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## Afghanistan

Despite some improvements, Afghanistan continued to suffer from serious instability in 2004. Warlords and armed factions, including remaining Taliban forces, dominate most of the country and routinely abuse human rights, particularly the rights of women and girls. The international community has failed to contribute adequate troops or resources to address the situation, and basic human rights conditions remain poor in many parts of the country, especially outside of Kabul.

Progress was made in stabilizing Afghanistan's system of governance. Afghans began exercising their right to participate in the political process by approving a new constitution in January 2004, and selecting Hamid Karzai to a five-year term as president in a generally peaceful election in October—the country's first universal suffrage, direct vote for the presidency. Afghans, including notable numbers of women, participated widely in both processes, but the legitimacy of both processes suffered due to inadequate preparation by the international community and the absence of sufficient security and monitoring.

These advances are offset by the blossoming Afghan drug economy and the continuing effects of widespread poverty. Afghanistan was the largest worldwide producer of opium and heroin in 2004. Escalating drug profits stifle efforts to reestablish rule of law and increase reconstruction and development efforts. Average per capita expenditures for Afghans—the amount of money an average Afghan spends on food and essential non-food items in one year—is only U.S. \$165. Literacy rates and school enrollment rates countrywide climb, but still remain extremely low, especially for women. And the country continues to suffer from extremely high levels of preventable morbidity and health problems.

U.S. forces operating against Taliban insurgents continue to generate numerous claims of human rights abuses against the civilian population, including arbitrary arrests, use of excessive force, and mistreatment of detainees, many of whom are held outside the protection of the Geneva Conventions.

### ***Warlordism and Insecurity***

Political repression, human rights abuses, and criminal activity by warlords—the leaders of militias and remnants of past Afghan military forces, who were brought to power with the assistance of the United States after the Taliban's defeat—are consistently listed as the chief concerns of most Afghans. However, the marginalization of two major warlords—Marshall Fahim, the first vice president and defense minister, and Ismail Khan, self-styled Emir of Herat—raised hopes that President Karzai and the international community had begun to reverse their policy of relying on warlords to provide security.

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Local military and police forces, even in Kabul, have been involved in arbitrary arrests, kidnapping, extortion, torture, and extrajudicial killings of criminal suspects. Outside Kabul, commanders and their troops in many areas have been implicated in widespread rape of women, girls, and boys, murder, illegal detention, forced displacement, and other specific abuses against women and children, including human trafficking and forced marriage. In several areas, Human Rights Watch documented how commanders and their troops seized property from families and levied illegal per capita “taxes” (paid in cash or with food or goods) from local populations. In some remote areas, there are no real governmental structures or activity, only abuse and criminal enterprises by factions.

In July 2004, President Karzai dropped Mohammad Qasim Fahim from the vice president’s spot on his presidential ticket. The first vice president and minister of defense for most of 2004, Marshall Fahim, is a factional leader and for the last three years has resisted many efforts to disarm his forces or to replace factional commanders whom he appointed to high-level positions in the ministry.

The western city of Herat descended into violence on two occasions after President Karzai dismissed the main warlord there, Ismail Khan, from his post in September 2004. The factional violence led to the temporary suspension of U.N. and NGO humanitarian operations. Ongoing factional rivalries impede aid delivery and development in several provinces in the north and west of the country.

Many districts remain insecure because of violence caused by factions ostensibly affiliated with the government. The medical aid organization Médecins Sans Frontières (MSF, Doctors Without Borders), decided to pull out of Afghanistan after five MSF workers were killed in the northwest of the country in June 2004—a momentous decision given that MSF worked in Afghanistan through the worst violence of the early 1990’s. Overall, nearly fifty aid workers and election officials were killed in 2004, far higher than in any previous period.

In the south and southeast of the country, Taliban remnants and other anti-government forces outside Afghanistan’s political framework have continued to attack humanitarian workers and coalition and Afghan government forces. As a result of attacks, international agencies suspended many of their operations in affected areas, and development and humanitarian work has suffered as a result. In some areas—like Zabul and Kunar province—whole districts are essentially war zones, where U.S. and Afghan government forces engage in military operations against Taliban and other insurgent groups. Hundreds of Afghan civilians were killed in 2004 during these operations—in some cases because of violations of the laws of war by insurgents or by coalition or Afghan forces.

In many areas around Afghanistan, poppy production has reached record highs, and many factions—including Taliban and anti-government forces—are suspected of engaging in drug trafficking. U.N. and U.S. officials estimated that in 2004 Afghan-produced opium and heroin accounted for approximately 75 percent of the entire world supply, and approximately 90 percent of that consumed in Europe. The drug revenue amounts to approximately U.S.\$2.5 billion—half of Afghanistan Gross Domestic Product. The

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inflated profits provide warlords with an independent source of income which make it especially difficult to establish rule of law.

### ***The Presidential Election and the Bonn Process***

On October 9, 2004, Afghanistan held its first-ever presidential election. Surprisingly few problems occurred on election day and over eight million votes were cast. But the international community failed to supply adequate numbers of international monitors to observe the election, and the majority of election sites were not adequately monitored. In many cases Afghans were able to vote relatively freely, but in many other places—especially rural areas—voters did not receive adequate civic education about the secrecy of the ballot and were likely threatened by local leaders how to vote. Independent political organizers unaffiliated with factions or their militia forces faced death threats and harassment and in many areas struggled just to organize. In the months before the election, Human Rights Watch documented continuing political repression by local factional leaders.

The presidential elections represented another major milestone in the political process initiated by the 2001 Bonn Agreement, an accord signed by representatives of the militia forces who fought with the U.S.-led coalition against the Taliban, representatives of the former King of Afghanistan, Zahir Shah, and representatives of various other exiled Afghan groups. The agreement brought President Karzai to power as the first interim leader of Afghanistan. Two national Loya Jirgas (grand councils) were held in 2002 and 2003, and a constitution approved, but both processes were marked by widespread threats and political repression by warlord factions.

There has been some progress in realizing the aspirations of the Bonn Agreement. The Afghan government has gradually re-built some of the apparatus of state power in Kabul. Development efforts have begun in provinces outside of Kabul, including construction of roads, schools, and hospitals, contributing to the growth of Afghanistan's economy. And although the majority of school-age girls lack adequate educational opportunities, millions of girls have returned to school, and universities are functioning. Training has begun of a new Afghan army and central police force. The Afghan Independent Human Rights Commission, created under the Bonn Agreement, expanded its activities. Limited legal reform processes and training of judges and lawyers have begun.

However, many of the Bonn Agreement's most important provisions have been either forgotten or ignored. Militia forces occupying Kabul were never withdrawn from the city, no significant disarmament of militia forces nationwide has taken place (demobilization goals were reduced to a target of less than 40 percent before the October elections, which in any case was not met), and many militia leaders have retained their autonomous leadership over what are essentially private armies.

### ***Women and Girls***

Women and girls continue to suffer the worst effects of Afghanistan's insecurity. Conditions are better

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than under the Taliban, but women and girls continue to face severe governmental and social discrimination, and are struggling to take part in the political life of their country.

Afghan women who organize politically or criticize local rulers face threats and violence. Soldiers and police routinely harass women and girls, even in Kabul city. Many women and girls continue to be afraid to leave their homes without the burqa. Because many women and girls continue to fear violence by factions, many continue to spend the majority of their time indoors and at home, especially in rural areas, making it difficult for them to attend school, go to work, or actively participate in the country's reconstruction. The majority of school-age girls in Afghanistan are still not enrolled in school.

### ***U.S. Military Operations***

U.S. and coalition forces active in Afghanistan under Operation Enduring Freedom since November 2001, continue to arbitrarily detain civilians, use excessive force during arrests of non-combatants, and mistreat detainees. There are also credible reports of Afghan soldiers deployed alongside U.S. forces beating and otherwise mistreating people during arrest operations and looting homes or seizing the land of those being detained.

Ordinary civilians caught up in military operations and arrested are unable to challenge the legal basis for their detention or obtain hearings before an adjudicative body. They have no access to legal counsel. Release of detainees, where it did occur, is wholly dependent on decisions of the U.S. military command, with little apparent regard for the requirements of international law—whether the treatment of civilians under international humanitarian law or the due process requirements of human rights law. Generally, the United States does not comply with legal standards applicable to their operations in Afghanistan, including the Geneva Conventions and other applicable standards of international human rights law.

### ***Key International Actors***

Without adequate international support, the government has continued to struggle in addressing Afghanistan's security and human rights problems. The central government has acted to sideline several abusive commanders, but in most cases the government has negotiated and cooperated with leaders implicated in abuses, as have U.S. government officials in the country, who continue to be influential actors in Afghanistan's political processes.

In late 2003 NATO took over the U.N.-mandated International Security Assistance Force (ISAF), fielding between six thousand and eight thousand security troops. ISAF is still mostly limited to Kabul city, with a small outpost in the northern city of Kunduz. NATO leadership has repeatedly stated that it wants to expand its geographic scope, but member nations have not contributed enough additional troops and logistical support. As a result, planned expansion stages have been repeatedly postponed.

The United States, along with coalition partners including Germany, New Zealand, and the United Kingdom, has been expanding small Provincial Reconstruction Teams (PRTs) of fifty to one hundred

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troops to several areas, but they have had only limited successes in improving human rights protections and security. The small size of the teams, their vague mandates, and their sometimes close working relationship with local Afghan militias—the very forces who are creating abusive and insecure environments in the first place—have stymied further progress.

The United States, the most important and involved international actor in the country, has started addressing Afghanistan's security problems more seriously, but has not taken the steps necessary to lead other nations in providing security, troops, funding, and political leadership to secure Afghanistan's future. NATO member states and other potential troop contributors are also to blame for not providing more troops to ISAF and adequate overall funding for international efforts in Afghanistan.

The general failure of U.N. member states to provide an underlying security framework for reconstruction in Afghanistan has made it impossible for the United Nations Assistance Mission in Afghanistan (UNAMA) to carry out many parts of its mandate.

But the leadership of UNAMA has also limited its criticisms of Afghan warlords and its efforts to monitor human rights and security. As a result of these decisions, there is little detailed and comprehensive human rights reporting by the international community in Afghanistan.

## Burma

Burma remains one of the most repressive countries in Asia, despite promises for political reform and national reconciliation by its authoritarian military government, the State Peace and Development Council (SPDC). The SPDC restricts the basic rights and freedoms of all Burmese. It continues to attack and harass democratic leader Aung San Suu Kyi, still under house arrest at this writing, and the political movement she represents. It also continues to use internationally outlawed tactics in ongoing conflicts with ethnic minority rebel groups.

Burma has more child soldiers than any other country in the world, and its forces have used extrajudicial execution, rape, torture, forced relocation of villages, and forced labor in campaigns against rebel groups. Ethnic minority forces have also committed abuses, though not on the scale committed by government forces.

The abrupt removal of Prime Minister General Khin Nyunt, viewed as a relative moderate, on October 19, 2004, has reinforced hardline elements of the SPDC. Khin Nyunt's removal damaged immediate prospects for a ceasefire in the decades-old struggle with the Karen ethnic minority and has been followed by increasingly hostile rhetoric from SPDC leaders directed at Suu Kyi and democracy activists.

Thousands of Burmese citizens, most of them from the embattled ethnic minorities, have fled to neighboring countries, in particular Thailand, where they face difficult circumstances, or live precariously as internally displaced people.

### *Depayin Incident*

On May 30, 2003, in Depayin in northern Burma, Suu Kyi's traveling party was attacked by a group of armed men associated with the Union Solidarity Development Association (USDA), a mobilization organization created by the SPDC. According to eyewitnesses, police were present at the time of the incident, as were common criminals who had been released from prison for the purpose of taking part in the attack. The Burmese government has admitted to four deaths in the incident, while eyewitnesses have reported far more. As the government continues to prohibit any independent investigation into the incident, the number of casualties remains unknown.

Suu Kyi, as well as scores of members and supporters of the National League for Democracy (NLD) Party, were detained following the attack. They were held under article 10a of the 1975 State Protection Act, which permits the authorities to detain anyone considered a threat to state security for up to five years without charge or trial. U.N. sources reported that ninety-one of the NLD and pro-democracy

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detainees, never charged with any crime, were released within two months. Suu Kyi remained under house arrest at this writing.

### ***An Aborted Attempt at Reform***

In August 2003, former Prime Minister General Khin Nyunt launched what he called a “road map” for a transition to democracy in Burma. The SPDC pledged to eventually hold elections as part of a transition to a democratic government. The first step was the convening of a national constitutional convention, a process that had been stalled since 1996 after the NLD and other pro-democracy parties walked out, citing the SPDC’s domination and manipulation of the proceedings.

In May 2004, the National Convention began work. But the SPDC refused to release Suu Kyi and senior members of the NLD, as well as to reopen all NLD offices. As a result, the NLD and the Shan Nationalities League for Democracy (SNLD) and affiliated parties in the United Nationalities Alliance (UNA) decided not to take part in the National Convention. Without the participation of the NLD and other political parties that won the majority of seats in the 1990 elections, the National Convention lost any serious legitimacy and genuine prospects for instituting meaningful reform.

The sudden ouster of General Khin Nyunt in October 2004 further diminished hopes for reform. The ousted prime minister and military intelligence chief had been willing to engage with Aung San Suu Kyi to break the political stalemate. Lieutenant General Soe Win, who was named Burma’s prime minister after the dismissal, has stated publicly that “the SPDC not only will not talk to the NLD but also would never hand over power to the NLD.”

### ***Political Prisoners***

In 2002, the International Committee of the Red Cross reported there were approximately 3,500 “security detainees” in Burma. Of these, at least 1,300 were believed to be political prisoners, including elected members of parliament. Most, if not all, were arbitrarily arrested for exercising their freedoms of opinion and expression. The right to a fair trial, including the right to access a lawyer, continues to be denied to most detainees, in particular those accused of political dissent. Torture and mistreatment of detainees is common, especially during pre-trial detention in military intelligence interrogation centers. Authorities continue to extend the detention of political prisoners who have served their prison sentences by placing them under “administrative detention.” This practice is used even with elderly and infirm prisoners.

### ***Child Soldiers***

On June 4, 2004, the United Nations Committee on the Rights of the Child issued its concluding observations on Burma’s compliance with the Convention on the Rights of the Child. The Committee identified a range of concerns, including the continued recruitment and use of child soldiers by Burma’s armed forces.

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Burma has more child soldiers than any other country in the world, accounting for approximately one-fourth of the 300,000 children currently believed to be participating in armed conflicts across the globe. A 2002 investigation by Human Rights Watch found that as many as seventy thousand children under the age of eighteen may be serving in Burma's national armed forces. Burma is believed to have an estimated 350,000 soldiers in its national army. Armed opposition groups in Burma also recruit child soldiers, although on a much smaller scale. Human Rights Watch documented the use of child soldiers by nineteen different opposition groups.

While the government still denies such systematic recruitment, it has for the first time acknowledged child soldiers in the army as an issue. Largely as a result of an October 2003 report to the United Nations Security Council by Secretary General Kofi Annan, the government formed a high-level "Committee to Prevent the Recruitment of Child Soldiers," and announced that a task force was being formed to ensure inspections for underage recruitment.

Government forces have released small numbers of child soldiers. In these cases, the parents had reported the recruitment to the ICRC or the International Labor Organization, requesting their intervention. For instance, four boys recruited in March of 2004 were released, apparently because of the ICRC's involvement.

### ***Violations against Ethnic Minorities, Particularly Women***

The Burmese army continues to commit gross abuses against civilians, particularly members of ethnic minorities associated with various resistance movements in the country. In its campaigns against ethnic minorities, the army engages in summary executions, torture, and rape of women and girls.

The SPDC's eight-year campaign of forcibly relocating minority ethnic groups has destroyed nearly three thousand villages, particularly in areas of active ethnic insurgency and areas targeted for economic development. Hundreds of thousands of ethnic minorities have been forced into as many as 200 internment centers, and those who have passed through these sites report forced labor, extrajudicial executions, rape, and torture committed by government troops.

There are an estimated one million internally displaced persons (IDPs) in Burma, and several hundred thousand Burmese refugees in Bangladesh, India, Malaysia, and especially neighboring Thailand. The Burmese government has refused international access to areas of ongoing conflict, cutting off humanitarian assistance to IDPs in violation of international humanitarian law.

