

HUMAN RIGHTS WATCH WORLD REPORT 2002

**SPECIAL ISSUES
AND
CAMPAIGNS**



Internally displaced family in Sierra Leone.

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ACADEMIC FREEDOM

Extrémism thrived in countries where assaults on academic freedom fostered a climate of ignorance and intolerance. In Afghanistan, the ruling Taliban's first actions were to shut down most higher education and ban women and girls from attending school. But in less extreme forms, governments around the world justified violations of human rights by casting all critical thought as an attack on public morality, national security, or cultural purity. In the wake of the attacks on New York City and Washington, several academics in the United States and Canada came under official or public pressure for questioning various aspects of their governments' past or projected policies. With another international conflict simmering, violations of academic freedom were likely to increase around the globe.

Even before September 11, 2001, academic groups were growing increasingly aware of the importance of international cooperation and coordination in support of their colleagues' freedom. The international Network on Education and Academic Rights (NEAR) was created in June 2001 to serve as a repository and clearinghouse for information about academic freedom cases. With initial funding from UNESCO, the network promised to expand on the existing contact and cooperation between academics and academic groups. As the network's name indicated, NEAR's understanding of academic freedom embraced not just the civil and political rights of scholars and their students, but also the social, economic, and cultural rights associated with the fundamental human right to education.

The right to education and academic freedom suffered numerous violations around the globe. Oppressive governments punished academics for exercising their right and responsibility to question and criticize their societies. In a troubling development, several armed opposition groups also resorted to this method of silencing their critics. Ideological controls over the nature and content of academic material were apparent around the world, and students who in many countries served as leaders in social development were targeted and persecuted. Many governments also blocked the access of vulnerable and disenfranchised segments of their population to education through their acts or omissions.

REPRESSION OF ACADEMICS

The Chinese government's detention of several academics was the year's most publicized example of an assault on academic freedom and the subject of an international campaign by Human Rights Watch. The arrest, conviction, and eventual release of several of the detained scholars, and the broad international support on

their behalf, demonstrated both the importance of concerted action in defending academic freedom and the fragility of this right. An undetermined number of scholars were detained during this crackdown; while some were released after a few days, others remained in detention for over a year. Those released all said that they had been warned by the Chinese government against publicizing the details of their incarceration.

Xu Zerong, a political scientist at the Guangdong Academy of Social Sciences as well as at Zhongshan University, was detained on June 24, 2000, and formally arrested a month later. Others seized were Li Shaomin, a business professor at the City University of Hong Kong detained on February 11, 2001, and Gao Zhan, a sociologist pursuing her research at the American University in Washington, D.C., detained on February 11, 2001. Several of the detainees studied at universities in the United States or the United Kingdom and resided outside China for significant lengths of time. Li, a naturalized U.S. citizen, studied at Harvard and Princeton Universities, in the U.S.; Gao, a resident of the U.S., studied at Syracuse University and worked at American University, both also in the U.S., and Xu studied at Oxford University in the U.K.

The detention of these scholars prompted a worldwide campaign on their behalf by Human Rights Watch and academic groups in the U.S. and abroad. Because of their personal links to the United States, Gao and Li's cases received significant international attention. Some of the greatest media scrutiny focused on an unprecedented petition signed by over four hundred China scholars from some fifteen countries asking the Chinese government either to release the detained scholars or to immediately address the charges against them in a court in accord with international standards of due process. Partly in response to this pressure, and partly in an effort to improve its relations with the United States, China eventually expelled these scholars from the country after summarily convicting them of "espionage." The trials were widely criticized for falling short of international and domestic standards; each lasted only a few hours, and the defendants did not have any meaningful time to prepare for their defense.

While the release of some of the detained scholars showed the effectiveness of a well-coordinated international response from the academic community, Xu, along with an unknown number of other scholars, remained in detention. Furthermore, many China scholars publicly stated that they curtailed their research activity to avoid subjects potentially offensive to the Chinese government.

The same pattern of persecuting academics in order to curb their intellectual activity recurred around the world. In Iran, a number of prominent academics were arrested in March and April as part of a broader campaign of stifling dissent apparently aimed at countering the widespread support for reform of Iran's political system. In the weeks immediately preceding Iran's presidential elections, authorities arrested at least ten scholars among a group of forty-two figures associated with the liberal Iran Freedom Movement, a banned but previously tolerated political party. Among the scholars arrested were Gholam-Abbas Tavassoli, a sociologist at Tehran University and formerly chancellor of Isfahan University, Hadi Hadizadeh, a prominent physicist, Ghaffar Farzadi, Mohammad Mehdi-Jafari, Habibollah Peyman, Reza Raisdoosti, and Mohammad Maleki. Tavassoli was released two days after his arrest, but several other academics remained in jail.

In response, more than one hundred faculty members from Iran's universities signed an appeal to the government requesting the release of their colleagues. Widespread student protests in support of the detained academics also occurred at universities in Tehran and other cities, and were met by heavy handed police reaction.

These attacks on academic freedom formed the backdrop to a critical rise in the "brain drain" phenomenon among Iran's academics and university graduates. According to a report issued by the Iranian government in May 2001, tens of thousands of academics and professionals left Iran for Western countries in the preceding twelve months. Commenting on this report, chancellors from several Iranian universities blamed the mass exodus of educated Iranians on the "continual psychological insecurity on the campuses."

In Egypt, Saad Eddin Ibrahim, a prominent sociologist and a critic of the government, went on trial on charges of impugning Egypt's international reputation (having reported on Egypt's flawed October 2000 parliamentary elections), accepting foreign funds without authorization (based on a grant from the European Union), and "embezzlement." On May 21, 2001, Ibrahim and twenty-seven colleagues from his think tank, the Ibn Khaldun Center for Development Studies, were convicted in a trial criticized by observers from Human Rights Watch as having predetermined its ruling. Twenty-one defendants (nine of whom were tried in absentia) received one-year suspended sentences and six others (one tried in absentia) received sentences ranging between two and five years' imprisonment with labor. The six serving custodial sentences at the time of writing were: Saadeddin Ibrahim, Khaled Ahmed Mohamed al-Fayyad, Usama Hashem Mohamed 'Ali and Mohamed Hassanein 'Amara (held at Tora Mazra' at Prison), and Nadia Mohamed Abdel Nour and Magda Ibrahim al-Bey (held at the Women's Prison in Qanater. Ibrahim was sentenced to seven years in prison.

A flawed trial surrounded the death sentence handed down in the case of Dr. Yunas Shaikh, a physiologist who taught at Nishtar Medical College in Pakistan. Dr. Shaikh was accused of "blasphemy" by students affiliated with the Majlis Tahaffuz Khatm-i-Nabuwat (The Committee for the Protection of the Finality of Prophethood), a fundamentalist religious organization, based on his remarks during class that the Prophet Mohammad may not have followed Islamic hygienic precepts before he received the revelation that called him to prophethood. According to eyewitnesses, dozens of members of the Majlis Tahaffuz appeared at his trial in an effort to intimidate the court during the proceedings. Dr. Shaikh's conviction came under a law that allows any citizen to initiate a prosecution for blasphemy, although this law has been widely criticized by political and religious leaders. Dr. Shaikh appealed the verdict.

In Tunisia, Human Rights Watch issued a joint statement with several academic groups to protest the escalating attacks on academics advocating democratic reforms and the rule of law. The statement of March 2001 noted two attacks against Khedija Cherif, a sociologist at the University of Tunis and a prominent advocate of women's right. On March 1, Cherif was beaten, sexually harassed, and verbally abused as she was attempting to attend a meeting of the National Council on Liberties in Tunisia (Conseil National des Libertes en Tunisie, CNLT). In the same incident, the unidentified assailants also attacked Abdel Kader Ben Khemis, a professor

at the University of Sousse. The Tunisian government also continued its harassment of Dr. Moncef Marzouki, the CNLT's former spokesperson. In December 2000, he received a one-year sentence, later suspended on appeal, on trumped-up charges of "belonging to an illegal organization" and "disseminating false information," stemming from his former activity with the CNLT. Marzouki had already been improperly dismissed from his position teaching public health at the University of Sousse and barred from any other type of employment, which resulted in extreme economic hardship. He is under constant surveillance and is only allowed intermittent telephone contact. At this writing it is unclear whether he will be allowed to leave the country to assume a teaching position abroad; an attempt in March 2001 to leave for a two-year faculty post in France was thwarted at the airport despite assurances from judicial authorities that he could leave.

Dayan Dawood, rector of Syiah Kuala University in Banda Aceh, capital of the restive Aceh province of Indonesia, was killed on September 5 by unidentified men. He was the second Acehnese rector to be killed in as many years. Aceh has witnessed increased violence in recent years as pro-independence guerrillas battle counterinsurgency forces of the Indonesian military and police. Both groups have been responsible for political assassinations and both sides have accused the other in Dawood's murder. Dawood met with Human Rights Watch in December 2000 and discussed his hope that the university could play a role in forming a nonviolent resolution to the conflict in Aceh.

Attacks by army-linked paramilitaries on academics were rampant in Colombia, where over two dozen scholars and students were killed over the last eighteen months. Most of the attacks were carried out by paramilitary groups contesting what critics described as the left-wing academic environment of Colombia's thirty-two public universities. As set out in a 2001 report by Human Rights Watch, these groups enjoyed tacit, and at times explicit, support from certain Colombian military units. In May, Miguel Angel Vargas, the president of a regional university teachers union, was assassinated by gunmen in the northeastern Colombian city of Valledupar, the home of the Universidad Popular de Valledupar. His brother Lisandro Vargas, also a professor, was gunned down two months ago in Barranquilla, the capital of Atlantico province. The University of Atlántico witnessed the greatest number of attacks: In October 2000, forty-six-year-old Alfredo Castro, a critic of corruption at the university, was shot by unidentified assassins in front of his family. On August 26, 2000, Luis Meza, also from the university, was killed by gunmen.

Similar tactics were used by the militant Basque separatist movement, Euzkadi Ta Askatasuna (ETA). The group took taken credit for several attacks on universities and academics in the Basque region of Spain after the beginning of the 2000 academic year. ETA admitted that it had left a parcel bomb in an elevator in Lejona Campus of the University of the Basque Country on December 18, 2000. The bomb misfired, narrowly missing Edurne Uriarte, an outspoken critic of ETA's tactics. She subsequently stopped teaching out of fear of further assassination attempts. Mikel María Azurmendi and José María Portillo also stopped teaching at universities in the Basque region and moved abroad after attempts on their lives.

CENSORSHIP AND IDEOLOGICAL CONTROLS

In many countries where academics were not physically assaulted or barred from carrying out their responsibilities, governments attempted to muzzle scholars through restrictive regulations on the substance of their work. Censorship and pre-publication previews of scholarly work is still the norm in China, North Korea, Iran, and, to varying degrees, in much of the Arab world from Iraq to Morocco.

In May and June, a Human Rights Watch investigation in Turkey found that universities there were subject to a strict system of centralized control established by the military after the 1980 coup d'état. This system was administered by a central body known by its Turkish acronym, YOK, which controlled every aspect of higher education in Turkey, including budgets and academic placement at every level. The organization had fostered a climate of fear and self-censorship in Turkey's universities by accusing any critical academics of harboring leftist, religious, or separatist tendencies—and sometimes all at the same time.

Human Rights Watch interviewed some forty academics from more than a dozen universities around Turkey who had been punished under YOK's ideological controls. Aside from being subject to criminal sanctions, academics could be banned from teaching for life, or internally exiled to any academic institution in the country. While it was academics with religious tendencies who at this time faced the brunt of the repression, YOK targeted any academic work that contained "leftist" ideas or that acknowledged the existence of problems for ethnic minorities in Turkey. In one particularly egregious example last year, YOK attempted to shut down a private university, Fatih University, because of allegations that it was sympathetic to religious political groups. This claim was rejected by the judicial system, but YOK continued to harass Fatih University.

Ideological controls returned, or increased, in several states of the former Soviet Union. In Belarus, Yuri Bandazhevsky was convicted in June 2001 of "accepting bribes" from students and was sentenced to eight years of imprisonment. He was a leading researcher into the health effects of radiation fallout from the Chernobyl disaster, a subject that was highly politicized in Belarus. Amnesty International named Bandazhevsky a prisoner of conscience in August 2001.

In Central Asia, the government of Turkmenistan continued its campaign against academic freedom and intellectual activity. In January, the country's largest library shut its doors; the library had served as a haven for academics and was the country's last window to foreign scholarship. By June, the last operating Islamic school was also closed.

Russian scholars and their colleagues elsewhere expressed alarm about a new set of regulations issued by the Russian Academy of Sciences governing all contact and cooperation between the country's 53,000 scientific researchers and outside institutions. These regulations required greater monitoring, and possible restriction of, such contact. While some academics feared that this signaled a return to Soviet-era policies, it was not clear how broadly these regulations would be implemented. Anecdotal reports suggested that scientists working in areas of "hard" science—physics, biotechnology, chemistry—had decreased cooperation with foreign counterparts due to the new requirements that they inform their superiors of any

contact with foreign scholars or institutions and that all research proposals must be vetted by the Russian Academy of Sciences.

India also instituted regulations governing attendance of foreigners at international academic meetings held in India. The Indian Home Ministry issued a circular ordering security clearance before holding such gatherings, singling out participants from Afghanistan, Bangladesh, China, Pakistan, and Sri Lanka. Similarly, the ministry issued an edict requiring prior approval for all international academic meetings.

India's governing Hindu nationalist Bharatiya Janata Party continued its policy of "Hinduizing" education at all levels. India's University Grants Commission earmarked funds for university courses in astrology, a move that sparked strong opposition from India's academic community. A lawsuit brought by a group of academics contesting the new university program was before the Supreme Court of India.

SUPPRESSION OF STUDENT ACTIVISM

University students, typically among the most politically active groups of civil society, were frequent targets of government repression. Some of the worst abuses occurred in the Horn of Africa, where the governments of Ethiopia and Eritrea both cracked down on student. With the end of the ruinous border war between these two countries, students were among the first groups to register public dissatisfaction with their governments' conduct.

Ethiopian security forces used excessive force in dealing with student protests in April 2001, and used the protests as an excuse for attacking civil society. Students at the university were at the forefront of a nation-wide movement for greater political freedom. Students at Addis Ababa University were engaged in ongoing negotiations with Minister of Education Genet Zewde over their request to resume publication of a banned campus magazine and the removal of security troops currently stationed on campuses. A number of attacks by security forces culminated in an effort on April 17 to force the students to end their protests.

Heavily armed members of the Special Forces branch of the security forces raided the Addis Ababa University campus, confronting students and civilians as protesters disaffected with government policies joined the clashes in support of the students. At least forty people were killed by security forces in the ensuing disturbances, and eyewitnesses testified that security forces fired live ammunition at protesters and beat unresisting bystanders, including children. More than two thousand students were detained during the raids; while most were released within a few days, an undetermined remained in jail. Some one hundred students escaped the government crackdown by going to Kenya, and seventy escaped to neighboring Djibouti. These students were being held at internment camps under harsh conditions.

Across the border, in Eritrea, students also expressed their disillusionment with government policies after the war with Ethiopia. A broad clampdown on civil society and critical political voices was apparently triggered by an increasingly tense standoff between the government and university students demanding greater aca-

democratic freedom and social liberties. The focus of student protest at the University of Asmara, the country's only university, was a mandatory summer work program during which students performed public service around the country during their holidays. In 2001, the students protested the appalling conditions of previous camps. On July 31, the police arrested the president of the Asmara University student council, Semere Kesete, and he remained in jail without charge.

On August 10, four hundred students protesting Kesete's arrest were rounded up and sent to a work camp in Wia, a desert site near the Red Sea where daytime temperatures hovered at about 38 degrees Celsius (100 degrees Fahrenheit). Eventually some 1,700 other students were taken to the camps. The government acknowledged that at least two students died of heatstroke. Parents of students who were protesting the treatment of their children were also arrested. The students were ultimately allowed to return to the university, but at this writing at least twenty members of the student union remained in detention.

In Papua, Indonesia's easternmost province, students played an important part in the broad civilian independence movement that emerged alongside a decades-old armed insurgency. In a spiraling cycle of violence, police killed three students and beat up and tortured dozens of others following a December 2000 rebel attack on a police post in Abepura, near the provincial capital Jayapura.

ACCESS TO EDUCATION

As pointed out by the U.N. Committee on Economic, Social and Cultural Rights, academic freedom was rooted in the fundamental human right to education. Another key component of this right was that governments must educate their citizens without discrimination through their acts or their omissions.

A groundbreaking report by Human Rights Watch based on its research in South Africa demonstrated that the high incidence of rape and sexual assault against girls in schools constituted a serious obstacle to the education of girls in that country. Irrespective of their race or social class, thousands of girls suffered gender-based violence at the hands of their teachers and classmates. The report found that the government of South Africa, which had one of the highest rates of rape in the world, has been remiss in addressing this violence: school officials were often unaware of or unwilling to enforce disciplinary procedures against violators, and many girls were discouraged by their schools or families from pursuing criminal sanctions.

The release of Human Rights Watch's report, *Scared at School*, in March 2001 prompted a widespread and heated national debate. South African authorities pledged to take concrete steps to coordinate appropriate responses between educational and judicial authorities and to develop a national plan to protect South African girls and provide them with an adequate education.

In a letter to Iran's Guardian Council, the body dominated by religious clergy that must approve all new laws, Human Rights Watch denounced the decision to block a parliamentary bill that would have extended to Iranian women the same rights as men to study at universities abroad. Women could study abroad—but only with permission from a male guardian, and only men could receive financial assistance for studying overseas. In January 2001, the Guardian Council over-

turned the decision of Iran's parliament, which voted by a two-to-one margin to amend a law that prohibited women from studying abroad without the permission of a male guardian. While the percentage of girls and women participating at all levels of education rose over the past two decades since Islamic rule began in Iran, women still faced significant legal discrimination in personal status matters, in the ability to travel freely, and in choosing freely how to pursue higher education. As a result of the massive public outcry, the law eventually passed with some slight amendments.

Discrimination based on race, ethnicity, and sexual orientation too often kept students from receiving an adequate education. A 2001 Human Rights Watch investigation found that Israel provided its Palestinian Arab citizens with a markedly inferior education when compared with their Jewish peers. Discrimination based on caste status was also a concern, as evident in the widespread cases of discrimination against members of India's Dalit community, which belong to the lowest rung of the traditional caste hierarchy. (See Children's Rights.)

Human Rights Watch also criticized Israel for interfering with the ability of university students in the Palestinian-governed areas of the West Bank to pursue their education. Since September 2000, Bir Zeit University, located outside Ramallah, has faced a military blockade that often prevented students from attending classes and at times shut down the university completely. On March 7, 2001, a few hours after Prime Minister Ariel Sharon took office, the Israeli Defense Forces cut the only road connecting Bir Zeit University to Ramallah, located about five miles away. An IDF checkpoint, frequently supported by an armored personnel carrier, had since then stopped traffic on the road, obstructing access to the university.

Relevant Human Rights Watch Reports:

Israel: Second Class: Discrimination Against Palestinian Arab Children in Israel's Schools, 12/01

Indonesia: Violence and Political Impasse in Papua, 7/01

Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in U.S. Schools, 5/01

Scared at School: Sexual Violence Against Girls in South African Schools, 3/01

BUSINESS AND HUMAN RIGHTS

INTRODUCTION

Voluntary standard-setting, enforcement, legal actions, and other efforts characterized efforts to ensure corporate responsibility in relation to human rights in 2001. In previous years, the debate focused on whether corporations and business generally should have any responsibility for human rights. In 2001, significant

progress was made toward defining the appropriate roles of business and corporations. The debate also expanded into assessing the appropriate roles of government, and the range of actors expanded significantly. Discussion of the relationship between business and human rights was no longer limited to just corporations and nongovernmental organizations (NGOs), as multilateral financial institutions, the United Nations, and governments began to address these issues more consistently. However, much more remained to be done, including to ensure the application of existing standards and to develop binding standards of corporate responsibility. As in previous years, the apparel and footwear and extractive industries were the main focus of scrutiny.

THE APPAREL AND FOOTWEAR INDUSTRY

Three key monitoring initiatives being undertaken by the Fair Labor Association, Social Accountability International, and the Workers' Rights Consortium continued to make progress toward developing viable monitoring programs.

Fair Labor Association (FLA)

The FLA, a voluntary monitoring initiative developed by NGOs and apparel companies, began to accredit independent external monitors and monitor factories in 2001. By October, the FLA had ten member companies: Adidas-Salomon AG, GEAR For Sports, Levi Strauss & Co, Liz Claiborne, Nike, Patagonia, Polo Ralph Lauren, Reebok, Eddie Bauer, and Phillips-Van Heusen; as well as approximately 160 affiliated colleges and universities. At the same time, nine independent monitoring firms: Cal Safety Corporation, COVERCO, Global Standards, Intertek Testing Services, the Kenan Institute, LIFT-Standards, Merchandise Testing Labs, Phulki, and Verite were accredited by the FLA to conduct external monitoring in member company factories. In August, external monitoring began at member factories in Bangladesh, China, Guatemala, Indonesia, the Philippines, Thailand, and the United States. The FLA expected that around one hundred external inspections of factories would be carried out in 2001, most of them in Asia.

Social Accountability International (SAI)

SAI, an organization that oversees the implementation of its SA-8000 workplace standard, continued to certify factories in 2001. By October, SAI had certified eighty factories in twenty-one countries and had eight agencies that were accredited to monitor factories' compliance with the standard. The organization also managed a "Signatory Membership" program for companies that allows companies to join SAI after committing to progressively implement the SA-8000 standards in some of its facilities. By October, eight companies and one U.N. agency had joined the signatory membership program: Amana, Avon Products, Cutter&Buck, Dole Food, Eileen Fisher, Otto Versand, Toys R Us, Voge, and the United Nations' Office for Project Services (UNOPS).

Workers Rights Consortium (WRC)

The WRC monitors compliance with the apparel manufacturing codes of conduct of approximately eighty-eight colleges and universities and undertook two investigations in 2001, one in Mexico and the other in the U.S.

In January, WRC representatives investigated conditions at the Kukdong International Mexico S.A. de C.V. factory in Atlixco, Mexico, which manufactures college and university sweatshirts for Nike and Reebok. The factory management had been accused of labor rights violations including unlawful employment of children, physical and verbal abuse of workers, failure to provide maternity leave and benefits, firing workers engaged in union activities, refusing to reinstate workers who participated in a work stoppage earlier in January, and a failure to honor the terms of a binding agreement between Kukdong management and its workers. The WRC concluded that many of the allegations were well-founded and launched a campaign to seek redress for the workers. As a result, and due to pressure from Nike and Reebok, in late September, Kukdong (now renamed Mexmode International) agreed to a new collective bargaining agreement with workers and to make improvements in working conditions.

In July, the WRC investigated conditions at the New Era Cap Company's factory in Derby, New York state following allegations by workers that the company was not in compliance with various college and university codes of conduct. Specifically, workers complained that the company had violated health and safety provisions, engaged in age discrimination, and had breached workers' rights of freedom of association and collective bargaining, including by firing or transferring union activists. The investigation was still in progress in October.

THE ENERGY INDUSTRY

There was a continuing focus on the energy industry. In some cases, standard-setting efforts (see below) brought improvements in companies' practices, but in several others those seeking to remedy companies' behavior did so through resorting to lawsuits. The management of revenues by oil producing governments and the consequences of the Bush Administration's renewed focus on energy security were also serious areas of concern, particularly after the September 11 attack on the U.S. when the Bush Administration appeared to be willing to overlook the poor human rights records of oil-rich, but abusive and undemocratic governments as it sought to find allies in its war against terrorism.

Angola

On April 3, 2000, as part of a larger agreement on economic reform, the International Monetary Fund (IMF) and the Angolan government reached an agreement to monitor oil revenues. Known as the "Oil Diagnostic," it would be supervised by the World Bank and implemented by KPMG, an international accounting firm that also had the Angolan central bank as a client. It was an effort

by the IMF and World Bank to assess the percentage of government oil revenues being deposited in the central bank. The Angolan budget had previously been opaque, raising concerns among multilateral financial institutions, NGOs, companies, and foreign governments that oil revenues were being used secretly to finance arms purchases and that future oil production was mortgaged against immediate oil-backed loans. Some oil revenues bypassed the Ministry of Finance and the central bank and went directly to the state-owned Sociedade Nacional de Combustíveis de Angola (Sonangol) company, or to the Presidency to procure weapons. The Oil Diagnostic continued to progress, but the government of Angola encountered serious problems with the IMF over its non-compliance with the terms of the IMF's overall program and its continuing lack of transparency. (See below.)

The government was also embarrassed by an arms-for-oil scandal. In December 2000, French authorities arrested Pierre Falcone, a Franco-Brazilian businessman whose company, Falcon Oil, held an equity stake in Angolan deepwater oil block thirty-one. He was accused of tax fraud and other offences in connection with his alleged involvement in brokering an arms-for-oil deal with the Angolan government in the early 1990s. Charges were also brought against Jean Claude Mitterrand, the son of former French President Francois Mitterrand. Charges against both men were dropped in June 2001 though a new investigation was opened against Mitterrand in October.

According to the *Washington Post*, another Falcone company, Brenco International, had brokered arms deals involving the sale of surplus Russian military equipment to the Angolan government. The first deal, the newspaper reported, was worth approximately U.S. \$47 million and took place on November 7, 1993, while a second deal, worth some U.S. \$563 million, took place in 1994. In both cases, the weapons purchases were said to have been paid for with Angolan proceeds from oil sales—with Sonangol, for example, paying some of the money for the 1994 transaction to French bank accounts controlled by a Czech firm, ZTS OSOS, that provided some of the weapons.

