

# HUMAN RIGHTS WATCH /ASIA

## OVERVIEW

### **Human Rights Developments**

In terms of human rights, Asia in 1996 was marked by major setbacks, minor progress and much unfinished business. On the one hand, there was an obvious deterioration of the human rights situation in Burma, Cambodia, China, and Indonesia. In addition to the arrest of over 1,000 supporters of the democracy movement in Burma during the year, forced labor and forced relocations in Burma's eastern provinces led to a massive exodus of refugees and migrants to Thailand. China's particularly harsh treatment of democracy advocates like Wei Jingsheng, serving a fourteen-year prison sentence, and Wang Dan, a former student leader who "disappeared" in 1995 only to surface in custody and be formally tried and sentenced to eleven years in prison on subversion charges in October 1996, were part of a more systematic effort to crush the political opposition. At the same time, China's arrests of business and banking executives during the year demonstrated that arbitrary detention was not restricted to political activists. The utter disregard for the rule of law by Chinese authorities, even as some legal reforms were undertaken, did not bode well for Hong Kong and its transition to Chinese rule in 1997. Many activists in Hong Kong were already concerned by Chinese government statements and actions that signaled strict controls of the press and of political participation after the transition. In Indonesia, dozens of student activists under the age of thirty faced trial and certain conviction on political charges for taking part a nonviolent leftist political organization that the Soeharto government, with no evidence, charged with masterminding serious riots in Jakarta, the capital, in July.

If the level of state repression was high during the year, the demand from Asian citizens for basic civil liberties was greater than ever. If 1988 was the year of the pro-democracy movement for Burma, 1989 for China, 1990 for Nepal, 1992 for Thailand, 1993 for Cambodia, and 1995 for Hong Kong, 1996 was a banner year for Taiwan and Indonesia. The elections in Taiwan in March, in which 14,000,000 Taiwanese voters for the first time chose their president by direct and secret ballot after an open and lively campaign, were a stunning refutation of the "Asian values" argument that Asians care more about strong, efficient government than about popular participation. The elections also demonstrated that there was nothing inherently incompatible about Confucian cultural traditions and respect for civil liberties. The Indonesian democracy movement developed a new cohesion with the formation of an independent election monitoring group in March and the demand for accountable leadership that led to mass support for Megawati Soekarnoputri, daughter of Indonesia's first president, as an alternative to President Soeharto.

Major human rights problems remained unresolved in the region. In Kashmir, despite the holding of elections in May and September and a reduction in the frequency of confrontation between the military and various groups of armed insurgents, the level of summary executions of suspected militants by Indian security forces remained high. In Sri Lanka, initial optimism that the government of Chandrika Kumartunga, which was largely supportive of human rights, would be able to prevent violations of humanitarian law as its army waged war against the Liberation Tigers of Tamil Eelam (LTTE), was waning at the end of the year. The LTTE, whose violations of a cease-fire in April 1995 led to the resumption of the war, was responsible for serious

violations of humanitarian law in the territory it controlled. In Bangladesh, all political parties were responsible for widespread violence and civil strife prior to elections in February and June.

Religion frequently intersected with human rights in Asia, often with negative consequences. The Chinese government saw Tibetan Buddhism, Christianity, Islam, and millenarian sects, for different reasons, as serious threats to the legitimacy of the Communist Party and intensified efforts to regulate all. Clashes between Muslims and Christians, originating in unsolved political conflict and unprosecuted human rights abuses, erupted in East Timor in June as they had in 1995. A rash of church-burnings in Java in June, September and October, that the government failed to prevent, and the efforts, with clear communal overtones, of the Indonesian army in August to whip up anti-communist sentiment among Muslim groups following the arrest of members of a student leftist party, all suggested that the much-vaunted reputation of the Indonesian government for religious tolerance needed to be reconsidered. The taking of Kabul by the Muslim militia calling themselves Taliban or "students" signaled a period of grave discrimination against women; the group's seizure of former Prime Minister Najibullah from a U.N. compound and the subsequent torture and execution of Najibullah and his aides boded ill for human rights in Afghanistan. In Burma, the ruling State Law and Order Restoration Council persisted in a pattern of discrimination and abuse against the Muslim Rohingya minority in Arakan, in the north of the country.

At the same time, the fact that Bishop Carlos Ximenes Belo of East Timor received the Nobel Peace Prize was recognition of the critically important role religious figures can play as protectors of human rights. And there was some progress toward prosecuting communal violence in India, with the reinstatement of a commission looking into the role of the police in Hindu-Muslim riots in Bombay in 1993. In September, one Hindu man was prosecuted and convicted for killing two Sikhs in the course of a massacre of over 3,000 Sikhs in Delhi in 1984 in which police and ruling party officials took an active role; it was the first such conviction in relation to that massacre.

Several regional issues came to international attention during the year. The problems of migrant workers in Malaysia—Bangladeshis, Indonesians and Filipinas in particular—were highlighted with the trial beginning in June of Irene Fernandez, a Malaysian human rights activist charged with "false reporting" for her efforts to document abuses of migrants in Malaysian immigration detention centers. If her trial represented the efforts of one part of the Malaysian government to silence public criticism of the problem, other parts of the government took constructive steps during the year to curb abusive practices of labor recruiters. Thailand's cabinet, in part because of pressure from a labor-starved business community, adopted a resolution in July giving temporary legal status, and therefore protection of some Thai labor laws, to almost 900,000 illegal migrant workers, mostly from Burma, Laos and Cambodia. But that welcome development was offset by the failure of the Thai government to crack down on illegal recruiters sending Thais, many of them women, to Japan and other countries. Of all the human rights issues in Southeast Asia, migration was one of the few on which systematic talks at an intergovernmental were taking place, both among national human rights commissions, within the Association of Southeast Asian Nations (ASEAN) and at a bilateral level between foreign and labor ministers of sending and receiving countries. In the Human Resources Development Working Group of the Asia Pacific Economic Cooperation forum (APEC), on the other hand, there was strong resistance to addressing the problem of migrant laborers, despite attempts by the Philippines government to get it on the agenda.

Bonded labor continued to be a major issue in South Asia. Both India and Pakistan failed to enforce laws prohibiting bonded labor, but in both countries, local nongovernmental organizations (NGOs) had produced a range of recommendations for governments and donor agencies for the identification and rehabilitation of bonded laborers, particularly children, and there was some prospect of greater international scrutiny of government enforcement procedures.

Another regional human rights issue, that of the Vietnamese boat people spread among camps in Malaysia, Hong Kong, the Philippines and Indonesia, came to a violent close at the end of the year with the formal end of the Comprehensive Plan of Action, the multilateral plan for repatriation and resettlement of Vietnamese asylum-seekers, on June 30. As first-asylum countries rushed to close down their camps, their security forces often used disproportionate force against Vietnamese resisting forced return, although the resistance itself was often violent. Incidents of excessive force occurred throughout the first-asylum countries, including the January shooting death of one Vietnamese in Sungai Besi, Malaysia and the beatings of Vietnamese in Palawan, Philippines in February. Detention conditions for Vietnamese in Hong Kong continued to be a major concern, where some of the camps were expected to remain open in 1997 despite stepped-up efforts to repatriate those remaining. In a humanitarian move that could have been a model for other first-asylum countries, the Philippines in August permitted the remaining 1,000 Vietnamese to integrate locally.

Domestic and international advocacy efforts forced the issue of trafficking of Asian women and children for prostitution onto the agenda of governments in the region. In August, for example, Thailand announced a ten-year plan, the "National Policy and Plan of Action for the Prevention and Eradication of the Commercial Sexual Exploitation of Children," distributed at a world conference on the subject in Stockholm. While welcome, the plan focused only on those under eighteen, leaving the problems of older victims unaddressed, and it was not clear how implementation would proceed. The plan, however, gave too little attention to the prosecution of traffickers and promoters of commercial sex. Thailand has been a center of trafficking for prostitution, with Burmese and Chinese women trafficked into the country, and Thai women trafficked out.

One other development in the region was worth noting. Increased access by human rights organizations and pro-democracy activists to the Internet facilitated international advocacy campaigns on everything from Burma to bonded labor, but Asian governments for the most part treated the Internet with great suspicion. In January, the State Council in China issued a draft set of rules to regulate use of the Internet; subscribers were ordered to provide a written guarantee that they would not use the Internet for purposes "harmful to the state." In September, Chinese authorities deployed sophisticated technology to block subscriber access to as many as one hundred English and Chinese sites on the World Wide Web. In June, the South Korean government warned that the draconian National Security Law could be applied to attempts to circulate material about North Korea on personal computers; the warning came after a local newspaper carried an article on a Canadian Web page with a picture of Kim Jong Il, the North Korean leader. In July, Singapore announced a new licensing system designed to regulate the Internet and censor any material that might "undermine public morals, political stability and religious harmony." On September 4, the ASEAN countries announced an agreement to collectively regulate communication on the Internet. In the same month, Burma issued a new law which entailed a fifteen-year sentence for anyone importing, purchasing or using modems or fax machines without governmental permission. No known restrictions were placed on the use of the

Internet in South Asia.

### **The Right to Monitor**

Human rights organizations continued to be effectively banned in -- and international human rights organizations banned from -- North Korea, Burma, Vietnam, Brunei, Bhutan, and China/Tibet. In China, however, university-based legal aid organizations took on some functions of rights protection. Singapore had no human rights organizations operating freely in the country, but access to the country by international organizations was not a problem. Human rights monitoring continued to be a dangerous profession during the year, with two monitors killed in India: Kashmiri human rights lawyer Jalil Andrabi was abducted by Indian security forces and murdered in March, while Parag Kumar Das, an editor and activist from Assam, was killed in May. Fernando Reyes, a human rights lawyer, was killed in Zamboanga del Sur, the Philippines, and Kalpana Chakma, secretary of a women's organization in the Chittagong Hill Tracts, Bangladesh, was abducted by army gunmen in June and not seen thereafter. In Burma, twenty-one political prisoners who had attempted to send information about prison conditions to the U.N.'s special rapporteur on the country were beaten and given additional sentences of five and twelve years. In Indonesia, Cambodia, Malaysia, Pakistan and Nepal, human rights monitors faced various degrees of persecution and harassment.

National human rights commissions in the Philippines, India, and Indonesia continued to play an important role despite restrictions in their mandates, particularly in the case of the latter two. India's commission focused national attention on the problem of custodial violence; it was far less successful in raising concerns about abuses by security forces in Kashmir or the northeast. The Indonesian commission helped bring about prosecutions of soldiers in several key incidents during the year and issued a brief but stinging report on the government-backed storming of opposition party headquarters that led to the Jakarta riots in July.

The year saw increasing joint action of NGOs across national boundaries, especially on Burma. From May 1 to 17, the Bangkok-based NGO coalition, Asian Forum for Human Rights and Development, sent a delegation of two Thais and two Filipinas to Burma to investigate human rights abuses. In a report issued from Manila in July, the group called on ASEAN countries to ban aid and investment and ban Burma from membership in ASEAN. At the trial of Irene Fernandez in Malaysia, international observers from Indonesia and Bangladesh as well as the United States were in attendance. In February and March, NGOs in Nepal hosted a series of meetings which brought together hundreds of Asian activists to coordinate advocacy on wide range of human rights concerns, from labor rights, the environment, health, and development, to protection of civil society and conflict resolution. November saw one of the largest gatherings of Asian human rights organizations for a regional meeting since the 1993 Asian preparatory conference for the Vienna World Conference on Human Rights, as hundreds of groups convened in Manila in conjunction with the APEC summit. Labor rights issues were high on the agenda.

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

Security and commercial concerns dominated the international agenda in Asia throughout 1996, and most governments saw pressure on human rights concerns as jeopardizing those interests. The European Union held its first E.U.-Asia summit meeting in Bangkok in early March, at which the phrase "human rights" was barely mentioned. The U.S. maintained its low profile on human rights concerns in South Asia, with the exception of the child labor issue. Ensuring continued access to Asian markets and maintaining existing investments there were far more important to the industrialized countries than challenging Beijing, sanctioning Rangoon,

conditioning Korea's entry into the Organization for Economic Cooperation and Development (OECD) on labor rights improvements, or protesting crackdowns on the political opposition in Indonesia.

As the World Trade Organization (WTO) prepared to hold its first ministerial meeting in December in Singapore, Asian NGOs debated the pros and cons of trying to include in the WTO Charter a "social clause"—a way of linking trade benefits to adherence to basic labor rights standards. Asian governments were virtually united in their opposition to an effort led by the U.S. and France to set up a working group on labor and environmental standards at the Singapore meeting that would address many of the concerns raised by social clause proponents. The issue was also expected to be debated in the margins of the APEC summit in Manila in late November.

### **United Nations**

The United Nations was much more visible as a human rights presence in Asia than in previous years. The Geneva-based U.N. Human Rights Centre continued to maintain an office in Cambodia, and its term was extended for another two years in an agreement between the center and the Cambodian government. Justice Michael Kirby stepped down as the special representative for human rights in Cambodia and was replaced by Thomas Hammarberg, former secretary-general of Amnesty International.

In July, Louis Joinet, head of the Working Group on Arbitrary Detention, visited China to begin discussions about the possibility of a more in-depth visit by the working group in 1997. Special Rapporteur on Torture Nigel Rodley visited Pakistan in February, but his effort to obtain permission from Indonesia to investigate torture in East Timor was unsuccessful. In Burma, a new special rapporteur was appointed by the Commission on Human Rights to replace Prof. Yozo Yokota, but as of November, SLORC had not permitted the new appointee, Rajsoomer Lallah from Mauritius, to visit.

No new ratifications of major U.N. conventions on human rights took place during the year, but a campaign was underway in Indonesia among NGOs and the government-appointed National Human Rights Commission for ratification of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The hearings in Geneva of the U.N. Committee on the Rights of the Child drew international attention to abuses against children in China and Burma, and in October, the hearing of the Human Rights Committee on the compliance of the United Kingdom with its obligations under the International Covenant on Civil and Political Rights, particularly with respect to Hong Kong, was a useful means of raising international concern about China's determination to avoid such reporting once Hong Kong returns to Chinese control in 1997. China also submitted a report to the U.N. Committee Against Torture on the steps it had taken to prevent torture. The report was used by NGOs to focus on the steps China had *not* taken and on the ongoing problem of torture in Chinese prisons.

The U.N. Human Rights Commission in Geneva suffered a severe blow to its credibility and effectiveness when, during its April 1996 session, the Chinese government used commercial threats and blandishments to block any discussion or vote on a resolution expressing concern about human rights abuses in China and Tibet.

### **ASEAN**

The ASEAN ministerial conference in Jakarta in July, and the expanded ASEAN Regional Forum (ARF)—a forum for discussion of security issues, which included India, China, and Burma (as an observer)—resulted in a standoff on strategy towards Burma, as ASEAN

reaffirmed its commitment to “constructive engagement” despite pressure from mostly western countries to use its influence to bring more pressure to bear on SLORC to improve its human rights practices. Later in the year, however, as conditions in Burma further deteriorated, a growing split emerged within ASEAN over how to deal with Burma and how soon to grant it membership.

### **European Union**

Human rights proved a particularly thorny issue in European-Asian relations. In March, as noted, Bangkok hosted the first EU-Asia summit, widely seen as an attempt by European leaders to use the APEC model to involve Europe more closely in the economic dynamism of East and Southeast Asia. The meeting involved twenty-five heads of state, and the only human rights issue that surfaced was East Timor, when the Portuguese prime minister and Indonesian President Soeharto held unscheduled bilateral talks. Some key EU countries, including France and Germany, apparently used the meeting to try to find a formula for avoiding sponsorship of a resolution criticizing China's human rights record at the U.N. Human Rights Commission. When foreign ministers of many of the same European countries met their ASEAN counterparts in July in Jakarta, they were roundly criticized for focusing too much on human rights issues, particularly on Burma and East Timor.

### **Japan**

Japan continued to play a cautious role on human rights in the region, using the leverage of granting, suspending or resuming Official Development Assistance (ODA) to advance human rights concerns only in the case of Burma, while security issues were the clear priority in its bilateral relations with China. This was also the case in South Asia, where Japanese authorities engaged India on nuclear discussions but refrained from directly addressing specific human rights problems such as Kashmir. Tokyo asserted its role as the world's leading aid donor by hosting, together with the World Bank, two international donor consortiums in 1996, on Cambodia and India.

### **Donors and Investors**

The World Bank and the Asian Development Bank made little demonstrable progress in 1996 towards implementing their respective “good governance” policies, although the World Bank did show some interest in addressing the bonded child labor issue, especially in India.

Demands for increased corporate responsibility in Asia in terms of protecting human rights increased both domestically and internationally. The demands on footwear manufacturers, such as Nike, and mining companies, such as Freeport-McMoRan, both of which have operations in Indonesia, were particularly public. Light export-oriented industries, such as the manufacture of textiles, garments, and toys, and other industries such as carpet-weaving, became more sensitized to the issues of child labor and worker rights abuses. In Burma, international investment became the target of selective purchasing legislation in several U.S. cities and states and of consumer boycott campaigns in other western countries, leading to the withdrawal of several companies from Burma. Apple Computers and Heineken were among those that pulled out. In some cases, companies responded with either cosmetic gestures or more serious efforts to monitor their own operations, but few were willing to work with local or international NGOs to assist in carrying out social audits or monitoring of internal guidelines, and the lack of transparency and accountability by the private sector remained a key obstacle to enhanced corporate responsibility.

An important emerging issue for the business community was the upcoming transfer of Hong Kong in July 1997, and how foreign investors would respond to human rights

developments after the transfer. As the year ended, some U.S. business interests were already playing a positive role by sending clear signals to Beijing on the importance of maintaining the rule of law, protecting free expression, and stopping the spread of corruption from the mainland to Hong Kong.

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

The year was marked by new initiatives on both research and advocacy, while Human Rights Watch/Asia continued to follow up on past work. On countries with strong NGOs, we worked with local groups to set priorities: bonded labor and migrant labor in South and Southeast Asia became research priorities in this way. But even in countries with no human rights organizations, such as China and Burma, the scope of our work widened beyond the traditional and ongoing concerns of arbitrary detention, torture and violations of freedom of expression and association. A major study of abuses in China's orphanages during the year sparked international outrage and provided new insights into how the impact of a repressive state apparatus can reach beyond political and religious dissidents to touch the country's most vulnerable citizens—abandoned, orphaned and handicapped children—in a way that violated the most fundamental human rights. With regard to Burma, a report released in September on the human rights violations suffered by the Rohingya Muslim minority served as a follow-up to two earlier reports on that issue, but in focusing as much on repatriation and protection of returned refugees as on abuses inside Burma per se, it provided a new way of examining the problem. It also provided new opportunities to seek accountability from the Burmese government, including through international humanitarian and development agencies.

We continued to respond swiftly to particularly grave cases of abuse, issuing press statements and briefing materials, appealing to U.N. bodies, or meeting with officials of donor governments as the case warranted. The massive arrests in Burma in May and September, the crackdown on student and labor activists in Indonesia in August and September, and the formal indictment and trial of Chinese dissident Wang Dan in October were all occasions for emergency interventions. Likewise, whenever Asian human rights monitors abroad were attacked, we responded immediately, as in our protests over the killing of Kashmiri lawyer Jalil Andrabi in March and our decision to send a series of observers to the trial of Malaysian activist Irene Fernandez in Kuala Lumpur.

Hong Kong received particular attention during the year, as the transition to Chinese sovereignty approached in 1997. Our office in Hong Kong continued its emphasis on China, but staff also worked with local monitoring groups to generate more international attention to the steps taken by China that had or were expected to have deleterious effects on civil liberties.

While our research output was considerable in 1996—ten short reports, four book-length reports, two of them in collaboration with the Human Rights Watch Children's Rights Project (CRP)—we devoted an equal amount of staff time and resources to advocacy efforts. An example was the campaign on bonded child labor in India, based on the report *The Small Hands of Slavery*, issued in September. The report itself involved three months of intensive research. When it was ready for publication, we undertook a process of detailed consultation with our Indian colleagues on the policy recommendations and on plans for follow-up. We then sent letters summarizing the recommendations to the key donor governments and agencies attending the annual meeting on development assistance chaired by the World Bank, which convened in Tokyo in September; we also discussed the issue with Japanese Foreign Ministry officials in advance of the meeting. Responses from several agencies including the World Bank suggested

that some of the recommendations could be incorporated when projects to support industries known to employ bonded child labor, such as sericulture, came up for renewal. The report was used as evidence by local NGOs in Tamil Nadu in a case before the Supreme Court to abolish bonded labor in that state. A joint campaign of local, regional and international NGOs to eradicate the practice of bonded labor was expected to continue well into 1997.

Asia was a major focus of work at the U.N. during the year. We joined with other NGOs in lobbying for a resolution criticizing Burma's human rights record at the U.N. Commission on Human Rights, which ultimately succeeded. Despite the best efforts of our New York, Washington, Brussels and Hong Kong offices, however, and those of many activists worldwide, a resolution on China failed to come to a vote. In the course of intensive press work and discussions with European Union members on the China resolution, however, the Brussels office managed to secure a resolution from the European Parliament that helped force the E.U. countries at the commission to take a stronger position than they would have otherwise; that action provided a useful basis for further European lobbying on China. We raised several Asian issues in written submissions at the U.N. Human Rights Commission meeting in Geneva in April, including abuses in Chinese orphanages, concerns about trafficking of women from Burma to Thailand, and concerns about migrant workers in Asia. Staff submitted evidence on Burma at the hearing on the Committee on the Rights of the Child. In July, as in previous years, we submitted a petition on human rights abuses in East Timor to the U.N. Committee on Decolonization, noting that any discussion of East Timor's political status must be informed by an understanding of the pattern of human rights violations there.

The Washington, London and Brussels offices played key advocacy roles during the year. Human Rights Watch gave evidence on forced labor in Burma before the European Commission in Brussels and testified before the U.S. Congress four times on China and once each on Hong Kong, Indonesia/East Timor, and Pakistan. We also testified before the U.S. government's Presidential Commission on U.S.-Pacific Trade and Investment Policy. Through our Washington office, we maintained close and regular contact with embassies of Asian countries as well as with the World Bank, U.S. government agencies and the U.S. Congress. In July, a staff member traveled to Tokyo to meet with government officials, members of parliament, NGOs, journalists and others to continue a dialogue on human rights issues in the region and Japan's official human rights policy. We also published op-eds in Japanese newspapers during the year, as well as providing information about human rights concerns through other articles in the regional press.

In sum, the year in Asia was marked by increasing cooperation of local, regional and international NGOs, especially on issues such as labor rights and women's rights. Arbitrary detention and punishment of peaceful dissent continued to be major problems in countries where NGOs were not allowed to function, but condemnation of these practices from NGOs and governments in other Asian countries was increasingly common. The political manipulation of religion by governments and opposition groups in many Asian countries raised the spectre of communal conflict in the years to come. Among donor countries and trading partners of Asian countries, business concerns continued to overshadow human rights, and the fear of losing contracts became a powerful incentive for many countries to avoid criticism of human rights abuses.

