

ASIA OVERVIEW

Perhaps more than at any time since the depths of the Cold War, human rights were marginalized in Asia in 2002. While trade and business interests had gradually supplanted human rights as the focus of international dialogue in Asia in the preceding decade, it was the focus on security after the September 11, 2001 attacks on the United States and, to a lesser extent, the threat of nuclear war in South Asia, which relegated human rights to the periphery over the past year.

Beginning with the efforts to hunt down leaders of the Taliban and al-Qaeda in Afghanistan, and ending with the bombing of a nightclub in Bali, terrorism and the resulting “war on terror” dominated events in Asia in 2002. In between, shuttle diplomacy in India and Pakistan succeeded in helping to avert the biggest human rights catastrophe imaginable: a nuclear war between bitter rivals with no apparent political or doctrinal limits. But just as fears were fading about the use of nuclear weapons in South Asia, North Korea stunned its neighbors in East Asia with the announcement by the United States that Pyongyang had admitted to having an active nuclear weapons program and likely possessed enough weapons grade material to produce a nuclear weapon. Though President Bush had earlier branded North Korea as part of an “axis of evil” that included Iraq and Iran, the American response was largely muted, as it attempted to join forces with South Korea, Japan, and China to pursue a diplomatic rather than a military solution.

The emphasis on security came at a bad time for Asia. By late 2001 the region was beginning to pull itself out of the economic crisis brought on by the financial collapse of 1997. The longstanding argument about the juxtaposition between “Asian values” and human rights—the false choice between rights, stability and development, borne of the allegedly differing value that Asians place on individuality and community—was finally in its death throes and in the process of being abandoned by its proponents in Singapore, Kuala Lumpur, and Beijing.

But the commandeered planes that crashed on September 11, 2001 offered the opportunity for governments in the region to construct another false dichotomy to marginalize human rights. This time the antagonists were named “security” and “civil liberties.” Although Western governments and Asian activists long ago rejected the Asian values argument, in the aftermath of September 11 some Western governments expressed sympathy for and even encouraged prioritizing security over human rights. For Asians who have struggled for many years against overbroad national security laws and anti-crime campaigns aimed at quelling political dissent, this has been a crushing blow. Few argued the importance of security, but the unanswered question in Asia was: at what price?

The constant focus on terrorism and security overshadowed developments that in other times would have made headlines. In Nepal, full-scale civil war broke out between an unpopular government and a Maoist insurgency seemingly modeled on the scorched-earth tactics of Peru's Sendero Luminoso. On the other hand, Sri Lanka's intractable civil war, in which terrorism had played a major part, reached a pause as the most promising negotiations since 1995 began between the government and the Liberation Tigers of Tamil Eelam with the assistance of Norway. These moves towards war and peace, both of which had an international dimension because of the involvement of outside powers, received surprisingly little international attention.

In such a tumultuous year, it was difficult for good news to get much attention. But in a tiny corner of Asia a people who only a few years ago seemed destined to continue to suffer under the rule of an unpopular and violent occupying force finally gained their freedom. On May 20, 2002, East Timor became the world's newest state in a midnight ceremony attended by U.N. Secretary-General Kofi Annan and dozens of other world leaders. Only three years ago East Timorese were victims of the scorched-earth policy of the Indonesian military after voting for independence. Yet on May 20 the new East Timorese leader, Xanana Gusmao, and the Indonesian president, Megawati Sukarnoputri, managed to shake hands, thereby bringing a symbolic end to the conflict that had divided Indonesians and East Timorese for more than two decades.

Many important issues remain unresolved in East Timor and Indonesia, including the safe repatriation of thousands of East Timorese refugees and efforts to bring to justice the military and militia leaders responsible for the killings after the 1999 independence referendum. But the success of East Timor in obtaining independence and the end of systematic human rights abuses were a reminder to human rights defenders and people around the world that their idealism may some day be rewarded, even in places where it is hard to imagine that night can ever transform itself into day.

TERRORISM AND THE WAR ON TERROR

The taking of measures to combat terrorism is not new. They always existed and they always posed problems for human rights. But the problem has intensified. September 11 gave a sort of legitimacy. Where states once criticized these measures, now what we find is a kind of tolerance.

U.N. High Commissioner for Human Rights Mary Robinson

Many in Asia were surprised when they heard Western politicians and commentators repeat again and again after the September 11, 2001 attacks that "everything has changed." While violence against civilians on such a large scale was a new phenomenon in the United States, in Asia average citizens have long lived with the destabilizing and debilitating effects of state and non-state terrorism. They have had to cope with the immediate effects of such violence—death and injury to family and friends—while being subjected to the sort of closing of political space that

often follows: arbitrary targeting of political opposition supporters to instill fear, martial law, states of emergency, and the suspension of civil liberties.

After the carnage caused, for instance, by the forced labor policies of the Khmer Rouge in the 1970s, the shelling of populated areas by resistance forces in Afghanistan in the early 1990s, or the military sweeps in Aceh in the late 1990s, victims received neither comfort nor compensation. Camps in places like Bangladesh and Sri Lanka remained full of refugees and internally displaced persons, for whom seemingly random violence meant an end to a stable and predictable life and its essentials, such as access to education, clean water, and health care.

This is not to suggest any shortage in Asia of sympathy for the victims or outrage at the devastation caused by the September 11 attacks. Most in Asia appeared to have been deeply moved and saddened by the attacks. Condemnation was widespread. But many understood the use of planes as bombs as part of a continuum, albeit more catastrophic, that included the kinds of atrocities so often experienced in places like Kashmir, Karachi, Colombo, and Mindanao. For them, the grisly reality of bombs and explosions was horrific, but hardly new.

What was different was the location of the attacks: in the heart of the most powerful country in the world. This showed that no one was immune, not even the greatest power in history. It seemed that the problems that Asians had known for so long would now be the problems of their wealthier and more distant brethren.

Yet Asians, too, had to cope with the fallout from events half a world away. The world's only superpower insisted on this. For Asian governments, support for the "war on terrorism" as defined by the United States was the price of continued good relations. In a unipolar world, no Asian country, not even powers like China and India, could afford to be seen as less than fully supportive of the war on terror.

When the planes crashed on September 11, they drove a large hole through the region's fragile human rights architecture. Perhaps more broadly than anywhere else in the world, the United States muted its criticism of opportunistic repression in Asia so as not to offend governments otherwise cooperating in the war. Long-standing U.S. concerns about human rights in Indonesia and democratic reform in countries like Malaysia, Singapore, and Pakistan were muted.

Many governments in Asia that sought to entrench rights-restrictive policies moved quickly to take advantage of the new political space afforded by the international war on terror. In insisting that countries are "either with us or against us," the United States in particular urged countries in Asia to pass domestic anti-terror legislation, arrest individuals perceived to be security threats, and to cooperate with the United States in intelligence gathering.

In Asia, sweeping national security and anti-terrorism laws, often inherited as part of the colonial legacy, have traditionally been used to suppress pro-democracy movements and human rights activists. While there was a need in some countries for new laws to deal with issues such as money laundering, most proposed or newly enacted legislation was notable for limiting the rights of criminal defendants and narrowing civil liberties, such as freedom of expression and freedom of association. The protests of local activists that existing criminal laws were adequate to deal with violent crimes and that the focus of anti-terror efforts should be on police measures related to prevention and enforcement fell largely on deaf ears.

Instead of acting as a positive force for human rights, the United States and its increasingly docile European allies began to speak about the subject as an afterthought. Where once they viewed new criminal laws and procedures in countries with weak legal and judicial systems skeptically through the prism of human rights, those same actions—increased powers of surveillance of phones and email, streamlined trial procedures, preventive detention, lengthened prison terms—were now seen as positive developments in the war on terror. What would previously have been denounced as overbroad and heavy-handed police measures were now either endorsed, as when Pakistan rounded up thousands of suspected Islamic militants, often with little or no evidence of individual culpability, or met with uncharacteristic silence—the silence of assent.

Leaders in countries such as India, Nepal, Cambodia, Malaysia, and Singapore were pleased to accommodate the new security agenda, which neatly dovetailed with their aspirations to increase state power and marginalize political opponents. There were two notable exceptions to this trend. One was South Korea, where hastily drafted anti-terrorism legislation languished in the National Assembly after the National Human Right Commission and local nongovernmental organizations (NGOs) argued that the legislation would be redundant and subject to misuse.

The other exception was Indonesia, where through most of 2002 the Indonesian government argued that the passage of broad anti-terror legislation and precipitous arrests of Islamic activists would only polarize the fragile political situation and possibly lead to more, not less, violence. President Megawati apparently feared alienating the Muslim constituencies and parties needed for re-election in 2004.

It is impossible to know if the Indonesian government was correct, but after the Bali bombing in October the president came under tremendous international pressure to sign an anti-terrorism decree and arrest leading Islamic activists. The decree, which created a vague definition of the term “terrorism” and allowed for detention of suspects for up to six months without charge, was signed amid concerns that it would allow the military to resume the role in law enforcement that for decades led to serious human rights abuses. The Indonesian military immediately moved to reactivate defunct elements of its domestic intelligence network and train special anti-terrorism squads that would effectively compete with their civilian counterparts.

Local activists saw worrying signs of tolerance for resurgent police states. For example, in March the Indian government rushed through the Prevention of Terrorism Act, which created a broad definition of the term “terrorism” and greatly expanded the state’s intelligence gathering and investigative powers. As with its notorious forebear, the Terrorists and Disruptive Activities Act, which was used to imprison political opponents and limit free expression, the new law was quickly used not just against alleged terrorists, but against those expressing unpopular views on subjects such as Kashmiri independence from India and Tamil independence from Sri Lanka.

China took advantage of the anti-Islamist nature of the war on terror to deepen its crackdown on ethnic Uighurs in Xinjiang province, arresting thousands of Muslims there in its latest “Strike Hard” campaign. China subtly collapsed the distinction between peaceful separatists, those involved in violent separatist activity, and

those participating in international terror networks. In what was seen as a quid pro quo for Chinese support for the war on terror, the United States in 2002 formally designated the small East Turkestan Islamic Movement as a terrorist group. The U.N. Security Council subsequently placed the group on its list of international terrorist organizations.

Members of the E.U. demonstrated the precedence of trade and economics over human rights in relations with China when, without the United States as a member of the U.N. Commission on Human Rights in 2002, no resolution on China was offered for the first time since 1991.

The war on terror left local human rights activists in places like Pakistan, Malaysia, Indonesia, and the Philippines isolated. Taking a principled stand against the passage of overbroad legislation and the rounding up of the usual suspects, they found themselves in the untenable position of being in opposition not only to their own governments, but to the new policies of their erstwhile allies in the West (and donor community), too.

Ironically, despite the dramatic transformation in Afghanistan after the fall of the Taliban and the rhetoric about an end to tyranny and creation of democracy, human rights proponents remained extremely isolated in Afghanistan. Though the Taliban was replaced in Kabul by the strongly pro-Western administration of Hamid Karzai, neither it nor the international community delivered on human rights.

Created after the carefully choreographed meeting of the *loya jirga* in June, the Karzai administration was heavily dependent on the United States and United Nations. Karzai himself depended on the United States for his personal security, while the country relied on Western aid in its efforts at reconstruction. Afghanistan quickly transformed itself from the world’s most ardent opponent of the West to one of its neediest supplicants.

But Afghanistan’s fragile peace depended almost wholly on the cooperation of regional and local warlords who instead of being demobilized and disarmed were in many cases armed and funded by the U.S.-led coalition, thereby insinuating themselves into power in the new administration. Many of these men have long records of gross human rights violations and may someday be the subject of investigations into war crimes and crimes against humanity. While no one denies that these new friends of the international community were the enemies of human rights, the international community cynically offered them the patina of legitimacy and consciously made the protection of rights a secondary consideration.

While the fall of the Taliban created opportunities for greater freedom and respect for human rights, these opportunities were largely missed. At the core of the problem was the decision by the United States to oppose the expansion of the International Security Assistance Force in Afghanistan (ISAF) beyond Kabul, leaving Afghans largely to fend for themselves if they opposed the policies of local warlords. At this writing, Germany and the Netherlands, which were due to take joint command of ISAF in early 2003, compounded this problem by also refusing to expand ISAF, instead opting to focus on building the Afghan army and police, a necessary step to be sure, but grossly inadequate to meet Afghanistan’s immediate security needs.

The United Nations Assistance Mission in Afghanistan (UNAMA) exacerbated this problem with its “light footprint” policy, in which human rights monitoring and protection have hardly been featured. This was particularly ironic given that the leader of UNAMA, Lakhdar Brahimi, was also the author of the 2000 U.N. report that recommended “a doctrinal shift in the use of . . . human rights experts in complex peace operations to reflect an increased focus on strengthening rule of law institutions and improving respect for human rights in post-conflict environments.”

The U.N. and others argued that confronting the warlords would risk political stability. But the risks in allowing violent forces to retain power may have been greater: an Afghanistan where human rights continued to be systematically violated with impunity, as they had been since the Soviet invasion in 1979, and a resumption of fighting among warlords who had a long history of mutual antipathy. Civil war and the resurgence of fundamentalism would then become genuine possibilities.

It was also likely that if the warlords were not disarmed and dislodged, elections scheduled for 2004 would merely serve to confirm them in their current positions, except with the added legitimacy of a popular vote (albeit one held at the barrel of a gun). In spite of all the international attention, unless human rights were made more of a priority Afghanistan was in danger of moving from being a failed state to a state that once again failed its people.

In 2002, the war on terror also led to the radical realignment of many multilateral and bilateral relationships within Asia and between Asia and the rest of the world. Old enmities were forgotten, at least temporarily, and new friendships established.

Nowhere was the transformation greater than in Pakistan. Before September 11, the military government of President Pervez Musharraf, who came to power in a 1999 coup, was almost completely shunned by Western governments. After the coup, Pakistan lost billions in international aid. But after deciding to side with the United States against the Taliban and al-Qaeda, Musharraf’s administration was rewarded with instant legitimacy and aid. Senior foreign affairs officials from around the world came to Islamabad to meet the military dictator. The U.S. rescheduled billions in debt, resumed economic aid, and authorized the first weapons sales since 1998. The World Bank and Asian Development Bank dramatically increased loans. Japan, the Commonwealth, and other Western governments also adopted a policy of turning a blind eye to problems of democratic governance and human rights in Pakistan.

In April 2002, Musharraf staged a rigged referendum in which electoral lists were not used and no efforts were made to prevent multiple voting to gain a five-year extension of his self-announced presidency. Official results claimed that 97.5 percent voted in favor, a result more akin to an election in Vietnam or Iraq than in the normally rambunctious political atmosphere of Pakistan. On August 22, Musharraf effectively announced that “*l’etat, c’est moi*” when he promulgated the “Legal Framework Order (LFO).” The LFO amended the constitution to strengthen the powers of the president at the expense of the legislative and judicial branches. Musharraf effectively arrogated to himself the power to make all important deci-

sions. This was a severe blow to a country with a strong legal and judicial tradition. On the day that Musharraf made this announcement, President Bush announced that, though democracy was important, he would not allow the LFO to affect the U.S. alliance with Musharraf. “He’s still tight with us in the war against terror, and that’s what I appreciate,” Bush said.

Action against terrorism also opened the way for American military forces to return to the Philippines for the first time since being asked to leave Clark Air Force base in Angeles City and the Subic Bay naval base in Olongapo City. Because of hostility engendered by United States support of the martial law government of Ferdinand Marcos, the Filipino Congress voted not to renew leases for these bases. American forces left in 1992. But after the September 11 attack, the United States identified the Abu Sayyaf group as an ally of al-Qaeda and deployed military advisors and special forces to the southern Philippines to assist Filipino security forces in attacking and apprehending members of the group. Observers in the Philippines view Abu Sayyef as more of a kidnapping and extortion ring than a radical Islamic group. The Filipino government also agreed to allow American military forces access to Clark and Subic Bay facilities to facilitate the war on terror, a decision that was deeply unpopular among activists in the Philippines.

Even the non-communist and communist states within the ten-member Association of Southeast Asian Nations (ASEAN) agreed to cast aside the organization’s longstanding policy of non-interference—often used as a mutual shield to avoid criticism of poor human rights records—to cooperate on law enforcement and extradition matters. No other subject in the history of the organization had ever been able to pierce this core animating principle.

So intent was the U.S. on drawing Asian countries into the war on terror that in 2002 it proposed Malaysia, whose prime minister, Mahathir Mohammed, has long been an outspoken critic of the United States, as the home of a new regional anti-terror body. The U.S. and others, including Malaysian human rights groups, the bar council, and some judges had long criticized Mahathir for the misuse of the colonial-era Internal Security Act (ISA) to detain political opponents and others in preventive detention indefinitely without trial.

The U.S. and E.U. had been sharply critical of the arrest, flawed trial, imprisonment, and physical mistreatment of Mahathir’s former heir apparent, Anwar Ibrahim. Anwar was arrested in 1998 and was serving sentences totaling fifteen years after falling out with his former mentor. But these concerns were muted as Malaysia offered its cooperation in intelligence gathering and investigations into alleged al-Qaeda cells in this officially Muslim country.

In October 2002, Mahathir, a long-time opponent of international standards on human rights, confidently summed up the new place of human rights in the post-September 11 world. He presented the measures taken in the United States, United Kingdom, and elsewhere as a defense of the ISA, saying, “It is more necessary than ever. Even the rich countries, the so-called liberal democracies, have decided that there is a need for some preventive action to stop people from doing things that are harmful. People have been detained in other countries now, just as we detain people because they are a threat to security.”

The heavy emphasis on security at the expense of human rights, particularly

freedom of expression and association, brought serious risks to Asia. The overwhelming majority of Muslims in Asia held moderate religious and political views and appeared to be far less interested in geopolitics than local concerns. The large vote in Pakistan for more radical Islamist parties in the 2002 parliamentary elections, the continued popularity of the ardently Hindu nationalist Bharatiya Janata Party (BJP) government in India, the rise of Islamic parties in Bangladesh (particularly in reaction to the aggressive “Operation Clean Heart,” in which thousands were arrested and some detainees died in police custody), were indicators of widespread hopelessness and failed politics in much of Asia.

The year 2002 made it clear that Asian leaders and their Western patrons and interlocutors must be careful to walk the fine line between preserving security and maintaining popular legitimacy. Otherwise, in an atmosphere of rising religious intolerance at home and the demonization of Islam abroad, the appearance that Western countries are actively supporting unpopular governments and their heavy-handed policies runs the risk of radicalizing public opinion and creating a self-fulfilling prophecy: intolerant, backwards looking, anti-modern states that could one day slide into fundamentalism.

UNDER THE RADAR

In Nepal, full-scale civil war broke out between an unpopular government and a violent Maoist insurgency. Despite the severity of abuses by both sides—often a cycle of slaughters of police and army by the rebels and reprisals by government forces, often against civilians—the international community paid little attention. The government’s depiction of the conflict as Nepal’s war against terror helped it to secure military assistance from countries such as India, the United Kingdom, and the United States.

The “people’s war” in Nepal began in February 1996 after the Nepalese government rejected demands by the Maoist Communist Party of Nepal (CPN) to abolish the constitutional monarchy. In November 2001, the CPN withdrew from peace talks with the government and established an underground transitional government called the People’s Council. The government responded by declaring a national state of emergency and issuing the Terrorist and Disruptive Activities (Control and Punishment) Ordinance. Within months of the declaration of emergency, over 1,300 “suspected Maoists” had reportedly been killed by government security forces, with the death toll continuing to increase dramatically. Suspected Maoists included civilians once associated with Maoists as well as those possessing Maoist literature. Once suspected, rebels and civilians alike were at risk of detention, abduction, torture, and even summary execution. Freedoms of assembly, association, and movement were suspended during the emergency period. In August, the Federation of Nepalese Journalists reported that over 130 journalists had been arrested since November 2001.

For their part, Maoist rebels targeted civilians and law enforcement authorities. By February 2002 Maoists had reportedly killed over five hundred policemen, many of whom were either wounded or had surrendered. As part of their parallel politi-

cal system, Maoists set up “people’s courts” in areas where they exerted significant control to try cases and mete out punishment (including execution) for those perceived to be working against the revolution. By April over 440 civilians believed to be “enemies of the revolution” had been killed. The international community hardly noticed as Nepal slid into full-scale civil war, with rebels holding large swathes of territory and no serious attempts at international mediation.

In Burma, the level of international attention also was modest. The military government, the State Peace and Development Council (SPDC), freed the country’s elected leader and long-time dissident, Aung San Suu Kyi, from house arrest and entered a modest political dialogue with her National League for Democracy (NLD). Though expectations were raised by her release, there was virtually no progress toward a political settlement between the government and opposition. Few believed that the SPDC was prepared to make meaningful political concessions to the NLD or hold new elections.

While the U.N. special rapporteur on human rights and his staff gained largely unfettered access to a limited number of political prisoners and had some private interviews with victims of Burma’s forced labor policies, and the International Labor Organization set up a liaison office in Rangoon to monitor the government’s commitments to end forced labor, the human rights situation remained grim. The SPDC continued to conscript large numbers of child soldiers and the Burmese army stepped up its brutal push into ethnic minority regions, forcibly and violently relocating entire communities.

Attacks on religious minorities in Asia reached alarming proportions in 2002. In India over two thousand people were killed in state-supported violence against Muslims in the western state of Gujarat, which is led by the BJP. In Pakistan, the government’s continuing support of U.S. efforts against al-Qaeda led to a backlash that included targeted violence against foreign nationals and religious minorities, in particular Christians.

Attacks against Hindus in Bangladesh escalated dramatically following the October 2001 general election that brought the Bangladesh National Party (BNP) to power in coalition with hard-line Islamic parties. Christians, Buddhists, and dissenting Muslims were targeted as well, many for their perceived support of the opposition Awami League. Hindu homes were looted, vandalized, and burned and Hindu temples and sacred sites were destroyed. Scores of Hindu women and girls were raped. In some cases, they were gang raped in front of their male relatives. Hindus were also assaulted on the streets, in their homes, and at their workplaces. Systematic attacks resulted in a mass migration of Hindus to India, and in particular to the bordering state of Tripura. The government did little to prosecute or investigate the violence.

REFUGEES AND INTERNALLY DISPLACED PERSONS

After the closure in the 1990s of the last refugee camps for Vietnamese and Cambodians, many assumed that the refugees problems in Asia were a thing of the past. The exodus of Vietnamese and Cambodians from repressive communist states gar-

nered headlines and high-profile and sympathetic political attention, while Afghan refugees in Iran and Pakistan were largely ignored.

In 2002, the reality was apparent to all. People from around Asia continued to flee repressive regimes, conflicts, natural disasters, and economic deprivation. Gone were the headlines and the sympathy.

By some accounts, there were as many as five million refugees and more than two million people displaced within their own countries in various parts of Asia. By far the largest number was Afghans. At the beginning of 2002 there were over two million Afghan refugees in both Pakistan and Iran and over a million displaced persons inside Afghanistan. After the fall of the Taliban, approximately 1.5 million refugees returned in 2002, while an estimated six hundred thousand displaced people went home. The flow overwhelmed UNHCR and international aid organizations, but Afghans voted with their feet in support of the end of war and the Taliban.

As a result of the conflicts in various parts of Indonesia—in Aceh, the Moluccas, Central Sulawesi and elsewhere—the number of internally displaced swelled to more than one million. Communal conflicts, caused by a complex mix of factors, sparked violence and caused Indonesians to flee from their homes in record numbers, with little attention from the region or the broader international community to their vulnerable status.

As a legacy of the 1999 violence in East Timor, approximately thirty thousand Timorese refugees remained in insecure camps in Indonesian West Timor, facing the decision of whether to return to East Timor or stay in Indonesia. As part of the separation process between Indonesia and East Timor, cessation clauses were due to be invoked in December 2002, leaving many Timorese who stayed in Indonesia without a clear legal status. Indonesia also did little to resolve the cases of approximately 1,200 East Timorese children separated from their families in the chaos of the 1999 violence in East Timor. Some of these children were living in coercive conditions in Indonesia far from their families and required international assistance with family reunification.

The military government in Burma continued to create a steady flow of refugees with its attacks on border ethnic areas, its policy of forced labor, land expropriations, and repression of political activity. Close to a half million refugees remained in Thailand, while on the western border more than fifty thousand mostly Chin refugees fled to India and up to two hundred thousand Rohingya refugees were in Bangladesh. Inside Burma, there were over half a million displaced people. There were worrying signs that the Thaksin government in Thailand was no longer willing to allow refugees to take refuge on Thai soil and that, as is often threatened by Thailand, it was considering forced repatriation. The United Nations High Commissioner for Refugees (UNHCR) continued its longstanding policy of weak intervention with both Burmese and Thai authorities.

The violence in Gujarat meant that more than one hundred thousand people were displaced from their homes in India. Residing in over one hundred makeshift camps throughout the state, displaced people received little relief and rehabilitation support from the state. At year's-end, most camps had been closed, though many people did not feel safe returning to their homes.

In 2002, a new refugee flow began out of the central highlands of Vietnam into

Cambodia. Approximately one thousand indigenous Montagnards fled harsh reprisals after organizing demonstrations against land expropriations and limits on religious freedom and in favor of regional independence. As is so often the case, corruption, particularly in relation to land grabs, helped to fuel discontent. Cambodia allowed some asylum seekers to be processed for resettlement in the United States, but violated its international obligation by returning hundreds more to Vietnam, where some were given lengthy prison terms for illegal migration.

The world also began to understand the dimensions of the North Korean refugee crisis. Because of the lack of access to North Korea and the difficulty of conducting research in China, estimates ranged from ten thousand to three hundred thousand North Koreans who had fled repression and starvation to reach China. There were several high profile cases of North Koreans trying to enter diplomatic compounds in Beijing but being forcibly removed. However, all who made it inside the compounds were eventually resettled to South Korea via third countries. Though China is a party to the Refugee Convention, refugees were frequently picked up by Chinese police and returned according to a bilateral treaty with North Korea. Some Chinese villagers who offered housing to refugees were punished. There were reports that some of those forcibly returned were killed, tortured or imprisoned. Because of North Korea's severe punishment of individuals who flee the country, even North Koreans who flee in search of humanitarian assistance because of famine often become refugees *sur place*, since once in China they possess a well-founded fear that they would suffer persecution if forced to return.

Nowhere was the lack of sympathy for refugees more apparent than in Australia. Though Australia long ago abandoned its "whites only" immigration policy and accepted a steady flow of immigrants from Asia, in 2002 Prime Minister John Howard continued to play the "immigration card" that had helped him win re-election the previous year. Australia continued to deny entry to asylum seekers who did not apply for entry through established channels. Instead, it detained and forcibly transferred those who tried to enter by sea, mainly Afghans and Iraqis, to other countries in the Pacific (the Republic of Nauru and Papua New Guinea), or expelled them to the edge of Indonesian waters. It effectively succeeded in closing its coastal borders to all unauthorized entrants, including bona fide asylum seekers.

Australia also unilaterally narrowed the definition of a refugee under the U.N. Refugee Convention and removed the possibility of judicial review in nearly all immigration cases. It created a new temporary protection visa regime intended to penalize and deter refugees who did not come directly to Australia from their country of origin or who failed to apply for resettlement into Australia from their first country of asylum—so-called secondary movers. It treated Indonesia as if it were a "safe third country" even though Indonesia was not a signatory of the Refugee Convention and had no national laws to allow the processing, protection, or settlement of refugees. During 2002, Australia did accept a number of asylum seekers in Indonesia and the Pacific detention facilities for resettlement, but it continued to deny that it had any special responsibility for resettlement of the caseload created by its non-admission policies.

Australia's closed-door policy was implemented in tandem with a policy of mandatory detention of all asylum seekers who arrived without authorization.

More than two thousand people remained in detention under extremely harsh conditions in remote locations such as the Woomera Detention Center in South Australia. This practice, which allowed for no review by a court or other independent body, violated the fundamental norm against arbitrary and unlawful detention. It also disregarded U.N. guidance stipulating that asylum seekers should only be detained in exceptional circumstances. In violation of the U.N. Convention on the Rights of the Child, Australia held hundreds of children, including many unaccompanied by their parents, in detention centers. The U.N. Working Group on Arbitrary Detention and a representative of the U.N. high commissioner for human rights both visited Australia during 2002 and expressed outrage at the arbitrary and brutal nature of the mandatory detention regime there.

ACCOUNTABILITY FOR PAST CRIMES

The newest Asian country, East Timor, ended Asia's status as the only region that had never had a U.N. or domestic judicial process set up to address genocide, war crimes, or crimes against humanity. This was not for lack of candidates. Mao's "cultural revolution" in the late 1960s and early 1970s, Golkar's bloody purge of alleged Indonesian communist party members in the late 1960s, American carpet bombing and napalm drops in Vietnam, Cambodia, and Laos in the late 1960s and early 1970s, Pol Pot's reign of terror in Cambodia in the late 1970s, and the behavior of Soviet forces and local warlords in Afghanistan in the 1980s and 1990s were all appropriate subjects of inquiry.

East Timor could make a second claim to victimhood: between 1975-99 tens of thousands of East Timor's population of eight hundred thousand were killed by Indonesian forces or died from disease or starvation as Indonesia attempted to defeat separatists led by the man who would in 2002 become the first president of East Timor, Xanana Gusmao. But there was no sign of international support for addressing those crimes. For this reason, and because of fears that Indonesia could retaliate with measures that would destroy East Timor's economy, some Timorese leaders backed away from the idea of accountability. In late 2002, Gusmao—who was held prisoner by Indonesia for more than seven years—announced his opposition to the Dili court's "Special Panel for Serious Crimes," which was set up by the U.N. to conduct trials in alleged cases of crimes against humanity and other serious crimes committed in East Timor between January 1 and October 25, 1999. Gusmao objected that the special panel did not address the more extensive crimes of the previous twenty-four years.

The other piece of the accountability puzzle for East Timor, prosecutions in Indonesia, continued to be a complete failure. To head off action by the Security Council to create an ad hoc tribunal for the crimes committed in 1999 by its military forces and their agents, Indonesia promised to undertake investigations and trials in Jakarta of senior military officials and members of its colonial administration in East Timor. But prosecutors failed to indict the most senior figures in the military. Instead, many were promoted and appointed to sensitive posts elsewhere in Indonesia. In the few cases filed, charges were brought for failing to stop the

crimes rather than for planning and committing them. At this writing, only one prosecution had resulted in a conviction, and the sentence was only three years. Though Indonesia had not acted in good faith in its dealings with the Security Council, the Council showed no appetite for revisiting the subject, particularly when the United States and other U.N. members, such as Australia, were singularly focused on gaining Indonesian cooperation in the war on terror.

Perhaps the most compelling case for accountability in the world continued to be Cambodia. Between 1975 and 1979, approximately two million Cambodians (out of a population of eight million) were killed or died from starvation or disease. But the United States, China, and their allies decided it was more important to remove the Vietnamese army that dislodged the Khmer Rouge than to pursue justice. The price for Chinese support for a peace agreement was the inclusion of the Khmer Rouge as a party and no mention of Khmer Rouge crimes or justice for its victims. Finally, in 1997, the U.N. adopted a resolution calling for accountability. But while Prime Minister Hun Sen initially asked the U.N. for an international tribunal, when a U.N.-appointed group of experts proposed this, he refused, citing national sovereignty. In 1998, he stunned the country by embracing Khmer Rouge leaders Khieu Samphan and Nuon Chea and announcing that former Foreign Minister Ieng Sary would not be prosecuted in any circumstances. Negotiations proceeded, however, with the U.N. agreeing for the first time to a "mixed tribunal" in Cambodia made up of a combination of international and local judges and prosecutors.