In February, Angolan President José Eduardo dos Santos acknowledged that the arms deals between ZTS OSOS, Falcone, and the government had taken place, but said that the deals were legitimate. Dos Santos went further, praising Falcone for his efforts which, he said, had helped to preserve “democracy and the rule of law” in Angola. He described Falcone's actions as a “gesture of confidence and friendship on the part of the French State” toward the Angolan government that had helped facilitate the “spectacular growth in cooperation with France in the petroleum sector” and in other economic activities. Dos Santos also questioned why the French authorities were investigating and had arrested Falcone since the arms were not bought from French companies or in France, but from companies in Eastern Europe.

Although the government has committed itself to improving human rights, it remained hostile to public inquiry or criticism of its use of oil revenues. For example, on January 24, 2001, police beat and arrested eight members of the opposition Party for Democracy and Progress in Angola (PADPA) who staged a peaceful hunger strike outside the Luanda residence of President dos Santos, calling for him to resign on grounds of economic mismanagement and corruption. The

protestors also called for disclosure of the details of the French arms-for-oil deal, and criticized the government's discontinuation of peace negotiations with the rebel National Union for the Total Independence of Angola (UNITA). Following this incident, the state Rádio Nacional de Angola broadcast an official statement warning people not to demonstrate against the government. Two of the eight demonstrators were quickly released. The six others were charged with holding an "illegal protest," but the charges were dismissed when they appeared in court on January 29.

The Bush Energy Strategy

President Bush released the report of the National Energy Policy Development Group, a White House panel led by Vice-President Richard Cheney, on May 17. The report was intended to "develop a national energy policy designed to help the private sector, and, as necessary and appropriate, State and local governments, promote dependable, affordable and environmentally sound production and distribution of energy for the future." Remarkably, the report's 170 pages and 105 recommendations did not once acknowledge the impact energy development may have on human rights. Instead, the report suggested making energy security an even greater priority in U.S. relations with some of the worst violators of human rights around the world, while proposing no strategy to keep necessary oil investment from perpetuating dictatorships or fueling conflicts, as it had in countries such as Angola, Nigeria, Sudan, and Iraq.

The report recognized the need for "more transparent, accountable, and responsible use of oil resources" in Africa. However, it only addressed this issue regarding energy development in Africa, and only in the context of enhancing "the security and stability of investment." The report did not address the misuse of oil revenues in other parts of the world, and ignored the detrimental impact this has had on human rights and democratic development in countries such as Azerbaijan and Kazakhstan. The report omitted any reference to the need for U.S. energy corporations to adopt the highest human rights standards when operating in other countries. By October, it was still not clear how forcefully the Administration would pursue the strategy proposed in the aftermath of the September 11 attacks on the U.S.

ExxonMobil

On June 11, 2001 the International Labor Rights Fund (ILRF), a U.S. NGO, filed a lawsuit on behalf of seven anonymous plaintiffs against ExxonMobil in a U.S. Federal Court in the District of Columbia. The suit alleged that the Indonesian military provided "security services" for the company's joint-venture operation in Indonesia's conflict-ridden Aceh province, and that the Indonesian military had committed "genocide, murder, torture, crimes against humanity, sexual violence, and kidnapping" while providing security for the company from 1999 to 2001. The plaintiffs alleged that these activities violated the U.S. Alien Tort Claims Act, the Torture Victims Protection Act, international human rights law, and the statutory

and common law of the District of Columbia. The suit held that ExxonMobil was liable for the alleged abuses because it provided “logistical and material” support to the military, and because the company was aware of widespread abuses committed by the military but had failed to take any action to prevent those abuses. Exxon-Mobil vigorously denied the allegations and said the lawsuit “recently filed by the International Labor Rights Fund (ILRF) containing these allegations is without merit and designed to bring publicity to their organization.”

Unocal

In October, the court case filed in the U.S. against the Unocal Corporation because of its operations in Burma was still under appeal to the Ninth Circuit Federal Court of Appeals. Plaintiffs in the case alleged that Unocal was complicit in human rights violations committed by Burmese military forces who had been assigned to guard the company’s Yadana gas pipeline. U.S. Federal District Judge Ronald Lew dismissed the case on August 31, 2000. He ruled that there was insufficient evidence to show that Unocal had actively participated in or conspired with the Burmese military to commit human rights violations and that Unocal, as part of a joint-venture arrangement (along with TotalFina-Elf, the Myanma Oil and Gas Enterprise, and the Petroleum Authority of Thailand), was not a state-actor and so could not be liable for human rights violations by the Burmese military. The plaintiffs filed a parallel case in the California Superior Court, however, as Unocal is based in California, and there, Superior Court Judge Victoria Gerrard Chaney ruled on August 20 that the case could proceed.

THE ROLE OF MULTILATERAL INSTITUTIONS

Multilateral institutions, particularly the IMF, and to a lesser extent, the World Bank and the United Nations sought to ensure that both companies and governments act in a responsible manner. Despite the different degrees of progress, these institutions all made clear that issues related to business and human rights were critical components of their activities.

International Monetary Fund (IMF)

The IMF took strong measures to ensure that governments manage crucial resources such as oil in a transparent and accountable manner, indicating that if it were to act consistently throughout the world, it could help significantly to improve governance standards among opaque and unaccountable governments. The IMF demonstrated this particularly in its relations with the Republic of Congo (Congo-Brazzaville), the Democratic Republic of Congo, and Angola.

Republic of Congo (Congo-Brazzaville)

In April 2001, the IMF sharply and repeatedly criticized the government of Congo-Brazzaville, warning that there would be no further IMF lending as long as

“the petroleum sector lacks transparency.” Despite IMF requests, the government had yet to audit the state-owned Congolese National Petroleum Company or the petroleum sector as a whole. The IMF again criticized the government in June for excessive spending, massive customs fraud, and the slow pace of reforms, and declared that the country would not qualify for debt relief until the government began to seriously address these problems.

Democratic Republic of Congo (DRC)

A Staff Monitored Program (SMP) began to monitor reforms by the government, which assured the IMF in June in a memorandum of intent that it would ensure good governance and complete transparency in the mining and diamond sector. The government also committed to eliminate “abuses of authority by individuals and nontax administrations involving intimidation, arbitrary arrests and dishonest profit seeking . . .” The agreement, scheduled to run until March 2002, appeared to provide a good basis for reform of the DRC’s precarious economy and public administration.

Angola

The IMF allowed the SMP that it had agreed with the government to expire in June 2001. The government had committed to make ten major reforms but had only implemented two. It had also failed to publish the quarterly Oil Diagnostic studies that began at the start of 2001 and were intended to ascertain whether all oil revenue were being deposited in the central bank, rather than siphoned off for secret arms purchases or alleged corruption. On August 14, the IMF stated publicly that it would not cooperate further with the government until the latter complied with the requirement of the conditions of the previously agreed SMP and significantly increased transparency by publishing data on oil and other government revenues and expenditures, and conducting an audit of the central bank. Despite the SMP’s expiry, the Oil Diagnostic as a contractual arrangement whose completion was a requirement of further IMF cooperation would continue. The government, however, did little to increase transparency.

World Bank

The World Bank began a process to assess its impact on human rights in the oil, gas, and mining industries. In July, it appointed Dr. Emil Salim, Indonesia’s former state minister for population and environment, as the “Eminent Person” who would lead the bank’s extractive industries review and “discuss its future role in the extractive industries with concerned stakeholders.” This review had been announced by World Bank President James Wolfensohn at the September 2000 annual meetings of the World Bank and IMF held in Prague in response to repeated NGO criticism of the bank’s lending policies and the negative human rights and environmental impacts of the oil, gas, and mining industries. The review represented a compromise between the bank and NGOs opposed to its lending to these industries and was due to be completed within some twelve months, during which regional and international consultations would be held to assess the bank’s performance in the extractive industry. A parallel process to review the bank’s per-

formance in these industries by the bank's own Operations Evaluations Department and Operations Evaluations Group was also announced.

A final report, drawing in both reviews and making recommendations to the World Bank's board of directors is due to be submitted by November 2002. In October 2001, it was too early to tell whether the assessment would lead to human rights considerations playing a larger part in the bank's lending policies in the extractive industries.

United Nations

The U.N. took a two-track approach toward corporate responsibility in 2001. The highly publicized Global Compact (G.C.) had a disappointing impact in 2001 but the Sub-Commission for the Promotion and Protection of Human Rights made some progress towards developing a set of U.N. principles on the conduct of corporations.

The G.C., a voluntary initiative to encourage corporations to adopt nine key principles on human rights, labor rights, and the environment, was launched by U.N. Secretary-General Kofi Annan in July 2000. Its impact was limited in 2001, however, by two key shortcomings: the lack of any system for monitoring corporate compliance and the failure of the U.N. to apply these same standards to its own agencies and their procurement. Instead of addressing these problems, the G.C. preferred to convene meetings between corporations, trades unions, and NGOs to discuss issues such as the role of companies in conflict zones. The G.C. also developed a "Learning Forum" to discuss best practices.

In August, the Sub-Commission for the Protection and Promotion of Human Rights agreed to extend until 2004 the mandate of its working group on the impact of transnational corporations on human rights. Established in 1999, the group had already developed draft principles on the conduct of corporations which, once refined, could lead to the adoption of a new U.N. standard or global guidelines for the conduct of corporations and provide a basis for assessing their performance.

LAWSUITS UNDER THE ALIEN TORTS CLAIMS ACT (ATCA)

New lawsuits were brought to compel improvements in corporate behavior. In addition to those against ExxonMobil, suits under the ATCA were brought against several U.S. corporations on account of their alleged complicity in human rights violations and several earlier lawsuits continued to wind their way through U.S. courts.

A lawsuit alleging that local Colombian bottlers for the Coca Cola company maintained "open relations" with Colombian paramilitaries as "part of a program to intimidate trade union leaders" was filed on July 21 in the U.S. District Court for the Southern District in Miami, Florida. The suit also alleged that a manager at one of the bottling plants "ordered" the murder of trade unionist Isidora Segundo Gil after he had allegedly threatened to kill trade unionists because of their union activities, and that five members of SINALTRAINAL, the Colombian union representing Coca Cola workers, had been "subjected to torture, kidnapping, and/or

unlawful detention in order to encourage them to cease their trade union activities” by the paramilitaries. These events allegedly occurred between 1995 and 2000. The case was filed by the International Labor Rights Fund (ILRF), the United Steelworkers Union, SINALTRAINAL, the estate of Isidro Segundo Gil, and the five trade unionists who were allegedly subjected to human rights abuses. Coca Cola and the other defendants strongly denied the allegations, Coca Cola also noting that “[w]hile we continue to conduct a detailed review of these allegations, we have no reason to believe and no information that demonstrates either bottler named in the suit has in anyway instigated, condoned or encouraged the criminal activities alleged . . . [t]he information we have gathered has reinforced our belief that the claims in this suit are either totally inaccurate, based on distortions of actual events or omit information that, when provided, clarifies that the bottlers had no involvement in the actions attributed to them.” In October, Coca Cola filed a motion to dismiss the suit in the Florida courts.

In September, the ILRF and the Massachusetts-based law firm of Cristobal Bonifaz filed a suit in a District of Columbia court against Dyncorp, a Virginia-based company, on behalf of eight Ecuadoran plaintiffs. The plaintiffs alleged that they had suffered adverse health effects after a Dyncorp plane sprayed pesticides over their land when it crossed the Ecuadoran border as it was engaged in cocoa eradication in Colombia, and accused Dyncorp of violating both U.S. and international laws including the ATCA, the Torture Victims Protection Act, and the International Covenant on Civil and Political Rights. The company did not make any public statements about the case other than to state that it was company policy not to comment on issues of active litigation.

THE ROLE OF GOVERNMENTS

Several governments and multilateral bodies became more actively involved in corporate social responsibility issues, primarily promoting voluntary initiatives by corporations and NGOs to adhere to high standards. Such increased governmental involvement was a necessary precursor to developing binding standards on corporations that governments could adopt, but some governments took steps that would limit possibilities for holding corporations accountable.

European Union (E.U.)

The European Commission presented a “green paper”—a nonbonding document to stimulate public comment—titled “Promoting a European Framework for Corporate Social Responsibility” in July. It urged companies to voluntarily pursue social responsibility in their operations around the world and throughout their supply chains, called for increased voluntary social auditing, the development of ethical labeling, and the promotion of socially responsible investment. However, it did not envision any binding regulatory role for the E.U. that would ensure companies act responsibly.

In June, the European Commission proposed new regulations for its General-

ized System of Preferences (GSP) that included a more expansive definition of labor rights violations that could be actionable under the GSP enforcement mechanisms. Currently, the E.U. can penalize countries by withdrawing their GSP trade benefits only in cases of forced labor or exports made with prison labor. Under the new proposal, trade preferences could be withdrawn due to a “serious and systematic violation” of freedom of association, the right to collective bargaining, of prohibitions on child labor, discrimination in employment, or forced or compulsory labor (including prison labor exports). At the same time, the commission proposed to restrict the labor rights compliance mechanism that triggers investigations of violations of the GSP labor provisions by eliminating the standing of nongovernmental bodies to submit a complaint. Currently, complaints can be submitted to the commission by any interested party, defined as “a Member State, or any natural or legal person, or association not endowed with legal personality, which can show an interest in such withdrawal.” Although the complaints mechanism has been used only twice, both times by the International Confederation of Free Trade Unions (ICFTU) to submit complaints against Burma and Pakistan in 1995, the new proposal omitted the language that defined who could submit a complaint, effectively limiting this only to E.U. member states. An E.U. official told HRW that the E.U. “want[ed] to avoid to address the issue of standing, on purpose.”

United States and United Kingdom

On December 20, 2001, the governments of the United States and United Kingdom launched the Voluntary Principles on Security and Human Rights. Beginning in February 2000, the principles were formulated as a result of discussions between the U.S. Department of State, the U.K. Foreign and Commonwealth Office, transnational oil and mining companies, human rights organizations, unions, and business organizations. The companies involved in the process included BP, Royal Dutch/Shell, Chevron, Texaco, Rio Tinto Zinc, and Freeport McMoRan. Human Rights Watch, Amnesty International, the Lawyers’ Committee for Human Rights, and International Alert were among the human rights organizations involved in the process. The International Federation of Chemical, Energy, Mine, and General Workers’ Unions was the representative for trade unions. The Prince of Wales’ Business Leaders Forum and Business for Social Responsibility were the participating business organizations. The drafting of the principles formed part of a limited, but positive ongoing effort to ensure that corporate security arrangements fully respect human rights. Several meetings were held in 2001 to discuss the implementation of the principles and to encourage other governments and companies to adopt them. In October, it was still too early to assess whether the principles would have a lasting and positive effect on human rights.

CHILD SOLDIERS CAMPAIGN

Global efforts to end the use of child soldiers continued to advance during the year. Following the United Nations' adoption in May 2000 of a new treaty to end the participation of children under the age of eighteen in armed conflict (an optional protocol to the Convention on the Rights of the Child), the number of countries signing the treaty grew to eighty-seven, and the number of ratifications increased to ten. Having achieved the ten ratifications needed, the protocol will enter into force on February 12, 2002.

The Coalition to Stop the Use of Child Soldiers continued its campaigning efforts to achieve broad ratification and implementation of the protocol. Coalition members, including national campaigns in many countries, lobbied governments to sign and/or ratify the protocol in advance of the session. Campaign activities in Australia, Bangladesh, Belgium, Colombia, Germany, Indonesia, Israel, Italy, Japan, Nepal, Pakistan, Paraguay, Peru, Philippines, Russia, Sierra Leone, the United Kingdom, and the United States included public education, exhibitions, media campaigns, petition drives, symposia, street theater, children's demonstrations, marches, meetings with governments, and parliamentary initiatives.

In several countries campaign efforts resulted in changes of laws regulating recruitment. In Italy, sustained campaigning saw the adoption of new legislation raising the minimum age of recruitment to eighteen. In Israel, after persistent NGO efforts, the Israeli Defence Forces announced that it would end the deployment of under-eighteens and stop accepting conscripts before their eighteenth birthday. In East Timor, the National Council adopted military legislation setting eighteen as the minimum age for military recruitment. In Greece, after petitioning by coalition members, a new law was adopted in 2001 that annulled previous legislation that allowed the conscription of under-eighteens. Legislation to prohibit the voluntary recruitment of under-eighteens was also under discussion in the Greek Parliament. In the Netherlands, coalition members worked with members of parliament to introduce a draft bill that would raise the minimum age for recruitment into the Dutch Armed Forces to eighteen.

Support for the efforts to end the use of child soldiers also came from Pope John Paul II, who devoted February 2001 to prayer for an end to the exploitation of children in armed conflict under the theme "Never Again Child Soldiers," and from the World Veterans Federation, which adopted a resolution in December 2000 calling for universal ratification of the protocol.

The Amman Conference on the Use of Child Soldiers was held in Amman, Jordan from April 8-10, 2001 under the patronage of Her Majesty Queen Rania Al-Abdallah. This was the fifth in a series of regional conferences organized by the coalition in order to highlight the worldwide exploitation of children as soldiers and build momentum and effective strategies for a global ban on such abuse.

The conference was attended by representatives of the governments of Algeria, Bahrain, Egypt, Jordan, Morocco, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, and

Turkey. Participants also included representatives from the Palestinian Authority and more than seventy representatives of local and international NGOs from across the region, national human rights and children's rights institutions, international agencies, and U.N. bodies. At the conclusion of the conference, participants adopted the Amman Declaration on the Use of Children as Soldiers, which strongly condemned the military recruitment and use of children by governments and armed groups across the region, called for prompt ratification and implementation of the new Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and other international standards, and included a large number of concrete recommendations for follow up in the region.

Prior to and following the Amman conference, the coalition held consultations in Israel with the deputy minister of defense, representatives of the Israeli Defence Forces, Ministry of Foreign Affairs officials, members of the Knesset and with non-governmental organizations to discuss military recruitment policy and issues related to the use of children as soldiers in the Middle East.

In June 2001, the Coalition to Stop the Use of Child Soldiers published the first-ever global survey of child soldiers, documenting military recruitment by government armed forces, civil militia, paramilitaries, and non-state armed groups in 180 countries. It found that more than half a million children were recruited into government forces and armed groups in more than eighty-seven countries, and that at least 300,000 of these children were actively fighting in forty-one countries.

The coalition released the report at press conferences in Johannesburg and in New York, where it was also presented to NGO and government delegates to the final preparatory meeting for the U.N. Special Session on Children. National coalitions also released the report from various locations around the world, including Bangkok, Karachi, and Kathmandu; Amman and Beirut; London, Paris, Rome, and Stockholm; and Asuncion and Bogotá.

During the year, the coalition also developed several country programs to strengthen national and regional initiatives by nongovernmental organizations to address the participation of children in armed conflict. In Colombia, national coalition members held a series of successful workshops in conflict zones of the countries, the first series focusing on recruitment prevention with key local actors and the second focusing on indigenous and Afro-Colombian children at risk of recruitment. In Southeast Asia, regional and national NGOs organized a national workshop for the Philippines in Mindanao, bringing together nearly forty NGOs and local government agencies. The workshop assessed trends in the New People's Army, and in Mindanao's separatist and indigenous people's conflicts; prepared a strategic plan for influencing the evolving peace process between the government and armed groups in the country; and created a loose NGO coalition for follow-up. Additional workshops were scheduled to take place before the end of the year in other countries of South and Southeast Asia.

Through its international, regional and national partners, the Coalition also launched a number of targeted campaigning actions during the year, including on the use of child soldiers during the conflict between Ethiopia and Eritrea; deaths of underage military conscripts in Paraguay; the establishment of a Special Court to try war crimes (including child recruitment) in Sierra Leone; recruitment policy

and practice by the United Kingdom; and child recruitment by government forces and armed groups in the Democratic Republic of Congo and neighboring countries that are party to the conflict.

HIV/AIDS AND HUMAN RIGHTS

In July, Human Rights Watch established its own program dedicated to addressing the problem of HIV/AIDS and human rights. The program will document violations related to HIV/AIDS and advocate for legal and policy protections. The program will work in partnership with NGOs around the world to produce original research on AIDS-related human rights abuses, including in the areas of women's rights, children's rights, rights of migrants and refugees, discrimination on the basis of HIV status, and rights of prisoners.

The prominence of the human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) pandemic on the global policy and aid agendas reached a peak in 2001, but the world's appreciation of AIDS as a human rights crisis still had a long way to go. Human rights abuses that aggravate the HIV/AIDS epidemic were highly prevalent across the globe in 2001, as they have been since the early days of the disease. Addressing AIDS-related human rights abuses remained an undersupported part of national HIV/AIDS programs, compromising the overall effectiveness of national programs. By December 2000, HIV/AIDS had claimed 22 million lives globally, and 36 million persons were infected with the disease, over 70 percent of them in sub-Saharan Africa.

HIV/AIDS is fueled by discrimination and repression in many ways. The subordinate status of women and girls in many settings makes them unable to refuse unsafe or coercive sex. They frequently have less access than their male counterparts to appropriate and accurate information about HIV transmission and the care of persons with AIDS. They also face a variety of legal and cultural impediments to treatment of sexually transmitted disease other than AIDS, which in turn increases their biological vulnerability to HIV transmission. The United Nations Fund for Women (UNIFEM) concluded in a 2001 statement that the HIV/AIDS epidemic would never have attained its catastrophic proportions, especially in Africa, without discrimination against and subordination of women.

Discrimination against gay men, injecting drug users, and sex workers in many countries has marginalized these groups from the preventive services (condoms, clean syringes for drug users, HIV testing and counseling, for example) and treatment they need. Laws and policies favoring obligatory HIV testing and identification of sex partners among some socially marginalized groups have served to drive underground those who most need services. Drug users attempting to reduce their risk of acquiring HIV by participating in needle exchange programs have faced repression and violence in some countries. Prisoners in many parts of the world are subject to sexual violence and are denied services that would help protect them from HIV transmission through drug use.

HIV/AIDS has had particular impact in depriving children of their rights. AIDS preferentially claims the lives of sexually active adults in the prime of their productive lives, many of whom are parents. In Africa alone, over 13 million children under age fifteen have lost a mother or both parents to AIDS, according to the United Nations. This social crisis also has severe human rights consequences as children orphaned by AIDS and those with ill parents are often forced to leave school and become breadwinners, sometimes in hazardous jobs, and frequently face abandonment, disinheritance and abuse as AIDS also ravages the extended family members who would otherwise support them.

The course of the AIDS epidemic continues to be determined by people's ability to realize their right to treatment and preventive services. AIDS is no longer a leading cause of death for young adults in North America and Western Europe, largely because of access to costly antiretroviral drugs in these regions. The same treatment remains largely out of reach in developing countries.

KEY GLOBAL DEVELOPMENTS

Following the historic U.N. Security Council session in January 2000 on HIV/AIDS as a security threat, the General Assembly committed itself to holding a special session on HIV/AIDS in 2001. The special session in June 2001 was an occasion for highlighting the human rights dimension of the AIDS crisis, to which the conference's final declaration referred in general terms. The process of composing the declaration, however, graphically illustrated human rights challenges that remain. In the deliberations over the wording of the declaration, a number of countries, principally Middle Eastern countries and the United States, objected to the naming of men who have sex with men, injecting drug users, and sex workers as high-risk groups with respect to HIV/AIDS. In spite of support from many other countries for explicit inclusion of these groups to highlight the need for programs to reach them, in the end they were not named in the final document. The declaration, therefore, became an unwitting example of the stigmatization that persons in these groups face every day and that impedes their access to services and support.

The year 2001 saw a dramatic strengthening of the global civil society movement in favor of the right to treatment for HIV/AIDS. Pressure from non-governmental organizations (NGOs) across the world was credited with contributing to the withdrawal in April of a lawsuit brought against the government of South Africa by thirty-nine multinational pharmaceutical companies. The drug companies had challenged the implementation of a 1997 South African law that would have facilitated the country's production and importation of cheaper generic antiretroviral drugs. While the dropping of the suit did not stir the government of South Africa to increase AIDS drug access, legislative action followed quickly in Kenya and was pending in several other countries, to enable a greater flow of cheaper drugs to persons with AIDS.

The government of Brazil was in the global spotlight in 2001 as its national program on AIDS continued to make locally produced antiretroviral drugs widely available in the country. AIDS activists in Brazil pointed out that flaws remained in the program, but the dramatic reduction in deaths from AIDS in the country and

the more widespread use of preventive services because people knew that treatment was available were testimony to the effectiveness of the government's approach. The legal foundation of Brazil's AIDS program is a national law by which patents are not honored in the country if the holder of the patent does not begin manufacturing the product in Brazil within three years of the awarding of the patent. In May 2000, the United States initiated an action against Brazil in the World Trade Organization (WTO), asking the WTO to review Brazil's patent laws. Under considerable public pressure, just two months after the withdrawal of the pharmaceutical industry's law suit in South Africa, the office of the U.S. Trade Representative announced in June 2001 that it would drop its action against Brazil if Brazil agreed to notify U.S.-based patent holders when it planned to manufacture generic versions of their drugs.

Brazil presented a resolution to the U.N. Commission on Human Rights in March, asserting the human right of all persons with HIV/AIDS to treatment that includes antiretroviral drugs. The resolution passed unanimously over the abstention of the U.S. The WTO ministerial meeting in Qatar in November resulted in a consensus of member states that the WTO agreement on global patent rules "does not and should not prevent members from taking measures to protect public health." Although developing countries had sought a statement of even stronger support for putting public health before patents, treatment access advocates praised the Qatar consensus as a step forward and said they would work in 2002 for more concrete language on patents and public health emergencies.