## **BANGLADESH**

### **Human Rights Developments**

Political violence among Bangladesh's major political parties dominated events in 1996



and led to widespread human rights abuses. A mid-year election ended the immediate crisis, but because authorities failed to disarm party cadres and prosecute leaders responsible for inciting the violence, it erupted again within a few weeks, although on a smaller scale. The conflict over land in the Chittagong Hill Tracts continued to take a toll on civilians as both the Bangladesh government forces and the guerrilla army, Shanti Bahini, carried out indiscriminate attacks. Army troops were also believed responsible for the “disappearance” of human rights activist Kalpana Chakma in June.

The political crisis stemmed from a longstanding dispute between the governing Bangladesh National Party (BNP) and the opposition, led by the Awami (People's) League, over charges of government corruption and vote-rigging. On November 25, 1995, after a yearlong boycott of parliament by the opposition, President Abdur Rahman Biswas dissolved parliament. Fresh legislative polls were announced for February 15, 1996, but all of the opposition parties pledged to boycott the polls unless Prime Minister Zia resigned beforehand; in the weeks leading up to the elections, they stepped up their campaign of strikes and street protests to force the government to accede to their demands. As the February vote approached, the political deadlock erupted in violence as supporters, youth wings and student fronts of all political parties battled with each other, and opposition groups fought with police, paramilitary Bangladesh Rifles (BDR) — both under the control of the Home Affairs Ministry — and the army, which had been called in by the election commission to retrieve illegal arms ahead of the election.

On February 4, still before the vote, at least 200 uniformed soldiers armed with guns and batons conducted indiscriminate raids in Charsayedpur village, taking three villagers into custody, rounding up and interrogating scores of others, and beating at least 200 residents, including women and children. The detainees were beaten and tortured with electric shocks. To Human Rights Watch's knowledge, the soldiers responsible were never prosecuted. In another incident, on January 31, 1996, some 150 students were injured and about ninety-five arrested as police, backed by BDR troops, raided Jagannath Hall, Dhaka University's dormitory for religious minority students and a stronghold of the Awami League student wing. Approximately thirty students were hospitalized as a result of the police attack. The police raid followed an exchange of fire between pro-government and anti-government factions on the university campus.

The polls themselves were marred by violence among rival political factions, intimidation of voters, and attacks on polling centers by opposition activists and credible allegations against the ruling party of vote-rigging in the uncontested election. At a protest rally in front of the national Press Club in Dhaka prior to the election, a speaker from the Awami League warned, "Anyone who goes to vote will come back dead." On and immediately before election day, several hundred polling stations across the country were gutted by opposition militants. Nationwide, an estimated sixteen people were killed and 500 injured in violent incidents over the two weeks leading up to the polls, forcing authorities to postpone voting in some areas.

In several incidents during the weeks before and after the February 15 election, journalists were assaulted, harassed or arrested either because of their suspected ties to the opposition, or because they were reporting on or photographing police shootings and other abuses. On February 10, a photojournalist for the Dhaka-based daily newspaper, *Janakantha*, was severely beaten by BDR troops when he attempted to take a picture of the family of a ten-year-old boy who had been detained. A reporter for the daily *Banglarbani* was also badly beaten, and both men had their cameras confiscated. Another photojournalist with the Dhaka-based daily *Ajker Kagoj* (*Daily News*), was beaten by police after taking photographs of a clash between violent

Awami League supporters and the police. He sustained a deep wound to his head. On February 29, 1996, *Ajker Kagoj*'s chief reporter was arrested under the Special Powers Act—a law which provides for detention without charge. The arrest was apparently meant to put pressure the newspaper's editor, Kazi Shahid Ahmed, an outspoken critic of the government, who was in hiding. The reporter was released on bail on March 31.

Gross mistreatment of criminal suspects by both police and judiciary were a problem outside the political sphere as well. In one case, Vladimir Lankin, a Russian citizen, remained on trial for the third straight year in 1996 on criminal charges. Neither the fact that he had been tortured into confessing by use of electric shock nor the illegal length of his trial moved the judge to speed sentencing; on the contrary, in mid-year, the judge himself caused an additional delay by taking a four-month "retraining" course. During the hiatus, Lankin's health deteriorated to the point that he had to be hospitalized.

The BNP won all but two of the 207 seats for which results were declared; new voting was ordered in the remaining ninety-three constituencies because of various irregularities and charges of vote-tampering. The opposition, led by Sheikh Hasina, declared the election "illegal" and organized strikes throughout the country to force a new election on its terms. On March 9 the opposition declared an indefinite non-cooperation movement that brought the economy to the brink of collapse. The country's emerging export-oriented garment-manufacturing industry suffered a heavy toll from lost production and from the closure of Chittagong port. In the first three months of 1996 alone, the fighting among supporters of rival parties, encounters between protestors and the police, BDR and army, and bomb and arson attacks by various political groups led to an estimated 120 deaths, thousands of casualties and widespread property damage.

Zia was sworn in as prime minister for a second term on March 19 while the opposition's non-cooperation movement gathered momentum. On March 28 thousands of civil servants staged a sit-in at the main government secretariat building in Dhaka, demanding the installation of a caretaker authority. On March 30, as the opposition prepared to orchestrate a siege of the presidential palace by thousands of supporters, President Biswas dissolved the newly-elected legislature and, as Zia stepped down, appointed ex-Chief Justice Habibur Rahman as chief adviser to head an interim government that presided over fresh national elections on June 12, 1996.

The polls were considered generally fair, although there were consistent reports of intimidation of the Hindu minority and in the Chittagong Hill Tracts, a largely tribal area. The vote brought the Awami League to power under Prime Minister Sheikh Hasina Wajed. Tensions between the new government and the army surfaced on August 13 when the government used the Special Powers Act to arrest three former army officers in connection with the 1975 assassination of Sheikh Hasina Wajed's father, former Prime Minister Sheikh Mujibur Rahman, and most of the members of his family.

Violence between rival student factions erupted again in August. On August 22 in Bogra, a clash left one student and one policeman dead. Police called in paramilitary units after students attacked a police station in Bogra on August 24. They opened fire on the students, some of whom were also allegedly firing guns; two students were killed. Prime Minister Hasina Wajed promised a judicial probe into the incidents. On August 25, after several days of student violence, hundreds of police raided residence halls at Dhaka University, arresting alleged outsiders and seizing numerous weapons. Opposition legislators staged a walkout of parliament denouncing "unprecedented police barbarity" against opposition students and supporters. September by-

elections in several constituencies were also marked by violence, as the BNP raised uncorroborated allegations of vote-rigging.

In the Chittagong Hill Tracts, a low-intensity conflict continued between Bangladesh government forces and the Shanti Bahini, a guerrilla force that took up arms in 1973 after Bangladesh rejected their demand for autonomy and began settling Bengalis in the area. Officials say up to 8,000 soldiers, rebels and civilians have been killed in the protracted insurgency. Human rights groups have documented torture and extrajudicial executions of suspected Shanti Bahini supporters. These abuses and attacks by settlers drove thousands of tribal families to flee to northeast India. On August 14 the Tripura state government in India resumed the repatriation of 50,000 refugees. On September 11, Shanti Bahini militants killed thirty Bengali settlers, beheading most of them, in the Rangamati district of the Hill Tracts. Settlers' organizations vowed revenge.

In June, outspoken tribal rights activist Kalpana Chakma was abducted by unidentified gunmen and has not been heard from since. (See below.)

In August, protests broke out over a longstanding dispute between Bangladesh and Pakistan over the citizenship of Bengali-speaking residents of Pakistan who claim to be Bangladeshi, and Urdu-speaking "Biharis" in Bangladesh who claim to be Pakistani. Both countries deported "illegal" immigrants while failing to resolve the issue. On August 14, Pakistan's independence day, hundreds of "Biharis" scuffled with police in Dhaka, and a few tried to burn themselves alive to protest a delay in their repatriation to Pakistan.

The treatment of refugees from Burma remained a concern during the year. Bangladesh, though not a signatory to the U.N. Convention Relating to the Status of Refugees, became a member of the U.N. High Commissioner for Refugees (UNHCR) Executive Committee in 1995.

This did not stop the government denying new arrivals the right to seek asylum. The strikes during February and March virtually halted all repatriations of the remaining 50,000 Rohingya Muslims who had fled to Bangladesh in 1992. During this period, when international aid agencies and staff of the UNHCR were unable to travel to the refugee camps, there were reports of beatings and food deprivation in the two southernmost camps. By April several thousand new arrivals began entering Bangladesh, reporting an increase in forced labor and other abuses in Burma. (See section on Burma.) In an attempt to stem the flood, Bangladesh authorities jailed new arrivals or prevented them from reaching Bangladesh. In one incident in April, twenty-five asylum-seekers, most of them women and children, drowned as their boat was being towed back to Burma by the Bangladesh Border Rifles. By the time the rains began in June, some 10,000 new arrivals had entered Bangladesh. By the end of the year some 250 Rohingyas remained in appalling conditions in Cox's Bazaar jail (which had a capacity of one hundred) and the Bangladesh government continued to deny the UNHCR and nongovernmental organizations access to all new arrivals, most of whom had taken shelter in the jungle.

### **The Right to Monitor**

NGOs for the most part operated freely in Bangladesh. On the eve of the June 12 general elections, however, armed gunmen abducted Kalpana Chakma, organizing secretary of the Hill Women's Federation, along with her two brothers, from their family home in New Lallyaghona village in Rangamati district. The gunmen attempted to shoot the two brothers, who managed to escape unhurt. One of Chakma's brothers identified Lieutenant Ferdous, an officer from the Ugalchhari army camp, as one of the abductors. The army denied involvement in the kidnapping. As of November, there was no word on Chakma's whereabouts. In late August the government

constituted a three-member committee to investigate the “disappearance” of Kalpana Chakma and identify the those responsible. The committee was also asked to propose suitable legal action and steps to prevent future incidents.

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

Bangladesh’s donors expressed alarm at the country’s slide into chaos in the early part of the year. The U.S. attempted without success to bring together the leaders of the BNP and Awami League to negotiate an end to the stalemate. Embassy personnel also privately expressed concern about the rising violence and electoral abuses during the February general elections. During the riots in Chittagong, the British ambassador visited several of the businesses destroyed or damaged by the mobs, and raised concerns with local authorities about the failure of the police to act promptly to protect citizens and property. A number of countries sent delegations to observe the June elections, including Japan, the European Union and the U.S.

Despite the violence committed by security forces, arms transfers to Bangladesh from the U.S. and other governments continued. In Fiscal Year 1996, the U.S. was estimated to provide US\$4 million in foreign military sales, plus another \$2.4 million in commercial sales, in addition to International Military Education and Training (IMET) assistance budgeted at \$250,000.

In July the Council of Europe approved a negotiating brief presented by the European Commission to begin negotiations for trade and cooperation agreements with four Asian countries: Laos, Cambodia, Pakistan and Bangladesh. All agreements were to comprise a “human rights clause” whereby cooperation may be suspended in case of violations of human rights. On October 11, the European Commission announced that it was likely to start negotiations with Bangladesh in early November. The agreement would seek to create a climate favorable to investment and exchanges between private sectors while strengthening the base for human rights. European negotiators announced that they expected some difficulties with the human rights clause.

# BURMA

## **Human Rights Developments**

Any hope that the July 1995 release of opposition leader and Nobel laureate Daw Aung San Suu Kyi might be a sign of human rights reforms by the ruling State Law and Order Restoration Council (SLORC) government were destroyed during 1996 as political arrests and repression dramatically increased and forced labor, forced relocations, and arbitrary arrests continued to be the daily reality for millions of ordinary Burmese. The turn for the worse received little censure from Burma's neighbors, who instead took the first step towards granting the country full membership in the Association of South East Asian Nations (ASEAN) and welcomed SLORC as a member of the Asian Regional Forum, a security body.

Twice during the year there were mass arrests of opposition supporters. In June a new law was promulgated making even verbal criticism of the government an offense carrying a twenty-year sentence. Meanwhile in ethnic minority areas more than 85,000 people were forcibly evicted from their homes to military-run work camps or garrison towns. During the year U.N. Secretary-General Boutros Ghali's envoys were twice refused entry, and by October neither they nor the U.N. special rapporteur on Burma had received invitations to visit the country.

On November 28, 1995 the opposition National League for Democracy (NLD), the party led by Daw Aung San Suu Kyi, withdrew from the National Convention, condemning it as a "sham." (The convention had been set up by the government in 1993 to draft a new constitution.) The SLORC then banned the NLD from returning, and the convention continued to meet despite having only seventeen elected representatives sitting with the 577 government-chosen delegates. It adjourned at the end of March and had not been recalled by the end of October. The NLD's boycott of the convention marked the beginning of a year-long confrontation between the SLORC and the NLD which led to the detention over 1,000 NLD supporters between November 1995 and October 1996. The majority of them were released after being detained for up to one month without charge, but more than eighty were still in custody by November, with half of those having received summary trials and sentences of seven to ten years. The true figure was almost certainly higher, as there was almost no information about those detained outside Rangoon.

On January 4, the NLD celebrated independence day in the home of Daw Suu. Twelve performers from a musical troupe who had come from Mandalay were arrested when they returned to their homes. Eight were released a month later, but four were charged under the 1950 Emergency Provisions Act for "spreading false news" and were sentenced to seven years each. On January 27, six NLD members were arrested for having written a poem to commemorate the 1991 death in detention of their colleague U Tin Maung Win. Three were released, but the others were sentenced to seven years. In April the NLD was refused permission to hold new year's celebrations in the compound of Daw Suu's house.

In May the NLD announced that it would hold a general party meeting to commemorate its election victory in 1990 and discuss future activities. This would have been the first time all NLD members of parliament had met since the 1990 election. In response, the government began arresting NLD MPs from their homes or off buses and trains as they tried to make their way to Rangoon. By May 27, when the meeting opened, 235 MPs and twenty-three party members had been detained. In response to international outrage at the detentions, the SLORC claimed that they were all being held in government guest houses and would shortly be released.

In reality, most of those arrested were held in military compounds or military intelligence centers, and in Rangoon some were taken directly to Insein jail.

By the end of June all but twelve of those originally detained were released. Almost immediately notices appeared in the government-controlled media announcing the resignations, usually for "health reasons," of NLD members as elected representatives and as party members. By August thirty-five MPs had resigned. Daw Suu reported that they had done so under immense pressure from the SLORC, and at least one parliamentarian, U Chit Twe, was arrested for refusing to do so. In addition, the MP Dr. Aung Khin Sint (who had only been released after three years in jail in March 1996) announced his resignation in June but was seen in July standing with Daw Suu at the weekend meetings. He was subsequently rearrested on July 23, and was convicted and sentenced on September 13. No details were released about the outcome of his sentence. As of early November, a total of twenty-six elected NLD members of parliament remained in detention.

They were joined by yet more NLD members arrested between June and September. Key workers from the party's headquarters at Daw Suu's house and effective regional organizers were particularly targeted. On August 19, the SLORC announced the sentencing of twenty-eight people. These included U Win Htein, Daw Suu's assistant and spokesman, who was sentenced along with three others to seven years in prison for having had a video made showing barren fields to illustrate the failure of the government's agricultural policy; Win Htein was later given an additional seven years for unspecified offenses. Three other NLD members, including elected parliamentarian U Kyaw Min, were sentenced to ten years for allegedly inciting unrest among students; three others were sentenced to seven years; and nineteen people from the Chin state, including two MPs (U Do Thaung and Khun Myint Htun) and two monks were each sentenced to seven years' imprisonment for allegedly having been in contact with exiled Burmese opposition groups. In the government press reports concerning the latter arrests, two U.S. citizens, including a representative of the International Republican Institute, were cited as their contacts abroad. On September 23, the same newspaper announced that a further nine students had been arrested for distributing leaflets outside Daw Suu's house.

Despite these setbacks, the NLD continued to push for its members' rights to meet and work as a political party and on September 27, the anniversary of the formation of the party, Daw Suu called a second party congress. The government's response was immediate and harsh. Armed troops blocked off all access to Daw Suu's house the night before the congress was due to begin and arrested 109 party members, including sixty-one MPs who had already arrived. Others were prevented from leaving their home towns. Over the next two days up to 800 supporters were arrested, as they gathered at the NLD's headquarters in downtown Rangoon or waited near the barricades to get a glimpse of Daw Suu. By October 2 the military had begun to release some of those arrested but some were thought to face long jail terms.

In addition to the arrests, two political prisoners died in detention during the year, and twenty-one prisoners were badly beaten for allegedly having attempted to send information about prison conditions to the U.N. Special Rapporteur on Burma. Among those beaten was U Win Tin, a founding member of the NLD who had been in jail since 1989 and was known to be in poor health. Win Tin was given an additional five-year sentence under prison rules, while the other twenty received between an extra twelve and five years each. James Leander (Leo) Nichols, an honorary consul representing Nordic countries and Switzerland in Burma, died in June after just two months in jail. He had a longtime heart condition which was exacerbated by

his treatment in jail, where he was held in solitary confinement and pressured to sign false confessions. U Hla Than, an NLD parliamentarian, died in August from tuberculosis, reportedly linked to his being HIV-positive. Hla Than had been in jail since 1990, and concern was expressed that he may have contracted the AIDS virus while in jail, where doctors frequently reuse needles without proper sterilization.

Despite these arrests and news of the appalling treatment of political prisoners in jail, citizens continued to show their support for Daw Suu and the NLD. Thousands of people gathered outside the gates of Daw Suu's house every Saturday and Sunday to hear the NLD leaders speak. The intimidation of the crowds increased as the year progressed, with reports from June onwards that military intelligence personnel used videotapes of the meetings to identify civil servants or people who had relatives in the civil service, and threatened to dismiss them if they continued to attend the meetings. On September 27, barricades were erected across the main street leading to Daw Suu's house, and hundreds of supporters were arrested as they waited near the barricades to hear her. The barricades were taken up and then put back several times during October, and the weekend gatherings were effectively banned. As a counter-measure, the SLORC forced thousands of people to attend mass political rallies during June and July where the crowds pledged their loyalty to the government. All civil servants were threatened with dismissal if they did not attend the rallies, and school children, farmers and day laborers were ordered onto buses and taken to the rally sites.

The political impasse was not restricted to the SLORC's confrontations with the NLD. Just as important was the standoff between the SLORC and ethnic nationalities over the next chapter of the new constitution which must be agreed upon before the convention can reconvene. The chapter concerns the division of power between the central government and local government at the regional and state level; it was therefore the first attempt at political discussion between the armed ethnic groups who agreed to military cease-fires with the SLORC before the end of 1995; as of late September the discussions were reported to be deadlocked.

Several of these groups, especially those from the Shan state, demanded increased political representation for the ethnic groups at the central level. Aware of the dangers of the democratic and ethnic opposition forming a common platform, the SLORC reportedly issued a stern warning to all ethnic representatives not to meet with Daw Suu or other NLD members.

In December 1995, five members of a Karen cultural organization in Rangoon were arrested and held for five days for having invited Daw Suu to join them for Karen New Year celebrations. Daw Suu herself was stopped as she was driving towards Insein township, where the celebrations were being held, and questioned for an hour in the nearby military headquarters.

For populations living in areas where armed groups have not yet signed cease-fires with the SLORC — southern Shan, eastern Karenni and Karen, northern Arakan and southern Chin states — 1996 was another year of extensive repression and abuse by the Burmese army as it targeted civilians in an attempt to deny the rebel groups any local support.

The size of the military continued to grow, with an estimated 350,000 troops at year's end. This expansion led to increased reports of forced conscription, particularly of boys under the age of eighteen, and many under fourteen.

In Shan state, former members of the Mong Tai Army of drug warlord Khun Sa formed new groups following his surrender in January. These groups, some of whom had already left Khun Sa in August 1995, were reported to have a total of 8,000 men under arms by July, but their presence led to intensified military operations by the Burmese army in Shan state. From early

March onwards, the military began to force more than 450 villages in the area between Namsan, Kueng Heang and Mong Nai to move to sites along main roads or near army garrison towns. Over 60,000 people were affected by the orders. None of them received any food or financial help in the new areas, and those relocated near roads were forced to work with no pay to widen and improve the roads. Access to this area was strictly forbidden. As many as 10,000 people, mainly young men and women, were reported to have fled to Thailand, where they were refused permission to seek asylum and instead sought employment as illegal migrant workers.

In Karenni state, there was a renewed military offensive against the Karenni National Progressive Party (KNPP) in January, in which Swiss-made Pilatus aircraft were used to strafe KNPP positions and civilian villages. As the fighting died down, the SLORC began a new tactic in May when ninety-six villages from the Sha Daw area were forced to move to Sha Daw town. In June and July the relocation area was extended to southern Karenni state, near Ywathit town, just east of the state capital Loikaw. Altogether 25,000 people were reported to have been affected by the relocations by the end of the year. In the relocation sites, soldiers gave the villagers enough food for ten days but nothing else. Most of the relocations took place during the rainy season, compounding the difficulties for families forced to walk for days to the new sites and find shelter. Eight thousand people fled to Thailand, where refugee camps for the Karenni have been established since 1985, and the new arrivals reported that as many as 150 people, mainly children, had died in Sha Daw from malnutrition-related diseases.

In Karen state the SLORC also relocated thousands of villagers in the Kawkereik area, and thousands more were forced to build roads designed to improve the military's access to areas previously under the control of the Karen National Union (KNU), an armed opposition group. Villagers also suffered repression from the Democratic Karen Buddhist Army (DKBA), a group with close links to the SLORC, which forced people to move to their headquarters at Myaing Gyi Gnu. The DKBA also continued their attacks on Karen refugees in Thailand, frequently also robbing and killing Thai citizens.

In the western part of the country, over 10,000 people fled from Arakan state to Bangladesh during the year. There they joined the 50,000 refugees remaining from the 1991-92 exodus when 270,000 Muslims fled gross human rights abuses by the Burmese military. The UNHCR has been present in Arakan overseeing their reintegration since 1994, but it was unable to curb all but the most serious physical abuses. Forced labor, forced relocations, and the "disappearance" of men accused of working for the Rohingya rebel organizations continued. In addition the Burmese government implemented new restrictions on travel, requiring all Rohingyas (including returnees) to stay within their village boundaries. The SLORC continued to refuse to acknowledge the Rohingyas as full citizens, leaving them vulnerable to abuse and racial harassment. Despite the ongoing abuse suggested by the flight of so many new refugees to Bangladesh, over 5,000 refugees were repatriated during the year, and 15,000 were cleared to return by the Burmese government.