In February 2004, the Human Rights Watch report *Out of Sight, Out of Mind* detailed the increasingly harsh policies of the Thai government against Burmese refugees and asylum seekers. Many such individuals are returned to Burma in violation of the internationally recognized principle of non-refoulement.

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Local and international nongovernmental organizations have documented widespread and continuing sexual violence against ethnic women by the military in Burma, including new reports by the Women's League of Burma (WLB) and the Karen Women's Organization (KWO) in 2004. The KWO documented 125 cases of sexual violence committed by the SPDC's military troops in Karen State from 1988 until 2004, half committed by high-ranking military officers. According to this report, 40 percent of the cases were gang rapes. In 28 percent, women were raped and then killed. The WLB reported sexual violence in 2003 and 2004 in all provinces with significant ethnic minority populations as well as in central Burma. Abuses included rape of women and girls, gang rapes, murder, sexual slavery, and forced marriage. The report implicated senior and junior military personnel as being perpetrators or complicit in the majority of documented rapes. The SPDC has denied the findings of these reports, and women's organizations have reported intimidation of survivors and witnesses.

### ***Key International Actors***

The attack and arrest of Aung San Suu Kyi and her supporters in May 2003 drew widespread international condemnation. Despite repeated visits to the country, the U.N. secretary-general's special envoy to Burma, Razali Ismail, faced resistance from the SPDC in his efforts to prompt renewed political dialogue with the NLD and national reconciliation. Various U.N. actors, including Paulo Sérgio Pinheiro, the U.N. special rapporteur on human rights in Burma, expressed deep concern over the absence of major opposition parties from the National Convention.

In July 2003, the Association of Southeast Asian Nations (ASEAN), which Burma joined in 1997 and is scheduled to chair in 2005, issued an unprecedented rebuke of a member state when it called on the SPDC to release Aung San Suu Kyi. Japan, Burma's largest single aid donor, suspended its development aid to Burma in the wake of the May 2003 attack.

This strong regional position has, however, changed rapidly. Both ASEAN and Japan have since maneuvered actively to convince the European Union to accept Burma as a new member of the Asia-Europe Meeting (ASEM). China and Thailand continue to be the SPDC's closest allies, politically and economically, although both countries have expressed some concern over the implications of General Khin Nyunt's dismissal.

The United States maintains economic sanctions on Burma. The Burmese Freedom and Democracy Act of 2003 bans all imports from Burma and reaffirms United States recognition of the NLD as the legitimate government. An accompanying executive order calls for the freezing of assets of senior SPDC officials.

## Cambodia

Political stalemate went hand in hand with only minor human rights improvements in 2004. The country suffered an eleven-month political deadlock over formation of a national government following inconclusive parliamentary elections in July 2003. King Norodom Sihanouk abdicated the throne due to his advanced age and was replaced by his son, Prince Norodom Sihamoni, in October 2004.

Authorities continue to ban or disperse most public demonstrations. Politicians and journalists critical of the government face violence and intimidation and are barred from equal access to the broadcast media. In addition, the judiciary remains weak and subject to political influence. Trafficking of women and children for sexual exploitation through networks protected or backed by police or government officials is rampant. The government continues to turn a blind eye to fraudulent confiscation of farmers' land, illegal logging, and widespread plundering of natural resources.

Despite an agreement between the U.N. and Cambodia to bring senior Khmer Rouge leaders to justice, serious doubts remain as to whether a tribunal established within the Cambodian court system can ensure fair and impartial prosecutions and trials.

### ***Political Violence and Intimidation***

All three national elections conducted in Cambodia since the signing of the Paris Peace Agreements in 1991 have been conducted in an atmosphere of violence and intimidation. Political violence continued after elections in July 2003. In October 2003 a radio journalist and a popular singer were killed, both of whom were affiliated with FUNCINPEC, the royalist party led by Prince Ranariddh. In January 2004, five political activists were murdered, including prominent labor leader Chea Vichea. Another labor activist, Ros Sovannareth, was killed in May 2004.

A political standoff after the 2003 elections, in which no one party received the required two-thirds majority needed to form a new government, was resolved in July 2004, when FUNCINPEC entered into a power-sharing agreement with the Cambodian People's Party (CPP.) The opposition Sam Rainsy Party (SRP) and some nongovernmental organizations (NGOs) questioned the legality of the new government, which was formed on the basis of controversial amendments to the Constitution.

### ***Weak Judiciary and Impunity***

Cambodia has made little progress in reforming its judicial system, which has been widely condemned for its lack of independence, incompetence, and corruption. Cases of politically related violence and crimes committed by government authorities or those with ties to high-ranking officials are often not

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prosecuted or even investigated. Chea Vichea's high profile murder case has been marred by reports of torture being used to extract confessions from the alleged suspects, threats against witnesses, and political pressure on the investigating judge, who publicly questioned the legality of the suspects' arrests and called for the case to be dismissed for lack of evidence.

The Cambodian Bar Association has become increasingly politicized. In September 2004 the prime minister and three other senior CPP government officials, none of whom are trained lawyers, were admitted to the Bar. In November, the Appeals Court nullified the results of a Bar Association election, in which a legal aid lawyer was elected president. The court ordered the defeated incumbent, a CPP supporter, to temporarily reassume the position while a new election was organized.

In mid-2003 four men were arrested in Cambodia on charges of being members of the Indonesia-based terrorist group, Jemaah Islamiya, which has links to al-Qaeda. As of this writing, the men still had not faced trial, far exceeding the legal pre-trial detention limit of six months.

In January 2004 the Cambodian government dropped extradition demands for the return from Thailand of political prisoner and SRP activist Sok Yoeun, whom the Cambodian government has accused of organizing a 1998 rocket attack on a convoy that included Prime Minister Hun Sen. Sok Yoeun, a UNHCR-recognized refugee, was released from Thai prison in January 2004 and allowed to resettle in Finland.

### ***Khmer Rouge Tribunal and the ICC***

After seven years of negotiations, in 2004 Cambodia approved an agreement with the United Nations to establish an internationally-assisted tribunal under Cambodian law to bring Khmer Rouge leaders to justice. However the Cambodian government's record of interfering with courts and intimidating judges, as well as the grossly inadequate training of many judicial officials, gives reason for concern that prosecutions could be politically influenced.

Pursuant to the agreement with the U.N., the government is to establish an extraordinary chamber to try senior leaders of the Khmer Rouge and those who were most responsible for genocide, war crimes, and crimes against humanity committed while the Khmer Rouge was in power (1975-79). Based in Cambodia, this "mixed tribunal" will be comprised of a majority of Cambodian judges working alongside international judges, with Cambodian and international co-prosecutors.

In 2002, Cambodia became the first Southeast Asian country to ratify the Rome Statute of the International Criminal Court. In June 2003, however, Prime Minister Hun Sen agreed to a bilateral immunity agreement with the U.S. that exempts U.S. citizens from the authority of the court. The draft agreement is expected to be approved by the National Assembly by 2005.

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### ***Restrictions on Freedom of Assembly***

The government placed strict new restrictions on freedom of assembly in January 2003. Since that time, other than during officially-prescribed electoral campaign periods, the government has denied virtually all requests for permission to demonstrate on the ground that such gatherings would jeopardize national security and public order. Authorities have rejected requests for rallies by students, victims of domestic violence, environmentalists, opposition parties, and garment workers.

During 2004, authorities banned, dispersed, or intervened during at least sixteen public demonstrations in Phnom Penh, sometimes using excessive or disproportionate force. In January 2004, for example, more than one hundred garment workers were injured when dozens of riot police beat protestors with batons and fired into they air as they marched into a rally of two thousand striking workers from the MSI Garment Factory.

### ***Freedom of Expression***

More than one hundred privately owned newspapers are published in Cambodia, including some affiliated with opposition groups. However Cambodia's reputation for having one of the freest presses in Southeast Asia has been tarnished by official attempts to silence free speech and block access by opposition parties to the broadcast media, the main source of information for Cambodia's largely rural society. Cambodian television stations are still owned fully or partly by the government. The government continues to deny a radio broadcast license to the SRP.

In 2003, Chou Chetharith, the deputy editor of the royalist radio station Ta Prohm, was shot and killed outside the station's Phnom Penh offices after Hun Sen publicly warned the station to stop broadcasting insults directed at the CPP.

### ***Conflicts over Land and Resource Rights***

Land confiscation continues to be a major issue throughout the country, with many land conflicts involving ownership claims by individuals or private concessions backed by military commanders or government officials.

Concessions granted to private companies by the government have led to increasing landlessness and destruction of the natural resources on which Cambodia's rural population depends for its livelihood. In October 2004 Hun Sen called for a review of major new land transactions and a moratorium on new concessions until a subdecree on concession policy is approved.

Volunteers and staff from human rights groups and environmental organizations have been threatened, attacked, arrested, and even killed. In November 2004, six people were wounded in a grenade attack when hundreds of villagers gathered to peacefully protest commencement of forest clearing in a long-disputed paper pulp concession granted by the government to the Pheaphimex Company in Pursat province. Later that month in Kratie province, community forestry activists were threatened and one was

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reportedly beaten by members of the military after villagers confiscated several chainsaws being used by illegal loggers in a wildlife sanctuary.

### **Refugee Rights**

Vietnam's crackdown on ethnic minority Montagnards in its Central Highlands region across the border from Cambodia (*see* Vietnam) continues to generate a steady flow of refugees into Cambodia. While Cambodian authorities have taken some action to assist refugees when pressured, political considerations often prevail over refugee rights.

In March 2002 Cambodia closed both of its provincial refugee camps and began to refuse to accept new Montagnard asylum seekers from Vietnam. In a positive move, in July 2004 the government authorized the U.N. High Commissioner for Refugees (UNHCR) to travel to northeastern Cambodia to retrieve hundreds of Montagnard asylum seekers. By year's end UNHCR had registered close to six hundred new arrivals.

At the same time, however, in violation of its obligations under the 1951 Refugee Convention and the Convention against Torture, provincial authorities—under instruction from the Ministry of Interior—have continued to forcibly return hundreds of Montagnard asylum seekers back to Vietnam, where they face ongoing persecution and in some cases arrest, unfair trials, and torture. In addition, officials have harassed and threatened to arrest Cambodian villagers suspected of providing food or assistance to asylum seekers before they have come under UNHCR protection.

In September 2004 Cambodian authorities deported twelve Vietnamese members of the Cao Dai church. They had come to Phnom Penh from Vietnam to deliver a letter requesting religious freedom to international delegates at an ASEAN meeting. UNHCR was refused access to them before their deportation. In a positive move, seven North Korean asylum seekers who were detained for several weeks by Cambodian immigration police were allowed to seek asylum in South Korea in late September 2004.

### **Torture**

Torture continues to be used with impunity in Cambodia, particularly by police officers attempting to extract confessions from suspects detained without access to lawyers. Under Cambodia's amended Criminal Procedure Code, suspects can be held in police detention—the period when police commonly use torture to extract confessions—for up to seventy-two hours. In June 2004 the deputy director general of the National Police publicly condoned the use of torture to obtain information from suspects during interrogation. Under pressure, he later retracted his statement.

### **Human Trafficking**

Despite periodic police raids and temporary closure of brothels, powerful figures running human trafficking networks, and their accomplices—many of them government officials, soldiers, or police—

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continue to be largely immune from prosecution. The government provides little in the way of social services, counseling, or job training to child prostitutes “rescued” in high-profile aids, resulting in many returning to the hands of brothel owners or traffickers. Cambodian men, women, and children continue to be trafficked to Malaysia and Thailand for forced labor and forced prostitution.

### ***Key International Actors***

Cambodia receives more than half of its annual budget from foreign aid and loans. Cambodia’s international donors have expressed concerns at the slow pace of legal and judicial reform, unchecked exploitation of natural resources, and corruption. In mid-2004 several donors, led by the Canadian ambassador, successfully pressed the government to authorize UNHCR to resume field operations in northeastern Cambodia.

Japan remains the largest bilateral donor to Cambodia and provided the bulk of the funding for the 2003 national elections, along with the European Union, Australia, New Zealand, and Canada. China is playing an increasingly influential role in Cambodia, both as a donor and an investor. The United States has pressed the government to address political violence and advocated that Khmer Rouge leaders be brought to trial but it has hesitated to contribute toward the costs of a tribunal. By December 2004, only three U.N. member states have publicly announced pledges towards the tribunal’s projected three-year budget of US\$60 million: Australia (\$2 million), France (\$1 million), and Japan (\$3 million).

In 2003 the World Bank reduced its \$18 million loan for Cambodia’s demobilization program and called for \$2.8 million to be paid back because of corruption in the administration of the program. In August 2004 the Bank issued a report harshly critical of rampant corruption within Cambodia’s investment sector.

The Cambodia Office of the High Commissioner for Human Rights continues to downsize its staff and in 2003 closed all of its provincial offices. During a visit to Cambodia in November 2004 the U.N. Secretary-General’s Special Representative for Cambodia highlighted problems with the government’s land concession policies and called for an investigation into the grenade attack against villagers peacefully protesting a land concession in Pursat.

## China

In late 2004, the Central Committee of the Chinese Communist Party (CCP) called for political reform within the Party in order to strengthen the Party's ability to lead the nation. Party leaders made clear that China is to remain a one-party state, but one based increasingly on the rule of law. While China has made progress in some areas in recent years—strengthening its legal system, allowing more independent news reporting, and sometimes tailoring public policy more closely to public opinion—it remains a highly repressive state.

The Party's 2004 promise to uphold the rule of law has been compromised by continuing widespread official corruption, Party interference in the justice system, and a culture of impunity for officials and their families. Authorities continue to censor news media. Civil society is also constrained and most NGOs are government-controlled. China prohibits independent domestic human rights organizations and bars entry to international human rights organizations. Chinese citizens who contact international rights groups risk imprisonment.

In late October and early November 2004, major riots by tens of thousands of people roiled Henan and Sichuan provinces. The riots were widely separated geographically and the issues precipitating them were different, but the riots, and the state response to them, highlighted growing rural unrest and Chinese leaders' preoccupation with social stability. Leaders continue to isolate areas of discontent, and aim to prevent information about social problems from spreading.

### ***Fifteenth Anniversary of the Tiananmen Square Crackdown***

June 4, 2004, marked the fifteenth anniversary of the massacre in Beijing, when China's leaders ordered the military to fire on civilians who were trying to prevent troops from entering the city and reaching protesters in Tiananmen Square. Fifteen years later, the government still forbids any public commemoration of the event. Police harass and detain those dedicated to securing rehabilitation of victims, payment of compensation, or reconsideration of the official verdict.

During the sensitive 2004 anniversary period, officials again held well-known activists, including Ding Zilin, leader of the Tiananmen Mothers advocacy group, under house arrest. State Security officers subjected Dr. Jiang Yanyong to six weeks of intense thought reform. The seventy-two-year-old military doctor had gained international renown for exposing the official cover-up of the SARS epidemic in Beijing. He also had attended to victims the night of June 4, 1989, and, in February 2004, suggested in a private letter to the government that it should "settle the mistakes it committed" in 1989. Dr. Jiang was released on July 19, 2004, but remained under house arrest at this writing.

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## **China's Legal System**

In March 2004, China amended its constitution to include a promise to ensure human rights. Although the constitution is not directly enforceable in China, the amendment signals a growing acknowledgement of human rights.

Despite efforts to strengthen the rule of law in China, the legal system itself remains a major source of rights violations. Many laws are vaguely worded, inviting politically motivated application by prosecutors and judges. The judiciary lacks independence: Party and government officials routinely intervene at every level of the judicial system in favor of friends and allies. Trial procedures favor the prosecution, and despite the public prosecution of a large number of judges, corruption remains a widespread problem. The criminal justice system relies heavily on confessions for evidence, creating institutional pressures on the police to extort confessions through beatings and torture. According to Chinese experts, legal aid services meet only one-quarter of the demand nationwide. Defense lawyers may face disbarment and imprisonment for advocating their clients' rights too vigorously.

On a more positive note, China recently has begun to hold qualifying examinations for judges and has signaled its intent to amend laws to better protect suspects in detention. However, administrative detention, a common practice in China, still occurs without judicial process. Persons detained on suspicion of "minor crimes" such as drug use are sent to "reeducation through labor" camps for months or years without ever coming before a judge.

## **Restrictions on Freedom of Expression**

The growing dynamism of the Chinese-language Internet and domestic media in China led to some efforts to impose tighter controls in 2004. Officials expanded the list of topics subject to censorship and introduced improved methods for enforcing compliance. In October 2004, the state also banned all reporting on rural land seizures by the government.

