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INTRODUCTION

Sovereignty loomed less large in 1999 as an obstacle to stopping and redressing crimes against humanity. Governmental leaders who committed these crimes faced a greater chance of prosecution and even military intervention. The lesson sent is that leaders risk their freedom and control of territory if they commit the most severe human rights abuses.

The year saw significant progress toward an international system of justice available to prosecute these crimes. The Spanish-initiated case against former Chilean dictator General Augusto Pinochet, the first international prosecution of a former head of state since Nuremberg, continued to move through the British courts. The International Criminal Tribunal for the Former Yugoslavia issued the first indictment of a sitting head of state, Yugoslav President Slobodan Milosevic. NATO troops in Bosnia arrested several, though still not the most significant, war-crimes suspects indicted by the tribunal. The International Criminal Tribunal for Rwanda continued its successful prosecution of leading authorities responsible for genocide in that country. The International Criminal Court, the first global institution of justice capable of prosecuting the world's worst human rights offenders, picked up support at an impressive clip; with eighty-nine governments having signed its treaty through October, the question is no longer whether this landmark institution will become operational, but when.

Not only international tribunals but also national courts showed a greater willingness to prosecute severe human rights crimes committed outside their nation's borders. In addition to Britain's and Spain's prosecution of Pinochet, a Swiss military court found a former Rwandan official guilty of war crimes for his role in the 1994 genocide. Already, Germany and Denmark had convicted two Bosnian Serbs and a Bosnian Muslim for atrocities committed during the Bosnian conflict, while Austrian and Swiss courts had tried and acquitted two Bosnian Serbs for such crimes. Similar criminal proceedings are ongoing in at least four other cases in Belgium, France, Germany and the Netherlands. And a senior Iraqi official had to beat a hasty retreat home when public appeals were launched to the governments of Austria and Jordan to arrest him for his role in severe Iraqi repression.

Meanwhile, the international community displayed a new willingness to deploy troops to stop crimes against humanity. In East Timor, intense diplomatic and economic pressure convinced Jakarta to permit belatedly the deployment of a multinational force to halt the scorched-earth campaign of Indonesian army-backed militia. In Kosovo, it took NATO's controversial bombing campaign before Belgrade would acquiesce in the deployment of international troops to stop widespread ethnic slaughter and forced displacement.

These trends mark the beginning of a new era for the human rights movement. Until now, the lack of anything resembling an international criminal justice system restricted the options available to defend human rights. Human rights organizations could shame abusive governments. They could galvanize diplomatic and economic pressure. They could invoke international human rights standards. But rarely could they trigger the prosecution of tyrants or count on governments to use their police powers to enforce human rights law

Slowly, that appears to be changing. Today, tyrants are increasingly likely to be indicted. As the International Criminal Tribunals for Rwanda and the Former Yugoslavia and various national courts gradually gain custody of indicted suspects, a record of arrest, prosecution and punishment is being built. Meanwhile, at least in parts of the world, the international community seems more willing to deploy troops to halt massive slaughter. These trends are still halting and replete with problems of consistency and potential misuse. Africa seems to have been particularly neglected. But they foretell an era in which the defense of human rights can move from a paradigm of pressure based on international human rights law to one of law enforcement.

The growing willingness to transcend sovereignty in the face of crimes against humanity hardly means an end to the Westphalian system of government. Sovereign governments retain primary responsibility for preserving order, establishing the rule of law, and protecting human rights. This duty is important not only in its own right but also to prevent less severe human rights violations from erupting into atrocities—the least costly and most humane strategy. If governments fall short of these responsibilities, the human rights movement can resort to its usual techniques: exposure, denunciation, ostracism, and calls for sanctions. Yet, the past year suggests that, in the most extreme cases, new tools might be available as well. This introduction to Human Rights Watch's tenth World Report discusses these substantial changes in the global system for the defense of human right— both the promise they hold and the risks they carry.

Military Intervention

Certainly the most dramatic development in 1999 was the use of military force by regional and international bodies to stop crimes against humanity—that is, the most severe abuses committed as part of a widespread or systematic attack on a civilian population. It was only five years ago that the international community shamefully turned its back on genocide in Rwanda. Twice in the past year, in Kosovo and East Timor, members of the international community deployed troops to halt crimes against humanity. In East Timor, intense diplomatic and economic pressure secured the Indonesian government's consent to the deployment of a multinational force. In Kosovo, NATO bombing produced the Yugoslav government's agreement to the deployment of international troops. The two instances may signal a new readiness on the part of the international community to use extraordinary resources, including troops, to address crimes against humanity that are within its power to stop.

East Timor

After the U.N. announced on September 4 that East Timorese had voted overwhelming for independence in the U.N.-supervised referendum held on August 30, Indonesian army-backed militia went on a rampage of killing, arson, and destruction. Jakarta claimed it was trying to rein in the violence, but the evidence, including many eyewitness accounts, suggested army and police involvement in a coordinated campaign to drive out independent observers and then embark on a scorched-earth campaign that left unknown numbers dead and, in many places, over half of the homes and infrastructure destroyed. Hundreds of thousands of East Timorese were displaced, many of them forced across the border into Indonesian West Timor. The challenge to the international community was how to stop this violence and destruction if Jakarta would not.

The international community was rightly faulted for its inadequate precautions to avoid this bloodshed. Eager to take advantage of the window of opportunity afforded by then Indonesian President B.J. Habibie's surprise announcement in January 1999 that his government would allow East Timor to hold a referendum to determine its future, the U.N. in May brokered an agreement that gave the Indonesian government responsibility for maintaining security in East Timor through the referendum period. Instead, in the months leading up to the vote, Indonesian troops repeatedly stood by while local militia, many of which the army itself had organized, engaged in a bloody campaign of intimidation against independence supporters and U.N. workers. The international community, in turn, put inadequate pressure on Jakarta to disarm and demobilize the militia in advance of the referendum.