### **The Right to Monitor**

While the government continued to prohibit the formation of indigenous human rights groups and no international human rights organizations were permitted official access to the country, the National League for Democracy worked to expose the arrest and illegal treatment of party members. In February, it was reported that the NLD had established a Legal Advisory Committee, headed by U Tin Oo, which would work to give legal assistance to those detained for their political opinions and activities. In March two letters from the Executive Committee of the



NLD were sent to Gen. Than Shwe, chairman of the SLORC, protesting the illegal detention of party supporters and requesting that those elected in 1990 be called to form a parliament. By the end of the year, however, increased intimidation and the arrest of key party members had largely stifled the NLD's voice.

U.N. bodies were refused access to the country during the year. In March the U.N. secretary-general's representative, who had been mandated by the December 1995 resolution of the U.N. General Assembly to assist in the implementation of the resolution and the dialogue between all parties in Burma, was told that the government was too busy to receive him until August. By the end of September, the representative had still not received an invitation to go. Similarly, in April an International Labor Organization delegation which had received permission to visit the country and investigate the government's compliance with Article 87 of the ILO conventions (freedom of association) were told on their arrival in Bangkok, on a stopover to Burma, that their invitation had been rescinded. In June a new Special Rapporteur to Burma, Rajsomer Lallah, was appointed by the U.N. Commission on Human Rights but by the end of October, he had not received any response to his repeated requests to conduct an investigative mission to the country as his mandate requires. No U.N. agencies working in Burma were permitted access or to give assistance to those forcibly displaced in the Karenni and Shan states.

The government's promotion of Burma as a tourist destination and relaxation of visa restrictions led to an increase during the year in the numbers of international activists who could visit the country, but Burmese whom they contacted were often detained for questioning or sometimes arrested and sentenced.

Increasing numbers of foreign journalists visited the country, often on tourist visas as the government introduced new restrictions on the press, both domestic and foreign. In May a number of foreign journalists had their visas revoked, preventing travel to Burma; in July the foreign minister admitted that the government maintained a blacklist of journalists who wrote "bad things" and later that month embassies issued a new warning with all visa applications that journalists posing as tourists in order to enter the country would be heavily fined and deported if discovered while in Burma. Throughout the year, the government used its control of all domestic media sources to issue increasingly virulent attacks against foreign media. The government continued to jam broadcasts by the BBC and Voice of America and frequently disconnected the telephone line to Daw Suu's house at times when interviews had been prearranged. In April, the work of Human Rights Watch/Asia, Amnesty International and Article 19 was attacked in an article in the magazine *Kyemon*, which accused these groups of "dancing to the CIA's tune."

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

During the year there was increased activity on Burma from the international community, but as western and Asian governments took very different approaches, it had little impact on the domestic situation. There was some good news, however. The release of Daw Suu, and her access to the international media, brought the situation in Burma to the notice of ordinary people everywhere, spurring grassroots campaigns in the west, and to a lesser extent in Asia, which pressed with gathering strength for governmental action. In the U.S., a campaign was launched to introduce legislation which would bring additional economic sanctions against the Burmese government should Daw Suu be arrested or in the event of "large-scale repression." By September the legislation, though somewhat weakened, came into effect.

Also in the U.S. students and ecumenical groups supporting an international boycott of Burma succeeded using state and city-level legislation to force several U.S. companies to

withdraw from Burma. In Europe too, advocacy groups called for consumer boycotts to compel Heineken, Carlsberg and British Home Stores to leave Burma, while also pressing their governments and the European Union to introduce punitive sanctions. In Asia, a coalition of nongovernmental organizations repeatedly urged their governments not to admit Burma into ASEAN, while Malaysian groups also protested the state visit by Burma's premier Gen. Than Shwe in June 1996.

### **United Nations**

Despite the adoption by consensus of a strong U.N. General Assembly resolution condemning Burma on human rights grounds in December 1995, there was little evidence of cooperation and coordination to press for human rights improvements as the year progressed. Governments seemed to consider the release of Daw Suu in July 1995 enough of an "improvement" to soften their stance towards the government, and some, particularly Burma's neighbors, continued to soften even after the arrest of scores of her supporters. Having requested the U.N. secretary general to assist in the implementation of the resolution, U.N. member states did little to assist his representative in gaining access to Burma.

The U.N. Special Rapporteur to Burma, Prof. Yozo Yokota, resigned from his position in April, citing a lack of political and financial backing from U.N. member states which had made it increasingly difficult to fulfill his mandate. His replacement, Rajsoomer Lallah, a former chief justice of Mauritius, was appointed in June. The SLORC had approached the U.N Human Rights Commission to put forward the name of a Filipino and refused to acknowledge Lallah's appointment.

### **European Union**

As the internal situation deteriorated during the year, grassroots campaigns were able to push western governments into taking punitive measures to back up their rhetoric of condemnation. Following the death in custody of Leo Nichols, Denmark pushed for Europe-wide economic sanctions against Burma but failed to gain the support of Britain, France and Germany. The Danish action did result, however, in the European Union reconsidering its position on Burma, and on October 29 the E.U. adopted a new legally-binding policy which maintained the existing embargo on arms and withdrawal of military personnel from embassies in Burma, and enacted a ban on visas for senior SLORC officials and suspension of high-level bilateral visits to Burma by E.U. government officials. The policy was due to be evaluated in six months, with a view towards extending it or taking further measures in response to developments in Burma. In addition, the British government placed a moratorium on all government-sponsored trade missions to Burma, although in September the chairman of the Asia-Pacific Advisory Group, which works closely with the U.K. Department of Trade and Industry, led a private business delegation there and was assisted by the British embassy in Rangoon.

Also in Europe, the International Confederation of Free Trade Unions and the European Trade Union Committee brought a complaint against the SLORC and its use of forced labor, under the European Commission's legislation guiding the Generalized System of Preferences (GSP). The GSP program is designed to give developing countries preferential trade tariffs. The European Commission started an investigation in January, the first of its kind, and a decision was expected in January 1997. This could lead to full or partial withdrawal of GSP from Burma.

### **United States**

In the U.S., the administration's Burma policy continued to respond to each crisis as it occurred, with no clear direction. Even when the SLORC accepted the "surrender" of drug

warlord Khun Sa and allowed him to live in freedom in Rangoon, the U.S. found few ways of reacting. A reward of US\$1 million was offered for his capture, but by the year's end there was no sign that he would ever face trial in the U.S. The U.S. led the international community in condemning the arrests in May and September, and on October 5 finally took action, implementing a visa ban on certain Burmese government officials and members of the military. The May arrests and the pending sanctions legislation in Congress prompted a mission of U.S. envoys to Asian states in June. The only concrete result was an agreement for increased coordination of policy towards Burma with Japan, but ASEAN countries took offense at what they saw as transparent posturing. China did not respond to the mission.

### **Asia**

Japan, which was widely credited with having successfully pressed for the release of Daw Suu in July 1995, was forced by events in Burma to slow down its plan to resume aid. Japan's ambassador in Rangoon, Yoichi Yamaguchi, met with Aung San Suu Kyi several times and tried to foster a dialogue between the NLD and the SLORC.

When the Burmese government rounded up NLD members in May, Prime Minister Hashimoto quickly condemned the arrests. Japan's foreign minister, Yukihiko Ikeda, met with Burmese Foreign Minister Ohn Gyaw at the ASEAN ministerial meetings in Jakarta in June and protested a new law enacted by Rangoon banning public gatherings. At the same time, however, Japan actively supported Burma's bid to become a member of ASEAN.

China remained Burma's steadfast ally throughout the year, and there was also an increasing rapprochement with India and Bangladesh. In ASEAN, while economic investments from Singapore and Malaysia soared during the year, the question of Burma's entry into the regional grouping was an issue of contention. In keeping with their new economic relationship, Malaysian Prime Minister Mahathir and Singaporean Senior Adviser Lee Kuan Yew were the most supportive of SLORC, with Mahathir calling for Burma to be admitted as a full member of ASEAN during the July 1997 meeting in Kuala Lumpur, and Lee advising Daw Suu that she would be "impotent" if asked to lead the country. However, Thailand and the Philippines, both countries with an active and vocal community of nongovernmental organizations, voiced their concerns about the arrests in May and September, and called for a reconsideration of "constructive engagement." Their opposition did not extend to refusing Burma entry into ASEAN, but they were concerned not to rush the membership process. In November 1996 the ASEAN ministers met to reassess the timing of Burma's membership.

## **CAMBODIA**

### **Human Rights Developments**

The human rights situation continued to worsen in the third year following the withdrawal of the United Nations Transitional Authority in Cambodia (UNTAC). Political tensions rose between the two partners in the coalition government; political violence increased, as did restrictions on freedom of the press; and a pattern of impunity continued to favor those responsible for human rights abuses, including former Khmer Rouge officials.

In March, the ruling coalition partners, the royalist party Front Uni National pour un Cambodge Indépendent, Neutre, Pacifique, et Coopératif (Funcinpec) and the Cambodian People's Party (CPP), accused each other of failing to honor power-sharing agreements. Some CPP leaders also charged that the ambivalence of Funcinpec soldiers was responsible for the

failure of the 1996 dry season offensive against the Khmer Rouge, which resulted in high casualties for the government soldiers, largely from landmine injuries. The war of words escalated further amid reports that both parties had moved troops into the capital, with CPP leader Hun Sen, at one point moving tanks near his residence to fend off what he claimed was a plot to assassinate him.

In one of the most dramatic developments of the year, former Khmer Rouge Deputy Foreign Minister Ieng Sary, along with two of his generals and between 1,000 and 3,000 soldiers, split with the main Khmer Rouge leadership headed by Pol Pot and entered into peace negotiations with the government. Ieng Sary had been tried *in absentia* in 1979 by an ad hoc tribunal called the People's Revolutionary Court of Phnom Penh for the political killings perpetrated under Khmer Rouge rule. He was found guilty and sentenced to death, along with Pol Pot. Nevertheless, King Sihanouk, under pressure from Co-Prime Ministers Hun Sen and Prince Ranariddh, granted Ieng Sary an amnesty on September 14 following negotiations between his faction of the Khmer Rouge and the Cambodian government. Ieng Sary made a public case for his pardon, claiming at a press conference on September 9 that he had no responsibility for the deaths of Cambodians under Khmer Rouge rule. The amnesty was one more illustration of the pattern of impunity that has characterized Cambodia's post-UNTAC history.

A law passed on October 26, 1994 that all but grants immunity from prosecution to government employees, including police, who commit abuses was used increasingly during the year. Under Article 51 of the Law on Civil Servants, a judge wishing to prosecute senior civil servants must file a request through the minister of justice to seek authorization from the Council of Ministers before the prosecution can proceed. Authorization from the head of the ministry involved is necessary for the prosecution of lower-ranking civil servants. An exception to the authorization process is made for civil servants who are arrested while in the act of committing a crime. The cumbersome authorization process all but ensured that government officials who abused human rights would go unpunished.

Article 51 drew criticism from the Ministry of Justice as well as from some provincial judges. However, it appeared from internal government documents that the government was not only committed to retaining this law, but that it was also proposing a similar provision for a draft law on military personnel.

The rising level of politically motivated violence was threatening to affect the local elections planned for 1997 and national elections in 1998. The opposition Khmer Nation Party (KNP), headed by former Finance Minister and National Assembly representative Sam Rainsy, opened its first offices outside of Phnom Penh in May despite government statements suggesting the party was illegal. In early May, a KNP official in Siem Reap province was fatally beaten and robbed of the registration forms of over 2,000 KNP party members, strongly suggesting a political motive for the killing. On May 17, three KNP officials were arrested by provincial police while traveling in Ang Snoul district in Kandal province to collect membership applications. The three were held for two days before they were released. Other KNP offices in Kompong Som and Prey Veng provinces and elsewhere in Kandal province were also subject to harassment, including intimidation by provincial officials and police.

On May 18, 1996, in another incident that may have been related to the attacks on the KNP, prominent journalist and KNP steering committee member Thun Bun Ly was murdered in Phnom Penh, in what appeared to be a politically motivated assassination. As of this writing there were no public results from the Ministry of Interior's investigation into the killing. Thun

Bun Ly's death marks the first killing of a journalist in Cambodia since December 1994. He had been convicted in 1995 on charges of defamation and disinformation in two separate trials on the basis of articles published in his newspaper. He had lost his initial appeals but had appealed to the Supreme Court and was awaiting a decision. On the day that he was murdered, he had published an article in his newspaper *Oudamkati Khmer (Khmer Ideal)* about overhearing a threat on his life made by an officer in the anti-terrorist unit of the army.

Some officials of Funcinpec were also intimidated. Local newspapers reported in early June that in two Siem Reap districts, Funcinpec leaders were going into hiding each night for fear of attacks after being harassed by local police. First Prime Minister Prince Ranariddh, the senior Funcinpec leader, made specific references to incidents in which Funcinpec signboards had been torn down from provincial offices and to reports that the police in Kandal province (which surrounds Phnom Penh) had tried to prevent people from watching the Funcinpec television station. Ranariddh's public statements immediately drew a response from Second Prime Minister Hun Sen of the CPP, who, while not mentioning Ranariddh or Funcinpec by name, criticized in a speech those raising allegations of political violence.

Extrajudicial killings and torture of civilians, particularly those living in areas contested by the government and the Khmer Rouge, increased during the year. Abuses were particularly common in Battambang province, where the Khmer Rouge sought to cut Route 5, the major land route to Phnom Penh. Incidents included the arrest and torture in Battambang province of eight men in May on suspicion of carrying out activities for the Khmer Rouge. Each of these men was tortured during interrogation, resulting in the death of one of the eight. The Battambang police commissioner claimed that the man had killed himself in his cell after his interrogation by hanging himself with his own shirt and tying one end around a metal bar that was so low that he would have had to lift his legs off the ground in order to strangle himself. There were also at least five extrajudicial executions by police and soldiers in Battambang province. The victims were typically farmers who lived in villages in zones contested by the government and the Khmer Rouge.

The Cambodian government continued efforts to restrict the press. On June 28 Chan Rottana, the editor of *Samleang Yuvachon Khmer (Voice of Khmer Youth)* and a KNP member, was imprisoned upon losing his appeal to the Supreme Court of a February 1995 conviction for disinformation under the UNTAC press law for a satirical piece he published titled "Ranariddh is More Stupid than Hun Sen Three Times a Day." The Supreme Court also ordered that *Samleang Yuvachon Khmer* be shut down. Chan Rottana was released after serving one week in T-3 prison when he was pardoned by King Sihanouk. His arrest marked the first time since the U.N.-sponsored elections in 1993 that a journalist was imprisoned for the nonviolent expression of his opinions.

In another case involving a journalist, the editor of *Serei Pheap Thmei (New Liberty News)*, Hen Vipheak, was imprisoned on August 23, when the Supreme Court upheld his conviction for disinformation. He was convicted in May 1995 for an article he published headlined "Cambodia: Country of Thieves" and for a cartoon showing Hun Sen holding a gun to Ranariddh's head. The Supreme Court ruling upheld both the decision and the municipal court's penalty of a one-year jail term and a fine of five million riels (\$US2,000), while reversing the Appeal Court's ruling that the newspaper be shut down as well. Hen Vipheak was jailed in T-3 after the Supreme Court ruling, but he too was released after a week in prison under a pardon issued by King Sihanouk, with the prior approval of the two prime ministers. Like Thun Bun Ly,

Hen Vipheak was a KNP steering committee member.

The government's disregard for press freedoms, as well as for other fundamental rights, was also demonstrated by its treatment of several ethnic Vietnamese living in Phnom Penh who were affiliated with an anti-Hanoi Vietnamese-language newspaper published in Phnom Penh called *Tu Do (Freedom)*. In March 1996, the government deported to Vietnam three ethnic Vietnamese men affiliated with *Tu Do*, resulting in the closure of that newspaper. The Cambodian Ministry of Interior alleged that these men were engaged in an attempt to destabilize and overthrow the government of Vietnam but provided no supporting evidence. It was not clear whether the men were Cambodian citizens illegally expelled to Vietnam or whether they were Vietnamese citizens whom the Cambodian government sent back to certain persecution in Vietnam. In early August, there were unconfirmed reports that one of the three had been released due to serious illness; the whereabouts of the other two men were unknown as of late 1996.

### **The Right to Monitor**

Cambodian human rights groups continued to conduct investigations into abuses around the country. In addition, they conducted human rights training courses for government employees as well as for other nongovernmental organizations.

The United Nations Human Rights Centre, which maintains an office in Phnom Penh, was able to carry out its activities without threats from the government, marking an improvement in relations between the government and the center over 1995. The term of the center was extended for two years by agreement with the Cambodian government. Justice Michael Kirby stepped down as the special representative of the U.N. secretary-general for human rights in Cambodia and was replaced by Thomas Hammarberg.

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

The U.N. Commission on Human Rights passed a resolution expressing concern over continuing abuses, including violence and intimidation directed at political parties and the press.

The U.S. and the United Nations International Drug Control Programme (UNDCP) criticized the increasing levels of drug trafficking in Cambodia and urged steps to control it, some of which raised human rights concerns. Among other things, the UNDCP drafted a stringent drug control law that includes provisions granting the police broad powers which, given current police practices, would increase the likelihood of arbitrary detention. Both the UNDCP and the U.S. government lobbied the Cambodian government heavily to pass the draft law, which as of late 1996 was before the National Assembly and was expected to pass easily.

Several governments, including Australia and the U.S., along with U.N. Special Representative Hammarberg, raised concerns about the increase in trafficking into prostitution of women and girls.

The European Union, meanwhile, began the process of negotiating a trade agreement with Cambodia. This first trade and cooperation agreement between the E.U. and Cambodia will include a reciprocal application of most-favored-nation treatment, development cooperation targeted on the poorest sections of the population, and protection of the environment. The agreement will be conditioned on respect for human rights and democratic principles and will require approval by the European Parliament. In June, however, following a visit to China, Cambodian First Prime Minister Norodom Ranariddh told the press that Cambodia will not accept conditional aid from the E.U.

The Consultative Group (CG) on Cambodia, comprising Cambodia's major donors, met in Tokyo on July 11-12, convened by the World Bank and the Japanese government. Prior to the

CG meeting and in a separate meeting the day before with the two Cambodian prime ministers, representatives of the U.S. and Australian governments raised concern over the absence of accountability for government abuses, including for human rights violations. The U.S. delegation specifically noted that “episodes of violence and intolerance of political expression in the past year have raised concerns about the direction Cambodia may be heading.” The donors pressed for assurances that the 1997 and 1998 elections would go forward and be free and fair. The International Monetary Fund raised concerns that money from the sale of state forestry assets was not finding its way to the coffers of the Ministry of Finance. However, Cambodia’s main donors once again granted unconditional aid to the Royal Government of Cambodia. These pledges amounted to US\$501 million, some 44 percent of the total national budget for 1997.

Prior to the CG meeting, the European Parliament passed a resolution criticizing Cambodia’s record on human rights, press freedom and the continuing destruction of forests.

The Clinton administration continued to address human rights issues largely in private. Publicly, the U.S. downplayed its concerns over the human rights situation in Cambodia, emphasizing instead that conditions represented an improvement over the period of Khmer Rouge rule. The U.S. Congress, on the other hand, was more vocal. In March, the House of Representatives adopted a resolution expressing concern about deteriorating human rights conditions in Cambodia; it urged that the issue be raised both at the donor meeting and during consideration of World Bank and Asian Development Bank projects in Cambodia. The Senate passed a similar resolution in September, focused on the projected elections and the need for continued U.N. human rights monitoring; it also sharply criticized King Sihanouk for giving Ieng Sary an amnesty that might allow him to form a political party and participate in the elections.

The U.S. Senate held up consideration of a bill granting Most Favored Nation (MFN) trade status to Cambodia for several months, mainly due to concerns about human rights. Unconditional MFN was finally signed into law by President Clinton on September 25.

## **CHINA**

### **Human Rights Developments**

The Chinese government stepped up its efforts to prevent socioeconomic change from disrupting the political system by tightening controls on freedom of expression and continuing to persecute political and religious dissidents. Business people also faced arbitrary detention and unfair trials. The government intensified repression in Tibet, Xinjiang and Inner Mongolia, made ominous moves in Hong Kong, and responded to criticism of its treatment of orphans by tightening controls on access to the state orphanage system. In a positive development, legal reforms passed by the National People’s Congress in March seemed to herald some modest progress towards due process for criminal suspects. At the same time, international willingness to confront China on human rights issues reached a new low.

A fresh wave of arrests and sentences of the few remaining pro-democracy and human rights activists not already in prison or exile left the dissident movement effectively crushed. On October 30, 1996, Chinese authorities sentenced Wang Dan, the principal student leader of the 1989 Tiananmen Square protests, to eleven years in prison on charges of conspiring to subvert the Chinese government. He was accused of “colluding” with other dissidents, including Wei Jingsheng, to form discussion groups and appeal for the rule of law, criticizing the government in

articles published abroad, accepting a scholarship at the University of California for self-study in Beijing, forming a mutual aid group with other dissidents, and accepting financial help from abroad. No foreign press or observers were permitted inside the courtroom.

Ten months earlier, in December 1995, the country's most prominent dissident, Wei Jingsheng, was finally brought to trial after more than eighteen months in incommunicado detention and sentenced to an additional fourteen years in prison on the political charge of "counterrevolution." In January 1996, he was sent to Jile Prison in Hebei, and in July, news surfaced that hardened criminals had been moved into his cell to provide round-the-clock surveillance. Denied fresh air and exercise, Wei was also refused proper medical treatment for a range of ailments contracted during his previous imprisonment.

A second Tiananmen Square leader, Guo Haifeng, reportedly was sentenced in September to seven years in prison for "hooliganism" for helping a third dissident escape to the United States. He served a previous four-year term. Liu Xiaobo, a literary critic who helped negotiate the withdrawal of students from Tiananmen Square on June 3-4, 1989, was seized on October 7, 1996 and administratively sentenced the next day to three years in a reeducation through labor camp. On September 30, he and dissident Wang Xizhe issued a statement calling for the impeachment of President Jiang Zemin and for meetings with the Dalai Lama over the issue of Tibet's autonomy. Wang, fearing imminent arrest, immediately fled China. The government not only accused him of illegally crossing the Chinese border, but threatened to punish all who assisted in the escape.

Veteran labor rights activist Liu Nianchun was "disappeared" in May 1995 for over a year only to resurface on July 4 when he received a three-year sentence of reeducation through labor over and above time in detention. Liu was sent to a remote prison camp in northeast China.

Other 1989 activists remained in limbo. Li Hai, a graduate philosophy student who spent a year in prison after June 1989, co-sponsored the 1993 "Peace Charter," then was arrested again in May 1995, was tried *in camera* on May 21, 1996 on charges of "leaking state secrets." As of November, he had not been sentenced. In September, Zhang Zongai, a former elected member of the Xi'an People's Congress who had spent five years in jail for denouncing the government crackdown on the 1989 pro-democracy movement, was tried on charges of "counterrevolutionary propaganda and incitement" for having written letters seeking guidance from the Taiwan news media on how to bring democracy to China; secondary charges against Zhang included communicating his political views by letter to a friend in the U.S. and conducting an interview with Wang Dan prior to the latter's renewed detention.

