

Human Rights Watch

A HUMAN RIGHTS AGENDA FOR THE BUSH ADMINISTRATION

January 17, 2001

KEY COUNTRY CONCERNS

Bring Balkan war criminals to justice

Top among the administration's goals to consolidate the peace in the Balkans should be bringing to justice the persons indicted for war crimes who remain at large, including Slobodan Milosevic, Radovan Karadzic, and Ratko Mladic.

The United States and its allies should not settle for war crimes trials of the Serb leadership before domestic courts in the Federal Republic of Yugoslavia. Just emerging from Milosevic's influence, the Serbian courts are ill-suited to afford fair trials, and their verdicts would enjoy no legitimacy among the victims of atrocities in Bosnia, Croatia, and Kosovo. Only trials before the International Criminal Tribunal for the former Yugoslavia (ICTY) hold the promise of regional acceptance and hence force a regional peace that is durable enough to permit withdrawal of U.S. troops. Until that time, the impunity enjoyed by the architects of the Balkan wars will give hope to those who continue to harbor a nationalist vision and pursue incendiary politics to that end, undermining moderate leaders' efforts to promote reconciliation, Western integration, and political and economic reform.

Bringing the indictees to the Hague will require a coordinated effort. NATO should arrest Karadzic if he is in Bosnia, and pressure Serbia to surrender Milosevic and Mladic. Five years and billions of dollars since the Dayton Accord was signed, there are signs that a lasting peace could take hold in the region. But this investment is at risk if justice is not finally accomplished.

Help consolidate democracy in Serbia

A decade of Milosevic's repressive policies must be rolled back—swiftly and in accordance with the rule of law—to pave the way for much-needed international investment and economic development and to set the stage for Serbia's peaceful coexistence with Montenegro and Kosovo. Short term reform should include: the release of detained Kosovo Albanians; cooperation with the ICTY, including the transfer of indictees; annulment of the 1998 University Act, which ensures government control of universities; annulment of the Public Information Act of October 1998, which severely curtails free expression; explicit provision for detainees' right to counsel immediately after detention; reinstatement of the judges of the Supreme Court of Serbia, the Constitutional Court, and the other judges who were unlawfully removed in 1999 and 2000; and reinstatement of dismissed university professors and Radio Television Serbia (RTS) journalists. Your

administration should include these among benchmarks for triggering enhanced U.S. political and financial support.

Accelerate safe and voluntary return of refugees and displaced persons to Croatia and to Bosnia and Hercegovina

The past year has seen significant progress, particularly in return to communities where returnees now form a minority population. Unfortunately, just as the displaced now appear willing to return, a fatigued donor community threatens to withdraw support for their return. Yet the successful return of more than one million people who are still displaced remains essential to rebuilding a neighborhood of viable, multi-ethnic states capable of peaceful coexistence without NATO or any other international presence. Moreover, unlike some other aspects of the peace process, the return of refugees and internally displaced gets only more difficult with each passing year, as property rights become more tangled and reintegration more complicated. Therefore, we urge your administration to provide generous financial support for the return of minority refugees and maintain pressure on the authorities of Bosnia and Croatia to promote and accommodate their return.

Condition helicopter sale on Turkish reform

Turkey remains an important U.S. ally, key to the pursuit of U.S. interests in the Middle East, the Balkans, the Caucasus, and Central Asia. Recent years have seen modest improvements in Turkey's human rights record, though rhetorical commitment has exceeded actual progress, and neither has matched the opportunity for reform presented by the virtual end to armed conflict in the southeast. Unless real progress is made, human rights concerns will continue to confound U.S.-Turkish relations and compromise the value of that strategic partnership.

The first challenge that your administration will likely face will be a decision on the pending sale of attack helicopters by Bell Helicopter Textron to the Turkish government. According to U.S. government reports, such equipment has been used to commit abuses against the civilian population in the southeast. In December 1997, then-Prime Minister Mesut Yilmaz agreed that prior to final approval of any sale by a U.S. manufacturer the government of Turkey would achieve concrete improvements in key areas including: an end to torture and police impunity; decriminalization of freedom of expression; release of journalists and parliamentarians imprisoned for political reasons; the reopening of non-governmental organizations shut down by the authorities; democratization and expansion of political participation; a meaningful end to the state of emergency in the southeast; the return or resettlement of those displaced by the conflict in the southeast; and the creation of a mechanism for meaningful end-use monitoring of the helicopters.

