

This year marks an important milestone for the human rights movement, an opportunity to assess progress in fifty years since the adoption of the Universal Declaration of Human Rights. It also is a significant year for Human Rights Watch, which celebrates its twentieth anniversary. As described in this introduction, it is a moment to note the growing strength of the human rights cause, the enhanced scope of people claiming their rights, and the many new governments from all parts of the world willing to subscribe to the human rights ideal. But it is also a moment to consider the sizable challenges ahead, as the human rights movement strives to overcome hostility and indifference on the part of many governments—not only by those that shun the human rights ideal, but also by many that claim to uphold it. Some of the greatest disappointments of the past year were the actions of declared friends of human rights. This introduction describes the hesitancy of the United States in 1998 to embrace the international human rights system at a time when its leadership could accomplish so much. But it also highlights the many governments from around the world that are determined to press ahead on human rights even without Washington. In addition, the introduction examines the heightened commitment to human rights shown by the leadership of the United Nations and evaluates some of the contributions and failures of the European Union. It spotlights the emerging clamor to bring the world's worst human rights offenders to justice, describes the international community's unfortunate tolerance of the manipulation of elections, outlines the challenges posed by the global economy, and notes the ten defenders of human rights who were killed in 1998 in circumstances suggesting that their murder was due at least in part to their work.

### The Fiftieth Anniversary

The fifty years since the adoption of the Universal Declaration of Human Rights have seen a transformation in the way that governments are expected to treat their people and each other. Although the language of the declaration has not been altered, its operational significance has changed dramatically. The role of governments, the scope of beneficiaries, and the strength of rights defenders are today dramatically different from what they were half a century ago. Indeed, they have evolved significantly in the past decade alone.

### A Legitimate International Concern

So much has changed that it is difficult to read the Universal Declaration and recall the far more limited meaning that most gave it at its adoption. For example, while the declaration imposes certain obligations on governments, many governments claimed for years that they alone were the judge of their compliance. Dictatorial governments regularly rejected criticism of their human rights records as “interference” in their “internal affairs.” Pressure to end abuse from other concerned governments was, at first, rare. Even the U.N. Commission on Human Rights, for much of its early existence, would not publicly name governments that violated international standards. Under this original, narrow conception, the Universal Declaration was effectively unenforceable—a set of duties that each government, if so inclined, upheld on its own.

Today, human rights are well established as the legitimate concern of all humanity.

Governments regularly comment on each other's rights practices and make respect for human rights an important factor in their aid relationships. Regional human rights bodies have been set up in Europe, Africa and the Americas. Major U.N. operations to protect rights are mounted in places like Bosnia or Rwanda (though in both cases belatedly). Even international financial institutions and multinational corporations have shown increasing sensitivity to human rights

concerns. Of course, sovereign governments retain the primary duty to respect rights. But it is widely accepted today that any failure on their part is the legitimate concern of the international community.

On occasion, some governments still claim that human rights criticism interferes in their internal affairs. Yet even China, once a frequent proponent of that argument, has accepted the legitimacy of international scrutiny by signing the two major covenants that codify the rights of the Universal Declaration. Notably, in 1998, China publicly took up the case of violence against ethnic Chinese in Indonesia. Similarly, within the Association of Southeast Asian Nations (ASEAN), traditionally a stalwart partisan of “non-interference” on human rights matters, Presidents B.J. Habibie of Indonesia and Joseph Estrada of the Philippines protested the detention of Malaysian deputy premier Anwar Ibrahim. These developments demonstrate the widespread recognition that people have a legitimate interest in upholding human rights standards everywhere.

### The Rights of “Everyone”

In its fifty years, the Universal Declaration has also come to protect the rights of a far broader range of people. The declaration was deliberately written in sweeping language. Article 2, for example, affirms that “everyone” is entitled to the rights and freedoms set forth in the declaration.

In fact, for many years, the international human rights movement generally understood its cause more narrowly. Although the declaration was born out of the horrors of the Nazi Holocaust, it was implemented at the height of the Cold War and, in its early years, was applied primarily for the benefit of political dissidents and opponents. It embraced the Soviet intellectual battling a Communist regime, the Latin American or Asian opposition figure struggling against a right-wing dictatorship, or the anti-apartheid activist. Yet it said little about the great mass of people who suffer violation of their rights not because of their immersion in politics but because of discrimination, police abuse, mistreatment in custody, indiscriminate warfare, and the like. The broad language of the Universal Declaration fairly embraces these people, but for many years it was not invoked for their defense. In this sense, the declaration was “universal” far more in the breadth of governments it addressed than in the range of people it protected.

Expanding the scope of human rights protection has not been easy. For example, when the human rights movement began to address the rights of women or to defend civilians from indiscriminate violence in time of war, some critics feared that this risked diluting the stigma of being called a human rights violator. They argued that taking on issues of violence against women, landmines, or the indiscriminate shelling of civilians might weaken the movement’s ability to defend the jailed newspaper editor or the tortured opposition figure.

Today, it is far more possible to claim that the Universal Declaration indeed embraces “everyone.” But the turning point came relatively recently. It was not until the World Conference on Human Rights of 1993 that many in the human rights movement genuinely endorsed the slogan that “women’s rights are human rights.” It was not until the horrors of the genocide in Bosnia that the movement broadly accepted that the Universal Declaration’s assertion of the “right to life” could be understood to incorporate international humanitarian law and thus impose limits on military forces in time of war. It was not until the advent of the global economy that many international groups began defending the right of workers to organize. It was only in recent years that the international movement devoted serious attention to the rights of children,

ethnic and religious minorities, common prisoners, and gays and lesbians, as well as to economic, social and cultural rights.

### The Human Rights Movement

The expanded scope of human rights protection has largely been driven by another major development since the adoption of the Universal Declaration: the growth of the human rights movement itself—the many nongovernmental organizations (NGOs) devoted to developing and applying international standards on human rights. The movement did not begin with the declaration. Precursors can be found in the campaigns to abolish slavery, grant women the right to vote, and alleviate suffering in time of war. The earliest human rights groups might be said to be the Anti-Slavery Society, the International Woman Suffrage Alliance, or the International Committee of the Red Cross. Following World War II, NGOs lobbied for the inclusion of language on human rights in the U.N. Charter and for the adoption of the Universal Declaration. But there was little in the way of a formal human rights movement.