In April and May, United Nations Secretary-General Kofi Annan spearheaded an effort to establish a global fund to which public and private donors could contribute as part of a strengthened multilateral response to HIV/AIDS. Some treatment access advocates had been pushing for an international funding mechanism to draw in new resources to improve AIDS drug access for the poor. It was unclear whether the new global fund would serve this purpose as its mandate will include HIV/AIDS, tuberculosis and malaria, and the United States, among others, has expressed its preference that the AIDS focus of the fund be mainly prevention. Many questions remained about how the fund would be administered, how the interests of persons with AIDS would be represented in its decision-making, and especially whether the fund would ever have the U.S. \$7 to \$10 billion per year in resources envisioned by Kofi Annan. The Bush Administration's pledge of U.S. \$200 million to the fund was widely criticized as inadequate. Pledges to the fund totaled about U.S. \$1.4 billion in October 2001.

CHALLENGES BY REGION

Africa

Sub-Saharan Africa is the epicenter of HIV/AIDS. The disease constitutes a humanitarian emergency, having killed about 18 million persons since the mid-1980s, more than all of Africa's wars over that period. With historically unimaginable numbers of deaths of adults in their productive years, health and education services and economic productivity overall have deteriorated as a result of AIDS,

along with the erosion of the extended family and community-based institutions. Silence and denial have characterized the response of many African leaders to this catastrophe. Although more African leaders are beginning to speak out about HIV/AIDS, including those who gathered for an African summit on AIDS in Abuja, Nigeria in April 2001, programs, policies and resources remain inadequate to the task of stemming the crisis.

Africa is the only region where women and girls outnumber men and boys among persons living with AIDS. In nearly all of the heavily affected countries of eastern and southern Africa, the rate of HIV infection among girls aged fifteen to nineteen years is four to seven times higher than that of boys. In most countries, girls are also more likely than boys to be pulled out of school when a parent becomes ill, and they frequently have to become the breadwinners of the family. AIDS-affected children, including large numbers of girls, continued to swell the numbers of street children in certain countries, with NGOs reporting that girls orphaned by AIDS increasingly find themselves having to engage in prostitution to survive, putting them at high risk of HIV transmission. The subordinate status of women and girls in the region had clearly facilitated the epidemic's rapid spread and destructive impact.

Lack of access to treatment has been a defining feature of the African AIDS crisis. In August, Nigeria and Cameroon both contracted with Cipla, an India-based generic drug manufacturer, to supply large-scale treatment programs for persons with AIDS. The humanitarian NGO Médecins Sans Frontières (MSF) also launched large pilot treatment programs in seven African countries. These initiatives will be examined closely for lessons on good practices to ensure wider-scale treatment access on the continent.

Eastern Europe

The fastest growing AIDS epidemic in the last few years has been in eastern Europe and the former Soviet states. It is fueled largely by the widespread use of injected drugs, a phenomenon that has grown with poverty, high unemployment and other aspects of the economic transition in the region as well as the easy availability of narcotic drugs. Access to services such as needle exchange and treatment for opportunistic infections remains very limited in many parts of the region. According to the Open Society Institute, which has been a leader in establishing AIDS-related services in the region, injecting drug use is highly prevalent among sex workers, homeless youth, and prisoners—groups likely to face stigmatization, marginalization and even abuse by the authorities in some settings.

Asia

It is feared that the numbers of persons infected and living with AIDS in Asia will surpass even the huge totals in Africa in the coming years. The epidemic in India, already well established in some states, is facilitated by subordination of women and discrimination against gay men and sex workers. Extremely high rates of infection among injecting drug users and sex workers in parts of Southeast Asia are driv-

ing a rapidly accelerating epidemic. Steep rises in infection rates in some parts of China, in some cases apparently fueled by the use of unsterilized needles in health facilities or blood sales centers, came to light in 2001. Public alarm over local media accounts of AIDS “outbreaks” reportedly led to incarceration of HIV-positive persons by local authorities and other drastic measures.

Caribbean and Latin America

The Caribbean basin contains several countries that have the highest rates of HIV infection outside sub-Saharan Africa. Policies and legal protections against AIDS-related discrimination have not caught up with the pace of the epidemic in a number of Latin American countries. Discrimination against HIV-positive gay men and sex workers and many instances of forced HIV testing of these groups and others have been reported in the media. In addition, with a fairly well developed capacity for generic drug production in some countries, the right to AIDS drugs has become a focus of civil society action. The national AIDS program in Brazil set a high standard in making locally produced generic drugs widely available to persons with AIDS. The proposed Free Trade Agreement for the Americas discussed at the regional summit in Quebec, Canada in May would afford even greater protection to patent-holding drug companies than they already enjoy under the terms of the WTO’s intellectual property rules.

WIDENING RANGE OF ABUSES

Even as some aspects of the fight against AIDS have become better established, the range of human rights abuses linked to all stages of HIV/AIDS epidemics around the world has widened. In eastern and southern Africa, where HIV infection is so prevalent that it is no longer meaningful to stigmatize minority or “high-risk” groups, stigmatization of persons seeking AIDS-related care, especially women and girls, continues to drive the epidemic. Women have reported to health workers in several countries that they are aware of the risk of transmitting HIV to their infants through breastfeeding, but feel they have to take that risk because not breastfeeding will highlight their HIV-positive status and subject them to hostile and even violent reprisals from their husbands or partners. Denial of AIDS as a cause of death remains the rule rather than the exception even in the highest-prevalence countries, contributing to the stigmatization of those courageous enough to speak openly about their illness.

Children have a right to, and a life-and-death need for, access to good information on HIV transmission and care for persons with AIDS. Formal education, especially at the primary level, is an ideal vehicle for meeting this need. In many countries, however, AIDS education in school has been strongly opposed by religious groups and others who have alleged that sex education in schools encourages promiscuity. In Africa, this denial of children’s and young people’s right to information is compounded by the inability of many AIDS-affected children to stay in school. When a parent or other adult in the household is ill with AIDS, children are

withdrawn from school to provide care, to earn income for the family, or because a family encumbered by the cost of treating a sick person can no longer afford to keep a child in school. A Human Rights Watch investigation in Kenya in February and March showed that children are further disadvantaged and entrenched in poverty by a lack of protection of their inheritance rights. Kenya is not the only country in Africa in which the state authorities have failed to institute legal to protect the rights of the hundreds of thousands of children who now find themselves without relatives to help protect their property.

Human rights protections continue to be the weakest part of generally feeble responses to AIDS on the part of many African governments. Kenya again illustrates an alarming pattern. The head of state did not even mention HIV/AIDS in public until late 1999, by which time about 14 percent of the adult population was already infected. In July 2001 he announced that he would urge parliament to institute capital punishment for persons who transmit HIV intentionally and portrayed this measure as an effective means of protecting women from AIDS. While intentional transmission of HIV, where it can be demonstrated, should be punishable by law, Kenya is one of many countries where an estimated 90 to 95 percent of HIV-positive persons do not even know their HIV status. It is unlikely, therefore, that focusing on "intentional" transmission would do much to curtail the epidemic. Meanwhile, policies and programs that could go a long way to improving access of women and girls to information and services remain non-existent or grossly underfunded.

HIV/AIDS in war was the object of international attention during the year. Soldiers in many armed conflicts were thought or in some cases known to have very high rates of HIV infection. To the extent that sexual coercion and sexual violence directed toward the civilian population are instruments of war, HIV/AIDS renders them more lethal. In January, as part of a Security Council session on HIV/AIDS, the United Nations Joint Programme on HIV/AIDS (UNAIDS) and the U.N.'s Department of Peacekeeping Operations undertook a joint project to reduce the likelihood that U.N. peacekeepers would contract or transmit HIV as part of their operations. The declaration of the U.N. special session on HIV/AIDS called on governments to improve HIV/AIDS awareness and prevention activities targeted at their armed forces.

Relevant Human Rights Watch Reports:

In the Shadow of Death: HIV/AIDS and Children's Rights in Kenya, 6/01

No Escape: Male Rape in U.S. Prisons, 4/01

Scared at School: Sexual Violence Against Girls in South African Schools, 3/01

HUMAN RIGHTS WATCH INTERNATIONAL FILM FESTIVAL

The Human Rights Watch International Film Festival was created in 1988 to advance public education on human rights issues and concerns using the unique mediums of film and video. Each year, the festival exhibits the finest films and videos with human rights themes in theaters throughout the United States and several other countries, a reflection of both the scope of the festival and its increasingly global appeal. The 2001 festival featured thirty-eight provocative films (twenty-one of which were premieres), from fifteen countries. The festival included feature-length fiction films, documentaries, and animation. In 2001, selected films from the festival showcased in twenty-eight cities throughout the U.S.

In selecting films for the festival, Human Rights Watch concentrates equally on artistic merit and human rights content. The festival encourages filmmakers around the world to address human rights subject matter in their work and presents films and videos from both new and established international filmmakers. Each year, the festival's programming committee screens more than five hundred films and videos to create a program that represents a range of countries and issues. Once a film is nominated for a place in the program, staff of the relevant divisions of Human Rights Watch also view the work to confirm its accuracy in the portrayal of human rights concerns. Though the festival rules out films that contain unacceptable inaccuracies of fact, we do not bar any films on the basis of a particular point of view.

The 2001 festival was presented over a two-week period in New York as a collaborative venture with the Film Society of Lincoln Center. The festival reached out to a broader audience by co-presenting selected films with four important New York festivals: the African Film Festival, Margaret Mead Film and Video Festival, New York Latino Film Festival, and the New Festival/New York Lesbian and Gay Film Festival, as well as several independent media organizations: the Association of Independent Video and Filmmakers, DoubleTake, the Educational Video Center, MediaRights.org, Pixelpress.org, and POV/The American Documentary. A majority of the screenings were followed by discussions with the filmmakers, media activists and Human Rights Watch staff on the issues represented in each work.

The festival's presence on-line expanded greatly this year. In collaboration with MediaRights.org, a community web site created by media activists, we co-presented our first on line festival, "Media That Matters Online Film Festival." This series featured twelve short films and videos on U.S. (domestic) human rights issues for the entire month of June. Audiences from around the world were able to view these short works via the Internet and to then take immediate action by engaging in several campaigns made available on-line.

In association with Pixelpress.org, the film festival sponsored the multimedia presentation *Juvenile Justice*-a photograph and web site project which explores the lives of five adolescents and their struggle with the California criminal justice system. Award winning photographer Joseph Rodriguez drew on his own personal history as an incarcerated youth and contrasts this with the lives and stories of his

subjects in Northern California. Many of these youth are being judged in court as adults. *Juvenile Justice* has encouraged on-line dialogue about several current human concerns and issues and the power of art (as an agent for change), between teens, parents, teachers, human rights activist, and artists.

The 2001 opening night celebration presented the U.S. premiere of the re-release of Hector Babenco's, *Kiss of a Spider Woman*, the first independent film to win an Academy Award for Best Actor and to be honored with four top Academy nominations, including Best Picture. After a critically acclaimed, yet limited release in 1986, the film virtually disappeared and was not again available to audiences until June 2001. Babenco's groundbreaking film set in a Latin American metropolis in the mid-1970's, explores the unlikely relationship that develops between two prisoners: one political revolutionary, the other a flamboyant homosexual convicted and imprisoned on "morality" charges. The film's emotional drama remains as strong today as fifteen years ago.

As part of the opening night program, the festival annually awards a prize in the name of cinematographer and director Nestor Almendros, who was also a cherished friend of the festival and Human Rights Watch. The award, which includes a cash prize of U.S.\$5,000, goes to a deserving and courageous filmmaker in recognition of his or her contributions to human rights through film. The 2001 festival awarded the Nestor Almendros Prize to the three Italian filmmakers of the documentary *Jung(War): In the Land of the Mujaheddin*: Fabrizio Lazzaretti, Giuseppe Pettito, and Alberto Vendemmiati. These filmmakers demonstrated enormous courage filming in northern Afghanistan during war time, and their compassion for the people of Afghanistan is strikingly evident in this intimate, accomplished film.

Responding to the tragedy on September 11, the festival began to distribute *Jung (War): In the land of the Mujaheddin* on VHS format, free of charge, for community organization and festival screenings. To date the festival has responded to over one hundred requests with thirty screenings confirmed across the U.S. and Canada, including a theatrical run at the Cinema Village in New York City which began at the end of November.

In 1995, in honor of Irene Diamond, a longtime board member and supporter of Human Rights Watch, the festival launched the Irene Diamond Lifetime Achievement Award, presented annually to a director whose life's work demonstrates an outstanding commitment to human rights and film. Previous recipients have included Costa Gavras, Ousmane Sembene, Barbara Kopple, and Alan J. Pakula. This year, the award was presented to Haitian filmmaker Raoul Peck. Peck's exceptional body of documentary and fiction films focuses on the human rights situation in Haiti over the past forty years. His newest work, *Lumumba*, a dramatic portrait of legendary African leader Patrice Lumumba (and the first prime minister of the Congo following its independence) premiered at this year's New York festival and continues to screen theatrically throughout the U.S. to sold out audiences.

Highlights of the 2001 festival included the world premiere of Stephanie Black's *Life and Debt*, an extraordinary documentary exploring the complexities and dangers of economic globalization for Jamaica and developing countries around the world. Musician Ziggy Marley gave a special musical introduction for our audiences before the film screenings. Other highlights included; *Promises*, a moving insight into the Middle East conflict as seen through the eyes of seven children, both

Palestinian and Israeli, growing up in Jerusalem today. The festival hosted its first day of all youth programming—media by and for youth—about human rights issues. *Trembling Before G-d*, Sandi Simcha Dubowski's landmark documentary film about Hasidic and Orthodox Jews who "come out" as gays and lesbians, closed this year's festival.

Each year the festival holds a series of special film screenings for high school students and their teachers in an effort to encourage dialogue about human rights in the classroom. Daytime screenings are followed by discussions among the students, their teachers, visiting filmmakers, and Human Rights Watch staff. In 2001, in conjunction with our newly launched San Francisco festival, we hosted a special screening for public high school students of the documentary, *Public Enemy*, which focuses on four key members of the Black Panthers. Bobby Seale, a protagonist in the film and a co-founder of the Black Panthers, spent two hours in lively, heated, and passionate post-screening discussion with the youth audience.

In 1996 the festival expanded to London. The 2001 London festival produced with the Ritzy Theater in Brixton showcased the United Kingdom's premiere of Julian Schnabel's magnificent and lush *Before Night Falls*. The film chronicles the life of Cuban writer Reinaldo Arenas, one of the major artists to emerge from the Latin American literary boom of the 1960s. Running afoul of the Castro regime as both a political dissident and openly gay man, Arenas was harassed, imprisoned, and physically abused—all the more so because he managed to smuggle out and publish his works abroad. Schnabel captures Arenas's extraordinary life with remarkable honesty.

The London festival featured the timely screening of *Caravan of Death*, journalist Isabel Hilton's documentary on Judge Juan Guzman's attempts to put former Chilean military ruler General Augusto Pinochet on trial for crimes he committed twenty-seven years ago. The festival also featured a special United Kingdom premiere of *Bamboozled*, Spike Lee's latest film, a blistering satire of network television's pitfalls and prejudices.

In a further effort to expand the festival's scope, a selected package of traveling films from the festival was created in 1994. The Traveling Festival is presented annually in a growing number of sites and cities. As of November 2001, the showcase had been presented in Salt Lake City, Utah; Portland, Oregon; Denver, Colorado; Seattle, Washington; Chicago, Illinois; and Riverside, California. In an effort to expand its capacity to raise awareness about human rights issues in the United States and abroad, the film festival created a web site with numerous support materials and links to Human Rights Watch's work on a variety of topics. We have facilitated filmmaker appearances at a number of traveling festival sites, which further enhances the audience's ability to discuss the films screened and analyze the issues they raise. In addition, we produced full-scale film festivals in both Boston and the San Francisco Bay Area for the first time where we came together and discussed human rights issues in a community-based setting. These two festivals were unique in their geographical scope: the Boston festival was hosted at the Museum of Fine Arts in midtown, the Coolidge Corner theater in Brookline and the International Institute in downtown Boston. The Bay Area festival venues were equally broad: playing at The Pacific Film Archive in Berkeley, the Yerba Buena Center in downtown San Francisco, and the Rafael Film Center in Rafael, California.

INTERNATIONAL CAMPAIGN TO BAN LANDMINES

The International Campaign to Ban Landmines (ICBL), launched in 1992 by Human Rights Watch and five other nongovernmental organizations, brought together over 1,400 human rights, humanitarian, children's, peace, disability, veterans, medical, humanitarian mine action, development, arms control, religious, environmental, and women's groups in over ninety countries who worked locally, nationally, regionally, and internationally to ban antipersonnel landmines. The ICBL was coordinated by international committee of thirteen organizations, including Human Rights Watch, which remained one of the most active campaign members. The ICBL and Jody Williams (a member of the Advisory Committee of the Human Rights Watch Arms Division) were jointly awarded the 1997 Nobel Peace Prize.

Progress toward the complete eradication of antipersonnel mines continued at an impressive pace, and the ICBL continued its intense global activity. Perhaps most notable were the further development of the ICBL's groundbreaking Landmine Monitor system, and the ICBL's extensive involvement in the "intersessional" work program of the 1997 Mine Ban Treaty. The ICBL engaged in numerous major events, including Ban Landmines Week and the ICBL General Meeting in Washington D.C. in March, the meetings of the Intersessional Standing Committees of the Mine Ban Treaty in December 2000 and May 2001, as well as a series of ten regional ICBL and Landmine Monitor meetings. In addition, the ICBL participated in several other regional and thematic meetings; undertook ICBL advocacy missions; sent a variety of letters to decision-makers; issued numerous Action Alerts; published activity reports; and issued quarterly Landmine Updates. Much of this information was disseminated via the ICBL website.

Campaign priorities were universalization of the Mine Ban Treaty—convincing recalcitrant nations to accede to the treaty—and ensuring effective implementation of the treaty. Particular targets were states of the former Soviet Union and the Middle East/North Africa, as well as the United States. Key issues of concern included: how to respond to violations of the ban treaty; antivehicle mines with antihandling devices which were prohibited by the treaty; joint military operations between States Parties and nonsignatories using mines; and continued stockpiling and transit of mines by nonsignatories in the territory of States Parties. Other priorities included: promoting increased funding for sustainable and appropriate mine action programs; promoting increased funding for comprehensive victim assistance programs and greater involvement of mine victims and mine-affected communities in the planning and implementation of such programs; and exploring ways to encourage non-state actors to commit to the banning of antipersonnel mines.

Four permanent working groups and one ad hoc working group of the ICBL led these efforts to address the various aspects of the humanitarian landmines crisis. They were the Treaty Working Group (chaired by Human Rights Watch), the Work-

ing Group on Victim Assistance, the Mine Action Working Group, and the Non-State Actors Working Group, as well as the ad-hoc Ethics and Justice Working Group.

The Third General Meeting of the ICBL, a biennial meeting of representatives of its national campaigns and member organizations, met in Washington D.C., on March 6-7, 2001. Some 160 participants from eighty country campaigns of the ICBL and representatives of international organizations attended the General Meeting, as well as twenty NGO observers from an additional ten countries. The meeting adopted an "ICBL 2004 Action Plan" that laid out a detailed universalization and implementation strategy for its members. It could be followed by country, by region, by year and/or by mine-related issue (i.e., mine action, survivor assistance, etc).

The General Meeting was held during Ban Landmines Week in Washington D.C. Two hundred mine survivors, deminers, and campaigners from ninety countries came together in Washington, D.C., marking the first time that the ICBL converged in the U.S. Simultaneously, two hundred activists from forty-six of the fifty states, including members of Students Against Landmines from schools nationwide, met in Washington for a U.S. Campaign to Ban Landmines national conference and four days of activities including over three hundred meetings with their Congressional representatives. Also during this week was the global meeting of Landmine Monitor researchers for review and submission of their draft reports for *Landmine Monitor Report 2001*.

The campaign committed to significant ICBL participation in the intersessional work program established in May 1999 at the First Meeting of States Parties. ICBL Working Groups took the lead in liaising with the four Standing Committees. The intersessional work program was aimed at consolidating and concentrating global mine action efforts, and highlighting the role of the Mine Ban Treaty as a comprehensive framework for mine action. The Standing Committees served to facilitate the implementation of provisions of the Mine Ban Treaty, with extensive input, recommendations, and action points from the ICBL. The four Standing Committees on Victim Assistance; Mine Clearance; Stockpile Destruction; and General Status and Operation of the Convention met during week-long sessions in Geneva in December 2000 and May 2001. The intersessional work proved to be an important mechanism to both spur and measure progress made in the full implementation of the Mine Ban Treaty. In September 2001 the Third Meeting of States Parties was held in Managua, Nicaragua, resulting in an extensive action program for the coming year.

Just prior to the Managua meeting, the ICBL released the 1,175-page *Landmine Monitor Report 2001*, the third annual report to emerge from the Landmine Monitor system. The Landmine Monitor network grew to 122 researchers in ninety-five countries, and the system and the annual report were widely recognized as a crucial element in addressing the landmine crisis.

The ICBL held day-long campaign seminars in conjunction with a new series of Landmine Monitor regional researcher meetings. At each ICBL session, campaigners strategized on work in the region, discussing campaign priorities, sharpening advocacy and media skills, as well as conducting events to raise public awareness.

These meetings also provided an opportunity for regional campaigners to discuss and contribute to the ICBL 2004 Action Plan. The series of meetings began in October 2000 in Yalta for campaigners from Former Soviet Union/Central Asia. In November, a regional meeting in the Americas was held in Buenos Aires before the Second Hemispheric Conference on Banning Landmines. In Buenos Aires, the ICBL also challenged the region's signatories of the Mine Ban Treaty to complete ratification, and challenged States Parties to complete destruction of stockpiles and submit outstanding article 7 transparency reports by the Third Meeting of States Parties. At the conclusion of the seminar, the government co-chairs from Argentina and Canada issued these calls as the "Managua Challenge." In Djibouti a meeting was held, also in November, in conjunction with a Regional Conference on Landmines for the Horn of Africa and Gulf of Aden. Tokyo was the venue for another regional meeting of campaigners in November, held to coincide with stockpile destruction and a fundraising marathon run to generate funds for demining in Cambodia. Another regional meeting was held from November 28-30 in Lomé, Togo, for Francophone African campaigners. European campaigners met in Geneva during the Intersessional Standing Committee meetings, and they also held a regional campaign meeting in Geneva in May 2001 to further strategize and coordinate advocacy plans for the region. Campaigners from the Middle East and North Africa met in Beirut in January 2001, where activities included an advocacy session, and a public event where Lebanese mine action organizations showcased their work. Campaigners from Southern Africa met in Johannesburg in January while those from Southeast Asia met in Bangkok. There they participated in a stockpile destruction ceremony and held a roundtable to present their research to diplomatic representatives in Bangkok. Their neighbors from South Asia met in Kathmandu in Nepal, where they also held roundtables, an advocacy seminar, and a media briefing.

The ICBL also participated in numerous workshops, seminars, and conferences. Among them was the Seminar on Universalization and Implementation of the Ottawa Convention in Africa, held in Bamako, Mali from February 15-16, 2001. The Bamako meeting, co-hosted by the governments of Mali, Canada, and France, marked the first time since May 1997 that countries from all of Africa came together to discuss the landmine ban. Members of the ICBL, including landmine survivors, deminers, and campaigners from throughout the continent, participated in this conference. The ICBL participated in the Seminar on the Destruction of the PFM1 mine which was held in Budapest from February 1-2, 2001, and in March 2001, the ICBL participated in the U.N. Asia Pacific Regional Disarmament Conference in Wellington, New Zealand, and also in a symposium on the Impact of Landmines in Sri Lanka.

National seminars or workshops were held in countries including Afghanistan, Angola, Australia, Colombia, Georgia, Germany, India, Japan, Lebanon, Nepal, Nigeria, Pakistan, Peru, South Africa, Yemen, and the U.S. New campaigners began activities in Ecuador, Egypt, Ethiopia, Mongolia, Nagorno-Karabakh, Peru, and Turkey.

Additionally, ICBL Ambassadors, staff, and members undertook a number of advocacy and awareness-building missions, including to Australia, Canada, Fiji,

France, Guatemala, Greece, India, Japan, South Africa, Spain, Taiwan and Belgium (for the European Council and Parliament). The ICBL sent letters to heads of state, issued media releases, and engaged in other advocacy activities on the occasions of international events such as the Asia-Europe Summit, the U.N. General Assembly in New York, government summits such as of the European Union, the Francophonie, the Organization of American States, the Organization of African Unity, the Assembly of African Francophone Parliamentarians, the Rio Group, MERCOSUR, Association of Southeast Asian Nations, and the Inter-Parliamentary Union. Letters to heads of state and media releases were also issued on the occasions of bilateral visits of heads of state. Letters to heads of state were also sent to mark Mine Ban Treaty anniversaries of December 3 and March 1 urging governments to accede to or ratify the treaty. Letters were also sent congratulating new ratifications, and urging all signatories to ratify before the Third Meeting of States Parties in September 2001. Letters were also sent prior to the two meetings of the Standing Committee on the General Status and Operation of the Convention highlighting issues of concern to the ICBL in preparation for the meetings.

As in previous years, the third anniversary of the opening for signature of the Mine Ban Treaty galvanized campaigners into action worldwide. On December 3, 2000, which coincided with the International Day for Disabled Persons, activities were held around the globe, from exhibits, to concerts, film screenings and hockey on prosthetics matches. Similarly the first anniversary of the entry into force of the treaty on March 1, 2001 further spurred action worldwide. A concerted campaign effort in anticipation of Ban Landmines Week targeted the United States, urging the newly-elected President Bush to join the treaty. The ICBL also issued regular Action Alerts, including several Ratification Campaign Action Alerts, prior to March 1, 2001 and again in May 2001, in anticipation of the Third Meeting of States Parties to be held in September.

INTERNATIONAL JUSTICE

INTRODUCTION

The components of the emerging system of international justice took further shape in 2001. The apprehension of Slobodan Milosevic by the International Criminal Tribunal for the former Yugoslavia (ICTY) and the rapidly growing number of states parties to the International Criminal Court treaty demonstrated the effectiveness of and growing commitment to international justice. International prosecutions helped to open national court systems that had previously been inaccessible to victims in Chile, Argentina, and Chad. The attacks in the United States on September 11 underscored for many states the need to strengthen mechanisms of international justice.