Satisfaction of these conditions offers reassurance that U.S.-manufactured

equipment will not be used to commit atrocities and, further, that Turkey is working to address the systemic rights problems that have long contributed to its instability. Specific fulfillment of these conditions must include an end to isolation prisons against which prison hunger strikers have been protesting, and independent monitoring of prisons and police stations. These measures would help to resolve the current crisis in Turkish prisons that, as this month's bombings demonstrated, threatens to escalate beyond prison walls.

We strongly urge your administration to hold the Turkish government to its commitment of reform, prior to approving an export license for the helicopters. These same political reforms will also bolster Turkey's candidacy for membership in the European Union.

Prioritize human rights in Central Asia

Your administration will face significant challenges in this important and volatile region, and the human rights situation, particularly in Uzbekistan, should rank high among your priorities. Over the past several years, the Uzbek government has engaged in a crackdown on pious Muslims who practice their faith independent of state-sponsored mosques. The campaign, which escalated after the February 1999 bombings attributed to religious extremists, has cut a wide swath through Uzbek society, sweeping thousands of young men into prison on trumped-up charges, often for shockingly long sentences. Torture and abuse of detainees, suspects, witnesses, and their families is rampant and unchecked. Not surprisingly, these practices have created an environment that is dangerously ripe for escalation of the armed insurgency that clashed with government troops in both Uzbekistan and Kyrgyzstan in 1999 and 2000.

Uzbekistan faces particular security challenges in a difficult neighborhood. While the U.S. government may determine that it has an interest in helping the Uzbek government address its security needs, such cooperation must be unequivocally conditioned on significant improvements in Uzbekistan's human rights record, lest the U.S. government be perceived as complicit in the much-resented repression. We strongly urge your administration to make human rights a major part of its security dialogue with the Uzbek government. The United States should condition further security cooperation on: access to prisons for the International Committee of the Red Cross, on standard ICRC terms; release of detained human rights activists; unfettered visits by the United Nations Special Rapporteur on Torture and the Working Group on Arbitrary Detention; thorough, impartial, and transparent investigations into allegations of torture; the vacating of convictions based on coerced confessions; and the introduction of habeas corpus. Moreover, any U.S. security assistance to the government of Uzbekistan should be accompanied by a substantial increase in U.S. assistance aimed at democratization, civil society development, and legal and judicial reform.

Engage with Russia on rights

As United States engages with Russia on a range of important issues, it remains unclear is whether that relationship will develop on the basis of respect for fundamental principles of the rule of law. We believe that your administration should strengthen the dialogue with the Russian Federation regarding its human rights record, particularly the on-going serious abuses in Chechnya.

Over the past year, Human Rights Watch has extensively documented atrocities in Chechnya, including more than 125 summary executions of Chechen civilians, widespread looting, indiscriminate and disproportionate bombing, and the arbitrary detention and torture of hundreds, if not thousands. Evidence of these violations spurred the United States to co-sponsor a resolution on Chechnya at the 2000 U.N. Commission on Human Rights. The Russian government has completely repudiated that resolution, which called for a national commission of inquiry and access for U.N. monitors. Moreover, the Russian government has persistently refused to permit the OSCE Assistance Group to deploy to Chechnya, although then-President Yeltsin agreed to this at the Istanbul summit in November 1999. Indeed, at the recent OSCE Vienna Ministerial Meeting, Russia refused even to reaffirm its Istanbul commitments, leaving the meeting at an impasse, a development that has been unthinkable since the end of the Cold War. Remarkably, this intransigence comes as Russia seeks IMF approval of its reform efforts and substantial Western financial support in the form of a Paris Club rescheduling of its debt. President Clinton has remained rhetorically committed to promoting human rights in Chechnya, yet his four meetings with President Putin this year yielded no concrete improvement in the situation in the north Caucasus.