Since then, there has been a veritable explosion in the number and breadth of organizations devoted to human rights, particularly since the 1970s. That is when human rights began to emerge in Asia in response to repressive governments in Korea, Indonesia and the Philippines. The Helsinki accords of 1975, in affirming “the right of the individual to know and act upon his rights,” helped to launch the human rights movement in the Soviet bloc. Human rights groups emerged throughout Latin America in the 1970s and 1980s in response to death squads and “disappearances” under right-wing dictatorships. Much of Asia in the 1990s has seen a stunning proliferation of human rights groups. While growth has been slower in Africa and the Middle East, human rights organizations have established a firm presence in all but the most repressive countries. In many places, human rights defenders still face persecution, often severe. Yet, despite the danger, this growing movement is a powerful new source of pressure to uphold human rights. It is the major reason why today the Universal Declaration has so much greater practical breadth and significance than it did fifty years ago.

In the process, the human rights movement has helped to create a new kind of NGO. Many human rights organizations today serve not simply to amplify the voice of their members but also to collect and deploy information strategically. This role would not have been possible if human rights ideals did not speak so directly to the people of the world. It is only against the backdrop of their values that human rights information has an impact. Yet because of these universal values, the human rights movement’s capacity to uncover human rights crimes and expose their authors to public condemnation has an influence far beyond its numbers.

Moreover, in this decade, with the assistance of new communications technologies like the Internet, human rights organizations have gone beyond addressing countries one by one to launching global campaigns, such as those to ban landmines, establish an international criminal court, end the use of child soldiers, and curb the transfer of small arms. The coalitions assembled have transcended national boundaries and built a genuinely worldwide movement for human rights.

The reality of people across the globe claiming their rights has helped to underscore the universality of the rights proclaimed in the declaration. As the “interference in our internal affairs” argument loses its punch, many governments have taken to claiming that human rights are a concept that is alien to their cultures. Variations of this argument can be found in the assertion of an “Asian concept of human rights,” the appeal for “African solutions to African

problems,” the claim that Islam provides the only true basis for human rights, and the U.S. government’s distrust of international standards. In fact, the emergence of human rights organizations in all parts of the world demonstrates that, far from rights being a foreign imposition, people everywhere aspire to the basic dignity and respect secured by the rights of the Universal Declaration.

### The Challenges Ahead

Despite its growing strength, the human rights movement has hardly ended serious human rights abuse. There has been much improvement in the last fifty years—in most countries of the former Soviet bloc, Latin America, and southern Africa, as well as parts of Asia. But any celebration of the fiftieth anniversary must be tempered by the knowledge that serious problems persist—that many governments still resist applying the Universal Declaration to all their people. Repressive governments continue in such countries as Burma, China, Iraq, North Korea, Saudi Arabia, and Turkmenistan. Abusive warfare is carried out in such places as Afghanistan, Algeria, Colombia, Kosovo, and Sudan. Even genocide, that most universally condemned crime, has been committed in Bosnia and Rwanda.

It is a sad truth that governments and warring parties will always be tempted to violate human rights. Why tolerate a nettlesome opposition, governments will ask themselves, when it can be jailed? Why suffer criticism of poor political performance when it is possible to divert public attention by attacking an unpopular minority? Why risk social or economic privilege if discrimination can keep challengers in their place? Rebel groups will similarly be tempted to violate international standards in pursuit of their aims. The human rights movement cannot promise to end such abuse, but it has and will continue to generate pressure on governments and insurgents to resist temptations to violate rights. The goal is to increase the cost of human rights abuse, to alter the political calculations that lead to human rights abuse.

Will there come a time when the human rights movement can afford to “wither away”? That is no more likely than the possibility that police forces will solve the problem of crime. The temptation to violate rights will always be there. Vigilance and activism will always be necessary to counter that threat. This fiftieth anniversary marks a moment to celebrate the growing capacity of the human rights movement to mount that defense and protect the values embodied in the Universal Declaration.

### A New Voice for Human Rights

The strength of this movement was nowhere more visible than in its recent efforts to establish new human rights laws and institutions. The successful campaign for a treaty to establish an International Criminal Court (ICC) demonstrated that the unprecedented partnership of NGOs and small and medium-sized states that had come together to ban antipersonnel landmines would be an ongoing force. Working at times in opposition to the major military and economic powers, including the United States, this partnership succeeded in harnessing what Canadian Foreign Minister Lloyd Axworthy calls “soft power”—a strong moral message coupled with active efforts to enlist the support of the general public. The combination transformed the diplomatic landscape.

The coalition of human rights and humanitarian groups behind the Mine Ban Treaty already had much to celebrate beyond its receipt of the 1997 Nobel Peace Prize. In December 1997 in Ottawa, an astounding 122 governments signed the treaty – a number that has since risen to 133.

These included not only most governments of the developed world that are usually supportive of human rights but also many governments from the developing world that see their people as the principal victims of these indiscriminate weapons. In September 1998, Burkina Faso became the fortieth government to ratify the treaty, allowing it to take effect in March 1999—record speed for a major multilateral treaty. That, in turn, will set in motion the treaty's timetable: four years to destroy all stockpiles, and ten years to remove and destroy all mines in the ground. Meanwhile, NGOs have created Landmine Monitor, a global initiative to monitor compliance with the treaty. A similar government-NGO partnership emerged to produce a treaty for the establishment of an International Criminal Court. Once sixty governments ratify the treaty, the ICC will be available to try those responsible for genocide, crimes against humanity, and war crimes, including crimes of gender and sexual violence, wherever these occur. Behind this victory was a broad international coalition of NGOs working closely with an alliance of more than sixty governments. Calling itself the "like-minded group," the governmental alliance cut across the regional groups that traditionally dominate international negotiations. It consisted not only of many of the established democracies but also a group of new or emerging democracies, such as Argentina, the Czech Republic, Hungary, Malawi, Poland, Senegal, South Africa, and South Korea. These governments, well along in the transition from dictatorship to democracy, valued an international institution of justice that would remain above local tyrants' pressure for impunity.

The emerging voice of these "post-transition" states shifted the moral center of gravity within the international community and drove the negotiations forward. Their enthusiasm for the ICC prevented the discussion from degenerating into a North-South debate and created a rallying point for many more states to embrace the court. These new voices meant that some of the court's most enthusiastic supporters were not adopting a court primarily for other people but saw it as serving themselves—as a sort of insurance policy against future abuse.

