

MONITORING VIOLATIONS OF THE LAWS OF WAR

One of the distinguishing characteristics of Human Rights Watch is that we attempt to monitor violations of humanitarian law -- or the laws of war -- in internal military conflicts. As the laws of war apply equally to both sides in such conflicts, Human Rights Watch assesses the conduct of government forces and insurgent forces according to the same criteria.

We began monitoring violations of the laws of war in El Salvador in the early 1980s and subsequently monitored such violations in Afghanistan, Colombia, Nicaragua, Peru and Sri Lanka. The establishment of Africa Watch has led to a major expansion of this aspect of our work. In 1989, Africa Watch published a report on violations of the laws of war by both sides in Angola based on an investigative mission in October and November 1988; a report and several newsletters on Somalia, focusing on the war in the North that has principally victimized the country's Isaaq population; and several newsletters on Sudan, some of which deal with the war in the south. Africa Watch is publishing a major report on Sudan in March 1990. Africa Watch also made plans in 1989 for an investigation of violations of the laws of war in Ethiopia to be conducted in 1990.

Asia Watch also expanded its emphasis on war-related abuses. An investigation of abuses in the Cambodian war was undertaken early in 1989 and a report was published; further efforts were planned early in 1990 in an effort to make certain that gross abuses are addressed in any political settlement of the Cambodian conflict. In addition, Asia Watch undertook an investigation during 1989 of violations of the laws of war by both sides in the Philippines, with a report scheduled in Spring 1990. Asia Watch also continued its monitoring of Afghanistan and Sri Lanka.

Middle East Watch, launched in 1989, is also undertaking such efforts. Its first report, published in early 1990, dealt with Iraq. This included an investigation of the war with the Kurdish population, including poison gas attacks.

Also during 1989, Americas Watch continued to monitor closely war-related abuses in the four countries where it has long conducted such investigations. At the end of 1989, another war broke out -- though of brief duration -- when the United States invaded Panama. An Americas Watch mission visited hard on the heels of the U.S. forces and, at this writing, a report is being completed. Americas Watch's most intense engagement in these issues during 1989 was in El Salvador during and immediately following the offensive launched by the FMLN guerrillas in November; and in Nicaragua where the reduction in combat during the year was not accompanied by an end to war-related abuses.

Monitoring war-related abuses tends to be far more draining of the resources of Human Rights Watch than just about anything else that we do. We consider the investment worthwhile because of the gravity of the abuses -- which include deliberate massacres of civilians thought to be supporters of the other side in various conflicts; indiscriminate attacks (aerial bombardment and strafing; shelling; the use of land mines; and ground attacks on areas inhabited by civilians); forced displacement, often by deliberate starvation of the civilian population; the large scale

use of practices such as disappearances, extrajudicial executions and torture against suspected combatants or their civilian supporters; and even such practices as, in Iraq, the use of poison gas.

Though the severity of the violations in the context of war is obvious, what is less apparent is whether the investment can be justified by the results. In the experience of Human Rights Watch, in most military conflict situations, the answer is a resounding yes. In conflicts from Afghanistan and Angola to El Salvador and Nicaragua, the parties are vitally concerned with their international reputation. Indeed, their prospects for prevailing often depend on that reputation. Well-documented accounts of abuses that are not partisan because both sides are assessed according to the same criteria can help to curb some of the worst savagery that marks such conflicts. This is not always the case. Sendero Luminoso in Peru gets no external assistance and seems not to care about its international image. There is little chance, therefore, for a human rights report to affect the conduct of this particular guerrilla group. Another circumstance that has proved intractable so far has been when there are several parties to a conflict that have engaged in severe violations of the laws of war -- as in the case of Sri Lanka. In such a war, it is difficult to generate pressure to end abuses.

Those in the forefront of Human Rights Watch's efforts to monitor violations of the laws of war include: Jemera Rone, the Director of Americas Watch's office in El Salvador for the past five years, who has monitored the war in that country and in nearby Nicaragua, on a day-in-day-out basis, often getting to the scene of killings within hours to interview survivors, witnesses and others and to attempt to piece together what took place. In addition, the other Watch Committees have called on Rone to undertake investigations of the wars in Afghanistan, Angola and the Philippines. Robert Goldman, Professor of Law at American University and a member of the Board of Americas Watch, has taken part in several investigations and has been the author of the sections in many reports of Human Rights Watch on the laws of war. It was also Goldman's advocacy within the Watch Committees starting in the early 1980s that led to the special emphasis that Human Rights Watch has given to these issues. Professor Theodor Meron of New York University Law School, a member of the Boards of Americas Watch and Helsinki Watch, has also frequently been called on by the staff of Human Rights Watch for guidance in dealing with legal questions involving the laws of war.

One of the most gratifying consequences of the attention that Human Rights Watch has devoted to the laws of war is that several human rights groups in war-torn countries have themselves begun to monitor the practices of government and guerrilla forces according to these norms. Their work complements that of Human Rights Watch and enhances the possibility that we may be able to reduce or end grossly abusive practices.