We hope that your new administration will recognize the centrality of respect for rights in U.S.-Russian relations and insist that Russia live up to its repeated commitments to abide by law in its Chechnya operations, to hold accountable troops responsible for abuses, and to permit UN and OSCE monitoring. These conditions should form a central part of the U.S.-Russian dialogue, particularly on military and security cooperation in response to Islamic extremism in the Caucasus and Central Asia. As in U.S.-Uzbek relations, any U.S. government partnership with Russia and the other countries of the former Soviet Union aimed at containing radical Islamist movements will require an ever-more concerted effort to disassociate the United States from those governments' practices that violate human rights in pursuit of that goal.

Condition aid to Colombia

Engagement with Colombia should be predicated on the Colombian government carrying through with promises to break ties between the military and paramilitary groups, to prosecute members of the armed forces and paramilitaries who have committed abuses, and to pursue, arrest, and prosecute illegal paramilitaries in the

field. Paramilitary groups are considered responsible for three-quarters of the serious human rights violations committed in Colombia. Human Rights Watch has detailed, abundant, and compelling evidence that links half of Colombia's eighteen brigade-level army units to these paramilitary groups. Specifically, the United States should condition any further aid to Colombia's armed forces on strict respect for human rights. Human rights conditions on this aid should not be waived. At least half of any aid package should strengthen civilian, not military institutions, particularly the office of the Attorney General, the Public Advocate (*Defensoria*), and non-governmental organizations engaged in human rights and humanitarian aid work. The Leahy amendment should be enforced and extended to prohibit the sharing of intelligence with Colombian military units that abuse rights.

Reformulate Cuba policy to support improvements in basic civil rights

Over the past forty years, Cuba has developed a legal framework that denies basic civil and political rights to its citizens. The Cuban government silences dissent using prison terms, threats of prosecution, harassment, and exile. In recent years, Cuba has passed even stricter laws and continued to prosecute nonviolent dissidents while shrugging off international appeals for reform and placating visiting dignitaries with occasional releases of political prisoners. To play a constructive role in pressuring Cuba to reform, the United States should terminate its economic embargo on the country. The embargo is not a calibrated policy likely to produce reforms, but a sledgehammer approach aimed at nothing short of overthrowing the government. While failing at its central objective, the embargo's indiscriminate nature has hurt the population as a whole, and provided the government with an excuse for its repressive policies. The embargo has also alienated many U.S. allies, dividing those that ought to act in concert to press for change in Cuba. Until the embargo is terminated, the United States should repeal those provisions of the Helms-Burton law that restrict the freedom to travel between the United States and Cuba. Such people-to-people exchange played a big role in ending Soviet repression, and it could play a similar role in Cuba.

Press China for progress on human rights

Dialogue, trade, and investment in China do not automatically guarantee human rights improvements when China is restricting internet access, imprisoning peaceful dissidents, and making only limited efforts at legal reforms. Dialogue should be accompanied by sustained political pressure by the United States and China's other major trading partners. A formal bilateral dialogue on human rights has been underway since 1991, but has produced few if any tangible results. Dialogue is only useful when combined with other forms of pressure. China should be urged at the highest levels to ratify the International Covenant on Civil and Political Rights (which it has signed) in advance of the 2001 meeting of the UN Commission on Human Rights in Geneva. The United States should explore with other governments joint sponsorship of a resolution critical of China at the Commission.

Your administration should move quickly, in conjunction with the Congressional leadership, to appoint members to the new bilateral commission on China mandated by the Permanent Normal Trade Relations (PNTR) legislation enacted last year. But the commission also needs a substantial budget and real clout. We urge you to support legislation requiring an annual debate and vote on the commission's report and recommendations.

We also support funding for rule-of-law programs in China to support fundamental judicial reform, as well changes in China's security and administrative detention laws. We urge the new Secretary of Labor to visit China at the earliest possible date to initiate a high-level dialogue on international labor rights. These concerns will require urgent attention as China prepares to join the World Trade Organization. We also urge you to support the adoption of a code of conduct for U.S. companies operating in China, with a mechanism for annual reporting on compliance to be posted on the internet for U.S. consumers.

