

UNITED STATES

Human Rights Developments

Human Rights Watch continued to focus on immigration practices, police abuse, detainees' and prisoners' rights, the death penalty, and issues of discrimination in the United States. During 1996, through new legislation and the persistence of established abusive practices, U.S. authorities at federal and state levels undermined the rights of vulnerable groups, making the year a disturbing one for human rights. The fact that the U.S. hosted the XXVI Olympics in July, and presented itself aggressively as a leader in human rights and democracy through the vehicle of the Games, underscored yet again the importance of pressing the U.S. government to accept the full authority of international human rights standards; Human Rights Watch issued a report focusing on the Olympic venues of Atlanta and the state of Georgia with this goal in mind.

Legislation

Throughout the year, politically popular proposals made by Congress and the White House contributed to the accelerated erosion of basic due process and human rights protections in the United States. Despite his public proclamations in support of civil and human rights, President Bill Clinton displayed a startling lack of will to preserve rights under attack, and in some cases took the lead in eliminating human rights protections. Among the seriously flawed bills passed and signed into law were provisions to limit *habeas corpus* appeals, undermine prisoners' rights to bring lawsuits to address inhumane custodial conditions or treatment, and inhibit the ability of individuals fleeing persecution to seek asylum in the U.S. or challenge decisions about their immigration status. The new laws, all of which were opposed by Human Rights Watch, quickly led to court challenges that were pending as of this writing.

In April, President Clinton signed into law the Anti-Terrorism and Effective Death Penalty Act of 1996, which, among other objectionable provisions, allowed the use of secret evidence to deport legally admitted immigrants and imposed unprecedented restrictions on *habeas corpus* appeals for all defendants. The new law limits federal court review of state court convictions except in cases where the previous state court decision was "unreasonable." The new restrictions were imposed despite the fact that 40 percent of state cases carrying the death penalty, when reviewed in federal courts, have been found to contain harmful constitutional errors and have been overturned. The constitutionality of the new law was immediately challenged in court.

The effect of the new restrictions was particularly dramatic in death penalty cases because the new law's rigid time limits would deter lawyers from taking on complex capital cases. Coupled with the elimination of federal support for legal programs that provided representation for persons facing the death penalty, the new law left many death row prisoners without essential legal advice. Civil liberties organizations and Human Rights Watch had reported on innumerable examples of poor representation in capital cases that had led to death sentences; new restrictions on *habeas corpus* appeals, coupled with funding cuts for legal assistance, further endangered these defendants' lives.

The Prison Litigation Reform Act, which became law in April 1996, made it more difficult to initiate a lawsuit to improve treatment of inmates, or to monitor court orders to improve conditions stemming from such lawsuits. This, despite the fact that lawsuits have historically been the only reliably effective way to improve deplorable custodial conditions and

abusive treatment. The bill's backers in Congress explained that they were merely attempting to curtail frivolous lawsuits, ignoring prisoners' rights advocates and other experts who cautioned that the new law was overly broad and would certainly result in serious abuses going undetected and uncorrected. In July, Human Rights Watch joined prisoners' rights groups in challenging the constitutionality of some provisions of the PLRA in the case of *Plyler v. Moore* in the U.S. Court of Appeals for the Fourth Circuit; the case was pending at this writing.

In September, Congress passed and President Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. In correspondence, Human Rights Watch warned legislators and President Clinton that these provisions prevent asylum seekers from exercising their internationally protected right to seek and enjoy asylum and undermine the prohibition on the expulsion or return (*refoulement*) of refugees as set out in international human rights treaties and U.S. law regarding treatment of asylum seekers.

Among other objectionable sections, the legislation contained new summary exclusion procedures that allow immigration officers to decide, on the spot, whether a person arriving at a port of entry without proper documentation has a credible asylum claim. If the asylum claim is not found credible by the officer, an administrative appeal is available — presuming the individual knows to appeal without benefit of legal counsel. The new law is based on the flawed presumption that those entering the U.S. without documentation, or with fraudulent papers, do not have legitimate asylum claims. In fact, individuals fleeing persecution often have no opportunity, or ability, to obtain proper documentation.

Human Rights Watch also opposed the legislation's unreasonable and arbitrary deadlines on asylum applications. Once the bill became law, individuals seeking asylum in the U.S. were required to file an application within one year of arrival. Human Rights Watch has long contended that the many obstacles to filing an asylum claim often prevent asylum seekers with legitimate claims from filing in a timely manner, and that their failure to meet arbitrary deadlines should not affect their cases.

In one of the most far-reaching provisions of the new law, the historic role of the federal courts in reviewing Immigration and Naturalization Service (INS) decisions was severely restricted. One section of the new law effectively bars class-action lawsuits against the INS, thus eliminating a crucial check on a notoriously mismanaged agency. Just after the bill was signed into law, Attorney General Janet Reno reportedly filed motions to dismiss four of five class-action suits brought by hundreds of thousands of illegal immigrants who claim they were wrongfully disqualified from the government's 1980s amnesty program.

Immigration Policy and Practice

In addition to the new legislation, other developments made treatment of immigrants within the U.S. a continuing concern for Human Rights Watch. The April 1, 1996 televised beating of two border-crossers by Riverside County sheriff's deputies, which also featured an audiotape of a California Highway Patrol officer using a racial epithet, exacerbated tensions between Latino communities and proponents of strict anti-immigration policies. The incident also led to renewed calls for new policies to address frequent post-chase beatings by law enforcement agents. A letter from Human Rights Watch to U.S. Attorney General Reno, urging examination of this problem, went unanswered.

We continued to investigate human rights violations committed by personnel of the INS, particularly the U.S. Border Patrol, along the southwestern U.S. border. In June, a Human Rights

Watch fact-finding mission to the border region found continuing and serious incidents of the apparent use of excessive force against border-crossers, legal residents and U.S. citizens. In addition to complaints of rough treatment and beatings, we investigated: a Douglas, Arizona Border Patrol agent who reportedly shot, from within his vehicle, at a man on the Mexican side of the border, hitting him in the back; an El Paso, Texas agent under investigation for allegedly sexually assaulting two Guatemalan women, and repeating the offense after summoning a nearby trainee to watch; and Border Patrol agent Charles Vinson, who allegedly raped a Salvadoran woman crossing alone in a remote area near the San Ysidro, California port of entry in December 1995, and who went on to face criminal charges. Vinson had previously avoided dismissal despite shooting dead a seventeen-year-old border-crosser in 1990 and provoking numerous complaints from fellow agents, who regarded him as a "loose cannon."

The low priority given to these kinds of human rights violations by the Clinton administration and Congress was troubling in light of the dramatic growth of the INS's southwest border program in recent years. In 1993, there were approximately 3,400 Border Patrol agents along the southwest border. By the end of Fiscal Year 1996, there were 5,014 agents, and the immigration bill enacted in September 1996 authorized 1,000 new agents for the next five fiscal years, meaning that by Fiscal Year 2001 there should be approximately 10,000 Border Patrol agents — a tripling of the force in an eight-year period. Hiring surges in the past have resulted in the rushed recruitment of individuals unsuitable for any law enforcement work, and in long delays in checking recruits' qualifications and background; under such circumstances, ill-qualified or violent recruits remain undiscovered until beyond the probationary period and become almost impossible to dismiss later.

Furthermore, as thousands of new agents were quickly put in place during 1996, agents being promoted to supervisor positions were not receiving adequate training. INS officials acknowledged that supervisor training programs were overwhelmed, raising the alarming prospect of new, possibly unfit agents managed by untrained supervisors. In addition, Justice Department oversight agencies tasked with monitoring and investigating allegations of abusive treatment were not growing in proportion with the huge increase in INS personnel.

In response to criticisms of the complaints, investigatory and disciplinary procedures used by the INS and the Justice Department's Office of the Inspector General, the INS convened a Citizens' Advisory Panel (CAP) to review the shortcomings of the current system and to make recommendations to the Office of the Attorney General for improvements. At this writing, eighteen months after its first meeting, the panel was preparing its recommendations. Considering the CAP a worthwhile endeavor to improve flawed procedures, Human Rights Watch participated in many of the panel's meetings. We remain convinced, however, that external, independent citizen review of complaints against INS personnel is the only way to gauge the extent of abusive conduct and to ensure accountability when violations do occur.

Many detainees in INS custody endured mistreatment, poor conditions, and inadequate legal representation in facilities around the country. The increasing reliance on privately run contract facilities or local jails and state prisons to house individuals in INS custody raised serious questions about the INS's lax oversight of those institutions. Following the June 1995 detainee uprising at the INS contract facility in Elizabeth, New Jersey — due in large part to poor conditions and mistreatment by the facility's staff — the INS published a self-critical report, acknowledging the oversight failures at the facility. Yet, in subsequent correspondence with Human Rights Watch, the agency revealed that essential reforms had not yet been authorized or

implemented.

The Human Rights Watch Children's Rights Project conducted an investigation into the treatment of minors in INS custody in California and Arizona. The research focused on issues such as access to information, legal representation, and family members; ability to communicate in the detainee's native language; assignment to county juvenile detention or remote facilities; duration of detention; and INS cooperation with local advocates and attorneys attempting to assist the children. A report on the findings was in preparation at this writing.

Police Abuse

Abusive conduct by law enforcement personnel was not limited to mistreatment of immigrants and asylum seekers. Police brutality remained one of the most controversial and pervasive human rights problems in the United States in 1996. Police officers in a number of cities were accused of serious human rights violations, including unjustified shootings and severe beatings, with many victims asserting that these abuses were racially motivated. And even while Congress approved funding to hire thousands of new police officers in cities around the country, there was no concomitant effort to improve flawed civilian review boards, police internal investigation procedures, or the low rate of prosecution for criminal civil rights violations. According to the most recent Justice Department national data available, of 8,575 complaints reviewed under the federal civil rights statutes in 1994, only seventy-six cases were filed for prosecution — less than 1 percent.

One aid in quantifying the problem of police abuse would be the collection of data about incidents of excessive force nationwide, as required by the 1994 crime bill. The Bureau of Justice Statistics, an office of the Justice Department, initiated test programs to collect these data, but progress was slow, and it appeared that obvious sources of information, such as civilian review boards that exist in the majority of large cities, were not being utilized.

The Justice Department did pursue its new power to bring civil injunctions against any police department that exhibited a "pattern or practice" of abusive treatment. In the city of New Orleans, the Justice Department initiated a wide-ranging investigation into misconduct in the notoriously brutal police force. And in October, the Justice Department stated that it was expanding its investigation of the Los Angeles Police Department, focusing on the use of excessive force and racially motivated misconduct. In either city, the Justice Department has the authority to seek a court order to force the department to remedy the problems it may identify.

Prisons

During 1996, protecting prisoners' rights in the United States became more difficult. At a time when the country's prisons and jails held over 1.6 million people — giving the United States one of the largest incarcerated populations of any country in the world, as well as one of the highest per capita rates of incarceration — legal protections for prisoners kept shrinking. In addition to the Prison Litigation Reform Act described above, the Supreme Court continued eroding past prisoners' rights precedents and exempting prisons from meaningful judicial scrutiny. In *Lewis v. Casey*, the Supreme Court restricted prisoners' legal remedies by imposing strict procedural requirements on suits challenging a prisoner's lack of access to the courts. Prisoners must now show that the constitutionally inadequate law libraries or lack of legal assistance in their prisons actually hindered them in litigating a meritorious underlying claim. This put many prisoner litigants in a double bind: it is precisely when the access scheme provided by the prison is most

deficient that a prisoner is most likely to be unable to put forth his or her arguments well enough to make that showing.

Conditions in U.S. prisons, meanwhile, remained frequently unacceptable and inhumane. In a January report, U.N. Special Rapporteur on Torture Nigel Rodley wrote, "Conditions at certain maximum security facilities were said to result in the inhuman and degrading treatment of the inmates in those facilities." The special rapporteur specifically noted reports of poor treatment at the H-Unit of the Oklahoma State Penitentiary and the Secure Housing Unit (SHU) at Pelican Bay prison in California.

In July, as part of the continuing trend toward harsher treatment of criminals and prisoners, Congress began serious consideration of legislation that would allow juveniles to be held with adults in confinement. Human Rights Watch joined with a dozen human rights and children's rights groups to oppose the legislation; the problematic proposals were eventually dropped. The Human Rights Watch Women's Rights Project concluded a major investigation into custodial sexual misconduct in U.S. prisons. Research was conducted in California, Georgia, Illinois, Michigan, New York, and the District of Columbia. Researchers investigated prisoners' complaints alleging rape and other sexual abuse committed by prison guards, as well as allegations of poor accountability for guards who engaged in this misconduct. The Georgia findings were included in the July 1996 Human Rights Watch report on human rights abuses in that state (see below).

The Death Penalty

Thirty-two executions were carried out in the U.S. during the first nine months of 1996, a pace short of the record-setting 1995 total of fifty-six. Challenges to the death penalty statute in Texas (a state that accounts for a large percentage of executions each year) and to the habeas corpus provisions in the counterterrorism bill explained the relative decrease. Human Rights Watch wrote to governors and clemency boards as each execution date approached, citing our opposition to capital punishment in all cases and noting particular areas of concern in each case. We also wrote about the application of the death penalty as part of a comprehensive report on human rights abuses in Georgia (see below).

Compliance with International Standards

Since 1994, the U.S. has been party to the Convention Against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Both treaties require reports to the United Nations, describing the nation's treaty compliance. The U.S. compliance reports on both treaties were due in November 1995, yet, as of mid-November 1996, neither report had been submitted to the relevant United Nations committee. Human Rights Watch wrote to Secretary of State Warren Christopher in October 1996, urging immediate submission of the CERD report and suggesting that the U.S. report cite specific practices or incidents relevant to the treaty's provisions, rather than recitation of U.S. law that should, but does not always, protect U.S. inhabitants from treatment prohibited by the treaty. Human Rights Watch also reported on racial discrimination in the U.S. criminal justice system to the U.N. Commission on Human Rights in April.

Other important human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child, remained unratified. Also

during the year, the administration took no action toward signing or ratifying core International Labour Organisation conventions intended to protect basic labor rights. This, despite the United States' support for linkage between trade and labor rights at the World Trade Organization and in international trade agreements.

Human Rights and the Olympics

In July, Atlanta, the capital of the southern state of Georgia, hosted the XXVI Olympic Games after boasting in its International Olympic Committee application that it was “for many the modern capital of human rights.” In light of this claim, Human Rights Watch and other international and local human rights groups took the opportunity to review the human rights record of Atlanta and the state of Georgia. In our report, *Modern Capital of Human Rights? Abuses in the State of Georgia*, we found that state officials and public policies contravened fundamental human rights principles in a wide range of settings in Georgia.

For example, Atlanta police officers have used excessive force, including unjustified shootings and severe beatings, and have otherwise abused their power without coming before external civilian review and without punishment through internal department procedures. Georgia's death penalty law has led to capital punishment primarily for the poor and for African-Americans — particularly when the victim of the crime is white. This discriminatory impact, which has been documented in exhaustive studies excluding for all other variables, has compounded the abuse inherent in the death penalty itself. Drug laws have been enforced disproportionately against black drug offenders, who are arrested for cocaine-related offenses at seventeen times the rate of whites (even though studies show more whites are cocaine offenders) and who receive 98 percent of the life sentences handed down in drug cases.

We also found custodial conditions in the state to be alarming. Many local jails have been so overcrowded and physically deteriorated, and jail officials have neglected prisoners' welfare so shamefully in so many areas, that the U.S. federal government threatened to sue eleven Georgia counties over jail conditions. Women in prison suffered sexual harassment and intimidation, and sometimes rape, at the hands of their guards. And minors in state custody faced extremely poor custodial conditions, have been subjected to cruel restraints and punishment forbidden by international standards, and were held in overcrowded facilities with little educational or other programs to occupy them.

We also found that lesbians and gay men in Georgia faced hostility ranging from harassment under the state's anti-“sodomy” law, to openly discriminatory firing of gay employees by state officials and others, to verbal threats and physical attacks; victims of discriminatory treatment in most parts of the state have had no effective recourse, because discrimination on the basis of sexual orientation is not prohibited. The report described a positive development, with repercussions in Georgia and elsewhere, in the U.S. Supreme Court's decision in *Romer v. Evans*: the May decision struck down a discriminatory provision of the Colorado state constitution, thus endorsing civil rights protections for lesbians, gay men and bisexuals in that state and preventing new laws or policies that would permit discrimination against gay people.

Finally, the report described attempts to limit freedom of expression in Georgia, noting that socially conservative groups, parents, and elected officials have sought to restrict artistic expression and sex education. The free flow of information via electronic communication has also been curtailed: citing concerns ranging from terrorism to trademark theft, Georgia lawmakers passed laws that restrict rights to free expression and privacy on-line.

Neither the governor of Georgia, Zell Miller, nor Atlanta Mayor Bill Campbell responded to our report, despite the inclusion of scores of detailed recommendations and letters accompanying the report to their offices, expressing interest in working together to ameliorate the problems we identified. In a positive development, the U.S. Department of Justice began a "pre-investigation" to determine whether there was sufficient information in our Georgia report to warrant opening a formal investigation into the children's institutions. This investigation would be similar to one initiated by the Justice Department earlier in 1996 into deplorable conditions in Louisiana's juvenile detention facilities; that investigation was spurred by a Human Rights Watch/Children's Rights Project report released in 1995.

THE ARMS PROJECT

The Human Rights Watch Arms Project monitored and ought to prevent the transfer of weapons and the provision of military assistance and training to governments or armed groups that committed gross violations of internationally recognized human rights or the laws of war. A corollary of this was to promote freedom of expression and freedom of information about arms and arms transfers worldwide. In addition, the Arms Project sought to eliminate weapons which as a class were, or should have been, prohibited by the laws of war, without consideration of the human rights record of the country or group possessing them. These were weapons that are by their very nature indiscriminate or cause superfluous injury.

The Arms Project was established in 1992 in the myriad changes that were triggered by the end of the Cold War. As, throughout the world, the logic of conflict lost its East-West overlay, the arms trade that fueled conflicts similarly shed its overarching ideological motivations, replacing them, with the exception of a few conflicts in which the perceived national interests of the suppliers still played a significant role, with the profit motive. Decisions about arms sales were increasingly based less on the geostrategic importance of the buyer than on the perceived need to shore up flagging weapons industries at home. The result was an unbridled proliferation of weapons in areas of ethnic and territorial conflict. While the overall trade in conventional weapons declined, the trade in small arms and light weapons appeared to be growing, and a fresh generation of weapons was being developed under secret budgets. Moreover, new control mechanisms, like the U.N. Arms Register and international arms embargoes against specific countries, were few, and there was little effective enforcement. And contrary to early expectations raised by the end of the Cold War, weapons of mass destruction were abolished, and the threat of proliferation, catastrophic accident or precipitate use continued.

The new order that emerged following the collapse of the Berlin Wall required a new theory for containing conflict and building peace. The construction of solutions based on ideological interests gave way to a problem-solving approach to local and international conflict. Institutions like the United Nations and the Organization for Security and Cooperation in Europe (OSCE) projected themselves, not always successfully, as neutral forces that police conflicts, promote reconciliation through negotiation, disarm soldiers and insurgents alike, and monitor elections around the world. This new role required a detailed knowledge of local conditions and strong investigative capabilities, qualifications that the supranational bodies rarely possessed. Nongovernmental organizations (NGOs) were primed to fill the vacuum, monitoring post-

conflict arrangements, putting pressure on authorities to comply with both longstanding and newly accepted international standards and conventions, and serving as early-warning beacons when things go wrong. Within this context, the Arms Project pursued five separate but related approaches that formed the underpinnings of our perception of what the new theory of change required from us as a human rights organization:

To act as a whistle-blower: One of the Arms Project's tasks was to reveal the reprehensible activities that governments and other armed forces tenaciously sought to conceal. Such activities included, among others, the illegal use of weapons in conflict, arms transfers to abusive forces, and the production of banned weapons. Through investigation of such practices, the Arms Project was able to embarrass and stigmatize offending authorities, and to galvanize members of the international community to exert pressure to halt abuses and the arms supplies that fuel these.

To build human rights concerns into efforts at conflict prevention: In the view of Human Rights Watch, human rights abuse fueled conflict, as did the supply of arms to abusive forces. Our approach to this problem was to seek to minimize the human cost of conflict and also contribute to its containment by raising the cost of abuse and of supplying arms to abusers. Information unearthed by the Arms Project provided new ammunition to international coalitions seeking to discourage warring sides from recourse to violent breaches of international norms.

To be a standard-setter: The Arms project was in the forefront of efforts to establish new homes and standards for the production, trade and use of arms, and of interpreting existing standards. In a fast evolving world, new technology yielded new weapons and new practices at a steady pace, and both had the potential for abuse. New norms were required to regulate the development and use of new armaments. The fact that there had been so little documented use of chemical and biological weapons this century was largely due to the fact that a universally accepted norm against the use of these weapons had existed since 1925. The Arms Project, by conducting research and highlighting the connection between the arms trade (or particular weapons systems) and abuse, could build on popular outrage to establish norms regarding weapons transfers and production.

To promote accountability and transparency: Few domestic or international mechanisms existed to enforce freedom of information about arms transfers. The Arms Project made creative use of the Freedom of Information Act in the U.S., using documents obtained under FOIA to put pressure on the U.S. government to release additional documents. The Arms Project also supported the creation of the U.N. Register of Conventional Arms, and was pushing for the creation of a parallel register for light weapons and small arms. On the issue of accountability, the Arms Project was increasingly targeting individual weapons producers and weapons exporters. As Human Rights Watch was seeking to hold corporations accountable for human rights violations that occur as a result of their activities or as part of their production process, the Arms Project was conducting parallel research on landmine producers. By tracing the flow of weapons back to its origins, the Arms Project sought to press governments to rein in their own citizens involved in the sale of arms to abusive forces.

To engage and mobilize new human rights constituencies: Last but not least, the Arms Project was contributing to efforts aimed at strengthening the international human rights movement. In 1996, the Arms Project started to bring NGOs into its circle of allies in two target countries, Turkey and Lebanon. These NGOs included natural allies, like human rights organizations, but also trade unions, teachers' associations, women's groups, peace groups, lawyers' unions, charitable organizations and others. Basing ourselves on the presupposition that human rights

enforcement and conflict prevention were best served by local remedies generated from within a strong and thriving civil society, we hoped that these organizations would bring extra pressure to bear on policy makers in the U.S. and the E.U. to comply with arms export regulations and remind Turkey, Israel and Syria of their human rights obligations under existing treaties. This effort placed concrete tools in the hands of victims of abuse, contributing to their empowerment and, in the long run, the strengthening of their societies.

Within the framework outlined above, in 1996 the Arms Project was involved in the following programs:

Banning Landmines

During 1996, the movement toward a global ban on antipersonnel landmines gained tremendous momentum. It appeared to have become a question not of whether there will be a ban, but rather when. During the past year the International Campaign to Ban Landmines (ICBL) grew from 350 NGOs to nearly 700 in about forty nations. Not coincidentally, the number of governments expressing public support for an immediate ban grew from fourteen to about fifty.