For reasons of local military pressure and lack of political will, the interest of these governments in prospective justice has not usually led to justice for the atrocities of the past. Nor are these governments yet consistent supporters of human rights in their bilateral relations. But with these governments of the South more frequently joining hands with the traditional supporters of human rights in the North, the human rights movement is far stronger today than seemed possible just a few years ago. Now more than ever in this anniversary year, human rights principles seem to offer a unifying potential—an ability to bring together the people of the world far more successfully than alternative formulas grounded in ideology, economic systems, inter-governmental structures, or mutual defense pacts.

### The Quest for Justice

The struggle to bring the worst human rights criminals to justice took several big steps forward in 1998. The most visible, as noted, was the dramatic agreement on a treaty to establish an ICC.

The court will be weaker than it might have been because of opposition from the United States, China, India and others, but it still will have considerable potential to deter those who would contemplate genocide, crimes against humanity, or war crimes and to bring to justice those who commit these atrocities. Today, the biggest challenge is to hold the line in the face of Washington's continuing effort to reopen the agreement reached in July at a diplomatic conference in Rome. The U.S. military has already threatened allies that favor the court, even enlisting historically abusive militaries to rein in civilian authorities. Washington is also arguing

that the ICC cannot be effective without U.S. support. The ICC undoubtedly would be stronger with U.S. backing, but the broad governmental coalition behind it has more than enough moral, economic, and military clout for it to succeed.

The International Criminal Tribunal for Rwanda seemed in 1998 to have resolved many of its management and leadership problems. Thirty suspects in the Rwandan genocide were in its custody by early November. Among them were many of the accused leaders of the slaughter, including Col. Theoneste Bagosora, the accused mastermind. Former Prime Minister Jean Kambanda pled guilty to genocide and was sentenced to life in prison. Jean-Paul Akayesu, the former mayor of the central Rwandan town of Taba, was the first person convicted of genocide after trial before an international tribunal. His case, which brought the first criminal conviction by an international court for acts of sexual violence in an internal conflict, was also the first in which rape was found to be an instrument of genocide. But national prosecutions in Rwanda continued to be plagued by serious problems. By early November 1998, more than 126,000 Rwandans were being held in unimaginably crowded prisons and jails with little prospect of trial. Moreover, of the first 356 who had had their day in court, all but twenty-nine were found guilty in trials often lacking in due process. Twenty-two of the 117 condemned to death were executed. Unfortunately, the international community's commitment to justice seemed to apply to the defeated but not to the victors in Central African conflicts. In April 1998, in the face of months of obstruction by the government of President Laurent Kabila of the Democratic Republic of Congo, U.N. Secretary-General Kofi Annan removed his team investigating the slaughter of tens of thousands of Hutu refugees in the former Zaire in 1996-97. Evidence collected by the U.N. team as well as by Human Rights Watch and other nongovernmental investigators suggested that the massacres were committed by Rwandan forces operating in cooperation with Congolese troops. The U.N. Security Council responded in July 1998 with a presidential statement condemning the massacres but stopped short of authorizing an independent investigation and prosecution of those responsible. Instead, in a transparently futile ploy, it relegated these tasks to the Rwandan and Congolese governments themselves. Similarly, the international community made no effective protest when the U.N. was forced to close its human rights monitoring office in Rwanda. And it has failed to mention, far less try to halt, the massive loss of life in northwestern Rwanda, where government forces and insurgents have killed thousands—probably tens of thousands—of unarmed civilians.

With NATO finally willing to arrest indicted war crimes suspects in Bosnia, the International Criminal Tribunal for the Former Yugoslavia began to move forward. By late 1998, twenty-eight suspects had surrendered or been arrested. Six trials were under way involving fourteen defendants. Louise Arbour, the chief prosecutor, was properly focusing her attention on the leaders of the Bosnian genocide. The greatest obstacle she faced was NATO's refusal to arrest the two most senior indicted suspects, former Bosnian Serb political and military leaders Radovan Karadzic and Ratko Mladic. At least thirty indicted suspects remained at large, most on territory controlled by Bosnian Serb forces. Yugoslavia also harbored at least three indicted suspects. The refusal to arrest Karadzic and Mladic undermined the tribunal's potential to deter Yugoslav President Slobodan Milosevic from embarking on a new round of slaughter in Kosovo. It signaled that the international community would proceed against the henchmen but, in the interest of short-term political calculations, would dispense with justice for those directing genocide. Milosevic's sense of impunity was only compounded by the tribunal's inexplicably slow pace in filing public charges against him for crimes committed in Croatia and Bosnia and in

investigating his new crimes in Kosovo, as well as the international community's unwillingness to insist on Belgrade's full cooperation with the tribunal.

The most surprising development on the justice front occurred when Britain, at the request of Spanish Judge Baltasar Garzón Real, arrested Gen. Augusto Pinochet, the former Chilean dictator. Following a 1973 coup, Pinochet headed a government that was responsible for the execution and "disappearance" of at least 3,000 and the torture, imprisonment, and exile of many thousands more. Yet he had escaped responsibility for his crimes by virtue of an amnesty he granted himself in 1978 and a deal he struck with his civilian successors to respect the amnesty as a condition of his relinquishing power. For many years, he has been trying to polish his image as the supposed father of Chile's modern democracy.

His October arrest in Britain punctured that public relations campaign by reminding the world of Pinochet's bloody hands. In addition to pursuing crimes against Spanish citizens, Judge Garzón and his British collaborators proceeded under well established international law making crimes against humanity offenses of universal jurisdiction whose authors can be tried in any competent court. What was unusual was the political will to apply this law, particularly with respect to a suspect not on the soil of the prosecuting state.

As this report went to press, Pinochet's fate was uncertain: a Spanish court had unanimously upheld the extradition request, but Britain's compliance with it was in jeopardy because of its court's controversial interpretation, which was under appeal, of a British law on the immunity of a head of state. Meanwhile, once the ice had been broken by the Spanish courts' bold step, several other governments, spurred on by victims' families, joined in requesting Pinochet's extradition. This rapid response from so many quarters was one more indication that memory had not been erased, nor real legitimacy gained, by the impunity Pinochet enjoyed.