While new trends for greater accountability developed, progress was uneven and in some instances there were setbacks. The establishment of the mixed national-

international courts for Sierra Leone and Cambodia, originally seen as a possible alternative to Security Council-created ad hoc tribunals, stalled. International prosecutions suffered a setback when Senegal's Cour de Cassation dismissed charges against Hissene Habre and challenges confronted Belgium's progressive law on universal jurisdiction.

INTERNATIONAL COURTS

International Criminal Tribunal for the Former Yugoslavia (ICTY)

During 2001, as the International Criminal Tribunal for the former Yugoslavia secured custody of senior officials, including former Bosnian Serb President Biljana Plavsic and Yugoslav President Slobodan Milosevic, it continued to contribute to the jurisprudence of international criminal law.

In its developing case law, the tribunal issued a highly significant ruling in the Foca case, convicting three men for rape, torture, and enslavement as crimes against humanity. The Foca case was the first indictment by an international tribunal solely for crimes of sexual violence against women as crimes against humanity and resulted in the first conviction by the ICTY for rape and enslavement as crimes against humanity. The tribunal ruled that the defendants had enslaved women and that enslavement did not necessarily require the buying or selling of a human being as had been traditionally required.

On October 23, the Appeals Chamber overturned the Trial Chamber's convictions in *Prosecutor v. Zoran Krupeskic and Others*. The Appeals Chamber found that the lower chamber, which had convicted all of the defendants, failed to do so with sufficient evidence for every count. This decision sent a clear message that the interests of the accused to a fair trial were paramount.

Slobodan Milosevic

Indicted in May 1999 for crimes against humanity and war crimes in Kosovo, Yugoslavia's handing over of Slobodan Milosevic to the tribunal was an historic milestone for international justice. U.S. law had imposed an April 1 deadline for Yugoslavia's cooperation with the tribunal in order to continue the flow of U.S. economic aid. While Milosevic's arrest was linked to U.S. government economic support for Yugoslavia, it was carried out by Serbian officials who were increasingly open to confronting the past. Milosevic's apprehension on corruption charges was a first step toward justice for the victims of the Balkan wars. Given the severity of the crimes charged in the ICTY indictment, Human Rights Watch insisted that Milosevic be surrendered to The Hague.

Even more importantly for Belgrade than the bilateral U.S. economic aid was the prospect of more than \$1 billion in assistance that an international donors' conference would pledge for Yugoslavia. After Milosevic's arrest on April 1, U.S. Secretary of State Colin Powell certified that the required threshold of cooperation had been met, but announced that U.S. support for the international donors' conference would depend on "continued progress" by Yugoslavia. Human Rights Watch urged

that specific benchmarks in this regard include the transfer of Milosevic and other indictees to the tribunal.

With Milosevic in custody, some argued that rather than turning him over to the ICTY, he should have been tried in Yugoslavia on corruption charges or possibly for war crimes. In Belgrade splits emerged between Republic of Serbia officials, Yugoslav President Kostunica, and Yugoslav Cabinet members over cooperation with the tribunal. President Kostunica repeatedly denigrated the tribunal and stated that he would never surrender Milosevic, a former head of state, to it. Increasingly, Kostunica sought to deflect international pressure by insisting that Yugoslavia could not surrender any ICTY indictee until it first adopted an enabling law. This stance patently ignored Yugoslavia's overriding international law obligation, mandated by numerous Security Council resolutions, to cooperate.

The opposition of pro-Milosevic deputies in the Yugoslav Parliament made it politically impossible to enact a cooperation law. After several unsuccessful attempts to pass legislation, on June 23 the Yugoslav Cabinet adopted a decree authorizing transfer of Yugoslav nationals. Milosevic filed a challenge before the Constitutional Court of Yugoslavia contesting the lawfulness of that decree. The court, composed of Milosevic appointees, unanimously suspended the decree. Serbian Prime Minister Zoran Djindic, citing the primacy of international law obligations, stated that Milosevic's transfer would go ahead even if the Constitutional Court struck down the decree. On June 28, one day prior to the international donors' conference and before the Constitutional Court had issued its ruling, the Serbian authorities surrendered Milosevic to The Hague.

Slobodan Milosevic's transfer to the United Nations war crimes tribunal was a victory for the victims of the Balkan wars and a transformative moment for international justice. The prosecution of a former head of state, indicted when he was a sitting president by an international tribunal was a groundbreaking precedent. More than a crude "payoff" for international economic support, Milosevic's surrender strengthened those authorities in Belgrade who sought to confront the crimes committed in the name of the Serbian people. After Milosevic's arrest in Belgrade and his surrender to The Hague, police began to uncover gravesites in Serbia containing the bodies of ethnic Albanians murdered in Kosovo and reburied in Serbia to avoid detection.

Many senior ICTY indictees, including former Bosnian Serb military commander General Ratko Mladic and Radovan Karadzic, formerly president of the Bosnian Serb Republic, remained at large. These two were charged with genocide in connection with the massacre of 7,000 Bosnian men at Srebrenica in July 1995. It was believed that at least eleven other indictees were living in Yugoslavia, however, Yugoslav officials had continued to stonewall all of the tribunal's requests for cooperation.

Foreshadowing some of the difficulties in prosecuting former heads of state in international fora, Slobodan Milosevic's initial court appearances in The Hague underscored the realities of a lengthy and difficult trial. Choosing to represent himself, Milosevic had denounced the tribunal's legitimacy and had not presented, as of mid-November, a legal defense. While it was necessary for the proceedings to move in an efficient and orderly way, it was vitally important that Milosevic's right to conduct his defense be scrupulously respected. At an August 30 status confer-

ence, Judge Richard May announced the appointment of three *amici curiae* to “assist the court” in the trial. These lawyers were not Milosevic’s attorneys and it was crucial that they did not interfere with his right to a defense.

On October 9, the Prosecutor submitted a new indictment against Milosevic for events in Croatia in 1991-1992. It contained thirty-two counts of crimes against humanity, violations of the laws or customs of war, and war crimes. On November 23, the tribunal announced an indictment stemming from the 1992-1995 war in Bosnia that charged Milosevic with twenty-nine counts, including crimes against humanity and genocide.

MIXED NATIONAL-INTERNATIONAL COURTS

Sierra Leone

Despite the urgent need for accountability in Sierra Leone, progress in establishing the Special Court for Sierra Leone stalled in 2001. In 2000, the United Nations and the Government of Sierra Leone agreed to create a court that combined national and international components to try those individuals most responsible for serious crimes. This hybrid model was seen as an alternative to another Security Council-created *ad hoc* tribunal. The court would be based in Freetown, Sierra Leone, and would have both international and Sierra Leonean judges, prosecutors and staff.

The delay was due largely to the months-long impasse over the court’s budget. There were several factors at work, including, dissatisfaction with the Security Council’s decision to fund the court through voluntary, as opposed to assessed, contributions; a lack of confidence and commitment to this particular kind of hybrid court among some states; and disagreement between potential donor states and the United Nations Secretariat.

A group of “interested states” supporting the Special Court’s early establishment were critical of the Secretariat’s initial budget proposal, which totaled \$114 million for three years of operations. These delegates regarded the U.N. Secretariat’s estimates as excessive and sought to economize on the court’s operations without affecting the quality of justice. As a result of a series of meetings between the Secretariat, the “interested states,” and the Security Council, the Secretariat issued a revised budget on June 14. Under this budget, \$16.8 million was required for the first year and \$40 million for the next two years.

In mid-July Secretary-General Kofi Annan announced his decision to go forward with the Special Court’s establishment despite a shortfall in pledges. As of mid-November, the small number of states that had pledged contributions included Canada, the Czech Republic, Denmark, Germany, Mauritius, the Netherlands, Lesotho, Finland, Norway, Sweden, the United Kingdom, and the United States.

There was further delay when the government of Sierra Leone proposed in late August to extend the court’s temporal jurisdiction back in time to 1991, a position Human Rights Watch had long supported. This proposal was opposed by the United Nations Secretariat, the United States, and the United Kingdom. Human

Rights Watch sent a letter to the Security Council stressing the importance of a 1991 start date as well as the urgent need to get the court going. At this writing, the issue had not been resolved.

In early November, the court's Management Committee, mandated to oversee administrative and budgetary matters, held its first meeting in New York with the U.N. Secretariat and scheduled a planning mission to Freetown for January 2002. The mission was tasked to inspect conditions and prepare a detailed blueprint on the court's establishment for the secretary-general.

Cambodia

There was little progress in establishing the mixed national-international tribunal for Cambodia. While the authorities in Phnom Penh approved the statute, they failed to address serious concerns raised by the U.N. (See Cambodia.)

East Timor

As part of creating an East Timorese court system after the devastation of September 1999, the United Nations Transitional Administration in East Timor (UNTAET) decided to establish an international panel of the Dili district court to investigate international crimes that had occurred during 1999. In January 2001, the court handed down its first conviction, sentencing a pro-Indonesia militia member to twelve years in prison. Many low-ranking militia members had been detained, some for more than a year. It was a source of great frustration inside East Timor that justice proceeded so slowly. Inadequate training of investigators, changes in administrative structure, and a profound lack of resources and personnel plagued the court's investigative process.

INTERNATIONAL CRIMINAL COURT (ICC)

On July 17, 1998, when the Rome Statute of the International Criminal Court was adopted, only the most optimistic people imagined that it might take less than five years to garner the required sixty ratifications necessary for its entry into force. In the first half of 2001 it became a near certainty that this would happen as early as the first half of 2002. And the commitment to bringing the court into being as quickly as possible came from every region of the world.

At the General Assembly General Debate of the 56th Session of the United Nations in November 2001, many heads of state and foreign ministers made special mention of the ICC in their interventions, demonstrating the growing worldwide support for the ICC. Among those who highlighted the significance of the court were Argentina, Brazil, Canada, Chile, Czech Republic, France, Germany, Ireland, and Mexico.

From October 2000 to November 2001 twenty-six countries ratified the Rome Statute, bringing the total to forty-six. There were ten ratifications from the Americas, ten from Africa, five from the Asia/Pacific region and twenty-one from Europe. Many other countries are poised to ratify in the coming months.

A small number of states adopted domestic legislation to implement the Rome Statute. These include the Canada, New Zealand and the United Kingdom. As of the end of October 2001, a number of other countries, including Argentina, Australia, Germany, and South Africa had advanced in the process of drafting such law. Importantly, an increasing number of other states were recognizing the importance of comprehensive implementing law and were beginning the process of preparing it. Human Rights Watch saw the adoption of good implementing law as key to the effective functioning of the ICC and, in the past year, we made formal and informal submissions on draft implementing law in a number of countries, including Argentina, Australia, South Africa, and the United Kingdom.

The breadth of support for the ICC became evident in the final months of the year 2000 when states rushed to sign the Rome Statute before the December 31, 2000 deadline. Nineteen states signed during the last three weeks of December, bringing the total number of signatories to one hundred and thirty-nine countries. Iran, Israel, and the U.S. all signed on the very last day.

International Criminal Court Campaign Developments

The worldwide campaign for the ratification of the Rome Statute was assisted by many regional, subregional and national meetings. These meetings brought government, civil society, and legal experts together to discuss the complex task of preparing for ratification and developing national law implementing the Rome Statute. For example, in June, the government of Argentina, Human Rights Watch, and the Coalition of NGO's for the ICC co-convened an Iberoamerican conference in Buenos Aires for more than seventy governmental and nongovernmental actors working on the ICC.

In addition, national level conferences and workshops were held in many countries around the world, including Bangladesh, Brazil, Cambodia, Ecuador, Mexico, Paraguay, and the Philippines. Subregional meetings were held in Namibia for Southern Africa, in Hong Kong for East Asia, in Bangkok for South East Asia, in Ghana for West Africa, and in Peru for the Andean States. These meetings were crucial to raising awareness about the ICC and helped to develop the expertise necessary for ratification and implementation into national law of the Rome Statute. Human Rights Watch actively participated in many such meetings. We also continued to visit target countries around the world to advocate directly with governments for ratification and implementation of the Rome Statute.

As happened last year, regional organizations, such as the Organization of American States (OAS), Economic Community of West African States (ECOWAS), the Rio Group, the Southern African Development Cooperation (SADC) organization, the European Union (E.U.), and the Council of Europe, took the opportunity of their annual assemblies and other meetings to reaffirm their commitment to the ICC and to call on their member states to ratify without delay. For example, in June 2001, in a move long anticipated by Human Rights Watch, the E.U. adopted a Common Position on the ICC. The Common Position, which binds the member states, was unequivocal in its support for the ICC and lists the means by which the E.U. and its member states would work for the early establishment of the ICC.

Americas

The number of ratifications in the Americas more than doubled over the year with the ratifications of Antigua and Barbuda, Argentina, Costa Rica, Dominica, Paraguay, and Peru. Important advances toward ratification were made in key states in the region including Brazil and Mexico, both of which will require a constitutional amendment as part of the ratification process. Argentina established an inter-ministerial commission to prepare comprehensive draft legislation to implement the Rome Statute into domestic law. Many other states in the region expressed the political will to be among the first sixty countries to ratify the Rome Statute.

Europe

Twenty European states ratified the Rome Statute, including twelve members of the European Union. The United Kingdom adopted comprehensive legislation implementing the Rome Statute, but it unfortunately did not include provision for the exercise of universal jurisdiction over the ICC crimes it incorporated into its domestic law.

In addition to adopting the Common Position, the European Union also sent a demarche to the U.S. government in June calling on the U.S. to be a partner in the establishment of the ICC rather than opposing it.

Croatia and the Federal Republic of Yugoslavia, both subject to the jurisdiction of the International Criminal Tribunal for the former Yugoslavia, ratified this year. Poland became the third Eastern European state to ratify. However, in many Eastern European states the question of compatibility of the Rome Statute with national constitutions continued to loom large, delaying ratification in a number of countries, including the Czech Republic and Slovenia.

Africa

Following South Africa's ratification in November 2000, the momentum for ratification and implementation continued to grow among African countries in 2001. Both Nigeria and the Central African Republic ratified in September/October and others states, such as Angola, Benin, Congo/Brazzaville, and Cote d'Ivoire were making good progress towards ratification. There was more awareness of the issues involved in ratifying and implementing the Statute, particularly constitutional issues, and some states that ratified last year, including Botswana, Lesotho, Mali, Namibia, and South Africa, began work on implementation.

Middle East/North Africa

Countries in this region were slow to ratify: no state had ratified at the time of writing. However, eight states in the region signed the Rome Statute in the last year, bringing the total number of signatories from the region to eleven.

Asia/Pacific

Countries in the Asia/Pacific region continue to be the most wary of the ICC and this was reflected in the low numbers of ratifications in the region. Tajikistan was the only Asian state to have ratified. However, several began to examine the implications of ratification, including the Philippines and Thailand. In addition, the

Cambodian prime minister publicly stated his support for the ICC and sent the ratification bill to the National Assembly for its approval. A number of states in this region signed the treaty in the last year, including Iran and the Philippines.

In the Pacific, New Zealand, Nauru, and the Marshall Islands joined Fiji as states parties. New Zealand adopted comprehensive implementing legislation covering its obligation to cooperate with the ICC and incorporating the ICC crimes into national law so that national courts could prosecute them. Importantly, New Zealand also provided for the exercise of universal jurisdiction over the ICC crimes. Australia had completed its draft implementing legislation and invited public comment on it. It was expected to ratify in 2002. Human Rights Watch testified before an Australian Parliamentary Committee inquiry into the ICC in February 2001.

United States

In a very welcome move, President Clinton authorized signature on December 31, 2000, the last possible day for signing the Rome Statute. In his accompanying statement, he referred to continued concern about key elements of the Statute. He asserted the United States' commitment to bringing perpetrators of genocide, war crimes, and crimes against humanity to justice, but he firmly maintained that the signature did not signal U.S. approval of all aspects of the Rome Statute. Nonetheless, he explained that signature was essential for the U.S. to continue to work with other states to influence the evolution of the ICC.

Upon taking office, the Bush Administration announced that it would undertake a review of U.S. policy toward the ICC, which, at the time of writing had not been finalized. It was clear that the Bush administration did not support the ICC and would not refer the Rome Statute to Congress for ratification.

The United States Congress had expressed its hostility to the court more directly with the passage by the House of Representatives of the misnamed "American Servicemembers Protection Act" (ASPA). This legislation would prohibit any U.S. cooperation with the Court and would attempt to penalize countries that ratify the treaty. It had been characterized as "The Hague Invasion Act" because it also authorized the U.S. to use all means necessary to liberate any U.S. or allied persons detained on behalf of the proposed ICC.

The American Citizen's Protection and War Criminal Prosecutions Act of 2001 was presented by Senator Dodd to the Senate Foreign Relations Committee. Dodd planned to introduce this more reasonable bill to the Senate as an alternative to the ASPA.

The Bush administration expressed its support for the ASPA amendment in a State Department letter to Senator Helms on September 25, 2001. The administration's hostility to the ICC contrasted with its efforts to create a coalition to combat terrorism in the wake of the September 11 attacks. Almost all major U.S. allies were among the strongest supporters of the ICC and some had responded with alarm to the administration's support for Helms' legislation.

Throughout the year, Human Rights Watch continued to make known our opposition to the attitude of the U.S. towards the court. In particular, we met with, and wrote to, administration officials and legislators.

Preparatory Commissions

The Preparatory Commission for the ICC met twice in the past year. Meetings were held at U.N. headquarters in New York. The seventh session in March 2001 included discussion on a number of supplementary instruments included in the mandate of the commission. At the eighth session of the Preparatory Commission (September 24 - October 6, 2001) four of these instruments were adopted. They were the Relationship Agreement between the U.N. and the ICC, Rules for the Assembly of States Parties, the Financial Rules and Regulations for the ICC, and the Agreement on Privileges and Immunities. Negotiations are expected to continue in early 2002 on the Headquarters Agreement between the Host State and the ICC, the First Year Budget for the ICC, and the elaboration of the crime of aggression. Importantly, the commission also adopted a "road map," which detailed a timetable for the completion of a number of practical matters essential for the establishment of the ICC and which must be undertaken in advance of the entry into force of the Rome Statute. These included establishment of an interlocutor between the host state, the Netherlands, and the ICC and preparing documents for the first Assembly of States Parties.

The Preparatory Commission would stay in existence until the end of the first meeting of the Assembly of States Parties. This was expected to take place soon after the sixtieth ratification and entry into force of the Rome Statute. In expectation of the Rome Statute's entry into force by the middle of 2002, the General Assembly's Sixth Committee session in November 2001 approved two Preparatory Commissions for 2002, to take place in April and July, as well as authorizing the First Assembly of States Parties.

UNIVERSAL JURISDICTION

Habré Case

In February 2000, a Senegalese court indicted Chad's exiled former dictator, Hissène Habré, on charges of torture and crimes against humanity, and placed him under house arrest. It was the first time that an African had been charged with atrocities by the court of another African country. In March 2001, however, Senegal's Court of Final Appeals ruled that he could not be tried in Senegal for crimes allegedly committed in Chad. Habré's victims then sought his extradition to Belgium. The United Nations Committee against Torture and high U.N. officials subsequently requested Senegal not to let Habré leave the country except via extradition, and Senegal had agreed to hold him. In the meantime, the case opened new possibilities for justice in Chad itself.

Habré ruled Chad from 1982 until he was deposed in 1990 by current president Idriss Déby and fled to Senegal. Habré's one-party regime, supported by the United States and France, was marked by widespread abuse and campaigns against the ethnic Sara (1984), the Hadjerai (1987), and the Zaghawa (1989). In 1992, a truth commission accused Habré's government of 40,000 murders and systematic torture.

Chadian victims had sought to bring Habré to justice since his fall. With many

ranking officials of the Déby government, including Déby himself, involved in Habré's crimes, however, the new government did not pursue Habré's extradition from Senegal.

In 1999, with the Pinochet precedent in mind, the Chadian Association for the Promotion and Defense of Human Rights requested Human Rights Watch's assistance in bringing Habré to justice in Senegal. The Chadian Association of Victims of Political Repression and Crime (AVCRP) representing hundreds of Habré's victims, helped prepare the evidence. Meanwhile, a coalition of Chadian, Senegalese, and international NGOs was quietly organized to support the complaint.

In a criminal complaint filed in Dakar on January 26, 2000, the plaintiffs accused Habré of torture and crimes against humanity, providing details of ninety-seven political killings, one hundred and forty-two cases of torture, one hundred "disappearances," and seven hundred thirty-six arbitrary arrests, most carried out by Habré's dreaded DDS (Documentation and Security Directorate). A 1992 report by a French medical team on torture under Habré was also submitted to the court. After a number of victims gave closed-door testimony before the Investigating Judge, the judge called in Habré on February 3, 2000 and indicted him on charges of crimes against humanity and torture and placed him under house arrest.

After Abdoulaye Wade was elected president of Senegal in March 2000, the state prosecutor supported Habré's motion to dismiss the case. President Wade also headed a panel that removed the Investigating Judge. Habré reportedly spent lavishly to influence the outcome of the case.

On July 4, 2000, an appeals court dismissed the charges against Habré, ruling that Senegal had not enacted legislation to implement the Convention against Torture and therefore had no jurisdiction to pursue crimes that were not committed in Senegal. The United Nations special rapporteurs on the independence of judges and lawyers and on torture made a rare joint and public expression of their concern to the government of Senegal over the dismissal and the surrounding circumstances. The victims appealed the dismissal to the Cour de Cassation, Senegal's Court of Final Appeals.

On March 20, 2001, following repeated declarations by Senegal's president that Habré would never be tried in Senegal, Senegal's Cour de Cassation affirmed the appeals court decision. The effort to prosecute Habré continued, however.

In November 2000, Chadian victims had already filed a criminal complaint against Habré in Belgium, which has expansive jurisdictional laws, to create the possibility of extradition to stand trial there. That case was being actively investigated. The Belgian judge was seeking to visit Chad and it was hoped that in due course he would issue an international arrest warrant against Habré.

In addition, the victims filed a complaint against Senegal before the United Nations Committee against Torture (CAT) for violation of Senegal's obligations under the Torture Convention to prosecute or extradite Habré, asking the committee to recommend that Senegal amend its laws and either reinstate the investigation against Habré or directly compensate the victims for their loss.

In April 2001, President Wade abruptly announced that he had asked Habré to leave Senegal. While this represented an important acknowledgement of the victims' efforts, they feared that Habré would move to a country out of reach of an extradition request or a final U.N. ruling and asked the CAT to issue an interim rul-

ing to preserve their ability to bring him to justice. The CAT responded by asking Senegal “not to expel Mr. Hissène Habré and to take all necessary measures to prevent Mr. Hissène Habré from leaving Senegalese territory except pursuant to an extradition.” After the same request was made by high U.N. officials including, according to Wade, Kofi Annan, Wade announced that he would hold Habré. Habré’s supporters had since then made clear that he was looking to escape.

The victims and their supporters continued to wage an international campaign to deny Habré a safe haven, even if he were able to leave Senegal. Madagascar, Mauritania, and Pakistan, countries reportedly contacted by Habré, stated publicly that they would not grant refuge to Habré after NGOs brought the issue to public attention.

In the meantime, the case opened up new avenues for justice in Chad itself. Just as Pinochet’s arrest in Britain broke the spell of Pinochet’s impunity in Chile, the Habré indictment in Senegal had an immediate impact back in Chad. The victims who had initiated the case gained a new stature in Chadian society, having accomplished something no one had thought possible, and announced their intention to file criminal charges in Chadian courts against their direct torturers. President Idriss Déby met with the Association of Victims’ leadership to tell them that “the time for justice has come” and that he would support their cases. Déby also promised to clean up the administration by removing all former DDS agents, Habré’s political police, and to grant full access to the files of the Truth Commission to the International Committee.

On October 26, 2000, seventeen victims lodged criminal complaints for torture, murder, and “disappearance” against named members of the DDS. The case was initially thrown out by the Investigating Judge who ruled that Chadian civil courts had no jurisdiction to hear complaints against the DDS because a 1993 statute had provided for a special criminal court to try “Habré and his accomplices,” though that court never existed. The victims appealed and the appeals court turned to the Constitutional Court for advice, which ruled that the 1993 statute was unconstitutional. In May 2001, after the cases were reinstated, a new investigating judge began to hear witnesses. More than twenty victims filed new cases.

The victims’ actions were a direct challenge to the continuing power of Habré’s accomplices, who began to respond violently. The victims’ Chadian lawyer, Jacqueline Moudeina, had a grenade thrown at her by security forces commanded by one of the ex-DDS defendants and was evacuated to a hospital in France, her leg full of shrapnel.

Belgian Law

Belgium’s law providing Belgian courts with universal jurisdiction authority over genocide, crimes against humanity and war crimes is a model. The law had provided important opportunities in the struggle against impunity.

Rwandan Genocide Trials

In April, the Cour d’Assizes in Brussels began a trial of four Rwandans accused

of involvement in the 1994 Rwandan genocide. None of the four were government officials at the time of the genocide. Two of the defendants were nuns. Most unusually and importantly, a jury of Belgian citizens heard the case, and in June, found all four of the accused guilty. The jury trial validated the involvement of citizens in the pursuit of international justice. In the course of the proceedings, more than fifty witnesses traveled from Rwanda to appear in the courtroom. The trial and the conviction were covered extensively by radio in Rwanda.

