

# INTRODUCTION

While the major global powers wavered in their commitment to human rights, 1996 saw the emergence of new and powerful sources of support for the human rights cause. The major powers repeatedly deferred the immediate promotion of human rights in the name of often dubious long-term strategies. They allowed their quest for trade and investment opportunities to weaken their opposition to human rights abuse. And by failing to arrest serious human rights abusers for trial, they risked squandering the first opportunity in nearly fifty years to promote an international system of justice.

Yet pressure to counter these disturbing trends built from various quarters. A wide variety of governments worked at the national level to hold abusive officials to account for serious human rights offenses and at the international level to overcome the reluctance of the major powers to establish a permanent International Criminal Court for the worst human rights offenders. The continued expansion of a global economy, by linking consumers and manufacturers across wide distances, spawned a growing interest in labor rights and the human rights practices of multinational corporations. And while a burgeoning human rights movement faced repression in many countries, this was an unfortunate testament to its effectiveness in exerting pressure on governments to respect international human rights standards.

What follows is Human Rights Watch's review of human rights practices in seventy-four countries. This report, released in advance of Human Rights Day, December 10, covers events from December 1995 through mid-November 1996. Most chapters examine significant human rights developments in a particular country and the response of global actors, such as the United States, Japan, the European Union, the United Nations and the World Bank, as well as restrictions on human rights monitoring. Other chapters address thematic issues. This introduction describes certain patterns and trends that Human Rights Watch has witnessed in the course of its work over the past year.

This volume is Human Rights Watch's seventh World Report on global human rights practices. It does not include a chapter on every country where we work, nor does it discuss every issue of importance. The countries and issues treated reflect the main focus of our work in 1996, which in turn was determined by the severity of abuses, our access to information about them, our ability to influence abusive practices, and our desire to balance our work across various political and regional divides and to address certain key concerns, such as women's rights, children's rights, and arms transfers to abusive governments.

## **The Facade of a Human Rights Policy**

Although few governments dared to jettison human rights explicitly, the major powers settled far too often in 1996 for the facade of a human rights policy rather than a genuine effort to promote human rights. Rare would be the explicit claim that trade with China is more important than the rights of Chinese citizens, that safeguarding troops of the NATO-led Implementation Force (IFOR) must take precedence over protecting Bosnians from genocidal killers, or that halting another round of slaughter in Chechnya must take a back seat to ensuring the reelection of Russian President Boris Yeltsin. Instead, the subordination of human rights was itself dressed up as a human rights policy. The language of human rights became a cover for their abandonment.

The major powers regularly argued that immediate defense of human rights must give way to the task of creating conditions which, over the long term, would guarantee respect for human rights. The noble ends, we were assured, will justify the distasteful means.

In China, we were told, too much criticism of the arbitrary detention of dissidents, religious activists or Tibetan nationalists must not be allowed to jeopardize security and trade concerns. In any case, it was said, "constructive engagement" and continued economic reform were exposing the Chinese people to new ideas and loosening the control of the Communist Party. Never mind that this reluctance to criticize emboldened Chinese authorities to new heights of audacity. From the eleven-year prison sentence handed down for Tiananmen Square student leader Wang Dan to the

imprisonment of International Monetary Fund executive Hong Yang, there was no sign of progress on human rights. On the contrary, Chinese leaders were given every reason to conclude that, for the rest of the world, access to Chinese markets far outweighs the rights of Chinese citizens.

In Bosnia, we were cautioned, the arrest of indicted war criminals, the safe return of refugees and the displaced, and even the free press and open campaigning needed for meaningful elections must await the creation of national institutions that supposedly will assure basic rights. This approach had the virtue of excusing IFOR from the tasks of arresting the killers or protecting the victims. It also allowed U.S. President Bill Clinton, in the midst of a reelection campaign, to maintain a veneer of progress in Bosnia. But in the process, the U.S. government, taking profound liberties with the truth, forced through the certification of severely compromised elections. The elections, in turn, provided a cover of respectability to rabid nationalists who, while lending only token endorsement to national institutions, are working closely with the indicted war criminals who remain at large to pursue their vision of ethnic partition, deny rights to minorities, and continue the forced displacement of hundreds of thousands.

In Russia, the official wisdom went, public protest over new atrocities in Chechnya could not be allowed to jeopardize the Yeltsin candidacy or risk the emergence of an openly repressive government. Instead, at the height of Russia's renewed slaughter of civilians in Chechnya, the Council of Europe ignored its own human rights standards to admit Russia as a member, and the International Monetary Fund awarded Russia a US\$10 billion loan. Yet this same kid-glove approach to Russia's last round of slaughter in Chechnya in 1994-95 only encouraged the killing by suggesting international acquiescence in whatever ghastly steps Moscow takes to rein in the breakaway republic.

In the Middle East, the delicacy of the peace process was cited as justification for silence in the face of abuses on all sides: the Palestinian Authority's arbitrary arrest and torture of suspected militants and "opponents of peace," Syria's continuing ruthless suppression of dissenting voices, and Israel's punitive "closure" of all Palestinian territory and indiscriminate attacks on the civilian population of Lebanon. Indeed, as Israel responded to terrorist attacks with arbitrary arrests, U.S. Secretary of State Warren Christopher spoke approvingly of Israel's "firm action." Both Israel and the U.S. government successfully pressed for a similar "anti-terrorist" crackdown by the Palestinian Authority. Meanwhile, the tension and distrust bred by continuing human rights abuses posed a serious threat to the peace process.