But in 2002 negotiations broke down. The U.N. withdrew, citing irreconcilable differences over provisions in the law. The real issue was a determination by the U.N. that Hun Sen's government was not acting in good faith and did not actually want a tribunal. It also became clear to the U.N. that, given the regular interference by the Cambodian executive in judicial matters, it would be impossible to ensure that a mixed tribunal could act with sufficient independence to ensure fair trials or make the process credible.

While the U.N. is regularly and properly criticized for weakness on justice issues, its decision on Cambodia demonstrated a commitment to principles over expediency. Secretary-General Kofi Annan came under serious criticism and pressure from U.N. members over his decision to withdraw. The United States, France, Japan, and Australia pressed for symbolic trials, both because they misunderstood Cambodian public opinion, which was strongly in favor of an international tribunal, and out of a desire to improve relations with the Cambodian government. The suspicion among many Cambodians was that other countries were only willing to offer second-class justice for a country that no longer had geopolitical significance. But if any country deserved genuine justice it was Cambodia, which had been plunged into war and devastation by the decisions of outside powers. And it is worth remembering that more people died during the reign of the Khmer Rouge than the combined total for Rwanda, the former Yugoslavia, Sierra Leone, and East Timor—the four countries for which, at this writing, some form of international justice mechanism had been created. If justice for gross violations of human rights is ever to become the norm in Asia, the place to start is with international standards in Cambodia.

HIV/AIDS

According to government and U.N. figures, there are now more people living with HIV/AIDS in Asia and the Pacific than in any other region except sub-Saharan Africa. In June, UNAIDS reported its estimate of about 6.6 million Asians living with HIV/AIDS, a number it said was rising dramatically. In India, the government clung to an estimate of 3.97 million people living with HIV/AIDS, essentially unchanged from its estimates for the last several years, a figure widely disputed by experts both in and outside the country who noted that the epidemic was likely to be growing very fast there. China reported a rise of more than 67 percent in HIV infections in 2002, but the absolute numbers of persons living with HIV/AIDS could be considered only a rough estimate in the absence of scientifically sound prevalence surveys.

Many thousands of Chinese citizens in Henan province were infected when they sold unscreened blood at state-sponsored collection centers that reinjected pooled blood products into donors.

Indonesia and Papua New Guinea also reported dramatic increases in infection rates. The high cost of medicines to treat HIV/AIDS meant that only a tiny fraction (an estimated thirty thousand) of the millions of infected Asians had access to treatment.

Despite the threat that HIV/AIDS posed to countries in Asia, and to emerging economies in particular, most governments in the region not only remained reluctant to admit the dimensions of the disease but also did not undertake the swift and comprehensive action necessary to prevent transmission and provide care for those already affected. In India, AIDS activists faced police harassment and even abuse. In China, prominent AIDS activist Dr. Wan Yan Hai was detained for a month for circulating a government report on the disease via e-mail. In Burma, where HIV/AIDS infection rates are believed to be extremely high, the state had yet to develop a national plan to address the epidemic.

Thailand and Cambodia were exceptions in the region: In Thailand, national prevention programs helped to reduce the rate of transmission by tens of thousands. Nonetheless, in August 2001, Thailand's Health Ministry announced that HIV/AIDS had become the leading cause of death in the country. In Cambodia, the state promoted condom use and initiated national policies to counter stigma and discrimination, although that did not prevent Cambodia from having one of the highest rates of growth in transmission in Asia.

The rapid spread of HIV/AIDS was fuelled by many factors, including the lack of national policies on discrimination (needed because of the widespread perception of the disease as a sign of moral degeneracy) and the unequal status of men and women, which forced women into unprotected sex both with partners and as commercial sex workers (often as the result of deceit or being sold or forced into prostitution). Across Asia, infection rates were highest amongst the most politically marginalized groups: drug users, sex workers, men who have sex with men, and ethnic minorities. Because of discriminatory treatment, members of these groups were often forced underground, lacked access to information and adequate health

services, and were subject to police harassment or criminalization. People living with HIV/AIDS in Asia whose status became known by others risked not only community harassment, but also being fired by employers or denied treatment in hospitals. In China, some uninfected children orphaned by AIDS were reportedly expelled from schools in Henan. The lack of freedom of association in China, Vietnam, Laos, and elsewhere made it difficult and even dangerous for victims of these abuses to organize openly to aid one another, to educate others about the disease, or to seek redress.

AFGHANISTAN

2002 was a landmark year for human rights in Afghanistan. For the first time in over twenty years, Afghans had realistic hopes for stable peace, legitimate governance, increased development assistance, and new respect for human rights norms. At the same time however, ongoing security problems in many parts of the country continued to threaten many Afghans, especially vulnerable populations such as women and girls, orphans, widows, displaced persons, the disabled, and ethnic minorities.

The United States-led military campaign against al-Qaeda and the Taliban government led to the collapse of the Taliban regime in late November 2001. On December 5, 2001, Afghan representatives in Bonn, Germany, signed an agreement outlining a power sharing arrangement and the plans for the creation of a new constitution and democratic government by 2004. A small international peacekeeping force was created to patrol Kabul, the International Security Assistance Force (ISAF), headed by the United Kingdom and later Turkey. An interim authority, headed by Chairman Hamid Karzai, was sworn in on December 22, 2001, and ruled for six months. In June 2002, an emergency *loya jirga* ("grand council") convened in Kabul under the Bonn Agreement and elected Chairman Karzai as president of a second transitional government set to lead Afghanistan until 2004, at which time general elections were to be held. Diplomatic relations between Afghanistan and most nations were restored, United Nations agencies were reopened, and international and developmental organizations were granted new access to help Afghanistan rebuild after years of war and poor governance.

The fall of the Taliban regime allowed numerous military warlords to return to power, many of them former commanders during the anti-Soviet "jihad" of the 1980s who later became local strongmen during the early 1990s. As the Taliban collapsed, many of these warlords (who as allies of the U.S.-led coalition had received significant military and financial support) seized local areas they previously ruled and took control of the local political and security apparatuses. Some of these warlords were implicated in alleged war crimes committed this year against Taliban and al-Qaeda prisoners, reprisals against Pashtun villagers in the north and west of the country, as well as other human rights violations. Many of these warlords also

manipulated the selection of representatives for the *loya jirga* process during May and June (or attended themselves) and generally intimidated the populations under their control throughout the year.

Major commanders in the northeast of the country, many of whom fought with the late anti-Taliban commander Ahmed Shah Massoud and were members of the Jamiat-e Islami party wing of the anti-Taliban Northern Alliance (or United Front), managed to secure key ministries in the Kabul-based government, although they were not necessary firmly allied with President Karzai. Other regional leaders, such as Gul Agha Sherzai in the south, Ismail Khan in the west, and General Rashid Dostum in the north, were ostensibly allied with Kabul, but were either independent of or quietly hostile towards Karzai, fracturing the sense of national unity created by the Bonn Agreement. Tensions between President Karzai and some of his own ministers—especially the Jamiat ministers—also raised worries about Karzai’s authority outside the capital.

Security and protection problems were to be expected in Afghanistan’s post-conflict context; still, in a larger sense, numerous opportunities to improve the human rights situation in Afghanistan—especially for women—were missed, both by the Afghan government and the international community. The international community, and some Afghan leaders, squandered chances to sideline military commanders, disarm troops, and pressure local leaders to ensure human rights protections. Generally, not enough attention was paid to making human rights concerns integral to international and U.S.-led assistance and development efforts.

HUMAN RIGHTS DEVELOPMENTS

Human rights conditions generally improved in Afghanistan in 2002, but even with the Taliban no longer in power, Afghanistan continued to suffer from serious security problems. Warlords who sprang up in the Taliban’s place committed serious human rights abuses against civilians and Taliban combatants. In many areas, women and girls faced the same security problems that existed under the Taliban, and sometimes the same government-enforced restrictions. Returning refugees and internally displaced persons faced problems ranging from insecurity to lack of basic humanitarian assistance. There were also a significant number of civilian casualties from the U.S. military campaign, some of which may have been the result of violations of international humanitarian law.

The End of Taliban Restrictions

The end of the Taliban regime was the most notable human rights development in Afghanistan over the last year. Afghans did not face the widespread governmental prohibitions on dress, conduct, employment, and religious activities that the Taliban’s religious police, the Ministry for the Suppression of Vice and the Promotion of Virtue (“Vice and Virtue”), had enforced through draconian summary punishments. Gone also were threats and arbitrary harassment by Taliban troops and officials, and general insecurity in areas close to conflict lines. Women in most areas

were free again to work, attend school and university, and walk in public without the encompassing *burqa* (although, as explained below, many chose to continue wearing them because of their fear of governmental instability and lingering fundamentalism; in some areas, local government officials forced women to continue wearing burqas).

Resurgent Warlordism

In many areas of Afghanistan, local commanders and their troops—warlords—intimidated local populations; extorted money from businesses, farmers, traders, and ethnic minorities; manipulated elections processes during the *loya jirga*, through threats and violence; enforced in some areas Taliban-era restrictions on female employment and education; and were implicated in possible war crimes against civilians as well as Taliban and al-Qaeda troops. Commanders in most areas enjoyed almost complete impunity to harass and intimidate local populations, and to silence and sideline opponents.

In the last months of 2001 and first months of 2002, there was a wave of attacks on Pashtun civilians in the north of the country, seemingly because they shared the same ethnicity as the Taliban leadership. Specifically, troops associated with the predominately Uzbek party Junbish-i Milli-yi Islami-yi, led by Rashid Dostum, the predominately Tajik party Jamiat-e Islami, led in the north by Ustad Atta Mohammad, and the predominately Hazara party Hizb-i Wahdat, led in the north by Mohammad Mohaqiq, were all implicated in systematic and widespread looting and violence in almost every province under their separate control, almost all of it directed at Pashtun villagers. In scores of villages, homes were destroyed, possessions were taken, and men and boys were beaten and in some cases killed. As discussed in the women’s rights section below, there were several reports of rapes of girls and women. In Chimtal district near Mazar-e Sharif, and in Balkh province generally, both Hizb-i Wahdat and Jamiat forces were particularly violent: in one village, Bargah-e Afghani, Hizb-i Wahdat troops killed thirty-seven civilians, the largest known intentional killing of civilians since the fall of the Taliban. In other villages, Junbish forces conducted thorough looting, in some cases torturing villagers until they “confessed” as to where their valuables were hidden. East of Mazar-e Sharif, in Baghlan and Kunduz provinces, Jamiat forces attacked several Pashtun areas, severely beating civilians and extorting food, money, and other valuables. Many Pashtuns fled from these areas, as well as other villages in the north, and went to Pakistan or congregated in displacement camps in the west and south of the country. The United Nations also investigated reports in November 2002 that Junbish forces may have tortured and summarily executed witnesses to alleged killings of Taliban prisoners in late 2001.

In the west of the country, forces associated with Governor Ismail Khan were implicated in abuses against Pashtuns and other political opponents. Human Rights Watch documented that Ismail Khan’s troops were involved in numerous attacks against civilians in several districts in and around Herat city. In the south of the country, near Kandahar, several local warlords were accused of extorting money from local villagers, and troops in and around the city were repeatedly accused of

stealing money, cars, motorcycles, and other valuables from civilians, often beating them in the process.

Lingering Extremist Fundamentalism

In various areas around the country, and in Kabul city itself, there were troubling signs that some Islamic fundamentalist groups were continuing to exert power, intimidating and controlling populations, especially in the south and west of the country. In the south, self-appointed Vice and Virtue police in Zabul province intimidated women, teachers, journalists, and *loya jirga* candidates, and burned down small shops selling video movies, audio cassettes, and movie posters. In western Herat, governor Ismail Khan ordered a number of announcements on television and radio about proper Islamic conduct, including instructions for all females to dress in Islamic clothes (taken to mean the *burqa* or *chadori*) and not to associate with men in public, and for men to refrain from wearing western clothes. Ismail Khan's troops began harassing women not dressed in the *burqa* or *chadori*—a more restrictive version of the hijab worn in neighboring Iran. Herat's police also began arresting unrelated men and women seen together; in several cases, men were taken to Herat's jail and beaten by police troops; women and girls were taken to a hospital, where police ordered doctors to perform forced medical checks to determine if the women and girls had had recent sexual intercourse. There were also cases of youth arrested for drinking alcohol being shaved and paraded around the city, and made to “confess” publicly on local Herat television.

In Kabul, during the *loya jirga*, several conservative strongmen intimidated delegates, suggesting that if they spoke on Islamic issues or the Koran, they would “face the consequences.” Sima Simar, a member of the first interim government, was accused of blasphemy, and told to appear in a court to face the charges (later dropped). Through 2002, there were reports of police forces storming wedding parties, insisting that playing music was “illegal,” and arresting and sometimes beating musicians. Reconstituted Vice and Virtue squads patrolled Kabul, intimidating women without burqas and men wearing Western clothes.

The effects of these instances of enduring fundamentalism was difficult to gauge, but may have contributed to the general trend among women, even in Kabul, to resist removing their burqas in public, although many women had not worn the *burqa* before the Taliban regime. Resurgent fundamentalism helped sideline Sima Samar from President Karzai's cabinet, and affected Karzai's approach to women's rights issues. It has also had a significant impact on the redevelopment of women's institutions in areas in the south and west of the country.

Loya Jirga

Under the Bonn Agreement, a special commission of the Interim Authority was set up in early 2002 to convene a *loya jirga*—or grand council—in Kabul in June. The *loya jirga* was charged with choosing a head of state for a second interim government, approving proposals for this second government, and appointing its key ministers.

The selection process for the *loya jirga* took place throughout May and June. During the first stage, local authorities were supposed to choose a set of candidates at the local level, using a “traditional manner” for selecting representatives (in other words, using traditional local councils known as *shuras*); during the second stage, these candidates were to travel to regional centers to vote in a regular ballot to choose from among themselves a smaller group of final representatives who would attend the *loya jirga* in the capital, Kabul. According to the Special Procedures adopted for the convening of the *loya jirga*, the first and second stage elections were to be seen as “free and fair” by regional *loya jirga* commission observers; otherwise the commission could void the local elections, and appoint delegates themselves. All concerned parties agreed that the overall aim of the *loya jirga*, as articulated by Security Council resolution 1378, was the creation of a “broad-based, multi-ethnic and fully representative” Afghan government. The first and second stages of the *loya jirga* began in May, and the *loya jirga* itself took place from June 10-21.

That the *loya jirga* was even possible, and that it did in fact occur, was an important political breakthrough for Afghanistan. After twenty-three years of war, many Afghans were understandably overjoyed that leaders were gathering, and that political decisions were being made through “exchange of words, rather than exchange of bullets,” as one delegate put it. To many observers, the possibility of the meeting ending in deadlock, chaos, or violence was very real, and there was significant relief that it did not.

Still, there were serious shortcomings with the *loya jirga*. Despite the promise of a partially democratic or at least loosely representative political event, the *loya jirga* selection process and meeting in June was marred by manipulations and abuses by Afghan warlords, who interfered with the decision-making of more legitimate representatives. At the first and second stages of the selection process, Human Rights Watch documented several cases in which local warlords had imposed themselves into decision-making and voting processes, directly or indirectly intimidating voters and delegates through threats and the heavy presence of armed troops. Many of the delegates selected to the *loya jirga* were little more than puppets of the local commanders, and the delegates who were legitimate representatives of Afghan society were in many cases afraid to speak or vote freely during the *loya jirga*.

In almost every province in the west of the country, Ismail Khan intimidated, arrested, or beat *loya jirga* candidates and their supporters. Pashtun representatives from several areas accused Ismail Khan of arresting Pashtuns standing for election to the *loya jirga*, threatening and beating most of them. Supporters of the former king of Afghanistan—Zahir Shah—were also intimidated. Just before the *loya jirga*, Ismail Khan arrested Rafiq Shahir, a prominent member of the Herat professional *shura*, a local civil society group comprised of doctors, teachers, artists, and intellectuals, holding him for several days, inflicting severe beatings, and threatening him not to participate. In another province under Ismail Khan's control, three candidates were killed during the selection process. Human Rights Watch confirmed that one of these killings was carried out by commanders loyal to Ismail Khan.

In the south, Human Rights Watch also documented a pattern of intimidation by local leaders that resulted in several cancelled elections and, in some cases, led to delegates withdrawing their nominations.

Throughout the country, warlords and regional military commanders were selected for the *loya jirga*. General Rashid Dostum, the deputy defense minister in the interim authority and regional leader of the north of Afghanistan, managed to have himself elected to the *loya jirga* despite the fact he was serving as a military commander and was accused of being complicit in human rights violations; both factors made him ineligible for the *loya jirga* under the agreed upon procedures. Other governors also attended, in violation of the *loya jirga* procedures, including the governor of Kandahar, Gul Agha Sherzai, the governor of Nangahar, Haji Abdul Qadir, and Ismail Khan. Zalmay Khalilzad, the U.S. special envoy to Afghanistan, and Lakhdar Brahimi, the special representative of U.N. Secretary-General Kofi Annan, pressured the Afghan *loya jirga* commission to allow regional governors and military commanders to attend.

Many delegates and participants in the *loya jirga* process were so afraid of local warlords that they refused to speak openly with researchers from Human Rights Watch. U.N. observers confirmed that a climate of fear was pervasive throughout the elections.

At the *loya jirga* itself, Human Rights Watch documented more problems, including a widespread and systematic pattern of intimidation and threats by warlords and regional leaders; covert and overt surveillance by intelligence agents allied with certain parties; and a general failure by the *loya jirga* commission, relevant U.N. officials, and other international actors to enforce provisions in the Bonn Agreement and the *loya jirga* procedures that were meant to sideline Afghan military leaders and Afghans with records of serious human rights abuses. Numerous *loya jirga* delegates complained to Human Rights Watch that they received explicit threats from warlords warning them not to vote in certain ways or interfere with the backdoor political dealing going on between them. Some delegates were threatened several times. One delegate was threatened for giving a speech about women's rights in the Koran. The husband of the only female candidate for president was threatened by intelligence agents allied with the Jamiat party. There were many instances of intelligence agents making threats to delegates who wished to speak in debate, and many instances of agents taking photographs and writing the names of delegates who spoke openly about their frustrations with the process.

In addition, a general sense of chaos and poor management marred the *loya jirga* throughout its proceedings. The voting for Hamid Karzai's presidency proceeded by secret ballot and was largely uncontroversial (although some delegates were disappointed by the seemingly U.S.-imposed arrangement to have the former Afghan king, Zahir Shah, withdraw as a candidate). Later votes taken on the arrangement of the transitional government and its key personnel, however, were highly irregular: there was no debate or proper vote on the composition of the next transitional government (instead, Karzai nominated a cabinet which was approved by a vague "voice" vote) and the *loya jirga* never approved any plan or proposal for the design of the government. The *loya jirga* chairman, Mohammad Ismail Qasimyar, failed to exercise effective control over the proceedings, and the United Nations failed to assist the *loya jirga* commission in preparing for a more orderly meeting. Warlords were handily able to manipulate the process, and as a result, most legitimate participants were thoroughly disillusioned with it.

At the close of the *loya jirga*, President Karzai invited delegates who had been threatened to report abuses to his office directly, but at the time of this writing, no clear action had been taken to hold abusers accountable.

Continuing Insecurity

Although some of the worst violence during 2002 took place in the first few months of the year, insecurity plagued most of the country throughout the year. Local armed conflict continued in several areas of Afghanistan. Fighting between rival commanders occurred in the provinces of Balkh, Jowzjan, Samangan, Sar-e Pol, Bamiyan, Paktia, Paktika, Khost, Uruzgon, Hilmand, Farah, and Herat. As described below, incidents of violence retarded refugee return programs, and led to some displacement—especially from the north. Hundreds of civilians around the country were killed and injured in the ongoing violence.

On February 14, 2002, Minister of Civil Aviation and Tourism Abdul Rahman was killed during a riot at the Kabul airport. Vice President Haji Abdul Qadir, a former mujahidin military commander from Jalalabad, was assassinated by gunmen in Kabul on July 6, 2002.

Security deteriorated further in late 2002. There was an assassination attempt on President Karzai in early September in Kandahar, on the same day a large bomb was detonated in Kabul, killing approximately twenty-six people. A few days later, over ten civilians were killed in fighting in Khost, during fighting that began after a bomb was detonated in the capital of that province. A month later, several civilians were killed during a conflict near the Shindand airbase in the west. Scores of civilians were also killed in violence in October and November in central and northern provinces.

Throughout the year, humanitarian aid workers were attacked or shot at near Mazar-e Sharif, Herat, and Kandahar cities. Travelers between major cities reported that extortion, robbery, and harassment—almost all by armed troops—regularly occurred on most roads. Trucks and buses were "taxed" repeatedly at military checkpoints; local minorities often were forced to pay more than others. People who challenged the troops risked being pulled from cars, beaten, and arrested.

Women and Girls' Rights

Many women and girls in Afghanistan benefited from immediate relaxations of Taliban-era prohibitions, and some women even secured some important governmental posts at the local and national level. However, because of lingering insecurity and recurring threats by fundamentalist groups, many female Afghans continued to fear for their security, and, as noted above, continued to wear the body-encompassing *burqa*, which Taliban police had forced women to wear under threat of imprisonment and beatings. Although many women and girls returned to workplaces and schools, millions remained marginalized in Afghanistan because of continuing discrimination and harassment by governmental and non-governmental actors, unable to secure their livelihoods, educations, or basic human rights. The situation was especially bad in the west and south.

As detailed above, after the fall of the Taliban, the north of Afghanistan was gripped by acute general lawlessness and insecurity, factional rivalry between Junbish, Jamiat, and Hizb-i Wahdat troops, and retaliatory violence against Pashtun civilians. As part of the general violence against Pashtuns, the forces noted above perpetrated sexual violence against Pashtun women and girls, in some cases, gang-raping all the female members of a family, including girls as young as fourteen.

Women and girls of other ethnicities also experienced sexual violence in Mazar-e Sharif, in northern Afghanistan. Although in May and June 2002 attacks against ethnic Pashtuns decreased, some women living in camps near Mazar-e Sharif for internally displaced persons (IDPs) faced increased sexual abuse, especially after the camp was militarized by Jamiat forces.

Afghan women and girls in many areas also continued to face threats and violence for not adhering to former Taliban edicts that had previously strictly controlled their behavior, dress, expression, and movement. After schools reopened in March 2002, women and girls in Zabul and Kandahar provinces in southern Afghanistan felt unsafe walking to school because of the continued presence of gunmen and soldiers allegedly aligned with the Taliban, some of whom would threaten or attack them. In October, fundamentalists destroyed several girls schools in the center and east of the country—either burning or rocketing the schools when classes were not in session. In the west of the country, women were instructed not to work or ride in cars with foreign men; some Afghan women working with international agencies in Herat were harassed and intimidated, told to lower their burqas, and not to show their face. Through October and November, the situation for women's rights in the city of Herat deteriorated further: several women and girls in Herat observed walking or driving with unrelated men were arrested and taken to hospitals, where troops ordered doctors to perform forced gynecological check-ups to determine whether they had had recent sexual intercourse.

These threats and acts of violence denied women and girls the opportunity to participate effectively at all levels in public life at a critical moment in the history of Afghanistan. As the *loya jirga* got underway in June, many women felt compelled to restrict their participation. The ongoing abuses were especially disappointing given the context. Historically, *loya jirgas* have been largely unrepresentative of women, since most delegates are chosen from male-dominated *shuras*. But at the June assembly, 160 women were guaranteed seats out of 1,500 designated seats, and women also had the option of being elected to non-reserved seats. One hundred and eighty women delegates were actually present at the *loya jirga*, a significant step forward for women's political representation. However, a number of the women delegates, such as some of the twenty-eight women from southern Afghanistan, faced threats against participating in the elections. The husband of a candidate in the south was told to make his wife withdraw, or they would be killed. As noted above, Sima Samar, the former women's minister, faced threats during and after the *loya jirga* from men aligned with the Jamiat faction and officials in government. Many other women were threatened not to "make trouble."

Refugees and Internally Displaced Persons

At the beginning of 2002, Afghanistan continued to have one of the largest displaced populations in the world: well over four million refugees were displaced outside their country, mostly living in Iran and Pakistan, and over one million were displaced within Afghanistan. As a result of the Taliban's demise, the end of civil conflict in many areas, good security conditions in major urban areas, and expectations of better economic prospects attached to the increased international involvement, hundreds of thousands of refugees returned in late 2001 and early 2002, mostly from Pakistan, but also from Iran, Europe, and the United States.

On March 1, 2002, the United Nations High Commissioner for Refugees (UNHCR) and Afghan authorities started a facilitated return program for refugees from Pakistan, and on April 3, UNHCR and the governments of Iran and Afghanistan signed a tripartite agreement for the voluntary repatriation of Afghan refugees from Iran. Returning refugees from both countries were provided with transportation and an assistance package from UNHCR and the World Food Program (WFP), including a small cash grant to cover transport costs on arrival in Afghanistan, and basic food and non-food items. UNHCR and the International Organization for Migration (IOM) also provided transport and basic assistance to internally displaced persons wishing to return to their homes. UNHCR estimated in mid-November 2002 that 1.7 million refugees had returned to Afghanistan in 2002, although it acknowledged that many returnees, especially from Pakistan, were abusing repatriation programs: returning to Afghanistan, receiving assistance, and then leaving once again.

At the same time, there were credible reports from Iran and Pakistan of forced returns and deportations as well as "push factors" such as police harassment and restrictions on employment rights and health and education services.

Refugees were returning to a country ravaged by decades of civil war and conflict, destruction from the U.S. bombing campaign, insecure conditions in some parts of the country, and the continuation of devastating drought in the south. Basic infrastructure and services were essentially non-existent outside urban areas. The homes and property of many refugees and displaced persons were destroyed, and many returnees had absolutely no resources with which to resume rural life. Most returnees faced a grim reality in their former towns and villages—no shelter, food, roads, schools, health clinics, effective security, law enforcement, or employment opportunities. As a result, although well over one million Afghan refugees in Iran and Pakistan decided to return to Afghanistan in 2002, many did not return to their original homes, or the homes of family members, but instead chose to reside in urban areas such as Kabul, Jalalabad, and Mazar-e Sharif. Many more remained in Pakistan and Iran, reluctant to return to areas in Afghanistan still suffering from insecurity or severe drought. Many refugees continued to fear persecution at the hands of local commanders in several areas of Afghanistan, such as former government officials, journalists, political opponents, and critics of the current authorities. Many residents of Mazar-e Sharif and Herat had to flee to Kabul or abroad to escape political persecution. On August 6, 2002 UNHCR estimated that some eight hundred thousand Afghans continued to be internally displaced in Afghanistan. As

of mid-November, well over one million refugees remain in Pakistan and well over one million remain in Iran.

The United Nations and Afghan government had not anticipated returns on this scale. The Afghan authorities, UNHCR, other U.N. and humanitarian agencies, and donors were seriously ill-equipped to cope with the scale and speed of the repatriation. Agencies' budgets were overstretched, which prevented UNHCR and others from offering adequate assistance. Monitoring of returnee sustainability and security was slow to start, and was insufficient in many areas.

There were also budgetary shortfalls for U.N. agencies whose work impacted repatriation programming. When the fifteen-nation Afghanistan Support Group met in Geneva in July 2002, the chair noted a budgetary shortfall of U.S.\$777 million for reconstruction and rehabilitation efforts in Afghanistan; at the same meeting UNHCR announced that 25 percent of its budget had not been met and it still required U.S.\$70 million for the remainder of the year. These shortfalls in reconstruction and development funds exacerbated the "overstretch" problems. At the end of May 2002, the IOM announced that it was forced to suspend temporarily its internal transport network for returning refugees from Iran and internally displaced persons due to lack of funding (it was able to resume limited transport for returning internally displaced persons in June). The World Food Program, which supplies food to returning refugees in many areas, also warned that it would face food shortages by November if donors did not step up to the mark. Development programs—which could have a significant impact on returnee trends—were stalled for most of the year.

Apart from the lack of funding and unmet humanitarian needs, returnees also faced serious ongoing security problems throughout Afghanistan. As documented earlier in this chapter, there were continuing hostilities between warlords in the north and west of the country which made it impossible for humanitarian agencies to operate in certain locations; there were also many areas in which lawlessness and abuses by warlords' forces made it impossible for refugees to return to their homes. In addition, in some areas in the north and west of the country, fighting, political oppression, and ethnically-based abuses were in fact still causing displacement: according to UNHCR, roughly fifteen thousand Pashtun Afghans fled areas in the west because of harassment by forces associated with Ismail Khan; more than thirty thousand Pashtuns fled the north of the country because of abuses by forces there.

The threat of continued fighting, criminality, and political instability slowed repatriation in many areas—especially areas outside of Kabul. General insecurity repeatedly led to the temporary suspension of return programs. On July 2, UNHCR announced that it was suspending returns of internally displaced persons from the western province of Herat to Faryab and Samangan provinces and to parts of Balkh province in northern Afghanistan, because of the escalating violence and worsening human rights situation in northern and central Afghanistan. The gang-rape of an international aid worker close to Mazar-e Sharif in early June and a series of other attacks on aid agencies in the north around the same time prompted humanitarian relief organizations to call for an extension of the ISAF and caused some to threaten to withdraw altogether if security conditions did not improve. In September of 2002, UNHCR suspended some operations in the west of the country, after

a shooting incident at the Iran-Afghan border in which a UNHCR staff person was almost hit. Refugees themselves hesitated to repatriate to several areas; for instance, near Khost and in some places in Bamiyan, there were almost no refugee returns in 2002.

Landmines

On September 11, 2002, President Hamid Karzai deposited Afghanistan's instruments of accession to the 1997 Mine Ban Treaty with the United Nations, making the country the 126th state party to this historic agreement. The accession followed a pledge made during the first international mine action conference to take place in Kabul in late July 2002: "Building a Peaceful Future for Afghanistan: A Total Ban on Anti-Personnel Mines." The move was likely to boost funding and other international support for mine action programs in this heavily mine-affected country.

Demining operations were virtually brought to a halt following September 11, 2001. The mine action infrastructure suffered greatly during the subsequent military conflict, as some warring factions looted offices, seized vehicles and equipment, and assaulted local staff. Approximately 80 percent of the demining equipment for the southern region of Afghanistan was destroyed during October and November 2001, mostly in a U.S. air strike on a U.N. compound near Kandahar which was occupied temporarily by Taliban troops. Four deminers and two mine detection dogs were also killed in errant U.S. air strikes in Kabul. Military operations created additional threats to the population, especially unexploded U.S. cluster bomblets, ammunition scattered from storage depots hit by air strikes, and mines and booby-traps newly laid by Northern Alliance, Taliban, and al-Qaeda fighters.

A funding shortfall for the mine action program in Afghanistan prior to September 11, 2001 had threatened to curtail mine action operations. After October 2001, about U.S.\$64 million was pledged for mine action in Afghanistan. By March 2002, mine clearance, mine survey, and mine risk education operations had returned to earlier levels, and subsequently expanded beyond 2001 levels.

The United States-Led Air War and Conduct of Taliban, Northern Alliance, and Coalition Forces

U.S.-led Operation Enduring Freedom began in Afghanistan on October 7, 2001. The initial phases of the military offensive, through roughly January 2002, largely consisted of two activities. The first was U.S. and British airstrikes against fixed tactical and strategic targets throughout Afghanistan. The second involved cooperation between Afghan opposition military forces and U.S. Special Operations troops to identify emerging tactical and leadership targets for attack by U.S. strike aircraft and heavy bombers.