In September, *New York Times* research assistant and author Zhao Yan was arrested on charges of passing state secrets to foreigners, apparently for his work uncovering leadership changes in the Communist Party. In early 2004, authorities banned a best-selling non-fiction book, *Investigation of Chinese Peasants*, which documented cases of official corruption, excessive taxation, and police brutality in rural Anhui province. Numerous newspapers tested the limits of the possible in 2004, and some came under attack. Staff of the parent group of the *Southern Metropolis Daily* received long prison sentences on charges of corruption; the former editor-in-chief was fired. The charges were widely viewed as politically motivated, as the newspaper had been the first to report on several stories of national significance.

The tension between promoting Internet use and controlling content escalated in 2004, with Chinese authorities employing increasingly sophisticated technology to limit public and private expression.

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Despite the restrictions, the Internet is emerging as a powerful tool for the sharing of information and mobilization of social activism in China.

### **HIV/AIDS**

China faces what could be one of the largest AIDS epidemics in the world. According to official statistics, 840,000 men, women, and children are living with HIV/AIDS, but the real number could be much higher. Many Chinese citizens lack basic information about AIDS, and some AIDS activists face state harassment and detention.

Chinese authorities have taken steps to address the AIDS crisis. In late 2003, national authorities promised to provide antiretroviral (ARV) treatment to all impoverished HIV-positive persons. The State Council, China's highest executive body, issued a circular in May 2004 ordering local officials to implement a range of AIDS prevention and control measures. A revised national law on the protection and control of infectious diseases, passed in August 2004, prohibits discrimination against persons with infectious diseases. But as documented in a September 2003 Human Rights Watch report, *Locked Doors*, lack of basic rights and abuses by local authorities have hampered efforts to help HIV-positive Chinese citizens.

At this writing, there still had not been an investigation of the government's role in the transmission of HIV to villagers in Henan and other provinces through unsanitary but highly profitable blood collection centers. No official has been held accountable; some who were involved in the scandal have been promoted. Henan authorities regularly detain HIV-positive activists in advance of visits by international dignitaries, and have recently built a prison to segregate detainees with HIV. They also continue to impede the activities of some NGOs that provide services to people with AIDS: in 2004, Henan officials closed three NGO-run orphanages for AIDS-affected children, and briefly detained staff of the Dongzhen Orphans School. People living with HIV/AIDS in Henan continue to allege corruption and abuses in the government's distribution of ARV treatment.

### **Labor Rights**

Chinese workers have yet to reap the benefits of the country's rapid economic development. Employers routinely ignore minimum wage requirements and fail to implement required health and safety measures. Many former employees of state-owned enterprises lost their pensions when their companies were privatized or went bankrupt. Millions of citizens who have left the countryside to seek work in cities face serious problems. Without official residence permits, these migrant workers lack access to basic services and are vulnerable to police abuse.

Workers are limited in their capacity to seek redress by the government's ban on independent trade unions. The only union permitted is the government-controlled All China Federation of Trade Unions. Some NGOs in the Pearl River Delta educate workers about their legal rights and assist them with

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lawsuits against employers, but they too are forbidden to discuss, let alone organize, independent trade unions.

Many regions have witnessed massive labor protests. In May 2003, after trials lacking basic procedural safeguards, Liaoning province labor activists Yao Fuxin and Xiao Yunliang were given seven and four-year sentences respectively. Family members report that both men are seriously ill. In October 2004, after flawed trials, five workers were sentenced to terms of between two and three-and-a-half years for destroying company property at a shoe factory in Guangdong during a massive protest.

### **Forced Evictions**

A March 2004 Human Rights Watch report, *Demolished*, discussed how local authorities and developers are forcibly evicting hundreds of thousands of residents in order to build new developments. With little legal recourse, those evicted have taken to the streets in protest, only to meet severe police repression, detention, and imprisonment. Ye Guozhu, a prominent advocate, was arrested after he applied for formal permission to hold a protest march. A Shanghai court sentenced lawyer Zheng Enchong, who had defended many evicted residents, to three years in prison for “circulating state secrets” after he faxed information about his activities to an international human rights organization.

Legal experts and some government-controlled news media have openly criticized the government's failure to protect housing rights. The government has responded with some policy and constitutional reforms, but widespread corruption and a weak judicial system obstruct implementation.

### **Hong Kong**

In April 2004, the Chinese government unilaterally ruled out universal suffrage for Hong Kong until 2012-13 at the earliest. Through a reinterpretation of the Basic Law, Hong Kong's mini-constitution, Beijing went a step further, reserving for itself the power to void any proposal for electoral change. Even the power to initiate reform, formerly in the hands of Hong Kong's Legislative Council (LegCo), was ceded to Hong Kong's chief executive, chosen by an election committee composed largely of Beijing appointees. China's legislature, the Standing Committee of the National People's Congress which is responsible for the changes to the Basic Law, has ignored repeated requests for consultation by representatives of Hong Kong's electorate.

At the time of Hong Kong's 1997 incorporation into the People Republic of China as a Special Autonomous Region (SAR) under the principle of “one country, two systems,” Hong Kong was promised a “high degree of autonomy.” As a result of Beijing's newly self-arrogated powers, there is concern in Hong Kong, expressed in massive protest marches on July 1, 2003, and on January and July 1, 2004, that China will continue to erode basic human rights protections.

LegCo elections in September 2004 were marred by political interference from Beijing and intimidation of several prominent critics.

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## ***Xinjiang and the “War on Terror”***

China used its support for the U.S.-led "war against terrorism" to leverage international support for, or at least acquiescence in, its own crackdown on Uighurs, a Turkic-speaking Muslim population in China's northwestern Xinjiang Uighur Autonomous Region. Some Uighur groups press peacefully for genuine political autonomy or for independence; others resort to violence. Chinese authorities do not distinguish between peaceful and violent dissent, or between separatism and international terrorism.

The crackdown in Xinjiang has been characterized by systematic human rights violations including arbitrary arrests, closed trials, and extensive use of the death penalty. In September 2004, the region's Communist Party leader reported that during the first eight months of the year fifty people were sentenced to death and twenty-two groups targeted for separatist and terrorist activities. Official sources subsequently clarified that none of the fifty were executed, but have provided no additional information on their fate.

Cultural survival for Uighurs, along with other ethnic groups on China's borders, is a constant struggle. Officials have curbed observation of traditional holidays and use of the Uighur language, and closely control religious education and expression. Controls include a prohibition against those under eighteen entering mosques or receiving religious instruction at home; political vetting and mandatory patriotic education for all imams; restrictions on public calls to prayer; and instructions aimed at making Koranic interpretation consistent with Communist ideology.

## ***Tibet***

For China, the term "Tibet" is reserved for the Tibetan Autonomous Region. However, many Tibetans speak of a "greater Tibet," including Tibetan areas in Qinghai, Yunnan, Gansu, and Sichuan. More than 50 percent of ethnic Tibetans under Chinese authority live in these regions.

The Chinese leadership continues to limit Tibetan religious and cultural expression and seeks to curtail the Dalai Lama's political and religious influence in all Tibetan areas. Severely repressive measures limit any display of support for an independent Tibet.

In 2002 a Sichuan provincial court sentenced Tenzin Delek Rinpoche, a locally prominent lama, to death with a two-year suspended sentence on what appear to have been trumped up charges of "causing explosions [and] inciting the separation of the state." His alleged co-conspirator, Lobsang Dondrup, was executed in January 2003.

Tenzin Delek's arrest and conviction represent the culmination of a decade-long effort by Chinese authorities to curb his efforts to foster Tibetan Buddhism and develop Tibetan social institutions. His case, documented in a March 2004 Human Rights Watch report, *Trials of a Tibetan Monk*, remains a focal point for Tibetans struggling to retain their cultural identity. Several of Tenzin Delek's associates remain

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in prison. Close to a hundred others were detained for periods ranging from days to months, most for attempting to bring information about the crackdown to the attention of the foreign community. Credible sources report that many of those held were subject to severe ill-treatment and torture.

### ***Religious Belief and Expression***

Although religious practice is tolerated, official Communist Party doctrine holds that religion, as a belief structure and an organizational arrangement, will eventually wither and die. Until such time, the Chinese government believes religion must be strictly controlled to prevent it from becoming a political force or an institution capable of competing with the state for the loyalty of China's citizens. The state's policy is to avoid alienating believers or driving them underground, but rather to harness their energies toward China's development along the lines envisioned by the Party.

Chinese officials curb the growth of religious belief and its expression in practice through a series of laws and regulations. To be legal, religious groups must register with and submit to close monitoring by the appropriate authorities, and even that option is limited to the five officially recognized belief systems: Buddhism, Daoism, Islam, Catholicism, and Protestantism. Registration brings monitoring and vetting of religious personnel, congregant activities, finances, and publications. In spite of the law, unregistered religious activity continues to flourish.

Religious groups not recognized by Chinese authorities are subject to stringent penalties under China's criminal law. Claims by Falungong spokespeople that practitioners face continuing mass incarceration and ill-treatment are difficult to assess because of lack of independent confirmation, but there is no doubt that authorities have targeted practitioners for imprisonment, "reeducation through labor," and abuse. During 2004, evidence began to accumulate that the same laws and regulations used against Falungong practitioners were being used to rein in so-called house churches—evangelical Protestant groups that refuse to register with the government.

### ***The Rights of Women and Girls***

Women continue to be underrepresented in China's political leadership and in senior positions in business. A cultural preference for boy children, combined with state population control policies, has resulted in a shortage of women and girls in rural areas, creating a lucrative market for traffickers. While the state has cracked down on some trafficking rings, many Chinese women and girls, especially those from rural and ethnic communities, are kidnapped and either sold as wives or trafficked into the sex industry. During 2004, major stories in the domestic press also highlighted police brutality against suspected sex workers.

### ***Key International Actors***

China played an increasingly prominent international role in 2004. In the United Nations Security Council, China helped block renewal of a U.S.-backed resolution seeking immunity from international war crimes prosecution at the International Criminal Court (ICC) for troops from non-ICC states

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serving in any U.N. force. However, China was in part responsible for the Security Council's failure to impose sanctions on Sudan for its complicity in violence in the Darfur region. China has major oil interests in Sudan.

At the 2004 annual meeting of the Commission on Human Rights, China again blocked consideration of a resolution condemning its human rights record by calling for a "no-action" motion. In 2004, as it had in the past, China suspended its dialogue with the U.S. in retaliation for the American sponsorship of a resolution. During talks in Beijing in October and November, both countries agreed to discuss resuming regular dialogues. Human Rights Watch has called on all of China's bilateral dialogue partners to implement rights benchmarks and establish a timetable for meeting those benchmarks, and ensure transparency about the process.

China's cooperation with U.N. human rights mechanisms has been thorny. After almost a decade of discussion, China extended an invitation to the U.N. special rapporteur on torture, but two weeks before the June 2004 visit was to take place, the government postponed it indefinitely. China has been unwilling to agree to the standard U.N. terms for such a visit, which include unannounced visits to prisons and confidential interviews with prisoners. The U.N. Working Group on Arbitrary Detentions (WGAD) visited China in September 2004. As it had after its previous mission in 1997, the WGAD urged China to bring national laws into compliance with international human rights standards. Although the WGAD noted more cooperation in 2004 than during 1997, it cut short its visit to Tibet's Drapchi prison after the state refused requests to meet with prisoners who were severely injured during and after the 1997 visit.

China has ratified a number of international human rights treaties including the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture, and the Convention on the Rights of the Child. It has signed but not ratified the International Covenant on Civil and Political Rights. China is due for its first review by the Committee on Economic, Social and Cultural Rights in April-May 2005.

The U.S. increasingly cooperates with China on counter-terrorism and anti-drug trafficking efforts and the U.S. Federal Bureau of Investigations maintains an office in Beijing. However, the U.S. in 2004 refused to hand over to Chinese authorities a group of Uighurs detained at Guantanamo Bay for fear they would face torture or execution.

The European Union is weighing whether to rescind an arms embargo imposed after the 1989 Beijing massacre. Human Rights Watch opposes lifting the embargo until China addresses issues of accountability, reparations for victims, and trials for those responsible.

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## East Timor

Since gaining its independence on May 20, 2002, after two-and-a-half decades of Indonesian occupation, East Timor has taken important steps to protect human rights. East Timor's new constitution includes significant rights guarantees and, with the support of the United Nations, the government has moved forward in a number of areas including policing. In December 2002 East Timor's first government, under the presidency of former guerilla fighter Xanana Gusmao, signed all main United Nations human rights treaties.

East Timor still faces myriad problems caused by the legacy of Indonesia's brutal occupation and the destruction of much of the country's limited infrastructure by withdrawing Indonesian troops following the U.N.-supervised referendum on independence in 1999. East Timor faces severe economic hardship, and has yet to rebuild much of what was destroyed. U.N. peacekeeping forces remain deployed in the country because of sporadic but at times lethal border raids by militias based in Indonesian West Timor.

Efforts to bring Indonesian military and militia leaders to justice for the killing of more than one thousand East Timorese after the 1999 referendum have been frustrated by lack of resources, poor cooperation from Indonesia, and systemic problems in East Timor's criminal justice system.

### ***Justice and Reconciliation***

Important obstacles to justice remain for victims of the violence that accompanied Indonesia's rule and eventual withdrawal from East Timor. In 1999 alone, an estimated 1,400 political murders were committed while a large U.N. mission, present in East Timor to supervise and monitor the independence referendum, stood helplessly by. Few perpetrators and no high-level officers have been prosecuted. There has been no judicial accounting whatsoever for previous atrocities committed during Indonesia's twenty-four-year occupation of the former Portuguese colony.

In late 1999, the United Nations Transitional Administration in East Timor created the Serious Crimes Investigation Unit (SCIU) to investigate and prosecute cases in front of two Special Panels for Serious Crimes (Special Panels) of the Dili District Court. Now under the authority of East Timor's prosecutor general, the SCIU is responsible for preparing indictments against those responsible for crimes against humanity and other serious crimes committed in East Timor in 1999.

The two Special Panels are part of the Dili District Court system, and are comprised of one East Timorese and two international judges. They have exclusive jurisdiction over murder and sexual offenses that were committed in East Timor between January 1, 1999, and October 25, 1999, but also have

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jurisdiction over genocide, torture, war crimes, and crimes against humanity committed before 1999. The first Special Panel commenced operations in January 2001.

While the SCIU has been largely successful in prosecuting lower ranking East Timorese militia in Dili's district court, the Indonesian architects of the 1999 violence remain at large in Indonesia. International pressure and arrest warrants have failed to ensure extradition of these defendants to Dili for trial.

Among those wanted are former Indonesian minister of Defence and Armed Forces Commander Wiranto, six high-ranking Indonesian military commanders, and the former governor of East Timor who were indicted by the SCIU on February 24, 2003. All remain at large in Indonesia.

Calls in 1999 and 2000 for the establishment of an international tribunal were blunted when the U.N. secretary-general entrusted Indonesian authorities with responsibility for pursuing justice for the 1999 crimes, believing that domestic trials should be the first recourse for East Timor's victims. However, despite significant international pressure and interest, trials of senior Indonesian officers in Jakarta failed to give a credible judicial accounting for the 1999 atrocities. Twelve of the eighteen defendants were acquitted. Four defendants who were found guilty received nominal sentences, which were all overturned on appeal. The appeals court upheld guilty verdicts for the two East Timorese defendants on trial, one of which was overturned by Indonesia's Supreme Court in November 2004.

These results have created widespread cynicism among the East Timorese public, who questions the fairness of a process that leads to the prosecution of relatively low-ranking Timorese in Dili while the sponsors of the violence remain free—and in many cases politically prominent—in Indonesia. East Timorese leaders, most notably President Xanana Gusmao, have publicly stated an unwillingness to pursue justice through the courts, instead preferring a reconciliation-based approach. However, Foreign Affairs Minister and Nobel Prize Laureate Jose Ramos Horta has publicly supported the idea of a U.N. commission to explore future options for justice.

Due to lack of donor support, the SCIU is scheduled to finish all pending investigations by December 2004, with trials slated to end by May 2005. As a result, the Special Panels are not likely to address the vast majority of political murders that took place in 1999.

At this writing, it was expected that by December 2004 or early 2005, U.N. Secretary-General Kofi Annan would announce the establishment of a commission of experts. The commission likely will be charged with assessing the successes and failings of both the Jakarta ad hoc trials on East Timor and the parallel process at Dili's Special Panels for Serious Crimes.