This past year was not the first in which the major powers embraced human rights justifications to excuse the abandonment of human rights. During the Cold War in the 1980s, the U.S. government often trumpeted voting as a human rights panacea and then cited the mere holding of elections to excuse persistent human rights abuses by elected governments. Today's stratagem is no less a sophism. It presumes that respect for human rights can be bought on the cheap, that the inconvenience of upholding rights today can be dispensed with in the name of a pain-free deliverance tomorrow. It cannot. Until human rights become an integral and immediate part of the quest for peace, trade, and democracy, the world will remain plagued with the intolerance, repression and violence that underlie many of today's crises.

### **The Global Clamor for Truth and Justice**

Fortunately, a more genuine commitment to promoting human rights could be found in many parts of the world, illustrated most dramatically by a growing clamor that human rights offenders be brought to justice and their crimes revealed. In increasing numbers, victims of serious human rights abuse insisted that their ordeal not be forgotten and that their persecutors not escape with impunity. Out of respect for these victims and to prevent a repetition of past horrors, a remarkable array of governments took steps to expose past atrocities and subject their perpetrators to the rule of law.

For example, South Africa's National Commission on Truth and Reconciliation in December 1995 began a highly publicized effort to reveal abuses committed by the apartheid regime. With the power to subpoena testimony and amnesty those who fully confessed their crimes, the commission was the most powerful of its kind ever established,

offering the prospect of a detailed and verifiable accounting of apartheid's violence. General Johann van der Merwe, the former chief of police, offered a tantalizing sample of what the commission might achieve by alleging complicity in violent abuse by cabinet-level officials of the apartheid government.

Facing parallel prosecution, Eugene de Kock, commander of the once-secret Vlakplaas security police unit of the apartheid era, was found guilty in August of six murders. In arguing for a reduced sentence, he implicated senior members of the former government, including former Presidents P.W. Botha and F.W. de Klerk, in "dirty tricks" against anti-apartheid activists. Although the high-profile but poorly conducted murder prosecution of former Defense Minister Magnus Malan and nineteen others ended in acquittals in October, it offered detailed proof of the previous government's covert training of the Inkatha "cultural movement" in similar "offensive activities."

India took several important steps toward addressing its periodic communal violence. It produced the first murder conviction stemming from the 1984 anti-Sikh pogroms in Delhi, which left 3,000 dead following the assassination of then-premier Indira Gandhi; eighty-nine men also were sentenced on lesser charges to five years of imprisonment for their role in the pogroms. India reinstated an investigation into the 1992-93 Bombay riots in which more than 1,000 people, the majority of them Muslim, were hunted down and killed by police and organized Hindu extremists. The government also issued a report citing *prima facie* evidence that the Punjab police had secretly disposed of 984 bodies between 1990 and 1995, a period in which hundreds of Sikh men "disappeared" in police custody. And it arraigned nine police officials responsible for the 1995 abduction and forced disappearance of human rights lawyer Jaswant Singh Khalra in Punjab.

In Guatemala, after decades of violent abuse, President Alvaro Arzú acknowledged that gross violations of human rights had been carried out with impunity. Several bold actions, including the purging of corrupt and abusive members of the army and police, the launching of prosecutions against those engaged in organized crime, and the announced dissolution of the highly abusive civil patrols, contributed to a reduction in forced disappearances and political assassinations.

In South Korea, former Presidents Chun Doo-hwan and Roh Tae-woo were convicted on charges of mutiny, treason, and corruption, in part for their role in the 1980 Kwangju massacre in which the army killed hundreds. Chun was sentenced to death (Human Rights Watch opposes the death penalty), and Roh was sentenced to twenty-two-and-a-half years in prison.

In Indonesia, twenty soldiers suspected of human rights abuses, including murder and excessive use of force, were convicted for the minor charge of violating military procedures. While the charges were unduly light, the number of prosecutions was greater than in any previous year.

In Honduras, nineteen military officers, all fugitives from justice, have been indicted for violent abuses committed in the 1980s. The Honduran Supreme Court affirmed that amnesty laws passed in 1987 and 1991 do not preclude the judicial investigation of soldiers charged with human rights violations.

In Malawi, former President Hastings Banda and his leading henchmen were tried, though acquitted, for the 1984 murder of three ministers and a member of parliament.

In Mozambique, while officials of both the current government and the former rebel group continued to insist that merely to expose the abuses committed during the 1977-92 civil war would undermine national reconciliation, many local communities disagreed, holding traditional healing ceremonies at which those responsible for past abuses publicly confessed their crimes.

Some countries are actively struggling with bringing security forces under the rule of law. For example, following governmental consultation with domestic and international human rights organizations, Brazil's President Fernando

Henrique Cardoso released a National Human Rights Plan in May. It would, among other things, grant civilian courts jurisdiction over human rights abuses committed by uniformed police officers.

Yet the Brazilian Senate continues to block passage of the necessary legislation. As a result, some parts of Brazil's decentralized federal system continue to reflect appalling rates of official murder, often of common criminal suspects, with impunity. To make matters worse, Rio de Janeiro instituted a bravery bonus and promotion program, which rewards police officers for neutralizing criminals, dead or alive. By contrast, a new program in São Paulo to track police officers involved in fatal shootings and to remove them at least temporarily from active duty contributed to a dramatic decrease in the rate of killings by police to 15 percent of the 1992 figure.

In several cases, governments recognized the need to seek justice, but progress was slow.