Xiao Biguang, a Beijing academic involved in the unofficial labor and church movements, was in detention for over two years before being given the maximum three-year administrative labor reeducation term in 1996. Among others who received administrative sentences during the year were Yao Zhenxiang, a long-time financier of Shanghai's dissident movement who fled to France in 1994 but was arrested soon after voluntarily returning to China in early 1996 having obtained official pledges for his safety; Tan Zihua, a Shanghai resident active during the Democracy Wall period (1979-81); and Chen Longde, a leading human rights activist from Hangzhou who had signed an open letter to the government in May calling for reevaluation of the 1989 pro-democracy movement.

Several political prisoners "freed" after serving their sentences in full were subjected to a variety of post-release restrictions and harassment. Chen Ziming, originally sentenced in 1991 to



a thirteen-year term as a “black hand” of the 1989 pro-democracy movement, was released on medical parole for the second time on October 6, 1996. Parole conditions are stringent. Chen cannot step outside his door, use a telephone, meet with anyone except family members, or publish. Access to medical treatment for his testicular cancer, heart problems and high blood pressure must be negotiated through security officers. Chen’s first parole came in May 1994, but was revoked on June 25, 1995, after he took part in a petition drive which asked that China tolerate peaceful political dissent.

Bao Tong, the most senior government official imprisoned after the Tiananmen Square crackdown, was released in May after serving his entire seven-year sentence, but instead of being allowed to return home, he was immediately transferred to the custody of a high-security government compound in the western suburbs of Beijing, where he continued to be held as of October, denied all access to the outside world apart from limited visits by members of his immediate family. His health continued to be a major concern, but access to medical care was restricted.

Torture of China’s detainees and prisoners continued, as exemplified by Chen Longde’s case. In 1996, one month after his conviction without trial, Chen leapt from a two-story prison walkway in an attempt to avoid repeated beatings and electric shocks from a senior prison official as punishment for his refusal to write a statement of guilt and self-criticism.

Police seized Wang Hui, wife of jailed labor activist Zhou Guoqiang, on May 15 and held her for more than a month. As a result of her treatment, including deliberate withholding of liquids, she tried to commit suicide by hanging. After the police cut her down, she was punished with a severe beating. No reason for Wang Hui’s detention was ever given, but she had been active in pressing her husband’s suit against the government. On September 22 she was detained again for unknown reasons.

Medical treatment continued to be denied to political and religious prisoners. Chen Ziming, for example, sentenced in 1991 to a thirteen-year term as a “black hand” of the 1989 pro-democracy movement, was believed to be extremely ill with testicular cancer. The Chinese government rejected quiet diplomatic interventions by foreign governments on his behalf.

Business executives and others involved in trade and finance were also at risk in 1996. Hong Yang, an official of the People’s Bank of China who had been assigned to work at the Washington D.C. headquarters of the International Monetary Fund, was lured back to China as part of an IMF delegation in December 1995, tried in June for alleged corruption, and sentenced to eleven years, then retried after enormous pressure from the IMF and given a reduced sentence of five years—proving that sustained pressure in individual cases can be effective.

Xiu Yichun, a senior Chinese manager for Shell, and one of her counterparts at the China National Offshore Oil Corporation were detained in early February on charges of obtaining state secrets related to the financing and environmental aspects of Royal Dutch Shell’s plans to build an oil refinery in Huizhou, east of Hong Kong. CNOOC was to be Shell’s joint venture partner, and the arrests came shortly before Chinese Premier Li Peng was to visit the Netherlands to discuss the project. As of late March, neither family members nor colleagues had been allowed access to Xiu Yichun; as of August, Shell officials had not been able to obtain any additional information. Motivation for the arrests was unclear but may have reflected official concern that Chinese nationals working for foreign firms would use knowledge of local business practices to

violate the law.

All labor rights activism outside the confines of the official All-China Federation of Trade Unions remained a major focus of government repression. A 1996 circular cautioned cadres against illegal unions and "anti-government and "anti-socialist" tendencies lurking in state-owned enterprises. Police statistics showed that more than 12,000 strikes, rallies and other forms of industrial action took place nationwide during 1995. In January 1996 Zheng Shaoqing and Chen Rongyan each received two-year labor reeducation sentences for organizing a half-day taxi strike in the southern city of Zhuhai early in the month; six others received one-and-a-half year terms; and the licenses of all those who took part were confiscated. The fate of most unofficial labor organizers in China generally remains unknown.

Government moves to restrict freedom of expression and access to information also took place, notably in the form of sweeping new regulations curtailing public access to the Internet; controls on foreign economic news services operating in China; and an insistence by Chinese leaders that the domestic press should report only "good news," avoid disclosing details of the widespread social unrest, and reflect the position of the government and the Communist Party.

The Internet controls, inaugurated by a draft set of rules issued by the State Council in January, required existing computer networks linked to the Internet to "liquidate" and "re-register" with the authorities and to use only those international linkage services provided by specified government departments. All subscribers were ordered to provide a written guarantee that they would not use the Internet for purposes "harmful to the state. This goal was further realized in September, when the government deployed sophisticated technology to block subscriber access to as many as one hundred English and Chinese sites on the World Wide Web, including the *Washington Post*, *Economist*, *Wall Street Journal*, CNN, and *Time* magazine; the Voice of America's Chinese service and, Hong Kong's Democratic Party; a home page of the Tibetan government-in-exile; and overseas dissident sites.

Chinese student efforts to use the Internet for mass mobilization resulted in a government ban in June and July on public protests against the erection by Japanese ultra-right groups of a lighthouse on the disputed Diaoyu Islands, sovereignty over which is claimed by both China and Japan.

In its response to common crime, the government was indiscriminate. A massive, nationwide offensive on crime known as the "Strike Hard" campaign, the largest since the first such campaign in 1983, was launched in April. In the first six months of the campaign, hundreds of thousands of suspected criminals were arrested, tens of thousands sentenced, and at least 1,500 executed. In one reported case, in Shenzhen in September, the condemned person was executed in full view of several hundred onlookers, despite a longstanding law banning public executions. With its stress on "rapid arrests and rapid sentencing" (summary judicial procedures and government-set targets for the desired number of arrests by public security officials), the anti-crime campaign implied a high incidence of forced confessions, false convictions and wrongful executions. For the first time since 1983, the government extended the campaign to political, religious and ethnic "splittists and separatists." In September, despite officially published evidence that the draconian policy had failed to curb a steadily rising crime rate, the government announced that "Strike Hard" would henceforth be a permanent feature of China's law enforcement scene.

In the Tibetan Autonomous Region and Tibetan areas of Qinghai, Yunnan, Gansu, and

Sichuan, the effects of a July 1994 policy conference on Tibet combined with the "Strike Hard" campaign produced more arrests of suspected independence supporters, a stepped-up campaign to discredit the Dalai Lama as a religious leader, crackdowns in rural areas as well as towns, a major push for ridding monasteries and nunneries of nationalist sympathizers, and the closure of those that were politically active. Monks who refused to sign pledges denouncing the Dalai Lama or to accept a five-point declaration of opposition to the pro-independence movement, faced expulsion from their monasteries.

In May, a ban on the possession and display of Dalai Lama photographs led to a bloody confrontation at Ganden and to searches of hotels, restaurants, shops, and some private homes. Over ninety monks were arrested; fifty-three remained in detention as of October despite Chinese official reports that none of the sixty-one arrested were still being held. At least one person and perhaps two others are known to have died in the melee.

Chinese authorities acknowledged that they are holding Gendun Choekyi Nyima, the child recognized by the Dalai Lama but rejected by Chinese authorities as the reincarnation of the Panchen Lama, "under the protection of the government at the request of his parents." Chadrel Rimpoche, the abbot in charge of the original search team, officially labeled a criminal and a "scum of Buddhism," has been missing along with his assistant, Champa Chungla, since November 4, 1995.

Security forces in Tibet used forms of torture which leave no marks against those suspected of major pro-independence activism. These activists were subject to recurrent "disappearance" during which they were subjected to extremes of temperature, deprivation of food and water, applications of electricity, and forcibly injected drugs. Those caught torturing often escaped with mild censure. A court in Shigatse in Tibet gave a county police chief a suspended jail sentence after convicting him of torturing a suspect. He reportedly told the woman, who spent sixty-five days in the hospital as a result of her injuries, "I am the government policy here. It's no use reporting this to anyone."

The Chinese government also tightened controls in two other autonomous regions, Inner Mongolia and Xinjiang. In December 1995, at least ten intellectuals who had formed a group called the Southern Mongolian Democratic Alliance were arrested, and police broke up peaceful protest demonstrations in support of the alliance. In June the region's Communist Party secretary called for an attack on "splittist" forces which, he said, were trying with Western backing to destroy China's unity. In Xinjiang, the nationwide anti-crime campaign was extended to include a wholesale police and army roundup of alleged Uighur separatists, some of whom were later executed. Underground religious groups were targeted for closure, and all publishing units were forbidden to publish products whose "contents violate party or government policies...." Access to Xinjiang was denied to foreign journalists.

Unofficial Christian and Catholic communities were targeted by the government during 1996. A renewed campaign aimed at forcing all churches to register or face dissolution, resulted in beating and harassment of congregants, closure of churches, and numerous arrests, fines, and sentences. In Shanghai, for example, more than 300 house churches or meeting points were closed down by the security authorities in April alone.

From January through May, teams of officials fanned out through northern Hebei, a Catholic stronghold, to register churches and clergy and to prevent attendance at a major Marian shrine. Public security officers arrested clergy and lay Catholics alike, forced others to remain in

their villages, avoid foreigners, refrain from preaching, and report to the police anywhere from one to eight times daily. In some villages, officials confiscated all religious medals. In others, churches and prayer houses were torn down or converted to lay use.

Government statements and policies toward Hong Kong did not bode well for civil liberties after the transition to Chinese sovereignty on July 1, 1997. Its decision to prevent elected members of the Legislative Council from serving their full terms and instead to install an appointed "provisional legislature" to rule the territory for the initial year was one disturbing development. In June, China's top official on Hong Kong affairs said that demonstrations in Hong Kong advocating the overthrow of Chinese rule or independence from China would be banned after July 1997. He had earlier indicated that the Hong Kong press would be subject to vaguely defined but potentially sweeping restrictions including bans on any articles relating to Taiwan or Tibetan independence.

The Chinese government reacted to international publicity about conditions in state orphanages, exposed in a report by Human Rights Watch in January, by closing off access to many of the institutions to anyone not directly employed there, foreign or Chinese. It also responded to evidence of abuse of children in the Shanghai Children's Welfare Institute by detaining and harassing Chinese citizens involved in earlier attempts to investigate the problem.

The one area in which significant advances in human rights protection were made by the government during 1996 was that of legal reform, with the passage in March of a revised criminal procedure law and an administrative punishment law. The former law, among other things, provided for improved access by detained criminal suspects to legal counsel and made progress toward acknowledging the presumption of innocence. The latter, in theory, restricted police authority to sentence suspects without trial to long periods of administrative detention or to hold suspects in "investigative detention" without recourse to any judicial process. Other legislative revisions, however, increased by a month the maximum time-limit a detainee could be held without being formally arrested.

### **The Right to Monitor**

While some legal aid clinics were operating at universities that allowed *de facto* monitoring of and action in support of human rights, no organizations that identified themselves as human rights organizations per se were permitted to function. Legal scholars could and did address problems in the criminal justice system, but anyone who spoke out on behalf of political prisoners or gave information on human right abuses to outsiders, including foreign journalists, risked arrest.

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

The Chinese government's continued linkage between trade and human rights -- threatening to restrict trade or foreign investment in retaliation for human rights criticism -- paid major dividends in 1996. Human rights fell nearly to the bottom of the international agenda as Beijing defeated a half-hearted effort led by the European Union (EU) and the U.S. to pass a resolution at the U.N. Human Rights Commission. China's leaders traveled to various European capitals, and to Bangkok for the first E.U.-Asia summit, encountering little serious human rights criticism. And the Group of Seven (G-7) industrialized countries, at their annual summit in June, disregarded an opportunity to develop a long-term multilateral strategy to promote human rights in China.

The most damaging setback came at the U.N. Human Rights Commission session in

Geneva in April, where a resolution criticizing human rights violations in China never even came to a vote. The resolution had been sponsored by the U.S. and the European Union, but the Clinton administration, concerned that it could not gather enough votes to win, was reluctant to lobby governments at the highest levels. Several countries of the EU were more concerned with increasing trade with China than with taking a strong stand in Geneva. The actions of the resolution's sponsors, even with a last-minute lobbying effort by the U.S., ended up being too little, too late, especially given the massive lobbying effort by China. By a vote in the commission on April 23 of twenty-seven to twenty, with six abstaining, China succeeded in pushing through a "no action" motion. A debate or vote on the resolution itself never took place.

No progress whatsoever was made on access by humanitarian organizations to Chinese prisons and detention facilities, but the head of the U.N. Working Group on Arbitrary Detention did visit China in July and at the end of the year was trying to negotiate terms of reference for a more in-depth trip to China by the working group in 1997.

UNICEF, after initially saying it would begin a pilot project to help upgrade staff training in some orphanages, by June expressed disappointment at Beijing's "excruciatingly slow" reforms. Not only was UNICEF denied access to some of the institutions it sought to visit but the U.N. Committee on the Rights of Child, at its meeting in Geneva in June, complained about China's reluctance to provide infant mortality data.

China submitted reports during the year on its compliance with two international human rights treaties, the Convention on the Rights of the Child and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### **European Union**

The year began with massive international publicity on the mistreatment of Chinese orphans, sparking a swift response from western governments and international agencies. The European Parliament passed a strong resolution condemning abuses in Chinese orphanages, calling on Beijing to open all child welfare institutions to foreign observers, including UNICEF, and urging the EU to raise the issue during its EU/China Human Rights Dialogue in Beijing in later January, which it did. In addition, Chinese authorities responded to western criticism by taking first journalists, then diplomats on a guided tour of an orphanage in Shanghai. The U.S. State Department also publicly expressed concern about treatment of orphans and withstood a barrage of criticism from adoption agencies and some families of adopted children, concerned that criticism would lead to a decline in foreign adoption (as it turned out, adoptions increased substantially as a result of the publicity).

In January, the General Affairs Council of the EU adopted a long-term policy for relations between the EU and China, stressing economic engagement and a desire to bring China into the World Trade Organization, while addressing human rights and promotion of the rule of law through its political dialogue with Beijing. The European Parliament was due to draft its own response to the new China policy outlined by the European Commission at the end of 1995 and the European Council in 1996.

These developments set the stage for the E.U.-Asia summit on March 1 and 2 in Bangkok, where Chinese Premier Li Peng met with German Chancellor Helmut Kohl and French President Jacques Chirac, aiming to derail a resolution on China and Tibet at the U.N. Human Rights Commission in Geneva. With a US\$2.1 billion Airbus sale in the works, and Li Peng set to visit Paris in April to finalize the deal, France was anxious to appease Beijing by backing off

from an agreement with the U.S. to cosponsor the Geneva resolution. Germany, meanwhile, was China's largest trading partner in 1996, with bilateral trade of \$18 billion and was also one of Europe's top investors in the country. Negotiations about possible Chinese concessions on human rights in exchange for dropping the resolution were ultimately futile, but the delay gave China a great advantage in lobbying governments worldwide at the highest levels, offering them trade and support in various U.N. bodies in exchange for their votes to keep the measure off the agenda.

Despite appeals on human rights in China and Tibet signed by over 200 French legislators and scattered protests, Li Peng's visit to Paris was hailed by Beijing as marking a "watershed" in its ties with France, and this was followed in July by a six-nation swing by President Jiang Zemin through Europe and Asia. When a vigorous debate on repression in Tibet erupted in the German parliament in June, and Beijing warned that German business interests in China could suffer, Bonn quickly scrambled to restore good relations. An invitation to German Foreign Minister Klaus Kinkel to visit China was temporarily withdrawn, but in September the invitation was renewed, and during his visit in October, Kinkel raised the cases of Wang Dan and Wei Jingsheng. Germany's president was expected to go to China in November. At about the same time relations with Bonn were patched up, Australia's prime minister, John Howard, was also threatened with trade retaliation for planning to meet with the Dalai Lama in Sydney; he proceeded with that meeting anyway.

### **United States**

Human rights clearly took a back seat to commercial and strategic interests in U.S.-China policy throughout the year, as evidenced by the Clinton administration's announcement in July (presaged in a speech by Secretary of State Warren Christopher in May) that it would embark upon a series of high-level meetings with China aimed at improving Sino-U.S. relations, leading to reciprocal summit visits in Beijing and Washington in 1997 without specific human rights preconditions. The U.S. tacitly agreed to downplay human rights in pursuit of closer cooperation on security matters and other issues. The administration's 1994 "delinking" of trade and human rights was thus taken a step further, and President Clinton abandoned any possibility of using U.S. political or economic leverage with Beijing to exert pressure on human rights.

The shift in political will was particularly apparent in the U.S. agreement with China on copyrights, patents and other intellectual property rights issues reached in mid-June. The administration successfully rallied strong bipartisan Congressional support for use of possible trade sanctions to obtain the agreement, while arguing it would deal with other areas of disagreement such as human rights via "strategic dialogue." The debate on Most-Favored-Nation trading status in Congress focused, in part, on the value of "engagement" as the only tool to promote human rights progress but was heavily skewed by business lobbying to do away with the annual MFN renewal process entirely and by the administration's desire to promote "stable" relations with Beijing. By a lopsided vote (286 to 141), the U.S. House of Representatives voted on June 17 to support Clinton's renewal of MFN for another year, which the president proclaimed an endorsement of his overall "engagement" strategy. As political cover, the House adopted a nonbinding resolution citing China's poor human rights record, among other concerns, but mandating no policy changes.

The administration's engagement strategy produced few, if any, concrete results during the year. No prisoners were released due to U.S. bilateral or multilateral intervention, and any

discussions about specific cases were relegated to closed-door meetings. In a meeting with Chinese Foreign Minister Qian Qichen in Jakarta in July, Secretary of State Warren Christopher raised human rights only in a general way, while touting the agreement for a series of high-level visits, including his own trip to Beijing in November (the first since his disastrous visit there in 1994), a prospective visit by Vice-President Al Gore, and a bilateral meeting between Clinton and Jiang at the APEC (Asia Pacific Economic Cooperation) forum in Manila in November. Two weeks earlier, presidential National Security Advisor Anthony Lake went to Beijing and reportedly discussed specific human rights cases, but announced no progress whatsoever, stressing instead the trend toward overall closer relations. Both meetings were also unsuccessful in restarting the formal bilateral human rights "dialogue" suspended by China in 1994.

Christopher met with Qian again at the U.N. in New York in September; human rights concerns, access to prisoners, Tibet and Hong Kong were discussed.

The State Department did issue public statements about specific political prisoners, for example, protesting the continued detention of Bao Tong following completion of his prison sentence, and urging the release of Fu Guoyong, a democracy activist sentenced in September. The U.S. embassy in Beijing, on the other hand, generally took a noticeably low profile on human rights as the new U.S. ambassador, Jim Sasser, who arrived in Beijing in February, concentrated on promoting U.S. business interests. The embassy did try to send an observer to Wang Dan's trial.

The administration supported putting China and Hong Kong on the agenda for discussion at the G-7 summit meeting in Lyon, France on June 27, and language for the final statement was apparently agreed upon; but the discussion was later reconfigured to respond to a major bombing in Saudi Arabia, and the China language was also deleted.

Members of the U.S. Congress continued to be outspoken on human rights throughout the year, sending letters to Secretary Christopher prior to his meetings with Chinese officials in Jakarta and New York; raising questions during Congressional hearings; lobbying the administration on policy decisions with human rights implications, such the Export-Import Bank's decision to provide export credits for the Three Gorges Dam project; called for a full-scale, independent investigation of abuses in Chinese orphanages and for multilateral efforts to ensure U.N. access to them.

On May 30, despite intense lobbying by some corporate interests, the U.S. Export-Import Bank announced it would not provide export credits to U.S. companies involved in the Three Gorges Dam Project. Though the decision was made primarily on environmental grounds, the human rights and social impacts of the project were clearly part of the decision-making process within both the bank and the White House, which had earlier recommended that the bank not fund Three Gorges. In July, the president of the Export-Import Bank, Martin Kamarck, visited China and there were indications that the bank might reconsider its decision if China took certain steps to meet its environmental criteria. Meanwhile, the Export-Import Bank of Japan was due to decide by mid-December 1996 whether it would provide loans to Japanese companies involved in Three Gorges.

### **Japan**

In its policy towards China, Japan continued to emphasize nonproliferation and nuclear testing, for the most part downplaying human rights concerns. It did agree to cosponsor the China resolution at the U.N. Human Rights Commission in April and encouraged China to

uphold its international commitments in Hong Kong after the latter's return to Chinese sovereignty on July 1, 1997.

Through its Official Development Assistance (ODA) program, Japan provided China with more than \$1.4 billion in aid in Fiscal Year 1996, making it China's largest bilateral donor. There were no known instances during the year of Japan's using its aid leverage for human rights improvements in China. Japan pledged its support for China's entry into the World Trade Organization.

### **World Bank Assistance**

There were no efforts made, by any government, to restrain World Bank funding to China on human rights grounds; its annual lending to China totaled nearly \$3 billion for the fiscal year ending June 30. However, a report by Harry Wu in October 1995 that a \$125 million World Bank loan for an irrigation project supported forced labor camps in Xinjiang Province led to a World bank investigation and Congressional hearings in July 1996. The bank said it could find no evidence its operations in Xinjiang benefited forced labor camps, though it acknowledged that the chief operator of its projects there, the Xinjiang Production and Construction Corps (XPCC), did administer such camps and was responsible for handling security and military in the province. This caused the U.S. Treasury Department to announce, in Senate hearings, that the U.S. would no longer support bank projects affiliated with XPCC until a clearer division was made between its military and civilian operations.

## **HONG KONG**

As the year drew to a close, the chances that Hong Kong's autonomy would be maintained after the July 1, 1997 return to Chinese sovereignty seemed slim. The "one country, two systems" formula for the post-July Special Administrative Region (SAR) was already being systematically eroded, at least in the area of civil liberties, and the Chinese government seemed intent on repealing provisions in Hong Kong's Bill of Rights, dissolving the elected Legislative Council (Legco), undercutting the independence of the judicial system and the executive, and curbing freedom of expression and assembly.

