

## HUMAN RIGHTS IN THE APEC REGION: 1995

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## INTRODUCTION

This report covers a selection of Asia-Pacific Economic Cooperation (APEC) countries, analyzing human rights trends and developments in 1995 and the response by the international community. The evidence presented here suggests that economic growth alone has not led to greater human rights protection. It is equally clear that human rights was the issue that would not go away for Asia in 1995. It became an economic issue, a determinant of aid and an irritant to trade from Burma to Indonesia. Worker rights practices in the region intensified debate over the desirability of a "social clause" in multilateral trade arrangements, and human rights abuses led to demands at home and abroad for increased corporate responsibility on the part of foreign businesses as investment in the region continued to grow. The capacity of human rights issues to disrupt bilateral relations was underscored by the clash between the Philippines and Singapore over the latter's hanging of Filipina domestic worker Flor Contemplacion and between China and the U.S. concerning China's arrest of American human rights campaigner Harry Wu. Peaceful domestic challenges to authoritarian governments in the region were more often than not couched in terms of a demand for human rights.

The vulnerability to abuse of specific groups, such as women, indigenous peoples, minorities and migrant workers was very much at issue. Asian women took an active role in the Fourth World Conference on Women in Beijing, and the problems of custodial abuse, unprosecuted domestic violence, rape and sexual exploitation as weapons of war, and official complicity in the trafficking of women continued to be major problems. Government discrimination against and failure to protect religious, tribal, and ethnic minorities were a concern throughout the region, including in China, Vietnam, Burma, and Indonesia.

For all the criticism by some Asian governments of the tendency of the West to focus too much on individual civil rights at the expense of communal obligations, it was one of those civil rights—freedom of expression—that became perhaps the paramount political demand of Asians. In China, Hong Kong, Singapore, Cambodia, Vietnam, Malaysia, and Indonesia, the freedom to express opinions critical of government leaders and policies became a major issue. On the one hand, the prevalence of the issue supported those who argued that economic growth in Asia would lead to demands for greater civil liberties, as middle-class professionals, for the most part, were the most vocal in seeking greater freedom. On the other hand, the governments in question showed no disposition to make concessions.

In Cambodia, the government's systematic campaign against former finance minister, independent parliamentarian and corruption fighter Sam Rainsy, together with the passage of a new press law, symbolized the steady narrowing of the political space opened up by the United Nations Transitional Authority in Cambodia during its eighteen-month peace-keeping operation. Journalists and editors were charged with criminal defamation for articles, and in one case a cartoon, critical of the government.

In China, delegates to the Fourth World Conference on Women got some inkling of the restrictions faced by ordinary Chinese when they found themselves under surveillance, their meetings restricted or cancelled, their papers confiscated and their press coverage censored. Wei Jingsheng, the country's most outspoken advocate of political change and respect for human rights who was re-arrested in April 1994 after only six months of freedom, continued to be held at an undisclosed location. Other critics faced imprisonment or other forms of persecution. Chinese media were ordered to put a favourable spin on sensitive issues and to rely exclusively on Xinhua, the government news agency, when breaking a story.

In Indonesia, members of the urban middle class protested a range of violations of free expression, from the arrest and conviction of three members of an independent journalists' association, to the police investigation and harassment of a parliamentarian who criticized President Soeharto while on a speaking tour of Germany. These actions, and the government's ban on public appearances of popular opposition figures, seemed designed more to punish and humiliate outspoken individuals than to restrict the flow of information.

In Hong Kong, the Hong Kong Journalists' Association noted with alarm the increasing tendency of editors to apply self-censorship on issues related to China as 1997, the year of the colony's return to Chinese rule, approached.

The firing of a popular political cartoonist seemed a disturbing harbinger of things to come in a place known as having one of the freest presses in all of Asia.

Controls on freedom of expression throughout the region ran counter to the calls on the part of the international community for increased "transparency" as a sign of good governance. Another hallmark of good governance on which Asian governments had a very mixed record was respect for the rule of law. Impartial legal systems, free of corruption and with full independence of the judiciary are as important to businesses as they are to the human rights community, and they have been hard to find in Asia. Developments on this front were mixed. In Malaysia, the effect of Prime Minister Mahathir's destruction of judicial independence became clear when a national scandal erupted over a company's purchase of a judge to rule in its favor in a takeover bid. In Hong Kong, pro-democracy activists were outraged at Britain's capitulation to Chinese pressure over the creation of a Court of Final Appeal that is to take the place of the Privy Council after 1997; they believed that implementing legislation approved by the two countries would compromise judicial independence and subject the court to political pressure from China. On the other side of the balance sheet, however, Indonesian courts, generally regarded as among the most corrupt and politicized in the region, made three courageous decisions during the year that went counter to government wishes.

Worker rights issues were a major concern throughout the region, with abuses of migrant labor a growing concern of NGOs in East and Southeast Asia, and freedom of association and the right to strike an ongoing issue in South Korea, Indonesia and China, among other countries. The South Korean government, seeking entry into the Organization for Economic Cooperation and Development (OECD), the club of industrial democracies, boycotted an OECD seminar on worker rights in Seoul in order to avoid awkward questions about Korea's repressive labor laws and practices. A crackdown on labor activists in May and June led to arrests of key Korean organizers. Throughout the region, concern about violations of worker rights was such that a major NGO meeting to address this issue was planned to take place in Kyoto, Japan just prior to the APEC summit.

Ratification of international instruments on human rights proceeded at a snail's pace, and Asia continued to have a poor record on acceptance of international standards. On July 5, 1995, Malaysia ratified the convention on Elimination of all Forms of Discrimination Against Women, just weeks before the Beijing Women's conference. At the same time, the generally useful role played by national commissions of human rights in India and Indonesia suggested that the formation of these bodies elsewhere in the region where a strong NGO community was present might aid in the promotion of human rights and acceptance of international standards.

Human rights NGOs in many Asian countries faced harassment for their monitoring activities. In Malaysia, Irene Fernandez, director of the women's rights organization, Tenaganita, was called to police headquarters in Kuala Lumpur in late September for interrogation in connection with possible criminal defamation charges after her organization published a report on abuses in Malaysian immigration detention centers. The U.S. company Freeport McMoran urged the U.S. embassy to cut off funds to the Indonesian human rights and environmental NGO, Walhi, after Walhi reported on links between Freeport security guards and the local military in the commission of human rights abuses. In China, where independent human rights NGOs do not exist, individuals who tried to circulate petitions demanding more respect for human rights were harassed or imprisoned, with twenty-two people still detained as of November.

### **The Policy Response**

Governments in the APEC region have frequently complained about the use of bilateral pressure to improve human rights, and fiercely resisted any linkage between trade, economic development and human rights or worker rights. A possible alternative to such bilateral pressure might be the application of a broad multilateral strategy to promote rights. But multilateralism on Asian human rights issues seemed moribund in 1995. There were almost no examples of international cooperation to set concrete human rights goals and develop strategies for achieving them. The one exception may have been the effort, ultimately unsuccessful, to push through a resolution on China at the U.N. Commission on Human Rights in Geneva in March. The amount of time and resources required to coordinate strategy on human rights was clearly more than most individual governments were willing to spend.

Even individual governments that professed concern about human rights in Asia found it extremely difficult to come up with coherent or effective policies to reflect that concern, especially when strategic and economic interests were also strong. The desire to strengthen trade and investment ties to Asian countries often pushed human rights to the sidelines, although there were some efforts in the U.S., Australia and elsewhere to define principles for businesses operating in repressive countries. In some cases, conflicting signals on human rights were the result of contradictory domestic pressures on governments: U.S. China policy was probably the best example of a cacophony of competing concerns which ended up addressing none effectively. Within Asia, donor governments were strong on some countries and weak on others, again as the result of different pressures: the business lobby in Germany was stronger on China and Indonesia than on Burma, for example, while the Australian government clearly had to take public opinion more into account in addressing East Timor than in formulating policy on India.

In some cases, what appeared to be lack of coherence may have been a conscious policy choice. Japan, for example, the world's largest aid donor, was willing to exert human rights pressure through the United Nations but emphasized economic incentives rather than pressure in its bilateral relations.

An effective human rights policy in the region is urgently needed, combining the following elements:

- Efforts to promote the rule of law, not to strengthen the hand or increase the legitimacy of abusive governments, but to open up legal and judicial systems and build in basic protections.
- Greater use of existing international human rights mechanisms, mainly the U.N. Human Rights Commission's working groups and rapporteurs, plus humanitarian agencies such as the International Committee of the Red Cross, and the International Labor Organization. This must be accompanied by consistent pressure on governments to follow up investigations or negotiations with concrete steps to carry out recommendations for change, or to implement agreements signed.
- Bilateral measures to compliment those taken at the multilateral level, including the selective use of economic sanctions, such as trade benefits, development assistance, or investment guarantees linked to respect for human rights and worker rights. In addition, governments should not shy away from voicing public criticism of rights abuses at international donor meetings, or in the context of high-level political and trade delegations. Asian governments may balk at such criticism, but stigmatization can be a useful form of pressure and a way of signaling support for domestic human rights advocates.
- Steps by the World Bank and Asian Development Bank to move beyond a rhetorical commitment to "good governance" to actively use governance as a policy tool, pushing governments to reform labor practices and legal institutions to make them more accountable and responsive to the people whose interests development is supposed to serve.
- A pro-active role for the private sector in support of human rights, not as an extension of government policy, but on the basis of a long-term interest in ending corruption, promoting the rule of law, and increasing the free exchange of information as a corollary to building free markets. Foreign investment can play a contributing role in bringing about change, but only if corporations are willing to take specific initiatives, and to explore ways of cooperating with human rights, labor and environmental NGOs active in the countries where they have commercial interests.

## **BURMA**

The most significant human rights event in Burma in 1995 was the release on July 10 of Nobel laureate and opposition leader Daw Aung San Suu Kyi after six years of house arrest. Paradoxically, the governing military State Law and Order Restoration Council (SLORC) took an increasingly hard-line stance during the year, and there was no overall improvement in the human rights situation. In some areas abuses increased, notably in the Karen, Karenni and Shan States where there was fighting, while throughout the country thousands of civilians were forced to work as unpaid laborers for the army. The SLORC continued to deny basic rights such as freedom of speech, association and religion and the right of citizens to participate in the political process.

Daw Suu and more than 200 other political prisoners were released in 1995, but at least 1,000 people, including sixteen members of parliament elected in 1990—all representing Daw Suu's party, the National League for Democracy (NLD)—remained in jail, and there were new political arrests. In February, nine students were arrested at the funeral of former prime minister U Nu when they began singing a pro-democracy anthem and were later sentenced to seven years in prison. A month later, six more students were arrested for allegedly obstructing soldiers preparing for Armed Forces Day. In June, four veteran politicians in their late sixties were arrested and sentenced to seven years in prison. On September 27, a student, Ye Htut, was arrested for having sent information to Burmese abroad; as of November, his trial was still pending. All of these people were tried under Section 5 (j) of the 1950 Emergency Provisions Act, for "spreading false news about the government."

The treatment of those detained remained an issue of concern. Two of the students were known to have been beaten immediately after their arrest, but the fate of the other is not known. In June, Dr. Thida, a twenty-nine-year-old medical doctor who was sentenced to twenty years of imprisonment in 1993 under the 1950 Act, was reported to have contracted tuberculosis while in Rangoon's Insein jail. She was also diagnosed in June as needing surgery to remove ovarian cysts. Dr. Thida reportedly received inadequate medical treatment.

The year opened with a renewed offensive against the Karen National Union (KNU) following a split within the KNU and the formation of the Democratic Karen Buddhist Army (DKBA) which was supported by the SLORC. By January 27, the KNU headquarters at Manerplaw near the confluence of the Salween and Moei rivers had fallen, and on February 23 the KNU retreated from its base at Kawmoora. Since early November 1994, the SLORC army had arrested as many as 5,000 men from towns and villages in the Karen and Mon states and even from Rangoon to work as porters in preparation for this offensive. Although the offensive was relatively short, scores, and possibly hundreds, of forced porters are believed to have died from beatings or exhaustion compounded by lack of food. Others were caught in the cross fire during the fighting or were killed by landmines laid by both the SLORC and the KNU.

In early February the offensive took a new turn as DKBA and SLORC troops launched the first of several raids into refugee camps in Thailand. There were already more than 70,000 refugees in these camps, joined by some 10,000 people after the fall of Manerplaw. Many camps were situated along the banks of the Salween and Moei rivers, which mark the border between Burma and Thailand, and were easily accessible by the DKBA/SLORC troops. The raids, which were intended to terrify the refugees into returning to Burma, continued from February to May. They left fifteen refugees and Thai civilians dead, scores injured, and at least 1,000 houses in different camps razed to the ground. In addition, the DKBA/SLORC forces kidnaped more than twenty-five individuals and took them back to Burma at gunpoint, forcing hundreds of others to return through a campaign of fear and intimidation (see Thailand chapter). Following its defeat in these areas, the KNU made several offers to the SLORC to engage in cease-fire talks. While there were meetings between the two sides, at the end of October there was no sign of any progress.

Talks with other ethnic groups were more successful, but the weakness of the military cease-fires as solutions to long-term ethnic insurgencies became apparent as the SLORC failed to deliver the promises of reconciliation and economic development that formed the basis of the agreements. Moreover, the SLORC continued to refuse to discuss lasting political solutions with the ethnic groups, claiming that as a temporary, military government, it had no authority to discuss political matters.

In the Karenni State, the Karenni Nationalities Progressive Party (KNPP) signed a cease-fire agreement at a ceremony in Loikaw on March 21, making it the fourth and final armed group in the Karenni State to do so. But on June 28, the KNPP issued a statement claiming that the SLORC had broken the terms of the agreement by sending an additional 2,000 troops into its territory and continuing to take porters from the area. Two days later, fighting broke out after the SLORC launched an attack on the KNPP headquarters near the Thai border. The SLORC insisted that the offensive was launched in order to chase away illegal Thai loggers and to secure a route through the KNPP territory to that of drug warlord Khun Sa. In later addresses, the SLORC also claimed that it had positioned so many troops in the area, close to the Thai border, because of possible threats to national security during the time of the general election in Thailand.

During the fighting some porters escaped into Thailand, but these were relatively few, given the total numbers believed to have been taken in Loikaw township alone. Those who did arrive in Thailand told of witnessing the deaths of fellow porters from landmines, stories which were confirmed by medical workers who reported that in just one day seven porters arrived in a refugee camp all close to death as a result of landmine injuries. These reports led observers to believe that landmines planted by both sides may have killed many porters who fled.

The fighting died down during the rainy season in August and September, though skirmishes were still reported. By October, despite the arrival of SLORC intermediaries in Thailand, there was no sign of any new settlement, and the KNPP claimed that the SLORC was preparing for a major offensive against it and had brought in a further 6,000 troops.

In the south, the New Mon State Party (NMSP) signed a cease-fire on June 29. Discussions that had started between the NMSP and the SLORC in 1993 were helped in 1995 by three intermediaries, one of whom was an elected member of parliament for the Mon National Democratic Front who had been in jail from 1991 until November 1994. While the agreement itself, like all other previous agreements, was not made public, it was known to have included the right of NMSP troops to retain their arms within twenty small circles of territory. However, the SLORC did not agree to the right of the Mon to receive developmental assistance from international nongovernmental organizations (NGOs) in Thailand, nor were there clear decisions made on rights to the natural resources of the area, especially logging and fishing rights. The agreement did include a program to repatriate the 11,000 Mon refugees in Thailand, with no international monitoring or guarantees of safety on return, fueling speculation that Thailand had played a major part in pressuring the Mon to accept the terms.

In the northeast, fighting continued against drug warlord Khun Sa in the Shan State. In January the SLORC had announced its resolve to crush his Muang Tai Army (MTA) by the end of the year. SLORC had also made this promise in 1994, but by October the much-heralded final offensive had not materialized. However, Khun Sa suffered a major blow in August when one of his military commanders broke off to form his own Shan nationalist group, taking between 1,000 and 2,000 troops with him. Then, in September, the United Wa State Party, a group that has had a cease-fire agreement with the SLORC since 1989, joined in the attack against Khun Sa, allegedly in order to secure its own stake in the drug trafficking market.

As in other areas, the Burmese army impressed thousands of civilians to work as porters in the offensive against Khun Sa. In January, indiscriminate aerial bombardments by the SLORC forced hundreds of people to flee from villages near Kengtung, and in March and April heavy fighting forced others to seek refuge in Thailand (see Thailand chapter).

At the same time, inside the Karen State, thousands of villagers living in areas where the Karen had been active were forcibly relocated to areas under DKBA/SLORC control. At first these relocations were restricted to areas in Hlaingbwe township near the DKBA headquarters, but by July relocations were also reported to have taken place as far south as Kyaukkyi, Kawkereik and Pa-an townships. Relocated families either were forced to live in encampments guarded by the army, or they fled to the forests. From the camps, they were forced to work as laborers on road-building and other infrastructural projects for the army.

Indeed, forced labor was endemic in Burma. As the SLORC sought to open up the economy to international investors, it forced tens of thousands of civilians and prisoners to rebuild the country's long-neglected infrastructure. During the year, scores of people died on such projects from beatings, lack of medical care and food, and sheer exhaustion. In the southwest, at the site of the Rangoon-Kyaukpyu road in Arakan State, at least twelve people died during December 1994 and January 1995 from untreated fevers. In the far north, some 3,000 people were taken from Putao, Kachin State, in late 1994 to work at a remote site on the Putao-Sumprabum road. After walking for six days to reach the site, they found that the rice supplies that had been promised by the army had not arrived, and they had to walk back. Many died on the journey from malaria and other diseases, exacerbated by lack of food. In the northwest, soldiers supervising the work killed a woman working on the Pakokku-Kalemyo railway line in Chin State after she had stopped working twice to feed her young baby. In the south, in Mon State, two to three families each week fled from the site of the Ye-Tavoy railway to refugee camps in Thailand.

In Arakan, Burma's most western state, refugees who had fled into neighboring Bangladesh in 1992 returned to Burma. Of the 270,000 refugees, only 40,000 remained in camps by October, though it was unclear how many of these would eventually be accepted by the Burmese authorities. Despite the presence of fifteen UNHCR staff in Arakan and two NGOs running programs to reintegrate the refugees, reports continued of abuses of Muslims, especially of those Muslims who had not left Burma in 1992. In their *Bulletin* of June, the UNHCR claimed that it had succeeded in getting an agreement to limit the amount of forced labor for returnees to one day a week. However, the government had plans to build more than 1,200 miles of road in the area, and it was unclear how the UNHCR would be able to monitor the many forced labor sites in Maungdaw and Buthidaung townships. Muslims who remained in 1992 were also subject to forced relocations and forced labor and religious persecution, and villages in Mro Haung and Myauk Oo townships were forced to move to Buthidaung, forming a Muslim enclave on the border with Bangladesh.

Following Daw Suu's release from house arrest in July, members of her party, the NLD, were able to visit her freely. Among her first visitors were former chairmen of the NLD, U Tin Oo and U Kyi Maung, who had been released from jail in March. She was also able to meet foreign journalists, ambassadors and other international representatives, including the U.S. ambassador to the U.N. Madeleine Albright, who visited in early September. Daw Suu's international profile was enhanced by the showing of a videotaped speech she gave to open the NGO Forum of the U.N. Women's Conference in Beijing. Daw Suu also held regular Sunday morning gatherings outside her home, at which up to 200 people would come to hear her speak. She made her first trip outside Rangoon on October 4, visiting the famous Thanmanyat monk in the Karen State. In press interviews Daw Suu continued to take a reconciliatory line, calling on the SLORC to begin dialogue with her. On October 11, the NLD re-elected Daw Suu, U Tin Oo and U Kyi Maung as general secretary and vice-chairmen of the party respectively. This was a move intended to deprive the SLORC of their main justification for not talking to her: she was not just an ordinary individual, but re-instated as a party representative.