The Commission for Reception, Truth and Reconciliation in East Timor (Comissao de Acolhimento, Verdade e Reconcilio de Timor Leste, CAVR) is a national, independent, statutory authority mandated to undertake truth-seeking, facilitate community reconciliation, report on its work and findings, and

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make recommendations for further action. Complementing the work of the SCIU, the CAVR has been largely successful in its initial efforts to promote community-based national reconciliation, an ambitious task after twenty-five years of violence in East Timor.

East Timor's national judiciary and criminal justice system remain weak, under-resourced, and overburdened. As a result of insufficient staffing, the Court of Appeal was shut down for eighteen months in 2002 and 2003. Due to public frustrations with formal judicial processes, many serious crimes, including rape and domestic violence, are habitually referred to traditional customary law mechanisms rather than to the courts. Such mechanisms lack basic due process protections and regularly fail to provide justice for victims, especially victims of sexual violence.

### **Police**

The National Police Service of East Timor (Policia Nacional de Timor-Leste, PNTL), overseen by the United Nations, has grown in strength and expertise. However, the service remains fragile and underdeveloped with inadequate training and resources to maintain law and order in a manner consistent with international human rights standards. Reports continue of excessive use of force by police when arresting suspects and abuse of detainees in police detention. The PNTL has now taken over full control of East Timor's thirteen districts from U.N. civilian police.

### **Key International Actors**

The United Nations continues to have a presence in East Timor. Although armed U.N. peacekeepers are likely to remain in the country for the foreseeable future, the civilian arm of the United Nations Mission of Support in East Timor (UNMISSET) started phasing out in May 2004, and the Mission is scheduled to finish in May 2005.

East Timor remains in desperate need of long-term international financial assistance and receives its largest financial contributions from Japan, Portugal, the United Kingdom, the European Union, the United States, and Australia.

East Timor continues to have cordial relations with Indonesia, its largest trading partner. Unresolved issues continue to be negotiated through a series of bi-lateral talks between the two countries, including the official border demarcation and how to resolve the ongoing problem of East Timorese refugees and missing and separated children in Indonesia.

## India

The new coalition government led by the Congress party, which replaced the Hindu nationalist Bharatiya Janta Party (BJP) after elections in May 2004, has taken some important positive steps with regard to respect for human rights. These include repeal of the oft-abused Prevention of Terrorism Act (POTA) and a re-evaluation of federal government educational policies that have fostered communitarian resentments.

Attacks on civilians by militant groups and Indian security forces continued unabated before and after the change in government. Notwithstanding the repeal of POTA, the government continues to use other legislation to shield security forces from accountability. Indian military, paramilitary, and police forces have engaged in serious human rights abuses not just in conflict-zones such as Kashmir, but also when dealing with criminal suspects and detainees.

The Gujarat government's failure to bring to justice those responsible for massive communitarian riots in the state, in which thousands of Muslims were killed and left homeless, continues to be a source of tension throughout the entire country. However, the Supreme Court and the National Human Rights Commission have taken several positive steps to secure justice for the victims of the riots. The new government of Manmohan Singh also has to contend with the Indian government's systematic failure to protect the rights of Dalits, other marginalized castes and religious minorities. The Congress Party itself has failed to provide any justice to the victims of serious abuses against the Sikh community in Delhi and Punjab twenty years ago.

India faces a burgeoning HIV/AIDS problem, as people with HIV and their families face government and social discrimination.

### ***Rights of Dalits and Indigenous Tribal Groups***

Despite legislative measures to protect marginalized groups, discrimination based on caste, social, or religious grounds continues widely in practice. Local police often fail to implement the special laws set up to protect Dalits and members of tribal groups.

Dalits, or so-called untouchables, continue to face violence and discrimination in nearly every sphere of their lives. Abuses against Dalits range from harassment and use of excessive force by security forces in routine matters, to mutilations and killings by members of other castes for attempting to cross caste barriers. Dalit women are targeted with sexual violence. Not only do authorities regularly tolerate such discrimination and violence, in some instances they actively encourage it. In one widely noted incident in

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July 2004, for example, police used excessive force against Dalits who tried to participate in a religious festival in Tamil Nadu.

Indigenous peoples, or Adivasis, have suffered from high rates of displacement. Scheduled Tribes that make up 8 percent of the total population constitute 55 percent of displaced people. This has had a serious effect on the overall development of these communities, particularly tribal children. The government continues to use the Land Acquisition Act of 1894 to displace the indigenous peoples from their lands without sufficient compensation, as is evident in the Narmada Valley Development Project. Tribal groups who have converted to Christianity have been targeted for attack by extremist Hindu organizations.

### ***Impunity of Security Forces***

Indian security forces, including the military, paramilitary forces, and the police, routinely abuse human rights with impunity. The Indian federal government rarely prosecutes army and paramilitary troops in a credible and transparent manner. The result has been an increase in serious violations by security forces throughout the country.

The government's repeal of the controversial Prevention of Terrorism Act (POTA) was a major step forward for civil liberties in India. POTA empowered security forces to hold individuals for up to 180 days without filing charges, broadening the scope of the death penalty, dispensing with the presumption of innocence by placing the burden of proof on suspects, and admitting confessions into evidence despite the frequent use of torture. The law was often used against marginalized communities such as Dalits, indigenous groups, Muslims, and the political opposition.

But POTA's repeal has not ended the legal impunity that security agencies enjoy. Laws such as the National Security Act, the Disturbed Areas Act, the Armed Forces Special Powers Act or the Armed Forces (Jammu and Kashmir) Special Powers Act have spawned abuses in various parts of the country, including many deaths in custody and widespread allegations of torture. These laws give security agencies unchecked powers of detention that often foster torture during interrogation.

For instance in Kashmir and Manipur states, the sites of long-standing insurgencies, Indian military and paramilitary forces have held suspects in army camps and barracks and have routinely tortured them, in violation of domestic and international laws.

In July 2004, Manipur state witnessed unprecedented civilian protests against the Armed Forces Special Powers Act after army troops sexually assaulted and killed a woman in custody. That Act provides security forces virtual immunity for crimes committed in the course of duty. The new government recently agreed to review the act.

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Other laws such as the Public Safety Act and section 197 of the Criminal Code of Procedure also raise human rights concerns. Section 197 extends immunity to public servants by requiring government authorization to initiate the prosecution of public servants for crimes that result from the discharge of their official functions. In effect, it allows the government to shield security forces from any legal accountability.

In Kashmir, military, paramilitary, and police forces continue their practice of torturing detainees and custodial killings. There has also been a nationwide rise in allegations of extrajudicial executions by security forces, who typically justify their actions by claiming to have killed suspects in an exchange of gunfire.

### ***Kashmir Conflict***

Since November 2003, a cease-fire along the Line of Control in Kashmir has provided tremendous relief to residents on both sides of the de facto border. During the intermittent shelling, however, neither Pakistan nor India took adequate precautions to protect civilians. The violence inside Indian-controlled Kashmir continued.

Bomb and grenade attacks by militants in crowded market places constituted the intentional targeting of civilians. Attacks, apparently by separatist militants, on moderate Kashmiri leaders have hindered the peace process. Indian police and security services often use excessive force, and have been responsible for arbitrary detention, torture, and extrajudicial execution. Since 1989, when the insurgency began, thousands of people have disappeared at the hands of both militant and government forces.

### ***Legacy of Communal Violence***

Large-scale episodes of communal violence remain unpunished. This injustice continues to foster communal resentments throughout India. There has still been no accountability for the deaths of more than two thousand Muslims in the western state of Gujarat during communal violence that erupted following an attack on a train carrying Hindu pilgrims in 2002. In *Discouraging Dissent*, a report released in August 2004, Human Rights Watch documented the continued discrimination, intimidation of witnesses, faulty investigation, and apparent interference from members of the BJP state government in efforts to prosecute those responsible for the anti-Muslim violence.

The Indian Supreme Court has already ordered two Gujarat cases to be retried in another state. The criminal justice system in Gujarat, the Supreme Court concluded, had been “abused, misused and mutilated by subterfuge.” Human rights activists and lawyers have petitioned for fresh investigations and trials in a number of cases where it was felt that the local courts, prosecutors and police were hostile to Muslim complainants. Despite these positive developments, rights activists in Gujarat continue to be harassed on the basis of what police claim are their “anti-national activities.” Witnesses, however, remain vulnerable to threats.

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2004 marked the twentieth anniversary of Operation Blue Star, a focal point in the conflict between Sikh nationalists and state security apparatus in the Punjab in the 1980s; and the anti-Sikh riots in New Delhi, which resulted in more than three thousand Sikh deaths. In July, the National Human Rights Commission called for claims in cases of summary execution in Punjab. The assignment of individual criminal responsibility for those and other crimes committed during the period, however, remains elusive. Also in July, the Nanavati Commission of inquiry served former prime minister P.V. Narasimha Rao, who was home minister in the Congress Party government in 1984, a notice for his failure to act to prevent the attacks on Sikhs. Two others who have similarly been served notices have recently been appointed ministers in the new Congress government.

### ***Rights of Children***

India has the largest number of working children in the world, millions of whom work in the worst forms of child labor, including bonded labor. The Indian government knows about these children and is required by its own laws to protect them. Instead, for reasons of apathy, caste bias, and corruption, many government officials deny that they exist at all.

Both literacy and school enrollment rates overall have improved in the last decade, but according to UNESCO, approximately half of students completed grade five. Proportionately fewer girls than boys attend school, and those that do, drop out at higher rates. Dalits also have higher illiteracy and drop-out rates and face significant discrimination in education.

### ***Rights of Those Living with HIV/AIDS***

The government estimates that 5.1 million people in India are living with HIV/AIDS, though many experts suggest the number is much higher. People with AIDS, as well as those traditionally at highest risk—sex workers, injection drug users, and men who have sex with men—face widespread stigmatization and discrimination. People with AIDS are denied employment and access to education and healthcare. Those at high risk face police harassment and other state-sponsored abuse that undermines HIV prevention and AIDS care services for them. Married women are also at risk because they are frequently unable to demand condom use of their husbands, who may have extramarital sexual partners.

At least hundreds of thousands of children are living with HIV/AIDS. Many more are otherwise seriously affected by India's burgeoning epidemic—when they are forced to withdraw from school to care for sick parents, are forced to work to replace their parents' income, or are orphaned (losing one or both parents to AIDS). Children affected by HIV/AIDS are being discriminated against in education and health services, denied care by orphanages, and pushed onto the streets and into the worst forms of child labor. Gender discrimination makes girls more vulnerable to HIV transmission and makes it more difficult for them to get care. Many children, especially the most vulnerable as well as the professionals who care for them, are not getting the information about HIV they need to protect themselves or to combat discrimination.

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### ***Inadequate Protection against Gender-Based Discrimination and Violence***

Women and girls confront discrimination and violence in practically every aspect of life. A strong preference for sons over daughters has led to sharply skewed gender ratios in several states. Sex-selective abortions, female feticide, and inadequate provision of food and health care to girls has led to ratios of less than eight hundred women for every one thousand men in some places. Despite several legal provisions for gender equality, women still struggle to realize equal rights to property, marriage, divorce, and protection under the law. Gender-based violence, including domestic violence, sexual harassment, sexual assault, and trafficking into forced labor and forced prostitution remain serious and pervasive problems in India. Domestic violence includes dowry-related abuses and “bride-burning.”

Activists continue to campaign for reform of rape laws to protect women and children from all forms of sexual violence. The pervasive understanding of ‘rape’ is that it occurs only when a stranger uses force on a woman. A marital exemption protects men from being prosecuted for raping their wives. Marital rape is not recognized or penalized unless the wife is under the age of fifteen or if she lives separately from her husband.

There is inadequate legal protection for abuse against girls, boys, and men, or for sexual violence between spouses. In the absence of a more suitable law, section 377 of the Indian Penal Code, which penalizes consensual sexual activity deemed “unnatural,” is also used to prosecute the sexual abuse of children and women.

This provision has also been used to penalize men having sex with men, and has been used as justification for harassment of HIV/AIDS educators. The Delhi High Court dismissed a legal challenge to section 377, dealing a disappointing set back for activists working to improve the rights of gay and lesbian people in India.

### ***Key International Actors***

India receives 60 percent of its aid from multilateral donors such as the World Bank. India decided in 2003 to stop receiving bilateral assistance from all but six countries, including the United States, the United Kingdom, and Russia. The decision is widely perceived as an effort to bolster India’s image as a world power. Increasingly, India has been providing significant amounts of financial and military aid to its smaller neighbors, but has not used its increasing influence to make public calls for better compliance with human rights standards.

The thawing of relations between India and Pakistan began in earnest in November 2003 with a ceasefire across the line-of-control. That was followed by a meeting between then-Prime Minister Vajpayee and President Pervez Musharraf of Pakistan in January 2004. The Congress government continued its predecessor’s policy of dialogue with Pakistan to resolve outstanding issues of conflict. The two

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countries' leaders met in New York in September, where Singh and Musharraf reiterated a commitment to the bilateral dialogue to restore normalcy and a peaceful negotiated settlement in Kashmir.

The easing of tensions between India and Pakistan has allowed the United States to focus its dialogue with India on strengthening bilateral relations between New Delhi and Washington. U.S. Secretary of State Colin Powell visited India in March 2004. Human rights issues were not discussed. The increasingly warm relations between the two countries, despite the U.S. conferring the status of "major non-NATO ally" upon Pakistan, will likely continue under Congress Party leadership. Deputy Secretary of State Richard Armitage visited New Delhi in July, reaffirming to Indian leaders that the United States sees India as an important partner. India has also been strengthening its military-to-military ties, conducting joint exercises with United States and other NATO forces.

India is the largest provider of military assistance to Nepal, which is in the midst of a brutal civil war. India has not used its position of influence to push the Nepalese government to improve its human right records, and has resisted calls for a multilateral peace conference, presumably to avoid similar calls for resolving the Kashmir dispute.

India has been increasingly close to the brutal military government of Burma. A delegation of Burma's political opposition was not allowed to enter India to attend a conference on human rights. In September 2004, the Indian government welcomed a delegation from the Burmese military government, but did not raise any concerns about Burma's dismal human rights record. Thousands of Burmese continue to seek refuge in India, where they are not granted proper protections under international law.

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## Indonesia

Indonesia held national elections in April, July, and September 2004 resulting in a new parliament and new president. While Indonesia's first ever direct presidential election marked another step toward full democratization, significant barriers to rule of law and human rights remain in place.

Pressing human rights concerns include the resurgent power of the military in social and political affairs, ongoing impunity of security forces responsible for atrocities, abuses associated with armed conflict in Aceh province, repression in Papua, and disturbing signs of a return to intimidation of the press and criminalization of dissent.

Indonesia also faces a domestic terrorist threat, with more than two hundred civilians killed in bomb attacks since 2002 targeting western institutions: the Australian embassy (September 9, 2004), the Marriott hotel in Jakarta (August 5, 2003), and a nightclub frequented by Australians in Bali (October 12, 2002). Under immense international pressure, in particular from Australia and the United States, Indonesia has begun addressing this threat through criminal prosecutions and a slowly improving police force, although the perpetrators of some of the attacks remain at large.

### **Elections**

Indonesia held parliamentary elections in April 2004, and two rounds of presidential elections in July and September (previously, members of parliament had selected the president). Despite voter intimidation in Aceh province, and widespread reports of "money politics" in all three elections, domestic and international observers deemed the elections notably peaceful and generally free and fair.

The April legislative election brought in a new parliament with the majority of seats won by the Golkar party of former President (and autocrat) Soeharto. This result was widely interpreted as motivated in part by the electorate's desire for a return to the security and stability of the Soeharto era after several years of turbulence and instability.

Indonesia's presidential election in July 2004 went to a second round run-off in September between incumbent Megawati Sukarnoputri and Susilo Bambang Yudhoyono, a former general and member of President Megawati's cabinet. Yudhoyono won convincingly on a platform of reform and anti-corruption.

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## ***Impunity and the TNI***

The Indonesian armed forces (Tentara Nasional Indonesia, TNI) continues to violate international human rights and humanitarian law with almost complete impunity. Military operations in Papua and Aceh provinces continue to be characterized by undisciplined and unaccountable troops committing widespread abuses against civilians. Abuses include extra-judicial executions, forced disappearances, beatings, arbitrary arrests and detentions, and drastic limits on freedom of movement.