When massive violence erupted in early September, intervention by international troops was never a realistic option without the Indonesian government's acquiescence. Australia alone was willing to offer troops to lead an intervention, but it refused to act without the U.N. Security Council's approval, and the Security Council was unwilling to endorse military intervention without Jakarta's consent. International efforts thus centered on putting pressure on the Indonesian government either to stop the killing itself or to authorize others to do so.

At first the pressure was applied slowly, because donor governments were concerned that too insistent demands might derail Indonesia's democratization and promote separatism, even though one of the greatest threats to democratization and territorial integrity continued to be the Indonesian military's reluctance to be subjected to the rule of law. The U.N. High Commissioner for Human Rights, Mary Robinson, among others, helped to highlight the atrocities being committed in East Timor. Ultimately, and belatedly, the United States and the European Union, under substantial public pressure, cut off or threatened to terminate access to aid and weapons unless the atrocities stopped. The World Bank and the International Monetary Fund also held up funds because of pressure from donor governments and apparent fear that the violence in East Timor would further discourage international investment in Indonesia's already crippled economy. The message thus was sent that Indonesia could not benefit from international largesse if it was so blatantly flouting international rules prohibiting crimes against humanity. Only Japan among the major donors insisted on placing its economic ties ahead of the imperative of stopping bloodshed, although it did exert diplomatic pressure.

The combined pressure was sufficient to secure Jakarta's consent to the deployment of a multinational force in East Timor, though by then the army's and militia's scorched-earth campaign had left East Timor in ruins and largely depopulated. Moreover, tens of thousands of East Timorese had fled, often under duress, to West Timor, where no international troops were deployed.

In the meantime, the behavior of the unarmed members of the U.N. Mission in East Timor (UNAMET) was exemplary. Their brave sense of duty is best shown by contrasting it with the behavior of the armed U.N. troops defending the Bosnian town of Srebrenica in 1995. The U.N. troops in Srebrenica had abandoned the civilian population of the Security Council-declared "safe area" to be slaughtered by Bosnian Serb troops. Even their Bosnian staff members were forced to leave family members in the hands of the attacking forces. But many UNAMET representatives in East Timor insisted on bringing their Timorese staff with them as they fled toward Dili, the capital, and then refused to be evacuated from their headquarters in Dili until the local staff, their family members, and all Timorese civilians who had taken refuge in the compound were also evacuated.

The "Annan Doctrine"

The extent to which traditional prerogatives of sovereignty have given way in the face of crimes against humanity was well illustrated by the statements of U.N. Secretary-General Kofi Annan. In a widely remarked-upon speech to open the General Assembly on September 20, he insisted that sovereignty must give way to the imperative of stopping crimes against humanity—a courageous stand for a man who leads an organization of governments. Less noticed, but perhaps more revolutionary, was his statement of September 10 that senior Indonesian officials risked prosecution for crimes against humanity if they did not consent to the deployment of an available multinational force. This was such an important pronouncement that it merits being called the "Annan doctrine."

It has long been established that in certain instances, commanders of military forces can be prosecuted for atrocities committed by their troops. Articulated by the Nuremberg and Tokyo tribunals, this doctrine of "command responsibility" is now codified in the Geneva Conventions and their Protocols. It imposes criminal liability on a commander who knew or had reason to know that troops under his command were committing atrocities and who failed to take "all feasible measures" within his power to stop them.
These "feasible measures" were typically understood to mean ordering or deploying the commander's own security forces to halt abuses. But the emergence of a vigilant human rights movement is among the factors that have perversely encouraged what might be called the "death squad dodge." To avoid the opprobrium and potential criminal liability that comes with openly committing executions and torture, abusive militaries began to subcontract atrocities to irregular forces which the military could then claim were beyond its control. Examples of this phenomenon can be seen in the "death squads" of Central America in the 1980s,

the Colombian and Serbian paramilitaries of the 1990s and, most recently, the militia created in East Timor by the Indonesian army.

Rather than enter into the murky debate about how much control the Indonesian government retained over the militia, Kofi Annan insisted that the government, on pain of criminal liability, either stop the killing itself or consent to the deployment of international troops who were willing to do so. If Jakarta refused to accept the international community's offer of assistance, he warned, it could not "escape the responsibility of what could amount...to crimes against humanity. Or, in the words of the Geneva Conventions, the failure to allow an available multinational force into East Timor would leave Indonesian leaders open to international prosecution because they had not taken "all feasible measures" to stop the violence.

Secretary-General Annan's comments are not themselves binding. The international community must still find ways to give them force of law. Yet his logic resonates precisely because it corresponds with the developing view that there is no sovereign prerogative to commit or sponsor crimes against humanity. He thus has pointed the way toward precluding the death-squad dodge. If the Annan doctrine prevails, a government that claims to be unable to stop mass killing would have a criminally enforceable duty to invite a ready international force to lend a hand, at least so long as the force itself was committed to respecting human rights and humanitarian law. The incentive to commit atrocities by proxy would significantly diminish, and the barriers of sovereignty would no longer constrict the duty to prevent crimes against humanity.

Kosovo

The NATO bombardment triggered by atrocities in Kosovo was launched against the backdrop of Bosnia, where the international community had waited more than three long years before using decisive military force to halt genocide. Then, only the accumulated record of "ethnic cleansing"—the siege of Sarajevo, the slaughter of Srebrenica, the concentration camps, the rapes, the forced displacement—finally generated the political will to move beyond endless negotiation and appeasement, to transcend neutral humanitarianism, and to meet terror with significant force. The two-week bombing of military targets in Serb-held Bosnia territory in 1995 helped to end the bloodshed and produce the Dayton peace accord.