The Pinochet arrest sparked debate about what respect is owed to self-granted or negotiated amnesties. Some argued that the failure to respect such amnesties might make it more difficult to encourage abusive officials to relinquish power. But over the long term, the advantages of ending impunity far outweigh this potential cost. Many dictators commit atrocities because they assume they will get away with it—that they will be able to bargain for immunity from prosecution as a condition of stepping down. A policy of respecting such amnesties only reinforces this deadly calculation. Impunity breeds more abuse. The arrest of Pinochet, regardless of whether it survives legal challenge, signals would-be tyrants that from now on it will be more difficult to escape accountability. That could help deter future atrocities.

The release of South Africa's Truth and Reconciliation Commission report was also a milestone for accountability. Although political constraints prevented South Africa from prosecuting most of those responsible for the abuses of apartheid, the report helped to reveal some of the worst excesses of that dark era, to stigmatize individually many of those responsible, and to acknowledge the wrongs that had been done by all sides. The power of the report could be seen in the strong reactions against it from both supporters and opponents of apartheid. Some were predictable, such as former President F. W. de Klerk's efforts to fight the report's finding that he had been an accessory-after-the-fact to two bombings in the late 1980s. More surprising and disappointing was the claim of a representative of the African National Congress that its own abuses were justified because it was fighting a war of national liberation from an abusive regime—a claim that flies in the face of the basic precept of humanitarian law that violations are never warranted.

There were other, more modest advances. In Morocco, where a human rights activist became

prime minister, the government acknowledged for the first time that over fifty Moroccans who had “disappeared” since the 1960s had died while in state custody. In Algeria, the tenacity of victims’ families, backed by human rights lawyers and members of parliament, helped to pressure the government to concede, albeit indirectly, that it had to answer for the widespread “disappearances” of recent years.

The quest to subject gross abusers of human rights to the rule of law remains in its infancy. Too many despots still enjoy impunity for their crimes. The international community continues to show a disturbing tendency to prefer justice after killing has taken place to timely and decisive action to stop slaughter in progress. But developments in 1998 will make it more difficult for official mass murderers to sleep easy at night. It risks upsetting the quiet retirement plans of such tyrants as Uganda’s Idi Amin, Haiti’s Raul Cedras, Ethiopia’s Mengistu Haile Mariam, Guatemala’s Efraín Ríos Montt, and the remaining leaders of the Khmer Rouge. With so much renewed interest in justice for the atrocities of the past, it will only be a matter of time before other tyrants face their day in court, if not before an International Criminal Court, then before available national tribunals. That will be an important step toward preventing such crimes in the future.

#### The Economic Crisis and the Human Rights Responsibilities of Business

The economic crisis that began in Thailand in 1997 spread around the globe in 1998. It exposed political discontent over corrupt and unaccountable governments and led, most dramatically, to the resignation of Indonesian President Soeharto, the election of President Kim Dae-Jung in South Korea, and growing protests against Malaysia’s Prime Minister Mahathir bin Mohamed. It also fueled human rights problems, including attacks on ethnic Chinese in Indonesia, Thailand’s summary return of Burmese migrants without screening for refugees, and Malaysia’s mistreatment of migrants and summary return of refugees from Indonesia’s Aceh region. Even fairly open and democratic governments had difficulty stemming the tide of devaluations and capital flight, but the relatively responsive governments, such as Thailand, seemed to be doing a better job of gaining public confidence in their handling of the crisis and forestalling political unrest than, say, Indonesia. This suggests that countries such as Russia that are facing difficult and painful choices will need governments that are responsive to popular needs if they are successfully to reverse and rebuild from economic catastrophe.

As governments were buffeted by a global economic storm beyond their control, attention focused on the conduct of private actors. There was much debate about the role of currency speculation or international financial institutions, but questions also began to be raised about the inherent good of unrestrained capital flows without a parallel commitment to human rights and the rule of law. The growing attention to the human rights practices of multinational corporations made it increasingly common for companies to adopt codes of conduct and commit themselves to respect human rights in the course of their operations. This represents an advance over the days when businesses tried to dismiss human rights concerns as outside their profit-making mandate. More and more businesses now understand that their policy on human rights can affect their bottom line—by damaging their reputation among their consumers and staff and degrading the political environment in which they invest.

Today, the debate is less about whether corporations should avoid complicity in human rights abuse than about what steps they must take to do so. Among the questions being asked: Is it consistent with a corporation’s commitment to free association to operate in a country that bars



independent trade unions? Can a corporation legitimately say it is avoiding complicity in arbitrary violence if it pays large royalties to a government whose security forces are violently abusing people or if it depends on those forces to protect its facilities? Can a company claim to be respecting human rights if it precludes independent observers, particularly local NGOs, from scrutinizing its conduct? These are the complicated new generation of issues that businesses must face as they grapple with the challenges of conforming their conduct to human rights principles.

Governments are facing similar challenges. Is the stability needed for global trade achievable without a strong effort to enhance human rights and the rule of law? Should governments be subsidizing trade, through preferential tariffs, loan guarantees, or risk insurance, with countries that violate basic labor rights? Can global trade be fair if countries are permitted to cut costs through repression? Should the regulation of corporations' human rights conduct be left to NGO investigations and press exposés? Or should a regulatory scheme be established by, for example, strengthening the International Labour Organisation or integrating labor rights concerns into the mandate of the World Trade Organization? Unfortunately, most governments are ducking these questions, abandoning leadership to the hope that business will solve its human rights problems on its own. Given the dynamic of global competition, with its temptations to minimize respect for human rights in the hope of gaining a short-term competitive advantage, a more assertive official role is clearly needed.

### The Electoral Subterfuge

The right of people to choose their governmental representatives through periodic free and fair elections is internationally recognized. Being chosen by an election is increasingly seen as a prerequisite to a government's legitimacy. Yet too many governments, unwilling to subject their rule to the popular will, stage elections that are anything but free and fair. The international community has too frequently acquiesced in this subterfuge.

Cambodia illustrated the problem. Elections in July were preceded by the murder of political opponents, widespread intimidation of voters, restrictions on opposition access to the media, and the government's hijacking of the election committee charged with overseeing the polling. Yet U.N.-organized international observers, eager to salvage the vast international investment in Cambodia and willing to acquiesce in strongman Hun Sen's consolidation of power, declared the balloting free and fair before the vote counting had even been completed. The European Union and ASEAN were particularly egregious in this regard.