The National Convention, the SLORC's constitutional assembly, had begun deliberations on a new constitution in January 1993, sat for six months from September 1994 to March 1995 and was then suspended for six months until October 24. Nearly 600 of the 700 delegates were hand-picked by the SLORC. During this session, the question of representation at the local and national level for ethnic groups was discussed, including representation for those groups that were not included under previous constitutions—the most contentious issue for Burma's political future. Despite strong statements opposing the government proposals by ethnic representatives and members of the NLD, the National Convention approved the formula of 'self-administered zones' entitling groups to one representative in the House of Nationalities. In early October the convention was again postponed for a further month, leading analysts to suggest that the SLORC feared an NLD walk-out if Daw Suu was not invited to attend the convention.

There are no indigenous human rights organizations in Burma, and no international human rights organizations were permitted to visit the country during the year.

U.N. bodies, however, were given limited access. In January the International Labor Organization conducted a preliminary mission to investigate the government's compliance with Article 87 of the ILO Convention concerning freedom of association. By the end of the year, however, the ILO had not decided to conduct a formal mission. In

October, U.N. Special Rapporteur to Burma Prof. Yozo Yokota went to Burma for the fourth consecutive year and met with Daw Aung San Suu Kyi for the first time; his previous requests to see her had all been denied.

At the same time, the government refused to allow international monitoring of prisons. The International Committee of the Red Cross (ICRC) announced on June 16 that it would close its office in Rangoon the following month due to the failure of negotiations with the SLORC on allowing the ICRC regular and confidential access to prisoners.

### **The Role of the International Community**

On December 13, 1994, the U.N. General Assembly passed the toughest ever resolution on Burma. A key part of the resolution called on the secretary-general of the U.N. to assist in implementing the resolution, including facilitating a political dialogue between the SLORC, the democratic opposition and ethnic minorities. On that basis, Alvaro de Soto, the assistant secretary-general for political affairs, spent two days in Rangoon in February 1995 to follow up meetings held in Rangoon in November. At the U.N. Commission on Human Rights in March, the mandate of the special rapporteur to Burma was once again renewed. At the same meeting, the U.N. secretary-general presented a report in which he complained that Mr. de Soto had not been permitted to meet with Daw Suu, but made it clear that meetings with the SLORC would continue in the spring. No further meetings took place until after the release of Daw Suu. Mr. de Soto went to Burma again in August and met with Daw Suu, but was unable to see Gen. Khin Nyunt, the Secretary-1 of the SLORC. Press reports suggested that the SLORC was not prepared to enter into meaningful discussions with the U.N.'s representatives.

The efforts of the secretary-general's office failed to receive adequate support from the international community. No governments took concerted action to exert pressure on the SLORC to ensure that the resolution's recommendations were implemented. Indeed, when the SLORC launched its attack against the KNU, just days after the resolution was passed, only the U.S. government reacted with a strong statement, condemning the use of civilian porters in the January offensive. In mid-February, the European Union issued a similar statement, but days later the German Deputy Foreign Minister, Helmut Schaefer visited Rangoon to continue the policy of 'critical dialogue' adopted by the European Union in 1994.

Worse yet, governments did not back up their rhetoric on Burma by denying the SLORC the benefit of bilateral aid and investment. Instead, at the end of February, the British embassy in Rangoon launched the second 'British Week' aimed at encouraging British business in Burma. On March 18—as the SLORC-backed DKBO attacks on refugees in Thailand were at their height—Japan announced an agreement to give Burma an \$11 million grant for "agricultural development." In April, Tokyo also granted Burma debt relief worth \$4 million.

Following the release of Daw Suu in July, the attitude of some governments toward the SLORC further softened—notably Japan, which had previously maintained support for the international consensus on Burma. Differences in approach emerged even on the day of her release, with Western countries reacting in a spirit of "cautious optimism" and Asian governments, such as Japan and Thailand, welcoming the move as "substantive progress." Later, Tokyo indicated it planned to resume some Official Development Assistance (ODA) projects suspended in principle since 1998. (See chapter on Japan for details.) South Korea also rewarded the SLORC with a government loan of \$16.8 million in October.

China continued to be a key supporter of the SLORC. The relationship was enhanced by the visit to Rangoon of Chinese Premier Li Peng in December 1994, followed by a flurry of diplomatic trips between the two countries during the year, including a delegation of 150 Burmese officials and businessmen who took part in the Yunnan trade fair in August. Arms supplies remained a crucial element of the Sino-Burmese relationship. Throughout the year, arms shipments arrived in Rangoon from a November 1994 deal reportedly including \$400 million of helicopters, armored vehicles, rifles and parachutes. Several Chinese naval vessels, purchased with a \$40 million interest-free loan, also arrived in June.



The ever increasing closeness between China and Burma was disquieting for Burma's other neighbors, notably India, and prompted India to reopen official border trade in April for the first time since the 1962 military coup. The Association of South East Asian Nations (ASEAN) also sought to increase its economic influence in Burma, and by March Singapore had become the second largest investor, with projects totaling \$294 million.

However, relations with Thailand, which had been the originator of ASEAN's "constructive engagement" policy, soured during the year. When DKBA/SLORC troops attacked refugees, Thai police and villagers in Thailand, the Thai government maintained a policy of appeasement, barely even criticizing the SLORC for the attacks. The SLORC, on the other hand, showed no such restraint in condemning what it saw as Thailand's un-neighborly acts. It accused Thailand of supporting Khun Sa by allowing his forces to seek medical care and obtain food supplies in Thailand, and in August the SLORC condemned the murder of a Burmese fisherman by his Thai bosses, who were also illegally fishing in Thai waters. The construction of the Mae Sot-Myawaddy "Friendship Bridge" was suspended in June, and by September all border crossings between the two countries were closed.

Nevertheless, Thailand still supported the SLORC in its bid to become a member of ASEAN. Bangkok's position was made public at the ASEAN Ministerial Conference in July when Foreign Minister U Ohn Gyaw acceded to the Treaty of Amity and Cooperation, the first step towards membership. During the ASEAN meeting, Australia and the European Union urged the ASEAN countries not to grant Burma membership too rapidly, insisting that the SLORC needed to do much more than release Daw Suu. But the ASEAN governments ignored this warning and arranged for a special conference to take place in December to assess ways in which they could facilitate Burma's and Cambodia's entry into the forum in the shortest possible time.

In the U.S., the Clinton administration faced congressional pressure to respond to the "further deterioration of human rights in Burma," as described by sixty-one members of the House of Representatives in a letter to President Clinton on June 1, 1995. On June 21, the administration announced that it would reward SLORC's cooperation in allowing the Drug Enforcement Administration (DEA) to undertake a joint opium yield survey by stepping up some forms of anti-narcotics assistance to Burma. This included an agreement to provide limited in-country training for SLORC's anti-narcotics enforcement agencies as well as an exchange of information on anti-drug operations. This decision contradicted earlier administration statements that without progress on each of the three fronts of human rights, democratization, and narcotics control, an upgrading of U.S. cooperation could not take place. In June, the House of Representatives adopted by a decisive 359-38 vote an amendment to the fiscal year 1996 foreign appropriations bill prohibiting anti-narcotics assistance to Burma, including training. As of the end of October, the bill was still awaiting final approval by Congress.

Following the release of Daw Suu, President Clinton issued a statement welcoming the news but expressing "concern about a number of serious and unresolved human rights problems in Burma." The White House then dispatched Ambassador Albright to visit Daw Suu and senior members of the SLORC in early September. She delivered a tough message, calling for "fundamental progress toward democracy and respect for human rights" before relations with the U.S. could be improved or the U.S. would consider lifting the ban on World Bank loans to Burma imposed since 1988.

However, while the State Department did not rule out the possibility of further economic sanctions, such as prohibitions on private U.S. investment, the administration took no moves to implement this option. By 1995, the U.S. was the fourth largest investor in Burma, with investment primarily in the oil sector, totaling some \$203 million. An abortive attempt to impose comprehensive sanctions, including a ban on all U.S. investment in Burma, was led by Senator Mitch McConnell, who introduced legislation in July. But he failed in his attempt to insert the bill as a last minute amendment to the 1996 foreign aid legislation.

## CAMBODIA

The human rights situation deteriorated markedly during the second year of Cambodia's new Royal Government, which continued to avoid punishing abuses committed by its own military and police forces and instead vigorously attacked opposition political figures and the press. The governing coalition also condoned the expulsion of dissident parliamentarians from the legislature despite worldwide protests, and encouraged the legislature to enact a series of laws that left the independence of the judiciary and freedom of the media on an insecure footing. In September, the worst political violence since the 1993 election broke out, raising the prospect of yet further violence should local elections proceed in 1996.

Low-level war with the Khmer Rouge continued. In late 1994 and continuing into 1995, the guerrillas shifted tactics, directly attacking civilian settlements in an effort to exacerbate internal displacement and food shortages. A stream of defections from Khmer Rouge ranks continued even after the official amnesty period expired, and some defectors reported that in response the guerrilla leadership mounted purges and stepped up extrajudicial executions of those it deemed disloyal. The kidnapping of civilians for profit and political advantage continued to be a staple Khmer Rouge tactic, and finally came to the attention of the international community when a series of young Europeans were abducted, and in some cases, killed. The Khmer Rouge continued to engage in and endorse the planting of landmines and hidden booby traps even while the government declared a ban on the use of landmines, a ban that has not been scrupulously enforced. Both sides to the conflict engaged in instances of rape and widespread pillage, in contravention of the international laws of war.

The government outlawed the Khmer Rouge in July 1994, and the first prosecutions under the law took place at the conclusion of a statutory amnesty period in February 1995 (amnesties for voluntary military defectors, however, continued). These cases, involving two men accused of laying mines in Battambang, realized fears that the law could be misused for abusive prosecutions. The accused, both returnees from a Khmer Rouge border camp in Thailand, were convicted and sentenced to twenty-five years of imprisonment each, although the government's case rested on confessions obtained by torture; the cases are now on appeal on the basis of numerous substantive and procedural flaws. The political pressures and lack of due process evident in these trials cast in an ominous light the tendency of government authorities to accuse all critics of being "Khmer Rouge," an accusation voiced by Second Prime Minister Hun Sen as recently as September 23.

Sam Rainsy, a former finance minister and member of the royalist FUNCINPEC party and the most prominent political critic of the government, came in for repeated attack throughout the year, including threats to his life and safety that appeared to emanate from the highest levels of the government. In March 1995, the government withdrew his bodyguards, some of whom later left the Ministry of Interior and continued in Sam Rainsy's private employ. In May, the FUNCINPEC party expelled Rainsy in an irregular proceeding, and on June 22, the National Assembly expelled him as a parliamentarian, despite concerns raised as to the legality of such a move by the Interparliamentary Union, the U.N. Special Representative, former U.N. officials closely involved with the drafting of Cambodia's constitution and election law, and legislators around the world. On the night of July 13-14, three of Rainsy's bodyguards and another man were abducted and taken to a Ministry of Defense installation where several dozen soldiers beat one and pointed guns at their heads, demanding that they identify Rainsy as a "Khmer Rouge." The government confirms that the four men were interrogated, but denies there was any wrongdoing and claims that they spontaneously and inexplicably drove to the military base on their own accord.

Sam Rainsy's expulsion opened the prospect that other independent legislators would be stripped of their position and their parliamentary immunity. In July, a rift opened in the small Buddhist Liberal Democratic Party (BLDP) between Ieng Mouly, currently minister of information, and Son Sann, the party's founder. Ieng Mouly called an ad hoc party congress (boycotted by Son Sann's supporters) at which his faction voted to expel Son Sann's from the executive committee and announced a vote of "no confidence" in Son San and five other BLDP members; the Ieng Mouly faction subsequently voted to expel the six in August, among them four sitting legislators. The prime ministers recognized Ieng Mouly as the new party leader and warned Son Sann not to proceed with his own party congress unless he first reconciled with Ieng Mouly. Son Sann's group went ahead with plans, asking the Interior Ministry for protection, which was denied. On the evening before the congress, September 30, grenades were thrown at a pagoda

and at the party headquarters where Son Sann's supporters had gathered, injuring between thirty and fifty bystanders. The meeting proceeded anyway on October 1, with more than a thousand participants crowding the party headquarters and the street outside. Government military police, however, waited until the U.S. ambassador had left the meeting and then dispersed most of the participants on the excuse that they were blocking street traffic; the police then cordoned off the street.

Although government officials strongly condemned the attacks by unknown perpetrators, these statements rang hollow in view of the government's condemnation of Son Sann's plans to go ahead with the meeting against its wishes. Both Second Prime Minister Hun Sen and Minister of Information Ieng Mouly prior to the incident had predicted that were the meeting to go ahead, agitators might disrupt it by throwing "grenades." Once the attacks occurred, broadcast stations reported they were told to limit their coverage of the meeting to a government-provided script that implied Son Sann was to blame for rejecting government protection at party headquarters. In fact, BLDP members had asked the government for protection and permission to hold the meeting at the Olympic Stadium, and they moved it to party headquarters only after these requests were denied.

Government efforts to control the press included criminal prosecution as well as intimidation. In February, the Phnom Penh municipal court sentenced Chan Rotana, the editor of *Samleng Yu Vachon Khmer* (Voice of Khmer Youth) to a year of prison and a \$2,000 fine for publishing a cartoon of First Prime Minister Ranariddh carting a bag of money on his head and an essay that criticized him as both autocratic and subservient to Hun Sen; his appeal was rejected in October but he will appeal to the Supreme Court. Thun Bun Ly, the editor of *Odom K'ek Khmer* (Khmer Ideal) was charged with "disinformation" for five articles and editorial cartoons that satirized government leaders; mid-trial, the prosecution added the charge of defamation over the objection of defense counsel. He was convicted of all charges, fined approximately \$4,000 and ordered to spend two years in jail should he fail to pay; the court also ordered his newspaper closed pending appeal. The government confirmed it was pressing charges against at least five other newspapers that had yet to receive official notice; one was the English-language *Phnom Penh Post*. The government also acted during the year to confiscate print runs and suspend publication of several critical newspapers, all under dubious legal authority, and banned from the country two foreign correspondents from the French newspaper *Libération* who had reported on atrocities by government military personnel in the northwest. According to the *Phnom Penh Post*, the government has also tried to limit the influence of critical reporting by forbidding teachers to discuss politics or use newspaper articles critical of the government in teaching foreign languages.

After intensive pressure from the international community and King Sihanouk, the government did free six men who had been arrested for tying petitions onto balloons at the time of U.S. Secretary of State Warren Christopher's visit to Phnom Penh in August.

The most recent journalist to be murdered was Chan Dara, who was shot to death on the night of December 8, 1994, just after he was seen leaving a restaurant in Kampong Cham with a colonel named Sath Soeun. A correspondent with the newspaper *Koh Santepheap* (Island of Peace), Chan Dara had also published exposés of corrupt timber and rubber deals by government and military figures, among them Sat Soeun, in the paper *Preap Noam Sar* (The Carrier Pigeon). Ministry of Interior police arrested Sat Soeun, who still continued to send threats to the two papers and to Chan Dara's wife. The colonel, however, was acquitted at trial and released, although two other serious criminal charges were still pending against him. The government has not apprehended any further suspects in the case. Violence directed at journalists continued when a grenade exploded in front of the office of *Damneung Pelpreuk* (Morning News) on September 7, exactly a year from the date that Noun Chan, former editor of *Samleng Yu Vachon Khmer*, was gunned down in public by still-unknown perpetrators. Although a neighbor was hit by shrapnel, *Damneung Pelpreuk* editor Nguon Nonn was upstairs at the time.

The threat to the press was not lightened by a new press law adopted in July that left open the possibility of criminal prosecution for material that negatively "affects national security or political stability." The government has usually prosecuted journalists under criminal "misinformation" or "defamation" charges, with judges typically refusing to make distinctions between articles purporting to report fact and opinion pieces or editorials. The new law also gives

government ministries broad powers to suspend or confiscate publications. Positive features of the new law include a prohibition on pre-publication censorship and guidelines for access to official information.

Other legal developments included the passage of a law establishing the Supreme Council of Magistracy, a body charged with ensuring the independence and integrity of the judiciary and supervising the appointment, promotion and discipline of judges and prosecutors. The law, however, gives the minister of justice or his representative a place on the council, which some observers feared might perpetuate the ministry's close direction of the judiciary. A council stipulated by the Cambodian constitution to rule on the constitutionality of laws and government decisions had yet to be created, although King Sihanouk had put forward his nominations two years before. The government supported programs designed to help professionalize the legal system and to improve military accountability, although the actual impact of these programs has yet to be measured.

The justice system remained plagued by corruption, however, and government officials, particularly police and military, continued with rare exceptions to enjoy virtual impunity for criminal behavior. Symptomatic of this was the way an official inquiry into the behavior of military intelligence officers accused of abducting, extorting and murdering civilians in the northwest stalled this year. Following several trips by a special commission of inquiry to Battambang province that interviewed witnesses in this sensitive case in the presence of the military and a press corps, the commission concluded that the temple of Che K'mau was not being used as a "secret prison" for victims. This conclusion hardly closed the matter, as human rights monitors had alleged that imprisonment and murders had taken place in a variety of locations in Battambang over a period of at least eighteen months.

Cold-blooded murder of ethnic Vietnamese civilians in Cambodia continued, with the Khmer Rouge the likely perpetrators in most instances. On May 20, approximately thirty men identified as Khmer Rouge killed four ethnic Vietnamese, one Khmer policeman, and wounded at least five others in Phat Sandai village in Kompong Thom province. In September, another band of men identified as Khmer Rouge attacked the floating village of Tonle Chhmar in Siem Reap province, killing an as yet unconfirmed number of ethnic Khmer and Vietnamese civilians. Ethnic Vietnamese in Cambodia also faced harassment from the government, as local officials confiscated identity documents and drew up plans for large-scale confinement of ethnic Vietnamese as "illegal aliens" pending repatriation. Although local officials sometimes hindered international delegations from gaining access to ethnic Vietnamese who were stranded at the Vietnamese border at Chrey Thom since 1993, by mid-year the government had agreed to allow a small number of these families to return to their homes in Cambodia.

In September, First Prime Minister Ranariddh called for reinstatement of the death penalty in Cambodia for drug trafficking and murder during robberies and abductions. The Cambodian constitution currently forbids the use of the death penalty, and King Sihanouk went on record as opposing its reintroduction.

Human rights groups continued to raise concern over abuses despite the worsening political atmosphere and persistent government attempts to register and monitor their members and activities. Important work continued in prison monitoring, education, and investigations, with groups often able to interact constructively with government authorities as advocates or intermediaries. The independence and vigor of the Cambodian nongovernmental movement was reflected in a series of international conferences hosted in Phnom Penh during the year, among them an international conference on the banning of landmines, a regional conference on child prostitution, and several other conferences that raised human rights in the context of environment and development problems.

However, the government's increasing intolerance of criticism produced an intimidating atmosphere for all groups. In the days following the international donors' meeting in April, the prime ministers called for the closure of the U.N. Human Rights Centre office in Phnom Penh, a request that was withdrawn under intense local and international pressure. The government, however, continued to criticize Justice Michael Kirby, the special representative of the U.N. secretary-general. Justice Kirby's detailed reports on the human rights situation and his frank criticism of serious abuses led the government to complain it had been inadequately consulted; nevertheless, the prime ministers were unavailable to meet with Kirby on his most recent visit.

Kem Sokha, the head of the National Assembly's human rights commission, also received death threats at various points in the year and became a target of condemnation by both prime ministers, particularly Hun Sen who in July called for his removal as commission chairman. Other members of the commission who come from the two governing coalition parties were instructed by their party leadership to cease cooperating with Kem Sokha in investigations of human rights complaints and other matters. Kem Sokha is also one of the six BLDP members who have been "expelled" from the party on the initiative of Ieng Mouly.