Extensive delays continue to plague Ethiopia's prosecution of some 1,700 leading members of the former Derg regime. The trial of forty-six is proceeding, but the remainder have been in custody since 1991 without the filing of charges against them.

Rwanda's judiciary, which had been decimated by the 1994 genocide, is now, with the help of foreign donors, almost fully staffed. A law has also been passed to facilitate plea-bargaining for those accused of participating in the genocide. Yet no trials have begun for the 83,000 detainees held in inhumane conditions.

Haiti's slow progress in prosecuting military and paramilitary forces responsible for violent abuses under the 1991-94 military government—in part because of obstruction by the U.S. government—encouraged continued violence both by the new police force and by apparent armed sympathizers of the former military government. It also took nearly a year after the report's completion for the Haitian government to publish the Commission for Truth and Justice's 1,200-page report on abuses under the military regime.

## Setbacks

The year was also marked by some clear setbacks in the effort to establish accountability for serious human rights abuse.

Cambodia agreed to amnesty Ieng Sary, one of the masterminds of the Khmer Rouge 1975-79 reign of terror—the most egregious step yet in the pattern of impunity that continues to plague the country.

Armed infiltrators from Rwandan refugee camps in Zaire targeted and killed nearly 300 people in Rwanda, including scores of Tutsi survivors of the genocide, in an apparent effort to silence witnesses to the slaughter.

Ignoring the role of impunity in fueling further abuse and conflict, Angola passed yet another amnesty law for human rights violators, its sixth since 1981. Disappointingly, the amnesty was welcomed by Alioune Blondin Beye, the special representative of the U.N. secretary-general and a member of the African Commission on Human and People's Rights.

Russia did nothing to punish members of its military who were responsible for indiscriminate and deadly attacks in Chechnya—except to publish falsehoods and exaggerations concerning its efforts to bring them to justice. Russia also adopted a new criminal code and code of criminal procedure, which increased the difficulty of achieving justice for women victims of sexual violence. These laws add to the obstacles that deter all but a tiny minority of victims from reporting sex crimes.

Japan remains unwilling even to acknowledge culpability for its mistreatment of 200,000 "comfort women" from China, Indonesia, Korea, and the Philippines, who were forced to serve as sex slaves for the Japanese army during World War II. Although limited compensation has been offered to survivors, many victims have rejected the offer because of both its small amount and its origins in a private rather than official fund.

The Prison Litigation Reform Act, passed in April in the United States, severely restricts prisoners' ability to enforce their rights.

The U.S. government, though at times a proponent of justice, is not always principled when the process of accountability might implicate its own officials. In the face of allegations that the Central Intelligence Agency (CIA) helped to create and promote the murderous FRAPH (Front for the Advancement and Progress of Haiti) organization, a paramilitary ally of the brutal 1991-94 military regime in Haiti, Washington has agreed not to deport FRAPH leader Emmanuel Constant, allowing him to take refuge in the United States on the apparent condition that he not speak publicly about his alleged CIA sponsors. Washington is also refusing to return to the Haitian government some 160,000 documents, including "trophy photos," that it seized from FRAPH and Haitian army headquarters in 1994—unless it first blacks out the names of all U.S. citizens and, thereby, any CIA connections. These actions raised a serious obstacle to Haitian efforts to prosecute those responsible for violent abuses under the military regime.

The CIA and the Pentagon also refused to declassify information about Honduras's murderous Battalion 3-16, which the CIA reportedly supported, trained, and worked closely with in the 1980s. Nor have all U.S. documents been released about CIA asset and confirmed killer Colonel Alpírez in Guatemala; while the State Department has declassified nearly 5,000 documents, the Pentagon and U.S. intelligence agencies have refused to follow suit and have reportedly blocked the State Department from releasing other incriminating documents. New CIA guidelines issued in February "generally bar" formal relationships with human rights abusers. However, despite the likelihood that abusive foreign officials will understand the CIA's maintenance of such a relationship as a license to continue human rights violations, a gaping loophole still permits CIA relationships with abusive officials "in special cases when national security interests so warrant."

### **An International System of Justice: A Diminishing Opportunity**

In contrast to significant national advances in the quest for justice, a historic opportunity to create an international system of justice for the most culpable human rights offenders was largely squandered over the past year. A half-century after the trials in Nuremberg and Tokyo, the international community has taken tentative steps toward ending the impunity that lies behind the most horrendous atrocities of our time by establishing the International Criminal Tribunals for Rwanda and the Former Yugoslavia. The tribunals hold out the promise that even the victorious in war, such as Serb forces in Bosnia, cannot escape accountability for atrocities they commit. Indeed, in 1996 the Yugoslav tribunal held its first trial, of Dusko Tadic, a low-level Bosnian Serb accused of murder and torture at the infamous Omarska detention camp.

While the 1995 Dayton peace accord demonstrated that permitting justice for genocide and mass murder need not stand in the way of a peace agreement, Western governments, obsessed with minimizing risks to IFOR troops, betrayed that commitment in 1996 and allowed the masterminds of the Bosnian genocide to remain at large. The massive IFOR presence in Bosnia succeeded in largely stopping the slaughter for the moment, but the failure to arrest the architects of "ethnic cleansing" makes it likely that the halt will be only temporary, and that, in the end, revenge will triumph over reconciliation. Bearing greatest responsibility for this short-sighted policy of expedience was U.S. President Bill Clinton. When it came to providing funding and political support, Washington was a friend of the Yugoslav tribunal. But when it came to actually bringing indicted war criminals to justice, President Clinton's support vanished.