Human Rights Watch sent a team to Afghanistan in March 2002 to investigate allegations of civilian casualties during Operation Enduring Freedom. The United States generally took significant precautions before attacking fixed strategic targets

in both urban and rural areas. The use of precision-guided munitions in such attacks was widespread and generally confined damage to intended targets.

However, the bombing caused significant numbers of civilian casualties due to technical failures, human error (including misidentification of targets), and in some cases, weapons selection and targeting decisions that were inconsistent with international humanitarian law.

The use of cluster bombs by U.S. forces also caused civilian harm. Cluster bomb strikes in populated areas, including two incidents near Herat, killed at least twenty-five civilians and injured many more. Long after the initial attacks, unexploded cluster bomblets littered villages and farmland, waiting to be cleared. They became de facto landmines that caused scores of additional civilian casualties.

The Taliban and al-Qaeda bore major responsibility for civilian harm during the air war. In particular, there was evidence that Taliban and al-Qaeda forces in some cases used the civilian population to shield themselves from attack, a practice prohibited by international humanitarian law.

As discussed in, *Human Rights Watch World Report 2002*, there were serious allegations about the conduct of anti-Taliban forces in late 2001, including that forces in the northeast and south summarily executed Taliban prisoners of war. In 2002, there were several reports that Rashid Dostum's troops had killed hundreds of Taliban prisoners while transporting them in sealed containers from Kunduz towards Mazar-e Sharif. The bodies were said to have been buried in mass graves in Balkh province. There were also allegations that forces throughout Afghanistan summarily executed Pashtuns and other minorities perceived to be associated with the Taliban. These and other alleged crimes committed by anti-Taliban forces had not yet been investigated by the United Nations at this writing.

U.S. and coalition military operations continued in eastern and southern Afghanistan through the autumn of 2002 and were ongoing as of this writing. There were sporadic incidents of civilian casualties in this period, including an attack by an AC-130 gunship in Oruzgan Province on June 30, 2002, in which at least thirty-five Afghan civilians were killed. The continued detention of Afghan and al-Qaeda forces on U.S. military bases also raised serious issues of international humanitarian law. (See United States.)

DEFENDING HUMAN RIGHTS

The Bonn Agreement of 2001 mandated the creation of an Afghan human rights commission, tasked with promoting human rights norms and investigating human rights violations. (As noted below, the United Nations was also given an affirmative right under the agreement to conduct human rights investigations.) The commission remained in dire need of international support throughout the year, and at this writing continued to be without basic resources such as cars, phones, and adequate office space. The head of the commission, Sima Samar, although weakened by attacks on her reputation, submitted a budget and plan for 2003 that included investigations of abuses, a country-wide consultation process on accountability for past abuses, and human rights education projects.

Several human rights and civil society groups—some of which had already been operating in exile before the Taliban's fall—opened offices in Afghanistan in 2002. Most were severely underfunded, without adequate resources to operate effectively, but the appearance of new groups itself was a welcome sign in a nation in which human rights groups had long been suppressed.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

The United Nations Assistance Mission in Afghanistan (UNAMA) expanded its operations throughout 2002, increasing staff and offices in almost every region in Afghanistan. For the first time in years, the U.N. mission to Afghanistan had human rights monitoring and protection staff working within Afghanistan. The 2001 Bonn Agreement expressly gave the U.N. "the right to investigate human rights violations and, where necessary, recommend corrective action." (Annex II.) UNAMA human rights officials investigated human rights abuses in various parts of the country and maintained human rights monitoring staff in several areas. The U.N. also played a big role in organizing and monitoring the *loya jirga*, and in the protection of delegates and other political representatives who faced threats following its conclusion. U.N. civil and political affairs officers, and Lakhdar Brahimi, the special representative of U.N. Secretary-General Kofi Annan, continued to play a major role in negotiating agreements between rival groups in Afghanistan and maintaining stability.

Several U.N. human rights officials began preliminary investigations in Afghanistan. The U.N. special rapporteur on Afghanistan, Kamal Hossein, traveled to Afghanistan. The special representative of the secretary-general on children in armed conflict and the special rapporteur on summary and extrajudicial executions visited Afghanistan in the course of the year. U.N. High Commissioner for Human Rights Mary Robinson traveled in Afghanistan extensively in March, and reported her findings and conclusions.

UNAMA's work on human rights suffered from serious weaknesses. The mission's "light footprint" approach—meant to lower the number of international staff and increase Afghan participation in U.N. efforts—was not effective in addressing human rights violations. Human rights components of the mission were understaffed and given low priority by UNAMA leadership. No efforts were made to place a heavy monitoring presence on the ground, patrol areas of concern, or robustly investigate alleged war crimes.

UNAMA staff did work diligently with what resources they had to monitor human rights conditions. They succeeded in containing some of the effects of intimidation and abuses during the *loya jirga*, although they were ultimately unable to stop local military commanders from manipulating the election process. UNAMA staff also mediated several disputes between commanders, and in a number of cases stopped or prevented local armed conflicts from erupting.

Still, by the end of the year, only one international human rights monitor was

posted in each of Afghanistan's eight regions, supported by two local staff. Because the Afghan Human Rights Commission was weak and poorly organized, UNAMA was unable to rely on its work to supplement the UNAMA mandate. The U.N. was able to gather useful information on human rights conditions in many areas, and intervened in important cases to protect vulnerable persons, but on the whole the mission was reactive, and did not effectively process information gathered by staff. The UNAMA office often did not publicize information and findings about local human rights situations in the country. Many UNAMA staff expressed frustration with the seemingly low priority put on human rights in the mission.

United States, Iran, Pakistan, U.S. Coalition Partners, and ISAF Contributors

The United States was heavily involved in political settlements, negotiations, and assistance to Afghanistan in 2002, but did not pursue a coherent or long-term security strategy. Neither did Afghanistan's neighbors, Pakistan and Iran. The official policy of these countries during 2002 was to work with President Hamid Karzai to help him strengthen his government and rebuild the country. Yet the U.S., Iran, and Pakistan all actively supported local warlords in various regions of the country. During the U.S.-led attack in Afghanistan in 2001, the United States, United Kingdom, and other coalition partners supplied warlords with cash, weapons, uniforms, and satellite telephones.

These policies were contradictory, and worked to destabilize the country. Local warlords with records of human rights abuses, for instance Ismail Khan, Muhammad Karim Khalili, and Rashid Dostum, all strengthened their grip on local power outside of Kabul. Few meaningful steps were taken by the United States, Iran, or Pakistan to counteract or blunt the effects of this strategy, nor by countries involved in the U.S.-led coalition or in peacekeeping operations (ISAF), including Turkey, Canada, Germany, the Netherlands, and Australia. Most nations acted as if police training and the rebuilding of the Afghan Army in Kabul would be sufficient solutions to Afghanistan's security problems, despite the fact that these programs were poorly administered, did not have much effect beyond Kabul, and were considered to have little effect in the short- or medium-term.

International actors in Afghanistan resisted widespread calls to expand the ISAF peacekeeping force beyond Kabul. Instead, security outside Kabul was put in the hands of the local military forces that the U.S.-led coalition supported during the war against the Taliban. As detailed above, many of these same forces committed abuses against civilians. U.S. and coalition forces in some areas acted as de facto monitors, and helped create a modicum of protection, but in many areas of the country warlords continued to commit abuses against the population. President Karzai and various Afghan leaders continued to call on the U.S. and its partners in Afghanistan to expand ISAF.

On November 12, 2002, the United States Congress unanimously passed the Afghanistan Freedom Support Act, which authorizes increased funding for reconstruction programming, urges the president to act to expand peacekeeping forces

outside of Kabul, and requires the president to deliver a report to Congress every six months describing, among other things, what the administration has done to improve security, human rights protections, and rule of law.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

All Our Hopes are Crushed: Violence and Repression in Western Afghanistan, 10/02
Afghanistan: Return of the Warlords: A Human Rights Watch Briefing Paper, 6/02
Taking Cover: Women in Post-Taliban Afghanistan: A Human Rights Watch Briefing Paper, 5/02

Paying for the Taliban's Crimes: Abuses Against Ethnic Pashtuns in Northern Afghanistan, 4/02

BURMA

With the release of opposition leader Daw Aung San Suu Kyi in May after nineteen months of de facto house arrest, hope arose that the military junta might take steps to improve its human rights record. However, by late 2002, talks between Suu Kyi and the government had ground to a halt and systemic restrictions on basic civil and political liberties continued unabated. Ethnic minority regions continued to report particularly grave abuses, including forced labor and the rape of Shan minority women by military forces. Government military forces continued to forcibly recruit and use child soldiers.

HUMAN RIGHTS DEVELOPMENTS

Burma faced serious economic problems in 2002, but internal political struggles prevented a unitary response to the economic crisis. A reshuffle of top generals in November 2001 was followed by the March 2002 arrests of four relatives of former top general Ne Win, amidst allegations of coup plots. In September 2002, the four were sentenced to death for treason.

In the midst of this political and economic instability, Suu Kyi's release in May seemed to augur a new readiness on the part of the ruling military party, the State Peace and Development Council (SPDC), to negotiate with opposition groups in hopes of gaining much-needed international investment and aid. Suu Kyi traveled outside of Rangoon to Mandalay and elsewhere, meeting with thousands of supporters without interference or arrest.

These negotiations were held chiefly with the National League for Democracy (NLD), which is led by Suu Kyi. The NLD had been elected to a majority of seats in parliament in 1990, but was blocked from taking power by the then-ruling State

Law and Order Restoration Council (SLORC). SLORC changed its name to the State Peace and Development Council and shuffled some top leaders. In 2002, local NLD township offices reopened around the country. In September 2002, the NLD called on the SPDC to fulfill its pledge to begin negotiations to hand over power to the elected representatives. Ethnic minority opposition groups called for their inclusion in negotiations between the government and the NLD, but the SPDC and Suu Kyi have yet to agree to this.

During the negotiations, the government released more than three hundred political prisoners. In August, Burmese opposition groups jointly called on the SPDC to release hundreds of political prisoners still in prison, including eighteen elected members of parliament from opposition political parties. The U.N. urged the SPDC to declare a general amnesty for all political prisoners, but the SPDC ignored these demands.

In the meantime, more political dissidents were arrested, and prominent political prisoner U Aung Mye Thu passed away. In December 2001, seventy-four-year-old former university rector Dr. Salai Tun Than was arrested for his one-man protest in front of Rangoon City Hall. The Yezin University professor of agronomy from Pinyinmana had distributed copies of his letter calling for political reform and multiparty elections. He is serving a seven-year sentence in a Rangoon prison.

In mid-August, during a visit by Malaysian Prime Minister Mahathir Mohamad, the state detained fifteen Rangoon university students in the first major crackdown after Suu Kyi's release. Thirteen were subsequently released, but two law students were sentenced to long prison terms for distributing pro-democracy pamphlets. In September, dozens of dissidents were detained in Rangoon.

Burma's other continuing human rights problems include the widespread use of forced labor, forced relocations, censorship, use of child soldiers, violations of religious freedom, and atrocities committed against ethnic minorities, whose regions make up most of the country's territory. Burmese Muslims were especially targeted for persecution.

Although a law banning forced labor was passed in October 2000, authorities continued to use forced labor, especially in rural ethnic regions. The Burmese military compelled villagers to work on infrastructure and agricultural projects, as porters in army camps, and on the construction of Buddhist temples. In November in Shan State, villagers were compelled to build railroads and to farm; one laborer who resisted was reportedly beaten to death. Children as young as seven were used as forced labor in many parts of the country to carry army supplies or work on construction sites.

The military continued to forcibly relocate minority villages, especially in areas where ethnic activists and rebels were active, and in areas targeted for the development of international tourism. The U.S. State Department's 2002 country report on human rights in Burma estimated that forced relocations had produced hundreds of thousands of refugees, with as many as one million internally displaced persons within the country.

The state continued to censor media. The Committee to Protect Journalists reported that eighteen journalists were held on charges ranging from "illegal possession of a fax machine" to smuggling poetry out of prison. One Burmese national

was arrested in February and accused of sending information to foreign radio stations, and the SPDC alleged that many more "informers" who were sending information to foreign media would be arrested soon. Two Burmese magazines, *Living Color* and *Mhyar Nat Maung Mingalar*, were each shut down for one month for minor infractions.

Burma continued to use child soldiers. Thousands of boys, some as young as eleven, have been forced into Burma's national army. Recruiters typically staked out railway, bus, and ferry stations; the street; marketplaces and festivals; and threatened boys who could not produce identity cards with long prison terms or military enlistment. Boys who resisted recruitment were often beaten or detained. Once deployed, they were forced to fight against Burma's ethnic minorities and other opposition forces; and to participate in human rights abuses against civilians, including rounding up villagers for forced labor, burning villages, and extrajudicial executions. Child soldiers who deserted had few options, and typically either joined armed opposition forces or fled to neighboring countries. After an October 2002 Human Rights Watch report on the use of child soldiers in Burma attracted international attention, the government denied any recruitment or use of child soldiers.

Children were also present in many armed opposition groups, though the numbers of child soldiers in these smaller armies were fewer. Both the Kachin Independence Army and the United Wa State Army, which have historically been the largest opposition groups, but which now sometimes align with the Burmese military, forcibly recruited children. Others, such as the Karen National Liberation Army, Karenni Army, and Shan State Army-South accepted boys who expressed a desire to join, despite the armies' official minimum recruitment age of eighteen.

Lack of access to education exacerbated human rights abuses against children in Burma. Some schools in ethnic areas were closed because of fighting, and even when schools were open, families were often unable to pay the school fees. Children who left school often took jobs selling food or goods in the streets. Many traveled to larger cities seeking work. These children became easy targets for military recruitment or forced labor.

Many of the worst violations in the country were reported against civilians living in minority regions, especially in Karen and Shan States. In March, fighting flared up along the Thai-Burmese borders, when Karen rebels reportedly attacked army outposts. In May, the Burmese military and Buddhist Karen allies attacked Christian Karen villages, hospitals and schools. Burmese soldiers executed villagers suspected of sympathy with the rebels, and in several instances also executed Karen families caught while attempting to flee forced relocation. Townships in Shan State, such as Loi Kha and Loi Kawwan, were closed off by the Burmese military to outside visitors, amidst reports of forced relocation, forced labor, torture, rape, and extrajudicial killings. Refugees reported massacres in Shan State in September. Thousands of Karen and Shan refugees fled across the borders to Thailand.

In July, the Shan Women's Action Network (SWAN) and the Shan Human Rights Foundation (SHRF), based in Thailand, published a report on the systematic rape of women and girls in Shan State by the Burmese military. The report, based on interviews with refugees along the Thai-Burmese border, documented the rapes of 173 women and girls by Burmese military forces. According to the report,

officers committed 83 percent of the rapes, often in front of their troops; 25 percent of the rapes resulted in death; and over half were gang-rapes. In some cases, women were held in sexual slavery. The report attracted international attention. Subsequently, the Burmese government claimed to have launched an investigation which concluded the allegations were unfounded. In one of the ensuing series of press conferences, the government said the report's authors were "narco-terrorists" sponsored by foreign governments. Some researchers reported harassment and threats in Thailand after the report's publication. In September, some refugees fleeing Shan State reported that villagers were being forced to sign statements denying the rapes.

In the wake of international press reports alleging ties between al-Qaeda and the Burmese government, the government launched a broad crackdown on Rohingya Muslims.

Tensions between the Buddhist majority and Muslim minority were still apparent in 2002, and restrictions were tightened in late 2001. Restrictions on travel by Muslims were far more rigidly enforced, especially in Arakan State, and the government limited the number of Muslims allowed to travel to Mecca for the Hajj pilgrimage. Muslims claimed they continued to have difficulties getting passports to travel abroad and in building mosques. News accounts reported extortion and abuse of Muslim crew members on fishing boats by the Burmese Navy off the Maungdaw coast.

Other religious groups reported restrictions as well. In the northwest, observers reported that the government was forcibly converting Naga Christians to Buddhism. The government continued its widespread building project with new Buddhist temples and statues erected around the country, including on ethnic minority sacred sites. Some monuments sacred to ethnic minorities were destroyed and replaced with new structures, such as hotels, against local objections.

DEFENDING HUMAN RIGHTS

The SPDC did not permit local human rights groups to operate in Burma and those human rights and democracy organizations that did function had to do so from abroad.

THE ROLE OF THE INTERNATIONAL COMMUNITY

The release of Suu Kyi from house arrest and the release of political prisoners were welcomed by the international community. Some governments and aid agencies made plans to increase humanitarian assistance, such as to HIV/AIDS programs. Western governments kept in place bans on investment or economic assistance to Burma. The United Nations was especially active and appeared to play a critical role in the negotiations that preceded Suu Kyi's release. The U.N. special rapporteur on human rights in Burma, Paulo Sergio Pinheiro, visited in February, April and October, meeting with top generals, Suu Kyi, and ethnic minority representatives. After the October visit, Pinheiro called for an inquiry into rights viola-

tions in ethnic minority regions, and proposed that the International Red Cross be allowed into all areas of conflict in Burma.

U.N. Secretary-General Kofi Annan's special envoy for Burma, Razali Ismail, visited the country in December and August. Razali was widely viewed as active in bringing about Suu Kyi's release, but was unable to convince the SPDC to resume the dialogue with Suu Kyi that began in October 2001, or to declare a general amnesty for political prisoners. After a visit in November 2002, Razali said he would quit the post if the government did not begin talks with Suu Kyi aimed at political reforms.

The International Labor Organization (ILO) sent a high-level mission to Burma in February, which was prevented from seeing Suu Kyi. This mission followed the unprecedented decision of the ILO in 2000 to recommend that ILO members review their economic ties with Burma and take appropriate action to ensure that they did not abet what it called "widespread and systemic" forced labor. In March, the ILO and the Burmese junta agreed that the ILO would appoint a liaison officer to monitor Burma's pledges to end forced labor. On September 9, 2002, Ms. Perret-Nguyen was appointed to assume this position beginning in October.

Australia dispatched Foreign Affairs Minister Alexander Downer to Burma in October 2002. Downer was the first Australian senior official to visit Burma in twenty years, and the first senior Western official to visit after Suu Kyi's release. He reported after his visit that Burma's generals had given him no timeframe for political reform, and that Suu Kyi was increasingly pessimistic about the prospects for genuine change.

China continued to build its massive economic and military investment in Burma. In December 2001, President Jiang Zemin visited Burma and promised U.S.\$100 million in new Chinese investment. That same month, authorities delivered a digital high-resolution satellite ground station to the Burmese government. In January and February 2002, the Chinese military delivered sizeable shipments of arms to Burmese naval bases.

The European Union maintained its sanctions on Burma, but explored possibilities for increased humanitarian assistance. The E.U. was again the sponsor of critical Burma resolutions in both the U.N. Commission on Human Rights, and in the U.N. General Assembly. A European Union troika delegation visited Burma in March to continue a dialogue on promoting political reconciliation with the opposition. In September, E.U. delegates met with Suu Kyi and called on Burma to make progress toward democratization. The Asia-Europe (ASEM) summit in Copenhagen in late September did not include Burma.

India initiated diplomatic talks with Burma in late 2001 aimed at joint action against ethnic militant groups on their shared border. Senior Indian officials said anonymously that the Indian government was trying to counter China's growing economic and military influence in Burma.

Japan, Burma's largest single aid donor, announced that it would give Burma debt relief of ¥1.8 billion (U.S.\$14.4 million). Following Suu Kyi's release, Japan disbursed U.S.\$4.9 million of a U.S.\$29 million Official Development Assistance (ODA) loan approved earlier for the renovation of a hydroelectric plant in eastern Burma. In August, the Japanese foreign minister met with Suu Kyi and SPDC gen-

erals. She urged progress on democratization and human rights, but made no further aid commitments.

Under the leadership of Prime Minister Mahathir Mohamad, the Malaysian government began a repressive crackdown on dissidents and other refugees fleeing the Burmese junta and seeking asylum in Malaysia. Rohingya Muslim refugees fled to Malaysia and Bangladesh. In June 2002, eight undocumented Rohingya migrants entered the grounds of the local office of the U.N. High Commissioner for Refugees in Malaysia and demanded asylum. In late July, Malaysian police arrested 135 mostly undocumented Rohingya migrants seeking asylum outside the same office. In August, after Suu Kyi called for Burma to move more quickly toward reform, Prime Minister Mahathir visited Burma and publicly declared that Burma should not be rushed prematurely into democracy.

Russia became increasingly active in the ongoing Burmese military buildup, promising to help Burma to construct a center for nuclear studies and a research nuclear reactor. The plans were described as part of Russia's commitment to improving Burma's technology and education sectors, but these facilities could also provide a basis for future Burmese efforts to acquire the means to build nuclear weapons.

Thailand's relationship with Burma continued to be extremely tense, with occasional outbreaks of violence along the border. At times, Thailand, the main destination for minorities, political dissidents, rural people, and women and children fleeing violence in Burma, appeared to respond to Burma with efforts aimed at appeasing the military junta. In November, a group of undocumented migrants and workers in northern Thailand were repatriated to Burma, amidst allegations that some had been tricked into signing repatriation forms. Some Burmese child soldiers tried to escape forced conscription by deserting their armies and fleeing across the border to Thailand. Thai authorities should identify such children if arrested for illegal presence and pass them over to the U.N. High Commission for Refugees so that they may seek asylum, but many such children were unable to access such protection and continued to live in hiding, fearing deportation to Burma.

In late December 2001, the Thai government forcibly closed a major refugee camp housing political dissidents, and conducted talks with Burmese authorities about repatriation plans. The problem of illegal workers from Burma was gruesomely highlighted when the bodies of twenty ethnic Karen villagers were found in the river that divides Burma from Thailand. Investigators later concluded that the Karens were being smuggled in by a Thai couple, who discovered en route that the laborers had suffocated and simply dumped their bodies in the river. The border problems were highlighted again in June when Karen gunmen, in a debt squabble, fired on a school bus full of Thai children, killing two and injuring fourteen; this sparked a manhunt by Thai authorities on the borders and greater ill-feeling toward Burmese refugees living in Thailand.

In April, NGOs reported that about three thousand Burmese migrants deported from Mae Sot, Thailand were forced to undergo HIV testing in a holding center on the Burmese side of the border. Those who tested positive were reportedly segregated and sent to a hospital in Rangoon. Both mandatory testing and the segrega-

tion of HIV-positive persons violate international standards. The Burmese government has yet to take clear steps in mounting a serious response to the HIV/AIDS epidemic.

In May, the Burmese-aligned United Wa State Army and Thai troops traded artillery fire across the border. By July, Thailand and Burma were embroiled in a no-holds-barred media war, in which Burmese state press attacked the Thai monarchy; Burmese authorities also closed lucrative border crossings to Thai traders. In what was seen by many as an attempt to placate the Burmese junta and re-open the borders, Thai authorities in August raided pro-democracy groups and a church on the border, detaining dozens of Burmese refugee activists and repatriating them. The border was officially reopened in October 2002.

In April, forty-nine U.S. congressional representatives called on the Burmese government to release imprisoned student leader Min Ko Naing. Congressional representatives and the U.S. State Department issued statements condemning the Burmese military for raping girls and women in Shan State. While lauding the release of Suu Kyi in April, the Bush administration said in June that it would extend sanctions on Burma for another year. A U.S. Agency for International Development (USAID) team visited Burma to explore the possibility of giving HIV/AIDS assistance beyond the U.S.\$1 million currently given through NGOs and U.N. agencies.

In a groundbreaking ruling, a U.S. superior court judge in California ordered the Unocal corporation to stand trial for alleged human rights abuses related to its pipeline project in Burma. A jury trial was set for September 26, 2002 in Los Angeles, where Unocal is based. In a related development, over thirty U.S. clothing manufacturers announced that they would stop sourcing from Burma, and Marriott International announced plans to withdraw from the two hotels it manages in Rangoon.

Neither the World Bank nor the Asian Development Bank resumed any assistance to Burma. The SPDC failed to respond to the World Bank's recommendations for major economic reforms. A team from the International Monetary Fund visited Burma in July, and found continuing economic problems and deteriorating social conditions.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Crackdown on Burmese Muslims (Briefing Paper), 7/02

"My Gun Was As Tall As Me": Child Soldiers in Burma, 10/02

CAMBODIA

Cambodia largely failed to meet its obligations to promote human rights in 2002. Local elections, held in February, were marred by killings and intimidation of political opposition members and others, and subsequent continuing violence offered a worrying prognosis for national elections in 2003. Opposition newspapers were increasingly subject to threats, closure, and arrests of staff. At this writing, there had been little progress in negotiations to establish a tribunal for former Khmer Rouge leaders. The judicial system remained extremely weak and generally unable to deliver justice to those whose human rights were violated, albeit efforts were made to prosecute security officials accused of torturing detainees. Prison conditions remained poor. Cambodia deported to Vietnam hundreds of asylum seekers fleeing persecution of indigenous minorities there, in violation of its obligations under the 1951 Refugee Convention. The government failed to adequately address trafficking in people. Many Cambodians suffered from poor education and health services and insecurity of land tenure. There was some progress in the field of labor rights, and environmentalists strengthened advocacy efforts on behalf of Cambodia's rural poor.

HUMAN RIGHTS DEVELOPMENTS

Cambodia in February held its first local elections in more than thirty years, to elect leaders for the country's 1,621 communes (administrative units consisting of four to seven villages). The Cambodian People's Party (CPP) consolidated its grip on power by taking control of 99 percent of the commune councils. There were numerous instances of violence, intimidation, vote-buying, and voter coercion, although at a lower level than during the 1998 national elections. Fifteen prospective candidates and activists of the political opposition Sam Rainsy Party (SRP) and the United National Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), as well as the two-year-old son of a CPP candidate, were killed between January 2001 and polling day. A local election observer was killed two days before the election.

Political violence continued in the aftermath of the commune elections and as the country prepared for national elections, scheduled for July 2003. The mutilated body of Kork Khom, a SRP activist from Takeo, was found in a rice field in July. Some of his fingers and part of his left ear had been cut off, his leg was broken, and numerous bruises marked his body. By November 2002, another six SRP and FUNCINPEC activists had been murdered. In October, just before Senator Kem Sokha resigned from the FUNCINPEC party, he sustained injuries in a car accident that appeared to have been deliberately staged to warn or harm him.

In contrast to 1998, when no one was held accountable for election violence, in 2002 authorities arrested several people suspected of political killings. In ten of twenty-four cases, provincial courts convicted defendants. In a move to appease

donors, the Ministry of Interior pressured court officials to speed up trials in some of these murder cases. As a result, legal observers found that some of the accused were convicted based on insufficient evidence.

The National Election Committee (NEC), commissioned to organize, oversee, and monitor the election process, failed to use its authority to implement any of the penalty provisions in the Election Law in response to acts of bribery, violence, or intimidation. Fair access to the media for parties other than the CPP was also denied during the campaign. Nongovernmental organizations (NGOs) involved in election monitoring called for reform of the NEC, which was criticized as lacking independence. In August the National Assembly passed a law empowering the Ministry of Interior—rather than an independent recruitment committee advocated by NGOs—to nominate NEC members.

Freedom of expression in political debate was dealt a blow in December 2001, when Senators Chhang Song, Siphon Phay and Pou Savath were expelled by the CPP after they expressed opinions differing from the party line during debate. Electronic media remained under the control of persons and companies affiliated with the CPP. The independent press affiliated with the political opposition was subject to threats, closure and lawsuits. In April, the Phnom Penh court convicted the SRP-affiliated newspaper *Samleng Yuvachun Khmer* (Voice of Khmer Youth) of defamation and printing false information, and ordered it to pay 71 million riel (approximately U.S.\$18,000). The paper had published an article accusing two military generals and businessman Mong Reththy, a close ally of Prime Minister Hun Sen, of illegal logging. After the newspaper appealed the decision, Mong Reththy and the generals agreed to drop the complaint.

In July, Sok Sothea, a reporter for the opposition *Moneaksekar Khmer* (Khmer Conscience) newspaper was detained for several hours at the Ministry of Interior after he shared a leaked document from the co-minister of interior with another paper, which published the document. In August, the Ministry of Information ordered the thirty-day suspension of *Moneaksekar Khmer* for publishing an article that allegedly affected "national security." The English-language *Cambodia Daily* newspaper was threatened with suspension when it called January 7—the day that the Khmer Rouge were defeated by Vietnamese troops in 1979—"Vietnamese Liberation Day." The Ministry of Information later dropped the fifteen-day suspension order.

In September, the editor and a reporter from *Chakraval* (Universe) newspaper were arrested, allegedly without warrants, and detained overnight after a complaint by the director-general of the National Police. The pro-government paper had reported about the confiscation by customs officials of a car purchased by the complainant, as well as subsequent telephone threats made against the officials. The two men were released, reportedly after an order from the prime minister. In October, the Ministry of Information ordered the independent radio station Sambok Knum (Beehive) to stop broadcasting reports from the Voice of America and Radio Free Asia.

Two Cambodian writers, Vann Nath and Moeun Chhean Nariddh, received Hellman/Hammett awards from Human Rights Watch in 2002 in recognition of the courage with which they have written about human rights.

The Cambodian government created a military anti-terrorism unit, reportedly

to provide protection during November meetings in Phnom Penh of leaders of the Association of Southeast Asian Nations (ASEAN). The soldiers belonged to Battalion 911, which, according to the U.N., was implicated in killings, illegal detention, and torture of FUNCINPEC soldiers after the 1997 coup by Hun Sen, then second prime minister. In October, thirty high-ranking police officers completed a three-month training on fighting terrorism, conducted in Vietnam.

In February, United Nations (U.N.) Secretary-General Kofi Annan announced the withdrawal of the U.N. from further discussions with the Cambodian government over the establishment of a tribunal to bring to justice former leaders of Democratic Kampuchea (Khmer Rouge). According to the U.N., the Cambodian law establishing the tribunal was unable to guarantee the necessary independence, impartiality, and objectivity. The U.N. had insisted that the tribunal be governed by a memorandum between the U.N. and Cambodia, rather than the Cambodian law adopted in August 2001.

Cambodian and international human rights groups supported the U.N. decision, but stressed the need for accountability for grave human rights violations committed by the Khmer Rouge from 1975 to 1979. In July, Hun Sen expressed willingness to make amendments to the law. In August, Annan announced that he needed a clear mandate from either the U.N. General Assembly or the Security Council to resume negotiations, and that the Cambodian government was to seek the support of the member states to initiate action either within the Security Council or the General Assembly. In November, the General Assembly's Third Committee passed a resolution initiated by Japan, calling for the secretary-general to resume negotiations with Cambodia on the "mixed tribunal" formulation, which Cambodian and international human rights groups have criticized for falling far short of internationally recognized standards.

Meanwhile, three former Khmer Rouge leaders—Ieng Sary, Khieu Samphan and Nuon Chea—continued to live freely in Cambodia. The Phnom Penh military court extended the pre-trial detention of Khmer Rouge military leader Chhit Choeun (Ta Mok), and former S-21 (Tuol Sleng) prison director Kaing Guek Iev (Duch), by adding charges of crimes against humanity. Both were initially arrested in 1999.

Cambodia ratified the International Criminal Court treaty, thereby accepting the court's jurisdiction beginning July 1.