Support civilian institutions in Indonesia

Indonesia is of deep interest to the United States because of its size, strategic location, and economic resources. But its transition to democracy has the potential for going terribly awry. The country is wracked in several key areas by ethnic, communal, and separatist violence. Some 800,000 persons have been displaced, about half of them from the conflict in the Moluccan islands. Indonesia's weak president is unable to exert authority over an increasingly assertive military which has enjoyed near total impunity for systematic human rights abuses in the past. In this context, we urge your administration to:

- Support civilian control. Some Asia watchers wrongly assume that the military is the glue holding the country together and that only increased U.S. support for the military can prevent Indonesia's disintegration. On the contrary, the army's abuses over the years have fueled support for separation from Jakarta and continue to sow the seeds of disunity. Assistance to civilian agencies to strengthen civilian control over the military should thus be pursued.
- Continue the very good work by the State Department's Office of Transition Initiatives and USAID to support and strengthen Indonesian civil society.
- Continue to support efforts for judicial and legal reform, vital in a country where verdicts are routinely bought and sold.
- Work through the U.N. Security Council to mobilize support for the establishment of an international tribunal on East Timor. The United States, through its Special Ambassador for War Crimes, is now assisting the Indonesian attorney general to investigate crimes against humanity in East Timor in 1999, and this assistance should continue, but the political obstacles to

accountability in Jakarta are overwhelming.

- Reopen a full consulate in Medan, North Sumatra, to better monitor the increasingly violent conflict in Aceh.

Support women's rights in Pakistan

In March 2000, Pakistan's Human Rights Commission reported that, on average, at least two women were burned every day in domestic violence incidents. Yet, successive civilian and military-led governments have treated violence against women as a low priority. The former civilian government totally ignored the 1997 recommendations of the official Commission of Inquiry for Women which found that domestic violence was one of the country's most pervasive human rights problems. Although Pakistan's military leaders, after seizing power in October 1999, condemned violence against women and identified it as a national problem, it has also failed to act.

The United States should encourage Pakistan to implement specific legislation that would explicitly criminalize domestic violence, to repeal the discriminatory Zina Ordinance and to reenact Pakistan's previous rape laws with an amendment to make marital rape a criminal offense. It should also provide funds, through USAID, for nongovernmental organizations in Pakistan that assist women victims of violence, to the Pakistan government for improving its medico-legal services, and for programs to train police, prosecutors, forensic doctors, and judges to eliminate gender bias in handling cases of violence against women.

Protect Trafficked Women's Rights in Japan

Each year, thousands of Thai women are trafficked into debt bondage in Japan. The intermediaries who arrange these women's travel and job placement use deception, fraud, and coercion to place them in highly abusive conditions of employment, in which they must repay outrageously high "debts" before they can earn wages or gain their freedom. While in debt, women are kept under constant surveillance and forced to satisfy all customer demands. Disobedience can lead to fines, physical violence, and even "resale" into higher levels of debt. Escape from these conditions is often difficult and dangerous, and may lead to violent retaliation.

Although high-ranking Japanese officials have publicly condemned trafficking in women and exhibited some understanding of the slavery-like nature of the abuses involved, trafficked women in Japan still lack any meaningful legal redress. Japanese officials have failed to enforce even the minimal available legal protections. For example, the Japanese government identified an amendment to the Law on Control and Improvement of Amusement Businesses as its primary effort

to address trafficking. But the narrowly written law proved wholly inadequate to provide relief for trafficking victims. Most glaringly, the law lacked criminal penalties: revocation of an establishment's license stands as the only punishment for violations.

Your administration should raise the problem of trafficking in persons, and particularly the trafficking of women from Thailand into compulsory labor in Japan, in high-level discussions with the Japanese government. The Interagency Task Force to Monitor and Combat Trafficking created by the Victims of Trafficking and Violence Protection Act of 2000 should also raise these issues with Japan and seek to strengthen Japanese efforts to assist trafficking victims, prosecute traffickers; and assist in the appropriate reintegration of stateless victims of trafficking. You should also ensure that any anti-trafficking training programs that involve Japanese and/or Thai law enforcement officials emphasize the importance of protecting the rights of victims, ensuring their physical safety, and providing them with access to necessary services, including legal assistance.