### **The Role of the International Community**

The U.S. administration expressed concern about the government's abuses through private diplomatic channels but publicly tended to downplay the Cambodian government's dismal human rights performance, urging the swift passage of legislation that would grant Cambodia Most Favored Nation trading status and celebrating "progress" as gauged from the darkest years of Cambodia's recent history. Mid-year the administration certified Cambodia as an "emerging democracy" for the purpose of eligibility for agricultural credits, a designation that by law requires a country to be taking steps toward respect for internationally recognized human rights. In August, Warren Christopher was the first U.S. secretary of state to visit Cambodia in forty years, signing aid agreements and hosting a lunch that included government officials, NGO representatives, and dissident politicians. Christopher praised Cambodia's democracy, but warned that "elections are not enough" and suggested that U.S. aid levels would depend on the government's human rights performance. As usual, Congress was less reticent in publicly voicing dismay at the deteriorating state of human rights, with Senators Thomas, Feinstein and Roth and Representatives Neal, Frank and Rohrabacher among others offering strong statements and letters of concern.

The ASEAN countries that were investors in Cambodia, particularly Malaysia, assumed more prominent influence as the government concluded major deals with them, such as logging concessions, a casino project, and an airlines contract; this support was especially important as an alternative source of government revenue apart from international aid. International donors, on the other hand, expressed concerns regarding the government's accountability and transparency at the 1995 donors' conference, and a proposal for a special working group to address these concerns was aired but at year's end not implemented. Japan, Cambodia's largest aid donor, protested the government's request to close the Phnom Penh office of the U.N. Human Rights Centre, but otherwise kept a low profile on human rights issues.

Thailand continued to play a pivotal role in the Cambodian conflict, diplomatically supporting the Royal Government on the one hand, while continuing to allow trade in logs and gems across its borders, a critical and vast source of revenue for the Khmer Rouge. According to the London-based environmental monitor Global Witness, Thailand was still issuing import permits for logging businesses operating in Cambodia that inevitably pay the Khmer Rouge protection money for safe passage of their haul. The summary of the U.S. administration's report to Congress on Thai military support for the Khmer Rouge (the only unclassified part of the document) acknowledged "unofficial" contacts between Thai military personnel and the Khmer Rouge, "generally in the context of business transactions."

In its March 1995 report *Cambodia at War*, Human Rights Watch/Asia documented gross violations of the international laws of war committed by both sides and called on all nations to halt aid and trade in arms and military equipment to the parties. Among the nations that have supplied arms to the Khmer Rouge in the past were China and Thailand; the guerrillas still draw on these stockpiles and buy current supplies from local arms brokers who sometimes deal in weapons intended for the Royal Cambodian Armed Forces (RCAF). The RCAF, in turn, has purchased military supplies and upgrades from North Korea, South Africa, the Czech Republic, Israel, Poland, Russia, Singapore, Indonesia and Malaysia since 1994.

The U.N. Commission on Human Rights passed a resolution expressing concern about the continuing serious violations of human rights and requested Special Representative Michael Kirby to present a report to the General Assembly and to the 1996 session of the commission.

## CHILE

The issue of accountability for past human rights violations continued to divide the nation; and constitutional restraints on full democracy, out-of-date penal standards, and ingrained police abuses remained major obstacles to the full enjoyment of basic human rights in Chile.

On May 30, the Supreme Court unanimously confirmed a prison sentence of seven years for Manuel Contreras Sepúlveda, a retired army general and former head of Chile's secret police, the National Intelligence Directorate (Dirección de Inteligencia Nacional, DINA), and a sentence of six years for Brig. Gen. Pedro Espinoza, Contreras's former deputy. These two had been convicted in 1993 by a special judge appointed by the Supreme Court to resolve the 1976 Washington, D.C., car-bombing murders of Orlando Letelier, a former Chilean foreign minister, and U.S. citizen Ronni Moffitt. Contreras was finally incarcerated in Punta Peuco prison in the early hours of October 21. The Letelier-Moffitt case is the only one in which senior DINA officials—responsible for a widespread campaign of disappearances and political murders between 1973 and 1978—have been fully prosecuted or imprisoned.

On June 19, after three weeks of uncertainty in which police officials tried in vain to carry out an arrest order, the army discharged Espinoza, and an army escort took him to a prison constructed especially for military officers in Punta Peuco, on the outskirts of Santiago. It took almost five months for the court sentence on Contreras to be executed. On learning of his conviction, Contreras promised that he would "never spend a day in jail" and took refuge in his ranch in southern Chile. On June 13, after police received authorization to arrest him there, army commandos working under cover of night spirited him away to the naval base in Talcahuano, where he was admitted to hospital allegedly suffering from diabetes and high blood pressure, disorders from which he had not been known previously to suffer. Citing ill health, Contreras's attorneys launched a series of appeals against his imprisonment, prompting a sequence of medical examinations. Finally, Contreras underwent a hernia operation at the hospital, having received permission by the court to begin serving his sentence there. When his doctors had pronounced him fit and all further avenues of appeal had been exhausted, Contreras finally joined Espinoza in prison on October 21.

In response to the civil-military crisis, right-wing opposition parties, which have historically rejected concerns about human rights issues stemming from Pinochet's military rule (1973-90), pressed for a new law to interpret the 1978 amnesty that provided immunity from punishment for human rights violations committed between 1973 and 1978. Opposition senators introduced a bill in July proposing what amounted to a "full stop law," a deadline for judicial investigations into human rights cases. The bill would make it easier for courts to close unresolved human rights cases by requiring that they need only establish the type and date of the human rights violation that took place to mandate the permanent closure of the case. In recent years, trial-level courts have made significant advances in the opposite direction, including reopening human rights cases and prosecuting suspected human rights violators.

At issue was the ability of Chilean courts to investigate human rights violations and prosecute perpetrators, which the Supreme Court itself threw into further question. The amnesty clearly made punishing human rights violators impossible but did not definitively address investigations and prosecutions. Trial-level courts had previously considered disappearance cases open pending confirmation of the fate of the victim. In August, however, the Supreme Court ordered the final closure of the case of the 1976 disappearance of Joel Huaquiñir Benavides, a Socialist Party leader. The court ruled that Huanquiñir be legally considered deceased from the time of his disappearance, even though his fate remained unknown. In October, the Penal Chamber of the Supreme Court confirmed the application of the amnesty law in two more cases: Juan Carlos Perelman, a member of the Movement of the Revolutionary Left (Movimiento de la Izquierda Revolucionaria, MIR) who was detained and disappeared in February 1975, and Juan Núñez Vargas, a Socialist Party member who disappeared after his arrest by members of the San Bernardo Infantry School in September 1974.

In response to the proposed bill to "reinterpret" the amnesty, the government countered with a proposal of its own. In an unusually frank television address to the nation on August 21, President Eduardo Frei stressed that the

Letelier-Moffitt case had brought Chile face to face with the limitations of its democracy and that the truth about past human rights violations, especially disappearances, had to be confronted for national reconciliation to be possible.

After his speech, Frei presented three bills to parliament, the first dealing with human rights investigations and the second and third with constitutional reforms aimed at phasing out military restrictions on the full exercise of democracy. The human rights bill promised to streamline court investigations, but its general effect would be to reinforce and extend the negative effects of the amnesty law by trading information about abuses for guarantees of secrecy about the violations. The bill would mandate the appointment of superior court judges devoted for two years exclusively to disappearance cases. The judges would receive special investigative powers, including access to classified documents, military installations, and police stations, which are normally off-limits for members of the civilian judiciary. Judges would also take over all cases currently filed in military courts. Cases could be closed finally only if the judges were able to establish either the physical whereabouts of the victims' remains, or the fact of their death. However, to accomplish this, military witnesses or suspects would be given several extra incentives—in addition to the impunity they already enjoyed—to encourage them to cooperate with the courts. Judges would have to cancel arrest or detention orders against them and would be unable to issue indictments. Witnesses would be allowed to conceal their addresses and to testify outside the court. Their names would be kept off the public record, and not even the lawyers representing victims would have access to them. The names and any classified information would be entered in a secret notebook which would be destroyed as soon as a case was finally closed.

Other bills introduced by Frei would reduce some, but not all, of the military privileges left in place by the army when Pinochet left the presidency in 1990. With respect to human rights, they would restore the president's power to retire military officials, which could be used to remove human rights violators from service even if they could not be tried in the courts. Human Rights Watch/Americas encouraged a review under these provisions of cases such as those of Brig. Miguel Krasnoff Marchenko and Lt. Col. Fernando Laureani Maturana, former DINA agents directly implicated in several cases of disappearance in 1974. At this writing, Krasnoff was on active service in Santiago and Laureani was serving in a regiment in the northern city of Iquique.

Human Rights Watch/Americas was pleased that the Frei bills would not establish a date by which all human rights cases would be closed, but was troubled by other provisions in the package of legislative initiatives, including the legitimization of the amnesty law, judges' ability to close a case once they determined the fate of the victim, and the secrecy with which case details would be handled. The congressional debate on the government's and the opposition's proposals was continuing as this report went to press.

While past military abuses received considerable national attention, ongoing abuses by Chile's police forces did not, even though they continued to constitute a human rights problem in the country. Police, particularly the uniformed *carabineros*, operated without effective judicial control, often arbitrarily arresting, mistreating, or torturing detainees. Though Chilean police forces instituted internal mechanisms for investigating complaints of torture, their internal investigations rarely, if ever, led to successful court prosecutions. In a meeting with Human Rights Watch/Americas in July, officials of the Ministry of the Presidency and the Ministry of Justice failed to provide evidence that any police officers had been convicted of torture since the return to democracy, although the Ministry of Interior reported that courts received some sixty complaints of torture between March 1990 and October 1994. In July, U.N. Special Rapporteur on Torture Nigel S. Rodley visited Chile.

Although the government officially recognized the importance of freedom of expression, it continued to apply laws that limited this right, including the Law of State Security, which the former military government used to stifle political dissent. Police continued to arrest people for expression-related "crimes" under this law, and prosecutors based indictments on it. In January, both branches of the legislature voted to file a lawsuit, based on the law, against Francisco Javier Cuadra, a former Pinochet minister, because of remarks he made in the news magazine *¿Qué Pasa?* In the interview, Cuadra said that he had information that "some parliamentarians and other persons holding public office take drugs." Members of parliament deemed the comment an affront to their honor. On June 19, police arrested Cuadra and took him to Capuchinos prison in Santiago. He was released on bond on July 7. In August, police jailed

Chilean Socialist Youth leader Arturo Barrios, accused of violating the law, on charges of "insulting" General Pinochet. Two weeks later, Pinochet sued Christian Democrat Congressman Rodolfo Seguel under the same law for observing that "after well-irrigated lunches he [Pinochet] is wont to say stupid things."

The state also restricted freedom of expression in other ways. In August, the Supreme Court refused permission for Channel 7 television to interview Miguel Estay Reyno, a jailed former police undercover agent, who was believed to have information about the fate of the people who had disappeared during the military period. That same month, in an apparent case of self-censorship, a music video by the hit Argentine rock group Los Fabulosos Cadillacs was edited to delete an image of Pinochet. The video, titled "Mal Bicho" (Bad Bug), showed the general along with Argentine dictator Rafael Videla, Hitler, Mussolini, and Saddam Hussein. According to the Chilean newspaper *La Epoca*, Sony Music (Chile), which distributed the video, said that it received the version already cut from the company's Miami office and that the cut had been made to avoid problems with Chilean law.

Human Rights Watch/Americas has not received any reports that the government prevented or restricted human rights organizations from conducting their investigations and reporting their findings during 1995.

### **U.S. Policy**

Human rights remained a low priority in United States relations with Chile, as both the Chilean and U.S. governments focused their attention on Chile's proposed entry into the North American Free Trade Agreement (NAFTA). In mid-1995, representatives of Chile, Mexico, the United States, and Canada met to begin official negotiations on Chile's accession to the treaty. Neither the U.S. nor the Chilean government opposed the labor rights components of the existing accord.

The Supreme Court ruling on the major issue of historic contention between the two governments, the Letelier-Moffitt case, motivated a brief official note of congratulations to the Chilean government. Although the Clinton administration was outspoken about the human rights implications of the Letelier-Moffitt case, the United States failed to voice concern about other human rights problems, including Chilean proposals to expand the amnesty law, justice for past human rights violations, current police abuses (including torture), and freedom of expression.

During 1995, the Chilean and United States militaries continued to expand their links. The U.S. continued to provide aid to the Chilean military for training in the United States and began to program military training for civilian members of Chile's defense management. The U.S. also transferred to the country excess military equipment, including a Landing Ship Tank (LST), trucks, and other vehicles. In 1995, for the first time since the 1976 Kennedy Amendment blocked U.S. military aid to Chile, the Chilean army participated in joint military exercises with the U.S. Southern Command. Congress had lifted the aid restriction in 1990.

The U.S. Agency for International Development (AID) provided an estimated \$3,598,000 in assistance to Chile, focused basically on administration of justice. The Agency for International Development's justice-related programs will end by 1996, when the AID Chile mission is expected to close down.

## **CHINA**

Throughout 1995 the Chinese government continued to demonstrate its disdain for fundamental human rights guarantees and the rule of law. Obsessed with national "stability" as inflation, unemployment, and corruption worsened and an internal power struggle intensified, authorities continued to round up, imprison, and physically abuse activists engaged in peaceful dissent. Security officials continued to hamper independent religious practice, censored the media and publications industry, and escalated their efforts to stamp out "splittism" in Tibet. Some dissidents continued to be



disappeared; others remained in lengthy incommunicado pre- or post-trial detention; still others had their movements constantly monitored. Members of dissidents' families were threatened and harassed.

Chinese courts levied harsh sentences, up to twenty years, on those who challenged the one-party system. Where evidence was weak, courts substituted spurious criminal charges, or "re-education committees" administratively imposed shorter "labor re-education" terms, a form of punishment that the U.N. Working Group on Arbitrary Detention had earlier labeled "inherently arbitrary in character." Severely ill political prisoners remained in detention under conditions that violated the U.N.'s Standard Minimum Rules for the Treatment of Prisoners.

Chinese officials blatantly attempted to censor delegates' participation in and press coverage of the Fourth World Conference on Women and the parallel nongovernmental organization (NGO) Forum held in Beijing and Huairou in August and September. Even before the meetings convened, China challenged the U.N. accreditation of independent organizations with whose views it disagreed. Despite U.N. challenges and China's public promise to issue visas to all those registered by the NGO Forum, China used its position as host to deny visas to selected individuals. Security personnel monitored and disrupted NGO workshops and meetings, videotaping participants, their materials, and members of the audience. There were also attempts to confiscate NGO videotapes and to remove video equipment. Members of human rights organizations attempting to monitor Chinese violations of free expression and association were themselves under surveillance.

Members of the press were hampered in their coverage of the conference. Some hotel managers selectively refused reporters pre-arranged access to guests. As a condition of publishing, editors at the *Earth Times*, a daily newspaper that had been freely distributed at all major U.N. conferences and summits since 1992, were forced to comply with Chinese restrictions, including prohibitions on distribution at hotels and at the NGO Forum site and a ban on criticism of the host country.

In preparation for the conferences, Chinese officials cleared Beijing of prominent dissidents not already in custody so as to prevent meetings with outsiders. Tong Zeng, a leading campaigner for Japanese compensation to Chinese war victims, had expected to participate in a workshop about Japan's use of conquered "comfort women" during World War II. Instead, he was ordered to go on "vacation." Wang Zhihong, wife of dissident Chen Ziming who is serving a thirteen-year term for his 1989 pro-democracy activities, was "offered" a two-week prison visit with her husband. Dai Qing, who exposed fallacies and inconsistencies in the government's assessment of the Three Gorges dam project, had to leave the city. In yet another move to "ensure the security" of delegates, the government announced the executions of sixteen "criminal elements."

Throughout the year, the Chinese government continued to subvert the rule of law, violating its own criminal procedure code, using trumped-up criminal charges against political dissidents, and re-interpreting some laws and regulations to ensure specific outcomes. To blunt criticism of the use of counterrevolutionary charges to sentence political dissidents, authorities turned to the 1993 State Security Law to charge dissidents with the crime of "leaking state secrets." On September 19, former student Li Hai became the latest to be so charged. Misuse of the criminal code was evident in the disappearance of Wei Jingsheng, China's most famous dissident, missing since April 1, 1994. He has never been charged nor has a warrant for his arrest been produced. As of November, he was neither in "shelter for investigation," a common form of administrative detention, nor under "residential surveillance." Bi Yimin, director of the Institute of Applied Science and Technology of Beijing, was sentenced to a three-year prison term in February 1995 for allegedly misappropriating public funds. The money in question was legally transferred to two well-known dissidents serving thirteen-year terms for 1989 pro-democracy activities. In December 1994, Tong Yi, Wei Jingsheng's former secretary, was sentenced to "re-education through labor" on a trumped-up charge of "disturbing the public order." An attempt to pin a morals charge on her for cohabiting with Wei had already failed, and the original charge of forging an official seal on an application for study in the U.S. was deemed too minor to prosecute.

That same month, Shanghai activist Dai Xuezhong, a member of the unofficial Human Rights Association, received a three-year sentence for alleged tax evasion. On April 10, labor activist Xiao Biguang went on trial on

“swindling” charges; as of November, a sentence had not been announced. On August 18, Ding Zilin and her husband Jiang Peikun were detained in Wuxi, Jiangsu Province, for some forty days for “economic reasons,” then released without explanation. The couple, whose seventeen-year-old son was killed during the June 1989 massacre in Beijing, compiled a list of those killed and maimed in the crackdown and tried to persuade the government to reverse its finding that the 1989 demonstrations were counterrevolutionary. Gao Yu, a dissident journalist imprisoned in October 1993, was finally sentenced in November 1994 to a six-year prison term after the procuracy twice returned the case to the court. Despite a ruling that “the evidence...is partial...,” no new evidence was ever offered to justify the verdict.

In December 1994, in one of the most important political trials since those that followed the 1989 protests, the Beijing Intermediate Court sentenced nine dissidents, including medical researcher Kang Yuchun, lecturer Hu Shigen, Democracy Wall activist Liu Jingsheng, and printing plant worker Wang Guoqi, to terms ranging from three to twenty years. They were among sixteen arrested in May and June 1992 and charged with “leading a counterrevolutionary group” and with “counterrevolutionary propaganda and incitement.” A human rights monitor, U.S. citizen Harry Wu, was arrested on June 19, sentenced on August 24 to a fifteen-year prison term for spying and immediately expelled from the country.

Despite the release in July of Shanghai activist Yang Zhou for treatment of an esophageal condition, reports of serious and untreated illness among jailed political prisoners continued into 1995. One of the most egregious cases was that of Chen Ziming, sentenced to a thirteen-year term in early 1991 and released on medical parole in May 1994. Still under treatment for urinary tract cancer, he was returned to Beijing No.2 Prison on June 25, 1995, on the pretext that the skin condition that had led to his parole had cleared up. The medical condition of long-term prisoner Bao Tong, former principal aide to ousted Party Secretary Zhao Ziyang, did not improve; he remained in a prison hospital, and his family lacked access to his medical records and was refused permission to choose his doctor.

Released dissidents and the families of those still imprisoned continued to be harassed. Five months before he was re-arrested in May, Public Security Bureau officials threatened Wan Dang with death if he continued to speak out. Liu Gang, released in June after completing a six-year term, was prohibited from leaving his home in Liaoning Province for two years and from talking with foreign journalists. Police broke into Liu’s house in June and July, tried to run over family members on the street, and threatened friends and relatives who maintained contact with him. On September 1, Liu was again detained, this time for ten days, for refusing to “share his thoughts” with security officials. Gou Qinghui, the wife of Xiao Biguang, was prohibited from returning to her job at Yanqing Theological Seminary, attending church or meeting at home with co-religionists. Tong Yi’s father was warned that his job could be jeopardized if his daughter refused to comply with prison regulations. On January 16 and 17, Tong was beaten by fellow inmates in collusion with prison guards after protesting sixteen-hour work days.