Prior to the death in June of Gen. Sani Abacha, the U.S. government adopted similarly low standards for the proposed electoral "transition" in Nigeria. After crushing the democratic opposition, Gen. Abacha arranged for all five officially sanctioned political parties to nominate him for president. U.S. Assistant Secretary of State for African Affairs Susan Rice tried to set a high standard by declaring that "electoral victory by any military candidate...would be unacceptable," but President Clinton then lowered the bar by declaring that "if Abacha stands, we hope he will stand as a civilian." Here, the European Union took a tougher line by describing Abacha's "transition" program as a "failure."

President Clinton's March summit with African leaders highlighted the U.S. government's low electoral standards for judging its allies. The summit was held in Uganda, home of President Yoweri Museveni's influential "non-party" electoral system. Rather than confront the severe democratic shortcomings of Uganda and the other governments of the region, President Clinton

oversaw the signing of a communiqué asserting that “there is no fixed model for democratic institutions,” which was readily understood to suggest that “non-party” elections were just one variant of legitimate democracy rather than a distortion of the term.

Other instances of election tampering in 1998 include Hong Kong’s legislative elections, in which the number of popularly elected seats was so reduced that pro-democracy candidates’ overwhelming victory at the polls still left them short of a legislative majority; Armenia’s extensive ballot stuffing and failure to prosecute election-related violence; Sri Lanka’s imposition of a state of emergency, allowing it to cancel five provincial elections in which the governing party was expected to do poorly; and Kazakhstan President Nursultan Nazarbayev’s efforts to control the mass media, and his arrest and disqualification of leading opposition figures, in anticipation of January 1999 presidential elections.

### The United Nations

Kofi Annan has shown a greater commitment to human rights than any other U.N. secretary-general. Illustrative was his outspoken challenge to African leaders to see the root causes of conflict on their continent in unaccountable leaders, a lack of transparency in government, and the absence of the rule of law. He also pressed the Security Council, unsuccessfully, to persist in investigating those behind the 1996-97 massacre of refugees in the former Zaire, after his investigative team was forced to withdraw in the face of obstruction by the successor Congolese government.

His efforts to integrate human rights into all U.N. activities produced some results, though much remains to be done. For example, the U.N. took the positive step of announcing in October that it would bar the use of children under eighteen years of age in U.N. peacekeeping forces. Yet the same month, it was revealed that Brig. Gen. Sergio Espinoza Davies, a Chilean who participated in grave abuses of human rights during the Pinochet dictatorship, was serving as chief military observer of the United Nations Military Observer Group in India and Pakistan. Although Espinoza returned to Chile for consultations and appeared unlikely to retake his post, the episode highlighted the need for the U.N. to insist that governments not contribute abusive officials to U.N. forces.

Several U.N. agencies took steps to incorporate human rights into their programs. The United Nations Children’s Fund (UNICEF) established a child protection unit as part of its efforts to extend its mandate beyond health and poverty to include the protection of all rights guaranteed by the Convention on the Rights of the Child. The United Nations Development Programme (UNDP) entered into a formal human rights agreement with the office of U.N. High Commissioner for Human Rights Mary Robinson, although it was slow to implement the agreement. U.N. High Commissioner for Refugees (UNHCR) Sadako Ogata continued to elevate the provision of humanitarian relief over the agency’s core duty to protect refugees. But UNHCR’s protection division seemed to regain some of its former strength, and the agency gave more attention to what should be an intimate relationship between refugee protection and human rights. U.N. agencies were less successful in integrating human rights into their operations in Afghanistan. Over the objections of some of its field staff, in May the U.N. Office for the Coordination of Humanitarian Affairs negotiated an agreement with the Taliban on security that conceded that women’s access to health care and education would be “gradual.”

High Commissioner Robinson took great strides toward reinvigorating an office that had retreated into the irrelevance of quiet diplomacy under its first occupant. She was at her best on

Algeria, Rwanda, and Colombia. She spoke out forcefully against the slaughter in Algeria, at a time when the international community was more inclined to ignore it. After visiting Rwanda and firmly condemning government abuses, she rejected the government's insistence that U.N. monitoring of its conduct end while technical assistance continues, a maneuver that would have made a mockery of the U.N. human rights presence. Her office in Colombia issued a hard-hitting report describing the abundant evidence of the close working relationship between Colombia's army and its brutal paramilitary groups, and she herself, during a visit to the country, spoke out forcefully on behalf of human rights defenders and against the impunity for human rights abuses that military-run tribunals have traditionally allowed. She also issued useful protests on Burma, the Ethiopian-Eritrean conflict, Kosovo, Mexico, Nigeria, and Sierra Leone.

Much work remains to transform the high commissioner's office into an effective vehicle for defending human rights. She has built a strong staff at U.N. headquarters in New York but has yet to make her presence felt in debates of relevance to human rights protection at the Security Council or in the Secretariat. She reorganized her staff in Geneva to create long-needed country desks capable of developing expertise on current and potential problems beyond the immediate attention of the U.N. Commission on Human Rights, but these staff members were so overloaded with assignments to provide technical assistance that they could not play the monitoring and protective role that is so urgently needed. Her frequent rhetorical references to the right to development, while perhaps useful for building broader support for her office, remained conceptually hazy. Although she spoke broadly of a "rights-based" approach to development, she rarely offered country-specific suggestions about how to improve respect for economic, social, and cultural rights, let alone concrete illustrations of the interdependence of those rights and civil and political rights. She thus failed to transform this idea into a concept of programmatic significance.

#### The European Union: Conditionality and Consensus

The European Union continues to make an important contribution to the human rights cause in its routine formal conditioning of aid and trade preferences on the beneficiaries' respect for human rights. In the United States, such conditionality usually can be found only in laws on overall foreign policy. Even when conditionality is written into U.S. country-specific laws, the target country is rarely asked to accept the terms. The E.U., by contrast, enters into trade and cooperation agreements with countries of the developing world that are routinely and explicitly conditioned on respect for human rights. When a government's severe violation of human rights leads to a restriction on aid or trade benefits, the result is seen more as the enforcement of a contract than the "unilateral sanctions" that the U.S. business community is increasingly decrying.

Unfortunately, the E.U.'s application of these conditions has been inconsistent. On the positive side, for example, E.U. assistance to Croatia and Sudan is limited to humanitarian aid because of their failure to meet human rights criteria. Unlike the counterproductive U.S. embargo on Cuba, the E.U. links economic cooperation and preferential trade status for Havana to specific human rights improvements. The E.U. also bans arms sales and preferential trade benefits for Burma, as well as official visits by Burmese officials.