Restructure the Iraq embargo

You have correctly identified the pressing need to review U.S. policy towards Iraq, in the direction of rebuilding and re-energizing the regional and international coalition against the Iraqi government. In our view, this can best be done by restructuring the comprehensive sanctions in a way that tightens restrictions on the military capabilities of the government while addressing adequately the public health and humanitarian crisis that stems in large part from the comprehensive economic sanctions that are now in their tenth year. This restructuring requires establishment of a mechanism to monitor Iraq's import of weapons and military-related technologies that would be comprehensive, externally based, and not dependent on the cooperation of the Iraqi government. At the same time, current restrictions on non-military commercial and financial transactions should be lifted to allow the planning and investment needed to restore Iraq's infrastructure to a level that will meet basic civilian necessities. The commodity-based oil-for-food program is inherently inadequate to this task, because it forces people to live on handouts while effectively denying them opportunities to generate household income. Your administration should also continue efforts begun recently by the Clinton administration to establish an international criminal tribunal to indict and prosecute Iraqi officials for whom credible evidence exists of responsibility for war crimes and crimes against humanity, including genocide against the Kurdish population. This program, we believe, can work to address the three key elements of an Iraq policy: (1) rebuild international support around the disarmament agenda of existing Security Council resolutions; (2) address the serious public health crisis stemming to a considerable degree from the choking of the Iraqi economy; and (3) dispel any suggestion that addressing Iraq's humanitarian crisis implies leniency toward the government.

Promote accountability in Africa

The costs of impunity for human rights abuses in Africa are manifest in the ongoing cycles of violence against civilians, huge refugee flows, destabilization of neighboring countries, economic devastation, and, ultimately, new waves of violence and repression. Two immediate situations requiring attention are the Great Lakes region of central Africa and Sierra Leone.

The United States has been a strong supporter of the International Criminal Tribunal for Rwanda (ICTR), established to address the Rwandan genocide. However, atrocities continue to be perpetrated in conflicts linked to that genocide, while the ICTR's mandate is limited to crimes committed before 1995. The slaughter of Hutu refugees in the Democratic Republic of the Congo (DRC) in 1996-97, the current ethnic tensions in the Kivu provinces of the DRC, and the ethnic killings in Burundi, are all interlinked. To show that genocide and crimes against humanity will be punished no matter where or by whom they are committed, the United States should support the creation of an international jurisdiction to try atrocities from Burundi, the DRC, and Rwanda since 1994, which would reinforce the impact of judgments from the ICTR. These crimes should be prosecuted, either within separate but coordinating divisions that draw on existing jurisprudence created by the ICTR and with recourse to the same appeals chamber, or within a new international tribunal. Like the Yugoslavia war crimes court, these tribunals should have no fixed date for the end of their mandates. By creating a jurisdiction able to prosecute crimes not yet committed as well as those of the past, the world would deliver a clear warning to extremists of all kinds to resist temptation. Such a strategy also demands that the United States work to change the mandate of the ICTR so that it has ongoing jurisdiction for crimes against humanity and war crimes committed since December 31, 1994. In addition, the United States should encourage the ICTR to fulfill its current mandate by also prosecuting crimes against humanity committed in the process of ending the genocide by the Rwandan Patriotic Front, the dominant force in the current government.

The United States should also ensure the swift establishment of the Special Court for Sierra Leone. The horrors of the civil war in Sierra Leone—including the rebels' signature atrocity of cutting off the limbs of civilians—finally propelled the Security Council to move toward the creation of a special court to try the worst perpetrators. The United States was instrumental in drafting that resolution, and should press for its swift implementation.