The trials during the year of around fifty persons accused of involvement with the Cambodian Freedom Fighters (CFF), a group that claimed responsibility for violent attacks in Phnom Penh in November 2000, demonstrated serious shortcomings. Defendants were arrested without warrants, and denied a prompt trial. One lawyer represented eighteen suspects, who gave testimonies incriminating each other, making a proper defense for each of them impossible. The judge denied requests by some of the defendants' lawyers to summon witnesses, and ignored claims by the accused of physical or mental pressure during interrogation. A high-ranking military intelligence official, summoned by the court after one of the defendants claimed the official had hired him to infiltrate the CFF, failed to appear. Most of the accused were convicted and sentenced to terms varying from suspended sentences to life imprisonment.

Plans for legal and judicial reform stalled. Less than 1 percent of the national

budget was allocated to the justice sector, undermining the judicial system's effectiveness. A long overdue Statute for Judges, which includes a code of conduct, had still not been adopted as of November. The Supreme Council of Magistracy, a body commissioned to oversee the functioning of the judiciary and guarantee its independence, itself lacked independence.

Lacking faith in the judicial system, villagers often resorted to summary justice by beating and killing people suspected of committing crimes. Local human rights groups and the U.N. recorded sixty-eight incidents of mob violence from mid-1999 to August 2002. While police intervention saved some lives, they frequently refused to act or were complicit in the violence. Only two persons served prison terms for their involvement in a mob killing, after convictions by the Phnom Penh court in a September trial.

Torture by security officials of detainees continued to be a problem. The criminal procedure code was amended in November 2001 to extend the maximum period in police detention—the time when torture commonly is used by police to extract confessions—from forty-eight to seventy-two hours. Five guards accused of torturing prisoners were acquitted in August by a Kompong Cham provincial court despite witnesses, one of them a prison guard, and medical records corroborating the torture. Without clarifying his decision, the judge found the five prison guards not guilty of torture, but ordered administrative action, acknowledging that the guards had been at fault. A more positive ruling came in April, when a Svay Rieng provincial court sentenced three policemen to suspended prison terms for torture. In many of Cambodia's prisons overcrowding, unhygienic conditions, inadequate food, and excessive pre-trial detention continued to be reported. In three prisons, shackles were used to restrain prisoners.

In January, Cambodia, Vietnam, and the U.N. High Commissioner for Refugees (UNHCR) signed a tripartite agreement on the voluntary, U.N.-monitored repatriation of approximately one thousand asylum seekers from the Central Highlands of Vietnam (Montagnards) who were sheltered at two UNHCR sites in Mondolkiri and Ratanakiri provinces. The agreement crumbled in March after Vietnamese officials barred UNHCR monitoring teams from the Central Highlands. On March 21, refugees and UNHCR staff were threatened and attacked when a delegation of more than four hundred people, including as many as one hundred Vietnamese government agents, overran Mondolkiri camp and conducted house-to-house searches of the refugees' huts.

At the end of March, in violation of the 1951 Refugee Convention, the Cambodian government announced that any new Montagnard asylum seekers would be considered illegal migrants and summarily deported without being given an opportunity to claim asylum. More than four hundred Montagnards were deported to Vietnam during April and May. In mid-April, UNHCR's two provincial refugee camps were closed, and their nine hundred residents transported to Phnom Penh, where they were processed for resettlement to the United States. The first group of Montagnard refugees left for the U.S. in June.

On July 25, Thich Tri Luc, a Vietnamese monk belonging to the banned Unified Buddhist Church, disappeared in Phnom Penh after being granted refugee status by UNHCR. As of November, Cambodian authorities had not responded to requests by human rights groups for information on his whereabouts. In August, Cambo-

dian authorities arrested and deported Guojun Li and his wife, Zhang Xinji, two Falun Gong members under the protection of UNHCR, to China.

SRP member Sok Yoeun remained in detention in Thailand since his arrest in December 1999 for illegal immigration, while hearings continued into the Cambodian government's request for his extradition as a suspect in a 1998 rocket attack on a motorcade carrying Hun Sen. This was despite an apparent lack of evidence linking Sok Yoeun to the attack, and also despite his having been under the protection of UNHCR since shortly after his escape to Thailand in 1999.

Trafficking of human beings to, within, and from Cambodia, for purposes of forced labor including prostitution, begging, and adoption remained a major problem. In some cases, suspected traffickers were arrested. However, in several instances trafficking victims were arrested and subsequently deported to Vietnam on charges of illegal immigration. In August, the Phnom Penh court convicted ten Vietnamese girls, most of them minors, who allegedly had been trafficked into prostitution in a Phnom Penh brothel. The girls were sentenced to two to three months in prison for illegal immigration.

In January, Cambodia ratified the optional protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography. It also ratified the optional protocol to the CRC on the involvement of children in armed conflict.

Labor conditions improved in some workplaces, due to the strengthened capacity of labor unions, improved relations with factory management, and intensive monitoring in many of Cambodia's garment factories by the International Labour Organization. Problems remained with pay, forced overtime, and discrimination of workers who joined labor unions. In September, the Phnom Penh Appeals Court overturned a ruling by the Kompong Speu court ordering the reinstatement of seven workers who had been fired after organizing union activity. Khim Sam On and Sok Bona, leaders of the Cambodian Federation of Independent Trade Unions, who were arrested on July 15 allegedly for inciting violence at a Phnom Penh factory in 2001, remained in detention as of November 2002, despite being cleared of charges by the Ministry of Labor.

Implementation of the second phase of Cambodia's "Demobilization and Reintegration Project" was delayed after concerns about the project's first phase prompted the World Bank to call for a thorough evaluation. The U.S.\$42 million pilot project, largely funded by the World Bank and Japan, was aimed at downsizing and disarming the military and cutting the military's budget. The project was hampered by divergent estimates of the size of the armed forces, with credible reports that thousands of "ghost soldiers" were collecting compensation packages.

The government allocated more money for education and health in 2002, but delays in disbursement of education funds meant that teachers were not paid and students had to pay unofficial fees to their teachers. Slow disbursement of funds to the health sector coupled with low wages for health personnel meant that many Cambodians lacked access to adequate health care. In June, the National Assembly passed a law on the prevention and control of the spread of HIV/AIDS, criminalizing discrimination against people living with the disease.

Insecurity of land tenure contributed to landgrabbing, often by soldiers or com-

panies with connections to local officials. Legal Aid of Cambodia represented more than eight thousand families, or about forty-three thousand people, in land cases, most of which involved military and local officials. In a significant case that was first brought to court in March 2001, indigenous villagers in Ratanakiri province launched a legal appeal against a military general who fraudulently obtained title to their ancestral lands, putting some nine hundred villagers at risk of landlessness. In March 2002, Hun Sen instructed the Ministry of Land Management to purchase the land from the general and return it to the villagers, in exchange for the villagers dropping their lawsuit.

While some steps were taken during the year to protect Cambodia's natural resources, environmental degradation remained a serious concern. Activists welcomed a logging moratorium put into effect in January, and the government's cancellation of two Malaysian-owned concessions for illegal logging in June. Despite these measures, extensive small- and medium-scale logging continued throughout the year, and law enforcement in the forestry sector remained poor. There were numerous reports of intimidation by concessionaires to stop local villagers from accessing forests. In June, security guards of the Tomring rubber plantation company in Kompong Thom province fired shots to intimidate local villagers attempting to prevent the company from further clearing trees they used to collect resin. Environmental groups expressed concerns about a Forestry Law passed by the National Assembly in July, which lacked guarantees for local communities to continue using non-timber forest products such as resin and rattan to sustain their livelihoods.

DEFENDING HUMAN RIGHTS

Dozens of Cambodian human rights groups operated in the country, conducting advocacy, training, and monitoring activities, counseling victims, and providing legal services to Cambodia's poor. There was ongoing violence, threats and intimidation against human rights defenders in 2002.

In several cases, criminal proceedings that appeared to be without foundation were initiated against human rights groups in an apparent attempt to intimidate them. In February, the Phnom Penh court dropped criminal charges filed against the deputy director of the League for the Promotion and Defense of Human Rights (Licadho). These charges had been sought by the adoptive parents of a seven-year-old girl, angered by Licadho's request to local authorities to act to stop abuse of the child; after police intervention, Licadho had been granted temporary legal custody of the child. The adoptive parents appealed the court decision. In April the Phnom Penh municipal court ordered Licadho to pay damages of five million riel (U.S.\$1,250) to a Phnom Penh orphanage, without specifying the basis for the fine. Licadho had earlier filed a complaint against the orphanage for trafficking in babies.

In August, the Cambodian military filed charges of defamation against members of the Cambodian Human Rights Action Committee (CHRAC) in Kompong Cham province. The complaint concerned a CHRAC report sent to different gov-

ernment institutions in March, requesting the resolution of eighteen human rights abuses by soldiers between 1997 and 2001.

In April, several unidentified men physically attacked the director of Global Witness, an independent forestry monitor, after the group uncovered evidence of illegal logging. The government quickly denounced the act, but had not apprehended any suspects as of November.

Police and local officials in Ratanakiri and Mondolkiri provinces bordering Vietnam threatened villagers with arrest if they assisted Montagnard refugees. Authorities forced villagers in both provinces to thumbprint statements pledging not to help the refugees. On May 16, police arrested a fisherman in Mondolkiri province because of his alleged assistance to Montagnards seeking refuge. After three months in prison, charges of human trafficking were dropped and he was released on August 12. On July 5, police arrested another man in Mondolkiri and detained him in prison on charges of hiding illegal immigrants. He was released on July 27, after charges were dropped.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

The Cambodia Office of the U.N. High Commissioner for Human Rights (COHCHR) and UNHCR maintained field presences in Cambodia throughout the year. After protracted negotiations, in February the Cambodian government and COHCHR signed a memorandum of understanding, formalizing their cooperation into early 2004. The special representative of the U.N. secretary-general for human rights in Cambodia conducted four missions to the country, in which he focused on political violence, judicial reform, and the right to education. In public statements he condemned the forced deportations of Montagnard refugees to Vietnam, torture of detainees in custody, and mob violence. The then U.N. high commissioner for human rights, Mary Robinson, visited Cambodia in August, highlighting the problem of human trafficking and expressing concerns about the deportation or disappearance of Vietnamese and Chinese refugees who had been under the protection of UNHCR.

In March UNHCR publicly denounced intimidation and attacks on UNHCR staff and refugees at the Mondolkiri refugee camp by Cambodian and Vietnamese officials, and in April called for Cambodia to honor its international obligation to provide asylum. In August UNHCR raised concerns with the Cambodian government over the deportation of two Falun Gong members to China and the disappearance of Vietnamese monk Thich Tri Luc.

In June, the U.N. Development Program started a four-year U.S.\$1.5 million project to continue building the capacity of the National Assembly and the Senate, partly in the field of human rights.

Major Donors

International donors pledged U.S.\$635 million in loans and grants to the Cambodian government during the annual Consultative Group meeting of donors, held in Phnom Penh in June. While commending progress in the areas of financial control, investment, and land reform, donors expressed strong concerns at the slow pace of legal and judicial reform, and that no anti-corruption law had been adopted.

The World Bank approved a \$24 million credit for a land management and administration project, which included a mass land titling program. It delayed the disbursement of a \$15 million Structural Adjustment Credit, apparently because of the lack of transparency in forestry reform. In September, the bank delayed the implementation of the second phase of the demobilization program after irregularities in the first phase were uncovered.

Japan remained the largest bilateral donor to Cambodia, and together with the European Union (E.U.) and Australia, funded the commune elections. While Japan and the E.U. generally commended the National Election Committee for the organization of the elections, they expressed concerns about reports of violence and intimidation. In July, the European Parliament issued a resolution calling on the Cambodian government to uphold the right to first asylum for Montagnard refugees. During a September visit to Cambodia, a delegation of European parliamentarians announced that the Cambodian government had to ensure that the 2003 national election would be free and fair, if it was to receive further development assistance from the E.U.

China continued to play an increasingly influential role in Cambodia. In August, citing Cambodia's support for the "one China" policy, the Cambodia government announced that the Dalai Lama would not be allowed to attend an international Buddhist conference, scheduled to take place in Phnom Penh in December. In August, China pledged 20 million yuan (U.S.\$2.4 million) in assistance to Cambodia for military training and military hospitals.

Several donors, including Australia, Japan, France, and the U.S., urged the U.N. secretary-general to resume negotiations with Cambodia in regard to the Khmer Rouge tribunal. In April, India offered assistance to the Cambodian government if it decided to try Khmer Rouge leaders by itself. China continued to oppose any Khmer Rouge tribunal.

The U.S. resumed funding for HIV/AIDS, education, and anti-trafficking projects in Cambodia after a five-year moratorium on financing government projects as a result of the 1997 coup. In a report on human trafficking released in June, the U.S. ranked Cambodia in the lowest category for not complying with minimum standards to combat the practice. The report stated that if the situation did not improve, the U.S. might cut non-humanitarian and non-trade-related assistance. In October, the U.S. condemned the increase in political violence in advance of national elections. The U.S. resettled about eight hundred Montagnard refugees during the year.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Cambodia's Commune Elections: Setting the Stage for the 2003 National Elections, 5/02

Repression Of Montagnards: Conflicts Over Land and Religion In Vietnam's Central Highlands, 4/02

CHINA AND TIBET

Preparations for the 16th Chinese Communist Party Congress and the accompanying change in China's top leadership colored human rights practices in China in 2002. Concerned with maintaining economic and social stability as the transition unfolded, leaders in Beijing appeared to calculate carefully when to tread lightly and when to crack down hard. They responded to major, well-coordinated, and sustained worker protests in China's northeast with only minimum force; moderated the response to disclosures of their failure to tackle the HIV/AIDS crisis effectively; and, when accused of abusing psychiatric science by incarcerating political offenders in mental hospitals, expressed some willingness to cooperate with the World Psychiatric Association. Chinese authorities continued to reform the legal system and professionalize judicial personnel, and agreed to include human rights training for law enforcement officials as part of a technical cooperation program with the U.N.

The leadership moved unequivocally, however, to limit free expression and build a firewall around the Internet, to destroy Falungong even beyond China's borders, and to eliminate dissident challenges. In Tibet, the government welcomed representatives of the exiled Dalai Lama for the first time since 1993, even as it continued to repress religious belief and expression. In Xinjiang, however, the regime tightened all restrictions, citing alleged Uighur collaboration with al-Qaeda.

HUMAN RIGHTS DEVELOPMENTS

As Chinese media outlets continued to proliferate and increasingly to challenge government guidelines, propaganda authorities responded by obstructing the free flow of information. They blocked major Internet search engines, closed publications, harassed foreign and domestic journalists, tightened controls on satellite transmission, and hampered the work of academics and activists. For two weeks in September, officials blocked access to Google, a major search engine, and diverted traffic to sites providing officially approved content. When access was restored, users reported selective blocking. Chinese authorities appeared to be using packet sniffers—devices that scan Internet transactions, including e-mail, to block text with sensitive word combinations.

A second search engine, Altavista.com, was shut down for a day, but Yahoo's China site escaped blockage. Earlier in the year, along with some three hundred other Internet companies, Yahoo had voluntarily signed a trade-association-sponsored "Public Pledge on Self-Discipline for China Internet Industry," committing itself to removing any information that the government claimed could jeopardize security, disrupt stability, break laws, or spread superstition.

The pledge mirrored Ministry of Information and Technology regulations that went into effect in early 2002. They required Internet service providers to use only domestic media news postings, to record information useful for tracking users and their viewing habits, to install software capable of copying e-mails, and to immediately end transmission of so-called subversive material.

Chinese authorities charged activists with subversion for using the Internet to promote causes ranging from political change to worker rights. In August, a Gansu court sentenced Li Dawei to an eleven-year prison term for downloading five hundred "counterrevolutionary" essays and publishing them in book form. Lu Xinhua and Wang Jinbo received four-year sentences for criticizing Jiang Zemin. Party cadre Zhou Xiubao was detained in July for an Internet posting calling for "true Marxists" in the CCP to join together. In August, public security officials detained Chen Shaowen for articles on unemployment, legal defects, and social inequities. By October 2002, courts still had not announced verdicts in the cases of five activists tried for Internet-related offenses in August and September 2001.

A campaign to close unlicensed Internet cafés, begun in April, gained momentum in June after a deadly fire in a Beijing café, and culminated in October with the promulgation of new regulations. They banned small under-capitalized cafés, limited hours of operation, banned users under sixteen, required identification card registration, and permitted authorities to see Internet use records. Most cafés had operated illegally due to restrictive licensing regulations and concomitant corruption.

Beginning January 1, Chinese authorities required foreign television outlets to use a government "rebroadcast platform" to distribute their channels, thus enhancing official censorship capabilities. A few weeks earlier, Beijing city authorities ordered the dismantling of satellite dishes provided by cable television companies to Chinese viewers. Revised "Provisions on Management of Satellite TV" required universities, hotels, residences, and government institutions to reapply to view overseas cable and satellite broadcasts. University departments had to prove research need; hotels and foreign residence complexes had to prove 80 percent foreign occupancy.

Restrictions on domestic print media escalated. Several Party circulars ordered official newspapers to use caution when reporting on sensitive issues and not to publish reports downloaded from the Internet. One circular reminded editors that all stories related to central leaders and their families required approval from "higher" authorities; that reports of major new policies must reference Xinhua, the official news service; and that even "objective" stories that might affect stability or incite the public to demand justice should not be published.

The official list of topics requiring caution included: Taiwan, Tibet, and East Turkestan independence; religious extremists and Falungong; the military; social stratification; the south-north water diversion project; advocacy of private ownership; taxes and fees in rural areas; student loans; human genetic research; private

entrepreneurs as Party delegates; lawsuits against the government; villagers who sold blood; *Forbes* ranking lists; Confucian moral education in primary schools; university rankings; the Qinghai-Tibet railroad; and major accidents. Authorities also added restrictions on reporting legal cases.

In late 2001, after *Securities Market Weekly* published an article critical of wealth amassed by National People's Congress President Li Peng and his family, authorities confiscated all copies of the issue. In March 2002, officials at the Ministry of Propaganda ordered *Nanfang Zhoumuo* (*Southern Weekend*) to remove a feature story about financial irregularities at Project Hope. The Communist Youth League controls the foundation running the charity. In April, the magazine, under pressure, fired three editors. The official *Worker's Daily* came under fire for sympathetic reporting on the plight of laid-off workers in China's northeast. The Publicity Department of the Chinese Communist Party warned against reporting on economic restructuring and worker rights without considering the "overall national interest"; conversely, the department ordered positive reporting on the government's efforts to help workers find new jobs.

In February, a Beijing district government office issued a directive, "Regarding Strengthening the Management of Events Involving Interviews with Foreign Journalists," based on a Ministry of Foreign Affairs document. The directive stipulated that only an official in good political standing could speak for a work unit; that a written report to the district Foreign Affairs Office was required following an interview; and that requests for conducting social surveys or opinion polls be refused. The regulations prohibited interviews with Falungong "elements" or democracy campaigners, and on matters related to ethnic minorities, religion, human rights, and family planning. In November 2001, police officers detained a German crew and a CNN cameraman filming a Falungong protest, and confiscated film, press cards, residence permits, and equipment. In June, police held Chinese-Canadian journalist Jiang Xueqin for two days for investigating labor unrest in the northeast. Security officers beat a South Korean journalist covering a scuffle in the South Korean consulate between South Korean diplomats and Chinese guards. The guards had dragged away a North Korean man seeking asylum.

Authorities banned newsstand sales of *Time* for months after it published an article about Falungong. In June, the *Economist* was taken off newsstands for publishing an eighteen-page survey arguing for political reform in China. In July, officials blacked out BBC World Service Television.

The publications and film industries were not spared. In January, officials from the Party propaganda department and from six ministerial bodies announced a crackdown targeting political publications. In September, the director of the State Press and Publications Administration announced that "[a]ll possible measures should be taken to ensure that the publications market will not air voices that challenge the Party's policies and unity." A listing of banned books included best-selling novels, a scholarly work on China's income gap, one about peasants relocated from the Three Gorges dam area, and a series through which intellectuals expressed discontents. New regulations on film management permitted independent production but only with approval from the relevant State Council (China's executive body) department.

In September, the *People's Daily* warned cell phone spam mailers that political rumor upset social stability.

Chinese authorities moved cautiously in stemming worker unrest, especially in northeastern cities where, in March, tens of thousands of retired and laid-off workers began the largest, longest, and best-organized campaigns since the 1989 pro-democracy demonstrations. They were protesting non-payment of back wages and pensions, unilateral rollbacks of severance agreements, absence of a social security safety net, and managerial corruption. In Liaoyang, security officers attacked unarmed protestors, arresting four worker representatives, Yao Fuxin, Pang Qingxiang, Xiao Yunliang, and Wang Zhaoming, on charges of "illegal assembly, marches, and protests." As of mid-November, prison authorities had denied the men access to their lawyers. In Daqing, security forces threatened employed workers with job loss if their relatives dared to protest. In all instances, Chinese authorities flouted the right to free association guaranteed in China's constitution and in the International Covenant on Economic, Social, and Cultural Rights which China has ratified. China also has ignored its commitments as a member of the International Labor Organization (ILO) to respect the right of freedom of association.

Other labor-related imprisonment occurred in 2002. On May 30, a Sichuan province court sentenced Hu Mingjun and Wang Sen, members of the banned China Democracy Party, to eleven- and ten-year terms, respectively, on subversion charges for supporting striking workers. On June 1, Di Tianguai was detained in Shanxi province on suspicion of subversion for trying to found a national organization for retired workers.

In a developing trend, workers, migrant laborers, and environmental activists began using the judicial system to seek redress. The Beijing-based Center for Legal Assistance to Pollution Victims scored some successes.

Chinese authorities appeared conflicted as they grappled with an impending HIV/AIDS epidemic in China, admitting to a growing number of cases and collaborating on education and prevention with the U.N. and international agencies, but also attempting to control information flows. The ambivalence was clearest in relation to the detention and subsequent release of Dr. Wan Yanhai, internationally recognized for establishing Aizhi Action, an AIDS information project, and for his advocacy on behalf of AIDS-stricken villagers in Henan province. State security officers seized Wan on August 24 for circulating by e-mail an internal government document about the Henan epidemic. The document detailed how, after villagers sold their blood at government-run health stations and workers extracted the plasma, the workers injected villagers with the remaining pooled blood products, creating a high risk of HIV transmission. Wan was released on September 20 following an international outcry and a "confession" admitting that publishing the report was a "mistake." On September 13, Human Rights Watch and the Canadian HIV/AIDS Legal Network presented Wan with the first "Award for Action on HIV/AIDS and Human Rights," an international award program established in 2002. He had been chosen as a recipient months before his detention.

Outspoken academics also continued to be targeted. In January, police in Anhui detained retired professor Wang Daqi for refusing to cease publishing the journal

Ecological Research. Wang, who had advocated the need for political reform to stop environmental degradation, was still in detention as of mid-November 2002.

A three-month “strike hard” (yan da) campaign initiated in April 2001 to crack down on criminal activity and speed the judicial process appeared to have become a permanent feature of law enforcement in China. Targets for 2002 included organized crime; corrupt officials; and those labeled terrorists, separatists, religious extremists, or members of “criminal cults” such as Falungong practitioners. “Strike hard” directives reward convictions, thus exacerbating due process violations such as illegal detentions, hasty trials, severe sentences, and a meaningless appeal process. In Shanghai, where a judge’s performance rating is based on the number of cases handled, city officials revealed that courts reduced “unnecessary formalities during interrogation, evidence presentation and court debates.”

Although the government made changes to law enforcement policies and procedures aimed at bringing them closer to international standards, major discrepancies existed between the policies as written and as implemented. Changes in 2002 included new disciplinary measures for corrupt or incompetent judges; new educational and competency standards for would-be judges, prosecutors, and lawyers; a code of ethics for prosecutors; the introduction of a chief prosecutor for each case rather than a prosecution committee; a prohibition against firing judges without proper legal procedures; and, as part of the effort to eliminate corruption, annual internal disciplinary court inspections. But local cadres and Party officials still interfered in the criminal justice system; criminal “confessions” elicited by torture were admissible as evidence; and defense lawyers were routinely denied access to their clients and to prosecution witnesses.

Public security and state security officials, charged with determining if sufficient evidence existed for a case to be sent to the procuracy, a judicial agency responsible for determining if sufficient evidence exists to indict a suspected criminal offender, routinely ignored legal time limits and refused to tell family members the whereabouts of suspects. Yang Jianli, a prominent dissident and permanent U.S. resident, was detained on April 26 after having entered China a week earlier on a friend’s passport. The Chinese government had refused to renew his own passport. As of late October, Yang’s family was still unsure of his whereabouts. He had not had access to a lawyer although he had been formally arrested on June 21. Without a copy of the arrest warrant, which local authorities in Beijing refused to turn over, no lawyer had been willing to take his case.

China’s National Bar Association reported that 70 percent of criminal defendants were not represented, a reflection of lawyers’ fears that such cases jeopardized their livelihoods and freedom. Lawyers working on civil cases also faced repression. In December 2001, authorities in Shenzhen told Zhou Litai, whose practice was registered in another city, that he could not continue to work in Shenzhen. He had been representing injured and maltreated factory workers on a contingency fee basis. According to the Lawyer’s Law, his license entitled him to practice anywhere in China. In June, Zhang Jianzhong, head of the members’ rights committee of the Beijing Lawyers’ Association, was arrested on suspicion of perjury. China’s Criminal Law allows such a charge, which carries a prison term of up to seven years, if a client’s statements in court contradict evidence obtained by public security offi-

cial. The perjury charge is permissible even if security officials used torture to obtain the original “evidence.”

Chinese authorities continued to imprison China Democracy Party (CDP) leaders and to prevent CDP members from working with overseas dissidents, unemployed workers, or Falungong practitioners. At this writing, there had been no further word about two leaders: Zhao Zhongmin, detained after a routine safety check on a train revealed that he was carrying CDP materials; and Huang Shaoqin, traveling with him, who managed to escape into hiding. Security agents also have been on the lookout for overseas CDP members trying to enter China. In mid-June, U.S. permanent residents Wang Bingzhang and Zhang Qi—a leader of the Zhong Gong health and meditation group—and French-based former labor leader Yue Wu, went missing in Vietnam. All three were believed to be CDP members. Vietnam officials denied knowledge of the men’s whereabouts. The Chinese Foreign Ministry also denied knowledge of the case after reports surfaced that the two were being held in China.

At a major religious meeting in December 2001, President Jiang Zemin announced that, “Under the current international and domestic conditions, we can only strengthen, not weaken, the Communist Party’s leadership and the government’s control over religion.” Premier Zhu Rongji added that cults were not religion and must be eliminated. Falungong practitioners faced the most severe repression, but through use of an expanded definition of “cult,” officials “legally” prosecuted a wide range of groups and believers. In December 2001, “backbone” members of the Mentuhui (a Christian group also known as the Society of Disciples) in Gansu were administratively sentenced for organizing “home sects,” “cheating the people,” and “disturbing social order.” Authorities announced the sentences at a public rally called to “educate” the local population. In January 2002, a Fujian court sentenced Hong Kong resident Lai Kwong-keung to a two-year term and a fine of approximately U.S.\$18,000 for importing bibles to China. Two codefendants from the mainland, Lin Xifu and Yu Zhudi, received three-year terms. The charges against Lai were reduced from “using a cult to undermine...the law” to “illegal trading” after U.S. President George Bush expressed concern. All three men are members of the “Shouters,” an evangelical Christian group made up of small congregations without professional clergy. Little more than a week after sentencing, Lai was permitted to serve his term at home under state surveillance. In April, the arrangement was extended to Lin.

In February, members of the Holy Ghost Reform Church received seven-year terms on charges of “using a cult to undermine . . . the law.” That same month, police in Hubei province detained nine members of Wilderness Narrow Door for setting up churches and meetings points, “recklessly praying,” and distributing cult materials. In September, an appeals court overturned death sentences for Gong Shengliang and four other leaders of another Christian group, the South Church, on grounds of insufficient evidence. They had been charged with “fomenting an evil cult.” At a new trial in early October lasting less than three days, the court sentenced Gong and two others to life in prison; the remaining leaders received fifteen-year terms. Within hours, the four who were acquitted received three-year administrative sentences.

Falungong spokespersons reported that, as in previous years, practitioners died in custody in 2002. (As of November 12, spokespersons claimed that since start of the crackdown in 1999, 513 practitioners had died in custody.) Followers from abroad detained in China, upon returning home, recounted tales of beatings and torture. Courts continued to sentence core believers to long prison terms; public security officials sent others directly to reeducation camps. In December, a Beijing court sentenced six academics to terms of up to twelve years for distributing Falungong materials. They were among some three hundred Qinghua University students and staff detained at least temporarily in connection with the Falungong crackdown. Nineteen Falungong members, tried for hacking into television stations in Chongqing Municipality or Changchun, Jilin province to broadcast information about the organization, received sentences ranging between four and twenty years.

Relations between China and the Vatican remained tense. According to FIDES, the Vatican news agency, fifty-three bishops and priests remained in custody or under police surveillance in February 2002. In June, Religious Affairs Bureau officials “took away” Father Chen Nailiang, the “underground” vicar general of Wenzhou, Zhejiang province. In July, three priests from Baoding, Hebei province received three-year terms for disturbing the social order; thirty people, most under eighteen, were detained briefly in Fujian province for attending a secret catechism class. Police interfered with two funerals for “underground” bishops by blocking access roads.

China has not lived up to its obligation to refrain from returning refugees to North Korea in situations where their lives or freedom would be threatened (the obligation of *nonrefoulement*). It has refused permission for the U.N. High Commissioner for Refugees (UNHCR) to visit its border with North Korea to assess the situation, although in a handful of cases, it did permit UNHCR officials to interview asylum-seekers in Beijing to determine refugee status. Instead, the government responded to a spate of cases in which North Koreans sought asylum in diplomatic missions in Beijing and Shenyang by tightening security around the compounds and at the North Korean border, demanding that embassies and consulates hand over the asylum-seekers, and prosecuting those who had helped North Koreans to escape. Escapes have been to various countries—not just China. Some 140 North Koreans who managed to gain access to diplomatic facilities negotiated safe passage to South Korea via a third country.

Tibet

Chinese government permission for a “private” visit to Tibet by personal representatives of the Dalai Lama, and the release of seven high-profile Tibetan prisoners before their terms expired opened a new chapter in China-Tibet relations. The change in policy may have indicated a greater Chinese readiness for meaningful dialogue, or it may have been meant to mute criticism from the international community and remove a potential barrier to foreign investment.

For Tibetans, little changed. Authorities continued to arrest “political” offenders and to place restrictions on religious practice. Even as representatives of the Dalai

Lama met with local Tibetan government officials, the latter accused the Dalai Lama of attempting to split the motherland and insisted that talks about his “individual future” were predicated on his willingness to publicly state that Tibet and Taiwan were inalienable parts of China. Throughout the visit, the Dalai Lama’s representatives assured officials that he was seeking a “middle way,” not independence but “genuine autonomy” for Tibet.

Authorities continued to deny access to Gendun Choekyi Nyima, the Panchen Lama and second most important figure in Tibetan Buddhism. He was six years old in 1995 when Chinese authorities seized him and his family. Chadrel Rinpoche, who had been involved in the identification and selection of the Panchen Lama, was released from prison, but was reported to be under house arrest. Nyima (Kelsang Yeshe), Panam (Pema Namgyal), and Thubten, three aides to the eighteen-year old Karmapa, another high ranking religious figure, were detained for aiding his escape to India in 1999. In April, authorities seized Tenzin Delek Rinpoche, an influential religious teacher, and several of his staff. Officials in Sichuan province continued to demolish huts and evict residences from Serthar Buddhist Institute (Larung Gar), a monastic encampment housing thousands of Buddhist students.