The international community's response in Kosovo reflected some lessons learned from Bosnia. Recognizing that Milosevic's method of fighting was to kill, rape and forcibly displace civilians, it acted this time soon after Yugoslav and Serbian troops began committing crimes against humanity. The massacres and forced displacement in 1998 and early 1999 were seen not as aberrations but as precursors of a larger round of ethnic slaughter. The deployment of the Kosovo Verification Mission (KVM) in October 1998 temporarily curtailed the violence and enabled hundreds of thousands of forcibly displaced Kosovar Albanians to return home before winter.

But Yugoslav and Serbian troops massed again in Kosovo in early 1999 and resumed their abusive ways. It was then that international negotiators finally stopped treating Milosevic as an essential guarantor of peace and insisted that NATO troops replace his forces in Kosovo and assume responsibility for law and order. Unlike East Timor, where economic pressure could be applied to secure Jakarta's consent, economic sanctions were already long in place against Yugoslavia stemming from its complicity in the Bosnian conflict. NATO was thus propelled more quickly to threaten military force to gain consent to the deployment of protective troops. To deny Yugoslav and Serbian troops the opportunity for Bosnia-style hostage taking as a way of deterring the use of force, the international community withdrew the unarmed KVM verifiers. Milosevic's continued intransigence led to a seventy-eight-day NATO bombing campaign, during which Yugoslav and Serbian forces murdered thousands, forcibly displaced hundreds of thousands, committed unknown numbers of rapes, and engaged in vast arson and destruction. The bombing campaign ended with the withdrawal of these forces from Kosovo, the deployment of international troops, and the return of the Kosovar Albanian refugees.

Military intervention might have been avoided altogether had the international community paid attention to Kosovo's plight during the preceding decade. The repression of Kosovo's ethnic Albanian population that followed the withdrawal of its autonomous status in 1989 sounded a clear but unheeded warning of trouble to come. But a world preoccupied by the conflict in Bosnia paid little attention to the largely peaceful protests of the Kosovar Albanians. Only with the emergence of the Kosovo Liberation Army and, given Milosevic's brutal history, the seemingly inevitable slide toward a ruthless counterinsurgency effort did the international community finally take note.

In addition, the international community's long misguided deference to Milosevic as a supposedly indispensable partner for peace in the Balkans, and its unwillingness to expose its troops to even modest risks in Bosnia, undermined the International Criminal Tribunal for the Former Yugoslavia's potential for deterrence. When Bosnian Serb political leader Radovan Karadzic and military leader Ratko Mladic were indicted for genocide, NATO troops refused to arrest them. To this day, Karadzic is believed frequently to sleep undisturbed within a stone's throw of French troops in Bosnia. Moreover, the major Western powers, particularly Washington, London and Paris, refused to give the tribunal the intelligence evidence it needed to indict Milosevic for command responsibility for the atrocities of "ethnic cleansing" committed in Bosnia and Croatia. The international community thus sent a message that it was not terribly serious about applying international justice to Serb leaders. That lesson could only have emboldened Milosevic to embark on a new round of slaughter in Kosovo.

Once the decision was made to use force against Yugoslavia, NATO's military conduct raised separate and serious concerns. Even granted Milosevic's long history of slaughter, his recent record in Kosovo of murder and forcible displacement, and his new massing of troops within Kosovo, NATO's bombing seemed to accelerate plans for large-scale ethnic killing and dislocation. Yet NATO was clearly unprepared for this turn of events. With political constraints standing in the way of the nonconsensual deployment of ground troops, NATO depended on aerial bombardment to stop the killing. But the strategic bombing campaign that it pursued focused to a large extent on factories, basic infrastructure, and other strategic targets throughout Yugoslavia, even when their connection to troops in Kosovo was remote. Particularly at first, relatively little attention was paid to halting Yugoslav and Serbian military activity in Kosovo. Moreover, NATO's extraordinary efforts to avoid casualties among its pilots precluded the low-flying aircraft that might have helped to identify and strike the attacking forces more accurately. NATO's strategic bombing campaign undoubtedly disrupted troop movements and ultimately was an element in inducing surrender, but its timetable was too slow and its focus too diffuse to stop the atrocities in Kosovo before months had passed. Despite their suffering, Kosovar Albanians generally applauded NATO's action, but the question remained whether these beneficiaries of the NATO campaign might have been assisted more directly and effectively.

Also disturbing is that NATO seemed to play fast and loose with the requirements of international humanitarian law. This law, largely codified in the widely ratified Geneva Conventions of 1949 and their Additional Protocols of 1977, is designed to spare noncombatants the hazards of war. NATO is bound by these basic rules whenever it goes to war. Particularly when it fights in the name of human rights, it should abide by these standards scrupulously.

Despite NATO's efforts to minimize civilian casualties, about 600 civilians were killed by NATO bombs, in some ninety incidents. Moroever, NATO sought to squeeze Yugoslavia's civilian population to pressure Milosevic to surrender. That rationale dangerously undermined the "principle of distinction" which requires that military attacks be directed against only military targets and not civilian objects. Many of the targets attacked—the electrical grid, heating plants, civilian broadcast facilities, bridges, refineries—disrupted civilian life in a way that was clearly "excessive in relation to the concrete and direct military advantage anticipated," the standard of proportionality codified in Article 57 of Protocol I to the Geneva Conventions. The destruction of some of these targets did not even make an "effective contribution to military action" or offer a "definite "definite military advantage," the baseline tests for a legitimate military target codified in Article 52 of Protocol I.

The result was a dangerous inversion of the principles of humanitarian action. In part to avoid risks to its troops, NATO did not seem to take the most rapid or effective steps to achieve the paramount humanitarian goal—stopping the slaughter of Kosovar Albanians. Yet the means it did employ chipped away at what should be a sharp distinction between military targets and civilian objects and thus increased the risks for all civilians in future conflicts. Destructive echos of this approach could already be seen in 1999 in Russia's attacks in Chechnya and Israel's attacks in Lebanon. Thus, while NATO's actions in Kosovo showed a heightened willingness to override sovereignty to stop crimes against humanity, they signaled a disturbing disregard for the principles of humanitarianism that should guide any such action.