Restrictions surrounding religious practice continued during 1995, and the official drive to register and subject to lay control all congregations, including the smallest family churches, escalated. Harsh crackdowns came in areas where foreigners were active proselytizers and trainers of lay leaders, where evidence of indigenous networks of unofficial churches surfaced, where evangelists were especially active, and where “underground” church members challenged the authorities through public worship. In April, during the Easter season, more than forty Catholics were detained in Jiangxi Province. Most were released, but several were sentenced to terms ranging between two and five years. At the end of October, Catholic lay persons and clergy arrested between February and June in Hebei, Inner Mongolia, and Jilin Provinces, remained in detention. But the more usual pattern during 1995 was to detain and physically abuse Catholics and Protestants until their families, the local church community or foreign evangelical organizations paid onerous fines. During a gathering of some 500-600 Protestants in Jiangsu Province in late January or early February, Protestant leaders from the province and from Wenzhou in Zhejiang Province were detained, severely beaten, heavily fined, and released. More than 300 were detained in Yingshang County, Anhui Province, at the end of May.

During 1995, Chinese officials tightened restrictions on freedom of expression. At the beginning of the year, the press was notified that it was required to put a favorable spin on sensitive issues, such as double-digit inflation,

failing enterprises, and demonstrations by unemployed workers. On May 19, the party's propaganda chief ordered the twenty largest national newspapers not to cover issues that "have not been resolved" or are "impossible to resolve" and to use reports by *Xinhua*, the official news agency, for all breaking stories. In July, the Hong Kong-based *Apple Daily* was banned from covering a Beijing meeting about the colony's future. Its owner had angered the government with criticism of Premier Li Peng.

Information flows were further restricted in connection with the sixth anniversary of the June 4, 1989, crackdown. At the end of May, Nick Rufford of the London *Sunday Times*, was questioned for thirteen hours by officials who demanded the names of his Chinese contacts. From June 2-6, officials cut the CNN feed to hotels in Beijing, concerned that commemorative footage might include shots of the 1989 massacre. Also in June, the Ministry of Post and Telecommunications moved to limit local users' access to the Internet. Invoking China's sovereign status, he declared that "by linking with Internet, we do not mean absolute freedom of information." In August, when Greenpeace members from outside China tried to stage a demonstration in Tiananmen Square protesting China's nuclear testing, they were detained for thirty hours, interrogated about the involvement of Chinese citizens, and deported.

Films did not escape censorship. When New York Film Festival officials refused to cancel a showing of *The Gate of Heavenly Peace*, about the June 1989 crackdown in Beijing, Chinese officials asked Zhang Yimou, whose *Shanghai Triad* opened the festival, to cancel plans to attend. He agreed. Zhang's work as a filmmaker in China has been entirely dependent on government approval.

Officials further curtailed freedom of association and assembly during 1995. An April law forbade Chinese citizens from attending foreign-run schools. That same month, police broke up a peaceful demonstration against corruption by some thirty entrepreneurs in Guangzhou. In April, security agents broke up a series of marches by former Nanjing residents who had been banished to the countryside during the Cultural Revolution (1966-76) and who were attempting to return. In June, authorities denied permission to two female war victims to demonstrate outside the Japanese embassy.

Human rights conditions in Tibet deteriorated throughout 1995. During the first quarter of the year, at least 123 dissidents were detained, more than in all of 1994. The government intensified its campaign challenging the legitimacy of the Dalai Lama, even as a religious leader, and the battle over who was to choose the new Panchen Lama, the second most important spiritual leader and the most important Tibetan leader resident there, resulted in the detentions of at least forty-eight people between May and July. The six year old identified by the Dalai Lama as the legitimate successor, but rejected by Chinese officials, disappeared, along with his immediate family. Authorities further curtailed religious activity by limiting the number of monks and nuns in any one nunnery or monastery, and by instituting an absolute cap on the total number in all of Tibet and a ban on the building of monasteries and nunneries.

Pro-independence activities, such as possession of the Tibetan flag, resulted in raids on the offending monasteries. In May, after independence posters surfaced at Labrang Monastery in southern Gansu Province, an area inhabited by Tibetans, five monks were arrested and two badly beaten, one so severely he suffered neurological damage. In 1994-95, two nuns, Gyaltzen Kelsang and Phunstog Yangkyi, were unexpectedly released from custody shortly before they died from injuries sustained in prison. In an attempt at restricting news flows, on three separate occasions women tourists leaving Tibet were stopped at the airport and strip-searched. Confiscated items included private letters, film, audio cassettes, and a diary.

There is no right to monitor in China. To form a legal human rights or monitoring organization, members would have to comply with the 1989 "Regulations on the Registration and Management of Social Groups," which require approval by the "relevant professional leading organs," presumably the official China Society for Human Rights Studies. Furthermore, the "monopoly" stipulation in the regulations, which mandates that an "identical or similar social group cannot be set up within the same administrative area," further restricts independent organizational efforts. In 1995, the authorities blocked several informal attempts at monitoring, such as the dissident petition drives which began

in March and culminated in May, and which initially resulted in the detention and questioning of some fifty dissidents. In November, some twenty signatories were still detained.

### **The Role of the International Community**

In 1995, human rights concerns were further marginalized on the international agenda, as governments actively pursued trade and investment with China unhindered by any linkage to human rights. Chinese authorities aggressively offered human rights “dialogues” in exchange for business deals, sending the president and premier to visit Western capitals. At the U.N. Human Rights Commission, China defeated the most intensive, high-level campaign yet waged on behalf of a mildly worded resolution. As if to underline its growing confidence, the Chinese government made a travesty of its commitments to NGOs at the U.N. Fourth World Conference on Women with nearly total impunity.

The Clinton human rights policy of “constructive engagement” toward China lacked both substance and clout, with a few notable exceptions. The administration indicated in October that certain post-1989 sanctions would remain in place for the time being, namely a prohibition on weapons sales, denial of licenses for transfer of dual-use technology, and suspension of the Overseas Private Investment Corporation (OPIC) program in China. But for the most part, the administration downplayed human rights while concentrating on “stabilizing” relations with China at the economic and political level. The detention of the Chinese-American human rights activist Harry Wu pushed human rights to the top of the U.S.-Sino agenda, but only temporarily. The Chinese government used both Wu’s detention and the controversy over the Taiwanese President Li Teng-hui’s visit to the United States in June 1995 as bargaining chips to secure a summit meeting between Clinton and Jiang Zemin which took place in New York on October 24.

Clinton raised human rights concerns in his discussions with Jiang Zemin, but he declined to issue a public appeal for the release of any specific political prisoners, as he had following a previous meeting with Jiang in 1993. The two presidents agreed to meet again in Osaka in November, and the administration described the summit as “very positive” though it resulted in no concrete progress on human rights.

“Constructive engagement” got off to a shaky start in 1995 with the United States threatening a trade war over Chinese copyright and trademark violations. As the administration set a deadline for imposing sanctions, Energy Secretary Hazel O’Leary led a “presidential mission” to China in February, accompanied by more than seventy-five corporate executives. O’Leary used the opportunity to go after business deals in the energy sector, signing more than \$1 billion worth of agreements. In meetings with Premier Li Peng and other senior officials, she raised human rights concerns privately but avoided any public criticism of China’s human rights practices.

In March, Vice-President Al Gore held a frosty meeting with Li Peng in Copenhagen around the edges of the U.N. Social Summit. Li Peng denounced U.S. interference “in other people’s affairs,” while the vice-president stressed the administration’s desire to maintain “constructive relations” with China while “strengthening dialogue” in areas where the two governments have differences. Gore was publicly silent about human rights.

The Copenhagen meeting occurred just days after a vote in the U.N. Human Rights Commission on a resolution criticizing China’s human rights practices. Co-sponsored by the European Union, the U.S., Japan and others, the measure attracted broad support from Eastern Europe, Latin America and Africa. For months, the United States, in particular, had lobbied in capitals around the world to line up votes in favor of the resolution. China responded in kind, warning European governments, for example, that support for the resolution could endanger their prospects for doing business in China and offering to engage in bilateral “human rights dialogues” with various governments in lieu of facing action at the United Nations. Although the Chinese government failed to prevent passage of a no-action motion, resulting in the first-ever debate on a China resolution, it narrowly won the final vote, with twenty-one countries voting against, twenty for and twelve abstaining.

It was clear by May that the international community would do little to come to the defense of beleaguered activists in China waging a petition campaign. At the height of their protests in the weeks leading up to the June 1989 anniversary, President Clinton renewed Most Favored Nation (MFN) trading status for China for one more year. The

president reiterated his belief that “broad engagement with China, including on human rights issues, offers the best prospect in all areas of concern to us.” He denounced China’s human rights record as “unacceptable,” but defended the administration’s “vigorous” approach to human rights, including bilateral and multilateral efforts, as well as its work with the private sector to develop “voluntary business principles.”

Nearly a year after the president’s initial promise to develop a voluntary code of conduct for businesses, the White House officially announced the fruit of its efforts just prior to the MFN decision. The principles did not focus exclusively on China, as originally promised, but instead were designed for universal application. Half-heartedly endorsed by eight major companies who said they would serve as a “useful reference point” in framing their own codes, the principles did contain several positive elements, but were vaguely worded and lacked any concrete details as to how they would be implemented.

In Congress, resolutions to overturn the president’s MFN decision never came to a vote in the House. Instead, a consensus bill (the 1995 China Policy Act) was formulated and adopted by a huge bipartisan margin (416 to 10) in July, demanding that the administration take diplomatic initiatives to improve human rights in several specific areas. In addition to giving the administration a clear human rights mandate, the bill required a report in thirty days on what actions had been taken at the World Bank, the U.N. and elsewhere. The Chinese government expressed “strong resentment” and opposition to the bill, but clearly was relieved that MFN was not challenged. The bill was referred to the Senate; as of November, no action had been taken.

The administration reacted strongly to the reimprisonment of Chen Ziming in late June; he had been released on medical parole in May 1994 as a gesture just prior to Clinton’s MFN decision. Shortly thereafter, Harry Wu was detained, and the administration launched a campaign of high-level public and private lobbying to secure consular access to Wu and, ultimately, his release. Wu’s case was a top item of discussion at a key meeting between Secretary of State Warren Christopher and Chinese Foreign Minister Qian Qichen in Brunei on August 1, in conjunction with the annual conference of the Association of South East Asian Nations. The meeting coincided with a decision by the World Bank’s executive directors on a \$260 million non-basic human needs loan for a major highway project. Several influential members of Congress wrote to the administration and World Bank officials urging the Bank to postpone considering the loan as a way of indicating concern over Wu and the deterioration of human rights in China generally. But the Treasury Department opposed the suggestion, and the administration claimed that it did not have the authority to hold up a loan on its own, although it had previously prevented loans to Vietnam and Iran from being considered by the executive directors. Furthermore, the administration argued that seeking a delay would “undercut [its] ability to pursue our human rights objectives in our ongoing bilateral discussions with China.” World Bank lending to China, despite occasional abstentions or no votes by the U.S., continued to outstrip loans to any other government. According to the Bank’s annual report, in the fiscal year ending June 1995, China received \$2.9 billion from the Bank.

Meanwhile, the White House continued an interagency review on possible Export-Import Bank funding for U.S. companies involved in the highly controversial Three Gorges dam project in China. In late September, the White House completed the review and recommended against Ex-Im Bank funding the project, both on environmental and human rights grounds. By November, no decision had been made by the Bank on an initial request from a U.S. company seeking funding.

As the year ended, prospects for developing a multilateral strategy to promote human rights in China through concerted political or economic pressure appeared dim. In July, the European Union’s trade commissioner, Leon Brittan, outlined a long-term strategy to expand dramatically the E.U.’s ties with China while removing human rights as an impediment. His proposal acknowledged that both public pressure and private discussion would be needed to bring about human rights improvements, but stressed cooperative efforts to develop the rule of law in China over the long-term, rather than pressure. He also endorsed the E.U.’s political dialogue as a venue for raising human rights concerns. A meeting of the E.C.-China Joint Committee took place in Brussels in early October to review overall Sino-E.U. relations. Human rights concerns were discussed only briefly; Leon Brittan again affirmed the E.U.’s interest in playing a “constructive role” to improve China’s judicial system. While Brittan was unveiling his proposal, President Jiang

Zemin was preparing to visit Germany, Hungary and Finland. The visit was aimed at countering the effect of the Taiwanese president's trip to the U.S., but it also provided Jiang with an opportunity to generate greater recognition and acceptance, as well as new trade deals. In 1994 and 1995, Germany was China's largest European trading partner, with bilateral trade in the first five months of 1995 totaling over \$4 billion. The president of Germany, Roman Herzog, and Foreign Minister Klaus Kinkel presented China's foreign minister with a list of political detainees; Chancellor Kohl stressed the universality of human rights, but undercut these moves by stating that different levels of economic development and varying cultural traditions had to be taken into account. Demonstrators were kept away from Jiang, as the German government tried to prevent a replay of Li Peng's visit in 1994 which was cut short by protests. With economic and political relations on track, Kohl planned another visit to China in mid-November.

In the weeks preceding Jiang Zemin's meeting with President Clinton in New York, Canada's prime minister, Jean Chretien, welcomed Li Peng to Montreal in mid-October as a featured speaker at a conference of the Canada China Business Council. Canada's policy towards China was similar to that of the U.S. and Europe, discreetly raising human rights in official discussions and U.N. fora, while concentrating on improving relations through "constructive engagement." In an even more subdued way, Japan followed a similar approach. (See Japan chapter.)

By the end of 1995, Beijing had successfully insulated its economic and political relations and ambitions from being seriously affected by its human rights record. For the most part, the Chinese government escaped accountability for its egregious violations of human rights, even as it sought recognition as an emerging superpower. No government was willing to exert the consistent political and economic pressure needed to compel the Chinese government to comply with its international obligations. The prospect of instability and greater repression in the wake of Deng Xiaoping's passing, however, raised doubts about the long-term prospects for economic reform and development of the rule of law in China without greater attention to human rights by the international community.

## HONG KONG

Tension over Hong Kong's future continued in 1995, even as the people of the territory voted for their first completely elected legislature. Upsetting predictions, the September elections gave a decisive victory to candidates who favored a more confrontational attitude toward China, such as those of the Democratic Party. Yet even before the polls closed, the Chinese government repeated its promise to dissolve the legislature when China resumes its rule on July 1, 1997. The new legislature, the first not to have appointed members, is likely to present a more confrontational face to the Hong Kong government as well, revisiting a number of the year's most controversial issues in the next legislative session.

Prominent among those issues is the Court of Final Appeal described in the 1984 Joint Declaration between China and the U.K. that was to replace the Privy Council in London as the court of last resort. The agreement provided that the Court "may as required invite judges from other common law jurisdictions to sit," a provision designed both to ensure an adequate pool of high-caliber judges and to insulate the court from political pressure after the transition. A 1991 bilateral agreement that only one foreign judge would be able to sit on at most half of the Court's sessions drew protests from legislators and the bar, as did the restriction of the Court's jurisdiction to exclude "acts of state," a common law term that might be expansively interpreted by China to include a large range of cases involving government interests. Nevertheless, in June of this year China and the U.K. agreed on implementing legislation that would preserve the limit of one foreign judge, the acts of state exception, and delay the establishment of the Court until the 1997 transition. This foreclosed the possibility that some of the jurisdictional uncertainty might be resolved in advance through the precedent of the Court's own decisions. The Legislative Council narrowly approved the legislation in July of this year, but key political figures such as Martin Lee, the leader of the Democratic Party, remained convinced that the compromise has jeopardized Hong Kong's judicial independence, and appeared eager to try to amend the legislation. The government, for its part, argued that these features do not threaten the Court's independence and that the alternative was to risk having China dissolve the Court and fashion its own institution in 1997.

The power of this argument illustrated how profoundly Beijing's threats have begun to shape the future of the territory. The Chinese government has promised to appoint a temporary legislature in place of the one elected this year, and it is this appointed body that would be called upon to approve the most basic institutional arrangements for the post-colonial era, including confirming the judges for the Court of Final Appeal. The Chinese government has also threatened to repeal the 1991 Bill of Rights, and it has so far refused to report to the U.N. Human Rights Committee on the application of the International Covenant on Civil and Political Rights (ICCPR), a breach of its bilateral obligation to ensure the covenant's application to Hong Kong. The Chinese government has also threatened to dissolve the lower tiers of elected representation in Hong Kong, the municipal councils and district boards, and in October a Beijing-appointed committee declared that the system of executive appointments to these bodies should be reintroduced.

While strenuously lobbying for its own legislative proposals, the Hong Kong government opposed initiatives by individual legislators, such as a trio of anti-discrimination bills introduced by appointed member Anna Wu. Private discrimination, particularly in employment, remained endemic in Hong Kong, where job advertisements frequently specified age, sex and even race as qualifications. Arguing that the measures were too radical, the government proposed its own more limited version and successfully lobbied to have Wu's drafts voted down in July. Other legislators promised to reintroduce the bills. The governor also refused to allow the legislature to consider a bill for an equal opportunity commission.

The Hong Kong government made progress in reforming the archaic colonial laws of the colony to be in conformity with the Bill of Rights, although the pace and extent of reform did not satisfy many human rights advocates. One example was the government's striking out a number of restrictive subsidiary laws enacted under the authority of the Emergency Regulations Ordinance, including provisions that allowed the government to censor and suppress publications. The government, however, left untouched the ordinance itself, which permits the governor to declare an emergency and issue laws and regulations on any subject, leaving open the prospect that new regulations will be promulgated under its authority. In October, a Beijing-appointed committee called for reinstatement of the emergency regulations, of the governor's power of censorship, of the former ban on societies not registered with the police, and an end to the Bill of Rights' power to override legislation.

Other government-proposed legislative amendments scrapped or modified licensing, permit or registration procedures for demonstrations, megaphones, public performances, and news organizations. A bill introduced by legislator Martin Lee passed in December 1994, repealing a section of the Film Censorship Ordinance that had been used to censor Taiwanese films, such as a documentary on the pro-democracy movement, because they might "seriously damage relations with other territories." The government submitted to China its proposed legislative amendments to the Official Secrets Act, and it planned to submit amended laws on treason and sedition to the legislature later next year.

Self-censorship in the media continued to be a serious problem, albeit difficult to document. A poll of journalists conducted in February by the University of Hong Kong revealed that more than 80 percent believed that self-censorship took place occasionally or frequently and that press freedom would decrease during the next three years. The Hong Kong Journalists Association reported several potential incidents of self-censorship. ATV television in December 1994 dropped the popular talk show *News Tease* after its confrontational host, Wong Yuk-man, was accused by pro-Beijing newspapers of being "anti-China" and "hostile." In January, Hong Kong's two land-based television stations refused to air a British Broadcasting Corporation documentary on the sale of organs from executed prisoners in China. In May, the *South China Morning Post* abruptly canceled the popular and controversial "Lily Wong" cartoon strip, citing financial reasons but refusing to run the balance of cartoons that were already paid for. One of the last strips had shown a Chinese official assuring an observer that there will be no future shortage of organs for sale from executed prisoners because "by then it'll be 1997 and we got all the democrats and over a dozen cartoonists!"

Pressure on journalists took less subtle forms as well. Both Xi Yang, a reporter for *Ming Pao*, and Gao Yu, a free-lance contributor to Hong Kong publications, continued to languish in Chinese prisons for their reporting, which the Chinese government prosecuted as "espionage" (see China chapter). The Chinese government continued to deny entry to journalists it considered untrustworthy.