Without question there is some risk in arresting war criminals, although with nearly 55,000 NATO troops in Bosnia backed by over \$500 billion in annual Pentagon resources, the risk should be containable. But President Clinton, preoccupied with his reelection, lacked the leadership and courage to make the case for assuming that risk. He would not hesitate to ask a big-city cop to risk his or her life to apprehend a murder suspect, since that is the price to be paid for upholding the rule of law at home. But when it came to deploying law enforcement officials abroad—in this case, IFOR—to arrest suspects in genocide and mass murder and uphold the most basic international law, he balked. Sadly, he was willing to accept the chance of encouraging more slaughter tomorrow to avoid the political risks of leadership today.

President Jacques Chirac of France and Prime Minister John Major of Britain also bear particular blame for this failure. Despite a history of accepting some casualties among their many troops in Bosnia as a price for securing a peace, they contented themselves in 1996 with hiding behind President Clinton's timorous lead.

Particularly at a time when the international community is reluctant to deploy troops to stop, let alone prevent, mass killing, a functioning international system of justice would be a powerful deterrent to those contemplating atrocities. Indeed, when abusive leaders are all too willing to sacrifice countless lives in their quest for power, the targeted thrust of justice can be far more effective than the less discriminate tool of military intervention. Yet in their fixation on avoiding casualties among IFOR troops, international leaders only increase the likelihood of far more costly and dangerous interventions in the future.

The International Criminal Tribunal for Rwanda has had more success in gaining custody of some of the leaders of the Rwandan genocide, despite funding and personnel shortages and problems of local leadership. Zambia, Kenya, Belgium, Switzerland, and the United States have arrested indicted killers and agreed to deliver them to the tribunal. Cameroon has arrested several of the most important genocide participants, including a key leader, Colonel Théoneste Bagosora, although it has delayed surrendering them to the tribunal. But Zaire, with international acquiescence, allowed its territory to become a haven for participants in the genocide who, until military setbacks at the hands of rebel troops in November, continued to control the million or more Rwandan refugees in the country. In addition, the tribunal has blatantly neglected the widespread rape and sexual abuse of women that occurred during the genocide.

However, given the symbolic importance of Bosnia as the second genocide of this century in Europe, the success of the Nuremberg legacy is likely to be judged far more by the Yugoslav tribunal. If that tribunal can show no more for its labors than the trial of a handful of low-level thugs, it will be deemed a failure. The cause of international justice risks being set back for decades more.

There is little time for salvaging this effort. With plans for a reduction of international troops in Bosnia at the end of 1996, the window of opportunity for arresting war criminals is closing. Popular pressure on President Clinton and other Western leaders is urgently needed, lest the remaining chance also be squandered.

### **An International Criminal Court**

Given the slow progress of the Yugoslav and Rwandan tribunals, perhaps the most promising development at the international level has been the growing support for a permanent International Criminal Court (ICC)—a court which, unlike tribunals set up on a case-by-case basis by the U.N. Security Council, would be available to try the most serious human rights offenders wherever national courts are ineffective or unable to do the job. Momentum for an ICC picked up dramatically during 1996, as traditional northern supporters of international justice, mainly in Europe, were joined by a contingent of states from Africa, Latin America, the Caribbean, the Middle East, and the Pacific.

A growing number of governments embrace the ICC as insurance against abusive forces within their own countries who might be tempted to assume power and commit atrocities with the intention of avoiding prosecution by crippling the national judiciary or insisting on amnesty as a condition for stepping down. They understand that an international tribunal, by effectively removing amnesty from the bargaining table, can help avoid the slaughter that this strategy of impunity might breed. These ICC proponents seek to finalize the treaty establishing the court by mid-1998.

Unfortunately, the most outspoken opponents of an effective ICC are the permanent members of the Security Council, particularly the United States, Britain, France, and China. They are joined by the Japanese government which, worried about its record of atrocities in World War II, is unwilling to embrace even a mechanism of justice that, under all proposed versions, would not apply retroactively. While nominally endorsing the court, these governments persist in using delaying tactics to halt momentum and in promoting a weak court that would be subordinate to the Security Council and hence to the permanent members' veto power.

The ICC could provide a bulwark for international security by dissuading would-be tyrants from resorting to the violent abuse that underlies many of today's armed conflicts and humanitarian emergencies. Yet the permanent members of

the Security Council are willing to sacrifice this powerful tool to their desire to maintain a monopoly of power within the U.N. to maintain international peace and security. They also seek to avoid even the possibility that a strong and independent ICC might try to hold their own soldiers or officials to account, as if the rule of law can apply exclusively to others, not to themselves. Given this parochial exercise of their duty to safeguard global security, it is little wonder that calls for reform of the Security Council are gaining in force and number.

### **Profits Before Human Rights Principles**

In recent years, an important tool in promoting human rights has been the linkage of international assistance to the recipient's respect for international human rights standards. However, with a rapidly expanding global economy, many abusive governments now see international trade and investment as more important than bilateral or even multilateral assistance. Many industrialized countries have been reluctant to use this new form of economic leverage for human rights purposes. Fearing a loss of trade and investment opportunities in "big emerging markets" or resource-rich economies, the industrialized powers continue regularly to choose profit over principle when asked to apply human rights standards universally. While quite willing to exert economic pressure in the name of human rights on poor states like Burundi, Cuba, Libya, or Sudan, they acquiesced in abuses by economically attractive countries like China, Indonesia, Mexico, Nigeria, and Saudi Arabia.