At a meeting in July of the heads of individual monasteries’ Democratic Management Committees, the leader of the Regional Group for Monastery and Religious Affairs, a local government body created by the Chinese, reportedly said that monks and nuns should “boldly” expose the Dalai Lama and enhance their patriotic awareness. In August, police detained five monks from Drepung monastery for listening to pro-independence songs and for attempting to raise the banned Tibetan flag. That same month, officials and neighborhood committee leaders told Tibetan government workers in Lhasa that they were in danger of losing their pensions and even their jobs if they traveled to Mount Kalish, a sacred site in western Tibet.

In July, authorities closed Tsang-Sul, a privately run school in Lhasa dedicated to preserving the Tibetan language.

Xinjiang

Throughout 2002, China’s leaders reiterated their claims that Uighurs supporting an independent East Turkestan were *ipso facto* terrorists aligned with an international terrorist movement. On January 21, the State Council offered extensive “evidence” of Muslim group terrorist activities. In May, regional Party committee chairman Wang Lequan announced that one thousand Uighurs had fought with the Taliban. The U.S. designation of the East Turkestan Islamic Movement (ETIM) as a terrorist organization and subsequent U.N. Security Council formal classification of the group as such appeared to lend credence to China’s claims. Human Rights Watch had no independent information on ETIM or its activities. Allegations that the group advocated violent struggle against the Chinese, if true, would distinguish it from most Uighur groups, which did not advocate violence.

Steps to curtail “ethnic splittists, religious extremists, and violent terrorists” in Xinjiang included death sentences and extremely long prison terms. According to reports, authorities executed two people and sentenced twenty-six others in Aksu in November 2001 for “separatist” activities; arrested another nine people in

December in the Byingolin Mongol prefecture for preaching illegally and translating the Koran into local languages; arrested scores of people in March in Kasghar for separatism and illegal religious activities; and in April in Hotan, sentenced several more alleged separatists to seven- to twenty-year terms.

The clampdown also featured curbs on Uighur language, culture, and religious practice. In January, after a jobless worker read a poem in the Xinjiang People's Hall in Urumqi that allegedly obliquely advocated a separate Uighur state, government chairman Abulahat Abdurixit announced a purge of those who "openly advocate separatism using the name of art." In September, the Xinjiang Cultural Bureau and Xinjiang Dance Troupe fired workers in charge of the program. A disciplinary circular called the incident a "serious political event" from which officials must learn a "deep lesson."

In January, in what was billed as an attempt to prevent hostile foreign forces from influencing opinion in the region, authorities in Yili prefecture cracked down on illegal TV stations. They ordered increased surveillance of Muslim weddings, funerals, circumcisions, and house moving rituals. In March, authorities closed fifty-two of 118 state-controlled publications, citing "poor quality," but there was serious concern that those closed represented dissenting political viewpoints. Reports surfaced in June of book burnings and tight censorship by the government-owned Kashgar Uighur Publishing House. Titles destroyed included, *A Brief History of the Huns, Ancient Uighur Literature, and Ancient Uighur Craftsmanship*.

Ideological campaigns for educators and religious leaders continued. In mandatory "anti-separation struggle reeducation classes," work teams admonished teachers, particularly those in secondary schools, to pay more attention to politics. In May, Xinjiang University encouraged using Chinese in courses previously taught in Uighur or Kazakh. Mandatory classes for the region's imams focused on political indoctrination. Some two thousand were trained in 2002. To complement the classes, authorities assigned ethnic cadres to specific mosques to engage in dialogue with imams.

In late 2001, the U.N. Human Rights Committee ruled that Uighur scholar Tohti Tunyaz had been arbitrarily detained. He was sentenced in March 1999 to an eleven-year term for "inciting separatism" and "illegally acquiring state secrets" after he returned to Xinjiang in connection with his research studies on ethnic minorities at the University of Tokyo. In another prominent case, prison authorities in Xinjiang continued to limit family visits to Rebiya Kadeer to once every three months, breaching Chinese regulations that allow monthly prison visits. An Uighur businesswoman, Kadeer had received an eight-year prison term in March 2000 for sending newspapers to her husband in the U.S.

Hong Kong

In Hong Kong, government plans to introduce anti-subversion legislation overshadowed other human rights issues. On September 24, Hong Kong's Security Bureau released a consultation document, "Proposals to Implement Article 23 of the Basic Law," outlining new laws on sedition, subversion, treason, and secession. The document incorporated a three-month window for public comment. Critics

questioned the Hong Kong government's prior consultations with Beijing on the proposed legislation, pointing to the provision in article 23 of the Basic Law (the territory's mini-constitution) that Hong Kong was to enact such legislation "on its own." They took issue with inclusion of subversion and secession, arguing that existing laws on treason and sedition encompassed the two; and they expressed concern that the document did not include the proposed wording of the new laws, but used vague language that, if included in the final draft, could become severely restrictive of basic rights. With Chinese courts in all probability having final jurisdiction in cases involving subversion, opponents feared all political dissent would be quashed. Specific concerns included: proposed police powers to search offices and homes without warrants in cases of suspected crimes of subversion; outlawing of groups affiliated with organizations which Beijing had banned on national security grounds; the prohibition on giving support to organizations that Beijing had labeled state security risks; a new offense called intimidation of the PRC government; and broad language on theft of state secrets. Journalists expressed concern that dissent could be interpreted as sedition, and that routine reporting on Hong Kong mainland relations could be interpreted as a breach of the proposed state secrets provisions.

Hong Kong authorities in 2002 also made it more difficult for opposition groups to obtain permits for marches, demonstrations, and rallies. In the first such case since the 1997 handover, two activists were charged with unauthorized public assembly for organizing a rally. From April through September, police banned protests on public order grounds, moved other rallies to locales where demonstrators would be out of sight of the protests' targets, and on at least one occasion seized protestors' bullhorns, arguing their use was disruptive.

DEFENDING HUMAN RIGHTS

Independent human rights monitoring organizations did not exist in China in 2002. Unregistered social organizations continued to be illegal by definition, and the Civil Affairs Bureau (CAB), responsible for registering organizations, continued to have the power to deny legal status to groups not meeting conditions set forth in "Social Organization Registration and Management Regulations." Such conditions included alleged opposition to constitutional principles, damage to national unity or the state's interests, and lack of a government sponsor. Hong Kong had a large and active nongovernmental organization (NGO) community, subject to little government interference. There were reports of intrusive inquiries into organizations with agendas the government disliked, but the affected groups continued to function largely unimpeded.

THE ROLE OF THE INTERNATIONAL COMMUNITY

In 2002, China's diplomacy succeeded in deflecting human rights criticism, preventing attempts to censure China's record at the U.N., and using the global anti-

terrorist agenda to justify its crackdown at home. As a new member of the World Trade Organization with an attractive commercial market, China was able to ignore international concerns about labor unrest and worker rights violations without significant repercussions. Although Internet censorship created problems for some major U.S.-based Internet companies, the business community failed to mount an effective counter-strategy. China's political use of psychiatric detention received unprecedented international attention, but it was unclear whether the World Psychiatric Association (WPA) would hold Beijing accountable to its commitment to allow an independent WPA delegation visit to China.

United Nations

For only the second time since 1990, no country sponsored a resolution condemning China's human rights record at the United Nations Commission on Human Rights meeting (March 18-April 26). The U.S. lost its seat on the commission in 2002 and no European nation was willing to place China on the commission's agenda.

In August, then U.N. High Commissioner for Human Rights Mary Robinson opened a U.N. workshop on judicial independence in Beijing at which she observed that Chinese law and practice still falls short of international human rights standards. In meetings with Vice-Premier Qian Qichen and other officials, Robinson raised a number of individual cases, including Xu Wenli, Rebiya Kadeer, and those of labor leaders in China's northeast. She noted that the treatment of Tibetans and Uighur Muslims was of particular concern and that China had used anti-terrorism laws to crackdown on these groups.

In October, Secretary-General Kofi Annan emphasized the need for "complete mobilization of society" to combat an escalating AIDS epidemic in China.

Chinese authorities continued to work with several U.N. agencies, among them the U.N. Development Programme (UNDP), the U.N. Children's Fund (UNICEF), and the U.N. Education, Social, and Cultural Organization (UNESCO). Programs included AIDS prevention, poverty reduction, health and hygiene improvement, and rural education for girls.

China made no progress toward ratifying the International Covenant on Civil and Political Rights (ICCPR), which it signed in October 1998.

In June, the International Confederation of Free Trade Unions (ICFTU) asked the International Labor Organization's (ILO) Committee on Freedom of Association to take up the cases of the labor activists detained in the northeast. Although the ILO is already involved in several technical assistance programs in China, including development of a social security project, China still has not responded to a June 2000 ILO request to send a direct contact mission to discuss freedom of association.

European Union

The E.U. continued to stress engagement and dialogue, but refrained from overt pressure on Chinese officials to improve human rights.

In March, the European Commission approved a strategy document setting out a framework for E.U.-China cooperation over the next five years. Although it focused on economic reform, the E.U. expressed concern over restrictions on civil and political rights in China and the rights of ethnic minorities.

On March 5 and 6, the Spanish Presidency hosted an E.U.-China human rights dialogue in Madrid. The General Affairs Council (E.U. foreign ministers) later made several recommendations to China for improvement of human rights, including ratifying the ICCPR; limiting the use of the death penalty while moving toward its total elimination; working more closely with U.N. human rights mechanisms; respecting the rights of prisoners and ending torture; respecting freedom of expression, religion, and association; and respecting cultural rights and religious freedom in Tibet and Xinjiang.

E.U. External Affairs Minister Chris Patten visited China in late March. He met with President Jiang Zemin, and noted the E.U.'s concern about China's human rights practices, particularly its treatment of Tibet and the use of the death penalty.

A China-E.U. summit, hosted by the Danish Presidency and attended by Premier Zhu Rongji, took place in Copenhagen on September 24, at the time of the Asia-Europe Meeting (ASEM). Despite the two sides' agreement to "continue their human rights dialogue on the basis of equality and mutual respect," the meeting was disappointing, laying out no concrete measures for improvement in China's human rights situation. The E.U. and China continued their human rights dialogue in Copenhagen in November.

Shanghai Cooperation Organization

Counter-terrorism was high on the agenda of the January Shanghai Cooperation Organization (SCO) meeting. The five Central Asian members and China agreed to step up campaigns against militant Muslim groups and "extremists" and to form a regional counter-terrorism agency.

The Chinese embassy in Washington, D.C., in response to a Human Rights Watch letter to all SCO governments urging inclusion of human rights issues on the anti-terrorism agenda, said that China's preservation of "national sovereignty and territorial integrity" protected the human rights of its population from terrorists. It also forwarded detailed accusations against Uighur groups allegedly involved in terrorist activities.

India and Japan

In January, Premier Zhu Rongji made China's first state visit to India in over a decade. Human rights were not on the agenda of Zhu's New Delhi meeting with Indian Prime Minister Atal Behari Vajpayee. The two pledged cooperation on counter-terrorism efforts and Zhu urged India to resume dialogue with Pakistan.

During a visit to Beijing by Japanese Foreign Minister Yoriko Kawaguchi in September, Chinese officials agreed to schedule a bilateral human rights dialogue meeting before the end of the year. The last such meeting had taken place in October 2000. Japan hoped to raise the dialogue talks to a higher level in the foreign min-

istry. During Kawaguchi's visit, Japanese officials announced a likely reduction in Japan's Official Development Assistance (ODA) to China, a follow up to last year's 25 percent cut. Japanese public and political opinion is strongly opposed to large scale ODA to China in light of Beijing's military build-up and its continued economic growth. Yen loans to China in fiscal year 2001, ending March 31, 2002, totaled U.S.\$1.3 billion.

Australia and Canada

During his March visit to Australia, Chinese Foreign Minister Tang Jiaxuan urged Australia to crack down on Falungong followers and to refuse to meet the Dalai Lama during his upcoming May visit. Prime Minister John Howard and Foreign Affairs Minister Alexander Downer did refuse to see the exiled Tibetan leader, but other senior Foreign Affairs Ministry officials met with him. Downer declared his meeting with Tang to be productive. Dialogue ranged from consular issues to human rights.

Howard toured China only days after the Dalai Lama's visit. Meetings with President Jiang Zemin and other officials focused on business.

In mid-June, Canberra hosted Tibet's Communist Party Secretary, Guo Jinlong, on a one-week unofficial tour. Downer raised human rights concerns, in particular Tibetan cultural identity and freedom of religion. He also noted Australia's desire to extend its human rights technical assistance program in China to Tibet.

Canada expected to continue its bilateral human rights dialogue at a November meeting in Beijing.

United States

Human rights and religious freedom remained on the U.S. agenda, but terrorism and China's cooperation on strategic issues became the major issues.

Seeking to further stabilize political and economic relations, President George W. Bush made his first official visit to Beijing in February. Bush focused heavily on religious freedom in his private talks with Jiang Zemin, and later called on China to embrace democracy and religious freedom in a speech at Qinghua University. Bush said nothing publicly about China's attempt to justify its crackdown in Xinjiang on anti-terrorism grounds although when the two leaders met again in late October in Crawford, Texas, he did comment on repression of ethnic minorities.

Jiang's successor, Vice-President Hu Jintao, visited the U.S. in early May. In his meeting with Hu, Bush reiterated his concern for religious freedom. There was lengthy discussion about Tibet, with Hu reiterating the party line. The two agreed on trade and terrorism. Hu snubbed congressional leaders by refusing to accept four letters appealing for the release of political prisoners and for progress on human rights. Secretary of State Colin Powell also raised human rights and Tibet in a working session with Hu.

The U.S. Commission on International Religious Freedom in its annual report in May issued a scathing assessment of the current state of religious freedom in China, which later denied access to a commission delegation. The newly appointed

Ambassador-at-Large for International Religious Freedom John Hanford visited China in early August and met with government and officially sanctioned religious groups.

In August, during Deputy Secretary of State Richard Armitage's trip to Beijing, the State Department added the East Turkestan Islamic Movement to its list of terrorist organizations. The move was a major coup for China, expected to use the designation to justify its broad repression of ethnic Uighurs. Armitage urged China to "respect minority rights, particularly the Uighurs" and raised the cases of individual political prisoners.

At the Association of Southeast Asian Nations (ASEAN) annual meeting in July in Brunei, the State Department resisted pressure from Chinese Foreign Minister Tang to resume the bilateral human rights dialogue until it saw tangible progress resulting from the October 2001 session in Washington, D.C. Although China's response was minimal—a few prisoner releases and the Tibetan envoys' visit to the Tibet Autonomous Region—just days before the Bush-Jiang summit, the U.S. State Department announced that a dialogue meeting would be resumed the week of December 16 in Beijing.

The Congressional-Executive Commission on China (CECC), established in 2000 to monitor human rights conditions in China and to make policy recommendations, issued its first report in early October. It analyzed human rights trends and made generally weak recommendations. The commission held two hearings and several staff briefings during the year, but sent no congressional delegation to China.

World Bank

Of the nearly U.S.\$563 million the World Bank lent to China in fiscal year 2002 ending in June, \$300 million went to tuberculosis control, sustainable forestry development, and highway projects in western regions. The bank co-sponsored an anti-corruption conference in Beijing in mid-April. In May, bank president James Wolfensohn visited China. He urged China to improve corporate governance, and in meetings with President Jiang Zemin, Premier Zhu Rongji, and the National People's Congress, he confirmed the bank's commitment to help alleviate poverty in the western regions. Wolfensohn met with various civil society representatives, but did not initiate any new legal or judicial reform efforts or raise concerns about Chinese Internet restrictions.

In November, the bank and the Chinese Ministry of Civil Affairs co-sponsored an international seminar on nongovernmental organization (NGO) development and regulation in Shanghai. Human Rights Watch asked the bank to privately intervene with Chinese authorities on the detention of the HIV/AIDS activist Dr. Wan Yanhai, but the bank declined.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Dangerous Meditations: China's Campaign Against Falungong, 2/02

EAST TIMOR

East Timor became the world's newest country on May 20 and was admitted as the 191st member of the United Nations by the General Assembly on September 27. East Timor's new constitution included important human rights protections and, with the support of the United Nations, the government took important steps forward in a number of areas including policing. Despite the historic changes, however, systemic problems remained in the criminal justice system, and several critical issues, including the scope of a much discussed amnesty for past abuses, remained unresolved. At this writing there were also still an estimated thirty thousand East Timorese refugees in camps in West Timor. (See Indonesia.)

HUMAN RIGHTS DEVELOPMENTS

2002 was a year of political milestones in East Timor. On March 22, 2002, the Constituent Assembly, elected in 2001, approved the country's first constitution. The constitution incorporated the protection of human rights as a state objective and enshrined several basic political and civil rights in the text. These included the right to a fair trial, criminal due process, freedom of expression, freedom of association, and freedom of religion. The constitution also expressly forbid the death penalty or life imprisonment, and included the rights to be free from torture, servitude, and cruel or degrading treatment.

However, the constitution remained unclear on the position of minorities, including non-citizens, and omitted some social and economic rights as well as the right to be free from discrimination based on one's sexual orientation.

On April 14, East Timor held its first presidential elections. The elections, generally held to be free and fair by both the East Timor Independent Electoral Commission and national and international observer groups, were contested by Francisco Xavier do Amaral, who captured 17.3 percent of the votes, and Independence leader Xanana Gusmao, who won with an overwhelming 82.7 percent of the votes.

Finally, at 12:01 a.m. on May 20, 2002, pursuant to Security Council Resolution 1392 (2002), East Timor declared its independence in a ceremony attended by over 120,000 East Timorese, foreign dignitaries, and U.N. Secretary-General Kofi Annan. Later that same day, East Timor swore in its first government and held an inaugural session of parliament. The date also signified the end of the U.N. Transitional Administration in East Timor (UNTAET) and the start of its successor mission, the U.N. Mission of Support in East Timor (UNMISSET).

Justice

Justice for atrocities committed under Indonesian rule and for continuing everyday crimes raised some of the most pressing rights issues for UNTAET, for the

East Timor Transitional Administration set up under its auspices, and for the independent East Timorese government after May 20. On December 11, 2001, the Special Panel for Serious Crimes of the Dili District Court (Special Panel) issued its verdict in the first case to be tried in East Timor alleging crimes against humanity.

The Special Panel, consisting of two international judges and one East Timorese judge, had been set up to hear cases from the Serious Crimes Investigations Unit (SCIU), a body established pursuant to Security Council Resolution 1272 to examine incidents of mass killings and forced deportation as well as individual offences of murder, rape, torture, and other crimes committed in East Timor between January 1, 1999 and October 25, 1999. It is estimated that at least one thousand civilians were directly targeted and killed prior to and after the August 30, 1999 referendum in East Timor. Approximately 250,000 East Timorese were also forcibly expelled to West Timor in September 1999. (The SCIU and the Special Panel continued to operate in East Timor after independence, under the auspices of UNMISSET.)

In its December 11, 2001 verdict, the Special Panel found ten militia members guilty of crimes against humanity on a number of different underlying charges, including torture, murder, and forced expulsion. The cases, which alleged systematic burning of homes and forced relocations of populations across the border into Indonesian territory, as well as murders by members of the Tim Alpha militia in Los Palos District in 1999, were significant in establishing that a state of armed conflict existed in East Timor in 1999; that the local militia had been used by the Indonesian army's Special Forces (Komando Pasukan Khusus, Kopassus) in pre-planned, systematic attacks on unarmed civilians following Indonesia's defeat in the referendum; and that Indonesian military and civil administrators were responsible for the violence and forced expulsions. The Special Panel further found that the defendants were aware of the systematic campaign against the population and must have known that their actions contributed to it.

By September 2002, the Office of the General Prosecutor had filed thirty-nine indictments involving 117 defendants, eight of them Indonesian nationals, for crimes against humanity committed in East Timor. However, Indonesia continued to refuse to cooperate with transfers of witnesses, suspects, and evidence, refusals interpreted by UNTAET as a violation of the Memorandum of Understanding between the Republic of Indonesia and UNTAET regarding co-operation in legal, judicial, and human rights matters.

With its December 11, 2001 verdict, the Special Panel was believed to have become the first court worldwide to apply laws originally formulated for the International Criminal Court (ICC). (The ICC language had been incorporated into East Timor's criminal code.) On September 6, 2002, East Timor acceded to the ICC.

Although the verdict and indictments were important steps forward in East Timor's quest for justice, serious concerns remained about the work of the Special Panel and the SCIU. The Los Palos case itself raised concerns regarding due process. While prosecutors included experienced international criminal lawyers from the SCIU, the defense was provided by staff members from East Timor's drastically under-resourced and inexperienced Public Defenders' Office. In all, three international lawyers and three East Timorese lawyers defended the ten accused, thereby denying them access to separate defense counsel and raising potential conflicts of

interest. Neither the East Timorese nor the international defenders had any previous experience in crimes against humanity trials. There were additional problems of continuity of representation: four of the accused had their final statements read by someone who had not represented them at trial.

Systematic problems remained in other parts of the justice system. These included a backlog of cases, inadequate and inexperienced defense counsel, lack of resources, and unfilled vacancies for public defenders and judges. Judicial vacancies slowed both trials and appeals. A lack of qualified interpreters exacerbated the problem, contributing to delays, interruptions, and disputes over testimony during proceedings.

There was also administrative mismanagement. On May 20, the contracts of a number of judges and prosecutors expired. Renewals of appointment were originally intended to be conditioned on satisfactory performance reviews, but those reviews could not take place as there was neither a functioning review body nor had relevant criteria been established to guide the reviews. A further complicating factor was that the new constitution called for a judicial council to take over responsibility for appointment of judges, but the council was not established until mid-July. While the government argued that judges still had the authority to hear cases, a number of judges argued that they lacked official jurisdiction, and the system effectively ground to a halt from late May until mid-July. The matter was finally resolved by a presidential decree stipulating the continuation of judicial appointments.

In early June, the entire court system shut down when all judges, prosecutors, and public defenders were required to attend compulsory legal training on the constitution and civil law issues. No personnel were available to review detentions. Between ten and thirty suspects were released from Caicoli police station in Dili alone, because they had been held beyond the seventy-two hour legal limit.

Concerns with the prison system also continued in 2002. Although physical conditions for detainees were generally adequate, lengthy pre-trial detentions, illegal detentions due to expired warrants, and overcrowding remained important concerns. Civil society groups also expressed concern about government failure to monitor individuals on conditional release to ensure that they were adhering to the terms of their release.

Detained children continued to be housed with adults but had their own cell blocks. There were complaints that children were at times held for lengthy periods without justification. At this writing, one child reportedly had been held in pre-trial detention since October 2001 for a traffic accident in which a young child was accidentally killed.

Other serious crimes, including rape and domestic violence, consistently were referred to traditional customary law mechanisms rather than to the courts. Such mechanisms lacked basic due process protections and were criticized by a number of East Timorese groups for failing to provide justice for victims, especially victims of sexual violence.

The East Timorese Commission for Reception, Truth and Reconciliation (CRTR) was established on January 21, 2002 when seven national commissioners were sworn in. The commission was to work for two years to document human rights violations committed between April 1974 and October 1999 in East Timor,

and to facilitate community reconciliation. In April, thirty regional commissioners were sworn in. A pilot project to take victim statements was undertaken on Atauro Island and commissioners collected thirty-three statements from victims of murder, torture, rape, and forced displacement. At the end of August, the CRTR carried out its first community reconciliation program in Maumeta.

In July, a draft amnesty law for perpetrators of the 1999 violence was presented to the parliament for debate. There was confusion over provisions defining who would be eligible for amnesty and whether the law would treat members of the East Timorese resistance more leniently than pro-Indonesia East Timorese, thereby undermining the principle of equal protection under the law. At this writing, the bill was stalled in parliament after much external and internal criticism of the draft.

Officers from the East Timorese Police Service (ETPS) gradually took over responsibilities from U.N. Police (UNPOL) officers throughout the year, but continued to be under-resourced. A growing number of complaints over the course of the year against members of ETPS highlighted the urgent need for a mechanism to investigate allegations of human rights violations by police officers and to impose disciplinary measures where appropriate. At this writing, allegations of misconduct continued to be investigated on an ad hoc basis by the UNPOL Professional Standards Unit; recommendations regarding disciplinary action were the responsibility of ETPS.

In January, East Timor Defense Force (FALINTIL-ETDF) troops replaced U.N. peacekeepers in Lautem district. The transition appeared to go smoothly although concerns remained about the lack of an internal disciplinary measure for soldiers committing abuses. Several cases of alleged rape by newly deployed ETDF officers were reported during the year.

At year's end there were still approximately thirty thousand East Timorese refugees in Indonesia, including approximately 1,500 reported missing and separated children. (See Indonesia.)

The uncertain legal status of habitual residents (ethnically non-Timorese residents who had lived in East Timor for five or more years directly preceding the popular consultation) became an issue several times during the year following threats to returnee Indonesian families, who had fled or been forcibly removed from East Timor to Indonesian territory following the referendum in 1999. Such individuals received no legal status from the constitution, although a draft citizenship bill contained provisions that would enable long-term non-Timorese residents to stay in the country. Ethnic Timorese who returned from Indonesia in 2002 were generally well received with lower than expected levels of intimidation and violence toward them.

During the year dozens of foreign nationals applied for asylum in East Timor. At this writing, none had been granted refugee status by UNHCR in Dili. In the largest case a group of fifty-eight Sri Lankans arrived in East Timor by boat on July 28. Although they initially applied for asylum, all eventually decided to be repatriated back to Sri Lanka by the International Organization of Migration (IOM). Most rejected asylum claimants remained in East Timor with the status of undocumented migrants. Although IOM offered assistance to those wishing to return to their country of origin, some refused to do so, maintaining it was unsafe. With East

Timor's immigration services understaffed and under-resourced, it appeared that such individuals, including at least six Russians, tens of Indonesians, and several Vietnamese were destined to remain in legal limbo indefinitely.

DEFENDING HUMAN RIGHTS

This year there were no attacks on human rights defenders in East Timor. Human rights organizations and activists operated freely and continued to play an active role in lobbying UNTAET, UNMISSET, the Constituent Assembly, government institutions, and the new parliament.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

Following East Timor's independence on May 20, the U.N. General Assembly removed East Timor from its list of non-self-governing territories. U.N. Secretary-General Kofi Annan named Kamalesh Sharma as the new special representative (SRSG), and Sukehiro Hasegawa as deputy SRSG.

In August, U.N. High Commissioner for Human Rights Mary Robinson made her last official visit to East Timor. She announced plans for a two-year technical coordination and cooperation program between the OHCHR and the East Timorese government and signed a joint communiqué on human rights with Senior Minister for Foreign Affairs and Cooperation, José Ramos-Horta, and the chairperson of the NGO Forum, Cecilio Caminha Freitas.

During her stay she also publicly denounced the verdicts in the first East Timor trials from the Jakarta ad hoc tribunal and called for an international tribunal to be set up to provide justice for the East Timorese.

The first act of East Timor's new parliament was to reaffirm the U.N. Universal Declaration of Human Rights. On September 27 East Timor became an official member of the U.N.

On September 6, 2002, East Timor acceded to the Rome Statute of the ICC. In response to U.S. pressure (which included withdrawal of three U.S. military observers from UNMISSET in July), however, foreign minister Ramos-Horta agreed not to turn over U.S. government employees or nationals to the ICC. East Timor was only the third nation to sign such a "Article 98" agreement with the U.S. At this writing, the agreement had not yet been ratified by parliament.

World Bank

In May, a World Bank-sponsored donors meeting in Dili resulted in U.S.\$360 million in foreign aid pledges from more than twenty-five participating countries. Speaking at the conference, bank country director Klaus Rohland urged donors to continue support for the next two to three years.

On August 28, a donor conference took place in Dili to assess the needs of East Timor's security forces, which were due to take over from U.N. peacekeepers in 2004. Australia, the U.S., New Zealand, South Korea, and Portugal had been the main donors to the East Timor Defense Force.

Australia

True to Prime Minister Howard's affirmation of the two nations as "partners in this part of the world," one of East Timor's first acts as an independent nation was the signing of a treaty with Australia to divide oil and gas revenues. Because income from the deal, 90 percent of which will go to East Timor, was not due to begin to flow until 2005, Australia together with other major foreign donors continued to provide financial support for the new state. It allocated \$19.75 million (Aus\$36 million) for the 2002-2003 fiscal year for poverty reduction and capacity-building programs for government and public administration. Australians also constituted roughly 25 percent of the United Nations peacekeeping force.

United States

The Bush administration gave strong financial backing to independent East Timor but the administration did little to promote accountability by Indonesian security forces for abuses in East Timor.

With strong bipartisan support from Congress, USAID funding for fiscal year 2002 totaled \$25 million for economic and democracy programs; it requested \$19 million for 2003.

Europe

The E.U. took the lead in negotiating a chairman's consensus statement on East Timor at the U.N. Commission on Human Rights in Geneva in April. The statement was congratulatory of the steps East Timor had taken to establish human rights protections, including incorporating rights in line with the Universal Declaration into the new constitution, and it encouraged further progress, notably efforts to bring to justice perpetrators of the 1999 violence and cooperation between East Timor and Indonesia.

The European Commission promised €9 million (roughly U.S.\$8.8 million) in reconstruction assistance for 2002, as part of a three-year, 290 million euro contribution to the World Bank-administered trust fund for East Timor. Additional allocations totaled €27 million (roughly U.S.\$26.6 million) for the health system and food aid. In late May, the commission adopted a five-year strategy for financial aid to East Timor, prioritizing support of the health sector and rural development, with €46 million (roughly U.S.\$45.4 million) in grants earmarked for the 2002-2004 period.

Portugal independently promised in December 2001 aid totaling €100 million (U.S.\$98.7 million) to its former colony.

Indonesia

Reconciliation began slowly with the former occupier. Despite opposition from some members of parliament, President Megawati traveled to Dili for the May independence ceremony, in a clear symbolic gesture of support for normalized relations between Jakarta and East Timor. After visiting the graves of Indonesian soldiers killed during the occupation, Megawati briefly attended the independence ceremony and, despite cheers from the crowd, looked uncomfortable as President Xanana held her hand in the air. The presence of Indonesian naval vessels off shore during the ceremony undercut the message of solidarity.

Japan

Japan continued to provide economic support to East Timor and pledged in February to send 690 peacekeepers to East Timor to work primarily on engineering and construction projects. Japan's ambassador to the U.N. noted his country was the largest direct assistance donor, with U.S.\$120 million for development and humanitarian aid, and a promise of \$190 million over the next three years. Japan also vowed to contribute \$1 million to the new Commission for Reception, Truth and Reconciliation, \$19 million in emergency aid through the United Nations Development Program's Community Development and Rehabilitation (CDR) projects, and \$5.3 million to help East Timorese refugees in West Timor.

INDIA

In 2002, India witnessed its worst episode of communal violence in over a decade, demonstrating the increasingly volatile consequences of a broad and government-supported Hindu nationalist agenda in the country. In February and March state-supported anti-Muslim violence in the northwestern state of Gujarat claimed at least two thousand lives. As in Gujarat, attacks against historically discriminated groups in other parts of the country, including Christians, Dalits (or so-called untouchables), and tribals, were carried out with virtual impunity. Attacks by militants continued to claim many civilian lives in the disputed region of Kashmir and in the northeast.

