

## ASIA WATCH OVERVIEW

### Human Rights Developments

With few exceptions, Asia in 1991 was one long paroxysm of bad news on the human rights front. Civilians continue to bear the brunt of civil strife or outright war in Afghanistan; Cambodia; the states of Punjab, Kashmir and Assam in India; Aceh in Indonesia; East Timor; the Philippines; Sri Lanka; Tibet; and along Burma's borders with Bangladesh, China and Thailand. Anachronistic, one-party states continue to detain dissidents and nonviolent advocates of democratic change — thousands in the case of China and Burma, hundreds in Vietnam and Indonesia, and an unknown number in North Korea.<sup>1</sup> Pakistan, the Philippines and South Korea only recently the shining examples of restored of democracy in the region, were looking increasingly tarnished in 1991 in terms of respect for basic freedoms. Refugees continued to face the threat of *refoulement* from Hong Kong (to Vietnam), Malaysia (to Indonesia) and Thailand (to Cambodia).

But there were also a few qualified bright spots. Parties to the Cambodian conflict signed a peace accord on October 23, with numerous human rights safeguards built in. At the end of the year, however, the feasibility of that accord was in some doubt, and reports from Phnom Penh of fear — not only of the Khmer Rouge but also of the security forces of Prime Minister Hun Sen's government — were widespread. Afghanistan also inched toward peace after the announcement of U.N. Secretary General Javier Perez de Cuellar's five-point framework in May.

In another positive development, countries in the region that were once the first to say that human rights abuses were an entirely domestic affair began to concede ground to their critics. On November 2, China issued a White Paper on Human Rights, acknowledging the government's acceptance of the validity of the Universal Declaration of Human Rights but arguing that international standards must be viewed in the historical context of each country. Indonesia became a member of the U.N. Human Rights Commission and invited U.N. Special Rapporteur Pieter Kooijmans to Indonesia in November. Kooijmans was in East Timor when a massacre of demonstrators by the Indonesian military occurred on November 12.

---

<sup>1</sup> Indonesia in fact has three legal political parties — the ruling GOLKAR and two smaller parties — but the latter are tightly controlled by the government and would not be allowed to challenge GOLKAR seriously, let alone to win.

**Malaysia and Indonesia, stung by the United Nations Development Program's publication of a "human freedom index" in May, in which Malaysia was rated on a par with Haiti and Indonesia on a par with North Korea in terms of respect for human rights, called for the development of an Asian concept of human rights. Any effort to move away from universal standards would be dangerous, but the Malaysian-Indonesian call reflected a recognition that human rights issues cannot be ignored.**

**External powers began to be more vocal on human rights in Asia, most importantly with the award of the Nobel Peace Prize to Aung San Suu Kyi, the detained Burmese opposition leader, and the passing of a U.N. General Assembly resolution in November condemning Burmese human rights abuses. The European Community (EC) told the six countries of the Association of Southeast Asian Nations (ASEAN, including Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand) in May, at an EC-ASEAN dialogue in Luxembourg, and again in July, following the ASEAN prime minister's conference, that henceforth development aid would be linked to human rights. The EC countries also wrung from ASEAN a mild rebuke of the Burmese leadership, the first such criticism of Burma from its Asian neighbors. Japan was also unusually outspoken on Burma at the end of 1991, and a Japanese official even raised the possibility in November that the massacre in Indonesia might provoke a review of Japan's Official Development Assistance to Indonesia. The Japanese stance reflected a new policy articulated during the year that Official Development Assistance should be linked to the human rights performance of recipient countries.**

**Far and away the biggest cause of human rights violations in the region was war. Annual death tolls of civilians were in the thousands in Kashmir, Punjab and Sri Lanka. In Sri Lanka, the scale of the conflict approached conventional warfare with five thousand guerrillas of the Liberation Tigers of Tamil Eelam laying siege to an army post in July. Both sides engaged in summary executions, torture and disappearances. In Punjab and Kashmir, Indian security forces retaliated against whole villages and neighborhoods for ambushes by militants, and suspected guerrillas were arrested, tortured and often killed in custody. Counterinsurgency operations against a small separatist movement in Aceh, on the northeast coast of Sumatra in Indonesia, continued to result in widespread killing of civilians, mass arrests and torture during the year.**

**The use of weapons that cannot distinguish between civilian and military targets, in violation of the laws of war embodied in the Geneva Conventions and their protocols, was another characteristic of war in Asia. In Afghanistan, the opposition *mujahedin* fired poorly aimed and inherently inaccurate Sakr-B rockets on population concentrations in Kabul and other cities. The Sri Lankan**

army bombed the Jaffna Peninsula in what appeared to be an indiscriminate manner; in addition, its 1990 bombing of the electric power grid in Jaffna left most of the peninsula without power needed for refrigeration of medicines, among other things. In Cambodia, the relief brought about by the signing of the peace accord was tempered by the realization of what the war would leave behind — the largest concentration of land mines per capita of any country in the world. The danger that mines pose to those returning from camps along the Thai-Cambodian border was so high that Asia Watch warned against mass repatriation of refugees until an effective mine-mapping and mine-clearing program was well underway. The indiscriminate way in which mines maim or kill, long after their military purpose has been served, led Asia Watch to call for an outright ban on their use, not only in Cambodia but around the world. Prince Sihanouk of Cambodia took up that call in a speech before the U.N. General Assembly in September.

Religion was manipulated for political ends. In Pakistan, the state's political use of the *shari'a* or Islamic law, and particularly the law on *zina*, or adultery, made women particularly vulnerable to abuse. In China, a government campaign against Catholic and Protestant activities intensified, and the Communist Party called religion a vehicle for "hostile infiltration from abroad" and "national splittism." The Indonesian army accused the Catholic Church in East Timor of fomenting anti-government activity and, in October, stormed a church where pro-independence youth had sought sanctuary.

Little progress was made during the year toward the creation of more open societies. In Thailand, a democratically elected government was overthrown in a military coup in February. In China, controls on freedom of speech, assembly and association remained tight. Cautious steps toward a more consultative form of government in Singapore were halted after the opposition in the August elections quadrupled its seats in the fifty-one-seat national parliament from one to four; Singaporean leaders decided that the increase was a popular rejection of their own version of glasnost. Freedom of expression took a beating all over, from Afghanistan, where a newspaper editor was briefly detained for printing a "war-mongering" article, to Indonesia, where another editor received a five-year prison term for publishing the results of an opinion poll deemed offensive to Muslims. Wherever nationalist conflicts were present, speaking of independence became a dangerous act, whether in East Timor, Kashmir or Tibet. Urging reunification with North Korea was off-limits in South Korea; discussions of reunification with the republic of Mongolia was banned in the Chinese province of Inner Mongolia. In India, the government seized newspapers in Punjab and Kashmir, while separatist militants threatened and killed journalists.

Throughout the region, internal security acts permitting prolonged detention

without charge or trial were used to arrest and hold political suspects for indefinite periods, sometimes without access to family or counsel. The Terrorist and Disruptive Activities Act in India, the Anti-Subversion Law in Indonesia, the Internal Security Act in Malaysia, and the National Security Law in South Korea are only a few examples of the laws used and abused in 1991. China continued to arrest and detain dissidents for the crime of "counterrevolution" which encompassed twenty-two separate acts.

The year was more notable for the continued detention of long-term political prisoners than for their releases. Wei Jingsheng, the pro-democracy activist in China, entered his thirteenth year in prison; he was believed to be working in a salt mine. Chia Thye Poh, suspected by the Singaporean government of belonging to the Communist Party, entered his twenty-sixth year of detention and restrictions on his liberty without charge or trial; since his release from prison in 1989, he has been forced to live in a form of limited house arrest on Sentosa Island.

The refugee crisis in Asia got no better. By mid-December, two planeloads of Vietnamese refugees had been sent against their will from the abysmal detention centers in Hong Kong back to Vietnam. While Hong Kong authorities claimed that the refugees were economic migrants, procedures to determine who was fleeing persecution were too flawed to accept that statement at face value. Burmese refugees in Thailand continued to face abuse from Thai authorities as well as the possibility of forced deportation. The Khmer Rouge in October made plans to force some 40,000 Cambodians in a camp called Site 8, in Thailand, across the border into Cambodia; they were only prevented from doing so by a massive international campaign and the quick action of international relief agencies along the border. The Indonesian and Malaysian governments agreed on but have yet to proceed with the return of some two hundred refugees from Aceh who had fled to Malaysia in early 1991 and have been in detention ever since. Japan forcibly deported one Chinese dissident who had unsuccessfully sought political asylum but showed greater flexibility in handling requests for visa extensions from Chinese students than it had in 1990.

### **The Right to Monitor**

Local human rights organizations were generally free to document and publicize abuses by their governments in India, Malaysia, Nepal, Pakistan, the Philippines, South Korea, Sri Lanka and Thailand. Yet, this freedom did not prevent at least two monitors in India from being killed for their work in 1991, or the harassment of human rights lawyers in Malaysia and the Philippines.

Human rights monitors also worked openly in Indonesia, although there were clear, if unwritten limits, as to what was acceptable. The government prevented members of the Legal Aid Institute in Jakarta from going into highly sensitive areas to conduct fact-finding missions and barred Institute lawyers from defending suspects in subversion trials in Aceh and East Timor.

In most countries of the region, however, human rights monitoring was considered a subversive activity. In China, members of a Shanghai group called the Study Group on Human Rights Issues in China were arrested in April, and individual efforts, such as those of Hou Xiaotian, wife of detained dissident Wang Juntao, were met with surveillance and temporary detention. In Vietnam, those members of a human rights group in Danang who had not fled as refugees to Hong Kong were in Vietnamese custody. Government antagonism has made it impossible for human rights monitoring groups to form legally in Brunei, Burma, Cambodia, China, North Korea, Singapore and Vietnam.

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

The Bush Administration by and large did not treat the protection of human rights as a high priority in Asia. In some cases, like Burma, where pariah governments ruled and strategic interests were minimal, the Administration was consistently critical, and pushed its friends in the region, like the ASEAN countries, to be so as well. In other cases where strategic interests were high, notably China, the Administration seemed reluctant to press for reform of what remained one of the worst human rights records in the region, arguing that this would "isolate" the world's largest country. As a rule, the Administration was reluctant to move beyond verbal criticism to take concrete steps, or even threaten to take such measures, against major human rights abusers.

China continued to represent the biggest blot on the Bush Administration's human rights record. The Administration's decision in May to extend unconditionally Most Favored Nation trading status lifted the economic pressure on the Chinese government that had been one factor in the release of almost nine hundred detainees in 1990. If the Administration expected rewards in terms of human rights concessions from the Chinese for this move, it got none. It proceeded with a visit by Secretary of State James Baker to Beijing in November — a visit desperately desired by the Chinese government — despite having neither sought nor received any commitments on human rights in advance. Human rights ended up being a major focus of the trip, but it was largely because of pressure from outside the Administration, and the trip produced few results. The

Administration sought information from the Chinese government about a list of political prisoners but then allowed the Chinese to sit on the list for nearly six months without demanding a response. One got the impression that the Administration saw human rights abuses in China as an irritant that it devoutly wished would go away, rather than as a major problem to be tackled vigorously.

The same thing could be said of the Administration's actions toward other countries, like Indonesia, where rather than offend a friendly government, the Administration played down the extent of human rights abuses in the Aceh region, asserting in February that it had no reason to believe that abuses were taking place on a massive scale. After the massacre in East Timor in November, the Administration quickly expressed regret, sent a team to Dili to investigate and called in the Indonesian ambassador, all to its credit, but the sharp contrast with its reaction to Aceh appeared to be because two American journalists witnessed and were injured in the course of the Dili killings. Unlike the Dutch and Canadian governments, the Bush Administration held back in using economic leverage to press Indonesia to account for the massacre.

U.S. law was invoked in a few Asian cases to press for human rights improvements in 1991. No country save Burma was denied foreign aid on the grounds that it engaged in a systematic pattern of gross abuses. In South Korea, where guarantees to potential U.S. investors from the U.S. government's Overseas Private Investment Corporation (OPIC) were denied on the grounds of violation of worker rights. The small amount of U.S. development aid given to Thailand was suspended following the February coup, but that was mandatory under U.S. law rather than a decision taken voluntarily by the Administration out of concern for basic freedoms. Assistance for military training to Indonesia continued despite the killings in Aceh and East Timor, with the State Department continuing to insist that the training gave Indonesian officers a good grounding in professionalism and humanitarian behavior.

In many cases, the Administration did not speak with a single voice, sending mixed signals to offending governments. In Burma, the State Department and the Drug Enforcement Agency worked at cross purposes. In Afghanistan, the CIA reportedly continued to press the *mujahedin* to take the offensive as the State Department was working toward peace. These contradictory actions undermined the Administration's effectiveness.

### **The Work of Asia Watch**

Asia Watch helped to define and generate attention to some of the key

human rights issues in Asia in 1991. Two of those issues in China were the trials of key dissidents in early 1991 and the use of forced labor to produce products for export. In the first case, Asia Watch revealed hitherto unknown accounts of why dissidents like Chen Ziming and Wang Juntao had been branded the "black hands" of the 1989 pro-democracy movement, and obtained key documents from their trials. The wealth of information made it possible to see many of these dissidents as individuals with characters and personalities instead of faceless victims of a repressive government. In many ways it was the Asia Watch information on Chen and Wang that led Human Rights Watch Chairman Robert Bernstein to set up the Committee to End the Chinese Gulag, a campaigning organization headed by Fang Lizhi, Liu Binyan, Yuri Orlov, Cyrus Vance and Bernstein himself, which aims to work for the release of all those imprisoned for peaceful dissent in China.

Asia Watch also published articles from restricted circulation journals in China which demonstrated beyond any doubt that it was central government policy in China to produce export goods in labor camps, and that some of those goods were going to the United States in violation of U.S. law. In its efforts to uncover the truth about prison exports, Asia Watch was primarily concerned about drawing attention to the use of political prisoners in the production of these goods, the appalling conditions under which prisoners were forced to work, and the subordination of humanitarian reasons for having inmates work to the economic imperative of boosting export earnings by relying on extremely cheap or unpaid labor. The issue of prison export became one of the outstanding human rights issues between China and the United States.

Another issue that Asia Watch helped to define was the problem of land mines in Cambodia. Relief workers along the Thai-Cambodian border had long known of the magnitude of the problem but international awareness of the issue was limited. The report, produced jointly by Asia Watch and Physicians for Human Rights in September, led Prince Sihanouk to call for a worldwide ban on mines, beginning in Cambodia, and encouraged the U.S. government to allocate more funds for mine-clearing programs. Scheduled for translation into French in early 1992, the report also helped to draw attention to the particular iniquities of mines as a weapon: their tendency to injure civilians more often than combatants; their durability for years, and sometimes decades, after the war they were used in is over; and the failure of most armed forces to record where mines are laid and to remove them after a battle.

The work on Aceh helped to generate international awareness to a little-known region of Indonesia and added to the pressure on the Indonesian government to allow a visit there by the International Committee of the Red Cross (ICRC) in July. However, the need for more pressure continues to be apparent, as

the ICRC has not been permitted to make a return visit, let alone set up an office in the troubled area.

Cooperation with and support of local human rights monitors remained a high priority for Asia Watch. In India, human rights organizations working on Kashmir and Punjab saw the two Asia Watch reports produced on those areas in 1991 as supportive of their own efforts. In Indonesia, a Ford Foundation-funded internship program allowed two Indonesian interns from the Legal Aid Institute to work with Asia Watch during the year and helped to send Indonesian-speaking Americans to Jakarta to assist in translating key documents into English. Asia Watch staff responded to requests for help during the year from human rights monitors in virtually every country where human rights organizations were permitted.

One way of keeping up the contacts with such organizations was by travel to the region, and in the course of the year, Asia Watch staff and consultants visited Australia, Burma, Cambodia, China, East Timor, Hong Kong, Indonesia, Japan, Malaysia, Pakistan, Sri Lanka, Thailand and Tibet.

## **AFGHANISTAN**

### **Human Rights Developments**

Prospects for peace in the thirteen-year-old conflict in Afghanistan, which appeared dismal by the close of 1990, gained new momentum in late 1991. However, despite the decision by the United States and the Soviet Union to cut off arms to the warring parties, the conflict appears unlikely to be over soon. Human rights abuses continued, including indiscriminate attacks against civilians by both government forces and elements of the Afghan resistance, the *mujahedin*, resulting in the loss of hundreds of lives.

Despite hopes for a U.S.-Soviet statement agreeing to a political settlement at the December 1990 meeting between U.S. Secretary of State James Baker and Soviet Foreign Minister Eduard Shevardnadze, the talks remained stalemated over the timetable for an arms cutoff. The December 20 resignation of Shevardnadze, prompted in part by the Soviet army's insistence on a greater role in foreign policy — including continued military support for Afghan President Najibullah — further set back the negotiations. As the two powers were distracted by the Persian Gulf



war, U.S.-Soviet negotiations over a transition process leading to elections in Afghanistan remained stalemated. The deadlock centered on the interim role to be played by Najibullah. The Soviet Union continued to insist that Najibullah remain in power and that the powers of a transitional body be limited to organizing elections. The United States argued that Najibullah's command of communications and the security forces gave him an unfair advantage, so the transitional body should have control over these institutions during the election period.

Although the anti-Iraq alliance built during the Gulf crisis included most of the countries that had been at odds over Afghanistan, their cooperation in the Gulf war did not immediately bring them any closer to agreement about Afghanistan. Pakistan and Saudi Arabia remained committed to supporting a military victory by the *mujahedin*. The Saudi government moved toward public support for a political settlement in Afghanistan, spurred by the decision of some *mujahedin* parties, notably the *Hezb-e Islami* (Islamic Party) of Gulbuddin Hekmatyar and the *Ittehad-e Islami Bara-ye Azad-e Afghanistan* (Islamic Union for the Liberation of Afghanistan) of Abdul Rabb Rasul Sayyaf, to denounce the Saudi position in the Gulf war. However, Saudi private and government sources continued to fund radical *mujahedin* elements, even though these groups had opposed the Gulf war and expressed support for Saddam Hussein.

The stalemate on the Afghan battlefield was broken briefly at the end of March when the eastern city of Khost fell to the *mujahedin*. Despite initial statements by the U.S. Administration that the fall of Khost signaled a new unity among the rebels, the military success was in fact more a result of Pakistani intervention than coordination among *mujahedin* commanders. However, the battle did exhibit some improvements in the *mujahedin's* respect for international humanitarian law. For the first time, captured government soldiers were seen promptly by the International Committee of the Red Cross (ICRC), and there were no confirmed reports of summary executions. However, the city, or what was left of it, was rapidly looted by *mujahedin* and allied tribal militia, and the victory changed little in the political arena.

On May 21, U.N. Secretary General Javier Perez de Cuellar issued a public statement outlining in broad terms the framework for a political settlement of the Afghan conflict. The statement reportedly reflected a consensus among the five external powers involved in aiding various groups in Afghanistan: the United States, the Soviet Union, Pakistan, Saudi Arabia and Iran. The plan called for a settlement based on an internationally assisted "transitional mechanism" which would enable the Afghans to hold "free and fair elections, in accord with Afghan traditions," accompanied by a cessation of hostilities and an end to military

assistance to all Afghan parties by all external parties. The statement did not specify a role for Najibullah. Following further negotiations later in the year, Najibullah did express his willingness to step aside so long as his retirement was part of a peace package and his Watan Party was permitted to participate in the transitional government.

Meanwhile, abuses continued by both the Afghan government and *mujahedin* forces. Journalists reported that following the battle for Khost, and later during an assault on Gardez, a city sixty miles south of Kabul, the Afghan government launched Scud missiles into populated areas in the east and northeast of the country and also around Herat in the west, causing heavy casualties. The *mujahedin* also continued to fire rockets indiscriminately into Kabul and other cities, killing civilians. In one such attack, rockets that landed in residential areas of Kabul on January 19 killed eleven people, five of them children, according to press reports. On August 14, rockets struck a crowded bus in Kabul, killing thirty passengers.<sup>2</sup>

Throughout 1991, the Afghan government continued to make pronouncements about democratic reform. In October, Najibullah called for provincial and local elections to be held in both government- and *mujahedin*-controlled territory, before the conduct of the national elections currently being negotiated through the U.N. Special Representative. He also called for the formation of an interim government to include the *mujahedin*, and for U.N. mechanisms to control the flow of arms to both sides.

The relaxation of strict press controls permitted some criticism of the government, but officials continued to demonstrate an unwillingness to allow government critics in Kabul genuine freedom of speech or the press when it came to discussion of the war or of fundamentalist *mujahedin* leaders. On August 12, Ghulam Sakhi Ghairat, the editor of a new and reportedly outspoken biweekly newspaper *Azadi (Freedom)*, was arrested and charged with "war propaganda" under Section 138 of the Constitution, which is frequently invoked to censor the press. Ghairat reportedly had published an article quoting the radical fundamentalist *mujahedin* leader Gulbuddin Hekmatyar. Ghairat was tried, given a suspended sentence and released on August 26. Almost immediately he became the co-founder, along with thirteen other intellectuals, of a new political organization called the Movement for the Freedom, Democracy and Unity of Afghanistan. In its first statement on September 17, the group demanded, among

---

<sup>2</sup> See "Eleven Reported Slain in Kabul, *The New York Times*, January 20, 1991; "Rebel Raid Reportedly Kills 30 on Bus in Afghan Capital," *The New York Times*, August 15, 1991.

other things, the abolition of the Ministry of State Security which President Najibullah formerly headed. Ghairat's arrest attracted international criticism, which may have prompted officials in Kabul not to interfere with his new organization so long as it limited itself to criticisms of the current government and was not seen to advocate radical alternatives. This reflects a tendency of the government to permit criticism when it supports the government's general message of reform.

By the end of 1991, the ICRC, which has access to sentenced prisoners held by the Afghan government, had still not been granted access to government detainees under interrogation. Most of those under interrogation are captured *mujahedin*, or those suspected of supporting the *mujahedin* or of being involved in the March 1990 coup attempt. Most arrests are carried out by the Ministry of State Security, and there are few safeguards against arbitrary arrest and torture. In his 1991 report on human rights in Afghanistan, U.N. Special Rapporteur Felix Ermacora stated:

persons suspected of having acted against State security have been tortured during the process of interrogation by security personnel with a view to obtaining information about a presumed network engaging in anti-constitutional and terrorist activities...[T]he means of torture were described as electric shock, beating...cigarette burns and continuous deprivation of sleep.

Disappearance and murder of Afghan relief workers and political figures by *mujahedin* groups in Pakistan also continued in 1991. Some of these include:

- o In June, a prominent member of Afghan Mellat, a political organization which has been the target of attacks by the more fundamentalist *mujahedin*, was shot dead by unidentified gunmen as he left his home in Karachi.
- o Three Afghan workers with the Swedish Committee on Afghanistan were assassinated during the year, and in early July, two Afghan Red Cross workers were shot while traveling in an ambulance.
- o On July 9, Abdul Rahim Chinzai, a journalist and former government official under the deposed Afghan monarch Zahir Shah, was kidnapped by armed gunmen while on his way to Friday prayers in Peshawar. The abductors were reported by reliable Afghan sources to be members of Gulbuddin Hekmatyar's *Hezb-e Islami* party. Chinzai's whereabouts remain unknown,

but he is believed to be held in a *Hezb-e Islami* prison near the border between Afghanistan and Pakistan.

- o On October 31, Abdul Rehman Zamani, the Afghan head of the Austrian Relief Committee, was injured along with two co-workers when unidentified gunmen sprayed his car with bullets while he was traveling in Peshawar.
- o Foreign relief workers also continue to come under attack. Four ICRC officials were kidnapped by *mujahedin* forces in February and held for seventy-five days — leading to the suspension of ICRC activities in some provinces.

While many of these incidents as well as scores of earlier kidnappings and murders occurred in Pakistan, the Pakistani authorities have made little if any effort to investigate or prosecute those responsible.

On September 13, a week after the failed coup in Moscow, the United States and the Soviet Union finally agreed to a mutual arms cutoff, to begin January 1, 1992. At about the same time, however, a number of *mujahedin* commanders supported by the Pakistani military intelligence agency Inter-Services Intelligence (ISI) launched an offensive against the city of Gardez. The assault coincided with reports that the ISI was providing the most abusive of the rebels with Iraqi weaponry captured during the Gulf war. By mid-October, the fighting had moved on to Jalalabad, in eastern Afghanistan, only to be called off abruptly before the end of the month. In the course of the Gardez and Jalalabad offensives, indiscriminate rocket attacks and bombardments by both sides resulted in many civilian casualties and an influx of new refugees into Pakistan.<sup>3</sup>

In November, *mujahedin* representatives led by *Jamiat-e Islami* (Islamic Society) leader Professor Burhanuddin Rabbani met with the Soviet foreign minister in Moscow to discuss the U.N. peace plan and other matters, including war reparations and Soviet prisoners-of-war. The visit was fraught with controversy among Afghans in Pakistan, as various *mujahedin* leaders alternately denounced and endorsed aspects of the discussions. The delegation of *mujahedin* leaders agreed to national elections to be held under the supervision of the Islamic Conference and the United Nations, but radical *mujahedin* leaders have continued to reject the plan.

---

<sup>3</sup> Ahmed Rashid, "Mujahideen Muddle," *Far Eastern Economic Review*, October 31, 1991.

## **The Right to Monitor**

Even with the promulgation of reforms under Najibullah's government in Kabul, the right to freedom of expression remained too circumscribed to permit genuine human rights monitors to function. The arrest of editor Ghairat on August 12 suggests that while certain kinds of criticisms on human rights issues may be tolerated, human rights monitoring by domestic groups investigating issues related to the war, such as the treatment of political detainees, clearly is not. The few quasi-independent groups able to function, notably the National Salvation Society, have limited their recommendations to subjects which already fall within the government's promised reforms: national reconciliation, elections and pluralism. The Afghan government has cooperated with international human rights organizations, including Asia Watch. Its failure to grant full access to the ICRC, however, remains an obstacle to human rights improvements.

In Peshawar, and in other areas of Pakistan and Afghanistan where Afghan *mujahedin* groups have support, human rights monitoring is a dangerous profession. Afghan exiles and refugees engaged in any activity perceived as inappropriate by the more radical *mujahedin* groups, especially those led by Hekmatyar, Sayyaf, and Yunis Khaled, head of a second party called *Hezb-e Islami* (Islamic Party), have been imprisoned or killed. The victims of these abuses have generally been representatives of moderate or secular Afghan political groups, Afghans employed by Western and particularly Christian relief organizations, and Afghan or Pakistani journalists or others who have attempted to document *mujahedin* abuses.

## **U.S. Policy**

The most important development in U.S. policy toward Afghanistan in 1991 was the agreement with the Soviet Union on an arms cutoff, to take effect at the beginning of 1992. The agreement promises to sever the supply line that has provided the resistance with two to three billion dollars in covert assistance over the past decade.

Throughout 1991, the State Department expressed support for a political settlement to the conflict that would lead to free and fair elections in Afghanistan. This sentiment was reflected in written testimony on June 20 by Assistant Secretary of State for Near Eastern and South Asian Affairs John Kelly before the House Subcommittee on Asian and Pacific Affairs, in which he stated, "We...do not

believe that the fall of Khost has shown that military victory is the path to a settlement, by either side." He went on to note that "many Afghans believe that, even were a military victory possible, the price in greater destruction of property and human suffering is too high to pay."

With momentum building toward agreement on a political settlement, the Administration presented a more balanced assessment of human rights and humanitarian law violations than it had in previous years. The State Department's *Country Report for Human Rights Practices in 1990*, published in February 1991, was considerably more accurate and balanced in its description of human rights in Afghanistan than has been the case previously. For the first time, the report included abuses by the *mujahedin*, notably disappearances, torture and political killings. The report also blamed both the government and resistance forces for violations of the laws of war, particularly indiscriminate attacks that resulted in heavy civilian casualties. However, the report also tried to excuse the *mujahedin* by noting that they "assert that they strive to minimize civilian casualties" when, in fact, the rockets that have caused these casualties are incapable of being aimed accurately and should not be used at all in populated areas.<sup>4</sup>

Similarly, in his June 20 testimony, Secretary Kelly observed that while "the behavior of combatants on both sides leaves much to be desired," increased cooperation with the ICRC in both government- and resistance-controlled areas marked a significant improvement. He appropriately used the occasion to express the Administration's concern that the *mujahedin* abide by international norms.

However, the State Department's verbal and diplomatic support for the peace process appears not to have been shared by the U.S. Central Intelligence Agency (CIA) and its Pakistani ally, the ISI, which continued to support a military approach fraught with abuse. The rift in U.S. policy was reported by *The New York Times* in January in an interview with Undersecretary of State for Political Affairs Robert Kimmitt who was reported as having "battled with [CIA] officials who would like to unleash the guerrillas in Afghanistan in one last effort," while Secretary Baker worked to "coax the rebels and the Najibullah regime into democratic elections." In the interview, Kimmitt complained that agency officials were "just bucking policy."<sup>5</sup> In February, as negotiations between the United States and the Soviet Union remained stalled, *The New York Times* reported that "the [CIA], in a long

---

<sup>4</sup> See Human Rights Watch, *World Report 1990*, p. 257.

<sup>5</sup> Clifford Krauss, "In Hot Spots Like the Gulf, He's Baker's Cool Hand," *The New York Times*, January 3, 1991.

policy dispute with the State Department that it now appears to be winning, has been arguing that negotiations cannot end the war and that Washington should step up its efforts to help the guerrillas win a military victory."<sup>6</sup>

Since the early 1980s, the ISI, in collaboration with the CIA, has used its control over the arms pipeline to run the war and favor abusive *mujahedin* parties, particularly Gulbuddin Hekmatyar's faction, which used U.S.- and Saudi-financed weapons to launch indiscriminate attacks on Afghan cities, killing countless civilians. Even after Pakistan's civilian government agreed in June to join the other parties in endorsing the U.N. peace process, ISI commanders continued to encourage military offensives by the most radical and abusive of the *mujahedin*. The indiscriminate assaults on Gardez and Jalalabad in late 1991, both of which were backed by the ISI, brought about no political change but did induce retaliatory strikes by Afghan government forces and caused a large number of civilian casualties. According to a report in *The Washington Post*, the weapons used in these offensives included captured Iraqi artillery, tanks, machine guns and mortars. This weaponry was supplied to the *mujahedin* by the United States, Saudi Arabia and Pakistan in the months following the Gulf war when "the United States and other supporters of the *mujahedin* were pursuing a two-track policy of backing diplomatic efforts to find a peaceful solution to the war while at the same time maintaining military pressure on the Kabul government."<sup>7</sup> The supply of captured Iraqi and other weapons by the United States to *mujahedin* groups that have engaged in violations of the laws of war makes the U.S. a party to these abuses.

These ISI activities underscore how little the U.S.-Soviet agreement on ending arms supplies will mean so long as the other parties to the conflict have access to arms and exhibit little interest in peace. Moreover, all sides in the conflict have stockpiled enough weapons to keep the war going for years to come. Among these weapons are land mines, which all parties continue to use, frequently without mapping or marking the sites in violation of the laws of war, adding to the millions of such devices scattered all over the country. Continuing hostilities prevent any systematic effort at mine removal.

---

<sup>6</sup> Clifford Krauss, "Afghanistan, the Place Where the Cold War Didn't Go Out of Style," *The New York Times*, February 17, 1991.

<sup>7</sup> Steve Coll, "Afghan Rebels Said to Use Iraqi Tanks," *The Washington Post*, October 1, 1991.

## **The Work of Asia Watch**

**In February 1991, Asia Watch published a report, *The Forgotten War*, which documented human rights and humanitarian violations by the Afghan government and the *mujahedin* since the Soviet withdrawal. The report was based on a mission to Pakistan and Afghanistan between June and August 1990. Throughout 1991, Asia Watch engaged in discussions with U.S. officials and Afghan government representatives about human rights concerns in the report.**

**In July, Asia Watch issued a statement condemning the disappearance in Peshawar of Abdul Rahim Chinzai, apparently at the hands of *mujahedin* leader Gulbuddin Hekmatyar, and urging the Pakistani authorities to take steps to ensure his release. In August, Asia Watch intervened to protest the detention of editor Ghairat, who was arrested in Kabul on charges of disseminating "war propaganda."**

**In August, Asia Watch published a newsletter, "Toward a Political Settlement in Afghanistan: The Need to Protect Human Rights," which outlined different human rights safeguards that might be included in a settlement of the Afghan conflict. The document was based on an analysis of peace accords in Cambodia, Namibia, El Salvador and Angola. It was presented to senior U.N. officials and circulated among the major parties negotiating the peace process. It was also translated into Russian.**



## **BURMA (Myanmar)**

### **Human Rights Developments**

Refusing to respect the results of the 1990 general elections, Burma's military leaders intensified their crackdown on political dissent throughout the country in 1991. Repression was worse than any other time in recent years, marked by a complete lack of basic freedoms and the continuing imprisonment of thousands of suspected opponents of the ruling State Law and Order Restoration Council (SLORC). By the middle of the year, the crackdown extended beyond members of the main opposition parties to include a massive purge of those employed in the civil service, schools and universities. In late 1990 and early 1991, SLORC also heightened its offensive against ethnic minority insurgent groups, resulting in widespread civilian casualties and the displacement of tens of thousands of people along Burma's borders. The award of the Nobel Peace Prize to opposition leader Aung San Suu Kyi helped to focus attention on SLORC's disastrous human rights record.

The crackdown on members and supporters of Aung San Suu Kyi's party, the National League for Democracy (NLD), was especially severe. The NLD had won an overwhelming victory in the May 1990 elections, capturing over eighty percent of the popular vote. Rather than transfer power to an NLD-dominated People's Assembly (*Pyithu Hluttaw*), SLORC instead mounted a campaign aimed at destroying the NLD and, later, all potential sources of political opposition to the regime. Hundreds of NLD officials, including over fifty of the newly elected People's Assembly representatives, were arrested in a sweep that began in July 1991. Earlier in the year, arrested NLD People's Assembly representatives were sentenced to between ten and twenty-five years in prison by military tribunals.

Severe mistreatment is believed to have led to the death in detention of at least three senior NLD officials. Tin Maung Win, an NLD People's Assembly representative, died in early January in Insein Prison, only a few weeks after his arrest. Maung Thawka, a prominent writer and senior NLD official, died of a heart attack in June at the Rangoon General Hospital, three days after having been moved from Insein Jail, where he was believed to have been badly tortured. Maung Ko, a leading NLD labor organizer, died in Insein Jail after being tortured in November 1990.

NLD President Tin U and other senior officials originally sentenced in 1989

and 1990 had their sentences extended in 1991. For example, Tin U's sentence was extended from three to seventeen years. At the beginning of 1991, five of the NLD's original Central Executive Committee members were in prison, and party leader Aung San Suu Kyi remained under house arrest. NLD offices were closed in many towns, party activities were banned, publications were stopped, and the party was prohibited from making public statements. Anyone involved with the NLD became suspect in the eyes of the military authorities and subject to harassment and the threat of arrest. By mid-1991, the NLD had largely collapsed as a working political organization.

The SLORC also began in 1991 to target smaller political parties and political figures generally considered more "moderate" in their opposition to the regime than the NLD leadership. In January, Cho Cho Kyaw Nyein, leader of the Anti-Fascist People's Freedom League (AFPFL), was arrested on charges of being in contact with insurgent and "underground" groups. He was later sentenced to nine years in prison, and the AFPFL was deregistered. By May, a total of nine political parties had been deregistered. These included the League for Democracy and Peace, founded by former Prime Minister U Nu, who is under house arrest; and the National Democratic Party, founded by Sein Win, head of the government-in-exile on the Thai border.

In July, several senior members of the United Nationalities Development Party (UNDP) were arrested on a series of charges including contact with the insurgent Karen National Union. Although UNDP leader Aung Gyi, a former army vice chief of staff, was not arrested, he was implicated in the charges and criticized in the official press.