The Chinese government also tried to control access to the mainland by perceived political opponents. In July, it denied an entry permit to Cheung Man-Kwong, a member of the government's Education Commission and a Democratic Party legislator. Rosie Young, the chairwoman of the commission, canceled its planned official visit to China in response. Later in the month, China banned Martin Lee from attending a law seminar.

Serious abuses against Vietnamese asylum-seekers took place again this year, as Hong Kong authorities increasingly resorted to force in connection with deportation procedures and camp inmates resisted ever more violently. The most serious incident took place on May 20, when police and correctional service officers moved some 1,500 asylum-seekers from a section of the Whitehead Detention Centre to High Island in preparation for deportation. The officials fired 3,250 tear gas canisters during a period of eight hours, also using truncheons and mace against the Vietnamese. The asylum-seekers responded initially by barricading themselves, but as the assault progressed, neighboring sections hurled home-made spears and projectiles at the oncoming force. Nearly 170 officers were treated for injuries, most for heat exhaustion, and seventy-eight Vietnamese reported injuries from batons, gas canisters, mace and shields, in addition to the hundreds who suffered the effects of tear gas, among them women, children and babies. Among the injured was a sixty-five-year-old woman who was sprayed with mace, kicked in the ribs and struck by a truncheon, and a baby who had fainted from the tear gas and was accidentally scalded when an inexperienced officer tried to revive her under what turned out to be a hot water tap. Few Vietnamese complained to the authorities, however, because of the experience of almost 400 other asylum-seekers who pressed complaints of injury and loss of property from a similar raid that took place on April 7, 1994; few of these complainants had yet had their request for legal aid processed, and many were deported in the meantime.

Despite the massive use of tear gas and the injuries produced during the raid, the Hong Kong government refused to appoint a commission of inquiry, or indeed, to release video footage of the operation. It relied on its own account of events and a sketchy report by four independent monitors, two of whom questioned the use of tear gas. In the next operation, on June 8, authorities again deployed large amounts of tear gas in response to what they said was violent resistance, a claim disputed by Vietnamese who witnessed the events. Independent monitors arrived after the conflict was virtually over, as the authorities did not notify them that disturbances had caused police and correctional officers to move in ahead of the scheduled time. Incidents of violence by both officials and Vietnamese continued to plague camp transfers and deportations, and the authorities continued to incarcerate Vietnamese whom they deemed "troublemakers" or "protesters" without any legal hearing or review in punitive detention facilities such as Victoria Prison. In July, Vietnamese brought allegations that camp guards had beaten two Vietnamese youths during an otherwise peaceful demonstration of children protesting the decision to terminate secondary schooling for asylum-seekers; officials denied the allegations but again refused to release videotapes they had made of the incident.

Hong Kong remains one of the most hospitable environments in the region for local human rights and civil liberties advocates. In October, approximately a dozen nongovernmental organizations lobbied and observed Great Britain's report to the U.N. Human Rights Committee on its application to Hong Kong of the ICCPR. To emphasize the urgency of China assuming the reporting requirement, the Legislative Council also dispatched a delegation to the Geneva hearing.

The government continued to restrict press access to detention centers for Vietnamese asylum-seekers, and in August banned reporters from observing deportation actions as well. Lawyers for asylum-seekers continued to have access to their clients, but under highly restricted conditions.

### **The Role of the International Community**

The U.S. administration tended to frame its interest in Hong Kong in terms of achieving a "smooth transition," a term raised repeatedly by Deputy Assistant Secretary of State Kent Wiedemann before a House hearing on July 27. The administration generally supported Hong Kong government positions, from the electoral reforms to the compromise on the Court of Final Appeal, and tended to gloss over human rights issues and the Chinese government's threats to reconstitute basic governmental arrangements in favor of expressing confidence in the territory's future.



Members of Congress were more forceful in reflecting the concerns raised by Hong Kong residents and legislators, with Senator Craig Thomas and Representatives Benjamin Gilman and Howard Berman taking particular interest in transitional arrangements and the continuity of the legislature.

The administration continued to support Hong Kong's deportation policy regarding Vietnamese asylum-seekers and expressed no concern at the increasingly forceful measures used and the violence they provoked. It was taken by surprise when a legislative measure to facilitate U.S. resettlement of boat people proposed by Representative Chris Smith passed the House by a wide margin. The measure, premised on concerns that the screening process to identify genuine refugees was flawed or corrupt, would have made reintegration assistance for returnees in Vietnam conditional on the re-screening of the more than 40,000 Vietnamese asylum-seekers in the region for determination of their refugee status. The bill had an immediate effect in both Asia and Washington: voluntary repatriation dropped sharply as asylum-seekers waited to see the fate of the legislation, and the administration then produced an alternative proposal whereby Vietnamese who volunteered to return home would be eligible for resettlement screening by U.S. officials in Vietnam.

The Sino-British agreement over the Court of Final Appeals marked one of the first significant points of cooperation between the two countries since Governor Patten's proposals for electoral reform in 1993. At an October meeting the foreign ministers of China and the U.K. agreed on further measures, including the establishment of liaison structures between Chinese officials and Hong Kong government offices and civil servants, an agreement to resolve disputes over port development, and a committee to oversee the transition ceremonies. Critical issues such as the survival of the current legislature, however, did not come up at the talks, although Britain did agree to provide China with approximately \$150 million in soft infrastructure loans. In September, Governor Patten mentioned that Britain ought to give the 3.2 million holders of British Dependent Territories Citizen passports in Hong Kong the right of abode in Britain, a proposal immediately ruled out by Home Secretary Michael Howard.

At the conclusion of its hearing in October, the U.N. Human Rights Committee told a joint U.K.-Hong Kong government delegation that it considered China obligated to continue to report on the application of the ICCPR to the territory, and called on the delegation to return next year to explain exactly how this responsibility would be transferred. Members of the committee stated that China should maintain Hong Kong's Bill of Rights and the recently elected legislature, and also criticized the British administration's treatment of Vietnamese asylum-seekers.

## INDONESIA AND EAST TIMOR

As Indonesia celebrated the fiftieth anniversary of its independence in 1995, widespread abuses of basic human rights continued, including arbitrary arrests and detentions, a renewed assault on freedom of expression, and restrictions on freedom of association. A long-standing pattern of abuses by members of the Indonesian military persisted with cases of arbitrary detention, the use of torture and summary killings of civilians in East Timor and Irian Jaya. Top army officials warned of communist-inspired "formless organizations" as a way of explaining criticism of the government and discrediting individual dissidents. The government-appointed National Commission on Human Rights (Komnas), operating within the limits of its mandate, continued to play a useful and active role, conducting investigations and issuing reports on sensitive, high-profile cases.

The government renewed its crackdown on freedom of expression with the arrest of two journalists and an office assistant from the Alliance of Independent Journalists (AJI) in March 1995. The journalists, Ahmad Taufik and Eko Maryadi, both officers of AJI, and staff member Danang Kukuh Wardoyo were charged with "spreading hatred against the government" and publishing the AJI newsletter, *Independen*, without a government license. *Independen* was cited by the prosecution for printing articles critical of President Soeharto and other government officials. In September 1995, Taufik and Maryadi were sentenced to two years and eight months each in prison; Danang Kukuh Wardoyo earlier received a sentence of twenty months.

Also in September, Tri Agus Susanto, a journalist who edited a newsletter for the Pijar Foundation, a Jakarta-based nongovernmental activist organization, was sent to prison for two years after being convicted of insulting the president. The newsletter, *Kabar dari Pijar*, had published an article in 1994 quoting a human rights lawyer's criticisms of Soeharto.

Freedom of expression was also curbed through the break-up of seminars and other public discussions. For example, in June 1995, the police broke up a seminar on democracy and detained seven people, including the sole speaker, Robert Hefner, an American professor from Boston University; they were held overnight for questioning.

Gag orders were issued in an attempt to silence controversial speakers, such as Abdurrahman Wahid, leader of the largest Islamic organization, Nahdatul Ulama, who was banned twice from giving speeches in East Java. Coordinating Minister for Political Affairs and Security Soesilo Soedarman stated in June 1995 that the government would pass new regulations on permits for public speaking, declaring that many of the bans imposed by security forces represented an effort to prevent actions that might jeopardize national stability.

The government tried to prosecute some of its most outspoken critics. Sri Bintang Pamungkas, a parliamentarian from the United Development Party, was charged with "defaming the president" for a lecture he delivered in Berlin in April 1995. The lecture coincided with demonstrations against Soeharto, who was visiting Germany at the time. In October, it was announced that the case would come to trial in November. In May, the president issued an executive order terminating Bintang's term as a member of parliament, and he was banned from all foreign travel. Bintang filed a lawsuit challenging the international travel ban in July; in a separate suit, he demanded reinstatement in the parliament. As of November, neither case had yet been heard.

Similar tactics were used against Permadi, a lawyer, NGO activist and mystic who was accused of blasphemy for remarks he made about the Prophet Mohammed during a 1994 seminar. He was arrested in May 1995, tried and convicted in September and released on a technicality immediately after the verdict. It was widely believed that his arrest and conviction stemmed more from critical remarks he made about government leaders than from his references to Islam. George Aditjondro, a lecturer at Satya Wacana University and frequent critic of government policy in East Timor was accused in April 1995 of insulting the government during a lecture he gave in 1994 at the Indonesian Islamic University in Yogyakarta. When the charges were announced, Aditjondro was in Australia as a guest lecturer and Canberra said it had no plans to return Aditjondro.

In a positive development of at least symbolic value, the Jakarta Administrative Court ruled in May that the ban by Minister of Information Harmoko on the popular magazine *Tempo* in June 1994 was arbitrary and illegal. Harmoko, backed by Soeharto, said he would appeal the verdict at a higher court. The Semarang (Central Java) Administrative Court made a similarly courageous ruling that dissident Arief Budiman, sacked by Satya Wacan University for his outspokenness, had been fired illegally.

In a move apparently aimed at quelling complaints about the government's limits on openness, the government announced in August 1995 that it planned to abolish the practice of requiring permits for public gatherings, including political gatherings. It said that police notification would still be required, and a 1965 law on political activities still gave the government great discretion in defining and repressing "political gatherings."

In an effort to dampen criticism of its worker rights record, the government implemented various labor reforms announced in 1994, including an increase in the minimum daily wage which took effect in April 1995. But these reforms failed to address the core issues of the denial of freedom of association and the widespread intervention of the military in peaceful labor disputes.

In May, Mochtar Pakpahan, chairman of the banned Serikat Buruh Sejahtera Indonesia (SBSI, or Prosperous Workers Union), an independent labor union, was released from prison while an appeal was pending with the Supreme Court. Pakpahan had been arrested in 1994 and sentenced to four years in prison in January 1995. He was charged

under Article 160 of the Penal Code with inciting a riot in conjunction with a huge rally in Medan, Sumatra, in April 1994, although he was not even in the area at the time. The Supreme Court overturned Pakpahan's conviction in October 1995. Other SBSI leaders sentenced for their alleged involvement in the Medan riot were also released.

Throughout the year, SBSI and other independent labor organizations were harassed, unable to organize meetings without military interference, and detained and interrogated.

There was no perceptible change in the widespread involvement by the security forces in labor negotiations or peaceful demonstrations by workers. For example, a strike and demonstration by workers at the Great River Garment Company took place in Bogor, West Java, in July 1995. Security forces used sticks to beat demonstrators and prevent workers from reaching the nearby provincial parliamentary compound where they planned to meet with representatives after attempts at negotiation had failed. Police later charged seven students—members of a nongovernmental labor rights organization, Pusat Perjuangan Buruh Indonesia (PPBI or Center for Worker's Struggle)—with instigating and organizing the protests. As of November, their trials had not yet taken place.

In a surprise move in May 1995, the Supreme Court ordered the release of eight individuals convicted and sentenced for the torture and murder of Marsinah, a young labor organizer. The defendants were all company staff at the watch factory where Marsinah worked before her abduction and murder in 1993. Indonesian human rights groups had long suspected military involvement in the murder. The Supreme Court's decision prompted a reopening of the investigation into the case. The police finally named five new suspects, but did not reveal whether any of them were members of the military.

In October, the chief of staff of the armed forces, Lt. Gen. Soeyono, began warning of the "latent threat" of communism, saying that the communist-inspired "formless organizations" were gaining in influence, using the struggle for human rights and democracy as their cover. Others in the government and military picked up the theme, and by the year's end, it seemed as though a witch hunt of known dissidents might be underway.

Human rights conditions in East Timor deteriorated significantly following the APEC conference in Indonesia in November 1994. There were several riots and demonstrations early in 1995, all of which were broken up violently by the Indonesian military. The most egregious case occurred in Liquica, outside of Dili, on January 12, when six East Timorese civilians were shot and killed by Indonesian troops.

Initially the army reported that six guerrillas had been killed in cross fire during an army clash with a Fretilin rebel group. This report was contradicted by local clergy, who said that the victims were innocent civilians. International attention to the killings spurred President Soeharto to order a military investigation, and the National Commission on Human Rights (Komnas) announced it would conduct its own investigation. Both the military's report and the Komnas inquiry, announced in March 1995, concluded that the six men had been summarily executed. But the military was adamant in insisting that the six men were guerrillas, while Komnas maintained that the victims were all civilians who had been tortured prior to being killed. A lieutenant and a private under his command were tried by a military court; in June 1995, they received sentences of four years and six months and four years in prison respectively. However, the soldiers were punished not for the killings, but for violating an order from a superior and for failing to report the incident.

In September, riots broke out in Maliana and in Dili, sparked by religious and ethnic tensions. Dili's Roman Catholic bishop, Carlos Belo, said an underlying cause was the government's failure to address the underlying problems in East Timor, a view echoed by Komnas.

In the Timika area of Irian Jaya, a remote province dominated by copper and gold mining interests, a series of incidents took place between October 1994 and May 1995, involving the detention, torture, killing and disappearance of indigenous people by Indonesian security forces. Some of the incidents reportedly took place on property and using facilities and equipment owned by a U.S. mining company, Freeport McMoran. A highly credible report by the

Catholic Church of Jayapura, based on eyewitness testimony, was released in August, documenting the abuses. After two missions to Timika, Komnas issued a report in late September, confirming that sixteen people had been killed, including women and children, in conjunction with military operations against a separatist group, the Free Papua Movement (OPM). It called on the government and armed forces to investigate and punish those responsible, to identify the whereabouts of four missing people, and to "clarify" the respective roles of the military, local government and Freeport management in maintaining security and protecting the human rights of the region's residents. Freeport flatly denied any involvement in the abuses. The army said that four soldiers would be prosecuted in January 1996 for "violations of military procedures."

Prior to the November 1994 APEC meeting, the Ministry of Interior drafted a presidential decree imposing tighter restrictions and monitoring requirements on nongovernmental organizations (NGOs), including human rights groups, provoking widespread domestic and international complaints; as of November 1995, it had not yet been issued. But a crackdown on NGOs continued nonetheless, with human rights groups, labor rights organizations and other NGOs facing routine harassment and surveillance. The Indonesian Legal Aid Institute reported that its offices and vehicles in Jakarta and Palembang were vandalized in January and February 1995. There was no attempt by the government to investigate or prosecute those responsible.

### **The Role of the International Community**

The Indonesian government was only partially successful in blunting criticism by extolling the work of its own human rights commission and by enhancing its economic and military ties abroad. East Timor and Irian Jaya were potent lightning rods for international criticism, as was the government's clamp down on journalists.

Soeharto's visit to Germany in April was disrupted by protest rallies focusing attention on Indonesia's poor human rights record, though a trade fair in Hanover and the signing of major business deals overseen by Chancellor Helmut Kohl were obvious successes for the government. Similarly, in September Queen Beatrix of The Netherlands visited Indonesia to mark the fiftieth anniversary of the country's independence and express regret over Holland's former colonial role. Human rights concerns in East Timor were clearly de-emphasized; Dutch business people traveling with her completed some \$800 million worth of contracts.

Also in September, Australian Prime Minister Paul Keating met with Soeharto in Bali and emphasized the two governments' common interests at the upcoming APEC meeting in Japan. East Timor was also on the agenda, fueled in part by the domestic controversy over the Australian government's initial acceptance of Indonesia's newly nominated ambassador, a general who had defended the military's actions in the Dili, East Timor, killings in 1991. The nomination was withdrawn in July. The incidents in Irian Jaya also sparked official concern, particularly since the abuses were first publicized by an Australian-based development organization. Australia's ambassador in Jakarta conducted an inquiry, and Gareth Evans, foreign minister, raised "serious" concerns with his Indonesian counterpart in August.

At the World Bank-convened consultative group donor meeting in Paris in July, a number of governments, including the U.S. delegation, expressed concern, either publicly or privately, about East Timor and the Liquica killings in particular, as well as the issue of press freedom and free expression. However, the bank's public statement following the meeting did not reflect these concerns. When the World Bank's vice-president for the Asia-Pacific region met with Soeharto in March, there was no indication that "governance" issues were addressed. The bank pledged \$1.2 billion to Indonesia in 1995.

The Clinton administration dispatched Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck to Indonesia and East Timor in April. Shattuck criticized the government's muzzling of the press, urged the government to give the people of East Timor "more influence over their affairs," and pressed for greater freedom of association for workers. He made no comments publicly about the administration's efforts to restore International Military Education and Training (IMET) to Indonesia, cut off by Congress in 1992 in response to the massacre that took place in Dili in 1991, or about the worker rights case pending before the U.S. Trade Representative.

Just prior to his trip, Shattuck testified before the House International Relations Committee and condemned the “deteriorating” human rights situation in East Timor at precisely the same time as a senior Pentagon official, Admiral William Owens, was in Jakarta calling for a renewal of IMET training because “appropriate action” had been taken to ease the situation in East Timor.

In fact, the administration seemed determined to deepen its ties to the Indonesian military, despite its atrocious human rights record, arguing that greater engagement and training would produce a more professional armed forces. At a meeting with Indonesia’s foreign minister in August, Secretary of State Warren Christopher offered to sell to Jakarta F-16 fighter planes originally ordered by Pakistan; by October, it was clear the deal was going through. Admiral Owens, on another visit to Jakarta in September, announced that the U.S. and Indonesian military would begin regular bilateral meetings in Honolulu in November.

The administration made a deal with Congress in September, agreeing to continue its ban on the sale or licensing of small and light weapons and crowd control equipment in Indonesia in exchange for congressional approval of expanded-IMET (military education and training, which is said to include a human rights component) for the Indonesian military in the budget for fiscal year 1996. The administration requested \$600,000 for IMET. The U.S. Trade Representative (USTR) planned to send a delegation to Indonesia in early November, but had not yet ruled on a petition by Human Rights Watch/Asia submitted in June 1995 urging the USTR to reinstate the formal review of Indonesia’s access to Generalized System of Preferences (GSP) trade benefits in light of the government’s failure to make meaningful progress on labor rights. The review had been suspended in February 1994 after Jakarta promised to make certain reforms.

The administration supported adoption of a compromise “chairman’s statement” on East Timor at the U.N. Human Rights Commission in Geneva in March. U.S. Ambassador to the U.N. Madeleine Albright, meeting with Soeharto in Jakarta in early September, expressed concern about the unrest in East Timor and expressed support for a continuing dialogue under U.N. auspices. U.N. High Commissioner on Human Rights Jose Ayala Lasso was expected to visit East Timor late in the year.

The European Parliament, responding to reports of further killings and arrests in East Timor in September, decided to send a fact-finding delegation to East Timor. It passed a joint resolution condemning abuses and calling on governments to cease arms sales and military assistance to Indonesia.

On October 27, President Clinton welcomed President Soeharto to the White House for their first summit meeting in the United States. Clinton privately raised concerns about human rights, particularly in East Timor.