After negotiations on revisions to the Landmines Protocol of the 1980 Convention on Conventional Weapons (CCW) deadlocked in Vienna in October 1995, governments resumed talks in Geneva for one week in January 1996 and two final weeks in April/May 1996. The results were criticized by the ICBL and the International Committee of the Red Cross as grossly inadequate and unlikely to make a significant difference in the human suffering and socio-economic dislocation caused by mines.

Yet, even as the revised protocol was formally agreed to on May 3, 1996, it was clear that the movement to ban antipersonnel mines had overtaken the CCW process as the only humanitarian solution to the global mines crisis. Government after government announced its support for a total and immediate ban, including many NATO nations, and numerous nations unilaterally prohibited production, export and use. Nations that had bans already in place, such as Austria, Belgium, Canada, Germany, the Netherlands, New Zealand, Norway, the Philippines, Sweden and Switzerland were at the forefront of the move to ban antipersonnel mines. The Organization of American States passed a resolution in June 1996 calling for a hemispheric mine-free zone and the six Central American presidents announced in September 1996 that they were banning all production, stockpiling, trade and use of antipersonnel mines, creating in effect the world's first mine-free zone.

The U.S., on the other hand, issued a highly anticipated new policy statement on antipersonnel mines on May 16, 1996 that was criticized by the ICBL and the U.S. Campaign to Ban Landmines (USCBL) as long on rhetoric but short on action. Indeed, it could be argued that the U.S., which under the new policy continued to cling to the use of so-called "smart" mines in all circumstances, and long-lasting "dumb" mines at least in Korea, had become part of the problem, not a promoter of the solution. The highlight for the U.S. was the signing into law in February 1996 of the Leahy amendment requiring a one-year moratorium on the use of antipersonnel mines beginning in 1999.

At the urging of the ICBL, the government of Canada convened a historic meeting of fifty pro-ban governments in Ottawa in October 1996. The governments agreed to a final declaration committing them to a ban, and to an agenda for action that set out specific steps at the national, regional and international levels necessary to achieve a ban.

In the most important development of the year, and perhaps the history of the campaign,

Canada made the dramatic announcement that it would host a conference in December 1997 at which states would be invited to sign a treaty totally banning antipersonnel mines. Belgium indicated its intention to hold a preparatory negotiating conference in June 1997.

As one of the most active members of the Steering Committee of the ICBL, the Arms Project played an important role in these developments. The Arms Project was also instrumental in the growth of the USCBL, which evolved from a loose coalition to a highly organized campaign during 1996. The Arms Project served as the chair of the Steering Committee of the USCBL. In the fall of 1996, the Arms Project released a report identifying U.S. producers of landmine components which was used by the USCBL to launch a stigmatization campaign calling on all manufacturers to get out of the business.

Banning Chemical and Biological Weapons

In 1996, the Arms Project continued to develop its network of experts, who agreed to serve as a resource to the organization, and to contact other organizations, both governmental and non-governmental, concerned about the proliferation of chemical and biological weapons (CBW). This year the Arms Project responded to reports of the use of chemical weapons in Chechnya, Libya, Papua New Guinea, Sri Lanka, Sudan, and Uganda. Although we were able to establish through our network of contacts that there was little credible evidence to support these allegations, we remained interested in further information about these cases. The Arms Project was involved in a major investigation of the alleged use of chemical weapons by Bosnian Serb forces during the war in the former Yugoslavia. This investigation was still in progress in November 1996.

The Arms Project continued to monitor the state of CBW proliferation and maintained files on all countries that potentially possess or were developing chemical or biological weapons. This effort was supplemented with FOIA requests to different branches of the U.S. government. In addition to obtaining relevant information about U.S. knowledge of CBW proliferation, we saw the FOIA option as a way of fostering greater transparency and accountability when U.S. government officials reported a growing number of CBW possessor states but failed to name the countries of concern.

In 1996 the Arms Project also looked at the impact of the breakup of the former Soviet Union and declining defense expenditures in Russia, the former East Bloc, and the industrialized states on CBW proliferation. Weapons, or materials for weapons, might have been sold to states seeking chemical or biological weapons, and scientists with the technical expertise to develop CBW could have sold their services to these countries. The Arms Project closely monitored all reports of transfers of CBW munitions, materials, or expertise.

Human Rights Watch also continued to push for ratification of the Chemical Weapons Convention. Recently the Arms Project joined a coalition of organizations urging U.S. senators to ratify the convention. Human Rights Watch also supported negotiations toward a verification protocol for the Biological Weapons Convention.

Engaging and Mobilizing New Human Rights Constituencies

In 1996, the Arms Project began to explore ways of involving other NGOs in efforts to curb the transfer of arms to abusive forces. In this context, we met with scores of NGOs in Turkey, Lebanon and Israel in an attempt to identify both potential partners and appropriate mechanisms to activate in the pursuit of greater protection of civilians in conflicts in southeastern Turkey and

southern Lebanon/northern Israel. Our aim was to persuade human rights NGOs to add arms transfers to their agenda to the extent that such transfers could be linked to abuses of human rights. Likewise, we encouraged other NGOs to add both human rights concerns and arms trade-related issues to their agendas to the extent that arms transfers and human rights abuses had an impact on their work and their effectiveness within their own societies.

In the case of Turkey, we provided NGOs with the names and fax numbers of key officials in the U.S. government and E.U. institutions to facilitate communications, and we suggested particular courses of actions that could be taken. These included protesting the (now frozen) sale of Super Cobra helicopters by the U.S., as well as the pending sale of Eurocopters by France. We were also seeking to engage the U.S. and the E.U. concerning both their role in the arms trade to Turkey (through their domestic obligations to link arms transfers to human rights conditions in recipient countries) and the human rights obligations to which they and the Turkish government had committed themselves.

In the case of Lebanon, we began a collaborative project with the Center for International Human Rights Enforcement in the West Bank to persuade the parliaments of E.U. member states to condition ratification of the recently signed Trade Association agreement between the E.U. and Israel on the establishment of mechanisms of human rights enforcement. The agreement had useful human rights language but lacked implementing measures. Israeli and Lebanese NGOs had a role to play in providing human rights information to the various European parliaments involved and in placing added pressure on parliamentarians to raise the profile of human rights in E.U. trade agreements.

By mobilizing indigenous NGOs around specific agendas, we sought to expand our circle of human rights allies in various parts of the world that were wracked by conflict, assisting them in their work and at the same time improving our own research and advocacy activities.

Investigating the New Generation of Antipersonnel Weapons

Based on the success in banning blinding laser weapons in 1995, in 1996 the Arms Project started research in the area of other next-generation antipersonnel weapons—often deceptively characterized as “nonlethal” weapons—focusing on the humanitarian implications of acoustic weapons, directed-energy weapons, non-laser blinding weapons, and weapons that use illegal chemical and biological components. Our aim was to prevent the development of weapons that either clearly indiscriminate (i.e., incapable of discriminating between combatants and civilians) or cause unnecessary suffering in the terms of international humanitarian law.

“Nonlethal” weapons were being touted as a humanitarian panacea to the brutalities of war. They fell into an emerging category of weapons that were purportedly designed not to kill but to disable, and that included weapons ranging from anti-movement foams, glues and lubricants to super-caustic acids, high-power microwaves, blinding lights, infrasound and genetically engineered targeted weapons. Although many of the weapons in this category did not yet exist, they did exist as ideas, while some were already in development. The Pentagon had hidden a number of these programs in “black” (i.e., secret) budgets. One way or another, there was no doubt that weapons employing new technologies would emerge over the coming years—with humanitarian implications that merit careful scrutiny. The first Department of Defense directive establishing a policy on “nonlethal” weapons was signed on July 9, 1996.

We were concerned that some of the nonlethal weapons that were being “thought up” and developed (or even deployed) could violate international humanitarian law, just as we found was

the case with tactical laser weapons that blind. In our view, the term “nonlethal” was a misnomer at best: some of the so-called nonlethal weapons did kill (often depending on the distance the target finds itself from the weapon); others made it easier for the target, once disabled, to be killed with lethal weapons. Moreover, international humanitarian law prohibits weapons that are indiscriminate (like landmines) or cause “superfluous injury or unnecessary suffering.” Protocol I to the Geneva Conventions of 1949 adds that parties to the protocol are under an obligation “[i]n the study, development, acquisition or adoption of a new weapon, means, or method of warfare...to determine whether its employment would, in some or all circumstances, be prohibited” by the protocol or “any other rule of international law.” The review of the humanitarian effect of new weapons at the development stage was a particular concern of the Arms Project. In the case of blinding lasers, we argued that these weapons were inhumane (causing unnecessary suffering) and repugnant to the conscience of humankind, as they do severely disabling, irreversible and uncorrectable damage to one of the vital senses. (These problems are compounded in countries with poor medical and health facilities).

Each new “nonlethal” weapon will have to stand the test of humanitarian law. Our task will be to distinguish the “bad” ones from the “good” ones, and then to stigmatize and prevent the development and use of those that are found to violate international law. In addition, we were concerned that the Pentagon was not carrying out the required review of the humanitarian law implications of the use of “nonlethal” weapons that are currently in development. In 1996, the Arms Project began an investigation of U.S. and foreign programs on acoustic and other directed-energy weapons, paying special attention to military efforts to assess the medical and health effects of these weapons.

Curbing Arms Transfers to Human Rights Abusers

In 1996, we continued our work in documenting the role of the arms trade in violations of human rights and international humanitarian law, and in seeking to curb the transfer of arms in those cases in which weapons have contributed significantly to abuses. Our activities focused on Turkey, the Great Lakes district in Central Africa, Angola and Colombia. The Arms Project also completed a project on Israel/Lebanon, and started an investigation into the role of arms in the war in Sudan.

Turkey

Following the release of the report, *Weapons Transfers and Violations of the Laws of War in Turkey*, in November 1995, we focused our energies on drawing attention to the report and its recommendations, and putting pressure on the various parties involved to carry out some of the reforms proposed by us. Our activities included:

Issuing a statement at the end of 1995 to denounce a controversial proposed sale by the U.S. of 120 Army Tactical Missile Systems (ATACMS) to Turkey. This was the first foreign sale of the U.S.’s most advanced ground-to-ground missile. We protested the sale on the basis of Turkey’s record of systematic human rights abuses and violations of the laws of war in the southeast, including the indiscriminate use of a variety of weapons and, on a number of occasions, the direct targeting of civilians. The sale had been under consideration by the U.S. for a number of months, but was not previously approved, primarily because of human rights concerns. Although it was unlikely that Turkey would use this particular weapon in its conflict with the Workers’ Party of

Kurdistan (PKK), Human Rights Watch held that approving this sale at a time of heightened concern about Turkey's human rights record would send the wrong message to the government of Turkey. Despite our attempt to block it, the sale was approved in early 1996.

Participation in an ad hoc campaign to block the sale of ten Super Cobra attack helicopters to Turkey. The campaign was coordinated by the Arms Transfer Working Group (ATWG) in Washington, of which the Arms Project is a long-standing member, and was joined by other U.S. NGOs, including Amnesty International, the Helsinki Commission, and the American Association for the Advancement of Science. In meetings with U.S. policy makers we communicated our concern about the proposed sale of a category of helicopters that our research in 1995 had shown to have been used in international humanitarian law violations in Turkey. In March, we signed on to a letter protesting the proposed sale that was sent by the ATWG coalition to Secretary of State Warren Christopher. As a result of the pressure that came out of these joint efforts, the proposed sale of the Super Cobras was frozen.

Drafting an action plan for Turkish NGOs: After we had discussed our report with a number of NGOs in Istanbul and Ankara in November 1995, we proceeded to draft an action plan enabling Turkish NGOs to directly protest any proposed U.S. or E.U. arms sales to Turkey. This action plan was completed in April 1996, and distributed in Turkish shortly thereafter.

Providing information, based on our investigations into and advocacy regarding misuse of weapons in Turkey, that contributed to a decision of the U.S. Senate Appropriations Subcommittee for Foreign Operations to request a report from the State and Defense Departments on efforts by the administration to monitor use of U.S. military aircraft, including helicopters, in Turkey. The report was due by June 1, 1997.

Protesting repression: In September 1996, the publisher of the Turkish translation of our report, Ayşe Zarakolu, and the translator, Ertuğrul Kürkçü, were indicted under Article 159/1 of the Turkish penal code for "defaming and belittling the state's security and military forces." Human Rights Watch vigorously protested this outrageous attempt by the Turkish government at stifling free expression which was aimed not as much at Human Rights Watch, the author of the report, as at those who had made the information collected by Human Rights Watch available to the Turkish public. Human Rights Watch sent an observer to the first hearing in the trial, in Istanbul on October 18. A second hearing was scheduled for November 23.

Great Lakes District of Central Africa

The Arms Project initiated work on Burundi after 1995 research on the Rwandan genocide showed the importance of exposing the role of outside actors in empowering governments or rebel forces to carry out highly abusive military campaigns. In the case of Rwanda, we published a report on arms shipments to both the government and the rebels of the Rwandan Patriotic Front (RPF) in early 1994, only two months before the start of the genocide. The report was largely ignored at the time. We then published a follow-up report in May 1995, based on research in 1994-95, in which we pointed a finger at France, Zaire, China and some other countries for having provided direct military aid to the Rwandan government during the genocide, or for having facilitated the transshipment of arms to the defeated government's forces after these had

been driven from Rwanda to eastern Zaire in the summer of 1994. This report received wide coverage, and led to strong language in a U.N. Security Council resolution in June 1995, calling for the deployment of international military observers at airfields in Zaire. Following Zaire's refusal to cooperate with the Security Council, the council then created an International Commission of Inquiry into arms shipments to Rwandan rebel forces. In its investigation, this commission based itself largely on the accusations made by the Arms Project, and in its second report in March 1996 it presented conclusions that were in accord with our findings.

The establishment of a formal mechanism by which to enforce the U.N. arms embargo concerning Rwanda and to investigate alleged violations of the embargo had set an important precedent, and may have been a deterrent to those states that had sought to advance their geostrategic interests in Central Africa by supplying weapons to their local allies. The situation in Burundi in 1996 was near-explosive, and had some of the characteristics that marked the run-up to the genocide in Rwanda in 1994. Human Rights Watch therefore called on the United Nations to institute an arms embargo on Burundi as well, and made efforts to expand the International Commission of Inquiry's mandate to include Burundi. To add power to our recommendations, we undertook an investigation of the role of the arms trade in fueling the conflict in Burundi, which was in progress in November 1996. We also met with government officials in South Africa in October to express our concern about the involvement of South African nationals in illegal arms trafficking and other military activities in areas of Africa wracked by highly abusive conflicts, including the Great Lakes district.

Angola

Our research on Angola had focused on the role of continuing arms shipments to both the government and the UNITA rebels in the wake of the 1994 peace accords—the Lusaka Protocol—in clear violation of the international arms embargo. In February 1996, the Arms Project and Human Rights Watch/Africa jointly published “Angola: Between War and Peace; Arms Trade and Human Rights Abuses since the Lusaka Protocol.” The report concluded that despite the signing of the Lusaka Protocol, extensive human rights abuses continued to be committed by both sides.

Moreover, both sides continued to acquire additional weapons. The Lusaka Protocol prohibits both sides from resupplying their military forces with “any military equipment, lethal or otherwise.” Furthermore, U.N. Security Council Resolution 864 (September 1993) clearly prohibits the sale and supply of any military or petroleum products to UNITA, and U.N. Security Council Resolution 976 (February 1995) calls on both the government and UNITA “to cease any acquisition of arms and war materiel.” Although arms shipments declined in 1995, new weaponry, especially from Russia and the Ukraine, reached the government. These were not merely pre-1995 orders; as the year progressed it was evident that the government was still purchasing new arms and military equipment. UNITA brought in new weapons both over land and on secret flights from Zaire and Congo to airstrips in the diamond-rich Lunda provinces. Sporadic but fierce fighting continued in the diamond areas throughout 1995.

Human Rights Watch called on the U.N. to institute an unambiguous and comprehensive arms embargo on Angola, applicable to both the government and UNITA, and to encourage member states to submit information on past weapons exports to Angola to the U.N. Register on Conventional Arms. Human Rights Watch called on the governments of South Africa, Zaire and

Congo, in particular, to assist the U.N. in its attempts to monitor UNITA sanction-busting; to stop mercenaries from their countries or who transit their countries from operating in Angola; and, in the case of Zaire, to take all measures to stop the use of Zaire as a conduit for the illegal arms trade (a recommendation that echoes recommendations we have made to Zaire with respect to Rwanda in 1995).

In response to the report, the Angolan government issued a statement denouncing our “false allegations,” but indicated that it had committed itself to halting the import of arms and terminating its contract with a major South African security outfit. After intensive lobbying by Human Rights Watch, the U.N. Security Council adopted language in a resolution on Angola in May 1996 that reflected our human rights concerns, including a call on both parties to destroy their stockpiles of landmines and a call on member states to reinforce the weapons ban. Later in 1996, we launched a renewed investigation of further shipments of arms to both the Angolan government and UNITA.

Colombia

In 1996 the Arms Project with Human Rights Watch/Americas completed its investigation of the lethal nexus between the Colombian military forces and irregular paramilitary death squads, and the role of the U.S. government in reorganizing the military intelligence network in Colombia which relies heavily on paramilitaries in the army’s campaign against insurgents. A joint report by the Arms Project and Human Rights Watch/Americas published in November concluded that a team of the U.S. Department of Defense and the Central Intelligence Agency worked closely with Colombian military officers on the 1991 reorganization of the military intelligence apparatus, which made paramilitary groups a key component. Working under the direct orders of military high command, paramilitary forces incorporated into military intelligence networks conducted surveillance of legal opposition political figures and groups, operated with military units, then carried out attacks against targets chosen by their military commanders. In some regions in Colombia, the military armed and equipped paramilitaries, patrolled with them and used them as guides, and issued weapons licenses to known paramilitary leaders. In some cases, the military gave orders on whom to kill and when.

Research by Human Rights Watch also shed light on the “strategy of impunity” pursued by the Colombian military. The deeds of officers who work with paramilitaries, brought to light again and again by the government’s civilian investigators, have been systematically covered up by the military justice system, allowing these same officers to return to the field and continue their work of organizing, directing and deploying paramilitary groups.

The U.S. military authorities, in addition to making recommendations about the restructuring of Colombian intelligence in 1991, turned a blind eye to abuses, even though they have acknowledged that training and weapons provided to Colombia for counterdrug purposes may have been used in counterinsurgency operations during which human rights violations have occurred. Human Rights Watch has also obtained evidence showing that U.S. military personnel continue to advise and train the Colombian military, including the navy, and work in areas where the military maintains a partnership with paramilitaries.

Human Rights Watch made a number of recommendations to the Colombian government, the U.S. government, and the international community. In Colombia, we called for an end to the “strategy of impunity,” urging, among other measures, investigation and prosecution of officers suspected of involvement in abuses. Human Rights Watch called on the U.S. to immediately

suspend all military aid, sales and other forms of military and security assistance to Colombia until there is an end to the abuses committed by military-supported paramilitaries.

Lebanon/Israel

In April 1996, Israeli forces carried out a large-scale military operation in Lebanon, dubbed “Operation Grapes of Wrath.” The Arms Project, in collaboration with Human Rights Watch/Middle East, had just completed a study on the ongoing conflict in southern Lebanon and violations of international humanitarian law by both Israeli forces and Hizballah guerrillas. Our report was released in May, updated to reflect preliminary findings about the most recent round of fighting. This report, *Civilian Pawns: Laws of War Violations and the Use of Weapons on the Israel-Lebanon Border*, described attacks on civilians on both sides of the border, and devoted special attention to the weapons used in the conflict. Most of Israel’s arsenal derived from U.S. military assistance and sales. We were particularly concerned about Israel’s illegal use of phosphorus and flechette shells in civilian areas. Hizballah, which had allegedly received most of its weaponry from Iran via Syria, was criticized for indiscriminately firing Katyusha rockets into northern Israel.

The Arms Project visited Israel, Lebanon and Syria in May to release the report and discuss our findings with policy makers from all the parties concerned. We also met with a large number of NGOs in Israel and Lebanon to explore ways of effectively pressing both parties to protect civilians during the conflict. The Arms Project, in cooperation with Human Rights Watch/Middle East, also investigated Israeli attacks on civilian power transformers in Lebanon during the April operation.

The United Nations, International Standards and Multilateral Measures

According to figures released in 1996, aggregate world military spending continued to decline in 1995, although the downward trend is tapering off. This trend also did not represent the entire world, for although there were heavy reductions in the western industrialized states and Russia, military spending continued to increase in certain countries and regions, notably the Middle East and Southeast Asia. The United States was the predominant arms supplier to the developing world in 1992-1995, according to the U.S. Congressional Research Service. The U.S. earned \$40.6 billion (constant 1995 dollars) from arms transfer agreements, 45.3 percent of all developing world agreements. During this period, France, the second leading supplier, accounted for nearly 21 percent of all arms transfers to the developing world, valued at \$18.8 billion.

The major 1995 supplier to the developed world—in terms of contracts signed—was Russia with \$6 billion in arms transfer agreements (39 percent). The United States was second with \$3.8 billion (24.6 percent) and France was third with \$2.4 billion (15.6 percent). In actual deliveries of arms during 1995—based on contracts signed previously—the United States led with \$9.5 billion, 44 percent of the total, and the United Kingdom was second with \$4.5 billion, or 20.8 percent of such deliveries.

In 1996, more states submitted information to the (voluntary) U.N. Register of Conventional Arms. As of October 7, ninety-one states had replied to U.N. requests for information. Although this information continued to contain inaccuracies and notable omissions, the register was an important source of information on the global arms trade and fostered transparency and accountability. The register continued to cover only seven categories of major

weapons systems; it did not include the international trade in light arms.

In July, representatives of thirty-three states met in Vienna, Austria, and established the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. Participating states agreed to control all items set forth in the list of dual-use goods and technologies as well as the munitions list with the aim of preventing unauthorized transfers or re-transfers of these items to a region or a state of serious concern to the participating states. To facilitate the future work of the Wassenaar Arrangement and possibly expand and enhance it, the participants also created a secretariat in Vienna. The next Plenary of the Wassenaar Arrangement was scheduled for December 1996 in Vienna.

The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Chemical Weapons Convention, CWC), continued to garner signatures in 1996. By the end of October, the required sixty-five states had ratified the convention, which was therefore scheduled to come into force after 180 days, i.e., in April 1997. Except for the U.S. and Russia, nearly all the world's large chemical producers had already ratified. Soon after the deposition of the sixty-fifth instrument of ratification in October, the Organization for the Prohibition of Chemical Weapons in The Hague was expected to expand its staff and convene the first session of the Conference of State Parties, which will be responsible for the treaty's implementation.

There were few developments with respect to the Biological and Toxin Weapons Convention (BWC) in 1996. The BWC has review conferences every five years to assess progress on adherence to the Convention. At the end of the conference, the final document, agreed on by consensus, reports on the state of progress on each article. The Third Review Conference in 1991 called for an examination of possible verification regimes to the BWC. The next review conference was scheduled to take place in Geneva at the end of 1996. In 1994, an ad hoc group was established by a special conference to draft a legally-binding protocol for strengthening the BWC. This group met twice in 1996 and was expected to continue to meet in 1997.