The conflict in Kashmir persisted throughout 2002, as the safety of civilians and political leaders came under regular attack by militant groups. Hundreds were killed during, and in the weeks preceding, state assembly elections in September and October. Moreover, heightened tensions between India and Pakistan once again raised concerns of armed conflict, especially as both countries rapidly deployed troops and refused diplomatic negotiation. Elections in Kashmir offered some hope for a resolution to the crisis in the state. The new coalition government's action plan included a commitment to investigate allegations of human rights vio-

lations by Indian security forces, and a proposal to urge Delhi to hold peace talks with Kashmiri groups.

The controversial passage of the draconian Prevention of Terrorism Act raised concerns that, like its predecessor, the act would be used to target political opponents and minorities in the name of the war against terrorism. HIV/AIDS continued to spread rapidly around the country, while efforts by nongovernmental organizations (NGOs) to promote education and awareness were stymied by extensive police harassment and abuse of outreach workers.

The United Nations increasingly recognized caste-based discrimination as a violation of international law, calling for states parties to adopt legislative and constitutional measures that would protect and uplift affected communities.

HUMAN RIGHTS DEVELOPMENTS

On February 27, in the town of Godhra in Gujarat, a Muslim mob attacked a train on which Hindu activists were traveling. The activists were returning from Ayodhya, a town in Uttar Pradesh where they had supported the Vishwa Hindu Party (World Hindu Council, VHP) campaign to build a Hindu temple on the same site where Hindu militants had destroyed a mosque in 1992. Two train cars were set on fire, killing at least fifty-eight people. In July, results of an official investigation by the Ahmedabad-based Forensic Science Laboratory stated that the fire could not have been set by the mob from the outside as had been alleged; the fire, it claimed, was set from inside the train. Investigations into the attack were ongoing at this writing.

The Godhra massacre was immediately followed by a four-day retaliatory killing spree, in which over two thousand people, mostly Muslim, fell victim to mobs that looted and burned their homes, destroyed places of worship and Muslim-owned businesses, and gang-raped and sexually mutilated Muslim women and girls. In some cases, pregnant women's bellies were cut open and fetuses were pulled out before the women were killed. In addition to the children who were direct victims of the mobs, children were witnesses to horrifying violations and deaths of family members.

Human Rights Watch's investigations, and those of Indian human rights groups, revealed that much of the violence was planned well in advance of the Godhra attack and was carried out with state approval and orchestration. Gujarat is headed by the Bharatiya Janata Party (BJP), a Hindu nationalist party that also heads a coalition government at the center. State officials and the police were directly involved in the violence: In many cases, the police led the charge, using gunfire to kill Muslims who got in the mobs' way. The groups most directly responsible for this violence against Muslims included the VHP, the Bajrang Dal (the militant youth wing of the VHP), and the Rashtriya Swayamsevak Sangh (National Volunteer Corps, RSS), collectively forming the *sangh parivar* (or "family" of Hindu nationalist groups).

Mobs arrived by the thousands in trucks, chanting slogans of incitement to kill, and armed with swords, tridents, sophisticated explosives, and gas cylinders. They

were guided by computer printouts listing the addresses of Muslim families and their properties. While army troops had been flown in to quell the violence, state officials refused to deploy them until after the worst violence had ended. In the weeks that followed the massacres, Hindu homes and places of business were also destroyed in retaliatory violence by Muslims.

In the aftermath of the violence, authorities embarked upon a cover-up of their own role, and that of the *sangh parivar*, in the attacks against Muslims. While numerous police reports filed by eyewitnesses specifically named local VHP, BJP, and Bajrang Dal leaders as instigators or participants in the violence, the police, reportedly under instructions from government officials, faced pressure not to arrest them, or to reduce the severity of the charges filed. Top police officials who had sought to protect Muslims were removed from positions of command. Gujarat's Chief Minister Narendra Modi, formerly a RSS volunteer and propagandist, came under severe scrutiny for his role in the attacks.

At the time of this writing, efforts to bring perpetrators to justice were virtually nonexistent. To the contrary, the state government appeared to have been emboldened by the violence, calling for early Gujarat legislative assembly elections in October that would have swept the BJP back into power, on a rising sentiment of Hindu nationalism. The Electoral Commission, however, prohibited such a move, noting that Gujarat was still devastated by the communal violence, and set December 12 as the election date.

The destruction, as well as enmity and insecurity left by the communal violence, caused the forcible displacement of over one hundred thousand Muslims into over one hundred makeshift relief camps throughout Gujarat, some located in Muslim graveyards. The majority of these camps only remained open until June, when the government unilaterally began to close them, forcing thousands of victims to either enter unofficial relief camps or to return to villages where their security was continually threatened. In October the government announced that the few remaining camps would be disbanded by October 30. Throughout this period, the state government failed to provide adequate and timely humanitarian assistance to the internally displaced. Problems included serious delays in government assistance reaching relief camps, inadequate state protection, and failure to provide medical and food supplies and build sanitation facilities. Moreover, nongovernmental relief workers seeking to assist victims of violence were limited by a lack of access and protection.

On September 24, the violence began anew when gunmen stormed the Swaminarayan Hindu temple in Gandhinagar, Gujarat, killing at least twenty-eight people and injuring fifty-three. The Indian government responded swiftly, taking appropriate steps to maintain law and order by deploying approximately three thousand army personnel during a nationwide strike called by the VHP to protest the attack. Critics of the government remarked that had it acted as quickly following the Godhra massacre, many deaths could have been prevented. Indian officials also called on citizens to end the cycle of violence by refraining from taking the law into their own hands. The incident once again heightened tensions with Pakistan, blamed by India for the attack.

The violence in Gujarat underscored the volatile consequences of rising Hindu

nationalist sentiment, propagated by the *sangh parivar*. Training camps known as shakhas continued to spread throughout the country, providing extensive physical and ideological training to men as well as young boys targeted in recruitment drives. This revivalist campaign included the "Hinduization" of education, including the revision of history books to include hate propaganda against Islamic and Christian communities. In September 2002 the National Council of Educational Research and Training released new textbooks for Indian children in implementation of a new educational framework, following the lifting of a stay by the Indian Supreme Court. The Supreme Court had rejected public interest litigation that argued the new framework would violate the constitutional requirement of secularism given the introduction of "value education" into the curriculum, seen by many as a means of injecting religious instruction into education. Connections between the drafters of the new textbooks and Hindu nationalist organizations, revealed only once the stay had been lifted, increased these concerns.

Member organizations of the *sangh parivar* also continued to distribute hate literature, direct violent attacks, and mount conversion efforts against other minority communities, most notably Christians and tribals. Attacks against Christians included violence against nuns, priests, and missionaries, and the destruction of religious sites.

On February 17, in the southern state of Karnataka, a church in the town of Hinkal was attacked during morning mass. Seventy men, draped in the Hindu nationalist signature saffron flags, descended on the church, armed with clubs and hurling bricks and stones at the congregation. The police eventually arrived at the scene, but did not protect the worshipers or immediately arrest the perpetrators (the police later reported having arrested nine of the assailants). A similar incident took place in the Koraput district of the eastern state of Orissa on April 29, when a church with twenty worshippers was torched by fifty assailants.

Individuals were also the targets of religious violence. On June 5, in the western state of Maharashtra, a pastor known for his active involvement with the Christian Revival Center was assaulted in his home, along with his family, by a gang of *sangh parivar* members who were reportedly upset with the regular Sunday worship services in the area. The State Minority Commission subsequently ordered police protection for the pastor, and the police were successful in apprehending the assailants.

Human Rights Watch continued to receive reports of Dalits falling victim to caste-based violence, most often at the hands of upper castes who perpetrated these crimes with almost complete impunity. In May three Dalits in the southern state of Tamil Nadu were tortured by a village leader: two were branded with a hot iron rod and forced to feed human feces to each other. The incident occurred after the three victims publicly announced that the village president had yet to return money she owed one of them. One of the victims was subsequently strangled and beaten by the president's husband and son. While the police eventually charged the perpetrators with crimes under the Indian Penal Code and the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (1989), Dalits complained that as a result of the incident local upper-caste community members refused to give them work.

In September, the Center for Dalit Human Rights in Rajasthan, a northern state, organized a two-day march, protesting community policies in the village of Chak-

wara that barred Dalits from using public ponds or entering village shops. An upper-caste mob descended on the march, pelting stones and attacking both the demonstrators and the police, injuring fifty people. The policies were put in place in December 2001 when the village's upper-caste community imposed a fine on two Dalits who had used public bathing facilities. Despite lodging a complaint with state authorities, Dalits continued to be excluded and to face threats of violence.

On October 16 in Jhajjar district, Haryana, five Dalit youths were lynched by a mob, reportedly led by members of the VHP in the presence of local police officials, following false rumors that the Dalits had killed a cow—an animal regarded as sacred in the Hindu religion. Nearly a month later five people were arrested, prompting a backlash by villagers who pelted police with stones and blocked off roads for nearly a week. The VHP reportedly also forced shops, businesses, and schools to close in protest of the arrests. The local leader of the VHP, Acharya Giriraj Kishore, said he had no regrets over the incident and that the life of a cow was worth more than that of five Dalits.

Dalit women and girls were often subject to sexual harassment and violence. For example, on April 5 four upper-caste men abducted a fourteen-year-old Dalit girl from her home just outside Jaipur, Rajasthan, and gang-raped her over a period of three days. Upon her return to her village, the village's upper-caste community threatened to remove her family from the village if they reported the incident. On November 3 a Dalit woman in Kishanganj, Bihar was paraded half-naked by a group of people who wanted to teach a lesson to her family for not relinquishing their claim to a piece of land.

The controversial Prohibition of Forcible Conversion of Religion Bill was passed in the state of Tamil Nadu on October 31. The new law attracted widespread criticism because it was feared it would make it more difficult for poor people, persecuted minorities, and others ostracized under the caste system to convert from Hinduism to another religion. Ordered by the AIADMK-ruling government of Chief Minister Jayalalitha Jayaram, the bill found support with the federal government, led by the BJP.

In a positive development, on May 9, Gujarat's Allahabad High Court dismissed a private action brought by a father against a man who had married his daughter in an inter-caste marriage. The defendant claimed that his wife's parents threatened to kill him and his wife if they did not divorce. Although only reaffirming existing laws on caste discrimination, the court's ruling used strong language against the caste system and such killings, and urged the police to intervene when such situations arise.

In January, the state government of Madhya Pradesh adopted the landmark Bhopal Declaration following a two-day conference titled "Charting a New Course for Dalits for the 21st Century," which was organized with the support of the National Campaign for Dalit Human Rights. The declaration's twenty-one point agenda included the enforcement of living wages for agricultural laborers, the restoration of alienated land for tribals, strict enforcement of the Bonded Labour System (Abolition) Act (1976), honest implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) and Rules (1985), and the elimination of the caste-based practice of manual scavenging.

The Indian government continued to exploit rhetoric surrounding the global "war against terrorism" in order to target religious minorities and political opponents. Most notably, the long debated anti-terrorism legislation, the Prevention of Terrorism Act (POTA), was pushed through parliament on March 26. Its close resemblance to the much misused and now lapsed Terrorists and Disruptive Activities (Prevention) Act (TADA) of 1985 (amended 1987) foreshadowed a return to the widespread and systematic curtailment of civil liberties.

POTA created an overly broad definition of terrorism, while expanding the state's investigative and procedural powers. Moreover, under POTA, suspects can be detained for up to three months without charge, and up to three months more with the permission of a special judge. Since its passage, POTA has been implemented against political opponents in various parts of the country. On July 11 in the state of Tamil Nadu, Vaiko, a leader of the political party Marumalarchi Dravida Munetra Kazhakam (MDMK), was arrested for making remarks in support of the banned terrorist group, the Liberation Tigers of Tamil Eelam (LTTE). Only two weeks after Vaiko's arrest, P. Nedumaran, a leader of the Tamil Nationalist Movement, was also arrested under POTA for making pro-LTTE remarks at a conference on April 13.

In Kashmir, the Jammu and Kashmir Liberation Front (JKLF) chairman, Yasin Malik, was held under POTA on March 26, on charges of receiving smuggled money from a Pakistan-based separatist group. Malik was released on bail for medical reasons, but was immediately rearrested under a Jammu and Kashmir preventive detention law, the Public Safety Act (PSA), for anti-national activity.

The former chairman of the All-Party Hurriyat Conference (APHC), Syed Ali Geelani, suspected of funneling money to Pakistan's Inter Services Intelligence, was arrested and detained in the eastern state of Bihar following raids on his residence, and charged under POTA and PSA on June 9. Both the JKLF and the APHC are separatist parties that have advocated Kashmir's independence from India, raising concerns that the charges against their leaders were politically motivated.

Insurgency attacks and counterattacks by Indian troops continued to threaten security and stability in the northeastern states. On August 20, twenty Indian paramilitary soldiers were killed in an ambush in the state of Tripura. According to the police, the ambush was carried out by the separatist group, the National Liberation Front of Tripura (NLFT).

Civilians in the northeast also came under direct attack. On August 13, in a pre-Independence Day attack, militants executed fifteen passengers traveling on a bus through the state of Assam, and injured twenty other people. The strike was suspected to be a joint attack by separatist groups, the United Liberation Front of Assam (ULFA), the National Democratic Front of Bodoland (NDFB), and the Achik National Volunteer Council (ANVC). Indian soldiers also participated in violence, raiding separatist hideouts, and in some cases summarily executing separatist leaders.

On December 13, 2001, a five-man assault team, believed to be part of Lashkar-e-Taiba, an Islamic guerrilla group based in Pakistan, stormed Parliament in New Delhi, killing fourteen people. The Indian government issued a sharp rebuke, accusing Pakistan of failing to reign in the activities of terrorist organizations. Military deployment following the attack included the emplacement of large numbers

of anti-personnel and anti-vehicle mines along the border—apparently one of the largest mine-laying operations worldwide in many years. The Indian press cited numerous reports of civilian casualties along the border, as well as the killing and injuring of Indian army personnel and border security troops as they planted the mines.

In May, three gunmen hijacked a bus, killing seven passengers, and then raided the residential quarters of a Kashmiri army base in Kaluchak. At least eighteen civilians were killed in the raid on the residential compound. State police identified the gunmen as residents of Pakistan's Punjab province. In the days that followed the attack, both India and Pakistan fully deployed army troops along the border, and as exchange of artillery became heavier, the countries' conflict was escalating.

On July 13, gunmen suspected to be part of the Lashkar-e Taiba launched an attack on a shantytown in Jammu. Disguised as Hindu holy men, the group threw grenades at a shop in Qasim Nagar, a migrant laborer colony, and then fired on civilians who were standing nearby. The attack killed twenty-seven civilians, and severely injured thirty more.

On May 21, Abdul Ghani Lone, a moderate Kashmiri separatist leader, was assassinated by unidentified assailants during a memorial rally in Srinagar, the summer capital of Jammu and Kashmir. Lone belonged to the APHC, but was largely perceived as a pragmatist and peace advocate.

State assembly elections were held in Jammu and Kashmir in four phases from September 16 to October 8. The election, which was marked by widespread violence and allegations of vote rigging, left no party with a clear majority but resulted in a decisive defeat for the National Conference party, which had held power in the state for most of the preceding five decades. The People's Democratic Party (PDP) and the Congress party together won thirty-six seats and formed a coalition government, headed by PDP leader Mufti Mohammad Sayeed. In a hopeful move, Sayeed announced that the government would investigate all cases of custodial killings and human rights abuses and punish offenders. He also committed to opening dialogue for peace and to fighting cross-border and indigenous militancy. On November 11, a week after Sayeed was sworn in as chief minister, separatist leader Yasin Malik was released from prison—one of numerous political prisoners whose release was ordered.

The elections sparked an escalation of violence throughout the region, carried out by both militants and Indian security forces. Between August 2, when the elections were announced, and September 24, when the second phase of elections came to an end, over five hundred people were killed. State Minister Mushtaq Ahmed Lone was assassinated on September 11 while campaigning for re-election. On September 19, gunmen stormed a high school north of Jammu, killing a teacher and a student, while security forces and militants engaged in a series of standoffs. The third phase of elections brought renewed and heightened violence as well. On October 1, as polls opened, three gunmen hurled grenades at a bus in the town of Hiranagar, killing nine people and injuring ten others, while militants launched grenade and rocket attacks at polling stations throughout the district of Anantnag. Despite the violence, voter turnout was significantly higher than for national elections in 1999.

Throughout India, women continued to be victimized by rape, trafficking, sexual harassment, and domestic violence, often with little recourse to justice. Although the government passed the Protection from Domestic Violence Bill (2002), women's groups asserted that it fell short of achieving meaningful reform.

In 2002, at least fifteen million children, most of them Dalits, worked as bonded laborers in conditions of forced servitude. Most worked in agriculture; others picked rags, rolled beedi cigarettes, packaged firecrackers, cleaned hotels, or wove silk saris and carpets. Human Rights Watch investigations in 2002 revealed that in the silk industry, bonded children worked twelve or more hours a day, six-and-a-half or seven days a week, producing silk thread and helping weave silk handloom fabric. Both boys and girls suffered injuries and disease from fumes, machinery, sharp threads, boiling water, or handling dead worms, as well as verbal and physical abuse from their owners.

Despite increased public awareness about child labor, the child labor law continued to be poorly enforced, with high-level officials advocating nonenforcement. Certain states, the central government, and NGOs advanced schools to rehabilitate child workers, a positive step but one that reached only a small fraction of working children. Although the National Human Rights Commission (NHRC) continued with some success to pressure local and state governments to enforce laws outlawing bonded labor and certain forms of child labor, the commission's limited resources and power required it to focus on only a few areas and industries. Elsewhere, caste bias, sympathy to employers, corruption, and apathy contributed to the government's failure to free bonded laborers, rehabilitate them, and prosecute their owners.

In 2002, the lower house of Parliament passed the 93rd Constitutional Amendment giving all children ages six to fourteen a fundamental right to free and compulsory education provided by the state. The amendment also placed a constitutional obligation on parents and guardians to provide educational opportunities to these children. Activists strongly objected to the exclusion of children falling outside the age range prescribed by the amendment, and to the obligation placed on parents. At this writing, the amendment was awaiting the president's endorsement.

DEFENDING HUMAN RIGHTS

Given the absence of government-coordinated relief efforts, NGOs and community groups assumed much of the responsibility for delivering supplies and aid to victims in Gujarat's relief camps and establishing rehabilitative services such as schools, trauma counseling, and legal assistance. In doing so, they faced limited access to the relief camps and serious threats to personal safety. Police and members of the city administration obstructed the work of NGOs and other organizations attempting to deliver supplies to relief camps, denying access to transport services and refusing the use of their own trucks. Moreover, government officials refused to provide aid workers with the security and protection that they needed to provide assistance. The National Human Rights Commission also highlighted the

need for rehabilitation and justice efforts in Gujarat, sending a team to monitor the situation shortly after the riots and issuing a set of recommendations to the central and state governments.

Activists battling India's growing HIV/AIDS epidemic also met considerable resistance to their work, which included direct attacks on their security. India is home to one of the largest and fastest-growing HIV/AIDS epidemics in the world. As the epidemic has spread, the longstanding practice of stigmatizing high-risk groups, such as women in prostitution and men who have sex with men, assumed deadly proportions. NGOs conducting HIV/AIDS prevention programs for high-risk populations reported severe harassment of their workers by the police.

An example was the abuse faced by SANGRAM/VAMP, a collective of women in prostitution. The organization suspended its anti-AIDS operations in February when violent thugs drove its members out of their homes in Nippani, Karnataka, with the complicity of a local police official. Before this disruption, SANGRAM/VAMP built up a program that delivered 350,000 condoms per month. By year end, it managed to reestablish most of this work, but harassment by the police remained a concern for many Indian NGOs working with women in prostitution to fight back against AIDS. In November 2002, Human Rights Watch honored Meena Seshu, the general secretary of SANGRAM, for her work in exposing and stemming India's growing HIV/AIDS crisis. In Kolkata, the sex worker organization Durbar Mahila Samanwaya Committee (DMSC) faced similar abuse and intimidation. When the DMSC filed a complaint about the beating of one of their members, local thugs publicly beat up DMSC president Swapna Gayen in the presence of police who had been called for help. This and other instances of intimidation led to mass demonstrations by sex workers, and the arrest of two of the perpetrators. At this writing, however, other key perpetrators remained at large, and abuses against sex workers in Kolkata persisted.

The situation was equally challenging for organizations seeking to assist men who have sex with men. Police harassment of these organizations, including outreach workers focusing on HIV/AIDS prevention, is a chronic problem, but worsened in early 2002. After the December 2001 attack on Parliament in New Delhi, AIDS outreach workers from Naz Foundation (India) Trust (NFIT) reported increased police scrutiny on the streets of the capital. Groups in Chennai and Bangalore told Human Rights Watch that various security incidents, some perhaps related to communal violence in other parts of the country, made the police nervous and prone to harass AIDS workers.

Men who have sex with men are not only stigmatized but are effectively criminalized by the "unnatural offenses" provision of the Indian Penal Code (section 377) that bans sex between men. In late 2001, NFIT, with the assistance of the Lawyers Collective of Mumbai and New Delhi, brought a petition to the Delhi High Court for the repeal of section 377. An affirmative ruling on the petition would dramatically improve the climate for AIDS prevention work among men who have sex with men in India. At this writing, the case was ongoing.

Individual human rights workers also came under direct threat. On June 19 Navleen Kumar, a land rights activist who helped tribals regain their land from builders, was fatally stabbed. Kumar had long fought for the land rights of tribals as

builders expanded development efforts to the outskirts of Mumbai, and was repeatedly threatened for her continued work. On July 8 P.B. D'Sa, vice president of the Karnataka state branch of the People's Union for Civil Liberties, was stabbed and sustained serious injuries. Police personnel reportedly were involved in the attack. This was the second attempt on D'Sa's life; the first was in 1988. The long-awaited State Human Rights Commission was formed in Uttar Pradesh with the governor's approval of its five members on October 7.

THE ROLE OF THE INTERNATIONAL COMMUNITY

The communal violence in Gujarat and the conflict in Kashmir took center stage in the international community's political dealings with India. In April, British officials in India issued a scathing internal report stating that the violence in Gujarat was planned, possibly months in advance of the Godhra attack, with the support of the state government. Responding to growing international scrutiny into the violence, the Indian government stated that it "does not appreciate interference in [its] internal affairs."

United Nations

Despite strong international reaction to the communal violence in Gujarat, the Indian government refused to solicit or accept the assistance of U.N. agencies, only exacerbating already dismal conditions in relief camps. In September however, the then U.N. High Commissioner for Human Rights, Mary Robinson, issued a statement asking the Indian government to ensure the protection of internally displaced persons as they returned to their homes and to initiate prosecutions against those who perpetrated the violence.

Following the momentum and mobilization that Dalit organizations achieved at the 2001 U.N. World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) in Durban, South Africa, the U.N. focused on the issue of caste discrimination. In August, the sixty-first session of the Committee on the Elimination of Racial Discrimination (CERD) included a thematic discussion on descent-based discrimination. The Committee recognized caste-based discrimination as a form of descent-based discrimination and strongly condemned its practice as a direct violation of the Convention on the Elimination of all forms of Racial Discrimination. It further recommended that states parties adopt legislative and constitutional measures that would prohibit all forms of descent-based discrimination while ensuring measures to achieve internationally guaranteed rights for affected communities.

United States

The U.S. put urgent priority on high-level diplomatic efforts to lower tensions between India and Pakistan over Kashmir. U.S. Secretary of State Colin Powell visited India in January and July, and the U.S. took the lead in pressing other govern-

ments to intervene. Powell's July visit to New Delhi was marred by a series of attacks by suspected militants in Srinagar. In October senior U.S. official Richard Haas visited the region in an effort to defuse tension and encourage India and Pakistan to resume dialogue. However, India said a dialogue with Pakistan could only resume when infiltration by armed separatists across the Line of Control (LoC) dividing Kashmir stopped.

On October 10, the U.S. endorsed what it deemed the successful conclusion of elections in Jammu and Kashmir despite violence and allegations of intimidation and voting irregularities. The State Department applauded the efforts of the Indian Election Commission and the courage of the candidates and the voters who participated despite the violence and intimidation, though the U.S. condemned election-related violence and voting irregularities.

In response to the Gujarat violence, the Bush administration sent a State Department official to New Delhi in late May to meet with government officials and the national commissions on human rights and minorities. But intensive lobbying by members of the Indian-American community prevented introduction of a resolution in the U.S. Congress condemning the violence. The U.S. Commission on International Religious Freedom (USCIRF) held a hearing in June on the violence and the U.S. response. On September 30, USCIRF recommended for the first time that the Secretary of State designate India among the twelve "countries of particular concern" (CPC) under the International Religious Freedom Act of 1998 (IRFA). IRFA requires the president to oppose egregious and systematic violations of religious freedom by taking specified diplomatic or economic actions.

The U.S. increased its military support of India. Secretary of Defense Donald Rumsfeld went to New Delhi in June. Congress approved the sale of military equipment, including \$140 million in radar equipment, aircraft engines and submarine and helicopter parts. In September, India announced the purchase of another \$100 million in U.S. defense equipment, including artillery radar. Cooperation on counter-terrorism initiatives between the U.S. and India included intelligence sharing, training, and anti-money laundering cooperation.

European Union

The European Parliament adopted a resolution on May 16 "strongly condemning" the communal violence in Gujarat. It also called on the central and state governments to investigate the killings, noting the overwhelming majority of Muslim deaths. The resolution was followed by leaks of an internal E.U. report that found evidence of state complicity and pre-arrangement by Hindu nationalist groups.

The E.U. welcomed the completion of assembly elections in Jammu and Kashmir. While commending the efforts of the Indian Election Commission in its efforts to promote free and fair elections, and condemning election-related violence and the resulting loss of life, the E.U. also urged the Indian government to investigate reports of election irregularities.

The third annual summit between the E.U. and India was held in Copenhagen, Denmark on October 10. The resulting Agenda for Action included commitments to further develop regular bilateral dialogue on democracy and human rights;

cooperate to promote democracy, development, fundamental freedoms, and the rule of law; and increase cooperation in counter-terrorism initiatives. India remained the European Commission's largest single recipient of E.U. aid in Asia. Funding for 2002-06 was expected to total €225 million (U.S.\$219.6 million). The commission identified poverty elimination as the guiding principle of aid activities, with a focus on elementary education and basic health. Other funding priorities included programs that incorporate the experience and needs of women and other socially marginalized groups, as well as good governance programs.

Japan

Japan repeatedly urged both India and Pakistan to resume dialogue on Kashmir. During a meeting of the Japanese and Indian foreign ministers at the ASEAN regional forum in Brunei in August, a joint statement was issued on economic cooperation announcing that Prime Minister Junichiro Koizumi would visit India (no date was announced). Foreign Minister Yoriko Kawaguchi also made an appeal for "free, fair and inclusive" elections in the state assembly elections in Jammu and Kashmir.

Koizumi reiterated Japan's concerns about Kashmir when he met with Prime Minister A.B. Vajpayee during the U.N. General Assembly in New York in September, while also focusing on nuclear proliferation and bilateral aid.

In October 2001, Japan lifted sanctions against India imposed after its nuclear tests in May 1998. Sanctions included a freeze on Official Development Assistance (ODA) yen loans and grants, except for humanitarian purposes. By 2002, Tokyo had significantly boosted aid to India, including nearly U.S.\$500 million in ODA for the Delhi Metro and the National Thermal Power Corporation plant in Andhra Pradesh, plus over \$20 million in grant aid. The assistance was given as part of Japan's emergency assistance to countries affected by the war against terrorism.

World Bank and Asian Development Bank

India continued to be one of the World Bank's largest borrowers: it received U.S.\$2.1 billion from the World Bank in fiscal year 2002. The India country assistance strategy for 2001-04 targeted aid for poverty reduction, including health and education, HIV/AIDS programs, and rural development.

The Asian Development Bank provided loans totaling \$1.5 billion in 2001 (latest figures available), including loans for power project development and the rebuilding of areas damaged by the earthquake in Gujarat in January 2001. Half of the ADB's lending was given to state-level projects.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Epidemic of Abuse: Police Harassment of HIV/AIDS Outreach Workers in India, 6/02
"We Have No Orders to Save You," State Participation and Complicity in Communal Violence In Gujarat, 4/02

INDONESIA

On October 12, two car bombs exploded in Kuta, South Bali, killing at least 188 civilians. Most of those killed were foreign tourists but an estimated quarter of the fatalities were Indonesian. The bombs and the aftermath dominated national and international news for much of the remainder of the year. In response to international pressure, mainly by the United States, President Megawati issued two presidential decrees in lieu of legislation to address terrorism in Indonesia and to facilitate the investigations into the Bali attack. Prominent Muslim cleric Abu Bakar Ba'asyir was arrested in the wake of the attack but was charged for the separate Christmas Eve bombings of 2000 and other crimes. The suspected terrorist organization which many believe he heads, Jemaah Islamiyah, was designated a terrorist organization by the United Nations.

Despite restoring some political stability to Indonesia during its year and a half in office, the administration of President Megawati Sukarnoputri failed to deal with several major human rights challenges. These included continued violations of international human rights law by the country's military forces (Tentara Nasional Indonesia, TNI), pervasive corruption, separatist conflict in Aceh and Papua, religious violence in Maluku and Poso, and attacks on human rights defenders. These failures stemmed in part from the administration's lack of political will to resist former supporters and beneficiaries of the Soeharto government, including the TNI.

HUMAN RIGHTS DEVELOPMENTS

The annual session of Indonesia's parliament (Majelis Perwakilan Rakyat, MPR) ended on August 11, after approving major changes to the country's constitution. The most significant amendment established direct presidential and vice-presidential elections beginning in 2004. A second amendment established a bicameral legislative system comprising of a House of Representatives and a Regional Representative Council. This amendment also abolished the formal participation of the military in civilian government by eliminating the thirty-eight seats previously reserved for the armed forces.

The MPR rejected a constitutional amendment to include *shari'a* (Islamic law) in the constitution. Three Muslim parties, the United Development Party, the Crescent and Star Party, and the Daulatul Umat Party, had proposed the amendment. It was defeated with the support of Indonesia's two largest Islamic organizations, the Nahdatul Ulama and Muhammadiyah.

Other amendments that would have created new institutions or strengthened existing ones—such as the independent and permanent General Elections Commission (Kursus Pengetahuan Umum, KPU), an anticorruption commission, the National Commission on Human Rights (Komisi Nasional Hak Asasi Manusia, Komnas HAM), and the National Ombudsman—were defeated.

At this writing, the legislature had not yet enacted enabling legislation to implement the new constitution.

Corruption

As in previous years Jakarta courts and prosecutors showed little willingness to take on major corruption cases. The Jakarta Supreme Court overturned the conviction and three year jail term of Central Bank governor Syahril Sabirin, who had been indicted for misuse of \$80 million of bank funds in the 1999 "Bank Bali" scandal.

In September, speaker of the House of Representatives and chairman of the Golkar party, Akbar Tandjung, was sentenced to three years in prison by the Central Jakarta District Court, making him the highest public official ever tried and convicted for corruption. Tandjung was found guilty of misappropriating roughly U.S.\$4 million (Rp 40 billion) in state funds from the State Logistics Agency (Bulog), allegedly to fund Golkar's 1999 election campaign. Tandjung continued to hold both positions while appealing the decision.