Torture of detainees in police and military custody is also widespread across the archipelago.

Indonesia's executive and judicial branches regularly fail to address such abuses. Indonesia's judiciary in particular is corrupt and subject to political interference.

To date there has been no legal accounting for the violence instigated by pro-Soeharto forces in a failed attempt to stave off his fall from power in 1998 or for the majority of atrocities committed during his more than three decades in office. Trials for the 1984 killing of civilians by Indonesian security forces at Tanjung Priok in Jakarta finished with weak verdicts amid ongoing reports of political interference and witness intimidation.

Despite significant international pressure and interest, trials of senior Indonesian officers in Jakarta failed to give a credible judicial accounting for atrocities committed in East Timor in 1999. Twelve of the eighteen defendants were acquitted. Four defendants who were found guilty received nominal sentences, which were all overturned on appeal. The appeals court initially upheld guilty verdicts for the two East Timorese defendants on trial but one of these verdicts was overturned by Indonesia's Supreme Court in November 2004.

## ***Aceh***

In May 2003 the Indonesian government withdrew from peace negotiations and launched full-scale military operations in Aceh. An estimated forty thousand new troops were sent to the province to crush an estimated five thousand members of the Free Aceh Movement (Gerakan Aceh Merdeka, GAM) in Indonesia's largest military operation since the invasion of East Timor.

Three consecutive post-Soeharto presidents have failed to address the economic, social, governance, and justice-related grievances underpinning the fighting. The new war has led to widespread abuses against civilians with little prospect for a military solution.

Human Rights Watch has documented serious abuses by both sides in the context of the conflict. Dozens of interviews with Acehnese refugees in Malaysia make clear that Indonesian security forces continue to engage in widespread extra-judicial execution, torture, disappearances, and restrictions on movement, assembly, and association.

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At this writing, Aceh remains closed to most diplomats, international aid workers, international press, and independent human rights monitors. Indonesian journalists working in the province have faced threats and reprisals from both Indonesia security forces and GAM. Indonesian lawyers and NGOs documenting abuses against the Acehnese have been accused by Indonesian security forces of being GAM sympathizers.

Despite these restrictions, Human Rights Watch interviewed three dozen Acehnese prisoners in 2004, all of whom had faced serious mistreatment while in detention; many had been tortured. All had been detained and convicted without basic due process rights and often on the basis of trumped up evidence or coerced confessions.

## **Papua**

The Indonesian military regularly responds to low level attacks by the Free Papua Movement (Organisasi Papua Merdeka, OPM) with disproportionate force; unarmed civilians continue to be among those injured or killed in military reprisals. Arbitrary detention, torture, disappearances, and arson are widespread in this vast and isolated region of Indonesia.

Jakarta's decision in 2003 to divide Papua into three provinces, viewed by many as an effort to dilute Papuan political aspirations, was met by widespread local resistance. The province subsequently was divided into two provinces, with legislated "special autonomy" provisions largely put on hold.

Papua has seen a swelling of its population in recent years due to a large influx of economic migrants and civilians fleeing conflict in other parts of Indonesia. Tension between these groups is likely to rise unless addressed. Among other things, indigenous Papuans are predominantly rural and Christian while major immigrant groups are predominantly town-based and Muslim, creating a volatile mix susceptible to manipulation by unscrupulous political leaders.

Papua has the highest HIV prevalence in Indonesia and discrimination against people living with HIV/AIDS is widespread.

## **Political Prisoners**

Although political space for dissent increased enormously after the fall of President Soeharto, broadly worded laws limiting freedom of expression remain on the books and are being increasingly used by authorities to target outspoken critics. Soeharto's first two successors, President B.J. Habibie and President Abdurrahman Wahid, issued a series of amnesties to release most political prisoners convicted during the Soeharto era, but by 2003 at least forty-six new prisoners of conscience had been imprisoned—thirty-nine of them during President Megawati Sukarnoputri's tenure between July 2001 and October 2004.

Indonesian Migrant Workers

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Hundreds of thousands of Indonesians migrate for work each year, and the money they send back to Indonesia is critical to the country's economy. These workers continue to endure abuses by labor agents and to confront corruption at every stage of the migration cycle. Women comprise over 75 percent of these migrant workers. Women migrants typically seek employment as domestic workers in Saudi Arabia, Malaysia, and other countries in the Middle East and Asia.

In addition to problems these workers encounter while abroad (See Malaysia), women domestic workers confront a wide range of human rights abuses during recruitment, pre-departure training, and return to Indonesia. Labor recruiters often fail to provide complete information about job responsibilities, work conditions, or where the women can turn for help. Some girls and women seeking employment become victims of human trafficking, as they are deceived about the type of work they will perform, fall into debt bondage, or are otherwise coerced into exploitative situations. Women expecting to spend one month in pre-departure training facilities in Indonesia are often trapped in heavily-guarded centers for three to six months without any income. Most have complained of overcrowded conditions and some reported inadequate food and water, as well as verbal and physical abuse. Indonesia has taken some positive steps to address this issue, but new migrant workers legislation is deeply flawed and officials have not vigorously implemented necessary protections.

### **Press Freedom**

After the fall of Soeharto, Indonesia for a time was considered a center of media freedom in Southeast Asia. Critical reporting and commentary emerged on a scale unimaginable in the Soeharto era. However, the trend more recently has been toward a more restrictive environment, symbolized in 2004 by continuing far-reaching restrictions on and intimidation of journalists in Aceh and by the one-year prison sentence imposed on Bambang Harymurti, editor of the prominent independent weekly newsmagazine *Tempo*, for an article alleged to have defamed well-connected businessman Tomy Winata. In addition, private business interests and military officers increasingly file lawsuits and rely on a corrupt judiciary to influence coverage and in some cases impose potentially crippling monetary judgments on independent news providers.

### **Human Rights Defenders**

Since the fall of Soeharto the climate for human rights defenders in Indonesia has improved. However, in Aceh human rights defenders still suffer threats and intimidation from security forces and GAM when monitoring and investigating human rights abuses.

On September 7, 2004 one of Indonesia's most outspoken and respected human rights defenders, Munir, died under suspicious circumstances on a plane to the Netherlands. The autopsy report, released in November, concluded that Munir had died due to arsenic poisoning. At this writing a police investigation was underway.

### **Key International Actors**

Japan is Indonesia's largest aid donor, and in 2003 the Koizumi government played an increasingly important role in helping Indonesia address pressing problems, most noticeably the conflict in Aceh.

Indonesia's relationship with the United States continues to focus on joint efforts to fight terrorism. Although U.S. military assistance to Indonesia remains conditioned on accountability for human rights

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abuses, the U.S. has made it clear that co-operation in the war on terrorism is more critical than human rights to normalization of the relationship. At this writing, Indonesian failure to bring to justice those responsible for the shooting death of one Papuan and two U.S. citizens in Papua in 2002 continues to limit formal military cooperation. Initial police and nongovernmental organization investigations had indicated military involvement in the murders.

The United Nations has a strong presence in Indonesia concentrating on humanitarian and health programs in conflict areas. U.N. access to Aceh, however, remains severely restricted.

Indonesia's failure to successfully prosecute officers and officials responsible for atrocities committed in East Timor following the U.N.-supervised independence referendum there in 1999 has put the onus on U.N. Secretary-General Kofi Annan to act: Annan has said that he would "closely monitor progress" of the Indonesian response to the crimes in East Timor to see that it is a "credible response in accordance with international human rights principles." At this writing, it was expected that in December 2004 or early 2005 Annan would announce the establishment of a Commission of Experts to assess the success and failings of both the Jakarta trials, described above, and the parallel process at Dili's Special Panels for Serious Crimes.

A number of U.N. special rapporteurs have requested to visit Indonesia to no avail, including the special representative of the secretary-general on the situation of human rights defenders, the special rapporteur on the promotion and protection of the right to freedom of opinion and expression, the special rapporteur on freedom of religion or belief, and the special rapporteur on torture. Indonesia withdrew from formal International Monetary Fund supervision of monetary and fiscal policy at the end of 2003, but continues to require considerable external financial assistance. The Consultative Group on Indonesia (CGI) meeting, an annual conference of Indonesia's largest donors convened by the World Bank, continues to pledge significant sums, although donors increasingly are conditioning assistance on good governance and legal reform.

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## Malaysia

Malaysia witnessed its first change in leadership in more than two decades when Abdullah Badawi took over from Prime Minister Mahathir Mohamad in October 2003. While there has been some progress since that time—noteworthy examples include the release from prison of former Deputy Prime Minister Anwar Ibrahim in September 2004 and the opening of a notorious detention facility to outside scrutiny in May 2004—significant obstacles remain in place.

Prominent human rights concerns in Malaysia include arbitrary detention of alleged militants under the Internal Security Act (ISA); restrictions on media freedom; constraints on judicial independence; and abuses against refugees and migrants.

### *Arbitrary Detention of Alleged Islamic Militants*

The Malaysian government is holding more than eighty detainees under the ISA without charge or any type of judicial review. Over the years, the ISA has been used as a tool to crack down on political opposition and peaceful dissent. After September 11, 2001, the ISA took on new life with the arrests of scores of Islamists alleged to be connected to international terrorist groups. More than three years later, the Malaysian government has yet to publicly produce evidence against the detainees or bring any of them to trial.

Human Rights Watch investigations have revealed that police and security authorities subjected many of the detainees to serious abuses, including sexually humiliating interrogations, beatings, and sleep deprivation. In addition, the authorities have denied the detainees basic due process rights. In the first several weeks after their arrest, the detainees did not have access to lawyers and were threatened with punishment and indefinite incarceration for trying to legally challenge their detention.

Prime Minister Abdullah has taken some steps toward remedying the abuses under the ISA. For the first time in Malaysia's history, in May 2004, he permitted journalists to enter the notorious Kamunting Detention Center where ISA detainees are held. According to media reports, detainees spoke during the visits of abuses they had suffered after their arrest. The government announced that the Malaysian National Human Rights Commission (SUHAKAM) would conduct an investigation into allegations of abuse at the short-term detention centers where detainees typically are held for several weeks before being sent to Kamunting. At this writing, however, SUHAKAM had yet to report any findings. The government continues to bar independent monitoring or investigation of conditions inside Kamunting prison.

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## **Restrictions on Media Freedom**

The Malaysian media continues to face significant resistance and is muted in its criticism of government policy. The government maintains its control through a network of laws curbing free expression, as well as through direct day-to-day monitoring and control of the media.

Malysiakini, an independent news website, remains one of the few openly critical media outlets. While the new government of Prime Minister Abdullah has not indicated that it will impose new restrictions on the media, it has not repudiated the censorial policies of the Mahathir government.

## **Independence of the Judiciary**

The Malaysian judiciary has struggled to regain its independence since the so-called “Operation Lalang” crisis of 1988, in which the government removed several senior judges deemed likely to challenge government policies. Time after time, in politically charged cases, Malaysia's judiciary has found in favor of the government, with judges aware that their careers would suffer if they ruled otherwise.

In September 2004, Malaysia’s highest court ordered the release of Anwar Ibrahim from prison, potentially signaling a transition toward greater judicial independence. The former Deputy Prime Minister had served a nine-year sentence when the court granted his appeal and overturned the sodomy conviction against him. Anwar’s trial had been widely criticized domestically and internationally for being politically motivated and marred by serious violations of due process.

The court will face another test of its independence in a politically charged case when it considers the appeal of human rights advocate Irene Fernandez. Fernandez was convicted in 2003 under Malaysia’s restrictive press laws for “maliciously publishing false news” and sentenced to a year in prison. Fernandez was arrested in 1995 when Tenaganita, a nongovernmental organization headed by Fernandez, published a report documenting beatings, sexual violence, and inadequate food and water in Malaysia’s immigration detention camps. Fernandez’ seven-year trial, the longest in Malaysian history, became a symbol of the Malaysian government’s hostile stance toward human rights defenders. At this writing, she was out on bail pending the outcome of her appeal.

## **Deportation of Refugees**

In July 2004, the Malaysian Home Minister announced plans to round up and deport some 1.2 million undocumented migrant workers, the majority of whom are Indonesian. In 2002, a similar mass deportation program resulted in the death of dozens of Indonesian, including children, from dehydration and disease while stranded in transit areas waiting to find a way home.

Among those likely to be sent back to Indonesia are some ten thousand refugees from the war-torn Aceh region of Indonesia. These refugees are fleeing a brutal conflict marked by routine, grave human rights violations (*see* Indonesia), only to encounter further abuse in Malaysia, where they are denied status as refugees, abused by Malaysia police, and then often sent back to Indonesia where their lives are at risk.

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Malaysia is not a signatory to the 1951 Convention on the Status of Refugees, and does not distinguish between Acehnese refugees and other illegal immigrants, even though the United Nations High Commissioner of Refugees (UNHCR) has designated all Acehnese refugees to be “persons of concern.” In 2003, Malaysia forcibly returned thousands of Acehnese refugees; such returns continued in 2004.

### ***Abuse of Migrant Workers***

Because of its economic success, Malaysia has long attracted migrants from across Asia. While it relies heavily each year on more than two million migrant workers from Indonesia, Bangladesh, the Philippines, and India to meet its labor demands, Malaysia fails to protect their basic rights.

Human Rights Watch research in 2004 focused on conditions faced by Indonesian women and girls who work as domestic workers in Malaysia. They typically work sixteen to eighteen hour days, seven days a week, without any holidays, and often are forbidden from leaving the houses where they work, even when not on duty. Some workers confront physical, verbal, and sexual abuse from employers and labor agents.

Indonesian domestic workers earn U.S.\$93-105 per month, less than half the amount that Filipina domestic workers and other low-wage workers make. Employers often fail to make complete payments or to pay at all. In the worst cases, deceived about the conditions and type of work, confined at the workplace, and receiving no salary, Indonesian women are victims of trafficking and forced labor.

The Malaysian government’s inadequate monitoring of workplace conditions and profit-motivated labor agencies prevent many domestic workers from reporting abuses or seeking redress through the Malaysian justice system. Labor agencies do not uniformly provide domestic workers with information about their rights or, in cases of abuse, access to Malaysian and Indonesian authorities who could assist them with legal, health, and other support services. In many cases, labor agents are guilty of abuses themselves or actively obstruct domestic workers’ access to information or help.

Indonesian domestic workers are excluded from several legal protections guaranteed other workers by Malaysia’s employment laws and previous bilateral labor agreements with Indonesia. For example, they are excluded from section XII of Malaysia’s Employment Act of 1955, which would otherwise entitle them to one day of rest per week, and limit work hours to eight hours per day and forty-eight hours per week. Malaysia’s immigration laws and policies often prevent domestic workers from escaping abusive situations or seeking help from Malaysian authorities. Domestic workers who escape from abusive situations lose their legal status once they have left their employer’s home, and may be classified as illegal immigrants, detained, and deported, instead of receiving access to help.

The upcoming deportation of over one million undocumented workers, and the proposal of enlisting help from volunteers to carry out immigration raids, only increases the likelihood that abused domestic

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workers, rather than being identified as individuals in need of protection and support, will be summarily deported.

### ***Key International Actors***

The September 11 attacks on the United States dramatically altered the relationship between the U.S. and Malaysia. Previously, the U.S. had been publicly critical of Malaysia's human rights record in general, and its misuse of the ISA in particular. But the U.S. "war on terror" led the U.S. to change its course and dramatically tone down its criticism.

Malaysia has cooperated extensively with the U.S. in counterterrorism efforts, regularly sharing intelligence information and offering access to ISA prisoners for interrogations. The countries collaborated on creation of the Southeast Asia Regional Center for Counter Terrorism, established in Malaysia in July 2003 with the assistance and training of the U.S. As a result of this cooperation, Malaysian-U.S. relations have improved significantly, and the U.S. has shown little desire to criticize Malaysia's human rights record. The U.S. practice indefinitely detaining terror suspects without charge or trial in the United States, at Guantanamo Bay, and elsewhere in the world, has weakened its desire, as well as its ability, to engage in effective human rights advocacy on behalf of administrative detainees in Malaysia.

In 2004, the Association of Southeast Asian Nations (ASEAN), of which Malaysia remains an influential member, assumed an increasingly prominent role in regional affairs. ASEAN facilitated trade negotiations among member states and between member states and non-member countries such as India and Japan, and, in September, provided a forum for member states to discuss increased cooperation and information sharing on security issues. Despite its increasing importance, ASEAN has failed to make human rights a priority, remaining silent on issues such as Malaysia's denial of due process rights to ISA detainees.