But the E.U. was slow in 1998 to apply sanctions and quick to remove them in the case of Kosovo. For example, it decided in May to suspend a planned investment ban on Yugoslavia as a reward for President Milosevic's ninety-minute meeting with the ethnic Albanian

leadership—the same week that Belgrade launched a major new offensive replete with large-scale abuse. E.U. members continue to promote lucrative arms sales to Turkey despite an important E.U. code of conduct adopted in June aimed at limiting weapons transfers to abusive regimes. The E.U. showed little interest in using the human rights clause of its new association agreement with Tunisia to ease that government's suppression of dissent. The E.U. signed a trade agreement with Turkmenistan in February and moved toward ratifying an agreement with Uzbekistan, squandering leverage with two of Central Asia's most repressive regimes. The European Union's promotion of human rights was also hampered by its preference for consensus over bold action by its individual members. As the E.U. tries to forge a common foreign policy, it often refrains from action until a consensus is formed. But consensus, by its nature, tends to be cautious. In the human rights realm it frequently coalesces around the least forceful position. For example, the political and economic interests of France, Spain, and Italy kept the E.U. from taking firmer action to press Algeria to allow independent investigators to ascertain responsibility for massacres and other serious abuses.

The discouragement of action by individual governments can change the political environment to the detriment of human rights protection. When one government steps forward to defend human rights, it can build popular support and serve as a rallying point for comparable action by other governments. A good example occurred when the E.U. did not insist on a common position during the negotiations on the International Criminal Court. The strong support for the ICC on behalf of many individual European governments helped to build momentum that carried along more reluctant governments—initially Britain and ultimately France.

There is clearly room for consensus—for the added clout that coordinated action brings. But the E.U. needs to recognize that early insistence on consensus is not a neutral step when it comes to an area as important to the public as human rights. Sometimes the best way to achieve consensus without watering down commitment is by allowing some initial scope for individual action and the enhanced popular input that this will permit.

There were other areas where E.U. human rights policy fell short. The E.U. continued to raise barriers to the rights of refugees seeking asylum, greatly increasing the likelihood that they would be returned to countries where they face persecution. The E.U. also abandoned support for a critical resolution on China before the U.N. Commission on Human Rights—a source of pressure about which Beijing cared deeply. Yet the E.U. seemed to have no plan for developing alternative sources of pressure. It pursued a potentially useful dialogue with China, as did the United States, Japan, Canada, and Australia, but so far this has served only to divert public pressure without producing any improvements. High-level visits to China by various European officials, including French Prime Minister Lionel Jospin and British Prime Minister Tony Blair, produced rhetorical commitments to human rights on the part of Beijing but no systematic improvement in its conduct.

### U.S. Isolation on Human Rights

When it came to strengthening international standards and institutions, the United States repeated the 1997 diplomatic debacle of its opposition to the Mine Ban Treaty. By opposing the new treaty creating an International Criminal Court if it would apply to U.S. citizens, Washington revealed itself once more to be severely out of step with most of the rest of the world. Ironically, in light of its long stated commitment to upholding human rights at home and in its foreign policy, the U.S. government today poses a threat to the universality of human rights. For it is

inevitable that Washington's efforts to exempt the United States from the international system for protecting human rights will be mimicked by far less savory regimes. Moreover, the U.S. government's unwillingness to subject itself to international human rights standards risks diminishing what should be one of the most important voices defending human rights.

On landmines, the U.S. government, determined to continue using these indiscriminate weapons in Korea and elsewhere, persisted in its refusal to sign a treaty that has been endorsed by the overwhelming majority of the world's governments. Indeed, the United States stood alone with Turkey among NATO states, Finland among the governments of the European Union, and Cuba within the entire Western Hemisphere as the only countries in these areas not to have signed the treaty. The Pentagon's refusal to countenance the abolition on humanitarian grounds of an actively used weapons system, and President Clinton's unwillingness to spend the political capital needed to overrule his generals, left the United States a bystander to one of the most important and dramatic human rights developments of recent years.

The Clinton administration found itself just as isolated on the issue of the International Criminal Court. The United States was one of only seven governments to vote against the Rome treaty—along with China, Iraq, Libya, Israel, Qatar, and Yemen—against 120 supporters. The Rome delegates went a long way toward addressing U.S. fears of frivolous or politically motivated prosecutions. The ICC will have jurisdiction only if national courts are unable or unwilling to pursue a matter—meaning that the United States, with its strong civilian and military criminal justice systems, would be able to avoid any prosecution of its citizens by conscientiously acting on the case in question. Moreover, the definition of the crime of greatest concern to the United States—the one governing attacks that cause disproportionate harm to civilians—was rewritten to make it much harder to call an attack a crime. Indeed, to the detriment of the court, its ability to acquire jurisdiction over a crime was significantly restricted in a futile effort to placate Washington. Yet the United States still left the Rome conference vowing to re-open negotiations and “fix” the treaty.

What Washington evidently wanted, and what the Rome delegates refused to cede, was the opportunity to exempt U.S. nationals altogether from the court's reach. That demand, never stated explicitly but implicit in many of the U.S. proposals, is inconsistent with the fundamental principle that justice must apply equally to all. As the world's sole superpower, the United States may well be involved in security matters around the globe. But no one should accept that its military might gives it license to violate rights or reject international scrutiny of its conduct. As the like-minded governments assemble the sixty treaty ratifications needed to launch the ICC, they should resist further U.S. efforts to weaken this historic institution.

A refusal to accept evolving international standards also lay behind Washington's continued obstruction of international efforts to ban the use of children under eighteen years of age as soldiers. The use of child soldiers—an estimated 300,000 worldwide—contributes significantly to the inhumanity of war. The children themselves risk death, physical injury, and deep psychological scars while, in light of their lack of maturity, they endanger those who encounter them. The widely ratified Convention on the Rights of the Child sets eighteen as the age of maturity on most other matters, and there is a broad international consensus that this bright line should be used to define the appropriate age of soldiers. But because the Pentagon recruits seventeen-year-olds out of secondary school, the U.S. government refuses to join a proposed protocol barring the recruitment of anyone younger than eighteen. Indeed, by blocking a “consensus,” the Clinton administration refuses to permit anyone else to adopt the protocol for

themselves—even though seventeen-year-olds constitute less than ½ of 1 percent of active-duty American soldiers. Washington thus has elevated a matter of recruiting convenience over the humanitarian imperative of curbing this cruel and dangerous aspect of warfare.

