

ASIA OVERVIEW

The entire Asian region suffered a political earthquake in the aftermath of the September 11 attacks on the United States. Afghanistan was the epicenter, but the aftershocks threw domestic politics and international relations into upheaval.

All countries in the region condemned the September 11 attacks, and in response to the Bush administration's challenge, "Are you with us or against us?" most governments, including North Korea, lined up cautiously on the U.S. side. Governments from India to China found, in measures to counteract terrorism, new justifications for longstanding repression. Real enthusiasm, however, was only evident in the Philippines, Malaysia, Taiwan, and South Korea, and by November, most Asian leaders were finding that a pro-U.S. position had political costs at home.

Indonesian and Malaysian leaders found that support from important domestic constituencies could be jeopardized if they seemed to be unconditionally supportive of the U.S. bombing of a fellow Muslim-majority nation. By November, Indonesian President Megawati was pleading with President Bush to end the bombing before Ramadan, the Muslim fasting month, began. In South Asia, India was clearly worried about the U.S. embrace of Pakistan and the implications for Pakistani mischief in Kashmir, while Pakistan's President Musharraf worried about how he could use alliance with the U.S. to achieve political and economic goals (halting the U.S. embrace of India, securing the lifting of economic sanctions against Pakistan) while keeping Islamist forces at bay. For China, the question was how a war on terrorism could be used to intensify a campaign against splittists in Xinjiang without the U.S. threatening Chinese interests in Central Asia. China and the Koreans, mindful of Japanese atrocities against their peoples in World War II, were concerned about how Japan's offer of logistical support for U.S. forces might strengthen forces on Japan's pro-military right.

But these were all government reactions. The popular reactions across the region were if anything more important, given the increasing importance of civil society in most Asian countries. In general, there were widespread expressions of sympathy both for victims of the September 11 attacks as well as for Afghan civilians. Large demonstrations against the U.S. airstrikes erupted in October across Bangladesh, India, Sri Lanka, Malaysia, Indonesia, and elsewhere. (Anti-U.S. sentiment in China after September 11 was actively suppressed by the Chinese government through controls on the media and the Internet.) In some cases, these protests reflected the successful portrayal by conservative Muslims of the U.S. effort as an attack on Islam, but they also expressed a broader discomfort within civil society about the perceived disproportionate use of power by the U.S. in a devastated

country. Intellectuals throughout the region also raised the issue of how U.S. policies, particularly in the Middle East, had alienated important segments of the Muslim community.

FRAGILE DEMOCRATIC TRANSITIONS

The September 11 attacks eclipsed many of the human rights issues that had dominated the first nine months of the year. These included the fragility of democratic transitions in the region and the dilemmas posed by partial democratization in the absence of strong political institutions—or in the presence of strong militaries.

Fair elections produced disastrous leaders in Southeast Asia: Joseph Estrada, a corrupt ex-movie star, ousted from the Philippines presidency in January by Gloria Macapagal Arroyo, and Abdurrahman Wahid, a nearly blind cleric, ousted from the Indonesian presidency in July. Estrada remained highly popular among the country's poor, and his ouster after military-backed protests from the elite and middle class in Manila was semi-legal at best. The question arose, which was the greater danger to Philippine democracy, a shady president with underworld connections who systematically looted the national treasury but who was nevertheless the choice of the people, or his less than constitutional ouster? The crisis showed Philippine political leaders and institutions at their worst: a malleable parliament, a weak judiciary, and new president whose first instinct in May, in the face of protests from pro-Estrada forces, was to declare a state of rebellion to arrest political opponents.

In Thailand the dilemma was similar but less stark. In January, the Thai Rak Thai party, led by Thaksin Shinawatra, won a majority of parliamentary seats in the January 6 national election, making Thaksin prime minister. But ten days before the vote, Thaksin, a telecommunications tycoon, was indicted by the National Counter-Corruption Committee (NCCC) on charges of failing to fully declare his financial assets as required by law when he held a previous government post. If the Constitutional Court upheld the indictment, banning Thaksin from public office for five years, the Thai political system could have been thrown into serious crisis. If it did not, despite apparently strong evidence of unrevealed wealth, the independence of the court and Thailand's battle against high-level graft and corruption would be undermined. Which was worse? The court voted eight to seven not to uphold the indictment, to the disappointment of political reformers and yet to the relief of many who feared that democracy would be poorly served by a prolonged period of uncertainty and instability.