Throughout 1991, SLORC carried out a huge purge of the civil service, schools and universities. By October, as many as fifteen thousand civil servants were reported to have been fired on suspicion of being opposed to the regime. Beginning in January, civil servants were required to answer a series of questions about their role in the 1988 uprising and their views of the military, political parties and SLORC policy. On October 4, Khin Nyunt, SLORC first secretary, warned public servants that a series of directives had already been issued prohibiting them from political activities. Public servants were also obliged to see that their families refrain from anti-government activities.

Similarly, hundred of teachers and university lecturers are reported to have been fired. Although schools and universities were gradually reopened during 1991 after nearly three years of closure, all educational institutions remain under strict military supervision, and the activities of students are closely monitored.

On December 10 and 11, heavily armed soldiers and police crushed demonstrations at Rangoon University coinciding with the Nobel Prize ceremony

in Oslo, putting an end to the largest protests to take place in Burma since the September 1988 uprising. There were unconfirmed reports of hundreds of arrests. Burma's universities were shut down and thousands of troops were deployed throughout Rangoon. There were also protests and arrests in Mandalay, and the state-run radio blamed "unscrupulous subversive elements" for a bombing at a railway station on December 11.<sup>8</sup>

Martial law remained strictly enforced, as local military tribunals and township-level Law and Order Restoration Councils worked to ensure an end to independent political activity. In May, General Khin Nyunt, head of SLORC's Directorate of Defense Services Intelligence (DDSI) and a SLORC member, quoted the Duke of Wellington on the nature of Burma's martial law: "Martial law is neither more nor less than the will of the General who commands the army. In fact, Martial Law means no law at all." In a similar vein, the SLORC chairman, General Saw Maung, said in May: "Martial law means the will of the ruler. He can do anything he wishes to do." Such statements reveal that Burma's military authorities feel unconstrained in crushing political dissent.

A large military presence is clearly visible in Rangoon and most other towns. Troops and armored personnel carriers patrol major streets and are deployed outside all public buildings. Gatherings of more than four people are banned, movement out of one's township must be reported to local military authorities, and all media remain under tight state control.

Burma's jails remain inaccessible not only to international human rights and humanitarian organizations, U.N. agencies and foreign diplomatic personnel, but also, in many cases, to families of detainees. Torture and other forms of severe mistreatment continue to be a routine part of interrogation, both in the main jails such as Insein Jail in Rangoon and Tharrawaddy Jail in Pegu Division, and at Yay Kyi Aing, the DDSI headquarters, where political prisoners may be detained indefinitely without charge.

Political prisoners are reportedly used for forced labor. In early 1991, three hundred political prisoners who had been forced to work at a mining camp in northern Shan State, a few miles from Lashio, were reported to have died from mistreatment or malnutrition. Asia Watch could not independently confirm the report.

SLORC also continued its policy of forced relocation. Since late 1989, over 500,000 people are believed to have been forcibly moved from their homes to military-built resettlement towns. Although reasons for the relocations vary, they

---

<sup>8</sup> Kevin Cooney, Reuters, December 12, 1991.

are generally believed to be politically motivated, with the intent of breaking up potential areas of opposition to the regime. Many people were moved to areas without proper sanitation or access to markets or places of work. The forced relocations are believed to be a major source of the new exodus of ethnic Burmese refugees to the Thai border, described below. In 1991, the forced relocations were particularly severe in northern Arakan, along the Bangladesh border. Several thousand Burmese Muslim refugees are known to have fled to Bangladesh since late 1990 to avoid the increasing military persecution accompanying the relocations. Mosques were reported to have been destroyed and entire communities forced to move to make way for military projects. Burmese Muslims are often denied citizenship rights, and many Muslims born in Burma have been detained for years on charges of "illegal immigration."

In 1991, SLORC stepped up its military offensives against ethnic minority insurgent groups, particularly the two largest, the Karen National Union along the Thai border and the Kachin Independence Organization, along the Chinese and Indian borders. SLORC strategy has included targeting civilian populations suspected of assisting insurgents. Large numbers of civilians in Kachin State are believed to have been moved to strategic villages under military control in early 1991. Several thousand others were reported to have fled their homes to areas along the Chinese border.

The destruction of civilian property, rape, torture and summary execution of civilians during Burmese military offensives were widely reported in 1991, as in previous years. The Burmese army also forcibly conscripted ethnic minorities to carry military supplies during military campaigns. Many of these porters die as a result of mistreatment, lack of adequate food and water, and use as "human mine sweepers." At least 100,000 people are thought to be internally displaced because of ongoing fighting in Karen and Kachin States alone.

Refugees from Burma continue to flee to neighboring countries in substantial numbers, with as many as 500,000 Burmese residing in Thailand, Bangladesh, India and China. The largest movement of refugees in 1991 involved between 15,000 and 25,000 who fled from Burma's Arakan State to Bangladesh. The refugees are primarily Rohingya Muslims who are culturally distinct from the Arakanese Buddhists whose culture is dominant in Burma. The campaign against this population began in late 1989, during the intensified Burmese military campaign against minority groups. By 1990, the Burmese military effectively controlled most of Arakan State. Among the military abuses reported from the area are forced labor, rape, arbitrary arrest and wanton destruction of property.

Also in 1991, approximately nine thousand Karen, four thousand Mon and one thousand Karenni fled to Thailand to escape military repression, bringing to

nearly sixty thousand the number of refugees living in camps along the Thai border. To date, an estimated fifty thousand refugees from Burma's Kachin territory have fled to Tibet and four thousand to India. There are also several thousand Burmese dissidents who have fled since the 1988 uprisings and established camps along Burma's borders alongside minority refugee communities.

The refugees from Burma living just inside Thailand have been allowed to negotiate safe haven agreements with local authorities. In 1991, however, this arrangement became increasingly tenuous. *The Bangkok Post*, in an August 29 article, reported, "Military officers of the 9th Infantry Division and district officials in Sangklaburi District have told the Mon National Relief Committee to plan for the repatriation of all Mon refugees — more than 10,000 — to Burma by April 1992." No international agency such as the U.N. High Commissioner for Refugees (UNHCR) or the International Committee of the Red Cross is allowed to operated along any of Burma's borders, making the refugees living there more vulnerable to such threats of *refoulement*.

A smaller number of refugees, mostly Burmese students, made their way to Bangkok to try to register as refugees with the UNHCR office. There are now some three thousand such Burmese in the Thai capital. Only half have been accepted as refugees; one thousand have been rejected, and approximately five hundred cases are pending. Thailand has not allowed the UNHCR to assist this or any other group of asylum-seekers from Burma. For its part, the UNHCR continues to evaluate Burmese refugee claims using unusually narrow criteria so as to deter an influx of refugees to Bangkok, prevent a confrontation with Thai authorities, and avoid an expensive urban relief program.

The UNHCR and other concerned parties have been negotiating with the Thai government for a "safe area" where those seeking political asylum can reside. However, in September 1991, the Thai government approved the establishment of a "holding center" for all asylum-seekers from Burma who were registered with the UNHCR. The Ministry of Interior proposed to open this center in April 1992 at a site along the Burmese border in Ratchaburi province. To date, Thai officials maintain that the UNHCR will not be granted any presence in the center, raising serious questions about whether it will be a workable alternative to repatriation or, with no access by outside agencies, a kind of prison. By the end of 1991, Thai authorities were holding over one hundred asylum-seekers from Burma in immigration jails pending the establishment of the "holding center." Those detained had gone on hunger strikes and inflicted injuries on themselves to draw international attention to their fears about the "holding center." Many suffered physical abuse and extortion in prison.

**An increasing number of Burmese refugees fled to Thailand during 1991 from the Tennasserim Division, an administrative unit deep in the Burmese delta. These refugees claim fear of being conscripted for forced labor, extortion by local military authorities, and threats of arrest against those thought sympathetic to opposition groups, as well as general economic hardship.**

**Overall, dissatisfaction with the Burmese regime remains extremely high, and only the severity of ongoing repression prevents significant public protest. SLORC's increasingly hard-line position may be seen as reflecting increased desperation on the part of a regime lacking any popular support or clear direction.**

### **The Right to Monitor**

**The severity of repression made open human rights monitoring impossible inside Burma, although Burmese students and representatives of minority groups living in Thailand developed an increasingly effective human rights documentation network in 1991.**

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

**With peaceful political dissent in Burma all but silenced, international pressure against SLORC became increasingly important. Aung San Suu Kyi's winning of both the 1991 Nobel Peace Prize and the European Parliament's Sakharov Prize clearly marked increased international concern for Burma's worsening human rights situation.**

**On November 29, at the United Nations, a resolution on the human rights situation in Burma passed the General Assembly's Third Committee by a unanimous vote. This was the first critical human rights resolution naming an offending nation ever to receive unanimous endorsement by the General Assembly. The mildly worded consensus resolution, sponsored by Sweden and co-sponsored by India, urges Burma to "allow all citizens to participate freely in the political process in accordance with the principles of the Universal Declaration of Human Rights."**

**On several occasions, U.N. Secretary General Javier Perez de Cuellar called on SLORC to release Aung San Suu Kyi from house arrest. On November 4, Perez de Cuellar's spokesperson indicated deep disappointment over SLORC's decision to prevent a U.N. special rapporteur appointed by the Commission on Human Rights,**

**Professor Yozo Yakota, from seeing the opposition leader when he visited Burma in October. Yakota was given access to Insein Prison in Rangoon but was reportedly not allowed to speak with any political prisoners.**

**In July, the European Community (EC) formalized a *de facto* arms embargo against Burma, and in May, the annual meeting between the EC and representatives of the Association of Southeast Asian Nations (ASEAN) in Luxembourg produced the first public, if mild, criticism of Burma by ASEAN. The statement expressed hope that the situation in Burma would improve so that Burma could take its place "among the dynamic Asian economies."**

**The Bush Administration continued its hard-line policy against the Burmese government, restricting high-level contacts and refusing to resume any bilateral assistance. In June, at the ASEAN foreign ministers' conference in Kuala Lumpur, Secretary of State James Baker condemned the human rights situation in Burma, saying, "We view with dismay the situation in Burma where a self-appointed military leadership regularly violated basic human rights."<sup>9</sup> Secretary Baker's statement followed high-level consultations among U.S., British and Australian officials. The ASEAN ministers, particularly the Thai foreign minister, argued that pressure on SLORC would be counterproductive, but ultimately decided to send Raul Manglapus, the Philippines foreign minister, to Rangoon for talks in pursuit of a policy of "constructive engagement." However, Manglapus's public announcement of his mission apparently angered SLORC and, by year's end, the mission had not taken place.**

**Also at the Kuala Lumpur meeting, and in accordance with the Moynihan Amendment to the 1990 Customs and Trade Act mandating U.S. economic sanctions against Burma, the United States decided not to renew a bilateral textile agreement with Burma which had lapsed on December 31, 1990. In 1990, textiles accounted for approximately nine million of the twenty-two million dollars of Burmese exports to the United States each year. However, while the United States consulted with other industrialized countries regarding the possibility of imposing multilateral economic sanctions, as the amendment required, the Administration maintained that "there was no significant support for [such sanctions] generally, because of the paucity of economic relations of any country with Burma."<sup>10</sup>**

---

<sup>9</sup> **Bernama (Malaysia) News Service, as reported in Foreign Broadcast Information Service, June 24, 1991.**

<sup>10</sup> **Testimony of Kenneth Quinn, deputy assistant secretary for East Asian and Pacific affairs, before the House Subcommittee on Asian and Pacific Affairs, October 18, 1991.**

The State Department in 1991 continued efforts to develop some coordination between the United States and other industrial democracies in their policy toward SLORC. The State Department is believed to have pushed informally for all major donors, especially Japan, to maintain their aid cutoff and for the World Bank and other multilateral institutions to refrain from future lending. At its annual meeting in Bangkok in mid-October, the World Bank reaffirmed its decision not to loan to Burma, and a bank official in charge of Asia publicly denounced human rights violations by SLORC. However, international action against the military regime remains largely uncoordinated.

Despite the Administration's overall hard-line policy, the U.S. Drug Enforcement Agency (DEA) retained a significant presence in Rangoon. Its representatives met regularly with Burmese officials and were shown in the Burmese press attending SLORC-organized functions in northeastern Shan State. The DEA was known to be lobbying within the Administration for a resumption of the anti-narcotics assistance terminated in 1988, but was believed to have been successfully opposed by the State Department and others.

Although the Administration's general stand on Burma has been firm in maintaining pressure on SLORC, U.S. law suggests that more be done. The Administration should, at a higher level than has been the case so far, formulate and carry out a program of sustained international economic sanctions against the regime. The Administration and other Western governments have long argued that economic sanctions would be ineffective given the small size of Western trading with Burma in comparison with that of China or Thailand, which presumably would not join an embargo. What this argument overlooks is the difference in the nature of the trade. Whereas China and Thailand export mainly basic consumer goods for Burma's private markets, Western countries, Japan and South Korea are still important sources of spare parts and other goods that are critical for Burma's state-run industry. In addition, although U.S. and other western oil companies are not yet producing oil in Burma, their continuing presence provides an important reassurance to SLORC that large oil revenues may not be far off.

U.S. policy toward Burmese refugees involved continuing humanitarian assistance to displaced Burmese (including "students" and ethnic minorities) along the Thai border and to asylum-seekers in Thailand itself; resettling a very small number of refugees in the United States; providing scholarships for selected Burmese refugees to study in the United States for two years; and privately encouraging the Thai government not to repatriate Burmese "students" and dissidents clearly facing a danger of persecution if returned to Burma.

The U.S. Congress continued to advocated increased U.S. and multilateral



pressure on behalf of human rights and democratization in Burma. Members of Congress addressed letters to SLORC about individual prisoners subject to arbitrary arrest and torture, and two resolutions were unanimously adopted in 1991. The Senate in May urged the imposition of additional U.S. economic sanctions and called for increased Thai protection for Burmese refugees. In November, the House passed a strongly worded measure which also called for further sanctions as well as U.S. pressure on China to cease its arms shipments and economic aid to SLORC.

At the end of 1991, the Administration's nomination of an ambassador to Burma was pending before the Senate Foreign Relations Committee, and Congressional opinion was divided on whether the United States should post an ambassador to Rangoon under current political circumstances.

### **The Work of Asia Watch**

Asia Watch in 1991 issued several updates on arrests of NLD members and, in December, published a newsletter on the treatment of Burmese refugees in Thailand. During a mission to Tokyo in March, Asia Watch representatives met with officials of the Ministries of Trade and Industry, and Foreign Affairs, as well as the Japanese Business Council (Keidanren), to discuss how Japanese economic and diplomatic leverage might be used to promote human rights in Burma. Beginning in September, Asia Watch began to convene a series of roundtable discussions of Burma to keep various organizations informed of developments within the U.N. General Assembly. A human rights fact-finding mission was sent to the Sino-Burmese border in early December and a report was expected in January 1992.

## **CAMBODIA**

### **Human Rights Developments**

The most important human rights development in Cambodia in 1991 was the formal signing in Paris on October 23 of the Comprehensive Political Settlement of

**the Cambodia Conflict. The agreement was signed by the four warring parties — the government of Prime Minister Hun Sen in Phnom Penh, the Khmer People's National Liberation Front (KPNLF), the Sihanouk National Army (ANS) and the Khmer Rouge — as well as all of the relevant external powers, including the five permanent members of the United Nations Security Council.**

**The agreement is critically important to the future of human rights in Cambodia for several reasons. It contains important human rights provisions which appear to guarantee the ability of the United Nations, the International Committee of the Red Cross, and domestic organizations as they emerge to monitor the human rights situation, as well as safeguards intended to prevent any recurrence of the mass killings of the Khmer Rouge period. The agreement provides for the release of prisoners of war and "civilian detainees" arrested because of their political affiliation or activities. It states the intention of the transition administration in Cambodia to abide by international human rights agreements and standards. And it recognizes the importance of clearing the land mines that have maimed and killed indiscriminately and represent a major obstacle to the safe return of the 350,000 refugees along the Thai-Cambodian border.**

**The momentum that led to the final agreement began on April 26, when representatives of the four parties agreed to a cease-fire to begin on May 1. A meeting was convened in early June in Jakarta but became bogged down over the question of leadership of the Supreme National Council (SNC), a body composed of six representatives of the Phnom Penh government and two representatives of each of the three resistance factions. The SNC was to serve as the supreme Cambodian authority pending elections. A meeting of all four parties held later that month in the Thai beach resort of Pattaya produced unanimous agreement on an "unlimited" cease-fire and the cessation of foreign arms supplies. In July, the four parties met in Beijing and reached agreement on a number of vexing issues including the naming of Prince Sihanouk as chair of the SNC and the appointment of a delegation to the U.N. General Assembly to be headed by the prince.<sup>11</sup> The SNC also requested the United Nations to send a survey mission to help monitor the cease-fire and arms cutoff.**

**The Hun Sen government strongly opposed complete demobilization of troops, believing that the Khmer Rouge could not be trusted to comply and thus**

---

<sup>11</sup> The delegation to the United Nations includes Hun Sen and Hor Nam Hong of the Phnom Penh government as well as Khieu Samphan of the Khmer Rouge.

would be handed an opportunity to seize military control. In a compromise reached in Pattaya at the end of August, all factions will demobilize seventy percent of their military forces and submit the remaining thirty percent to U.N. supervision in specific "cantonment areas."<sup>12</sup> Agreement on the remaining issue, elections, was reached on September 19 in New York, with a decision to use a system of proportional representation within regional geographic constituencies.

By October, the planned signing of the agreement had had consequences both good and bad. On the positive side, the Hun Sen government released 1,034 prisoners, including what the Cambodian government news agency described as 442 political prisoners and 483 prisoners-of-war in early October.<sup>13</sup> Cambodia's most prominent political prisoner, Ung Phan, Cambodia's former minister of transport who was detained in May 1990 for trying to form a new political party, was released on October 17. In a special congress that met in Phnom Penh between October 16 and 19, the ruling People's Revolutionary Party of Kampuchea formally renounced Marxism-Leninism and decreed that henceforth the newly named Cambodia People's Party would pursue a multi-party system with full separation of powers and a president and national assembly elected by universal suffrage.

On the negative side, the Khmer Rouge made plans to move some 40,000 residents of Site 8, a camp along the Thai-Cambodian border which had become the Khmer Rouge's international showcase, into Cambodia before the final agreement was signed. On September 30, sixteen camp administrators who had been elected by camp residents were taken across the border into a military camp and replaced by what appeared to be Khmer Rouge hardliners. The international relief agencies on the border raised the alarm, especially when they learned that all camp residents had been told to expect to be moved between October 20 and 23. The area to which the Khmer Rouge had planned to move them was believed to be rife with malaria and ridden with land mines. International pressure succeeded in halting the move, but there was a strong belief that all three of the resistance factions intended to move as many as possible of the

---

<sup>12</sup> The demobilization issue continues to present difficulties. No agreement has been reached on the number of fighters in each military group to which the reductions would apply. It also appears that paramilitary forces are not included in the definition of "military forces."

<sup>13</sup> SPK, October 30, 1991, as reported in Federal Broadcasting Information Service, October 30, 1991.

residents of the camps along the Thai border back into Cambodia before any election takes place. Four of the sixteen Site 8 administrators have returned to Thailand; the fate of the others remained unknown at year's end.

Even with the agreement signed, Asia Watch remained concerned about the problem caused by land mines in Cambodia. In some ways, the agreement raised the profile of that problem because, suddenly, the repatriation of some 350,000 people in Thailand seemed like a real possibility. If the mines are not located and cleared, the dangers to returning refugees will be high. Cambodia already has the highest percentage of inhabitants who are physically disabled because of mines of any country in the world. In 1990, almost as many people died as were maimed by mines, often because of lack of transport to get them to medical facilities or lack of nearby medical care entirely. Most of the casualties were civilians. The use of mines in Cambodia violates important principles of customary law relating to armed conflict, including the obligation of warring parties to minimize harm to civilians. Over the last twenty years, the parties to the conflict have not recorded or posted notices of where they laid mines and, in many cases, never removed the mines when the fighting in a particular area ceased. The United States, Vietnam, the Soviet Union and China have been the major suppliers of mines, leaving them with particular responsibility to help with mine clearance.

Another problem looming on the horizon as 1991 ended was how the Phnom Penh government would protect the lives of returning members of the resistance factions, particularly the Khmer Rouge, while at the same time moving toward the greater freedoms of expression and assembly that will be necessary if elections are to take place in accordance with the settlement. The problem was made particularly acute when Khieu Samphan, the Khmer Rouge leader, and former Khmer Rouge Defense Minister Son Sen were nearly lynched in Phnom Penh on December 3. There was widespread speculation that a demonstration against their arrival in the capital had been quietly encouraged by the Phnom Penh government, although there was no indication that a physical attack had been foreseen.

### **The Right to Monitor**

There are no known human rights organizations in Cambodia and, until the ruling party platform changed in October, restrictions on freedom of association made the establishment of such an organization impossible. A number of groups have emerged to study and promote human rights in Site 2, the Cambodian refugee camp run by the KPNLF.

## **U.S. Policy**

The major goal of U.S. policy in 1991 was to forge a settlement, out of the belief that an agreement would be the best way of preventing a return to power of the Khmer Rouge. The Bush Administration promised that once the agreement had been signed and implementation had begun, the trade embargo against Cambodia would be lifted and a liaison office would be opened in Phnom Penh. Charles Twining arrived in Cambodia on November 18 as a special envoy to the SNC.

Aid allocations were directly tied to progress in the settlement. In 1990, Congress had allocated some \$25 million for humanitarian and development assistance programs in fiscal year 1991, to be spent both in areas controlled by the Phnom Penh government and areas controlled by the non-communist resistance (NCR). In early 1991, there was strong concern expressed in Congress that the NCR was cooperating militarily with the Khmer Rouge. The Administration opposed any cutoff in aid to the NCR and, on February 26, submitted a report required by the terms of the 1991 Foreign Aid Appropriations bill asserting that there was no evidence to substantiate that the NCR and the Khmer Rouge "have been fighting as an integrated force." However, the report admitted that there had been some sharing of supplies between the ANS and the Khmer Rouge and that the ANS in some cases had "conducted coordinated attacks with the Khmer Rouge."

In testimony before Congress in April, Assistant Secretary of State for East Asian and Pacific Affairs Richard Solomon said that because of these reports of "tactical" cooperation, no funds from the total allocated for fiscal year 1991 had been delivered since January. Later that month, after an assessment team returned from Cambodia, the U.S. Agency for International Development (USAID) authorized the release of \$7 million to buy medicine, school supplies and tools and to provide training in development skills for Cambodians in areas controlled by the NCR.<sup>14</sup> The release of aid appeared more a result of political changes and moves toward a settlement than of conclusive evidence that tactical cooperation had ended. In September, after the settlement was clearly on track, USAID gave \$5 million in grants to private organizations for the care of children and war victims inside Cambodia and announced that another \$10 million would be awarded in the

---

<sup>14</sup> *Bangkok Post*, May 19, 1991.

near future.<sup>15</sup> In mid-October, Secretary Solomon announced that over \$25 million had actually been spent in 1991 in Cambodia in both government- and NCR-controlled areas, making the United States the largest aid donor in Cambodia.<sup>16</sup>

Members of Congress spoke out forcefully against Khmer Rouge plans to repatriate residents of Site 8 forcibly, and the Bush Administration joined other members of the U.N. Security Council in pushing for a public denunciation of the move. The denunciation was thwarted when China refused to make a public statement, although it did apparently respond to pressure from Security Council colleagues to urge the Khmer Rouge privately not to go ahead with the transfer.

### **The Work of Asia Watch**

Asia Watch devoted most of its efforts on Cambodia to the question of land mines. In April, a team from Asia Watch and Physicians for Human Rights traveled along the Thai-Cambodian border and within Cambodia to interview soldiers, doctors, relief workers and mine victims. Its findings were published in September in a report entitled *Land Mines in Cambodia: The Coward's War*. The report was delivered to members of the Supreme National Council meeting in New York during the U.N. General Assembly, and based on its conclusions, Prince Sihanouk changed the prepared text of his September 26 speech at the United Nations to include a call for a worldwide ban on mines. He also sent a message to all of his followers living in camps along the Thai-Cambodian border not to return home until the mines problem had been addressed. The September report received widespread international publicity and helped to spur the allocation of additional funds from USAID for mine-clearance programs.

In October, when Asia Watch was alerted to the imminent forced repatriation of Cambodians in Site 8, it informed key members of Congress, arranged for letters to be faxed to the U.N. Missions of the five permanent members of the Security Council, and issued a news release. These efforts were part of a worldwide alert network of nongovernmental organizations and may have helped to prevent the Khmer Rouge from carrying out its plans.

---

<sup>15</sup> *The Washington Post*, September 21, 1991.

<sup>16</sup> Testimony before the House Subcommittee on Asian and Pacific Affairs, October 17, 1991.

## **CHINA AND TIBET**

### **Human Rights Developments**

**If anything, the Chinese authorities showed themselves even less willing in 1991 than in 1990 to ease up on the relentless repression that they have pursued since the military crackdown in Beijing and other cities on June 4, 1989. The year brought no large-scale releases of pro-democracy activists, unlike 1990, when a total of 881 such releases were announced by the authorities. Instead, as if to symbolize the regime's unrepentant stance in the face of international censure, the year began with the biggest wave of dissident trials in China since the summer of 1989. Dozens of leading Tiananmen activists — some of them dubbed "black hands" of the movement — were brought before the Beijing Intermediate Court and sentenced, after wholly unfair trials, to prison terms ranging from two to thirteen years.**

**Meanwhile, thousands of other pro-democracy activists (the precise number remains unknown) remain behind bars, many having been brought to trial and sentenced secretly, while many others were sent by the police, without any trial at all, for up to three years of administrative detention (so-called "reeducation through labor"). Others continue to languish, long over the lawful time-limits for pretrial detention, in police lockups and local detention centers, their cases as yet unresolved.**

**The identities of most of those detained after June 4, 1989 were either never publicly reported by the authorities, or were reported without follow-up, so there is no indication of their fate. In effect, China has a major "disappearance" problem. In addition, further well-documented instances of gross brutality toward detainees, extending from beatings to outright torture, were recorded throughout the year, contributing to a picture of generalized and often random state violence toward those in custody.**

**Also indicative of the authorities' undiminished hard-line stance in 1991 was their harsh treatment of all those who dared to continue pro-democracy activities, of necessity in secrecy, well after Beijing's "quelling of the counter-revolutionary rebellion" of June 1989. A clear though unstated official policy of sentencing such people harshly emerged in the course of the year.**

**Even for the several dozen pro-democracy activists who were released from**

prison in 1991, persecution and harassment did not come to an end. Most were left without jobs or income; many found themselves in broken health as a result of their harsh conditions of incarceration, while others were simply stripped of their urban residence permits and deported to the countryside. Discriminated against and often placed under near-constant surveillance, there seemed little opportunity for them to begin rebuilding their lives.

Religious activities were further curtailed in 1991, with a fresh round of repression against Catholic priests who refused to renounce their allegiance to the Vatican and against leaders and participants of unofficial Protestant "house congregations." For example, an internal government directive on religious policy, issued in February, ordered a severe crackdown on all unauthorized religious groups, whether Christian, Buddhist or Muslim, and instructed security forces "to attack the use of religion for unlawful and criminal purposes and to firmly resist the infiltration of foreign religious inimical forces."<sup>17</sup>

Government attempts to silence dissident or nationalist voices among China's main ethnic minorities also intensified. The list of Buddhist monks, nuns and others imprisoned for espousing the independence of Tibet continued to grow, amid mounting evidence of the widespread use by security forces in the region of brutal and often extreme forms of torture against such detainees.

The authorities in May declared an "anti-separatist" war on another ethnic front, by launching a regionwide crackdown against Mongol academics, students and government cadres in Inner Mongolia who had sought legal registration of their newly founded ethnic study groups.

Finally, freedom of expression was further reined in during 1991, with tightened censorship controls and escalating attacks on independent-minded academics and students. Such measures proceeded in tandem with a mounting official propaganda blitz against so-called "peaceful evolution" — the code word for an alleged long-term plot by Western nations to undermine Chinese socialism from within by "smuggling" into China concepts of democracy, pluralism and freedom. In the course of this campaign, internal government documents designated the United States an "enemy" nation. Correspondingly, punitive action — including expulsion from the country — was taken against Western journalists, writers and others deemed to be the bearers of the "peaceful evolution" virus.

### **Trials of the "black hands"**

---

<sup>17</sup> "Crackdown on 'illegal' churches," *South China Morning Post*, November 13, 1991.



**The trials of several dozen leaders of the April-June 1989 pro-democracy movement took place during January and February 1991, under cover of China's "cooperation" in the U.S.-led military action in the Persian Gulf, when international scrutiny was effectively diverted from events in Beijing. Aside from the spurious — and entirely political — nature of the "counterrevolutionary" charges laid against the principal accused, the trials themselves were invalid even under Chinese law, since the defendants had all been held long in excess of the maximum five and a half months of pretrial detention allowed by the 1980 Criminal Procedure Law.**

**The trials showed all the hallmarks of China's criminal justice: there was no presumption of innocence; the defendants were denied all access to defense counsel until only days before their trials; lawyers were specifically barred from entering "not guilty" pleas on behalf of their clients (although in a number of highly honorable exceptions defense lawyers still presented spirited cases arguing innocence); requests to cross-examine prosecution witnesses and summon for questioning absent providers of testimonials for the prosecution were flatly denied; and official media reports, appearing well in advance of the trials, showed that guilt had been entirely predetermined by the political authorities and that the court hearings represented no more than the so-called "verdict first, trial second" scenario that has been increasingly condemned by the legal establishment itself in recent years.**

**Student leader Liu Gang, one of four alleged prominent "black hands" behind the 1989 protests, declared at his trial that all statements made by him in pretrial custody should be discounted, since they had been extracted by interrogators who had repeatedly threatened him with death should he fail to comply.**

**Moreover, these ostensibly "open" trials were shrouded in secrecy, to the extent that in at least one reported case, that of veteran human rights campaigner Ren Wandong, even the accused's wife was not informed of the trial in advance and so could not attend. (Ren received a seven-year prison sentence for "counterrevolutionary propaganda and incitement.") All foreign observers were barred from attending, in accordance with obscure internal judicial regulations that also specifically encourage Chinese law-enforcement officers knowingly to violate provisions of the Vienna Convention on Consular Relations. All requests from Asia Watch, Amnesty International and other concerned groups to attend the trials and monitor observance of due process were ignored; the members of one monitoring group from Britain that had sought access to the trials were unceremoniously expelled from the country.**

**Far from exhibiting the "lenience" noted by some foreign commentators and claimed by the Chinese authorities themselves, the trials and sentences of early 1991 showed only the extent to which criminal justice in China is administered at**

the fickle whim of the Communist Party. Wang Juntao and Chen Ziming, both prominent intellectuals who were hitherto relatively unknown in the West, were unfairly singled out by the authorities as being the "chief instigators" of the 1989 protests and handed thirteen-year prison terms for counterrevolution and sedition. On the other hand, top student leader Wang Dan, well known in the West as one of the prime originators and leading strategists of the pro-democracy movement, received a "mere" four years' imprisonment. None of these peaceful advocates of democracy should ever have been arrested or brought to trial in the first place.

Moreover, the series of trials in Beijing in early 1991 were only the most visible aspect of a ruthless judicial apparatus that had been working nationwide without respite since the crackdown following the June 1989 massacre. Hundreds of reported trials of pro-democracy activists, and many others that were held in secret or simply went unrecorded by the official media, had already taken place in the provinces, and more were to follow. In particular, workers and minor functionaries, rather than students or intellectuals, continued to bear the brunt of this less visible aspect of the crackdown. Held in the worst prison conditions and stigmatized as mere "common criminals," they formed the great majority of those detained since June 1989 and have on average been handed significantly heavier sentences. A case in point is that of Yu Zhenbin, a twenty-eight-year-old cadre from the Qinghai Provincial Archives Bureau, who was sentenced to twelve years in prison in January 1991 for allegedly organizing a "counterrevolutionary clique" during the June 1989 disturbances. A central charge against Yu was that he had written and distributed leaflets calling for a revision of the Chinese Constitution, the establishment of a new central government, and an end to one-party rule.

A second wave of trials began in late November, immediately following the visit to Beijing of U.S. Secretary of State James Baker. Among those tried were student leader Zhai Weimin who despite being on China's list of the "21 Most Wanted" after the 1989 Tiananmen protests managed to hide for almost a year. He was detained in May 1990, after the underground pro-democracy group he led, the *Democratic Front for the Salvation of China* held a secret press conference. He went on trial November 28. Eight days later, Li Mingqi, the student detained on June 3, 1990 for making a speech at Beijing University on the first anniversary of the June 4 crackdown, went on trial in the Beijing Intermediate Court.

As in the previous year, there was no recorded instance in 1991 of any sentence passed on a pro-democracy activist having been quashed or even reduced after appeal to the higher courts. In addition, a further judicially sanctioned execution of a pro-democracy demonstrator — a worker named Han Weijun, who was convicted of burning a car shortly after June 4, 1989 — was

carried out in March 1991, bringing the total number of such publicly announced executions to fifty.

### **Scope of ongoing detentions**

The Asia Watch list of known pro-democracy detainees believed still held since the June 1989 crackdown has grown to well over one thousand.<sup>18</sup> The increase is accounted for both by earlier arrests that have only recently come to our attention and by a series of new arrests in 1991. On March 26, Tao Siju, the new minister of public security, gave the lie to earlier assurances given by Chinese leaders to visiting foreign dignitaries that the arrests and trials of Tiananmen dissidents were "basically over," when he openly declared to the National People's Congress (China's parliament) that the nationwide hunt for those placed on "wanted lists" after June 4, 1989 would continue. "Some of the wanted persons have been arrested, and some others are still at large," said Minister Tao, "We will continue the operation."<sup>19</sup> The figure of over one thousand post-Tiananmen arrests and detentions refers only to those detainees whom Asia Watch has been able to identify by name, either from official Chinese press accounts or private sources.<sup>20</sup> However, reports in the provincial Chinese press in the summer of 1989 cited, often without individual names, numerous aggregate figures for pro-democracy detainees which sometimes went as high as several thousand for a single province. Since the authorities have never accounted for these thousands of anonymous detainees, there are firm grounds to believe that a large proportion of them remain, more than two years later, behind bars. Clear supporting evidence for this view emerged only in late 1991, when Asia Watch began to learn the

---

<sup>18</sup> This number does not include the several hundred pro-independence activists believed to be held in Tibet, nor several dozen Protestants, "unauthorized" Catholic priests, and a small but growing number of ethnic activists in Inner Mongolia and Xinjiang who are in detention.

<sup>19</sup> *South China Morning Post*, March 27, 1991.

<sup>20</sup> In China, formal "arrest" -- signifying the prosecution's filing of charges and preparation for trial -- usually occurs only many months after a person's detention. However, since detention almost invariably leads to arrest, there is a little practical distinction between the two, so far as the detainee's lack of liberty is concerned. "Arrest" and "detention" thus are used largely interchangeably in this chapter.

identities and circumstances of several hundred previously unknown individuals, mainly workers, who are currently incarcerated in Hunan Province alone on account of their involvement in the 1989 pro-democracy movement.<sup>21</sup> If extrapolated to a national level, in view of the authorities' own admission that the 1989 "turmoil" affected every province and region of China, the total of those still imprisoned since the June 1989 crackdown is likely to rise substantially.

### **Recent arrests and trials**

Despite the repressive atmosphere in China since June 1989, pro-democracy activists have continued to find ways to organize themselves and to express their defiance of the nationwide crackdown on the freedoms of expression and association. However, the authorities have dealt even more severely with such persons, when they can find them, than with those detained in the immediate aftermath of the 1989 crackdown. At least four groups engaged in peaceful underground resistance activities are known to have been smashed, and their leaders arrested, in 1991.