Unfortunately, confidence in the BWC had declined since the last conference because of the admission by the Russian Federation in 1992 that despite being a co-depository of the BWC in 1975 it ran an offensive program until March 1992; disclosures in 1995 that Iraq had developed and deployed biological weapons; and reports that the private religious cult Aum Shinrikyo in Japan had been close to developing a biological weapons capability.

International Arms Embargoes

The U.N. Security Council imposed arms embargoes eleven times since 1966, nine of these since 1990. At the end of 1996, U.N. arms embargoes were still in place against Iraq, Liberia, Libya, Somalia, and UNITA in Angola. The Security Council's decision in August 1995 to lift the arms embargo provisionally against the Government of Rwanda became final in September 1996, but the embargo remained in place against former Rwandan government forces in states neighboring Rwanda. (The forces of the government ousted in 1994 were based primarily in eastern Zaire.) The 1991 arms embargo against Yugoslavia came to an end in June 1996 within months after it was revealed that the Clinton administration had decided not to object to Iranian arms shipments to Bosnia in 1994. In August 1996, the Security Council threatened to consider an arms embargo against Burundi if that country's leaders and rebels did not begin unconditional talks by October

The embargoes that remained in place in 1996 were enforced to smaller or greater effect depending on the interest and political will of the international community in every particular case. The sanctions committees routinely established as part of the arms embargo mechanism were under a mandate to collect information regarding implementation of those embargoes and recommend ways to increase their effectiveness. However, in the case of Rwanda, the U.N. Security Council created the additional framework of an International Commission of Inquiry regarding the sale or supply of arms and related materiel to former Rwandan government forces in the Great Lakes region, following revelations made by the Arms Project in May 1995 about arms shipments to these forces. The commission was primarily a fact-finding body composed of serving military and police officers. While it did not have the legal powers or the resources of a police force or investigative agency, it actively investigated reports on the sale or supply of arms and related materiel and the provision of military training to former Rwandan government forces.

In its second report in March 1996, the commission concluded that "it is highly probable" that the U.N. arms embargo had been violated in at least two instances that were brought to light in the May 1995 Arms Project report, "Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide." In its report, the commission criticized the U.N. sanctions process, pointing to the lack of U.N.-based information and the slow response time to events. For example, the commission was created some sixteen months after the adoption of the arms embargo on Rwanda in May 1994 and a month after the Security Council decided to lift the embargo provisionally on supplies to the (new) government in Kigali. The commission also stated that if Security Council resolutions are to be properly implemented and the commission's recommendations for this are adopted, "sufficient additional resources must be made available" to implement them.

Among its recommendations, which the Arms Project supported, the commission proposed that U.N. observers be stationed in Zaire to monitor implementation of the arms embargo and that particular governments should investigate allegations against their nationals or companies located within their borders in connection with possible sanctions busting. In addition, the commission recommended creation of sanctions committees that would have expanded functions and suggested parallel systems within individual countries that would aid in implementing and enforcing arms embargoes. The commission also recommended that countries bordering a country under an arms embargo should help maintain a data bank on the movement and acquisition of small arms, ammunition and materiel.

At the end of October, the commission had completed its third report, but by the middle of November the Security Council had yet to release it to the public. Having obtained a leaked copy, the Arms Project issued a press release on November 11, calling on the Security Council to publish the report forthwith and act upon the Commission's conclusions and recommendations. In its report, the Commission showed how arms continued to flow to the former Rwandan government forces, and how these forces raised funds and conducted military training in refugee camps in Zaire and Tanzania. In response to these findings, Human Rights Watch called on the United Nations and the international donor community to implement effective controls to enforce the international arms embargo against the former Rwandan government forces; to extend the mandate of the International Commission for the period of at least another year; to encourage member states of the United Nations to take legal actions against their nationals involved in arms

trafficking in violation of U.N. arms embargoes, even if said individuals are operating in third countries; and to encourage states in the Great Lakes area to establish a regional arms register as a way of encouraging transparency about the arms trade and as a first step toward curbing the supply of weapons to armed forces engaged in human rights abuses.

The process to end the arms embargo imposed in September 1991 on all deliveries of weapons and military equipment to Yugoslavia began in November 1995. In Resolution 1021, the Security Council set out provisions for a termination of the arms embargo in stages. All provisions of the embargo were terminated in March 1996, with the exception of those related to heavy weapons, mines, military aircraft and helicopters. The Security Council terminated the remaining provisions in June 1996.

In April it was revealed that the Clinton administration had decided two years earlier not to object to Iranian arms shipments to Bosnia at the height of the war in the former Yugoslavia. In testimony before the House International Relations Committee in April 1996, Undersecretary of State for Political Affairs Peter Tarnoff said the Clinton administration had feared for the survival of the Sarajevo government. U.S. officials were quoted as insisting that the administration was not obliged to impede the Iranian shipments under the terms of the U.N. Security Council embargo. Undersecretary Tarnoff said U.S. representatives were told to respond to inquiries by the Croatian government regarding the arms shipments by stating that they had “no instructions” on the matter. He also testified that the U.S. had no contact with the Iranian government regarding the weapons.

The United States

The key U.S. initiative to control the proliferation of conventional arms around the globe in 1996 was its support for the formation of the Wassenaar Arrangement (see above). Aside from this new initiative, aimed at stopping the flow of weapons to only a handful of “rogue states,” U.S. arms trade policy continued to be one more of promotion—for economic reasons—than of control.

The Arms Project had for several years promoted the establishment of both a U.S. and European “code of conduct” for arms transfers that would, among other things, prohibit arms exports to governments that did not respect human rights. In July 1996, a bill based on this concept, sponsored by Senator Hatfield and Senator Dorgan, was defeated in the Senate by a vote of 65-35. Though a loss, the debate and recorded vote put advocates of the code in a good position to advance the proposal in the next Congress.

President Clinton announced a new landmines policy in May 1996 that had by November resulted in little new concrete action (see above).

The vote for U.S. ratification of the Chemical Weapons Convention (CWC), scheduled for September 12, was postponed at the last minute when former Senator Bob Dole, the Republican candidate for president, sent a letter to the Senate majority leader opposing ratification. Opponents proposed two deliberately impossible amendments to the ratification measure. One declared that the treaty would not come into effect until the CIA certifies it is able to verify CWC compliance with “high confidence,” and the other that it would not take effect unless North Korea, Libya and Iraq ratified it. As Dole’s letter placed Republican supporters of the CWC in a difficult position, the Clinton administration decided to postpone the vote, thereby ensuring that the U.S. would not be one of the original sixty-five state parties to the CWC.

Because the 104th Congress ended in September 1996, it became clear that the treaty would again have to be reported out of the Senate Foreign Relations Committee before it could

be voted on by the entire Senate. The Convention was expected to come up for a vote again early in 1997, possibly still before its entry into force in April.

THE CHILDREN'S RIGHTS PROJECT

Human Rights Watch established the Children's Rights Project in 1994 to work with the organization's regional divisions and other thematic projects to investigate abuses that uniquely affect children and for which unique campaigning initiatives are needed. The project was to deal with abuses carried out or tolerated by governments and also those perpetrated by armed opposition groups, such as the use of children as soldiers.

Human Rights Watch created the Children's Rights Project to fill the significant gap between child-oriented development and relief aid and traditional human rights works focus on the civil and political rights of adults, by devising effective research and advocacy strategies to work toward an end to the abuses that expressly affect the rights of children. Moreover, the project served as a link between international and national children's groups and the human rights community.

Children were particularly vulnerable to exploitation. In many countries, children as young as nine were forced to become soldiers, to kill or be killed, to be victims of atrocities or, sometimes, to take part in them. In other countries, children as young as five or six slaved as bonded laborers, their childhood mortgaged as they tried to pay off loans made to their families. In many countries, children were forced into prostitution, snatched by strangers, or sold by their families and even trafficked from one country to another while governments ignored their plight.

The Children's Rights Project worked to hold governments accountable for failing to respect and protect children's basic human rights, especially the rights to life and freedom from torture and ill-treatment.

The Work of the Children's Rights Project

During 1996 the Children's Rights Project, working with Human Rights Watch's regional divisions, researched and campaigned to bring to light the plight of bonded child laborers in India; police violence against street children in Bulgaria, India, Guatemala and Kenya; ill-treatment of children in correctional institutions in Bulgaria and in Georgia and Colorado in the United States; abuses of unaccompanied minors by the U.S. Immigration and Naturalization Service; the effects of genocide on the children of Rwanda; and the torture of children by police in Turkey. The project also released a short report on child soldiers that pulled together the research of Human Rights Watch in eight countries over the past several years.

Child Slaves (Bonded Child Labor)

Bonded child labor took place when a family received an advance payment, sometimes as little as US\$17, to turn over a child (sometimes as young as five or six years old) to an employer. Typically, the workplace was structured so that the child could never repay the advance. In some cases, bonded child labor was generational: many years earlier a family member was pledged to an employer and each successive generation was forced to provide a replacement worker.

In September the project released a report with Human Rights Watch/Asia, *The Small Hands of Slavery: Bonded Child Labor in India*. Based on a two-month fact-finding mission, the report described in detail the use of children who worked as bonded laborers in six industries

in India: silk, beedis (hand-rolled cigarettes), leather, silver, gemstones and carpets. Our researchers interviewed more than one hundred bonded children (some as young as five) as well as lawyers, social workers, human rights activists, employers, and government officials. We concluded that, bonded child labor existed throughout India, and that conditions for these children are harsh, unhealthy and sometimes dangerous.

We worked closely with Indian nongovernmental organizations (NGOs) on strategies for change. At the donors' meeting of governments and intergovernmental organizations that provide aid for India, nine of the eighteen delegations stressed the need to abolish bonded child labor. The World Bank agreed to look into its funding of the silk industry, in which we revealed the existence of bonded child labor. World Bank President, James D. Wolfensohn, told press in India that funding for projects using child labor would be ended. The report received remarkable press coverage in India and abroad. Moreover, the Indian government and the World Bank agreed to establish pilot programs on child labor.

Killing and Abuse of Street Children by Police

Street children throughout the world continued to be reported killed or subjected to physical abuse by police. Moreover, they were frequently arbitrarily and illegally detained by police, sometimes for long periods of time.

Although much had been written about street children, almost all research and writing dealt with social and economic issues—health, poverty, AIDS, prostitution, glue-sniffing and other drug abuse—in isolation from the political conditions in which they arise. With the exception of the massive killings of children in Brazil and Colombia, often by police, on which we reported in 1994, little attention was paid to the plight of these children, and almost none to the constant physical and psychological abuse carried out against them by police. Our 1995 report, *Children of Sudan: Slaves, Street Children, and Child Soldiers*, described police abuse of street children. We continued this focus in 1996 with work on police violence against children in Bulgaria, India, Guatemala, Kenya, and Turkey.

In September the project released *Children of Bulgaria: Police Violence and Arbitrary Confinement*, which documented abuses committed against Roma (Gypsy) street children by police, on the street, upon arrest, and in detention. We found that police routinely harassed children and used physical force to make them leave areas of safety and shelter. Police also conducted warrantless roundups of street children upon suspicion of theft or for the alleged purpose of finding runaways. Street children were detained for many nights in police lockup cells in degrading and inhumane conditions, with no judicial review of the legality of their detention. They were often beaten by police upon arrest and while in detention, especially during interrogation sessions. Moreover, police did little to protect Roma children from attacks by “skinheads” and other street gangs. Children refrained from complaining to police about such attacks, fearing ill-treatment.

In November we released *India: Police Abuse and Killings of Street Children*, based on a month-long investigation in four of India's five largest cities: Bangalore, Bombay, Madras, and New Delhi. The report documented a consistent pattern of arbitrary and illegal detentions, torture, extortion, and even killing of street children for reasons as trivial as “making faces” at police, or for no reason at all. Police were rarely, if ever, prosecuted, or even disciplined, for these acts. Comprehensive recommendations made in 1979 by India's National Police

Commission to eliminate police abuses were never implemented.

We called on the Indian government to implement the Police Commission's reforms, to ratify the 1984 U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to take specific steps to eliminate police abuse of street children. We worked with Indian NGOs to develop strategies to further these aims.

In September we sent fact-finding missions to Kenya and Guatemala to investigate the treatment of street children by police in those countries.

In October we sent a mission to Turkey to investigate police torture of children during interrogation, a subject addressed in a 1990 Human Rights Watch report.

Conditions in Children's Institutions

International standards provided both broad and specific protections for children in the justice system. These included the Convention on the Rights of the Child (Article 40), the International Covenant on Civil and Political Rights (Articles 10, 14), the Standard Minimum Rules for the Administration of Juvenile Justice, the U.N. Rules for the Protection of Juveniles Deprived of their Liberty, the U.N. Guidelines for the Prevention of Juvenile Delinquency, the Standard Minimum Rules for the Treatment of Prisoners, and the African Charter on the Rights and Welfare of the Child (Articles 16, 17).

Children in countries throughout the world were confined in dreadful conditions in detention or correctional facilities (training or reform schools), and sometimes in adult prisons. The public was generally not concerned about these conditions, perceiving these children as violent criminals (although studies in the U.S., for example, indicate that only between 10 and 15 percent of incarcerated juveniles had committed violent acts). These children were powerless to change their treatment and, generally, had no one to speak for them.

In 1995 the Children's Rights Project released *United States: Children in Confinement in Louisiana*. The report described conditions in all four secure correctional institutions for children in the state, based on interviews with more than sixty children, as well as state officials, judges, lawyers, social workers and others concerned with juvenile justice. We found pervasive brutality by guards, overuse of isolation and the misuse of restraints—handcuffs and, on occasion, shackles—in violations of international standards. In a quite remarkable success for the project, the U.S. Department of Justice opened a formal investigation into the institutions in June 1996, based on our report.

We followed the Louisiana report with a report on correctional institutions in the state of Georgia. Unfortunately, Georgia officials refused permission for us to visit the facilities or talk with the children. However, in Georgia in March we interviewed lawyers, social workers, judges, children, and others with experience in the correctional institutions. We found that children were confined in shamefully overcrowded, squalid and unsanitary institutions with inadequate educational and exercise programs. As a result of overcrowding, these institutions were dangerous places for weaker children who were preyed upon by older, tougher juvenile offenders. In some facilities, four boys shared housing space intended for one. Moreover, we found disciplinary measures that were inappropriate and excessive. These included an overuse of confinement in isolation cells (sixty-three days in one case) and locking children in their cells for long periods of time. Moreover, four-point restraints, with children bound to a bed by wrists and ankles to a bed for long periods of time, were used as disciplinary measures, as well as to restrain children who were believed to be suicidal. Our report was part of the Human Rights Watch

publication, *Modern Capital of Human Rights? Abuses in the State of Georgia*, which was released in July.

The U.S. Department of Justice began a "pre-investigation" to determine whether there was sufficient information in our Georgia report to warrant opening a formal investigation into the children's institutions. Also, we were working with the American Bar Association's Juvenile Justice Center to try to effect changes in the institutions.

During 1996 we also carried out a fact-finding mission to Colorado to look into conditions in children's institutions there.

In 1996 we investigated the treatment of unaccompanied children by the U.S. Immigration and Naturalization Service in Arizona, California, and Illinois. The investigation included children's access to lawyers and interpreters, their treatment by guards, and their placement in juvenile correctional facilities.

In our report on the children of Bulgaria we examined the procedures by which children as young as eight were confined for up to three years, without due process, to correctional institutions known as Labor Education Schools, for minor offenses and for status offenses, that is, offences that would not be crimes if committed by adults, e.g. truancy, running away from home and "incurability". Conditions in these schools were harsh and impeded, rather than improved, a child's wellbeing. Children told us of hunger, cold, and extreme and summary disciplinary measures, including severe beatings by staff members, reductions in diet, and confinement in an "isolator."

We presented our findings to Bulgarian authorities and, to the U.N. Committee on the Rights of the Child, in October, with detailed recommendations for reform of the Bulgarian juvenile justice system and the conditions of confinement for children whom courts have found to be delinquent.

The 1996 Kenya and Guatemala missions also looked into the procedures by which children were sentenced to institutions and the conditions there.

Child Soldiers

Children under eighteen—often as young as nine or ten--were used as soldiers around the world in international, and, more often, internal armed conflicts. These children were often equipped with fully-automatic assault rifles. They killed others (often children) and were themselves killed or grievously wounded. They witnessed and sometimes took part in atrocities. They were deprived of education and a normal childhood. Rehabilitating them and reintegrating them into a peaceful society once hostilities ended was an immense and difficult problem.

The Children's Rights Project had issued three detailed reports on the use of children as soldiers: *Easy Prey: Child Soldiers in Liberia* (1994), *The Lost Boys: Child Soldiers and Unaccompanied Boys in Southern Sudan* (1994), and *Children of Sudan: Slaves, Street Children, and Child Soldiers* (1995). In 1996 we continued our advocacy with a short report, *Children in Combat*, that summarized our information on the use of child soldiers in eight countries around the world.

We continued our advocacy efforts on several fronts. First, we took part in a Belfast conference on children in low-level conflicts which was part of a U.N. Study on the Impact of Armed Conflict on Children. We also provided information for the study, and later took part in editing and providing suggestions that were incorporated in the final report, which was presented to the U.N. General Assembly in November 1996. We worked with a coalition of children's and other organizations to maximize the impact of the report.

We provided information and carried out advocacy efforts in connection with the U.N. Working Group on raising the minimum age for participation in armed conflict. That group, set up by the Commission on Human Rights, met twice to draft an optional protocol to the Convention on the Rights of the Child that would raise the minimum age from fifteen to eighteen. The U.S. government, which had not ratified the convention, played a strongly negative role during the drafting of the optional protocol, resisting raising the age to eighteen and insisting that the protocol not take effect until ratified by twenty-five countries (in other human rights documents the number needed has been ten). We worked unsuccessfully to persuade U.S. officials otherwise.

In an effort to examine the impact on children of the Rwanda genocide, we sent a mission there in 1996. The mission focused on the roles played by children during the slaughter, the treatment of children by the former government's forces which carried out the genocide and by the forces of the current government, the conditions in which children were held afterwards, and discrimination suffered by imprisoned children because of their ethnicity.

Orphans in China

In January Human Rights Watch/Asia released *Death by Default: A Policy of Fatal Neglect in China's Orphanages*, which described the starvation, disease, and unnatural deaths of thousands of abandoned orphans in state custodial institutions. The Children's Rights Project played an active advocacy role in bringing these findings to NGOs and intergovernmental organizations like UNICEF and the World Health Organization (WHO). In an effort to influence UNICEF programs in Chinese orphanages, we arranged a meeting for Dr. Zhang Shuyun, who had smuggled out of China vital information on the Shanghai orphanage, and Ai Ming, an orphan who spent the first twenty years of his life in that orphanage, with UNICEF officials. We also met with the WHO in Geneva concerning our findings and recommendations and to persuade the WHO to take action on the plight of the orphans. With Physicians for Human Rights, we arranged for Dr. Zhang a meeting with physicians to enlist their help in influencing Chinese officials to reform orphanage practices. We also prepared a report for the U.N. Committee on the Rights of the Child, discussed below.

This year the Children's Rights Project honored as a human rights monitor Krassimir Kanev, the chairperson of the Bulgarian Helsinki Committee(BHC), a Bulgarian nongovernmental organization founded in 1992. The BHC issued a detailed study of Labor Education Schools (juvenile correctional facilities) in 1996, and was active in protecting children's rights in other areas.

Work with the United Nations

During 1996 the Children's Rights Project conducted advocacy efforts with the U.N. Committee on the Rights of the Child, UNICEF, and the World Health Organization.

The U.N. Committee on the Rights of the Child, the treaty body charged with monitoring compliance with the Convention on the Rights of the Child, was a forceful and effective group that welcomed input from NGOs. The committee received reports from states signatories to the convention, questioned officials closely on the state's compliance, and made cogent recommendations for change. In addition, the committee persuaded the U.N. General Assembly to create a special study on the impact of armed conflict on children. It also persuaded the U.N. Commission on Human Rights to establish the working group on the minimum age for armed conflict.

In the last two years, the Children's Rights Project submitted to the committee reports on the treatment of children in the justice systems in Jamaica, Northern Ireland, and the state of Louisiana (the committee agreed to receive that report although the U.S. was not yet a party to the convention). In many cases the committee urged the offending government to take the steps we had recommended.

In February 1996 the project presented both written and oral reports to the committee concerning the plight of orphans in China, mentioned earlier. The committee strongly criticized the Chinese government for the deaths we disclosed, and used many of the suggestions and recommendations that we had made to the committee.

In June the Asia division of Human Rights Watch presented written and oral reports to the committee on the status of children in Burma.

In October the project presented written and oral reports to the committee on police violence and arbitrary confinement of street children in Bulgaria, and an oral report on the plight of Kurdish children in Iraq, based on a report released by our Middle East division.

A written statement was also submitted to the Commission on Human Rights on the use of children as soldiers in armed conflicts, calling for the convening of a third session of the Working Group on raising the minimum age for participation in armed conflict. The project sent a letter to the U.N. High Commissioner for Refugees (UNHCR) urging it to take measures to prevent the conscription of underage boys from UNHCR refugee camps by the Sudan People's Liberation Army. The project learned that such conscription continued as recently as March and April of 1996.

The project called on the U.N. special rapporteur on torture and the U.N. Working Group on Arbitrary Detention to investigate police violence against street children and arbitrary detention in Bulgaria and India. We asked the U.N. Working Group on Contemporary Forms of Slavery, UNICEF, the International Labour Organization (ILO), and the WHO to press the Indian government to observe national and international laws forbidding bonded child labor.

Role of the United States

One hundred eighty-seven countries had ratified or acceded to the Convention on the Rights of the Child. Only five countries had not done so: Cook Islands, Somalia, United Arab Emirates, Switzerland, and the United States. The Clinton administration signed the convention in February 1995, but did not forward the convention to the Senate for ratification. Jesse Helms, the chair of the Foreign Relations Committee, had described the convention as a "pernicious document" and had vowed not to hold hearings on its ratification. Human Rights Watch supported U.S. ratification of the convention.

In February 1996 the U.S. continued to be a major stumbling block in the meetings of the Working Group to Draft an Optional Protocol to the United Nations Convention on the Rights of the Child on Participation of Children in Armed Conflict, that sought to raise the permissible age for taking part in armed conflict from fifteen to eighteen. The U.S. permitted seventeen-year-olds to enlist in the armed forces with parental permission, and was opposed to raising the minimum age to eighteen. The working group was to meet again in 1997.