Ariel Sharon

Controversy mounted in Europe in 2001 over Israeli Prime Minister Ariel Sharon's responsibility for the 1982 killings in the Palestinian refugee camps of Sabra and Shatila. The Israeli Government's Kahan Commission that had investigated the massacre in 1983 concluded that the then minister of defense, Sharon, bore "personal responsibility" and that he should "draw the appropriate personal conclusions arising out of the defects revealed with regard to the manner in which he discharged the duties of his office." The findings of the Kahan Commission, however authoritative in terms of investigation and documentation, could not substitute for proceedings in a criminal court in Israel or elsewhere that would bring to justice those responsible for the deliberate killing of hundreds of innocent civilians. In June, after the airing of a BBC documentary on the massacre, survivors lodged a complaint against Ariel Sharon in a Belgian court.

When Prime Minister Sharon visited the United States in July, Human Rights Watch urged that a criminal investigation be launched into his role in the massacre and asked that the U.S. government encourage Sharon to cooperate with any investigation. As prime minister, Sharon could invoke immunity from prosecution. However, this should not preclude an active criminal investigation either in Israel or elsewhere.

Democratic Republic of Congo v. Belgium at the International Court of Justice

In a potentially serious challenge to universal jurisdiction, the Democratic Republic of Congo (DRC) filed a case on April 11, 2000 with the International Court of Justice (ICJ) contesting the lawfulness of a Belgian arrest warrant issued against the DRC's then acting foreign minister, Abdoulaye Yerodia Ndombasi. A Belgian investigating judge had charged Yerodia with genocide, war crimes, and crimes against humanity. The accusations were based on public calls Yerodia had made for the Congolese population to kill members of the Tutsi ethnic group at the start of the rebellion against Congolese President Laurent Kabila in August 1998. The arrest warrant was based on a 1999 Belgian law giving Belgian courts the authority to prosecute individuals accused of atrocities regardless of the crimes' connection to Belgium or the accused's presence on Belgian soil. The Democratic Republic of the Congo contended that the law violated its territorial integrity and that the international arrest warrant was invalid as its acting foreign minister enjoyed diplomatic immunity.

The DRC sought provisional remedies from the court to have the arrest warrant invalidated. After several days of oral arguments in November 2000, the court denied the DRC's request for provisional measures. On October 15, 2001, the ICJ heard arguments on the substantive claims. The DRC dropped the challenge to the fundamental lawfulness of universal jurisdiction in its pleading to the ICJ.

Internal Challenges

An increasing number of cases were filed in Belgian courts under its universal jurisdiction law. Many of these charged current and former heads of state with serious crimes, including Fidel Castro, Ange Felix Patasse, Yasir Arafat, and Hashemi Rafsanjani. Because of the provisions of Belgian law, these cases were initiated even when the accused was not present on Belgian territory. This proliferation of cases prompted some in the Belgian government to reconsider its universal jurisdiction law. In July, when Belgium assumed the rotating presidency of the European Union, the Belgian cabinet considered amending the law in Parliament, but was unable to reach agreement. Belgium's *Chambre d'Accusation* was to determine the admissibility of several cases filed against current heads of state, including, the case of Ariel Sharon and the Ivory Coast's Laurent Gbagbo. Through these cases the court was to decide whether to reinterpret the law to require the defendant's presence on Belgian soil before a case could move forward. In late November 2001, the International Commission of Jurists, the International Federation of Human Rights Leagues (FIDH), and Human Rights Watch issued a joint press release expressing support for the Belgian law. Shortly thereafter the court announced that it would likely issue its decision in January 2002. Whatever the decision, it would be appealed to Belgium's highest court, the *Cour de Cassation*.

Dutch Courts and Colonel Desi Bouterse

Of course, Belgium was not the only state with universal jurisdiction legislation. Over several years trials of low and mid-level accused had taken place in Switzerland, Denmark, and Germany on the basis of universal jurisdiction, but efforts to invoke universal jurisdiction were not always successful.

In March 2001, an Amsterdam Appeals Court issued an important ruling allowing Dutch prosecutors to investigate the "possible involvement" of former Suriname dictator Desi Bouterse in serious human rights crimes in 1982. The Appeals Court authorized the retrospective application of Dutch legislation implementing the Convention Against Torture. The judges found that because the acts had been prohibited by preemptory norms of international law, it was permissible to apply the 1988 Dutch enabling legislation to acts that had occurred six years prior to the law's enactment. In September, however, the Dutch Supreme Court reversed the Appeals Court decision.

INCREASED ACCESS TO NATIONAL COURTS

Despite the failure to hold Augusto Pinochet to account in Chilean courts, the synergy between justice at the international level and increased access to national courts continued most clearly in the Americas. Most of the results were positive.

Ricardo Miguel Cavallo

In August 2000, Mexican authorities arrested Ricardo Miguel Cavallo, a former Argentine navy lieutenant, at the request of Spanish investigating judge Baltasar Garzon. In February 2001, Mexican Foreign Minister Jorge G. Castaneda authorized Cavallo's extradition to face charges in Spain for human rights violations in Argentina during that country's "Dirty War." Cavallo's lawyers filed an amparo petition (recurso de amparo) before a federal court (the Juzgado Primero "B" de Distrito en Materia de Amparo) challenging the constitutionality of the foreign minister's decision. A decision from the court was still pending. Should it reject Cavallo's petition, he would have the option of filing a judicial appeal, which would ultimately be considered by the Mexican Supreme Court.

Argentine Amnesty Law

On March 6, Argentine Federal Judge Gabriel Cavallo struck down as unconstitutional two laws that had barred prosecution of those responsible for human rights crimes: the "Full Stop" and "Due Obedience" laws. This ruling would clear the way for trials of military officials accused of human rights crimes during the "Dirty War." The ruling was issued in a 1978 murder-kidnapping case and was an important step in ending more than two decades of impunity. In November, the Buenos Aires Federal Court upheld Judge Cavallo's decision by rejecting the defendant's appeal. Argentina's Supreme Court would review the case.

Alfredo Astiz

On July 1, former Argentinean naval officer Alfredo Astiz surrendered to Interpol in Buenos Aires. He was arrested on orders of Argentine Federal Judge María Servini de Cubría, who received a formal request for his extradition from an Italian court. Captain Astiz, notorious for human rights abuses committed during Argentina's military dictatorship (1976-1983), was charged in Italy with the kidnapping and torture of three Italian-Argentines. Human Rights Watch had called on President Fernando De la Rúa of Argentina to extradite Astiz to Italy. In a setback for international justice, the Argentine Foreign Ministry decided to release him on August 21.

Relevant Human Rights Watch Reports:

Making the International Criminal Court Work: A Handbook for Implementing the Rome Statute, 9/01

LESBIAN, GAY, BISEXUAL, AND TRANSGENDER RIGHTS

Although the visibility of lesbian, gay, bisexual, and transgender people throughout the world continued to rise in 2001, their increased visibility was accompanied by attacks based on sexual orientation and gender identity. Human rights activists who sought to use the human rights framework to call to account states that participated in these rights abuses or condoned them also came under attack. In virtually every country in the world people suffered from de jure and de facto discrimination based on their actual or perceived sexual orientation. In some countries, sexual minorities lived with the very real threat of being deprived of their right to life and security of person. A small number of countries continued to impose the death penalty for private sexual acts between consenting adults. In several others, sexual minorities were targeted for extrajudicial executions. In many countries, police or other members of the security forces actively participated in the persecution of lesbians, gay, bisexual, and transgender people, including their arbitrary detention and torture. Pervasive bias within the criminal justice system in many countries effectively precluded members of sexual minorities from seeking redress.

These attacks on human rights and fundamental freedoms also occurred in international fora where states were gathered to promote, not attack, human rights. For example, in New York in June at the U.N. General Assembly Special Session on HIV/AIDS, delegates attempted to ban nongovernmental representative Karyn Kaplan from the International Gay and Lesbian Human Rights Commission (IGLHRC) from speaking at an official roundtable. Delegates from Sudan, Syria, Pakistan, Libya, Malaysia, Egypt, Iran, Saudi Arabia, and Morocco criticized in their verbal statements any recognition of sexual minorities. Although the U.N. General Assembly eventually voted in a closed plenary session to allow Kaplan to speak at the roundtable, the final document did not include any explicit reference to lesbian, gay, bisexual, and transgender people despite the fact that sexual minorities were at increased risk of HIV infection in many countries.

The rights of sexual minorities also came under attack at the U.N. Commission on Human Rights where delegates objected to the inclusion of cases of extrajudicial executions of sexual minorities in the report of the U.N. special rapporteur on extrajudicial, summary, and arbitrary executions. Delegates argued that the special rapporteur overstepped her mandate by addressing these crimes. The resolution renewing her mandate was stripped of language explicitly recognizing that sexual minorities were vulnerable to extrajudicial executions.

Other intergovernmental bodies played a strong role in upholding the rights of lesbian, gay, bisexual, and transgender people. Under article 13 of the Treaty of Amsterdam, which entered into force in 1999, the European Union could adopt measures to combat discrimination based on sexual orientation, among other grounds. In addition, the Charter of Fundamental Rights of the European Union, adopted in December 2000, included sexual orientation among the prohibited

grounds of discrimination. However, the European Union's governing bodies could only act to implement these provisions within their area of competence, which generally excluded criminal law, family law, and education. In a directive that entered into force in December 2000, the European Council called upon member states to take steps within three years to ban sexual orientation discrimination in employment.

The European Union was also required to assess the respect for human rights, including the principle of equality, in the twelve countries with which it had opened negotiations for accession to membership. The twelve countries were Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Romania, Poland, Slovakia, and Slovenia. (In addition, Turkey was a candidate for membership in the European Union but was not currently in negotiations.) Five of the thirteen countries that had applied for membership—Bulgaria, Cyprus, Estonia, Hungary, and Lithuania—maintained discriminatory provisions in their criminal laws, according to the European branch of the International Lesbian and Gay Association. In July, the Romanian government adopted a decree decriminalizing gay relationships between consenting adults, effectively nullifying a law that allowed sentences of up to five years imprisonment for homosexual relationships “occurring in public or which provoke a public scandal.”

After a European Parliament intergroup on gay and lesbian rights held a hearing in June 2001, E.U. Enlargement Commissioner Guenter Verheugen confirmed that “full attention” would be given in the accession review process to issues related to discrimination based on sexual orientation. The European Parliament, which must approve applications for membership in the European Union, stated in 1998 that it would not give its consent to the accession of a country that violated the rights of lesbians and gay men.

PERSECUTION

Lesbian, gay, bisexual, and transgender people were vilified by officials of several countries. They were denied equal enjoyment and protection before the law in a significant number of countries. They were arrested and tried, sometimes under national security laws, for private consensual acts. In Namibia, President Samuel Nujoma continued to vilify gay men and lesbians, stating, “The Republic of Namibia does not allow homosexuality, lesbianism here. Police are ordered to arrest you, and deport you, and imprison you too.” The nationally televised speech came just two weeks after the Namibian Supreme Court overturned a lower court ruling recognizing the right of one member of a same sex couple to confer permanent residency on the other. Soon after the speech, the Rainbow Project, a non-governmental human rights organization working with sexual minorities, started receiving reports of harassment and beatings by the Special Field Forces, a security unit reporting directly to the president. Nujoma later clarified his statement, “Traditional leaders, governors, see to it that there are no criminals, gays and lesbians in your villages and regions. We . . . have not fought for an independent Namibia that gives rights to botsotsos [criminals], gays and lesbians to do their bad things here.”

In November, Malaysian Prime Minister Mahathir Mohamad also verbally attacked gays, announcing that he would expel any gay British government minister if he came to Malaysia with a partner. Mahathir explained in an interview with BBC radio, "the British people accept homosexual ministers. But if they ever come here bringing their boyfriend along, we will throw them out. We will not accept them."

In February, confusion reigned about the fate of two women who were reportedly sentenced to death for "unnatural behavior" in the city of Boosaaso in the self-declared autonomous region of Puntland, northeast Somalia. The news of the sentence was first published in a local weekly and was subsequently picked up by the national and international press in Mogadishu. When the reports of the case generated significant international attention on Puntland, the authorities denied the reports and instead accused journalists of inventing the story to discredit the government. The authorities also accused the editor of the weekly paper of making false assertions and published statements. Lost amid all the debate about the politics of the government's relationship with the press was any clarification regarding the two women named in the report.

Lesbian, gay, bisexual, and transgender people faced arrest for consensual sexual activities and many of those arrested reported being tortured by the police. In Egypt, a sixteen-year-old boy was convicted of "debauchery" on September 18 for allegedly engaging in sexual relations with men. The boy received a sentence of three years' imprisonment with labor followed by three years of probation. His sentence was on appeal at this writing. The youth said that police extracted a confession from him after subjecting him to painful beating on the soles of the feet. He did not have access to a lawyer during his interrogation, and he was not allowed to contact his family during the first two weeks of his detention. Press and spectators were allowed to attend and report on the September and October hearings, and the boy's name, photo, and accounts of the charges and sentence have appeared in Egypt's semi-official press.

The boy was one of fifty-three people detained and charged with similar offenses after a crackdown in May against men presumed to be gay. The others, all adults, were arrested and subjected to violations of standard arrest procedures according to their defense attorneys. There were reports that the men were beaten and subjected to forensic examinations in order to ascertain if they had engaged in anal sex. They were prosecuted before an Emergency State Security Court, which reached a verdict on November 14. Twenty-three were sentenced to between one and five years of hard labor; twenty-nine were acquitted. Because the trial took place before an Emergency State Security Court, those convicted could not appeal their sentences.

Despite urgent appeals from the U.N. special rapporteurs on the independence of judges and lawyers, and torture and the Working Group on Arbitrary Detention, the Egyptian authorities not only went through with the prosecutions of the men, but a day after the sentencing in the first case, police arrested and charged four more men on the same grounds. They too were reportedly tortured. As Egypt did not expressly outlaw homosexual acts, the charges included "habitual practice of debauchery" and "contempt of religion."

In March, two men in Lebanon were convicted by a military court of defaming the Vice Squad (Police des Moeurs) and fined U.S. \$200. In July, on appeal to the Military Court of Cassation, the conviction of one of the men was overturned. The case began in April 2000 when two plainclothes police officers from the Vice Squad entered the office of Destinations, an internet service provider (IPS), seeking the identities of the person who had financed and installed a website with gay related content, including the need for legal reform within Lebanon. Ziad Mugarby, the manager of the IPS refused to cooperate with the warrantless search. He was subsequently order to appear the next day for questioning. After repeated threats and interrogations, Mugarby turned to Multi-Initiative on Rights, Search, Assist and Defend (MIRSAD), a human rights nongovernmental organization in Lebanon for support. In July, director of MIRSAD Kamal el Batal was also questioned by the police. The two men were subsequently tried in a military court for defamation based on their publicizing the circumstances of the case. Batal's conviction was overturned.

On July 7, police raided the offices of the Bharosa Trust and the Naz Foundation International in Lucknow, organizations that worked on HIV/AIDS prevention, arresting several staff members. Although subsequently released on bail, the staff members were charged under article 377 of the Indian Penal Code, a provision that prohibited "carnal intercourse against the order of nature." Article 377 had been used repeatedly to justify discrimination and police brutality against gay, lesbian, and bisexual individuals.

Members of sexual minorities also faced detention in psychiatric hospitals in several countries. In April, the National Human Rights Commission of India missed a significant opportunity to address this violation when it announced that it did "not want to take cognizance" of a case brought before the commission objecting to involuntary aversion therapy and other forms of psychiatric abuse aimed at "converting" homosexuals. The commission explained its decision by stating, "sexual minority rights did not fall under the purview of human rights."

More than a year after the murder of transgender activist Dayana (Jose Luis Nieves), transgender people living in Venezuela continued to face unrelenting police harassment. The Commander of Police in the state of Carabobo announced, "homosexuals and prostitutes are to be ruled by the police code. They cannot move freely in the streets." Activists reported that this attitude by the police had led to an atmosphere of fear and intimidation within the transgender community.

Another transgender activist, Diane Sacayan in Argentina, who had publicly denounced police harassment and abuse of transvestites, was arrested in the city of Don Bosco in February and charged with robbery. As of this writing, she was still in detention and had not had the evidence against her presented at a preliminary hearing. Sacayan reported being tortured by the police and alleged that that she was arrested not for robbery but for refusing to pay a bribe to the local police. Stigmatization of transgender people made them particularly vulnerable to abuse by the authorities. Transvestites in Argentina were arrested under a law prohibiting the wearing of the clothes of the opposite sex, a *prima facie* violation of freedom of expression.

The persecution of transgender people in Argentina led to a historic meeting of

activists with U.N. Special Rapporteur on Freedom of Expression Dr. Abid Hussain. The meeting followed the issuing of a joint statement by six U.N. experts urging lesbian, gay, bisexual, and transgender activists to send them information regarding human rights violations based on sexual orientation or gender identity.

DISCRIMINATION

Although lesbian, gay, bisexual, and transgender people continued to experience *de jure* and *de facto* discrimination in virtually every country in the world, several significant changes occurred in 2001. Netherlands became the first state to allow same sex couples to marry. Just three years after implementing a domestic partnership law, the legislature, by a significant majority, passed a law to end discrimination in marriage. The law went into effect on April 1. The law required that at least one partner be a Dutch citizen or resident, as required for heterosexual couples who marry.

In another groundbreaking decision, Colombia's Supreme Court issued a decision on October granting conjugal visits to a lesbian in prison and her partner. The decision in the Montoya case not only ended the practice of gender and sexual orientation based discrimination regarding conjugal visits for prisoners. The ruling could also resolve the ongoing case of Marta Alvarez, who faced similar discrimination and brought the first sexual orientation-related case ever presented to the Inter-American Commission on Human Rights. The case was heard by the commission in October 1999. After the hearing, the parties entered into settlement negotiations. The law, prior to this decision, granted conjugal visits to heterosexual male inmates but limited conjugal visits to the spouses of heterosexual female inmates. The government admitted that its practice was discriminatory but argued that the restrictions on conjugal visits promoted security, discipline, and morality in the prisons. The government also argued that Latin American cultures did not tolerate homosexuality.

In September, Judge Kathleen Satchwell, a judge in South Africa, won the right for her female partner to enjoy the same benefits as those previously reserved for "spouses" of married heterosexual judges. Although South Africa continued to take the lead on human rights protections for gays and lesbians, Minister of Justice Penuell Maduna fought the Satchwell case to the bitter end, revealing deep-seated reservations about the constitution's equality clause. Also in September, a South African Court ruled that gay and lesbian couples could adopt children. The judgment was appealed to the Constitutional Court.

The issue of bias remained a serious concern for sexual minorities worldwide. A report released in February by the Judicial Council of California, revealed that anti-gay bias was a major problem in the court system statewide in California. Over half of all gay men and lesbians interviewed regarding their court experiences reported hearing anti-gay comments or experiencing anti-gay actions when sexual orientation became an issue. Nearly a third of all court employees believed that it was unsafe for them to be openly identified as gay or lesbian in the workplace. This bias remained even though California was one of the United States' most progressive states regarding lesbian and gay equality.

In Finland, a new law allowed gays and lesbians to register as couples and obtain some of the same benefits previously reserved for married couples or relatives, such as the right to inherit property and to visit if one partner was hospitalized. However, unlike in South Africa, gay and lesbian couples were still banned from adopting children or taking a common surname.

Seven years after the military's "Don't Ask, Don't Tell" policy was codified as law and implemented, the United States military's own surveys and investigations found that training on how to implement the law was deficient and that anti-gay harassment remained pervasive in the military. Many military personnel who faced verbal or physical harassment and feared for their safety made statements acknowledging they were gay, knowing that it would mean the end of their careers, but also aware that if they complained officially about anti-gay harassment they would probably themselves face an intrusive inquiry and discharge. They also knew that harassers were rarely punished.

Although the "Don't Ask, Don't Tell" policy was ostensibly intended to allow gay, lesbian, and bisexual service members to remain in the military, discharges increased significantly after the policy's adoption. From 1994 to 2000, more than 6,500 servicemembers were discharged under the policy, with a record number of 1,231 separations during 2000. Women were discharged at a disproportionately high rate, while the policy provided an additional means for men to harass women service members by threatening to "out" those who refused their advances or threatened to report them, thus ending their careers.

The U.S. was increasingly out of step internationally in maintaining restrictions on homosexuals serving in the military. Most of its NATO and other allies either allowed homosexuals to serve openly or had no policy on the issue. In September 1999, the European Court of Human Rights rejected a United Kingdom ban on homosexuals serving in the military; the justification for that ban had been similar to that used to defend the U.S. military's "Don't Ask, Don't Tell" policy.

Each day was a test of survival for many lesbian, gay, bisexual, and transgender students in U.S. public schools. Our 2001 report, based on interviews in rural and urban areas of seven U.S. states, documented rampant discrimination against those who failed to conform to rigid rules of how boys and girls should behave. We found that harassment often began at an early stage and escalated rapidly in middle and high school. Teachers, administrators, and counselors not only neglected to defend students from harassment but in some cases participated in discriminatory behavior themselves.

As a result, many lesbian, gay, bisexual, and transgender students remained closeted, unable to express a fundamental aspect of their identity. Students who were more vocal about their sexual orientation or gender identity were targeted for physical and psychological violence. Girls in general and lesbians in particular were especially vulnerable to the compounded effects of sexism and homophobia, which they frequently suffered in silence, ignored by school authorities. The physical and psychological toll of unaddressed verbal and physical abuse was often profoundly debilitating, affecting students' schoolwork and their mental well-being; some students dropped out of school, sank into depression, or even attempted suicide.

In response to increasing evidence of harassment of lesbian, gay, bisexual, and transgender students in U.S. schools, Senator Paul Wellstone introduced legislation

to conduct a federal study of the level of sexual harassment against sexual minority students by peers and school officials. The study would include analysis of the effectiveness of guidelines issued by the Office of Civil Rights at the U.S. Department of Education in 1997 that specifically addressed the safety of gay and lesbian students. As of this writing, the bill was in committee.

Relevant Human Rights Watch Reports:

United States: Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in U.S. Schools, 5/01

PRISONS

Prisoner numbers continued to rise in countries all over the world, resulting in severe overcrowding of prisons and other detention facilities. Even where legislation permitted alternatives to incarceration as a criminal sanction, authorities in most countries neglected them in preference to confinement.

While conditions of detention varied greatly from country to country and facility to facility, standards in most countries were shockingly low, and in some cases horrific. Prisons and jails in even the richest and most developed countries were plagued by massive overcrowding, decaying physical infrastructure, inadequate sanitation, lack of medical care, guard abuse and corruption, and prisoner-on-prisoner violence. In many countries abysmal prison conditions were life threatening, leading to inmate deaths from disease, malnutrition, and physical abuse. With few exceptions, neither the public nor political leaders were willing to commit the financial resources needed to improve prison conditions. By barring human rights groups, journalists, and other outside observers access to their penal facilities, prison officials in many countries sought to shield substandard conditions from scrutiny.

ABUSIVE TREATMENT OF PRISONERS

Violence was rife in many prisons. In some countries, including Brazil, Kenya, Venezuela, and Panama, prison homicides were so frequent as to seem routine. Inmates were usually killed by other inmates rather than by guards, but inmate-on-inmate violence was often the predictable result of official negligence. By neglecting to supervise and control the inmates within their facilities, by failing to respond adequately or at all to incidents of violence, by corruptly allowing the entry of weapons and drugs into the prisons, and by generally abetting the tyranny of the strongest prisoners over the weakest, prison authorities were directly complicit in the violence against their charges. In some countries, for example Mexico, inmates were able to control fellow inmates with little interference from prison

authorities, and to engage in violence, sexual abuse, drugs and arms trafficking, coercion, and influence peddling.

Incidents of collective violence, particularly in South America, also led to inmate deaths and injuries. In May, clashes between rival inmate gangs at two prisons in Venezuela, El Rodeo and Tocuyito, left twelve inmates dead and at least thirty-three wounded. During 2000, 276 Venezuelan prisoners were killed during gang fights or riots. In a February uprising coordinated by a prison gang, 20,000 prisoners took some 7,000 hostages, including at least twenty-seven guards, in over two dozen prisons in Sao Paulo state in Brazil. During the seventeen-hour revolt, sixteen prisoners were killed and seventy-seven wounded; four police agents were also wounded. It was unclear how many of the prisoners were killed by the police, but they apparently shot at least three prisoners in the back. Three other prisoners suffocated to death after guards left them locked in a sweltering van. The Sao Paulo prison system is notorious for under-staffing, extreme overcrowding, deaths in custody, use of torture, and lack of medical and sanitation facilities. More uprisings followed in other Brazilian states in March. In a juvenile detention center in Alagoas, four inmates died after other prisoners set them on fire. In Colombia, ten prisoners died and twenty-three were wounded in a July gun battle among inmates in Bogota's Modelo prison. After quelling the violence, authorities found small arms, grenades, machine guns, and ammunition inside the prison. The Procuracy opened an investigation against various prison officials for failing to maintain security and prevent the violence.

Physical abuse of prisoners by guards remained another chronic problem. The U.N. special rapporteur against torture reported in April that torture and ill-treatment were widespread in Brazil's prisons and detention centers. There and elsewhere, unwarranted beatings were so common as to be an integral part of prison life in many prison systems, including Angola, Armenia, Brazil, the Democratic Republic of Congo, Egypt, Iran, Iraq, Malaysia, Mexico, South Africa, Thailand, and Vietnam, among other countries. In Indonesia, officers punished inmates with electric shock batons and by stapling their ears, nose and lips. In the United States, electronic stun devices were used to control inmates. Some countries continued to permit corporal punishment and the routine use of leg irons, fetters, shackles, and chains. The heavy bar fetters used in Pakistani prisons, for example, turned simple movements such as walking into painful ordeals. Some prisoners contracted gangrene and required amputations. In Iraq, some prisoners in two prisons were reportedly locked in metal boxes the size of coffins that were opened for only thirty minutes each day.

Women prisoners were vulnerable to custodial sexual abuse. The problem was widespread in the United States, where male guards outnumbered women guards in many women's prisons. In some countries, Haiti being a conspicuous example, female prisoners were even held together with male inmates, a situation that exposed them to rampant sexual abuse and violence.

