response would affect foreign aid flows.

Japan did use ODA to promote a key foreign policy objective in August 1995 when the government announced it would freeze most grant assistance to China to protest Beijing's nuclear testing program, thus reducing it from \$81.5 million in fiscal year 1994 to only \$5.2 million for the new fiscal year beginning in April. The Chinese government reacted angrily, saying the move would affect bilateral relations. But the decision on grant aid was clearly a compromise in response to calls from some political parties and politicians for a freeze on all ODA lending to Beijing. It also appeared to be a token gesture, given that the Japanese Foreign Ministry said a new three-year package of \$6.9 billion in low-interest yen loans would go forward in 1996 as planned. In its ODA report, human rights is not even mentioned in the discussion of the ODA Charter and its application to China. Meanwhile, two-way trade between Japan and China increased to a record \$50 billion, making Tokyo China's largest trading partner after the United States.

Japan's willingness to risk offending China on the nuclear testing issue contrasted sharply with its reluctance to exert pressure on human rights concerns through its ODA program with China or in its bilateral relations with Beijing. But it did join other governments in multilateral human rights initiatives. At the U.N. Commission on Human Rights in March, Japan again co-sponsored a resolution criticizing China's human rights record.

Following the release of Daw Aung San Suu Kyi in July, Japan signaled a fundamental shift in its policy toward Burma, where ODA had in principle been suspended since the 1988 crackdown except for some limited humanitarian grant assistance. Within days of her release, a senior Foreign Ministry official went to Rangoon to meet with Daw Suu. But at a conference of the Association of South East Asian Nations (ASEAN) in late July, Foreign Minister Yohei Kono told his counterpart from Burma that Japan was considering resuming some ODA projects following Rangoon's "great and brave decision" to free the democracy leader from house arrest. In the interim, Tokyo would give \$15 million in grant aid for a nurses training school. Despite a rebuke by Daw Aung San Suu Kyi herself in a press interview in which she cautioned Japan not to move too quickly, and despite pressure from its Western allies including the United States,

Tokyo said in August it was firmly committed to restoring aid, saying it was "unavoidable" that Japan would follow its own policy on Burma.

An ODA mission visited Burma in October and it appeared that a \$48 million ODA loan was being prepared to upgrade Rangoon's electrical infrastructure; this was one of the projects suspended in 1988. Privately, Japanese officials also indicated that they now shared ASEAN's "constructive engagement" approach to Burma—a departure from Japan's previous posture acting as a bridge between the "isolationist" policy of the U.S. and the approach taken by Burma's closest neighbors. In late October, General Maung Aye, a top official in the Burmese government, visited Tokyo to encourage Japanese investment in Burma.

The Foreign Ministry vaguely indicated that progress towards "democratization" in Burma, including adoption of a new constitution and transfer of power to a democratically elected government, would somehow affect future ODA decisions. But Tokyo refrained from directly conditioning ODA on any specific human rights improvements. Meanwhile, at the U.N. Human Rights Commission in March, Japan supported a resolution on Burma which was adopted by consensus.

Japan endeavored to protect the gains made in Cambodia since the peace settlement as well as to demonstrate its willingness to make a constructive contribution to peacekeeping and democratization in the region. Japan continued to be the number one aid donor to Cambodia. It pledged over \$89.3 million at a conference on Cambodian reconstruction held in Tokyo in 1994. In addition, Japan gave \$2.5 million for landmines clearance through the U.N. voluntary fund.

Japan was more active on human rights in various multilateral fora, including at the Fourth U.N. Conference on Women in Beijing, but it also faced criticism for some of its policies and positions at the Subcommission in Geneva and at the Sixth Committee of the U.N. General Assembly.

In Geneva, the Subcommission on Prevention of Discrimination and Protection of Minorities adopted a resolution in August welcoming the Japanese government's decision to establish a private, voluntary fund for women sex slaves and forced laborers. But the subcommission also urged Tokyo to establish immediately an administrative tribunal to handle claims for state compensation from the World War II "comfort women."

In New York, at an August meeting of a working group to review a draft statute establishing an International Criminal Court to consider "crimes against peace and security," Japan was criticized by Human Rights Watch for adopting an obstructionist position when it urged further review of the draft statute, considerably slowing down the process. The Japanese delegation said it strongly supported creation of the Court, but claimed that both substantive problems with the draft and a lack of support for the Court among many developing countries warranted a delay.

One indication of the Foreign Ministry's ongoing interest in developing a distinctive human rights policy for Japan was a decision in July to co-host with the U.N. University in Tokyo a high-profile symposium on "Human Rights in the Asia-Pacific Region: Towards Partnership for the Promotion and Protection of Human Rights." The meeting had academic, governmental and NGO participants from the region; the ministry planned to hold such seminars on an annual basis.

### **The Right to Monitor**

Human rights groups in Japan faced no legal restrictions on their activities.

### **U.S. Policy**

There was little demonstrable progress in the U.S.-Japan dialogue on cooperation on human rights, initiated in 1994. At Japan's urging, human rights were omitted from the broad "Global Partnership" agenda of issues on which the U.S. and Japan formally cooperate, such as environmental and population problems, and therefore human rights concerns were not raised during bilateral meetings on the Partnership in 1995. There was, however, informal contact and coordination between the administration and Tokyo on some specific issues, such as resumption of ODA to Burma and the U.N. resolution on China.

### **The Work of Human Rights Watch/Asia**

Human Rights Watch/Asia concentrated its efforts in the area of advocacy, attempting to influence Japanese foreign policy and highlighting Japan's potential role in promoting human rights given its enormous political and economic clout, particularly in the Asia-Pacific region. In 1995, Human Rights Watch also turned its attention to the domestic human rights situation in Japan and published its first major report on Japanese prisons; it also embarked on a study of the trafficking of women in Japan, due to be completed in 1996.

The report on prison conditions in Japan was released at a press conference in Tokyo in March that received wide coverage, and a Human Rights Watch representative spoke at a conference in Japan that launched a new penal reform organization, the Center for Prisoners' Rights and at the Japan Federation of Bar Associations.

Human Rights Watch/Asia traveled to Japan in September to engage in a dialogue with policy makers, NGOs and others on Japan's ODA policies, its activities at the United Nations, and other aspects of Japanese foreign policy. In November, our representative participated in NGO activities surrounding the Asia-Pacific Economic Cooperation forum in Osaka. During the year, the Washington office of Human Rights Watch/Asia continued a regular dialogue and exchange of information on human rights matters with the Japanese embassy.

## **PAKISTAN**

## Human Rights Developments

Politically-motivated violence stemming from the ongoing conflict throughout urban Sindh remained the most pressing human rights issue in Pakistan, where guerrilla warfare and counter-offensive measures by government forces brought Karachi, the capital of Sindh, to a standstill several times during the year. For nearly a decade, the ethnic Mohajir Qaumi [National] Movement (MQM) and, later, its breakaway faction, the MQM-Haqiqi, have been fighting the government for greater economic and political power for the Mohajir community. Throughout 1995, all parties to the conflict routinely committed serious human rights violations by using random violence to create a climate of fear, by actively targeting political opponents, and by failing to control abusive forces. This created an environment of rampant lawlessness, disorder, and official corruption in Karachi, a city of twelve million, where militants and abusive security forces enjoyed virtual freedom from accountability for illegal actions.

The government demonstrated a lack of resolve to deal with Karachi's chronic security crisis and to enforce the rule of law uniformly. Rather, state intelligence agencies reportedly continued sponsorship of the Haqiqi faction, which was responsible for the most egregious acts of violence, intimidation, and extortion in the city. Human rights groups accused government forces, particularly the paramilitary Rangers and the police, of endemic civil rights violations against suspected members and supporters of the MQM, including indiscriminate house-to-house searches in targeted areas, random firing in riot-torn neighborhoods, arbitrary arrests and detentions, torture, custodial deaths, and extrajudicial executions. MQM members also engaged in killings of opponents, torture, kidnaping, robbery, and extortion.