On a more positive note, in June the U.S. Department of Labor again held hearings on child labor, having issued two reports on the use of child labor and bonded child labor in the manufacture of products exported to the United States. In June Labor Secretary Robert Reich recommended four steps for ILO members to take on child labor: increase global public

awareness of the problem;

insist that international financial institutions such as the World Bank fully integrate the child labor issue into their decisions;

adopt additional international laws against exploitative child labor; and

provide resources for education and law enforcement

WOMEN'S HUMAN RIGHTS DEVELOPMENTS

Women's rights activists left the 1995 Fourth World Conference on Women in Beijing armed with a Platform for Action adopted by 189 governments who had committed themselves to improving respect for women's human rights. In 1996, women around the world pressed their governments to live up to these promises by, among other things, ensuring in law and in practice the equality of women and men, repealing laws that discriminate on the basis of sex, removing gender bias in the administration of justice, and combating violence against women, whatever its causes. Following the Beijing conference, some governments stepped up efforts to promote women's rights: the South African parliament ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the legislature in Nepal introduced legislation to allow women to inherit property; and the governments of Colombia and Ecuador passed laws to protect women in cases of domestic violence. But these important steps will have little impact if they are not backed up with changes in government practice.

Aware that governments often must be compelled to follow up policy pronouncements with on-the-ground implementation, the Women's Rights Project worked in 1996 to monitor women's human rights developments in Egypt, Kenya, Mexico, Morocco, Peru, Russia, Rwanda, and the United States and to expose the gap between government rhetoric on women's human rights and the reality of the continuing abuse of those rights. In addition to these countries, during 1996 we conducted missions to investigate violations of women's human rights in Pakistan, South Africa, and the United States.

Egypt

In September 1996, the Women's Rights Project began to investigate problems of legal discrimination against women in Egypt and violence against women in the family, including spousal abuse and female genital mutilation (FGM). Although Article 40 of the Egyptian Constitution guarantees women equality under the law, numerous laws deny women rights that are accorded to men. Egypt's nationality law provides a striking example of women's unequal status under the law by denying women who marry non-Egyptians the ability to pass on their Egyptian nationality to their children. In February 1996, the Egyptian People's Assembly adopted an omnibus law on children but rejected draft language reforming the nationality law. An estimated 250,000 Egyptian women thus continued to suffer the consequences of unequal citizenship; they must obtain visas to allow their "foreign" children to live in Egypt and must pay for state education and health services to which Egyptian citizens are entitled. No similar restrictions are placed on male Egyptians who marry non-Egyptian women. The Mubarak government resisted efforts to reform this law and thus accord women the full benefits of citizenship. The government defended its position by arguing that a law conveying citizenship on children of non-Egyptian fathers presents a threat to security: as citizens, these children

would, among other things, be required to serve in the army.

Other forms of legal discrimination underscored the secondary status of women. The criminal code, for example, allows a husband to receive a reduced penalty—three years maximum—for killing his wife if he can prove that he killed her to defend his honor. Women who kill their husbands for whatever reason are subject to the standard punishment for murder: prison and hard labor for a term between three years and life. Throughout 1996, reports of such “honor” killings and the light sentences given in response to them appeared frequently in the Egyptian press.

Human rights and women’s advocates provided evidence that domestic violence was a widespread and seldom acknowledged phenomenon in Egypt. Initial research conducted in 1996 by the New Woman Research Center and El Nadim Center for Victims of Violence indicated high levels of spousal abuse and widespread acceptance of men’s right to beat their wives. Despite growing awareness of the scope of the problem, the government made no statements acknowledging or condemning domestic violence. Moreover, advocates stated that law enforcement authorities, ranging from police to judges, tended to dismiss domestic violence as a private matter between husband and wife. Women were successful in filing domestic violence complaints with police only when they were prepared to insist on their right to do so. Although domestic violence by definition is committed by private individuals, states nonetheless are obliged under international law to protect women’s lives and physical security. Further, where states routinely fail to prosecute domestic violence because of the sex and status of the victim, they deny women equal protection of the law.

Female genital mutilation (FGM), also known as female circumcision, continued to be widespread in Egypt despite government condemnation of the practice. A demographic and health survey funded by the U.S. Agency for International Development (USAID) and released in late 1996 estimated that 97 percent of girls in Egypt undergo FGM. In July 1996, Minister of Health Ismail Sallem announced his intent to enforce a ban on FGM; the announcement followed the highly publicized death of an eleven-year-old girl on July 12 consequent to FGM performed by a barber. The government’s ban, however, was not consistently enforced, and the decree actively banning the practice had not been issued in writing or distributed to state medical facilities as of early November. In August 1996, a fourteen-year-old girl died after being subjected to FGM, in this instance performed by a doctor. And, in October, press reports indicated that two young girls, ages three and four, bled to death after a government doctor tried to circumcise them in their homes.

Following the health minister’s July announcement, a doctor and professor at Ein Shams University, Munir Mohamed Fawzy, filed a lawsuit against Minister Sallem challenging the ban on FGM as unconstitutional; Fawzy argued that FGM is both required by Islamic law and medically desirable. In a September 29 court hearing, the judge postponed consideration of Fawzy’s case until November 1996, and the hearing had not taken place by the time of this writing.

The Egyptian People's Assembly rejected an attempt to ban FGM explicitly as part of the law on children adopted in February 1996. In doing so, members of parliament argued that the criminal law—which prohibits severing a part of the body without medical necessity—provides adequate legal recourse.

Kenya

Since 1993, the Women's Rights Project has monitored the treatment of Somali women refugees in camps in northeastern Kenya in order to follow continuing problems of rape of women in the camps and to make broader policy recommendations to the U.N. High Commissioner for Refugees (UNHCR) about the protection of refugee women. Our 1993 report, *Seeking Refuge, Finding Terror*, documented the Kenyan government's indifference to cases of sexual abuse, notably rape, against Somali refugee women in the northeastern Kenyan camps. Follow-up missions in 1994 and in 1996 found important changes in the UNHCR and Kenyan government's response to the widespread incidence of sexual violence and significant achievements in protection of women refugees. Among other measures, the UNHCR organized a program for Somali refugees to plant "live" fences (several rows of thick bushes) around the refugee camps to discourage incursions by bandits. The UNHCR also conferred greater responsibility on the refugees, including refugee women, for establishing security in their camps and addressing the issue of sexual violence.

The UNHCR has continued to offer human rights training to Kenyan police officers and has taken other steps to offer material support to the police, including the construction of a police post near the refugee camps, and advocated for the protection of refugees with the Kenyan government. Counseling, medical and legal services have been instituted for rape survivors, and procedures have been put into place to ensure that medical and police reports are filed as a matter of routine practice.

The result has been a significant decline in the incidence of rape, a number of successful prosecution of rapists, and improved protection provided by Kenyan police officers. Reported rapes of refugee women and children have declined by more than half, from over 200 cases in 1993 to seventy-six in 1994 and seventy in 1995. While these figures cannot be deemed to reflect the actual incidence of rape because of the ever-present factor of under reporting, they do indicate a clear trend. However, problems continued to exist. First, rapes occurred when women and girls left the relative security of the camps in order to tend livestock and find firewood. It is most frequently young girls who engage in these tasks, and since late 1994, they have constituted a higher percentage of rape victims. Second, justice continued to elude most rape survivors. Long distances to the nearest court, coupled with an overburdened court calendar, have caused long delays in the few cases which have been prosecuted. Lastly, through 1996 there were still no women police officers posted in the area, despite assurances from the Kenyan government that it would assign policewomen to the area once housing was constructed.

Mexico

During investigations conducted in 1995 and 1996, the Women's Rights Project found that the

Mexican government had failed to protect women workers from pregnancy testing and other discriminatory treatment in export-processing factories (*maquiladoras*) along the U.S.-Mexico border. In *No Guarantees: Sex Discrimination in Mexico's Maquiladora Sector*, released in August 1996, the Women's Rights Project concluded that major U.S.-based and other corporations that own or subcontract maquiladora factories routinely subject prospective female employees to mandatory urine testing and invasive questions about their contraceptive use, menses schedule, or sexual habits in order to screen out pregnant women and deny them jobs. Some maquiladoras have mistreated or forced to resign women who have become pregnant shortly after being hired. While the Mexican government has been aware of this discrimination, it has done little to protect women from pregnancy-based sex discrimination and instead has allowed U.S. and other corporations to flout Mexican federal labor law protecting women workers from discrimination.

Women victims of pregnancy-based sex discrimination were extremely reluctant to challenge the discriminatory hiring practices of Mexico's maquiladoras because they depended almost exclusively on work in that sector to support themselves and their families. For the most part, women who worked in the maquiladoras were heads of households, had little work experience outside the manufacturing sector, were undereducated for work in other sectors, and were ill-informed about their labor rights.

Women's reluctance to challenge workplace discrimination has been compounded by an official labor-adjudication system that was ill-equipped to investigate and remedy pregnancy-based sex discrimination. The Mexican government's labor-resolution mechanisms could not be accessed by most victims of pregnancy-based sex discrimination because these mechanisms only examined cases in which people already had an established labor relationship with an employer. Pre-hire sex discrimination prevented pregnant applicants from establishing such a relationship. Moreover, even were female employees to challenge workplace discrimination, they would face government officials who largely have failed to investigate, or who have refused to address the problem because maquiladoras were a major source of employment and foreign-income earnings. Our research showed that some labor officials feared reprimand from higher officials in Mexico City if they were to seek to enforce Mexico's labor laws in the maquiladoras.

In responding to the Women's Rights Project report, the Mexican government took the position that it was not illegal for employers to try to determine a female job applicant's pregnancy status in order to avoid placing the woman in a position that would endanger her life, physical and mental health, or that of her fetus. However, this view is inconsistent with both Mexican and international law. Mexico's federal labor code prohibits an employer from refusing to hire someone for reasons of either sex or age. The International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) both prohibit discrimination. Moreover, the Mexican government failed to address the fact that corporations such as Zenith and General Motors had stated publicly that their only reason for screening prospective employees for pregnancy was not to protect them but to deny them work and avoid paying legally mandated maternity benefits.

Morocco

In late 1995, the Women's Rights Project spent two months investigating the effects of Morocco's discriminatory family code, or Moudawana, on women's status. The Moudawana regulates, among other things, legal capacity, marriage, divorce, and inheritance. In each of these areas, the Moudawana grants different rights to women and men and consistently renders women's autonomy subject to male guardianship and authority. The condition of never being a full and independent agent has serious consequences for women; they have been married without their consent, forced to undergo virginity exams, denied access to divorce and to child custody, and left with little recourse in situations of domestic violence. Moreover, although women's political rights and their access to education and employment are in theory protected by Moroccan law, discrimination in the family code limits women's autonomy and thus creates obstacles to women's full enjoyment of these rights.

Women's inequality in marriage begins before the union is finalized. A girl's or woman's consent to marriage is required, but it is rarely exercised contrary to the wishes of a father or other male relative. A woman of any age is prohibited from contracting marriage without the permission of a male guardian. Men over the age of eighteen are not required to seek anyone's permission to marry. Moreover, the Moudawana also requires women—and not men—to provide information about their marital and sexual history before receiving a marriage certificate. For example, the law requires that a woman disclose whether she is a "spinster-celibate" or has been previously married.

Women's status as legal minors also denies them equal participation in marriage and divorce, which can leave them particularly vulnerable to domestic violence. The Moudawana requires that a woman obey her husband and submit to his authority; custom condones even the husband's use of force in dealing with her refusal to submit. Women who attempt to leave abusive marriages have been thwarted by their unequal access to divorce: men may divorce their wives without cause or a court proceeding, while women must have specific grounds and court approval. The law compounds the unequal status of women in the marital relationship by allowing men up to four wives simultaneously. The law does require that wives be notified of their husbands' intent to marry again and that judges authorize polygamous marriages, but wives have no power to consent to or reject their husbands' decisions. Nor do women have the right to contract polygamous marriages themselves.

The Moroccan government has refused to eliminate sex discrimination from its laws. The only reform of the Moudawana, undertaken in 1993 after intense pressure from women's organizations, reaffirmed specific discriminatory laws. Morocco defended this discrimination as intrinsic to its laws based on Islamic jurisprudence. Judges and magistrates charged with interpreting Morocco's family code have reinforced the discrimination embedded in the law by undermining and resisting women's efforts to exercise their rights. Magistrates in the Moudawana courts have been hostile to divorce proceedings initiated by women. And, even where the courts do rule in favor of respecting those women's rights that are protected by

law—for example, providing financial support for women divorced by their husbands or recognizing women's right to control their own property—the lack of enforcement mechanisms or meaningful penalties have made it easy to evade compliance with such judgments.

United States

Throughout the year, we continued our investigation into sexual abuse of women in U.S. state prisons. The investigation covered eleven state prisons in the north, south, east, and west of the country and included interviews with the U.S. federal government, state departments of corrections and district attorneys, correctional officers, civil and women's rights lawyers, prisoner aid organizations, and over sixty prisoners formerly or currently incarcerated in women's prisons in California, Georgia, Illinois, Michigan, New York, and the District of Columbia, the nation's capital.

Our research indicated that the United States has the dubious distinction of incarcerating the largest known number of prisoners in the world, of which a steadily increasing number are women. Since 1980, the number of women entering U.S. prisons has risen by almost 400 percent, roughly double the incarceration rate increase of males. Fifty-two percent of these prisoners are African-American women, who constitute 14 percent of the total U.S. population. According to current estimates, more than half of all female prisoners have experienced some form of sexual abuse prior to incarceration. Many women are incarcerated in the 170 state prison facilities for women across the United States, and more often than not, they are guarded by men.

The custodial sexual misconduct occurring in the prisons we investigated takes many forms. We found that male correctional employees have vaginally, anally, and orally raped female prisoners and sexually assaulted and abused them. We found that short of using actual or threatened force, male officers have exploited their ability to provide or deny goods and privileges to female prisoners to secure sexual relations from them. In some instances male officers have engaged in sexual contact with female prisoners without using force or offering material reward in violation of their professional duty. In addition to engaging in sexual relations with prisoners, male officers have used mandatory pat-frisks or room searches to grope women's breasts, buttocks, and vaginal areas and to view them inappropriately while in a state of undress in the housing or bathroom areas. Male correctional officers and staff have also engaged in regular verbal degradation and harassment of female prisoners, thus contributing to a custodial environment in the state prisons for women which is often highly sexualized and excessively hostile.

Russia

Political and economic change in Russia have in no way been matched by improved respect for women's rights. In fact, abusive practices such as sex discrimination and violence against women have flourished virtually unchecked in recent years. The Women's Rights Project visited Russia in April-May 1996 to investigate the barriers to justice faced by survivors of sexual and domestic violence. This mission followed our 1995 report, *Neither Jobs Nor Justice: State*

Discrimination Against Women in Russia, revealing both widespread employment discrimination on the basis of sex that was practiced, condoned, or tolerated by the government and the role of Russian law enforcement agencies in denying women their right to equal protection of the law by failing to investigate and prosecute violence against women.

Our 1996 mission documented how police, prosecutors, state forensic doctors, and the criminal code itself created substantial obstacles that prevented women's complaints of violence from being successfully investigated and prosecuted. The police often rejected reports of violence against women, particularly those alleging spousal abuse. In cases of sexual violence, police officers and prosecutors often suggested that the woman provoked the rape or that her report was fabricated. Women reporting crimes of sexual violence also faced difficulties in obtaining a referral by an official evidence center for a required medical examination. Such referrals, which must be authorized by police or prosecutors, are not provided unless the complaint is accepted. In some cases investigators refused to give women referrals to the evidence center. In other cases, investigators often did not inform women of the importance of being medically examined as soon as possible or spoke to the woman for several hours, thus delaying her medical exam and risking the loss of valuable evidence, or told women to go to the evidence center days after filing their reports. Consequently, women often did not have the medical evidence necessary to support a rape conviction.

In response to public outcry about violence against women, the Russian parliament drafted a family violence law in 1995, which is designed to prevent domestic violence. This draft family violence law languished in the parliament in 1996 and was not expected to pass. Many activists asserted that the law did not contain sufficient criminal penalties for domestic violence and would be a setback in protecting women from violence. For example, crisis centers would have to obtain a state license to operate. This licensing provision was already included in a social welfare law passed in 1996. Many nongovernmental organizations (NGOs) criticized licensing as a tool to allow the government to close any crisis center that it does not want functioning.

The state's failure to address violence against women was compounded by its unwillingness to combat sex discrimination more generally. In 1996, Russian women continued to confront unchecked employment discrimination in law and in practice. New labor legislation effective July 1, 1996 increased the number of occupations forbidden to women, despite an appeal by fifty-three women's organizations asking parliament to ensure that the draft legislation provided equal opportunities for women. In addition, the request of women's groups that the new labor law prohibit employers from denying women jobs because of their sex was rejected.

Throughout 1996, women's rights NGOs experienced significant difficulty in getting access to government officials. In July 1996, only one women's rights activist was invited to the hearings on the draft family violence law. This activist was only given a few days notice and did not receive a copy of the draft bill prior to the hearings.

Rwanda

During the 1994 genocide, Rwandan women were subjected to sexual violence on a massive scale, perpetrated by members of the infamous Hutu militia groups known as the Interahamwe, by other civilians, and by soldiers of the Rwandan Armed Forces (Forces Armées Rwandaises), including the Presidential Guard, and directed or permitted by administrative, military and political leaders in an effort to further their political goals. In April 1996, investigators from the Women's Rights Project and Africa division traveled to Rwanda to document this widespread sexual violence and current problems facing Rwandan women in the aftermath of the genocide. A report released in September 1996 by Human Rights Watch and the Fédération Internationale des Ligues des Droits de l'Homme titled *Shattered Lives* found that, during the genocide, women were individually raped, gang-raped, raped with objects such as sharpened sticks or gun barrels, held in sexual slavery (either collectively or through forced "marriage"), or sexually mutilated. These crimes were frequently part of a pattern in which women were raped after they had witnessed the torture and killing of their relatives and the destruction and looting of their homes.

Women from both the Tutsi and Hutu ethnic groups were raped, although the preponderance of victims were Tutsi. The extremist propaganda which exhorted Hutus to commit the genocide specifically attacked the sexuality of Tutsi women, which it said had been used to dominate the Hutus. During the genocide, attackers frequently expressed their intent to use rape as a means to degrade and destroy the Tutsi community.

One result of the genocide is that Rwanda has become a country of women. An estimated 70 percent of the population is female, and some 50 percent of all households are headed by women. Regardless of their status—Tutsi, Hutu, displaced, returnees—all women are facing overwhelming problems because of the upheaval caused by the genocide, including social stigmatization, poor physical and psychological health, unwanted pregnancy—the National Population Office in Rwanda estimates that some 2,000 to 5,000 children have been born of rape—and increasing poverty. Yet, the Rwandan government, international donors, and the U.N. Human Rights Field Operation based in Rwanda have not addressed the past and present problems facing women, and there continued to be a lack of services designed to assist women victims of human rights abuses.

In addition to the social and personal trauma resulting from the injuries suffered from sexual violence, women also faced dire economic difficulties in large part due to their second class status under Rwandan law. General practice has established that under Rwandan customary law, women cannot inherit property unless they are explicitly designated as beneficiaries. Accordingly, thousands of widows and orphaned daughters had no legal claim to their late husbands' or fathers' property or finances because they are women. Many women thus were living destitute, in abandoned houses or with relatives or friends, struggling to make ends meet, to reclaim their property, and to raise children. Hutu women whose husbands were killed or were in exile or in prison accused of genocide, dealt with similar issues of poverty as well as with the recrimination directed at them on the basis of their ethnicity or the alleged actions of their

relatives. The Rwandan government had initiated a legal commission to address these issues and to introduce legislation to allow women to inherit equally with men, but the reforms were expected to take a long time.

The prospects for justice for Rwanda's victims of rape and other forms of sexual violence were grim during 1996, at both the national and international levels. The Rwandan judiciary faced systemic and profound problems that have made the likelihood of justice for both the genocide perpetrators and their victims a remote possibility. Over 80,000 prisoners were being held without trial in prison, and the judicial system was still not functioning. However, even should the system begin to function, rape victims will face specific obstacles, including that police inspectors documenting genocide crimes for prosecution are predominantly male and have not been collecting information on rape. At the international level, the International Criminal Tribunal for Rwanda (ICTR), which is tasked with bringing the organizers of the genocide to justice, opened trials in September 1996. In its first two months, there were no indictments for rape, although rape constitutes a war crime and a crime against humanity. The Rwanda tribunal has faced serious resource constraints and continues to confront problems of staffing and methodology. (See below).

The Role of the International Community

United Nations

The work for advancing women's rights within the U.N. system rests in significant part with the U.N. Commission on the Status of Women (CSW). At its fortieth session in March 1996, the CSW met to review its mandate in light of the Fourth World Conference on Women, held in Beijing in 1995, and to establish a five-year work plan to make itself a more effective lobby for women's rights within the U.N. system. The session was intended to lay the groundwork for implementing the Beijing Platform for Action into the twenty-first century. The CSW adopted resolutions on, among other things, the mainstreaming of women's human rights within the U.N., trafficking of women and girls, and violence against women migrant workers; agreed on a method of work for dealing with the implementation of the Platform for Action adopted at the Beijing conference; and set a provisional agenda for its next session.

The U.N. General Assembly similarly took its cue from the Beijing Conference, and, in December 1995, adopted a series of resolutions encouraging U.N. agencies to raise the profile of women's rights in their work and governments to increase efforts to fight violence against women.

Consequent to efforts to integrate women's human rights into all U.N. human rights work, the U.N. Commission on Human Rights also played an increasingly important role in promoting respect for women's rights. At its 1996 session, the commission adopted resolutions condemning violence against women and advocating the full integration of women's human rights into the human rights work of the U. N. The commission acknowledged that fulfilling these commitments is critical to improving the quality and consistency of U.N. monitoring of women's

human rights. Yet the commission refrained from committing itself to specific steps advocated by nongovernmental organizations (NGOs) and instead reiterated general promises that had been made at previous sessions and inconsistently implemented. Secretary-General Boutros Boutros-Ghali, in his report to the Human Rights Commission on the extent to which violations of women's human rights have been addressed in U.N. human rights work, noted that some progress had been made in integrating women's human rights into the U.N. human rights program but recognized that changes in policy had not consistently resulted in changes in practice.

Special Rapporteur on Violence Against Women Radhika Coomaraswamy reported to the Human Rights Commission on violence against women in the family as a human rights abuse in 1996, in the second report of her three-year term. She also submitted her first report on a specific human rights problem—sexual slavery imposed by the Japanese military during World War II. The rapporteur denounced the Japanese military's forcing of women and girls from across Asia into sexual slavery and called for the government to apologize to and compensate each individual survivor. The Japanese government strongly opposed this report and urged other delegations not to support the rapporteur's findings. Ultimately, however, the commission adopted the special rapporteur's report in its entirety.

The war crimes tribunals for the former Yugoslavia and Rwanda are important areas in which to assess the international community's commitment to the examination of abuses against women as methods of warfare, such as rape and sexual slavery, and the need to ensure that such abuses are investigated and prosecuted. Human Rights Watch has supported the work of the international tribunals for both the former Yugoslavia and Rwanda since their creation and publicly called on all governments to support the tribunals and to cooperate with their work. An international procedure which condemns genocide and holds the perpetrators accountable will send a message that the international community does not tolerate impunity for such crimes.