In one case, the two "principal ringleaders" of the dissident group — former graduate students at Qinghua University named Chen Yanbin and Zhang Yafei — were tried in Beijing on March 5, 1991 and given prison sentences of fifteen and eleven years. The verdict conveyed the flavor of the ongoing official assault on free speech in China today:

**In February and March 1990, the defendants Chen Yanbin and Zhang Yafei, working in collusion, drafted the reactionary journal *Tieliu (Iron Current)*, which attacked and slandered the leadership of the Chinese Communist Party as being 'an authoritarian tyranny,' the Chinese state as a 'forty-year-old authoritarian empire,' and socialism as 'a great disaster and retrogression of mankind in the twentieth century, and China's pitfall and calamity.' It incited the masses to overthrow the political power of the people's democratic dictatorship and the socialist system, and to wage a 'struggle to the death' against the Chinese Communist Party. Later, the defendants went to Shuangfeng**

---

<sup>21</sup> The list of these Hunan detainees, together with a list of several hundred additional Tibetan prisoners — neither of which is included in our year-end list of over one thousand Chinese political prisoners — is scheduled for publication by Asia Watch in early 1992.

County, Hunan Province, where they mimeographed over four hundred copies of the reactionary journal *Tieliu*. Chen Yanbin brought them to Beijing and, together with Zhang Donghui and others (prosecuted separately), distributed them in residential areas, on university campuses and in buses.

The verdict added that the three accused (together with four others who were prosecuted separately) had formed a "counterrevolutionary" organization named the Chinese Revolutionary Democratic Front, and had "drawn up a reactionary political program with the abolition of the Four Cardinal Principles as its central content." As the charges demonstrate, the two graduate students and their five colleagues were accused of no more than independently publishing a political journal and trying to organize a peaceful, though necessarily clandestine, pro-democracy organization. No allegations of engaging in violent activity were brought against the group. The verdict of the court, however, was never in doubt.

The second pro-democracy group known to have been broken up by the authorities in 1991 was the Study Group on Human Rights Issues in China, a small organization set up by intellectuals in Shanghai in late 1990 or early 1991. It was reportedly led by Gu Bin, a twenty-six-year-old student at the Shanghai Chemical Industry Special School, and Yang Zhou, a fifty-year-old intellectual who participated in the 1979-1981 Democracy Wall movement and served three years in prison in connection with the Wei Jingsheng case from that era. In July 1990, Yang Zhou sent a letter by registered mail to Party General-Secretary Jiang Zemin, calling for the release of all political prisoners, the creation of a multiparty system, the right to register new political parties, respect for freedom of speech, and an end to the practice of labeling dissidents as counterrevolutionaries. Soon after its formation, the Study Group on Human Rights Issues in China mimeographed Yang's letter as a flyer and privately circulated it among colleagues and acquaintances. The group reportedly had plans to publish a regular newsletter carrying articles on human rights issues which had appeared in the Hong Kong press, but it is not known whether this project ever got off the ground.

The group — the first human rights organization known to have been formed since June 5, 1989, when a group named the Committee to Protect Human Rights in China briefly emerged in Beijing to protest the military crackdown — was smashed in its infancy. On April 5 and 18, 1991, Gu Bin and Yang Zhou were secretly arrested. Both are still being held incommunicado in Shanghai. Up to eight other members of the group were also detained in mid-April, but are thought to have

later been released.

In a third case, Liu Xianbin, a young student at the prestigious People's University in Beijing, was secretly arrested by the authorities sometime during April 1991. Like Chen Yanbin and Zhang Yafei and the members of the Shanghai human rights group, Liu's "crime" was apparently that he had tried to publish a dissident magazine on his college campus. So far, no further information about Liu's case has become available, and it is not known whether other students were arrested in connection with his dissident publishing venture.

A fourth case concerned a large pro-democracy organization in the northeastern city of Tianjin called the "89 Alliance." Eight Tianjin-based members of the one hundred-strong group, and possibly others from elsewhere in China, were arrested on March 25, 1991, after one of them was caught by the police trying to send a fax from Shenzhen to Hong Kong. The organization was set up in September 1989 by a group of Nankai University students in the hope of keeping alive the spirit of the crushed pro-democracy movement. Most of the detainees were reportedly released, but the leader of the group, a law graduate and teacher at Tianjin University named Li Baoming, was later sentenced to eighteen months' imprisonment.<sup>22</sup>

Finally, a veteran dissident worker, Fu Shenqi, was arrested in his hometown of Shanghai in late May 1991, allegedly for possessing a mimeograph machine and publishing an underground pro-democracy journal. Formerly a worker in a Shanghai generator factory and a member of the Communist Youth League, Fu had served a four-year prison term in the early 1980s for his leading role in the Shanghai "democracy wall" movement of 1978-1981. In 1979, he founded a publication called *Voice of Democracy*, and one year later helped set up the dissident National Association of the People's Press and served as chief editor of its regular bulletin, *Responsibility*. There has been no word on Fu's fate since his latest arrest.<sup>23</sup>

Significantly, none of the above-mentioned arrests of people involved in

---

<sup>22</sup> "Tianjin reform group cracked," *South China Morning Post*, August 26, 1991. The relative leniency offered to this group may well have been due to the strong local influence in Tianjin of Li Ruihuan, the city's reform-minded former mayor who was recently promoted to a central leadership post.

<sup>23</sup> "Dissident Fu held by police," *South China Morning Post*, June 4, 1991.

**underground pro-democracy activities was ever publicly announced or reported in the Chinese media. Clearly, the authorities wished neither the Chinese public to know about these examples of renewed pro-democracy activity, nor the outside world to find out about the secret arrests of those involved and the suppression of their dissident groups.**

## **Prison Conditions and Widespread Use of Torture**

Following the June 1989 crackdown, the Chinese authorities adopted, in effect, a two-track system for incarcerating pro-democracy dissidents. A small number of well-known intellectuals and student leaders — those upon whom international attention tended to be most sharply focused — were held in relatively humane conditions and were by and large not subjected to gross ill-treatment. When released in the course of 1990, some of these detainees gave relatively favorable accounts of their conditions of imprisonment and general treatment.

However, for the vast majority of lesser-known or entirely unknown pro-democracy detainees, a very different prison regime has been the norm. In detention centers and police lockups around the country, such prisoners were — and continue to be — held in conditions of extreme overcrowding and inadequate sanitation and diet, and subjected to gross physical and psychological brutality at the hands of prison guards and other inmates. Numerous reports received by Asia Watch from political prisoners who were released in 1991 and their families confirmed these and other details, including that ill prisoners are routinely denied proper medical care; indeed, withholding such care is one means commonly used by prison officials to force "confessions."

The use of beatings and torture against prisoners became so widespread in 1991 that the central authorities have again had to appeal publicly for measures to curb it. In April, Deputy Chief Procurator Lian Guoqing reported that in the first three months of the year his department had investigated 2,900 cases of "perverting justice for bribes, extorting confessions by torture, illegal detention and neglect of duty." More than 490 of these cases had resulted in death or serious injury, he added. Around the same time, the *People's Public Security News* commented, "the method of getting evidence by extracting confessions through torture has not been entirely eradicated, and is very serious in the case of a minority of officials."<sup>24</sup> In September, the same newspaper — indulgently attributing the problem to police officers' "hazy knowledge of the law" — reported the recent case of a peasant who had been wrongfully executed after officers beat him into falsely confessing that he had mugged and raped a woman.<sup>25</sup> Finally, in November, the newspaper complained: "Some Chinese policemen take their

---

<sup>24</sup> "Paper decries use of torture," *South China Morning Post*, July 29, 1991.

<sup>25</sup> "Force used to get crime evidence," *South China Morning Post*, September 12, 1991.



power so much for granted that they routinely torture suspects to extract confessions."<sup>26</sup> In this and other human rights matters, the central government proved itself either unwilling or unable to control events in the provinces. When two escaped dissidents, worker-activist Li Lin and his musician brother Li Zhi, returned to their home in Hunan Province in February 1991 — after public assurances had been given by top leaders, including Party General Secretary Jiang Zemin, that overseas dissidents who ceased "illegal activities" would not be punished if they returned to China — the brothers were seized and imprisoned almost immediately. Their main inquisitor, bureau chief Deng of the Hengyang state security bureau, told one of the brothers: "Jiang Zemin's statements do not amount to much. He is only speaking for himself, not the Communist Party or the country...I am the law, I do whatever I like."<sup>27</sup> Following a successful international campaign to secure the Lis' release, they told *The New York Times* of their five months of ill-treatment:

The brothers were placed in separate jails, crammed in cells with common criminals, and the authorities urged the other inmates to beat them up. In fact, many of the criminals were far more humane than the guards...Life in prison was scarcely endurable. Li Lin had not been allowed to take warm clothes and nearly froze in the drafty, unheated cells. Meals consisted of a potato or part of a squash, and inmates were constantly hungry and malnourished. Lice and vermin and disease were part of life, and medical care was denied even to prisoners who seemed near to death...Beatings were frequent, and Li Lin said that four or five times he was tortured with an electric cattle prod until he was writhing on the ground.<sup>28</sup>

Such ill-treatment is not confined to the pretrial, interrogative phase of detention. Particularly in the case of political prisoners who "stubbornly" refuse

---

<sup>26</sup> *People's Public Security News*, November 15, 1991, as reported in "Policemen take torture for granted", *South China Morning Post*, November 19, 1991.

<sup>27</sup> "Stay away, say brothers," *South China Morning Post*, September 15, 1991; and "China's 'Iron Fist' may be losing its grip," *Asian Wall Street Journal*, September 27, 1991.

<sup>28</sup> "China Dissident, Freed After West's Pressure, Still Speaks Out Despite Risk," *The New York Times*, September 22, 1991.

to admit guilt and abandon their dissident ways, such treatment often continues beyond the trial, sometimes even throughout the term of imprisonment. A particularly disturbing case in 1991 concerned Zhou Zhirong, a thirty-year-old middle school teacher from Xiangtan, Hunan Province, who was sentenced to five years' imprisonment for "counterrevolution" after making pro-democracy speeches during the 1989 demonstrations. Zhou was consigned to Longxi Prison and subjected, along with other political prisoners, to the notorious "strict regime" (*yanguandu*) treatment.<sup>29</sup> Zhou tried to organize the other political prisoners by convening secret discussions among them. On February 5, 1991, according to a recently escaped former prisoner familiar with the details of the case, all were consequently put in solitary confinement in the prison's "black rooms"—windowless, pitch-dark boxes of less than two square meters, where the floor was awash with fetid water and the only "bed" was a low, one-foot wide concrete platform.

But for Zhou Zhirong, the torment had scarcely begun. On February 12, he was secretly transferred to a solitary confinement unit in Provincial No. 3 Prison at Lingling, and secured hand and foot to a punishment device called the "shackle board" (*menbanliaob*)—a raised, horizontal wooden structure the size of a door, equipped with shackles at the four corners and a hole at the lower end for bodily functions. He was held, without respite, on this revolting device for three full months. When he showed continued resistance by shouting at his jailers, a filthy rag was stuffed in his mouth, to be removed only at feeding times. According to Asia Watch's informant, Zhou had become severely psychiatrically disturbed by the time he was removed from the "shackle board" in May 1991.

Another example of severe prisoner abuse came to light one week before U.S. Secretary of State James Baker's visit to Beijing in November, when six prominent dissidents in Liaoning Province, currently serving sentences ranging from four to twenty years on account of "counterrevolutionary" involvement in the 1989 pro-democracy movement, announced their intention to begin a hunger strike on November 15, declaring that they could "no longer bear the Chinese

---

<sup>29</sup> The existence of these "strict regime" units is acknowledged by the authorities only in classified, internally circulated publications. One such publication, a penal officials' journal entitled *Theoretical Studies in Labor Reform and Labor Reeducation*, stated in its April 1989 issue that prisoners assigned to "strict regime" treatment receive only basic foodstuffs, may not receive visitors or letters, are subjected to physical and "disguised" physical punishment, and are forced to perform excess manual labor and receive insufficient sleeping time. In fact, conditions are far worse even than this.

**Communists' persecution and torture.<sup>30</sup> In a statement issued by friends and relatives in Beijing, the condition of the six dissidents — all of whom were undergoing "strict regime" treatment in a labor camp known outwardly as the Lingyuan General Car Factory Disciplinary Brigade — was described as follows:**

**Every day they are forced to work for fourteen hours. The prison authorities assigned them extremely heavy work quotas, and they are viciously beaten if they fail to meet these. The same happens if they refuse to say things contrary to their consciences during 'political examination' sessions. In fact, the prison wardens beat and curse them at will — punching and kicking them or assaulting them with electric batons and leather belts. Many prisoners have already suffered injuries in this way. Prison warden Yang Guoping, his assistant Kiao Lie and other Communist Party thugs and henchmen subject them to degrading treatment and instigate the 'convict heads and cell bosses' (i.e., other prisoners) to persecute them.**

**Sanitation and medical facilities in the prison are utterly foul and deficient, and inmates are never given proper medical treatment when they fall ill. More than forty prisoners at a time are crammed into cells measuring just over twenty square meters.**

**After a whole day's exhausting labor, all that they are given to keep themselves alive is a corn-flour bun and some vegetable soup. Needless to say, they are not allowed to read anything or do any writing, and the guards strip them of their right to receive letters on the slightest of pretexts. The authorities are pursuing a 'total assault' policy against these political prisoners, aimed deliberately at breaking them physically, spiritually and morally.**

**After news of the impending hunger strike was reported internationally, the authorities issued angry denials and closed off all channels of further information**

---

<sup>30</sup> The six dissidents (and their prison sentences) are: Beijing student leaders Liu Gang (six years) and Zhang Ming (four years); and independent labor activists Tang Yuanjuan (twenty years), Li Wei (thirteen years), Leng Wanbao (eight years) and Kong Xianfeng (three years). See "Hunger Strike by activists for Baker visit," *South China Morning Post*, November 7, 1991. Quoted extracts above are from a copy of the full hunger-strike appeal obtained by Asia Watch.

on the condition of the six dissidents held at Lingyuan. But in December, Asia Watch learned that Liu Gang, one of the student leaders serving a six-year sentence at Lingyuan, refused to submit to forced feeding and was beaten so badly his arm was broken. No further details were available on his condition or that of the other hunger-strikers.

#### **Persecution and harassment of released dissidents**

Pro-democracy activists released from prison in the course of 1991 continued, like their counterparts of the year before, to suffer a wide range of government-imposed punishments, restrictions and petty harassments. These may include: loss of employment, income and housing; surveillance by public security authorities; expulsion from school or college; restrictions on traveling (including being forbidden to leave China for study in the United States); frequent mandatory reporting to security officials; and compulsory transfer of household registration (*hukou*) to a small town or the countryside.

In addition, many released dissidents return home in poor or broken health, typically suffering from tuberculosis, skin diseases, malnutrition and, in some cases, damaged organs from beatings received in prison. Medical treatment in the cases known to Asia Watch was poor or nonexistent. When hospitalization was required, families themselves had to bear the costs — sometimes while their relatives were still imprisoned, and always after they were released — even if their medical condition was directly related to their imprisonment.

#### **Repression of religious dissidents**

In the course of the Party's intensified drive in 1991 to muzzle and intimidate all alternative sources of authority in society, several dozen more Catholic priests and believers who refused to renounce their allegiance to the Vatican, together with an unknown number of unofficial Protestant and Buddhist worshippers, were rounded up and imprisoned.

This latest crackdown against unofficial religious groups was first announced by the authorities in a directive in February. According to the document: "The public security department at all levels...must resolutely attack those counterrevolutionaries and others who make use of religion to carry out destructive activities." Moreover, the security forces were urged "to firmly resist the infiltration of foreign religious inimical forces." The message was reinforced in November, when Tao Siju, minister of public security, stated that the security forces would make the crushing of illegal underground organizations, including

religious units, their priority.<sup>31</sup>

In mid-September, two-thousand Protestants worshipping in a "house church" on the outskirts of Wenzhou, Zhejiang Province, were reportedly dispersed by a large contingent of police, some of whom fired shots into the air. Several preachers were beaten and detained, though later released. In subsequent weeks, missionary sources in Hong Kong reported that large-scale arrests of activists of underground churches had taken place in the provinces of Zhejiang, Anhui, Jiangsu and Henan and in the cities of Shanghai, Guangzhou and Shenzhen.<sup>32</sup>

On June 11, Bishop Joseph Fan Zhongliang, 75, was arrested and held for five weeks, apparently in an act of official retaliation for Pope John Paul II's appointment shortly before of another dissident Catholic leader, Ignatius Gong Pinmei, now 90, to the level of cardinal. Bishop Fan had earlier spent fifteen years (1967-1982) in a forced labor camp in Qinghai Province.<sup>33</sup> In July 1991, an Italian priest, Father Ciro Biondi, was expelled from China, also in apparent retaliation for the appointment of Cardinal Gong.<sup>34</sup>

In September, the Rome-based church publication *Asia News* reported that eight bishops in Hebei Province had been detained in the previous seven months and sent to political reeducation camps, and the authorities had opened another such camp for bishops and priests in Shaanxi Province. In addition, the journal reported, fifteen more priests had been arrested in July in Fujian Province.<sup>35</sup> In December, a spokesman for the official Chinese Catholic Patriotic Association accused underground priests and bishops appointed by the Pope of "spreading heresy" and confirmed that a number of them had been arrested after holding a secret episcopal conference in northwest China in November 1990. The

---

<sup>31</sup> Associated Press, November 12, 1991; see also "Crackdown on 'illegal churches,'" *South China Morning Post*, November 13, 1991.

<sup>32</sup> "Crackdown on 'illegal churches,'" *South China Morning Post*, November 13, 1991.

<sup>33</sup> "Bishop, 75, arrested in retaliation against Pope," *Hong Kong Standard*, June 21, 1991. Gong Pinmei had spent thirty years in prison, from 1955 onward, but in 1988 was allowed to move to the United States, where he now lives.

<sup>34</sup> "Priest expelled as protest," *Hong Kong Standard*, July 5, 1991.

<sup>35</sup> "Catholic repression worsening: claim," *South China Morning Post*, September 14, 1991.

spokesman added that those arrested were "guilty of founding an illegal organization," but denied any connection between this and the detainees' religious beliefs.<sup>36</sup>

In October, public security authorities in Shanghai arrested at least five Chinese Jehovah's Witnesses, and expelled an Australian businessman who had been holding secret Bible-reading sessions with them. The authorities told the businessman that other foreigners involved in religious activities would also be expelled soon.<sup>37</sup>

---

<sup>36</sup> "Catholic priests accused of heresy," *South China Morning Post*, December 17, 1991.

<sup>37</sup> "Jehovah's Witnesses held," *South China Morning Post*, November 8, 1991.

## **Repression of ethnic minorities**

Repression continued in Tibet with more arrests of Tibetans for participating in peaceful demonstrations both in the Tibetan Autonomous Region (TAR) and the Tibetan regions of Gansu and Qinghai provinces. New information emerged about trials of Tibetan dissidents which were notable chiefly for their lack of fairness and for the heavy sentences handed down for nonviolent political activities. Prison conditions were harsh, and efforts by prisoners to protest those conditions led to severe punishment. The Chinese government permitted several international delegations to have access to Tibet to discuss human rights, among other issues, but the visits took place under tightly controlled conditions.

Numerous demonstrations in support of independence took place in Lhasa, the capital of the Tibetan Autonomous Region, and in a Tibetan region of Qinghai. On March 17, at least five monks from Dhing-gar, a monastery in the Toelung area of Lhasa, were detained for taking part in a pro-independence demonstration in the Barkhor, the square in front of the Jokhang, Lhasa's most important temple. Also in March, four monks from Drepung, the largest monastery in Tibet, were detained for political activities that included putting up pro-independence posters on the monastery walls. Dozens of small demonstrations took place in Tibet after the Chinese government's commemoration on May 23 of the fortieth anniversary of Tibet's "liberation" in 1951. In August, a monk and a nun were detained for peacefully demonstrating in the Barkhor. On September 14, six people, including five monks, were taken into custody for unfurling the Tibetan flag in the Barkhor. One of the six died three days later, of head injuries. Lhasa sources said they were promised an investigation by local authorities.

New information surfaced about trials, both those that took place in 1991 and one in 1990. In July 1991, documents concerning the December 24, 1990 trial of a human rights activist were smuggled out of Tibet. Jampa Ngodrup, 45, a doctor in Chengguan Qu Municipal Clinic in Lhasa, was detained on October 20, 1989 and formally arrested on August 13, 1990. He was accused of having, at the end of 1988, arranged for a colleague to collect a list of all those arrested during the March 5, 1988 demonstrations in Lhasa. He then allegedly passed the list to a Tibetan woman whom the trial documents describe as a "foreign resident." The woman, in turn, gave Jampa Ngodrup a list of those injured and arrested in the December 10, 1988 protests, which he copied. He was accused of being a foreign agent and sentenced to thirteen years in prison.

On February 8, two men named Tseten Norgye and Thubten Tsering, and a woman named Sonam Choedron were tried on charges of spreading counterrevolutionary propaganda. Tseten Norgye had been detained on April 20,

1989 for distributing a document calling on Tibetans to support independence and the Five Point Proposal of the Dalai Lama. He was formally arrested on November 10, 1989 and, after a one-day trial, was sentenced to four years in prison. Thubten Tsering, a member of the Communist Party, was sentenced to five years in prison, and Sonam Choedron to two. She was released in April. There were reports from Tibetan sources in early November 1989 that Tseten Norgye had been tortured.

The most telling evidence of poor conditions in prisons came on March 31, when two prisoners in TAR Prison No. 1, in Drapchi, Lhasa, tried to hand visiting U.S. Ambassador James Lilley a petition about mistreatment and torture of prisoners. Prison officials grabbed the petition out of Lilley's hand and refused to give it back. The two prisoners, Lobsang Tenzin and Tenpa Wangdrak, together with three other men, were put in solitary confinement in Drapchi, then transferred on April 27 to a labor reform camp in Nyingtri, three hundred kilometers east of Lhasa, and the next day reportedly transferred again to a small prison in Damchu. Tibetan sources say they were moved back to Lhasa on July 27; Asia Watch was told by officers of the Bureau of Labor Reform in the Tibetan Autonomous Region in early August that they were still in Nyingtri.

A series of protests over the transfers held by other political prisoners in Drapchi resulted in widespread beatings of the protestors and other punishments.

In December 1991, Tibetan sources reported that Sonam Wangdu, a thirty-six-year-old prisoner arrested for involvement in the killing of a policeman during the demonstrations in Lhasa on March 5, 1988, was near death, without medical treatment, in Drapchi prison.

At least three international delegations visited Tibet during the year to discuss the human rights situation. An Australian government delegation ended a thirteen-day visit to China and Tibet on July 26; despite repeated requests, it was not able to get access to Drapchi prison, although it was given specific information about a dozen Tibetan prisoners. A delegation under the auspices of the National Committee on U.S.-China Relations, in which Asia Watch took part, visited Tibet between July 31 and August 8. The group did gain access to Drapchi, but virtually all male prisoners had been removed from their cells before the visit. Two women prisoners with whom members of the group had a chance to speak briefly — in the company of prison officials — were both nuns, serving time for taking part in political demonstrations.

In recognition of continuing human rights abuses in Tibet, the first U.N. resolution on Tibet in twenty-five years was passed on August 23 by the U.N. Subcommission on the Prevention of Discrimination and the Protection of Minorities. It said that human rights violations "threaten the distinct cultural,



religious and national identity of the Tibetan people."

Unrest continued in Xinjiang, the northwestern frontier province inhabited mainly by Muslim ethnic groups, following the April 1990 Baren uprising. The protest was suppressed by the PLA with the loss of several dozen Muslim lives.

In July 1991, the Hong Kong magazine *Zheng Ming* (*Contention*) reported that during the previous two months a series of armed rebellions seeking independence, the localization of military forces and the right to organize political parties had broken out in remote areas of Xinjiang bordering the Soviet Union. The magazine stated that for thirty-six hours in mid-May, government buildings in Tacheng city were occupied by armed crowds and demands were made for a transfer of power; official reports were cited to say that 140 "armed bandits" had been killed, wounded or arrested in the subsequent army crackdown. In addition, *Zheng Ming* reported that on June 11, three thousands demonstrators gathered before the government headquarters in Bole city demanding the democratic election of city leaders; when violence erupted the next day, locally stationed troops were sent in and up to five hundred demonstrators were reportedly killed or wounded. Both areas were subsequently closed off to foreigners, and martial law was imposed in the Bole area.<sup>38</sup> Asia Watch is concerned that the authorities appear to have used grossly excessive force in dealing with these incidents of ethnic unrest and that a considerable number of those killed or injured may actually have been peaceful demonstrators.

In November, the official *Xinjiang Daily* reported that five local men had been sentenced to between one and three years' imprisonment for organizing a protest demonstration by taxi drivers in Urumqi, the regional capital. The newspaper said that the demonstration had begun over a dispute about how much of their fares the drivers should be required to hand over to the city authorities, but this was just "an excuse," it claimed. The report contained no allegations of violence by the demonstrators, and it appears that the five were imprisoned solely for exercising their right to freedom of expression and assembly.<sup>39</sup>

The year 1991 also saw a severe new round of repression in China's third major ethnic region, Inner Mongolia. The central authorities in 1981 officially designated the region as having suffered among the heaviest fatalities and worst

---

<sup>38</sup> "Xinjiang fasheng wuzhuang baodong," *Zheng Ming*, July 1991, as reported in Federal Broadcast Information Service, July 3, 1991.

<sup>39</sup> Reuters, "Sentence of hard labor for protest," *South China Morning Post*, November 6, 1991.

persecution of any part of the country during the Cultural Revolution.

On May 11, the Party Committee of the Inner Mongolian Autonomous Region issued top-secret "Document No. 13" banning and ordering a major crackdown on two small unofficial organizations which had been recently formed by ethnic Mongol intellectuals and cadres in the region. The organizations were called the Ih Ju League National Culture Society and the Bayannur League National Modernization Society. On May 15, Huchuntegus and Wang Manlai, two leaders of the Ih Ju League, were arrested, and twenty-six other members of the society's provisional council were placed under house arrest. According to an appeal issued on June 30 by an underground dissident group called the Inner Mongolian League for the Defense of Human Rights, the authorities later moved the two to a secret prison facility in Hohhot, the regional capital, used to hold important political prisoners and administered by Section No. 5 of the provincial Public Security Department. The men's wives reportedly have been subjected to regular harassment, and have not been allowed to visit their husbands or informed of their place of detention. Before their arrest, Wang Manglai and Huchuntegus were employed as officials at the Ih Ju League's Office of Education.

The dissident appeal said that another leader of the unofficial association, Sechinbayar, a research fellow at the Ih Ju League's Ghengis Khan Research Center, and others from the group of twenty-six placed under house arrest had been summoned frequently for interrogation and subjected to intimidation, insults and corporal punishment to force them to confess. The authorities reportedly indicated that some of the twenty-six would later be formally arrested, probably eight of the more active ones including Sechinbayar.

Fewer details have emerged of the crackdown against the Bayannur League National Modernization Society, probably because it was based in a more remote and inaccessible part of the region, bordering the Soviet Union. However, the June 30 appeal reported that the society's leader, Baoyintaoktao, had been secretly tried (the length of the sentence given is not known) and incarcerated in the same secret prison in Hohhot as the two leaders of the Ih Ju society. It added that seven other members of the Bayannur dissident group had been escorted by public security authorities to a detention facility in the league's Linhe municipality, and that nothing further had been heard of them. Moreover, the appeal stated that following protests held in Hohhot and other parts of Inner Mongolia to commemorate the second anniversary of the June 4, 1989 massacre in Beijing, a journalism sophomore at the University of Inner Mongolia, an ethnic Mongol named Zhang Haiquan, had been arrested and was being held incommunicado in an unknown location.

In October, *Radio France Internationale* reported that Ulan Chovo (Wulan

Sabu in Chinese), a thirty-seven-year-old professor of history at the University of Inner Mongolia, had been arrested on July 11 on charges of giving documents concerning human rights violations in the region to a foreigner. Ulan Chovo is thought to have been one of the leaders of the Ih Ju League National Culture Society; according to an Asia Watch source, he too has been incarcerated in a secret prison in Hohhot. The allegations of passing documents to a foreigner may well refer to the above-cited top-secret Party Document No. 13 and the June 30 appeal by the Inner Mongolian League for the Defense for Human Rights. In August, a Beijing-based journalist for *The Independent* of London, Andrew Higgins, was expelled from China, having earlier been caught in possession of these documents. In July, the full text of the documents was published in English translation by Asia Watch. (However, neither Higgins nor Asia Watch had obtained the documents directly or indirectly from Ulan Chovo.)

Two other ethnic Mongol dissidents known to be imprisoned in Inner Mongolia on account of their peaceful exercise of the right to free expression are Bater, 35, formerly an official in the government planning commission of Xilingol league,<sup>40</sup> and Bao Hongguang, also 35, an engineer. Both men were leaders of a large student protest movement in 1981 against Han domination of the Inner Mongolian Region. In the summer of 1987, the two escaped across the border to the Mongolian People's Republic and sought political asylum there, but were later extradited to China and each sentenced to eight years in prison.<sup>41</sup>

### **The Right to Monitor**

Even as the Chinese government sent delegations, including one from the Institute of Law of the Chinese Academy of Social Sciences, to the United States to discuss human rights with American human rights organizations and members of Congress, independent human rights monitoring remained illegal in China and Tibet. As mentioned above, an organization called The Study Group on Human Rights Issues in China, formed in early 1991 in Shanghai by a student named Gu Bin and a veteran dissident, Yang Zhou, was smashed in April when Gu and Yang were arrested.

---

<sup>40</sup> A league is an administrative district in Inner Mongolia.

<sup>41</sup> For more details, see Asia Watch, "Crackdown in Inner Mongolia," July 1991, and Asia Watch, "Crackdown in Inner Mongolia, (Update No. 1)," December 1991.

**In June, Asia Watch received several documents from an underground organization in Inner Mongolia called the Inner Mongolian League for the Defense of Human Rights, formed to protest the intimidation of Mongolian intellectuals and, specifically, the imprisonment of two men who tried to form groups to promote Mongolian culture. Nothing more is known about the League.**

**Hou Xiaotian, wife of dissident Wang Juntao, and other individuals were fearless in protesting violations of human rights, but any effort to form a monitoring organization in China would have landed them in jail.**

**In Tibet, collecting the names of imprisoned pro-independence activists and passing them on to foreigners was considered tantamount to espionage, as could be seen from the trial of Jampa Ngodrup described above.**

**China did not permit international human rights monitoring groups as such to conduct fact-finding missions in China or Tibet, but it granted Asia Watch's executive director an official visa to take part in a study group on Tibet in August, which discussed human rights issues with senior government officials and visited Drapchi prison in Lhasa.**

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

**China's dismal human rights prognosis in 1991 was a persistent indictment of President Bush's approach toward that country. Once again, President Bush continued to shelter China from the congressional threat to enact significant economic sanctions, and the State Department did its best to smooth the disruptions in U.S.-China relations caused by Beijing's recalcitrance on human rights.**

**The president himself bears responsibility for a policy that has become increasingly discredited. It is widely understood that President Bush, a former U.S. ambassador to China, sets the agenda on China as for no other country in the world. (State Department critics label President Bush the Department's "China desk officer," implying that the president is personally involved in the smallest details of U.S.-China relations.) There has been no letup in sharp congressional criticism of this policy in light of the meager fruit it has borne.**

**The significance of the president's extraordinary personal identification with the Chinese leadership cannot be overstated. It signals to the repressive regime that it has nothing to fear from the United States, no matter how much criticism it receives from other quarters.**

**President Bush articulated his views about U.S.-China relations at a speech on May 27 at Yale University. He attacked critics of his China policy, stating: "Some**

**argue that a nation as moral and just as ours should not taint itself by dealing with nations less moral, less just. But this counsel offers up self-righteousness draped in a false morality. You do not reform a world by ignoring it." He went on to characterize the opposition to continuing Most Favored Nation (MFN) trading status as "not moral."<sup>42</sup>**

**This policy (MFN for China) has generated considerable controversy. Some critics have said revoke MFN or endanger it with sweeping conditions — to censure China, cut our ties and isolate them. We are told this is a principled policy, a moral thing to do. This advice is not new, it's not wise, it is not in the best interest of our country, the United States, and in the end, in spite of noble and best intentions, it is not moral.**

**Throughout the MFN debate, Administration officials consistently made the argument that a policy of constructive engagement with China had the best chance of success in promoting reforms and human rights improvements. This argument had two dimensions: first, the belief that the U.S.-China trade made possible by MFN status provides a framework for discussing human rights and other issues of concern to the United States; and second, the view that withdrawing MFN would lead to the isolation of those in China seeking to liberalize the society, particularly in the market-oriented coastal provinces. The Administration refused to consider the likelihood that China's hard-liners would accommodate to any conditions placed on MFN — beyond those already contained in the Jackson-Vanik provision — rather than risk losing the huge economic and political benefits of MFN. Thus the White House and State Department labeled any new conditions on MFN as tantamount to eventual withdrawal of the trade status.**

**Critics of the president's policy, on the other hand, maintained that constructive engagement, combined with the lifting of most of the most important**

---

<sup>42</sup> Most Favored Nation trading status is the term used to designate normal trade relations with the United States. Communist countries are prohibited by U.S. law from receiving MFN status unless the president waives the provisions of the law on an annual basis. Since the Beijing massacre of June 1989, the MFN renewal process has become increasingly controversial in the U.S. Congress. Legislation placing human rights conditions on MFN for China passed the House of Representatives by an overwhelming margin in 1990, but languished in the Senate. Accordingly, MFN was maintained for Chinese export to the United States throughout 1990 and 1991.

sanctions imposed against China after June 1989, had not produced significant human rights improvements. They argued that China's leaders would respond only to a combination of diplomatic and economic pressure, and that providing MFN unconditionally simply strengthened the hand of the hard-liners. Beijing's ideologues could essentially have it both ways, pursuing a policy of "openness" to the West to acquire badly needed Western trade and investment, while at the same time maintaining a policy of harsh repression. Human rights advocates pointed to conditions on MFN as the most effective way to link China's domestic behavior with its international economic performance. A package of flexible, measurable human rights conditions on MFN in 1992 would give the Bush Administration and the Chinese government a powerful incentive to work towards concrete human rights improvements. The president's personal involvement in setting China policy and his assault on his critics successfully deterred Congress from adopting legislative alternatives in 1991, notwithstanding the unpopularity of current policy with both Democratic and Republican legislators, although the MFN issue remained unresolved at year's end.

In early 1991, there were some signs that the Administration might be using the threat of withdrawing MFN to encourage human rights progress. On May 5, Robert Kimmitt, the under secretary of state for political affairs, visited China for discussions about a variety of U.S. concerns, including trade, human rights and nuclear proliferation. Secretary Kimmitt reported that he had called upon the Chinese to issue an amnesty for those who engage in "non-violent political acts." He explained: "I made it clear that a decision on MFN would be made in the political context of concerns about human rights, nonproliferation and trade, and that prospects of renewal of MFN would be improved by progress in these areas."<sup>43</sup>

Kimmitt's visit was preceded in March by a trip to Beijing by Assistant Secretary of State for East Asian and Pacific Affairs Richard Solomon. Secretary Solomon said that a "dialogue" was continuing with Chinese security officials regarding the cases of 150 dissidents. "We feel we've institutionalized the dialogue" which had been underway since the previous December. "That is in my view a breakthrough," he asserted.<sup>44</sup> Hopes that the Administration would use the MFN debate to extract major human rights concessions were dashed when the White House and the State Department made it clear that they opposed even the

---

<sup>43</sup> Kathy Wilhelm, Associated Press, "US Envoy Talks with Chinese on Human Rights, Trade," May 7, 1991.

<sup>44</sup> United Press International, March 12, 1991.