### **Human Rights Developments**

In September 1995, Hong Kong had held an election in which the pro-democratic forces won a majority of the twenty directly elected seats on Legco. On March 24, 1996, the Preparatory Committee, a body hand-picked by the Chinese government to handle transition matters, voted to disband Legco on July 1, 1997 even though its members would have served only two years of their four-year terms. The Preparatory Committee decided instead that in accordance with the Basic Law, the document worked out between Britain and China that will serve as Hong Kong's constitution after July 1, a 400-member Selection Committee would be empowered to select a provisional body to remain in place for one year. An elected body would thus be replaced by an appointed one, and it was not clear whether elections would in fact take place under Chinese rule after the one-year period.

Frederick Fung, chairman of the Hong Kong-based political party called Association for Democracy and People's Livelihood who cast the one dissenting vote in this process, was immediately disqualified both from membership in the provisional legislature and from a place on the Selection Committee.



The provisional legislature would have the power to pass laws, approve a new budget for the SAR, and repeal or amend any law it deemed contrary to the Basic Law. The original Sino-British agreement to dissolve the legislature on June 30, 1997 and reconvene it the following day with no change in membership—the so-called through train agreement—was thus effectively scrapped. Pro-democracy activists and lawyers in Hong Kong voiced fears that the provisional legislature would revive draconian colonial security laws, pass new legislation on sedition, subversion and treason which could be used against the nonviolent political opposition, and institute the death penalty.

In addition to replacing the legislature, China told a Hong Kong delegation in August that it was planning to set up provisional bodies to replace municipal councils and district boards but was “considering” allowing current members to stay on past 1997.

Freedom of expression also seemed endangered. In April, the deputy director of Xinhua news agency in Hong Kong, which acts as China’s “embassy” in the territory, called on the Hong Kong government to “discipline” Radio Television Hong Kong (RTHK) for failing to give air time on demand to the Preparatory Committee. In June, Lu Ping, head of the Hong Kong and Macau Affairs Office under China’s State Council, warned that after the transition the Chinese government would criminalize not only advocacy of certain viewpoints, such as support of Taiwan or Tibetan independence, but also merely publicizing those views. In July, China’s information minister suggested that after 1997, local journalists in Hong Kong would be well advised to look to the press in China for “guidance” on what was proper to report. The Chinese government was known to be keeping a blacklist of Hong Kong journalists; the most common form of punishment for such reporters, according to the 1996 report of the Hong Kong Journalists Association, was simply to deny them entry to China. During 1996, journalists from the *Apple Daily*, *Next Magazine*, and *Open Magazine* were stopped at the Chinese border and forbidden to enter.

China continued to insist that it would not provide reports on the situation of human rights in Hong Kong to the U.N. Human Rights Committee set up under the International Covenant on Civil and Political Rights (ICCPR), in violation of its treaty obligation with the United Kingdom. Although the U.K. is a party to that covenant, and China is not, the two countries agreed in the 1984 Sino-British Joint Declaration that the covenant’s protections would continue to extend to Hong Kong after 1997. At a meeting in February 1996, China and Britain agreed on a legal mechanism whereby approximately 200 multilateral international treaties would continue to apply to Hong Kong after July 1997; Beijing, however, excluded both the ICCPR and the International Covenant on Economic, Social and Cultural Rights from this list.

The fate of some eighty dissidents from the Chinese mainland currently in Hong Kong was a continuing concern, as human rights organizations and some foreign consulates stepped up efforts to ensure their resettlement to third countries before the 1997 transition.

The situation of Vietnamese asylum-seekers in Hong Kong continued to be grim, as the Hong Kong government stepped up efforts to repatriate all remaining 14,000 residents of the Vietnamese camps before the transition. Conditions for camp inmates were worse than those for convicted criminals in prisons, particularly in terms of overcrowding and sanitary facilities. Violence was pervasive. On May 10, a major riot broke out inside the Whitehead Detention Center, sparked by asylum-seekers who had been denied refugee status protesting forced repatriation. Camp inmates took guards hostage and burned twenty-six buildings and fifty-three

vehicles. Hong Kong security forces used no lethal force in quelling the riot, but many observers believed that the inhumane and overcrowded conditions had contributed to the outbreak.

### **The Right to Monitor**

Hong Kong human rights organizations operated freely, although they were increasingly concerned about their ability to do so after 1997. While the Basic Law guarantees freedom of association, it also, under Article 23, bans ties to foreign political organizations, and there is concern that after the transition, the provisional legislature to be appointed with Beijing's approval might pass legislation that construes ties to international religious, philanthropic, or human rights organizations as "political."

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

It was clear that the international community was worried about the transition, particularly after China announced its intent to dissolve Legco. There was also widespread concern about the fate of the Vietnamese boat people.

On June 25, the Foreign Relations Committee of the U.S. Senate adopted a strongly worded resolution urging China not to proceed with plans to replace Legco. The full Senate passed the measure on June 28. The Clinton administration, while clearly unhappy with the move, refused to take a position on whether abolition of Legco would be a violation of the Basic Law, saying in July that it could not make a legal interpretation on a treaty to which it was not a party.

In the Fiscal Year 1997 U.S. foreign aid bill, signed by President Clinton on September 30, a requirement was inserted requiring Congress to provide additional reporting on the implementation of the Sino-British Joint Declaration, particularly with respect to the fairness of the election of the chief executive, the treatment of political parties, the independence of the judiciary, and the Bill of Rights. The legislation cited "deficiencies" in the report that the administration had submitted to Congress under the terms of the U.S.-Hong Kong Policy Act.

In July, at the annual ASEAN post-ministerial conference, and again in September at the United Nations, U.S. Secretary of State Warren Christopher raised concerns about Hong Kong with his Chinese counterpart, Foreign Minister Qian Qichen. National Security Adviser Anthony Lake had Hong Kong and the dissolution of Legco on the agenda when he visited China in July.

In the Asia-Pacific region, the Japanese government urged Beijing to uphold its international commitments on Hong Kong. On July 28, Australian Foreign Minister Alexander Downer warned China of international concern if pro-democracy members of Legco were not reappointed to the provisional legislature, and on September 16, Jeremy Hanley, a British Foreign Ministry official visiting Hong Kong, said that Britain would continue its efforts to persuade the Chinese government that dissolution of Legco was a "bad idea."

In July, the Canadian government offered to take mainland dissidents who would face persecution after the 1997 transition.

On July 18, the European Parliament adopted a resolution on the Vietnamese boat people, condemning the use of violence against asylum-seekers, calling on U.N. member states to offer settlement to those with refugee status, and urging the UNHCR to extend its repatriation program to avoid deportations by force.

# INDIA

## **Human Rights Developments**

After taking office in June, India's new United Front government made several gestures that marked a change from previous governments' human rights policies, such as vowing to sign the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and allowing a visit by Amnesty International in July. However, it was not clear whether the government was prepared to address longstanding human rights concerns ranging from police abuse to bonded child labor. India also maintained its reputation as one of the most dangerous places in the world for human rights activists. The detention and subsequent murder of human rights activist Jalil Andrabi in Kashmir in March and the shooting death of Assamese activist Parag Das in May exposed the security forces' use of irregular militias to carry out abuses. By November, no one had been prosecuted in either murder. Human rights and environmental groups also came under increasing attack for their efforts to organize protests against large-scale development projects.

The tumultuous mid-year election that ousted the Congress government of Narasimha Rao resulted in a hung parliament and gave the Hindu-nationalist Indian People's Party (Bharatiya Janata Party, best known by its initials, BJP) its first opportunity to form a national government. After failing to win the support of any other party, the BJP lost a vote of confidence after only eleven days in office. On June 1 a coalition United Front government of left and regional parties assumed office and H.D. Deve Gowda became prime minister.

Parliamentary elections were also held in Jammu and Kashmir in May for the first time since 1989. Militant leaders called for a boycott, however, and there were widespread reports that security forces had forced voters to go to the polls. Shortly before the elections, the state government imposed a ban on any reporting that "directly or indirectly express[ed] lack of faith" in the state and federal constitutions or was deemed "prejudicial to the unity and integrity of the state and country"—apparent references to articles that might advocate a boycott of the elections or call for independence. State assembly elections in Jammu and Kashmir in September were also marred by reports of coercion and the arrests of leaders of the All-Parties Huriyat Conference—an umbrella group of parties opposed to the elections. Following the election, the National Conference party formed the first state government since 1990, and Farooq Abdullah, who together with Congress party leaders had been responsible for rigging state elections in 1987, again became chief minister.

Indian security forces in Kashmir continued their practice of arming and training local auxiliary forces made up of surrendered or captured militants to assist in counterinsurgency operations. These state-sponsored paramilitary groups, along with their counterparts in the regular security forces, committed serious human rights abuses, and human rights monitors and journalists were among the principal victims. On December 8, 1995, Zafar Mehraj, a veteran Kashmiri journalist, was shot and critically injured as he returned from an interview with Koko Parray, the head of the state-sponsored paramilitary group Ikhwan-ul Muslimoon. Although Mehraj had previously been threatened by both the security forces and some militant groups, in this case the evidence strongly implicated the state-sponsored militia force, Ikhwan-ul Muslimoon. Ikhwan-ul Muslimoon forces were also believed to be responsible for the murder of Farooq Ahmed Sheikh, a thirty-one-year-old pharmacist at the Soura hospital in Srinagar, on

December 2, 1995.

Extrajudicial executions and torture by Indian security forces in Kashmir also continued. Ghulam Ahmed Bhat, an eighteen-year-old man who was deaf and mute, was summarily executed by troops of the Seventh Battalion of the Border Security Force (BSF) during a crackdown in Nawakadal, Srinagar, on December 21, 1995. During a visit to Kashmir in January, Human Rights Watch interviewed a number of torture victims who described severe beatings and the use of electric shocks. Civilians also continued to complain of assault, including sexual assault, by security forces during crackdowns. No prosecutions of security personnel for torture or murder were made public.

Militant organizations in Kashmir engaged in kidnapping and indiscriminate attacks on civilians. On January 4, fifteen Hindu villagers from the Barshala village in Doda were killed after unidentified gunmen reportedly ordered them to line up before separating Hindus from Muslims. Official sources claimed that Harakat-ul Ansar, a militant group, was responsible. A bomb exploded on December 3, 1995, at a crowded bus stop in Anantnag. At least eight civilians were killed and twenty injured. No group claimed responsibility. A bomb that exploded in the Sadar Bazaar business district of Srinagar in early January killed seven people and injured at least thirty-five others. The Jammu and Kashmir Islamic Front claimed responsibility. There was no word on the fate of four foreigners kidnapped by the Al-Faran militant group in July 1995.

Problems of impunity plagued the investigation into communal violence in Bombay. On January 23, Maharashtra Chief Minister Manohar Joshi terminated the Srikrishna Commission, which had been set up to investigate communal riots that had left over 1,000 dead in Bombay between December 1992 and January 1993. The riots, which followed the destruction of a sixteenth-century mosque in Ayodhya in the north Indian state of Uttar Pradesh, were orchestrated by police and other officials and political leaders, and targeted Bombay's Muslims. In response to petitions filed by human rights groups in the Bombay High Court seeking to revive the Srikrishna Commission, on May 28, 1996, the commission was reinstated. On October 18, eleven Muslims were sentenced to life in prison for the murder of six Hindus during the riots. However, as of November, not a single member of the police had been prosecuted for attacks on Muslims, nor had the commission's findings been made public.

In a long-overdue and welcome decision, on August 27, Judge Shiv Narain Dinghra sentenced eighty-nine men to five years rigorous imprisonment—the harshest category of imprisonment—for their roles in the anti-Sikh riots of 1984 in which more than 3,000 Sikhs were killed. In his judgment, Dinghra named senior Delhi police officials as the “real culprits” and accused them and their “political masters” of supporting the rioters and suppressing the truth about the killings. Several independent human rights groups had documented the involvement of police and Congress party officials in orchestrating the massacre. In September, Kishori Lal, a butcher from Delhi, was convicted of the murders of two Sikhs during the riots—the first such murder conviction in the twelve years since the riots. In June, H.K.L. Bhagat, a former Congress party minister, was indicted for his role in inciting and directing the rioters.

In a report to the Supreme Court on July 30, the Central Bureau of Investigation (CBI) named nine police officials responsible for the 1995 abduction of human rights lawyer Jaswant Singh Khalra in Punjab. The Supreme Court directed that the nine officers face trial for the abduction, that further investigations be carried out to ascertain the fate of Jaswant Singh Khalra

and that key witnesses be offered protection during the investigations. On July 22 the CBI stated in a report to the court that it had found *prima facie* evidence that the Punjab police had secretly disposed of 984 bodies between 1990 and 1995, a period in which hundreds of Sikh men "disappeared" in police custody. In a separate case, former Director-General of Police K.P.S. Gill was sentenced to three months' rigorous imprisonment for slapping a female police officer. Gill has also been implicated in the torture and murder of hundreds of Sikhs in the police crackdown on the insurgency in Punjab. He has never been charged with these crimes.

Heightened attention to the problem of bonded child labor by organizations both within India and abroad helped spur some reforms by state governments. In a promising development, the newly elected government in the southern state of Tamil Nadu announced that implementation of the Bonded Labour (Abolition) Act (BLA) would be a priority and vowed to establish vigilance committees to oversee enforcement of the law throughout the state. The announcement prompted the formation of a coalition of nongovernmental organizations (NGOs) to work specifically on the issue of bonded child labor, focusing on rehabilitation and public education. At the national level, the Tamil Nadu NGOs, together with Delhi-based activists, began working with the new government on forming a national commission to oversee implementation of the BLA. In its 1994-95 report, the Ministry of Labor recommended raising the rehabilitation allowance for freed bonded laborers from 6,250 to 10,000 rupees (from approximately US\$178 to \$285). It was not clear, at this writing, whether this recommendation had been implemented. As of November, there were no known prosecutions of employers who made use of bonded child labor.

Police arrests of street children, a frequent occurrence in railway stations throughout India, increased sharply in Bombay during July and August, the height of the monsoon. Street children using the Bombay Central Railway Station for shelter and employment were rounded up almost daily in a police campaign to "improve the quality of life" at the station by removing criminals and vagrants. The children were detained and beaten, often for the purposes of extortion, and then left without shelter. Lawyers filed a writ petition in the Bombay High Court asking for the court's intervention to stop the roundups and torture of street children.

Of the forty or so ethnic insurgent groups seeking autonomy in India's northeastern states, the most powerful operated in the states of Assam, Manipur, Nagaland and Tripura, carrying out attacks on security personnel, political assassinations, kidnapping, and murder of executives of key industries. The largest of these were the United Liberation Front of Assam (ULFA) and the National Socialist Council of Nagaland (NSCN). Civilians were frequent victims of Indian government counterinsurgency operations against these groups. In Manipur, deaths and "disappearances" of civilians at the hands of Indian authorities led to a series of strikes and demonstrations calling for independent inquiries, compensation and disciplinary action; journalists in Assam held a protest in May denouncing killings and harassment of their colleagues. The Armed Forces (Special Powers) Act, which grants the military broad powers to arrest and detain suspects, destroy property, and shoot to kill remained in place in the northeast. The law has been widely criticized for contributing to human rights abuses. Surrendered ULFA militants, called "SULFAs," aided Indian security forces in counterinsurgency and were also implicated in extrajudicial killings.

In Assam's Kokrajhar district, ethnic violence in May and June between members of the Bodo and Santhal tribes killed some eighty people and displaced at least 20,000 others when

villages were destroyed by arson.

Between January and March 1996, more than 1,000 ethnic Nepali Bhutanese who had sought refuge in Nepal after their forcible eviction from Bhutan in 1990 began a peaceful march from the camps in Nepal through India to the Bhutan border. They were stopped from reaching the border by police in West Bengal, arrested and detained. Many of the marchers were beaten, and one died in custody. On July 5, 791 of them who had been detained since March were unconditionally released.

### **The Right to Monitor**

Many human rights groups in India, particularly those based in major metropolitan areas, operated fairly freely in 1996. Those active in more remote rural areas who challenged the power of influential landlords or business owners, and those based in areas of conflict such as the northeast or Kashmir undertook considerable risks.

Jalil Andrabi, a prominent human rights lawyer and political activist associated with the pro-independence Jammu and Kashmir Liberation Front, was found murdered on March 27, 1996. According to eyewitnesses, Andrabi had been detained on March 8 by a Rashtriya Rifles unit of the army which had intercepted his car a few hundred yards from his home in Srinagar. The army repeatedly denied that Andrabi was in custody. Andrabi had previously received death threats from government-sponsored so-called "renegade" forces, and it was widely believed that Andrabi may have been handed over to such forces after his arrest. The bodies of some of the men believed to have been involved in the Andrabi's killing were later discovered in April; it was widely believed that they had been killed by the security forces. India's official National Human Rights Commission (NHRC) launched an investigation of Andrabi's killing, but as of November, no findings had been announced, and human rights lawyers complained of obstruction by the army and tampering with evidence from the post-mortem examination.

Parag Kumar Das, general secretary of the Assamese human rights organization Manab Adhikar Sangram Samiti (MASS), and editor in chief of the Assamese publication *Asomiya Pratidin*, was shot and killed by unidentified gunmen on May 17 as he was taking his son to school. The seven-year-old boy was wounded in the attack. A proponent for self-rule in Assam, shortly before his death Parag Das had published an interview in *Asomiya Pratidin* with the leader of the militant separatist group, ULFA. Das's colleagues in Assam suspected that his assassination may have been carried out by gunmen formerly associated with ULFA who had been working with the security forces.

On October 7, Warangal district police in the southern state of Andhra Pradesh threatened to "liquidate" Dr. Burra Ramulu and Amabati Srinivas, both members of the Andhra Pradesh Civil Liberties Committee, apparently because both men had called for judicial inquiries into police abuses against suspected members and supporters of the People's War Group, a Maoist guerrilla organization. Earlier that day, seven policemen had been killed by a land mine planted by the guerrilla group. On October 9, the Andhra Pradesh High Court ordered the state to provide protection to the two men.

In its annual report to Parliament on September 10, the NHRC accused the state government in Kashmir of concealing reports of human rights abuses by security personnel. At the same time, when provided with reports of abuse from independent human rights groups, the NHRC was seldom willing to push the authorities for impartial investigations. The NHRC vowed to make child labor and child prostitution a priority for its work in 1996; however, the

commission recommended no specific reforms or programs to deal with bonded labor.

Activists who have organized protests against the environmental degradation caused by prawn aquaculture and the use of bonded labor on such farms have been harassed and arrested. On December 15, 1995, five activists of the Institute for Motivating Self-Employment (IMSE), an organization devoted to freeing farmers in Orissa from debt-bondage to landlords and money lenders and raising awareness about the harmful effects of aquaculture, were reportedly detained without charge after local police invited them to a meeting to discuss their work. On December 17, three IMSE activists who were protesting the arrest of their colleagues were also arrested. All eight IMSE workers were detained until January 19, 1996. When the director of IMSE and two human rights activists from Bangalore arrived to investigate the incident on December 20, their car tires were punctured by unidentified armed men who threatened them with "dire consequences" if they continued their investigation. The driver attempted to file a complaint, but the police refused to register the charges and instead detained the driver overnight. On returning to the car, the driver found that all documents had been removed.

Medha Patkar, leader of the Save the Narmada Movement (Narmada Bachao Andolan), was arrested by the Madhya Pradesh police on August 20. Patkar had organized a peaceful protest against the government's failure to provide rehabilitation to people ousted by the construction of a dam on the Narmada river. A number of activists were also beaten by police who broke up the demonstration. Patkar was held under a preventive detention law until August 30.

On June 27, police entered the villages of Mitihini and Khairi, in the Sonebhadra district of Uttar Pradesh, where villagers had protested forced resettlement to clear the area for an ash dike for the Rihand Super Thermal Power Project. A number of villagers were reportedly beaten, and thirteen protesters were detained.

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

As had been the case in previous years, trade issues dominated international interest in India in 1996, and expressions of concern about human rights were limited to a few prominent cases. For example, the murder of Jalil Andrabi and the ongoing problem of child labor and bonded child labor led a number of countries to raise concerns with the government of India, both publicly and privately. However, the long-standing issue of impunity for the military in Kashmir and elsewhere in the country and the endemic problem of custodial violence received virtually no attention from the international community.

Following Andrabi's murder, on April 2, United Nations High Commissioner for Human Rights José Ayala Lasso called on the government of India to "undertake a thorough investigation ... with a view to establishing the facts and imposing sanctions on those found guilty of the crime."

The issue of bonded child labor received considerable attention at the World Bank convened donor meeting on India that took place in Tokyo in September, as a number of participant countries raised concerns about World Bank-funded projects that have made use of bonded child labor and about the need for donor involvement in rehabilitation efforts.

The European Council and the European Commission held talks in New Delhi with then Prime Minister Rao in early May, at which the EU agreed to support India's participation in the next EU-Asia summit. India was not invited to the meeting in Bangkok in March.

In late June, the European Commission issued its first official position paper on EU-India

relations, outlining a long-term agenda for an “enhanced partnership.” The paper focused on the impact of India’s economic reforms in a democratic, multi-cultural society and was aimed at developing a framework for the EU to pursue its main interest in India: getting better access to India’s “enormous market.” There was a deliberate effort to downplay controversial issues, especially human rights. In the framework of an EU-India Partnership and Cooperation Agreement, signed in 1993 and conditioned on respect for human rights, an EU-India Joint Committee was set to meet in December 1996 in New Delhi. The joint committee was to outline specific priorities, including intensification of dialogue on “political issues” though the emphasis would clearly be on trade and investment; a business forum was scheduled for Brussels the month before. As the year ended, it was not clear what level of priority human rights would be given by the joint committee.

Most countries took a timid approach to the elections in Kashmir. Both the U.K. and the U.S. called on officials to ensure that the vote would be free and fair; however, neither publicly criticized widespread intimidation of voters by security forces. British Foreign Secretary Malcolm Rifkind also urged India to allow international observers at the polls. (The government did not permit international observers.) U.S. officials stated that they believed a fair vote could lead to “stability” and begin a political process. A visit to Srinagar by U.S. Ambassador Frank Wisner in August sparked criticism by most leaders of the opposition All-Parties Huriyat Conference, who refused to meet with Wisner because of what they claimed was his pro-India stand on the elections, and by opposition parliamentarians in New Delhi, who accused the U.S. ambassador of interference in an internal matter.

The U.S. Embassy in New Delhi continued to relegate human rights concerns to a low priority. Although the State Department issued a strong statement condemning Andrabi’s murder and calling for a “full and transparent investigation,” embassy personnel expressed no further concern about reports of army obstruction of the investigation and the lack of progress in the case. Although the ambassador raised concern about child labor, the embassy played no notable role on any other human rights issue.

The U. S. Department’s report on human rights was markedly less forthright about government abuses than had been the case in previous years. While attempting to characterize the situation in Kashmir as improving, the report completely failed to address abuses by state-sponsored militias. Elsewhere, the report appeared oblivious of documentation by Indian human rights organizations about deaths in custody and other abuses.