There were small indications that the United States was feeling pressure for its recalcitrance on these issues. On landmines, the United States destroyed 3.3 million non-self-destructing “dumb” mines, but left itself another million mines to use in Korea. It also announced that it might sign the Mine Ban Treaty by the year 2006, but only if suitable alternatives to landmines could be developed. On child soldiers, a congressional resolution urged the administration to stop blocking negotiation of a protocol to prohibit children under eighteen from serving in active combat, but it remained unclear whether this call would be heeded. On the ICC, the administration has softened the tone, though not changed the substance, of its objections.

Washington’s mistrust of international human rights law extends to established standards as well.

By entering “reservations” to treaties it has ratified or simply disregarding them, the United States refuses to apply them fully—on such issues as stopping ongoing execution of juvenile offenders or providing enhanced protection from invidious discriminatory treatment. It also is consistently late and superficial in reporting on its compliance with these treaties. In addition, there are a host of major treaties that the U.S. still has not ratified—on women’s rights, children’s rights, labor rights, economic rights, and the protection of civilians in time of war.

The Clinton administration was dismissive of a visit by one U.N. special rapporteur examining the application of the death penalty in the United States, although it was more helpful when another rapporteur came to investigate violence against women. The administration also blocked a proposed Security Council investigation into its bombing of Al-Shifa Pharmaceutical Plant in Khartoum. The investigation might have found that the United States lacked evidence to justify making the plant an appropriate military target.

The administration has been slow to address some of the most important human rights violations in the United States. For example, despite a four-year-old congressional mandate, the Justice Department still has not taken serious steps to document the scope of police brutality in the United States. The U.S. government continues routinely to detain asylum-seekers and to hold them in inhumane conditions, in violation of international standards on detention and asylum.

Although the Justice Department has filed suits against Arizona and Michigan regarding sexual abuse of women in their prisons, it has resisted more systematic efforts to reform state prison systems, such as criminalizing custodial sexual misconduct, providing a safe complaint mechanism, and tracking complaints of abuse. Women in federal custody fared better when the Federal Bureau of Prisons agreed to stop housing women prisoners in men’s facilities and to create an effective procedure for women to report cases of sexual abuse without risking retaliation.

### U.S. Foreign Policy

The Clinton administration’s efforts to promote human rights around the world were subject to large blind spots. Major parts of Africa, the Middle East and the former Soviet Union never made it to the administration’s human rights agenda. As has become common in recent years, the State Department accurately reported on human rights abuses in its annual *Country Reports on Human Rights Practices*. But for many countries, this one-shot commentary was never repeated in other fora, let alone allowed to influence U.S. policy. Human rights concerns rarely ranked with the administration’s other interests.

The administration did best with the pariah countries. It maintained tough sanctions on Burma for its suppression of democratic forces. It cut off all aid to the government of Belarus, funding only the embattled civil society. It expressed outrage at rebel atrocities in Sierra Leone. It took a strong stand against abuses by the Sudanese government. It provided generous financial support to the International Criminal Tribunals for Rwanda and the Former Yugoslavia.

It also performed well on some more pivotal countries. In Croatia, it funded the return of refugees and protested the slow pace of those returns and the government's resistance to democratization. In Malaysia, it spoke out against the mistreatment of migrants and the suppression of political opposition. In Algeria, it kept relations cool while insisting that the government allow greater transparency on human rights, particularly investigation of ongoing massacres. In Indonesia, it worked at high levels to stop attacks on ethnic Chinese.

In several countries, the administration's record was mixed. It waited far too long as Yugoslav forces battered ethnic Albanian civilians in Kosovo, but then marshaled NATO military pressure until Yugoslav President Milosevic agreed, at least for the time being, to stop the attacks, withdraw some troops, and permit international monitoring. In Bosnia, U.S. troops helped NATO to arrest lesser war crimes suspects, but not the leaders of the genocide, and the Clinton administration repeatedly waived legislative prohibitions on delivering financial assistance to communities that harbored indicted suspects.

In Colombia, the administration openly acknowledged the close working relationship between the army and murderous paramilitary forces, and denied a visa to a leading general implicated in atrocities. But the new U.S. ambassador has been silent on human rights. And the administration implemented half-heartedly and with no transparency a law requiring it to withhold anti-narcotics assistance from forces involved in abuse until they bring those responsible to justice.

The U.S. embassy in Uzbekistan protested repression against conservative Muslims and monitored their trials, but U.S. aid to this abusive government grew, and the U.S. Export-Import Bank approved \$215 million in long-term guarantees for U.S. companies exporting industrial equipment to the country. In Cuba, while ostensibly concerned about human rights, the U.S. government pursued an embargo that itself violated the rights to freedom of expression and movement. Moreover, by adopting an all-or-nothing approach to President Fidel Castro's continuing rule, Washington provided little incentive for him to ease repression of civil society.

In China, the administration helped to enhance dialogue about human rights; to convince the government to sign a key human rights treaty; to secure the release of a handful of prisoners; and to gain permission for President Clinton, during his visit to the country, to speak to the public about human rights. It also pushed, albeit unsuccessfully, for more systematic changes, such as a review of the roughly two thousand prisoners held for violating the since-repealed crime of "counterrevolution." But like the European Union, the administration had no plan, other than waiting for China to change on its own, for helping to move beyond promises and dialogue to systematic change. Washington gave up two powerful sources of leverage—human rights preconditions to President Clinton's much-sought trip to China, and efforts to secure a resolution critical of China before the U.N. Commission on Human Rights—without developing any alternative way to keep the pressure on.