This trend was particularly apparent in Asia. In March, the European Union (E.U.) held its first summit with Asian nations with barely a mention of human rights; indeed, the main human rights topic was a French and German effort to find a way to drop an E.U.-sponsored resolution criticizing China's human rights record at the U.N. Commission on Human Rights. The Association of South East Asian Nations (ASEAN), for its part, pronounced a convenient faith in "constructive engagement" with Burma—where Singapore, Malaysia, Thailand, and Indonesia have growing investments—despite mass arrests of over 1,000 opposition activists in 1996 and the ongoing use of forced labor. In June, the European Commission issued its first official position paper on E.U.-India relations. Describing an "enhanced partnership," the paper stressed European desire for access to India's "enormous market" while deliberately downplaying human rights.

Despite demands from around the world to cancel his visit to Indonesia to protest assaults on the pro-democracy movement, German Chancellor Helmut Kohl proceeded to Jakarta in October with a delegation of over fifty business leaders. Any concern over the impending subversion trials of labor and pro-democracy activists was muted to ensure that contracts were signed for the purchase of some \$395 million from German industries. Australian Prime Minister John Howard also failed to make any public mention of human rights during a September visit to Indonesia.

In the case of China, governments around the world downplayed human rights in their quest for warm relations with Chinese leaders and lucrative business deals in the world's largest market. Indeed, China actively sought to buy this silence by threatening to grant or deny contracts on the basis of the prominence that its trading partners gave to its human rights practices.

Nigeria, with its substantial oil reserves, escaped with only modest sanctions after its shocking execution of Ken Saro-Wia and eight other Ogoni activists in November 1995. The U.S. government's response was limited to denying visas to Nigerian leaders, banning military assistance and training, and prohibiting the sale and repair of military goods. Yet Washington studiously avoided seizing assets of military leaders or banning new investments in the oil industry, let alone imposing an oil embargo, which would immediately have been felt by the Nigerian military and might have hastened the seemingly endless transition to elected government.

The E.U. denied visas to leaders of the military regime, prohibited future arms sales, and insisted that development assistance pass through nongovernmental organizations (NGOs), but further steps were opposed by Britain, Germany, Italy, and the Netherlands, all of which have significant commercial interests in Nigeria. The Commonwealth suspended Nigeria and threatened to expel it if a democratically elected government were not in place within two years, but it stalled on proposed further sanctions, including freezing financial assets, denying visas, ceasing military training, or banning the export of arms.

Meanwhile, Chief Moshood K.O. Abiola, the presumed winner of the military-annulled 1993 elections in Nigeria, passed his second year in detention, while in June his senior wife and the most prominent campaigner for his release, Kudirat Abiola, was assassinated in Lagos by unidentified gunmen assumed by most to be acting on behalf of the government. Severe persecution of the Ogoni people, including killings and detentions, also continued.

In the case of oil-rich Saudi Arabia, there was not even the pretense of a dialogue to improve human rights. Rather, the U.S. government in its annual human rights report sought to excuse Saudi repression by asserting without any evidence that Saudi Arabia's "rigorously conservative form of Islam"—a euphemism for severe restrictions on women and intolerance of political dissent—"enjoys near-consensus support among Saudi citizens." By contrast, dissidents and opposition movements were labeled "rigidly fundamentalist," tacitly justifying their harsh treatment. For its part, Britain sought to expel an outspoken Saudi asylum seeker for fear of losing lucrative defense contracts with Saudi Arabia, until its efforts were stymied by a court.

Both the United States and Britain likewise declined numerous opportunities to criticize the government of Bahrain for a host of abuses ranging from torture and arbitrary detention to the wholesale denial of basic civil rights, including freedom of speech and assembly.

### **Labor Rights and the Global Economy**

While the industrialized powers were ready to forsake human rights where market opportunities beckoned, the global economy produced a surprising new source of support for the human rights cause. One of the great challenges for the international human rights movement is convincing people outside of an abusive country to care for the fate of remote victims. Although the international press plays a key role in this process, it is too easy to turn away from disturbing articles, to close one's eyes to ghastly pictures, and to retreat in comfortable isolation. Surprisingly, the global economy is helping to cut through this indifference by establishing new and immediate connections among distant people. Because the goods purchased in one country may be produced by victims of repression in another, the very act of consumption can be seen as complicity in that repression unless steps are taken to ensure that manufacturing is free of labor rights abuse. The result has been a burgeoning of consumer and press interest in labor rights in parts of the world that have been ignored.

Multinational corporations have been linked to human rights abuse in ever more public ways. In a few cases, they have changed their conduct rather than risk further tarnishing of their valuable brand names and corporate images. For example, during the past year campaigns in Europe and the United States led Heineken, Carlsberg, British Home Stores, and Liz Claiborne to leave Burma because of the extreme difficulty of operating there without becoming an accomplice to human rights abuse. Other companies faced strong consumer and public pressure over their human rights records, including Royal Dutch/Shell for its role in Nigeria, Total and Unocal for their presence in Burma, Freeport McMoRan and Nike over their actions in Indonesia, Disney for its activities in Haiti, and Zenith and General Motors for gender discrimination in Mexico.

Governments have also had to respond to this new interest in labor rights:

During a trip to India in January, Canadian Prime Minister Jean Chrétien, a strong proponent of Canadian corporate activity abroad, was compelled to mention publicly the possibility of Canadian restrictions on the import of goods made with child labor after his initial refusal to meet with a thirteen-year-old Canadian child-labor activist led to scathing press coverage.