The U.S. continued to expand its program of military cooperation with India, holding special joint naval exercises and a visits to the U.S. by Chief of Army Staff Shankar Roy in September. Joint air force exercises and a visit to India by senior U.S. defense officials were scheduled for later in the year.

## **INDONESIA AND EAST TIMOR**

The most serious riot in Jakarta in two decades in July underscored increasing tension in Indonesia as demands of various groups for more political participation, less abuse by the security forces, and a greater share of the economic pie continued to be met with repression. Jakarta was not the only site of unrest during the year;



demonstrations followed by riots broke out in Irian Jaya in March, July and September; in Ujungpandang (South Sulawesi) and Ngabang (West Kalimantan) in April; and in East Timor in June.

Freedom of expression and association continued to suffer with opposition politicians, journalists, nongovernmental organization (NGO) activists, trade unionists, students, and an independent election monitoring group all facing various forms of harassment, in some cases involving arrest and torture. The government-engineered ouster of Megawati Soekarnoputri as head of the opposition party, Partai Demokrasi Indonesia (PDI), in June, and the arrests in July, August and September of dozens of student leaders and independent labor leader Mochtar Pakpahan were only the most severe manifestations of government intolerance of dissent. The government also attempted to fan fears of a resurgence of a communist threat in order to legitimize its actions against critics and to discredit opposition parties and their members.

At the same time, there were more prosecutions of military officers for human rights abuses -- at least four cases involving over twenty men -- than in any previous year. The prosecutions were welcome, but given other developments in Indonesia, it was difficult to conclude that they were evidence of a greater sense of the need for government accountability. In East Timor, a wide range of human rights violations continued to take place, compounded by increased training of civilian and paramilitary militias composed of East Timorese and by increasing incidents of religious and ethnic violence. The granting of the Nobel Peace Prize in October to two East Timorese was expected to increase international pressure for human rights improvements there.

The right to monitor the human rights situation in the country was compromised by the intimidation and harassment of NGOs that followed the emergence of KIPP, the election monitoring organization, and the crackdown on the student-led People's Democratic Party in July and August.

The July riots led to criticism of Indonesian government actions internationally, particularly from the European Parliament and the United States, and nervousness among foreign investors, but few concrete actions were forthcoming.

### **Human Rights Developments**

The most significant political and human rights developments in the country surrounded the rise and removal of Megawati Sukarnoputri as a political opposition leader; the occupation of PDI headquarters in Jakarta by her supporters and their removal by army-backed paramilitary forces on July 27; the riots that followed; and the arrest and detention of members of a small leftist party that the government blamed for the violence.

In a clear violation of freedom of association, Megawati was ousted from the PDI in a special party congress held in Medan, Sumatra in June. The government ceased to recognize her as an official of the PDI, her supporters were removed from the PDI candidate list for the 1997 parliamentary elections, and her efforts in September to open a new office were thwarted by the government on the grounds that the office violated a zoning ordinance.

Following the Medan congress, Megawati supporters occupied PDI headquarters in Jakarta. On July 27, hundreds of youths linked to the newly installed PDI head, Soerjadi, backed by police and military personnel, forcibly entered and physically

removed Megawati's supporters and set fire to the headquarters. The attack sparked a full-scale riot, affecting the area around the PDI offices and spreading into other parts of the city. Protestors stoned and set fire to more than twenty buildings; at least five people were killed and some 150 wounded. More than 200 people, including bystanders, were arrested; some of the latter were held up to five days and tortured to force confessions of involvement in the violence. Some 124 were later charged with crimes under the Indonesian criminal code and initially were denied access to lawyers. Virtually all of those formally charged were suspected Megawati supporters; meanwhile, none of the youths involved in the storming of the PDI headquarters were arrested.

The government, looking for a scapegoat for the riots, blamed a small leftist student-led organization called the People's Democratic Party (Partai Rakyat Demokratik, PRD) and its student, worker, peasant, and cultural affiliates. The PRD was accused not only of masterminding the riots but of being the new incarnation of the banned Indonesian Communist Party. By November 1, some thirty-nine students were in detention, at least five of whom had been tortured with electric shocks during military interrogation. Also in detention was labor leader Muchtar Pakpahan, general secretary of the Prosperous Worker's Union of Indonesia (Serikat Buruh Sejahtera Indonesia, SBSI), who was arrested at his home on July 30. Pakpahan was head of the NGO coalition supporting Megawati called the Indonesian People's Council (Majelis Rakyat Indonesia, MARI) which had the PRD as one of its members.

Both Muchtar and the head of the PRD, Budiman Sudjatmiko, who was arrested on August 11, were charged with subversion. While subversion is a capital offense, prosecutors were unlikely to seek the death penalty. The trials were expected to begin in late November or early December.

The government used the riots and the new "threat" posed by the PRD as a pretext for summoning and interrogating political critics. Prominent intellectuals such as Goenawan Mohammad, the former editor of *Tempo* magazine; former prisoner and internationally respected writer Pramoedya Ananta Toer; Bambang Widjojanto, head of the Indonesian Legal Aid Institute; and Megawati herself were among those summoned.

The Ministry of Information and the social and political affairs office of the armed forces, which had tried to suppress reporting about the dispute within PDI prior to the July riot, issued a strong warning afterwards to three tabloid newspapers about their coverage of events. Of the three, *Mutiara*, *Target*, and *Paron*, the latter had carried an interview with PRD leader Budiman Sudjatmiko that some said led to the discovery of his hiding place and subsequent arrest. Controls on the press continued through the end of the year; members of the Alliance of Independent Journalists, who defied bans on reporting and provided in-depth analysis of events in an underground magazine called *Suara Independen (Independent Voice)* faced dismissal and arrest. On October 28, police confiscated 5,000 copies of the magazine and arrested two printing press workers on charges of defaming the president and distributing an insulting publication.

The government's crackdown on the PRD was foreshadowed by its moves in April and May against the independent election monitoring group set up in March called the Komite Independen Pemantau Pemilu (KIPP), in which student and NGO activists were deeply involved. Thirty branches of KIPP sprang up across the country within

three months of its founding; government harassment of NGOs linked to KIPP increased as a result, with KIPP meetings banned in Solo, Lampung and elsewhere. On April 22, the Medan office of the Legal Aid Institute was firebombed following a KIPP meeting, and the office of an NGO in Samarinda, East Kalimantan, whose members were active in the local KIPP branch, was raided the same month. Also in April, a local government office in Bogor, West Java, made public accusations that KIPP secretary general Mulyana Kusumah was affiliated with a communist group as a high school student, more than thirty years earlier. Newspapers and magazines were told they could no longer to publish Mulyana's writings. The allegations seemed designed to discredit the election monitors.

In another example of violations of freedom of expression, prominent government critic and former parliamentarian for the United Development Party (UDP), Sri Bintang Pamungkas, was sentenced on May 8 to two years and ten months in prison on charges of "defaming the president." Bintang had been arrested and charged under Article 134 of the criminal code for remarks made during a lecture given in Berlin, Germany in April 1995 (see 1996 World Report). The sentence was upheld by an appellate court in October.

Political unrest erupted in several different areas of Indonesia during the year. In Irian Jaya, tensions resulting from the army killing of civilians in the Timika area in 1994 and 1995 remained high, with local groups convinced that the huge Freeport copper and gold mine that dominates the area bore some responsibility, directly or indirectly, for the problem. In February, a military court in Irian Jaya sentenced four soldiers to prison terms ranging from eighteen months to three years for killing three Timika villagers. A week after the trial, the then Irian Jaya military commander Major General Dunidja issued a booklet for soldiers on human rights and military professionalism, indicating a new sensitivity on the part of the army to human rights criticism.

Between March 10 and 12, thousands of Irianese took part in demonstrations of unprecedented scale in Timika following an incident in which a local man was injured and taken to the hospital by a Freeport employee. Rioters stormed and attacked security posts as well as property belonging to the mining company and its employees. The riot led to unfounded accusations that NGOs had organized it and complicated efforts to release twenty-six hostages seized by a guerrilla group, the Free Papua Movement (Organisasi Papua Merdeka, OPM), in January, in violation of international humanitarian law. After negotiations to free the hostages failed, the Indonesian military mounted a rescue operation in May in which nine were freed and two were killed, apparently by Papuans but not by their immediate captors.

A second riot broke out on March 18 in Jayapura, capital of Irian Jaya, after the body of an independence leader, Thomas Waggai, was returned for burial following his death in prison in Jakarta on March 12. Demonstrators were convinced Waggai had been killed, although he seems to have died of natural causes.

Following the March riots and in light of the continued tensions between Freeport and the indigenous people within Freeport's contract of work area, the company indicated its intention to create a trust fund to be used for the benefit of the local community. On June 29, LEMASA (Lembaga Musyawarah Adat Suku Amungme), the representative body of the Amungme people, rejected the trust fund offer on the

grounds that the funds would be channeled through the government rather than being given directly to the people. Disputes over that decision led to a demonstration on July 18 and subsequent allegations by the army that those who rejected the offer were subversives. Members of the Amungme group filed a class action suit against Freeport in U.S. district court under the U.S. Alien Tort Claim Act and the Torture Victim Protection Act of 1991. As of July 29 more than 1,000 individuals had joined in the suit against Freeport.

Another hostage-taking incident took place in mid-August 1996. Thirteen employees of the Djajanti Logging Company were taken hostage about sixty kilometers from the town of Timika. The Indonesian press reported that the hostage-takers were OPM members, but the circumstances surrounding the incident remained murky. Army spokespersons initially insinuated that WALHI, an environmental NGO that had been openly critical of Freeport's activities in Irian Jaya, and Tom Beanal, executive director of LEMASA, were somehow involved, but the allegations, yet another form of harassment against NGOs, were subsequently dropped.

On April 7, some 2,000 residents of the village of Ngabang, 186 kilometers east of the West Kalimantan capital of Pontianak, stormed an army camp to protest the severe torture of a local man named Jining. Jining was tortured because he drove by an army post too quickly. The army responded to the demonstrators with force, resulting in the death of a villager named Taku. On May 14, the National Human Rights Commission (KOMNAS) promised NGOs that it would investigate the incident, and the KOMNAS findings led to the prosecution of fourteen soldiers in July.

On April 22-24, riots broke out in Ujungpandang after student activists organized transport workers and others to protest a rise in transportation fares. Armored personnel carriers entered the campus of the Indonesian Muslim University (UMI), and in the ensuing turmoil, five students died. Three drowned after apparently jumping in a nearby river to escape army vehicles. Following an investigation by the government-appointed human rights commission, twelve soldiers were indicted on charges of procedural violations. On September 25, six of the twelve appeared in the Ujungpandang military court as their court martial began; in late October, the prosecutor recommended sentences of between five and six months for the accused.

A series of labor rallies took place during the year involving thousands of workers demonstrating for freedom of association and a higher minimum wage; Indonesia has only one legal trade union federation that is largely controlled by the government. One of the largest rallies took place in Surabaya, East Java, on July 8 involving 20,000 workers and led to the arrest of its student organizers on incitement charges. At year's end, it seemed likely that they would be charged with the political offense either of subversion or of "spreading hatred against the government."

Ethnic and religious violence increased in East Timor, some of it apparently deliberately provoked. In June, riots broke out in the town of Baucau after an Indonesian guard at a mosque in Baguia posted a picture of the Virgin Mary with a derogatory caption. The incident led to a protest march, security forces were called in to contain the demonstration, and upon their arrival, violence broke out. Over one hundred people were detained for their involvement in the demonstration.

Extrajudicial executions and torture continued in East Timor. In April 1996 a high

school student, Paulo Dos Reis, was shot and killed by an Indonesian soldier after being suspected of resistance activities. Also in April Andre Sousa was shot and killed by an Indonesian soldier after he removed an Indonesian flag that had been flying at half-mast in honor of the death of President Soeharto's wife.

### **The Right to Monitor**

Indonesian human rights organizations faced widespread harassment during the year throughout the country, although by year's end, fears of new regulations to curb their activities had not materialized. The alliance between human rights groups and pro-democracy activists in the formation of the independent election monitoring committee and the involvement of the largest human rights organization in the country, the Legal Aid Institute, in a coalition that supported Megawati and the PDI, led to tightened surveillance of NGO operations and intimidation of individual activists.

KOMNAS continued to function as a cautious but effective challenge to the military and helped bring about several prosecutions of soldiers accused of human rights abuses. KOMNAS at year's end was experiencing greater pressure from the government than ever before as a result of its preliminary findings of human rights violations in connection with the July riots, and there was widespread concern in Indonesia that the institution would emerge somewhat weakened as a result.

KOMNAS opened an office in Dili, East Timor, in July, but its effectiveness was compromised by the fact that it was located directly across the street from the district military command and was headed by a former prosecutor from the Indonesian island of Flores who did not speak the local language.

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

The international community was sharply critical of Indonesia following the government's raid on the PDI headquarters in July and its subsequent actions against political activists. Other issues, such as East Timor and restrictions on freedom of expression, also received attention during the year at the U.N. and at the annual meeting of the World Bank-led donor consortium for development aid, the Consultative Group on Indonesia. Labor rights violations were the subject of debate in the U.S. as well as in the World Bank. But in general, governments studiously avoided linking trade privileges or arms transfers to human rights abuses. At the ASEAN Regional Forum, Jakarta largely succeeded in deflecting concerns about human rights as "interference in internal affairs," although it could not keep Burma off the agenda. The controversy over Freeport-McMoRan's role in Irian Jaya and abuses in the region had an impact on both U.S. and World Bank-provided political risk insurance programs provided to the company.

### **United Nations**

A consensus chairman's statement on East Timor was adopted by the U.N. Human Rights Commission in Geneva in April, reiterating concerns raised by the commission in previous years and calling for a clarification of the 1991 Dili killings, early release of detained East Timorese, and expanded access by international human rights monitors. But there was no attempt to promote a resolution despite Indonesia's continuing failure to respond positively to these recommendations. Meanwhile, the All-Inclusive Intra-East Timorese Dialogue continued, under the U.N.'s auspices, with a meeting in Austria from March 19-22. Nigel Rodley, the U.N. Special Rapporteur on

Torture, tried but failed to obtain permission from the Indonesian government to visit the territory. The government said that, as U.N. High Commissioner for Human Rights José Ayala Lasso had just visited in December 1995, there was no need for Rodley to come.

### **Europe**

In March, the first Asia-Europe (ASEM) summit in Bangkok became the occasion for unscheduled bilateral talks between Portuguese Prime Minister Manuel de Oliveira Guterres and President Soeharto on East Timor, where Guterres offered partial diplomatic relations with Indonesia in exchange for the release of imprisoned East Timorese resistance leader Xanana Gusmao. Not only did Soeharto reject the offer, but efforts were underway in late 1996 to ensure that East Timor was kept entirely off the agenda of the 1997 summit.

The European Parliament, on June 20, adopted a resolution following the suppression of protests in Baucau, East Timor earlier in the month; the motion also called for a halt in all military assistance arms sales from the EU to Indonesia, for the release of all political prisoners, and for the dropping of charges against ousted parliamentarian Sri Bintang Pamungkas.

When European Commission Vice-President Manuel Marin met with Indonesian Foreign Minister Ali Alatas in Jakarta on July 26, he said that the EU and ASEAN were looking for ways to separate their trade and investment relationship from discussion of human rights issues, and suggested this might meet putting a freeze of any discussion of East Timor at an EU-ASEAN foreign ministers meeting scheduled for February 1997 in Singapore.

On September 19, the European Parliament met in plenary session and adopted a resolution on Indonesia condemning the violent seizure of PDI headquarters and calling for the release of peaceful activists. The resolution also urged that the U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions undertake an investigation into the deaths that occurred during the storming of the PDI office.

German Chancellor Helmut Kohl visited Indonesia from October 26-29, and while he raised East Timor and other human rights issues in passing, the main subject of the trip was trade. He was accompanied by three ministers and seventy business leaders, and the trip produced agreements on the setting up of several large German-Indonesian joint ventures.

### **United States**

In the U.S., concerns about East Timor caused some members of Congress to press for a broadening of the existing U.S. ban on small arms sales to Indonesia, but the Fiscal Year 1997 foreign operations appropriations bill adopted in September contained funding to continue an expanded International Military Education and Training (IMET) program, while continuing the existing restrictions on arms sales. In addition, prominent members of Congress in March protested the prosecution of Sri Bintang Pamungkas in a letter to Foreign Minister Alatas.

The ASEAN annual ministerial meetings took place in Jakarta from July 23-27. U.S. Secretary of State Christopher used the opportunity to meet with members of Komnas and said, in an unusually pointed barb at the Soeharto government, that the U.S. had a "deep interest" in encouraging "political pluralism" in Indonesia.

After the July riots, officials of the U.S. expressed concern both in Jakarta and in

Washington. In August, thirty-six members of the House of Representatives wrote to Foreign Minister Ali Alatas urging Jakarta to respect the rights of those arrested, to ensure restraint by the security forces, and to cooperate fully with KOMNAS in its investigations.

Members of the House and Senate also urged the administration to suspend the sale of F-16 advanced fighter planes to Indonesia as a way of signaling U.S. concern about the decline in human rights; by the time a Senate hearing took place in September, the administration had put the sale on hold out of deference to congressional opposition, while also stating its intention to proceed with the sale early in 1997. During a visit to Indonesia early in September, Assistant Secretary of State for East Asia and the Pacific Winston Lord failed to bring up the F-16 sale with Indonesian officials or suggest specific human rights improvements that would allow the sale to go forward. He did meet with NGOs and raised human rights concerns in his meetings with officials; he also briefly visited two detainees (Pakpahan and Budiman) in their detention cells, and in his public comments repeatedly gave the authorities credit for this gesture.

The U.S. Trade Representative (USTR) as of October had yet to issue a determination on whether to reinstate the formal review of Indonesia's Generalized System of Preferences (GSP) trade benefits on worker rights grounds. United States law conditions the program on progress in protecting labor rights in recipient countries. In September twenty-nine members of the House of Representatives wrote to USTR to urge reinstatement of the review, noting, in particular, the arrest of Mochtar Pakpahan and other labor activists. (The GSP program was newly funded by Congress in mid-1996, leaving the status of petitions filed in 1995 unaddressed; a petition on Indonesia calling for a review on worker rights grounds had been pending since August 1995).

### **Asia/Pacific**

The Australian government did its best to avoid any criticism of Indonesia's human rights record. In August, Australian Foreign Minister Alexander Downer issued a weak statement following the July 27 riot, expressing the hope that conditions would return to normal quickly. But when Australian Prime Minister John Howard visited Indonesia in September, he avoided bringing up human rights altogether, despite pressure from Australian NGOs and members of parliament. The newly appointed Australian ambassador to Jakarta, John McCarthy, due to be posted in January 1997, told journalists he would avoid embarrassing the government publicly on human rights, while acknowledging that Australia was concerned about East Timor, freedom of expression, and other issues.

Japan also downplayed human rights concerns following the July crackdown, although the government did quietly urge Jakarta to release those detained solely for their peaceful political activity. Tokyo took no steps to review its large development aid program to Indonesia despite clear evidence of human rights violations.

### **Donors and Investors**

At the World Bank-convened annual donors meeting in June, governments pledged \$5.3 billion in development assistance for Indonesia, an increase of 7 percent over 1995 levels at constant exchange rates. In 1996, the bank loaned over \$991 million to Jakarta and was the country's largest single donor. Some governments did

express concern regarding Indonesia's human rights record in general terms, but no conditions were imposed and the bank congratulated the government on its overall economic performance.

In Irian Jaya, Freeport-McMoRan's \$100-million political risk insurance contract with the U.S.-government-funded Overseas Private Investment Corporation, canceled in November 1995, was restored in April 1996 until the end of the year; the contract had been canceled on environmental grounds, though human rights concerns also were a factor. In September, the company itself abruptly canceled a separate \$50-million political risk insurance contract with the World Bank's Multilateral Investment Guarantee Agency (MIGA), shortly before an investigation team from MIGA was due to leave for Irian Jaya to examine human rights and environmental problems surrounding the mine.

## **JAPAN**

### **Human Rights Developments**

Japan continued to confront allegations of poor prison conditions and discrimination in the legal system against foreigners, including women trafficked into the country for prostitution, migrant workers and Chinese dissidents who entered Japan as students. Its handling of the issue of "comfort women" who provided sexual services to the Japanese military during World War II continued to be controversial. Prime Minister Ryutaro Hashimoto's government was generally cautious in raising human rights concerns in other countries, particularly when dealing with its Asian neighbors where Tokyo has major economic and political interests at stake. The exception was Burma, subject of increasing concern and activism by the Japanese government in response to deteriorating conditions there. In its Official Development Assistance (ODA) program, Japan emphasized "positive linkage," offering assistance to governments in transition. Beyond its bilateral relations, Japan took some significant steps forward in 1996 by deciding to support the international campaign to ban land mines worldwide, and by announcing during a visit to Tokyo by President Clinton a joint program with the U.S. to build civil society and strengthen judicial systems in "new democracies." On the other hand, Japan continued to play a disappointing role in the U.N. discussions about an International Criminal Court, supporting the court in principle but slowing down the process of moving towards a diplomatic conference.

Within Japan, human rights abuses continued to occur during pre-trial detention and in prisons. Detention and prison facilities were characterized by draconian rules, arbitrary punishments, the use of prolonged solitary confinement, and severe restrictions on contact with the outside world. A number of lawsuits challenging the mistreatment of prisoners were filed over the course of the year. Indeed, there were over one hundred lawsuits pending in the Japanese courts that involved assaults by prison guards, the painful and degrading use of physical restraints as punishment, and other such abuses. The Center for Prisoners' Rights, a Japanese organization that litigates on behalf of prisoners, believed that as an increasing number of such suits were being filed, judges were becoming more inclined to rule in favor of prisoners.



Foreign workers in Japan continued to face major problems with the Japanese legal system, often not being provided with adequate interpretation or being informed of their rights, including their right to counsel, upon arrest for immigration or other offenses.

Asylum-seekers faced major hurdles in Japan. In September, the Tokyo High Court rejected an appeal from a prominent Chinese dissident, Zhao Nan, for political asylum. His initial application was turned down by the Ministry of Justice in 1991, on the narrow technical grounds that he had not filed his original appeal for refugee status within sixty days of his arrival in Japan in 1989. The High Court upheld that ruling. Zhao Nan had been imprisoned in China for two years from 1982 for his pro-democracy activities and continued his advocacy while in Japan. Since the 1989 massacre in China, no Chinese dissident has been recognized as a political refugee by the Japanese government, although at least forty-eight dissidents have obtained a special visa, renewable every six months, allowing them to remain in Japan. Zhao planned to appeal the ruling to the Supreme Court.