The Critique of Military Intervention

The use of military force to prevent severe human rights crimes has given rise to a range of concerns. The importance of scrupulously complying with international humanitarian law has already been noted. Another common concern is that military intervention might become a pretext for military adventures in pursuit of ulterior motives. Vigilance against such misuse of the human rights name is clearly warranted. Memories of the U.S. invasions of Grenada and Panama, for example, have not faded. But the interventions in East Timor and Kosovo gave fewer reasons for concern on this score than prior interventions.

In East Timor—where, as noted, economic and diplomatic pressure secured consent to military deployment—Western strategic concerns worked, if anything, against intervention. The Western powers were hardly looking for an excuse to upset the world's fourth most populous nation, a growing economic force, and the dominant power in Southeast Asia—particularly, as noted, at a time of democratization and separatist tension. Nor was sympathy for East Timor's claim of self-determination decisive, since the international community had largely tolerated Indonesia's occupation of the region for more than two decades. There was concern for the credibility of the U.N., which had pledged to oversee a referendum process that was violently disrupted, and Australia may have feared an influx of refugees. But the primary motive for intervention seemed to be genuine public anxiety over the plight of the East Timorese people before the rampaging militia.

In Kosovo, NATO's concern for its credibility may have contributed to its decision to begin bombing when Milosevic rejected the Rambouillet peace proposal. Worries about large refugee flows destabilizing Macedonia's delicate ethnic mix, producing cascading instability in the Balkans, and ultimately seeking entrance to the rest of Europe may also have driven NATO to seek the return of Kosovar refugees once Yugoslav and Serbian troops began forcibly expelling them in large numbers upon commencement of the bombing. Yet the common denominator in the multinational consensus behind NATO's action was fundamentally humanitarian, including fear that Milosevic would extend the sweep of genocide to Yugoslavia's southern province. Whatever mixed motives might have guided NATO's action, the desire to stop crimes against humanity was clearly a major goal.

One way of minimizing the pretextual use of military intervention would be to insist that the U.N. Security Council always grant prior approval. But as it functions today, with the five permanent members free to exercise their vetoes for the most parochial reasons, the council cannot be counted on to authorize intervention even in dire circumstances. China and Russia seem preoccupied by perceived analogies to Tibet and Chechnya. The United States is sometimes paralyzed by an isolationist Congress and a risk-averse Pentagon. Britain and France have let commercial or cultural ties stand in the way. If the council cannot change its culture, it risks losing its moral authority before the widely felt imperative that something be done to save people from crimes against humanity.

Another way to limit the misuse of military intervention would be to develop criteria for when it should occur. For example, Human Rights Watch considers advocating nonconsensual military intervention only when it is the last feasible option to avoid genocide or comparable mass slaughter. Governments might well adopt other criteria. But given the risk to life inherent in any military action, only the most severe threats to

life should warrant consideration of an international military response. And even then, as noted, strict compliance with international humanitarian law should be imperative.

Some critics challenge humanitarian action in Kosovo and East Timor on the grounds of selectivity. Why intervene in these situations, they ask, and not in Angola or Colombia, in Chechnya or Sudan? Again, legitimate concerns with equity lie behind this objection. Yet, the world should hardly deny a helping hand to people facing mass slaughter simply because it might not act to stop similar atrocities elsewhere. Instead, the international community must address its troubling tendency to ignore atrocities in certain regions, particularly sub-Saharan Africa. Widespread atrocities in Angola, Burundi, the Democratic Republic of Congo, Sierra Leone, and Sudan, to cite but a few examples, received nowhere near the attention they deserved in 1999.

When confronted with this problem of inconsistency, the Western powers too often hide behind the excuse of regionalism. According to this view, governments will assume the risks involved in stopping crimes against humanity only for their neighbors. It is said to be only natural that NATO limit its intervention to Europe and that only Australia was willing to take the lead on East Timor. Yet this narrow view leaves responsibility for parts of the world with some of the worst atrocities to those least equipped economically and militarily to end them. The atrocities in Sierra Leone, for example, were left to a Nigerian-led West African force, ECOMOG, with little Western assistance. The U.S. government's proposed solution for Africa is the African Crisis Response Initiative, a U.S.-trained African force designed to provide a local emergency response capacity. But this idea has received only tepid support in Africa, including initial rejections by Nigeria and South Africa. And without deeper Western involvement, it is unlikely to have the capacity to confront Africa's numerous, highly abusive conflicts.

Given the world's tremendous disparities of wealth and power, governments with the greatest resources should not pretend to have met their humanitarian obligations by passing the buck to those with the least. Not every human rights tragedy lends itself to military intervention. Indeed, Kosovo and East Timor may have been easier cases, because each had a colorable claim to self-determination and a local population that overwhelmingly favored intervention. Before using military force to stop crimes against humanity, planners at minimum should be confident that intervention will not make matters worse, by provoking a wider war or setting in motion a string of new atrocities. But if the use of military force to stop atrocities is to gain moral acceptance, those who initiate it must remain conscious of the desperate need for international assistance in parts of the world that are now mostly neglected. Victims of atrocities deserve effective assistance wherever they cry out for help.

The Emerging International System of Justice

The past year significantly reinforced the trend toward an international system of justice for the world's worst human rights offenders. The highlights of this trend were progress toward the extradition and prosecution of Pinochet, the indictment of Milosevic, advances in prosecuting those behind the Rwandan genocide, and the remarkable momentum toward the establishment of the International Criminal Court. Important issues of international justice also arose in Cambodia, Sierra Leone, and East Timor. The international justice system is still rudimentary, capable of ensnaring only an occasional tyrant. But the progress made in 1999 left the world a considerably smaller place for those who commit the most heinous human rights crimes. It symbolized a growing international commitment to justice as a means of showing respect for the victims of serious abuse, building the rule of law at the international level, and deterring tomorrow's would-be gross abusers of human rights. Like the use of military intervention, the emergence of an international system of justice signals that sovereignty is no longer the barrier it once was to action against crimes against humanity.