**mildest conditions on MFN for China when Congress begin deliberations on the issue in June. On July 11, the House passed legislation attaching strict human rights conditions to MFN by a lopsided 313-to-112 margin. The Senate's version of the bill placed not only human rights conditions on MFN but also conditions relating to China's nuclear proliferation and trade policy. Having lost badly in the House, White House officials and President Bush himself lobbied many senators, persuading enough of them to back unconditional MFN that his expected veto was sure to be upheld. The vote, on July 23, was fifty-five to forty-four in favor of the conditions bill — twelve short of the sixty-seven votes needed to override a veto by a two-thirds majority. Stating that "we are very pleased with the vote," Marlin Fitzwater, the White House spokesman, added, "the president has said that he will veto this bill, and he will."**

**In October, a House-Senate conference was convened to reconcile the two bills and issue a "conference report" for final adoption by Congress. On November 26, the House passed the conference bill by an overwhelming vote of 409 to 21. The bill imposes nonwaivable human rights conditions on MFN — notably the release of citizens imprisoned as a result of nonviolent expression of their political beliefs in connection with the Tiananmen Square and post-Tiananmen repression, as well as a full accounting of those detained, accused or sentenced for such expression. The legislation also spells out several "human rights objectives" on which there must be overall progress for the president to extend MFN when it next comes up for renewal in June 1992.**

**The strong bipartisan consensus behind the bill in the House — a substantially larger margin than the vote on the original legislation — was fueled by congressional disappointment over the meager outcome of Secretary of State James Baker's visit to China the week before. The Senate is not expected to take up the conference bill until it reconvenes in January 1992.**

**The president's ability to override a legislative challenge to his China policy — if he remains able to do so following the new Senate vote — is by no means evidence that the policy enjoys widespread support. Indeed, the ranks of those disgruntled with China grew even larger in 1991, due to new revelations about a category of abuses that had previously escaped close scrutiny. Asia Watch released in April secret Chinese government documents describing a policy of exporting prison-made goods to the United States, which confirmed what many had long suspected: the Chinese authorities are using the forced labor of over a million prisoners in the Chinese gulag to bolster their export economy. The official documents made it plain that China's central leadership was not only aware of the practice but was actively promoting such exports to the United States, in**

**contravention of U.S. law.<sup>45</sup>**

**The question of prison labor in China became a major human rights issue in 1991 for several reasons. First, many of the prisoners producing export goods are sent to the camps without any judicial hearing whatsoever and others are forced to stay on after their sentences expire. Second, some of the gulag inmates are political dissidents, arrested for the crime of "counterrevolution"; the imposition of forced labor to punish persons for their political views is strictly prohibited by International Labor Organization Convention 105.<sup>46</sup> Third, working conditions inside these camps are reported to be poor, even dangerous, and in some cases, the prisoners get no remuneration at all.**

**In addition to the human rights concerns, the forced-labor controversy developed into a sort of litmus test of the Chinese government's credibility. Its repeated denials that prison goods were being exported to the United States or were a matter of Chinese government policy, despite clear evidence to the contrary, undercut Beijing's credibility in Congress at a time when the Bush Administration's China policy was predicated on good-faith dialogue and constructive engagement.**

**The forced-labor revelations were a key feature during the dispute between the White House and Congress over MFN for China. Indeed, the House bill included a provision requiring the Chinese to stop forced-labor exports as a precondition to maintaining MFN status.<sup>47</sup> In seeking to sway votes needed to sustain a veto of any legislated conditions on MFN for China, the Administration won the support of at least fifteen undecided senators by persuading them that their concerns about forced labor would be addressed by other means, namely, action by the U.S.**

---

<sup>45</sup> Section 307 of the 1930 Tariff Act, the so-called Smoot-Hawley Act, prohibits the importation of all prison-made goods into the United States.

<sup>46</sup> ILO Convention 105 prohibits the use of forced or compulsory labor "as a means of political coercion or education or as punishment for holding or expressing political views ideologically opposed to the established political, social or economic system."

<sup>47</sup> H.R. 2212 provided that MFN cannot be extended to China in 1992 until China has taken "appropriate steps to prevent the exportation of products made by prisoners and detainees assigned to labor camps, prisons, detention centers and other facilities holding detainees and has allowed U.S. officials and international humanitarian and intergovernmental organizations to inspect the places of detention suspected to be producing export goods to ensure that appropriate steps have been taken and are in effect."



**Customs Service to bar incoming products. In a July 19 letter sent before the Senate vote on MFN to Senator Max Baucus and other undecided senators, President Bush stated:**

**The Department of State will seek to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. Pending negotiation of this agreement, the U.S. Customs Service will deny entry to products imported from China when there is reasonable indication that the products were made by prison labor.**

**The president's promises on the forced-labor issue were empty: none of the promised steps was taken in the months following the Senate's MFN vote. At a hearing before the House Merchant Marine and Fishery Subcommittee on July 17, the Customs Service announced that it had not barred a single product from entering the United States.**

**A stunning broadcast on September 15 by CBS's "Sixty Minutes," which showed actual transactions for the export of prison-made goods to the United States and shocking footage of prisoners laboring in wretched conditions, and an extensive set of articles in *Newsweek*, jolted the Administration into its first concrete steps to restrict Chinese forced-labor exports. Beginning in October, the Customs Service acted to withhold from the U.S. market specific products mentioned in the CBS and *Newsweek* coverage, as well as others (described in detail below.) The Administration came in for particular criticism on the issue of forced labor because of the perception that the Customs Service had been dragging its feet in the pursuit of numerous leads regarding the importation of Chinese forced-labor goods.<sup>48</sup>**

**At September 23 hearings before the House Foreign Affairs Subcommittee on Economic Policy and Trade, Stephen DeVaughn, acting director of the Customs Service's Office of Investigative Programs, justified his agency's lethargy by insisting that the Customs Service's regulations prohibited its agents from barring anything but specific items that can be shown to have been produced by forced labor; if the forced-labor goods are co-mingled with fungible goods made without forced labor, he claimed, the Customs Service is powerless to stop entry of any of the goods.**

---

<sup>48</sup> For example, Senator Jesse Helms compiled a list of some ninety-five different commodities for which there was evidence of forced labor used in their production.

**In the past, however, the Customs Service has told Congress a different story. At hearings in August 1985 before the Congressional Commission on Security and Cooperation in Europe, the Customs Service testified that "the law does not require a finding that a particular item of merchandise imported into the United States is made with forced labor, but rather that goods of a class or kind identical or very similar are made with forced labor." The regulations themselves, which have not changed, appear to permit either interpretation.<sup>49</sup> Because of the Bush Administration's new, narrow reading of the law, literally no products from China were excluded from the United States until political pressure reached intolerable levels after the "Sixty Minutes" revelations in September.**

**After months of dodging angry congressional questions, the Customs Service on October 3 announced that shipments of "Elephant Brand" monkey wrenches and other specific tools produced by three suspect tool companies in Shanghai would be withheld from release in the United States. Additional orders were issued by Customs on October 25, withholding release of all hand tools from the "Shanghai Laodong Machinery Plant" prison factory, and on October 29, blocking the importation of a particular brand of socks produced in Beijing Prison No. 1. Samples of the socks had been obtained by Representatives Frank Wolf and Christopher Smith during a visit to the prison in March and promptly delivered to Customs.**

**On November 1, the Customs Service learned that hand tools made with Chinese prison labor had been exported to San Diego along with a shipment of diesel engines manufactured by Yunnan Province No. 1 Prison. An order withholding the release of the engines was issued on November 14, the same day that NBC News broadcast footage of the engines being delivered to an importer in California. The news program also featured an expose of a San Francisco trade fair at which prison-labor products from Shandong Province were being openly marketed. And on December 2, Customs agents conducted a raid on a plant in Hastings, Michigan, confiscating machine presses made in a Chinese prison and business documents that Customs says prove the company was knowingly**

---

<sup>49</sup> The Reagan Administration, while conceding that the Customs Service is empowered to block importation of entire categories of goods, did not actually take such action. The goods in question at the time of the 1985 hearings were items produced by prisoners in the Soviet Union. According to the September 23, 1991 testimony to Congress of William Van Rabb, the commissioner of Customs from 1981 to 1989, he had reached a decision to ban entire categories of Soviet exports but was overruled by the Reagan White House.

importing prison-made goods.<sup>50</sup>

Although these specific actions by Customs were welcome, its continuing refusal to ban categories of goods when some goods among them are known to be produced with prison labor assures that vast quantities of prison-made goods will continue to be imported into the United States, given China's secrecy about its prison factories.

The Administration's practice of taking only limited steps to block forced-labor imports mirrors its approach to sanctions generally. In his July letter to the Senate, President Bush stated, "I have kept in place a number of sanctions since the Tiananmen Square crackdown which have affected arms sales, high-level contacts, U.S. economic programs and U.S. support for multilateral development bank loans to China." In fact, by 1991 there was almost nothing left of these sanctions, which the Administration had been circumventing or diluting almost since they were imposed. In the case of the ban on military sales, for example, the Administration stopped some sales but approved others, including satellites and high-speed computers. Meanwhile, the Administration continued its policy of abstaining on loans to China by the World Bank and Asian Development Bank that did not meet basic human needs but, according to informed sources, did nothing to prevent such loans from coming up for consideration, and thus effectively allowed the multilateral development banks gradually to resume normal lending to China.<sup>51</sup>

---

<sup>50</sup> The raid on E.W. Bliss Co. came about because of a tip from a competing company. The Customs affidavit seeking a search warrant stated that Bliss officials had visited the prison factory in China and seen inmates at work under armed guards. If Customs can prove Bliss imported the goods knowing they were produced with prison labor, they could be subject to criminal prosecution. *Business Week*, December 23, 1991.

<sup>51</sup> The United States abstained, and did nothing to stop votes on a series of non-basic-human-needs World Bank loans during the first six months of 1991. As reported to Congress, these were: \$168.4 million for medium-sized cities' development, on January 8; \$150 million for Shanghai industrial development, on January 29; \$131.2 million for "Key Studies Development," on February 26; \$70 million for Liaoning Urban Infrastructure, on March 21; and \$153.6 million for Jiangsu Provincial Transport, on April 9. The United States voted for a \$335 million loan for a massive agricultural-irrigation project, on June 4, claiming that it fit the Administration's loose definition of a basic-human-needs loan. At the Asian Development Bank the United States abstained on several approved project loans between January and June: \$70 million for the Shanghai-Nanpu Bridge, on May 28; \$1.7 million for economic reform policies, infrastructure planning, and toll-bridge operations and

Early in 1991, the Administration commented on the harsh prison sentences given to prominent pro-democracy dissidents, and said that it had tried unsuccessfully to obtain consular access to their trials. On February 12, the State Department reacted with subdued criticism to the thirteen-year prison terms received by Wang Juntao and Chen Ziming, calling them "deeply troubling"; questioned the fairness of their trials; said that "no prison sentence imposed for nonviolent political activity can be considered lenient"; and "called] on the Chinese authorities to release all other remaining detainees."

On August 1, Asia Watch sent President Bush a public letter urging his personal intervention on behalf of Wang Juntao, who had announced plans to begin a potentially life-threatening hunger strike until he received medical attention for his steadily worsening liver disease. (Wang had been held under squalid conditions in solitary confinement since April 1991 and, even at the time of his trial, was suffering from hepatitis-B). As word spread of the condition of Wang and his co-defendant, Chen Ziming, who was also in solitary confinement, there was a flurry of international media attention and appeals from Congress, addressed to both the Chinese and U.S. governments. On September 25, by unanimous consent, the U.S. Senate passed a resolution urging President Bush to "communicate directly to the leadership of the Government of [China] the urgent concern of the Congress and American people for the lives and welfare of Wang Juntao and Chen Ziming and to call for their immediate release from prison on medical parole." Despite these appeals and the significance of the case, President Bush declined to intervene or to make a public statement about the two pro-democracy leaders that would have demonstrated his personal concern and commitment to human rights following his energetic efforts to fend off conditions on MFN for China. The State Department told Asia Watch that it had communicated with Beijing through normal channels and "expressed our strong concern to the Chinese...about Wang's deteriorating health," but that the Chinese government had denied that Wang was in poor health or on a hunger strike. The State Department said that it had urged the Chinese government to allow outside observers to visit Wang and Chen, and repeated this request in a public statement issued on August 30.<sup>52</sup>

---

management, the same day; \$67.5 for the Yaogu-Maoming Railway, on June 20; and \$1 million for the Guangdong-Sanmao Railway, also on June 20.

<sup>52</sup> Letter to Asia Watch from Robert Perito, director of the Office of Chinese and Mongolian Affairs, August 16; and statement of Richard Boucher, State Department spokesman, August 30.

**The Administration's oft-repeated claim — up until Secretary Baker's China visit in November — that the ban on high-level diplomatic contacts remained in effect, is not borne out by the record of increasing contacts in the past year. Since December 1990, four separate trips were made by high-ranking State Department officials, including Secretary Kimmitt, Undersecretary for Security Assistance, Science and Technology Reginald Bartholomew, Secretary Solomon, and Assistant Secretary for Human Rights and Humanitarian Affairs Richard Schifter.**

**On November 15 to 17, the ban on high-level contacts officially ended when Secretary Baker himself went to China, without obtaining advance concrete assurances that Beijing would make meaningful concessions on human rights. A U.S. official acknowledged that "no deal" had been made with the Chinese, and that "it is a bit of a gamble for the U.S.-China relationship."<sup>53</sup>**

**As plans for Baker's visit were announced, Asia Watch revealed the existence of an official State Department list of political prisoners that had been submitted to the Chinese authorities in June. It is particularly unfortunate that Secretary Baker went to Beijing in the absence of any progress on the list. The list grew out of a trip to China by Secretary Schifter in December 1990, when he presented the authorities with an earlier version that contained the names of 150 political prisoners. The gesture, which was announced to the press, was important as an indication of the Administration's concern about human rights. In the first several months of 1991, Secretary Schifter's office took the welcome step of working with U.S.-based human rights groups to expand the list to over eight hundred detainees who were not known to have engaged in anything more than peaceful political or religious activities. In June, the expanded list was formally but quietly submitted to the Chinese government, but the Chinese blackmailed the State Department into silence for the next six months, despite the lack of any significant response from the Chinese. State Department officials told Asia Watch on several occasions that the Administration agreed to keep the list secret at the insistence of the Chinese government, which threatened to cut off the nonexistent "dialogue" on human rights if the list was made public.**

**Secretary Baker's visit was a huge propaganda coup for Beijing's leaders, but it produced meager results in terms of human rights. As he left Beijing, Baker acknowledged there was no "breakthrough" on human rights, and other U.S. officials were said to be "very disappointed" at China's intransigence.<sup>54</sup> Baker**

---

<sup>53</sup> Reuters, November 12, 1991.

<sup>54</sup> James Gerstenzang, "US Concedes It Failed to Sway China on Rights Issues," *The Los Angeles Times*, November 19, 1991.

announced that the United States finally had been given an accounting of the prisoners on the eight-hundred-plus list — that is, information on who had been convicted, who was still under investigation, who had been released, and who could not be identified — but the Administration has not revealed the quality of the information or made it public.<sup>55</sup>

Prior to the visit, Asia Watch and several members of Congress had urged Secretary Baker to arrange to meet with released dissidents in Beijing to send a visible message to the authorities and to offer moral support to those still in detention. In a calculated insult to Baker and to American concerns about human rights, the Chinese abducted two prominent dissidents, Hou Xiaotian (wife of Wang Juntao) and the journalist Dai Qing, to prevent them from attending meetings with Baker's delegation that had been arranged by the U.S. Embassy. Hou was released on November 17, just hours after Baker left China, but Dai Qing was spirited away by police and held for four days by staff of the newspaper *Guangming Daily*, until November 20. Meanwhile, on November 18, State Department spokesman Richard Boucher repeated assurances received from the Chinese Foreign Ministry that Dai Qing "had not been arrested and is free," while acknowledging that U.S. embassy officials had been unable to make contact with her. Boucher emphasized that assurances had been given to Baker that "any person against whom no criminal proceedings are pending will be allowed to travel abroad after completing the usual formalities." He also said that "we assume she [Dai] would qualify for a permit [to travel]" based on these assurances.<sup>56</sup> This guarantee was the most significant human rights concession that Baker obtained during his visit.

Access to prisoners by the International Committee of the Red Cross was also on Baker's agenda for the talks, but there was no indication of specific progress made on the issue. Similarly, on the matter of forced-labor exports, the "memorandum of understanding" first promised by President Bush in July was agreed to "in principle."<sup>57</sup> But Baker failed to persuade the Chinese to allow

---

<sup>55</sup> Although Asia Watch has not yet seen the Chinese government's responses, we understand that the data is limited to name lists only, with no details about dates of arrest or release, current whereabouts, or conviction status, and that in over two hundred cases the Chinese authorities claim to have no information on the person.

<sup>56</sup> Dai was invited to Harvard University to accept a Neiman Fellowship, but had been denied an exit permit. She was finally granted a permit on December 16.

<sup>57</sup> Statement by Secretary Baker, Beijing, November 17, 1991.

expanded U.S. or international access to prison factories and farms, although this was a crucial component of the "memorandum" and, in light of documented Chinese deception on the issue, necessary to make the agreement viable.<sup>58</sup> As of early December, negotiations on the memorandum were continuing.<sup>59</sup>

One week after Baker's visit, the Chinese government announced that one prisoner would be freed and one former prisoner still facing charges would be allowed to leave the country, apparently as a gesture in delayed response to the president's decision to end the ban on high-level exchanges.<sup>60</sup>

Baker's trip signaled the utter failure of the Administration's policy of "constructive engagement" with China. The failure was sharply underlined by the refusal of China's paramount leader, Deng Xiaoping, to see Baker to accept a letter from President Bush appealing for concessions. The letter was finally read aloud by Baker during his final meeting with the Chinese foreign minister in an attempt to salvage the floundering talks.<sup>61</sup> Despite the minimal results, the Administration seemed wedded to its China policy. In the immediate aftermath of

---

<sup>58</sup> Robert Perito, director of the Office of Chinese and Mongolian Affairs, testified at a U.S. Customs Service hearing on November 1 that the State Department had "every expectation" that it would obtain "greater access" as a result of the memorandum of understanding. He said that at the time only thirty-one of China's 680 prisons were "open to foreigners." The total figure is low because it does not include labor-reform or reeducation-through-labor facilities.

<sup>59</sup> Testimony by Robert Perito before the House Subcommittee on International Economic Policy and Trade, December 5, 1991: "The memorandum of understanding remains in negotiation...[Since the Secretary's visit] we have provided the Chinese with a draft. The Chinese have provided us with a counter draft. We have provided them with a proposal which melds the two drafts together...Our proposal provides for joint inspections that Americans would be allowed to engage in investigations..."

<sup>60</sup> It was announced, through a U.S. businessman, that China would release the student leader Wang Youcai and allow Han Dongfang, an ill labor organizer released from jail but with charges still pending against him, to leave the country. S.L. Law, "Tiananmen Student Leader To Be Freed," *Hong Kong Standard*, November 23, 1991. As of mid-December, these actions had yet to occur.

<sup>61</sup> Jim Mann, "Baker Runs into the Diplomatic Great Wall of Resistance," *The Los Angeles Times*, November 24, 1991.

the Baker trip, Administration officials expressed confidence that they still had the votes in the Senate needed to prevent a congressional override of the president's expected veto of legislation conditioning extension of MFN on human rights grounds.<sup>62</sup> In closed briefings with the secretary of state, who carefully avoided public questioning by the media or Congress following his return, members of Congress from both parties expressed dissatisfaction with the trip's outcome. But it remains unclear whether frustration at lack of progress on human rights could ultimately provoke Congress and the Administration to agree on a human rights policy toward China that moves beyond diplomatic dialogue to include economic pressure.

### **The Work of Asia Watch**

Asia Watch devoted more time and resources to work on China and Tibet than on any other country or region in Asia. Its office in Hong Kong produced a steady stream of information that in some cases changed the nature of the debate over human rights in China and in others gave new and important substance to the debate already under way. The Asia Watch staff in Washington was able to use that information effectively in Congress to challenge aspects of U.S. policy on China, but the impact of the research went far beyond the United States. Asia Watch's findings made headlines in newspapers in Hong Kong, Japan, Australia, Europe, Thailand and elsewhere.

Much of the information generated in Hong Kong came from leaked documents or *neibu* (restricted circulation) journals that enabled Asia Watch to analyze central government policy. The most notable example was a series of four articles published in a *neibu* journal for labor reform officials that proved beyond question the government's encouragement of labor reform camps to use cheap, forced labor to boost export earnings. U.S. law prohibits the import of goods made by forced labor, and Asia Watch tried to use China's deliberate violation of that law to raise concerns in the United States about who was detained in those camps and the conditions under which they were held. Prison labor quickly became one of the major human rights issues in Congress as a result.

---

<sup>62</sup> "We didn't lose any ground [in Congress as a result of the Baker trip] and we didn't gain any," an Administration official was quoted as saying. Don Oberdorfer, "China Trip Sways Few in Congress," *The Washington Post*, November 22, 1991.



**Asia Watch was also able to obtain documents from the trials of leading dissidents in early 1991. Combined with interviews of friends and professional colleagues of those on trial, the documents provided key insights into why people like Chen Ziming and Wang Juntao were branded the "black hands" of the Tiananmen Square protests, how others connected with their activities became guilty by association, and how utterly unfair the judicial process was.**

**Another set of documents leaked to Asia Watch concerned a crackdown on groups organized to promote Mongolian culture and language in Inner Mongolia. The documents included secret party directives and statements handwritten in Mongolian script from an underground human rights organization in the province. The ability of Asia Watch's Hong Kong office to obtain, translate and analyze these documents contributed to the respect accorded the office by journalists, diplomats and others interested in developments in China.**

**Dissidents recently escaped from China supplied Asia Watch with detailed, up-to-the-minute descriptions of prison conditions, the use of torture, and lists of those known to be detained throughout the country. The Hong Kong office helped to arrange medical and other assistance for released dissidents and their families, and for the families of still-detained prisoners. It maintained regular contacts with the media in China and other parts of Asia, and with the foreign diplomatic community in Hong Kong and China.**

**New, detailed, reliable information was the key to the success of Asia Watch's advocacy efforts in Washington. In April and May, Asia Watch provided information on prisoners in China and Tibet to Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter for inclusion in a list of prisoners later submitted to Beijing. A meeting took place with Secretary Schifter in October to discuss prisoner cases and the upcoming trip to China by Secretary of State James Baker.**

**In June, Asia Watch staff discussed prison-labor exports from China with officials of the U.S. Customs Service who were in the process of investigating violations of U.S. law; the staff continued to provide information to the Customs Service during the year. In July, Asia Watch met with the newly appointed U.S. ambassador to China, R. Stapleton Roy, to brief him on human rights concerns and make recommendations for U.S. policy. Also in July, Asia Watch briefed the new human rights officer being dispatched to the U.S. Embassy in Beijing.**

**In August, Asia Watch wrote to President Bush to urge his intervention in the cases of Wang Juntao and Chen Zeming, and released the letter to the media with a public appeal. In September, following Asia Watch's participation in a visit to Tibet sponsored by the National Committee on U.S.-China Relations, the Asia Watch staff briefed the new director of the State Department's Office on Chinese**

**and Mongolian Affairs.**

**Asia Watch's advocacy work helped to raise the profile of human rights before, during and after Secretary Baker's trip to China. Before the trip, Asia Watch wrote to Assistant Secretary of State for East Asian and Pacific Affairs Richard Solomon and met with him to discuss our recommendations and concerns. Following the Baker trip in November, we wrote to Secretary Baker and publicized our proposals for new U.S. policy initiatives.**

**Asia Watch reports were widely circulated and used on Capitol Hill in floor debates, Congressional resolutions, and letters to Chinese and U.S. government officials. Asia Watch was frequently consulted for advice on U.S. policy issues, such as MFN, as well as on specific prisoner cases. On a dozen different occasions, Asia Watch testified before congressional committees and forums. Testimony was presented on MFN, prison labor and general human rights conditions before the Senate Foreign Relations Committee, the U.S. Customs Service, the Senate Finance Committee, the House Ways and Means Committee (its Subcommittee on Trade), the House Foreign Affairs Committee (its Subcommittees on International Economic Policy and on Trade and Human Rights and International Organizations), the House Committee on Merchant Marines and Fisheries (its Oversight and Investigations Subcommittee) and the Congressional Human Rights Caucus.**

**Washington and Hong Kong-based staff briefed various Congressional members and staff traveling to China in January, March, August, September and December, and in many cases debriefed them upon their return. Asia Watch also participated in a seminar for Hill staff on MFN sponsored by the Congressional Research Service in June.**

**On the anniversary of the June 4, 1989 crackdown, Asia Watch co-sponsored a rally on the Capitol steps with the Congressional Human Rights Caucus and other organizations. A scroll with the names of over 1,100 political prisoners provided by Asia Watch was signed by members of Congress and delivered to the Chinese Embassy with a message calling for their release and a full accounting of their status and whereabouts.**

**Other Washington-based advocacy efforts were focused on the World Bank, providing information to foreign embassies (including those of countries sending human rights delegations or political leaders to China in 1991, namely Australia, France and Japan), and responding to hundreds of inquiries or requests for interviews from domestic and foreign correspondents.**

**In September, Asia Watch representatives met for the first time with China's ambassador to the United States.**



## **HONG KONG**

### **Human Rights Developments**

**Unprecedented international scrutiny of human rights in Hong Kong took place in 1991, brought on by the enactment of a local Bill of Rights, the report of the United Kingdom to the U.N. Human Rights Commission, and visits by human rights delegations such as one sent by the International Commission of Jurists. The continued incarceration of nearly sixty thousand Vietnamese asylum-seekers stood out as Hong Kong's most glaring and intractable human rights problem. It was compounded by the resumption of forced repatriation before the government had rectified flaws in the procedures for identifying true refugees and ensured that adequate safeguards were in place to protect those who returned. Hong Kong's Bill of Rights promised to be a powerful new tool for challenging oppressive colonial laws and government actions, but its efficacy was hobbled by various restrictions, notably a period of immunity for certain of the government's police powers. The crisis of confidence in Hong Kong's future deepened as both the British and local governments compromised on the principle of Hong Kong's autonomy to accommodate China.**

**As of year's end, approximately 59,000 Vietnamese were being held in closed detention centers awaiting either evaluation of their claims to refugee status or repatriation to Vietnam. The relevant immigration ordinance sets no precise limit on the amount of time that Vietnamese may be detained. Waits of over two years are normal, and some Vietnamese, particularly unaccompanied minors, have been waiting since 1988 to undergo the first "screening" of their claims.**

**Former residents of Vietnam who came to Hong Kong after having spent some time in China also face indefinite detention. These suspected "ex-China" Vietnamese are considered to have the same legal status as Chinese migrants, who under Hong Kong law are not entitled to any consideration of their refugee status. But unlike Chinese migrants, who are usually repatriated to the mainland within hours of interception in Hong Kong, these "ex-China" Vietnamese must await identification and acceptance by China as former residents, a wait that can take years unless the Hong Kong government intervenes.**

**While illegal under international law, the distinction in Hong Kong's law between the treatment of Vietnamese and Chinese migrants is a product of**

political realities. Hong Kong's territory would be flooded with arrivals from China if it did not enforce a stringent return policy, and China would not countenance Hong Kong openly "screening" Chinese citizens for refugee claims. On the other hand, in response to international pressure, Hong Kong has maintained first asylum for Vietnamese boat people, and agreed to conform its policies to the 1951 Refugee Convention and its 1967 Protocol. Britain, which is a party to the Refugee Convention, did not extend its treaty obligations to Hong Kong. It did, however, extend its obligations under the International Covenant on Civil and Political Rights to its colony. The use of racial categories to distinguish between the rights of immigrants under Hong Kong's law violates Article 26 of the Covenant, which states that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. Hong Kong, apparently recognizing this difficulty, excepted its immigration laws from the application of its local Bill of Rights, which reproduces this guarantee. The Bill of Rights aside, the Covenant, with its prohibition against legal discrimination on the basis of national origin, still applies to Hong Kong.<sup>63</sup> Moreover, quite apart from Britain's failure to extend treaty refugee guarantees to Hong Kong, the customary law prohibition against *refoulement* — returning a person to face political persecution — effectively mandates screening of potential refugees even among Chinese aliens.

Conditions in the detention centers for Vietnamese asylum-seekers are more squalid and dangerous than those of local prisons. Inmates, who are referred to by number rather than name, live behind barbed wire, in corrugated metal huts lined by rows of triple bunk beds, or in some cases, in large tents. Both the internal and external living space per inmate falls well below international standards.<sup>64</sup> Little opportunity or space was available for work, education or

---

<sup>63</sup> The 1985 Joint Declaration between the governments of China and Britain, a treaty which lays out the blueprint for Hong Kong after the transition to Chinese sovereignty, says that the provisions of the Covenant "as applied to Hong Kong" shall remain in force. Although Britain made certain reservations in the application of the Covenant to Hong Kong, Article 26 is not among them. However, Britain did not extend the protections of the Covenant's 1966 Optional Protocol to Hong Kong, which would have provided a forum (the United Nations Human Rights Committee) for raising the issue of a racially discriminatory immigration policy.

<sup>64</sup> Anne Wagley Gow, *Protection of Vietnamese Asylum Seekers in Hong Kong: Detention, Screening and Repatriation* (June 1991) working paper submitted to the U.N. Economic and Social Council, Commission on Human Rights, and Subcommittee on Prevention of

exercise. The police or the correctional services department manage most detention centers and enforce their rules, including provisions for limiting visits ("subject to orders of Superintendent"), censoring mail (may be read "for good cause" or restricted "for good cause") and punishing escape, vandalism, disobedience and disrespect. However, assault, rape and substance abuse within the camps remain serious problems, and Vietnamese make periodic allegations of abuse by guards and police. The government strictly controls press access to the camps and discourages stories on the plight of particular asylum-seekers.

Families and minors have suffered the effects of these conditions especially severely. Camp workers report a widespread breakdown in family relationships and a rise in child abuse and juvenile delinquency.<sup>65</sup> Several thousand unaccompanied minors, the most vulnerable inmates, live in these conditions the longest. Although the special procedures for evaluating their claims were revised in 1991, the new committee has only begun to make headway in resolving the backlog of cases.

The prolonged detention of asylum-seekers cannot be justified on grounds of public order. Indeed, Hong Kong has handled much larger numbers of both Vietnamese and Chinese immigrants on past occasions without resorting to incarceration. The only stated rationales for detention have been deterrence of future arrivals and deference to local public opinion, neither of which justifies the arbitrary deprivation of liberty prohibited by Article 9 of the International Covenant on Civil and Political Rights. Some eighty thousand arrivals later, even Hong Kong authorities no longer claim that detention effectively deters others from setting sail. Nor does the unpopularity of a specific national or racial group make a deprivation of liberty less than "arbitrary" under the Covenant.<sup>66</sup>

The 1951 Refugee Convention protects both refugees and potential refugees from unnecessary restriction on their movements and penalties imposed solely because of illegal entry.<sup>67</sup> Hong Kong has not seriously claimed that detention of

---

Discrimination and Protection of Minorities), p. 8. The exception is Tai Ah Chau Detention Centre, in which residents have access to an entire island during the day.

<sup>65</sup> Refugee Concern Hong Kong, *Defenseless in Detention*, June 14, 1991.

<sup>66</sup> See Article 26.

<sup>67</sup> Article 31; see also Conclusions on the International Protection of Refugees, No. 22, para. 11(b)(1) (adopted by the Executive Committee of the United Nations High Commissioner for Refugees Programme, 1981).

all Vietnamese not yet determined to be refugees is necessary as a matter of public order. Prior to 1987, the colony allowed an even greater number of Vietnamese citizens (mostly of ethnic Chinese origin) to live in open camps pending their resettlement abroad. More recently, 111 boat people were released on nominal bail while they challenged the government's action in arresting them directly after a court had ordered them freed on habeas corpus grounds. In that case, a Hong Kong court had found a detention of eighteen months unreasonable, at least under circumstances in which the Vietnamese had asked not for asylum but for supplies and repairs.<sup>68</sup> The government's response to this case was to amend the Immigration Ordinance to permit the incarceration of any Vietnamese arriving illegally for as long as the government deems necessary.

In September and October, Britain and Vietnam agreed in principle to the mandatory repatriation of all Vietnamese who were not refugees, and that those who would be forced back first would be the so-called doublebackers — Vietnamese who had voluntarily returned from Hong Kong to Vietnam and then left again for Hong Kong. On November 9, twenty men, sixteen women and twenty-five children were forced aboard a transport plane bound for Hanoi. Hong Kong police at the scene wore plain clothes and did not carry weapons, but some Vietnamese put up so much resistance they had to be dragged or wrapped in blankets and carried aboard. Hong Kong officials were quick to deny that the repatriations were "forcible," out of sensitivity to Vietnam's rejection of the term, but any other description would have been inaccurate.

The undisclosed agreements on mandatory repatriation contain guarantees that Vietnam will not "persecute" or "harass" those returned for their act of leaving the country, according to statements by Hong Kong's secretary for security. However, past agreements of this sort have not protected those accused by Vietnam of "organizing" boatloads of fleeing Vietnamese. Nor is there any indication that returned Vietnamese will be immune from liability for actions in Hong Kong, where many Vietnamese have expressed views critical of Vietnam's government. Hong Kong has promised not to return genuine refugees to Vietnam — that is, those with a well founded fear of persecution on specified grounds — but given that Hong Kong's screening procedures are flawed, it was difficult to be confident that no *refoulement* would take place. The flaws are both procedural and substantive. Asylum seekers have been subject to superficial interviews without adequate interpreters or pre-screening counseling. Most are not given

---

<sup>68</sup> *In re Pham Van Ngo and Others*(Sears, J.J, 1 Hong Kong Law Review, 499, 508 (1991).

legal assistance in preparing their appeals and have no right to review the reasons for their initial rejection or the record of their interview. Government authorities decline to articulate the precise standards applied in determining refugee status for Vietnamese, and decisions suggest that they are unusually stringent. In the meantime, even with the new repatriation agreement, Hong Kong officials admitted that most Vietnamese are likely to stay in Hong Kong for "a very long time."<sup>69</sup>

The provisions of Hong Kong's new Bill of Rights are modeled on those of the International Covenant on Civil and Political Rights. Article 3 of the Bill of Rights repeals all inconsistent pre-existing legislation. Six ordinances were exempted for one year from any such repeal, with another one-year "freeze" possible by resolution of the Legislative Council.<sup>70</sup> These ordinances, which all grant extraordinary and highly discretionary law-enforcement powers to administrative authorities, are the laws most likely to conflict with individual-rights guarantees. In arguing for the "freeze" provision, the government claimed that there would be a dangerous gap in existing police powers if these laws were struck down. However, the government has not committed itself to revising these laws during the "freeze," but merely to reviewing them for possible conflict with the Bill of Rights.

Although the Bill of Rights came into operation on June 8, the first judicial decisions relying on its provisions did not appear until months later, after an international conference sponsored by the University of Hong Kong drew attention to the new law. These decisions struck down presumptions of guilt in Hong Kong's drug laws and the automatic issuance of stop orders to prevent judgment debtors from leaving the territory. The High Court also required the government to provide legal assistance to a criminal defendant, holding that the Bill of Rights establishes a test for eligibility independent of the rules governing the Legal Aid Department.

While these early cases are encouraging, it remains to be seen whether the Bill of Rights can be used to protect a wide range of rights and plaintiffs. Because Hong Kong follows the British practice by which the loser in civil litigation must

---

<sup>69</sup> "No quick end" to problem," *South China Morning Post* October 4, 1991.

<sup>70</sup> The exempted ordinances are the Immigration Ordinance (Cap. 115), the Societies Ordinance (Cap. 151), the Crimes Ordinance (Cap. 200), the Prevention of Bribery Ordinance (Cap. 201), the Independent Commission Against Corruption Ordinance (Cap. 204) and the Police Force Ordinance (Cap. 232).



pay the winner's legal fees, the litigation of rights issues will be limited to those few plaintiffs with the means to risk an adverse judgment. The government has rejected proposals to establish a commission that could inexpensively enforce the rights of the disadvantaged or to alter or waive the rule on payment of fees. Another limitation on the Bill of Rights is that it does not govern most disputes between private individuals. Thus, employment discrimination on the basis of gender, a serious problem in Hong Kong, is unlikely to be reached under this law.