In 1996, the Women's Rights Project focused particularly on the International Criminal Tribunal for Rwanda (ICTR). From the beginning, the Rwanda tribunal faced serious resource constraints and problems of staffing and methodology, and with regard to gender-based crimes, these problems were magnified throughout 1996. In contrast to the former Yugoslavia tribunal, where rape was prominently condemned as a war crime and indictments brought against alleged rapists, the ICTR appeared to be allowing rape, yet again, to be overlooked as a crime. As of November 1996, there were no indictments for rape, despite the widespread sexual violence which occurred during the Rwandan genocide (see above).

The lack of rape indictments in Rwanda was largely due to a lack of political will among those responsible for the investigations. There was a widespread perception among tribunal investigators that rape was somehow a "lesser" or "incidental" crime not worth investigating. Some at the Rwanda tribunal also held the mistaken view that Rwandan women would not come forward to talk about rape. The initial interviewing techniques used by investigators were poorly designed to gain the confidence of the women and elicit rape testimonies. Furthermore, inadequate measures were put in place to protect those who gave evidence from retaliation.

The ICTR did take some steps to address the problem of sexual violence. In July 1996, the tribunal created a sexual assault committee to coordinate the investigation of gender-based violence. The committee began to operate in October, with the aim of addressing strategic, legal and methodological questions confronting the investigations. However, the Witness Protection Unit based in Arusha, Tanzania, did not put into place mechanisms to ensure that women who testified would be protected from reprisal as well as to provide necessary support services. In the absence of immediate steps to address these problems and collect testimonies from rape victims, time was running out for including evidence of rape in cases to be brought before the judges. In October 1996, Canadian judge Louise Arbour replaced Richard Goldstone as chief prosecutor of both tribunals and, in an October 7 letter to the Women's Rights Project, pledged that allegations of sexual assault would be vigorously investigated and prosecuted and announced that she would seek to establish a sexual violence investigation team to operate from Kigali, Rwanda.

The impact of the Beijing conference—and its emphasis on protecting women's human rights as key to improving their status—was reflected in parts of the U.N. that previously overlooked women's concerns. Governments that gathered in Istanbul in June 1996 at the U.N. Conference on Human Settlements (Habitat II) vowed to protect and promote women's human rights. Governments specifically pledged to secure gender equality in all housing and community development planning and urban and rural policy. The Habitat consensus agreement recognized that discrimination against women and family violence were causes of women's restricted access to shelter and homelessness. Governments attending the conference agreed to eradicate, and provide legal protection against housing discrimination against women; ensuring women equal access to land and their ability to retain control and use of their homes, land, and property; and undertaking legal and administrative reform to ensure that women have equal access to economic resources, including inheritance rights, land, property, credit, natural resources, and technology. Moreover, governments committed their efforts to promoting shelter and basic services to survivors of family violence and recognized the need to pay special attention to the needs of poor women and victims of sexual exploitation. Finally, governments recognized that there are various forms of the family, affirmed that marriage must be entered into voluntarily, that husband and wife must be equal partners, and that the rights of family members must be respected. The Habitat commitments, however, were not backed up with resources for implementing them.

United States

In 1996 the Clinton administration continued to make strong general statements in support of women's human rights. These statements, however, did not always translate into specific policies. Moreover, on the domestic front, although the Clinton administration stated its support for ratification of CEDAW, the Senate failed to ratify this human rights treaty, leaving U.S. women cut off from access to important international human rights protections.

At the U.N. Commission on Human Rights, Amb. Geraldine Ferraro, head of the U.S. delegation to the commission, spoke out strongly in defense of women's rights as human rights. She condemned violence against women and the denial of women and girls of access to food,

education, health care or property because of their sex. Ambassador Ferraro expressed the U.S. government's desire to see every nation fulfill the commitments made in the Beijing Platform for Action and underscored the U.S. intent to make good on its own promises. She offered two examples of U.S. efforts to implement the Beijing platform: the national campaign in the U.S. to fight violence against women, and new programs of the U.S. Agency for International Development (USAID) to encourage women's participation in micro-enterprises.

Although the U.S. clearly is making an effort to address women's rights concerns, it can still be very slow to take concrete initiatives in this regard. It was not until over two years after the genocide and more than one year after the creation of the tribunal that the U.S. dedicated any specific resources to the prosecution of rape by the Tribunal, or even gave any high-level public recognition to the existence of this problem. In October 1996, during his visit to Tanzania, Secretary of State Christopher took the welcome step of designating \$650,000—of a total of \$5,650,000 for the Rwanda tribunal—for the prosecution of rape and other genocide-based crimes. The U.S. has yet to turn its attention to ensuring that funding to the Rwandan judiciary and the U.N. Field Operation in Rwanda also be used to assist in bringing to justice the perpetrators of rape and other abuses against women.

The U.S. did take an initiative early on in post-genocide Rwanda by establishing a fund for Women in Transition in Rwanda, which in 1995 provided U.S.\$1,000,000 to assist women, particularly widows, in their efforts to grapple with the economic and social upheaval of life after the genocide. Such programs are part of an increasing and welcome effort by the U.S. government to provide women with assistance as an integrated element of its development and democracy programs. Thus, with regard to Bosnia, President Clinton announced on June 29 that the U.S. would contribute U.S.\$5 million to establish the Bosnian Women's Initiative. The funding was aimed at providing women with business development loans and skills training and ensuring them access to resources like day care, legal services and education. In a similar effort in Asia in 1996, USAID started projects in Asia—to train women workers in their legal rights and strategies to protect them—and in the newly independent states of the former Soviet Union (NIS)—to promote new legislation to guard women's rights in the process of economic transition.

The State Department *Country Reports on Human Rights Practices for 1995* included its most comprehensive reporting to date on violations of women's human rights around the world. Increased reporting, however, did not necessarily translate into greater integration of women's human rights into U.S. policy towards specific abusive governments. For example, although the U.S. acknowledged in its *Country Reports on Human Rights for 1995* that discrimination and violence against women occurs in Russia, it made limited efforts to incorporate remedies for such problems into its assistance programs for Russia. Despite awareness, for example, that Russian police consistently failed to respond to and investigate violent crimes against women, none of the \$2.5 million for the law enforcement assistance program in Fiscal Year 1996 went to training Russian police on investigating such crimes. Only after representatives of Human Rights Watch briefed staff of the U.S. Congress on violence against women in Russia and a Senate subcommittee then earmarked \$1 million for support of law enforcement training programs to

address violence against women, did the State Department commit to training programs targeting this problem.

In another example, the *Country Reports on Human Rights Practices for 1995* noted that while there existed statutory equality between men and women in Mexico's labor codes, employers frequently require women to certify that they were not pregnant at the time of hiring. Nevertheless, in a meeting with a Human Rights Watch representative in Mexico City, an official at the U.S. Embassy then in charge of labor issues argued that such discrimination did not constitute a human rights violation, suggesting that maquiladoras actually discriminated against men because they preferred to hire people they could pay less: women.

In order for the administration to translate its general commitment to women's rights into consistent policy, it must coordinate the sources of that policy with those responsible for carrying it out. The State Department senior coordinator for international women's issues could have played a critical role in augmenting U.S. integration of women's rights into its foreign policy. Unfortunately, the potential of this position went largely untapped in 1996 because, after the first appointee resigned in April, the post was vacant until September. Moreover, the exact mandate of the position remains unclear, and the Department has failed to ensure that the special coordinator has both the resources and access to play an effective role in ensuring that women's rights issues are fully reflected in the human rights policies of the U.S. with respect to abusive governments.

In Beijing, the U.S. had committed itself to establish a White House Inter-Agency Council on Women (IACW) to implement the platform for action adopted in Beijing, to improve the protection of women's rights in the U.S. and to increase the visibility of women's rights in U.S. foreign policy. The IACW began by pledging to cooperate with NGOs to develop a national action agenda to be revealed at a conference on women and girls on September 28, 1996—one year after the Beijing conference. But no national action agenda was drafted. Instead, at the September meeting, members of the IACW presented several initiatives undertaken in areas relating to the Beijing Platform for Action and discussed priorities for implementation. The measures touted at the national conference addressed important concerns—a nationwide, twenty-four-hour domestic violence hotline; providing loans to women who have little access to credit; promoting gender equity in education; and increasing research in breast cancer—but they failed to raise women's human rights as a priority.

This omission came despite the efforts of the Women's Rights Project and others to press the U.S. to make women's human rights a priority post-Beijing. In December 1995, the Women's Rights Project wrote to Secretary of State Christopher, urging the U.S. government to match its stated commitment to uphold women's rights around the world by co-sponsoring a U.N. General Assembly resolution aimed at increasing U.N. support for efforts to combat violence against women. The resolution called, among other things, on the administrator of the United Nations Development Fund for Women (UNIFEM), in consultation with the secretary-general and other competent U.N. organs and bodies, to establish a trust fund within its existing structure that

would consolidate UNIFEM's existing efforts to combat violence against women around the world and to ensure that its programs have adequate funding. The U.S. government was among the last to support this resolution.

The U.S. Congress, meanwhile, maintained a mixed record on international women's human rights in 1996. As noted above, the Senate failed to ratify CEDAW. At the same time, the Congressional Working Group on International Women's Human Rights, composed of fifty-six members of both houses of Congress and both parties, denounced violations of women's human rights in Bangladesh—the abduction of the leader of a women's federation; in Peru—repeated threats of rape and harassment against a human rights lawyer; and in Rwanda—the sexual violence during the 1994 genocide. Formed in April 1994, the working group sends urgent letters in support of women who are at imminent risk of abuse or who require international support in their search for justice for past abuse.

The Work of the Women's Rights Project

The work of the Women's Rights Project focused on gathering detailed documentation of violations of women's human rights in a variety of countries and on conducting extensive advocacy campaigns to combat and eliminate the abuses that we identified and publicized. Our efforts highlighted three areas of critical concern to women around the world: compelling governments to acknowledge and to end their own complicity in violence against women, even when carried out by private individuals; ensuring that women's rights are not trampled in the process of economic transition or development; and securing accountability in international and national fora for violence against women in situations of conflict.

Mexico

In August 1996, with the release of *No Guarantees: Sex Discrimination in Mexico's Maquiladora Sector*, the Women's Rights Project initiated a campaign to persuade the Mexican government to denounce pregnancy discrimination as sex discrimination; to investigate and stop such discrimination in the labor force; and to compel corporations active in the maquiladora sector to stop discriminating against women workers. The Women's Rights Project cooperated with Mexican and U.S. nongovernmental organizations to include gender-specific discrimination in the maquiladoras among the issues in workers' rights education campaigns. In October 1996, we wrote to Mexico's secretary of labor, Javier Bonilla García, expressing concern that the Mexican government seemed unwilling to honor its international obligation to protect its female citizens from discrimination and in fact appeared to countenance and rationalize this sex discrimination as a "protective" measure. In November we also wrote to the thirty-three corporations named in *No Guarantees* to ascertain the concrete measures they intended to take to eradicate pregnancy-based sex discrimination in their Mexican factories. These companies included General Motors, Zenith, and Johnson Controls, among others. The campaign included working with U.S. and Mexican groups to focus on specific corporations for reform, urging them to stop exporting sex discrimination and to end discrimination in the hiring process in their Mexican maquiladoras.

Russia

As a follow-up to our April 1996 investigation into the Russian government's response to sexual and domestic violence, the Women's Rights Project met with staff of the U.S. Congress to brief them on our findings, as well as with representatives of the World Bank. The meeting in Congress led to the designation of \$1 million to train law enforcement and judicial authorities to recognize, investigate and prosecute crimes of violence against women. We urged the World Bank to ensure that the programs it supports, particularly employment agencies and retraining programs, do not foster the gender discrimination that has prevented Russian women from participating fully in Russia's economic life.

Bosnia-Herzegovina

Human Rights Watch has consistently monitored the human rights situation in Bosnia-Herzegovina since the outbreak of war and campaigned in defense of those victimized by "ethnic cleansing," war crimes—including rape—and other violations of human rights. The Women's Rights Project also has worked to ensure that the process of reconstruction includes promoting respect for women's rights and ensures women's involvement in their country's political and economic future. In December 1995 the Women's Rights Project and other human rights and women's rights organizations wrote to Amb. Madeleine Albright, U.S. permanent representative to the United Nations, urging that implementation of the Dayton Peace Accords on Bosnia-Herzegovina respond specifically to the human rights concerns of women and support women's critical role in rebuilding their country. We joined forces again in February 1996 to raise women's human rights concerns in a letter to Jock Covey, chief of staff of the office of the high representative of the peace implementation process.

We and other members of this coalition then met in May 1996 with Assistant Secretary of State for International Narcotics and Crime Robert Gelbard to urge that the International Police Task Force (IPTF) deployed consequent to the Dayton Accords in Bosnia-Herzegovina, Eastern Slavonia and Republika Srpska be responsive to women's human rights concerns. We urged that training for IPTF officers address women's human rights and that these forces have expertise in or be trained in responding to and investigating violent crimes against women, including domestic violence and sexual assault. We also stressed that permanent police officers to be trained by IPTF must be screened for a history of human rights abuse, including abuses against women.

The Women's Rights Project also worked with U.S. Senate staff to call on USAID to integrate attention to women's rights into its economic development and humanitarian assistance to Bosnia-Herzegovina.

Rwanda

In the process of establishing the International Criminal Tribunal for the Former Yugoslavia, women's rights activists made significant gains in pushing the international community to recognize rape and other forms of sexual violence as war crimes and in securing the promise of accountability for such crimes. Human Rights Watch worked consistently throughout 1996 to ensure that these gains were not lost for women in Rwanda. Human Rights Watch held several

meetings with members of the staff of the International Criminal Tribunal for Rwanda (ICTR), including the chief of investigations and the deputy prosecutor in Kigali as well as the legal advisor of the sexual assault committee based in The Hague, to call on the Rwanda tribunal to investigate and prosecute sexual violence and to step up efforts to improve the ability of its investigators to investigate such abuse. In June, Human Rights Watch protested to the Rwanda tribunal after a number of indictments were brought against Jean-Paul Akayesu, a local official of Taba commune. Rape was not among the charges, despite the widespread sexual violence in the Taba area during the 1994 genocide. Human Rights Watch called on the tribunal to investigate the reports of sexual violence in the Taba area in order to determine whether Mr. Akayesu bore command responsibility for the sexual violence in his area. In August, Human Rights Watch participated in forming a coalition of eighty-five women's rights and human rights organizations which wrote to the Rwanda tribunal to ensure that the progress made by the International Tribunal for the former Yugoslavia to prosecute rape not be undercut by a failure to pay appropriate attention to the crime of rape in Rwanda. Human Rights Watch also pressed U.S. State Department officials to ensure that its programs to and support of the Rwandan government and the Rwanda tribunal addressed the needs of Rwandan women.

Kenya

The Women's Rights Project continued to raise the problems of women refugees with UNHCR and with the Kenyan government. We called on UNHCR to integrate protection measures for refugee women, such as those instituted in the Kenyan camps, into its overall refugee protection strategy, and to replicate such measures as a matter of course in all refugee situations. This issue was raised by Human Rights Watch with UNHCR officials at the time of UNHCR Executive Committee meeting in Geneva in October 1996, and included in a Human Rights Watch discussion paper on refugee protection directed at that meeting.

United States

As part of our ongoing work on the sexual abuse of women in U.S. prisons, the Women's Rights Project continued to participate in efforts to oppose the passage of the Prison Litigation Reform Act (formerly known as the "Stop Turning Out Prisoners" legislation). After the legislation was passed and signed by President Clinton in April 1996, we continued to monitor its impact on the ability of women prisoners to receive redress for rape and sexual assault committed by prison guards. On October 1, Women's Rights Project staff met with representatives of the Justice Department to urge them to monitor more vigorously the problem of sexual misconduct by guards in U.S. state prisons and, in particular, to improve its internal system for documenting complaints of such abuse as they are lodged with the department.

During 1996, we actively promoted the U.S. government's implementation of the Beijing Platform for Action and pressed the Clinton administration to fulfill its commitments to protect the human rights of women in the U.S. and throughout the world. We continued to urge the U.S. government to ratify CEDAW. We also participated in local and national efforts to build a grassroots campaign to educate women about CEDAW and mobilize for its ratification. As part of our ongoing effort to persuade the U.S. government to fully integrate women's human rights

into the foreign policy process, we urged the U.S. to condition aid and trade benefits to other countries on enacting laws and committing resources to the investigation and prosecution of crimes of violence against women and on enacting reforms to discriminatory laws.

United Nations

Only in 1993, at the World Conference on Human Rights, did the United Nations embrace the notion that women's rights are human rights. In the three years following, the Women's Rights Project pressed the U.N. to defend women's human rights more consistently and forcefully. For example, although government compliance with CEDAW is monitored by a committee, it has no power to consider individual complaints of human rights violations. We have joined other nongovernmental organizations in calling for an optional complaints procedure that would provide redress for women whose domestic legal systems have failed them and a way of applying and interpreting CEDAW's standards. At the end of 1995, Human Rights Watch wrote to the assistant director of the U.N. Division for the Advancement of Women to express our strong support for an optional protocol introducing the right to petition to the CEDAW committee.

Key to raising the visibility of women's human rights at the U.N. is enhancing the status of the bodies that have traditionally handled these issues. The U.N. Commission on the Status of Women (CSW), for example, has second-class status within the U.N. system as well as in the eyes of many governments. In 1996, at the CSW meeting itself, as well as in meetings with U.S. government officials and with our colleague organizations, we sought to strengthen the work of the CSW, to enhance the quality of U.S. government representation to that body, and to foster greater participation by NGOs in its session. Our efforts with respect to U.S. government participation were severely hampered by the Clinton administration's failure to appoint a U.S. representative until just ten days before the start of the CSW session, giving the delegate little time to prepare, giving the NGO community little time to communicate its concerns to the U.S. delegation, and casting doubt upon the seriousness of the U.S. approach to the CSW. Nonetheless, we met with the head of the delegation after her appointment and pressed for a series of reforms to expand CSW's influence in the U.N. At the CSW session itself, the Women's Rights Project pressed to have stronger human rights and gender-specific language included in two Philippines-sponsored resolutions, one on trafficking of women and girls and the other on violence against women migrants. The Women's Rights Project met with delegates of the Philippines, Canada, and the U.S. to urge them to ground the language of the two resolutions in international human rights instruments, including taking note of the gender-specific violence women migrants face.

Unlike the CSW, the U.N. Human Rights Commission had, until the early 1990s, paid little attention to women's human rights. Women's rights activists have consistently pressed the commission to integrate women's human rights into its reporting and monitoring, but, as noted above, have met with limited success. One exception to this pattern came in 1994 when the commission appointed the first Special Rapporteur on Violence Against Women, Its Causes and Consequences for a three-year term. In 1996, the Women's Rights Project worked to ensure that resolutions in specific countries expressed concern over women rights and that the commission

step up its integration efforts. Prior to the fifty-second session of the U.N. Human Rights Commission, Human Rights Watch urged Amb. Geraldine Ferraro, head of the U.S. delegation, U.S. Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck, Amb. Paolo Torella of the European Union, and the representatives of the permanent missions to the U.N. to make women's rights one of their priorities at the first commission meeting after the Beijing conference. Human Rights Watch advocated that the commission's resolution on Rwanda emphasize investigating and prosecuting sexual violence and that a resolution on the former Yugoslavia stress protection of women's physical security and training of international police to respond to crimes of violence against women. We also urged support for a resolution on violence against women and called for a resolution setting forth concrete measures by which the commission would integrate women's human rights more fully into its work. The commission adopted both resolutions, although it declined to commit itself to the specific actions we recommended for integrating women's human rights into its work.

In statements submitted to the Human Rights Commission, Human Rights Watch drew attention to the worldwide problem of domestic violence and the failure of governments to prevent, condemn, and punish such crimes. We urged the commission to call on governments to denounce and criminalize domestic violence, to protect women from such assaults, and to uphold women's right to equal protection of the law. Human Rights Watch also reported to the commission on the trafficking of women and girls into forced prostitution, on abuses against women migrant workers, and on sexual abuse and degrading treatment of women in prisons in the United States. Women's Rights Project reports documenting forms of violence against women—from unpunished wife murder to forced virginity exams—were cited in the special rapporteur's report to the full session detailing violence against women in the family and states' failure to protect women's human rights.

The Women's Rights Project worked on increasing international understanding of the critical link between the respect of women's human rights and the improvement of women's social and economic status with our advocacy in preparation for Habitat II, the United Nations Conference on Human Settlements, in Istanbul in June. We proposed specific amendments to the Draft Agenda for the Global Plan of Action that would specify the range of housing problems women face as a result of violence and statutory discrimination and other abuses of their human rights. We urged that women's heightened vulnerability to becoming homeless consequent to acts of violence be recognized and addressed, stressed the need for legal reform in order to provide equal and nondiscriminatory access to property and land, and recommended that strategies to cope with the shelter requirements of returnees and internally displaced persons must account for the specific needs and vulnerabilities of women, including the protection of their personal safety. The final Habitat action agenda did specifically commit to protect and promote women's human rights, including with respect to women's equal access to property and resources and to promoting housing for victims of violence in the home.

The Women's Rights Project also participated in and coordinated campaigns protesting specific violations of women's human rights. In March 1996, we wrote to the prime minister of

Malaysia to express deep concern about the arrest of Irene Fernandez, director of Tenaganita, a women's rights organization in Kuala Lumpur. Fernandez stood trial for false reporting in connection with a July 1995 Tenaganita press release on abuses against migrant workers in Malaysia's immigration detention centers.

In 1996, the U.S. Board of Immigration Appeals (BIA) for the first time recognized that female genital mutilation may constitute persecution and grounds for political asylum. Fauziya Kassindja had sought asylum on the grounds that she would have faced the threat of violence—in the form of FGM—had she been compelled to return to her native Togo. In an April 1996 letter to Immigration and Naturalization Service (INS) Commissioner Doris Meissner, Human Rights Watch supported her asylum application. We also expressed our dismay about the abusive treatment Kassindja had endured during her confinement in the Esmor detention facility in Elizabeth, New Jersey. On June 13, the BIA granted Kassindja asylum. Responding to our letter, the INS stated its support for the position that forced female genital mutilation can be a basis for asylum.

In a September 1996 letter to Prime Minister Benazir Bhutto of Pakistan, we protested the denial of the right of twenty-one-year-old Saima Waheed to marry the person of her choice. We also worked that month with Human Rights Watch/Middle East on a statement signed by a coalition of human rights, Arab-American, women's rights, and academic organizations condemning an Egyptian court decision declaring Cairo University professor Nasr Hamed Abu Zeid an apostate and ordering his separation from his wife, Prof. Ibtihaal Yunis, on the grounds that she, a Muslim woman, could not remain married to an apostate. The organizations protested the court decision as violating the rights to marry and to freedom of expression. We also denounced the discriminatory effects of the ruling on Dr. Yunis, given the limited rights granted divorced women under Egypt's family law. On September 25, another court suspended implementation of the June 1995 ruling ordering the couple's separation.