Pinochet

The October 1998 arrest of Chilean General Augusto Pinochet yielded several momentous rulings by the British courts. Foremost was the definitive rejection of Pinochet's claim that, as a former head of state, he deserved immunity from prosecution. In a complicated decision in March 1999, the House of Lords reaffirmed an earlier ruling that Pinochet could

be extradited to Spain for his role in torturing perceived political opponents. The Lords limited the scope of his prosecution to crimes that took place after December 1988, when Britain's ratification of the Convention against Torture took effect. Because many of Pinochet's abuses were committed a decade earlier, some feared that the ruling would preclude a courtroom accounting of his worst offenses. But a magistrate in October 1999 held that much of this material could be admitted into evidence, either to demonstrate a continuing conspiracy to commit torture that extended beyond December 1988, or to show the continuing mental torture of the families of victims whose earlier "disappearance" the military had never acknowledged.

Milosevic

If the Pinochet case represents the first international prosecution of a former head of state, the indictment of Milosevic by the International Criminal Tribunal for Former Yugoslavia was the first international attempt to prosecute a sitting head of state. This long-awaited indictment charges Milosevic with crimes against humanity committed by Yugoslav and Serbian troops under his command in Kosovo. Milosevic does not face immediate prosecution, since no one seriously proposes sending troops to Belgrade to arrest him. But there is reason to believe that he will see his day in court. The significant domestic opposition to his rule may succeed in replacing him, or he may find no feasible way to extend his term as Yugoslav president beyond the constitutionally mandated limit of mid-2001. The new government would then have a large incentive to surrender him for trial in the Hague, since many of Serbia's would-be international donors have made his surrender a condition for future non-humanitarian aid. Or, like the leader of the murderous Kurdish rebel organization, Abdullah Ocalan, who was bounced from country to country until his abduction by Turkish security forces in February 1999, Milosevic may find himself in perilous exile in a world that is increasingly unsympathetic to fugitive perpetrators of crimes against humanity.

Then-Chief Prosecutor Louise Arbour described the Milosevic indictment as the first "real-time" response to atrocities—a capacity she sought for the tribunal to maximize its deterrent effect. The tribunal's investigative response to the Kosovo crisis was still slower than it should have been, but the rapid-response goal is laudable. However, the tribunal's deterrent effect remains handicapped by Western ambivalence about applying international justice to senior Serb leaders. Milosevic has still not been indicted for his role in Bosnia and Croatia, in large part because Western governments have not supplied the tribunal with the intelligence information it needs to prove his command responsibility. NATO's arrest of indicted Bosnian war crimes suspects has also been half-hearted. In the first ten months of 1999, NATO troops arrested six indicted suspects in Bosnia, including Momir Talic, a top Bosnian Serb general who was deeply implicated in the Srebrenica savagery. But they allowed former Bosnian Serb military leader Ratko Mladic, who directed the barbarity at Srebrenica, to escape to Belgrade, and they continue to refuse to arrest former Bosnian Serb political leader Radovan Karadzic, who reportedly remains in Bosnia in an area controlled by French troops. NATO's timidity is due in part to its continuing preoccupation with avoiding risks to its troops and in part to its misguided belief that the arrest of Karadzic might destabilize Bosnia—a belief that, by undermining the tribunal's deterrent effect, led directly to the destabilization of Kosovo.

Trials for the Rwandan Genocide

The International Criminal Tribunal for Rwanda added a third panel of judges and permitted the consolidation of cases in an effort to expedite the trial of those accused of complicity in the 1994 genocide. During 1999, the tribunal found three suspects guilty of genocide, making a total of five convicted so far, including the former prime minister, Jean Kambanda. Those found guilty were sentenced to prison terms ranging from fifteen years to life. The tribunal also secured the arrest of five more former ministers in the genocidal government, increasing the number in custody to more than half of the cabinet at the time.

A Swiss military court also tried a Rwandan local official who had fled to Switzerland after Rwandan victims accused him of participating in the genocide. Although the panel of judges found that Swiss law did not permit the official to be charged with genocide or crimes against humanity, they convicted him of war

crimes in violation of the Geneva Conventions and sentenced him to life in prison. In Belgium, an investigating judge has been preparing cases against others accused of genocide in Rwanda. These cases are expected to come to trial in early 2000.

The International Criminal Court

Burgeoning support in 1999 for the International Criminal Court (ICC) represented another pillar of the emerging international system of justice. By late October, eighty-nine governments have signed the Rome treaty to establish the ICC, many have begun the complicated process of revising domestic legislation to permit ratification of the treaty, and substantial progress has been made in drafting the court's rules of evidence and criminal procedure and the elements of the crimes it will prosecute. Several international organizations in 1999 also endorsed ratification, including the European Union, the Council of Europe's Parliamentary Assembly, the Commonwealth Law Ministers, the Inter-Parliamentary Union, and the Francophonie summit. It is now entirely foreseeable that within two or three years the treaty will have secured the sixty ratifications needed to establish the court.

The major sour note in this account remains the United States. Although the U.S. government has been a strong backer of international justice for other people, it continues to display hostility toward any international court like the ICC that even theoretically could apply to U.S. citizens. Once more, President Clinton has allowed the Pentagon's parochial views on the subject, backed by unilateralist sentiment in Congress, to determine U.S. policy on an issue of historic importance.