The treatment of some 200,000 so-called "comfort women" from China, Korea and the Philippines, forced by the Japanese army to serve as sex slaves during World War II, continued to receive international attention in 1996. U.N. Special Rapporteur on Violence against Women Radhika Coomaraswamy filed her report at the U.N. Human Rights Commission in April and urged the Japanese government to identify and punish those responsible for the use of sex slaves, to pay compensation to the victims, and to issue a public apology to the individual women in writing. Japanese officials questioned the accuracy of the report and lobbied unsuccessfully against its adoption by the commission. A voluntary fund established by the government began paying US\$18,500 each to former sex slaves, which some NGOs and rights advocates welcomed and others criticized as insufficient either to fulfill the women's needs or to discharge the Japan's government's legal and moral responsibility.

The Foreign Ministry's annual report on ODA for 1995 (published in February 1996) noted that Japan was once again the largest bilateral aid donor worldwide, providing \$14.5 billion in 1995. Among the top ten ODA recipients were major human rights abusers, including the governments of China (more than \$1.4 billion) and Indonesia (\$880 million), as well as India (\$886 million) and Pakistan (\$271 million). In describing implementation of the ODA Charter's provision calling for consideration of human rights conditions in giving aid, the Foreign Ministry emphasized Japan's efforts to assist newly emerging democracies or market economies in Mongolia, Cambodia, Vietnam, and countries in Africa and Central America. It also cited some examples of "negative linkage," where ODA was suspended due to human rights violations, including Nigeria and Gambia in 1994. In other cases, instead of cutting off aid, Japan "urged recipient countries to improve" human rights, such as Thailand and Peru; or it took steps to reduce balance-of-payments support assistance, as with Kenya and Malawi.

In Burma, Japan had suspended in principle most of its ODA in 1988 but following the release of Aung San Suu Kyi in 1995 had moved to restore some limited grants assistance, such as \$15.1 million for a nursing school, on "humanitarian grounds" and was preparing to restart major infrastructure projects.

Developments in 1996, however, pushed Tokyo to put any new ODA on hold and to take a tougher posture in response to the crackdown in Rangoon. Aung San Suu Kyi, in repeated interviews with the Japanese press, urged Japan to withhold aid and investment. Japan's ambassador in Rangoon, Yoichi Yamaguchi, met with her on several occasions and tried to play an intermediary role to help stimulate talks between her party, the National League for Democracy (NLD), and the government.

When the Burmese government rounded up NLD members in May, Prime Minister Hashimoto quickly condemned the arrests saying they "run counter to democratization" and publicly called on SLORC to hold a dialogue with the NLD. Japan's foreign minister, Yukihiko Ikeda, issued a strongly worded protest to his Burmese counterpart, who was visiting Tokyo at the time, calling the arrests illegal and "unacceptable to Japan." He also indicated privately that the increased repression would have a negative effect on Japanese investment in Burma. This message was followed up in July, at the ASEAN ministerial conference in Jakarta, where Ikeda again met with Burmese Foreign Minister Ohn Gyaw and protested a new law enacted by Rangoon banning public gatherings. At the same time, however, Japan actively supported Burma's bid to become a member of ASEAN.

Members of the Japanese Diet (parliament) urged Tokyo to go even further; a multiparty caucus called the "Diet Members' League for the Support of Myanmar's Democratization" issued a statement condemning the May arrests and urging Japan to "stop all cooperation" with Burma until those detained were released and the government began a dialogue with the opposition.

Reports in the Japanese press in June that Aung San Suu Kyi's arrest might be imminent provoked a warning from Tokyo that stronger action would be taken if she were detained, and the Foreign Ministry discussed possible contingencies for reacting to any further deterioration in conditions when two U.S. official envoys visited Tokyo to discuss Burma policy.

In contrast with its policy towards Burma, Japan reacted far less firmly to a major crackdown in Indonesia that began in July. While the government quietly urged Jakarta to release members of nongovernmental organizations and others detained solely for their peaceful political activity, it refused to condemn the violent arrests of those who occupied PDI (Democratic Party of Indonesia) headquarters, or the Indonesian government's use of the anti-subversion law. Tokyo took no steps to review its large ODA program to Indonesia. Foreign Minister Ikeda met with President Soeharto at the time of the ASEAN ministerial conference in July (prior to the crackdown); he raised the issue of human rights in East Timor during discussions with the Indonesian Foreign Minister Alatas.

Japan continued to downplay human rights in its relations with China, focusing instead on nuclear testing and regional security issues. Prime Minister Hashimoto met Premier Li Peng in Bangkok in March at the ASEAN summit meeting and urged China to support the Comprehensive Test Ban Treaty; he also pledged Japan's support for China's early entry into the World Trade Organization. The Chinese Foreign Minister visited Tokyo in March, but discussions were focused mainly on Taiwan. Early in 1996, the Japanese Foreign Ministry indicated it was considering putting a cap on ODA to Beijing in fiscal year 1996 due to China's nuclear testing program. But it continued to

ignore the ODA Charter's human rights provisions in its relations with China. Amid tensions over Taiwan and the Diaoyu islands, the Japanese government was even more reluctant to raise human rights concerns with China except in the most general way. The Japanese government did, however, cosponsor the resolution on China at the U.N. Human Rights Commission in April, despite strong protests from Beijing, and it privately urged China to uphold its international commitments on Hong Kong during and following the transition to Chinese rule in 1997. Foreign Minister Ikeda noted this during a visit to Hong Kong in August following his meeting with Hong Kong Chief Secretary Anson Chan.

In Indochina, Japan stepped up its support of the governments of Vietnam and Cambodia. Foreign Minister Ikeda visited Vietnam in late July and signed aid agreements worth \$3.6 million and offered economic and cultural aid worth \$32.4 million over the next three years, primarily for bridge-building. In meetings with senior Vietnamese officials, he urged continued economic reforms and offered Japan's support in building up the legal system; otherwise, human rights were not explicitly on the agenda. On Cambodia, Japan cochaired with the World Bank an international donors' meeting in Tokyo on July 11-12 and arranged a separate meeting with the two Cambodian prime ministers and donor representatives to discuss the domestic political situation and plans for elections in 1997 and 1998. The Japanese ambassador to Phnom Penh underlined the need to prepare carefully for the elections in order to sustain donor support, but did not raise specific human rights concerns. Japan announced it would give \$2.5 million for removal of land mines in Cambodia in 1996 and 1997.

In South Asia, human rights concerns were largely overshadowed by Japanese efforts to promote regional stability and denuclearization. Pakistan's prime minister, Benazir Bhutto, visited Tokyo in January and was urged to begin a dialogue with India on Kashmir. An ODA mission visited India in July, and though Japanese officials routinely discussed Kashmir as a source of tension and potential instability, they refrained from discussing human rights except by referring to the ODA Charter. In advance of an international India donors' meeting in Tokyo on September 16-18, cohosted with the World Bank, the Foreign Ministry ordered the Japanese embassy in New Delhi to investigate the use of bonded child labor.

In July, the Foreign Ministry cosponsored with U.N. University in Tokyo its second annual symposium on Human Rights in the Asia-Pacific Region. Though the seminar broke no new ground, it provided a useful forum to debate the pros and cons of establishing a regional human rights mechanism, and highlighted the positive role of NGOs throughout Asia.

The government announced in June, at the G-7 summit meeting in France, its plans to join the global campaign to ban land mines. Tokyo said it would hold an international conference in 1997 to support U.N. land mine clearance, as well as assistance for land mine victims, and that it would cosponsor at the U.N. General Assembly a resolution promoting a total ban on land mines. On the other hand, Japan planned to continue to produce and use self-destructing and self-deactivating land mines until the enactment of an international treaty

banning all antipersonnel land mines.

At the August session of the Preparatory Committee on an International Criminal Court in New York, Japan again argued for a lengthy negotiation process on the grounds that major legal issues had not yet been resolved. That position reflected Japan's lack of enthusiasm more generally about the whole concept of the ICC.

### **The Right to Monitor**

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

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

The president of the European Commission, Jacques Santer, visited Tokyo in October 1996, but in his meetings with the prime minister, business leaders and others, he focused mainly on economic and trade relations, following up on the E.U.-ASEAN summit in Bangkok in March. He made only general references to the common interests of the E.U. and Japan in promoting "the rule of law, human rights, market principles (and) free trade," and called for greater coordination in development policies, especially in Africa.

The Clinton administration made some progress in 1996 to increase cooperation with Japan on human rights. The Administration sent two envoys to Asia in June to discuss policy towards Burma, and the discussions in Tokyo were considered productive by both sides. The U.S.- Japan Global Partnership Agenda, which had omitted human rights at Tokyo's urging, was updated during President Clinton's visit to Japan in April. A new component was added, aimed at encouraging the development of civil society in "democracies" by providing assistance with election preparation and monitoring and strengthening judicial systems. A working group meeting was projected for El Salvador to develop a pilot program with the Salvadoran government.

In preparation for the G-7 summit in France, Japan had agreed to the inclusion of human rights language on China, Hong Kong and Burma in the final communiqué, though this was later dropped. Informal contact and consultation took place during the year on other issues, including the resolution on human rights in China introduced at the United Nations Human Rights Commission in Geneva.

## **REPUBLIC OF KOREA**

### **Human Rights Developments**

Three significant concerns in 1996 were symbolic of the ways in which the Republic of Korea undermined international human rights standards even as it played a largely positive role in defending those standards in international fora. Those concerns were the trials of two former presidents, the massive arrests and indictments of students participating in a banned unification rally, and the government's failure to change repressive labor laws.

The trials of former presidents Chun Doo-hwan and Roh Tae-woo on mutiny, treason and corruption charges provided the most spectacular example in Asia of the tension between the need for accountability for past human rights abuses and the importance of upholding international norms. Chun was sentenced to death in August in connection with his 1979 *coup d'état* and the 1980 Kwangju massacre in which hundreds of people were killed; Roh was sentenced to a twenty-two-and-a-half-year-term on similar charges.

While the verdicts were an extraordinary demonstration of how far Korea has come in its transition from the dictatorship of Chun to the democratizing government of Kim Young Sam, they also raised troubling questions about the use of the death penalty, the independence of the judiciary, and fair trial procedures. The court refused to accept the majority of defense witnesses. Some observers also charged that prosecutors appeared to be carrying out politically motivated orders from President Kim. Until October 1995 he had avoided advocating trials, maintaining that the cases of the ex-presidents should be evaluated by history. When he publicly announced he had changed his position, the prosecutors, who had already closed their investigations and declined to indict, immediately reopened the cases and proceeded quickly to indictments. An argument about the applicability of the statute of limitations which had been going on for several years was immediately resolved by passage of a new law in favor of the prosecution. Appeals of the two presidents were pending at the end of the year.

In late July as it has done every year, the Korean government banned the Pan-National Rally for Reunification, a student event organized under the auspices of Hanchongryon, the Korean Federation of University Student Councils, which campaigns for a confederation model of reunification with North Korea and the rapid withdrawal of U.S. forces. For nine days in August, some 26,000 police and other security forces mounted a violent offensive against the 7,000 students gathered at Yonsei University, many of whom used violence in return. Police detained 5,848 students and indicted 438 of them on September 17, thirty-eight under the National Security Law and the rest under the Act on Assembly and Demonstrations and the Law Against Violence. Another twenty-seven were kept in detention, and the rest were released. Of those indicted, fifty-one had been sentenced by late October to prison terms ranging from eight months to three years. Korean human rights organizations reported that the police used beatings to demand false confessions from students in custody stating explicitly that they had instigated and engaged in violence.

While violence on the part of the students and excessive use of force on the part of security forces are to be condemned, President Kim Young-sam also bears responsibility for outlawing what could have been a peaceful demonstration, labeling it a "violent revolutionary pro-North Korean guerrilla operation" and insisting that student protests were no longer necessary now that he was president. Korean authorities, in an attempt to justify the violence, labeled Hanchongryon an anti-state organization and announced their intention to ban it, although a ban requires court action. As of November, that action was still pending.

On August 28, police carried out search and seizure procedures at student government offices at twenty-three universities. Immediately after the police search, Korea University officials closed the campus Hanchongnyon office. On August 30, Seoul police closed Hanchongryon's internal communications network on the grounds that it had been used in support of North Korea. At the same time, the government made a decision to investigate the organization's home page on the World Wide Web. On September 2, Yonsei University authorities seized the facilities of the student newspaper, claiming it was prejudiced in favor of North Korea. A few days later, the government announced that all student newspapers would be investigated. Editors and

writers at newspapers which praised North Korea would be prosecuted under the National Security Law. In addition, the Agency for National Security Planning and the police intensified their efforts to track down persons posting Internet messages “beneficial to North Korea.”

The National Security Law itself remained a major human rights problem. In its response to Korea’s 1992 report on fulfillment of its obligations under the International Covenant on Civil and Political Rights (ICCPR), the U.N. Human Rights Committee called the NSL “a major obstacle to the full realization” of the rights enshrined in the ICCPR. Article 7, section 1 of the law permits prison terms of up to seven years for anyone who “with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, or encouraged, or propagandized for, or sided with the activities of an antistate organization.” Other sections criminalize forming or joining such an organization and importing or disseminating materials in support of such organizations. Its repeal continues to be a major objective for Korean human rights and labor organizations.

In addition to those indicted under NSL provisions for participation in the student demonstrations, 264 people were arrested between January 1 and September 5 for NSL offenses. Almost fifty arrests were in connection with reopened investigations into organizations shut down in 1991-92.

On July 10, Yi Eun-soon, vice-president of the Women’s Student Association at Kyoungsan University was arrested for producing T-shirts which included the name of a North Korean university. Police arrested Kim Jae-woo, chair of the Honam University Reunification Committee, on July 15 for allegedly showing a video to farmers about visits to North Korea. Although plans to show the video had been made, the event was canceled. Jang Dae-up was indicted in late June or early July for inserting a phrase from the Communist Manifesto into the student planner produced by the Sogang University Association. On August 28, Kwon Taek-hun chair of the Yongnam Student Council received a two-year sentence for distributing literature at a student meeting and leading a student demonstration in April. On February 3, Lee Eun-jin, a singer and Won Yong-ho, a publisher, were arrested for praising North Korea by disseminating a pro-North Korean songbook entitled *Song of Hope*. Dozens of other such arrests, in violation of the right to freedom of expression, took place during the year.

Labor rights also continued to be a major issue. Efforts to secure labor rights improvements as a condition for Korea’s membership into the Organization for Economic Cooperation and Development (OECD), the exclusive twenty-seven-member club of developed nations failed when Korea was invited to become a member in October, but in a precedent-setting development, a committee was created to monitor Korea’s labor practices on a systematic basis. Four major laws denying free expression and association and the right to collectively bargain through representative unions remained on the books in Korea: a ban on “multiple” unions which legitimizes company- and government-sponsored and “ghost” unions formed during the period of military rule; prohibition of third-party intervention in labor disputes by federations not recognized by the government; restrictions on the right to organize by teachers, many of whom work in the private sector; and mandated compulsory arbitration for “public interest workers,”

including those working in transport, utilities, public health, banking, broadcasting, communications and the post office.

In response to a complaint filed by the Korean Confederation of Trade Unions in January 1996, the Committee on Freedom of Association of the International Labour Organization (ILO) recommended that the government drop charges against the first president of KCTU, Kwon Young-kil, who had been arrested in late 1995 for giving a solidarity speech to the Seoul Subway Workers Union a year and a half earlier. The committee also called for repeal of the bans on third-party intervention (organizing activities by non-union personnel), union fund-raising appeals, unimpeded union formation and the free election of union representatives.

### **The Right to Monitor**

The government has placed no direct restrictions on the monitoring and dissemination of information about human rights violations but both the National Security Law and the ban on third-party intervention in labor disputes have been used to restrict human rights activities.

On October 2, the forty-eight-year-old monk Chin-kwan, co-chair of the Buddhist Committee for Human Rights, was detained on suspicion of violating the NSL for using telephone and fax to exchange information on dissident organizations' activities with Pak Tae-ho, chair of the Cho-sun Buddhist Alliance in North Korea. He also allegedly met three North Koreans at a hotel in Beijing in September 1995 and received from them \$4,000 in travel expenses; and he allegedly traveled to Canada where he handed over materials about dissident organizations to a pro-North Korean overseas representative of the Pan-National Alliance for the Unification of the Fatherland. Chin-kwan is a prominent labor rights activist in KOHRNET, an alliance of Korean human rights organizations.

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

The twenty-seven members of the OECD decided in October to admit Korea but required that Korea's labor rights practices be monitored on a regular basis. The decision had been delayed in part because of concerns over labor legislation and violations of worker rights.

Members of the European Union were particularly active in holding Korea to international standards. When a delegation of parliamentarians from Korea visited Brussels in October, Sir Leon Brittan, European Commission vice-president for external relations, said the E.U. favored Korea's membership in OECD but also noted that reforms in the labor laws would remain on the OECD's agenda even after Korea was admitted.

Given its "special relationship" with South Korea and its preoccupation with trade, security and North/South tensions, the U.S. was notably reluctant to press Korea publicly on human rights concerns, though the issue was raised privately by State Department officials. While supporting Korea's OECD membership, the U.S. also urged Korea to reform its labor laws, including during Secretary of Commerce Mickey Kantor's visit to Seoul in June.

## **MALAYSIA**

## Human Rights Developments

Malaysia's harassment of nongovernmental organizations and its violations of freedom of expression were issues of concern during the year, and the arrest and trial of human rights activist Irene Fernandez, director of a women's and migrants' rights organization in Kuala Lumpur called Tenaganita, exemplified both.

On March 18, Fernandez, aged fifty, was arrested at her home and charged with "false reporting" under Section 8A(1) of the Printing Presses and Publications Act of 1984 in connection with a brief report Tenaganita had issued in July 1995 on the treatment of migrant workers in Malaysia's immigration detention centers. She was released on bail and was at liberty throughout the court proceedings.

The Tenaganita report, quoted widely in the national and international press, contained allegations of torture, mistreatment and deaths of migrant workers in the period 1994 to 1995 and focused in particular on a major detention camp outside Kuala Lumpur in the town of Semenyih. The report was denounced by the Home Ministry as defamatory, and when Fernandez's trial opened on June 10 in a Kuala Lumpur magistrate's court, the prosecution cited sixteen statements it said were false. Unlike the Malaysian penal code, the Printing Presses and Publications Act places the burden of proof on the accused in defamation cases and assumes malice unless the accused can show that he or she took steps to verify the news. The charge carries a maximum penalty of three years in prison.

The trial, still going on at the end of the year and expected to continue through early 1997, became a *cause célèbre* among Asian NGOs and international advocacy groups working on behalf of migrants and women. NGOs were concerned that the charges diverted attention from the real problems of custodial abuse of immigrants and from state responsibility to investigate and prosecute those abuses. If there were errors in the report as the government alleged, the government could have provided a detailed refutation and given Tenaganita a chance to respond publicly or privately. Human rights activists were concerned that if NGOs were to be tried on criminal charges for errors in their publications and their daily activities disrupted as a result, freedom of expression and association both would be severely jeopardized.

The trial also led to questioning of Tenaganita's legal registration under the Companies Act, rather than the Societies Act. The latter has more onerous registration procedures and allows wider liability of personnel; as a result, many NGOs had elected to register under the former, but the government's investigation of Tenaganita suggested that more intense state scrutiny of NGO registration would be forthcoming.

The "false reporting" section of the Printing Presses and Publications Act, together with the Sedition Act, were used against opposition parliamentarian Lim Guan Eng from Malacca in a trial that opened in January and that many observers saw as an assault on free speech. In a lecture in January 1995, Lim had charged that a former Malacca chief minister, who also happened to be a powerful member of the ruling UMNO party, had raped a fifteen-year-old girl and that the girl had been detained for three years in a welfare home while the minister went free. The prosecution charged that his accusation constituted sedition because it instilled hatred and "aroused sentiments against the administration of justice in the country." The charge of "false reporting" was based on a pamphlet Lim had published with the title "Victim



Jailed.”

Lim’s trial was adjourned shortly after it opened to await a federal court ruling on a landmark burden of proof case. The ruling, which came on July 26 and was welcomed by civil liberties groups in the country, established that the prosecution must prove its charge beyond a reasonable doubt before the defense is presented. It was not clear when Lim’s trial would resume.

In the government’s efforts to avoid communal conflict, basic civil liberties sometimes suffered. By the end of the year, at least eighteen members of the banned Al-Arqam sect had been arrested under the Internal Security Act (ISA), and at least nine had been served with two-year detention orders. The ISA, which the government placed under review during the year, provides for indefinitely renewable two-year detention periods without trial for people considered a danger to state security. All eighteen detainees were accused of trying to revive the sect banned in 1994. The Malaysian government had accused it of “exclusivist” and “deviationist” teachings; press reports suggested that the ruling UMNO party was concerned about the extent of its business holdings.

The government closed the last transit camps for Vietnamese boat people at the end of June with the forced repatriation by ship of hundreds of asylum-seekers from the Sungai Besi camp outside Kuala Lumpur. A riot broke out in which Vietnamese reluctant to return clashed with Malaysian security forces. Many of the Vietnamese employed violence, mostly throwing stones and molotov cocktails and also, in a few cases, firing homemade bows and arrows. However, the security forces responded with excessive force, firing on the Vietnamese, killing one man and injuring others.

### **The Right to Monitor**

Malaysian human rights groups faced harassment and intimidation as noted above but were legally free to operate. The consequences for NGOs of the Irene Fernandez prosecution and trial were not clear at the end of year.

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

The Fernandez trial attracted international attention particularly from countries whose nationals work as migrants in Malaysia: Bangladesh, Indonesia, and the Philippines in particular. Observers from the first two countries attended sessions of the trial, as did a diplomatic representative from the U.S. embassy. In addition, when the government confiscated Irene Fernandez’s passport in March to prevent her from traveling to Geneva for the U.N. Commission on Human Rights meeting, the U.S. made appeals on her behalf. Members of the U.S. Congress also protested her arrest and trial; in March, the Congressional Human Rights Caucus wrote a letter to Prime Minister Mahathir urging that all charges against her be dropped.

Malaysia appeared to take the lead within ASEAN on granting membership to Burma despite the latter’s appalling human rights record.

## **PAKISTAN**

### **Human Rights Developments**

In the most significant human rights development in Pakistan during the year, the decade-old political and security crisis crippling Karachi entered a new phase as the

government adopted a markedly more hardline stance towards the Immigrants National Movement (Mohajir Qaumi Movement, MQM), a political party representing Urdu speakers, about 60 percent of the population of Karachi. Both sides were responsible for severe human rights abuses: the government responded to the MQM's consistent use of violence and intimidation by labeling the party "terrorist" and indiscriminately targeting its constituency.