Nineteen ninety-one was no exception to the Hong Kong government's history of exercising its considerable powers to mute confrontations with China. In late 1989, the governor assured China that the territory would not be used as a "base for counterrevolutionary activities." In July 1991, the government appeared to act on this pledge by refusing to admit over a dozen overseas students who had landed in Hong Kong to attend a pro-democracy conference. Two months earlier, customs officials impounded a replica of the Tiananmen Square "Goddess of Democracy" which was intended to be used at a mass rally to commemorate the June 4, 1989 massacre.

Britain, under pressure from China, breached the promise that Hong Kong would enjoy a "high degree of autonomy," as set forth in the 1984 Sino-British Joint Declaration on the Question of Hong Kong. Following Britain's concessions to China over the financing and management of Hong Kong's new airport project, another compromise was announced regarding the composition of Hong Kong's highest court. Under Hong Kong's Basic Law — the equivalent of the territory's constitution — the Court of Final Appeal may be composed of local judges or, "as required," foreign judges from other common-law jurisdictions. The Sino-British Joint Liaison Group, after months of stalemate on the composition of the court, announced on September 27, 1991 that only one of the five judges could be selected from overseas or retired local judges. This restriction was criticized by liberal legislators and the Bar Association as a concession to Beijing, which would prefer the court not to be overly independent. In the face of public pressure, British officials hinted that they might seek to renegotiate the composition of the court, but senior Chinese government officials reportedly rejected this possibility.<sup>71</sup>

On December 4, the Legislative Council overwhelmingly voted for a counter-proposal that would allow the high court greater flexibility in using overseas judges. This marked the first time that the legislature has opposed an agreement worked out by China and Britain. The leader of the British contingent to the Joint

---

<sup>71</sup> "Beijing rules out court deal," *The Standard*, November 5, 1991.

Liaison Group, Anthony Galsworthy, said that if the legislature were to veto the Sino-British proposal, the government would not likely establish the high court before 1997. He reaffirmed British commitment to the restriction on foreign judges. China swiftly reiterated its view that the Legislative Council was without power to change the agreement.<sup>72</sup>

Britain was similarly reticent, and China intransigent, on accelerating the transition to a democratically elected legislature. Liberals won sixteen of the eighteen seats contested in Hong Kong's first legislative elections, while every pro-China candidate was defeated. China's response was to claim that the liberals' landslide did not represent the will of most Hong Kong people, and to declare that the legislature was merely an advisory body, not a law-making branch of government.<sup>73</sup> Although prior to the election British leaders had hinted that they might press Beijing to increase the number of elected positions allocated in the Basic Law, China again showed resistance and Britain has not yet pursued the matter.

These battles over the composition of the legislature and judiciary were all the more important because of the expansive powers vested in the colony's colonial administration. In particular, Hong Kong lacks laws that require the government to disclose administrative decisions, internal regulations, or the information that the government collects on groups or individuals. The Official Secrets Acts of 1911 and 1939, now discarded in Britain, remain in force in Hong Kong, criminalizing any unauthorized disclosure of official information by both the person who initially reveals the information and any person who learns of it.<sup>74</sup> Although prosecutions under the Official Secrets Act did not occur in 1991 and were rare in previous years, the existence of the act worked to inhibit further a press that already was subject to broad censorship powers at home.<sup>75</sup>

---

<sup>72</sup> Stanley Jeung and Rita Lun, "Legco powerless on Court says Beijing," *The Standard*, December 6, 1991.

<sup>73</sup> Ursula Yeung, "Legislators 'lack public support,'" *The Standard*, November 5, 1991; Kent Chen, "Legco only an advisory body, says senior NCNA official," *South China Morning Post*, October 3, 1991, p.7.

<sup>74</sup> See Yash Ghai, "Official Information: Government Secrets or Public Asset?" *Hong Kong Law Journal*/Vol. 21, Part 1, January 1991, pp. 78-86.

<sup>75</sup> Censorship powers include the Film Censorship Ordinance, which permits the government to ban a film if its showing "would seriously damage good relations with other

The independence of the judiciary and legislature, and the accountability of government to those governed, are of the utmost importance in protecting human rights as 1997 approaches. Asia Watch was concerned that precedents set by expedience now, such as the mass incarceration of civilians, would lay the foundation for ever more serious rights abuses in the future, especially while China's commitment to the rule of law remains questionable.

### **The Right to Monitor**

In practice, Hong Kong's colonial administration allows human rights monitors relative freedom to conduct their activities, but the laws governing the territory both now and after the 1997 transition to Chinese rule provide ample basis for restriction.

The Societies Ordinance vests in the commissioner of police the power to refuse to register any society that is likely to be used for any purpose "prejudicial to or incompatible with peace, welfare or good order," or that is affiliated with a political organization abroad. Moreover, the commissioner may inspect membership registers, enter meeting places, and order amendments of society constitutions. Although originally intended to combat organized crime in the form of Triad societies, the law has inhibited other associations as well. To avoid police supervision, groups concerned with both politics and human rights have chosen to register as commercial organizations rather than as societies.<sup>76</sup>

China requested that the statutory prohibition against local "political territories"; the Television Ordinance, which provides for pre-censorship of all programming; the Telecommunications Ordinance, which authorizes controls on grounds of "security"; and the Prevention of Bribery Ordinance, which bars unauthorized disclosure of the names of suspects in corruption investigations.

In a survey conducted in 1991, almost a quarter of journalists admitted to apprehension or self-censorship, especially when reporting on China, and about seventy percent believed press freedom would be curtailed after 1997. (Fanny Wong, "Reporters affected by self-censorship," *South China Morning Post*, September 24, 1991.) China encourages this attitude by strictly controlling the access of Hong Kong reporters to the mainland, and maintaining dossiers on which journalists and publications are friendly and which are not.

<sup>76</sup> S.L. Law, "Dissidents see firm registration loopholes," *The Standard*, November 25, 1991.

organizations or bodies" establishing ties with foreign "political organizations or bodies" be written into the Basic Law as well, in Article 23. The Societies Ordinance is one of the laws exempted from the operation of the Bill of Rights for up to two years. To date, the government has not announced any amendment to bring the law in conformity with the Bill of Rights guarantees to free association and assembly. After 1997, the provisions of the Basic Law, which has been promulgated as a national law of China, will take priority over the Bill of Rights, a local Hong Kong statute. However, China has agreed in the Sino-British Joint Declaration, a bilateral treaty, to keep in force the identical guarantees of the International Covenant on Civil and Political Rights.

After heated debate, China also prevailed in inserting in Basic Law Article 23 a promise to outlaw sedition, a crime previously unknown in Hong Kong. The article states that Hong Kong "shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's government, or theft of state secrets, [and] to prohibit foreign political organizations or bodies from conducting political activities in the Region." Asia Watch is concerned that such laws could easily be used to silence human rights monitors, political critics or journalists, and to close Hong Kong to scrutiny by outsiders.

In previous years, other local laws have been used to punish or inhibit protest. On September 29, 1989, activists were beaten by the police and arrested for unlawful assembly. The activists had been attempting to march in protest of the June 4 Beijing massacre at a site where the New China News Agency was giving a cocktail reception. One month later, the political advisor to the Hong Kong governor wrote to the head of the Foreign Affairs Section of the New China News Agency stating that the government "has no intention of allowing Hong Kong to be used as a base for subversive activities against the People's Republic of China." He cited as evidence the arrest of these activists and the government's rejection of a permanent site for a replica of the "Goddess of Democracy" statue that was raised by students in Tiananmen Square. The law invoked in prosecuting the demonstrators was the Public Order Ordinance, which gives the commissioner of police authority to license and control public assemblies of more than thirty people and processions of more than twenty. Shortly after the arrests, the police obtained search warrants and seized unedited videotapes of the incidents from local television stations, although these ultimately were not used at trial. The seizures were condemned both in Hong Kong and abroad as violating press freedom.

In February 1990, prominent pro-democracy activists led a protest against the lack of democracy in the Basic Law. Five months later, just after the promulgation of the Basic Law, they were charged with using megaphones (in

Hong Kong usage, "loud-hailers") without a permit from the commissioner of police. The Summary Offences Ordinance prohibits unlicensed use of loud-hailers without "lawful excuse." At trial, an assistant police commission testified that in his seventeen years of service he had never come across a prosecution for using loud-hailers in public gatherings, and confirmed that such unlicensed use (by tour groups or school outings, for example) is part of everyday life in Hong Kong. The defendants' conviction was ultimately reversed on the basis that the prosecution was an abuse of power, and the appeals court did not examine whether the law violated the guarantee of freedom of assembly in the International Covenant on Civil and Political Rights.

In December 1989, Reverend Fung Chi Wood, a well-known local elected official, was arrested for refusing to produce his identity card to a police officer. Reverend Fung, who was at the time in an elevator on his way to lead a demonstration protesting a draft of the Basic Law, produced identification ten minutes later once he was on the street. The law requiring Hong Kong residents to produce identity cards on demand is part of the Immigration Ordinance, and designed for the control of illegal immigration. Although it was extremely unlikely that Reverend Fung was suspected of being an illegal immigrant, his conviction was upheld. The Immigration Ordinance was permanently excepted from the operation of the Bill of Rights. Identity card checks are still used in Hong Kong at public gatherings for purposes other than immigration control.<sup>77</sup>

These incidents raise the question whether the Hong Kong government is committed to politically motivated law enforcement to appease China. The government's interventions in impounding a statue of the "Goddess of Democracy" and refusing to admit into the colony participants in a pro-democracy convention kept this question alive. In local affairs, the government's response has been selectively to limit access to sensitive information,<sup>78</sup> for example, through restrictions on journalists visiting detention centers, or through the Official Secrets Act. The right to monitor is largely a matter of administrative discretion in Hong Kong. It is highly doubtful that the executive branch under Chinese rule will be as tolerant of dissent as British administrators have proven.

---

<sup>77</sup> See "Unlawful assembly denied," *South China Morning Post* July 4, 1991, describing an identity card check of an audience at a courtroom hearing on the legality of a widely publicized community protest over the construction of a village crematorium.

<sup>78</sup> Included in the categories of classified information is anything that could cause "embarrassment" to the Hong Kong government.

**Under these circumstances, it behooves the colonial administration to amend and supplement Hong Kong's legal protection for human rights critics, rather than relying on discretion in enforcement.**

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

**The Bush Administration showed signs of recognizing Hong Kong's special position as it moves from British to Chinese sovereignty, but stopped short of treating it as an autonomous entity. The State Department was quick to cite Hong Kong's vulnerability should Most Favored Nation trading status for China be revoked. However, it was silent about Britain's failure to press for more elected legislators or overseas jurists. While the State Department reiterated U.S. opposition to mandatory repatriation of Vietnamese from Hong Kong, it tacitly accepted the policy by characterizing it as a bilateral matter between Britain and Vietnam.**

**Congress was more directly responsive to human rights issues in Hong Kong. On September 20, Senator Mitch McConnell introduced a bill that in essence would write into U.S. policy the understanding of Hong Kong's autonomy set forth in the Joint Declaration. Under the bill, Congress "welcomes" the continued application to Hong Kong of the International Covenant on Civil and Political Rights and the constitution of the legislature through elections. The bill further calls for the United States to recognize Hong Kong passports and travel documents, to encourage Hong Kong residents to travel to the United States, to expand informational ties with Hong Kong's legislature, to maintain Hong Kong's Most Favored Nation trading status, and to continue to recognize Hong Kong's separate legal status under U.S. law. Martin Lee, an outspoken advocate of human rights and the leader of Hong Kong's most popular political party, visited the United States in November to lobby for the McConnell bill. The bill, which has attracted over a dozen co-sponsors, is currently in the Senate Foreign Relations Committee, which is due to hold hearings on it in early 1992.**

### **The Work of Asia Watch**

**Asia Watch was given access to Hong Kong's detention centers throughout 1991 by the government's Security Branch, and conducted numerous interviews**

with Vietnamese on human rights conditions in Vietnam. Asia Watch issued two newsletters based on this research which were critical of Hong Kong's policy on Vietnamese asylum-seekers. "Vietnam: Repression of Dissent" described the failure of the screening process to identify as refugees Vietnamese human rights activists and dissident artists. "Mandatory Repatriation and Indefinite Detention: The Incarceration of Vietnamese in Hong Kong" laid out the rights abuses inherent in the detention policy and suggested alternatives to the premature resumption of forcible return. Throughout 1991, Asia Watch intervened with both Hong Kong and United Nations authorities on behalf of Vietnamese seeking refugee status.

In July, Asia Watch issued a press release condemning Hong Kong's refusal to let overseas Chinese students pass through Kai Tak airport to attend a pro-democracy convention. Local students responded to the government's stance by holding the convention at the airport. In June, Asia Watch attended the first conference on the Bill of Rights in Hong Kong, and assisted the Hong Kong University Law Faculty in gathering human rights publications on Hong Kong. Asia Watch also provided a chapter on Hong Kong in the Human Rights Watch report released during the October meeting of Commonwealth heads of government in Zimbabwe.

## **INDIA**

### **Human Rights Developments**

The human rights situation in India continued to deteriorate in 1991 amid unprecedented political turmoil. In November 1990, the minority government of V.P. Singh collapsed and was replaced by that of Prime Minister Chandra Shekhar, which then fell in March 1991. Parliamentary elections held in May and June saw the worst violence of any election since the country's independence. Among those killed was former Prime Minister Rajiv Gandhi, who died in a bomb explosion on May 20 while campaigning in the state of Tamil Nadu. In the wake of his assassination, local politicians threatened to expel Sri Lankan refugees, and police in Tamil Nadu arrested several thousand suspected members of the militant Sri Lankan separatist group, the Liberation Tigers of Tamil Eelam (LTTE), which was believed responsible for the killing. One suspect later died in custody under suspicious circumstances.

Human rights issues remained at the forefront of the political upheavals, as secessionist movements in the border states of Punjab, Assam, and Jammu and

**Kashmir continued to claim thousands of lives and led to widespread abuses by security forces and armed militant groups. The Terrorist and Disruptive Activities Act (TADA), among other security laws, was used widely in these states and throughout India to detain alleged militants and suspected supporters without charge or trial. Peaceful opponents of government policy were caught up in the TADA net. Government security forces and armed militants also committed grave violations of the laws of war, including indiscriminate attacks on civilians.**

**In other states, including Uttar Pradesh, Andhra Pradesh and Bihar, armed groups operating with the connivance and, in some cases, assistance of local police attacked and killed low-caste villagers and peasant activists. In Maharashtra, Madhya Pradesh and Gujarat, peaceful demonstrators protesting against large-scale development projects were arrested and beaten as part of a government effort to censor information about human rights abuses and the environmental impact of such projects.**

**In Kashmir, India's central government continued to pursue its brutal campaign against militant separatists despite growing criticism by international and domestic human rights groups. Throughout the year, the army and security forces routinely engaged in extrajudicial executions, disappearances, widespread torture, arbitrary arrest and prolonged detention without trial.**

**In its May 1991 report, *Kashmir Under Siege*, Asia Watch itself documented some two hundred extrajudicial executions of civilians and suspected militants by army and paramilitary forces in Kashmir since the beginning of 1990 — a small portion of the estimated killings in this period. In many of the cases detailed in the report, troops opened fire on crowds of unarmed demonstrators, or in crowded markets and residential areas. Such violations continued through 1991: on May 8, at least fourteen mourners in a funeral procession were killed when government forces opened fire on a crowd of three thousand at a Srinagar cemetery. According to press reports, when mourners returned to the scene to collect the bodies, the troops again opened fire, killing a teenage boy.<sup>79</sup>**

**To date, Asia Watch is unaware of any conviction of a member of the Indian security forces for any human rights violation in Kashmir. Indeed,**

---

<sup>79</sup> "Indian Forces in Kashmir Fire on Rebel Mourners," *The New York Times*, May 9, 1991; "Indian Troops Shoot Kashmiris at Burial," *The Washington Post*, May 9, 1991.



**the rape of women in the village of Kunan Poshpura by army soldiers of the Fourth Rajputana Rifles became the focus of a campaign to acquit the army of charges of human rights violations and discredit those who brought the charges. The rapes allegedly occurred during a search operation on the night of February 23 in which the men were taken away from their homes and interrogated. Villagers complained first to local army officials and then to the local magistrate, who visited the village and filed a report that included the statements of twenty-three women who claimed to have been raped.**

**Publicity about the incident in the national press provoked strong denials by army officials. On March 17, a fact-finding delegation headed by Chief Justice Mufti Bahauddin Farooqi interviewed fifty-three women who had made allegations of rape and tried to determine why a police investigation into the incident had never taken place. Farooqi reportedly stated that he "had never seen a case in which normal investigative procedures were ignored as they were in this one." However, a confidential report filed by a local official, the divisional commissioner, concluded that "the allegations leveled against the army cannot be believed and have apparently been made by villagers as an afterthought under pressure from the militants."<sup>80</sup> A police investigation ordered into the incident was never carried out because the assistant superintendent assigned to the case was transferred before he could start.**

**In response to criticism about the government's investigation, the army requested the Press Council of India to investigate the incident. The committee members visited in June, more than three months after the incident occurred. After interviewing a number of the alleged victims, the committee concluded that contradictions in the women's testimony rendered the charge of rape "baseless." Examinations conducted on thirty-two of the women on March 15 and 21 confirmed that the women had abrasions on the chest and abdomen, and that the hymens of three of the unmarried women had been torn. However, the committee concluded that "such a delayed medical examination proves nothing" and that such abrasions are "common among the village folk in Kashmir."<sup>81</sup> The committee**

---

<sup>80</sup> The report's conclusions were based primarily on the women's failure to report their rape to law-enforcement officials immediately and, in some cases, at all. The report also claimed that there were too few soldiers in the unit to have committed the number of rapes alleged. Officials challenged the women's credibility because the number of alleged victims kept changing. Independent journalists suggested that a smaller number of women may have been raped and that others joined them so that they would not be ostracized.

<sup>81</sup> The committee failed to inquire whether the men had similar injuries.

dismissed the torn hymens as evidence of rape, stating that they could be the result of "natural factors, injury or premarital sex."

While the results of the examinations by themselves could not prove the charges of rape, they raised serious questions about the army's actions in Kunan Poshpora. As Asia Watch noted in its report, the alacrity with which military and government authorities in Kashmir discredited the allegations of rape and their failure to follow through with procedures that would provide critical evidence for any prosecution — in particular prompt medical examinations of the alleged rape victims — raise serious concerns about the integrity of the investigation. The failure promptly to establish an impartial investigation into the incident suggests that the Indian authorities have been more interested in shielding the army from charges of abuse. Given evidence of a possible cover-up, both the official and the Press Council investigation fall far short of the measures necessary to establish the facts in the incident and determine culpability.

Since their campaign for secession escalated in late 1989, Kashmiri militants have engaged in grave violations of humanitarian law by executing suspected police informers, taking hostages, and threatening and murdering prominent Muslims and members of the minority Hindu community. Militants have also violated the laws of war prohibiting indiscriminate attack on civilian targets.

Kidnappings by Kashmiri militant groups escalated in 1991, and included among the victims a number of foreigners. In March, two Swedish engineers were kidnapped by the Muslim Janbaz Force, which demanded that the United Nations and Amnesty International be allowed to conduct fact-finding missions in Kashmir; the two men escaped from their captors in June. On June 27, a group of Israeli tourists on a houseboat were attacked by militants, who took seven men hostage. A tourist and a militant were killed and three tourists were injured when a gun battle erupted after one of the Israeli men grabbed a militant's rifle and opened fire. As the militants fled, they took one of the tourists hostage, releasing him a week later. Militants also kidnapped civil servants of the state government and demanded the release of detained colleagues in exchange.

By December 1991, Punjab had registered a record 5,300 killings by militant forces, criminal gangs and security forces, up from some 4,000 in 1990. Among those killed were many candidates to the state assembly and national Parliament,<sup>82</sup> some of whom were assassinated by militant groups contesting the elections and others by gunmen apparently associated with political parties.

---

<sup>82</sup> Punjab has been ruled directly from New Delhi since May 1987, when the state assembly was dismissed.

Militants boycotting the elections also engaged in indiscriminate attacks on civilians. Days before the polls were scheduled to open in Punjab on June 22, unidentified gunmen opened fire on passenger trains near the city of Ludhiana, killing at least seventy-four people. Originally scheduled for June, the Punjab elections were postponed until September following the election of Prime Minister Narasimha Rao. On September 18, the elections were again canceled, and tentatively rescheduled for February 1992.

Since 1984, government forces in Punjab, including the Punjab Police, Border Security Force, Central Reserve Police Force and the Indian Army,<sup>83</sup> have resorted to widespread human rights violations to fight the militants, including arbitrary arrest, prolonged detention without trial, torture, disappearance and summary killing of civilians and suspected militants.

Many of the executions in 1991 involved persons who were first detained in police custody and then reported by the authorities to have been killed in an "encounter" with security forces. In many of these cases, Asia Watch believes the victims were murdered in the custody of the police. Detainees also frequently "disappeared" in police custody; police in Punjab defied court orders and thwarted efforts by family members to locate their relatives and produce them in court. Torture was practiced systematically in police stations, prisons and the detention camps used by paramilitary forces throughout Punjab. Family members were frequently detained and tortured to reveal the whereabouts of relatives sought by the police. The police also seized local newspapers and harassed journalists. Although the victims of torture and the relatives of victims of extrajudicial killings and disappearances identified police officers responsible for gross human rights violations in Punjab, none was prosecuted.

For their part, some Sikh militants pursued their campaign for a separate state by assassinating civil servants, political candidates and journalists. Militant groups also engaged in indiscriminate attacks on civilians in Punjab and other states. In one of the worst such attacks, on October 16, at least forty-one people died in two bomb explosions in Ruderpur, Uttar Pradesh — one at a Hindu festival and the second at a hospital where the wounded were being taken.

Certain militant organizations issued death threats and assassinated Sikhs who did not support the separatist cause or a fundamentalist Sikh ideology. The leaders of several major militant organizations issued press statements warning

---

<sup>83</sup> One army unit is permanently stationed in Punjab, and beginning in late 1990, additional army units were deployed in the border districts to supplement the police and paramilitary forces. In November 1991, the army was deployed throughout the state.

**journalists to adhere to a strict code of conduct. Failure to abide by these dictates is punishable by death.**

**The escalating violence in Punjab also spread to neighboring states, particularly Uttar Pradesh, where some militants have become involved in smuggling across the Nepal border. State authorities, like their counterparts in Punjab, gave police officials blanket authority to act outside the law against suspected militants. On July 13, ten Sikh bus passengers traveling in Uttar Pradesh were taken into custody and shot dead in what authorities claimed was an armed "encounter" with the police. An eleventh detainee later disappeared. Eyewitnesses to the detention interviewed by Asia Watch reported that none of the detainees was armed, and Asia Watch believes that the detainees were summarily executed. A number of eyewitnesses who filed affidavits in the courts were later threatened by the police.**

**In Tamil Nadu, the police launched a massive search for the suspected assassins of Rajiv Gandhi, arresting thousands. On June 28, the authorities in Tamil Nadu ordered the 85,000 Sri Lankan refugees in the state living outside refugee camps to register with the police or face deportation. Since then, thousands who failed to register have been arrested, although to Asia Watch's knowledge they have not been deported. On July 27, three Sri Lankans were detained in Madras under the National Security Act for reportedly publishing a Tamil periodical without a license and reporting "the activities of LTTE militants."**

**A government crackdown against suspected members and sympathizers of the LTTE also resulted in widespread arrests. On July 17, the police arrested Mirasdar Shanmugam, who was believed to be a key link in the assassination conspiracy. On July 20, his body was found hanging from a tree, and the police claimed that he "escaped" from custody and "committed suicide" or "was killed by the LTTE." Shanmugam's relatives and lawyer have alleged that he was killed by the police, and government officials have also raised concerns that he may have been killed in police custody. A magisterial inquiry was ordered.**

**Throughout India, deaths in custody occurred at an alarming rate in 1991, frequently as a result of torture. Systematic abuse of detainees in police custody was largely tolerated if not condoned by government officials.<sup>84</sup> The rigid class system in Indian prisons — which affords better treatment to prisoners of higher socioeconomic status — and corruption in the police force also served to perpetuate the widespread system of abuse.**

**An Asia Watch mission found that women were particularly at risk in prison,**

---

<sup>84</sup> See Asia Watch, *Prison Conditions in India*, March 1991.

where custodial rape and other forms of sexual abuse are common. Women receive particularly harsh treatment in police lock-ups, where cells are overcrowded, smelly and insect-infested, and detainees are not given beds, soap or changes of clothes. The police are empowered to hold detainees for up to ninety days after obtaining an order for remand from a magistrate.

Since 1985, the World Bank has funded a development project to construct the Sardar Sarovar Dam on the Narmada River in western India. One of a series of dams to be constructed over the next four decades, the Sardar Sarovar Dam is to provide irrigation to Gujarat, Maharashtra and Madhya Pradesh. Protests against the dam have resulted in arrests and beatings of peaceful demonstrators, and the governments concerned have attempted to censor information about the environmental impact of the project. In August 1991, some sixty protestors were arrested during a demonstration and charged under Section 144 of the Indian Penal Code for "unlawful assembly." They were later released. On November 17, Medha Patkar, an activist with Narmada Bachao Andolan — an organization which has peacefully opposed construction of the dam — was arrested and detained for two days on charges that included "unlawful assembly," "instigating people" and "committing outrage against government officials." She was released on November 19 but the charges are still pending.

### **The Right to Monitor**

Although human rights organizations in India function relatively freely, a number of human rights groups that have published reports on Kashmir, particularly the Coordination Committee on Kashmir and the Committee for Initiative on Kashmir, have been accused by government officials of collaborating with the militant groups and serving as agents of foreign intelligence operations. The government has provided no evidence to support the allegation. Some members of these and other groups have come under police surveillance.

On September 28, Shankar Guha Niyogi, a trade unionist and a member of the national council of the People's Union for Civil Liberties, was assassinated by unidentified gunmen while he was asleep in his home in Bhillai, Madhya Pradesh. Although two men have been arrested in the case, powerful industrialists named by the hit men as having ordered the assassination have not been.

On December 7, Narra Prabhakara Reddy, a member of the Andhra Pradesh Civil Liberties Committee (APCLC), was shot at his home in Warangal district. Reddy, 35, who was also a member of the District Bar Association, had received

death threats from police officers in connection with his efforts to defend victims of police torture and to investigate disappearances in Andhra Pradesh. Other members of the APCLC have received similar threats from the police. Reddy was the third member of the APCLC to be murdered since 1985.

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

U.S.-Indian relations historically have been strained over the close ties between the United States and Pakistan, a country with which India has fought three wars. Consequently, although the United States provides India with more than \$100 million in development assistance and other grants and loans, its partisan role in regional South Asian politics has diminished its influence in India. The Bush Administration's decision, on October 1, 1990, to suspend \$560 million in annual economic and military aid to Pakistan, due to Islamabad's nuclear weapons development program, may have helped U.S.-Indian relations, but only temporarily. Strong nationalist sentiment and suspicion about U.S. interests in the region have also contributed to India's tendency to dismiss criticism of its human rights record. Public expressions of concern from the United States are bitterly denounced by Indian officials and in the Indian press. Nonetheless, it is clear that U.S. influence over such institutions as the World Bank has considerable impact in India. India courts these loans and significant U.S. presence on such institutions could be used to considerable effect. However, to our knowledge, the State Department has not used this influence to press for human rights improvements.

In 1991, U.S. development assistance to India totaled \$20.9 million, funds for P.L. 480 (Title II) food aid totaled \$77.1 million, housing guarantees amounted to \$19 million, and about \$300,000 was spent for the International Military Education and Training program. World Bank loans planned for 1991 totaled \$2.6 billion, of which \$1.85 billion have been approved to date.

Throughout 1991, the Bush Administration raised concerns about human rights abuses by Indian security forces privately with Indian authorities and in occasional public statements.

Such public expressions, which have generally appeared in the form of testimony and answers to questions at congressional hearings, have largely reiterated the generally accurate description of Indian human rights abuses included in the State Department's annual *Country Reports on Human Rights Practices*.

When Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter was questioned about extrajudicial executions in Kashmir, at hearings on February 26 before the House Subcommittee on Human

**Rights and International Organizations, he stated that the security forces had used "excessive force" in their efforts to "repress the movement in the area which favors independence for Kashmir." He also acknowledged that acts of violence by militant groups had resulted in extrajudicial killings.**

**However, when questioned about the Indian government's use of the TADA, Secretary Schifter missed an important opportunity to condemn the act's provisions that suspend safeguards against arbitrary arrest and torture. Instead, he inexplicably chose that moment to congratulate the Indian government as one which "respects individual rights and is not going to misuse a law deliberately." Precisely because public expressions about human rights issues are rare, the Administration should ensure that they are not seen to minimize human rights concerns.**

**When questioned about extrajudicial killings in Punjab, Secretary Schifter stated that investigations of human rights abuses have taken place "in private for [the] morale...of the security forces" and that the Administration was told that those responsible for abuses had been punished. In fact, at the time no police officer or other security personnel had been prosecuted for such killings. Schifter also credited the V.P. Singh and Chandra Shekhar governments with taking steps to end encounter killings and contended that "allegations of such killings declined in 1990." To the contrary, Asia Watch knows of no serious measures taken by the Indian authorities to end the encounter killings or evidence that such killings declined in 1990.**

**In March 7 testimony before the House Subcommittee on Asian and Pacific Affairs, Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs Teresita Schaffer stated that over sixty-five people had died in "terrorist-related activities" in Punjab. The failure to acknowledge that many of those killed are the victims of extrajudicial executions by the security forces created a distorted picture of the human rights situation in Punjab. In Kashmir, she noted the "daily rituals of militant attacks and security forces counterattacks [which] have claimed almost 200 lives." Again, it would have been appropriate to distinguish between the killing of combatants and noncombatants to clarify the severity of the human rights problem.**

**At a briefing for the foreign press on July 2, Secretary Schaffer was more forthcoming in condemning abuses by both Kashmiri militants and Indian security forces, describing kidnappings by the militants as "abhorrent" and noting the Administration's distress at the "harsh measures" taken by the Indian authorities. Her admonition that "India's democratic tradition would be better served if the Indian government adhered to international norms in maintaining law and order" was particularly welcome.**

The Administration appropriately urged the Indian government to permit international human rights organizations to carry out fact-finding missions in India, and Secretary Schifter used the occasion of the February 26 hearing to reiterate this concern. Unfortunately, the Administration did not use the opportunities available to it to address issues on which it could have considerable influence, such as the treatment of activists fighting the Narmada Dam project. The State Department could have called for a review of the project and the suspension of future installments of funds as long as human rights violations, such as the arrests of peaceful protestors, continue.

In Congress, human rights violations in Punjab and Kashmir were the focus of a debate in 1991, sparked by the introduction of a House measure calling for a cutoff of all U.S. development aid if the Indian government did not allow human rights groups access to India. The bill, sponsored by Representative Dan Burton, was aimed at gaining access for Amnesty International, which has been barred from conducting fact-finding missions in India. An amended version of the bill was adopted by the House on June 19, without the aid cutoff.

### **The Work of Asia Watch**

The severity of abuses in Punjab and Kashmir prompted Asia Watch to send a delegation in late 1990 to investigate and document violations of human rights and humanitarian law by all parties to the conflicts. The findings were published in two reports, *Kashmir Under Siege*, in May 1991, and *Punjab in Crisis*, in August. Asia Watch discussed its concerns about human rights violations in both states with members of Congress during the debate on the House resolution over human rights abuses in India. In September, Asia Watch published a newsletter documenting its findings in the investigation of the killing of ten Sikhs in Pilibhit.

Human rights abuse in prisons throughout India, including widespread torture and deaths in custody, are documented in the March Asia Watch report, *Prison Conditions in India*. A newsletter on an Asia Watch investigation into a number of deaths in custody is scheduled for release in early 1992.

Asia Watch also raised concerns about a number of individual cases of disappearance and torture, including Shahabuddin Gori, a student activist tortured in police custody because of his alleged links to Kashmiri militants. Asia Watch also intervened on behalf of Narra Prabhakara Reddy, who was murdered.



## **INDONESIA AND EAST TIMOR**

### **Human Rights Developments**

**Its new membership on the U.N. Human Rights Commission notwithstanding, the Indonesian government continued to violate fundamental rights of its citizens, including the right to life, the right not to be subjected to torture, arbitrary arrest or imprisonment, and the rights to freedom of expression, assembly and association.**

**Summary executions by the Indonesian army continued to take place in the territory of East Timor. They also occurred in Aceh, the "special region" (as opposed to a province) of 3.8 million people on the northern tip of Sumatra where an independence movement called the Aceh/Sumatra National Liberation Front, more commonly known by its Indonesian name of Aceh Merdeka, has been engaged since 1977 in a low-level armed struggle against the Indonesian armed forces.**

**In East Timor, between seventy-five and one-hundred people are believed to have been shot dead when Indonesian security forces opened fire on a peaceful demonstration on November 12 at the Santa Cruz cemetery, near Dili, the capital. Thousands had turned a memorial mass for Sebastio Gomes Rangel, a young man killed by Indonesian forces two weeks earlier, into a massive political demonstration in support of independence. The march to the cemetery to lay flowers on Sebastio's grave had finished when hundreds of troops massed there began shooting. The Indonesian government's death toll was nineteen, but no official list of the dead had been compiled by early December, and there were many unconfirmed reports of bodies having been thrown in mass graves. A New Zealand citizen was killed and two American journalists were injured when they were beaten up at the scene by Indonesian troops. The Indonesian military almost immediately sent a team headed by the deputy chief of intelligence to investigate the November 12 killings, and President Suharto, after much international pressure, appointed a second commission headed by a military judge. At the same time, however, official spokespersons were blaming the marchers for the violence. Neither commission could be considered independent. More than 280 people were reported arrested; in December, the Indonesian government acknowledged still holding forty-two. A demonstration by East Timorese students living in Java was held in Jakarta on November 19 to protest the killings. The peaceful protest was broken up by force, and seventy students were arrested. At the beginning of December, twenty-one remained in detention in the Metropolitan**

**Jakarta Police Command without access to lawyers or family, with one man held in solitary confinement.**

**In Aceh, the current round of ambushes of the police and military by Aceh Merdeka, and retaliatory and "counter-terror" killings by Indonesian security forces, began in mid-1989. Estimates of those killed on both sides over the last two-and-a-half years range from four hundred to over one thousand, but no organization has been able to conduct a thorough, impartial and systematic investigation in the districts most affected. In late May, when an Asia Watch representative visited the region, the army was exhorting villagers to take the law into their own hands to "exterminate" members of the guerrilla group. In one case reported by the local press on May 21, security forces stood by as villagers lynched two unarmed supporters of the movement. Asia Watch talked to residents who had seen bodies along the road in Aceh and to lawyers representing families whose relatives had disappeared after having been taken into custody by the armed forces. The International Committee of the Red Cross (ICRC) was able to visit Aceh once, in mid-July, to interview persons detained in connection with the conflict, in what was expected to be the first in a series of regular visits by the humanitarian organization, but a second visit has been blocked by the Indonesian military.**

**Trials of suspected supporters of Aceh Merdeka began in March and are continuing. The trials have been marked by the use of coerced "confessions" and defense lawyers who were warned by the government against making any spirited defense. The government brought to trial only those against whom it believed it had sufficient evidence to convict. Dozens, perhaps hundreds, of others were held in unacknowledged military detention, either to be released in large groups when the military decided that they had not been involved in Aceh Merdeka, or to remain "disappeared." Between September 1990 and October 1991, some 623 people were freed, in five groups, after highly publicized ceremonies in which they were obliged to take loyalty oaths to the Indonesian government, despite not having been convicted of any crime. Most had spent six months or more in incommunicado detention.**

**A death under mysterious circumstances took place in Irian Jaya, where an armed independence movement is also in place. The Indonesian army reported that it had found Melkianus Salosa, a leader of the Organisasi Papua Merdeka (Free Papua Movement), dead on August 20, 1991. Salosa had reportedly escaped on August 4 from a military-intelligence detention center run by the No. 8 Regional Military Command in Jayapura. A man who had escaped with Salosa who later turned himself in had led soldiers to Salosa's hideout in Aba Gunung, Abepura, Irian Jaya.**

**Far too many deaths of criminal suspects continue to take place at the hands of the Indonesian police. The usual explanation is that the suspects were shot resisting arrest or trying to escape, and in such cases no action is taken against the police officers involved. In some cases, when deaths appear to take place as a result of torture, police are prosecuted and, if convicted, given lenient sentences. Between July and September, for example, at least ten deaths of criminal suspects in the course of arrest or interrogation were reported in the Indonesian press. In March, a young man named Beni, detained for the attempted stabbing of a police sergeant, was tortured continuously from 8:00 A.M. to 8:00 P.M. in a police station in North Pontianak, Kalimantan. He was kicked, pistol-whipped and beaten with chains by three police officers until he collapsed and died. A cellmate was warned not to say anything about the incident. The family, however, complained, and the three officers were arrested and went on trial in July. At the close of the trial, the military prosecutor requested three-year sentences for each man.**

**Indonesians arrested on subversion charges for nonviolent activities received much heavier sentences. On May 23, the Indonesian Supreme Court reversed a reduction in sentence for four men from Irian Jaya accused of distributing T-shirts which bore the flag of "West Melanesia," the name of the state that some independence activists want to establish in Irian Jaya. Yakob Rumbiak, Ik Yoran, Pilemon Kambu and Habel Tanati originally had been given prison sentences of seventeen, thirteen, eleven and nine years by a court in Jayapura. The High Court in Jayapura had reduced the sentences by more than half in August 1990, but the Supreme Court reinstated the initial sentences. The T-shirts had been made in time for December 14, 1989, the first anniversary of the raising of the West Melanesian flag at a sports stadium in Jayapura, the capital. In August 1991, the Supreme Court upheld the prison sentence of eight-and-a-half years that had been handed down in October 1990 for Bonar Tigor Naipospos, a Yogyakarta student. Bonar was accused of possessing books that smacked of Marxist-Leninist teachings and taking part in a study group in which "Marxist" themes were discussed, such as the view that the lot of the Indonesian laborer under the Suharto government is little better than it was under the Dutch colonial regime.**

**On April 8, Arswendo Atmowiloto, a poet, short-story writer and editor of a tabloid weekly, was sentenced to five years in prison on charges of insulting a religion. The charge was based on his publication of a poll among his subscribers of the leaders they most admired. The Prophet Mohammed came in eleventh in the poll, behind President Suharto, Saddam Hussein and a rock singer. The poll caused demonstrations in many of Indonesia's major cities.**

**Some thirty-three suspected members or supporters of the banned**

Indonesian Communist Party remain in prison, including seven sentenced to death. Two men, Rewang, age 63, and Marto Suwandi, age 69, were released on July 24, four years after their sentences had expired. Prison officials refused to comment on the reasons for the delay, but it was believed linked to the retroactive application of a 1987 presidential decree banning routine reduction of sentences (remissions) for anyone sentenced to a life term or death.