The ICC treaty already contains numerous safeguards, many proposed by the United States, to avoid unwarranted prosecutions. Yet the Pentagon seems satisfied with nothing short of an ironclad exemption for U.S. servicemen—an exemption that the rest of the world naturally finds to violate the ideal of universally applicable justice on which the court is founded. The treaty amendments favored by the Pentagon, such as an exemption for any act declared to have been officially authorized by the suspect's government, would upset the delicate consensus behind the Rome treaty and introduce a gaping loophole that the world's tyrants would eagerly exploit. The court's potential to punish oppressors, deter would-be despots, and bring a modicum of respect to the victims of heinous abuse would be undermined.

Washington's position is suffused with irony. To begin with, the Pentagon's professed inability to tolerate ICC jurisdiction is at odds with its military campaign over Kosovo. NATO's war with Yugoslavia, like its 1995 bombing of Serb-held sections of Bosnia, was subject to the jurisdiction of the International Criminal Tribunal for the Former Yugoslavia—a fact that seems not to have given the Pentagon much pause. Indeed, the Yugoslav tribunal has fewer safeguards against unwarranted prosecution than the ICC because the tribunal's jurisdiction is primary—it is empowered to supersede any national prosecution—while the ICC's jurisdiction is secondary—it must defer to any good-faith national prosecution.

In addition, given the many procedural safeguards in place, the best remaining way to protect against misuse of the ICC's powers would be to influence the culture in which these safeguards are applied. Yet the less engaged the U.S. government is with the court, the less influence it will have to shape that culture. The accelerating global enthusiasm for the court shows that the Pentagon's hope of "killing" it is delusional. There will be a court, and it will have jurisdiction over U.S. troops and commanders, whether Washington supports it or not. The sole open question is whether the United States will have any say in shaping the ethic by which the court exercises its powers. The Pentagon's rejection of the court, and hence of any direct influence over its evolution, ironically puts U.S. service members more rather than less at risk of prosecution.

Moreover, President Clinton's opposition to the ICC fuels the very isolationism that he has decried in the U.S. Congress. In October when the U.S. Senate rejected a treaty against nuclear testing, President Clinton spoke eloquently about the "new isolationism" that had infected the legislative branch. Others have described this approach as "armed unilateralism." Either name refers to the parochial and misguided view that in an increasingly interconnected world, the United States might go it alone, that in a world in which

ideas and economics are the dominant currency of power, the United States, with all its reluctance to risk the lives of its soldiers, might secure its place solely through military might. Yet President Clinton's failure of leadership—his deference to Pentagon obstructionism not only on the ICC but also on such issues as the treaty to ban landmines and the optional protocol to stop the use of child soldiers—serves only to reinforce this ostrich-like vision of the world.

Other Justice Issues

On two other occasions—in Sierra Leone and Cambodia—the U.N. took important though qualified stands against efforts to compromise international justice standards. In East Timor, its support of justice was more tepid.

In Cambodia, the collapse of the Khmer Rouge raised the possibility of prosecuting its leadership for its inhuman 1975-79 reign. Hun Sen, the current Cambodian prime minister, was willing to allow prosecutions, but sought to control them by keeping them subject to the highly manipulable Cambodian judiciary. Yet precisely because of the Cambodian judiciary's lack of independence, Hun Sen also needed an international imprimatur for the trials to be considered credible. As of late October, Kofi Annan had rightly refused to provide the U.N.'s seal of approval for any prosecutorial plans that fell below international due process standards.

The negotiations focused on the process for selecting a mix of international and Cambodian judges. Secretary-General Annan wisely insisted that, if the U.N. were to lend its name to the tribunal, the U.N. must choose the judges and prosecutor. This was the only way of ensuring both that political considerations did not influence the selection of prosecutorial targets and that those people selected would receive a fair trial. Desirable as it would be to see the Khmer Rouge leadership in the dock, that should not occur at the expense of the high standards for independence and due process that the U.N. has set in the Rwandan and Yugoslav tribunals and the International Criminal Court. If the U.N. were to compromise these standards, it could expect other governments to insist on similar concessions. As of late October, discussions were ongoing between Cambodia and the U.N.

In Sierra Leone, the quest to hold highly abusive forces accountable was dealt an initial setback when the international community left the government of President Ahmad Tejan Kabbah no choice but to accept an amnesty for the perpetrators of unspeakable atrocities. The Revolutionary United Front (RUF), the rebel group headed by Foday Sankoh, killed tens of thousands, mutilated (usually by chopping off their limbs) thousands more, committed a range of sexual abuses and other atrocities, displaced hundreds of thousands, and wholly deserved prosecution. The U.N. High Commissioner for Human Rights, Mary Robinson, made an important contribution by visiting Sierra Leone and highlighting these atrocities. Yet because the permanent members of the U.N. Security Council refused to pay the (U.S.) $1 million a day that it allegedly cost the primarily Nigerian troops of ECOMOG to protect Sierra Leone from the RUF, let alone to deploy U.N. peacekeepers, Nigeria threatened to withdraw its troops. The Kabbah government thus had no choice but to accept a peace accord that amnestied the RUF and offered its ruthless leaders a share of power. This impunity, and the failure promptly to deploy U.N. troops, encouraged new butchery and placed the Sierra Leonean people at tremendous risk.

A U.N. mediator played a disturbing role in brokering this agreement. Once that role was publicly challenged, Kofi Annan established an important precedent by ordering the mediator to add a reservation to the agreement indicating that the United Nations saw the amnesty as applying only to domestic and not to possible international prosecutorial efforts. Given the devastation in Sierra Leone, its national courts are probably incapable in any event of bringing prosecutions for some time. Even the proposed Truth and Reconciliation Commission, if it is ever created, may well find progress difficult. From the perspective of a broader timeline, international justice thus remains the only meaningful option. But the Security Council chose to ignore this issue in passing a subsequent resolution on Sierra Leone. It also failed to establish an international commission of inquiry—the usual prelude to an international criminal tribunal—as was done for

East Timor. At best, the U.N.'s refusal formally to accept amnesty for those behind the RUF's executions and mutilations means that these killers risk Pinochet-like prosecutions whenever and wherever they might travel, or be expelled, abroad.