The U.S. government also responded to revelations that American companies were using abusive labor practices with a high-profile Rose Garden ceremony to launch the Fair Labor Coalition. The coalition is supposed to report its nonbinding recommendations to President Clinton next year. Its impact remains uncertain.

South Korea was admitted in October to the Organization for Economic Cooperation and Development (OECD), the exclusive club of twenty-seven developed nations, but only after the OECD had set up an unprecedented committee to



monitor Korea's labor practices for rights violations. The European Union played a helpful role in keeping Korea's labor rights record on the OECD agenda.

UNICEF announced that it would henceforth not purchase material made with child labor. The World Bank responded to a Human Rights Watch report on bonded child labor in India by working out an agreement with the Indian government to initiate pilot projects aimed at eradicating this form of slavery. The release of the report for the annual donors meeting on India prompted a number of governments to make useful interventions with the Indian government.

The U.S. Labor Department's National Administrative Office (NAO), established under the labor-rights side agreement of the North American Free Trade Agreement (NAFTA), issued a report finding serious fault with Mexico's labor adjudication system. The NAO is also working on two new labor rights cases, including one filed by Human Rights Watch.

Pakistan, responding to international criticism and threats of trade sanctions for its labor practices, improved implementation of its child labor laws, including 2,500 prosecutions and 395 convictions of employers.

Some of the growing interest in labor rights practices is based on straightforward self-interest. For example, labor unions increasingly call attention to repression in distant countries for fear that jobs will be lost because of lower labor costs abroad made possible when workers are prevented from speaking out and organizing around workplace issues. Some businesses favor a strong and independent press as the best antidote to corruption. Many business executives have an obvious interest in the rule of law to help avoid arrest or violence in countries where they travel, such as occurred in 1996 when China detained officials from Royal Dutch/Shell and the International Monetary Fund and Saudi Arabia detained and mistreated a foreign engineer on the pretext that he had information about the political opposition. Even Peru's President Alberto Fujimori recognized the importance of the rule of law in a global economy when he lamented in his July state of the nation address that Peru lacked a "system of justice on which citizens and businesspeople, nationals and foreigners can rely."

Perhaps the most potent force in support of labor rights is the desire of many consumers to avoid personal complicity in human rights abuse. With growing frequency, consumers are insisting on guarantees that they are not buying the products of abusive labor conditions. While consumers currently lack adequate information on every product, Human Rights Watch and other organizations are devoting increasing resources to monitoring workers' rights worldwide. The press has performed a service by conveying this information to the consuming public. And a growing number of multinational corporations, deeply concerned about protecting their image, have adopted codes of conduct embracing human rights principles. A smaller number are discussing steps to ensure that these codes are implemented conscientiously and transparently.

In this way, just as the end of the Cold War spawned indifference to rights issues around the world, the global economy is providing new reasons for engagement. Few people want to benefit from human rights abuse. The global economy can make that linkage unavoidable—unless consumers take a broader interest in human rights practices. When a trip to the local department store becomes an opportunity for human rights activism, the human rights movement gains important new adherents.

### **Aid to Abusive Governments**

Conditioning international assistance on respect for human rights remains a significant tool for promoting reform. All major donor governments as a matter of either legislation or policy now uphold such conditionality in theory. Indeed, the provision of international assistance to abusive governments is less of a problem today than during the Cold War, when geopolitical interests frequently prevailed.

Yet most major donors continue to provide significant financial assistance to at least some abusive regimes without serious efforts to link that aid to an end to human rights abuses. Typical was Japan, which in 1995 sent \$1.4 billion to China, \$880 million to Indonesia, and \$271 million to Pakistan, but made no apparent effort to use its ensuing leverage

to press for human rights improvements. Similarly, the U.S. government made no visible attempt to employ the \$3 billion it sends to Israel each year for the purpose of stopping torture, arbitrary detention, and the indiscriminate use of military force, or the more than \$2 billion sent to Egypt each year to end torture, severe restrictions on political activities by the moderate Islamist opposition, and the use of military courts to convict civilians for nonviolent political activities. The World Bank gave nearly \$3 billion to China and \$991 million to Indonesia without using its enormous leverage to challenge those governments when they restrict the freedom of expression needed to rein in pervasive corruption and its toll on economic development.

U.S. arms sales to Colombia were at their highest levels ever during 1996, despite its troubling record of political executions and “disappearances.” The United States provides \$175 million in military assistance to Turkey, despite torture by Turkish police and a highly abusive war with Kurdish insurgents in southeastern Turkey.

Although President Chirac said that it would be “legitimate” for France to link its \$1.2 billion of annual assistance to Algeria to its pace of democratization, there was no evidence that France had in any way conditioned its assistance on an end to extrajudicial executions, forced disappearances, and torture by Algerian security and paramilitary forces. French assistance to Tunisia doubled in 1996 to \$220 million despite its continued jailing, torture, or abuse of thousands of Islamists for nonviolent expression and association.

### **The Abandonment of Refugees**

1996 saw a serious erosion in the protection of refugees from persecution. Western countries rolled up the welcome mat and shirked their responsibilities under international law as refugee flows changed direction with the end of the Cold War, with fewer refugees coming from former communist countries in Europe and more originating in developing countries. European countries, particularly Germany, threatened to repatriate Bosnian refugees without ensuring the arrest of their persecutors in Bosnia and the restoration of their personal freedoms. Many refugees fleeing to Western Europe now face a series of entry barriers, accelerated screening procedures, and “safe third country” rules which tend to bounce them back to countries on the periphery of the European Union without any guarantee of protection.