Seek a probe of atrocities in the Democratic Republic of Congo

The apparent assassination of DRC President Laurent Kabila underscores the volatility of this African giant and threatens to spread further instability across an entire region. The DRC continues to be wracked by a devastating war, pitting the Kabila government and allied troops from Zimbabwe, Angola, and Namibia against rebels fronting for forces sent by the governments of Rwanda, Uganda, and

Burundi. None of the actors has fully respected its commitments under the Lusaka Cease-fire Agreement nor basic norms for the treatment of civilians. The combatants have engaged in indiscriminate attacks, extrajudicial executions of civilians, rape, and large-scale destruction of civilian property, all causing a massive displacement of population. Perpetrators of abuses from all sides have enjoyed total impunity.

The United States should take the lead in the U.N. Security Council to address the issue of impunity for atrocities in the DRC, a continuing cause of the catastrophic conflict. As a potential first step towards the creation of an international tribunal (see above), we urge that a Commission of Experts be established to investigate and determine responsibility for the grave abuses in the DRC. This would implement a key 1998 recommendation of the Secretary General's investigative Team in the DRC (SGIT) but also serve to address and perhaps help halt on-going atrocities. The Commission's temporal mandate should thus reach back to 1993—to complete the work the SGIT was prevented from doing—and continue to the present. The Commission of Experts could also recommend to the Security Council an appropriate mechanism to bring to justice persons responsible for violations. The mere act of deploying such a team on the ground could save lives, and would send a message that the world is determined not to let atrocities be committed in obscurity.

Apply human rights conditions to security sector aid to Nigeria

Since taking office in May 1999 following nearly sixteen years of military dictatorship in Nigeria, President Obasanjo has consolidated civilian rule, offering hope that the country can take its place as a force for peace and stability in Africa. Nevertheless, serious concerns remain, especially relating to ongoing abuses by security forces. In recent months, ethnic and religious tensions have led to clashes in which hundreds of people have died, and the federal government has failed to show leadership in solving these problems or in insisting that the rights of Nigerians be respected by state governments and security forces. The U.S. government can play an important role in supporting legal and practical reforms by the Nigerian government through technical assistance and constructive diplomatic efforts, and by assisting civil society organizations.

The resumption of U.S. security assistance to Nigeria should be accompanied by strict human rights conditions. This includes rigorous vetting to ensure that military, intelligence and police officers responsible for abuses do not benefit from U.S. training. Screening of all military units that would receive U.S. assistance should be conducted in compliance with the Leahy law. This includes the Nigerian battalions being trained and equipped by the United States for U.N. peacekeeping duty in Sierra Leone. The United States should express its grave concern about recent incidents in which soldiers have fired indiscriminately on civilians in conflicts over the introduction of sharia law, and in the oil-producing regions of the Niger Delta.

Return documents to Haiti; Deport death squad leader

In September 1994, U.S. forces seized tens of thousands of documents and other materials from the Haitian military and the paramilitary organization FRAPH. Despite repeated requests by the Haitian government, the United States has so far refused to return these materials without excising the names and identifying characteristics of U.S. citizens. Such a redaction could serve no purpose other than to cover up the complicity of American citizens in political murder and other abuses. We urge you to ensure that these documents and materials are released, in unredacted form, to the Haitian government. The United States should also execute the outstanding final deportation order obtained by the Immigration and Naturalization Service (INS) against FRAPH leader Emmanuel "Toto" Constant in December 1995. FRAPH was responsible for atrocities under the military government that ruled Haiti from 1991 to 1994, including extrajudicial executions, torture, and rape. Constant, who now lives in New York City, is wanted by Haitian prosecutors. In the past, U.S. officials have explained the failure to deport Constant by asserting that Haiti's judicial system was inadequate to deal with his case. The Haitian government, however, has recently concluded a major trial addressing an April 1994 massacre of slum-dwellers. After a six-week trial, 16 soldiers and their accomplices, including FRAPH members, were found guilty. Six defendants were acquitted. In a separate branch of the same trial, Constant was convicted *in absentia*. When he is returned to Haiti he will be entitled to a new trial. According to the United Nations mission in Haiti (MICAH), these trials were a "significant step in the fight against impunity in Haiti demanded by the entire Haitian people, and prove that the Haitian justice system is able to effectively try the authors of crimes and other infractions, and human rights violations in general, while respecting the guarantees of the 1987 constitution and the international treaties signed by Haiti."