In addition to those formally arrested on subversion charges, many other critics and political opponents of President Suharto or the Indonesian military continue to face restrictions on their civil rights. The moderate opposition grouping known as the "Petition of 50," named after a petition they submitted to President Suharto in 1980 that questioned his authority to decide on certain policies, continued to be banned from traveling abroad and receiving loans from banks. While the Indonesian press covered its activities and demands more thoroughly than at any time in the last decade, members were told that they would have to apologize to the president for the offense caused by their petition if remaining restrictions were to be lifted. In addition, some 17,000 people remain on the Indonesian government's immigration blacklist, many for political reasons. The blacklist prevents them from entering or leaving the country.

In October, as the political atmosphere heated up in anticipation of the 1992 parliamentary election campaign, local authorities in Magelang, Central Java banned four Muslim preachers from giving public religious lectures (*pengajian*). *Pengajian* have often been a forum for sharp critiques of government policy. In another effort to ensure uniformity of political views prior to the 1992 elections, the government required that all those selected as candidates by Indonesia's three legal political parties go through a screening procedure called *litsus* (short for *penelitian khusus*, or special investigation) to determine whether they had any involvement in the 1965 coup attempt which the Indonesian government has blamed on the Indonesian Communist Party. Senior figures in the ruling Golkar party and former Golkar ministers were exempted from the screening.

Although the mainstream press was unusually lively in 1991, formal censorship, if anything, intensified. The attorney general's office banned ten books during the year. One, banned in September, a translation of *Ersatz Capitalism in Southeast Asia* by the Japanese scholar Yoshihara Kunio, was said to contain material which discredited the nation and the president and made invidious comparisons between the latter and former President Ferdinand Marcos of the Philippines. The attorney general's office said another book banned at the same time, entitled *The Gulf War: Islam will Return Triumphant*, could damage Indonesian-Saudi relations because it was critical of the Saudi royal family.

Also in September, an article on the killings in Aceh published in the

Bangkok English-language newspaper *The Nation*, drew a formal protest from the Indonesian ambassador in Thailand and a response from the Thai government that it could not place restrictions on Thailand's free press.

The Indonesian government made numerous efforts to restrict freedom of expression about land disputes. In February 1991, in Bengkulu Selatan, villagers were forced to retract a letter they had sent in May 1990 to "Box 5000" (a government post-office box for receiving corruption complaints) about the failure of local officials to resolve a land dispute. Their complaint resulted in an investigation by the provincial government — and subsequent pressure from the officials at fault until the villagers backed down.<sup>85</sup>

In Semarang in February, students were interrogated by the police and copies of a 1991 calendar called "Land for the People" were confiscated because of the way the calendar caricatured officials. It showed President Suharto sitting on and squashing wailing peasants, while his wife was dressed in a bikini and swinging a golf club. Criminal charges against the student distributors were later dropped, but the calendar remained banned.

Freedom of assembly was also restricted. On February 14, security forces broke up a peaceful march on the American, Japanese and British Embassies to protest the Gulf War, and six people were arrested and briefly detained.

Freedom of association for trade unionists became a major issue in 1991. Even as Indonesian Manpower Minister Cosmos Batubara was selected to chair the International Labor Organization's annual conference, the right of Indonesian workers to strike, ostensibly protected by Indonesia's Constitution, continued to be violently suppressed. The military was routinely summoned to end strikes by workers protesting low wages, compulsory overtime, and other violations of Indonesian law. In many cases, military intervention in labor disputes was preceded or followed by interrogations of strike leaders at district military headquarters. Often, the labor leaders involved were coerced into signing letters of resignation. In June, nine workers at P.T. Evershinetex, a textile factory, were reported tortured by District Military Command 061 in Bogor, and five workers at a factory called P.T. DWA were reported to have been intimidated and beaten at subdistrict military units in West Jakarta. In August, after the government sent two hundred soldiers to suppress a strike at the tiremaker P.T. Gadjah Tunggal near Jakarta, nine workers were reported to have been detained and intimidated by security forces, and one of them was held for three days. Despite explicit government acknowledgment that wage levels frequently are below the level

---

<sup>85</sup> *Tempo*, March 9, 1991

necessary to support the minimum physical requirements of workers, and despite legal protection of the right to strike, Admiral Sudomo, coordinating minister for general policy and security, and Manpower Minister Batubara continue to assert that strikes are unnecessary. They openly rationalize the use of military force in ending the strikes as a justifiable precaution against public disturbance. At a seminar in Jakarta on October 16, Batubara defended the government's use of troops: "If you go on strike in the streets it will disturb people and neighboring factories. It's the security officers' job to take care of public order."

In June, Saut Aritonang, the leader of the independent Indonesian trade union Solidarity (Setia Kawan), was taken at gunpoint from a taxi, blindfolded and held captive for three days. Although the identity of his captors was unclear to him, a military intelligence source was reported to have said privately during his absence that the union leader was being held by the regional military command. Aritonang said that he had been interrogated about the activities of Solidarity and had been threatened with death should he continue to interfere in the government's development plans. The military publicly denied any involvement in the abduction.

The abduction of Aritonang follows a pattern of military and police harassment of Solidarity members and officials which has plagued the independent union since its founding in 1990. In addition to "preventive questioning" of union members at police centers, the government has declared that it considers the union illegal, implying that it will not tolerate any expansion of the organization. Although freedom to organize is guaranteed by the Indonesian Constitution, the Indonesian government has put in place such onerous labor-union registration requirements that the only union allowed in practice is the government-manipulated SPSI (All Indonesia Workers' Union). A 1987 law requires, among other things, that a union have offices in at least twenty of Indonesia's twenty-seven provinces, with at least one thousand company-level units, before it can bargain on behalf of workers. By intimidating Solidarity, at present the only alternative to SPSI, the government makes it virtually impossible for the organization to expand to the extent necessary for official recognition. The government's response to Solidarity shows that any stirrings of a free, independent and democratic trade-union movement will be actively suppressed.

### **The Right to Monitor**

Human rights monitoring by domestic organizations was restricted. No Indonesian human rights organization operates in East Timor, in part because

permission to do so would almost surely be denied, but also because Indonesian human rights organizations are sensitive to the problems they would have working in a territory where most victims of human rights abuses would feel more comfortable talking to a Timorese priest than to an Indonesian lawyer.

Lawyers from the Medan, North Sumatra branch of Indonesia's largest human rights organization, the Legal Aid Institute, were not allowed to defend any suspected members of Aceh Merdeka; the ban extended to the Medan office's outpost in the town of Lhokseumawe, Aceh. After the article about human rights abuses in Aceh appeared in the Bangkok newspaper, the head of the Medan office of the Legal Aid Institute, who was quoted in the article, was "invited" by the local military commander to army headquarters and criticized about his lack of nationalist feeling.

Following the East Timor massacre, two human rights activists were intensively interrogated in Jakarta, accused of having organized the demonstration of East Timorese students on November 19. H.J.C. Princen of the Institute for the Defense of Human Rights and Indro Tjahjono of the organization INFIGHT were interrogated for eight hours on November 20, not only about their activities in relation to East Timor but also about all of their other human rights work. As of early December, they were having to report to the internal security agency BAKORSTANAS every day, a clear form of intimidation.

## **U.S. Policy**

The United States maintains friendly relations with Indonesia, and the Bush Administration, like the Reagan Administration before it, has been reluctant to criticize the government of President Suharto. Indonesia's support of the allied Gulf War policy and its constructive role in working toward a settlement of the Cambodian conflict may have increased that reluctance.

The Bush Administration goes out of its way to accentuate the positive. In a submission to Congress outlining security assistance requested for fiscal year 1992, the State Department and Defense Security Assistance Agency noted, "The debate over political, economic and social issues is broadening, and the Parliament has somewhat enhanced its dialogue with the Executive. Reports of human rights violations declined in recent years, particularly in East Timor." The request for \$2.3 million for fiscal year 1992's International Military Education and Training (IMET) program, made before the November 12 massacre in Dili, nevertheless came at a time when killings, disappearances, arbitrary arrests and unfair trials in Aceh were making 1991 a very bad year for human rights in Indonesia. The statement noted that IMET "exposes Indonesians to U.S. traditions of democracy, human rights and civilian control of the military." Given what happened in Aceh and East Timor, that exposure seems to have had little influence. Indonesia received \$1.9 million in IMET assistance in fiscal year 1991.

The U.S. Embassy and State Department desk officers have been ready and willing to check on reports of restrictions on human rights monitors, but the State Department generally has not gone far enough to condemn military abuses in Aceh or East Timor. An exception was the reaction to the Dili massacre. On November 13, State Department spokesman Richard Boucher expressed concern over the "tragic loss of life" in the massacre of the day before, although he cited contradictory reports on what had caused the shootings to occur. On November 14, the Administration said it was "gratified" at the announcement of an Indonesian government investigation into the killings, and urged Jakarta to discipline those responsible for using "excessive force." The same day, State Department spokesman Boucher increased the public criticism of Indonesia, saying that "nothing that may have taken place could justify a military reaction of this magnitude, resulting in such a large loss of life by unarmed civilians." The State Department also made a point of summoning the Indonesian ambassador to express concern, and sent three officials to Dili to investigate the matter for themselves. Given the magnitude of the slaughter, the Administration should have gone beyond these welcome gestures to insist on an international inquiry, to suspend IMET until the results of the investigation were made known, and to



resume it only if there were reasons to believe that the military had acted responsibly.

Senator Clairborne Pell, chair of the Foreign Relations Committee, who sharply condemned the massacre and declared that "the violence in East Timor casts serious doubt on Indonesia's ability to be a civilized nation," introduced a resolution calling for a suspension of U.S. military aid to Indonesia under the IMET program. However, the Administration opposed the cutoff in IMET funds, arguing on November 14, in the words of State Department spokesman Boucher, that U.S. training of the Indonesian military contributed to its "professionalism." As ultimately adopted by the full Senate, the Pell resolution urged an immediate reassessment of the IMET program, as well as U.S. support for investigations into the atrocity under United Nations auspices. In a letter to Secretary of State James Baker, Senator Patrick Leahy, the chair of the Senate Appropriations Subcommittee on Foreign Operations, indicated that he would propose a prohibition on any military assistance to Indonesia for fiscal year 1992 if the Indonesian government failed to conduct a full investigation and punish those responsible.<sup>86</sup>

House members were also outspoken in condemning both the October 28 shooting and the massacre on November 12. Ranking members of the House Foreign Affairs Committee urged the Indonesian government to "hold accountable those military personnel responsible...and release immediately those who were arrested on November 12 for their participation in a peaceful funeral procession." The Committee approved a measure similar to the one passed in the Senate, specifically urging the Administration to make future IMET funding contingent on the outcome of the Indonesian government's investigation.

The State Department was notably lukewarm about pressing for access by the ICRC to Aceh or criticizing the military for failing to allow a second visit. Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter noted in written response to congressional questions that there was nothing to suggest human rights violations on a "massive" scale in Aceh.

### **The Work of Asia Watch**

---

<sup>86</sup> The Senate bill was adopted on November 21. Senator Leahy wrote to Secretary Baker on November 20: "The U.S. Government should make it absolutely clear that there must be a thorough, prompt and credible investigation if an assistance relationship with Indonesia is to be maintained."

Much of Asia Watch's work during the year focused on the human rights violations in Aceh. A report issued in late December 1990, *Human Rights Violations in Aceh*, was widely covered by the international press in January and was used by diplomatic circles in Jakarta to press the Indonesian government to allow the ICRC into Aceh. A follow-up report, based on a visit to Aceh and Malaysia (where some Acehnese involved in the conflict have fled) in late May and early June, was issued in mid-June and also was widely covered by the press. The second report was used in a campaign to persuade the Malaysian government not to deport boat people from Aceh whose return had been requested by the Indonesian government. As of December, some two hundred refugees had been permitted to stay in Malaysia.

Following the May-June visit to Aceh, Asia Watch met with the Australian foreign minister and other senior government officials in Canberra to raise concerns about the human rights situation there. Asia Watch staff also met with senior staff of the Indonesian Embassy in Washington to discuss human rights violations in Aceh.

After the killings in East Timor on October 28, Asia Watch wrote the U.S. Embassy in Jakarta, urging it to press for an investigation. After the massacre two weeks later, Asia Watch helped to disseminate information on developments through an international network of human rights organizations, and sent a statement outlining what an independent, impartial investigation should consist of to every major newspaper in Jakarta. After East Timorese demonstrators were arrested in Jakarta on November 20, Asia Watch sent a formal letter of protest to Foreign Minister Ali Alatas. A major report on the killings and their aftermath was issued on December 12, in cooperation with the Human Rights Council of Australia.

Short reports were also issued during the year on freedom-of-expression cases, such as the calendar with the caricatures of government officials and the trial of the newspaper editor who conducted the poll of his readers.

In late October, Asia Watch formally requested permission to visit Indonesia and East Timor and hold talks with senior government and military officials in both places. There was no response by the end of the year.

## **JAPAN**

## **Human Rights Developments**

**Asia Watch in 1991 directed its attention in Japan to the treatment of Chinese dissidents and the use of Japanese economic and diplomatic leverage to promote human rights in Asia. Our primary concern continued to be Chinese dissidents who were in Japan at the time of the June 4, 1989 crackdown in Beijing or who later fled to Japan.<sup>87</sup> Although the Japanese government promised at a 1989 summit of industrial nations in Paris that it would offer refuge to dissidents who feared persecution if returned to China, it has not granted political asylum to a single Chinese dissident. Instead of offering blanket coverage to those wishing to renew their visas, the government adopted a case-by-case approach and left it to immigration officials to make the decisions. With one prominent exception, the government did display more flexibility in dealing with Chinese visa applicants whose cases became the subject of international publicity and domestic pressure.**

**The exception was the case of Lin Guizhen, a democracy activist from Fujian Province who entered Japan in September 1989 and was forcibly repatriated to Shanghai on August 14, 1991. The deportation came on the last day of a high-profile visit to Beijing by then-Prime Minister Toshiki Kaifu. Lin was sent back despite two lawsuits pending in the Japanese courts related to her claim for refugee status. Sixty-one other Chinese deemed to be "economic refugees" were deported simultaneously.**

**Lin claimed that she had participated in pro-democracy demonstrations in Fukishu city in June 1989 and then fled from China in a boat with 230 other Chinese. Upon arrival in Japan, she applied for political asylum. Her application was rejected in June 1990 as was a subsequent appeal, despite her lawyers' argument that she was in danger of persecution in China. She was deported after the Supreme Court upheld a lower-court decision, although further appeals were still pending.<sup>88</sup> Lin's sudden deportation provoked an international outcry.<sup>89</sup>**

---

<sup>87</sup> According to Japan's Justice Ministry, 2,844 Chinese have arrived illegally in Japan since the Beijing massacre. Of these, 2,381 have been deported. In addition, it is estimated that there were approximately 15,000 Chinese students studying in Japan at the time of the massacre. Another 48,000 were in language schools – the largest number in any country outside of China.

<sup>88</sup> Lin was deported after a Supreme Court ruling on October 9, 1990 upholding a lower-court interlocutory decision rejecting her appeal for suspension of deportation. However,

Japanese civil liberties groups complained to the United Nations High Commissioner for Refugees (UNHCR) that Japan's action had violated the 1951 Refugee Convention, which Japan ratified in 1982.<sup>90</sup>

Asia Watch protested the deportation and urged Japan to monitor Lin's welfare after her return to China. Japanese authorities have cited assurances from Chinese officials given to their Embassy in Beijing. A letter to Asia Watch from the Japanese Embassy in Washington stated that the Chinese government had reported that "soon after Lin arrived in Shanghai, she was taken by her family and she is now living peacefully with them." The same letter also declared, "No legal action against her has been taken by the Chinese government." Similar statements have appeared in the Japanese press. However, it has been impossible to verify China's assurances independently. The Japanese government has indicated that it intends to monitor Lin's status periodically, but there is no indication that it has access to her.

In June 1991, Japan shifted its method of dealing with a number of cases of Chinese living in the country prior to June 1989. For the first time, a provision in the immigration law under which a person may be granted legal residency status "by reason of special circumstances" was applied to Chinese dissidents.<sup>91</sup> The visa is

---

at the time of her expulsion, two lawsuits were still pending at the district-court level, one seeking cancellation of the deportation order and the other pressing her application for refugee status. Her attorneys have indicated that they intend to pursue the matter in her absence.

<sup>89</sup> For example, *The New York Times* gave her deportation prominent coverage. Steven Weisman, "Japan Deports Chinese but Others Are Hopeful," August 18, 1991.

<sup>90</sup> Under Article 35 of the convention, Japan is obligated to cooperate with the UNHCR. In 1987, the Executive Committee of the UNHCR recommended that an applicant "should be permitted to remain in the country while an appeal to a higher administrative authority or to the courts is pending."

The UNHCR's role in the case is unclear. Justice Ministry officials say that the UNHCR interviewed Lin and found her unqualified for refugee status. But in a Tokyo news conference on August 20, Sadako Ogata, the UNHCR commissioner, expressed concern about the precipitous action taken by the immigration authorities.

<sup>91</sup> Under the so-called "designated activities" clause of the Immigration Control and Refugee Act of 1990, residency status may be granted "due to special circumstances that

given for six months at a time and is renewable; although it does not specifically permit the person to work, those who obtain it generally have been allowed to seek employment. The government granted this status to Chen Shisen, a student living in Tokyo since September 1987 who feared persecution in China because of his pro-democracy activities as a member of the Japanese branch of the Federation for Democracy in China (FDC).

On October 9, 1991, a visa was granted under the same provision to Zhao Nan, a prominent Chinese dissident who had been denied political asylum on March 7. Zhao asserted that he was at risk of "brutal punishment" if returned to China against his will, both because he was president of the FDC chapter in Japan and because he had been politically active in China beginning in 1978. Following the arrest of Democracy Wall activist Wei Jingsheng in 1979, Zhao had edited Wei's pro-democracy journal. For his peaceful political activities, Zhao was imprisoned without trial in a Chinese labor camp from 1982 to 1984. He came to Japan in September 1988 and had his visa renewed three times before a renewal request was denied and immigration authorities ordered him to leave the country late in 1990. Despite his well-founded fear of persecution, the Justice Ministry refused to grant him political asylum on narrow technical grounds, asserting that he had missed a filing deadline. A lawsuit filed in June 1991 challenging the decision is still pending.

A lawyers group working on behalf of Chinese students issued a public appeal following the decision in Chen's case, urging the government to grant the same status to at least twenty-two other dissidents they represented. The lawyers had lobbied the Justice Ministry and petitioned publicly on the students' behalf, and the government's action on Chen was viewed in part as a response to the pressure they had generated.<sup>92</sup> By the end of November, fourteen people had been given such status.

It is unclear whether this special status will be extended indefinitely and how broadly it will be applied. This uncertainty is a product of the Japanese government's conflicting desires to avoid both offending the Chinese government

---

have developed in the country of his nationality." The grounds on which this status is given are extremely vague. The provision effectively allows immigration officials to grant extended visas to certain individuals without categorizing them as political refugees or extending blanket visas to entire categories of people.

<sup>92</sup> The Lawyers' Group for Protecting Human Rights of Chinese Students is headed by Hideo Fuji, a former president of the Japan Federation of Bar Associations.

by granting formal asylum — with the implicit statement that a well-founded fear of persecution has been demonstrated — and incurring the international criticism that has attended its return to China of dissidents who are likely to face such persecution.

### **Japanese Foreign Aid and Human Rights**

In 1991, Japan began to address the question of how it might effectively use its economic power as one of the world's largest aid donors to exert a positive influence on behalf of human rights, especially in Asia. For the first time, government officials at the highest level spelled out criteria for Japan's Official Development Assistance (ODA) program that included an emphasis on human rights.<sup>93</sup>

On April 10, Prime Minister Kaifu gave a speech in the Diet — the Japanese parliament — in which he said that Japan's ODA policy would take into consideration the recipient countries' "efforts for promoting democratization and...securing basic human rights and freedom," as well as other criteria such as the volume of arms sales and imports.<sup>94</sup> A similar point had been made in February

---

<sup>93</sup> In 1989, Japan became the world's largest donor of official foreign aid, disbursing over \$8 billion. In 1990, ODA loans and grants totaled over \$9 billion but, due to exchange rate fluctuations, Japan ranked second in the world, after the United States; approximately two-thirds of the Japanese funds went to Asian countries. Figures for 1991 are not yet available.

<sup>94</sup> Although it was announced in 1991, the new ODA policy had been under consideration at least since 1990. A Foreign Ministry "white paper" on ODA was circulated internally in October 1990 and published in the ministry's 1990 Annual Report. It referred to sweeping reforms in Eastern Europe and their "major influence on freedom and democracy movements in other parts of the world." The white paper quoted a policy statement of the Development Assistance Committee of donor nations on the "vital connection between open, democratic and accountable political systems and individual rights and the effective and equitable operation of economic systems." The white paper provided no hint of how the policy would be implemented other than to say: "The extent to which Japan emphasizes such political values as democracy and respect for human rights in its aid activities from now on is a question that will need to be debated in depth, taking into account the fact that the processes of democratization may vary from country to country."

by Japan's delegate to the U.N. Human Rights Commission in Geneva, who declared that "as a nation that regards freedom and democracy as goals toward which all countries should strive, Japan...cannot remain insensitive to the human rights situation of a recipient country."

Depending on how it is applied, the new ODA policy could move Japan toward making an enormously significant contribution to enhancing human rights protection in Asia. But in implementing the policy thus far, Japan's actions regarding two important countries, Burma and China, have been inconsistent.

In its 1990 Annual Report, published in March 1991, the Ministry of Foreign Affairs pointed to Burma as an example of a country in which Japan's aid had been "appreciably affected" by the 1988 democratization movement and by the subsequent military crackdown. In fact, Japan had used its aid program to send decidedly mixed signals to the military government in Rangoon, apparently trying to maintain good relations while exerting some pressure on behalf of human rights and political reform.

In July 1991, the Japanese Foreign Ministry said that it would continue to restrict economic ties with Burma by not approving any new ODA assistance beyond what was committed prior to 1987. The ministry said this policy would remain in effect until principal opposition leader Aung San Suu Kyui was released from house arrest, basic human rights were respected, and a transfer to civilian rule was completed. However, in 1989 Japan resumed disbursement of aid-related projects which had been approved prior to 1987.<sup>95</sup> In its July statement, the Foreign Ministry rejected any suggestion that Japan impose further economic sanctions, including trade sanctions on Burma, as the United States had done.<sup>96</sup> But toward the end of 1991, there were indications that Japan might consider adopting a sanctions policy. Michio Watanabe, who was appointed foreign minister by the new prime minister, Kiichi Miyazawa, urged Rangoon to make human rights improvements and respect the May 1990 election results or "they will duly have no alternative but to suffer sanctions from the international community."<sup>97</sup>

---

<sup>95</sup> This included five continuing-grant projects totaling 9.2 billion yen, of which sixty-five percent had already been disbursed, and nineteen loan projects totaling 125 billion yen, of which only twenty percent had been paid out.

<sup>96</sup> Kyodo, July 22, 1991.

<sup>97</sup> Kyodo, November 5, 1991.

In regard to China, Japan's aid policy in 1991 seemed to be directly at odds with its pronouncements on ODA and human rights. Tokyo decided in September to provide 130 billion yen (\$965 million) of ODA for the year ending March 31, 1992. This money was part of an 810 billion yen infrastructure loan package agreed to in 1988 for the fiscal years 1990 to 1995. Until November 1990, the loans had been frozen in conjunction with a package of economic sanctions imposed by the Group of 7 industrial countries.

The decision on funding followed an August 10-13 trip to Beijing by Prime Minister Kaifu, the first by the leader of a major industrial power since the June 1989 massacre. During the visit, Kaifu announced the Japanese government's plans to give the desperately needed loans, repeating his assertion (made in various international fora over the past two years) that Japan was anxious not to "isolate" China. In a meeting with Chinese Prime Minister Li Peng, Kaifu mentioned that the international community had a strong interest in seeing respect for human rights in China. He reportedly added: "I hope you will introduce reforms in the political field as well as the economic field."<sup>98</sup> Whatever impact this mild rebuke on behalf of human rights might have had on China's leaders was outweighed by the international legitimacy bestowed on them by Kaifu's visit and the promise of further aid without specific human rights conditions attached.

### **The Right to Monitor**

Human rights groups in Japan function freely and without government restriction or harassment.

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

Asia Watch urged the U.S. Embassy in Tokyo to express concern to Japanese authorities about the specific cases of Zhao Nan and Lin Guizhen, as well as the broader issue of Japan's international commitments regarding Chinese dissidents. Although no public U.S. statement was made, U.S. officials in Japan told Asia Watch that the Japanese government was well aware of the strong views of the U.S. government on this subject and that the United States would continue to emphasize that no one with a well-founded fear of persecution should be forcibly

---

<sup>98</sup> Kyodo, August 10, 1991.



returned to China.

### **The Work of Asia Watch**

Asia Watch sent a delegation to Tokyo in February 1991 to continue a dialogue begun the previous year with government officials, nongovernmental organizations, representatives of the business community and others regarding Japan's domestic and foreign human rights policies. Following the mission, Asia Watch representatives met with Japanese Embassy officials in Washington to discuss the issues raised in Tokyo.

In May, two prominent members of the Japanese Diet visited Washington, and Asia Watch helped to arrange meetings with members of Congress on a range of issues including human rights. The same month, a U.S.-based official of the Japanese Overseas Economic Cooperation Fund, the agency which handles the ODA program, met with Asia Watch as part of an investigation ordered by the Ministry of Foreign Affairs. The inquiry was sparked by a Japanese media account of an Asia Watch report citing Chinese government documents that referred to a fiscal year 1988 ODA loan to China used for technological improvements at a prison factory involved in exports. The factory had been identified by Asia Watch as one using forced labor to make products for export. The Japanese Embassy informed Asia Watch of the results of its inquiry in December.<sup>99</sup>

Later in the year, summaries of several Asia Watch reports were translated into Japanese and distributed to policymakers, nongovernmental organizations and media contacts in Japan.

---

<sup>99</sup> The Embassy stated that according to Chinese officials, the Japanese loan was re-extended to the Xin-Sheng (New Life) Sewing Factory for the purchase of new machines. The factory, it said, is part of a group of four "final user" factories, in which "no convicts of any offense, political or otherwise, are working." The April Asia Watch report quotes Chinese government documents describing this group of factories as a joint venture combining manufacturing and trading, in which a prison enterprise, the New Life Cotton Mill, is the leading component and export arm.

## **MALAYSIA**

### **Human Rights Developments**

**Detention of individuals without formal charge or trial under the Internal Security Act (ISA) continued in Malaysia in 1991. At least seven of those in custody under the ISA were detained for the peaceful expression of their political views. All were associated with a political party that had run afoul of Malaysian Prime Minister Mahathir Mohamad.**

**The ISA enables any police officer to detain without warrant anyone deemed likely to pose a threat to the security of Malaysia. Those newly detained can be held initially for sixty days, and the minister of home affairs has the authority to extend the detention orders for up to two years, renewable indefinitely, all without charge or trial. Prime Minister Mahathir is also home affairs minister.<sup>100</sup> A June 1989 amendment passed by the Malaysian Parliament further stripped political detainees of legal recourse by abolishing judicial review of habeas corpus petitions by ISA detainees. A New York City Bar Association report said "Prime Minister Mahathir has acknowledged that the bill was intended to strengthen the hand of the executive personnel, lest they become too 'wary' of detaining people under the ISA."**

**After the detention under the ISA of four opposition party members from the eastern Malaysian state of Sabah in 1990, three more individuals were detained in 1991 and accused of participating in a plot "to take Sabah out of the Malaysian Federation." One of the three was released after sixty days; the other six remain in detention.**

**In January, Deputy Home Minister Megat Junid told the Malaysian Parliament that 142 people were then in detention under the ISA. Reasons for detention included alleged communist activities, religious extremism, and suspected participation in "Operation Talkak," the phrase used to refer to the alleged plot to secede Sabah from Malaysia.**

**Those detained under the ISA in 1991 were Maximus Johnity Ongkili, detained**

---

<sup>100</sup> For a detailed analysis of the ISA, see Beatrice S. Frank et al., *The Decline in the Rule of Law in Singapore and Malaysia*, (New York: Association of the Bar of the City of New York, 1990).

on January 3 and later released; Vincent Chung, former manager for administration and personnel of the Sabah Foundation, an organization devoted to the economic and social development of Sabah, detained on January 19; and Jeffrey Kitingan, director of the Institute for Development Studies and an outspoken proponent of increased state administrative autonomy, detained on May 13. On July 17, Deputy Home Minister Megat Junid announced to the press that Kitingan's detention order had been extended for two years on instructions from Prime Minister Mahathir.

In addition to Kitingan and Chung, those still in custody since their detention in 1990 are Damit Undikai, detained on May 18, 1990; Benedict Topin and Albinus Yudah, both detained on May 25, 1990; and Abdul Rahman Ahmad, detained on July 7, 1990. Of the two sets of ISA detainees still being held for their peaceful political views, five are in custody in the Kamunting Preventive Detention Camp in Taipin, Perak, while one, Topin, has been transferred to Kuala Lumpur.

The seven Sabah detainees were all connected directly or indirectly with the United Sabah Party (Parti Bersatu Sabah or PBS), a political party dominated by Kadazans, a largely Christian indigenous group. It has been on a collision course with Kuala Lumpur, demanding readjustment of federal-state relations, a greater share of Sabah's revenue, more administrative autonomy, and the expulsion of illegal Filipino and Indonesian immigrants.

Asia Watch was also concerned about the government's threat to curtail the independence of the Malaysian Bar Council, a professional association of 2,600 lawyers which has long been outspoken in promoting human rights and judicial independence in Malaysia. In November, members of the governing political coalition, United Malays National Organization (UMNO), which holds over two-thirds of the seats in Parliament, announced that the coalition was contemplating amendments to the Legal Profession Act of 1977, which governs the Bar Council. The amendments would have removed a provision of the act that assigns the Bar Council the duty to act in defense of justice, effectively prohibiting the Bar Council from speaking out on issues of public concern, in violation of its members' right to the freedoms of expression and association. Another amendment would have allowed the government, rather than the Bar Council itself, to discipline individual members of the bar. UMNO leaders indicated that the government would use this new power to "blacklist" lawyers who are critical of the government or judiciary. Following considerable domestic and international controversy over the proposed amendments, the government announced that it had never intended to enact them.

Government officials continued to promote an "Asian approach" to human rights as a way of diluting "Western" criticism of human rights violations. In a

speech to the U.N. General Assembly in September, Prime Minister Mahathir asked, "Can only the preachers have the right to interpret democracy, to practice it as they deem fit, and to force their interpretation on others?" He was reacting in particular to a report of the U.N. Development Program, released in May, which contained a "human freedom index" ranking Malaysia on the same level with Haiti and Zambia in terms of protection of human rights. Unfortunately, Mahathir's interpretation of democracy seems to allow arbitrary detention of political opponents and official intolerance for independent institutions like the Bar Council, which seek to defend the rule of law from governmental attack.

The government's treatment of asylum-seekers was also a cause for concern. In October, the government announced its intention to repatriate some two hundred refugees from Aceh, Indonesia, in violation of the international prohibition of *refoulement*, despite evidence that they face a substantial risk of persecution at home. All two hundred were being held in Malaysian prisons, but the Malaysian government refused to permit representatives of the U.N. High Commissioner for Refugees (UNHCR) to visit them to evaluate their asylum claims. A Malaysian Embassy official said that the government had set up an agency to assess their claims, but refused to release details about individual claims on grounds that it was an "internal matter." In its agreement with Indonesia, the Malaysian government failed to exert pressure for a guarantee of the safety of the returnees, twenty-four of whom already had been sent back by the end of the year. The government also continued to deny Vietnamese boat people permission to land in Malaysia, without any attempt to determine whether they had valid asylum claims or to ensure that they could find alternative refuge.

### **The Right to Monitor**

Human rights advocacy continued to be difficult in Malaysia, where the government persisted in denying a license to a would-be human rights organization. No organization can operate in Malaysia without such a license.

Individual lawyers, and the consumer advocacy organization Aliran, continued to monitor human rights. Lawyers reported occasional harassment. There were no arrests.