## **JAPAN**

### **Within Japan**

While Japan generally had a good human rights record, social and legal discrimination continued against indigenous people, Koreans, alien workers and residents. In addition, women experienced discrimination in the workplace, despite legal protections; at least three executions took place; and trafficking of women from Southeast Asia was a major problem. But the most serious abuses of all were those that occurred in prisons and during pre-trial detention.

In March 1995 the results of a 1994 Human Rights Watch delegation’s visit to Japan were published, simultaneously in English and Japanese, in a major report, “Prison Conditions in Japan.” The report analyzed the Japanese prison and police detention systems, and criticized the widespread use of solitary confinement, restrictions on legal representation, and other abuses. It called on the government to undertake a thorough reform of the system and to adopt new prison legislation in conformity with international standards. The Justice Ministry declined to make any public comments on the report.

In February, the United Nations Special Rapporteur on Torture raised concerns about the Japanese practice of extended police detention, a case of severe mistreatment of a Chinese resident by police, and another case of prolonged solitary confinement.

### **In Japan's Foreign Policy**

Under socialist Prime Minister Tomiichi Murayama, Japan continued to emphasize its ties with its Asian neighbors while maintaining a fundamental security relationship with the U.S. The Foreign Ministry tried to strike a balance in its human rights policies toward other countries by supporting the universality and importance of human rights in general terms, while at the same time avoiding creating political tensions with its most important trading and aid partners over their abusive rights practices. In the process, Tokyo tended to downplay human rights and often failed to use its substantial political and economic leverage to promote human rights in the Asia-Pacific region.

According to the Foreign Ministry's annual "white paper" (published in September 1995), Japan's Official Development Assistance (ODA) bilateral aid program was the world's largest in 1994, totaling over \$13.2 billion. In 1995 the government also indicated that it planned in the future to redirect some of its ODA away from Asian countries with booming economies and toward Africa, the Middle East and elsewhere, while within Asia the ODA program would increasingly be used to enhance the development of "democratization" and free-market economies in countries such as Cambodia, Vietnam, and Mongolia. However, the bulk of both yen loans and grant assistance was again given to Asian governments (slightly less than 60 percent of all ODA), with China the number one aid recipient.

The "white paper" reiterated the government's commitment to its ODA Charter, first adopted in 1992, which specifies promotion of human rights and democratization as well as opposition to military exports/imports and nuclear proliferation as guiding principles for ODA decisions. But application of the Charter's human rights provisions remained spotty and highly inconsistent. The Foreign Ministry's Annual Report on ODA in 1994 (published in March 1995) stated that "when there are clear problems in light of these principles...Japan reviews its aid policy to such countries" but avoids applying the guidelines "mechanically because it could hinder flexible implementation of official development assistance." The report gives several examples of situations in which ODA was actually suspended, at least in part, on human rights grounds, most of them in Africa (Sudan, Nigeria, Kenya, Malawi and Sierra Leone; no examples were cited in Asia, except for Burma (described below).

The Foreign Ministry also invoked the Charter's human rights language, but usually only in general terms, in its regular "policy dialogues" with ODA recipient governments and also at the time of high-level political visits. For example, in the case of Vietnam, Prime Minister Murayama met with Communist Party Secretary Do Muoi when he visited Tokyo in April 1995 and alluded to the ODA Charter's human rights clause. But the Japanese government did not link specific ODA decisions to Vietnam's human rights performance, nor did it intend to raise human rights concerns at the November 1995 donors' meeting convened by the World Bank. In 1995, Japan was again Vietnam's largest single aid donor. In January, notes were signed committing the Overseas Economic Cooperation Fund to \$480 million infrastructure loans for 1995, initially pledged at the November 1994 international donors' meeting. During Do Muoi's visit, Japan pledged a \$700 million infrastructure loan plus \$36 million in grant assistance.

On the other hand, in the case of Indonesia, Japan's representatives used the occasion of an annual development aid conference in Paris in July 1995 to raise concerns about restrictions on press freedom in Indonesia, as well as human rights problems more generally. Tokyo also pledged \$1.8 billion in ODA to Jakarta. Following the killings by Indonesian troops of six civilians in Liquica, East Timor, in January 1995, the Japanese government quickly urged an investigation into the incident, but did not hint that Indonesia's response would affect foreign aid flows.

Japan did use ODA to promote a key foreign policy objective in August 1995 when the government announced it would freeze most grant assistance to China to protest Beijing's nuclear testing program, thus reducing it from \$81.5 million in fiscal year 1994 to only \$5.2 million for the new fiscal year beginning in April. The Chinese government reacted angrily, saying the move would affect bilateral relations. But the decision on grant aid was clearly a compromise in response to calls from some political parties and politicians for a freeze on all ODA lending to Beijing.

It also appeared to be a token gesture, given that the Japanese Foreign Ministry said a new three-year package of \$6.9 billion in low-interest yen loans would go forward in 1996 as planned. In its ODA report, human rights is not even mentioned in the discussion of the ODA Charter and its application to China. Meanwhile, two-way trade between Japan and China increased to a record \$50 billion, making Tokyo China's largest trading partner after the United States.

Japan's willingness to risk offending China on the nuclear testing issue contrasted sharply with its reluctance to exert pressure on human rights concerns through its ODA program with China or in its bilateral relations with Beijing. But it did join other governments in multilateral human rights initiatives. At the U.N. Commission on Human Rights in March, Japan again co-sponsored a resolution criticizing China's human rights record.

Following the release of Daw Aung San Suu Kyi in July, Japan signaled a fundamental shift in its policy towards Burma, where ODA had in principle been suspended since the 1988 crackdown except for some limited humanitarian grant assistance. Within days of her release, a senior Foreign Ministry official went to Rangoon to meet with Daw Suu. But at a conference of the Association of South East Asian Nations (ASEAN) in late July, Foreign Minister Yohei Kono told his counterpart from Burma that Japan was considering resuming some ODA projects following Rangoon's "great and brave decision" to free the democracy leader from house arrest. In the interim, Tokyo would give \$15 million in grant aid for a nurses training school. Despite a rebuke by Daw Aung San Suu Kyi herself in a press interview in which she cautioned Japan not to move too quickly, and despite pressure from its Western allies including the United States, Tokyo said in August it was firmly committed to restoring aid, saying it was "unavoidable" that Japan would follow its own policy on Burma. An ODA mission visited Burma in October, and it appeared that a \$48 million ODA loan was being prepared to upgrade Rangoon's electrical infrastructure; this was one of the projects suspended in 1988. Privately, Japanese officials also indicated that they now shared ASEAN's "constructive engagement" approach to Burma—a departure from Japan's previous posture acting as a bridge between the "isolationist" policy of the U.S. and the approach taken by Burma's closest neighbors. In late October, General Maung Aye, a top official in the Burmese government, visited Tokyo to encourage Japanese investment in Burma.

The Foreign Ministry vaguely indicated that progress towards "democratization" in Burma, including adoption of a new constitution and transfer of power to a democratically elected government, would somehow affect future ODA decisions. But Tokyo refrained from directly conditioning ODA on any specific human rights improvements. Meanwhile, at the U.N. Human Rights Commission in March, Japan supported a resolution on Burma which was adopted by consensus.

Japan endeavored to protect the gains made in Cambodia since the peace settlement as well as to demonstrate its willingness to make a constructive contribution to peacekeeping and democratization in the region. Japan continued to be the number one aid donor to Cambodia. It pledged over \$89.3 million at a conference on Cambodian reconstruction held in Tokyo in 1994. In addition, Japan gave \$2.5 million for landmines clearance through the U.N. voluntary fund.

Japan was more active on human rights in various multilateral fora, including at the Fourth U.N. Conference in Women in Beijing, but it also faced criticism for some of its policies and positions at the Subcommission in Geneva and at the Sixth Committee of the U.N. General Assembly.

In Geneva, the Subcommission on Prevention of Discrimination and Protection of Minorities adopted a resolution in August welcoming the Japanese government's decision to establish a private, voluntary fund for women sex slaves and forced laborers. But the subcommission also urged Tokyo to establish immediately an administrative tribunal to handle claims for state compensation from the World War II "comfort women."

In New York, at an August meeting of a working group to review a draft statute establishing an International Criminal Court to consider "crimes against peace and security," Japan was criticized by Human Rights Watch for adopting an obstructionist position when it urged further review of the draft statute, considerably slowing down the

process. The Japanese delegation said it strongly supported creation of the Court, but claimed that both substantive problems with the draft and a lack of support for the Court among many developing countries warranted a delay.

One indication of the Foreign Ministry's ongoing interest in developing a distinctive human rights policy for Japan was a decision in July to co-host with the U.N. University in Tokyo a high-profile symposium on "Human Rights in the Asia-Pacific Region: Towards Partnership for the Promotion and Protection of Human Rights." The meeting had academic, governmental and NGO participants from the region; the ministry planned to hold such seminars on an annual basis.

## MEXICO

Ernesto Zedillo Ponce de León ended his first full year as president unable or unwilling to halt Mexico's triple evils of political killings, military and police abuses, and impunity. In February, Zedillo himself kicked off a crackdown on guerrillas in the southeastern state of Chiapas, but despite his assurances that security forces would respect human rights, government officials arbitrarily detained, tortured, and forced confessions from suspects. Investigators appeared to make headway in the official probe into the 1994 murder of presidential candidate Luis Donaldo Colosio, though new high-profile killings added to a growing list of such deaths, including Abraham Polo Uscanga, the judge in a politically charged union case, and seventeen peasants gunned down by police in Guerrero state. Throughout the country, labor and human rights activists also suffered attacks.

The crackdown on the Zapatista Army of National Liberation (Ejército Zapatista de Liberación Nacional, EZLN) exposed a breach between presidential words and governmental actions. On the one hand, President Zedillo recognized the problems of human rights violations and impunity, stating in his first state-of-the-union address, "The frequency of crimes and the impunity of those who break the law are an affront to society; and people have every reason to feel exasperated when they see that the very people who are entrusted with safeguarding order and imparting justice are in many cases those who disregard it." However, Zedillo's government continued to commit the very abuses that he himself condemned.

In Chiapas, an uneasy stand-off between the EZLN and government ended suddenly on February 9, when Zedillo ordered the army to recover by force territory in which the EZLN had operated since January 1994. In a televised address from the presidential palace, Zedillo informed the nation that he had ordered the army offensive to assist the attorney general's office in carrying out arrest warrants against five alleged EZLN commanders, whose names he read on the air, including that of the EZLN leader, "Subcommander Marcos."

During the crackdown, combined police and army operations netted more than twenty people, whom prosecutors later charged with crimes such as "terrorism" and "rebellion." All except two of eighteen February detainees interviewed in prison by Human Rights Watch/Americas reported that they gave coerced statements to government officials after being blindfolded, subjected to incessant and loud music, and deprived of liquid or food for up to forty-eight hours. Initially, none had adequate legal assistance. At least four of seven people detained in Yanga, Veracruz, suffered severe torture and, under threat, signed confessions incriminating themselves. One of them, Alvaro Castillo Granados, told Human Rights Watch/Americas that police forced him into the back of a car, stuffed a rag into his mouth, and forced mineral water up his nose. The police who interrogated Castillo shocked him with an electric baton and almost suffocated him with a plastic bag. In committing the seven for trial, a judge dismissed the torture allegations, claiming that even if proved, they would not detract from the value of the detainees' confessions. In October, a judge reviewing the earlier decision threw out several of the charges after finding that the attorney general's office failed to substantiate the government's allegations; but as of this writing the prisoners remained in detention. The judge did not refer to the treatment received by the detainees.

The Fray Bartolomé Human Rights Center (Centro para los Derechos Humanos "Fray Bartolomé de las Casas"), in San Cristóbal de las Casas, Chiapas, reported dozens of cases of torture, beatings, and intimidation



committed by government officials in the context of the crackdown. Most of the abuses occurred as army troops rounded up and questioned villagers about the Zapatistas. An agreement reached between the government and EZLN in September paved the way for future negotiations between the warring parties. In October, discussions began on the topic of indigenous rights and culture.

The detentions during the crackdown and previous military abuses in Chiapas made clear that existing Mexican safeguards designed to eliminate torture and forced confessions would only be effective if political leaders, including President Zedillo, issued clear directives to their subordinates that such laws must be followed and that any breach would be fully and immediately prosecuted.

The war in Chiapas exacerbated the longstanding conflict between ranchers and the state's largely landless indigenous population. Indigenous groups, drawing inspiration from the EZLN, continued to occupy farming land across the state, while landowners and ranchers reacted by arming and training their own private police, known as *guardias blancas*, or white guards. In some cases, police sided openly with the guardias, which human rights groups have identified as responsible for serious human rights violations. On January 10, for example, guardias blancas in Chicomuselo, along with municipal police and ranchers, participated in a clash against members of the opposition Party of the Democratic Revolution (Partido de la Revolución Democrática, PRD), leaving seven people dead and several others wounded. Despite a report by the National Commission for Human Rights (Comisión Nacional de Derechos Humanos, CNDH) on the incident that identified collusion between the white guards and uniformed police, the federal Ministry of Government reported that it could find no evidence of guardia blanca activity in Chicomuselo. During the run-up to October local elections in Chiapas, guardias blancas killed some nineteen PRD activists, according to the Fray Bartolomé Human Rights Center. Three members of the ruling Institutional Revolutionary Party (Partido Revolucionario Institucional, PRI) were kidnapped or murdered, according to the *New York Times*, which cited the PRI.

Another indication of tensions in Chiapas came with the expulsion in June of three priests working in the state: Argentine Jorge Barón Gutlein; U.S. citizen Loren Riebe; and Spanish national Rodolfo Izal Elorz. Without warrants for their arrest, state judicial police detained the priests in different parts of the state on June 22. While at the airport, the priests learned that they had been accused of encouraging land occupations and preaching about national politics, which they firmly denied in later interviews. Human Rights Watch/Americas recognized the government's right to decide which foreigners to admit and which to exclude, but also found that the government failed to fulfill its obligation to provide due process. Following the expulsions, the Mexican government refused to allow two other foreign Chiapas-based priests to re-enter the country after they had voluntarily departed.

Four months after the crackdown on suspected EZLN members, the national government found itself faced with another human rights crisis of national and international dimensions, this time in the southern state of Guerrero. On June 28, members of several communities in the state made their way toward Atoyac de Alvarez to attend a protest called by the Southern Sierra Peasant Organization (Organización Campesina de la Sierra del Sur, OCSS). Outside the town of Aguas Blancas, state judicial police and public security officers, also known as *policía motorizada*, erected a roadblock and stopped two trucks heading in the direction of the protest. Police opened fire on one of the vehicles, killing seventeen people and wounding fourteen others. Two police officers were wounded by a machete. After the killings, the police planted weapons on the victims and claimed they had returned fire in self-defense. In the months prior to the massacre, authorities and members of indigenous communities had clashed frequently, and attacks by unidentified assailants left more than three dozen people dead, including political activists, police, and peasants.

In a detailed report on the incident, the CNDH determined that even if the peasants had opened fire (which the CNDH doubted), the police had reacted in a "disproportionate, irresponsible, and illegal" manner. The CNDH found overwhelming proof that police and other state officials tried to cover up the incident, and documented evidence of at least one extrajudicial execution at the scene of the massacre.

On July 1, the state attorney general accused ten police officers of manslaughter and abuse of authority, but after the CNDH released its report in August, several of the state's top political leaders—including the attorney

general—lost their jobs pending investigation, in fulfillment of a recommendation made in the report. Only the governor remained in his post. Three special prosecutors have been named to head the case, but none made progress on resolving the killings. By the time this report went to press, several important questions remained unanswered, including the identity of the occupants of a helicopter that flew above the massacre and the degree to which government officials planned the killings.

Federal officials maintained that they would not and could not intervene after the massacre because the federal system of government in Mexico prohibited them from doing so. Nonetheless, Human Rights Watch/Americas believes that based on the Inter-American Convention on Human Rights, to which Mexico is a state party, the national government cannot hide behind federalism to justify state or local violations of its international obligations. The convention's federal clause, article 28, holds that national governments shall "immediately" take steps to "the end that the competent authorities of the constituent units may adopt appropriate provisions" for the fulfillment of the convention.

Although the governor made a commitment to fulfill a CNDH recommendation to restructure the police, Human Rights Watch/Americas' field investigations revealed that the state government had taken no effective steps to address impunity or restructure the police to prevent future abuses.

The government of Mexico committed human rights violations in the context of labor issues, including limiting freedom of association and failing to live up to its international obligations to prevent discrimination. A labor tribunal refused to re-register the independent union of the former Fishing Ministry, which the government transformed in December 1994 into the Ministry of Environment, Natural Resources, and Fishing. Following several questionable legal rulings, a pro-government union federation called new elections and eliminated the independent union members from the new union's leadership. Human Rights Watch/Americas began to study other cases in 1995, including the government's confrontation with the Union of Route 100 Urban Transportation Workers, commonly referred to as Ruta-100. The government declared a publicly-financed bus company bankrupt, declared the union dissolved, and jailed several of its leaders. Three people have lost their lives so far in the struggle, including Judge Abraham Polo Uscanga. Polo denounced threats from court officials after he refused on legal grounds to issue arrest warrants for Ruta-100 leaders, and subsequently sought leave from the court. On June 19, assailants shot him dead in Mexico City. Two days earlier, unidentified gunmen shot to death the government's special prosecutor in the Ruta-100 case. In April, Mexico City's transportation secretary, the official in charge of breaking the union's control over city transportation, died after receiving two gunshots in his chest. Government investigators ruled the death a suicide.

Throughout northern Mexico's *maquiladora* sector, the government also failed to enforce statutes contained in domestic and international laws that prohibit discrimination on the basis of gender. The Human Rights Watch Women's Rights Project documented routine discrimination against women in the maquiladora industry, which required prospective women employees to reveal their pregnancy status and denied jobs to pregnant women. In addition, the Women's Rights Project documented cases in which private maquiladora companies mistreated or fired women who became pregnant.

As has been the case in past years, journalists in Mexico faced danger or harassment for reporting on sensitive issues. On July 24, gunmen shot and wounded Tijuana-based journalist Dante Cortez as he traveled to a press conference to denounce alleged drug traffickers in Baja California. Cortez had been investigating his son's murder in June, which he believed took place at the hands of drug traffickers. In March, Veracruz state officials closed Radio Huayacocotla, arguing that technical deficiencies at the station posed life-threatening danger to its employees. According to station employees, government officials had accused Radio Huayacocotla of instigating violence among Veracruz's indigenous population, a serious allegation within the context of the guerrilla war in nearby Chiapas. For decades, Radio Huayacocotla had broadcast educational and community-oriented information.

Attacks on human rights monitors took place throughout the country during 1995. On February 13 and 14, news media citing official sources reported that police had discovered an arsenal being shipped to Arturo Lona, the

bishop of Tehuantepec, Oaxaca, who is also president of the Tepeyac Human Rights Center (Centro de Derechos Humanos "Tepeyac"). On June 29, two men shot at Bishop Lona, hitting the truck he was driving with eleven bullets. Oaxaca officials ruled the attack an attempted robbery, but the harassment suffered by Bishop Lona earlier in the year led Human Rights Watch/Americas to suspect a political motive.

In March, the Binational Human Rights Center (Centro Binacional de Derechos Humanos) discovered that someone had wiretapped its offices, after private investigators contracted by the center conducted a thorough sweep of the group's Tijuana installations. The investigators found tapped phone lines and an expensive microphone in a telephone handset.