SPECIAL INITIATIVES

The complexity that human rights work has acquired, and the diversity of opportunities for advocacy and action, have increasingly demanded that Human Rights Watch undertake cross-regional or thematic initiatives involving a specialized focus or expertise. At times, those initiatives consist of a single opportunity to make our voice heard on a crucial issue, but often they take the form of campaigns that have become a sensational part of our program. Some of these activities undertaken or maintained in 1996 included the following:

Prisons

Human Rights Watch has conducted specialized prison research and campaigns for prisoners' rights since 1987, to focus international attention on prison conditions worldwide. Drawing on the expertise of the regional divisions of Human Rights Watch, our prison project has

investigated conditions for sentenced prisoners, pretrial detainees, immigration detainees, and those held in police lockups. The work is distinctive in the international human rights field in that it examines conditions for all prisoners, not only those held for political reasons.] In addition to pressing for improvement in prison conditions in particular countries, the prison project seeks to place the problem of prison conditions on the international human rights agenda.

We believe that a government's claim to respect human rights should be assessed not only by the political freedoms it allows but also by how it treats its prisoners, including those not held for political reasons. Our experience has repeatedly shown that a number of democratic countries that are rarely if ever a focus of human rights scrutiny are in fact guilty of serious human rights violations within their prisons.

The prison project has a self-imposed set of rules for prison visits: investigators undertake visits only when they, not the authorities, can choose the institutions to be visited; when the investigators can be confident that they will be allowed to talk privately with inmates of their choice; and when the investigators can gain access to the entire facility to be examined. These rules are adopted to avoid being shown model prisons or the most presentable parts of institutions. When access on such terms is not possible, reporting is based on interviews with former prisoners, prisoners on furlough, relatives of inmates, lawyers, prison experts and prison staff, and on documentary evidence. The prison project relies upon the U.N. Standard Minimum Rules for the Treatment of Prisoners as the chief guideline by which to assess prison conditions in each country. Prison investigations are usually conducted by teams composed of a member of the project's staff or advisory committee and a member of a Human Rights Watch regional division's staff with expertise on the country in question. Occasionally, the prison project invites an outside expert to participate in an investigation. The project publishes its findings in reports that are released to the public and the press, both in the United States and in the country in question, and sent to the government of that country.

In previous years, the project conducted studies and published reports on prison conditions in Brazil, Czechoslovakia, Egypt, India, Indonesia, Israel and the Occupied Territories, Jamaica, Japan, Mexico, Poland, Romania, South Africa, the former Soviet Union, Spain, Turkey, the United Kingdom, the United States (including a separate short report published on Puerto Rico), Venezuela, and Zaire.

The Enforcement of Standards

The U.N. Standard Minimum Rules for the Treatment of Prisoners is the most widely known and accepted document regulating prison conditions. Unfortunately, these standards, although known to prison administrators virtually all over the world, are seldom fully enforced. Based on extensive research over the years, we concluded in our 1993 *Human Rights Watch Global Report on Prisons* that the great majority of the millions of persons who are imprisoned worldwide at any given moment, and of the tens of millions who spend at least part of the year behind bars, are confined in conditions of filth and corruption, without adequate food or medical care, with little or nothing to do, and in circumstances in which violence—from other inmates, their keepers, or both—is a constant threat. Despite international declarations, treaties and standards forbidding such conditions, this state of affairs is tolerated even in countries that are more or less respectful of human rights, because prisons are, by their nature, out of sight, and because prisoners are, by

definition, outcasts.

With the goal of translating good standards into sound practice, Human Rights Watch continued in 1996 to advocate the creation of a U.N. human rights mechanism to inspect prisons. Our prisons expert closely monitored the progress of the Working Group on the Optional Protocol to the Convention against Torture, convened by the U.N. Commission on Human Rights to devise a universal system of visits to places of detention. There were several issues of particular concern to Human Rights Watch, including, most notably, the confidentiality of the proposed system. In order to ensure the system's effectiveness, Human Rights Watch strongly believes that government non-cooperation should be grounds to justify a departure from the rule of confidentiality.

The United States

In 1996, as the country's prison and jail population swelled to 1.6 million—giving the United States one of the largest populations of prisoners in the world, as well as one of the highest rates of incarceration—legal protections for prisoners continued shrinking. Most notably, the deceptively-named Prison Litigation Reform Act (PLRA) effectively hobbled the federal courts in their efforts to remedy even the most egregious prison abuses.

Alarmed at the accelerating trend toward impunity for prison abuses, Human Rights Watch stepped up its monitoring of prisons and jails in the United States. In July, we released a report titled *Modern Capital of Human Rights? Abuses in the State of Georgia*, which focused in part on the dangerous, filthy and deteriorating conditions of many Georgia county jails and reported on the Georgia prison system's use of excessive force. At our International Film Festival, in June, we worked to draw public attention to the revival of chain gangs in the United States by screening and speaking about the current relevance of the film classic, "I Am a Fugitive from a Georgia Chain Gang." In mid-1996, we were active in efforts to oppose proposed legislation that would allow states to hold juveniles in adult prisons. Finally, along with other prisoners' rights advocates we filed an *amicus curiae* brief in *Plyler v. Moore*, a federal court case challenging the constitutionality of the PLRA. A primary focus of our research, reporting and advocacy effort in 1996 was the sexual abuse of prisoners. One investigation, concluded by the Women's Rights Project along with our prison specialist, documented the custodial sexual abuse of women prisoners in state prisons in five states and the District of Columbia (see Women's Rights Project). A second investigation, begun in mid-1996 and anything as of this writing, examined the abuse of male prisoners. In both contexts we found that inmates suffered rape, sexual assault and sexual harassment. Although in men's prisons the perpetrators of these abuses were usually other prisoners—very often with the deliberate acquiescence or even encouragement of prison staff—while in women's prisons the staff personally participated in abuses, the circumstances were in many ways strikingly similar. Despite the devastating psychological impact of this most personally invasive of human rights violations, there were few preventative measures taken in most jurisdictions. Another disturbing reality common to both men's and women's prisons was that perpetrators of abuse were rarely disciplined in any meaningful way. Even in brutal instances of rape, criminal prosecutions were exceedingly rare—indeed, almost nonexistent when the victim was male—and administrative sanctions were usually light: a short stay in segregation for an abusive prisoner, a transfer for an abusive guard.

Human Rights Watch also continued to collect information on conditions at super-maximum security prisons (known as “maxi-maxis”). We first called attention to the proliferation of such facilities, which have the harshest conditions of all U.S. prisons, in our 1991 report on prison conditions in the United States.

In April we inspected the Secured Housing Units (SHU) of the Wabash Valley Correctional Institution, a super-maximum security facility in Indiana, as a follow-up to a prior visit to the state’s other such facility. Our mission focused on the problems of prolonged social isolation, sensory deprivation, excessive use of force by guards, use of physical restraints as punishment, racial discrimination, lack of educational, recreational and work opportunities, inadequate medical care, lack of due process in assignment decisions, and restrictions on contact with family members. Held in solitary confinement in small, sterile, continuously lit cells, and deprived of almost all human contact over a period of years, SHU prisoners were treated in a manner that was injurious to their human dignity and that boded poorly for their eventual reintegration into society.

Venezuela and Japan

In March, Human Rights Watch conducted a mission to Venezuela during which our investigators visited eleven prisons and met with a wide variety of government officials, including the minister of justice, in charge of the prison system, and the minister of defense, in charge of the National Guard, which controlled several militarized Venezuelan prisons. Although conditions varied somewhat from facility to facility, we found that the Venezuelan prison system was generally characterized by severe overcrowding; rampant inmate-on-inmate violence, including rape; custodial abuse, particularly by members of the National Guard; impunity; corruption; lack of provision for basic needs, including medical needs; extremely long criminal proceedings and systematic denial of provisional liberty to pretrial detainees, so that the large majority of inmates remain unsentenced for three years or more; a poorly maintained physical infrastructure; and few work, educational, and recreational opportunities. The wide national press coverage of the mission, both in newspapers and television, put pressure on the government to take steps to respond to the stagnating prison situation. Within a few days of meeting with the Human Rights Watch delegation, the Venezuelan minister of justice made a personal visit to a notorious Caracas prison that the delegation had discussed with him. Interviewed upon leaving the prison, the minister acknowledged that conditions were “terrible” and promised reforms, beginning by ordering the release of pretrial detainees held beyond their maximum possible sentence. Working closely with a Japanese prisoners’ rights group that filed a number of prominent legal challenges to the treatment of prisoners in Japan, Human Rights Watch was active in the press and before the United Nations to prod the Japanese government to institute reforms of its prison system. Our 1995 report on Japanese prisons condemned the widespread use of solitary confinement, the restrictions on contacts between prisoners and the outside world, the obsessiveness about rules, and the draconian punishments that characterized the Japanese system.

Corporations and Human Rights

A shift in the terms of the debate over corporate social responsibility for human rights occurred

in 1996. In the previous two years, corporations and governments had touted the positive impact of business and trade in enhancing respect for human rights in countries with widespread violations. They had promised that corporations would bring greater respect for essential human and labor rights, such as freedoms of association and expression, as well as an end to cruelty and discrimination and inequality on the basis of ethnicity or gender. However, during 1996 multinational corporations in several product sectors--Royal Dutch/Shell, British Petroleum, Total, Unocal, Freeport-McMoRan, Nike, Disney, Heineken, and Carlsberg--were placed on the defensive by damaging exposures of corporate complicity in human rights violations. Throughout the year CEOs and corporate directors were stung again and again by charges that their companies had abused workers and propped up repressive governments. Accounts of child labor and sweatshop working conditions stirred public opinion to become human rights issues of broad popular concern. Corporate management defended its presence abroad by citing the advantage of company wage scales over local ones.

These issues were initially publicized by a growing number of activist groups. Frequently, these organizations brought workers on tours of the U.S. to publicize their situations. Extensively covered in the news media, the charges were taken up by consumers and grassroots organizations in Europe, Asia and North America. In a few instances, this had an important positive effect. After protests in Denmark and the Netherlands, both Carlsberg and Heineken decided to sell their shares of a proposed brewery in Burma. Liz Claiborne also decided to end its sourcing from Burma. At the height of the exposures of corporate complicity with human rights abuse, in July, *The Economist* magazine, reflecting the shift, observed that multinational corporations were increasingly worried about protests against their activities in developing countries. The same issue editorialized that when governments failed to uphold international human rights, the moral burden of responsibility shifted to corporate management. However, with billions of dollars' worth of investment and profit at stake, most of the business community resisted pressure. Generally corporations in oil, mining and heavy manufacturing made no pretense of concern. A small number in the apparel and footwear industries reacted to negative publicity by expressing a commitment to human rights and took limited steps to address the problems.

The Role of Governments

Government reaction to reports of abusive practices associated with corporate presence varied. The authorities in countries where these practices occurred frequently have erratic or poor human rights records. Simultaneously, they promote ambitious economic development plans that invite foreign investment and they court corporations by offering conditions that will be attractive to them. Governments in China, Indonesia, and Mexico, for example, are all too willing to ignore irresponsible corporate practices.

In the countries where the companies are headquartered, governments are caught between their promotion of global corporate investment and the expectations they profess about investment advancing human rights. In 1996, political considerations and growing pressure forced many governments to take these issues seriously, yet did not lead to effective or credible policies. There were some exceptions, however. In Germany, the debate on child labor associated with the carpet industry in South Asia intensified due to mounting public concern.

Based on consumer outrage over the use of child labor in the carpet industry in South Asia the German government, beginning in 1993,--gave serious consideration to the issue. Initially, Bonn funded the Rugmark campaign, a consumer-based effort to promote rugs produced without child labor. By 1996, the government shifted tactics to mix support of Rugmark and the Indian government-sponsored label with a preference for educational programs for children in South Asia. Nevertheless, the German government granted loan guarantees to Siemens and ABB for work on China's controversial Three Gorges Dam, which had been criticized internationally for environmental risks and the forcible relocation of more than one million residents of the areas affected by construction.

In October, the European Parliament debated charges against British Petroleum of complicity in human rights abuses in Colombia through the financing of units of the armed forces of Colombia to protect a jointly owned pipeline. The parliament passed a resolution condemning BP for funding death squads in Colombia. The following day, the company denied all allegations and appeared prepared to take an uncompromising position. In the United Kingdom, Lord Frank Rudd and York Member of Parliament Hugh Bayley joined the York Oxfam Campaign Group in calling on five top clothing retailers--Marks and Spencer, C & A, Next, Sears and the Burton Group--to guarantee humane conditions for the workers who made the apparel sold in their stores. Such activism was not echoed more centrally in Prime Minister Major's government, however.

The Canadian government's interest in these issues was equally lukewarm. In 1996, Canada's Department of External Affairs and International Trade raised the possibility of promulgating a voluntary code of conduct for Canadian businesses operating internationally. Prime Minister Jean Chretien, a strong proponent of Canadian corporate activity abroad, was confronted by a thirteen-year-old Canadian child labor activist, Craig Keilburger, during a January trip to India. Only after receiving scathing press coverage for initially refusing to meet Keilburger did the prime minister raise the issue of child labor publicly and mention possible sanctions for goods made by child labor imported into Canada.

The U.S. government, which has led the debate on corporate social responsibility for human rights, exemplified the contradictions in governmental efforts to address the issue. It engaged in several initiatives that generated needed attention to the issues and conveyed a sense of movement while failing to formulate effective programs. For example, in March 1995, the U.S. government had announced "Model Business Principles" for U.S. companies operating abroad; it then did nothing with them in 1996.

Due to the exposure of sweatshop conditions in developing countries, the revelation of widespread sweatshops in the U.S. and the discovery of Thai slave labor in an El Monte, California garment factory, the use of sweatshop labor became a major issue in the U.S. For example, Guess, Inc. and sixteen sewing contractors were charged with violating minimum wage and overtime regulations in a lawsuit. In June, in response to these concerns, Rep. George Miller, a member of Congress, called on retailers and manufacturers to voluntarily use labels on their goods stating that they had not used sweatshop labor and that they do permit independent monitoring of subcontractor plants. Following this initiative, on July 15-16, 1996, the U.S. Department of Labor hosted a "Fashion Industry Forum," which was billed as an educational forum (largely for the industry) on the so-called "No Sweat" initiative. No Sweat was launched

as an effort to label garments No Sweat to show they were not made in sweatshops. It was modeled after the "Dolphin Safe" tuna label and the Rugmark label. However, as of mid-November, three months later, there has been no follow-through.

On August 2, President Clinton launched another initiative: the Fair Labor Coalition. In a photo-perfect Rose Garden ceremony, the President brought together at the White House the television personality and clothing entrepreneur Kathie Lee Gifford, Nike Chair Philip Knight, and representatives of apparel corporations L.L. Bean, Liz Claiborne, Phillips Van-Heusen, Tweeds, Patagonia, Nicole Miller, Karen Kane, Warnaco, as well as the most important U.S. garment trade union, Unite, the National Consumer League, and the Interfaith Center on Corporate Responsibility, an important and activist shareholder group. Knight presented a vision of his objectives:

For the past twenty-five years, Nike has provided good jobs, improved labor practices and raised standards of living wherever we operate, including here in the U.S. What we've come to realize is that we need to do a better job of publicly describing the actions we've taken to promote fair labor practices in newly emerging market societies, including the development of a code of conduct, internal monitoring and external audits. The results of the coalition's work were scheduled to be known after six months, when its members would provide nonbinding recommendations to the president.

As timely as these high-profile initiatives were, it was not at all clear that they would affect specific corporate practices and lead to meaningful human rights improvements in and beyond factories internationally. As with the 1995 "Model Business Principles," there was a real danger they would be little more than window-dressing.

In October, the U.S. Department of Labor published a comprehensive and accurate assessment of corporate compliance with voluntary codes of conduct addressing the use of child labor. The report showed that while there was decreased use of child labor in the Americas, little progress had been made in Asia, where the practice is much more prevalent.

The importance of these issues was not only felt at the federal level. In a significant development, cities debated adopting selective purchasing ordinances to prohibit public entities from buying goods or services from corporations doing business in Burma. In 1995, the city government of Berkeley, California, had adopted such a measure. In 1996, the state of Massachusetts passed a law banning contracts with firms doing business in Burma.

Nongovernmental Organization Initiatives

Shareholder groups, concerned pension funds and progressive money managers began to see corporate human rights practices as one criterion for investment decisions. Increasingly involved in shareholder resolution actions at companies in which they held stocks, these groups sought to identify standards by which to hold corporations accountable. At the same time, nongovernmental organizations concerned with corporate responsibility, including human rights groups and others, relied on both exposure of fact and consumer education.

In the Netherlands, Dutch activists mounted a campaign against Heineken Beer's \$30 million part-ownership in a brewery in Burma. When Heineken withdrew, company CEO Karel

Vuursteen acknowledged the role that concern about corporate reputation had played in the decision.

In the U.K., Germany, and South Africa protestors engaged in a series of actions against Royal Dutch/Shell after the hanging of Ken Saro-Wiwa and eight other Ogoni activists in Nigeria in November 1995. Concerted efforts were made to introduce critical statements at the company's annual general meeting in London on May 15.

In Canada, Development and Peace collected nearly 90,000 signatures on petitions urging Nike to agree to independent monitoring of its subcontractors.

In the U.S., the National Labor Committee, Press for Change and the Guatemala Labor Education Project were very active in exposing conditions abroad. In 1996, while continuing a dialogue with corporations, Human Rights Watch increasingly emphasized its research and advocacy by issuing reports linking corporate operations with violations of human rights, labor rights and women's human rights. The Human Rights Watch Women's Rights Project's report *No Guarantees: Sex Discrimination in Mexico's Maquiladora Sector* documented the Mexican government's failure to protect women from pregnancy testing and other discriminatory treatment in major U.S.-owned export-processing factories along the U.S.-Mexico border. Naming names, the report cited General Motors, Sunbeam Oster, and Zenith, among others, for engaging in sex discrimination and mistreatment of pregnant workers. (See Women's Rights Project.) Human Rights Watch/Asia and the Human Rights Watch Children's Rights Project released *The Small Hands of Slavery: Bonded Child Labor in India*, documenting the enslavement of millions of child workers through debt bondage. The report formulated extensive recommendations to end bonded child labor. (See India.)

In the last few years, a small "leadership" segment of the corporate community has emerged, representing largely the apparel and footwear industries. It meets regularly--sometimes with NGOs, including Human Rights Watch--to discuss codes of conduct and implementation. Unfortunately, nearly all these companies are opposed to transparency in the monitoring process.

In 1996, Human Rights Watch met with corporate representatives from a range of companies to discuss issues of mutual interest. This included meetings with business groups and companies concerned with China to discuss our assessment of the deteriorating human rights situation there and the effect of arbitrary state action on both business and individual human rights. We also met with companies implicated as complicit in governmental human rights abuse to review their policies and press for institutional change. Human Rights Watch/Middle East took a strong stand criticizing the role of British corporations in pressuring the British government to deport exiled Saudi dissident Dr. Muhammed al-Mas'ari, a spokesman for the Committee for the Defense of Legitimate Rights (CDLR). Human Rights Watch/Middle East wrote the chairs of the arms corporations Vickers and GKN, both British corporations, citing their reported part in the decision to expel Dr. al-Mas'ari in violation of British law. Vickers is a leading manufacturer of arms and weaponry and a large supplier to the Saudi military. Human Rights Watch/Middle East protested the company's reducing al-Mas'ari's right to an asylum hearing to the status of an obstacle to British business and the company's business. (See Saudi Arabia.)

We also strengthened our cooperation with groups regularly working on these issues: shareholder activists, investment research groups, and progressive pension funds. Recognizing

differences in orientation, Human Rights Watch shared its research findings with pension fund managers. We also brought Indonesian activists together with portfolio managers.

The Corporate Response

Some corporations displayed a flatly intransigent attitude to human rights criticism of their practices. Before and after the hanging of Ken Saro-Wiwa, Royal Dutch/Shell provided both increased financial investment and a diplomatic public relations shield for the Nigerian government. In newspaper advertisements Shell ran in Europe, the company blamed Saro-Wiwa's execution on those protesting his unfair trial. Likewise, in response to criticisms of its practice of sex discrimination against women workers in its Mexican maquiladoras, the Zenith Corporation, now owned by the South Korean conglomerate Goldstar, acknowledged the use of the practice without apology. In a letter to our Women's Rights Project, the company justified the discrimination--which is illegal under Mexican law--by citing the prevalence of pregnancy testing in "the local labor market." In October, despite specific concerns over human rights and environmental issues surrounding the construction of the Three Gorges Dam, in China, the Swiss-Swedish company ABB, a major turbine manufacturer, requested risk guarantees from the Swiss government for the export of its equipment for the dam. The U.S.-based Caterpillar corporation mounted a fierce campaign against a White House-initiated recommendation to deny loan guarantees for U.S. companies involved with the dam. The burgeoning international movement on Burmese human rights drew varied corporate reactions: as noted above, some apparel manufacturers pulled out, as did Pepsi-Cola, while the oil giant, Unocal, remained indifferent to protests.

In October, two large British supermarket chains, Sainsbury and the Co-op, launched a six month project to develop codes of conduct to improve conditions for workers making their own label products. The companies acknowledged that their interest was prompted by consumer concerns. The supermarkets promised to develop their codes based on a "Third World suppliers charter" initiated by the Fairtrade Foundation, an organization which is backed by Oxfam and Christian Aid.

In the U.S., the exposures generated spiraling media coverage, as activist groups targeted individual celebrities. Television personality Kathie Lee Gifford faced charges that the clothing line bearing her name and sold by the WalMart chain of stores was made by child labor working under appalling conditions at Global Fashions in Honduras. This was followed by complaints from immigrant garment workers at an illegal sweatshop in lower Manhattan, in New York City, that they had not been paid after producing garments for Gifford. Days later, in June, following the National Basketball Association finals, star Michael Jordan's public image was tainted by reports that Air Jordan sneakers marketed by Nike had been produced by sweatshops in Indonesia.

Following the wave of negative publicity against Kathie Lee Gifford and Nike, more businesses discussed corporate social responsibility for human rights. But for the growing sector of the corporate world expressing interest in human rights (still mainly in the consumer-sensitive apparel and footwear industries), it became clear in 1996 that more than the mere pronouncement of a corporate code of conduct was necessary. Local organizations and international groups, increasingly sophisticated in pressing for concrete results, began insisting on both practices

specifically tailored to ending abuses and transparent and independent monitoring of their implementation. But even the "leadership" companies remained cool to independent monitoring of their human rights plans or practices.

Drugs and Human Rights

Human Rights Watch continued to document and challenge human rights violations caused or exacerbated by efforts to curtail drug trafficking. We insist that anti-drug policies be pursued within the framework of internationally recognized human rights; that respect for such rights cannot be sacrificed to anti-drug objectives. In this second year of a multi-year initiative to subject drug programs to close human rights scrutiny, we addressed abuses in the United States and Bolivia.