In contravention of international standards, juvenile inmates were often held together with adults. Many of Pakistan's jails and police lockups mixed juvenile and adult prisoners, as did certain detention facilities in Nicaragua, Kenya, South Africa, Sudan, Turkey, the United States, and Zambia, among other countries.

Male inmate on inmate rape was common in many prison systems. In the United

States, rape was a widespread problem facilitated by staff indifference and even, in some instances, complicity, as well as by a lack of effective prevention and punishment systems. In South Africa, the Office of the Inspecting Judge reported that fellow prisoners sodomized an estimated 70 to 80 percent of arrested suspects.

Corruption and extortion accompanied the low salaries generally paid to guards and their inadequate training and supervision. In exchange for contraband or special treatment, inmates in many countries supplemented guards' salaries with bribes. Powerful inmates in Colombian, Indian, and Mexican prisons, among others, enjoyed cellular phones, rich diets, and comfortable lodgings, while other inmates were held in squalor. Prisoners in many countries complained that they must buy their food, medicine and other necessities from guards or bribe guards to allow goods to be brought into the facility.

Increasing levels of overcrowding—prevalent in most countries for which information was available—compounded substandard conditions. Inadequate living space, poor or nonexistent ventilation, limited sanitation facilities, low levels of cleanliness and hygiene, and inadequate food and medical supplies made prisons life-threatening in many countries, including Armenia, Burma, Kenya, Mozambique, Nigeria, Peru, Russia, Sudan, Tanzania, Zambia. In the central prison in Karachi, Pakistan, there were four times as many prisoners as the prison was designed to hold, and only two toilets available per hundred prisoners. In Uzbekistan, ten to fifteen inmates were reportedly confined in cells designed for four. In Peru's Lurigancho men's prison, 6,000 inmates were held in a facility built to accommodate 1,500. The La Loma prison in Mexico, built to hold two hundred prisoners, housed nearly 1,200. In Bolivia, cells were "sold" to incoming prisoners by previous occupants or other prisoners; in the poorest areas, cells measured three by four by six feet and lacked ventilation, lighting, or beds. The crowding in some prisons is so bad that prisoners must sleep sitting up. In Angola, whose prison population is five times larger than the prison system's capacity, many prisons lacked financial support from the government.

In many countries, prison authorities failed to provide basic necessities to prisoners, who were obligated to depend on families, friends or international relief organizations for food, blankets, mattresses, toiletries, and even toilet paper. Insufficient food or poor diet leading to many cases of malnutrition, semi-starvation and even death, was a serious problem in countries such as Angola, Armenia, Azerbaijan, Burundi, Cambodia, Colombia, Cuba, Ethiopia, Haiti, Mexico, Mozambique, Pakistan, Peru, Russia, Tajikistan, Tanzania, Turkmenistan, Uganda, and Uzbekistan.

Another common problem was governments' continued reliance on antiquated and physically decaying prison facilities. Nineteenth-century prisons needing constant upkeep remained in use in Italy, Mexico, Russia, the United Kingdom, and the United States, among other countries, and more modern facilities were often in severe disrepair due to lack of maintenance. Many prisons lacked adequate sanitation facilities, a problem compounded by overcrowding. Some cells lacked toilets or latrines, requiring prisoners to "slop out," that is, defecate in buckets that they periodically emptied. In the United Kingdom, for example, there were still five prisons in Scotland where inmates still had to slop out although the Committee for the Prevention of Torture condemned the practice as "inhuman" more than a decade

ago. Inmates at Makala prison in the Democratic Republic of Congo had no toilets and had to urinate and defecate on the floor.

Detained migrants awaiting deportation were also frequently confined in appalling conditions. In Greece, for example, migrants held at the Alexandras Avenue police station in Athens were confined for long periods in grossly overcrowded conditions. The detainees had little access to medical care, exercise, and fresh air. They lacked adequate food and sleeping conditions, and were kept in a dirty and roach infested environment.

A different set of concerns was raised by the spread of ultra-modern “super-maximum” security prisons. Originally prevalent in the United States, where politicians and state corrections authorities promoted them as part of a politically popular quest for more “austere” prison conditions, the supermax model was increasingly followed in other countries. Prisoners confined in such facilities spent an average of twenty-three hours a day in their cells, enduring extreme social isolation, enforced idleness, and extraordinarily limited recreational and educational opportunities. While prison authorities defended the use of super-maximum security facilities by asserting that they held only the most dangerous, disruptive, or escape-prone inmates, few safeguards existed to prevent other prisoners from being arbitrarily or discriminatorily transferred to such facilities. In Australia, the inspector of custodial services found that some prisoners were being held indefinitely in special high security units without knowing why or when their isolation would end.

Beginning in December 2000, the Turkish government opened six “F-type” prisons for prisoners held for offenses tried in the state security courts. Concerned about conditions in the new prisons, where they were to be held in cells rather than communal wards, hundreds of prisoners began a hunger strike in October 2000. By November, thirty-eight prisoners or former prisoners and four prisoners’ relatives had died in the hunger strike, and at least 399 prisoners had been released because of poor health. Twenty-eight prisoners were killed on December 19, 2000 when the government sent soldiers into twenty prisons to break the protest and transfer inmates to the new facilities. Some prisoners deliberately burned themselves to death. Inmates in the F-type prisons were initially held in small group isolation, locked in shared cells and deprived of opportunities for exercise, work, education or other social activities. However, new legislation was passed in May to enable out-of-cell activities, in which some prisoners were permitted to engage. Prisoners reported being subjected to “disciplinary” beatings.

Fiscal constraints and competing budget priorities were to blame for prison deficiencies in some countries, but as the supermax example suggests, harsh prison conditions were sometimes purposefully imposed. In Peru, notably, a punitive motive was evident in the decision to hold top-security prisoners in the high-altitude Challapalca and Yanamayo prisons, whose remote locations and miserable conditions led the Inter-American Commission on Human Rights to declare in 2000 that they were “unfit” to serve as places of detention. The European Court of Human Rights ruled in April that conditions in the segregation unit of Koridallos prison in Greece constituted treatment in violation of article 3 of the European Convention on Human Rights. The inmate who brought the case for several months had been practically confined continuously to his bed in a small cell shared

with another inmate; the cell had no ventilation, no windows and no privacy for the in-cell toilet.

With few means to draw public attention to violations of their rights or to secure improved conditions, prisoners around the world resorted to riots, hunger strikes, self-mutilation, and other forms of protest. In Guatemala, over 1,000 prisoners temporarily took control of the country's main detention facility in Guatemala City, to demand improved conditions. In Venezuela, inmates at El Rodeo prison in June held 250 visitors and guards hostage for three days until officials agreed to study prison conditions and ways to address agonizingly slow pace of legal cases.

In Bolivia, nearly 3,000 prisoners went on strike to demand inclusion in a new amnesty law. Three women prisoners had themselves tied to slabs of wood with cord and sheets and raised to the highest point at the prison so that they could be seen, as if crucified, by the public. Four other women had their lips sewn together in an effort to obtain amnesty. About 950 male inmates of an Argentine prison in Buenos Aires began a mass hunger strike in January, demanding the shortening of their sentences. Protests and violent mutinies, in which guards and visitors are often taken hostage, have become commonplace in Argentina's crowded, filthy and violent prisons. In Nepal, jail inmates demanding better conditions started attacking the guards, who opened fire, killing one and injuring about a dozen more.

UNSENTENCED PRISONERS

Although comprehensive figures were impossible to obtain, the available statistics showed that a large proportion of the world's prisoners had not been convicted of any crime, but were instead being detained pending trial. In countries as varied as Bangladesh, Burundi, Chad, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, India, Mali, Nigeria, Pakistan, Peru, Rwanda, Uganda, and Venezuela, unsentenced prisoners made up the majority of the prison population. In South Africa, 64,000 people—more than one third of the country's prisoners—were incarcerated awaiting trial. Fifty-nine percent of the inmates in Central American prisons were unsentenced, with Honduras having the highest percentage: 87 percent. Worse, such detainees were in many instances held for years before eventually being acquitted of the crime with which they were charged. Prisoners also continued to be held after the expiration of their sentences in some countries. In many countries, prisoners awaiting trial were confined together with sentenced prisoners.

HEALTH

Health care in most prisons was poor to non-existent. Even in developed countries, medical services for prisoners were often seriously inadequate. In April, the British Medical Association warned that limited medical resources, medical staff shortages and poor prison management were contributing to a prison health care crisis in England and Wales.

The spread of communicable diseases in numerous prison systems was the predictable result of overcrowding, malnutrition, poor ventilation, lack of potable water, inadequate sanitation, and lack of medical care. Tuberculosis (TB) continued to ravage prison populations around the world, including those of Armenia, Azerbaijan, Belarus, Brazil, Cuba, India, Peru, Russia, Turkmenistan, Uzbekistan, and Venezuela. Twelve percent of the prison population in Kazakhstan had tuberculosis.

Penal facilities around the world reported grossly disproportionate rates of HIV infection and of confirmed AIDS cases. A November 2000 government study estimated that the HIV infection rate among prisoners in Canada was at least fifteen times higher than in the general population. The corresponding figure in the United States was about six times higher, and similar disparities were evident elsewhere. While overcrowding and a lack of appropriate services facilitated the spread of many infectious diseases in prison, HIV/AIDS resulted particularly from the failure of prison authorities both to protect inmates from sexual violence and to offer even simple and cheap services such as access to condoms. Segregation of HIV-positive prisoners, in some cases causing their marginalization from basic services, remained common in several countries and was practiced in three U.S. states (Alabama, Mississippi and South Carolina). Regular access to services such as needle sterilization or needle exchange in prisons was a distant dream in most countries outside of Western Europe.

Access to antiretroviral drugs contributed to lower death rates from AIDS among prisoners in Western Europe, North America and some Latin American countries, but they were unavailable elsewhere, including in Eastern Europe, which has the fastest growing AIDS epidemic in the world. The Centers for Disease Control of the U.S. government reported late in 2000, however, that U.S. prisoners have a higher rate of drug-resistant strains of HIV than the general population due to irregular supplies of drugs and because inmates have medicines taken away from them when they are processed in and out of the prison system.

In 2001, there was increasing awareness that hepatitis C had joined HIV/AIDS and tuberculosis as a major scourge of prisoners. The hepatitis C virus (HCV), like HIV, can cause liver failure and death and is transmitted through needle sharing, tattooing with used needles, and sharing of shaving equipment. Canada estimated that HCV was fifty times more prevalent among its prisoners than in the general population. In 2001, inmates brought legal actions against several U.S. states for failure to provide adequate HCV treatment.

DEFENDING PRISONERS' HUMAN RIGHTS

Struggling against governmental tendencies toward secrecy and silence on prison abuses, numerous local human rights groups around the world sought to obtain access to prisons, monitor prison conditions, and publicize the abuses they found. In some countries, government human rights ombudspersons, parliamentary commissions, and other official monitors also helped call attention to abuses. In the United Kingdom, notably, the chief inspector of prisons continued his vig-

orous investigation and forthright criticism of conditions in the country's penal facilities. In many countries, however, authorities permitted no outside scrutiny of penal conditions.

At the regional level, prison monitoring mechanisms were active. The European Committee for the Prevention of Torture (CPT) continued its important work, inspecting penal institutions in Georgia, Greece, Malta, Moldova, the Russian Federation (Chechen Republic), Slovenia, Spain, Switzerland, Turkey, and the United Kingdom and publishing reports on penal conditions in Austria, Croatia, France, Greece, Hungary, Lithuania, the former Yugoslav Republic of Macedonia, Northern Ireland, Portugal, and Turkey.

In Africa, the special rapporteur on prisons and conditions of detention, an adjunct to the African Commission on Human and Peoples' Rights, visited prisons in Malawi, Namibia and Mozambique. The General Assembly of the Organization of American States adopted a resolution endorsing efforts to draft an Inter-American Declaration on Persons Deprived of Liberty.

UNITED NATIONS MONITORING EFFORTS

The vast scale and chronic nature of human rights violations in the world's prisons have long been of concern to the United Nations, as demonstrated by the 1955 promulgation of the U.N. Standard Minimum Rules for the Treatment of Prisoners. Indeed, the international community's failure to adopt these standards in practice, even while it has embraced them in theory, has inspired the United Nations' most recent prisons effort.

For nearly a decade, a U.N. working group has been hammering out a draft treaty that would establish a U.N. subcommittee authorized to make regular and ad hoc visits to places of detention in states party to the treaty, including prisons, jails, and police lockups. As described in the draft treaty—conceived as an optional protocol to the Convention against Torture—the primary goal of the subcommittee would be to prevent torture and other ill-treatment. Based on the information obtained during its periodic and ad hoc visits, the subcommittee would make detailed recommendations to state authorities regarding necessary improvements to their detention facilities.

The working group's most recent session, in October 2000, ended without any progress being made toward the completion of a draft treaty. The session revealed the wide gap that remains between countries on such fundamental issues as which places should be subject to visits, whether prior consent must be obtained, whether reservations to the optional protocol should be allowed, and the impact of national legislation on the nature and scope of visits.

Other U.N. bodies pressed countries to improve their prison conditions. The U.N. Special Rapporteur on torture, whose mandate was renewed for another three years by the U.N. Commission on Human Rights, reported findings of widespread torture in Brazil and Azerbaijan, based on his visits to those countries in 2000.

Relevant Human Rights Watch Reports:

No Escape: Male Rape in U.S. Prisons, 4/01

Beyond Reason: The Death Penalty and Offenders with Mental Retardation, 3/01

RACIAL DISCRIMINATION AND RELATED INTOLERANCE

HUMAN RIGHTS DEVELOPMENTS

Ethnicity, often combined with religion, fueled and shaped conflict and systemic human rights abuse in many countries around the globe in the year of the third United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). Caste discrimination—based on descent—held an estimated 250 million people locked in conditions of oppression and intolerance. National and local leaders propagated hate and intolerance, seeking political advantage in the discriminatory animus of racist movements. Across the world, racism and related intolerance skewed the administration of justice and denied or limited minorities and other marginalized groups' access to education and employment, to health care and housing—and to protection against exploitation.

The widespread fear generated by the attacks on the United States (U.S.) on September 11—and aspects of the global antiterrorism campaign that followed—added a new dimension to xenophobia and intolerance in many parts of the world. New antiterrorism measures introduced in the United States and under consideration in many other countries reduced safeguards against arbitrary arrest on discriminatory grounds and posed particular challenges to the rights of asylum seekers and migrants.

In Africa, ethnicity remained a potent engine of conflict in years-long wars of secession, inter-communal violence, and in partisan struggles for power as political leaders played the ethnic card to mobilize supporters and to demonize their rivals. Inter-ethnic clashes remained a pervasive feature of conflicts in the Great Lakes region and other parts of Africa. In the Democratic Republic of Congo's (DRC) eastern provinces, spiralling conflicts involved both troops of the regular armies of Uganda and Rwanda and militias sponsored by both regional powers. In Rwanda and Burundi longstanding internal conflicts continued; those leading Rwanda's rebel forces included former leaders of the 1994 genocide. Sudan's long internal war was fueled not only by the ethnic and religious divide between north and south but also by ethnic divisions between the southern rebels. Renewed conflict in Liberia also followed largely ethnic lines; government forces perceived ethnic Mandingo citizens indiscriminately as opposition supporters, and subjected

them to violent attacks because of their ethnicity. Clashes spurred by ethnicity and religion in Nigeria cost thousands of lives. (See Africa Overview.)

Determining who should be considered a national and who a foreigner also generated xenophobia and violence in some African countries. In Côte D'Ivoire, as Human Rights Watch detailed in a report it published in August, officials incited xenophobic violence around elections in October and December 2000. They promoted intolerance based on ethnic and religious differences that led gendarmes and civilian supporters to attack Ivoirians from the largely Muslim north of the country—and others held to be “foreigners.” The report documented more than two hundred killings, as well as torture, rape, and arbitrary detentions, committed with impunity.

In Brazil, indigenous people were moved off their land, threatened, and killed in land disputes in circumstances that suggested the acquiescence of public authorities. Indigenous leader Francisco de Assis Santana was murdered on August 23 in Pesqueira, Pernambuco, apparently in connection with his struggles for Xucuru land rights in the territory. Members of the Guarani community were reportedly fired on in November 2000 by police allegedly hired by a rancher who had taken over their land. In February, several cases were reported of alleged sexual abuse by army soldiers against Yanomami women in the Surucucus region of the Amazon. (See Brazil.)

In Asia, the full complexity of the inter-ethnic and sectarian struggles in Afghanistan burst belatedly upon the international consciousness only after the attacks of September 11 and the launching of the U.S.-led military campaign against the Taliban. Earlier, Human Rights Watch documented a series of incidents in which largely ethnic Pashtun Taliban forces committed gross abuses, including summary executions and the destruction of homes against civilians belonging to minorities it associated with its rivals—Aymaqs, Hazaras, and Uzbeks, suspected of supporting forces linked to the anti-Taliban Northern Alliance. (See Afghanistan.)

In Burma (Myanmar), government troops burned villages and forcibly displaced tens of thousands of villagers in areas affected by ethnic-based insurgencies. Hundreds of thousands were internally displaced in the ethnic minority states while others fled to Thailand. (See Burma.)

In Indonesia, ethnicity and religion were factors shaping regional conflicts—sometimes accentuating divisions between internal migrants and indigenous populations. The conflict in Aceh and communal violence in West Kalimantan resulted in many civilian casualties, while little progress was shown in the resolution of conflicts in the Moluccas, Central Sulawesi, and Papua. Well over one million people were reported displaced, half of them from the Moluccas.

Sri Lanka's civil war, too, continued to claim a steady toll of civilian deaths. Both the government and Tamil secessionist forces were responsible for serious abuses and internal displacement created enormous hardship. (See Sri Lanka.)

In Europe, the question of who belongs in the nation state continued to impact harshly upon displaced populations in the former Yugoslavia and many parts of the former Soviet Union, as well as migrants and refugees seeking a better life in an increasingly hostile Western Europe. Across the region, Roma were victimized by discrimination in every aspect of their lives.

In Bulgaria, discrimination against Roma persisted in virtually every aspect of public life. Roma were beaten by police and private individuals beat and shot at Roma on numerous occasions with impunity. An Open Society Institute study released in September detailed discrimination against Roma in the provision of housing, social services and health care. (See Bulgaria.)

In the Czech Republic, de facto discrimination against Roma affected access to justice, education, housing, employment, and public services. Racist attacks on Roma continued, but police and prosecutors frequently failed to adequately investigate and prosecute Roma complaints. (See Czech Republic.)

The Greek government took steps to address discrimination with an action plan for Roma, designed to address health, education and housing needs. The resettlement of a Roma community under the plan was marred, however, by discrimination against the community's children, whose attendance at local schools was opposed by other residents. One school closed in November 2000 rather than admit thirty-two Roma children. (See Greece.)

In Hungary, Roma faced continuing discrimination in employment, education, and the criminal justice system, as well as physical attacks and the firebombing of their homes. The French government granted asylum to fifteen Hungarian Roma who were part of a group who fled from the Hungarian village of Zamoly to Strasbourg during 2000 to escape threats, physical attacks and the destruction of their homes. Anti-Semitic programming continued on state radio and anti-Jewish statements by the vice-president of the parliamentary Hungarian Truth and Life Party were widely disseminated. (See Hungary.)

In Serbia and Montenegro, too, police brutality against Roma was common, although the Federal Republic of Yugoslavia acceded to the Council of Europe's 1994 Framework Convention for the Protection of National Minorities on May 11.

Roma, Serbs, and other minorities faced continued violence in post-war Kosovo. Organized violence targeting minorities, including attacks on Serb homes, churches, and cultural sites, persisted, while convoys escorted by peacekeepers of the multinational Kosovo Force (KFOR) were attacked by gunmen: eleven people were killed and dozens injured in the most serious attack. United Nations (U.N.) police had at the time of writing failed to bring the perpetrators to justice. (See Federal Republic of Yugoslavia.)

Ethnically-motivated violence also continued to shake Bosnia and Herzegovina. In Republika Srpska and, less frequently, in the Croat parts of the Federation, attackers shot at returnees because of their ethnic identity and destroyed houses reconstructed for them. (See Bosnia and Herzegovina.)

Although European Union (E.U.) states vigorously demanded that Eastern European countries take measures to combat discrimination against Roma, the steps they took themselves to restrict immigration and bar access to their territories and asylum determination procedures for asylum seekers were often discriminatory. The deployment of British immigration officials to Prague's Ruzyně Airport in July followed a wave of asylum claims by mostly-Roma Czech citizens. British officials there barred 120 travellers—the majority of them Roma—before protests at their targeting of Roma led to the temporary suspension of the pre-flight screenings. (See Czech Republic.)

In Greece, following the September 11 attacks in the U.S., authorities fearing a large influx of Afghan refugees refused to allow many asylum seekers even to apply for refugee status, issuing expedited expulsion orders instead. (See Greece.) In Spain, officials equated the global campaign against international terrorism with the fight against illegal immigration.

Some states' concepts of nationality also resulted in severe restrictions of minority rights, even to the extent of denying minorities official recognition or restricting the use of their language. In February, Sotiris Blatsas of the Society for Aromanian (Vlach) Culture was tried in Greece and convicted of "disseminating false information" because he had published a list of minority languages spoken in Greece. He had distributed a publication of the E.U.'s European Bureau for Lesser Used Languages (EBLUL) at an Aromanian festival in July 1995. He was sentenced to fifteen months in prison.

In Turkey, state policies that denied recognition of the Kurdish minority were enforced through censorship and imprisonment. Controls on freedom of expression continued to prevent broadcasting and education in Kurdish. Local governors prohibited the use of Kurdish street names and banned plays, cassettes, and films in Kurdish on the grounds that they were "separatist." Those that challenged or tested state policies on ethnicity in their statements or writings—Kurds and non-Kurds alike—faced prosecution and imprisonment.

In Morocco, there was freer discussion of the rights of the Berber minority, but authorities twice barred the holding of meetings to address the issues. Authorities seized an issue of the French weekly *Courrier International* which carried a feature on Berbers in Morocco. (See Morocco.)

The United Kingdom's (U.K.'s) response to the September 11 attacks on the United States included proposed emergency measures that threatened to undermine civil liberties and the rights of refugees and migrants. Draft anti-terrorism legislation provided for the indefinite detention of foreigners with limited judicial review and restricted the rights of suspects to seek asylum. September 11 was also followed by a dramatic rise in attacks on Muslims living in the U.K. The attacks were condemned by the government—with measures to toughen enforcement of hate crimes legislation—but new government calls for anti-terrorist measures, more restrictive immigration and asylum controls, and for halting the flow of Afghan refugees into Europe contributed to an increasingly hostile climate toward refugees and migrants in the U.K.

In the United States, longstanding patterns of discrimination in the criminal justice system persisted, with the U.N. Committee on the Elimination of Racial Discrimination highlighting police brutality, notably against minority groups and foreigners; disproportionately high incarceration rates of black and Hispanic Americans; racial disparities in the application of the death penalty; and the effect of felony disenfranchisement on minorities. Measures introduced in the aftermath of the September 11 attacks raised concerns that minorities and foreigners distinguished by their ethnicity would be subject to new forms of abusive discriminatory treatment. New laws and other measures permitted the indefinite detention of non-citizens and over 1,000 people were detained, mostly Arab or Muslim men.

The September 11 attacks were followed in the United States by a wave of racist

attacks against Muslims, Sikhs, and people of Middle Eastern and South Asian descent—with almost 1,000 reported by November. President Bush and other officials condemned the violence and urged the public to reject national or religious stereotyping that would blame whole communities for the acts of terrorism committed by a few, simply because they shared the same religious, ethnic, or national identity. (See United States.)

WHO BELONGS?

In an era of “ethnic cleansing,” ethnic and religious pogroms, genocide, and massive displacement across borders, the question “who belongs?” in a community or in a nation came to assume life and death proportions. In some cases the designated outsiders faced oppression and exploitation at home—for example India’s Dalits or Europe’s Roma—locked in a subordinate status and vulnerable to violence by private citizens and authorities alike. In others, as in parts of Indonesia, Africa’s Great Lakes region, and West Africa (and in the 1990s, the former Yugoslavia), minorities became outsiders overnight, caught up in political movements of terror and exclusion whose leaders were bent upon the physical destruction or expulsion of those not of the dominant ethnicity or religion.

Although “who belongs?” was often defined in terms of citizenship, this too became an increasingly mutable concept as new independent states emerged and multiethnic states broke down. The denial or deprivation of citizenship could turn solely on the basis of ethnicity or national origin—particularly in conflict situations and periods of political transition. In some cases, however, whole communities of “nationals without nationality” had long been denied citizenship on discriminatory grounds.

States that defined citizenship in terms of racial or national Apurity@ often discriminated both on grounds of ethnicity and national origin and on the basis of gender. As citizenship was restricted to the children of male nationals, female citizens were discouraged from marrying men of another nationality because their children would be denied citizenship. Naturalization policies, too, were often wholly or largely founded on discriminatory grounds, while shielded from criticism as a sovereign prerogative of states.

Racial and gender discrimination intersected where citizenship was restricted to the children of male nationals, the norm in many countries of the Middle East, North Africa, and parts of Sub-Saharan Africa. Ethnic Kurdish women who were classified as stateless “foreigners” in Syria could marry Syrian citizens with prior authorization from the interior ministry, but ethnic Kurdish men with this status were not permitted to marry female Syrian citizens. If they did so, the marriages were not legally recognized and both spouses were described as unmarried on their identity cards. “[I]n the case that a Syrian female should have the audacity to marry any foreigner . . . that marriage is considered illegal,” the government stated in 1996. “As a result, neither it nor the children that ensue will be registered in the civil registers.”