In March, Hutomo Mandala Putra, better known as Tommy Soeharto, son of former President Soeharto, went on trial for ordering the killing of Supreme Court judge Syaifuddin Kartasasita in July 2001. Kartasasita, who was shot several times by two gunmen, had previously upheld an eighteen-month jail sentence for Tommy Soeharto on corruption charges. In an unexpected verdict at the end of July 2002, Tommy was found guilty of paying two hit men to murder judge Kartasasita, possession of illegal weapons, and fleeing justice. He was sentenced to fifteen years in prison, while the two perpetrators of the shooting received life sentences.

In October, members of the Public Servants' Wealth Audit Commission (KPKPN) alleged that Attorney General M.A. Rachman had not properly disclosed his acquisition of a new house. At this writing the investigation was ongoing.

Papua

The security situation in Papua (also known as Irian Jaya) deteriorated during the year. Civilians and human rights defenders faced increased violence. The decline in security came despite the passage of a "special autonomy" law for Papua on October 23, 2001. The bill gave Papuans a say in provincial government and allowed them to retain 80 percent of local forestry and fishery revenues and 70 percent of oil, gas, and mining revenues. By the end of 2002, however, enabling legislation had yet to be implemented to give effect to the new law.

Several civil society meetings were held in Papua with the aim of turning the province into a zone of peace by reducing violence and providing a secure space for groups to negotiate. The initiative had gained support from a cross-section of Papuans, including the Free Papua Movement (Organisasi Papua Merdeka, OPM) and religious leaders. However, the initiative failed to reduce the violence.

In July, West Papua Police Chief Made Mangku Pastika announced Operation Justice (Operasi Adil Matoa). While allegedly directed at violent separatist organizations, Papuans worried that non-violent groups, such as the Papuan Presidium Council, would be targeted and banned.

A large influx of migrants and internally displaced persons from conflict areas such as Maluku also created tension in the region, as did reports of infiltration by large numbers of members of Laskar Jihad, a radical Muslim group from Java that had been involved in the conflict in Maluku. Many Papuans feared that the TNI would encourage the formation of pro-integration militias to combat calls for Papua's independence.

Investigations into the November 10, 2001, killing of Theys Hiyo Eluay, chairman of the independence-seeking Papua Presidium Council, made progress in 2002, though no one had gone to trial as of mid-November. A government-backed national investigation team announced its results in late April 2002, accusing nine of the Army's Special Forces (Komando Pasukan Khusus, Kopassus), including the unit's commander, Hartomo, as key suspects; two more Kopassus suspects were later added. The suspects were to be tried for common rather than human rights crimes before a military court, thereby eliminating the possibility of a trial by a human rights court.

On August 31, 2002, one Indonesian and two American schoolteachers were killed after their vehicles were ambushed by a group of unidentified gunmen, near Tembagapura in Papua. All three victims were employed at an international school for the children of employees of the Freeport gold mine in Papua. Ten other individuals from the two-vehicle convoy were injured. The following day, Indonesian government forces shot dead an unidentified Papuan male, whom they claimed was both a member of the armed separatist group, OPM, and responsible for the attack. The perpetrators of the ambush remained unknown, although police investigations pointed to Kopassus involvement.

Aceh

The conflict in Aceh intensified, with an estimated 1,230 people killed during the year. Military forces stepped up operations against the Free Aceh Movement (Gerakan Aceh Merdeka, GAM), resulting in casualties on both sides. While Jakarta stated a commitment to peace negotiations with GAM, military buildup in the province contradicted government rhetoric. In February, against enormous local opposition, President Megawati Sukarnoputri issued a decree to reestablish a military command for the region of Aceh province (Komando Daerah Militer, KODAM). In April, the government dispatched 1,850 police and army reinforcements to Aceh. More forces arrived to secure Independence Day festivities on August 17. At year's end there were an estimated twenty-five to thirty thousand security personnel in Aceh.

On January 1, the new "special autonomy" law for Aceh came into effect. It renamed the province Nanggroe Aceh Darussalam (NAD) and introduced *shari'a* (Islamic law) to the region. The enforcement of Islamic dress codes became effective on March 15. Otherwise, no real economic or political change occurred, since much of the new law remained unimplemented.

In a bid to find a non-military solution to the conflict, representatives of the Indonesian government and GAM, facilitated by the Henry Dunant Humanitarian Dialogue Centre (HDC), met in Geneva February 2-3. Further talks occurred on

May 10, but neither session in Geneva produced tangible results. Military and GAM casualties continued at a high rate. Just one day after the end of the May session, Tgk. Zakaria bin Yahya (Ayah Sofyan), spokesperson for GAM, was shot dead by police at his home near Banda Aceh, the provincial capital. Military forces had already killed Abdullah Syafei, the GAM commander, in January.

On May 4, the Aceh chief of police banned a seminar organized by the Aceh Civil Society Task Force in Banda Aceh. The one-day seminar was to discuss progress made by the Geneva peace talks and ways to broaden the representation of civil society in the peace negotiations.

GAM abuses against the local population continued with many incidents of extortion and some kidnappings. Two high-profile kidnappings of schoolchildren by GAM occurred in May and June; the children were later released.

Tengku Radak, GAM spokesman in Banda Aceh, claimed responsibility on behalf of GAM for the detonation of several bombs in connection with Indonesian Independence Day festivities on August 17. At least eleven people were injured after a homemade explosive was thrown into a celebrating crowd in Banda Aceh. On August 16, several bombs exploded and gunfights took place between security personnel and GAM at separate locations in Banda Aceh and in Lhokseumawe. Another bomb detonated in the office of the Syah Kuala subdistrict chief, while two gunfights broke out between security personnel and rebels in separate locations in Blang Bintang.

Despite increased GAM attacks, in August the Indonesian government unexpectedly delayed its announcement of a heavier security regime for Aceh. It gave GAM until the beginning of December to reconsider a compromise on autonomy. The government's offer would give Aceh control over part of the revenues from the region's oil and gas. However, the delay was undercut by the threat of harsher penalties if the government perceived that GAM was negotiating in bad faith. Susilo Bambang Yudhoyono, coordinating minister for political and security affairs, said in a press conference, "If by then they [GAM] have not shown a positive attitude and conditions become uncertain and dangerous, the government will take stern action, including intensifying military operations."

Two high profile visits of U.S. military personnel to Jakarta and Aceh—one by retired general Anthony Zinni and the other by Admiral Thomas B. Fargo, commander-in-chief of the U.S. Pacific Fleet—are believed to have been instrumental in persuading the Megawati government to delay any further military escalation in Aceh.

GAM declared a unilateral ceasefire at the start of Ramadan on November 4, but this was broken days later when GAM and military soldiers exchanged gunfire in North Aceh, leaving five people dead including one soldier.

In November, international observers started to arrive to monitor the peace process in advance of an expected peace agreement to be signed by GAM and the Government of Indonesia at the end of Ramadan.

No progress was made on investigations into the August 2001 massacre of thirty-one people at a plantation, Bumi Flora, in East Aceh, despite a preliminary investigation by Komnas HAM. Lack of security hampered a long awaited follow-up investigation, underway in late July 2002.

Maluku

In February 2002, the Indonesian government facilitated a peace agreement between Muslims and Christians in Maluku. The agreement, called Malino II, set up a national human rights investigation team to look into violations committed in Maluku. The presidential decree establishing the team was issued on June 6, but as of this writing no investigations had taken place. Meanwhile, the violence continued.

On March 2, armed attackers set upon the marchers with machetes at a Muslim-Christian peace rally. At least two victims were hospitalized with serious injuries. Twelve Christians were then killed after their village, Soya, was attacked in the early morning on April 28. The local church and dozens of homes were burned to the ground during the attack by unknown perpetrators. On July 27, at least fifty-four people were injured after a bomb exploded in the predominantly Christian area of Kudamati, Sirimau subdistrict.

Two high-profile trials—one of a Muslim leader and one of a Christian leader—commenced during the second half of the year. On May 4, Ja'far Umar Thalib, the leader of the Laskar Jihad Islamic militia group, was arrested. He was accused of inciting violence through a speech he gave in April and charged with insulting the president, the vice-president, and the south Maluku governor. In a separate case, Alex Manuputty, head of the Christian based Maluku Sovereignty Front (Front Kedaulatan Maluku, FKM), was charged on April 25 with flying the banned flag of the Republic of the South Moluccas. Both trials were ongoing at the end of the year.

On October 7, the executive board of Laskar Jihad decided to disband the group and cease all activities. Over a thousand members of the radical Muslim group left Maluku in the following weeks and returned to Java.

Poso

In Central Sulawesi, violence between Christian and Muslim communities continued, although the first Malino Declaration, brokered by the central government in December 2001, helped reduce the level of conflict. With the seven-month implementation period of the Malino Declaration coming to an end on July 31, 2002, residents reported rumors of a new round of attacks as soon as the declaration period ended and some army personnel withdrew. Even before the end of July, however, violence had increased. Late May and June saw an increase in bombings and unclaimed shootings, including fatal bus bombings on June 5 and July 12. Then, on August 3, the body of a local Muslim leader was found in Tegalrejo subdistrict. Early the next day a series of attacks on Christian villages prompted new movements of displaced persons. Unknown attackers fired on a bus with automatic weapons on August 8, killing an Italian tourist and injuring four other passengers in South Pamona subdistrict. With the government unable to prevent attacks or identify and prosecute attackers, the rise in violence over June, July, and August raised fears the already fragile Malino Declaration would collapse.

There was no progress in prosecuting those responsible for earlier acts of violence, such as the killings at Kilometer 9 in May 2000, the murders at Buyung

Katedo in July 2001, or the leveling of villages in November 2001. Members of the radical Muslim group Laskar Jihad, who arrived in July of 2001, remained in the region at this writing.

Migrants, Asylum Seekers, and Internally Displaced Persons

At the end of July, Malaysia enacted strict laws against illegal immigrants, causing an exodus of undocumented Indonesian workers. An estimated three hundred thousand workers returned to Indonesia, while another four hundred thousand remained in Malaysia with no financial means to return or prospects for employment. After a diplomatic row between the two countries, the Malaysian government agreed to a one-month extension for the workers; those who remained faced disproportionate penalties, including huge fines, up to five years imprisonment, and caning. At least five Indonesians were sentenced to caning during the initial clampdown.

The Indonesian government was slow to address the needs of expelled workers stranded at the Malaysia-Indonesia border in Borneo, while local authorities had no capacity to deal with the unexpected influx of tens of thousands of workers with no resources or job prospects that might induce them to return to their villages of origin. In Nunukan, in East Kalimantan, at least fifty returned workers were reported to have died in makeshift camps because of a lack of food, medicine, and sanitation facilities. It was a month before the Indonesian government organized a floating hospital ship to treat the sick.

While the international community neglected the rights and needs of 1.25 million internally displaced persons in Indonesia, Australia exerted its diplomatic influence to win funding for UNHCR refugee status determinations and IOM-administered material assistance for the few thousand Afghan, Iraqi, and Iranian refugees transiting Indonesia on their way to seek asylum in Australia. Australia also provided border control enforcement assistance to the Indonesian authorities, but paid little attention to training in the principles of refugee protection.

East and West Timor

The Indonesian government made only half-hearted attempts during the year to hold accountable those responsible for TNI abuses in East Timor. Human rights defenders inside and outside the country called for an international tribunal in light of the failures of the Indonesian justice system.

On January 12, 2002, President Megawati appointed eighteen non-career judges to sit on the Indonesian ad hoc human rights court for East Timor. Twenty-four prosecutors were inducted on February 8. The office of the attorney general issued the first charges against seven individuals on February 21.

The court tried the former East Timorese governor, Abilio Osorio Soares, for crimes against humanity under Indonesian Law 26/2000. Prosecutors charged Soares with responsibility for widespread and systematic human rights violations perpetrated by subordinates under his effective control. The incidents cited in his

indictment included the Liquica Church massacre of April 6, 1999, the attack and killings at Manuel Carrascalao's house in Dili on April 17, 1999, the September 1999 Suai Church massacre, and the September 1999 attack on Bishop Belo's house.

Former East Timor police chief, Brigadier General Timbul Silaen, faced similar charges of crimes against humanity. In addition to incidents listed in Soares' indictment, the court charged Silaen in connection with an attack on the UNAMET office in Liquica in September 1999.

Five other men went on trial together for the Suai Church massacre: former district administrator of Suai, Herman Sudyono; former Suai district military commander, Lieutenant Colonel Lili Kusardiyanto; former chief-of-staff of Suai district military command, Captain Ahmad Syamsudin; former Suai military sector commander, Sugito; and former chief of police in Suai, Lieutenant Colonel Gatot Subiakto.

Trials commenced in March, after government regulations on witness protection and victim compensation were settled. Despite concerns about the implementation of the witness protection programs and at least one allegation of intimidation, four East Timorese witnesses traveled to Jakarta and gave testimony. Not one U.N. staff member was called to testify.

Announced on August 14, 2002, the first verdicts from the trials triggered widespread international and domestic criticism. Abilio Soares was found guilty of crimes against humanity and sentenced to three years of imprisonment, well below the legal minimum of ten years and the ten-and-a-half years requested by the prosecution. The other defendants, named above, were acquitted. In November Colonel Timbul Silaen was promoted to the rank of one-star inspector general and became security assistant to National Police Chief Dai Bachtiar.

The outcomes of the trials had been expected. Although the judges had not allowed the trials to be derailed, a presidential decision limiting the mandate for the tribunals to a handful of cases that occurred in April and September 1999 hindered the prosecution. Most significantly, the prosecutors failed to reveal in court the role of the military and Indonesian officials in organizing and arming militia groups and in orchestrating the violence.

The prosecutors' indictments were weak. They charged defendants with "failure to act," rather than organizing and perpetrating atrocities. By portraying the 1999 violence in East Timor as a civil disturbance, rather than a systematic and widespread terror campaign, the indictments made it more difficult to establish crimes against humanity.

On January 19, 2002, the sentences of three persons convicted of killing three international UNHCR staff members in West Timor on September 6, 2000, were increased from ten-to-fifteen months to five-to-seven years, after international outcry over the leniency of the initial sentences.

On March 7, Yacobus Bere was found guilty and sentenced to six years in prison for the July 2000 murder of a New Zealand peace-keeping force soldier, Private Manning. On March 20, the Central Jakarta District Court acquitted three other men, tried separately for involvement in the murder.

On January 1, 2002, the Indonesian government ceased humanitarian assistance to East Timorese refugees in West Timor. The cessation of aid spurred many

refugees to return to East Timor in March and April, as post-harvest stockpiles of food began to run out; and malnutrition, diarrhea, and malaria increased. Indonesia's announcement that it would end repatriation incentives at the end of August also prompted refugees to return, with an estimated ten thousand refugees crossing the border to East Timor in July and August.

An estimated thirty thousand refugees remained in West Timor at this writing. UNHCR announced in May that the U.N. Refugee Convention would cease to apply to all East Timorese remaining in Indonesia at the end of December 2002, though individuals still retained their right to appeal this cessation of status.

The issue of missing and separated East Timorese children in Indonesia remained unresolved. UNHCR and the International Rescue Committee (IRC) made slow progress on an estimated 1,500 reported cases, with little help from the government of Indonesia. While some reunifications occurred from West to East Timor, children in other parts of Indonesia became increasingly isolated after three years of separation. Most well-known were the cases of almost two hundred East Timorese children taken to orphanages in Central Java by Octavio Soares, brother of former East Timor Governor Abilio Soares. Their status remained unclear. Requests for reunification of the children by the parents, UNHCR, and the IRC were met with hostile resistance from Octavio.

DEFENDING HUMAN RIGHTS

Indonesia's National Human Rights Commission (Komisi Nasional Hak Asasi Manusia, Komnas HAM) had played a credible and important role in the final years of the Soeharto period. During 2002, the commission was increasingly ineffective and marginalized. Crucial investigations were half-hearted or incomplete, including that into the Bumi Flora incident. (See above.) While parliament recommended the appointment of new members, it rejected some highly qualified candidates. In September, the commission elected its new chair, Abdul Hakim Garuda Nusantara. Hakim's appointment was generally well received, but doubts of the commission's future effectiveness remained given the reappointments of long-serving members with military ties.

Indonesia continued to be a dangerous and difficult place for human rights defenders. In June, the provincial police chief and the Indonesian military chief, General Endriartono Sutarto, issued strong warnings to secessionist groups in Papua. These alerts were followed by harassment of local civil society activists. In addition, Yafet Yelemaken, a local representative of the Papuan Presidium Council and director of the Civilian Custom Institute in Wamena, died in June; other activists suspected poisoning. Benny Wenda, leader of the Koteka Tribal Assembly (Dewan Musyawarah Masyarakat Koteka, DeMMAK), was arrested on June 8, on charges that he owned two passports, one from Indonesia and one from Papua New Guinea; that he had organized the attack on a police post in Abepura in December 2000; and that he was organizing new attacks on military and police posts in West Papua. Amid fears for his physical security and reports of deteriorating health, he disappeared from his cell in late October.

Other Papuan human rights defenders, including volunteers for ELS-HAM, a prominent Papuan human rights organization, received death threats, while lawyers representing political detainees and human rights activists working on the Theys Eluay case and the killing and torture of students by security forces in Abepura in 2000 suffered threats and intimidation.

The fear of violence, intimidation, and retribution by both the military and GAM obstructed human rights defenders in Aceh. Many ceased monitoring and reporting on human rights violations outside Banda Aceh.

On January 16, a Jakarta criminal court sentenced Faisal Saifuddin, head of the Jakarta office for the Aceh Referendum Information Center (Sentral Informasi Referendum Aceh, SIRA), to one year in prison for violating articles 154 and 155 of the Indonesian criminal code, the notorious “spreading hatred” laws previously used by the Soeharto government against critics and activists.

Seven human rights defenders from the Acehese Democratic Women’s Organization (Organisasi Perempuan Aceh Demokratik, ORPAD) were arrested while staging a peaceful protest on July 16 in Banda Aceh. The next day all were released, except for Reihana Diany, ORPAD’s chairperson. Diany was held under articles 134 and 137 of the Indonesian criminal code for insulting the head of state.

No progress was made in the investigation into the December 2000 killings of three field workers for the nongovernmental organization, Rehabilitation Action for Torture Victims in Aceh (RATA). An eyewitness had named four military informers as the perpetrators, but they escaped from detention.

On August 19, 2002, two trade unionists were shot and seriously injured by police in Bandung, the capital of West Java, during large peaceful demonstrations against two proposed labor laws—one on industrial relations dispute settlements and one on labor development and protection. The protesters claimed the bill would curtail their rights to strike and was unfair in areas including dismissals, wage standards, and contract labor. The Indonesian National Front for Labor Struggles (FNPBI) organized the demonstrations. At least thirty-one other labor rights activists were subsequently arrested and detained by the police.

On March 13, a group calling themselves the “Families of Cawang Victims 1998” ransacked the Jakarta office of the Commission for Missing Persons and Victims of Violence (Komisi Untuk Orang Hilang dan Korban Tindak Kekerasan, KONTRAS). The attack occurred just two days after KONTRAS released its Human Rights Report, which criticized both the Wahid and Megawati governments, and two days after KONTRAS had demanded senior Indonesian military officers face questioning in relation to the Trisakti killings of six pro-democracy student activists in Jakarta in 1998. Several staff members were severely beaten during the well-orchestrated attack. In April, seven defendants went on trial for the attack.

In March, a group of fifteen people, organized by the Urban Poor Consortium (UPC), were hospitalized after being attacked at the Komnas HAM office in Jakarta by a group calling themselves the United Betawi Forum (Betawi Rempug Forum, FBR). The UPC group had arrived at Komnas HAM to seek support for a lawsuit against the Jakarta Provincial Administration’s crackdown and seizure of pedicabs.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

In a May meeting with Indonesian Foreign Minister Hassan Wirayuda, U.N. Secretary-General Kofi Annan encouraged “effective and credible” trials for Indonesian officers accused of abuses in East Timor. While an international tribunal was not discussed, Annan spoke with Indonesian President Megawati Sukarnoputri about possible U.N. technical assistance to train judges and prosecutors involved in the trials. Wirayuda also announced U.N. plans to send observers to monitor the trials.

In November 2001, the Committee against Torture adopted conclusions and recommendations after considering Indonesia’s initial report, submitted over a year late. While noting efforts to reform the legal system, the committee expressed concern regarding allegations of torture and ill treatment by police, the army, and paramilitary groups, and regarding attacks on human rights defenders and other human rights violations.

The U.N. representative on internally displaced persons submitted in February an addendum on displacement in Indonesia. Calling the Indonesian government’s plan to resolve the problem of internal displacement by the end of 2002 “unduly optimistic,” the addendum urged the government to train appropriate officials on the Guiding Principles of Internal Displacement, recommended that Komnas HAM take a more active role in addressing the needs of internally displaced persons, and encouraged the international community to expand assistance programs.

With funding from Belgium, Germany, and the Netherlands, the U.N. Development Program coordinated a police reform program to train officers and regular police in Indonesia.

In July, the U.N. special rapporteur on the independence of judges and lawyers, Dato’ Param Cumaraswamy, visited Indonesia. He noted “serious problems” in the judiciary that were worse than expected and found “no political commitments to fix [them].”

United States

The Megawati and Bush administrations focused their joint efforts on the fight against terrorism. U.S. Secretary of State Colin Powell used his visit to Jakarta in early August to announce Bush administration plans for increased assistance to the Indonesian military. This aid included U.S.\$4 million for anti-terrorism courses for TNI officers. An additional \$400,000 was requested in the 2003 foreign aid budget for International Military Education and Training (IMET). In addition, the administration requested assistance for police training, \$10 million of which was pending approval as part of the fiscal year 2003 appropriations. The fiscal year 2002 anti-terrorism bill included \$8 million for a police counter-terrorism unit and \$4 million for police training.

In July, the U.S. State Department asked a federal judge to dismiss a lawsuit against ExxonMobil Corporation for its alleged complicity in human rights abuses

at its gas fields in Aceh. In a letter to the judge, the State Department contended that Indonesia's counter-terrorism efforts could be "imperiled in numerous ways if Indonesia and its officials curtailed cooperation in response to perceived disrespect for its sovereign interests."

In September, twenty-seven members of Congress wrote to Representative Jim Kolbe, chairman of the House Appropriations Subcommittee on Foreign Operations, urging that human rights restrictions on U.S. military assistance to Indonesia be renewed. Previously, in July, Congress had turned down an administration request for \$8 million to set up a "domestic peacekeeping unit" to quell sectarian and communal violence.

Congress was particularly concerned with events in the Papua region. Several representatives wrote to President Megawati in November 2001 expressing "grave concern" about the murder of Theys Eluay. Federal Bureau of Investigation officers visited Papua following the killing of two Americans in Timika in August.

Europe

The European Commission sent an independent mission to Indonesia in January to assess the potential for supporting conflict prevention. The group visited Central Sulawesi, Maluku, and Papua and released a report in March detailing causes of communal violence in those regions. The report recommended further work to implement and develop long-term processes, including dialogue, political compromise, accountability for past human rights abuses, and transforming high-level official positions to reflect grassroots perspectives.

The European Parliament met in May to discuss human rights issues in Indonesia. A resolution signed by thirteen members called on Indonesia to "engage in a genuine dialogue with the provinces" to resolve conflicts in Aceh, Maluku, and Papua; to investigate the murder of Theys Eluay in Papua; and to "protect the civilian populations from attacks by terrorist groups such as Laskar Jihad."

In June, the European Commission adopted a five-year strategy for financial assistance to Indonesia. Stressing good governance and sustainable management of natural resources, the plan called for U.S.\$213 million in aid during the 2002-2006 period.

In 2002, Russia announced that it would move forward with a contract to sell ten military helicopters to Indonesia. In May 2002, the Czech Republic confirmed that it sold small arms to Indonesia in 2001.

Japan

Indonesia's largest aid donor announced at the November 2001 consultative group meeting on Indonesia its intention to disburse U.S.\$720 million (¥85.7 billion) in projects and extend new Overseas Development Assistance (ODA) loans of over \$300 million (¥40 billion) for economic development in fiscal year 2002. Japan began the year by giving \$88,000 in humanitarian assistance to Aceh province.

Improving economic cooperation was the primary goal of Prime Minister Junichiro Koizumi's January trip to Jakarta. Intent on countering China's influence

with ASEAN members, Koizumi pressed President Megawati for a comprehensive economic alliance centered on free trade between Japan and ASEAN, and the two leaders agreed to promote the plan. Noting the importance of stability in Indonesia, Koizumi expressed support for Indonesia's retention of Aceh, but insisted that problems in the province be approached with human rights in mind. He agreed to aid Indonesia's efforts at judicial and police reforms and pledged U.S.\$10 million to assist refugees in Aceh and West Timor and U.S.\$3 million for education improvements. A Japanese Ministry of Justice delegation visited Indonesia in January to assess ways of helping with judicial reform. In July, Foreign Minister Yoriko Kawaguchi reiterated Koizumi's support and concerns in her meeting with Indonesian Foreign Minister Wirajuda.

Japan further pledged in February to provide over U.S.\$2 million from its Trust Fund for Human Security to aid in the relocation of displaced people and the development of education in Maluku, North Maluku, and Aceh. Japan also pledged to send advisers to Indonesia as part of a two-year project of technical assistance to the national police.

Australia

Amid objections from the Indonesian parliament, Prime Minister John Howard made an official visit to Jakarta in February. Members of parliament accused Australia of supporting pro-independence activists in Papua. In talks with President Megawati, Howard sought to rectify tensions by denying support for separatist movements and agreeing to help Indonesia fight terrorism. The two officials signed a memorandum of understanding on counter-terrorism at the end of Howard's three-day visit. Howard projected the "gradual" resumption of military relations, which were suspended following the 1999 post-referendum violence in East Timor.

Total aid flow to Indonesia in the 2002-2003 fiscal year was set at U.S.\$66.7 million (Aus\$121.6 million) for poverty reduction, economic recovery, and democratization, inclusive of an U.S.\$8.2 million (Aus\$15 million) plan to help refugees throughout Indonesia, with U.S.\$3.3 million (Aus\$6 million) for East Timorese on the West Timor border and up to U.S.\$4.6 million (Aus\$8.5 million) to assist those affected by internal conflict throughout Indonesia.

World Bank

The World Bank strengthened its efforts to fight corruption in bank-financed projects in Indonesia. It outlined a four-part strategy in its Country Assistance Strategy for fiscal years 2001-2003 to ensure the appropriate use of bank funds, and in July it held an Anti-Corruption Advisory Group Meeting in Jakarta.

In his exit speech in Jakarta in August, outgoing World Bank head Mark Baird spoke of the need for structural reform of public institutions, especially in the civil service and justice sectors, government accountability, and an end to corruption.

The Consultative Group on Indonesia (CGI) meeting scheduled for October was postponed until January 2003 in the aftermath of the Bali bombing.

PAKISTAN

In October 2002, Pakistan held its first parliamentary elections since the October 1999 coup that brought President Pervez Musharraf to power. Measures taken by Musharraf's administration in the months preceding the elections, however, all but ensured a military-controlled democracy. Chief among them were an April referendum that extended Musharraf's presidential term for five years, and constitutional amendments announced in August that formalized the military's role in governance and extended restrictions on political party activities. Independent observers reported extensive fraud and coercion during voting for the referendum, and widespread poll-rigging and harassment of candidates preceding the parliamentary elections.

The pro-Musharraf Pakistan Muslim League-Quaid-e Azam (PML-QA) won the most seats though fell short of the number needed to form a government. The dramatic and unprecedented rise to power of religious parties also signaled a defiant rejection of Musharraf's pro-U.S. policies.

Internal groups coordinated and carried out attacks on foreigners and religious minorities in Pakistan. Increasing attacks on Christian community members raised concerns that they were being targeted because of Pakistan's alliance with the U.S..

Refugees from Afghanistan suffered from a lack of humanitarian assistance and faced increased hostility from authorities, while discriminatory laws continued to limit women's security and safety. Hundreds of women were killed in the name of "honor." Journalists faced heightened harassment, and in some cases arrest, for reporting on government activities.

HUMAN RIGHTS DEVELOPMENTS

In early April, President Musharraf announced a nationwide referendum on a five-year extension of his presidency. The referendum was preceded by a month-long campaign by Musharraf, while a ban on public rallies prevented political parties from campaigning against the referendum. On April 15, police in Faisalabad led a baton-charge against journalists who walked out on a speech by the Punjab provincial governor, Khalid Maqbool, during a pro-referendum rally. The governor had warned that journalists could face revenge from the public if they did not cease their "misreporting."

Official results for the referendum, held on April 30, showed a 97.5 percent vote in favor of Musharraf. However, independent observers, including the Human Rights Commission of Pakistan (HRCP) and Pakistani journalists, found evidence of widespread fraud and coerced voting. Electoral rolls and national identification cards were dispensed with, ballots were routinely stamped in the presence of, or even by, polling officials, and observers reported cases of repeat voting. Police and local government officials in all four provinces transported busloads of voters to

polling stations. Both public and private sector employees reportedly said that they had cast "yes" votes on the orders of their supervisors; polling stations had been established in many places of employment, including factories.

On August 22, Musharraf promulgated the Legal Framework Order (LFO), which included a controversial set of constitutional amendments. Taken together, the amendments strengthened the power of the presidency, formalized the role of the army in governance, and diminished the authority of elected representatives. The amendments also significantly curbed freedom of association and the right of individuals to stand for elected office.

The LFO restored article 58(2)(b) of the constitution, originally introduced more than a decade earlier under the martial law regime of General Zia-ul-Haq but repealed by an act of parliament in 1997. This article allowed the president to dissolve the National Assembly—the lower house of Pakistan's parliament—if a situation arose in which government could not be carried out "in accordance with the Constitution." Employed frequently by the military in past years to dismiss successive elected governments in Pakistan, the article formed a key element of what Musharraf termed necessary "checks and balances" in the country's system of government.

The amendments also created a National Security Council (NSC) to serve as a consultative body not only on strategic matters, but also on "democracy, governance and inter-provincial harmony." Although the NSC included elected civilian leaders—the prime minister, and the speaker, and opposition leader in the National Assembly—ultimate authority appeared certain to rest with the military officers on the NSC, including Musharraf, in his dual capacities as president and army chief of staff; the heads of the navy and air force; and the chairman of the Joint Chiefs of Staff Committee. The NSC was to be a "super-cabinet" that would shadow the work of the prime minister's civilian cabinet.

Other amendments in the LFO included limiting candidates for election to the National Assembly or Senate to persons who have attained a bachelor's degree. Given the country's poor educational infrastructure and sharp social and gender inequalities, the provision inevitably barred all but a small percentage of the citizenry from holding parliamentary office. More immediately, the provision also disqualified a number of regional political leaders from standing for office in the October elections.

Criminal convicts, defaulters on loans and utility bills, and absconders from court proceedings were likewise disqualified under the LFO from candidacy; the criteria, in this case, appeared tailored to ensure the disqualification of former prime ministers Nawaz Sharif and Benazir Bhutto, as well as politicians convicted under the National Accountability Ordinance (NAO) promulgated after the coup.

Perhaps most significantly, the LFO summarily validated all orders and laws promulgated by Musharraf, as well as all actions taken by persons acting pursuant to them, and declared that they "shall not be called into question in any court on any ground whatsoever." The measure effectively precluded judicial review of cases alleging military abuses, as well as constitutional amendments and laws promulgated since the coup.