The E.U. has also adopted a narrow definition of refugees that protects only those facing official or officially condoned persecution; those whom governments fail to protect from insurgent groups are left without recourse. The United States adopted a new law which authorizes the use of summary procedures to review asylum claims and imposes arbitrary deadlines for filing asylum claims. The United States also continued large-scale detention of asylum seekers (including children) to deter others from seeking asylum.

Taking their cue from wealthier nations, Ghana, Ivory Coast, Nigeria, and Sierra Leone refused permission for two boatloads of Liberian refugees to dock during the height of renewed fighting in Monrovia. Russia refused to grant asylum to, and frequently extradited, dissidents from other former Soviet republics. To stem the tide of Rohingya Muslims who were fleeing forced labor and other abuse in Burma, Bangladesh jailed new arrivals or barred them from entering the country. In one incident in April, twenty-five asylum seekers, mostly women and children, drowned as Bangladeshi forces towed them back to Burma.

Perhaps the greatest threat to refugees came from a change in the paradigm for how to treat them. While the foremost duty toward refugees has always been the requirement that they not be forcibly returned to face persecution—the rule of *non-refoulement*—this first principle has increasingly given way to the management of population flows. Even the U.N. High Commissioner for Refugees (UNHCR), Sadako Ogata, has been toying with this new perspective on refugees. For example, to ensure repatriation to Tajikistan of some 7,000 refugees in northwestern Afghanistan, UNHCR cut their food and fuel rations, even though returning refugees faced harassment by neighbors and law enforcement officials who were unwilling to safeguard them. Protective efforts in Tajikistan by UNHCR and the Organization on Security and Cooperation in Europe (OSCE) significantly improved security for many returnees, but UNHCR’s and OSCE’s resources were inadequate to ensure the safety of all those who returned.

Concern with resources and an eroding willingness to host refugees drive this new commitment to repatriation. Refugee camps are expensive to operate. With resettlement in the west an increasingly remote option, repatriation can appear to be an attractive solution. But UNHCR and the major powers must be vigilant not to allow their desire to repatriate refugees to supersede their obligations under international law to refrain from returning refugees to countries where their lives or freedom would be threatened.

### **Landmines Progress: Sidestepping the Plague of “Consensus” at the U.N.**

One of the quieter but more insidious threats to the enforcement of human rights is the U.N.’s increasing preference to operate in this realm by “consensus.” As applied in U.N. circles, the “consensus” rule gives any government license to block action—a universal veto power. The result is that majority rule gives way to rule by the lowest common denominator, as the most abusive or recalcitrant states are permitted to prevent strong action in defense of human rights.

Already, most U.N. negotiations to set or enforce human rights standards are conducted on these terms. For example, progress toward creating a U.N. body to visit detention facilities was blocked in 1996 by China, Cuba, Japan, and Mexico. A campaign was also launched to make “consensus” the preferred tool for decision-making by the U.N. Human Rights Commission. Not surprisingly, its main proponents included such abusive or obstructionist governments as Algeria, Angola, China, Cuba, India, Indonesia, Iran, Iraq, Malaysia, Nigeria, Pakistan, Sri Lanka, and Vietnam. But those who take advantage of this system are not only the traditional opponents of human rights enforcement: the U.S. and British governments have profited from “consensus” traditions to block action on the International Criminal Court.

An important breach in the “consensus” system emerged in 1996 as a result of the campaign to ban the use, production, transfer, and stockpiling of antipersonnel landmines—inherently indiscriminate weapons which kill or maim thousands each year. A review conference settled in May for largely token new restrictions rather than a ban. Operating under “consensus” negotiating rules, the U.S., Chinese, Russian, Indian, and Pakistani governments, among others, insisted on subordinating the humanitarian imperative for a landmines ban to the preferences of their military establishments.

Yet an international campaign for a definitive ban on landmines—initiated by a small coalition of groups including Human Rights Watch but now joined by more than 700 NGOs and more than fifty governments—has bypassed this lowest common denominator. As a result, Canada, in a heroic move, announced in October that it would sidestep the absurdities of the “consensus” rule and open for signature in December 1997 a treaty that bans all antipersonnel landmines without exception. Belgium has offered to host a drafting conference in June 1997. Those who want to subscribe to a genuine ban will thus be able to do so. Those who choose not to may, of course, refuse to sign, but they will no longer be able to use the “consensus” rule to water down a landmine ban.

The Clinton administration, in particular, will no longer be able to pretend to support a landmines ban while watering down genuine prohibition. As a result, public pressure to join a complete ban is likely to increase. It is thus no surprise that, as this report goes to press, Washington is trying to strong-arm Ottawa into qualifying its courageous stand against landmines. It can only be hoped that Canada will resist, for the benefit not only of tomorrow’s potential landmine victims, but also for the prospect of enforcing human rights standards through the U.N. without the curse of “consensus.”

### **Other U.N. Action**

The U.N.’s continued marginalization of its human rights bodies remained a concern in 1996. During the Cold War, many governments found it expedient to relegate human rights to Geneva, a convenient distance from U.N. headquarters in New York. Today, as human rights abuses play a central role in many humanitarian and security crises, it is time for better integration. For example, despite the considerable human rights expertise accumulated by Geneva-based special rapporteurs on countries such as Burundi, Iraq, Sudan, and Zaire, not a single rapporteur was asked to address the Security Council. José Ayala Lasso, the U.N. high commissioner for human rights, only compounded the problem by his painfully low-key approach to defending human rights. The failure to consider

seriously and act upon the human rights dimension of global problems hurt not only the cause of human rights but also the success of many of the operations launched by the U.N.'s operational bodies in New York.