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

The Bush Administration issued no public criticism of the Malaysian

**government's human rights record in 1991. The U.S. Embassy in Kuala Lumpur did respond to Asia Watch concerns regarding the status and treatment of the Acehese detainees, and State Department officials have privately expressed support for Asia Watch appeals. But the U.S. government has refrained from using its own voice in lodging criticisms. For example, a U.S. Embassy official told Asia Watch that the Embassy had not clearly requested UNHCR access to the Acehese detainees because of the "sensitive nature" of the issue.**

**The Administration's influence on Malaysia is small. Prime Minister Mahathir has been quoted as calling the United States "racist," and the U.S. government's contribution in foreign and military aid is negligible. The Administration requested \$1 million in fiscal year 1991 for the International Military Education and Training (IMET) program, but the Senate cut the aid to zero as a protest against the Malaysian government's refusal to grant temporary asylum to boat people from Vietnam. The Administration's request for fiscal year 1992 stands at \$1.1 million for IMET.**

**The Administration missed an important opportunity to press for respect for freedom of association in the country's electronics industry, where unions are currently prevented from forming. A petition on labor rights in the electronics sector was filed in May with U.S. Trade Representative (USTR) Carla Hills by the International Labor Rights Education and Research Fund, pursuant to Section 502(b)(8) of the Trade Act. The USTR rejected the petition in August, refused to conduct an inquiry, and offered no explanation of her decision. Thus Malaysia, despite its poor labor rights record, escaped scrutiny of its practices, notwithstanding U.S. law specifically requiring that recipients of trade benefits under the Generalized System of Preferences uphold labor rights standards, including freedom of association.**

### **The Work of Asia Watch**

**In 1991, Asia Watch documented Malaysia's continuing abuses under the ISA, publishing a newsletter, "Malaysia: Detainees in Sabah," in October. It also pressed the Malaysian government to release the six Sabah detainees, and called on the Malaysian Parliament to review the ISA with a view toward repeal.**

**In October, Asia Watch met with U.S. State Department and Malaysian Embassy officials to discuss concerns about the possible forcible repatriation of the Acehese detainees. Asia Watch appealed unsuccessfully to the Malaysian government to allow international parties to visit the detainees to assess their individual asylum pleas.**

**Asia Watch did receive a reply from the Malaysian government that no Acehese would be returned against their will, although the government continued to deny access to detainees by the UNHCR which might have verified that this assurance was met.**

**In November, Asia Watch appealed to the government to halt its effort to restrict the independence of the Bar Council. The effort to silence this leading independent institution was documented in a newsletter, "Malaysian Government Moves to Stifle Independent Bar," published that month.**

## **PHILIPPINES**

### **Human Rights Developments**

**The Philippine government's human rights record in 1991 was mixed. According to both the government's Commission on Human Rights (CHR) and nongovernmental human rights groups, violations declined on all fronts. But reports of abuses, including disappearances, extrajudicial killings, incommunicado detention and warrantless arrests, continued. A 1990 law permitting warrantless arrest of suspected subversives continued to be used to arrest suspected members of the rebel New People's Army (NPA), some of whom were held for weeks in solitary confinement and tortured.**

**Government forces were not alone in committing abuses. The NPA, the armed wing of the banned Communist party, continued to kill members of the military, police, other paramilitary forces and civilians in situations outside of combat. As in the past, there were reports of execution-style killings of police and off-duty military officers by rebel hit squads, the so-called "sparrow units," seeking to steal the victim's gun. Typically, a rebel in civilian clothing approached a victim and shot him at close range. Apart from the humanitarian-law violation inherent in targeting people who often were performing no combat function, the disguising of NPA combatants as civilians served to blur the distinction between the two and increased the likelihood of abuse of civilians.**

**On September 28, in Lawaan in eastern Samar province, insurgents were reportedly responsible for a massacre of seven civilians riding in a police car, including the mayor. In October, the NPA in northern Luzon island admitted for the first time in a press statement that it had been holding an American hostage, Arbie Duane Drown, since his disappearance in Cagayan province a year before.**

Legal and legislative developments in 1991 were for the most part encouraging. The government enacted several reforms reflecting the recommendations of numerous national and international human rights groups, particularly those of the U.N. Working Group on Enforced or Involuntary Disappearances, which issued its report on the Philippines in January.

In June, President Corazon Aquino signed a bill repealing Presidential Decree 1850, an enactment of the martial law era, and concurrently signed into law an act assuring civilian-court jurisdiction over military personnel in cases involving offenses against civilians. The repeal of Presidential Decree 1850 was a major victory for human rights groups in the Philippines, which together with a majority of legislators had been clamoring for its repeal since President Aquino took office in 1986. The decree had given military courts jurisdiction over cases involving all military personnel, including those accused of human rights offenses against civilians.

Still, military impunity remained a problem in 1991, even in the most visible cases. In a widely publicized case in February, fifteen soldiers were acquitted of charges of having massacred nineteen civilians in November 1990 in New Passi, Sultan Kudarat, despite eyewitnesses and physical evidence that strongly linked the unit to the massacre. Reports by the government's Commission on Human Rights had strongly implicated the military, and a doctor presented evidence showing that the victims had been shot in the back at point-blank range. As in other cases, eyewitnesses who had submitted signed affidavits failed to come forward at the trial, reportedly because of fears for their own security.

The right to be protected against arbitrary arrest remains seriously eroded. Since July 1990, the Supreme Court has permitted warrantless arrest not only of rebels but also of those suspected of being Communist Party members, on the grounds that membership in a banned organization may be considered a "continuing crime."

Numerous reports suggest that the military has used the court's ruling to arrest suspects in the absence of strong *prima facie* cases against them. Arrests reportedly often followed by incommunicado detention, during which forcible attempts are made to extract confessions. Philippine human rights groups assert that the incidence of warrantless arrests has risen since the decision, and that the military also routinely plants weapons on suspects to legitimize otherwise weak cases of alleged subversion.

In one instance on August 21, Roberto Roldan, a freelance filmmaker and Marcos-era detainee, was arrested without a warrant while reportedly shopping at a mall in Quezon City. Roldan said that the military held him incommunicado for a week and forced him to make a confession at gunpoint. Only after a delay of two

weeks was he officially charged with subversion and possession of a firearm, which he claimed had been planted. He remained in custody at the end of the year.

There were continuing reports of disappearances in 1991. In several cases, witnesses identified the abductors as members of the military, the police or Civilian Armed Forces-Geographical Units (CAFGU), the official paramilitary organization. In one case, a member of a militant peasant's organization disappeared after he was taken into police custody. Local human rights organizations said he had been arrested because of his activities as a farmers' organizer.

Amnesty International (AI) reported that Renato Tabasa Zabate was abducted by a group of armed men on September 8 and was still missing at the end of the year. In 1990, members of Zabate's organization, the United Farmers Organization, were reportedly subjected to harassment by military forces for being suspected supporters of the New People's Army. AI believed that Zabate, whom military agents had detained once before in an unofficial "safehouse" in 1987, was still being held at the Cebu Metropolitan District Command Headquarters of the Philippine National Police, at Camp Sotero in Cebu City.

Extrajudicial killings by government forces continued in 1991. As in the past, most of the victims were peasants, poor urban squatters and labor-union activists, in Negros Occidental, Cebu and Mindanao. A June report by the International Federation of Human Rights described several such killings. In one, in Negros Occidental province in February, Enrico Perolino, a farmworker who had fled military operations in his rural village, was reportedly dragged out of an evacuation center in Bacolod and shot dead in full view of his son. The perpetrator, a CAFGU member, was identified by name by the son. The alleged murderer has not been discharged, although an investigation has been initiated by the CHR.

Individuals with outspoken political views were also victims of targeted killings. In January, according to Amnesty International, two armed men in Negros Occidental province assassinated Father Narciso Pico, a parish priest of the Philippine Independent Church who was well known for his advocacy of human rights and land reform. Before his death, Father Pico had been repeatedly warned that the military had targeted him as a suspected communist sympathizer. Information collected by local and international monitors pointed to CAFGU members or members of an unofficial paramilitary group as the perpetrators.

For the first time under the Aquino government, local human rights and environmental organizations reported that environmental activists were becoming targets of military abuse. Henry Domoldol, chair of a community association pressing to keep forests under tribal management, was shot dead on July 26, as he was coming out of his home in Kopsis, a village in the town of Conner



**in the northern province of Kalinga-Apayao. Witnesses, including two of his sons, identified the gunmen as members of the Philippine Army and CAFGU.**

**In another case, a priest who had been active in promoting the arrest of illegal loggers in his parish was shot dead with impunity by military agents apparently protecting an illegal logger. On October 14, the Reverend Nerilito Satur, parish priest in Valencia, Bukidnon, was shot fifteen times and his skull was crushed with rifle butts by three masked men. The bishop of the diocese and the regional Department of Environment and Natural Resources charged a military colonel from Cagayan de Oro, a local sergeant, and three paramilitary men with the planning and execution of the killing. Although warrants have been issued for the arrest of the five since October 30, they remain free because the police reportedly fear a "confrontation."**

**Human rights lawyers also continued to be victims of harassment and death threats, apparently from military-linked groups. In one case reported by a national coalition of human rights lawyers, surveillance was a precursor to an assassination attempt. On July 17, Vidal Tombo, a human rights lawyer who handles cases of political prisoners and NPA suspects, was injured in front of his home when two men jumped out of a red jeep and started firing on him and his friends with Armalite rifles. Tombo reportedly recognized the red jeep as the same one he recalled from earlier surveillance.**

**The enforcement of human rights laws continued to be a problem in 1991. The Commission on Human Rights, which is empowered to investigate cases but not to prosecute them, remained ineffectual. From the CHR's founding in 1987 through the middle of 1991, only four out of hundreds of military personnel accused of human rights abuses had been convicted.**

**There were also disturbing reports questioning the impartiality and accuracy of the CHR. In one case in February, AI reported that five men were abducted by elements of the 24th Infantry Battalion of the Philippine Army in Angeles City, Pampanga province, apparently on suspicion of being NPA supporters. According to an AI report in March, three of the victims were held incommunicado for at least one month. AI reported that two of the three, Manuel Capitulo and Antonio Bondoc, had been severely beaten, suspended in the air and thrown into a grave with hands and feet chained. The two were released one month later.**

**When the CHR issued a report on its investigation into the case in April, it suggested that Capitulo had never disappeared and that local human rights organizations were simply fabricating the case. Stating that Capitulo "is alive and did not actually disappear," the CHR reported that an investigator had found Capitulo at his sister's house more than one month after the abduction. It also**

**questioned "the integrity and veracity" of a habeus corpus appeal issued on behalf of the three men on February 11, at a time when they were being held in unacknowledged military custody. This is disturbing in light of past statements by CHR chair Mary Concepcion Bautista, who in 1988 charged human rights groups with being anti-government, lending credence to military red-labeling and making human rights activists targets for political violence.**

**The Presidential Human Rights Committee, a cabinet-level consultative body created by President Aquino in December 1988 as a response to the problem of involuntary disappearances, eclipsed the CHR in 1991 by launching several high-profile efforts to investigate human rights cases. The committee was sharply critical of counterinsurgency operations in northern Luzon, and recommended several new legislative and judicial measures on human rights. With representatives from nongovernmental human rights groups, the military and the Justice Department, the group carried authority which the CHR lacked.**

**Pushed by the committee, the government enacted new guidelines governing the treatment and conditions of release for detainees. It is too soon to tell whether the regulations have prevented disappearances or extrajudicial killings of political detainees, but the reforms appear promising. A memorandum of agreement signed in May states that detainees must be released to a member of the CHR, an attorney chosen by the detainee, or a respected member of the community. It also calls for the creation of an official logbook, open to public inspection, listing those detained and released. Failure to observe the regulations places legal liability squarely on official custodians if a detainee disappears or is killed.**

**In an attempt to promote prosecution of human rights offenders, the legislature enacted a new, more comprehensive witness protection program, the Republic Act 6981. The program promises housing, job assistance and burial expenses to witnesses agreeing to testify in cases of major crimes, including human rights cases. In August, the Senate offered protection to witnesses of alleged killings and sexual abuse by soldiers in Marag Valley, Kalinga-Apayao province. In the past, fear of retaliation has prevented many witnesses from testifying in human rights cases, making prosecution of offenders difficult.**

**Asia Watch was encouraged by an April 4 Presidential memorandum governing promotions of the roughly 12,000-member Armed Forces officer corps. Since 1987, the CHR has been permitted to review the human rights record of officers proposed for promotion. The memorandum adds the requirement that the candidate for promotion have no complaint or pending case against him before**

the CHR.<sup>101</sup>

Asia Watch found much cause for concern in the military's increasing reliance on paramilitary CAFGUs in combat operations and attacks on suspected leftists. CAFGU members as well as unofficial "vigilante" groups continued to be implicated in a significant proportion of human rights abuses. The military had stepped up recruitment to increase CAFGU forces by an additional ten thousand in 1992.

The continued reliance on private funding of the CAFGUs in Mindanao was especially disturbing. The so-called "Special CAFGU Active Auxiliaries" carried the seal of government approval, but were funded by private landowners and commercial and logging interests, some of whom have used private armies in the past to silence dissent and discourage unionization among workers.

Military red-baiting of legal grassroots organizations continued in 1991, particularly in Davao and Cebu cities, where such assertions by military officials were again aired in the news. In the past, the taint of communist involvement led to acts of violence against members of legal organizations, particularly militant peasants or workers groups, whose main crime appeared to have been their critical view of government policies.

At the end of 1990, the Congress passed a police reform law that disbands the Philippine Constabulary, a paramilitary branch engaged in counterinsurgency operations which was responsible for serious human rights abuses during the Marcos years and under the Aquino government, and gives its members the choice of transferring to the police or military forces. Most members reportedly chose the police, but they were not required to participate in professional retraining. It is not clear how a police force, which the same law assigned combat functions, will differ from the old Philippine Constabulary, especially since many of the same people will be involved.

### **The Right to Monitor**

The Philippines continues to boast arguably the most multifaceted — and confusing — set of nongovernmental human rights organizations in the world. The network of human rights monitoring, education and advocacy groups draws its strength from the diverse group of professionals who have devoted their energies to the issue — from clergy monitoring abuses in their rural church parishes to

---

<sup>101</sup> *Philippine Daily Inquirer*, July 30, 1991.

lawyers and academics drafting human rights reforms at top levels of government — and from a strong and relatively uncensored press. Advocates in 1991 achieved some success in attaining new legislation and in building public awareness of rights through the media.

However, monitors continued to experience difficulties, particularly in monitoring abuses in heavily militarized areas and in highly charged political court cases. Monitors reported being harassed and intimidated, particularly in areas of armed conflict. Members of monitoring and relief missions reported in July that they had been held involuntarily in military camps for as long as a day, photographed, and ultimately prohibited from delivering medical supplies to communities forcibly displaced by combat operations in Marag Valley, Kalingo-Apayao province. In August, another relief and monitoring mission was prevented from entering a heavily militarized zone in Catalina, Negros Oriental, where hundreds of families were reportedly displaced and living without food or medical assistance.

Problems for monitors were worst in Bicol province, where five leading human rights figures were arrested and charged with subversion following statements on the radio by the highest ranking police official that the human rights organization they were working with was a "communist front organization." Two of the five, attorney Antonio Ayo and attorney Santiago Ceneta, were officers in the regional office of the Task Force Detainees as well as long-standing members of the Free Legal Assistance Group, an internationally acclaimed human rights lawyers group. Both had served as defense attorneys in the recent past for suspected New Peoples Army members; they were arrested after Ayo sent the police a strongly worded response to the public red-labeling, explaining the Task Force Detainee's mission as a campaign against militarism. A third person arrested was an elderly Methodist minister, whom the police claimed had officiated at weddings of New Peoples Army members; the leading organization of Protestant churches in the region wrote a letter denouncing the charges as a "witchhunt."

## **U.S. Policy**

During the first nine months of 1991, the Bush Administration was largely silent on human rights in the Philippines as it remained singlemindedly focused on the negotiations over the fate of the U.S. military base at Subic Naval Station. The Philippine Senate voted to reject a new treaty on September 17, marking the beginning of the end of nearly a century of U.S. military presence in the country.

**Until then the principal Administration statement on human rights in the Philippines was essentially flattering of the Aquino government while condemnatory of the guerrillas. In testimony before the House Subcommittee on Asian and Pacific Affairs on March 21, Deputy Assistant Secretary of State for East Asian and Pacific Affairs Kenneth Quinn stated:**

**President Aquino has maintained her unwavering commitment to democratic processes and civil liberties despite threats to her government from the left and right. It is important to note that the statistics from independent human rights groups in the Philippines indicate that human rights abuses again declined in 1990. Human rights abuses, however, still do occur. The majority of human rights abuses are committed in connection with the Communist insurgency and related counterinsurgency efforts. The CPP (Communist Party of the Philippines) and the NPA continue to commit widespread human rights abuses in the course of their avowed destabilization campaign against the government. The principal human rights abuses committed by insurgents include extrajudicial killings, disappearances, torture, and ambushes. Human rights abuses are also committed by members of government forces, although such abuses are not encouraged or condoned by the Philippine Government. The principal human rights abuses committed by members of government forces include extrajudicial killings, disappearances, and torture. Government efforts to punish those responsible for violations have often been ineffective. We carefully monitor the human rights situation in the Philippines. Our Embassy in Manila and Consulate in Cebu raise U.S. concerns and urge the Philippine Government to take action where evidence exists of human rights abuses.**

**Following the rejection of the bases treaty, the U.S. ambassador to the Philippines, Frank Wisner, publicly criticized the human rights record of the Aquino government. In a few extemporaneous comments after a speech to Philippine lawyers on October 16, he condemned the slow prosecution of human rights offenders and blamed the security forces for "some of the abuses."**

**An Embassy official also told Asia Watch that the Embassy had made inquiries into several human rights cases, including killings attributed to the Philippine Armed Forces and vigilante activity in Negros and Surigao del Sur. However, this official could not point to any individual case in which formal**

protests had been lodged.<sup>102</sup>

The Philippine military continues to rely heavily on U.S. financial and technical support, and was one of the largest recipients of U.S. aid. Of \$556 million requested for the Philippines in fiscal year 1991, \$140 million was slated for military assistance. Over the past five years, the United States, through the Military Bases Agreement, provided twice the amount the Philippine government set aside for its Armed Forces.<sup>103</sup> In September, Philippine military officials said in a public statement that seventy-three percent of its Air Force budget came from the United States.<sup>104</sup>

The Administration's request for \$556 million in aid in fiscal year 1992 matched fiscal year 1991 levels. However, responding to requests by certain Philippine officials that some military aid be diverted to economic assistance, the House Foreign Appropriations Committee voted to transfer \$100 million of the requested \$200 million in military aid to development assistance.

Despite the House vote, military and economic aid was maintained at the previous year's levels because of a Senate Foreign Appropriations Committee vote to delay all debate on foreign assistance until early 1992, well after the new fiscal year began. Meanwhile, State Department officials have hinted that the Administration's aid requests for fiscal year 1993 might be reduced if the Philippine Congress voted for a rapid withdrawal of U.S. forces.

U.S. aid to the Philippines in fiscal year 1991 also included \$2.6 million under the International Military Education and Training program. A State Department official told Asia Watch that the Administration is considering funding a program of a still undetermined amount through the International Narcotics Matters arm of the Drug Enforcement Agency. It is not yet clear whether this will include police aid.

## **The Work of Asia Watch**

**Asia Watch in 1991 continued its efforts to document and respond to the**

---

<sup>102</sup> Letter from James J. Foster, First Secretary, U.S. Embassy, Manila, dated October 2, 1991.

<sup>103</sup> *Ibid.*

<sup>104</sup> See William Branigin, "Philippine Military Bucking Senators, Urges Retention of U.S. Naval Base," *The Washington Post* August 19, 1991.

ongoing human rights abuses by all parties to the Philippines conflict. Asia Watch sent appeals to the Philippine government and armed forces expressing concern over continuing threats and harassment encountered by human rights lawyers and over the reported mistreatment of Roberto Roldan, a freelance filmmaker held in detention. Asia Watch also called for an investigation into the October killing of the Rev. Nerilito Satur, a priest in Bukidnon, allegedly by military agents.

Human Rights Watch joined the American Civil Liberties Union of Southern California as counsel for the plaintiffs in *Sison v. Marcos*, a federal lawsuit which alleges human rights abuses by Ferdinand Marcos during his years as ruler of the Philippines. The case promises to set a precedent as the first Alien Tort Claims Act human rights case to go to trial on its merits. It is one of several cases — including a class action on behalf of all Philippine victims of torture, disappearance and summary execution during martial law — that, most likely, will be tried together in Hawaii in 1992.

## **SOUTH KOREA (Republic of Korea)**

### **Human Rights Developments**

In his 1991 New Year's Day message to the nation, South Korean President Roh Tae-woo declared, "Before the century is over, we must complete the task of building a fully democratic nation vibrant with freedom and diversity."<sup>105</sup> In March and June, local council elections were held throughout the country for the first time in thirty years. Voter turnout was low, and the majority of the seats were won by candidates belonging to the ruling Democratic Liberal Party (DLP). Aside from those elections, however, gains for freedom and diversity were notably lacking.

On April 26, 1991, Kang Kyung-dae, a student demonstrator, was beaten to death by five riot policemen. Kang's death sparked the most serious political turmoil in South Korea since June 1987, when another student, Park Chong-chol, died in police custody after torture. From late April to June, the country was racked by large-scale protest demonstrations, as well as a series of suicides by students, activists and workers protesting the government's failure to enact democratic reforms. A coalition of students, workers and political activists, formed

---

<sup>105</sup> "Roh Calls for Reunification before 2000," *Korea Herald*, January 1, 1991.

in the wake of Kang's death, demanded the resignation of all cabinet members and the repeal of a number of security-related laws. Partly in response to those demands, the home affairs minister, who is in charge of the police, resigned. The members of the riot police who were directly responsible for Kang's death were arrested. The prime minister also resigned from his post some weeks later. In late May, the DLP-controlled National Assembly enacted a liberalizing set of amendments to the National Security Law and amnestied a limited number of prisoners held under the law, most of whom had completed nearly ninety percent of their prison terms.

When these conciliatory gestures failed to stop the demonstrations and suicides, the government reverted to repression. The authorities ordered a nationwide manhunt for organizers of the demonstrations. Reverend Moon Ik-hwan, a Presbyterian minister and prominent dissident leader who previously had been imprisoned for traveling to North Korea without government permission, had his parole revoked in June 1991 and was returned to jail for participating in anti-government rallies.

The government tried to dismiss the protest suicides by alleging that they were orchestrated by dissident organizations. One political activist was even tried for allegedly having ghost-written the suicide note and aided and abetted the suicide of a fellow activist. The hard line seemed to work; in June, the political turmoil began to subside.

Among the DLP-sponsored amendments to the National Security Law is a provision that the law "shall not be loosely interpreted or otherwise misapplied to unreasonably restrict the basic human rights of citizens." The law no longer forbids all contact with communist organizations or governments, but still requires that all contact with North Korea be sanctioned by the authorities. It also narrows the definition of a prohibited "anti-state organization" to one with a command-and-control system.

Despite the amendments, about four hundred persons are still being held under the law. Some were jailed in 1991, both before and after the law was amended, solely for their peaceful political activities and views. These detainees include eleven members of the Seoul branch of the National Minjung (People's) Arts Movement, arrested in March for allegedly carrying out activities that benefit North Korea because of their pro-unification artwork; six members of the Seoul Social Science Institute, arrested in June for allegedly benefiting North Korea through publication and dissemination of articles and books advocating a socialist revolution; and twelve persons arrested in 1990 and 1991 for their alleged membership in the dissident organization Pan-National Alliance for the Reunification of Korea (*Pomminkyon*), including theologian Park Soon-kyung, who



was accused of delivering a lecture at a Christian meeting in Japan in which she reportedly said that it is necessary for South Koreans to understand *Juche*, the North Korean ideology of self-reliance.

Also still in custody despite the amendments are more than forty "non-converted" political prisoners — prisoners who refuse to write "conversion" statements recanting alleged communist or leftist views, regardless of whether they held them in the first place — some of whom have been incarcerated for between thirty and forty years for allegedly engaging in espionage or political agitation on behalf of North Korea. In 1991, five non-converted political prisoners were released due to old age and serious health problems.

Prominent dissidents including Kim Keun-tae, recipient of the 1987 Robert F. Kennedy Human Rights Award, and Jang Myung-guk, a well-known labor activist, also remain imprisoned.

Due in part to worker involvement in the tumultuous political events in April and May, there were fewer labor disputes in 1991 than in the previous year. However, labor unions were still limited in their rights to organize and bargain collectively. In February, about seventy members of the newly created Conference of Large Factory Trade Unions (*Yondehuae*) were rounded up as they were leaving an organizational meeting. Most were soon released but seven key members were formally arrested. At management's request, the police also intervened in labor disputes at Daewoo companies in March and arrested key union leaders on grounds ranging from "interference with normal operation of business" — a charge often used illegitimately to break strikes — to the commission of violent acts. The arrests, in turn, sparked further disputes. In April, some four thousand Daewoo workers walked off their jobs to protest the detention of two additional union leaders who were charged with staging work stoppages and sit-ins over the earlier arrests.<sup>106</sup> In September, General Motors announced that it was severing its ties with Daewoo due to dissatisfaction with its management style and constant labor-management disputes.<sup>107</sup>

Discord over editorial decisionmaking at the Catholic Church-owned Pyunghwa Broadcasting came to a head in 1991, resulting in the detention by the police of thirty-seven journalists and the dismissal of all but ten of them.

The Korean Teachers and Educational Workers Union (*Chunkyojŏ*) lost a

---

<sup>106</sup> Yonhap, April 29, 1991, as reported in Federal Broadcast Information Service (FBIS), May 2, 1991.

<sup>107</sup> Yonhap, September 7, 1991, as reported in FBIS, September 9, 1991.

crucial Constitutional Court decision. In 1990, the Supreme Court had ruled that the ban on organizing by public school teachers was unconstitutional. In 1991, the Constitutional Court ruled that the ban on organizing by private school teachers did not violate the constitutional guarantees for workers' freedom of association.

Nearly five thousand *Chunkyojo* members participated in a signature campaign demanding political reforms by the government. The Ministry of Education threatened them with retaliation.<sup>108</sup> In September, two teachers were fired and a third had her salary cut for three months for having participated in the campaign.<sup>109</sup>

With South Korea's pending entry into the International Labor Organization (ILO), the Labor Ministry discussed amending the labor laws to allow unions to engage in political activities. It also established a special committee to revise labor-related laws, and proposed voiding the current upper limit on the amount of union dues that could be assessed. The amendments have not yet been enacted.

### **The Right to Monitor**

On the surface, domestic human rights monitors seemed to operate fairly freely, but the underlying reality was quite different. Human rights monitors say their office and home telephones are tapped and their activities closely watched by government internal security personnel attached to the Agency for National Security Planning. Monitors also risk arrest if they speak publicly on sensitive human rights issues, although the actual charges against them may be unrelated to human rights work, such as participation in an unauthorized anti-government demonstration.

The case of Suh Joon-shik is illustrative. Released in May 1988 after seventeen years' incarceration for alleged "anti-state" activities, he became one of South Korea's most vocal human rights advocates, chairing the Committee on Long-Term Political Prisoners of the group known as Families of Political Prisoners (*Mingahyup*), and founding an association of long-term political prisoners. In March 1991, he became chair of the Human Rights Committee of the National Alliance of Democratic Organizations (*Chonminnyon*). In May, the government announced that Suh was wanted in connection with the suicide of a

---

<sup>108</sup> "Ministry to minimize penalty on protesting teachers," *Korea Herald*, May 18, 1991.

<sup>109</sup> "2 teachers socked for signing statement in May," *Korea Herald*, September 19, 1991.

***Chonminnyon*** staff member following the above-described death of the student Kang. Suh surrendered to the police a month later, but charges on the suicide were never pursued. Instead, in July, he was indicted for having taken part in demonstrations that turned violent; Suh denied having had anything to do with the violence. Later, the violence charges were dropped and Suh was convicted under the Public Surveillance Law and sentenced by the Seoul Criminal District Court to a one-year suspended sentence and two years' probation. Suh was released on December 13.

## **U.S. Policy**

The Bush Administration promoted the cause of human rights in South Korea by taking the important step of suspending insurance coverage for U.S. companies operating in South Korea by the Overseas Private Investment Corporation (OPIC).<sup>110</sup> The action was taken pursuant to a labor rights petition filed with OPIC by Asia Watch and the International Labor Rights Education and Research Fund. OPIC's decision reflects particularly well upon OPIC President Fred Zeder and OPIC General Counsel Howard Hills, who implemented the law in the face of stiff opposition from the State Department's Bureau of East Asian and Pacific Affairs. OPIC, with the concurrence of the State Department's official representative to its board, Assistant Secretary of State Eugene McCallister of the Economic and Business Affairs Bureau, determined in May to suspend OPIC benefits on labor rights grounds. A thirteen-page rationale for the suspension was prepared which discussed Korea's failings with respect to labor reforms, but the document was quashed and the action postponed for a full two months when the State Department opposition arose. A battle between OPIC and the State Department ensued, ending on July 19 with a decision in support of OPIC's position

---

<sup>110</sup> Section 231A(1) of the Foreign Assistance Act states: "The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights...to workers in that country (including any designated zone in that country)." Worker rights are defined as including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

and suspension of Korea from the OPIC program. A significantly trimmed one-and-one-half page rationale was released that contained little of the detail of the original document. Nonetheless, the decision was a welcome one and brings considerable pressure to bear on the Korean authorities to improve workers rights conditions.

In February, the State Department published its annual *Country Reports on Human Rights Practices*, which appropriately noted a series of serious human rights violations in South Korea. These included a "continuing gap between democratic ideals and actual practice in the continued arrests of dissidents, students and workers under the National Security Law and other security and labor-related laws"; continuing "credible allegations of cruel treatment"; and persistent "surveillance of political opponents by security forces."

Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter took a similar approach in written answers to questions submitted to him on February 26 by the House Subcommittee on Human Rights and International Organizations. While noting that the South Korean government "is committed to democratic reforms and has made much progress toward that goal," Secretary Schifter touched on such existing human rights problems in South Korea as the high number of political prisoners, including 180 long-term prisoners; the continued imprisonment of "non-converted" prisoners; and the legal ban on union organizing among South Korean school teachers.

In a like vein, National Security Advisor Brent Scowcroft wrote on September 9 to Representative Edward Feighan: "Human rights is a cornerstone of American foreign policy throughout the world, and we have made human rights a key element of our bilateral relationship with the Republic of Korea. Through discussions both here [in Washington] and in Seoul, U.S. officials have made clear our support for democratization and respect for human rights in Korea."

The principal sour note in the Administration's promotion of human rights in South Korea came during a visit to the White House in July by President Roh. President Bush gave no public indication that he had heeded appeals by fifty-one members of Congress to raise human rights concerns during the visit. Instead, President Bush stated that Roh was "building a thriving democracy" and gave him "much credit...for the steady leadership that guides your nation."<sup>111</sup> Secretary of State James Baker echoed the president: "The United States is confident that the people of Korea are overwhelmingly committed to the success of your democracy

---

<sup>111</sup> Remarks by President Bush during a welcoming ceremony at the White House, July 2, 1991, as reported in the State Department's *Dispatch*, July 8, 1991.

and that you are prepared to continue in what President Bush calls the hard work of freedom."<sup>112</sup>

### **The Work of Asia Watch**

The death of student Kang Kyung-dae prompted Asia Watch to send a letter to President Roh urging that an independent commission be appointed to investigate Kang's death and that relevant details be made public. The letter also urged that a thorough review be undertaken of the training and discipline accorded riot police, and that appropriate steps be taken to ensure that police conduct themselves in accordance with U.N. standards.

Asia Watch also wrote on behalf of Kang Jong-sun, a young woman living in Daegu city who was allegedly raped in December 1988 by two local policemen. Despite considerable media attention to the case and support from women's organizations in South Korea, nearly three years have passed without the prosecutor's office seriously investigating her claim or moving to prosecute the two policemen.

In March, Asia Watch called for the release of members of *Pomminnyor* who had been jailed solely because of their peaceful activities on behalf of Korean reunification. They remain in custody, even after the National Security Law has been amended, because the law still forbids activities that the South Korean government deems beneficial to North Korea.

*Retreat from Reform: Labor Rights and Freedom of Expression in South Korea*, the Asia Watch report released in November 1990, continued to circulate widely. The report was a key source cited by OPIC in deciding to suspend new insurance and investment guarantees to U.S. companies operating in South Korea. Asia Watch welcomed OPIC's decision and called on the South Korean government to amend its labor laws to bring them in line with international standards, and to release all unionists and labor activists detained solely for peaceful trade-union and other labor-related activities.

In March, Asia Watch sent a letter to Labor Minister Choe Byung-yul protesting the arrests of seven leading members of *Yondehwei* on the grounds that their right to freedom of association — specifically, their right to meet with other union representatives — had been violated.

---

<sup>112</sup> Remarks by Secretary Baker at a luncheon for President Roh at the State Department, July 2, 1991, as reported in the State Department's *Dispatch*, July 8, 1991.

Throughout the year, Asia Watch assisted members of Congress prepare letters of appeal for the release of peaceful political activists in Korea. Asia Watch also worked with the Congressional Human Rights Caucus and several members of Congress in their efforts to encourage President Bush to raise human rights concerns during President Roh's state visit in July.

## **SRI LANKA**

### **Human Rights Developments**

Sri Lankan security personnel, government-linked vigilante groups, and members of the insurgent Liberation Tigers of Tamil Eelam (LTTE) continued in 1991 to engage in a pattern of gross violations of human rights and humanitarian law, including massacres of hundreds of civilians, torture, abductions and arbitrary arrests. The high level of reported abuse has been fairly constant since June 1990, when a cease-fire broke down and fighting resumed between government forces and the LTTE. The Sri Lankan military's indiscriminate bombing and strafing of civilian areas destroyed homes, hospitals and businesses. The northern city of Jaffna and its surrounding area, the base of LTTE operations, remained without electricity as a consequence of the military's targeting of the main power grid in 1990. Storage of medicines and blood for transfusions remained virtually impossible. In the eastern part of the country, at least seven hundred may have disappeared since January 1991. In the same period in the south, local sources have reported some seven to ten disappearances a month of suspected supporters of the Sinhalese nationalist Janatha Vimukti Peramuna (People's Liberation Front, or JVP).