President Abdurrahman Wahid, Indonesia's great hope for furthering democratization, proved to be entirely unsuited for the job. He listened to no one, ignored major crises, and in the end, tried unsuccessfully to use the military against the parliament that was trying to impeach him on corruption grounds. But the alternative was either a return to former President Soeharto's party, Golkar, or support for Vice-President Megawati Sukarnoputri, whose party had the most seats in the Indonesian parliament and who had extensive army backing. On human rights

issues, the choice came down to one of incompetence versus lack of political will. Which was worse, a president who could not make the justice system work or one who would not even try? Much of the human rights and reformist community preferred the former, but when that same inability and inattention to political and economic problems began to lead to a nostalgia in some circles for authoritarianism, Indonesia's democratic experiment was in trouble.

In Cambodia, targeted political assassinations, while few in number, continued to discourage many grassroots candidates from running in Cambodia's long-delayed commune elections, scheduled for early 2002.

Nepal's shaky transition to democracy, begun in 1990, underwent its most severe test with the assassination of almost the entire royal family by the crown prince in June 2001. The prince later shot himself. Like Thailand and Cambodia, the monarchy in Nepal has been an anchor for the transition, and the murdered King Birendra had helped hold the country together through the collapse of ten governments in ten years combined with a growing Maoist insurgency. The unpopularity of the new king, an economic crisis in an already desperately poor country, and the growing clout of the rebels all suggested that Nepal's democratic transition would face further trials in 2002.

In Pakistan, the problem was somewhat different. President Pervez Musharraf had abruptly halted Pakistan's flailing attempts at democratization when he overthrew the corrupt Nawaz Sharif in a military coup in October 1999. Some Pakistanis at the time saw a temporary loss of civil liberties as an acceptable price to pay for getting rid of politicians whose desire for power seemed motivated primarily by greed. But human rights defenders and reformers accurately predicted that once taken away, these liberties were going to be hard to restore. By September 11, Musharraf, despite international condemnation of the coup, had shown no hurry to hold elections. Human rights activists and political reformers pointed out that the political vacuum was only encouraging the growth of religious extremism, all the more so after the U.S. war against the Taliban provided a potent rallying point for the Islamic right. The U.S. and British embrace of Musharraf in their anti-terrorism coalition effectively ended any international pressure for the restoration of democracy in Pakistan.

While nothing could be further from democratic transition than North Korea, the importance of that country's slight opening to the outside world in late 2000 and 2001, apparently driven by the need to earn foreign exchange, should not be underestimated. In February, during a visit by a European Union delegation, North Korean officials agreed to a human rights dialogue with the E.U.

INTERNATIONAL JUSTICE

International justice for war crimes and crimes against humanity was an issue throughout Asia during the year, but it was often a case of local NGOs, foreign governments, and international rights organizations trying to force unwilling governments to act. The Cambodian parliament passed a law in August to set up a tribunal to try former Khmer Rouge leaders, and the same month in Indonesia, all legal hur-

dles blocking the establishment of an ad hoc tribunal on East Timor were cleared, but neither court was functioning by the end of November. Political will to proceed with indictments was noticeably absent. In East Timor, local NGOs by September 2001 were demanding an international tribunal to try Indonesian officers and the militia commanders they had created and armed, but it was not just Indonesian leaders who showed little interest in justice. East Timorese leaders also made clear that punishing past abuses was not for them a priority.

The issue of war crimes by Japan during World War II continued to fester. China and Korea, whose populations suffered terribly under Japanese occupation, were outraged in August by Japanese Prime Minister Koizumi's visit to a shrine honoring Japanese war heroes. The issue of "comfort women"—women forced to provide sexual services to Japanese soldiers—returned to center stage with a people's tribunal convened in Tokyo in December 2000.

Accountability for past abuses was becoming an issue in Afghanistan by late 2001, with respect to crimes not only by the Taliban but by individual commanders in the Northern Alliance (United Front) and by *mujahideen* outside that alliance, and by Soviet commanders during their decade-long occupation of the country. Efforts were underway to bring a war crimes case against a former Afghan commander living in London.

By mid-November, Cambodia was close to becoming the first country in East or South Asia to ratify the Rome Statute of the International Criminal Court.