## Nepal

The brutal eight-year civil war between rebels of the Communist Party of Nepal (Maoist) and government security forces raged on in 2004. Several serious encounters led to significant casualties on both sides. Both sides spoke publicly about resuming negotiations, without any real impact on the fighting.

Under intense international pressure to improve its human rights record, the Nepali government acknowledged “occasional aberrations” in 2004 and publicly renewed its pledge to abide by its human rights and humanitarian law obligations. In spite of this pledge, the government has not improved its conduct of the war. Its commitment to support the National Human Rights Commission (NHRC) has similarly gone unfulfilled. The government and its agencies continue to discount human rights workers as either pro-Maoist or naïve.

As the result of months of “anti-regression” demonstrations in Kathmandu, the highly unpopular government directly appointed by the king gave way to an unelected multi-party cabinet in June 2004. The government’s vague promises about holding elections soon were not satisfied as of this writing, and no election date had been announced.

The conflict and the political stalemate have had a devastating impact on the already desperately poor rural population. Nepal is among the poorest countries in Asia. Almost 40 percent of Nepal’s twenty-three million people live below the poverty line. Life expectancy at birth is just 59.6 years and infant and maternal mortality rates are among the highest in the region. The literacy rate is only 44 percent. The government’s limited capacity to provide essential health and education services has been severely curtailed by lack of access to Maoist controlled areas.

### ***Abuses Associated with the Civil War***

Civilians in Nepal are all too often caught in the middle of the civil war. Refusing to provide shelter to the rebels puts villagers at risk from Maoists who are ruthless in their punishments; providing such support, however, leaves them vulnerable to reprisal attacks from the state security forces. Human Rights Watch documented widespread abuses by both sides in 2004.

Summary executions of captured combatants and detained civilians are common in Nepal. According to the NHRC and other human rights organizations, government security forces have been responsible for approximately 2000 extrajudicial killings since 2001. In 2004, Human Rights Watch documented an ongoing pattern of killings which confirms these reports.

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When people are killed during security operations, government security forces (operating in a joint structure as the Unified Command) almost always issue a statement identifying the dead as Maoist rebels killed during exchange of gunfire. Investigations into the circumstances of the deaths have often revealed that many individuals were already in the custody of the armed forces at the time they were killed.

According to the U.N. Working Group on Enforced and Involuntary Disappearances, Nepal has the largest number of enforced disappearances in the world. The NHRC, which closely monitors enforced disappearances, documented 662 cases of enforced disappearances involving Nepali security forces between November 2000 and November 2003. If anything, the crisis of disappearances in Nepal has become more severe since the breakdown of the last ceasefire on August 27, 2003—hundreds have been detained or abducted since then, and many remain missing.

Disappearances are reported throughout the country. In almost all cases, the disappeared persons were last seen in the custody of government security forces. Those detained are held in informal places of detention: tents, government buildings, containers, and army training centers, making it virtually impossible for family members and lawyers to learn their fate or locate and gain access to them. The army's disregard of Supreme Court *habeas corpus* orders and its blatant lies to the courts have seriously undermined judicial oversight of detentions, one of the most important legal protections against "disappearances."

The Maoists also perpetrate serious abuses. The brutal summary execution of civilians is a favored tactic of the Maoists. Often, the executions are preceded by torture, in many cases in front of villagers and family members. The Maoists have assassinated or executed suspected government informants, local political activists or non-Maoist party officials, local government officials and civil servants, and individuals who refuse extortion demands from the Maoists. The Maoists also have executed off-duty army and police officers, often capturing them when they go to their villages to visit family members. In the vast majority of cases, the Maoists claim responsibility for the killings, explaining that the executed individuals are "informers," a vague charge which encompasses any act which defies Maoist dictates. Typically, the Maoists return to the village of their victim, informing the family or villagers of the killing.

The Maoists clearly use targeted killings to intimidate local villagers, ensuring that villagers know that deviance from Maoist demands will result in a brutal death.

### Use of Children

Accounts gathered by Human Rights Watch indicate that the Maoists recruit children, making them carry ammunition and supplies to the front lines, and using them as cooks and porters.

Because of security concerns and difficulties in gaining access to Maoist-controlled areas, both government and international aid workers have limited capacity to gather facts, provide protection, and

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assist former child soldiers with reintegration into society. While some child soldiers reportedly returned home after a ceasefire was declared on January 29, 2003, they were not officially demobilized. At the time, these children told journalists they were afraid that they could be re-recruited if the conflict resumed; what has happened to them since the breakdown of talks in August 2003 is unknown.

In addition to the use of children in combat, the Maoists have forcibly abducted students from schools for political indoctrination. This practice is well-reported and is readily admitted by the Maoists. Children and adults who have been abducted describe being given lectures on Maoism and on their rights as citizens, and being taught Maoist songs and dances. While most abducted children are returned days or weeks later, others remain unaccounted for. Some of the girls released after such abductions have reported sexual abuse to human rights groups.

The Maoist practice of calling either nationwide or regional “bandhs” (strikes) has had a paralyzing impact on most businesses and operations. Of particular concern are the forced closures of schools on strike days, which results in children missing an inordinate amount of school time.

### ***Violence and Discrimination Based on Gender and Sexual Orientation***

Gender-based violence—including domestic violence, sexual assault, and trafficking into forced labor and forced prostitution—remains pervasive and deeply entrenched in Nepal. Despite some positive legislative changes in 2002 providing women with improved rights to obtain abortions and to inherit parental property, legal discrimination prevents women from equal rights in passing citizenship to their children or to foreign spouses, from equal property rights, and from equal rights in marriage and divorce. There is no domestic violence law, and several limitations in the rape and sexual offense laws prevent victims from seeking redress through the justice system. Despite the legalization of abortion, some women remain imprisoned on abortion-related offenses.

Nepali authorities continue to turn a blind eye to a persistent pattern of police abuse of *metis* (biological males who cross-dress); men suspected of having sex with men; women suspected of having sex with women; and HIV/AIDS outreach workers. In other cases, police have deliberately failed to protect such individuals against abuses. These abuses violate both Nepalese and international law, which protect the dignity and equality of all human beings. They also heighten the risk of HIV/AIDS for people and communities already marginalized and made vulnerable by social stigma.

### ***Key International Actors***

The government of Nepal has refused any international or foreign mediation of the civil war against the Maoists, and resisted strong pressure to allow a joint national and international commission to monitor human rights conditions in the country. It dangerously stereotypes human rights workers as leftists and therefore anti-government. When senior commissioners at the NHRC have received death threats, the government has provided little or no protection or cooperation.

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During the February-August 2003 ceasefire, the international community increased its pressure on the government to respect human rights. The most significant international actors in Nepal are India, the United States, the United Kingdom, and the European Union. India has opposed a larger international monitoring or mediation role in Nepal because it opposes a similar international role in Kashmir. India is also battling its own insurgent Maoist groups. The United States has continued its policy of refusing to negotiate with Maoist organizations, and has cast Nepal's Maoists as enemies in the "war on terror." More recently, the U.S. passed a bill conditioning military assistance on the government's compliance with a commitment to cooperate with the NHRC to resolve "disappearances." The U.K. has continued its long tradition of military cooperation with Nepal, a relationship strengthened by the recruitment of Nepali "Gurkha" soldiers into the U.K. military.

The international community has supported the NHRC in its appeal to both the government and Maoists to agree to independent human rights monitoring in conflict zones. The two sides have agreed to neutral monitoring as a matter of principle, but neither side has signed a human rights accord allowing for such monitoring. On February 2, 2004, the E.U. issued a demarche to the Nepali government urging it to take the deteriorating human rights situation seriously. In March 2004, the government publicly pledged to abide by its obligations under human rights and humanitarian law. The pledge came days before anticipated condemnation of Nepal at the sixtieth session of the United Nations High Commission for Human Rights in Geneva. Although welcome, the timing of the pledge aroused serious suspicion, as it appeared to be timed to ward off a critical Item 9 resolution at the CHR hearings. Since then, the government has done little to fulfill its commitments.

Nepal continues to host over 100,000 refugees from Bhutan and has failed to make progress in finding a durable solution to the fifteen-year impasse. UNHCR is planning to withdraw assistance in 2005, leaving the fate of the refugees uncertain. This population is at high risk of statelessness.

## North Korea

The government of North Korea (The Democratic People's Republic of Korea, DPRK) remains among the world's most repressive governments. Leader Kim Jong Il has ruled with an iron fist and a bizarre cult of personality since his father, former President Kim Il Sung, died in 1994. Virtually every aspect of political, social, and economic life is controlled by the government. Although North Korea has acceded to the International Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights, it routinely and egregiously violates nearly all international human rights standards.

Basic services, such as access to health care and education, are parceled out according to a classification scheme that divides people into three groups—"core," "wavering," and "hostile"—based on the government's assessment of their and their family's political loyalty. There is no freedom of the press or religion. The judiciary is neither impartial nor independent. There is no organized political opposition, no labor activism, and no independent civil society.

No human rights organization has direct access to the country for research or investigation. Human Rights Watch has documented abysmal human rights conditions through interviews with refugees and escapees from prison camps.

According to U.S. and South Korean officials, up to 200,000 political prisoners are believed to be toiling in prisons, while non-political prisoners, the number of which is unknown, are also mistreated and endure at times appalling prison conditions.

North Korea's deadly famine in the 1990s reportedly killed as many as two million people. Hundreds of thousands of North Koreans crossed the border into China for both political and economic reasons and many now live in hiding from North Korean agents who capture and repatriate them for the "crime" of leaving their country or from Chinese authorities who categorize them as illegal immigrants and forcibly return them to North Korea. Humanitarian groups working in China also report a worsening problem of trafficking of North Korean women. Many are abducted or duped into forced marriages, prostitution or outright sexual slavery, while some voluntarily enter such servitude to survive or make money. Chinese authorities also routinely harass aid workers providing assistance to these refugees. Repatriated North Koreans can face detention, torture, and even execution.

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## ***Freedom of Press and Religion***

There is no freedom of the press in North Korea. All media are either run or controlled by the state. All TVs and radios are fixed so that they can transmit only state channels. The simple act of watching or listening to the foreign press—or tampering with TVs or radios for this purpose—is a crime that carries harsh punishment. All publications are subject to supervision and censorship by the state. There is no freedom of religion. All prayers and religious studies are supervised by the state, and often used for state propaganda. Independent worship is not allowed.

North Korean refugees who recently escaped the country have said that more knowledge of the outside world is slowly spreading by word of mouth from residents who watch Chinese TV channels despite the risk of being arrested.

## ***Refugees***

Thousands of North Koreans escape to South Korea every year, a small number compared to those seeking refuge in China. The vast majority of North Korean refugees in China crossed the border without state permission, which is required under North Korean law for travel for any purpose inside the country or abroad. Although the restriction on movement has reportedly become more relaxed inside the country, authorities still consider it an act of treason to leave North Korea without permission.

If repatriated, North Korean refugees are interrogated by North Korean police who often use torture to extract “confessions.” If they are found to have crossed the border only once just to find food, they are usually released. However, if they are found to be “repeat offenders” or have had contact with westerners or South Koreans while in China, especially missionaries, they become subject to harsh punishments including terms in forced labor camps.

In the fall of 2004, hundreds of North Korean refugees were flown from Southeast Asia to Seoul via Vietnam. North Korea demanded that they be repatriated back to North Korea, accusing South Korea of kidnapping the refugees, and stopped all government-level talks. South Korea accepts thousands of North Korean refugees for resettlement every year, far more than any other country that legally admits North Korean refugees.

## ***Detention and Torture***

Those arrested in North Korea are divided into different categories, depending on the seriousness of their “crime,” and sent to one of the corresponding prison facilities. All individuals held in North Korean prisons are subjected to forced labor. No legal counsel is provided or allowed throughout the process. Those who are sent to prison face cruel, inhuman, and degrading treatment; many die in prison because of mistreatment, malnutrition, and lack of medical care. Torture appears to be endemic.

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## ***Death Penalty***

Under North Korea's penal code, premeditated murder and so-called anti-state crimes such as treason, sedition, and acts of terrorism are punishable by death. During the famine in the mid-1990s, the North Korean regime added another crime to the list: theft of food. Numerous eyewitness accounts by North Korean refugees have detailed how executions are carried out publicly, often at crowded market places, and in the presence of children.

## ***Right to Education and Work***

North Korea's politically determined classification system restricts nearly all aspects of education, labor, and health care. Although all North Korean children are required to attend school for eleven years, it is generally children of the "core" group who are allowed to advance to college and hold prominent occupations. Those belonging to "wavering" or "hostile" groups have very limited or no choice in education or work.

Since the famine, even the compulsory education system is barely functioning in many parts of the country, as many teachers and students spend more time trying to find food than in classrooms. North Korea advertises itself as a workers' heaven, and has numerous trade unions in all industrial sectors, but the unions are all controlled by the state. Strikes and collective bargaining are illegal, as are all independently organized labor activities.

## ***Discrimination in Medical Care***

Access to medical care is also strictly based on the class system, as hospitals admit and treat patients depending on their social background. While hospitals for the elite class are equipped with modern medicine and facilities, those for the rest of the population often lack even very basic supplies such as bandages or antibiotics. Many North Korean citizens, especially children, suffer from diseases that can be easily treated. According to testimonies from North Korean refugees, doctors at many hospitals are forced to conduct surgeries without anesthesia and recycle needles and bandages.

## ***Civil Society***

There is no organized political opposition in North Korea. The ruling Workers' Party controls the parliament, which has only symbolic power, and all other smaller parties are pro-government and state-controlled. There are no independent nongovernmental organizations of any kind, including human rights organizations. State elections are held periodically, but all candidates are state candidates. Voting is openly monitored by state officials, and results in an almost 100 percent voting rate and 100 percent approval rate.

Expression of dissent against government policy or doctrines is considered a serious offense against the state. For political crimes, whether actual or perceived, collective punishment of entire families is the norm. Even when the family members of political offenders are not sent to prison, their choice of schools, residence, and jobs becomes severely restricted, potentially for generations.

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### ***Key International Actors***

North Korea's relationship with the international community is seriously complicated by its self-proclaimed possession of nuclear weapons and its dismal record on human rights and economic development. In this atmosphere, North Korea's major international interlocutors are its immediate neighbors, South Korea and China, both of which wish to avoid a major humanitarian catastrophe on the Korean peninsula, and Japan and the United States, which seek to curb North Korea's nuclear threat.

In late September 2004, North Korea announced that it had created nuclear weapons "to serve as a deterrent against increasing U.S. nuclear threats." Six nations—North Korea, South Korea, the United States, China, Russia and Japan—have been holding talks for years with little result to address North Korea's nuclear weapons program.

In the summer the same year, the United Nations Commission on Human Rights appointed Vitit Muntarbhorn, a Thai academic, as Special Rapporteur on North Korea. The move came after the Commission adopted a resolution for the second straight year calling on North Korea to respect basic human rights. North Korea has largely shunned talks with U.N. human rights experts, and has yet to engage in dialogue with Muntarbhorn.

In an unprecedented move, two members of the Committee on the Rights of the Child were able to visit North Korea in 2004. During their visit, they highlighted mistreatment of children returned from China, as well as issues of economic exploitation, trafficking, and juvenile justice, including cases of torture.

Separately, North Korea has been aggressively pursuing better diplomatic relations and foreign investment. In the latest move, North Korea invited British Foreign Office Minister Bill Rammell to Pyongyang in September 2004 to discuss its nuclear weapons program and human rights record. According to Rammell, North Korean officials admitted that Pyongyang attaches little importance to human rights and confirmed the existence of labor camps for "re-education," a small step forward from previous blanket denials of any human rights abuse.

In October, the U.S. Congress passed and the president signed into law the North Korea Human Rights Act of 2004, calling for more Korean-language radio broadcasts into North Korea and increased funding for nongovernmental organizations that promote "human rights, democracy, rule of law and the development of a market economy."

## Pakistan

Since President Pervez Musharraf seized office in a military coup d'état five years ago, Pakistan's military has acted with increasing impunity to enforce its writ over the state and to protect its grip on Pakistan's economic resources, especially land. For instance, in the Okara district of the military's traditional stronghold of Punjab, paramilitary forces acting in conjunction with the army killed and tortured farmers who refused to cede their land rights to the army. Other pressing human rights concerns in the country include a rise in sectarian violence; legal discrimination against and mistreatment of women and religious minorities; arbitrary detention of political opponents; harassment and intimidation of the media; and lack of due process in the conduct of the "war on terror" in collaboration with the United States. A major military offensive against alleged Taliban and Al-Qaeda forces in the South Waziristan area bordering Afghanistan resulted in massive displacement of civilians and scores of deaths.