In July, the Human Rights Watch report, *Modern Capital of Human Rights? Abuses in the State of Georgia*, focused in part on race and drug law enforcement in the U.S. state of Georgia. The report was the first international human rights assessment of any anti-drug policies in the United States. Drawing on computerized statewide databases, the study statistically documented stark racial disproportions in the arrest and incarceration of Georgia's drug offenders. Our data analysis for the years 1990 to 1995 revealed that while both black (principally African-American) and white Georgia residents used and distributed drugs, black residents were far more likely to be arrested and incarcerated for drug offenses. Black residents were arrested for cocaine-related offenses at seventeen times the rate of whites. Blacks were arrested for drug possession at rates greatly exceeding their estimated share of the total drug using population; the arrest rate for whites was, conversely, much lower than their share of the drug-using population. Blacks arrested for drug offenses were imprisoned at twice the rate of whites. A black eligible for a life sentence for drug offenses was five times more likely to receive it than an eligible white; as a consequence blacks received 98 percent of the life sentences imposed for drug offenses.

International human rights law affirms racial equality and condemns conduct that has an unjustifiable racially disparate impact. Assessing whether the harsh impact of drug law enforcement on blacks in Georgia contravenes human rights guarantees requires scrutiny of its goals and methods. In our analysis of racially disparate arrest rates, for example, Human Rights Watch concluded that the rates reflected the comparative advantages for the police in making drug arrests in low-income neighborhoods in which drug transactions were easier to detect and for which there is strong community and political pressure. Such reasons are scant justification, however, for discriminatory arrest patterns. We urged Georgia to assess its drug goals and policies and to consider alternatives to current patterns of criminal law enforcement that would reduce adverse racial disparities while continuing to respond to social concerns about public drug dealing and drug abuse.

In the southern hemisphere, we continued to monitor closely the human rights implications of anti-narcotics programs in Bolivia that were supported and funded by the United States. Several positive developments tracked recommendations made in our 1995 report, *Bolivia: Human Rights Violations and the War on Drugs*. Bolivia enacted legislation in early 1996 to reform provisions in the country's drug law which we had criticized for containing glaring violations of human rights principles; name tags were provided to anti-drug police to end the anonymity which had hindered identification of those who committed abuses; and the

Ministry of Justice established a human rights office in the coca-growing region of the Caper, as we had urged, so that victims of abuses had a more reliable mechanism for reporting abuses.

In May 1996, following new research conducted in the Caper, we published a second report on abuses connected with Bolivian policies of drug law enforcement. *Bolivia Under Pressure: Human Rights Violations and Coca Eradication*, is a detailed study of the violence and human rights abuses that accompanied Bolivia's effort to meet the coca eradication goals imposed by the United States. The report includes a series of specific recommendations for steps the Bolivian and U.S. governments could take to improve the performance of the Bolivian narcotics police. A few months after the report was released, the U.S. and Bolivian governments signed letters of agreement covering U.S. anti-drug assistance to Bolivia. The agreements included human rights provisos that followed closely most of the recommendations made by Human Rights Watch. The agreements called, for example, for the development of regulations for proper police search and arrest procedures; for police training emphasizing human rights and providing courses in crowd and riot control to minimize the potential for violence and personal injury; and for the development of a police internal affairs office to investigate, discipline or recommend for prosecution police who violate basic human rights standards. Continued United States government support for Bolivia's anti-narcotics programs was made conditional on "regular and measurable progress" towards these goals. Salary supplements paid to Bolivian anti-drug personnel by the United States may be withdrawn if "there is reason to believe" the recipients have engaged in human rights violations.

In the latter part of 1996, we prepared a set of generic recommendations for conditions that should be incorporated into all decisions concerning anti-narcotics assistance to Latin American governments and began work to secure their adoption by the Clinton administration.

Freedom of Expression

The defense of the right to free expression remained a major focus of the work of Human Rights Watch in 1996. We documented and/or protested a variety of challenges to this basic right, most commonly involving abuses against journalists or against members of the political opposition, often in the context of national or regional elections. "Insulting the honor or dignity of the president or the state" is a charge used frequently to suppress free expression.

Among the countries in which we conducted free expression work in 1996 were: Albania, Algeria, Bangladesh, Belarus, Cambodia, China, Egypt (including the case of a Cairo University professor who was declared an apostate on the basis of his academic writings and ordered to be separated from his Muslim wife), Hong Kong, Indonesia, Jordan, Russia (including the case of Aleksandr Nikitin, who was arrested on treason charges for passing on information about the environment), the Slovak Republic, Syria, the Sudan, Tunisia, Turkey (including the trial of the translator and the publisher of a Human Rights Watch report), Turkmenistan, and Uzbekistan. Human Rights Watch/Asia sent observers to the trial of Irene Fernandez, accused in Malaysia of "false reporting" for publishing a report on abuses against migrant workers. Human Rights Watch/Americas, together with the Center for Justice and International Law (CEJIL), was involved in 1996 in three complaints brought before the Inter-American Commission on Human Rights for violations of the right to free expression protected under the American Convention on Human Rights.

We also raised free expression questions involving the United States, most notably in our report on the state of Georgia, where freedom of expression is undermined by local school boards and by state assembly resolutions that have condemned the state's public broadcasting system and have opened up broad new possibilities to prosecute Internet users. We participated in a challenge to the state of Arizona's new law requiring public employees to use only English in the course of performing their official duties, arguing that this violates international legal protections of language rights.

Freedom of Expression and the Internet

In 1996 Human Rights Watch expanded its work on freedom of expression in cyberspace. In February Human Rights Watch became a plaintiff, together with nineteen other organizations and individuals, in a suit brought in the U.S. by the American Civil Liberties Union challenging the Communications Decency Act (CDA), an amendment to a sweeping telecommunications bill signed by President Clinton in February 1996. Human Rights Watch objected to the CDA because it criminalizes on-line communication that is legal in other media, specifically communication that might be deemed "indecent" or "patently offensive" to minors. These vague terms go much further than the prohibition of pornography on the Internet, a prohibition legally in force before the act. Ironically, the act would criminalize speech that is protected by the United States Constitution's first amendment when uttered aloud or printed in a newspaper. Human Rights Watch was also concerned that the effort to censor indecent communication could impede the work of our own and similar organizations, which transmit graphic accounts of human rights abuses that we believe are necessary to convey fully the suffering that these abuses cause. The CDA was ruled unconstitutional by a panel of judges in June; the government then appealed the case directly to the Supreme Court.

The year witnessed increasing attempts by governments around the world to censor electronic communication. In January, for example, 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 May, responding to such attempts to restrict the use of the Internet, Human Rights Watch published "Silencing the Net: The Threat to Freedom of Expression On-line." The report documents the wide range of methods currently being used to restrict the Internet, recommends principles for governments and international and regional bodies to follow when formulating public policy and laws affecting the Internet, and sets forth the international legal principles governing on-line expression.

Human Rights Watch also participated with several coalitions of on-line rights groups to protest Internet censorship agreements by the G-7 countries and the ASEAN nations, and a specific instance of on-line censorship in Germany. We wrote a letter to the Singapore government protesting its restrictive Internet policies and to another the Indonesian government to protest an arrest related to on-line communication.

Hellman/Hammett Grants

Human Rights Watch administers the Hellman/Hammett grant program for writers who have been victims of political persecution and are in financial need. The program gives between US\$150,000 and \$200,000 to writers all over the world. Established in 1989, the grant program is funded by the estates of Lillian Hellman and Dashiell Hammett, American writers who were victimized for their political beliefs and associations during the U.S. anti-communist "witch hunts" of the early 1950s. With this experience in mind, Ms. Hellman left the legacy to provide support for writers who have been persecuted for expressing political views.

In addition to providing much-needed financial assistance, the Hellman/Hammett grants focus attention on repression of free speech and censorship by publicizing the persecution that the grant recipients have endured. In some cases the publicity is a protection against further abuse. In other cases, the writers have requested anonymity because of the dangerous circumstances in which they and their families are living. In 1996, forty-four writers from twenty-three countries received Hellman/Hammett grants, including nine from China, seven from Nigeria, four from Vietnam, and three from Iran. Among the recipients in 1996 were the following:

Ayaz Akhmedov, founder of an underground satirical journal in Azerbaijan, was convicted of publishing articles that were "insulting to the honor and dignity of the president". ** Mina Assadi, poet and journalist, fled from Iran to Sweden where she has continued to speak in opposition to Iranian censorship and despotism, both in the Shah's regime and by the Islamic Republic. ** Bei Ling Huang, poet and literary critic, was repeatedly harassed by the Chinese government for his role in the Democracy Wall movement of 1979 and the underground literary movement of the 1980s. ** Ernest Brima, journalist, fled from Sierra Leone in 1991 and from the Gambia in 1995 because of persecution following articles he wrote about military politics in Africa. ** Arief Budiman, author of articles criticizing the political system in Indonesia including a sharp critique of newspaper closings in 1994, was dismissed from his position as professor of development studies at Satya Wacana University. ** Alfonso Castiglione Mendoza, journalist, was convicted, despite a complete lack of incriminating evidence, of collaborating with terrorism by Peru's infamous "faceless" courts and sentenced to twenty years in prison. ** Chen Dongdong, Chinese poet, was banned from all official poetry activities and from publishing because he had defended free expression and refused to cooperate with police. ** Choi Chin-Sop, South Korean journalist, was arrested in a roundup of alleged members of a pro-North Korea "spy ring," was tortured to confess and sentenced to three years in prison. ** Joseph Couture, Canadian journalist, was harassed by police after he discovered that the police were using an investigation of child pornography as cover for a crackdown on gay men. ** Ali-Asghar Haj Sayed Djavadi, Iranian novelist and journalist, fled to France under threat of execution for having warned about religious fundamentalist efforts to gain monopoly control of the state. ** Do Trung Hieu, Vietnam, was tried and sentenced to a fifteen-month jail term for distributing "malicious documents" detrimental to the government, charges apparently stemming from his personal memoirs which include comments on Communist Party efforts to suppress the Unified Buddhist Church. ** Ge Hu, arrested for protesting the June 4, 1989, Beijing massacre and sentenced as a "counterrevolutionary," was denied health care in prison. ** Haluk Gerger, respected Turkish writer on nuclear weapons, was convicted of "spreading separatist propaganda" and is facing three more three law suits for articles he wrote for the now-banned, pro-Kurdish

newspaper, *Ozgur Gundem*. ** Julio Godoy, journalist, was driven into exile after writing about coup plans against the Guatemalan government. ** Hoang Minh Chinh, Vietnamese political theorist, has spent most of the last thirty years in prison and under house arrest for promoting reformist views. ** Zubeida Jaffer, South African journalist, was harassed, tortured, and incarcerated for nine years for covering the anti-apartheid and trade union movements. ** Kalala Mbenga Kalao, Zairian journalist, was arrested five times in four years, tortured, and had his home destroyed for reporting information critical of the government. ** Karasaev Khusein, who writes of the epic storytellers and folk people of Kazakhstan, was imprisoned as a member of the Social Turan Party although the party did not exist. ** Martha Kumsa, journalist, an Oromo Presbyterian in Ethiopia, apparently targeted because of her religion and ethnic origin, spent nine years in prison without charge and finally fled to Canada. ** Liu Nianchun, Chinese essayist, novelist, and poet, was first arrested for his role in the Democracy Wall movement of 1979 and has been repeatedly harassed and imprisoned since. ** Meng Junliang, widely recognized as one of China's outstanding modern poets, has been in continuous conflict with the police due to his insistence that freedom of expression is a necessary prerequisite for writing real literature. ** George Owuor, Kenyan journalist, was interrogated, beaten, and detained for reporting on human rights issues and official corruption, including articles exposing embezzlement by President Moi's ruling party and election fraud. ** Miro Salimov, Tajik journalist, was charged with calling for the violent overthrow of the government, insulting the honor and dignity of the president, and inciting ethnic conflict over an article about why the Russian army in Tajikistan could not be considered a peacekeeping force. ** Adnan Abbas Salman al-Sayegh, Iraqi poet and playwright, fled to Jordan and then Lebanon in the wake of government efforts to censor and ban his work for containing passages that the government claims are hostile lies. ** Pari Sekandari, Iranian journalist, novelist, and poet, fled to Paris where she received death threats from Islamic militants and was advised to move to a secure address outside of the city. ** Wang Donghai, Chinese essayist and poet, editor of an important dissident journal, was sentenced to two years in prison for his role in pro-democracy demonstrations. ** Wang Xizhe, famous for his pro-democracy writings during the 1970s, was sentenced to fourteen years in prison for disseminating "counterrevolutionary propaganda" and "inciting the masses" to defy the state. ** Kunle Ajibade, Christine Anyanwu, George Mbah, Ben Charles Obi, and Dapo Oloronyomi, five Nigerian journalists, were all targeted by the military government shortly after an alleged coup attempt.

The Hellman/Hammett grants were awarded after nominations were reviewed by a five-person selection committee composed of writers and editors. In the course of the year, the selection committee approved four additional grants to writers who needed emergency funds to help them leave countries where they were in immediate danger.

Academic Freedom

The Academic Freedom Project (formerly known as the Committee for International Academic Freedom) was formed in 1991 by Human Rights Watch and a group of U.S. university presidents and scholars in recognition of the critical role that education plays in the development of civil society and the frequent targeting of educators and students by the world's more repressive regimes. When professors, teachers and students are harassed or imprisoned for exercising their rights of free expression and inquiry, when their work is censored, or when universities are

closed for political reasons, the project sends protest letters and cables to appropriate government officials and publicizes the abuses in the academic community.

In the past year, the Academic Freedom Project wrote about situations in China, Egypt, Guatemala, Israel's Occupied Territories, Nigeria, South Korea, and the Slovak Republic: The project members urged the Chinese government to overturn the conviction of Wang Dan, a leader of the student protests in Tiananmen Square. ** In Egypt, the project members inquired about the arrests of four university professors who were accused of founding an illegal political party even though Egyptian law recognizes the right of every citizen to establish and join a political party. ** A letter to the President of Guatemala expressed concern for the safety of student leaders at the University of San Carlos Law School who were harassed and received death threats as a result of their efforts to have the police who were responsible held accountable for the violence resulting from attacks on students who were demonstrating against bus fare increases. ** The project members expressed concern about arbitrary restrictions on travel that deny Palestinian students and faculty access to universities in the West Bank and the Gaza Strip and urged Israeli President Benjamin Netanyahu to revise procedures so that students can resume their studies ** Project members wrote Gen. Sani Abacha asking that the Ministry of Education rescind the ban on national activities by unions at Nigerian universities ** A letter to South Korean President Kim Young-Sam urged him to revoke the fines and prison terms imposed on teachers who signed the "Declaration for Genuine Educational Reform." ** Two letters protested the dismissal of Alena Brunovska, the director of Academia Istropolitana in Bratislava.

The project members include twenty-eight university presidents and scholars. Its co-chairs are Jonathan Fanton of the New School for Social Research, Hanna Holborn Gray of the University of Chicago, Vartan Gregorian of Brown University, and Charles Young of the University of California at Los Angeles.

Lesbian and Gay Rights

In 1995, Human Rights Watch adopted a policy opposing state-tolerated violence, detention, prosecution and discrimination on the basis of sexual orientation. In 1996, the organization put this policy into practice in a major report and a lawsuit.

Anti-gay legislation, violence, harassment and discrimination were among the human rights problems detailed in the report, *Modern Capital of Human Rights? Abuses in the State of Georgia*, released in July to coincide with the Olympic Games in Atlanta. These problems, although acute in Georgia, are often found elsewhere in the United States as well. The report exposed the failure of law enforcement officials to prosecute cross-burning, arson, and vandalism against gays and lesbians as well as the sluggish police response to investigating and solving cases involving murder or direct physical attacks. This distaste for protecting the rights of gays and lesbians results in the vast majority of such crimes never being reported to the police. Georgia also has a shameful record of state-sanctioned employment discrimination and lacks laws to prohibit such discrimination in the private sector—so that even a mother who publicly decried the murder of her gay son by a group of teenagers with baseball bats had no recourse when, as a consequence, she lost her job. Intolerance of lesbians and gays became a highly visible issue before the Olympics as one Georgia county adopted a resolution condemning "lifestyles advocated by the gay community" and another county swiftly did the same. The

Atlanta Committee for the Olympic Games withdrew plans to have the Olympic torch carried through the first county; faced with that prospect, the second rescinded its own resolution, despite death threats to one of the county commissioners. Human Rights Watch urged the repeal of anti-gay laws and ordinances, the prohibition at the federal, state and local levels of discrimination based on sexual orientation, and the reauthorization of the Federal Hate Crimes Statistics Act, which has a provision requiring the collection of statistics regarding anti-gay bias crimes.

The prison specialist of Human Rights Watch also began research on sexual abuse and rape of prisoners, examining, among other issues, the vulnerability of gay prisoners to rape (see above). Our initial research highlighted as an area for further investigation the striking reluctance of prison officials to intervene when a victim is perceived as homosexual. Human Rights Watch and other human rights organizations also attacked discrimination against gays and lesbians in the context of a landmark U.S. asylum case. In March, we submitted a “friend of the court” brief in the case of *Pitcherskaia v. INS*, an appeal of a denial of asylum to a Russian lesbian activist. Alla Pitcherskaia had been arrested and beaten by the police numerous times because of her association with lesbians, expelled from medical school, dismissed from jobs, forced to undergo state medical “treatment” as a lesbian, and threatened with long-term institutionalization, medication and electroshock therapy. Nevertheless, her application for U.S. asylum was denied. In its decision, the Board of Immigration Affairs had called into question the applicability of Attorney General Janet Reno’s earlier determination that sexual orientation could be a basis for claiming persecution on account of membership in a social group. Our brief argued that as a matter of both U.S. and international law, persecution on account of sexual orientation is a basis for asylum. Following the submission of our brief, the Immigration and Naturalization Service admitted to misstatements in its brief and moved to correct the administrative record to reflect the view that gays and lesbians do constitute a particular social group; this was done, however, with the intent of avoiding a federal court decision that might settle the issue once and for all in U.S. law.

During 1996, the Human Rights Watch/Children’s Rights Project requested the American Psychiatric Association to look into cases of alleged psychiatric “treatment” of young people to change their sexual orientation. Although homosexuality was dropped from the official compilation of mental disorders in 1973, there had been reports that the diagnostic category of “Gender Identity Disorder” had been used instead to institutionalize children who manifest what are perceived as gay or lesbian traits.

Legal Advocacy and Standard Setting

An increasingly important strategy of Human Rights Watch is bringing evidence, arguments, and cases before courts and international bodies empowered to hear individual complaints and provide redress. Human Rights Watch strongly believes that it is vital to present human rights abuses to these fora, not merely to publicize them and win redress for victims but also to advance principles of protection of rights so that they become part of international and national law.

Human Rights Watch also strongly supports the creation of an effective international criminal court under U.N. auspices to pursue war crimes and crimes against humanity. In 1996 we worked with other human rights groups and with several national governments toward that

end, as described below. In addition, we continued our vigorous advocacy of high-level indictments and prosecutions by the U.N.'s war crimes tribunals on the former Yugoslavia and Rwanda (*see* Helsinki and Africa overviews, sections on the relevant countries, and Women's Rights Project).

In 1996, as well, Human Rights Watch continued to press for the development of new human rights standards in international law through advocacy to international bodies and in international conferences. Among our efforts were promoting the adoption of minimum humanitarian standards in the rules of war, examining the effect of "lustration" and "repentance laws" in curtailing impunity, urging the recognition of the right to adequate housing, and defending the protection role of the United Nations High Commissioner for Refugees (UNHCR). We also participated in work related to the reform of NGO access to the U.N.

United States Federal Courts

United States law allows federal courts to hear cases in tort brought against foreign nationals for "crimes against the law of nations" committed in foreign lands. This unique feature of the country's legal system has become an important tool in stigmatizing perpetrators of crimes against humanity by making sure that the United States does not become a safe haven for them when they leave office in their countries. Since 1980, several cases have been brought against torturers and abusers of other fundamental rights, and successive court victories have turned this litigation strategy into an important advocacy tool. In the late 1980s, Human Rights Watch joined other organizations and law firms in bringing three such complaints against the former "lord of life and death" of Buenos Aires, Gen. Carlos Guillermo Suárez Mason, who had fled Argentina shortly after the return to democracy and was living in golden exile in San Francisco. We won default judgments for our clients, and eventually Suárez Mason was extradited to Argentina.

In 1996, we had another resounding victory, in the case of *Mushikiwabo v. Barayagwiza*. The federal court for the Southern District of New York entered a \$105 million judgment under the Alien Tort Claims Act against the leader of one of the Rwandan extremist groups who launched that country's genocide. With the assistance of the law firms Debevoise & Plimpton and Carter, Ledyard & Milburn, we represented several Rwandan nationals whose relatives were tortured and killed in the genocide of April and May 1994. The defendant, Jean Bosco Barayagwiza, was served in May 1994 when he visited the United Nations, and since then had lived in France and Zaire. The judgement stated that "the plaintiffs have overwhelmingly established that the defendant has engaged in conduct so inhuman that it is difficult to conceive of any civil remedy which can begin to compensate the plaintiffs for their loss or adequately express society's outrage at the defendant's actions." In awarding the victims \$1.5 million in damages for every relative they lost during the genocide, Judge Martin declared: "This Judge has seen no other case in which monetary damages were so inadequate to compensate the plaintiffs for the injuries caused by a defendant. One cannot place a dollar value on the lives lost as the result of the defendant's actions and the suffering inflicted on the innocent victims of his cruel campaign."

Human Rights Watch has also assumed the role of plaintiff in litigation on behalf of human rights. This year, we joined nineteen other organizations and individuals in *American*

Civil Liberties Union v. Reno, a suit challenging the Communications Decency Act which President Clinton signed into law in February. The act subjects to criminal sanction those who are the source of “indecent” or “patently offensive” communications on the Internet if those communications are accessible to persons under eighteen years of age. These vague terms, based on community standards and taken from the area of broadcast licensing, go much further than the prohibition of pornography on the Internet, a prohibition legally in force prior to the Communications Decency Act. Ironically, the act would criminalize speech that is protected by the United States Constitution’s first amendment when uttered aloud or printed in a newspaper. We submitted evidence that under the vague standards of the act, even our on-line reports of human rights abuses such as trafficking in women, sexual torture, or rape, could subject us to criminal penalty. Although our reporting is sometimes graphic and explicit, we believe this is necessary to fully convey the suffering these abuses cause. A special three-judge panel struck down the Communications Decency Act’s provisions as unconstitutional, and the U.S. government appealed the case directly to the Supreme Court under special procedures contained in the act. The Supreme Court was expected to consider this case and another, closely related case in 1997. Under the Freedom of Information Act, it is possible to compel disclosure of information and documentation that exists in United States government archives. Human Rights Watch pursues administrative requests for release of material that we consider vital to human rights documentation. In 1996, we joined other organizations as plaintiffs in a case to compel disclosure of the satellite and aerial photographs that reportedly showed Bosnian civilians from the Srebrenica safe haven being rounded up in a soccer field before being killed. We initiated this request in August 1995, shortly after U.S. Ambassador to the U.N. Madeleine Albright showed these records to a closed session of the Security Council.