VIOLENCE, REFUGEES, AND THE INTERNALLY DISPLACED

Asia continued to be wracked by outbreaks of war and ethnic and communal strife, producing widespread human rights violations and massive new populations of refugees and the displaced. As all eyes were focused on the humanitarian crisis in Afghanistan in November 2001, with estimates of the displaced in the hundreds of thousands as winter approached, it was also important to remember the 850,000 to one million internally displaced in Indonesia; more than 800,000 in Sri Lanka; some 600,000 to one million in Burma, and an estimated half million displaced in India. In most cases, access to humanitarian aid and protection for the displaced was difficult, either because of government obstruction or security concerns.

Refugee populations were also large, with an estimated 200,000 Burmese in Thailand, 120,000 Burmese in Bangladesh, and about 100,000 refugees from Bhutan in Nepal. An estimated 135,000 new refugees from Afghanistan had arrived in Pakistan after September 11. In West Timor, an estimated 60,000 to 80,000 East Timorese remained after the forcible expulsions of 1999, but the rate of voluntary return picked up sharply after the peaceful elections in East Timor in August.

If would-be refugees managed to cross into another country, access to aid was usually easier, but some governments deliberately closed their borders to asylum-seekers. By the time the American bombing campaign in Afghanistan began, for examples, all of Afghanistan's neighbors had shut their borders, citing security concerns, inability to handle a new influx, and in some cases, U.S. pressure. By Novem-

ber, Pakistan, already host to some two and a half million Afghan refugees, had relented somewhat and was allowing fifteen new camps to be built inside its borders, but under conditions that raised serious protection concerns for the new arrivals.

The other country in the region that closed its borders to asylum-seekers was Australia. In August, when his political popularity was at an all-time low, Prime Minister John Howard decided to capitalize on anti-immigrant sentiment by very noisily denying asylum to more than four hundred mostly Afghan refugees who had nearly drowned in Indonesian waters and had been picked up by a Norwegian freighter and brought to Australian waters near Christmas Island. Howard refused to let them land and reversed his political fortunes, winning a third term in mid-November on the basis of hardline policies and new legislation that violated Australia's obligations under international refugee law.

Asylum-seekers also had a difficult time in Japan. Only twenty-two asylum-seekers were granted refugee status in Japan in 2000, and the figures for 2001, to be published in 2002, were not expected to be any greater.

In addition to violence, repression and discrimination were factors leading Asians to flee their own countries. China's Uighurs fled to Kyrgyzstan and Kazakhstan, from which they were occasionally sent back, and even to Pakistan; some Tibetans continued to try and reach Nepal.

Beginning in February, more than 1,000 ethnic highlanders from Vietnam, known collectively as Montagnards, fled to Cambodia after Vietnamese police crushed a public protest over land-grabbing and controls on freedom of religion. While Cambodia agreed to provide temporary asylum to the Montagnards at two United Nations High Commissioner for Refugees (UNHCR) sites, Cambodian officials violated the principle of *non-refoulement* several times during the year when they forcibly returned large groups of Montagnards back to Vietnam, where many were arrested and beaten.

North Koreans fled to China largely to look for food and work. They could face severe punishment in North Korea on charges of illegal departure if returned. Chinese authorities reportedly sent many back to unclear fates. Estimates of the number of North Koreans in China ranged from South Korean government figures of ten to thirty thousand to estimates ten times higher from nongovernmental sources. The problem drew international attention in June when a family of seven North Koreans sought refuge in the UNHCR office in Beijing. They were eventually allowed to leave for South Korea via the Philippines.

Bhutanese refugees spent a tenth year in exile in camps in southeast Nepal, deprived of their right to return home. Despite the start in early 2001 of a joint verification program by the governments of Nepal and Bhutan to ascertain the status of these refugees, progress was slow, and no refugees had returned as of late November.

INTERNAL SECURITY LAWS

Even before September 11, internal security legislation was being widely abused

in many Asian countries. In China, several academics and business people based in the West were detained under laws preventing the disclosure of state secrets. In Malaysia, Prime Minister Mahathir made increasing use of the draconian Internal Security Act to arrest members of the political opposition. In Indonesia, laws once used to detain critics of former President Soeharto made an unwelcome comeback, particularly clauses of the Criminal Code punishing spreading hatred toward government officials. In South Korea, little progress was made toward amending the hated National Security Law. In August, seven activists of a pro-reunification organization were arrested in Seoul for having illicitly contacted members of the North Korean Youth League before attending a meeting of the League in Pyongyang.

In India, government officials used the post-September focus on terrorism to push for a new Prevention of Terrorism Ordinance, that would give police sweeping powers of arrest and detention. It would reinstate a modified version of the hated Terrorist and Disruptive Activities (Prevention) Act or TADA which was repealed in 1995 after years of abuse against suspected rebels and anti-government activists.