Other areas of concern at the U.N. include the following:

U.N. Secretary-General Boutros Boutros-Ghali once more showed his unwillingness to criticize the human rights records of the major powers. In August, as Russian troops were indiscriminately bombing Grozny and hundreds of thousands were fleeing a Russian offensive in Chechnya, his spokesperson failed to express concern about this human rights emergency by asserting that Chechnya was considered an "internal matter of the Russian Federation."

The budget crisis facing the U.N. provided a ready pretext for inaction on human rights. Much-needed operations to defend human rights have been left stillborn or seriously understaffed on budgetary grounds. For example, lip service was paid to the need for human rights monitors in Burundi, but in April only five were sent. Nor was any action taken on the call in February by the special rapporteur for Burundi for the creation of an international tribunal for that country to deter further slaughter. Adequate funding for the International Criminal Tribunal for Rwanda became available only in mid-1996, two years after the Rwandan genocide.

A laudable effort to increase access for nongovernmental organizations to U.N. bodies was hijacked by abusive governments intent on stifling human rights criticism. Human rights NGOs were singled out for special restrictions.

A low point for the U.N. Human Rights Commission came when China succeeded in using commercial threats and blandishments to block a vote or even discussion regarding a much-deserved resolution critical of China's human rights record.

Special praise is due the professional and effective U.N. human rights verification mission in Guatemala (MINUGUA), which virtually guaranteed scrutiny of any abuse that occurred. The U.N. also moderated the successful peace talks between the Guatemalan government and guerrillas. In response to a letter from Human Rights Watch expressing concern over the prospect that the final agreement might include an amnesty for violent human rights abuses, U.N. Under-Secretary for Political Affairs Marrack Goulding pledged in August that the U.N. would not condone such an agreement. The U.N. Human Rights Field Operation in Rwanda also did a much improved job in difficult circumstances of reporting on accelerating abuse.

### **Other Noteworthy Developments**

Other developments worth highlighting, both positive and negative, include the following:

The free and competitive elections in Taiwan helped further to undermine the argument, conveniently advanced by repressive Asian governments, that Asians value orderly government more than popular participation. So did the massive outpouring of support for Megawati Soekarnoputri, daughter of Indonesia's first president, as an alternative to President Soeharto.

In a sign of the increasing importance of women's rights to public perception of a government's legitimacy, the Taliban in Afghanistan received a cool international welcome upon taking Kabul in part because of severe restrictions it placed on public activities by women. However, in the case of Saudi Arabia, which imposes many comparable restrictions, even the increasingly powerful international women's rights movement could not prevent the country's wealth from purchasing silence on human rights.

The Czech Republic, Greece, the Federal Republic of Yugoslavia, Zaire and Zambia adopted or narrowly interpreted citizenship laws to deny citizenship to native-born or long-term residents on grounds of ethnicity. Evidence suggests that the Czech law was intended to disenfranchise and ultimately expel the Roma community there. A citizenship law in Greece continued to be used to strip citizenship from certain non-ethnic Greeks who leave the country. A new citizenship law in the Federal Republic of Yugoslavia threatened statelessness for ethnic Albanians in Kosovo. A

Zambian law called into question the fairness of presidential elections by making the main opposition candidate, former President Kenneth Kuanda, ineligible for the office. The Zairian threat to enforce an earlier withdrawal of citizenship from Tutsi, known as Banyamulenge, and to attack them if they did not leave the country sparked the armed conflict and refugee crisis in November.

Preoccupation with common crime led to official and popular pressure to compromise human rights guarantees in several parts of the world. In Latin America, the problem was most acute in Brazil, Colombia, Mexico, and Venezuela. Frustration with the judicial system also led to the lynching of suspected common criminals in Guatemala, Haiti, and Mexico. Efforts in Bulgaria to control organized crime served as a pretext for beatings and due process violations. Russia's crackdown on organized crime led to the harassment, mistreatment, and arbitrary detention of people from the Caucasus, especially Chechens. Both the police and judiciary in Bangladesh grossly mistreated criminal suspects. Police in India and Bulgaria beat street children and detained them arbitrarily. The "war on drugs" as waged in the United States led to racially discriminatory prosecutions and sentencing.

Subregional groups in Africa, while still embryonic, showed encouraging initiatives on behalf of human rights. The Southern African Development Community began to call on its member states to improve respect for human rights. Similarly, the states of East and Central Africa responded decisively to a coup in Burundi.

After years of defending discriminatory laws as legitimately rooted in local custom, the Botswana legislature finally gave in to domestic and international pressure and granted women equal citizenship rights.

While activists worldwide increasingly used the Internet to exchange human rights information and to organize campaigns against abuse, many governments tried to impose penalties or restrictions on Internet use, including Burma, China, Cuba, Germany, Singapore, South Korea, the United States, and Zambia. Human Rights Watch joined a so-far successful court challenge to a restrictive U.S. law on Internet use and issued a report on the problem worldwide.

#### **Attacks on Human Rights Monitors**

It is a sad but useful measure of the effectiveness of the human rights movement in generating pressure against abusive governments that those governments so often retaliate with violence or repression aimed at the monitors of human rights themselves. In the past year, seven human rights monitors were killed or forcibly disappeared. India and Colombia remained two of the most dangerous places for human rights monitoring, with two monitors killed in each country.