On July 11, the government and the MQM entered into negotiations in Islamabad. With both sides bent on settling political scores, however, the talks appeared to deadlock from the start. Karachi, in the meantime, continued its slide towards anarchy, with more than 200 deaths from torture, sniper fire, and police sharpshooters in the month of July. Contributing to the carnage in Karachi and civil strife across the country was the rising strength of militant religious and sectarian groups, such as the extremist Sunni group, the Sipah-e-Sahaba-e-Pakistan (SSP), and its Shia counterpart, the Sipah-e-Mohammad. These groups were responsible for widespread attacks on and intimidation of secularists and minorities. The SSP and other hard-line religious groups waged a nationwide campaign to oppose proposed changes in Pakistan's blasphemy law and to protest the appeal and subsequent acquittal in February of two Christians charged with blasphemy. As part of the campaign, the SSP and its allies organized numerous strikes throughout the country and held several public rallies in which activists freely brandished weapons and threatened to silence dissenting voices. On August 24, SSP militants ransacked the office of the British Broadcasting Corporation (BBC) in Islamabad, and attacked two BBC correspondents. SSP chief Ziaur Rehman Farooqi was arrested in connection with the attack, after his group claimed responsibility for it. Some of the worst incidents of sectarian violence occurred in the Islamic holy month of Ramadan, when a number of crowded Shia mosques were attacked in Karachi, with heavy casualties among the worshipers. On February 6, gunmen killed eight people in a west Karachi mosque.

Early in the year, to combat the escalation of sectarian violence, the government announced plans to restrict foreign funding for religious groups. However, despite vows to crack down on extremist religious organizations, made prior to her official visit to Washington in April, Prime Minister Bhutto's government made no systematic effort to protect civilians from the militants or to ensure that the latter abided by the law.

Instead, the government resorted to draconian and misguided methods, implementing the harshest media crackdown since General Zia ul Haq's military dictatorship. On June 29, the government, invoking the notorious and arbitrary Maintenance of Public Order ordinance (MPO) of 1960, banned for sixty days six Karachi-based news dailies with a combined circulation of several million. In addition, the government canceled the publishing licenses of another 122 publications linked to the banned papers, in an apparent move to prevent the latter from appearing under new names. The government justified its action on grounds that the newspapers' reporting on Karachi events was "spreading sensationalism" and "inciting people to violence against the government." Press organizations condemned the ban as a violation of due process of law and the press freedom guarantees of the Pakistani constitution, and called for the repeal of the most repressive clauses of the MPO. Although a vigorous protest campaign by journalists unions and newspaper owners associations forced the government to lift the ban after six days, other aspects of the government's anti-press stance remained in evidence, including official harassment of journalists, and the failure to protect newspaper offices and employees from attacks by militants.

On September 14, Farhan Effendi, a field correspondent for the Karachi-based Urdu daily, Parcham, was arrested by the paramilitary Rangers, reportedly severely beaten, and kept in detention blindfolded with his hands tied behind his back. Parcham is considered sympathetic to the views of the MQM, and, although Effendi was charged with the illegal possession of a firearm and involvement in terrorist activities, his arrest was widely viewed as an attempt to intimidate the press. Bux Ali Jamali, a reporter for the newspaper Kawish, suffered a fate similar to Effendi's after he wrote stories critical of government development initiatives in Nawabshah, the hometown of Bhutto's husband, Asif Zardari.

The prime minister filed a defamation suit against Kamran Khan, a reporter for the News in Karachi, for writing that Bhutto, during a meeting with British Foreign Secretary Douglas Hurd, had requested that Britain expel MQM leader Altaf Husain. Another defamation suit was initiated against Razia Bhatti, editor of Newslite, one of Pakistan's most influential and outspoken magazines, by Sindh Governor Kamal Azfar, who also issued a warrant for her arrest. After the prime minister intervened, all charges against Bhatti were dropped. However, journalists with less public stature than Bhatti continued to be victimized by the government. The press also suffered from violence by militants, whom the government made no serious effort to identify or punish. For example, the perpetrators of a grenade attack on June 21 that damaged the Karachi offices of the Urdu daily, Nawa-e-Waqt, and the English daily, The Nation, remained at large.

Politically-motivated abuse of the state's judicial and law enforcement mechanisms was a common feature of Pakistan's political landscape during 1995. The Bhutto government resorted to preventive detentions and spurious lawsuits to promote its own political agenda and to sideline political opponents. Politicians and members of parliament from opposition political parties, most notably the Muslim League, remained under arrest, continued to be refused bail, and, contrary to the law, were even denied permission to attend parliamentary sessions. Muslim League supporters, including businessmen, were harassed and had false cases lodged against them, and judges and public officials who supported victims of government abuse were transferred from their posts to different jurisdictions. On September 5, President Farooq Leghari suspended the Punjab Assembly and imposed direct governor's rule on the province for up to two months. Subsequently, on September 13, the assembly was reconvened and a chief minister more palatable to the federal government was duly elected. This episode perfectly echoed the 1994 incident when the president's suspension of the North West Frontier Province legislature similarly resulted in the installation of a new provincial chief minister. The legislation that allows the president to dissolve the national and provincial assemblies, a holdover from military rule, has been repeatedly invoked by the Bhutto administration; there was no indication at year's end that the government would change it.

Pakistan's religious minorities continued to have second-class status in their own country. Despite assurances given by the Bhutto administration that it would reform, if not repeal, Pakistan's discriminatory blasphemy laws, the government abandoned all reform proposals in the face of stiff opposition from extremist religious groups. In a much publicized proceeding in February, the Lahore High Court overturned the death sentences of two Christians—one of whom was a fourteen-year-old boy—accused of blasphemy. Appellate review of the convictions revealed that the blasphemy charges against the two Christians were entirely unsubstantiated, and that the trial court had acted under pressure from religious zealots in a climate of emotionalism and fear. Religious militants also made their presence felt at the appellate hearing, which was conducted under tight security. The lead defense attorney's car was smashed on the High Court grounds, and her driver was almost strangled to death by a militant mob. Nobody was arrested in connection with the attack. Because of the threat of violence by religious zealots and the lack of adequate government protection, the two acquitted Christians immediately left for a European country where they had been granted asylum. Similarly, all the Christian families residing in Ratta Dhotran, the acquitted defendants' home village, were forced to flee their homes permanently by religious zealots. Scores of blasphemy cases remained pending before the lower courts, particularly against Ahmadis and Christians.

Violent attacks on Ahmadis by sectarian militants also continued with impunity. On April 9, three Ahmadis were attacked in Shab Qadar in the North West Frontier Province, within the premises of a court. The Ahmadis were there to file a bail petition for another member of the Ahamdiyya community who had been arrested by the police under dubious circumstances. One of the victims of the attack was stoned to death, and his dead body stripped and dragged through the town on a rope. A second was seriously injured, while the third escaped unhurt. Despite the

public nature of the attack, no arrests were made. The government's failure to prosecute the perpetrators of anti-Ahmadi violence sent a message of official complicity in the crimes.

Protests continued over the system of separate electorates for non-Muslim citizens, under which religious minorities have been allocated a specific number of seats in the provincial and national assemblies. Minority leaders have argued that the system marginalizes their constituencies and leaves them without genuine representation. On August 14, three Christian speakers at a rally organized by the Christian Liberation Front to protest the separate electorates system and other discriminatory legislation were charged with "inciting enmity among people." The three defendants were subsequently granted pre-arrest bail by the Islamabad Sessions Court while the case was investigated.

Despite Bhutto's election-time promises, Pakistani women continued to be subordinate in the eyes of the law. By the end of the year the Bhutto administration had made no effort to repeal or limit the scope of the Hudood Ordinances, which discriminate against women as drafted and as applied. Between 50 and 80 percent of all female detainees in Pakistan were imprisoned under this body of law, while police abuse of women, including custodial rape and other forms of torture, continued. Although the government took a few positive, if symbolic, steps such as announcing a cabinet decision to ratify the Convention on the Elimination of Discrimination Against Women, setting up a Senate inquiry commission on women, and establishing police stations staffed by women, in practice most women continued to be denied due process and equality before the law, and few abusive police officers were prosecuted.

The use of bonded industrial and agricultural labor, including bonded child labor, in Pakistan remained pervasive. At least thousands and possibly millions of adult and child workers throughout Pakistan were forcibly employed, restricted in their freedom of movement, and denied the right to negotiate the terms of their employment. Employers and landlords coerced workers into servitude through physical abuse, forced confinement, and debt bondage, whereby a member of an indebted family is obliged to work for a creditor, but unable to liquidate the debt. Bonded laborers in Pakistan were subjected to beatings, rapes, and torture by land and factory owners, and by local police when they attempted to escape. The state virtually never prosecuted or punished employers who held workers in servitude, illegally confined them, or physically and sexually abused bonded laborers. Since most of the country's political elite hails from rural areas where bondage is an entrenched and customary practice, it appeared unlikely that the government would act quickly or forcefully to eradicate the institution.

On April 16, Iqbal Masih, a twelve-year-old child labor activist and former bonded worker in a carpet-making factory, was shot dead while riding his bicycle in his village north of Lahore. Early investigations suggested that he had been killed by a villager whom he had seen involved in an illicit act. The gunman, who was arrested a week after the boy's death, confessed, but later recanted. The initial murder investigation was believed to have recommended a re-investigation of the case.