### ***Gender-Based Violence and Discrimination***

Violence against women and girls, including domestic violence, rape, "honor killings," acid attacks, and trafficking, are rampant in Pakistan. The existing legal code discriminates against women and girls and creates major obstacles to seeking redress in cases of violence. Survivors of violence encounter unresponsiveness and hostility at each level of the criminal justice system, from police who fail to register or investigate cases of gender-based violence to judges with little training or commitment to women's equal rights.

Under Pakistan's existing Hudood Ordinance, proof of rape generally requires the confession of the accused or the testimony of four adult Muslim men who witnessed the assault. If a woman cannot prove her rape allegation she runs a very high risk of being charged with fornication or adultery, the criminal penalty for which is either a long prison sentence and public whipping, or, though rare, death by stoning. The testimony of women carries half the weight of a man's testimony under this ordinance. The government has yet to repeal or reform the Hudood Ordinance, despite repeated calls for its repeal by the government-run National Commission on the Status of Women, as well as women's rights and human rights groups. Informed estimates suggest that over 200,000 cases under the Hudood laws are under process at various levels in Pakistan's legal system.

According to Pakistan's Interior Ministry, there have been more than 4,000 honor killings in the last six years. Nongovernmental groups recorded more than 1,300 honor killings in 2003. Proposed legislation on honor killings drafted in consultation with NGOs and the Human Rights Commission of Pakistan was sidelined in favor of a far weaker bill.

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## **Religious Freedom**

Sectarian violence increased significantly in Pakistan in 2004. While estimates suggest that at least 4,000 people, largely from the minority Shi'a Muslim sect, have died as a result of sectarian violence since 1980, the last five years have witnessed a steep rise in incidents of sectarian violence. For example, in October 2004, at least seventy people were killed in sectarian attacks perpetrated by both Sunni and Shi'a extremist groups in the cities of Multan and Karachi. In recent years, Sunni extremists, often with connections to militant organizations such as Sipah-e Sahaba Pakistan, have targeted the Shi'a. There has been a sharp increase in the number of targeted killings of Shi'a, particularly Shi'a doctors, in recent years. Those implicated in acts of sectarian violence are rarely prosecuted and virtually no action has been taken to protect the affected communities.

Discrimination and persecution on grounds of religion continued in 2004 and an increasing number of blasphemy cases were registered. The Ahmadi religious community in particular was the target of religious extremists. Ahmadis also continued to be arrested and faced charges under various provisions of the Blasphemy Law for allegedly contravening the principles of Islam. Charges filed include "preaching," distributing "objectionable literature," and preparing to build a "place of worship." Other religious minorities, including Christians and Hindus, also continue to face discrimination.

## **Military Impunity**

In December 2003, in order to push through controversial constitutional reforms that increased his powers, General Musharraf acceded to widespread demands to step down as army chief as part of the process of returning the country to civilian rule. But in October 2004, he reneged on the pledge made to the country in a televised speech by securing the passage of the "The President to Hold Another Office Act."

During President Musharraf's tenure, Pakistan's military increased its influence over the political and economic life of all Pakistanis. The starkest example of military impunity came from the brutal repression of a farmers' movement in Okara district of Punjab province, where tens of thousands of tenant farmers have resisted efforts by the military to usurp their legal rights to some of the most fertile farmland in Pakistan. Pakistani paramilitary forces subjected the farmers to a campaign of murder, arbitrary detention, torture, "forced divorces," and summary dismissals from employment. On two occasions, the paramilitaries literally besieged villages in the area of dispute, thus preventing people, food, and public services from entering or leaving for weeks on end. In Okara, senior military and political officials have either participated in or allowed violations to occur.

## **"War on Terror"**

The conduct of the "war on terror" in Pakistan led to serious violations of human rights. Suspects arrested and held on terrorism charges frequently were detained without charge and subject to trials without proper judicial process.

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In September 2003, Pakistani authorities detained thirteen young men and boys from Malaysia and Indonesia, the youngest of whom were under sixteen at the time of arrest, legally attending an Islamic school in Karachi. They were not alleged to have engaged in any illegal activity, but were arrested on the claim that they were being trained to engage in future terrorist activities. They were arrested by Pakistani security forces, held incommunicado, and interrogated by Pakistani and U.S. security personnel, and then shipped to their home countries. No charges have been brought against any of them.

Since March 2004, the Pakistan Army has engaged in an ongoing operation in Pakistan's Federally Administered Tribal Areas (FATA) along the Afghan border, with particularly heavy fighting in the South Waziristan region. The Pakistan government did not apply international humanitarian law to the conflict, arguing that though the offensive was being conducted by its army, it was an anti-terrorist operation. The government used the draconian Frontier Crimes Regulations to justify the use of methods such as collective punishment, and economic blockades of civilians. While Pakistani authorities have prohibited most independent verification of the events in the South Waziristan, reports of extrajudicial executions, house demolitions, arbitrary detentions, and the harassment of journalists abound.

According to government sources, at least sixty-three foreign and local combatants were killed in the operation. In addition, as the "spring offensive" got underway, army and paramilitary troops reportedly evicted between 25,000 and 35,000 civilians from the area in and around the village of Kalusha on March 16, 2004. Reports indicate that the Pakistan government made no arrangements for those evicted and scores of dwellings were destroyed in the subsequent fighting. Locals reported that upon their return they found belongings and cattle stolen and several homes arbitrarily converted into military check-posts. In the immediate aftermath of the army operation, the Pakistan Army reported the capture of 215 fighters, of whom at least seventy-three were foreigners from Chechnya, China's predominantly Muslim Xinjiang province, Afghanistan, Uzbekistan, and various Arab countries. There has been no confirmation from the Pakistan government about the whereabouts of those arrested. Military operations are ongoing in South Waziristan .

### ***Arbitrary Arrest and Detention of Political Opponents***

The government continued to use the National Accountability Bureau (NAB) and a host of anti-corruption and sedition laws to jail political opponents or blackmail them into changing their political stance or loyalties or at the very least to cease criticizing the military authorities.

In April 2004, the president of an opposition party, Makhdoom Javed Hashmi of the Alliance for the Restoration of Democracy, was sentenced to twenty-three years in prison on sedition charges for reading an anti-Musharraf letter to assembled journalists. Meanwhile, Asif Zardari, husband of former Prime Minister Benazir Bhutto has begun his ninth consecutive year in prison. Initially the government filed twelve cases against Zardari, most based on charges of corruption and financial impropriety. Though he

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has been bailed in eight and acquitted in four of these, in December 2001 a thirteenth case was filed against him on charges of evading duty on the import of a second-hand car. Zardari awaits a bail hearing.

### ***Freedom of Expression***

The rights to free expression and dissemination of information were persistently undermined through the arrest of editors and reporters from local and regional newspapers on charges of sedition.

Rasheed Azam, a journalist and political activist from Khuzdar in Balochistan province, claimed he was abused and tortured, including being beaten while hung upside down and subjected to sleep deprivation. He was released after several months in custody though charges of sedition filed against him are still being processed. Similarly, Amir Mir, a journalist working for the high-profile Karachi-based Herald magazine was reportedly publicly threatened by President Musharraf on November 20, 2003. Two days later, three unidentified persons set Amir Mir's car ablaze outside his house.

Two French journalists, Marc Epstein and Jean-Paul Guilloteau, and their Pakistani assistant, Khawar Mehdi Rizvi, were arrested in Karachi on December 16, 2003. They were reportedly preparing a report on alleged links between Pakistani government agents and the Taliban operating in neighboring Afghanistan. The Frenchmen were granted bail and eventually allowed to leave Pakistan on January 12, 2004, after paying a fine. However, Mehdi, reportedly tortured in custody, remained incarcerated until March 29, 2004, when he was granted bail. Mehdi faces sedition charges.

While the Pakistani government did not formally restrict access to South Waziristan during the “spring offensive,” journalists were repeatedly detained or prevented from reporting through tactics such as the destruction or confiscation of equipment. Journalists were eventually allowed limited access to the affected villages on March 28 upon the conclusion of the first phase of the operation. However, media access to FATA in general and South Waziristan in particular remains limited as military operations continue.

### ***Key International Actors***

Pakistan remains heavily dependent on the United States for economic and military aid. The U.S. has notably failed to press for human rights-related legal reform in the country, in exchange for Pakistan's support in the U.S.-led "war on terror." For its part, the government of Pakistan has excused its failure to uphold human rights and the rule of law by citing domestic political pressure from hard-line religious groups and militant organizations.

Pakistan's record of ratifying principal international human rights treaties remains poor. To date, it is signatory to only five international conventions, and has signed neither the International Covenant on Civil and Political Rights nor the International Covenant on Economic, Social and Cultural Rights.

## Sri Lanka

The most pressing rights issues in Sri Lanka continue to derive from the country's two-decades-old civil war. In April 2004, short but fierce fighting broke out between rival factions of the rebel Liberation Tigers of Tamil Eelam (LTTE), the first major hostilities in the country since a February 2002 ceasefire between LTTE and government forces. In the fighting, the LTTE's "Vanni" faction quickly defeated a breakaway group in the east led by Colonel Karuna Amman. In the aftermath, the Vanni faction launched intensive campaigns to re-recruit Karuna's former soldiers, which included some two thousand children. The LTTE has recruited thousands of children since the 2002 ceasefire.

Torture and mistreatment by government security forces and police continued to be a problem, as did harassment of Tamil civilians crossing government-controlled security check points.

### ***Child Soldiers***

Sri Lanka's twenty-one-year civil war has cost more than sixty thousand lives and has resulted in numerous atrocities by both the LTTE and government forces. The LTTE has a history of recruiting children—including by force—for participation in combat. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which came into force in February 2002, prohibits all use of children under eighteen by non-state armed groups.

Under an action plan agreed to in 2003 between the LTTE, the Sri Lankan government, and UNICEF, the LTTE was to release children from its forces back into the community as well as into transit centers co-managed by UNICEF and the Tamil Rehabilitation Organization (TRO), publicly identified as a front organization for the LTTE. An August 2004 Human Rights Watch investigation showed, however, that while the LTTE has released over one thousand children since agreeing to the action plan, forcible recruitment of children has intensified and new recruits outnumber those released. The LTTE specifically targeted for re-recruitment the 1,800 or more child soldiers released by the Karuna faction after its April defeat.

### ***Political Killings***

Political killings by the LTTE targeting rival Tamil party members, suspected Karuna sympathizers, and journalists intensified in 2004. Human rights workers who criticize the LTTE have also been threatened.

On July 25, 2004, police found the bodies of eight persons shot dead while asleep in a government safe house outside Colombo. Most were believed to be senior aides to Karuna. Police investigating the

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killings said they appeared to have been committed by someone within the house. The LTTE declared that the perpetrators were “dissidents” within Karuna’s own faction.

The LTTE claimed responsibility for the public executions of Balasuntaram Sritharan and Thillaiampalam Suntarajan on July 8, 2004 at Illupadichai junction, saying the two men had been sentenced to death as pro-Karuna “traitors.” The Karuna faction is suspected in a number of political killings, including that of journalist Aiyathurai Nadesan on May 31, 2004, and Eastern University lecturer Kumaravel Thambaiah on May 24, 2004.

Members of rival Tamil parties, particularly the ex-militant groups who refuse to accept the LTTE as the “sole representative” of the Tamil people, have been targeted. Killings in 2004 have included: Valli Suntharam, a 61-year-old trade union activist and member of the Eelam People’s Revolutionary Liberation Front (EPRLF), shot dead in Jaffna on September 27; Selvarajah Mohan, a 22-year-old Eelam People’s Democratic Party (EPDP) supporter, stabbed to death after being taken from his home in Jaffna district on September 24; Rajadurai Sivagnanam, killed in Batticaloa district on September 22; and Somasundaram Varunakulasingham, a central committee member of the EPDP, shot dead in Colombo on September 23.

### ***Police Torture***

The police continue to torture detainees. In 2003, the National Human Rights Commission and the Police Commission agreed on a set of steps to remedy the situation, including ensuring that families and lawyers have access to detainees, displaying written summaries of detainees’ rights in police stations, and holding officers in command responsible for torture in their stations.

However, cases of police torture continue to be reported. On November 5, 2004, twenty-one-year-old Don Mahesh Duminda Weerasuriya was illegally arrested and tortured by police officers at Panadura North Police Station who apparently wanted information about Weerasuriya’s uncle. After being tortured at the police station, he was charged and held at Kalutara Prison where he was detained until November 10.

On November 23, a man who had won his court case based on charges of torture while in police custody, was shot and injured by an unknown assailant while on a bus. The victim, G.M. Perera, had repeatedly been pressured by the police to drop his case against them. Perera was due to give evidence against seven police officers in December.

Following the assassination of a high court judge on November 22, 2004, and the attempted assassination of Perera, the president of Sri Lanka announced the reintroduction of the death penalty for rape, murder, and narcotics dealing. The death penalty had been dormant in Sri Lanka for thirty years

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### ***Key International Actors***

At a June 2003 conference co-chaired by Japan, Norway, the United States, and the European Union, donors pledged a total of U.S.\$4.5 billion in post-war reconstruction and development aid to Sri Lanka. The aid was closely linked to the Sri Lankan government's progress in ending the use of child soldiers and rehabilitating former combatants, and ensuring greater minority participation and gender equity in government.

Increasingly, the donor community has been speaking out against continuing violations by the LTTE. In June 2004, the U.S. and the E.U. released a statement in which they reiterated the call for a political settlement to the conflict and specifically mentioned child soldier recruitment as a continuing problem. On October 1, 2004, the U.S. specifically called on the LTTE to stop its recruitment of child soldiers.

## Thailand

The steady erosion of respect for human rights in Thailand that has characterized Prime Minister Thaksin Shinawatra's rule accelerated sharply in 2004. Thai security forces, increasingly able to act with impunity, engaged in brutal crackdowns against insurgents in the south and against alleged drug dealers and users.

The military crackdown against a steadily escalating insurgency in the country's predominantly Muslim southern provinces, site of long-simmering resentments due to economic and political marginalization, culminated in the death of eighty-six protesters at the hands of security forces in October 2004 and a retaliatory spate of bombings and beheadings of locally prominent Buddhists, apparently by Muslim insurgent groups.

The government's war on drugs resulted in some 2,500 extrajudicial killings, and seriously hampered efforts to provide HIV/AIDS treatment to injection drug users. The Prime Minister tried to restrict criticism by purging dissenting voices in the government bureaucracy and using government and private means to tighten control of the media.

### ***Violence in the South***

2004 witnessed some of the worst violence in the recent history of Thailand's southern provinces. The area's residents, who are predominantly Muslim and ethnically distinct from the mostly Buddhist Thai, have long complained about being marginalized economically and politically from the rest of the country. Since the area was placed under martial law in January, at least 550 people have been killed, some apparently by insurgent groups, some at the hands of military and paramilitary forces.

Nearly two hundred people were killed by military forces during two particularly violent incidents. On October 25, 2004, during the Muslim holy month of Ramadan, security forces killed at least eighty-six demonstrators in the Tak Bai district of Narathiwat province; six were shot by security forces and some eighty detainees died of suffocation during transit. The detainees' hands had been tied behind their backs and, still breathing, they were laid on top of one another in military trucks, in some cases stacked four deep.

In apparent retaliation for this incident, there have been several small bomb attacks and some thirty murders of Buddhists in the south, with at least three victims beheaded.

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Prime Minister Thaksin, who had championed a tougher response to the insurgency in the south, appointed a special committee to investigate the events. At this writing, no prosecutions of security forces involved in the incident had been announced.

On April 28, 2004, lightly armed Islamic groups launched simultaneous pre-dawn attacks on police bases and checkpoints in several districts of Yala, Pattani, and Songkhla provinces in southern Thailand. Thai officials reported that 107 suspected assailants, most between fifteen and twenty years of age, and five security officers were killed after nine hours of violent clashes. Army and police sources unofficially put the number of dead assailants at more than 120. Approximately fifteen people were arrested.