In Kuwait, authorities continued to deny citizenship to some 120,000 of the

minority Bidun, many of whose families had lived in Kuwait for generations and had no claim to citizenship of another country.

Denial of citizenship affected minority populations that were indigenous to a country or had been present for generations—as well as majorities. The end of the apartheid regime in South Africa spelled an end to denationalization taken to an extreme: a “homelands” policy whose advocates aimed to make black South Africans citizens of “bantustans”—and no longer citizens of South Africa. Moves to strip the citizenship of more than a million Zairean nationals of the Banyarwanda ethnic group after 1991 spurred domestic and interstate conflict there. Ethiopia summarily denationalized and expelled some 70,000 Ethiopian citizens of Eritrean origin after war broke out with Eritrea in May 1998—while Eritrea carried out summary expulsions to Ethiopia on a lesser scale. Progress in post-war negotiations offered hope of a review of the administrative measures by which Ethiopians of Eritrean origin were summarily stripped of their citizenship.

The military junta ruling Burma excluded hundreds of thousands of members of Burma’s minorities from citizenship with a 1982 citizenship law. In the 1990s more than 250,000 Rohingya Muslims fled to neighboring Bangladesh. In 2001, most Rohingya remained without full citizenship rights.

In Southeast Asia, the government of Thailand had issued special identity documents to some 300,000 members of the country’s ethnic minority hill tribes, but these indigenous people were denied a nationality or full citizenship rights. Hundreds of thousands of other hill tribe villagers were unregistered and officially considered illegal immigrants. This particularly affected hill tribe women who were victims of trafficking to Japan and who, once free of their traffickers, could not gain readmission to Thailand.

In South Asia, the government of Bhutan stripped of citizenship and expelled more than 100,000 Bhutanese of ethnic Nepali origin in the early 1990s, the majority of whom were still refugees. 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 Nepal-Bhutan verification program to determine the status of these refugees, no refugees had returned as of late November.

In the Americas, racial discrimination and related intolerance colored the treatment of migrants as well as the implementation of laws concerning nationality. Over half a million Haitians and Dominicans of Haitian descent lived in the Dominican Republic, where certain government policies reflected racial discrimination and xenophobia. Because the Dominican government made it difficult for Haitians to obtain legal residency documents, the vast majority were undocumented. In violation of the Dominican constitution, Haitians’ Dominican-born children were frequently denied Dominican citizenship. Haitians’ precarious legal status left them vulnerable to economic exploitation, arbitrary expulsion, and violations of basic rights.

In Europe, the disintegration of the Soviet Union led to discriminatory norms for citizenship in several newly independent countries. In the breakup of the former Yugoslavia, the terrorizing and physical expulsion of minorities coincided with measures to deny citizenship to members of ethnic minorities residing there or seeking to return to their homes. Elsewhere in Europe, citizenship laws enacted by

Slovakia and the Czech Republic after the division of Czechoslovakia served directly to exclude Roma citizens from citizenship in the new republics: international pressure led to reforms of the relevant laws, although obstacles remained, and Roma continued to suffer discrimination.

UNITED NATIONS WORLD CONFERENCE AGAINST RACISM

The third United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance was held in Durban, South Africa from August 31 to September 8, 2001. The first such conference since the end of apartheid, this WCAR provided governments with an opportunity to combat both the overt and more subtle forms of racial discrimination that existed abroad and at home—a potential, sadly, that was largely unrealized. A great failing of the conference was the inability of participants—governments and nongovernmental organizations alike—to forge a common front to combat racism and related intolerance in the spirit and within the framework of the International Convention on the Elimination of All Forms of Racial Discrimination.

The WCAR was plagued by a series of acrimonious disputes over the Israel/Palestine question; the issue of reparations for slavery and colonialism; and other issues. Both the United States and Israel withdrew at an early stage, citing anti-Israel sentiment, and there was divisiveness and intolerance within the NGO community itself on this and other issues. Yet in some respects, including on questions such as the protection of migrants and refugees, repairing the legacy of slavery, and equal nationality rights for women, significant progress was made.

The WCAR process led to an unprecedented mobilization of victims of racism from communities around the world, which served to reinforce and reinvigorate many community, national, and regional anti-racism movements. Groups seeking to break the bonds of discrimination forged new alliances across continents with hitherto unknown partners—not least as the United States civil rights movement and black Latin Americans found common cause with South Asia's Dalit movement. The heightened international profile given to caste discrimination—despite India's successful efforts to prevent the WCAR from addressing the issue head on—was a significant outcome.

U.S. government participation in the WCAR process was marked with scarcely veiled hostility—although hundreds of U.S. NGOs participated actively and enthusiastically in the preparatory meetings and NGO forum. The administration warned NGOs and governments that the conference should not lead to any new programs to combat racism, any new legal standards, any additional money to fund anti-racism efforts, or any follow-up. It warned the conference not to call for reparations for slavery and the trans-Atlantic slave trade or to adopt language specifically criticizing Israel.

In the end, attending governments did reach compromise language on the Middle East, which included specific reference to “the plight of Palestinian people under foreign occupation,” but no specific reference to Israel's or any other gov-

ernment's human rights practices. Compromise language was also reached on reparations, calling for governments to take "appropriate and effective measures to halt and reverse the lasting consequences of [racism, racial discrimination, xenophobia and related intolerance]."

The U.S. government's decision to withdraw from the conference meant that the administration lost a paramount opportunity for the administration to join and shape the collective voice of the international community in moving forward together in the struggle against racism. The U.S. lost a chance to lead by example, while appearing to duck the international spotlight thrown on its own problems of racial discrimination—to the dismay of the large NGO delegation attending from the United States.

The summit called for far-reaching programs to address intolerance and discrimination against the 150 million migrants in the world, including education campaigns and prevention of workplace bias. It asked countries to combat intolerance against refugees, and included a reference reminding governments of the standards agreed in the 1951 U.N. Refugee Convention. It called on states to protect the more than 30 million people displaced in their own countries, referring to the U.N. guidelines on the internally displaced. It asked countries to monitor and ensure accountability for police misconduct and to eliminate "racial profiling." The conference called on countries to fund anti-racism efforts and public awareness campaigns in schools and the media and to promote tolerance and openness to diversity. It urged governments to collect data disaggregated by race, as a first means of identifying and then addressing discrimination in access to health care and the provision of government services.

The conference acknowledged that slavery and the slave trade "are a crime against humanity and should always have been so," and said that states had a "moral obligation" to "take appropriate and effective measures to halt and reverse the lasting consequences of those practices." This was an historic recognition of the criminality of slavery and the moral obligation to repair its lasting damage.

In a significant step pressed by its women's caucus, the conference urged countries to allow women the right, on an equal basis with men, to pass on their nationality to their children and spouses, a right denied in many countries. The conference program of action also acknowledged the multiple and unique ways in which racism and sexism interact to deny women their human rights.

Discrimination by reason of caste was a constant theme of the conference, not least through public demonstrations and effective lobbying by the International Dalit Solidarity Network (IDSN) and by India's National Campaign on Dalit Human Rights (NCDHR). Caste or "work and descent" discrimination was referred to in many plenary speeches by government delegates. Reflecting the emphasis on caste in the WCAR's preparatory process, the Sub-Commission on the Promotion and Protection of Human Rights in August 2001 passed by consensus a decision to continue a study on work and descent-based discrimination.

India's actions to keep caste out of the final conference documents served effectively to stimulate international press coverage of the issue and to heighten pressure for scrutiny through the international machinery of human rights. The conference did not formally extend the desired recognition that caste-based discrimination blighted the lives of hundreds of millions—but the attendant awareness generated

by the conference sent a clear message that international programs were required to remedy its consequences and to establish practical measures to facilitate its abolition.

Despite the conference's failings and lost opportunities, South African Foreign Affairs Minister Nkosazana Dlamini-Zuma described the final agreements as "a new road-map for the fight against racism." But the conference was only a first step; the real test is whether governments will deliver on what they agreed. Human Rights Watch, for its part, will be working to ensure that they do.

THE WORK OF HUMAN RIGHTS WATCH

The fight against racism, racial discrimination, and related intolerance was an integral part of Human Rights Watch's regional and thematic research and advocacy program. In the context of the WCAR, the organization focused especially on caste discrimination; the protection of migrants and refugees; discrimination in the denial of citizenship rights; on racial discrimination in criminal justice and in the administration of state institutions, services, and resources; and the link between racial or ethnic and gender discrimination. In the run-up to the conference, Human Rights Watch also pressed for the WCAR to adopt a policy on reparations for past abuses to address the most pressing needs arising from slavery, the slave trade, certain especially racist aspects of colonialism, and other extreme official racist practices. Our program of action included the publication of a series of short reports, campaign action with partner nongovernmental organizations (NGOs), and participation in official and informal preparatory meetings and the conference itself.

Caste Discrimination

In much of Asia, parts of Africa, and in the South Asian diaspora caste was coterminous with race in the definition and exclusion of groups distinguished by their descent. Over 250 million people worldwide suffered under a hidden apartheid of segregation, modern-day slavery, and other extreme forms of discrimination because they were born into a marginalized, subordinate caste. Although India was home to the largest affected community—some 160 million people—caste-based abuse was also rampant in Nepal, Sri Lanka, Bangladesh, Pakistan, Japan, and parts of West Africa—and in the South Asian diaspora.

Caste discrimination was within the scope of the International Convention on the Elimination of All Forms of Racial Discrimination, which defined racial discrimination to include discrimination by reason of "race, colour, *descent*, or national or ethnic origin . . ." (emphasis added). The Committee on the Elimination of Racial Discrimination affirmed that caste discrimination was founded on descent—and constituted racial discrimination in the terms of the convention. It did so most expressly in a 1996 comment on India's report on compliance with the convention—India had denied that caste discrimination was a form of racial discrimination that it must address to meet its treaty obligations.

Human Rights Watch helped ensure that the WCAR brought caste discrimina-

tion to international attention and to overcome the efforts to exclude its discussion by the very governments which displayed complacency about caste discrimination at home. India's government argued that efforts to raise the caste issue were part of an "external agenda"—echoing what South Africa's former white minority government long contended when the international community spoke out against apartheid.

In *Caste Discrimination: A Global Concern*, Human Rights Watch challenged the efforts of certain governments to keep caste discrimination a shameful secret—excluded even from the World Conference. The report, which documented the global scope of caste discrimination, cited the language of international law and intergovernmental human rights bodies that brought caste discrimination—a form of discrimination by reason of descent—squarely within the current of the international fight against racism.

Refugees and Migrants

Xenophobia toward migrants, refugees, and asylum seekers became a global trend over the past decade, while a barrage of new, restrictive policies in industrialized countries emerged even before the events of September 2001. But the antiterrorism measures instituted in many countries after the September attacks promised to further restrict access to asylum determination procedures and to curtail the civil liberties of migrants. New measures under the antiterrorism rubric threatened further grave consequences for migrants and refugees—compounded by the strains of the burgeoning world economic crisis.

In its work to combat discrimination against refugees and migrants, Human Rights Watch pressed for countries to ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, identify measures to reinforce the international refugee protection regime, and develop an international monitoring system by which to better detect and remedy discriminatory treatment of migrants and refugees. (See *Refugees, Asylum Seekers, Migrants, and Internally Displaced Persons*.)

Citizenship Rights

We sought to win recognition of the problem of denial or deprivation of citizenship on racial and related grounds, and the intersection of race and gender in discriminatory citizenship laws and practices. To this end, we encouraged U.N. committees created by the treaties on women's rights and on children's rights to put this issue on their agendas, and for the U.N. High Commissioner on Human Rights to set in motion a study of potentially discriminatory norms by which states determined who was a citizen or naturalized citizen. We said international measures of conflict resolution and early warning should address questions of citizenship and denationalization founded on discriminatory grounds. These issues should be recognized as major factors in the generation of massive human rights abuse, including genocide, and armed conflict, and the generation of refugee flows.

In some countries with large populations of "citizens without citizenship,"

where particular ethnic groups were singled out as less than citizens, although they were not mere aliens, a remedy to this discriminatory practice was within ready reach even under existing law. Members of Syria's native Kurdish population who were denied official Syrian nationality were not permitted to own land, housing, or a business, or to register a motor vehicle—and their children faced major obstacles to formal education. Yet the Syrian government's 2000 report to the U.N. Human Rights Committee made clear that the nationality law specifically provided for the granting of citizenship to all Kurdish children born in Syria, irrespective of the legal status of their parents, if the Syrian government should choose to invoke it. An important first step against discrimination in citizenship rights was to implement international norms to combat statelessness.

As an immediate bulwark against the discriminatory denial of nationality, we encouraged the WCAR to promote the ratification of international agreements on statelessness, and for children's rights activists to demand the implementation of the Convention on the Rights of the Child's strong safeguards against statelessness. We urged the Committee on the Rights of the Child to call on states to describe their safeguards against racial, ethnic, and gender discrimination in citizenship laws and practices in their regular reports to the committee. Populations with longstanding claims to nationality in their country of residence whose children remained stateless required particularly urgent attention. Similarly, we encouraged the Committee for the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women to consider the discriminatory manner in which race, ethnicity, and national origin intersected with gender in citizenship and naturalization policies, and request states to address these issues when reporting to these committees.

Discrimination in Criminal Justice and Public Administration

Discrimination in the administration of justice—whether in policing, criminal prosecutions, trials, sentencing, or imprisonment—caused extraordinary harm to individuals and societies alike. Members of racial, ethnic, and other minorities or vulnerable groups often faced harassment, arbitrary detention, and abusive treatment by the law enforcement apparatus and disparate treatment by prosecutors and the courts.

Police disproportionately targeted members of marginalized groups for arrest in many countries. Members of these groups also faced disproportionate prosecutions, unfair trials, and disproportionately severe sentences on criminal charges. Humiliating treatment, beatings, sexual abuse, and shooting deaths of members of marginalized groups often contrasted starkly with treatment accorded to others and members of these groups often had little recourse to legal remedies to abuse.

Ostensibly race- or descent-neutral laws could have a disparate impact on vulnerable minorities—or even majorities—as a consequence of prosecutorial discretion or sentencing policies or the nature of the law itself. The resulting impact on particular descent-based groups could be vastly disproportionate to the actual involvement of members of these groups in the overall pattern of criminal activity.

For example, although there were more white drug offenders than black in the United States, blacks constituted 57.6 percent of all drug offenders sent to state prison. In racial profiling, stop and search provisions were abused to target suspects on discriminatory grounds: A 1998 study of police stop and search patterns in England and Wales by the British Home Office found that blacks were 7.5 times more likely to be stopped and searched than whites. A 1997 Australian study, in turn, found that Aboriginal people in Australia were 9.2 times more likely to be arrested, 23.7 times more likely to be imprisoned as an adult, and 48 times more likely to be imprisoned as juveniles than non-Aborigines.

Criminal penalties that were accompanied by temporary or permanent disenfranchisement further excluded members of groups already facing discriminatory treatment from participation in political life and accentuated and perpetuated their economic, social, and political marginalization. In 1998 it was reported that an estimated 3.9 million U.S. citizens were disenfranchised, including over one million who had fully completed their sentences. This hit black men in particular, with 13 percent—1.4 million—disenfranchised.

The discriminatory effect of public policy and administrative practice often prevented the enjoyment of fundamental human rights even in the absence of overt discriminatory intent. This was often most evident in the administration of social services, education, and public housing to exclude or marginalize members of particular groups.

The denial of equal access by minorities to education was a major concern in several regions. In certain countries in Asia, including Nepal, Sri Lanka, and Japan, children whose parents belonged to lower-caste or shunned, descent-based social groups faced widespread discrimination in access to education and had markedly lower literacy rates and school attendance rates than the general population. In India, children of Dalits who attended school were largely restricted to the worst government schools, where they faced discriminatory and abusive treatment at the hands of their teachers and fellow students.

In August, the U.N. Committee on the Elimination of Racial Discrimination issued “concluding observations” following review of China’s report on its implementation of the convention. The committee expressed concern about discrimination in education, particularly in Tibet.

In Europe, Romani children suffered extreme discrimination in their access to education, through relegation to segregated schools, routine assignment to “special” facilities intended for children with learning disabilities, or no schooling at all. In schools that were not segregated, Romani children faced harassment from students—and sometimes by teachers—as well as racial slurs and lowered expectations, contributing to a high dropout rate.

In Bosnia and Herzegovina, a Human Rights Watch investigation identified concern at discrimination in schools—including a discriminatory grade-school curriculum—as a major impediment to the return of minority displaced families to their pre-war homes.

A 2001 Human Rights Watch investigation found pervasive and systematic discrimination against nearly one-fourth of Israel’s 1.6 million schoolchildren—Palestinian Arab citizens—who were educated in a public school system that was wholly separate from the Jewish majority. The Israeli government spent less per

Palestinian Arab child than per Jewish child, and Arab schools were inferior to Jewish schools in virtually every respect. Among Palestinian Arabs, the Negev Bedouin and children in villages denied legal status by the Israeli government fared worst in every respect. In its 2001 report to the Committee on the Rights of the Child, Israel acknowledged the gap between Arab and Jewish education, but despite a commitment to closing the gap it had failed to take necessary steps to equalize the two systems. (See Children's Rights.)

Human Rights Watch encouraged the WCAR to give a new impetus for states to systematically collect and report data on law enforcement and the administration of justice, with a view to identifying and remedying any discriminatory purpose or effect; and to monitor the administration of public affairs in such areas as education, health care, housing, and the enforcement of labor rights, with a view to identifying and remedying any discriminatory purpose or effect in public policy and programs.

Reparations

In advance of the World Conference, Human Rights Watch called for governments to make reparations to counter the most severe continuing effects of slavery, segregation, racist aspects of colonialism, and other extreme forms of racism in the past. We said efforts should focus first on groups that continue to suffer the most severe hardships, with long-term commitments to correct the damage done to the groups left most seriously disadvantaged. We encouraged the WCAR to adopt proposals in favor of providing reparations to the descendants of past victims. To this end we pressed for priority to be given measures to address the social and economic foundations of today's victims' continuing marginalization—through means such as investment in education, housing, health care, or job training.

Human Rights Watch argued that the descendants of a victim of human rights abuse should be able to pursue claims of reparations—that the right to reparations was not extinguished with the death of the victim. Reparations would consist of compensation, acknowledgment of past abuses, an end to ongoing abuses, and, as much as possible, restoration of the state of affairs that would have prevailed had there been no abuses. To establish priorities for reparations, Human Rights Watch proposed the establishment of national panels as well as one or more international panels to look at the effect of the slave trade and other international forms of systemic abuse. These panels would focus on tracing these effects not for particular individuals but for groups. The panels would serve as a form of truth commission aiming to determine how a government's past racist practices had contributed to contemporary deprivation domestically and across world regions. They would educate the public, acknowledge responsibility, and propose methods of redress and making amends.

Relevant Human Rights Watch Reports:

Israel: Second Class: Discrimination Against Palestinian Arab Children in Israel's Schools, 12/01

Under Orders: War Crimes in Kosovo, 10/01

Crimes Against Civilians: Abuses by Macedonian Forces in Ljuboten, August 10-12, 2001, 9/01

Caste Discrimination: A Global Concern, 8/01

The New Racism: The Political Manipulation of Ethnicity in Cote D'Ivoire, 8/01

Unequal Protection: The State Response to Violence Crime on south African Farms, 08/01

The War in Aceh, 8/01

Violence and Political Impasse in Papua, 7/01

Hidden in The Home: Abuse of Domestic Workers with Special Visas, 6/01

No Escape: Male Rape in U.S. Prisons, 4/01

The "Dirty War" in Chechnya: Forced Disappearances, Torture, and Summary Executions, 3/01

Uganda in Eastern DRC: Fueling Political and Ethnic Strife, 3/01

Massacres of Hazaras in Afghanistan, 2/01

REFUGEES, ASYLUM SEEKERS, MIGRANTS, AND INTERNALLY DISPLACED PERSONS

INTRODUCTION: THE YEAR IN PROFILE

Fiftieth Anniversary of the 1951 Refugee Convention

2001 was a critical year for refugee protection. The year marked the fiftieth anniversary of the 1951 Convention Relating to the Status of Refugees (Refugee Convention)—the foundation of the international refugee protection regime. A series of global consultations on international refugee protection organized by the office of the United Nations High Commissioner for Refugees (UNHCR) was due to culminate in December 2001 at the first ever meeting of state parties to the Refugee Convention to reaffirm their commitment to the treaty. The Inter Parliamentary Union, the Council of Europe, the Organization of American States, and the Organization of African Unity all adopted resolutions and recommendations reaffirming their commitment to the convention in 2001.

Nevertheless, the Refugee Convention came under relentless attack—not least by the same industrialized states that were responsible for its formulation. Many states failed to accede to the 1951 Refugee Convention and its 1967 Protocol. Asian countries, including Bangladesh, Bhutan, Burma, India, Indonesia, Malaysia, Nepal, Pakistan, Singapore, Sri Lanka, Thailand, and Vietnam, were particularly remiss in this regard.

United Nations World Conference Against Racism

In August and September 2001, governments met in Durban, South Africa for the third U.N. World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). Although the protection of refugees and migrants featured prominently on the agenda, discussions regarding refugee protection were contentious and some governments argued for the removal of references to the Refugee Convention from the conference documents.

Fiftieth Anniversary of UNHCR and New High Commissioner, Ruud Lubbers

The year 2000 also marked the fiftieth anniversary of UNHCR—the international agency mandated to protect and assist refugees. At the end of 2000 Sadako Ogata stood down after serving for ten years as high commissioner for refugees. Ogata was replaced by former Dutch Prime Minister Ruud Lubbers who took up his new position in January 2001. Lubbers' principle challenge as the new high commissioner was to revitalize UNHCR's core protection mandate and to take a strong stance with governments, particularly in Western Europe, that were undermining fundamental international refugee protection standards and seeking to erode the 1951 Refugee Convention.

Within the first months of taking office, Lubbers was tested with two of the most chronic and complex refugee crises in the world, Guinea and Afghanistan. Lubbers' first mission was to the West Africa sub-region in February 2001 where the conflicts in Liberia and Sierra Leone spilled over both countries' borders and threatened to destabilize Guinea, displacing thousands of refugees and Guineans and killing hundreds. In April and May, Lubbers visited Afghanistan, Iran, and Pakistan to assess the world's second largest refugee emergency.

In both cases he was criticized for his handling of the situation and made controversial proposals about possible solutions. Human rights and humanitarian groups criticized Lubbers' proposal to establish "safe passages" to enable refugees fleeing the turmoil in Guinea to return to Sierra Leone through rebel-controlled territory, citing widespread abuse by Revolutionary United Front (RUF) rebels in these areas. NGOs also criticized Lubbers for placing too much attention on the repatriation of Afghan refugees during his visits to the region, and argued that conditions inside Afghanistan were not conducive to return.

Impact of September 11 on Refugees and Migrants

Having sorely neglected the Afghan refugee crisis for years, the September 11 attacks on the United States focused international attention on the dire humanitarian crisis in Afghanistan and the chronic refugee situation across its borders in Pakistan and Iran. At the same time, anti-immigration measures were the centerpiece of many governments' efforts to combat terrorism in the aftermath of September 11. Many countries, including the U.S. and the United Kingdom, rushed to push through emergency anti-terrorism legislation that curtailed the rights of

refugees, asylum seekers, and migrants. Human Rights Watch argued that states must balance legitimate security concerns with respect for the rights of refugees, asylum seekers, and migrants, and should not use counter-terrorism measures as a guise to roll-back well-established refugee and human rights protection standards.

REFUGEE PROTECTION POST SEPTEMBER 11

Protecting Afghan Refugees

Humanitarian crisis in Afghanistan

Before U.S.-led attacks began in October 2001, Afghanistan had already suffered over twenty years of foreign invasion and civil war, political turmoil, human rights abuses, coupled with a devastating three year drought. More than five million of Afghanistan's estimated 27 million people were displaced—four million as refugees and one million internally displaced. The severe drought brought many parts of the country to the verge of famine, while Taliban restrictions on relief agencies severely hampered the delivery of assistance and civilian access to basic services. Some five million people inside Afghanistan were entirely dependent on international aid, according to the World Food Programme (WFP).

The U.S. led bombing campaign, fears of forced conscription by the Taliban, fears of reprisals by and conflict between both the Taliban and Northern Alliance forces, general insecurity, the rapidly deteriorating humanitarian situation, and the onset of winter caused hundreds of thousands more Afghans to flee their homes in the weeks after September 11.

Conditions inside Afghanistan further deteriorated after September 11 when international relief staff were forced to withdraw after the Taliban declared that it could no longer guarantee their security. As the U.S. led attacks on Afghanistan progressed, aid agencies warned of an impending humanitarian disaster. The U.N. reported that the Taliban had confiscated food supplies from the U.N. and relief agencies. In addition, several relief agencies, including the warehouses of the International Committee of the Red Cross (ICRC) and the compound of a U.N.-affiliated demining agency Afghan Technical Consultants (ATC), were hit during the U.S. bombing offensive, killing and injuring staff.

By mid-November, significant advances by Northern Alliance troops and the withdrawal of the Taliban from major cities, including Kabul, had enabled aid agencies to resume some of their assistance operations and allowed some international staff to return to Afghanistan. Nevertheless, security remained precarious and there continued to be reports of looting by both Taliban and Northern Alliance forces. Aid agencies warned that time was running out to get aid through to the millions of starving Afghans if they were to survive the winter.

Treatment of Refugees in Neighboring Countries

Most Afghan refugees during the past two decades have fled to the country's immediate neighbors—over two million to Pakistan, and between one and a half and two million to Iran. Faced with such numbers and receiving little help from the

international community, both these countries tightened their policies and officially closed their borders to Afghan refugees in 2000. Tajikistan also closed its borders to Afghan refugees in September 2000.