### **The Right to Monitor**

Human rights groups in Pakistan generally functioned freely during 1995, with a few significant exceptions. Lawyers representing defendants in blasphemy cases were repeatedly threatened, with impunity, by religious groups. Asthma Jehangir, lead defense counsel in the highly publicized blasphemy trial of Salamat Masih and Rehmat Masih, received numerous death threats from religious militants and was forced to seek private armed protection. On October 19, seven armed men broke into Jehangir's home, where they were discovered by her bodyguard. Her brother was wounded in the ensuing exchange of fire. A suspect later told police that the men were members of the Sunni Tehrik sect and had intended to "punish" Jehangir and her sister, lawyer Hina Jilani, for their role in the blasphemy appeal case.

The Pakistani government's repression of the press during the year fostered a climate in which journalists became regular targets for violence and intimidation. Journalists reporting on Pakistan's bonded labor problem, for example, faced harassment from both official and unofficial sources. On June 29, Elfinn Haug, a Norwegian television cameraman, was attacked and beaten while filming a child-labor workshop in the Sialkot area north of Lahore. The unidentified assailants grabbed his camera, which the police later recovered without its film. On June 5, Zafaryab Ahmad, a journalist known for his reporting on bonded labor, was arrested by a Federal Investigation Agency (FIA) team on charges of sedition and kept in incommunicado detention. In July, Ahmad was temporarily released on bail for health reasons. On the same day as Ahmad's arrest, sedition charges were brought against the chairman of the Bonded Labour Liberation Front (BLLF), Ehsanullah Khan, who was then out of the country and has not since returned. A few days later, the FIA arrested two staff members of the BLLF and imprisoned them without charge or trial in the harshest category of cell in Lahore's Camp Jail. The arrests were part of a government clamp-down on the BLLF, in the wake of the organization's protests about the murder of its most prominent child activist, Iqbal Masih.

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

The plight of fourteen-year-old Salamat Masih and forty-year-old Rehmat Masih, both sentenced to death for blasphemy, received enormous attention from governments and the media worldwide. The outrage expressed by the world community prompted Prime Minister Bhutto to ensure that the two defendants received a speedy and impartial appeal hearing. After their acquittal, the two received several offers of asylum. Shortly thereafter, during an official visit to Pakistan in April, German President Roman Herzog criticized the country's blasphemy laws and urged the government to amend them swiftly.

### **The European Community**

In May, the European Commission responded to a question from the European Parliament noting that it was aware of the substantial use of child labor in certain industries in Pakistan and supporting the efforts of the International Labour Organization (ILO) to ensure compliance with international conventions on the use of child labor.

### **U.S. Policy**

Human rights considerations took a back seat in U.S. efforts to improve U.S.-Pakistan relations in 1995. There were concerted efforts on both sides to resolve ongoing disputes over Pakistan's nuclear policy and rising narcotics production and the United States' refusal, pursuant to the Pressler Amendment, to deliver military equipment for which Pakistan had already paid. The Pressler Amendment cut off economic and military aid to Pakistan in 1990 in an attempt to force the country to give up its nuclear program. In January, Secretary of Defense William Perry visited Pakistan, the first such visit by a U.S. defense secretary since the mid-1980s. At the conclusion of Secretary Perry's visit, the countries agreed to revive a previously disbanded consultative group to discuss defense cooperation.

The March 8 killing of two U.S. consulate employees in Karachi by unidentified gunmen focused attention on the Bhutto government's inability to stem rising violence in the city. The State Department expressed concern about the "continued violence because two Americans paid the price as the object of that violence....We hope, for the sake of the Pakistani people as well as for the Americans who are there, the level of violence in Karachi can be reduced." In February, the State Department expressed concern about the two Christians charged with blasphemy.

Prior to an official visit to Washington in April, Prime Minister Bhutto initiated a spate of moves aimed at enhancing bilateral ties. In January, her government introduced sweeping anti-narcotics legislation, which prompted President Clinton not to apply drugs-related sanctions to Pakistan. Bhutto also extradited to the United States seven narcotics suspects, as well as Ramzi Ahmed Yusuf, who was wanted in connection with the World Trade Center bombing in New York. On the U.S. side, the United States Senate, backed by the Clinton administration, voted to release \$368 million in military equipment that Pakistan had paid for but that had not been delivered since the imposition of sanctions in 1990.

During Prime Minister Bhutto's visit, the administration privately raised concerns about human rights issues, including Pakistan's blasphemy laws and treatment of minorities, and the violence in Karachi. Throughout the year, the administration continued to raise concerns about reports of official Pakistani support for Kashmiri militants who have committed abuses.

In a gesture toward warmer relations, First Lady Hillary Clinton visited Pakistan in April. Human rights discussions were again absent from the public agenda.

Following the visit of a delegation from Pakistan in June, U. S. Trade Representative (USTR) Mickey Kantor announced on July 24 that an unspecified commitment had been made on the issue of child and bonded labor. The review was extended until October 1 to confirm that these, and other reforms, were actually carried out. In October, the administration notified Pakistan that the office of the USTR would invoke GSP provisions removing tariff benefits from one of three designated imports if the government did not act on the reforms. This would be the first time that the USTR removed GSP for a specific product.

### **The Work of Human Rights Watch/Asia**

Human Rights Watch/Asia's principal advocacy effort on Pakistan in 1995 was to mobilize U.S. and E.U. economic pressure on the issue of bonded child labor. These efforts began in advance of the July publication of our major report, *Contemporary Forms of Slavery in Pakistan*, based on an earlier fact-finding mission to the country. In addition to documenting rights violations against bonded workers, the report made a series of detailed recommendations to end the practice of debt bondage. Human Rights Watch/Asia supplied information on bonded child labor to the U. S. Trade Representative's (USTR) office, State Department and Labor Department for use in their review of Generalized System of Preferences (GSP) benefits for Pakistan, begun in 1993 (see U.S. Policy above).

The report was also distributed to the members of the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities at its July meeting, and to diplomats and other NGO delegates. We also submitted a written statement to the subcommission.

On August 30, Human Rights Watch/Asia wrote to the Commission of the European Union in support of a joint application by the International Confederation of Free Trade Unions and the European Trade Union Conference for a review of Pakistan's GSP benefits, under the terms of the new E.U. GSP scheme allowing for whole or partial withdrawal of GSP if there is "practice of any form of forced labor." This would be the first test case of the new GSP scheme. As this report went to print, a decision on accepting the petition and beginning a formal review had not yet been made.

Pakistan's blasphemy laws and abuses against minorities also continued to be a high priority. In February, Human Rights Watch sent an observer to Pakistan to attend the appeal hearing in the two blasphemy cases. Human Rights Watch/Asia appealed to the president and prime minister of Pakistan to ensure the safety of all involved in the case.

Human Rights Watch/Asia also continued to focus on bringing international attention to abuses against women. In March, prior to First Lady Hillary Rodham Clinton's visit to South Asia, Human Rights Watch/Asia communicated its key regional human rights concerns to her and called on her to push for the rights of women, minorities, and bonded laborers during her trip to Pakistan. Human Rights Watch provided briefing material on human rights concerns in Pakistan to members of Congress and the administration and urged them to raise these issues in meetings with Prime Minister Bhutto and her delegation. On April 5, Human Rights Watch raised human rights concerns directly in a meeting with Foreign Minister Sardar Aseff Ahmad Ali in Washington.

## **SRI LANKA**

### **Human Rights Developments**

The human rights situation in Sri Lanka remained grave in 1995 despite a series of promising human rights initiatives by the newly-elected People's Alliance (PA) government. The PA, led by President Chandrika Bandaranaike Kumaratunga, came to power in late 1994 on a human rights platform that promised a negotiated settlement of Sri Lanka's twelve-year civil war with the Tamil separatist Liberation Tigers of Tamil Eelam (LTTE), increased accountability for past human rights abuses, and an end to government corruption. The enormous popularity of these goals allowed the new party to oust the United National Party (UNP), which had ruled the country for seventeen years.

The PA inherited a legacy of severe abuse, including tens of thousands of "disappearances," extrajudicial killings and torture of political opponents and suspected insurgents. The vast majority of these abuses were never investigated, prosecuted or punished. Indiscriminate bombardment of civilian areas affected by the war was also a hallmark of the former government's campaign against Tamil insurgents. In 1995, many of the perpetrators of these abuses remained free and in positions of authority, and the abuses that occurred during the year, though only a fraction of those committed in previous years, were strikingly similar to crimes committed under earlier governments.