HUMAN RIGHTS DEFENDERS

Asian human rights activists continued to play a high-profile international role, and in some cases, paid a high price for doing so. At least nine human rights defenders in the region were killed between November 2000 and November 2001, seven of them from Aceh, Indonesia. Many more faced intimidation or arrest, and the trial of Malaysian human rights defender Irene Fernandez entered its sixth year in Kuala Lumpur.

At the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), Asian activists succeeded in getting international attention to the issue of caste discrimination, not just in Asia but around the world.

Human rights in Singapore took a step forward with the approval in October 2001 of the Think Centre, an independent organization committed to the expansion of civil liberties, as a fully registered society under Singaporean law. Founder James Gomez had faced pressure during the year for holding rallies without permits, but no legal action was taken against him.

Long established regional nongovernmental organizations such as Forum Asia and the Asian Commission on Human Rights campaigned actively for Asian ratification of the treaty establishing an International Criminal Court and for the repeal of the Internal Security Act in Malaysia. They also worked with other groups in the region to promote better protection of human rights defenders. The Asian Migrant Centre based in Hong Kong had a campaign in seven Asian countries for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Asia Monitor Resource Centre took a leading role in documenting labor practices and implementation of corporate codes of conduct throughout East and Southeast Asia. The Bangkok-based South East Asia Press Alliance (SEAPA) was an effective advocate for journalists in the region, helping raise the profile of the beleaguered malaysiakini.com, an elec-

tronic news service that the Malaysian government shut down; assist the new East Timorese journalists association in getting started; and protest threats against the daily newspaper in Banda Aceh by rebels unhappy with the paper's content.

In November 2001, three hundred activists from Bangladesh, India, Nepal, Pakistan, and Sri Lanka formed a new group called South Asians for Human Rights.

National human rights commissions in the region had their ups and downs. SUHAKAM in Malaysia took a stronger position than many expected in criticizing government abuses against demonstrators and Internal Security Act arrests; Komnas HAM in Indonesia came more and more under the control of obstructionists anxious to prevent serious human rights investigations.

On April 30, the Korean National Assembly passed a law establishing a national human rights commission, scheduled to begin work in November 2001. The body was empowered to investigate a broad range of human rights violations and provide compensation to victims. Its mandate covered discrimination, including sexual, racial, religious, and against the mentally or physically handicapped. The bill also included provisions dealing with cases of unlawful arrest, torture, intimidation, punishment, and detention of citizens by public service personnel, including employees of psychiatric hospitals.

THE ROLE OF THE INTERNATIONAL COMMUNITY

The stance of the international community toward Asia shifted dramatically after September 11. It was not just terrorism that was suddenly front and center on the international agenda; the humanitarian crisis in Afghanistan, all but forgotten before mid-September, suddenly became an issue as television screens across the world focused on the plight of refugees, the displaced, and the near-starving.

With that attention came new questions about mixing military and humanitarian missions, exemplified by U.S. food drops inside Afghanistan; tradeoffs between security and refugee protection as Afghanistan's neighbors closed their borders; and the extent to which failure to address humanitarian issues in the past might have contributed to the rise of religious extremism. These questions had a relevance not just for Afghanistan but for conflict-ridden areas of Asia more generally.

The crisis in Afghanistan highlighted once again the lack of regional institutions in Asia that have any capacity for dispute resolution, peacekeeping, human rights monitoring, or administration of justice. The Association of South East Asian Nations (ASEAN) remained weakened by Indonesia's ongoing internal troubles, and the South Asian Association for Regional Cooperation (SAARC) never functioned effectively, largely because of hostility between India and Pakistan.

That left, as always, the United Nations. Just as the U.N. began to wind down its operations in East Timor, it appeared poised to take on a major new role in Afghanistan, although exactly what that role would be was not clear as of late November.

In general, the large, amorphous organizations set up to discuss trade issues (Asia-Pacific Economic Cooperation or APEC for Asia and North America and the Asia Europe Meeting or ASEM for Asia and the European Union) were useful largely as a setting for informal high-level bilateral meetings and symbolic shows of

solidarity. The APEC summit in October in Shanghai, for example, became a forum for building alliances against terrorism.

In September 2001, the European Commission adopted a new strategy for enhanced partnership with Asia that focused on six areas, including peace and security, and the promotion of democracy, governance, and the rule of law. The strategy called for the European Union (E.U.) to play a more active role in conflict prevention in Asia and strengthen an E.U.-Asia dialogue on issues such as asylum and immigration. It also cited the much-criticized E.U.-China human rights dialogue as a model of constructive exchanges.