After September 11, Afghanistan's three other neighbors, Turkmenistan, Uzbekistan, and China, also closed their borders to Afghan refugees citing security concerns as well as their inability to absorb more refugees.

These governments' actions directly undermined core refugee protection standards, in particular the right to seek and enjoy asylum, set out in article 14 of the 1948 Universal Declaration of Human Rights (UDHR), and the principle of *non-refoulement*—the right of refugees not to be returned to a country where their lives or freedom could be threatened, as stipulated under article 33 of the Refugee Convention. Iran, China, Tajikistan, and Turkmenistan are all parties to and so bound by the 1951 Refugee Convention and its 1967 Protocol. Although Pakistan and Uzbekistan are not parties to the convention, the obligation of non-refoulement now constitutes a generally accepted principle of customary international law, and is binding on these states also.

Iran and Pakistan: Camps Inside Afghanistan Risk Safety of Refugees

Instead of allowing refugees to enter their territories, both Pakistan and Iran called instead for the establishment of camps on the Afghan side of their borders, in violation of their international obligations. These camps posed serious risks for the security of the refugees and aid workers who were in danger of being caught between warring factions in Afghanistan. Access to the camps by relief agencies was extremely limited.

The Iranian Red Crescent Society assisted with the establishment of two camps in northwestern Afghanistan close to the Iranian border. Mile-46, with a population of some 1,000 displaced persons, was established in an area under the control of the Northern Alliance forces, while Makaki camp with a population of 6,000 was, until Northern Alliance advances in mid-November, in a Taliban controlled area. Close to the Pakistan border, the Spin Boldak camp, with a population of over 3,000 displaced Afghans, was established in an area under strong Taliban control.

On November 12, UNHCR reported that Makaki camp was caught between Taliban troops, who still controlled the camp and advancing Northern Alliance troops pushing to take control of the area, forcing aid workers to withdraw and endangering civilians inside the camp. On November 14, the area fell to the Northern Alliance.

The lack of security in the camps made it difficult for aid agencies to operate safely, and by early November there were reports that several thousand Afghans were camped in the open around Makaki camp which was already filled beyond capacity. Aid agencies expressed concern about the health of displaced people in and around Makaki camp as winter approached.

Despite this, Iran continued to keep its borders shut to fleeing Afghans. The interior minister, Abdolvahed Musavi-Lari, stated that "it is better and more efficient to provide the refugees with assistance within their homes for humanitarian reasons," an assertion belied by conditions on the ground inside Makaki camp and elsewhere in Afghanistan.

Border Closures Endangers Refugees Lives

Despite the official closure of Pakistan's 1,560 mile border, UNHCR estimated that at least 150,000 Afghan refugees crossed unofficially into the country between September 11 and mid-November 2001. Many refugees traversed through dangerous mountain passes and were forced to pay exorbitant fees to smugglers or large bribes to border control guards in order to enter Pakistan. In mid-October, Pakistan agreed that particularly "vulnerable" refugees, including the elderly, sick, and some women and children would be allowed to enter, but most refugees fleeing Afghanistan were not admitted. Many who could not afford to pay the high smuggler fees and bribes to border guards were trapped on the Afghanistan side of the border.

Lack of Security Inside Pakistan

With an existing population of over two million Afghan refugees, Pakistan had tightened its refugee policies throughout the previous year. In November 2000 the government instituted a policy to detain and deport newly arrived Afghans in the North West Frontier Province (NWFP) and all Afghans who were already residing in Pakistan without official documentation. Between October 2000 and May 2001, according to the government, it forcibly returned some 7,633 Afghans, mostly men and boys. Other new arrivals were placed at Jalojai refugee camp but the government did not permit UNHCR to register them in order to determine whether or not they were in need of refugee protection. In August, however, the government and UNHCR agreed to jointly screen all the refugees at Jalojai camp and at the longer established Nasirbagh camp in order to determine which refugees could stay in Pakistan and which would be returned to Afghanistan, but the screening was suspended following the September 11 attacks.

Despite maintaining an official position of closed borders, the Pakistan authorities announced shortly after September 11 that they would set up new refugee camps in the event of a mass influx from Afghanistan. The sites were located in the Federally Administered Tribal Areas close to the Afghanistan border in the NWFP, that were unstable and insecure, difficult to reach, and lacked an adequate water supply and infrastructure. The location of refugee camps so close to the Afghanistan border was contrary to international standards which stipulate that camps must be located at a "safe distance" from international frontiers to protect against cross border attacks or military incursions.

Fifteen camps were established by mid-November but they were mostly empty as refugees who entered Pakistan unofficially feared to report to camp authorities and risk deportation, and preferred to stay with family or friends in Peshawar, Quetta, and other urban areas. Many of these so-called "invisible refugees" were Hazaras, Uzbek, or Tajik ethnic minorities. They lived in a state of legal limbo, undocumented and unassisted, and constantly at risk of being picked up by the police, detained, and returned to Afghanistan.

In early November, UNHCR and the Pakistan government agreed to move refugees from Killi Faizo, an insecure and overcrowded temporary staging camp near the Chaman border crossing in Baluchistan province, to Roghani camp, sixteen kilometers away. Under the same agreement, UNHCR began the transfer of refugees from the new Jalojai camp in Peshawar to Kotkai camp in Bajaur agency.

The new camp was located in a strongly pro-Taliban area only five kilometers from the Afghan border, raising fears for the security of the refugees, many of whom were from ethnic minorities and of forced recruitment by the Taliban. However, as the Pakistan authorities said that they would close new Jalozei camp, many refugees, especially those most dependent on relief assistance including women who were heads of household and widows, felt obliged to move to the camps despite their fears.

Eroding Refugee Protection in Iran

Iran steadfastly kept its 560 mile border with Afghanistan closed, and also deported thousands of Afghan refugees. On November 9, UNHCR reported that Iranian authorities had deported at least 350 refugees in a matter of days.

Iran's tough policies toward Afghan refugees pre-dated September 11. Out of the one and a half to two million Afghans living in Iran, the government estimated that as many as half a million were undocumented. Very few Afghans in Iran lived in camps. Most eked out a miserable existence in the cities where their lack of documentation and the government's increasingly tough policies towards them meant they were excluded from the formal labor market and had little or no access to education, health care, or other benefits.

In 1999, the U.S. Committee for Refugees estimated that Iran had forcibly returned some 100,000 Afghan refugees. In an attempt to prevent further forced deportations, UNHCR and the government of Iran agreed to a joint repatriation program in April 2000. Under this program Afghans could either receive a repatriation package from UNHCR and return to Afghanistan, or present their claims for continued protection in Iran at a screening center. UNHCR also set up repatriation centers to facilitate the repatriation of documented and undocumented Afghans wishing to return to their homes. Many NGOs charged that it was premature for refugees to return to drought and conflict-ridden Afghanistan. Despite the screening program, the U.S. Committee for Refugees estimated that as many as 50,000 returns were involuntary in 2000.

In mid-November 2001, UNHCR and Iran agreed to resume the screening program in order to repatriate Afghans without refugee status, a move that UNHCR hoped would stem summary deportations. Some NGOs cautioned that a flawed process could result in the forced return of hundreds of thousands of refugees.

At the same time, UNHCR reported a rise in spontaneous returns of refugees, particularly ethnic Uzbeks, Tajiks, and Hazaras, to areas of Afghanistan captured by the Northern Alliance.

Refugees Stranded on Tajikistan Border

Tajikistan closed its frontier with Afghanistan in September 2000 and thousands of Russian Federal border guards controlled the border. By September 11, there were already over 10,000 internally displaced Afghans on small islands in the Pyanj River, which divides the two countries, waiting for an opportunity to cross into Tajikistan, who were subject at times to crossfire between Northern Alliance and Taliban forces. Their numbers steadily increased prior to and during the U.S.-led military offensive in Afghanistan. Some were receiving assistance from aid agen-

cies. On September 20, President Emomali Rakhmonov stated that Tajikistan would not allow any Afghan refugees to enter for fear of infiltration by Islamic militants and for economic reasons.

The Need for International Assistance and Action

By refusing to allow refugees entry into their territory and calling for the establishment of camps instead within Afghanistan, deporting refugees, and setting up refugee camps in dangerous and insecure areas, neighboring countries breached their international obligations toward Afghan refugees and threatened their safety and security. At the same time, the wider international community had an obligation to assist these countries to cope with large refugee influxes through financial and logistical support, as well as helping to find long-term solutions, including through third country resettlement. There was an urgent need for donor states and international agencies, such as UNHCR, to call on neighboring countries to keep their borders open, provide full and safe protection to refugees, and cease summary deportations. NGOs criticized UNHCR and donor states for not being sufficiently proactive in pushing neighboring countries to abide by their international obligations.

A Global Backlash Against Refugees and Migrants

Security concerns in the wake of the September 11 attacks prompted governments around the world to introduce emergency legislation and tighter immigration controls. In many countries, such measures were introduced in an existing climate of growing hostility and restrictions on the rights of refugees, asylum seekers, and migrants. Several governments introduced measures that seriously eroded their obligations under the 1951 Refugee Convention and undermined the fundamental right to seek and enjoy asylum, as stipulated in the UDHR. It was ironic that in the year marking the fiftieth anniversary of the Refugee Convention, the very same governments responsible for its establishment sought to depart from their obligations under this treaty.

Not only did doors close to Afghan refugees in neighboring countries, but also further afield. According to UNHCR, Afghan refugees arrived in countries as distant and geographically dispersed as Australia, Cambodia, Cuba, and Iceland in 2000. In 1999 and 2000, the number of Afghans who sought asylum in Europe nearly doubled, with Germany, the Netherlands, and the United Kingdom receiving the largest numbers of applications. Fears of a mass influx of Afghan refugees after September 11, prompted several countries to introduce harsh policies.

United States

The United States was one of the first countries to respond to the events of September 11 with emergency anti-terrorism legislation that severely curtailed the rights of non-citizens and permitted their indefinite detention. Despite vigorous protest by human rights, civil liberties, and immigrants' rights organizations, the "USA Patriot Act" was passed on October 26. The procedures leading to the passage

of the anti-terrorism bill were flawed and rushed. Congress was unable to meet and fully consider the legislation as it was amended, meaning that problematic provisions of the legislation were never fully considered and debated by members of Congress.

The legislation granted unprecedented broad powers to the attorney general to “certify” and then detain any non-citizen, including an asylum-seeker, legal permanent resident, or a refugee, who he had “reasonable grounds to believe” was engaged in terrorist activities or other activities that endangered national security. A certified immigrant who had been charged with an immigration violation but who could not be deported would remain in custody until the attorney general determined that he or she no longer met the criteria for certification. While judicial review of the detention would be permitted, there were no meaningful, prompt, or periodic reviews to ensure the detention was warranted.

The overly broad and vague criteria for subjecting a non-citizen to detention could allow the attorney general to certify and detain any non-citizen in the U.S. who had any connection, however tenuous or distant in time, with any group that had ever unlawfully used a weapon to endanger a person. Given the focus of the law enforcement efforts in the wake of September 11, there were concerns that such language created the risk of arbitrary application and could disproportionately impact individuals from certain countries or religious groups, including asylum seekers and refugees. The legislation contravened the prohibition against prolonged, arbitrary, or unlawful detention in international human rights law and UNHCR’s guidelines on the detention of asylum seekers.

In October, the U.S. government also announced that for national security reasons it had suspended all resettlement of refugees to the U.S., including Afghan refugees who were waiting to leave Pakistan. In 2000, the U.S. took 90 percent of the 4,000 Afghan refugees resettled out of Pakistan. The moratorium affected some 20,000 refugees from countries across the world who had been cleared by the Immigration and Naturalization Service (INS) for resettlement to the U.S. Refugee organizations criticized the moratorium, arguing that it was unnecessary and only increased the suffering of refugees from war-torn countries like Iraq, Sierra Leone, and Somalia, many of whom had spent years in desperate refugee camps waiting to be resettled.

Western Europe

In a worrying trend throughout Europe, governments linked anti-terrorism measures with the fight against illegal immigration and introduced measures that severely curtailed the rights of refugees and migrants. Spain’s foreign minister, for example, voiced concerns that international terrorists could be smuggled into Spain and said that “[t]he strengthening of the fight against illegal immigration is also a strengthening of the anti-terrorist fight.”

In Hungary, all Afghan asylum seekers were transferred from open reception centers to facilities with heightened security measures. In Greece, Afghan refugees who arrived after the September 11 attacks received a hostile reception as the government refused to allow them to apply for asylum, violating its obligations under

the Refugee Convention. In the wake of vociferous international pressure, the government subsequently permitted some refugees to apply for asylum.

In Germany, advocacy groups reported that efforts to include adequate human rights safeguards for refugees in proposed asylum legislation suffered a serious setback in the aftermath of the September 11 attacks with many viewing the new legislation as a necessary measure to strengthen national security. More positively, however, the German government announced in November that it would introduce legislation to reverse its practice of excluding victims of persecution by non-state agents from refugee protection, such as asylum seekers from Somalia, Algeria, and Afghanistan.

European Union

After September 11, there were concerns that E.U. efforts to safeguard internal security could result in the exclusion or expulsion of refugees and migrants from member states without adequate safeguards.

United Kingdom

Following September 11, the British Home Secretary David Blunkett proposed far-reaching measures to restrict entry into the U.K. and strengthen national security. Outlined in a new Anti-Terrorism, Crime and Security Bill, these proposals were before parliament at the time of writing.

Civil liberties, refugee advocacy, and human rights NGOs were concerned that the bill would permit the unlawful indefinite detention of foreigners suspected of terrorism-related activity without access to effective appeal procedures and deny some asylum seekers individual determination of their asylum claims without recourse. The bill's broad and overly inclusive definition of terrorism would include any person with "links" to an international terrorist group, suggesting that this could lead to "guilt by association" and the targeting of individuals based on their political, national, ethnic, or religious affiliation. The bill's provisions seriously undermined the fundamental right to seek asylum and the purpose and intent of the Refugee Convention, and represented a departure from well-established refugee protection standards.

Racist attacks against Afghans and other Muslims living in the U.K. increased dramatically after September 11. These included damage to property, bomb threats against mosques, physical and verbal abuse of Muslim women wearing headscarves, and gang assaults targeting Arab and South Asian men. In one attack an Afghan taxi driver was beaten so severely he was paralyzed from the neck down. Both Prime Minister Tony Blair and Home Secretary David Blunkett condemned the attacks and called for tolerance.

Australia

Australia faced a barrage of international criticism for its excessively harsh and restrictive immigration and asylum policies. In August, the government turned back a boatload of mainly Afghan asylum seekers who had been rescued at sea by a Norwegian freighter, the *Tampa*, from a sinking Indonesian ferry, and refused to let them land on Australian territory. Most of the 438 asylum seekers were eventually

sent to the Pacific island state of Nauru; others were sent to New Zealand. Following the September 11 attacks, Defense Minister Peter Reith justified Australia's actions, arguing that it should reserve the right to refuse entry on security grounds to "unauthorized arrivals".

Following the Tampa incident and the September 11 attacks on the U.S., the government adopted new and unprecedented immigration legislation in an expedited manner on September 26. Under the legislation, it "excised" various Australian territories, such as Christmas Island, Ashmore and Cartier Islands, and the Cocos Islands, from its "migration zone" and refused to consider asylum applications from anyone arriving at those places. Instead, the asylum seekers were transported to other non-Australian Pacific island states while their refugee claims were assessed, or simply sent back to sea. Human rights, refugee, and advocacy organizations charged that by forcing boats of asylum seekers back into international waters, Australia was endangering the lives of asylum seekers, undermining the right to seek asylum, and potentially violating non-refoulement obligations.

The new legislation also required the detention of asylum seekers arriving at an "excised offshore place" without any right to judicial review. Australia's policy of mandatory detention for all unauthorized arrivals continued to be widely condemned.

Between August and November, Australia turned back several boatloads of asylum seekers from Afghanistan, Iraq, and other countries in the Middle East and South Asia, and returned them to international waters. Many of the boats arrived in Australia via Indonesia, which was not a party to the 1951 Refugee Convention and lacked laws and procedures for determining refugee status.

THE CRISIS IN GUINEA

Host to one of Africa's largest and most unstable refugee populations in 2000—an estimated half a million Sierra Leonean and Liberian refugees—Guinea was faced with a national security crisis as the violence from its conflict-ridden neighbors spilled over and threatened to destabilize the country. Blaming the refugees for much of the insecurity, Guinea repeatedly closed its borders to Sierra Leonean and Liberian refugees between August 2000 and mid-2001, in violation of its international obligations not to return refugees to a country where their lives or freedom could be threatened. While acknowledging the serious security problems facing Guinea, Human Rights Watch called on the government not to violate its international obligations to refugees and urged donors to provide the necessary support and assistance to help Guinea cope with the crisis.

Between August and mid-2001, a combination of Sierra Leonean Revolutionary United Front (RUF) rebels and armed Liberian forces repeatedly attacked and burned refugee camps and Guinean villages along the border, killing, injuring, abducting, and forcing their residents to flee. The Liberian government also launched cross-border attacks, accusing Guinea of providing support and hosting a Liberian rebel group, the Liberians United for Reconciliation and Democracy (LURD).

Tens of thousands of refugees and local Guineans living in the border regions

were forcibly displaced by the conflict and hundreds were killed. Faced with a no-win situation, some refugees fled back into RUF-controlled parts of Sierra Leone to escape the violence and suffered similar abuses at the hands of RUF rebels to those that originally caused their flight, including rape, murder, forced recruitment, and abduction for forced labor. Others fled inland into Guinea where they also faced abuses, including beatings, strip searches, extortion, sexual assault, arbitrary arrest and detention, and widespread intimidation, at the hands of the Guinean authorities and local militia groups.

Security was not only volatile for the refugees, but also for relief agencies and aid workers. In September 2000, the head of the UNHCR office in the town of Macenta on the Liberian border, was murdered by unidentified attackers, and in December the UNHCR office in Guekedou was destroyed in fighting between government troops and rebels, during which hundreds of civilians were reportedly killed and led thousands of refugees and local people to flee. By December, assistance to the Parrot's Beak region, bordering RUF-held areas of Sierra Leone, was largely cut off due to the deteriorating security situation, leaving hundreds of thousands of refugees without access to food or protection.

After six months of violence, UNHCR and the Guinean government agreed in February to relocate the border refugee camps further inland and to assist Sierra Leonean refugees who wanted to return home to do so by boat from Conakry, but continuing violence in the border region delayed the relocation until April. By May, some 60,000 refugees had moved inland and an estimated 35,000 refugees had returned to Sierra Leone. However, tens of thousands of refugees in the border region remained unaccounted for. By mid-2001, the situation in Guinea seemed significantly calmer.

The problems in Guinea were exacerbated by the failure of the international community to provide sufficient funding and support for the refugees. Aware that the refugee camps were located dangerously close to the borders with Sierra Leone and Liberia, UNHCR sought funding to move the camps further inland in 1999. However, little or no funds were forthcoming due in part to the international attention then on Kosovo, and thus the camps in the border region remained vulnerable to attack and military incursions. If funds had been provided earlier to move the camps, some of the problems faced by the refugees in 2000 and 2001 could have been averted.

COMBATING RACISM AND XENOPHOBIA AGAINST REFUGEES AND MIGRANTS

United Nations World Conference Against Racism

After two years of regional and expert preparatory meetings, the third U.N. World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), was held in Durban, South Africa, from August 31 to September 8, 2001. Lobbying on refugee and migrants rights was organized through an effective NGO caucus of immigrant and refugee advocacy groups.

Despite efforts by some governments to exclude any reference to the 1951 Refugee Convention, the WCAR affirmed the convention's importance and states' obligation to comply with it; recognized racism and ethnic intolerance as among the root causes of refugee flows; called for greater efforts to combat racism and xenophobia against migrants, asylum seekers, and refugees; urged states to seek durable solutions to refugee crises, including voluntary return to countries of origin, third country resettlement, and where appropriate and feasible, local integration; upheld the right of return for refugees; and called for a more equitable international response to refugee crises.

The conference also called on states to promote and make use of the U.N. Guiding Principles on Internal Displacement, though otherwise the WCAR gave little consideration to the problems of internally displaced persons.

While not legally binding, the WCAR Declaration and Program of Action was an important affirmation of international standards and principles relating to refugees, migrants, and asylum seekers and a useful vehicle for coalition building among NGOs concerned with the rights of migrants and refugees.

Racism and Refugees: The Interface

Throughout 2001, refugees, asylum seekers, and migrants were victims of repeated racial discrimination, racist attacks, xenophobia, and ethnic intolerance. Racism was both a cause and a product of forced displacement, and an obstacle to its solution. Refugees fled countries such as Afghanistan, Burma, Burundi, Macedonia, Sri Lanka, and Turkey to escape racism and ethnic intolerance, but often then encountered further discrimination, xenophobia, or racist attacks in their host countries. At the same time, millions of refugees were unable to return to their own countries because of racial and ethnic discrimination.

Industrialized states continued to introduce a barrage of restrictive policies and practices targeting asylum seekers, refugees, and migrants. Negative and inaccurate portrayals of these groups in the media and inflammatory, xenophobic rhetoric by politicians and public officials in many Western countries contributed to a climate of hostility. There was also an alarming rise in racist and xenophobic violence against asylum seekers, refugees, and migrants in many industrialized countries, as well as in traditionally generous host countries in the developing world.

Xenophobic Rhetoric: The Case of Australia

Many governments manipulated and incited xenophobic fears for short-term political gain. In Australia, for example, Minister for Immigration and Multicultural Affairs Phillip Ruddock made a series of inflammatory and xenophobic statements about immigration and asylum between November 1999 and August 2001, suggesting that mandatory detention policies protected the Australian public against communicable diseases brought in by illegals and that whole villages of Iraqis and others were preparing to travel to Australia. The refusal by Australia to allow boatloads of mostly Afghan and Iraqi refugees and migrants entry to its territory came in the run-up to a general election campaign, in which the government sought to demonstrate a tough stance on asylum and immigration and

fuelled xenophobic fears among the public with inflammatory accounts of “floods” of refugees on the move to Australia. The rhetoric and tough policies paid off, as John Howard’s government won a third term in office at the mid-November elections.

Racist Attacks in Europe

There was a high incidence of racially motivated attacks and violence against refugees, asylum seekers, and migrants in European countries. In the U.K., the dispersal of asylum seekers to remote or deprived areas resulted in increased attacks. In August, Firsat Dag, a Kurdish asylum seeker, was stabbed to death in an unprovoked racial attack in Glasgow. Days later an Iranian asylum seeker was also stabbed, and a Kurdish asylum seeker in Hull had his throat slashed. NGOs, UNHCR, and the inter-governmental European Commission against Racism and Intolerance, amongst others, linked the attacks to the negative portrayal of asylum seekers by politicians and the media, particularly during the May general election campaign.

In Russia, there were attacks on African students in Moscow, including many refugees, by mobs of youth, often wielding weapons or bottles. Most victims feared to report such attacks to the police; those that did generally found the police unwilling to investigate.

Racism as a Barrier to Safe Return: The Case of Bhutan

Racism and ethnic discrimination prevented the safe return of millions of refugees. Despite the commencement of a joint verification process by the Bhutanese and Nepalese governments in early 2001 to ascertain the status of 100,000 Bhutanese refugees in camps in Nepal, by November no refugees had returned to Bhutan.

The refugees, mostly ethnic Nepalese, were expelled from southern Bhutan in the early 1990s. Many were arbitrarily stripped of their nationality prior to their expulsion after Bhutan amended its nationality laws in the late 1980s to deny nationality rights to most southern Bhutanese.

After nine rounds of ministerial talks between Bhutan and Nepal, the Bhutanese government still refused to accept the refugees back, claiming that they were not bona fide Bhutanese citizens. At the tenth round of talks in December 2000, following concerted pressure by the U.S., the E.U., and the U.N., the two governments finally agreed to start a joint verification of the refugees. This would determine the refugees’ nationality status, with a view to their ultimate repatriation to Bhutan.

However, international NGOs were concerned about the Bhutanese government’s refusal to allow UNHCR to monitor the verification process, the lack of independent scrutiny, and the excruciatingly slow progress of the process that continued to deny thousands of refugees the right to return to their own country.

CONCLUSION: THE CHALLENGES AHEAD

As the year ended, core refugee protection principles were under serious threat across the globe and the future for millions of refugees, asylum seekers, and

migrants was uncertain. In the aftermath of September 11, governments faced a critical challenge to address legitimate national security concerns without undermining long-enshrined refugee protection and human rights standards and further eroding the rights of refugees, asylum seekers, and migrants. Governments hosting large, long-term refugee populations faced the challenge of continuing to provide protection and keep their borders open, while the international community had a heightened responsibility to provide sufficient funding and support and to seek effective solutions to chronic refugee crises. The fiftieth anniversary of the Refugee Convention provided states with an opportunity to ratify and accede to the convention and its 1967 Protocol, to fully and unequivocally reaffirm their commitment to the convention as the centerpiece of refugee protection, and to repeal legislation, policies, and practices that undermined the spirit and letter of the convention. Finally, the conclusion of the third WCAR challenged states to put into practice the directives outlined in its final declaration and program of action. In particular, governments were challenged to address racism and discrimination as root causes of refugee flows; reverse policies and practices that discriminate against migrants, asylum seekers, and refugees; avoid inflammatory and xenophobic portrayals of asylum seekers, refugees, and migrants; take vigorous action to investigate and bring to justice perpetrators of racist violence against migrants and refugees; and seek long-term solutions to refugee situations, particularly where refugees are blocked from returning to their home country or integrating into a host country because of discrimination and racism.

Relevant Human Rights Watch Reports:

Guinea: Refugees Still at Risk: Continuing Refugee Protection Concerns in Guinea,
7/01

Uprooting the Rural Poor in Rwanda, 5/01

UNHCR at 50: What Future for Refugee Protection? 12/00