In January 1995, a cease-fire was declared between the government of Sri Lanka and the LTTE, and the two sides entered into negotiations, raising hopes that the parties might finally reach a political settlement. Those hopes were short-lived. The LTTE broke the cease-fire on April 19, sinking two patrol boats and then shooting down two troop transport planes, killing all ninety-seven persons on board. An LTTE massacre of forty-two Sinhalese villagers in a coastal town north of Trincomalee and the assassination of a Buddhist priest, both on May 26, along with new reports of "disappearances," extrajudicial executions and torture by Sri Lankan security personnel, were indications of how far the country was from the peace envisioned only months before. By the time the government unveiled its proposal for a political settlement in August, featuring a plan to devolve central control to regional councils determined in part along ethnic lines, the war was again in full swing. Renewed fighting led to hundreds of civilian deaths in government air raids and LTTE mortar fire on the Jaffna peninsula between July and November and to large-scale displacement. Among those killed in the fighting were families caught in a compound of church buildings sheltering displaced persons that was damaged during an air force raid in July; about seventy civilians, including about twenty-five school children, who medical workers reported were killed in government bombings in September; and nine elderly men whom the army claimed had been killed by an LTTE mortar that hit a rest home in October. By early November, the Sri Lankan military was poised to occupy the city of Jaffna, headquarters of the LTTE. Most of the city's residents, including LTTE members, had fled; total estimates of those displaced by the fighting reached 400,000.

More than one hundred villagers, most of them Sinhalese, were killed in a series of attacks by LTTE members in villages in the east and northeast beginning on October 21, the day after the LTTE blew up the island's two main oil depots near Colombo. In May, human rights organizations received more than fifteen reports of killings or "disappearances" of civilians by

members of the security forces in eastern Sri Lanka. In Batticaloa, politicians, human rights activists and journalists reported that civilians had been used by soldiers as shields against LTTE attacks or for mine clearance.

The LTTE has also engaged in hostage taking and the use of civilians as shields. On August 29, members of the LTTE hijacked a government-chartered ferry it alleged was run by members of a rival Tamil group. The ferry, which was used by the LTTE to attract and sink two naval boats near the eastern port of Trincomalee, killing some twenty sailors, had sailed from Trincomalee on August 28 with more than 130 passengers, including fifteen children and several expectant mothers. It was boarded by the LTTE the next morning. The passengers and crew were held hostage until September 6, when 121 passengers, including three newborn babies, were released. As of early November, the ferry's crew members, accused by the LTTE of links to a rival Tamil group, remained in LTTE custody, and some fifteen other people reportedly aboard the hijacked ferry were unaccounted for.

The practice of using child soldiers has been a trademark of the LTTE for many years. Of the estimated 50,000 persons killed since the war began in 1983, many have been children recruited as fighters by the LTTE, some of them as young as thirteen. The recruitment of young children continued in 1995. When the LTTE led an abortive attack on four army bases in late July and several hundred LTTE fighters were killed, the army reported finding many young girls and boys among the dead. In September, the University Teachers for Human Rights-Jaffna (UTHR), a group that has monitored human rights conditions in the north and east, reported that the LTTE had stepped up recruitment drives and that families unwilling to give up their children were forced to pay large ransoms. It was also reported that the LTTE had stepped up arrests and executions of suspected informants.

Nineteen ninety-five saw the re-emergence of death-squad-style killings by members of the Sri Lankan security forces. In the vicinity of Colombo, between May 31 and August 14, twenty-one bodies were found in and around Bolgoda Lake. Some showed signs of starvation and torture, some had been strangled. Thirteen of the bodies were identified as young Tamil men abducted by armed men in civilian clothes from city lodges and security checkpoints. According to an official of the Criminal Investigation Department (CID), some of the youths had been detained for three or four days and strangled with plastic handcuffs in an unused toilet in the headquarters of the Special Task Force (STF), an elite counterinsurgency unit of the police. In August, CID announced the arrest of at least eighteen Special Task Force members and military personnel in connection with these killings. More arrests followed in September, bringing the total to around thirty. The Tamil press reported that among those arrested was a man known as Captain "Munaz" who had been implicated in the "disappearances" of more than 150 persons from a refugee camp in Batticaloa in 1990. The government announced in September that it would suspend all operations of the Intelligence Wing of the STF and disband its network of informants. Despite the arrests, bodies continued to appear in Colombo through September.

Reports of arbitrary arrests of Tamils by the police in Colombo and in other parts of the country continued throughout the year. Large-scale sweeps intensified following the resumption of hostilities in April, with reports of as many as 500-1,000 arrests on some days. In Colombo, most arrests were carried out by the police, and the majority of detainees were released within forty-eight hours. In the east, arrests were carried out by military personnel, police and members of auxiliary forces, such as former militant groups. Human rights organizations reported "disappearances" and deaths of persons detained during these search operations. Though young men were typically the target of round-up operations, in September Tamil women in Colombo also complained of harassment after rumors that a female LTTE suicide squad was on its way to the city.

Nineteen ninety-five saw several new efforts to restrict freedom of expression in Sri Lanka. In July, the Colombo office of the National Christian Council (NCC) was raided by some forty armed police, allegedly searching for subversive literature. Police confiscated a computer-drawn graphic of a bleeding lotus (the white lotus is a PA symbol of peace and support for the government's war effort). The letter-sized poster, which contained text calling for a halt to the killing of civilians in the July military offensive, was seized, and its author, an American intern named Kenneth Mulder, was detained. Mulder, who was in Vavuniya with a church delegation traveling to Jaffna at the time of his arrest, was transported back to Colombo for questioning and deported five days later. The homes of ten young Tamil women who worked in the NCC office were also searched.

Also in July, journalist Pearl Thevana-yagam of the Sunday Leader was arrested and detained for nineteen hours on suspicion of carrying information to the LTTE, following a visit she made to LTTE-held territory. Thevanayagam had traveled to the north posing as a teacher but was arrested when she could not provide an address to a soldier who stopped her at the border on the way south. A spokesperson for the Free Media Movement, a Sri Lankan organization that monitors freedom of the press, charged that although there was no official ban on journalists traveling to the north, the army only permitted access to the state-run media. On September 22, as the army launched a major offensive on the Jaffna peninsula, the government imposed censorship curbs on war-related reporting, citing national security concerns and fear that reporting would inflame communal tensions. Those restrictions were lifted for foreign media four days later, but curbs on the domestic media remained in force. Among the first stories to be subjected to these censorship requirements were reports that on September 21 and 22, heavy shelling and aerial attacks by government forces on the northern Jaffna region had killed some seventy civilians, including many school children. A Reuter news story from September 23, which noted that the army had denied the incident, also indicated that the story had been "subjected to military censors, who deleted quotes from civilians on the reported deaths of twenty children."

Throughout 1995, the Free Media Movement and other human rights organizations continued to report incidents of harassment and threats made against journalists by security personnel assigned to guard government officials and their families, and authorities seeking to learn the sources of

leaked stories. Several defamation suits were lodged against journalists reporting on government officials, including the editor of the Sunday Times who was summoned to the Colombo High Court on June 13 to face charges of criminal defamation of the character of President Kumaratunga. After attempts to reach an out-of-court settlement failed, hearings in the case were set for January 31, 1996. The editor and publisher of the Sunday Leader were also charged with criminal defamation of the president.

In 1995, The PA government made a number of administrative changes designed to curb abuses and account for the "disappeared." In addition to the creation of an advisory committee composed of local human rights experts and a proposal before parliament for the establishment of a national human rights commission, the government created three regional presidential commissions of inquiry into "involuntary removals and disappearances," mandated to investigate killings and disappearances that occurred as far back as 1988. Human rights organizations in Sri Lanka and abroad have urged the government to extend the scope of these inquiries even further back, noting that the systematic pattern of disappearances in Sri Lanka began before 1984. These commissions, which began hearing evidence in January, had received 35,500 complaints by mid-1995 and had heard evidence in several hundred cases. Two interim reports for each commission had been forwarded to the president by September, but none have been made public. Witnesses who testified before the commission investigating disappearances in Central, North Central, North Western and Uva provinces complained in April that they were the target of death threats and intimidation by security personnel. The commission noted that some of the accused still remained on active duty in the areas from which they had operated during the period under investigation. However, based on the report of one commission, in October three senior police officers responsible for past abuses were sent on "compulsory leave," and the Minuwangoda magistrate ordered the detention of eight others: six police officers charged with raping two girls between 1988 and 1990, and two subinspectors accused of the 1989 murder of two young men.

The government also created a commission to look into detentions under the Prevention of Terrorism Act and the emergency regulations, in order to ascertain the number and identity of detainees under these laws, expedite cases, recommend releases and improve conditions of detention.