In the case of East Timor, the same international community that worked to press Indonesia to accept the Australian-led international forces in mid-September seemed reluctant to hold the Indonesian military accountable for the atrocities that triggered the need for this deployment. The hesitation was apparently due to concern that too much pressure on the Indonesian army could backfire, even though Indonesian pro-democracy activists stressed that democratization could go forward only if the army were held accountable. On September 27, Asian countries as a bloc rejected or abstained from voting on a U.N. Commission on Human Rights resolution calling on the Secretary-General to set up an international commission inquiry into violations of humanitarian law in East Timor. The U.S. government and the European Union approved the inquiry but only on the grounds that it cooperate with Indonesia's National Commission on Human Rights, a body respected in Jakarta but not trusted in East Timor. The resolution passed, but the international commission appointed was weak, and its departure for East Timor was subjected to politically motivated dithering. Questions of whether key countries, like the United States and Australia, would share intelligence with the commission, and whether a new government in Jakarta would cooperate with it, remained unresolved at the end of October.

Justice, Peace, and Democracy

The developments of 1999 provided new evidence for the longstanding debate about the effect of pursuing justice on efforts to secure peace or establish democracy. Some have argued that justice may have a detrimental effect because a leadership threatened with trial and punishment may be reluctant to stop fighting or permit a transition to democratic rule. In fact, the events of 1999 tend to show not only that justice can be pursued without these anticipated costs, but also that the quest for justice can sometimes enhance the search for peace and democracy.

Milosevic is Exhibit 1 for the case that justice facilitates, rather than impedes, peacemaking. Already at Dayton in 1995, Milosevic showed himself willing to accept a peace accord without insisting on amnesty from prosecution for his complicity in atrocities in Bosnia and Croatia. Moreover, the Yugoslav tribunal's indictment of Karadzic and Mladic had helped make the Dayton accord possible by marginalizing the Bosnian Serb political and military leaders. Again in 1999, the tribunal's indictment of Milosevic for crimes against humanity in Kosovo proved no obstacle to his acceptance of a peace plan for the province. Indeed, by establishing Milosevic as an international pariah, the indictment may have helped to delegitimize him before his people, weaken his grip on power, and thus push him toward accepting NATO's terms for peace.

Similarly, the prosecution of Pinochet, despite the fears of some, proved not to have disrupted democratization in Chile. To the contrary, more progress was made in 1999 in extending the rule of law to the Chilean military than in the decade since he relinquished the presidency. Until Pinochet's October 1998 arrest in London, no crime covered by his 1978 amnesty had been prosecuted. But Pinochet's arrest broke the military's aura of invincibility. Suddenly, the Chilean courts began exploiting a legal detour around the amnesty to launch prosecutions of various military leaders.

Because the official perpetrators of a forced "disappearance" have, by definition, not acknowledged the victim's fate, the courts can consider the crime ongoing—a kidnapping without an end. Even if the victim was seized and "disappeared" before the 1978 amnesty, the military's ongoing refusal to provide this critical acknowledgment—its refusal to settle questions about the victim's fate and allow family members to mourn their loss and move on with their lives—extends the crime beyond 1978 and the amnesty's protection. Dozens of cases are now pending in the Chilean courts under this theory, making it possible for the first time to say that the rule of law is beginning to extend to the Chilean military.

East Timor presents a more qualified but still interesting example. Although no international mechanism of justice has been established to address the militias' rampage, the United Nations did initiate an

international commission of inquiry to investigate Jakarta's role in the violence. In Rwanda and Bosnia (though not yet in the Democratic Republic of Congo), such commissions were precursors to the establishment of an international criminal tribunal. The naming of a commission for East Timor did not prevent the Indonesian government from accepting the deployment of a multinational force for the territory. Nor did the army block the election of the first president in the forty years of Indonesian independence chosen in a ballot that did not have a predetermined outcome. As in Serbia and Chile, an international focus on the crimes of the military leadership seems to have shaken rather than entrenched its grip on power.

A Reinforced Public Morality

The progress made in 1999 in standing up to crimes against humanity represents more than a doctrinal qualification of the prerogatives of sovereignty. Behind the advances in international justice and the increased deployment of troops to stop atrocities lies an evolution in public morality. More than at any time in recent history, the people of the world today are unwilling to tolerate severe human rights abuses and insistent that something be done to stop them. This growing intolerance of inhumanity can hardly promise an end to the atrocities that have plagued so much of the twentieth century. Some situations will be too complex or difficult for easy outside influence. But this reinforced public morality does erect an obstacle that, at least in some cases, can prevent or stop these crimes and save lives.

A key catalyst of this strengthened public morality has been the human rights movement—the network of organizations that in recent decades has sprung up in nearly every country—and its ability to capture attention and support from the press and public. The movement gains its adherents from its ability to speak to the most basic values of people around the world. By carefully investigating abuses and holding them up for public scrutiny under international standards, it helps to build and reinforce public judgments that this conduct is wrong. By monitoring and exposing the international community's reaction to these abuses, it generates public demands that something be done to counteract the worst tendencies of humankind.

In some countries, human rights organizations have gained large numbers of members and supporters. The millions of Colombians who took to the streets in October to protest the country's highly abusive war is but one example. More often, the membership of these groups is modest. Yet their power is less in their numbers than in their ability to project their values into the public debate and to change public perceptions of what can and should be done to combat abuse. The Mine Ban Treaty, which entered into force on March 1, faster than any other multilateral treaty, is a good illustration; by the end of October, eighty-nine governments had ratified the treaty.