In August, the Rev. David Fernández, a priest who heads the Mexico City-based Miguel Agustín Pro Juárez Human Rights Center (Centro de Derechos Humanos "Miguel Agustín Pro Juárez", known as the Centro Pro), received a series of threats against him and his family. Prior to the threats, *Proceso* magazine published a hard-hitting interview with Father Fernández, who severely criticized the government's handling of human rights issues. In September, Centro Pro personnel received several additional threats. José Lavanderos, a human rights lawyer working on the cases of the alleged Zapatistas detained during the crackdown, received threats in October.

An October report by the human rights coordinating group National Network of Human Rights Groups (La Red Nacional de Organismos de Derechos Humanos "Todos los Derechos para Todos," known as La Red) documented a series of threats or attacks against human rights monitors throughout Mexico, including the Mahatma Gandhi Regional Human Rights Commission (Comisión Regional de Derechos Humanos "Mahatma Gandhi") in Tuxtepec, Oaxaca; the Miguel Hidalgo Human Rights Committee (Comité de Derechos Humanos y Orientación "Miguel Hidalgo") in Dolores Hidalgo, Guanajuato; Citizens in Support of Human Rights (Ciudadanos en Apoyo a los Derechos Humanos) in Guadalupe, Nuevo León; the Tabasco Human Rights Committee (Comité de Derechos Humanos de Tabasco); and the Northern Sierra Human Rights Committee (Comité de Derechos Humanos de la Sierra Norte de Veracruz) in Huayacocotla, Veracruz. Human rights activists in Guerrero working on the June massacre also received threats. In most of the cases documented by La Red, the identity of the people making the threats could not be confirmed.

## **U.S. Policy**

As it has in the past, the Clinton administration went out of its way to avoid criticizing the Mexican government on human rights issues. In its public statements on Mexico, the United States showed great support for the Zedillo government, rallying to provide billions of dollars in a financial package for Mexico after the peso collapsed in December 1994. Repeated praise for the Mexican government in the context of the financial package and the North American Free Trade Agreement (NAFTA), with virtually no public mention of human rights problems, made it clear that the economic relationship between the two countries mattered to the United States far more than human rights problems.

Throughout 1995, the State Department made only one public statement focusing on human rights in Mexico. The U.S. Embassy in Mexico City made none. On February 10, as the crackdown on alleged Zapatistas continued, acting State Department spokeswoman Christine Shelly justified, "Governments have the right and responsibility to protect their citizens against violence, while, at the same time, respecting their human rights." When it became clear that the Mexican government had flagrantly violated the rights of suspected guerrillas, the United States issued no follow-up comment. To his credit, U.S. Amb. James Jones did meet with Mexican human rights activists on at least one occasion.

The U.S. Agency for International Development continued to plan a rule-of-law program in Mexico, with a pilot initiative to focus on judicial reform in the state of Hidalgo. The State Department requested \$2 million to assist with judicial reform issues in Mexico in 1996, including training for Mexican jurists and police, and sought another \$1 million for the International Military Education and Training Program (IMET), up from \$200,000 in 1994 and an

estimated \$400,000 in 1995. U.S. Defense Secretary William Perry visited Mexico in October and publicly announced the IMET program.

In an interview in Mexico City, Ambassador Jones assured Human Rights Watch/Americas that the United States raised human rights concerns "at the highest levels of government" in Mexico, though he emphasized that it never did so publicly. "Our message is that respect for human rights is a factor in whether people will invest in Mexico," he said. "The most effective tool is the investment community." The ambassador cautioned that nationalism in Mexico would cause the government to reject any public criticism made by the United States. Human Rights Watch/Americas found the caution to be misplaced because U.S. statements on Mexico that ignored serious human rights issues yet praised other developments effectively helped the Mexican government avoid responsibility for the violations committed by its agents. The State Department's annual analysis of human rights conditions around the world, published in February, noted serious problems in Mexico, including "extrajudicial killings by the police, torture, and illegal arrests," but the existence of such violations appeared not to be factored into U.S. policy on Mexico. Further, since the State Department requested \$3 million in aid to train Mexican soldiers, police, and jurists in 1996, the U.S. government should have been particularly careful to issue public criticism of human rights abuses in Mexico. By doing otherwise, the United States sent the message to Mexican officials that not only did committing or tolerating human rights abuses carry no cost, but the United States would continue to provide financial support to state agencies responsible for violating human rights.

The United States encouraged the Mexican government to accept donated helicopters and airplanes to strengthen the ability of the attorney general's office to interdict illegal drugs. In October, the United States transferred twelve Huey helicopters to the attorney general's office on a no-cost-lease basis and slated another twelve to be sent for spare parts.

During 1995, the U.S. Labor Department reviewed one complaint about labor rights violations in Mexico. The department's National Administrative Office (NAO), created in 1994 by the NAFTA accord, released a report on a complaint filed the previous year by three U.S. groups and one Mexican organization. The complaint alleged that Sony Corporation had violated freedom of association, the right to organize, and minimum employment standards. The NAO deemed "plausible" a complaint of wrongful dismissal and recommended further study of the problems. The labor ministries of Mexico and the United States agreed to study the problem of union registration in Mexico and educate Mexicans about their labor rights. While the process highlighted the lack of enforcement mechanisms in NAFTA's labor side agreement, it also showed positive signs of facilitating much-needed discussions of important labor rights issues in Mexico. As of November 1, the U.S. Congress had yet to debate a Republican-sponsored bill that would effectively curtail presidential authority to include labor rights side agreements in future trade accords in cases where the president wanted fast-track negotiating capabilities.

## THAILAND

The fragility of Thailand's elected government continued to hamper progress this year on many of the country's human rights problems. These included restrictions of press freedom, trafficking in women, and, most prominently, Thailand's continued mistreatment of Burmese refugees and migrant workers.

Thailand's fledgling democracy was seriously threatened in May, as the coalition government headed by Chuan Leekpai was forced to call an election. In March, after two and one-half years in office, Chuan's government became the Thai's longest serving government, only to fall to charges of corruption. The government had been at odds with the powerful military, particularly over the issue of relations with Burma and the treatment of Burmese refugees. But fears that the army might attempt a coup d'etat were not realized, and a new election took place on July 2, bringing into power a coalition led by Prime Minister Banharn Silpa-archa.

Freedom of the press was challenged in August when a newspaper delivery truck was fired on and parcel bombs were sent to the editor and proprietor of a major Thai daily newspaper, *Thai Rath* (The Thai Nation), after it published articles critical of the annual reshuffle of police posts. The police dismissed the bombs as merely a threat, not intended to harm anyone. In October, Thailand invoked the *lese majesté* laws, which forbid any criticism of the king, to deny work visas temporarily to all Australian journalists. The action was taken in response to an unflattering cartoon of the king published in *The Age* newspaper.

Refugees from Burma increased to 90,000 after an additional 10,000 refugees fled to Thailand following the fall of the Karen National Union's headquarters at Manerplaw in January. From February onwards, the safety of some 50,000 of these refugees was threatened by groups of Burmese government troops (SLORC) and their allies, the Democratic Karen Buddhist Army (DKBA), who made frequent incursions into Thailand to force the refugees back to Burma. (See Burma chapter.) Although Thailand has not ratified the international convention on the protection of refugees, when the refugees first began to arrive, the Thai government pledged that it would offer sanctuary.

As the attacks on the refugee camps began, the head of the parliamentary Foreign Affairs Committee called for an urgent review of Thai policy toward Burma. He led a delegation of members of parliament to the border to assess for themselves the situation in the refugee camps and called for increased security for the refugees.

On March 16, approximately 8,000 refugees fled from a camp in Ban Huai Manok after thirty DKBA and SLORC troops entered the camp and tried to kidnap the camp leader. One refugee was killed and three others were seriously injured in the attack, which was repelled by Thai soldiers. The refugees moved deeper into Thailand, into an area where the roads made access very difficult for nongovernmental organizations trying to provide aid. The situation continued to deteriorate, and refugees lived in constant fear of attack. Between April 19 and 28, the DKBA entered three different camps and torched 1,172 houses, leaving two refugees dead and more than 6,000 homeless. On May 3, DKBA/SLORC troops entered a Thai village, Ban Mae Ngao in Sob Moei district, in the early hours of the morning and attacked a Thai police checkpoint, also razing the village market and the refugee shelters. Three policemen and one refugee were killed, and two other policemen were injured.

Only after this incident did the Thai army step up its presence in the border area, bringing in troops, tanks and helicopter gunships in a demonstration of strength aimed at preventing further incursions. Just days before, the commander-in-chief of the army, Wimol Wongwanich, was quoted in the Thai press: "If we were not afraid of being criticized by the world community on humanitarian grounds ...then this army chief would take only one week to push [the refugees] all out...I used to do this with over 40,000 Cambodian refugees." The discrepancy between the civilian government's reassurances and the army's actions revealed a sizeable gap in attitude between them.

Once the Thai army intervened, the incursions ceased, though armed men continued to enter camps and harass refugees. The DKBA and SLORC remained in positions on the Burmese bank of the Moei and Salween Rivers (which mark the Thai-Burma border) and the refugees' security remained a concern at the end of the year. In the two weeks between September 23 and October 10, nine refugees were abducted in separate raids. On October 6, the DKBA entered Shoklo camp looking for a KNU officer, and there were clashes which left two Karen refugees dead. By that time, camps in the Mae Sot area had been consolidated, and the Ministry of the Interior had set up an office in the largest camp, Mae La, which housed over 20,000 refugees.

Further north in Mae Sai district, Thai authorities prevented refugees from entering Thailand altogether. The Thai military had kept this part of the border closed for more than a year to prevent supplies from reaching drug warlord Khun Sa. On March 20, more than 1,000 Shan refugees fled heavy fighting in the Burmese border town of Tachilek. They were permitted to stay for only three days, when the Thai military pushed back all but 300 of them. By the end of April, the rest were also forced to return to Burma. As fighting continued in Burma's Shan State, more Shan and Lahu villagers were forced to flee and seek refuge in Thailand, but Thai authorities denied them permission to cross the border. By September, there were more than 2,000 refugees living in makeshift camps on the Burmese side of the border, but nongovernmental organizations were not permitted to provide aid to them.

Thousands more Shan are believed to have entered Thailand seeking work as laborers, joining an estimated 400,000 migrant workers from Burma. During the year they faced increased harassment, arrest and deportation by the Thai authorities, in addition to abuse by their employers. On March 14, the Ministry of the Interior ordered a crackdown on illegal immigrants on grounds of national security. Two months later the crackdown began in earnest, and 1,200 people were arrested in Bangkok in the first three days of May. There were also arrests in Mae Sot and Chiang Mai, until the Chiang Mai Chamber of Commerce protested, worried that buildings for the South East Asian Games, scheduled for December, would not be completed in time without the Burmese laborers.

Following arrest, the workers were held in appalling conditions in detention centers for one month or until they paid their immigration fine of 2,000 Baht (though this was reduced in some areas). In many cases, they suffered abuse while in detention; women and girls were routinely strip-searched. From the detention centers, they were transported to the border in cattle trucks, where most then paid agents who collaborated with Thai police to get them back into Thailand.

Thailand continued to be the regional center for international human rights organizations, a place where they could operate with a fair degree of freedom. Local human rights organizations were also able to operate without interference. But those addressing issues that touched on the commercial or political activities of the Thai military were subject to government monitoring and restrictions. In April, a Thai nongovernmental organization (NGO) worker was arrested at a seminar providing management training to Burmese dissidents in Chiang Mai, charged on immigration offenses, then tried and sentenced to three months of imprisonment. He was later released on bail, pending an appeal. Thirty-four Burmese, also arrested at the seminar, were released after paying a fine.

Groups working on child prostitution and the trafficking of women were also targeted for close surveillance, and in March Prime Minister Chuan Leekpai attacked these groups for exaggerating the problem and tarnishing Thailand's image abroad. In June, a relief center for HIV/AIDS carriers were harassed by local municipal authorities and the police in order to get them to move away from the area. The center closed after workers received death threats and the center was bombed. No one was injured, and there was no official inquiry into the incident.

### **The Role of the International Community**

Several governments, including the United States, Australia and the European Union strongly condemned the attacks on refugee camps by DKBA and SLORC troops and called on Thailand to increase security measures in the area. When the refugees from the Shan State arrived in Thailand in March, the U.N. High Commissioner for Refugees (UNHCR) sent a protection officer to the area to investigate the situation. UNHCR officials also visited the Karen refugee camps. The UNHCR did not make any public statements critical of Thai policy in either case.

In June, more than sixty members of the U.S. House of Representatives wrote to President Clinton on U.S. Burma policy, urging him to "secure a commitment from the government of Thailand that they will continue to provide a haven for these refugees (from the attack on Mannerplaw)."

Congress also remained active on the issue of trafficking. In January 1995 the State Department submitted a report, requested by the House in 1994, on trafficking of Burmese women and girls into Thailand. The report said there was no evidence of the systematic involvement of the Thai government, but noted that the sex industry and trafficking networks "flourish through police corruption" and criticized the ineffective enforcement of existing laws against prostitution and trafficking.

In 1995, the U.S. embassy in Bangkok implemented an "action plan" on trafficking, approved in 1994, including educational efforts, support for NGOs, and diplomatic interventions with Thai officials. The embassy planned to distribute a Thai-language version of the Human Rights Watch/Asia report, *A Modern Form of Slavery*.

Congress also scrutinized the Thai military's support for the Khmer Rouge. In February the State Department released a report, required by 1994 legislation, on Thai involvement in cross-border trade and arms shipments. A declassified version noted that official Thai policy prohibits arms transfers to the Khmer Rouge and asserted there was no evidence, since a highly-publicized discovery of an arms cache in December 1993, that the Thai military was supplying the Khmer Rouge with weapons or ammunition. The report acknowledged, however, that some arms transfers still took place through "unofficial contacts, not sanctioned by the Thai government." On the issue of the lucrative cross-border logging and gem trade, as well as shipments of rice, fuel and medicine to the Khmer Rouge, the State Department said the Thai government had begun unspecified "efforts to stop such contacts and trade," but did not evaluate their effectiveness.

Some key senators were far more skeptical of Thai policy. Senator Craig Thomas released a statement in July highlighting eyewitness accounts of cross-border logging shipments published by a credible London-based NGO (Global Witness). He warned that unless the Thai government took significant steps to investigate and stop the timber shipments, he would urge the administration to invoke a law requiring the cutoff of all assistance to any country that is found to be cooperating with Khmer Rouge military operations.

Meanwhile, the U.S. continued a heavy flow of arms sales to the Thai military. Estimated foreign military sales in fiscal year 1995 totaled \$120 million, and estimated shipments for fiscal year 1996 were expected to reach \$145 million.

## THE UNITED STATES

The climate for human rights in the United States worsened in 1995, marked by mounting evidence of the persistence and pervasiveness of racism in the criminal justice system, expanded use of the death penalty, increased reliance on incarceration and harsher conditions of confinement, and attacks on due process and freedom of expression by the new Republican majority in Congress.

The sharp differences in the way African-Americans and whites reacted to the acquittal of African-American celebrity O.J. Simpson of murder charges, highlighted the systematic abuse of minority citizens by police and ongoing discrimination in the criminal justice system. The experience of discrimination at the hands of law enforcement officials and courts led many minorities to deeply distrust institutions of justice. Minority rights were weakened in 1995 by three Supreme Court decisions that reduced protections in voting, education and employment, and by a concerted Republican-led attack on "affirmative action" programs designed to increase the representation of minorities in workplaces and higher education.

Resentment about the criminal justice system in general and one aspect in particular—racial disparities in prison terms for drug offenses—erupted into public view in October when inmates rioted in four federal prisons after Congress rejected the recommendations of the United States Sentencing Commission to modify the differential treatment between crack and powder cocaine in mandatory federal drug sentences. Among the commission's other disturbing findings: whites were arrested and prosecuted mainly for federal powder cocaine crimes, while 90 percent of those convicted for crack cocaine offenses were African-American.

The federal crimes of possession and distribution of crack cocaine carried much harsher penalties than similar activities involving powder cocaine. This two-tiered sentencing scheme, though facially neutral, had a significant discriminatory impact on the African-American community. The disparate impact of drug laws on African-Americans was heightened by the pattern of narcotics law enforcement, which was largely concentrated in minority neighborhoods in U.S. cities. As a result African-Americans were arrested, prosecuted, convicted, and imprisoned for drug crimes far out of proportion to their numbers among the general population or the population of drug users, and were the principal recipients of the harsher sentences that applied to crack.

Concerns over police misconduct throughout the country grew during the year. Police officers in a number of cities were accused of serious human rights violations, including murder, brutality, and rape. Despite the seriousness of the allegations, abusive police officers continued to enjoy near total impunity. Far too often, police leadership as well as state and federal prosecutors failed in their duties to vigorously pursue and prosecute cases of police misconduct.

The April 19 bombing of the federal building in Oklahoma City at first caused a xenophobic reaction, as many commentators assumed that Islamic militants were responsible. Although home-grown adherents of radical right-wing movements were ultimately charged in the case, the Clinton administration nevertheless exploited public fear and anxiety over the bombing to press for passage of a repressive “anti-terrorism” bill that would establish new courts, using secret evidence, to deport non-citizens suspected of “terrorist” activity, and limit inmates condemned to death to one judicial appeal. The administration, having succeeded in 1994 in expanding to sixty the number of federal crimes for which the death penalty may be imposed, moved quickly to seek it in the Oklahoma case. Elsewhere in the United States the pace of executions quickened, with New York’s new governor signing a bill that ended the state’s longstanding moratorium on executions. The national total of forty-two executions by the end of September broke the modern annual record of thirty-eight set in 1993.

The increasing use of the death penalty was particularly troubling in light of extensive evidence that showed it to be administered in a racially discriminatory manner at both state and federal levels. For example, all ten of the defendants approved by the attorney general for capital prosecution under the Federal Anti-Drug Abuse Act were African-Americans, and, at the state level, racial minorities accounted for almost 50 percent of all those executed during the first ten months of 1995.

Another highly disturbing aspect of death sentencing in the United States was the continuing execution of juvenile offenders—convicted of crimes committed before the age of eighteen—in blatant violation of international legal instruments, including the International Covenant on Civil and Political Rights (ICCPR), the American Convention of Human Rights, and the U.N. Convention on the Rights of the Child. The United States faced strong international condemnation for this policy.

The trend to curb the due process rights of inmates continued during 1995. Prisoners in the United States traditionally had three successive procedures to challenge their convictions or sentences: appellate review, state habeas corpus review, and federal habeas corpus review. In recent years, the courts as well as state and national legislatures have increasingly restricted the availability of federal habeas corpus review for both state and federal inmates. Congressional initiatives in 1995, including the anti-terrorism legislation and a revised crime bill, would, if passed and signed into law, restrict the federal appeals process for all condemned federal and state inmates and make it harder for federal judges to reverse convictions or sentences handed down by state courts.

The most significant human rights abuses in U.S. prisons during 1995 stemmed from the exploding prison population and concomitant extreme overcrowding of prison facilities. In August 1995, the U.S. Justice Department announced that the nation’s prison population had soared above the one-million mark for the first time, more than doubling since 1985. The increases reflected tougher sentencing for a range of crimes as well as a greater proportion of drug arrests leading to longer prison terms. Overcrowding meant that facilities built with single occupancy cells had two prisoners per cell and prison dormitories were triple-bunked. Overcrowding also led to a deterioration in physical and sanitary conditions, reduced levels of basic necessities such as staff supervision and delivery of health services, and the spread of airborne diseases such as tuberculosis.

In another disturbing and regressive development, the state of Alabama reintroduced prison chain-gangs after a hiatus of some thirty years. Groups of prisoners shackled and chained together at the ankles cleared ditches, cut grass, picked up litter, and mended fences for twelve hours a day, five days a week, with hourly water breaks and a brief lunch, under the supervision of armed guards. Such treatment violates the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and the ICCPR’s prohibition against degrading treatment of prisoners.