On June 7, in response to criticism over the continued abuse of detainees, the government announced the establishment of the Human Rights Task Force (HRTF) charged with monitoring arrests and detentions. A similar body was already in existence, but its powers had been limited because the emergency regulation that created it had been allowed to lapse. On June 16, the government issued a directive to the police and armed forces ordering them to cooperate with the HRTF and to respect the rights of those arrested. The directive mandated special treatment for women and children and ordered that detainees be told why they were being held, that the person making the arrest be identified, and that an arrest receipt containing the name and rank of the arresting officer be provided to the detainee. It also provided that the detainee be allowed to communicate with a relative or friend, and make statements in a language of his or her choice.

Human rights groups criticized the stipulation that the detainee must request a receipt, thus putting the onus on the person arrested rather than on the arresting officer.

Sri Lanka has been under a state of emergency almost continuously since May 1983. The emergency regulations grant extraordinary powers to Sri Lankan security personnel to arrest and detain suspects, and have contributed to abuse. When the PA assumed control of the parliament in August 1994, the emergency was temporarily lifted in most parts of the country. It remained in place in the north and east where the war continued. The emergency was reimposed in Colombo after the October 24, 1994 bombing that killed UNP presidential candidate Gamini Dissanayake. In 1995, the emergency remained in effect in the north and east, in Colombo and its suburbs, and was extended to include certain portions of central and western Sri Lanka. Several of the most troubling regulations were allowed to lapse when the PA came to power. Among them was a requirement that householders in Colombo and other areas under the state of emergency must register all residents and guests with the local police, a regulation that led to harassment and arrest of Tamils in the city. But although police officials announced in August that this regulation was no longer on the books, there were complaints that the police in some areas were requiring that Tamils carry proof of registration. The regulation itself was reimposed in September.

Torture has been an almost routine part of police work in Sri Lanka throughout the conflict. In January 1994 the government acceded to the U.N. Convention on Torture. However, the government has not signed the declaration under Article 22 of the Torture Convention, which allows individuals to make complaints to a committee set up under the Convention. A parliamentary bill passed in November 1994 made torture punishable by seven to ten years of imprisonment and a fine of between Rs. 10,000 and Rs. 50,000 (up to about US \$1,000 ). To our knowledge, no members of the security forces had been punished under this law by the end of 1995.

On June 20, the minister of justice announced that the government was considering resuming executions under the death penalty, which had not been invoked in Sri Lanka since 1976. In the face of international and domestic protest, the government announced that it would not carry out any death sentence until there had been a full debate on the issue.

On September 11, the Sri Lankan government unveiled a draft law to deter sexual abuse of children which mandated a minimum sentence of five years in prison for both pimp and client with a maximum sentence of twenty years. The draft bill targets the procurers, clients and others who benefit from or contribute to the sexual exploitation of children and is designed particularly to address sex tourism, a serious problem in Sri Lanka.

### **The Right to Monitor**

Human rights activists have enjoyed increased freedom from harassment by government forces in recent years, although by late 1995 government pressure to curb criticism related to the war, augmented by actions by extra-governmental forces, led to an upsurge in anti-NGO rhetoric in both the state-owned and independent media, incidents of mob violence and anonymous threats

against journalists and members of Sri Lanka's human rights community. Concerns also remained over possible threats to human rights activists from other political forces such as the LTTE.

Sri Lanka's vibrant human rights community played a crucial role in monitoring the implementation of the government's human rights policies in 1995, by publicizing abuses and educating the public. In early 1995, human rights organizations took advantage of the new government's apparent openness to human rights concerns to make a number of recommendations aimed at bringing Sri Lanka in line with international standards and improving human rights protections. Among their recommendations were calls for the government to ratify the Optional Protocols to the ICCPR, declarations under articles 21 and 22 of the Torture Convention, and Additional Protocol II to the Geneva Conventions.

When fighting resumed in April, human rights organizations called for an end to attacks on civilians and urged both parties to resume the peace process. In late May, the Movement for Inter-Racial Justice and Equality (MIRJE), among others, publicly denounced both the army and Tamil separatists for the violence and called on the government to announce its long-awaited peace plan. In September, groups repeated these criticisms of combatant violence against civilians. In November a MIRJE appeal expressed concern over the increasing number of displaced persons in the Jaffna Peninsula, shortages of food and other supplies, and fears that neither party to the conflict appeared to be observing basic humanitarian norms with regard to noncombatants. The Sri Lankan government denounced the appeal in a public statement.

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

Western nations were virtually unanimous in their support of the peace process, and many issued public statements congratulating the Sri Lankan government on its human rights reforms. They were equally united in their condemnation of the LTTE's breach of the cease-fire agreement in April and the abuses that followed. Abuses by Sri Lankan forces received less attention.

In March, the E.U., the U.S., U.K., Canada and Australia began exerting heavy pressure on the LTTE to begin serious negotiations to end the conflict. The United Nations Human Rights Commission in Geneva echoed these concerns.

On April 21, the E.U. called on the LTTE to refrain from initiating an escalation of hostilities, condemned the April 20 attacks and urged the LTTE to enter into negotiations with the Sri Lankan government on the elements of a political solution.

At the end of April, the Sri Lanka Aid Group of donor nations pledged \$850 million for the forthcoming year and said that additional funds could be provided for reconstruction of the north and east, if peace was achieved. The vice-chairman of the World Bank said that the donors' pledge "reflects the strong support of the international community to the Sri Lankan government."

On May 18, the European Parliament adopted a resolution on human rights in Sri Lanka condemning the LTTE's withdrawal from negotiations and "deliberate acts of violence." The resolution called on both parties to "adopt a conciliatory attitude regarding the resumption of the peace talks" and urged the Sri Lankan government to avoid indiscriminate reprisals against civilians. It invited the commission to boost its cooperation with the government of Sri Lanka, to offer it all necessary support to achieve peace and reconciliation, and called on the E.U. and its member states to introduce restrictions on arms sales to the LTTE. On May 29, the E.U. released a statement condemning the LTTE's massacre of Sinhalese villagers and the killing of the Buddhist priest and urged the LTTE to resume negotiations.

On May 31, in Canada's first ministerial visit to Sri Lanka since 1983, Raymond Chan, a junior foreign minister and secretary of state for Asia and the Pacific, met with Sri Lankan Prime Minister Sirima Bandaranaike and with Foreign Minister Lakshman Kadirgamar during "an information gathering visit" to see whether Canada could help promote the resumption of peace talks. Chan also expressed Canada's concern over the resumption of hostilities by the LTTE. Before talks broke down, a Canadian had been chairman of one of four committees that were set up to monitor the peace process.

Amid the international outcry that followed the violence in April, Sri Lanka sought and secured new sources of military aid. In June, Britain announced that it would lift its embargo on the sale of arms to Sri Lanka. But as reports of serious violations by Sri Lankan security forces escalated, some nations held back. On July 14, Australia's acting foreign minister Bob McMullan appealed to the Sri Lankan armed forces and Tamil rebels to avoid killing civilians during fighting on the Jaffna peninsula, saying that "the resumption of full-scale fighting in Sri Lanka underlines the urgent need for a negotiated political settlement to the long-standing ethnic conflict, which will require restraint and compromise on both sides." Nevertheless, he said the Australian government accepted that "it is unreasonable to expect the Sri Lankan government to acquiesce in the face of the use of force" by the Liberation Tigers of Tamil Eelam (LTTE).

On September 1 at a press briefing in Colombo, U.S. Assistant Secretary of State Robin Raphael announced that the United States would not sell lethal weapons to Sri Lanka, in part because it remained concerned about the government's human rights record, although she noted improvements. According to Raphael, the U.S. had "a limited military program with the government of Sri Lanka," which included training and the sale of some non-lethal equipment. However, she also suggested: "That cooperation could be upgraded." The International Military Education and Training (IMET) program to which Raphael referred amounted to \$100,000 in 1994. It was projected at the same amount for 1995. The amount requested for fiscal year 1996 was \$175,000. Human rights training was described as an important component of the IMET program and the IMET program summary noted,

In the past, official efforts to contain the war have led to serious violations of human rights by the government and security forces. The incidence of such violations poses a grave threat to the stability of Sri Lanka's longstanding democratic tradition... IMET training for key members of the

security forces will emphasize human rights training, respect for human rights and civilian control of the military.

There were \$204,000 in foreign military sales to Sri Lanka in fiscal year 1994. According to the U.S. Department of State's congressional presentation of foreign operations for fiscal year 1996, no estimated sales were envisioned for 1995 or 1996. The U.S. reported delivery of only \$7,000 worth of commercial military exports licensed or approved under the Arms Export Control Act (AECA) in 1994; estimated deliveries in fiscal year 1995 were \$3,997,000 and for fiscal year 1996, \$1,998,000.