Most troubling were the vast swaths of the globe that were exempt from U.S. pressure on human rights. In South Asia, the administration condemned nuclear tests by India and Pakistan but said little about their dismal human rights records. In the Middle East, Saudi Arabia and its oil-rich

or strategically useful neighbors faced no public pressure on their own records of repression. Nor did Israel, Egypt, or Syria. Israeli abuses, if mentioned at all, were treated as “obstacles to peace” rather than human rights violations. Moreover, although both Israeli and Palestinian forces routinely torture security suspects, the U.S.-orchestrated Wye memorandum addresses only Palestinian forces’ responsibility to respect human rights, and then undercuts even that duty by suggesting that it must not become a pretext for failing to implement security provisions. The petroleum-rich states of Central Asia were also courted without reference to their repressive conduct. Typically, President Saparmurat Niyazov of Turkmenistan was welcomed at the White House even though he denies his citizens virtually all civil liberties. The administration succeeded in securing the release of ten political prisoners, but a White House press release disingenuously trumpeted Niyazov’s commitment to the rule of law and political pluralism. It also rewarded him with \$96 million in investments backed by the Export-Import Bank. Human rights similarly took a back seat to energy interests in Azerbaijan, Kazakhstan, and Uzbekistan. In Africa, where the United States hoped to promote stability, it favored strategic alliances with new leaders rather than overtly addressing their human rights problems. In Rwanda, where insurgents, including some guilty of the 1994 genocide, fought in the northwest, Washington continued its steady backing of the government and even considered extending it lethal military aid. Mistakenly believing that public criticism of slaughter by Rwandan troops might weaken the government, the Clinton administration remained publicly silent about most such abuses, whether in Rwanda or in Congo. In Uganda, Washington firmly supported President Museveni, whose help it needs to contain Sudan. While the administration drew attention to abuses by the Lord’s Resistance Army, a Sudan-backed rebel group in Uganda that abducts and abuses children, it ignored abuses by Uganda’s rebel ally in Sudan, the Sudan People’s Liberation Army. U.S. Secretary of State Madeleine Albright met with Sudanese rebel leaders in December 1997 without publicly mentioning their human rights problems. There was good news on the legislative front, but also an emerging threat. Legislation introduced by Sen. Patrick Leahy sought to narrow a loophole in U.S. law that in 1998 had allowed the United States to train a host of unsavory militaries, including those in Colombia, Equatorial Guinea, Indonesia, Pakistan, Papua New Guinea, Rwanda, Suriname, and Turkey. New legislation also requires arms traders to register whether or not their arms flow through the United States, narrowing another loophole used to support abusive regimes. A much-contested bill to sanction governments that commit or tolerate religious repression finally became law. Although its sanctions provisions are weaker than first proposed, it otherwise corrects various shortcomings in the original legislation, which had focused on the persecution of Christians over others, exempted the most common forms of persecution faced by believers around the world in a misguided effort to protect Israel, divorced the protection of religious freedom from the broader panoply of civil and political rights with which it is inextricably linked, and privileged asylum-seekers claiming religious persecution over others. A law funding the International Monetary Fund required future study of its impact on labor rights. Meanwhile, at a time when the European Union has formally conditioned virtually all aid and preferential tariffs on respect for human rights, a business lobby working with administration and congressional allies was pushing to restrict the use of U.S. economic sanctions to promote human rights, including the denial of aid or preferential tariffs to abusive regimes.

#### Human Rights Defenders Killed



Sadly, despite the tremendous advances made by the human rights movement, its front-line defenders continued at times to pay for their commitment with their lives. Ten human rights defenders were murdered in the first ten months of 1998 in circumstances suggesting that their killing was due at least in part to their work. These included six in Colombia, which remained the most dangerous country by far for human rights monitoring.

Colombia's most powerful paramilitary organization, which operates with the support of the Colombian military, was implicated in the February shooting death of human rights lawyer Jesús María Valle Jaramillo. President of the "Héctor Abad Gómez" Permanent Committee for Human Rights in Antioquia, he was the fourth president of the committee killed since 1987. Two men linked to the paramilitary group were arrested in connection with the murder.

In Bogota, an army intelligence unit was believed responsible for the April slaying of human rights attorney Eduardo Umaña. Elsewhere in Colombia, Edilbrando Roa López and Jhon Alejandro Morales, both assigned to the attorney general's human rights unit to investigate a series of paramilitary massacres, were abducted at a roadblock in September and murdered. Jorge Ortega, a human rights defender who was also vice-president of one of Colombia's largest unions, was killed in October during a strike of state employees; he had been the target of many death threats and had requested government protection the day before his murder. María Arango, a former beauty queen and human rights defender active in the 1970s and 1980s, was murdered in April in what was believed to be an attack on a still-visible symbol of the human rights cause. In Kosovo, Rexhep Bislimi, an activist with the Council for the Defense of Human Rights and Freedoms, was arrested in July and died two weeks later from beatings he sustained while in police detention.

In Guatemala, Bishop Juan José Gerardi was bludgeoned to death by unidentified assailants just days after the church human rights office he directed released a four-volume study of atrocities by all sides in Guatemala's three-decade armed conflict. The study attributed 90 percent of the atrocities to government forces. The Guatemalan government, while pursuing a blunder-filled investigation, argued that the murder was not politically motivated.

In Sudan's Nuba Mountains, Simon Noah, a human rights monitor from the Inter-Africa Group's Sudan project, was killed in an army ambush in April.

In Romania, Stefan Itoafa, the local coordinator of the League for the Defense of Human Rights, was found in October murdered in his apartment in the city of Constanta. Although the murderer is not known, Itoafa had upset local officials by investigating connections between the local police and organized crime. Yet, local police summarily dismissed this motive. Instead, they announced that Itoafa, who was gay, had been the victim of a "homosexual murder" and a "sex crime."

These murders highlight the importance of the U.N. General Assembly adopting and implementing the U.N. Declaration on the Rights of Human Rights Defenders.

### This Report

This World Report is Human Rights Watch's ninth annual review of human rights practices around the globe. Covering developments in sixty-eight countries, it is released in advance of Human Rights Day, December 10, 1998, which marks the fiftieth anniversary of the Universal Declaration of Human Rights.

The report covers events from December 1997 through early November 1998. Most chapters examine significant human rights developments in a particular country; the response of global

actors, such as the European Union, Japan, the United Nations, the United States, and various regional organizations; and the freedom of local human rights defenders. Other chapters address important thematic concerns.

As in past years, the report does not include a chapter on every country where we work, nor does it discuss every issue of importance. The failure to include a country or issue often reflects no more than staffing and funding limitations, and should not be taken as commentary on the significance of the related human rights concerns. Other factors affecting the focus of our work in 1998 and hence the content of this volume include the severity of abuses, our access to information about them, our ability to influence abusive practices, and our desire to balance our work across various political and regional divides and to address important thematic concerns.