In July, the most intense battle of the civil war took place in the northeast. On July 9, five thousand Tamil militants attacked an army base at Elephant Pass which guards the railroad and main road between the Jaffna peninsula and the mainland. Armed with new 14.5 mm artillery, the LTTE laid siege to the camp, frustrating the army's aerial attempts to rescue some eight hundred soldiers, many seriously wounded, who were trapped within. There were also reports that the LTTE had pressed hundreds of civilians into service to dig bunkers and otherwise aid its defense, and that LTTE guerrillas kidnapped over one hundred

**doctors and nurses from northeastern Sri Lanka to treat those wounded in the Elephant Pass battle.**

**Not only did this battle involve more combatants than any previous encounter, but it also proved that the LTTE was capable of conventional warfare against the Sri Lankan army. As many as two thousand combatants and hundreds of civilians were killed in more than three weeks of combat. Civilians in Jaffna reported serious shortages of food and other necessities as a result of the fighting. The siege was broken on August 3 by a relief column of over ten thousand government soldiers. By late October, the army had begun a second assault surrounding the Jaffna peninsula and attacking LTTE targets in Jaffna from the outlying islands.**

**A government blockade of the north restricted transport of all essential supplies including food and medicine, which resulted in severe food shortages by late July. The embargo was relaxed on August 8, but at the end of 1991, there was still a lengthy list of prohibited items, including medicine, soya-based foods, surgical equipment, batteries, gasoline and matches. Fighting on the Jaffna peninsula in October led to another food emergency.**

**The government's response to international criticism of human rights abuses has been largely superficial. Despite its eagerness to improve its human rights image by appointing commissions of inquiry to address certain highly publicized human rights cases and issues, such as the problem of disappearances, the results of these inquiries have been disappointing.**

**The government's failure adequately to address charges of massive human rights violations became one of the main accusations used by the opposition in its bid to impeach President Ranasinghe Premadasa and return to a British-style parliamentary system. On August 28, over one hundred parliamentarians, including forty from the ruling United National Party (UNP), moved to bring impeachment proceedings against President Premadasa on charges of treason, bribery, misconduct and intentional violation of the Constitution. The motion charged that the President had**

**failed to protect and intentionally and knowingly prevented the investigations and conduct of inquiries and/or to punish those responsible for the...murder of the well-known journalist Mr. Richard De Zoysa, the disappearance of Mr. Lakshman Perera, the disappearance of Mr. Krishna Hussain and thousands of others including youth who were arbitrarily abducted, tortured, killed and otherwise disposed of by hired killer groups.**

**It also accused Premadasa of operating a "police state" to intimidate political opponents and discourage public dissent.**

**The president responded to the impeachment motion by suspending Parliament until September 24, and ejecting eight leading dissidents from the UNP. The Supreme Court upheld the ejections on December 3.**

**In several incidents in 1991, parties to the Sri Lankan civil war indiscriminately attacked noncombatants. On May 3, four workers from the human rights organization Doctors Without Borders (MSF) were injured, two seriously, when a military helicopter fired at their clearly marked vehicle. The team was following a route which it said had been provided by Special Operations Command in Colombo. The Sri Lankan government initially claimed that the helicopter pilots were actually targeting another vehicle, which was said to have fired shots and to have been traveling behind the MSF vehicle. The MSF workers denied that there was any other vehicle in the area. In response to international protest, the Sri Lankan government appointed a one-man commission of inquiry to look into the attack. He concluded that the team had been on the wrong road during a curfew, the helicopter was flying too high to see the vehicle's markings, and no government personnel was responsible for "any wrongful act of omission or commission." MSF officials, who called the inquiry a "whitewash," suspended operations in Sri Lanka until the government could guarantee the safety of their personnel. The commission of inquiry suggested steps to prevent such attacks in the future and, in July, MSF and the government signed an agreement to expand the MSF program in Sri Lanka.**

**A second incident took place on June 11. Minutes after an LTTE land mine blew up an army tractor, killing two soldiers, angry government troops reportedly massacred over one hundred civilians in the village of Kokkaddichcholai, in Batticaloa District. According to local sources, fifty-six bodies were burned and sixty-seven were buried, while forty people were hospitalized. There are also unconfirmed reports from local sources and international observers that as many as twenty-one women were raped during the attack. Residents of Kokkaddichcholai managed to get news of the massacre to journalists in Colombo, forcing the government to respond with unprecedented speed. It appointed a three-person commission of inquiry to investigate the massacre and began holding hearings at the air-force base in Batticaloa on July 29. Testimony also has been taken in Colombo.**

**According to a government report of late November, 136 witnesses have testified before the commission regarding deaths and missing persons, and forty-six more must testify before the commission begins to hear the testimony of army personnel and other official witnesses. The remaining civilians witnesses are**



expected to give evidence regarding damage caused to homes and property during the massacre. As a result of this testimony, the government estimates the death toll to be between fifty-two and sixty-seven. The same report indicates that between June 12 and November 27 nineteen soldiers were arrested in connection with the massacre, eighteen from the 5th Battalion Gemunu Watch and one from the Pioneer Corps. They are being held at the headquarters of the Gemunu Watch in Diyatalawa.

The government's practice of arming and training extramilitary forces and anti-LTTE Tamil militant groups to fight alongside regular army forces led to escalating violence between Muslim, Tamil and Sinhalese civilians.<sup>113</sup> In August 1990, after a series of brutal massacres of hundreds of Muslim civilians by the LTTE, Muslim leaders demanded that the Sri Lankan government arm their communities. The government responded by establishing Muslim "home guards" in eastern Sri Lankan villages who were soon accused of retaliatory killings of Tamils and other civilians in neighboring villages. Similarly, Sinhalese "village defense units" were armed by the government in April 1991 after a massacre in a village south of Moneragala in which some forty Sinhalese civilians were reportedly killed. In July 1991, according to the *Sunday Times of Sri Lanka*, the army announced that it was stepping up recruitment for the National Guards Battalion, a volunteer force which normally receives only five days' training, with a view toward deploying it in eastern Sri Lanka. Defense officials were quoted as saying that they planned to continue to deploy civilian home guards and members of "non-LTTE Tamil groups" to protect the districts of Trincomalee, Batticaloa and Ampara. In the last eighteen months, these three districts were the sight of some of the worst massacres of civilians by all parties.

In July, the government reportedly also began negotiations with India for the release of several hundred members of rival Tamil militant groups held in camps in Tamilnadu, with plans to repatriate them to Sri Lanka to fight against the LTTE. Asia Watch is concerned that if poorly trained militias are authorized to use lethal force without adequate supervision, the result will be a sharp increase in human rights abuses.

The Sri Lankan government took a few steps toward establishing human rights safeguards in 1991, but it remains too early to assess their efficacy. Disappearances of people in the custody of government forces have been a hallmark of the Sri Lankan civil war over the past eight years. After much pressure

---

<sup>113</sup> Most Sri Lankan Muslims speak Tamil but are regarded as a separate ethnic group in Sri Lanka.

from human rights organizations and the international community, the Sri Lankan government appointed a Presidential Commission of Inquiry into the Involuntary Removal of Persons, which began hearings on August 5. It has a severely limited mandate. According to press reports, the Commission rejected 535 of the 601 complaints received through August 5 because they had occurred prior to January 11, 1991, when the Commission's mandate authorizes it to begin its study. The mandate thus excludes tens of thousands of disappearances that took place between 1987 and early 1991. According to local human rights groups, the Commission has now received about 160 cases that fall within the mandated time frame and have refused over two thousand cases from before 1991. While the great majority of disappearances since January have occurred in eastern Sri Lanka, only about half of the total number of complaints received by the Commission are from that region. Travel to Colombo from the east to submit claims is difficult and dangerous, and according to human rights organizations, the Commission has not been well-publicized there. Of the sixty-six cases accepted by the Commission prior to the beginning of hearings in August, press reports indicate that thirteen were traced and family members have been informed. The details of these cases have not been made public, but Amnesty International reported in September that in eleven cases, the disappeared persons were found to be in custody, on remand or released. Public hearings have been held in only two cases.

On December 12, a government spokesperson announced that Sri Lanka will accept some thirty of Amnesty International's thirty-two recommendations to improve the functioning of its human rights initiatives. These include the appointment of regional officers to the Presidential Commission investigating "disappearances" and the extension of the Commission's mandate beyond January 1992, when its current term expires. The report also states that the workings of the Commission and the results of its investigations will be made public.

In the face of severe criticism over the treatment of detainees, the number of disappearances of people in custody, and the difficulty experienced by families in tracing detained relatives, the government in August appointed a four-member Human Rights Task Force (HRTF), headed by J.F.A. Soza, a retired Supreme Court justice. According to a government statement, the Task Force will function for three years, and is designed to "monitor the observance of the fundamental rights of persons detained in custody otherwise than by judicial order." The Task Force has begun to collect information necessary to establish and maintain a central registry of detainees and is mandated work to ensure humane treatment and observance of their human rights. It is also charged to make regular inspections

of places of detention, investigate complaints and "take immediate remedial action." In its announcement on December 12, the government also agreed to give the Human Rights Task Force unrestricted access to persons in detention camps, to identify all such camps, and to establish a twenty-four hour HRTF public information service.

One of the major criticisms leveled against the Sri Lankan government in recent years has been its failure to prosecute even well-publicized human rights violations by its own forces, such as the murders of lawyer Wijedasa Liyanarachchi and journalist Richard De Zoysa. The inquiry into the September 1988 murder in police custody of Liyanarachchi, a lawyer with ties to the JVP, was perhaps the most publicized in Sri Lanka of all recent government investigations. On March 18, 1991, the Colombo High Court found three police officers guilty of Liyanarachchi's abduction but not of his death, despite detailed testimony by medical examiners and witnesses at the hospital where he was brought by police on September 2, 1988 indicating that he had died of massive injuries caused by beatings with blunt weapons.

All three officers were charged with murder in 1990, but pleaded guilty to amended charges of conspiracy and wrongful confinement. They were sentenced to prison terms, but the sentences were suspended and fines were imposed. The senior officer later committed suicide. A fourth officer is believed still to be under investigation.

The case of the journalist Richard de Zoysa received more attention overseas. To date, all attempts to convince the Sri Lankan government to appoint a commission of inquiry into the abduction and murder of de Zoysa have failed. De Zoysa's death, in February 1990, became the focus of an international campaign demanding accountability for the activities of government-linked death squads thought to be responsible for thousands of deaths and disappearances between 1987 and 1991. On February 7, 1991, a motion in Parliament to appoint such a commission was defeated because of pending defamation suits brought against De Zoysa's mother, Dr. Manorani Saravanamuttu, by the police officers named in connection with his abduction. Those parliamentarians opposed to the commission, according to the Colombo newspaper *The Island*, claimed that an independent inquiry would raise "the very matter which is the subject of pending judicial proceedings," and that since "abduction and murder are offenses under the penal code of Sri Lanka," they should be "determined by the established courts of the country."

De Zoysa was abducted from his home on February 18, 1990, at about 3:30 A.M., by six armed men, two of them wearing police uniforms. His body was found

the next day. His mother, who witnessed the abduction, identified one of the abductors as Senior Superintendent of Police Ronnie Gunesinghe. Dr. Saravanamuttu, her attorney, Batty Weerakoon, and two police officers assigned to guard the attorney have all received death threats in connection with the case. The motive for De Zoysa's killing has never been clearly established, but those close to the case believe he was killed for his human rights reporting.

### **The Right to Monitor**

In past years, civilians involved in human rights monitoring, particularly lawyers and journalists, have been subjected to harassment, death threats, torture, abduction and extrajudicial execution, by both government security personnel and members of militant groups. Travel and fact-finding, never easy, have become increasingly dangerous as the war in the northeast drags on. Mail sent abroad is opened and sometimes seized, and fear of wiretapping restricts all phone conversations. Despite these extraordinarily difficult conditions, a few excellent human rights organizations continue to function in Sri Lanka.

Access to northern Sri Lanka is severely restricted, both because many roads are mined and because the government and the LTTE have set up numerous checkpoints along routes to and from the Jaffna peninsula. Nevertheless, a number of well-documented reports by local human rights groups were published in 1991, most focusing on conditions in the north and east, and individuals still manage to send this information out of the country.

Two human rights monitors who disappeared in 1990 remain missing. Kumaraguru Kugamoorthy, a member of the National Committee of the Movement for Inter-Racial Justice and Equality, who was abducted by a group of unidentified men, one of whom was wearing a khaki uniform, in Colombo on September 6, 1990. On August 15, 1990, Father Eugene Hebert, an American Jesuit missionary who was active on the Batticaloa Peace Committee and regularly acted on behalf of the disappeared in his region, himself disappeared while traveling between Valaichchenai and Batticaloa. He and a young Tamil passenger were last seen early that morning in an area controlled by the Sri Lankan army.

Sri Lankan human rights organizations expressed deep concern over a new threat to their ability to operate in 1991. In December 1990, President Premadasa announced the appointment of a seven-person commission of inquiry into the activities of nongovernmental organizations (NGOs). The commission's mandate was extremely broad, empowering it to:

**inquire into and obtain information in respect of—**

**(a) the activities of the Non Governmental Organizations...which are functioning in Sri Lanka today...;**

**(b) the provisions of law if any which have been promulgated for monitoring and regulating the activities and the funding of such organizations;**

**(c) the institutional arrangements if any which are currently in existence for monitoring and regulating the activities and the funding of such organizations;**

**(d) whether any funds received from foreign sources as well as generated locally have been misappropriated and/or are being used for activities prejudicial to national security, public order and/or economic interests and for activities detrimental to the maintenance of ethnic, religious and cultural harmony among the people of Sri Lanka; [and]**

**(e) the adequacy or otherwise of the existing provisions of law and the institutional arrangements for monitoring and regulating the activities and the funding of such organizations...**

**To carry out its investigation, the commission circulated a preliminary questionnaire to NGOs requesting information on the nature and structure of the organization; names, salaries, addresses and visa status of staff members; past agreements with the Sri Lankan government, including liaison with or membership on government committees; resources and financial information, including accounting procedures; affiliations with other groups, grass roots organizations and citizens' committees; copies of surveys and research papers on social problems, whether published locally or abroad; and suggestions for further links between the government and NGOs. A supplementary questionnaire was sent to certain NGOs requesting detailed information on their financial status, including information on the private bank accounts of staff members as well as the names, addresses and bank balances of their spouses and children.**

**The initial investigation focused on rural development organizations and, in particular, the activities of Sri Lanka's largest development organization, Sarvodaya. The investigation followed a series of very public and personal attacks**

in the state-sponsored press on Sarvodaya's charismatic leader, Dr. A.T. Ariyaratne. He and his family also received a number of death threats by unidentified callers.

To date, human rights organizations have not been singled out for investigation by the NGO commission, but the human rights community is worried that it might become a target. Particularly ominous was the request in the preliminary questionnaire for information about the NGO's relationship with citizens committees. Such committees have been instrumental in collecting and disseminating information on human rights conditions in their communities.

## **U.S. Policy**

In February and March, at hearings before the House Subcommittees on Asian and Pacific Affairs and on Human Rights and International Organizations, State Department officials expressed concern over Sri Lanka's human rights performance. But the Bush Administration missed a key opportunity to back up this spoken concern with concrete action when it vetoed a move to attach minimal human rights conditions to the foreign aid bill for fiscal years 1992 and 1993.

According to State Department sources, the Bush Administration gave Sri Lanka a total of \$51.1 million in aid in fiscal year 1991. In March 7 testimony before the House Subcommittee on Asia and Pacific Affairs, State Department officials announced that the Administration, for fiscal year 1992, had requested \$19.3 million in development assistance, \$21.6 million in food aid, and \$200,000 for military training. At the same hearing, the State Department acknowledged serious human rights abuses "by all parties to the conflict, including government forces," stressed the obligation of the military and police to uphold the law, and urged the Sri Lankan government to "vigorously investigate all extrajudicial killings and disappearances credibly linked to security forces and bring those responsible to justice." It also asserted that "there must be a greater effort to investigate officials linked to serious abuses [ , and] [discipline in the security forces must be strengthened." Despite these accurate and appropriate criticisms, the Administration has once again thwarted efforts to condition aid on an end to abuses. Given the seriousness of continuing abuses in Sri Lanka, U.S. law requires an end to such aid unless it directly benefits the needy.<sup>114</sup>

---

<sup>114</sup> See Section 116 of the Foreign Assistance Act and Section 112 of the Agricultural Trade Development Assistance Act.

**Between April and June 1991, the United States supported loans to Sri Lanka totaling over \$221 million from the World Bank and the Asian Development Bank, including \$57 million for telecommunications. Section 701 of the International Financial Institutions Act of 1977 mandates U.S. opposition to such bank loans to governments that consistently engage in gross violations of human rights, except when a loan expressly meets basic human needs. The U.S. should oppose all loans to Sri Lanka that do not fall within the statutory exception.**

**In August, acting on complaints by trade unions and human rights organizations, U.S. Trade Representative Carla Hills announced that she would begin an investigation into abuses of worker rights in Sri Lanka. The investigation could result in the loss of duty-free treatment for some exports. Public hearings began in October and a decision is expected in April 1992.**

### **The Work of Asia Watch**

**In 1991, Asia Watch continued its efforts to document and respond to the ongoing human rights crisis in Sri Lanka, focusing particular attention on the serious violations that have occurred in the war between the LTTE and the government in the northeast.**

**On March 11, Asia Watch released "Human Rights in Sri Lanka: An Update," a comprehensive newsletter on the human rights situation in Sri Lanka from June 1990 to March 1991.**

**On April 8, Asia Watch met with Sri Lankan Ambassador Susanta De Alwis and the head of the Embassy's political section, Bernard Goonetilleke, at their request, to discuss human rights initiatives by the Sri Lankan government. We also discussed Asia Watch's human rights concerns in Sri Lanka, particularly the need to discipline government security forces and to conduct inquiries into disappearances, including those that occurred before January 1991.**

**In April, Asia Watch provided information on human rights in Sri Lanka to congressional staff drafting a foreign aid bill that contained human rights stipulations for continued U.S. aid to Sri Lanka. The bill would have required that the Sri Lankan government establish a public register of detainees and ensure that detainees have access to lawyers and family members; enhance efforts to investigate disappearances and prosecute those responsible; minimize civilian casualties in combat operations; and make serious and substantial efforts to investigate and prosecute those responsible for the murder of Richard De Zoysa.**

**On April 17, Human Rights Watch testified on human rights and foreign assistance before the House Foreign Operations Subcommittee. We called, on**

human rights grounds, for a limit on U.S. bilateral aid to Sri Lanka and U.S. opposition to loans, except basic human needs projects, to the country by the World Bank and the Asian Development Bank

On May 3, Asia Watch staff met with Ambassador De Alwis and a special representative of the Sri Lankan president's office, Moragoda, again at their request, to discuss our continuing concerns in Sri Lanka.

Also in May, Asia Watch sent a letter to Ambassador De Alwis expressing concern over military proposals to extend the Indemnity Act of 1988, which immunizes security forces from prosecution for acts committed under the Prevention of Terrorism Act between July 24, 1979 and December 31, 1987. The proposed extension, which was not enacted, would have covered actions committed after 1987.

In October, Asia Watch contributed a chapter on Sri Lanka in a Human Rights Watch report on human rights in Commonwealth countries, issued at the time of the Commonwealth Heads of Government Conference in Zimbabwe.

## **VIETNAM**

### **Human Rights Developments**

Vietnam's human rights record in 1991 was marked by opposing trends. The Seventh Party Congress, held June 24-27, while producing few significant changes in policy, provoked unprecedented public debate on the political and economic direction of the country. The backdrop to this debate was communism's continuing collapse in Eastern Europe and the Soviet Union, which served to deepen the party's fears of "peaceful evolution," i.e., subversion from the West. The result was that while the trend toward increased openness in speech, religion and economic pursuits continued, the government reinforced its campaign of sharp repression against perceived critics and enemies. Similarly, while Hanoi released several long-term political detainees, it was preparing to bring other, more recent political prisoners to trial.

As the draft party platforms circulated for comment in late 1990 and 1991, the strong criticism that emerged took the leadership aback. In December 1990, retired Colonel Bui Tin, a former editor of the official daily *Nhan Dan*, castigated the party in a series of British Broadcasting Corporation (BBC) broadcasts from



Paris, where he was on official leave. Equally pointed calls for democracy, political pluralism and respect for human rights issued from intellectuals at home, including Nguyen Khac Vien, one of Vietnam's most prominent official historians and editors; the philosopher Hoang Minh Chinh; and Phan Dinh Dieu, a leading mathematician who is vice president of the National Center for Scientific Research in Hanoi.<sup>115</sup> Hardliners responded not only with rebuttal in the state media, but also with arrests and expulsions from the Communist Party.

Colonel Bui Tin, still in Paris, was stripped of party membership. His house in Vietnam came under continual surveillance, his immediate family was forbidden to communicate with him, his wife was interrogated repeatedly, his daughter was demoted from her position as an eye surgeon to that of an eyeglass sales clerk, and his son-in-law was forbidden to take a scholarship offered by Harvard.

Another prominent critic, the novelist Duong Thu Huong, was arrested in April for allegedly attempting to send confidential documents out of the country. In conjunction with her arrest,

Dr. Bui Duy Tam, a Vietnamese with U.S. citizenship, was imprisoned for two months for supposedly transporting documents "detrimental to the national security." These documents included a personal letter that Dr. Bui had received from Bui Tin, a copy of the minutes of several official associations, and some literary and historical works published in Vietnam. Dr. Bui, who suffered a stroke in captivity, was released on May 31 and expelled from the country. Duong Thu Huong was held at a security "guesthouse" until his release in November.

Interior Minister Mai Chi Tho, in a published interview, accused Duong Thu Huong and Bui Tin of aiding an overseas campaign to "destroy" Vietnam. He also described as "spies" two U.S. citizens expelled in 1990 — businessman Michael Morrow and Mennonite teacher Miriam Hirschberger — and defended the detention since 1975 of over one hundred persons associated with the former South Vietnamese government. The accusations against Morrow and Hirschberger are widely regarded as baseless — a product of internal struggles over ideology. In a display of paranoia that embarrassed even some officials, Miriam Hirschberger's photograph was installed for a time in an exhibition on espionage at Hanoi's Museum of the Revolution.

More ominous was the press campaign launched against the Vietnamese

---

<sup>115</sup> See Murray Hiebert, "Higher Criticism," *Far Eastern Economic Review*, May 2, 1991; Nayan Chanda, "Editor's Letter Indicated a Growing Rift at Highest Levels of Vietnamese Party," *Asian Wall Street Journal*, March 11, 1991; Phan Dinh Dieu, "A Plea for Basic Freedoms and a System That Works," *The Asian Wall Street Journal Weekly*, June 24, 1991.

**citizens arrested for their association with Michael Morrow, who have been held for over a year. A series of articles in official publications accused Doan Thanh Liem, Do Ngoc Long and others of collaborating with Morrow and other purported American "spies" in collecting information on Vietnam for use abroad. At least one article called for them to be put on trial, but no date has yet been set. Both Do Ngoc Long and Doan Thanh Liem have also had health problems during detention and are feared to have suffered abuse.**

**A similar press campaign targeted Dr. Nguyen Dan Que, an endocrinologist who was arrested in May 1990 for signing a public appeal calling for political reform and human rights. On November 29, 1991, Dr. Que was given a four-hour trial, denied the opportunity to speak in his own defense, and sentenced to twenty year of hard labor and five additional years of house arrest for actions "subversive" to the state. Another man, Nguyen Van Thuan, received a ten-year prison sentence at the same trial, and two others, Le Duc Vuong and Nguyen Thien Hung, will also be tried for their association with Dr. Que. Dr. Que was an outspoken advocate of human rights and nonviolent political change, and a member of Amnesty International since his release from ten years' imprisonment for "reeducation" in 1988. The charges against him alleged that he had distributed thousands of political leaflets within Vietnam and recruited others to his point of view.**

**When the date of the Seventh Party Congress finally arrived, Hanoi came under stringent security measures, with access closed to foreigners, including two U.S. representatives who were in the process of opening an office to account for U.S. military personnel missing in action during the Vietnam War. Asia Watch received reports that many Vietnamese were kept under house arrest or in custody during this period.**

**Unlike past years, which had seen amnesties for thousands of political prisoners, just over a dozen prisoners were rumored to have been released in 1991 on the September 2 National Day. However, several very prominent prisoners of conscience were released in September and October. They included the poet Nguyen Chi Thien, who has spent most of his adult life in custody; the novelist and professor Doan Quoc Sy, held since 1984; and the Catholic priest Le Thanh Que, arrested along with other priests for religious writings in the early 1980s.**

**Abuse in custody continued to be a serious problem in 1991, with detainees subject in some cases to beatings, nighttime interrogation, and deprivation of food, exercise and medical care. In one case, a person suspected of aiding the escape of a group of "counterrevolutionaries" was beaten to death by jailers. "Reeducation" camps continue to exist throughout the country, and inmates are subjected to hard labor, inadequate rations and medical care, and coercion to**

write confessions and reports on each other. Upon release, former detainees report police surveillance and difficulty in having their residency and identification documents restored.

Vietnam agreed in 1991 to give the International Committee of the Red Cross access to political prisoners held in "reeducation" camps since the end of the war. The agreement, announced in December, is a significant step for Vietnam toward allowing outside scrutiny of its compliance with international human rights norms. Party officials have told reporters that those persons still detained since 1975, estimated to be slightly over one hundred in number, would all be released by early 1992.<sup>116</sup>

Administrative detention remained the norm and judicial process the exception for persons arrested in Vietnam. Although Vietnam has made a concerted effort over the past three years to draft both civil and criminal statutes, the legal infrastructure remains underdeveloped, with fewer than five hundred licensed lawyers in the entire country. The government agency that supervises criminal investigations admits that it is not yet able to adhere to the statutory time limits on pretrial detention in all criminal cases.<sup>117</sup> For political detainees, such as those mentioned above, time limits appear to be extended indefinitely. A paucity of lawyers defeats otherwise admirable statutory safeguards on detention, such as the advocate's right to be present during police interrogation. Moreover, the number of criminal cases rose by ten percent in the first half of 1991, as the anti-crime campaign inaugurated by Council of Ministers Directive 135 continued. Though primarily directed at common crime, the campaign also targets those who are seen as threats to "political security" and owners of contraband videos and publications.

Vietnam embarked on several revisions to its laws in 1991. Draft amendments to the 1980 Constitution were to be publicized by the end of 1991. They include a de-emphasis on socialism in the description of economic relations, and increased separation of party and state functions. Less progressive

---

<sup>116</sup> Kathleen Callo, "Vietnam to Give Red Cross First Access to Re-Education Camps," Reuters (December 3, 1991).

<sup>117</sup> Tran Quyet, chief procurator of the Supreme People's Organ of Control, stated that "most" criminal cases are handled within the time limits and that "better progress has been made" in accelerating the processing of criminal cases. Hanoi Voice of Vietnam Network, August 7, 1991, as reported in Federal Broadcast Information Service (FBIS), August 15 1991.

were amendments to the penal code that extended the death penalty to crimes involving fraud and bribery, both of which have become serious social problems as economic controls relax.

A new law also came into effect on religious associations, codifying government control over religious activities. The law, decreed in March, requires government approval for appointing clergy or elected laypersons; conducting religious activities other than those regularly scheduled; holding retreats, religious conventions or training sessions for clergy; operating monasteries, and establishing or maintaining contacts with foreign religious organizations such as extending invitations to visitors or receiving foreign aid. While guaranteeing the right to "practice, deny or change one's religion" and prohibiting discrimination based on religion and beliefs, the law also contains provisions suited to restricting religious freedom, such as those forbidding "superstition," "propaganda of superstition and activities interfering in work, training, and civil obligations" and activities "under the cloak of religion which undermine the independence of the country and the government...or cause damage to the integrity and unity of the people, or interfere with civil obligations."

Official constraints on ordination of clergy have left many Vietnamese congregations without leaders. Interest in religion among laypeople has soared in recent years, and observance has become markedly more open. In conjunction with official suspicion of foreign influence, Protestants came under particular scrutiny, with a number of pastors arrested in 1991. Among them were Dinh Thien Tu, who had begun a social work program without government approval, and Tran Dinh Ai. Two overseas Vietnamese clerics were arrested on June 28 and held for two months before being expelled. Reverend Nhi Van Ho and Pastor Tuan Phuc Ma, both U.S. citizens, were detained for conducting religious services and distributing religious materials in Vung Tau and Ho Chi Minh City without permits. Vietnam continued to hold other long-term religious prisoners, such as Catholic Father Chan Tin, and Buddhist monks Thich Tue Sy, Thich Tri Sieu and Thich Duc Nhuan.

Despite the restrictive press law adopted in 1990, state media retained some latitude to publish exposes of corruption and fraud. However, clear limits remained on what could be printed. Vu Kim Hanh, the editor of the youth newspaper *Tuoi Tre*, was fired in late May for publishing an article that suggested Ho Chi Minh may have been married, and two Soviet magazines were banned from distribution. Beginning in August, the Communist Party sought to reach out to intellectuals alienated by the ideological crackdown at the time of the Party Congress. General Secretary Do Muoi met with numerous groups to assure them that the party welcomes divergent ideas, and the ban on writings by Phan Dinh

Dieu and Nguyen Khac Vien was said to have been lifted.<sup>118</sup> However, the government continued to detain numerous writers for "counterrevolutionary propaganda" or attempting to send their writings out of the country.

Freedom of movement within Vietnam continued to improve, and legal emigration swelled through the Orderly Departure Program (ODP). Over eighty thousand persons left in 1991 for Western countries under ODP, and the so-called HO program has settled over twelve thousand former reeducation camp prisoners in the United States in the same period.<sup>119</sup> Vietnam continued to criminalize illegal departure, and mete out heavy punishments to "boat organizers," including those who return voluntarily from countries of first asylum in the region.

Despite Vietnam's promise not to persecute or harass any returnees, whether they returned willingly or not, reports by voluntary returnees of harassment and statements by officials raised concern over the forced return of boat people from Hong Kong in November. Some voluntary returnees were subject to intensive interrogation about their associations and activities in Hong Kong, and others were required to report on their activities to their local police stations — treatment typically accorded those on probation. A series of statements by Vietnamese officials characterized as "criminals" worthy of "punishment" those who leave Vietnam a second time after returning once voluntarily. Although these statements were retracted after publicity, the attitude behind them raise questions about how local officials will treat those returned by force.

Increasing corruption has to some degree mitigated the effects of Vietnam's extensive surveillance apparatus on ordinary citizens, at least for those with the means to bribe susceptible local officials. However, those forced to return will be especially vulnerable, since they are ineligible for any cash allowance and often will have sold all their possessions to finance their trip. The government still gathers extensive information on citizens' political and family backgrounds, and those deemed undesirable still face discrimination in employment and educational opportunities. The recent normalization of relations between Vietnam and China has somewhat improved conditions for ethnic Chinese, and the

---

<sup>118</sup> Peter Eng, "Vietnam party wooing intellectuals," *The Standard*, September 28, 1991.

<sup>119</sup> Statistics provided by the U.S. State Department. The total departures under ODP for fiscal year 1989 were 65,220, and 39,082 for fiscal year 1988. Applicants for the program are being interviewed at the rate of approximately ten thousand per month. Vietnam still controls the content of the applicant lists given to the United States, and in some cases government authorities have impeded persons from applying.

teaching of Chinese is no longer prohibited, at least in major urban areas; indeed, Vietnam recently published a Sino-Vietnamese dictionary of military terms for use in armed forces academies.<sup>120</sup> Other minorities, particularly Montagnards and Nung formerly allied with the South Vietnamese government, continued to suffer discrimination and displacement.

### **The Right to Monitor**

Vietnam severely punishes citizens who openly criticize human rights abuses, as demonstrated by the recent case of Dr. Nguyen Dan Que, described above. Any number of provisions of the criminal code are suited to this purpose, among them the prohibitions on "taking actions to overthrow the people's government" (Article 73), "supplying information and documents which are not state secrets so that they can be used by a foreign country against the Socialist Republic of Vietnam" (Article 74c); "anti-socialist propaganda" (Article 81); and "disrupting security" through assemblies (Article 83).

A case in point is Tran Vong Quoc, who was tried and sentenced to twelve years' imprisonment on December 31, 1988. The charges against him included collecting information about "reactionary activists" who had been tried and executed for their crimes, intending to pass the information to human rights organizations abroad, corresponding with "anti-government elements" overseas, and inducing others to join in anti-government activities. His brother, Tran Tu Thanh, was sentenced to five years' imprisonment for collaborating with his brother, collecting information on U.S. soldiers missing in action, planning to send this information to U.S. authorities, and writing a report on prison conditions with the intent of sending it to overseas human rights organizations. Tran Tu Thanh has since been released. Both are sons of the well-known human rights lawyer and South Vietnamese legislative opposition leader Tran Van Tuyen, who died from abuse in a labor camp in 1976.

In other cases, the authorities have not bothered with the formalities of a trial. Nguyen Manh Hung, a reeducation camp prisoner from 1973 to 1980, visited the Indonesian Embassy on his second week of freedom to ask its assistance in bringing human rights abuses in prisons to the attention of the United Nations. He was abducted by security officials and sent back to a prison camp as soon as he

---

<sup>120</sup> "Sino-Vietnamese Military Dictionary Published," Hanoi Voice of Vietnam, September 28, 1991, as reported in FBIS October 1, 1991.

**exited the Embassy door. In 1988, he escaped and fled to Hong Kong.**

**Harsh treatment has not deterred some Vietnamese from speaking out. According to official accounts, Dr. Nguyen Dan Que, recently sentenced to twenty years' imprisonment, distributed thousands of leaflets calling for political and human rights reforms. Between 1988 and 1990, members of a human rights organization from central Vietnam participated in demonstrations and engaged in leafletting and private advocacy. Following a crackdown on the group in late 1989, members fled to Hong Kong. Given that criticism of government policies can land even a former party loyalist like Duong Thu Huong in jail, human rights advocacy in Vietnam is for the most part surreptitious and unreported.**

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

**The State Department in April announced a "roadmap" for the normalization of relations with Vietnam and by the end of 1991 had committed the United States to taking the first steps toward diplomatic recognition. At the same time, President Bush renewed the economic embargo against Vietnam in September, and in October the U.S. Administration moved to block a World Bank plan to clear Vietnam's debt and resume lending.**

**The United States, as a condition of normalized relations, requires Vietnam to cooperate with the Cambodian peace process and account for U.S. soldiers still listed as missing in action. According to the roadmap, the United States will resume normal relations gradually as the Cambodian peace process moves through various phases, beginning with the signing of the accords, and culminating with U.N.-supervised elections and the seating of a new National Assembly. At the signing of the peace accords in Paris, Secretary of State James Baker announced U.S. readiness to lift the twenty-five-mile travel limit on Vietnamese diplomats at the United Nations, to permit U.S. organized travel to Vietnam, and to begin talks on the modalities of normalization of diplomatic relations.**

**Human rights for Vietnam's own citizens remained separate from the Administration's public agenda for normalization, and Congress generally followed suit. At hearings on April 25 before the Senate Subcommittee on East Asian and Pacific Affairs, Assistant Secretary of State for East Asian and Pacific Affairs Richard Solomon mentioned release of all "reeducation camp political prisoners" as a consistent U.S. policy goal, but avoided saying that it would influence the normalization process. Similarly, at hearings on June 25 before the House Subcommittees on International Economic Policy and Trade and on Asian**

and Pacific Affairs, nongovernmental witnesses rather than Administration representatives urged that progress in human rights should be a factor in lifting the trade embargo.

However, both the Administration and members of Congress such as Senators John McCain, Tom Harkin, Bob Kerrey and John Kerry and Representative Stephen Solarz raised human rights issues privately with the Vietnamese government, with some results. Following international pressure and State Department queries, Dr. Bui Duy Tam was released after two months of detention and interrogation. In the weeks between the signing of the Paris accords and Secretary Solomon's first meeting to discuss normalization, the poet Nguyen Chi Thien, the writer Doan Quoc Sy, Father Le Thang Que, and the author Duong Thu Huong were freed.

### **The Work of Asia Watch**

Asia Watch issued three newsletters concerning Vietnam in 1991. The first, "Repression of Dissent," described human rights advocacy within Vietnam and the government's efforts to suppress it. In May, Asia Watch pressed the State Department to exert its influence in securing the release of Dr. Bui Duy Tam, a U.S. citizen arrested in Vietnam for possessing writings critical of the party. Dr. Bui was eventually released, thanks to State Department pressure and humanitarian concern for his medical condition. In November, Asia Watch coordinated efforts with congressional committees to protest the trial of Nguyen Dan Que, one of Vietnam's best known human rights advocates.

"Citizens Detained for Peaceful Expression" set forth the cases of forty-seven individuals imprisoned for voicing political or religious views. Throughout 1991, Asia Watch lobbied the State Department, members of Congress, and the governments of Vietnam's major Western trade partners to raise cases of political and religious prisoners. In particular, Asia Watch briefed on human rights concerns the numerous members of Congress and congressional staff traveling to Vietnam. As a result, many of the cases discussed in the newsletter were raised through diplomatic channels and by visiting government representatives during the year.

"Indefinite Detention and Mandatory Repatriation" examined Hong Kong's detention policy and the treatment of returnees in Vietnam, arguing that conditions were not appropriate for forced repatriation. Between May and September, an Asia Watch staff member interviewed asylum seekers and refugee workers in Hong Kong and Thailand about human rights conditions in Vietnam.



**Asia Watch also advocated refugee status on behalf of certain individuals to government and U.N. authorities. In November, Asia Watch made a submission to a hearing on mandatory repatriation before the House Subcommittee on Asian and Pacific Affairs, detailing objections to Hong Kong's screening policy and Vietnam's ability to ensure fair treatment of returnees. The Asia Watch objections to the first forced return of boat people from Hong Kong received international press coverage.**

**Asia Watch renewed its request to send a mission to Vietnam to examine human rights conditions and the legal system, but no response was forthcoming. On several occasions during the year, Asia Watch reiterated its human rights concerns to members of Vietnam's Mission to the United Nations in New York.**