Raphael said President Chandrika Bandaranaike Kumaratunga's government had taken important measures to check abuse. "Overall, one can say, they have clearly improved, and this government has committed itself to very high standards of observance of human rights...but...we maintain a keen eye on [Sri Lanka's human rights] and it is an issue for us."

In September, the U.S. House of Representatives Committee on International Relations adopted a resolution congratulating the Sri Lankan government for its human rights improvements, denouncing the resumption of hostilities and political violence, and urging both parties to resume negotiations toward a political settlement and to respect human rights.

On June 16, a three-member German parliamentary delegation headed by Willy Wimmer of the foreign affairs committee of the German parliament condemned the LTTE for breaking the cease-fire, but told journalists in Colombo that the country's human rights record had improved so significantly under People's Alliance government that there was no longer a need for Germany to provide asylum to Sri Lankans.

At the twelfth European Commission/Sri Lanka joint meeting in Brussels on June 27-28, the two parties stressed that the economic development of Sri Lanka required a peace process based on respect for human rights and democratic principles. The Commission also expressed its willingness to aid in rehabilitation and reconstruction in Sri Lanka's north and east, if a lasting peace were achieved. Trade relationships grew in importance, as new prospects for trade began appearing and Sri Lanka opened up to foreign investment. Between 1993 and 1994, European exports to Sri Lanka rose 41 percent, and Sri Lankan exports to the E.U. rose 20 percent. The two parties also discussed opportunities for increased trade offered by the E.U.'s new generalized system of preferences and announced the intention to establish a permanent European Commission presence in Colombo by September 1995.

Article 1 of a cooperation agreement between the European Community and the Sri Lankan government, which came into force in April 1995 and provided for "substantial development and diversification of trade," stated that the basis for cooperation and for the agreement itself was "respect for democratic principles and human rights," which "constitute an essential element of the Agreement."

### **The Work of Human Rights Watch/Asia**

For several years, Human Rights Watch/Asia has focused its efforts on encouraging the Sri Lankan government to investigate and provide accountability for abuses by government forces, and on strengthening combatants' respect for humanitarian law. These efforts have included calls for better training and discipline of security force personnel, including paramilitary groups and auxiliary forces such as the Special Task Force, home guards and former militant groups now aiding the government in counterinsurgency. Human Rights Watch/Asia has called for investigations of all reported violations by these forces and for prosecution of those found responsible. To this end, Human Rights Watch/Asia has maintained contact with the heads of Sri Lanka's presidential commissions charged with investigating disappearances and has provided these bodies with recommendations and informational materials designed to aid them in their efforts. These efforts continued in 1995.

In February, Human Rights Watch/Asia staff met with Sri Lankan Foreign Minister Lakshman Kadirgamar to discuss implementation of various governmental human rights initiatives and urged that the country ratify key international instruments, including the Optional Protocols to the ICCPR, Additional Protocol II to the Geneva Conventions and that it make declarations under articles 21 and 22 of the Torture Convention.

In July, in response to reports of serious violations of humanitarian law by both military personnel and the LTTE, Human Rights Watch/Asia released a short report Stop Killings of Civilians, calling on both parties to uphold their obligation to protect noncombatants.

In September, Human Rights Watch/Asia staff attended a meeting with President Chandrika Kumaratunga to discuss human rights concerns and government initiatives to address abuses.

## **THAILAND**

### **Human Rights Developments**

The fragility of Thailand's elected government continued to hamper progress this year on many of the country's human rights problems. These included restrictions of press freedom, trafficking in women, and, most prominently, Thailand's continued mistreatment of Burmese refugees and migrant workers.

Thailand's fledgling democracy was seriously threatened in May, as the coalition government headed by Chuan Leekpai was forced to call an election. In March, after two and one-half years in office, Chuan's government became the Thai's longest serving government, only to fall to charges of corruption. The government had been at odds with the powerful military, particularly over the issue of relations with Burma and the treatment of Burmese refugees. But fears that the army might attempt a coup d'etat were not realized, and a new election took place on July 2, bringing into power a coalition led by Prime Minister Banharn Silpa-archa.

Freedom of the press was challenged in August when a newspaper delivery truck was fired on and parcel bombs were sent to the editor and proprietor of a major Thai daily newspaper, Thai Rath (The Thai Nation), after it published articles critical of the annual reshuffling of police posts. The police dismissed the bombs as merely a threat, not intended to harm anyone. In October, Thailand invoked the lèse majesté laws, which forbid any criticism of the king, to deny work visas temporarily to all Australian journalists. The action was taken in response to an unflattering cartoon of the king published in The Age newspaper.

Refugees from Burma increased to 90,000 after an additional 10,000 refugees fled to Thailand following the fall of the Karen National Union's headquarters at Manerplaw in January. From February onwards, the safety of some 50,000 of these refugees was threatened by groups of Burmese government troops (SLORC) and their allies, the Democratic Karen Buddhist Army (DKBA), who made frequent incursions into Thailand to force the refugees back to Burma (see Burma section). Although Thailand has not ratified the international convention on the protection of refugees, when the refugees first began to arrive, the Thai government pledged that it would offer sanctuary.

As the attacks on the refugee camps began, the head of the parliamentary Foreign Affairs Committee called for an urgent review of Thai policy toward Burma. He led a delegation of members of parliament to the border to assess for themselves the situation in the refugee camps and called for increased security for the refugees.

On March 16, approximately 8,000 refugees fled from a camp in Ban Huai Manok after thirty DKBA and SLORC troops entered the camp and tried to kidnap the camp leader. One refugee was killed and three others were seriously injured in the attack, which was repelled by Thai soldiers. The refugees moved deeper into Thailand, into an area where the roads made access very difficult for nongovernmental organizations trying to provide aid. The situation continued to deteriorate, and refugees lived in constant fear of attack. Between April 19 and 28, the DKBA entered three different camps and torched 1,172 houses, leaving two refugees dead and more than 6,000 homeless. On May 3, DKBA/SLORC troops entered a Thai village, Ban Mae Ngao in Sob Moei district, in the early hours of the morning and attacked a Thai police checkpoint, also razing the village market and the refugee shelters. Three policemen and one refugee were killed, and two other policemen were injured.

Only after this incident did the Thai army step up its presence in the border area, bringing in troops, tanks and helicopter gunships in a demonstration of strength aimed at preventing further incursions. Just days before, the commander-in-chief of the army, Wimol Wongwanich, was quoted in the Thai press: "If we were not afraid of being criticized by the world community on humanitarian grounds ...then this army chief would take only one week to push [the refugees] all out...I used to do this with over 40,000 Cambodian refugees." The discrepancy between the civilian government's reassurances and the army's actions revealed a sizeable gap in attitude between them.

Once the Thai army intervened, the incursions ceased, though armed men continued to enter camps and harass refugees. The DKBA and SLORC remained in positions on the Burmese bank of the Moei and Salween Rivers (which mark the Thai-Burma border) and the refugees' security remained a concern at the end of the year. In the two weeks between September 23 and October 10, nine refugees were abducted in separate raids. On October 6, the DKBA entered Shoklo camp looking for a KNU officer, and there were clashes which left two Karen refugees dead. By that time, camps in the Mae Sot area had been consolidated, and the Ministry of the Interior had set up an office in the largest camp, Mae La, which housed over 20,000 refugees.

Further north in Mae Sai district, Thai authorities prevented refugees from entering Thailand altogether. The Thai military had kept this part of the border closed for more than a year to prevent supplies from reaching drug warlord Khun Sa. On March 20, more than 1,000 Shan refugees fled heavy fighting in the Burmese border town of Tachilek. They were permitted to stay for only three days, when the Thai military pushed back all but 300 of them. By the end of April, the rest were also forced to return to Burma. As fighting continued in Burma's Shan State, more Shan and Lahu villagers were forced to flee and seek refuge in Thailand, but Thai authorities denied them permission to cross the border. By September, there were more than 2,000 refugees living in makeshift camps on the Burmese side of the border, but nongovernmental organizations were not permitted to provide aid to them.

Thousands more Shan are believed to have entered Thailand seeking work as laborers, joining an estimated 400,000 migrant workers from Burma. During the year they faced increased harassment, arrest and deportation by the Thai authorities, in addition to abuse by their employers. On March 14, the Ministry of the Interior ordered a crackdown on illegal immigrants on grounds of national security. Two months later the crackdown began in earnest, and 1,200 people were arrested in Bangkok in the first three days of May. There were also arrests in Mae Sot and Chiang Mai, until the Chiang Mai Chamber of Commerce protested, worried that buildings for the South East Asian Games, scheduled for December, would not be completed in time without the Burmese laborers.