Most human rights work addresses abuses that have not risen to the level of crimes against humanity. Indeed, an important goal of the human rights movement is to stop abuses before they multiply, to identify and halt the discrimination and repression that can be a precursor of crimes against humanity. This day-to-day human rights work has helped to build a strong public belief that human rights violations of any sort are intolerable. The past year showed how strong this public morality has become even in difficult cases, when it forced the international community to intervene in Kosovo and East Timor despite the lack of strategic interest and the powerful considerations militating against intervention.

Of course, this public morality will not always be enough to move governments. Sometimes countervailing forces will be too formidable. Further work is needed to solidify public judgments so that governments feel obliged to respond to serious human rights abuse more consistently. But as the millennium closes, the human rights movement's ability to capture and marshal the ideals of humanity makes it possible to hope for a future of greater respect for human life and the inherent dignity of each human being.

This Report

This World Report is Human Rights Watch's tenth annual review of human rights practices around the globe. Covering developments in 68 countries, it is released in advance of Human Rights Day, December 10, 1999.

The report covers events from November 1998 through October 1999. Most chapters examine significant human rights developments in a particular country; the response of global actors, such as the European Union, Japan, the United States, the United Nations, and various regional organizations; and the freedom of local human rights defenders. Other chapters address important thematic concerns.

The report reflects extensive investigative work conducted by the Human Rights Watch research staff throughout 1999. These researchers typically work in close partnership with human rights activists in the countries in question. Human Rights Watch reports published throughout the year contain more elaborate accounts of the brief summaries collected in this volume. The chapters here also reflect the work of the Human Rights Watch advocacy staff, which closely monitors the human rights policies of governments and institutions with the influence to curb abusive human rights conduct.

As in past years, this report does not include a chapter on every country where we work, nor does it discuss every issue of importance. The failure to include a country or issue often reflects no more than staffing and funding limitations, and should not be taken as commentary on the significance of the related human rights concerns. Other factors affecting the focus of our work in 1999 and hence the content of this volume include the severity of abuses, our access to information about them, our ability to influence abusive practices, and our desire to balance our work across various political and regional divides and to address important thematic concerns.

HUMAN RIGHTS DEFENDERS

Despite the unmistakable progress made in standing up to the most severe abuses, the struggle to defend human rights remains a difficult and, at times, deadly battle. Each year we note with sadness our colleagues who gave their lives for the cause of human rights. Between November 1998 and October 1999, ten human rights defenders and two of their family members were murdered in circumstances that suggest they were killed because of their work. Three of the murdered human rights defenders were in Colombia, while one defender and his two sons were murdered by Serbian police in Kosovo.

In Antioquia, Colombia, Julio González and Everardo de Jesús Puerta, who worked for the Committee of Solidarity with Political Prisoners (Comité de Solidaridad con los Presos Políticos, CSPP), were forced off a public bus in July and shot by presumed paramilitaries. Colombian paramilitaries frequently act with the acquiescence if not active support of the Colombian army. In May, anthropologist and University of Antioquia professor Hernán Henao was also killed by three intruders who broke into a faculty meeting. Professor Henao, a human rights activist, had served as director of the Institute of Regional Studies (Instituto de Estudios Regionales, INER), a research center for the study of political conflict and community development. Darío Betancourt, a social scientist at Colombia's National Teaching University (Universidad Pedagógica Nacional) who ran a think tank on political violence, was forcibly "disappeared" in April. His body was found the following September in Bogotá, showing signs that he had been executed.

In Kosovo, Serbian police came to the home of Bajram Kelmendi in March and beat him in the presence of his family. The police then took away Kelmendi, an Albanian human rights lawyer, and his two sons, Kastriot and Kushtrim. The police refused to give Kelmendi's wife, Nekibe, who is also a human rights lawyer, information on the whereabouts of her husband and sons, telling her that she should "ask NATO." The next day the bodies of the three men were found in a gas station outside Pristina. They had been shot dead. Bajram Kelmendi had defended many political prisoners in Kosovo and, shortly before his death, had taken up the defense of an Albanian-language newspaper that the police had closed.

In Northern Ireland, human rights lawyer Rosemary Nelson was killed in March by a car bomb a short distance from her home, not far from the school attended by one of her three children. Throughout the

1990s, Rosemary Nelson had frequently represented suspects accused of politically motivated offenses. Her clients were typically arrested under emergency laws, held in specially designed holding centers, and interviewed without access to an attorney. Nelson had frequently been the target of harassment, death threats, and intimidation, including threats on several occasions by members of the Royal Ulster Constabulary (RUC).

In Uzbekistan, Akhmadhon Turakhonov, a member of the Independent Human Rights Organization of Uzbekistan (IHROU), died in prison in June after being deprived of adequate medical care. Turakhonov, who had been in detention since late December 1998, was serving a six-year prison term for "attempted overthrow of the state" for his public criticism of the government.

Russia lost one of its leading human rights activists and anti-corruption campaigners in November 1998 when Duma deputy Galina Starovoitova was murdered near her St.Petersburg home. At the time of this writing, law enforcement agencies say that they are still investigating her killing.

In Sri Lanka, Neelan Tiruchelvam was assassinated in July by a suicide bomber believed to have been sent by the Liberation Tigers of Tamil Eelam (LTTE). Neelan Tiruchelvam was an internationally respected human rights leader who had founded both the International Centre for Ethnic Studies and the Law and Society Trust, a human rights research and advocacy organization. As a Tamil member of parliament, Tiruchelvam had angered the LTTE by proposing an alternative to a separate Tamil state.

In Cambodia, Pourng Tong, 55, a volunteer for the Cambodian Human Rights and Development Association (known by its acronym, ADHOC), was killed in his home in Kandal province on December 19, 1998. He had been helping villagers resist evictions. A bodyguard for a company attempting to carry out the evictions allegedly shot Tong half a dozen times with an assault rifle. As of October, no one had been arrested for the murder.