Following mid-1995 when violence in Karachi reached record levels and security personnel were systematically attacked, the government initiated its latest and most brutal offensive against the MQM, which continued through 1996. Law enforcement agencies routinely used illegal and excessive force against suspected MQM militants with complete impunity. Although the offensive restored a measure of calm to Karachi city after years of spiraling violence—the death toll for the first half of the year was 300 people compared to more than 2,000 killings during 1995—the country's internal security apparatus was severely discredited in the process.

As part of a tightly coordinated effort with a streamlined chain of command headed by Home Minister Naseerullah Babar, the police, backed by paramilitary Rangers with sweeping powers of search and arrest, conducted systematic pre-dawn cordon-and-search operations in pro-MQM localities, indiscriminately rounding up all able-bodied males and parading them before informants for purposes of identification. Between July 1995 and March 1996 an estimated 75,000 Urdu speakers were reportedly rounded up in this way; towards the end of the year, hundreds remained in jail awaiting trial.

Several key MQM militants were the victims of extrajudicial executions, either during targeted police raids; or in custody, allegedly after being tortured or severely beaten; or in staged "encounters," often during transit between prisons. Police rationalized the illegal killings on the grounds that witnesses' reluctance to testify against militants in open court made it nearly impossible to secure convictions. Notorious MQM operative Naeem Sharri, accused of scores of murders, was among those summarily executed on March 11, in Karachi, without any court proceeding. His case sparked intense controversy, as strong evidence emerged to refute the police claim that Sharri had been killed in self-defense.

Between mid-1995 and mid-1996 at least 150 alleged militants were killed and 800 suspects arrested. The deputy inspector general of police (DIG) for Karachi, Shoaib Suddle, in March 1996 acknowledged the security forces' abusive conduct, although he rejected accusations that they routinely overstepped their authority. He told *The Guardian* of London, "[T]here have been a couple of cases where we also feel excessive fire power was used." To Human Rights Watch's knowledge no security personnel were prosecuted for illegal actions. Police authorities made no effort to ensure that proper post-mortems were conducted on the bodies of those killed in custody or in "encounters."

A surge in incidents of sectarian violence took place during the year, mostly tit-for-tat attacks by extremist Sunni and Shi'a groups in the Punjab and the North West Frontier Province (NWFP), that caused scores of casualties. Although some incidents were extremely serious, such as heavy fighting in mid-September in the NWFP town of Parachinar that left over a hundred civilians dead, the government failed to make a

consistent or concerted effort to bring the perpetrators of religiously motivated violence to justice.

Government agents were involved in intimidation of the press during the year. Shaikh Aziz, a senior journalist working at the daily *Dawn* and Aftab Syed, the news editor of *The News*, were picked up and interrogated by intelligence agents in Karachi in June and September respectively. On July 5, district police warned journalists in Dadu, Sindh province, against reporting on alleged government harassment of a local opposition leader of national stature. Karachi police, on September 20, severely beat up several reporters and photographers and smashed their cameras. The journalists were covering the death of Murtaza Bhutto—brother of the prime minister and head of a breakaway faction of the ruling Pakistan People's Party—which had occurred during an "encounter" with the police earlier that night. On October 20, in the town of Khuzdar in Balochistan province, the general secretary of the Khuzdar journalists' union, Hyder Baloch, was illegally confined for thirty-six hours by the local supervisor of the irrigation department for critical reporting. Gas, electricity and the water supply to Baloch's house were cut off, and his family members were harassed.

The press was given a boost, however, when the Lahore High Court dismissed a defamation action brought by Prime Minister Bhutto against a leading daily newspaper, *The News*, for reporting that Bhutto had requested the extradition of MQM chief Altaf Husain during a meeting with the U.K. Foreign Secretary Douglas Hurd. The court held that those holding public office must be open to criticism by a free press, which played an important role in exposing political corruption.

The status of women in Pakistan remained tenuous, with legal setbacks offsetting positive developments. On March 12, in a long-overdue step, President Leghari ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAR). However, like some other signatories to CEDAR, Pakistan's ratification included a debilitating reservation to the effect that treaty provisions in conflict with the national constitution would not be implemented. On June 10, the federal cabinet approved a draft bill to abolish the death penalty for women in all cases except for *haded* (mandatory Islamic punishment) and *caisse* (retribution) crimes. While these steps were welcome, human rights would have been better served by abolishing the death penalty for everyone without exception and regardless of offense.

In a judgment that represented a stunning setback for women's rights in Pakistan, the Lahore High Court ruled on September 24 that an adult Muslim woman, even a widow or divorcée, cannot enter into marriage without the consent of her (male) guardian. Without consent she, as well as her chosen spouse, risks imprisonment on charges of fornication, which carries a maximum punishment of death by stoning if the convict is *muhsan* (a sane, adult Muslim who has previously had lawful sexual intercourse) or one hundred lashes if the convict is not *muhsan*. The judgment had immediate implications for hundreds of women currently under arrest in connection with their marriages, usually on account of charges filed by their families for marrying without their consent. The court's decision denied women the constitutional guarantee of equal protection of the law and contradicted the principle of equality of the sexes enshrined in CEDAR.

At the end of the year, women's groups were hoping that a similar case—that of

Saima Waheed—pending before a full bench of the same court would overturn the precedent, which had been decided by a single judge. Waheed, aged twenty-two, was fighting a case brought by her father to have her marriage judicially annulled because he did not consent to it. Meanwhile her husband and his family suffered reprisals: Waheed's husband was imprisoned in May 1996, for allegedly having had the marriage contract registered on a false basis, and was denied bail although charged with a bailable offense. After some of her husband's relatives were beaten up by thugs, the family went into hiding. Religious zealots attempted to pressure the presiding court by issuing threats of violence, attempting to bring arms into the courtroom, and launching a smear campaign against Waheed and her counsel. Because of such harassment, there was reason to believe that the lives of Waheed, her husband, her husband's family, and her counsel were in danger.

The institution of *karo kari* (black deed) or instant killings of suspected adulterers remained unchecked in rural parts of Balochistan, Punjab, and especially Sindh province. There were allegedly two such killings a day in the borderlands between Sindh and Balochistan, and in Sindh proper 246 *karo kari* murders were reported over a fifteen-month period ending in March 1996; in 148 of the cases, the victims were women. According to tribal custom, any man who suspects a female relative of sexual relations with a man to whom she is not married is obligated to kill both individuals immediately to preserve his family's honor. The police as a rule refrained from intervening or seeking to prosecute the perpetrators. In any event, convicted *karo kari* murderers rarely serve more than two years in prison.

Religious minorities in Pakistan continued to face discriminatory laws, such as those against blasphemy, which are used disproportionately against non-Muslim minorities and against the Ahmadi minority. The government, however, did address an issue which has served to marginalize minority constituencies in the political process. In February, the Bhutto government proposed, as part of an electoral reform package, the abolition of the separate electorate laws enacted by former President Zia ul-Haq in the 1980s, under which non-Muslims could vote only for candidates of their own communities standing for reserved parliamentary seats. The proposed law would give non-Muslims the right to cast votes for the general parliamentary seats as well as the reserved seats. Pakistan's main opposition party and the religious right objected to the proposed reforms, which have yet to be enacted into law.

In a far-reaching decision handed down on March 20, the Supreme Court of Pakistan put an end to the government's practice of appointing temporary or acting judges against permanent vacancies in the superior judiciary and delaying their confirmations for political purposes. The judgment also prohibited the government from transferring judges at will. The ruling was generally hailed as furthering judicial autonomy by giving judges security of tenure.

In view of mounting international criticism and threats of trade sanctions for its labor practices, Pakistan stepped up implementation of its child labor laws relative to previous years. Enforcement mechanisms were potentially strengthened through reforms that made the Ministry of Labor directly responsible for overseeing enforcement in conjunction with district-level vigilance committees. As one initial step, the Labor Ministry and the International Labor Organization launched a study to estimate the number of children in the workforce. In June the ministry reported that between January 1995 and March 1996 provincial labor departments

conducted 7,003 raids on businesses suspected of employing child labor. Authorities prosecuted more than 2,500 employers, of which 395 were convicted and fined. Reflecting international demands, the labor minister asked the commerce ministry to institute a special marking scheme for carpets and footballs to certify that no child labor had been used in production. Human Rights Watch was particularly concerned about the use of bonded labor, including bonded child labor. It remained to be seen whether these efforts would have any significant effect on improving labor practices. There was no evidence of government resolve to tackle the problem of bonded labor in the agricultural sector.

November began on a dramatic note with a change in Pakistan's political leadership. On November 5 President Farooq Leghari dissolved the National Assembly and dismissed Prime Minister Benazir Bhutto's government, in a move he said was mandated by unchecked corruption, political violence and financial mismanagement. He appointed a "caretaker" government to serve for at least three months until constitutionally mandated elections could be held. The president cited systematic human rights violations, specifically the extrajudicial killings in Karachi (see above), as one of the reasons for dismissing the former government.

### **The Right to Monitor**

Human rights lawyers in Pakistan faced threats of violence more from religious activists than from the government. Asma Jehangir, attorney for Saima Waheed in the case mentioned above, received death threats from those who backed her client's father's claim that a woman cannot marry without the consent of her guardian. A case involving a boy who reverted to Christianity after converting to Islam had to be adjourned because of the danger to the boy's attorney from religious extremists, who said the boy's reversion constituted apostasy.

In general, human rights organizations were free to criticize the government. On February 26 more than 2,000 lawyers staged a two-hour strike in Karachi to protest the conduct of law enforcement personnel in the anti-MQM offensive. A number of lawyers' professional associations deplored the blatant violations of law that characterized the government crackdown.

A bill allowing for greater government control of nongovernmental and "social welfare agencies" (NGOs) was pending before parliament at the end of the year. Under the bill all NGOs would be required to get their mandates or "constitutions" approved by a government Registration Authority. The authority would have the power to "dissolve" any NGO that it found to be "acting in contravention of its constitution." NGOs were concerned that the bill would enable the government to restrict their freedom of association and limit the scope of their operations.

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

Pakistan, along with Bangladesh, Bhutan, India, Maldives, Nepal, and Sri Lanka, signed a resolution to eliminate child labor adopted by a ministerial conference of the South Asian Association of Regional Cooperation (SAARC) held in Rawalpindi in August. The resolution called for an end to all forms of child labor by the year 2010 and of child labor in hazardous occupations by the turn of the century. It also espoused a commitment to move towards universal access to primary education by the year 2000. South Asian countries, including Pakistan, have come under international criticism and faced threats of trade sanctions over the use of child and bonded labor in industries and agriculture. In July, the U.S. House of Representatives unanimously passed an amendment to the appropriations bill to fund inspections of plants suspected of employing child labor in India and Pakistan. Under the European

Commission's legislation guiding the Generalized System of Preferences (GSP) trade program, the International Confederation of Free Trade Unions and the European Trade Union Committee brought a complaint against the government of Pakistan for the continued use of bonded labor in the country. The GSP program is designed to give developing countries preferential trade tariffs. By November the European Commission had still not decided whether to accept the complaint and launch an investigation.

U.N. Special Rapporteur on Torture Nigel Rodley visited Pakistan in February and March. His report, published in October, stated that "torture, including rape and similar cruel, inhuman or degrading treatment [were] rife in Pakistan."

In January, the U.N. Special Rapporteur on Religious Intolerance, Abdelfattah Amor, criticized legal restrictions on freedom of thought and worship in Pakistan. He decried the imposition of the death sentence for blasphemy as "disproportionate and even unacceptable." Amor also criticized Pakistan's *haded* ordinances, which prescribe harsh punishments based on Islamic law for crimes such as adultery and alcohol consumption, and he requested that they not be applied against non-Muslims. He urged the removal of religious identifications from Pakistan passports.

The U.S. assistant secretary of state for South Asian affairs echoed Amor's comments at a U.S. Senate hearing on Pakistan's blasphemy laws in March. Also in March, the U.S. Trade Representative announced that Pakistan's preferential trade benefits under the Generalized System of Preferences (GSP) program would be suspended in three categories of goods (surgical instruments, sporting goods, and certain carpets) due to the insufficient steps taken by Pakistan to address the problem of child and bonded child labor.

In July, the Europe Council of Foreign Ministers authorized the European Commission to negotiate a new cooperation agreement with Pakistan, which would encompass significant provisions for the promotion of human development. Non-preferential and without a financial protocol, the proposed agreement would also include a clause on human rights, in principle allowing suspension of cooperation in cases of serious infringement.

## **SRI LANKA**

### **Human Rights Developments**

In December 1995, the Sri Lankan army captured the city of Jaffna, stronghold of the guerrilla group the Liberation Tigers of Tamil Eelam (LTTE, or Tamil Tigers). But by late 1996, it was clear that the war was far from over, and the human rights situation throughout the country remained grave. The LTTE continued to launch attacks on security personnel and civilian "collaborators" on the Jaffna peninsula, and after an initial period of restraint, soldiers retaliated in kind. In the northeast and in other parts of the country, both sides committed serious violations of human rights including extrajudicial killings, arbitrary arrests and detentions, torture and "disappearances," aided by emergency legislation applied nationwide as of April. Civilians were also killed by indiscriminate shelling and aerial bombardment. Nationwide, stringent government curbs on basic freedoms in the name of security narrowed significantly the space for civil society, and despite continued government efforts to account for past abuses by state forces, impunity remained a serious concern.

The year also saw a rise in political violence in southern Sri Lanka between supporters of the ruling People's Alliance (PA) party led by Prime Minister Chandrika Kumaratunge and its chief opposition, the United National Party (UNP). That violence had killed fifteen people by the end of September. Unprecedented labor unrest in crucial industries and services, including rubber, tea and coconut plantations, and the Ceylon Electrical Board, led to paralyzing strikes in the middle of the year. On May 31, the government resorted to emergency legislation to end the electrical strike, ordering arrests and threatening dismissals and confiscation of property. Human rights organizations protested the application of emergency regulations in non-security-related areas and noted that these laws were used by previous governments to dismantle trade unions.

Throughout 1996, the government maintained that a political settlement of the war was its goal but that LTTE violence made war necessary. A plan to devolve power to provinces defined partially along ethnic lines was central to peace proposals, but by November, no political consensus on this proposal had been reached in Colombo. The plan met with strongest resistance from extreme Sinhalese and Buddhist groups, but other parties also disagreed on key points.

Deliberate arbitrary killings of civilians escalated sharply in 1996. Bomb attacks attributed to the LTTE on Colombo's Central Bank building on January 31, and on a crowded commuter train in July, claimed a combined total of at least 160 civilian lives and injured some 1,550 people. The LTTE continued to conduct public executions of suspected informers and engaged in massacres and retaliatory killings of Sinhalese and Muslim villagers, torture and mistreatment of prisoners, forced conscription of children, and kidnapping, all in violation of the second protocol to the Geneva Conventions. Although Sri Lanka has not ratified Protocol II, many of its provisions are binding as a matter of customary international law.

Members of the security forces were also implicated in extrajudicial killings, as were Sinhalese and Muslim home guards armed by the Sri Lankan government and members of Tamil groups opposed to the LTTE who aided government forces in security and counterinsurgency operations. The largest deliberate attack on civilians by Sri Lankan soldiers during the year occurred in Trincomalee district on February 11, 1996, when army personnel from nearby camps went on a rampage in the village of Kumarapuram, killing twenty-four civilians, including thirteen women — one of whom was also raped — and seven children under the age of twelve. The massacre was apparently in retaliation for the deaths of two soldiers in an LTTE ambush. On February 26, a military court of inquiry found fourteen soldiers guilty of the killings, and the case was turned over to civil authorities. Eight army personnel were identified by witnesses as having taken part in the massacre. A magisterial inquiry was concluded, and the case was turned over to the Attorney General for a decision on indictment.

In Jaffna, army respect for civilians, initially high, deteriorated as LTTE violence increased. When troops occupied the city in December 1995, fewer than a few thousand civilians remained; some 350,000 people had been compelled by military operations and LTTE pressure to leave Jaffna and its suburbs for an area of the mainland called the Vanni, where the LTTE attempted to establish a headquarters in the town of Kilinochchi. By May 1996, Jaffna residents began to return home, and the government started to restore elements of civilian life, including schools and transportation. But after a suicide bomb blast killed more than twenty people in the city in July, residents complained of harassment at army checkpoints, and after the LTTE overran a military base in the northeastern Mullaitivu district in July, killing or capturing most of the garrison's 1,500 soldiers, army morale and respect for civilians in Jaffna deteriorated, evidenced

by extrajudicial killings, “disappearances,” and torture.

The LTTE lost Kilinochchi on September 29, after a two-month assault that displaced some 200,000 civilians. The majority fled to other parts of LTTE-held territory; more than 2,000 reached camps in southern India. On September 14, a UNHCR representative in Colombo warned the Sri Lankan government of a potential mass exodus from the Vanni to India, unless the government quickly restored food and other essential supplies.

Police and army personnel throughout the country, and particularly in Colombo and the northeast, continued to engage in sweeping “cordon and search operations,” which resulted in the arbitrary arrests and detention of Tamil civilians and the mistreatment and torture of detainees. These sweeps intensified following major incidents in which the LTTE was implicated. After the bank bombing in late January, the government initiated joint army-police security operations in Colombo. The Human Rights Task Force (HRTF), a government body that monitors the rights of detainees, reported over 400 officially acknowledged detentions in Colombo the following month; others almost certainly went unreported. Tamils detained in February reported beatings, torture and extortion by soldiers and police officers. In July, after the commuter train was bombed, 2,000 Tamils were detained for questioning in the northern town of Vavuniya, and some 500 others were arrested in sweeps in Colombo and Kandy.

Throughout the year, official and nongovernmental human rights workers complained of security force noncompliance with directives designed to protect the rights of detainees. Sri Lankan officials expressed private frustration over persistent physical mistreatment of detainees by police during interrogations, the army’s use of illegal detention facilities, and severe torture in unofficial places of detention, but disciplinary or criminal action against perpetrators of abuse remained rare.

Tight control of war-related reporting made it difficult to gauge the level of police and army abuse. Censorship rules, in place from April 1996 until October 8, 1996, restricted references to actual or potential operations by the armed forces or the police; procurement of arms or supplies; deployment of troops, personnel or equipment; or official conduct or performance of state forces, including in international television broadcasts. Access to Jaffna and other war zones was strictly controlled.

In July, press reports indicated that 150 telephones belonging to some thirty-five journalists, including those from Agence France Presse, Reuters, and six Indian reporters, were being tapped by Sri Lanka’s National Intelligence Bureau. In August, President Chandrika Kumaratunge said that she could not allow the media “to hinder the war effort of the Government with their malicious, false and damaging reports,” and warned that two local newspapers, *The Island* and *Divaina*, must either be closed down or the government should “publish alternative newspapers to counter them.”

The government continued to make administrative changes in 1996 designed to curb abuses and account for the tens of thousands who “disappeared” in the 1980s, but investigations into past abuses proceeded slowly and prosecutions were not forthcoming. Two of the three commissions appointed in 1995 to look into “disappearances” since 1988 were directed to terminate their work by the end of September, although they had not yet heard evidence in more than half of some 20,000 cases presented to them. On September 30 their mandate was extended for an additional three months.

In July, the Sri Lankan parliament approved the establishment of a permanent Human



Rights Commission to handle public complaints on human rights abuse. In September, bowing to sustained pressure from Sri Lankan and international human rights groups, the cabinet approved ratification of the Optional Protocol to the International Covenant on Civil and Political Rights. The protocol allows individual complaints on violations to be taken to the U.N.'s Human Rights Committee. The Civil Rights Movement of Sri Lanka welcomed the decision, and urged the government to "take equivalent action under the Torture Convention by making the necessary declaration to enable individual petitions under that treaty as well."

In 1995 the government had created a committee to look into detentions under the Prevention of Terrorism Act and the emergency regulations. The purpose was to ascertain the number and identity of detainees under this legislation, to expedite cases, recommend releases, and improve conditions of detention. At the beginning of June 1996, officials confirmed that 658 persons were being held under detention orders, 150 of them in Colombo. Of these detainees, more than 600 were Tamils, many of whom had been held without trial for prolonged periods, ostensibly due to non-availability of Tamil translations of key documents.

### **The Right to Monitor**

Despite a narrowing of the space for dissent that began in 1995, human rights organizations continued to operate openly and without legal restriction. Intervention by the Organisation of Parents and Families of the Disappeared (OPFMD) and the Civil Rights Movement of Sri Lanka (CRM) in particular succeeded in extending the mandate of two commissions of inquiry into "disappearances" that were scheduled for termination.

Concerns remained over incidents of police harassment of persons associated with international organizations concerned with human rights, including the International NGO Forum on Sri Lanka, and Peace Brigades International, as well as possible threats to Sri Lankan human rights activists from other political forces, particularly the LTTE, which threatened harsh measures against clergy or nongovernmental organizations who cooperated with government rehabilitation efforts in Jaffna.

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

Western nations were virtually unanimous during the year in their condemnation of LTTE attacks on civilians and in their calls for a renewed dialogue between the LTTE and the government. Abuses by government forces received less attention by the international community, which perhaps feared that criticism could discourage ongoing human rights reforms. There were moves on the part of some countries with significant Tamil refugee populations to increase scrutiny of Tamil immigrants and consider laws restricting LTTE activity. Donors also vowed to provide aid for refugees relief and rehabilitation.

On January 12 the E.U. strongly condemned massacres of villagers in Sri Lanka by the LTTE and reiterated earlier appeals to both the Sri Lankan government and the LTTE to protect the civilian population. The fifteen-nation alliance stated that it believed that the Sri Lankan government's devolution proposals formed a basis for discussion on a settlement acceptable to all Sri Lankans. On February 6, the Italian presidency of the E.U. "strongly condemned" the bomb attack on Colombo's Central Bank.

In a July 25, 1996 the U.S. State Department condemned the bombing of the Dehiwela railway station in Colombo and called on the LTTE to renounce the use of terrorism. The E.U. also

condemned the July bombing. It appealed to the LTTE to enter into political negotiations with the Sri Lankan authorities as soon as possible. Also in July, the Indian government extended its ban of the LTTE as an “unlawful association” under section 3 of the Unlawful Activities (Prevention) Act, 1967.

A U.S. delegation headed by Amb. Philip Wilcox, the U.S. State Department’s coordinator for counterterrorism, visited Sri Lanka from August 18 to 23 to meet with senior officials of the Ministry of Foreign Affairs and security and intelligence authorities and voiced U.S. support for the Sri Lankan government’s efforts to seek a peaceful negotiated settlement of the conflict.

In a September 16 meeting with Justice and Constitutional Affairs Minister Prof. G.L. Peiris, Canadian Foreign Minister Lloyd Axworthy announced that the Canadian government was considering legislation to restrict fundraising by the LTTE in Canada.

On October 1, U.N. Secretary-General Boutros Boutros-Ghali promised to support Sri Lanka's billion-dollar reconstruction program for the north once the war was over.