At least thirty militants who had sheltered in the Kruesie Mosque were killed when military forces rushed them using grenades. A government-appointed commission concluded that the level of force and type of weapons used in the attack on the mosque was “disproportionate to the threat posed by the militants.” Despite the commission’s recommendations, there has been no accountability for any of the security forces involved in the attack.

### ***The Brutal War on Drugs***

The lack of accountability for the counter-insurgency campaign in the south reflects the growing impunity of Thai security forces. On February 1, 2003, Thaksin launched a national campaign that treated drug offenders as threats to social and national security. Within three months, 2,275 alleged drug offenders had been shot dead in apparent extrajudicial executions. At this writing, no serious government investigation had been conducted into the deaths. On October 3, 2004, Thaksin announced a new phase of the anti-drug campaign, promising “brutal measures” against drug traffickers.

### ***The HIV/AIDS Epidemic***

In the past, health experts praised Thailand’s response to the AIDS epidemic; government programs providing condoms and HIV/AIDS information in health clinics and brothels have prevented an estimated 200,000 HIV infections. The war on drugs has reversed some of those gains. Numerous drug users have reported arbitrary arrest, beatings, and detention by police officers. International experience shows that such mistreatment undermines HIV/AIDS programs by driving vulnerable populations into hiding.

Many drug users are coerced by the government to enroll in government-subsidized drug treatment programs. Many do so only after being arbitrarily arrested or threatened with arrest if they do not enroll. And many enroll even though they have never used illicit drugs or have quit using drugs before enrolling in treatment. In some cases, drug users choose not to seek treatment or discontinued it out of fear that identification as a drug user would result in arrest or murder.

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## **Human Rights Defenders**

Thailand's once-thriving human rights community has also faced government pressure and intimidation. In one of the most notable and alarming incidents, in March 2004 Somchai Neelapaijit, a prominent Muslim leader and human rights lawyer, was abducted in Bangkok and is presumed dead. Somchai had been repeatedly threatened after alleging police torture of separatist suspects in southern provinces where martial law was enforced and defending two alleged Thai members of the Jemaah Islamiyah, an Islamist group with alleged links to Al-Qaeda.

## **Restriction on Freedom of Press and Freedom of Assembly**

Prime Minister Thaksin, who owes his own standing as one of Thailand's wealthiest citizens to his control of the Shin Corporation (a telecommunications empire now controlled by members of his family), has used government and private channels to mute Thailand's once-vibrant media.

Over the past three years the Thai Journalists Association and the Thai Broadcasters Association have documented more than twenty cases in which news editors and journalists were dismissed or transferred, or their work tampered with, to appease the government. The authorities have arbitrarily used work permits and visa renewals as effective tools for pressuring foreign journalists.

Most television and radio stations in Thailand are owned in full or in part by government agencies. The government also uses disbursement of corporate and government advertising to reward media outlets, both Thai and international, that follow the government line and to punish those that do not. It uses the withdrawal or termination of operating licenses, or threats of such, to rein in critical private broadcasters.

Media freedom in Thailand has been further undermined by large libel actions against prominent advocates and independent journalists. Shin Corp., for example, is suing editors of the *Thai Post* newspaper and media freedom activist Supinya Klangnarong over a story which charged the government with pursuing policies aimed at boosting interests of the prime minister's business empire.

The government also has clamped down on freedom of assembly, with regular reports of excessive use of force by police against critics of Thaksin's policies. On October 16, 2004, a 1,500-strong combined force of police and volunteer militias violently dispersed about one thousand protesting landless farmers rallying peacefully in Karbi province. The government dismissed findings of the National Human Rights Commission that the level of force and type of tactics used in the crackdown were disproportionate.

Before and during the Asia-Pacific Economic Cooperation (APEC) meeting in Bangkok last October, the government also banned some five hundred human rights and social activists from entering the country and threatened potential organizers of protests that security forces would have to take the "utmost decisive action."

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## **Refugee Protection**

In an apparent effort to forge friendship with Burma's military government, Thaksin has abandoned Thailand's longstanding humanitarian stance toward Burmese refugees, threatening the security of hundreds of thousands of such refugees. Under intense pressure from the Thai government, the Office of the United Nations High Commissioner for Refugees (UNHCR) has agreed to move Burmese refugees living in Bangkok and other urban areas to camps along the Thai-Burma border, and has stated that it will terminate financial assistance and cease the renewal of protection certificates for those who do not comply.

On January 1, 2004, UNHCR suspended its screening of new asylum seekers from Burma and the Thai government assumed responsibility for such screening. Because Thailand narrowly restricts its protection and assistance to "people fleeing fighting," the government is likely to reject the applications of Burmese exiles and asylum seekers who are fleeing persecution for their pro-democracy activities in Burma. Those who are rejected would be classified as illegal immigrants and face the risk of being deported to Burma. A June 21, 2003 memorandum of understanding between Burma and Thailand gives the Burmese military junta a greater role in the deportation process, increasing the likelihood that deportees will be persecuted upon their return.

Burmese pro-democracy activists and asylum seekers, many of them holding the UNHCR person of concern status, have been arrested during peaceful demonstrations in Bangkok. In May 2004 more than forty demonstrators at the Burmese Embassy in Bangkok were arrested and threatened with deportation back to Burma, where they could face persecution.

## **Key International Actors**

During Prime Minister Thaksin's tenure, Thailand has lost some of its standing as a regional hub for human rights protection because of increasing restrictions on press freedom and the activity of environmental and human rights activists.

Thailand has increased its already close cooperation with the U.S. as part of the "war on terror," leading President Bush to designate Thailand a Major non-NATO ally in October 2003. U.S. military and police officials cooperate with their Thai counterparts in counter-narcotics operations and border control operations, although both countries deny that the U.S. has any operational role in the increasingly bloody counterinsurgency campaign in southern Thailand. Thailand has enthusiastically pushed for greater counterterrorism cooperation among member states of the Association of Southeast Asian Nations (ASEAN) as well as in the Asia-Pacific Economic Cooperation forum.

In August 2003, Thailand captured Riduan Isamuddin, better known as Hambali, suspected of leading Jemaah Islamiyah and helping to plan the September 11, 2001, terrorist attacks on the United States and a series of bombings targeting civilians in Indonesia. The United States took custody of Hambali and has

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kept him in an undisclosed location. The United States has not allowed Indonesian authorities investigating the terrorist attacks there to interview Hambali.

Thailand provided small but symbolically important assistance to the United States campaigns in Afghanistan and in Iraq, where a 450-strong Thai contingent suffered two casualties in December 2003. Thai troops withdrew from Iraq as part of their planned one-year commitment, at least partly in response to strong domestic criticism.

The U.N. special rapporteur on extrajudicial and summary executions has requested a visit to Thailand to complete an investigation into the October 25, 2004 killings of demonstrators in Narathiwat province.

Thailand has developed strong economic and diplomatic links with the brutal military government ruling Burma. Thailand has become a major investor in Burma and has cooperated with the Burmese government in curbing the political activity of Burmese refugees living in Thailand. Thailand has also defended Burma's dismal human rights record in important regional fora such as ASEAN, the Asia-Europe Meeting, and meetings of the Asia-Pacific Economic Cooperation.

## Vietnam

Human rights conditions in Vietnam, already dismal, worsened in 2004. The government tolerates little public criticism of the Communist Party or statements calling for pluralism, democracy, or a free press. Dissidents are harassed, isolated, placed under house arrest, and in many cases, charged with crimes and imprisoned. Among those singled out are prominent intellectuals, writers, and former Communist Party stalwarts.

The government continues to brand all unauthorized religious activities—particularly those that it fears may be able to attract a large following—as potentially subversive. Targeted in particular are members of the Unified Buddhist Church of Vietnam and ethnic minority Protestants in the northern and central highlands.

### *Freedom of Expression*

Domestic newspapers and television and radio stations remain under strict government control. Although journalists are occasionally able to report on corruption by government officials, direct criticism of the Party is forbidden. Foreign media representatives are required to obtain authorization from the Foreign Ministry for all travel outside Hanoi.

Several dissidents and democracy activists have been arrested and tried during the last several years on criminal charges—including espionage and other vaguely-worded crimes against “national security”—for peaceful criticism of the government or calling for multi-party reforms. Legislation remains in force authorizing the arbitrary “administrative detention” of anyone suspected of threatening national security, with no need for prior judicial approval.

In July 2004 long-time human rights advocate Nguyen Dan Que, sixty-two, was sentenced to thirty months of imprisonment for “abusing democratic freedoms,” for writing an essay, distributed over the Internet, about state censorship of information and the media. Other cyber-dissidents who have been sentenced to prison on criminal charges include: Pham Hong Son, Le Chi Quang, Nguyen Khac Toan, Nguyen Vu Binh, Pham Que Duong and Tran Khue.

### *Internet Controls*

The government maintains strict control over access to the Internet. It blocks websites considered objectionable or politically sensitive and strictly bans the use of the Internet to oppose the government, “disturb” national security and social order, or offend the “traditional national way of life.” Decision 71, issued by the Ministry of Public Security in January 2004, requires Internet users at public cafés to

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provide personal information before logging on and has increased the pressure on Internet café owners to monitor customers' email messages and block access to banned websites.

In April 2004 the government closed down Vietnam International News 24-Hour, an unlicensed website that had reprinted a BBC article about Easter demonstrations in the Central Highlands. In August 2004 the Ministry of Public Security created a new office to monitor the Internet for “criminal” content, a measure that appears to be aimed in part at intimidating people from circulating any information that authorities could deem to be a “state secret” or otherwise unauthorized.

### ***Freedom of Religion***

The government bans independent religious associations and permits religious activities only insofar as they are conducted by officially-recognized churches and organizations whose governing boards are approved and controlled by the government.

A new Ordinance on Beliefs and Religions went into effect in November 2004. It pays lip service to freedom of religion but strengthens government controls over religion and bans religious activities deemed to threaten national security, public order, and national unity.

Members of the banned Mennonite church have come under increasing pressure from the government. In June 2004, Pastor Nguyen Hong Quang, an outspoken Mennonite church leader, was arrested after publicly criticizing the government for detaining four Mennonites three months earlier. On two separate occasions during 2004, officials in Kontum province bulldozed a chapel of Pastor Nguyen Cong Chinh, superintendent of the Mennonite churches in the Central Highlands. In September, October, and November, police pressured Mennonites in Kontum and Pleiku provinces to sign forms renouncing their religion.

In both the central and northern highlands, government officials continue to ban most Protestant gatherings. Authorities have forced ethnic minority evangelical Christians to pledge to abandon their religion and cease all political or religious activities in public self-criticism sessions or by signing written pledges.

### ***Crackdown in the Central Highlands***

In the Central Highlands some ethnic minority Christians have rejected the government-controlled Evangelical Church of Vietnam and have sought to manage their own religious activities. Increasing numbers of ethnic minorities, collectively known as Montagnards, appear to be joining *Tin Lanb Dega*, or Dega Protestantism, which combines evangelical Christianity with elements of ethnic pride and aspirations for self-rule. Dega Protestantism is officially banned by the government.

In April 2004 peaceful demonstrations by Montagnards during Easter weekend in the Central Highlands turned violent when security forces and civilians acting on their behalf ambushed and attacked the

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demonstrators with clubs, metal bars, and other crude weapons. At least ten Montagnards were killed and dozens wounded. Hundreds fled from their villages and went into hiding or attempted to flee to Cambodia (*see* Cambodia). Authorities dispatched additional police and military forces to the region and established security checkpoints along the main roads. Strict restrictions were placed on travel within the highlands, on meetings of more than two people, and on communication with the outside world.

### ***Repression of Buddhists***

Religious leaders of the banned Unified Buddhist Church of Vietnam (UBCV), which was the largest Buddhist organization in the country prior to 1975 and which does not recognize the authority of the government-controlled Vietnam Buddhist Church, face ongoing persecution. The government appeared to be easing up on the group in early 2003, when UBCV leader Thich Quang Do was released from two years of administrative detention and the prime minister visited UBCV Supreme Patriarch Thich Huyen Quang. However, in October 2003 the two UBCV leaders were once again placed under unofficial house arrest and eleven other UBCV leaders were taken into administrative detention. Tensions escalated in November 2004 when authorities prevented Thich Quang Do from visiting Thich Huyen Quang, eighty-seven, who was severely ill in hospital, and summoned him for questioning on allegations of “appropriating state secrets”.

In March 2004, UBCV dissident Thich Tri Luc (Pham Van Tuong) was released from prison and resettled in Sweden two months later. Thich Tri Luc, a UNHCR-recognized refugee, had been abducted by Cambodian and Vietnamese agents in Cambodia and taken to Vietnam in 2002.

Members of the Hoa Hao sect of Buddhism are subject to police surveillance and several were thought to remain in detention at this writing. The sect was granted official status in May 1999, although government appointees dominated the Hoa Hao Buddhism Representative Committee established at that time. In August 2004 Hoa Hao leader Le Quang Liem, eighty-four, was released from administrative detention after more than two years’ under house arrest.

### ***Religious Prisoners***

At this writing, at least ten ethnic Hmong Christians were in detention in Lai Chau and Ha Giang provinces in the north. More than 124 Montagnard Christians continue to serve prison sentences of up to twelve years for their involvement in church activities or public demonstrations, or for attempting to seek asylum in Cambodia. Six Mennonites are serving prison terms ranging from nine months to three years for “resisting officers on duty,” after a half-day trial in November 2004. At least four Catholics, including Father Nguyen Van Ly and members of the Congregation of the Mother Co-Redemptrix, remain in prison for expressing criticism of Vietnam’s human rights record or for distributing religious books and holding training courses.

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## ***Torture in Detention***

Prison conditions in Vietnam are extremely harsh. Human Rights Watch has received reports of solitary confinement of detainees in cramped, dark, unsanitary cells; lack of access to medical care; and of police beating, kicking, and using electric shock batons on detainees. Police officers routinely arrest and detain suspects without written warrants, and authorities regularly hold suspects in detention for more than a year before they are formally charged or tried.

Political trials are closed to the international press corps, the public, and often the families of the detainees themselves. Defendants do not have access to independent legal counsel. More than one hundred death sentences were issued in 2004, with twenty-nine crimes considered capital offenses under the penal code, including murder, armed robbery, drug trafficking, many economic crimes, and some sex offenses.

## ***Key International Actors***

At the December 2003 Consultative Group meeting, Vietnam's international donors pledged more than U.S.\$2.8 billion in aid for 2004. While donors publicly have focused on economic growth, "good governance," and poverty reduction programs, they have increasingly expressed concerns about the government's imprisonment of dissidents, suppression of freedom of expression and of religion, and its poor handling of the crisis in the Central Highlands.

In June 2004 Japan, Vietnam's largest donor, reversed its traditionally circumspect stance on Vietnam's record on human rights and announced that its official development assistance to Vietnam would be linked in part to the government's respect for human rights and steps toward democracy. In contrast, fellow members of the Association of Southeast Asian Nations (ASEAN) made virtually no comment on Vietnam's human rights record.

The E.U. has criticized Vietnam's decision to classify information and statistics on executions as a state secret. More than 100 members of the European Parliament called on the E.U. and European Commission to highlight Vietnam's human rights record during the Asia-Europe Summit Meeting held in Hanoi in October 2004. During the meetings the Dutch Foreign Minister, on behalf of the E.U., called for the release of political and religious prisoners. In November, the U.K. Foreign Office raised concerns about the plight of non-recognized Buddhist and Protestant groups in its annual human rights report.

The U.S. re-established diplomatic relations with Vietnam in 1995 and approved a bilateral trade agreement with Vietnam in 2001. In 2001 and again in 2004, the U.S. House of Representatives approved the Vietnam Human Rights Act, which would link future increases in non-humanitarian aid to progress on human rights. As of this writing the Senate had not approved the legislation. In 2003 the U.S. State Department cancelled its annual human rights dialogue with Vietnam because of lack of

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concrete results. In September 2004 the State Department designated Vietnam a “Country of Particular Concern” because of what it called Vietnam’s “particularly severe violations of religious freedom.”

In July 2004 Vietnam became one of fifteen countries, and the first and only Asian country, to receive financial aid from U.S. President George W. Bush’s emergency global plan for HIV/AIDS. In November, the deputy director of UNAIDS called on Vietnam to address continuing discrimination against people with HIV/AIDS, which she said was among the worst in the world.

In November 2004 the U.N. Working Group on Arbitrary Detention stated that the imprisonment of Nguyen Dan Que was arbitrary and in violation of international law.