The federal and state prison systems in recent years have made increasing use of super-maximum security facilities, informally known as “supermaxs” or “maxi-maxis.” Supermaxs subject prisoners to extreme social and sensory deprivation, including near-total isolation from other prisoners, surroundings designed to reduce visual stimulation, minimal or no time outdoors, denial of reading material, and complete lack of recreational facilities. One such prison facility, the Maximum Control Complex in Westville, Indiana, is divided into four identical cell blocks with each block centered on a control booth for prison staff from which all the cells are visible. A number of inmates interviewed by a Human Rights Watch team in June 1995 complained of feeling like experimental guinea pigs in a laboratory.

In January 1995, conditions at the Security Housing Unit (SHU) of another notoriously harsh prison, California’s Pelican Bay facility, were held, in a landmark federal court ruling, to “cross the constitutional line.” The strongly-worded opinion detailed eleven shockingly violent assaults on inmates by guards and described the SHU as a “windowless labyrinth of cells and halls sealed off from the outside world,” where prisoners routinely endured conditions of total social isolation and sensory deprivation that “may press the outer bounds of what most humans can psychologically tolerate.” Despite findings like these, Congress passed legislation to curb the power of the courts to order remedies in cases involving inhumane and unconstitutional conditions in adult prisons and juvenile detention facilities.

Other pending congressional initiatives that would seriously impair human rights in the country included a proposed constitutional amendment—the first revision of the First Amendment freedom of speech in U.S. history—to permit prosecution of protesters who burn or desecrate the nation’s flag; a bill to restrict “indecent” expression on the Internet; anti-terrorism legislation; and curbs on the rights of prisoners and death-sentenced inmates.

Gender discrimination remained a pervasive problem in the United States during 1995. U.S. constitutional and statutory law consistently failed to provide adequate legal protection for women who, particularly in the sectors of employment, health care, and prison facilities and programs, faced discrimination on account of their sex. Under the United States Constitution, as interpreted by the Supreme Court, discrimination based on gender merited a lower level of judicial scrutiny than discrimination based on race or national origin. Women were also inadequately protected by U.S. statutory law, since many U.S. anti-discrimination statutes failed to proscribe gender-based classifications. Although gender discrimination law applied equally to men and women, in practice women were far more likely to receive inferior treatment on account of their sex. Less stringent than the standard applicable to discrimination by race or nationality, the U.S. legal standard for sex discrimination violated article 3 of the International Covenant on Civil and Political Rights, which mandates equal access to civil rights protections for men and women.

Immigrants to the United States were targets of campaigns to limit their rights in 1995. Although immigration policy has historically fallen within the domain of the federal government, state legislatures increasingly asserted control over certain aspects of immigration with a view to circumvent federally mandated due process rights for non-citizens. For example, California’s Proposition 187 statute, approved in a November 1994 referendum, instructed state facilities to cut off medical aid, welfare funds, and schooling for supposed illegal migrants, despite a Supreme Court ruling that public assistance could not be withdrawn without a prior hearing. Major provisions of Proposition 187 were judicially enjoined in December 1994, pending a determination of their constitutionality. The statute, as applied, would potentially violate the anti-discrimination principle of article 26 of the ICCPR.

Meanwhile, as immigration issues moved to the forefront of the national debate, undocumented immigrants, refugees, legal residents and U.S. citizens continued to be subjected to abuse by Border Patrol agents and inspectors of the U.S. Immigration and Naturalization Service (INS), including severe beatings and arbitrary detentions. Victims of abuse faced many barriers to filing or pursuing complaints due to structural flaws in the INS’s investigatory and disciplinary processes. As a result of its defective complaint and agent review procedures the agency consistently failed to enforce its stated policies and hold abusive agents accountable. Nevertheless, the Clinton administration and

Congress poured new resources into the INS to vastly increase the number of agents, without requiring sufficient improvements in the agency's abysmal human rights record.

In a positive development in 1995, the INS convened a Citizen's Advisory Panel (CAP) in April, June, and October. While the CAP directly heard the concerns of human rights advocates and focused on improving the INS's flawed complaints intake system, the INS countered the momentum for accountability by pushing to gain control of the entire complaints and agent review process and advocating the elimination of the oversight function performed by the Office of the Inspector General for the Department of Justice.

On May 2, 1995, the United States announced its intention to grant humanitarian parole to most of the approximately 21,000 Cuban asylum-seekers interned since August 1994 at the U.S. naval base in Guantánamo Bay, Cuba. At the same time, the U.S. announced a new policy, adopted after negotiating a migration agreement with the Cuban government, to repatriate automatically all Cubans intercepted at sea. Those claiming to fear persecution would be instructed to apply for refugee status through the U.S. Interests Section's in-country processing program in Havana. The new policy initially did not permit adequate screening to protect Cubans qualifying as refugees from involuntary repatriation as required by the international law principle of *non-refoulement*. The administration subsequently expanded the shipboard screening procedures instituted under the policy to consider the internationally-recognized definition of a refugee. Concerns remained, however, about the difficulties in assuring a fair hearing posed by shipboard, rather than land-based, screening and the mistaken reliance on in-country refugee processing as a substitute for strict adherence to the the principle of non-refoulement.

In January, following the return to office of President Jean-Bertrand Aristide, the U.S. initiated forcible repatriations of over 3,700 Haitians from detention camps at Guantánamo, despite ongoing security concerns in Haiti. The cursory interview U.S. officials accorded the Haitians immediately prior to their repatriation was publicly decried by the United Nations High Commissioner for Refugees as insufficient protection from refoulement. The U.S. repatriated roughly 200 Haitians between October 1994 and October 1995 without any refugee screening, denying them even the shipboard procedures in place for Cubans interdicted in similar circumstances.

While civil liberties and human rights groups operated freely in the United States, two moves by Congress threatened the ability of some advocacy groups to function. One was the abolition of federal funding for legal centers in many states that provided representation for indigent death-sentenced inmates. There was considerable evidence that Congress acted not from fiscal considerations, but due to the centers' role in prolonging condemned inmates' appeals and overturning some death sentences. In addition, at this writing Congress was considering the Istook Amendment which would discontinue federal grants for organizations that engaged in "political advocacy" even with their own private funds. Lobbying with federal money was already prohibited, but the proposed legislation would contravene the rights to impart information and ideas of all kinds and to take part in the conduct of public affairs conferred by articles 19 and 25 of the ICCPR.

Restrictions placed by the United States on its ratification of the ICCPR—first, limiting the domestic applicability of the covenant, and second, overriding the prohibition on the execution of persons for crimes committed when they were younger than eighteen—drew considerable objection from other nations, including Germany, France, Italy, Belgium, Norway, the Netherlands, Portugal, Spain and Sweden.

The scheduling of Mumia Abu-Jamal's execution by the state of Pennsylvania for August 17, 1995, sparked an international campaign for clemency in his case. Abu-Jamal, a former radio journalist and African-American political activist, had remained on death row since 1982 when he was convicted—amid widespread accusations of racial bias in the courtroom, inadequate representation, and prosecutorial misconduct—of the 1981 killing of a Philadelphia police officer. Abu-Jamal continued to proclaim his innocence. The governments of Germany and Belgium appealed to U.S. authorities on his behalf, President Chirac authorized the French ambassador to Washington to take "any step that might help to save the life of Mr. Mumia Abu-Jamal," and Italian parliamentary deputies passed a Lower House motion urging their government to press the United States to lift Abu-Jamal's death sentence. Although the governor of Pennsylvania

rejected all intercessions, a court of common pleas judge granted a stay of execution to enable Abu-Jamal to complete his appeals process.

## VIETNAM

A year of diplomatic break-throughs did nothing to improve Vietnam's human rights record; indeed, the country's increasing integration into the world community appeared to trigger a nervous reaction at home, with fresh arrests and prosecutions of dissidents and the tightest security situation in several years. In contrast to previous years when the government amnestied numerous political dissidents on the occasion of national holidays, only one political prisoner was known to have been freed in a year when Vietnam celebrated the twentieth anniversary of the reunification of the country and the fiftieth anniversary of its declaration of independence.

Vietnam was formally admitted to the ASEAN standing committee as an observer on January 26 and joined ASEAN as its seventh member on July 28. On July 11, the United States announced normal diplomatic relations with Vietnam. Then, on July 17, the European Union signed an economic cooperation accord with Vietnam that had been in negotiation for two years, much of the disagreement centering on a standard human rights clause.

At the same time as these developments unfolded, the Vietnamese government moved to imprison and prosecute internal critics. On January 4, Thich Quang Do, the second-highest leader of the Unified Buddhist Church, was arrested because of his role in organizing flood relief in the name of the church and his protest at the arrest of five other Buddhists who had participated in the charitable effort. The sixty-eight-year-old Venerable Quang Do had the previous year written a long essay alleging that the Vietnam Communist Party had persecuted, and in some cases to the death, senior figures in the church, and he sent this essay to party leader Do Muoi asking why the country was officially mourning the death of Korean dictator Kim Il Sung but not commemorating the death of Buddhist martyrs. On April 14, Venerable Quang Do and the five other Buddhists were convicted of national security offenses for their flood relief activities; the senior monk was sentenced to five years of imprisonment, and the others to terms of four to two and one half years. One laywoman who asked for clemency at trial was released. Dozens of adherents of the Unified Buddhist Church remained imprisoned, although one monk, Thich Hai Chanh, was the only political prisoner to be freed in an amnesty of prisoners to celebrate the April 30 anniversary of the reunification of the north and south parts of the country.

On December 29, 1994, in an effort to cut him off completely from all followers, security police moved the head of the church, Thich Huyen Quang, from the Hoi Phuc pagoda in Quang Ngai province where he was confined under house arrest to a one-room structure they built and guarded at the tiny Quang Phuc shrine in Nghia Hanh district. On August 16, a Voice of Vietnam broadcast called for Thich Huyen Quang and another monk under house arrest, Thich Long Tri, to be put on trial as well, but as of this writing no trial had gone forward. Thich Huyen Quang is seventy-seven years old and in poor health; since his confinement the authorities have denied him visitors, doctors and medicine for his high blood pressure.

Protestants also faced arrest this year, particularly in highland regions, for preaching or holding house church services. Human Rights Watch/Asia received information on arrests and confiscation of property from Protestants in Song Be, Long An, Quang Ngai and Lam Dong provinces who had distributed religious materials or held illegal prayer meetings. Relations with the Catholic church continued to show tension, with the government in April rejecting all candidates the Vatican nominated for clerical positions, including the candidate who was to assume the administrative duties for the elderly and ill archbishop of Ho Chi Minh City; the archbishop died later in the year, leaving the administrator-designate's status uncertain.

On April 11-12, a Vietnamese court convicted Nguyen Dinh Huy and eight other members of the self-proclaimed "Movement to Unite the People and Build Democracy." This group, whose stated goals were to promote peaceful political change leading to free elections, had attempted to organize a conference on development and

democracy in November 1994 that the government abruptly canceled, arresting them. Nguyen Dinh Huy was sentenced to fifteen years of imprisonment for "attempting to overthrow the government"; others received sentences of four to fourteen years, including two American citizens, Nguyen Tan Tri and Trung Quang Liem. A U.S. consular officer was allowed to observe the trial, and on November 5, the two Americans were deported from Vietnam.

On June 14, the government took into custody two prominent communist dissidents, Do Trung Hieu in Ho Chi Minh City and Tran Ngoc Nhiem, known by his alias, Hoang Minh Chinh, in Hanoi. Do Trung Hieu was formerly the Communist Party cadre in charge of religious affairs in Ho Chi Minh City; he had written and circulated an autobiographical essay describing the party's efforts to dismantle the Unified Buddhist Church after the war. Hoang Minh Chinh, a well-known and now elderly communist intellectual, had been imprisoned twice before for advocating "revisionist" lines, in 1967 and 1981 respectively. He had sent petitions to the highest levels of the Party demanding that his name be cleared from his previous jailings. The two cases are related, possibly because Do Trung Hieu had asked Hoang Minh Chinh to circulate a letter the former had written to Vietnam's leadership. Both men were put on trial in Hanoi on November 8 and sentenced to fifteen months and twelve months respectively.

A third well-known communist figure, Nguyen Ho, was visited by police on June 23, who attempted to take him into custody. Nguyen Ho had been detained twice previously, once for his role in leading an unofficial association of war veterans and another time for circulating an autobiographical essay that exposed and criticized abuses committed by the party. In one of his essays, he noted the "unprecedented speed" with which the party had moved to reconcile with its former enemies, such as the United States, France, Japan, South Korea, Japan, ASEAN and China. He asked, "Why can't the Vietnam Communist Party reconcile with its own Vietnamese brothers whom it has oppressed and victimized? Are dollars the condition for reconciliation?" Nguyen Ho handed copies of this essay to the police and informed them he would prefer to take his life than to be imprisoned again. Although he was not arrested, he has been kept under close surveillance, which has tightened progressively since September.

The government's insistence that political and religious dissidents were being punished not for their opinions or religion but because they had broken the law rang hollow, given that Vietnam's legal system criminalized acts that are unambiguously protected by international guarantees of civil and political rights. National security offenses, for example, included peaceful expression deemed "counterrevolutionary propaganda" and activities that can be construed as "causing divisions" between the party and various social sectors; likewise, charges of "attempting to overthrow the government" were often based on no more than acts of peaceful expression or association. The justice system in these sensitive cases remained politicized, and it was not possible for dissidents to receive trials that met minimum standards of procedural fairness.

The death penalty continued to be applied in Vietnam. On March 5, the government executed Nguyen Tung Duong, a policeman convicted in October 1994 of robbing and shooting a young man he had pulled over for a traffic violation. The case became a *cause celebre* in Hanoi when the defendant was initially given an extremely light sentence; popular outrage caused the authorities to rehear the case and go to the other extreme in sentencing him to death. Also executed in June was a Hong Kong-born British citizen who had been convicted of trying to smuggle heroin into the country.

Press censorship also continued, with the government confiscating what it considered subversive newspapers and tapes mailed into the country, and even travel guidebooks. The Ministry of Culture shut down the weekly *Ngoi Ha Noi* (People of Hanoi) for publishing an article criticizing the government's decision to ban fireworks at New Year, and recalled an issue of the monthly magazine of the Casting and Metallurgy Association for containing too many sensational stories that were unrelated to metal works. Both dissident intellectuals and foreign correspondents reported heightened surveillance following the U.S. decision to normalize relations, reflecting an overall tightening of security.

In April, the Ministry of Labor, War Invalids, and Social Action banned the employment of children under the age of sixteen in conditions "injurious to health and spirit." A foreign expert at a conference held by UNICEF and the

Ho Chi Minh City Communist Youth Union at the beginning of 1995 estimated that child prostitution had risen steadily during the past five years and accounted for between a quarter and a third of all urban prostitutes.

There were further labor strikes in 1995, particularly at foreign-invested enterprises. The government pushed to organize unions in all such enterprises; Vietnam's law requires all unions to belong to the state-controlled Vietnam Confederation of Labor. A new labor code passed in 1994 also recognizes the right to strike, but not for enterprises that provide "public services" or those "essential to the national economy or national defense." Nor is a strike legal if it "exceeds the scope of the enterprise," compromising the ability of workers to engage in sympathy strikes. Vietnam has not ratified the International Labor Organization convention that guarantees freedom of association and the right to organize freely.

The government does not allow the people of Vietnam to form human rights associations or to engage in human rights monitoring, and it is highly resistant to foreign examination of its human rights record. The government denied permission for Human Rights Watch/Asia to conduct an official visit to Vietnam in 1995.

In 1994, the government allowed the U.N. Working Group on Arbitrary Detention to visit three labor camps under controlled conditions. The Working Group reported in February 1995 that the government refused to release statistical information on the number of prisoners or the dimensions of the penal system, that it banned the delegation from visiting pre-trial detention centers, and that lower-level officials were not always cooperative. The delegation regretted these shortcomings while acknowledging the historic nature of the visit and the need to build trust and further cooperation; it also recommended that the twentieth anniversary of the reunification of the country would be an appropriate time "to grant amnesty to persons still detained in camps for offences relating to the preceding period," a recommendation that was apparently ignored. The Foreign Ministry condemned media coverage of the report, stating that the delegation did not investigate human rights but merely studied the legal system.

### **The Role of the International Community**

On July 11, President Clinton announced normalization of diplomatic relations in a speech that noted that progress in relations, such as providing MFN Trading status or OPIC, would involve certifications regarding human rights and labor rights. He also declared that the United States would pursue its bilateral dialogue on human rights, "especially issues regarding religious freedom." On August 5 and 6, Warren Christopher visited Vietnam, the first U.S. secretary of state to do so in twenty-five years. Secretary Christopher spoke at a top foreign policy school, emphasizing the importance of accelerated economic reform, courts that provide due process, newspapers that are free to expose corruption, and business people who have free access to information. He told students, "When you hear American talk about freedom and human rights, this is what we mean. Each of you ought to have the right to help shape your country's destiny, as well as your own." Both speeches were the clearest and most high-level statements on human rights to date from the administration, and both drew criticism from the official Vietnamese press. Nevertheless, the United States also publicly criticized Vietnam for continuing political detentions, particularly the sentencing of two Vietnamese-Americans in August, as unhelpful to progress in advancing trade relations. The United States pursued talks with Vietnamese officials on human rights issues in May and October. During the May visit, a State Department official called for the release of all political prisoners, and characterized the talks as "positive" while warning that results would be a long way off. Australia also sent a delegation to Vietnam to discuss human rights issues of concern in April.

Congress was divided over the decision to normalize relations, but united in concern for human rights abuses, with numerous members writing letters and making personal communications on behalf of political and religious prisoners. In late June-early July, senators Tom Harkin and Frank Lautenberg traveled to Vietnam, revisiting the infamous "tiger cages" and also raising contemporary human rights concerns. In the immediate wake of their visits, the Vietnamese government issued passports to two dissidents whom it had obstructed in their efforts to apply for emigration through the Orderly Departure Program.

Japan became Vietnam's most generous donor, but generally remained silent on human rights concerns. In April, Communist Party leader Do Muoi visited Japan, winning pledges of a \$700 million loan and a \$36 million grant, in addition to a \$480 million package of infrastructure loans approved earlier in January. Prime Minister Tomiichi Murayama only raised human rights privately and in very general terms. (See Japan chapter.)

In July, the European Union signed a cooperation agreement that included as Article 1 a clause stating "Respect for human rights and democratic principles is the basis for the cooperation between the Contracting Parties and the provisions of this Agreement, and it constitutes an essential element of the Agreement." The European Parliament had yet to endorse the agreement as of November. Earlier in the year, the parliament had expressed concern over Vietnam's imprisonment of religious figures. Since signing the cooperation agreement, the European Commission stated an intention to increase significantly its economic and development cooperation activities in Vietnam, both bilaterally and within the context of European Union-ASEAN cooperation.

### *Human Rights Watch/Asia*

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. The staff includes Kenneth Roth, executive director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Robert Kimzey, publications director; Jeri Laber, special advisor; Gara LaMarche, associate director; Lotte Leicht, Brussels office director; Juan Méndez, general counsel; Susan Osnos, communications director; Jemera Rone, counsel; Joanna Weschler, United Nations representative; and Derrick Wong, finance and administration director. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair.

Its Asia division was established in 1985 to monitor and promote the observance of internationally recognized human rights in Asia. Sidney Jones is the executive director; Mike Jendrzeczyk is the Washington director; Robin Munro is the Hong Kong director; Jeannine Guthrie is NGO Liaison; Dinah PoKempner is Counsel; Patricia Gossman and Zunetta Liddell are research associates; Joyce Wan and Shu-Ju Ada Cheng are Henry R. Luce Fellows; Diana Tai-Feng Cheng is the associate; Mickey Spiegel is a research consultant. Andrew J. Nathan is chair of the advisory committee and Orville Schell is vice chair.