Following arrest, the workers were held in appalling conditions in detention centers for one month or until they paid their immigration fine of 2,000 Baht (though this was reduced in some areas). In many cases, they suffered abuse while in detention; women and girls were routinely strip-searched. From the detention centers, they were transported to the border in cattle trucks, where most then paid agents who collaborated with Thai police to get them back into Thailand.

### **The Right to Monitor**

Thailand continued to be the regional center for international human rights organizations, a place where they could operate with a fair degree of freedom. Local human rights organizations were also able to operate without interference. But those addressing issues that touched on the commercial or political activities of the Thai military were subject to government monitoring and restrictions. In April, a Thai nongovernmental organization (NGO) worker was arrested at a

seminar providing management training to Burmese dissidents in Chiang Mai, charged on immigration offenses, then tried and sentenced to three months of imprisonment. He was later released on bail, pending an appeal. Thirty-four Burmese, also arrested at the seminar, were released after paying a fine.

Groups working on child prostitution and the trafficking of women were also targeted for close surveillance, and in March Prime Minister Chuan Leekpai attacked these groups for exaggerating the problem and tarnishing Thailand's image abroad. In June, workers at a relief center for HIV/AIDS carriers were harassed by local municipal authorities and the police in order to get them to move away from the area. The center closed after workers received death threats and the center was bombed. No one was injured, and there was no official inquiry into the incident.

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

Several governments, including the United States, Australia and the European Union strongly condemned the attacks on refugee camps by DKBA and SLORC troops and called on Thailand to increase security measures in the area. When the refugees from the Shan State arrived in Thailand in March, the U.N. High Commissioner for Refugees (UNHCR) sent a protection officer to the area to investigate the situation. UNHCR officials also visited the Karen refugee camps. The UNHCR did not make any public statements critical of Thai policy in either case.

In June, more than sixty members of the U.S. House of Representatives wrote to President Clinton on U.S. Burma policy, urging him to "secure a commitment from the government of Thailand that they will continue to provide a haven for these refugees [from the attack on Mannerplaw]."

Congress also remained active on the issue of trafficking. In January 1995 the State Department submitted a report, requested by the House in 1994, on trafficking of Burmese women and girls into Thailand. The report said there was no evidence of the systematic involvement of the Thai government, but noted that the sex industry and trafficking networks "flourish through police corruption" and criticized the ineffective enforcement of existing laws against prostitution and trafficking.

In 1995, the U.S. embassy in Bangkok implemented an "action plan" on trafficking, approved in 1994, including educational efforts, support for NGOs, and diplomatic interventions with Thai officials. The embassy planned to distribute a Thai-language version of the Human Rights Watch report, *A Modern Form of Slavery*.

Congress also scrutinized the Thai military's support for the Khmer Rouge. In February the State Department released a report, required by 1994 legislation, on Thai involvement in cross-border trade and arms shipments. A declassified version noted that official Thai policy prohibits arms transfers to the Khmer Rouge and asserted there was no evidence, since a highly-publicized discovery of an arms cache in December 1993, that the Thai military was supplying the Khmer Rouge with weapons or ammunition. The report acknowledged, however, that some arms

transfers still took place through "unofficial contacts, not sanctioned by the Thai government." On the issue of the lucrative cross-border logging and gem trade, as well as shipments of rice, fuel and medicine to the Khmer Rouge, the State Department said the Thai government had begun unspecified "efforts to stop such contacts and trade," but did not evaluate their effectiveness.

Some key senators were far more skeptical of Thai policy. Senator Craig Thomas released a statement in July highlighting eyewitness accounts of cross-border logging shipments published by a credible London-based NGO (Global Witness). He warned that unless the Thai government took significant steps to investigate and stop the timber shipments, he would urge the administration to invoke a law requiring the cutoff of all assistance to any country that is found to be cooperating with Khmer Rouge military operations.

Meanwhile, the U.S. continued a heavy flow of arms sales to the Thai military. Estimated foreign military sales in fiscal year 1995 totaled \$120 million, and estimated shipments for fiscal year 1996 were expected to reach \$145 million.

### **The Work of Human Rights Watch/Asia**

Human Rights Watch/Asia focused primarily on refugee concerns, both in our monitoring and advocacy efforts. We closely monitored developments in the refugee camps and issued a press release in April, calling on Thailand to step up its protection of the camps. We also met with senators and members of parliament in the United States and Europe, urging them to write to their colleagues in the Thai government and ask for a more robust response to the attacks on refugees.

Human Rights Watch/Asia continued to follow developments in the situation of Burmese migrant workers, especially of women trafficked into sex slavery in Thailand and from there to other countries. In September we sent a researcher to Thailand to investigate the treatment of Burmese asylum seekers and UNHCR-registered persons of concern. A report was scheduled for publication early in 1996.

## **VIETNAM**

### **Human Rights Developments**

A year of diplomatic break-throughs did nothing to improve Vietnam's human rights record; indeed, the country's increasing integration into the world community appeared to trigger a nervous reaction at home, with fresh arrests and prosecutions of dissidents and the tightest security situation in several years. In contrast to previous years when the government amnestied numerous political dissidents on the occasion of national holidays, only one political prisoner

was known to have been freed in a year when Vietnam celebrated the twentieth anniversary of the reunification of the country and the fiftieth anniversary of its declaration of independence.

Vietnam was formally admitted to the ASEAN standing committee as an observer on January 26 and joined ASEAN as its seventh member on July 28. On July 11, the United States announced normal diplomatic relations with Vietnam. Then, on July 17, the European Union signed an economic cooperation accord with Vietnam that had been in negotiation for two years, much of the disagreement centering on a standard human rights clause.

At the same time as these developments unfolded, the Vietnamese government moved to imprison and prosecute internal critics. On January 4, Thich Quang Do, the second-highest leader of the Unified Buddhist Church, was arrested because of his role in organizing flood relief in the name of the church and his protest of the arrest of five other Buddhists who had participated in the charitable effort. The sixty-eight-year-old Venerable Quang Do had the previous year written a long essay alleging that the Vietnam Communist Party had persecuted, and in some cases caused the deaths of, senior figures in the church. He sent this essay to party leader Do Muoi asking why the country was officially mourning the death of Korean dictator Kim Il Sung, but not commemorating the death of Buddhist martyrs. On April 14, Venerable Quang Do and the five other Buddhists were convicted of national security offenses for their flood relief activities; the senior monk was sentenced to five years of imprisonment, and the others to terms of four to two and one half years. One laywoman who asked for clemency at trial was released. Dozens of adherents of the Unified Buddhist Church remained imprisoned, although one monk, Thich Hai Chanh, was the only political prisoner to be freed in an amnesty of prisoners to celebrate the April 30 anniversary of the reunification of the north and south parts of the country.

On December 29, 1994, in an effort to cut him off completely from all followers, security police moved the head of the church, Thich Huyen Quang, from the Hoi Phuc pagoda in Quang Ngai province where he was confined under house arrest to a one-room structure they built and guarded at the tiny Quang Phuc shrine in Nghia Hanh district. On August 16, a Voice of Vietnam broadcast called for Thich Huyen Quang and another monk under house arrest, Thich Long Tri, to be put on trial as well, but as of this writing no trial had gone forward. Thich Huyen Quang is seventy-seven years old and in poor health; since his confinement the authorities have denied him visitors, doctors and medicine for his high blood pressure.

Protestants also faced arrest in 1995, particularly in highland regions, for preaching or holding house church services. Human Rights Watch/Asia received information on arrests and confiscation of property from Protestants in Song Be, Long An, Quang Ngai and Lam Dong provinces who had distributed religious materials or held illegal prayer meetings. Relations with the Catholic church continued to show tension, with the government in April rejecting all candidates the Vatican nominated for clerical positions, including the candidate who was to assume the administrative duties for the elderly and ailing archbishop of Ho Chi Minh City; the archbishop died later in the year, leaving the administrator-designate's status uncertain.

On April 11-12, a Vietnamese court convicted Nguyen Dinh Huy and eight other members of the self-proclaimed "Movement to Unite the People and Build Democracy." This group, whose stated goals were to promote peaceful political change leading to free elections, had attempted to organize a conference on development and democracy in November 1994 that the government abruptly canceled, arresting them. Nguyen Dinh Huy was sentenced to fifteen years of imprisonment for "attempting to overthrow the government"; others received sentences of four to fourteen years, including two American citizens, Nguyen Tan Tri and Trung Quang Liem. A U.S. consular officer was allowed to observe the trial, and on November 5, the two Americans were deported from Vietnam.