Briefs Amicus Curiae and Advisory Letters

Human Rights Watch, in conjunction with other human rights advocates, also submitted *amicus curiae* or “friend of the court” briefs in major U.S. cases during 1996. Two such cases challenged restrictive legislation. The Prison Litigation Reform Act, which became law in April, revised the ground rules of challenging abusive prison conditions through the courts, making it extremely difficult to bring a successful case. One effect of the act was to make it much less attractive for states to enter consensual agreements with plaintiffs to remedy prison conditions, by subjecting consent decrees to onerous requirements. In *Plyler v. Moore*, we filed a brief challenging the Prison Litigation Reform Act’s provisions that allow states to unilaterally and immediately end existing consent decrees covering prison conditions, arguing that this termination of a judicial injunction violated the Constitution of the United States. Oral argument was set before the Fourth Circuit for December.

We also participated in a challenge to an amendment in the state of Arizona’s constitution that requires public employees to use only English in the course of performing their official duties. With the assistance of the law firm Paul, Weiss, Rifkind, Wharton & Garrison, we filed an amicus brief in *Arizonans for Official English v. State of Arizona*, urging the Supreme Court to affirm the Ninth Circuit’s decision striking down the law. Our argument was that the law’s restrictions would violate international legal protections of language rights. Contrary to the appellant’s claim that the law furthered social unity, we cited worldwide examples where official

language restrictions actually fostered communal tensions and in many cases, violence. In the area of political asylum, Human Rights Watch has also made submissions where there was a danger that individuals might be forced back to a country where they faced a danger of persecution. In *Pitcherskaia v. INS*, we urged the Ninth Circuit Court of Appeals to affirm that persecution on account of sexual orientation can be a basis for refugee status in the case of a Russian lesbian activist who had been forced to undergo “medical treatment” by state authorities. Our brief was prepared by the law firms of Mayer, Brown and Platt and Hughes, Hubbard and Reed.

In June, Human Rights Watch and Amnesty International wrote to the Canada's minister of immigration, urging against the deportation of a former Honduran military officer, Florencio Caballero. Caballero, who had been pressed into serving as an interrogator with an elite intelligence unit, fled Honduras in 1986 and promptly contacted Human Rights Watch to relate his intimate knowledge of Honduran death squad activities. With no assurances of protection or compensation, Caballero provided critical testimony to both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The latter, relying in part on Caballero's testimony, found Honduras accountable for systematic state-sponsored violence and “disappearances” in the landmark 1988 case *Velásquez-Rodríguez*. Several other witnesses in that case have been killed. In August, a Canadian federal court granted leave for judicial review of the denial of asylum to Caballero.

Human Rights Watch also wrote in April to the head of the U.S. Immigration and Naturalization Service to urge that Fauziya Kasinga's claim for asylum be recognized, based on the fact that she would face the threat of female genital mutilation should she be compelled to return to Togo. Astonishingly, the immigration judge in her case failed to recognize female genital mutilation as persecution, and assumed she would be able to avail herself of police protection against such a threat. We called on the INS to ensure that all authorities in the asylum review process be trained on the nature of gender-related persecution and the lack of state response to such violations. Human Rights Watch also condemned Ms. Kasinga's mistreatment while in immigration detention and called on the INS to ensure that asylum seekers are not detained unnecessarily or subjected to inhuman or degrading treatment.

The Inter-American Commission and Court

Human Rights Watch/Americas, working in conjunction with the Center for Justice and International Law (CEJIL), is participating in close to one hundred cases before the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights on behalf of the victims of human rights violations. Our docket before the IACHR was very active in 1996. The commission declared admissible the case of *Narciso González*, a well-known university professor who allegedly was “disappeared” by state agents of the Dominican Republic. In *Maria Arena, et al.* we challenged Argentina's Federal Penitentiary Service practice of subjecting women and female children visiting inmates to vaginal inspections. As a result, the Argentine government set out to reform relevant legislation. In 1996, the IACHR found Chile in violation of Article 13 (freedom of expression) of the American Convention on Human Rights for barring the circulation of a book by Francisco Martorell, titled *Diplomatic Impunity*, according to the commission, a clear case of prior censorship. In the case of *Father David*

Fernández and other Centro Prodh human rights activists who had been threatened in Mexico, the commission granted an injunction against the Mexican government and opened an investigation. The commission also referred to the Inter-American Court of Human Rights three of our cases against Peru for arbitrary detention, forced disappearance and cruel and inhuman treatment of persons accused of terrorism.

During 1996 evidence was presented to the court in the case against Nicaragua of *Jean Paul Genie Lacayo*, who was allegedly murdered by the military under the command of Humberto Ortega.

The court issued judgments on the merits of two of our cases. In January, after Argentina acknowledged its responsibility in the case of *Baigorria and Garrido*, two persons “disappeared” by the police in April 1990, the court issued a judgment ordering the government to pay damages. The parties proceeded to negotiate a friendly settlement. In a case of the “disappearance” of a school teacher and union activist, *Isidro Caballero and Maria del Carmen Santana*, the court found Colombia responsible in December 1995, and proceedings began in 1996 on the issue of reparations. In six more of our cases, the court ordered either compensation to the victims of human rights abuse or injunctions to protect persons in imminent danger. In the case of *Carpio* against Guatemala, the court upheld protective measures for the widow of a former presidential candidate, his daughter-in-law, and the prosecutor investigating Carpio's 1993 assassination.

International Criminal Court

Events in 1996 highlighted the urgent need for the early establishment of an effective international criminal court (ICC). The start of the trial of Dusko Tadic, the Bosnian Serb charged with murder and torture at the infamous Omarska detention camp, the fiftieth anniversary of the Nuremberg prosecutions, the failure to apprehend senior Serb and Croat officials indicted by the International Criminal Tribunal for the Former Yugoslavia as well as ongoing crimes against humanity in Burundi and war crimes in Chechnya, underscored the need to establish accountability for the most serious human rights crimes.

Progress towards an ICC continued during 1996 as negotiations proceeded slowly. The U.N. General Assembly voted in December 1995 to move the drafting process to a higher stage by convening a Preparatory Committee on the Establishment of an International Criminal Court to discuss and “draft texts, with a view to preparing a widely acceptable consolidated text of a convention” as a step towards a diplomatic conference to finalize the treaty creating the court. The decision to initiate a preparatory committee was agreed to after weeks of intense closed negotiations in which China obstructed a resolution.

The preparatory committee met for two three-week sessions during 1996. In the March-April session the delegates focused on the major political questions arising from the International Law Commission's (ILC) Draft Statute. The U.N. had mandated the ILC, a group of internationally recognized legal scholars, to create a draft statute and the ILC completed its draft in July 1994. At the preparatory committee meeting there were major differences over the court's subject matter jurisdiction, independence for the prosecutor, and the relationship between the proposed court and national jurisdictions. On the relationship between the Security Council and the court there was a clear polarization between the five permanent members of the Security

Council and virtually all other delegations. By the end of the session it was widely felt that most of these questions would only be resolved by senior officials at a diplomatic conference of plenipotentiaries.

The August session focused on the more technical legal questions: general principles of criminal law, fair trial and the rights of the defendant, judicial cooperation, and court organization. Five working groups produced a compiled text including many proposals but only limited consolidated text. The delegates fell short of producing a consolidated text due to obstructionism by France, which introduced an entire alternative draft statute, and the sheer volume of various government proposals.

After intense informal negotiations at the end of the August session, the preparatory committee adopted a recommendation that called for an additional nine weeks of preparatory work to be completed by April 1998. The recommendation cited a 1998 diplomatic conference as a realistic goal.

The October-November debate at the General Assembly's Sixth Committee focused on the pace of the future negotiations. Those states supporting the early establishment of the court sought a resolution calling for a 1998 date for a diplomatic conference. They pressed for the ICC negotiations to be given priority and allocated six weeks during 1997. Other states opposing the establishment of an effective court were resistant to specific time commitments.

The permanent members of the Security Council played a primarily negative role towards the court. France, supportive of the court in 1995, reversed its position and by April called for wording that would require Security Council approval for every case on the court's docket. At the August session its massive alternative draft statute slowed progress. On the most important substantive issues the United States's interventions were aimed at limiting the court's effectiveness and independence. U.S. delegates opposed an independent prosecutor, supported Security Council control in situations involving international peace and security, while providing valuable leadership in the discussion on the technical legal issues. Citing a strategy of "deliberative momentum," the U.S. opposed an early conference date. China made clear that it opposed the early establishment of the court and in August called for a minimum of twelve additional weeks of preparatory work.

One of the most significant developments of the 1996 negotiations was the emergence of a bloc of states united around the need for an effective court. This group, representing diverse geographical regions, grew in size, negotiating skill and commitment during 1996. Composed of African, Latin American, Caribbean, European, Arabic, and Micronesian states, this group, "the like-minded states" or "friends of the Court," became a major force on behalf of the ICC. By the August preparatory committee meeting, these "like-minded states," claiming thirty members, were regularly meeting to plan strategy and coordinate tactics.

Human Rights Watch attached great importance to the establishment of the ICC as a key mechanism to strengthen defense of human rights. During 1996 we continued to work in our own name and in collaboration with human rights, legal, religious, and international policy organizations. We prepared and circulated written commentaries outlining our position on the essential issues before the preparatory committee. Staff members vigorously encouraged the "like-minded states" to work as a bloc. To help expand their ranks we successfully lobbied states with a demonstrated commitment to accountability for human rights abuses committed under a

previous regime. Through numerous interviews and articles Human Rights Watch raised the issue broadly in the press.

Human Rights Standards

In February, Human Rights Watch participated in the session of the ECOSOC (Economic and Social Council) Working Group reviewing consultative arrangements between the U.N. and NGOs. We joined with several other human rights organizations supporting the process, that was to open the U.N. to national organizations, but we opposed the suggested language stipulating that human rights organizations would have to fulfill additional requirements in order to be granted consultative status. In the course of the next several months, we repeatedly stressed our concerns, in lobbying and in joint statements with a number of fellow human rights organizations. Eventually, in July, ECOSOC approved a toned-down but still objectionable version of the resolution, in which human rights organizations were singled out for additional requirements to obtain consultative status with the council.

Also in February, we sent an open letter to the Organization for Security and Cooperation in Europe Human Dimension conference, which was considering the adoption of minimum humanitarian standards for the rules of war. Such standards would be especially useful in setting an indisputable baseline of humanitarian conduct for all parties to hostilities, particularly in situations where the application of the Geneva Conventions is unclear. Rather than supplanting existing humanitarian law, the standards are intended to reinforce basic principles such as the protection of civilians, even where it was debatable whether hostilities had risen to the level of sustained armed conflict, and they would bind all parties, regardless of whether a conflict was internal or international. In September, the U.N. secretary-general organized a workshop on the standards in Capetown, at which it was decided to begin a formal analytical study that may ultimately result in a General Assembly resolution on the standards.

In April, during the session of the U.N. Commission on Human Rights, we issued a statement in Geneva in which we raised serious concerns about a draft resolution presented by Cuba which had a potential to drastically limit the mandate of the U.N. Working Group on Arbitrary Detention. Eventually, Cuba withdrew its draft, and a different resolution was adopted.

In May, we submitted a memorandum to the U.N. Special Rapporteur on Impunity, dealing with three developing areas of law. The first was the emerging right to know the truth concerning gross human rights violations. This right derives from the obligation in international law that states “ensure” rights and provide effective remedies, and pertains not only to victims and their families, but also to the public at large. The second area was the practice of lustration -- the purging of officials associated with an old regime-- that is especially prevalent in the newly democratic states of Eastern Europe. In this case, we raised concerns that lustration penalizes individuals for their association with a group or organization rather than for their own actions, and pointed out the numerous procedural rights that can easily be violated by such practices. Finally, we discussed the potential abuses inherent in repentance laws, a form of plea-bargaining practiced in Peru and Colombia among other states. In these countries, basic fair-trial standards often do not apply to persons implicated in criminal activity by *arrepentidos* (the “penitent” seeking to plea-bargain) who use the laws to gain lenient treatment for themselves. We recommended that courts must play an extremely vigilant role to ensure that confessions under

such a system are not coerced, that they are corroborated wherever possible by independent evidence, and to ensure that the most culpable do not use the laws to their freedom by implicating others who have less information to trade.

The third major U.N. conference on international human rights of this decade took place during 1996—Habitat II, on the subject of housing and shelter. On the eve of the final preparatory conference in February 1996, Human Rights Watch strongly critiqued the draft conference agenda for failing anywhere to recognize that adequate housing is a universal human right, embodied in numerous treaties, including the International Covenant on Economic, Social and Cultural Rights. Citing our research, we demonstrated where violations of civil and political rights led directly to violation of the right to housing, and urged that this integral relationship between rights be recognized in the conference's final document. In May, we wrote to U.S. Secretary of Housing and Urban Development Henry Cisneros, criticizing the U.S. move to weaken the rights language in the document, and in June we updated our overall concerns regarding the draft final document and released the updated report in Istanbul to conference participants. The Habitat II final document differed significantly from its earlier drafts and incorporated several of the points made in statements by Human Rights Watch and our colleagues in the human rights community.

In September, Human Rights Watch presented the UNHCR Executive Committee with a discussion paper titled "Protection in the Decade of Voluntary Repatriation." The context for this paper was concern that UNHCR's protection function had been compromised because of the agency's and governments' heavy emphasis on repatriation as the solution of choice to refugee crises. Our paper documented instances where UNHCR was pressured into participating in supposedly voluntary repatriation exercises where conditions in the country of origin were arguably unsafe, or where the governments of origin or asylum were uncooperative and impeded UNHCR's protection function. We welcomed the publication of UNHCR's new handbook on voluntary repatriation, which emphasizes that return is voluntary where there is an "absence" of coercive measures to push refugees from a haven, such as a reduction in food rations. We also welcomed new protection guidelines on responses to sexual violence against female refugees. But in both cases, we emphasized that practice falls short of UNHCR's standards. More guidance is needed on UNHCR's role where the optimal conditions for voluntary repatriation do not exist, as in the case of Rohingyas returning to Burma from Bangladesh, or Sri Lankan Tamils who were pressured to return "voluntarily" from India. Likewise, we recommended that UNHCR put into place internal procedures to handle sexual violence against women refugees as soon as reports come in from the field, and to ensure that refugee women are integrally involved in formulating protective measures, as in Kenya where the number of reported rapes of Somali refugees decreased by half once such steps were taken.

At this writing, Human Rights Watch is preparing to issue the paper publicly, expressing concern that the protection division of the UNHCR staff appeared to have been marginalized in recent internal reorganization.

Congressional Casework

Human Rights Watch continued to work closely with three casework groups composed of members of Congress: the Congressional Friends of Human Rights Monitors, the Congressional

Committee to Support Writers and Journalists, and the Congressional Working Group on International Women's Human Rights. All three groups are bipartisan and bicameral. Human Rights Watch initiated the formation of these groups to enable concerned members of Congress to write letters to governments that commit or condone violations against human rights monitors, writers and journalists, or gender-based abuses of women's human rights. Human Rights Watch supplies the groups with information about appropriate cases of concern; the groups, in turn, determine which cases they would like to pursue. The goals of the congressional casework groups are three-fold. Most important, their letters help to pressure governments to end their persecution of human rights monitors, writers and journalists, and women, abuses which are either committed or routinely tolerated by governments. Second, members of the congressional groups are informed about these important incidents of violence and intimidation. Finally, copies of letters are sent to U.S. ambassadors in the relevant countries to inform them about cases of concern and to local press from the countries in question so that they in turn can bring additional attention to human rights violations.

The Congressional Friends of Human Rights Monitors

The Congressional Friends of Human Rights Monitors, formed in 1983, was composed of twenty-eight Senators and 106 Members of the House of Representatives during the 2nd Session of the 104th Congress. Steering committee members were Sen. Daniel Patrick Moynihan, Sen. James Jeffords, Rep. Tony Hall, and Rep. Constance A. Morella. In 1996, the group focused its attention on writing urgent action letters about time-sensitive cases of death threats, attacks, and unwarranted arrests of human rights monitors, to the heads of state in Algeria, Colombia, Croatia, Guatemala, Israel, Mexico, Palestinian Authority, Peru, Tunisia, and Uzbekistan.

The Congressional Committee to Support Writers and Journalists

The Congressional Committee to Support Writers and Journalists was formed in 1988 and was composed of seventeen Senators and seventy-four Members of the House of Representatives during the 2nd Session of the 104th Congress. Members of the steering committee were Sen. Bob Graham, Rep. Jim Leach, and Rep. John Lewis. In 1996, the committee condemned murders, attacks, and arbitrary arrests, as well as acts of censorship against reporters and publications, through letters to the heads of state in Cambodia, Cuba, Indonesia, Ireland, Mexico, Peru, Poland, Russia, and Turkey.

Congressional Working Group on International Women's Human Rights

The Congressional Working Group on International Women's Human Rights, which was formed in April 1994 to promote accountability for violations of women's rights worldwide, is a bipartisan group composed of twenty-four senators and thirty-six members of the House of Representatives. The four members of the working group's steering committee are Sen. Patty Murray, Sen. Olympia J. Snowe, Rep. Jan Meyers, and Rep. Joe Moakley. In 1996, the group wrote letters of protest on abduction, threats, and rape to the heads of state in Bangladesh, Peru, and Rwanda.

HUMAN RIGHTS WATCH INTERNATIONAL FILM FESTIVAL

The Human Rights Watch International Film Festival was created to advance public education on

human rights issues and concerns using the unique medium of film. Each year, the Human Rights Watch International Film Festival exhibits the finest human rights films and videos in commercial and archival theaters and on public and cable television throughout the United States and in various cities abroad—a reflection of both the scope of the festival and the increasingly global appeal that the project has generated.

In selecting films for the festival, Human Rights Watch concentrates equally on artistic merit and human rights content. The festival encourages filmmakers around the world to address human rights subject matter in their work and presents films and videos from both new and established international human rights filmmakers. Each year, the festival's programming committee screens more than 600 films and videos to create a program that represents a wide number of countries and issues. Once a film is nominated for a place in the program, staff of the relevant division of Human Rights Watch also view it to confirm its accuracy in the portrayal of human rights concerns.

The Human Rights Watch International Film Festival was established in 1988, in part to mark the tenth anniversary of the founding of what has become Human Rights Watch. After a hiatus of three years, it was resumed in 1991 and has since been presented annually. The 1996 festival featured over forty films, twenty-nine of which were premieres from thirteen countries presented over a two-week period first in New York, as a collaborative venture with the Film Society of Lincoln Center, and then in Los Angeles with the Museum of Tolerance. A majority of the screenings were followed by discussions with the filmmakers and Human Rights Watch staff on the issues represented in each work. The festival included feature-length fiction and documentary films as well as works-in-progress and experimental and animated films. Each year the festival is launched in New York with an opening night fundraising celebration featuring a film's U.S. premiere. In 1996 the festival's opening night centerpiece was the drama "Lone Star", by American writer-director John Sayles. The film won praise at the Cannes International Film Festival and from North American critics, for its treatment of racial intolerance, tensions along the U.S.-Mexico border, and police abuse. In conjunction with the opening night, the festival annually awards a prize in the name of cinematographer and director Nestor Almendros, who was a cherished friend of the festival.

The award, which includes a cash prize of \$5,000, goes to a deserving new filmmaker in recognition of his or her contributions to human rights. The 1996 recipient of the Nestor Almendros Award were filmmakers Mandy Jacobson and Karmen Jelincic whose outstanding work, *Calling the Ghosts: A Story about Rape, War and Women*, chronicles the remarkable transformation of "two ordinary modern women" in Bosnia-Herzegovina, whose personal struggle for survival evolves into a larger fight for peace and justice after they were held in a concentration camp and raped and tortured by their neighbors. They determined to put rape into the international lexicon of war crimes. Their success can be judged by the fact that their torturers now stand indicted by the International War Crimes Tribunal. This very powerful, personal film also became the centerpiece of the festival's Women's Day Program-- a day and night exclusively devoted to films and videos that address women's rights around the world.

In 1995, in honor of Irene Diamond, a longtime board member and supporter of Human Rights Watch, the festival launched a new award, the Irene Diamond Lifetime Achievement Award, which is presented annually to a director whose life's work illuminates an outstanding commitment to human rights and film. The 1996 award went to renowned Senegalese director Ousmane Sembene, in honor of his dedication to furthering the cause of human rights through film, and of his role in encouraging African independent filmmakers to

produce daring, challenging human rights films.

Highlights of the 1996 festival included a retrospective of the work of acclaimed South Korean director Park Kwang-Su, whose latest film, "A Single Spark", won critical acclaim at the 1996 Berlin International Film Festival. Park, acknowledged as the leader of the "New Cinema" in South Korea, has consistently explored the points of tension in his homeland's history and society, never shying away from political and controversial themes. The festival also featured a touring program of films and videos from Israeli and Palestinian filmmakers made since the historic 1993 signing of the 1993 peace accord. These personal works portray the complex and contradictory emotions, circumstances, and beliefs affecting all parties as the struggle to find peace unfolds. Other highlights of the festival included a series of films on the death penalty, chain gangs and political prisoners. Additionally, in this U.S. election year, the festival featured a series of works dealing with elections and democracy.

Throughout the festival's two-week run in New York, its high school project, in its fourth year, offered daytime screenings for students followed by interactive discussions among the students, their teachers, visiting filmmakers, and Human Rights Watch staff. In 1996 the program expanded to include collaborative screenings with the New York African Film Festival, highlighting human rights themes in new African cinema.

In an effort to reach a wider audience and satisfy the growing demand for these films, the festival established the a "Global Showcase", touring program of films and videos, which appeared in eight U.S. cities: Seattle, Washington; San Francisco, California; St. Louis, Missouri; Durham, North Carolina; Columbia, South Carolina; Boston, Massachusetts; Martha's Vineyard, Massachusetts; Huntington, New York; Hartford, Connecticut. The "Global Showcase" also traveled to Buenos Aires and to Gent, Belgium.

In December, in collaboration with the Human Rights Watch office in Brazil, the festival appeared in both Rio de Janeiro and Sao Paulo exhibiting new films from the Americas dealing with human rights themes. This was the first Human Rights Watch International Film Festival held in Brazil. In 1996, the festival also launched its first full-scale Human Rights Watch International Film Festival in Europe, opening in London on October 18. A new collaborative venture between the festival and the Institute of Contemporary Art (ICA) hosted a gala opening night with the European premiere of the award-winning documentary, "Mandela", produced by Jonathan Demme and Chris Blackwell, followed by a one-week festival of film and video screenings along with panel discussions with filmmakers from around the world and Human Rights Watch staff.

In 1992, Human Rights Watch created Film Watch, an association of the Film Festival and a group of American filmmakers, to monitor and protect the human rights of film makers who are threatened or censored or otherwise abused for their expression through film. In 1996, Film Watch took up the case of Kim Don-Won, a South Korean independent producer of documentary videos and films whose mission is to provide alternative media for educational purposes to the public. Kim Don-Won was arrested on June 14, 1996, and his tapes and editing equipment were confiscated from his office. No explanation was given by the government in this punitive action. Kim Don-Won was released several days later but, again, with no explanation by the government.

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