Japan was eager to contribute to the counter-terrorism effort. Despite worries in East Asia about Japan's expanded military role, the Koizumi government pushed through the Diet a bill to allow Japanese self-defense forces to supply logistical support in Afghanistan in non-combat areas. Japan also provided humanitarian assistance for refugees in Pakistan and planned to co-host with the U.S. an international conference on Afghanistan's reconstruction. On human rights concerns in Asia, Japan was most active diplomatically in Indonesia, and least willing to push rights concerns with China and Malaysia.

Some donor meetings convened by the World Bank were useful forums to raise human rights concerns, such as the donor conferences on Cambodia and Sri Lanka. Donors at the annual meeting of the Consultative Group on Indonesia in November 2001 were frank about unhappiness with Indonesia's lack of progress fighting corruption. In general, views of civil society organizations were increasingly solicited prior to these meetings.

THE WORK OF HUMAN RIGHTS WATCH

Throughout the year, the Asia Division focused in particular on five countries: Afghanistan, Cambodia, China, India, and Indonesia, with additional monitoring of human rights developments across the region.

The human rights situation in Afghanistan had been a priority all year, with a major effort having gone into documenting massacres by the Taliban in the Hazarajat region in January and again in June. Following the September 11 attacks, Human Rights Watch launched a major emergency project to monitor violations of human rights and international humanitarian law in Afghanistan, using the model employed earlier in Chechnya and Kosovo. A Human Rights Watch team arrived in Pakistan in October.

Work on Indonesia focused on Aceh and Papua, with reports and numerous updates produced on both. In both areas, Human Rights Watch worked closely with local rights organizations. Staff conducted two training sessions, in May and August, in human rights documentation for some three dozen human rights activists from Aceh.

The WCAR provided a focal point for work in India where an international campaign against caste violence and discrimination continued to gather strength. Despite hard lobbying by the Indian government to keep caste off the agenda of the conference, the Dalit (untouchable) delegation succeeded in getting international

media coverage and direct acknowledgment from U.N. Secretary-General Kofi Annan.

The flight to Cambodia of Montagnard refugees from Vietnam led to intensive advocacy work by Human Rights Watch to persuade both the Cambodian government and the UNHCR to protect the refugees from refoulement. Without that advocacy, there would have been no protection; even with it, Cambodian authorities forcibly deported several hundred Montagnards. Human Rights Watch later received first-hand reports that some of those who had been deported were subsequently detained and tortured.

In the U.S., Human Rights Watch focused on the development of strategies to effectively engage the incoming Bush administration on human rights in Asia. The administration tended to be far more preoccupied with security and economic relations than with human rights, especially in South and East Asia, and to emphasize religious freedom over other concerns. Human Rights Watch also met regularly with corporations in the U.S. and Japan, to explore ways in which corporate leverage might be used to address concerns in Indonesia and China. Advocacy work on China was particularly challenging, given the decline in effectiveness of the U.N. Commission on Human Rights in Geneva as a vehicle for raising concerns about the country's human rights practices, and as Beijing's "dialogue" strategy deflected pressure from the E.U., Canada, Australia, and other key countries. Research on China focused on the arrest and detention of Falungong supporters and on repression in Tibet and Xinjiang.

AFGHANISTAN

Events in Afghanistan were changing daily as this report went to press. Before the September 11 terror attacks on the United States (U.S.), the main human rights concerns in Afghanistan were collective punishment by Taliban forces of civilians in areas that the opposition Northern Alliance (United Front) had briefly occupied or attempted to capture; systematic discrimination against women; harassment of international aid agency staff and other abuses; and continued arms supplies to parties responsible for human rights violations. After September 11, concerns focused on violations of the laws of war, including summary executions of prisoners by the Northern Alliance and use of cluster bombs by the U.S.; protection of millions of refugees and internally displaced; ensuring accountability for human rights violations; and instituting human rights safeguards for the future, including to protect women's rights.

Beginning on October 7 Taliban-held territory in Afghanistan became the focus of a U.S.-led military campaign to destroy the al-Qaeda network of Osama bin Laden, whom the U.S. accused of planning the September 11 attacks, and remove from power the core Taliban leadership that had sheltered bin Laden since 1997.

By late November, the Northern Alliance (United Front), backed by a U.S.