On June 14, the government took into custody two prominent communist dissidents, Do Trung Hieu in Ho Chi Minh City and Tran Ngoc Nhiem, known by his alias, Hoang Minh Chinh, in Hanoi. Do Trung Hieu was formerly the Communist Party cadre in charge of religious affairs in Ho Chi Minh City; he had written and circulated an autobiographical essay describing the party's efforts to dismantle the Unified Buddhist Church after the war. Hoang Minh Chinh, a well-known and now elderly communist intellectual, had been imprisoned twice before for advocating "revisionist" lines, in 1967 and 1981 respectively. He had sent petitions to the highest levels of the Party demanding that his name be cleared from his previous jailings. The two cases are related, possibly because Do Trung Hieu had asked Hoang Minh Chinh to circulate a letter the former had written to Vietnam's leadership. Both men were put on trial in Hanoi on November 8 and sentenced to fifteen months and twelve months respectively.

A third well-known communist figure, Nguyen Ho, was visited by police on June 23, who attempted to take him into custody. Nguyen Ho had been detained twice previously, once for his role in leading an unofficial association of war veterans and another time for circulating an autobiographical essay that exposed and criticized abuses committed by the party. In one of his essays, he noted the "unprecedented speed" with which the party had moved to reconcile with its former enemies, such as the United States, France, Japan, South Korea, Japan, ASEAN and China. He asked, "Why can't the Vietnam Communist Party reconcile with its own Vietnamese brothers whom it has oppressed and victimized? Are dollars the condition for reconciliation?" Nguyen Ho handed copies of this essay to the police and informed them he would prefer to take his life than to be imprisoned again. Although he was not arrested, he has been kept under close surveillance, which has tightened progressively since September.

The government's insistence that political and religious dissidents were being punished not for their opinions or religion but because they had broken the law rang hollow, given that Vietnam's legal system criminalized acts that are unambiguously protected by international guarantees of civil and political rights. National security offenses, for example, included peaceful expression deemed "counterrevolutionary propaganda" and activities that can be construed as "causing divisions" between the party and various social sectors; likewise, charges of "attempting to overthrow the government" were often based on no more than acts of peaceful expression or

association. The justice system in these sensitive cases remained politicized, and it was not possible for dissidents to receive trials that met minimum standards of procedural fairness.

The death penalty continued to be applied in Vietnam. On March 5, the government executed Nguyen Tung Duong, a policeman convicted in October 1994 of robbing and shooting a young man he had pulled over for a traffic violation. The case became a cause celebre in Hanoi when the defendant was initially given an extremely light sentence; popular outrage caused the authorities to rehear the case and go to the other extreme by sentencing him to death. Also executed in June was a Hong Kong-born British citizen who had been convicted of trying to smuggle heroin into the country.

Press censorship also continued, with the government confiscating what it considered subversive newspapers and tapes mailed into the country, and even travel guidebooks. The Ministry of Culture shut down the weekly *Ngoi Ha Noi* (People of Hanoi) for publishing an article criticizing the government's decision to ban fireworks at New Year, and recalled an issue of the monthly magazine of the Casting and Metallurgy Association for containing too many sensational stories that were unrelated to metal works. Both dissident intellectuals and foreign correspondents reported heightened surveillance following the U.S. decision to normalize relations, reflecting an overall tightening of security.

In April, the Ministry of Labor, War Invalids, and Social Action banned the employment of children under the age of sixteen in conditions "injurious to health and spirit." A foreign expert at a conference held by UNICEF and the Ho Chi Minh City Communist Youth Union at the beginning of 1995 estimated that child prostitution had risen steadily during the past five years and accounted for between a quarter and a third of all urban prostitutes.

There were further labor strikes in 1995, particularly at foreign-invested enterprises. The government pushed to organize unions in all such enterprises; Vietnam's law requires all unions to belong to the state-controlled Vietnam Confederation of Labor. A new labor code passed in 1994 also recognizes the right to strike, but not for enterprises that provide "public services" or those "essential to the national economy or national defense." Nor is a strike legal if it "exceeds the scope of the enterprise," compromising the ability of workers to engage in sympathy strikes. Vietnam has not ratified the International Labor Organization convention that guarantees freedom of association and the right to organize freely.

### **The Right to Monitor**

The government does not allow the people of Vietnam to form human rights associations or to engage in human rights monitoring, and it is highly resistant to foreign examination of its human rights record. The government denied permission for Human Rights Watch/Asia to conduct an official visit to Vietnam in 1995.

In 1994, the government allowed the U.N. Working Group on Arbitrary Detention to visit three labor camps under controlled conditions. The Working Group reported in February 1995 that the government refused to release statistical information on the number of prisoners or the dimensions of the penal system, that it banned the delegation from visiting pre-trial detention centers, and that lower-level officials were not always cooperative. The delegation regretted these shortcomings while acknowledging the historic nature of the visit and the need to build trust and further cooperation; it also recommended that the twentieth anniversary of the reunification of the country would be an appropriate time "to grant amnesty to persons still detained in camps for offences relating to the preceding period," a recommendation that was apparently ignored. The Foreign Ministry condemned media coverage of the report, stating that the delegation did not investigate human rights but merely studied the legal system.

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

On July 11, President Clinton announced normalization of diplomatic relations in a speech that noted that progress in relations, such as providing MFN Trading status or OPIC, would involve certifications regarding human rights and labor rights. He also declared that the United States would pursue its bilateral dialogue on human rights, "especially issues regarding religious freedom." On August 5 and 6, Warren Christopher visited Vietnam, the first U.S. secretary of state to do so in twenty-five years. Secretary Christopher spoke at a top foreign policy school, emphasizing the importance of accelerated economic reform, courts that provide due process, newspapers that are free to expose corruption, and business people who have free access to information. He told students, "When you hear American talk about freedom and human rights, this is what we mean. Each of you ought to have the right to help shape your country's destiny, as well as your own." Both speeches were the clearest and most high-level statements on human rights to date from the administration, and both drew criticism from the official Vietnamese press. Nevertheless, the United States also publicly criticized Vietnam for continuing political detentions, particularly the sentencing of two Vietnamese-Americans in August, as unhelpful to progress in advancing trade relations. The United States pursued talks with Vietnamese officials on human rights issues in May and October. During the May visit, a State Department official called for the release of all political prisoners, and characterized the talks as "positive" while warning that results would be a long way off. Australia also sent a delegation to Vietnam to discuss human rights issues of concern in April.

Congress was divided over the decision to normalize relations, but united in concern for human rights abuses, with numerous members writing letters and making personal communications on behalf of political and religious prisoners. In late June-early July, senators Tom Harkin and Frank Lautenberg traveled to Vietnam, revisiting the infamous "tiger cages" and also raising contemporary human rights concerns. In the immediate wake of their visits, the Vietnamese government issued passports to two dissidents whom it had obstructed in their efforts to apply for emigration through the Orderly Departure Program.

Japan became Vietnam's most generous donor, but generally remained silent on human rights concerns. In April, Communist Party leader Do Muoi visited Japan, winning pledges of a \$700

million loan and a \$36 million grant, in addition to a \$480 million package of infrastructure loans approved earlier in January. Prime Minister Tomiichi Murayama only raised human rights privately and in very general terms (see Japan section).

In July, the European Union signed a cooperation agreement that included as Article 1 a clause stating "Respect for human rights and democratic principles is the basis for the cooperation between the Contracting Parties and the provisions of this Agreement, and it constitutes an essential element of the Agreement." The European Parliament had yet to endorse the agreement as of November. Earlier in the year, the parliament had expressed concern over Vietnam's imprisonment of religious figures. Since signing the cooperation agreement, the European Commission stated an intention to increase significantly its economic and development cooperation activities in Vietnam, both bilaterally and within the context of European Union-ASEAN cooperation.

### **The Work of Human Rights Watch/Asia**

Human Rights Watch/Asia continued to engage the Vietnamese government in a dialogue on issues of concern while publicizing instances of abuse to the international community. Human Rights Watch/Asia was twice forced to cancel plans to visit Vietnam to look at the formation and regulation of private associations when the government refused to issue visas because of "inconvenience." Nevertheless, the organization followed events closely, issuing press releases criticizing the detention of political and religious prisoners throughout the year, and a report on law and dissent in August. "Human Rights in a Season of Transition" recommended that the international community press the government of Vietnam to release religious and political prisoners, ratify and implement the International Labor Organization conventions guaranteeing freedom of association, and improve the neutrality and transparency of the legal system. The report was translated into Japanese and widely distributed in Tokyo to members of the Japanese government and others. Human Rights Watch/Asia testified on human rights conditions in Vietnam in March before the House of Representatives and again in August. Human Rights Watch/Asia also provided briefings throughout the year on human rights issues to members of Congress, to the U.S. State Department, foreign embassies, and to the Japanese Ministry of Foreign Affairs.