The government announced in August that the ban on political rallies, imposed

shortly after the coup, would be lifted as of September 1, leaving political parties less than six weeks to mount campaigns. Throughout the campaign period the government maintained significant restrictions on where political meetings could be held and prohibited rallies and processions on streets and roads and in railway stations. Political parties were also required to get advanced permission from district and provincial governments for holding such gatherings.

Leaders of the Alliance for Restoration of Democracy (ARD) and its constituent parties also complained of efforts by the government to promote what was widely termed the “king’s party”—a splinter-group of former Prime Minister Nawaz Sharif’s Pakistan Muslim League (PML), known as the Pakistan Muslim League-Quaid-e Azam (PML-QA)—as well as other pro-government parties and alliances.

In the weeks preceding the elections, human rights activists, Pakistani journalists, and members of the Pakistan Muslim League-Nawaz (PML-N) and the Pakistan People’s Party (PPP) alleged extensive poll-rigging by the military government. Allegations included the relocation of polling booths at the behest of the PML-QA, the appointment of polling officers handpicked by the PML-QA, the tearing down of campaign posters and banners, police raids on PPP and PML-N offices, and police harassment of PPP and PML-N workers and candidates at the behest of the government. On October 6, Punjab’s Jhelum district police forcibly closed two election offices of the PPP and one of the PML-N and beat up their workers. In response to various complaints, the Chief Election Commissioner of Pakistan issued a statement on September 21 warning the police not to harass any contesting candidate.

The make-up of the National Assembly that emerged from the elections was markedly different from the make-up when the assembly last convened three years earlier. Significant differences included the absence of a number of leading political figures (barred in 2002 from contesting elections), the dominating presence of the Muttahida Majlis-e-Amal (MMA), the prominence of an alliance of Islamist parties, and the presence of more than seventy women, elected following the reintroduction of reserved seats for women. While the PML-QA, a pro-Musharraf party, emerged as the largest single faction, the dramatic rise of the MMA, opposed to U.S. presence in the region and Pakistan’s participation in the war on terror, signaled increasing rejection of Musharraf’s domestic and foreign policies. At this writing, the newly elected members of parliament remained divided on the status of Pakistan’s constitution—that is, whether the LFO amendments would remain in effect.

On November 20 the National Assembly elected pro-military PML-QA party member Mir Zafarullah Khan Jamali as the country’s new prime minister. Jamali vowed to continue to pursue the policies and reforms of the Musharraf administration but faced a delicate balancing act between a pro-Western president and a strong opposition led by the Islamist alliance, particularly on the issue of how much power Musharraf should retain. At this writing, the new government had yet to be formed.

With the government continuing to support U.S. efforts against al-Qaeda, sectarian violence and attacks against foreign nationals increased. The kidnapping and execution of *Wall Street Journal* reporter Daniel Pearl was perhaps the most public example of a growing security threat to foreigners in Pakistan. Pearl disappeared

from Karachi on January 23, while investigating a tip on the whereabouts of a religious leader. The tip came from militant Sheikh Omar Saeed, who was convicted of orchestrating both the abduction and killing of Pearl. Saeed was sentenced to death on July 15, and three collaborators were sentenced to twenty-five years in prison. The four men were suspected of belonging to growing network of militant groups that coordinate with each other in planning attacks on minorities and foreigners in Pakistan.

Several such attacks rapidly followed the abduction and murder of Pearl. In May, a suicide car bombing killed fifteen people, including eleven French navy engineers, in Karachi. In June a suicide bomber attacked the U.S. Consulate in Karachi. While neither consulate staff nor foreigners were killed, eleven guards and policemen died, and forty others were injured. Finally, on July 13 thirteen tourists, mostly Germans and Austrians, were injured when an explosive went off while they visited an archaeological site in the northwestern Pakistani town of Mansehra. In September, police arrested twenty-three members of the Harakat ul-Mujahedeen Al-Almi, a militant group suspected in the attacks.

Religious minorities, Christian communities in particular, also saw heightened threats to their security in 2002. On March 17, two unidentified men threw six grenades at the Protestant International Church in a diplomatic enclave in Islamabad, killing five people and injuring forty others. On August 5, six Pakistani guards were killed during an attack on the Murree Christian School, a missionary school for foreign students forty miles east of Islamabad, when four gunmen stormed the premises. The gunmen, who had escaped to nearby woods, blew themselves up with hand grenades when they were found and surrounded by police. Only four days later, unidentified attackers hurled grenades at a chapel in a missionary hospital in Taxila, twenty-five miles west of Islamabad, just as the women of the congregation were leaving from the daily morning prayer. Three nurses were killed in the blast, as was one of the assailants, while twenty others were injured.

The violence extended to Christian humanitarian aid workers on September 25, when two gunmen entered the Institute for Peace and Justice (IPJ) in Karachi, and killed seven people by shooting them point blank in the head. All of the victims were Pakistani Christians. The All Pakistan Minorities Alliance and the National Commission for Justice and Peace condemned the attacks, asserting that Pakistan’s Christians were being victimized for Pakistan’s alliance with the U.S. The massacre was followed by a three-day mourning and protest, organized by Christian groups in Pakistan. At this writing, no arrests of the killers had been made, but those protesting had been detained.

In a positive development, on January 16 Musharraf abolished a sixteen-year old system that created separate electorates for Pakistan’s religious minorities and for the Muslim majority. Religious minorities have long claimed that a separate electorate, introduced by General Zia-ul-Haq in 1985, effectively marginalized them from mainstream politics, and welcomed the decision to restore joint elections. Religious minorities also welcomed a decision by the Sindh high court that the constitution did not bar a non-Muslim from serving on the high court. The court denied a petition to remove Justice Rana Bhagwandas from the bench on the ground that he was a Hindu.

Blasphemy laws continued to be used in 2002 to persecute religious minorities. The laws, introduced by General Zia-ul-Haq in 1985, made it punishable by death to make derogatory comments about the Prophet Mohammed or other holy Islamic figures. Arrests under the law can be made upon complaint, even without an investigation.

In July, a Christian man, Anwar Kenneth, stood trial for writing letters that allegedly made sacrilegious comments about Islam. Despite concerns that Kenneth suffered from psychiatric problems, he was found guilty and sentenced to death, pending ratification by a higher court. On July 27, a judge sentenced twenty-six-year-old Wajihul Hassan to death for allegedly having made phone calls and written letters to the complainant that contained derogatory remarks about the Prophet Mohammed. Both human rights activists and non-Muslim religious groups condemned Pakistan's blasphemy laws as tools for persecution of religious minorities.

In August, however, the Supreme Court took a positive step when it overturned the 1998 conviction of Ayub Masih, a Christian man accused of blasphemy. In its decision, the court noted that the complainant had been engaged in a land dispute with Masih, and shortly after Masih's arrest in 1996, had moved onto the disputed land and secured a transfer of title into his name. Masih was released after serving six years in prison but reportedly did not get back his land.

In November, Pakistan amended the Anti-terrorism Act, increasing the term of detention from one month to up to a year without charge or trial, and granting the police and security forces the power to investigate the assets and bank accounts of the relatives of suspects. Although a person retained a right to appeal his or her detention, human rights groups asserted that such laws were prone to abuse and did not solve the problems of militancy or terrorism.

Women also continued to be victims of discriminatory laws and harmful customary practices in 2002. According to the HRCP, more than 150 women were sexually assaulted in the first six months of the year in the southern Punjab province alone, while in the first four months of the year, 211 women were murdered in the name of "honor" by male family members who believed that the women had transgressed cultural norms on female behavior. Such violence was exacerbated by laws, such as the Hudood Ordinance and the Qisas and Diyat Ordinances, which allowed perpetrators of crimes against women to avoid accountability; prevented victims of sexual assault from seeking redress by exposing them to prosecution for adultery or fornication; gave the testimony of women half the evidentiary weight of that of men; and allowed crimes of "honor" to be pardoned by relatives of the victim.

The harm caused by the Hudood Ordinance was highlighted internationally when a Pakistani rape victim, Zafran Bibi, was charged with adultery and sentenced to death by stoning. Pakistani women's rights groups rallied around the case and formed an alliance for the repeal of discriminatory laws, especially the Hudood Ordinance. After an active campaign led by national women's rights groups, the Federal Shariat Court of Pakistan overturned the sentence and acquitted Zafran Bibi in June on a technicality. However, the law that led to her conviction remained in effect and continued to be a major source of abuse against women victims of violence.

A positive development was initiated by the National Commission on the Status

of Women (NCSW), an independent statutory body set up in July 2000, which succeeded in persuading the government to amend the Citizenship Act of 1951 to enable Pakistani women to confer nationality on their children regardless of the nationality of the father. Despite this success, women's rights groups continued to urge that the NCSW be given greater independent authority to ensure implementation of its policy and legislative recommendations.

Customary and extra-judicial practices were also a source of abuse of women. On June 22, a tribal council in southern Punjab ordered the gang rape of Mukhtaran Bibi, a thirty-year-old woman. Four men, including one of the tribal council members, raped Bibi in the presence of a large number of villagers. The rape was intended as "punishment" for the alleged conduct of her twelve-year-old brother, Abdul Shaqoor, who was accused of an "illicit" relationship with a woman from another tribe. In fact, the brother had been sexually attacked by members of the other tribe, and the accusations of an affair were a cover-up for the attack on him. Mukhtaran Bibi accused the police of asking her family for a bribe before they released her brother from police custody.

It was not until the incident was reported in the media that an official investigation began under the orders of the Supreme Court. The government eventually paid Bibi U.S.\$8,300 as compensation, and local authorities arrested and imprisoned the perpetrators. On August 31, four men were found guilty of rape and two others, who were part of the tribal council, were found guilty of aiding and abetting the crime. The guilty were sentenced to death by hanging, but are appealing their sentences. Although the authorities were prodded to investigate this case by the media attention it had received, at this writing there had been no sustained effort to monitor and reform the tribal council system to eliminate discriminatory practices against women.

Intimidation of journalists continued throughout 2002. One example was that of Muzaffar Ejaz, an editor of the daily *Jasarat*, who reported harassment following publication of a controversial article on faction politics in the Muslim League. According to the daily *Dawn*, on July 25, days after the piece was published, Ejaz was abducted by members of the Inter-Services Intelligence (ISI), and interrogated about the source of the article. He was not released till the next morning. The Council of Pakistan Newspaper Editors condemned the incident.

The U.S. attack on al-Qaeda and the Taliban prompted tens of thousands of Afghans to flee towards Pakistan's borders, attempting to escape the long-term effects of drought, anti-Pashtun violence, bombing, and general insecurity in Afghanistan. In February 2002, however, Pakistan closed its southern border crossing at Chaman, trapping an estimated twenty to forty thousand refugees, at least half of whom were ethnic Pashtuns fleeing harassment, between the borders of southwestern Pakistan and southeastern Afghanistan. There they struggled to survive in scorching temperatures and grim conditions with limited water, shelter, and medical care; such individuals often faced harassment by Afghan soldiers and the local population. This was a gross violation of Pakistan's obligation not to return refugees to places where their lives and freedom are threatened—the fundamental principle of *nonrefoulement*.

Physical conditions for refugees within Pakistan were also often desperate and

their status as persons in need of protection was often not legally recognized. A public order issued in January 2001 continued to be used by police to detain and deport both newly arrived and undocumented Afghans already in Pakistan.

In late 2001, Human Rights Watch documented daily incidents of police harassment and detention, particularly for refugees living in urban areas. Refugees usually spent a few days in jail, and paid bribes to be set free. In some cases, refugees were deported, again violating the principles of *nonrefoulement*. In May, the police rounded up more than four hundred Afghan refugees after two local policemen were shot dead by suspected Afghan refugees in the town of Rawalpindi, near Islamabad.

Conditions in camps also rapidly declined in 2002. Pakistan has been unwilling to officially recognize Afghan refugees since 1999, preventing UNHCR from registering or providing for new refugees. Consequently, the camps overflowed with new refugees who crowded into their neighbors' or relatives' shelters. Food shortages were chronic, while Pakistani police running the food and assistance distributions randomly beat desperate refugees. Women-headed households suffered more than others, as women were unable to negotiate the male-dominated patronage networks or face the random beatings at the distributions site to collect food for themselves and their children.

Starting in November 2001, in an attempt to improve some of these conditions, refugees were transferred to camps located in Pakistan's Federally Administered Tribal Areas (FATA). UNHCR insisted that the relocation should occur on a voluntary basis, but in the first week of the relocation Human Rights Watch documented serious problems including inadequate information regarding conditions in FATA, family separation during relocation, and security problems in the new camps. After the relocation of tens of thousands of refugees, violence flared up near the new camps, as did incidents of hostility targeting Western humanitarian or U.N. agencies assisting the refugees. Basic infrastructure, including roads, adequate water supply, and sanitation were limited, but were still an improvement upon humanitarian conditions faced by refugees before the relocation.

As part of the military buildup that began in December 2001, Pakistan placed large numbers of anti-personnel and anti-vehicle mines on its border with India. There were reports of numerous civilian casualties as a result. This was reportedly one of the largest mine-laying operations anywhere in the world in many years.

DEFENDING HUMAN RIGHTS

The killing of seven humanitarian aid workers at the Institute for Peace and Justice (IPJ) on September 25 marked an escalation in the threat to Christians in Pakistan, as well as a rising concern for the safety of human rights workers. IPJ had been based in Karachi for the past thirty years, working with impoverished communities in order to secure basic worker rights, as well as to organize with local human rights groups.

The Human Rights Commission of Pakistan continued to be the standard-bearer in calling for the restoration of democracy in Pakistan and in October issued

a report on pre-poll rigging during the parliamentary elections. Following the killing of Christian humanitarian aid workers in September, HRCP stated that an investigation into the attack was critical to preventing future incidents. In November 2001, Human Rights Watch honored Affrasiab Khattak, the head of HRCP, for leading the organization's work and for his commitment to protecting the rights of Afghan refugees in Pakistan.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United States

The Bush administration showered President Musharraf with praise and economic and military assistance because of Pakistan's role as a "key partner in the global coalition against terror," while downplaying concerns about Musharraf's moves to undercut democracy. Following a February meeting, U.S. President George W. Bush went further and called Musharraf "a leader of great courage and vision." In August, when asked about Musharraf's constitutional amendments, Bush stated that "President Musharraf is still tight with us" in the fight against terrorism and "we want to keep it that way." When Bush and Musharraf met again at the U.N. in September, Bush told Musharraf that "adherence to democracy is key," but did not discuss in any detail Musharraf's constitutional amendments or link U.S. additional aid to democratic and human rights reforms. Bush called on Pakistan to clamp down on militant violence in Kashmir.

In August, the U.S. signed an agreement with Pakistan to consolidate and reschedule U.S.\$3 billion of debt. Under the program, \$2.3 billion will be repayable over a period of thirty-eight years, while \$700 million will be repaid over a period of twenty-three years. The foreign aid bill for fiscal year 2003, which at the time of this writing was pending in Congress, would give \$200 million in economic support to the government, plus \$50 million each for development assistance and military aid. This funding was in addition to \$640 million in emergency economic support for Pakistan since 2001.

A meeting of the U.S.-Pakistan Defense Consultative Group took place in late September for the first time since the imposition of sanctions following Pakistan's nuclear tests in 1998. Talks on terrorism and possible joint military exercises were led by U.S. Undersecretary of Defense Douglas Feith and Defense Secretary Gen. Hamid Nawaz. The U.S. authorized the sale of several aircraft, Harpoon missiles, and other equipment totaling about \$400 million, and more weapons deals were expected.

On September 30, the U.S. Commission on International Religious Freedom recommended that the secretary of state designate Pakistan among the twelve "countries of particular concern" under the International Religious Freedom Act of 1998.

Despite severe election-related abuses and Musharraf's consolidation of power in the months leading up to the election, the U.S. hailed the October elections as an important step in Pakistan's transition to democracy. The U.S. reportedly tried, but

failed, to convince the other “Community of Democracies” summit co-hosts to invite Pakistan as an observer at the November 2002 meeting in Seoul, South Korea.

European Union

A European Union delegation sent to monitor the October elections concluded that actions taken by Pakistani authorities resulted in “serious flaws” in the electoral process, adding that the Election Commission was partial to pro-Musharraf candidates and limited other parties’ campaign time. The head of the delegation also expressed reservations about whether power genuinely would be transferred to the elected government.

On November 24, 2001, the E.U. and Pakistan signed a cooperation agreement, following an E.U. mission to Islamabad on September 25, 2001. The agreement noted Pakistan’s support for the “war against terrorism,” and the desire for a strengthened relationship between the European Union and Pakistan. Accordingly, the agreement developed a cooperation plan in the areas of trade, economic and social development, environmental management, and economic capability building, citing the Universal Declaration on Human Rights as an essential element of the cooperation plan.

The formation of the cooperation agreement was followed by an announcement in May that the European Commission had launched a five-year, €50 million (U.S.\$49.8 million) financing agreement. The agreement would assist Pakistan in developing financial sector reforms, as well as support Pakistan’s poverty reduction strategies. Other measures included trade concessions for clothing and textiles, and aid for educational reform programs.

Commonwealth of Nations

In December 2001, during the Seventeenth Meeting of the Commonwealth Ministerial Action Group (CMAG) on the Harare Declaration, members noted Musharraf’s commitment to restoring democracy, as well as welcomed the Commonwealth secretary general’s plans to provide technical assistance to the government of Pakistan. To that end, Pakistan gave permission to the Commonwealth in July to send a team of monitors to observe the election, and to determine whether conditions existed for a free and democratic election. In its report, the Commonwealth team concluded that the elections were flawed and represented an “incomplete democratic process.” Subsequently, Commonwealth foreign ministers decided to maintain Pakistan’s suspension from the organization’s meetings citing the “limiting” effect of measures introduced by President Musharraf prior to the polls.

Japan

Japan repeatedly urged Pakistan to return to constitutional, civilian rule, but refrained from public criticism of the April referendum extending Musharraf’s presidential term. In September, at the time of the U.N. General Assembly, Prime

Minister Junichiro Koizumi met with Musharraf and announced plans to send election monitors to Pakistan in October. Musharraf asked for Japan’s help in urging India to resume dialogue on Kashmir.

Koizumi said Japan would “offer as much cooperation as possible” with the building of a tunnel in northwestern Pakistan (a project Japan previously financed), in addition to providing U.S.\$300 million in economic assistance by October 2003. Japan had suspended all new loans following Pakistan’s nuclear tests, but restarted assistance in October 2001 to reward Pakistan’s role in the anti-terrorism effort.

World Bank and Asian Development Bank

The World Bank provided Pakistan U.S.\$800 million in loans during the fiscal year ending on June 30, 2002. This included credit to support economic reforms and a three-year debt reduction strategy, and projects aimed at rural development and poverty reduction. The bank praised Pakistan’s government for progress on economic reforms, but said that it still faced major challenges in order to bring about the country’s “fundamental transformation—politically, economically, socially and with respect to gender—to a modern state.”

The bank was preparing a project to assist with delivery of health services and education for HIV vulnerable populations in support of the government’s national HIV/AIDS strategic framework.

After the September 11 attacks, the Asian Development Bank (ADB) boosted its funding to Pakistan to a record U.S.\$957 million in 2001. The ADB president, Tadao Chino, went to Pakistan in November 2001 and met with President Musharraf. Its projects targeted access to justice, reproductive health, agriculture, urban reform in Northwest Frontier Province, and support for a government action plan on curbing child labor.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Closed Door Policy: Afghan Refugees in Pakistan and Iran, 2/02

VIETNAM

Despite promises by the general secretary of the Vietnamese Communist Party (VCP) to accelerate the process of reform and promote democracy, Vietnam’s human rights record continued to deteriorate during 2002. National Assembly elections conducted in May continued Vietnam’s tradition of single party rule, while proponents of multi-party democracy, human rights, and religious freedom were arrested or closely monitored.

The government continued to stifle free expression and restrict the exercise of other basic human rights. Authorities destroyed thousands of banned publications, restricted press coverage of a key corruption scandal, increased the monitoring of the Internet, denied the general public access to international television programs broadcast by satellite, and arrested or detained dissidents who used the Internet or other public fora to publicize their ideas. The year saw the death of Vietnam's most well-known dissident, Tran Do, and the trial of Li Chi Quang, one of an emerging group of younger pro-democracy advocates in Vietnam.

Officials continued to suppress and control the activities of religious groups, including ethnic minority Christians in the northern and central highlands, members of the banned Unified Buddhist Church of Vietnam, and Hoa Hao Buddhists in the south. Authorities made a new round of arrests of indigenous minority church leaders and land rights activists in the Central Highlands, the site of widespread unrest in 2001.

HUMAN RIGHTS DEVELOPMENTS

The year saw an intensified crackdown on freedom of expression and use of the Internet. In January, the Ministry of Culture and Information (MoCI) instructed police to confiscate and destroy banned publications. On January 16, more than seven tons of books were burned in Ho Chi Minh City, including pornographic magazines, books published abroad, and books written by Vietnamese dissidents. In July, authorities in Hanoi destroyed 40,780 compact discs, 810 videotapes, 3,000 books, and six kilograms of other publications, including pornography and foreign-published books.

Two editions of the *Far Eastern Economic Review*, published in Hong Kong, were banned in Vietnam: a July edition covering a major corruption scandal, and an August edition that reviewed a biography of Ho Chi Minh, which mentioned the leader's alleged love affairs.

The MoCI's Press Department refused to renew the press credentials of three editors at Tuoitre (Youth) newspaper, citing a "serious error in propaganda work." This appeared to be a reference to the publication of a survey of youth idols published by the paper. In the survey, U.S. President Bill Clinton scored higher than Prime Minister Phan Van Khai. The government destroyed 120,000 copies of the offending edition.

In April, the VCP Central Committee stated that publications and books with "wrongful" or "bad" contents would be banned and that party members whose words and actions were contrary to party principles would be dealt with severely. Government officials were instructed to list the classified information and state secrets that each official was responsible for safeguarding.

Domestic newspapers, and television and radio stations remained under government control. On June 18, the prime minister signed a decree restricting access to international television programs broadcast by satellite exclusively to government officials, state media, and foreigners. On June 20, the chief of the VCP's Central Ideology and Culture Board announced that the media should not "expose

secrets, create internal divisions, or hinder key propaganda tasks" in its coverage of the controversial Nam Cam corruption case, which was slated to go to court by year's end. Among the 151 people arrested in conjunction with the case, Vietnam's largest trial ever in terms of numbers of defendants, were twelve police officers, three former prosecutors, and two journalists.

In September, the government confiscated the passport of Vietnamese actor Don Duong, who was denounced by state media as a "lackey of hostile forces" because of his roles in two recent American films banned in Vietnam. In October, Vietnamese writer Duong Thu Huong was called a "national traitor" by *Cong An Thanh Pho* (Ho Chi Minh City Police) after she published an article in a Vietnamese newspaper in Australia stating that the war in Vietnam had not made its citizens more wise or bold in exercising their rights, but more cowardly.

In October, the MoCI issued a stern reprimand to Vietnam's state-operated printing houses for publishing books with anti-Communist content or that distorted Vietnam's history, and by re-printing dissident books originally published abroad.

In June, the prime minister instructed the MoCI to tighten up controls at Vietnam's four thousand public Internet cafés to prevent customers from accessing "state secrets," pornography, or "reactionary" documents. The government blocked approximately two thousand websites, including those of Vietnamese dissident groups based overseas.

In August, the MoCI ordered the closure of ttvonline.com, a popular web site operated by a Hanoi-based company, for operating an Internet site without official permission and publishing articles "contrary to the spirit" of the Press Law. On August 16, the MoCI stated that penalties would be imposed on Internet café owners who allowed customers to view web sites harmful to national security or that displayed "depraved" or "reactionary" content. In addition, Internet café owners would be required to obtain licenses and background checks before going into business. MoCI instructed Vietnam's only Internet gateway, the state-owned Vietnam Data Communications Co., to obstruct subversive web sites, based on lists of banned sites compiled by government ministries. In October, the MoCI ordered Vietnam's state-owned Internet service providers (ISP) to block politically and morally unacceptable web content.

Several dissidents and pro-democracy activists were arrested or harassed during the year after issuing public critiques of the government, some of which were circulated on the Internet. Several arrests occurred after dissidents visited the China-Vietnam border or publicly criticized recent bilateral border agreements between the two countries. Former army officer Nguyen Khac Toan, forty-six, was arrested on January 8, a day after meeting prominent dissident Nguyen Thanh Giang. On January 12, poet Bui Minh Quoc, 62, was put under administrative detention in Dalat on charges of possessing anti-government literature after he made a trip to the China-Vietnam border.

Li Chi Quang, thirty-two, a young lawyer whose essay "Beware of Imperialist China," was distributed on the Internet, was arrested at an Internet café in Hanoi on February 21. On October 28, he was sentenced to four years in prison after a half-day closed trial in Hanoi, on charges of disseminating propaganda against the

socialist state. Other dissidents and members of the foreign press corps were barred from observing the trial.

On March 10, scholar and anti-corruption activist Tran Van Khue, sixty-six, was arrested and placed under two years of administrative detention after he published a critical letter to Chinese President Jiang Zemin, which was circulated on the Internet. Then on March 27, police arrested Pham Hong Son, thirty-four, after he translated an article titled "What is Democracy," and sent it to his friends and senior Vietnamese officials. In addition, he had written an open letter, which was published on the Internet, protesting the fact that his house had been searched and his computer and documents confiscated.

With National Assembly elections slated for May, a growing number of dissidents called for multi-party reforms to counter Vietnam's one-party system. The electoral process is currently controlled by the VCP, which screens and approves all electoral candidates. In February, former VCP member and respected military veteran Pham Que Duong applied to run in the election. Local VCP officials rejected his candidacy, charging that he was a "dangerous element" and guilty of twenty crimes. Only fifty-one of the 498 National Assembly seats were won by non-VCP candidates.

In July and August, groups of prominent dissidents sent petitions to the government protesting the arrest and harassment of fellow dissidents and calling for democratic reforms, establishment of an anti-corruption body, creation of a constitutional court to examine violations in constitutional law, and publication of Vietnam's border treaties with China. On July 19, police detained one of the signers, Nguyen Vu Binh, thirty-four, and searched his house. Formerly a journalist at the *Tap Chi Cong San* (Communist Review), Nguyen resigned his position in 2000 and announced plans to form an independent political party. Nguyen was arrested in Hanoi on September 25 and expected to go to trial by year's end.

On September 20, public security officials raided the Ho Chi Minh City home of human rights advocate Nguyen Dan Que, confiscating his papers and documents and pressuring him to leave with the police for further questioning. Que refused to leave when the police could not produce a court order for his arrest. Ten security officials were subsequently stationed outside his home.

Five Vietnamese writers received Hellman/Hammett awards from Human Rights Watch in 2002 in recognition of the courage with which they faced political persecution: Le Chi Quang, Nguyen Dan Que, Nguyen Vu Binh, Ven. Thich Quang Do, and Tran Van Khue.

Religious Repression

Repression against the banned Unified Buddhist Church of Vietnam (UBCV) continued during the year. UBCV Supreme Patriarch Venerable Thich Huyen Quang, eighty-three, remained under tight surveillance at a pagoda in Quang Ngai province, where his health continued to deteriorate. Venerable Thich Quang Do remained under administrative detention in Ho Chi Minh City. UBCV monk and former political prisoner Venerable Thich Tri Luc, who fled to Cambodia in April, was "disappeared" from Phnom Penh in July, shortly after receiving refugee status from the U.N. High Commissioner for Refugees in Cambodia. The U.N. High

Commissioner for Human Rights and international rights organizations expressed concerns about the safety of Thich Tri Luc who was feared to have been forcibly returned to Vietnam and imprisoned.

Members of the Hoa Hao sect of Buddhism, one of the six officially authorized religions in Vietnam, continued to face problems. In January, the An Giang provincial court sentenced Hoa Hao Buddhist member Bui Van Hue to three years in prison for violating a 1999 administrative detention order and illegally leaving Vietnam after being extradited from Cambodia. In April, Hoa Hao Buddhist monk Le Minh Triet was placed under two years' administrative detention after completing an eight-year prison sentence in Thuan Hai province. Le Quang Liem, the leader of the Hoa Hao sect, remained under administrative detention in Ho Chi Minh City. In November, police officers dispersed a two-week protest by Hoa Hao followers at Quang Minh Tu temple in An Giang province, who had resisted an order to remove the gate to their temple. Several Hoa Hao Buddhists were reportedly beaten and briefly detained in a confrontation with police.

Evangelical Protestants, particularly those worshipping in house churches, remained under surveillance. In July, Protestant house church leader Nguyen Dang Chi was detained in Dong Nai province in the south, reportedly for preaching without official approval. After villagers protested outside the police station where he was being held, police released Nguyen.

Ethnic Hmong and Tai Christians in the north, particularly in Lai Chau and Lao Cai provinces, were beaten, detained, and pressured by local authorities to renounce their religion and cease Christian gatherings. In February, reports were received that the security presence had been increased in border communes in Muong Lay District, Lai Chau, where Hmong Christians were prohibited from gathering for religious ceremonies and some chapels were dismantled. On August 7, Hmong Christian Mua Bua Senh died in Dien Bien Dong District, Lai Chau, after numerous beatings by police officers for refusing to renounce his religion. In October, the officially-recognized Evangelical Church of Vietnam (North) admitted several hundred Hmong Christian churches, providing some measure of protection against persecution. Nonetheless, at least twelve Hmong Christians remained in prison for their religious beliefs during the year.

Central Highlands

Conditions worsened for indigenous highlanders (known as Montagnards) in the Central Highlands. In March, a tripartite agreement between Vietnam, Cambodia, and the U.N. to voluntarily repatriate some one thousand Montagnard refugees who fled to Cambodia crumbled when Vietnam refused to permit U.N. monitors access to the Central Highlands. More than four hundred highlanders were deported from Cambodia to Vietnam in April and May alone, when Cambodia closed its borders and refused to admit asylum seekers. (See Cambodia.)

In June, Vietnamese authorities launched a new crackdown in the Central Highlands, even as the deputy prime minister publicly attributed the troubles in the Central Highlands to mistakes by the nation's leadership. More than six hundred "fast deployment" military teams were dispatched to the region during the year, which largely remained off limits to international observers. Authorities closed

down hundreds of churches lacking official authorization—more than three hundred in Dak Lak province alone. In November the official *Phap Luat* (Law) newspaper reported that dozens of evangelical Christians had been forced to confess to having preached illegally and more than 2,700 Christians had severed connections with “bad elements who abuse religious issues to sow divisions in national unity.”

Between June and November, dozens of arrests were carried out against Protestant church leaders, land rights advocates, and individuals suspected of guiding asylum seekers to Cambodia. In late August, district officials in Mdrak, Dak Lak, arrested at least thirty Ede villagers on the grounds that they were planning a demonstration for Vietnam’s National Day. The charges and place of detention of the majority of those arrested were not made public. Dozens of highlanders disappeared or went into hiding.

A number of highlanders were tried and convicted during the year. On January 25, four highlanders in Chu Se District, Gia Lai, were sentenced to prison terms of up to six and a half years for “organizing illegal migrations.” The state media reported that the men had been deported from Cambodia in April and May 2001. In October, Rlan Loa, an ethnic Jarai from Krong Pac District, Gia Lai, was sentenced to nine years in prison for having “illegally migrated abroad.” Rlan Loa was part of a group of 167 highlanders deported from Cambodia to Vietnam in December 2001. On October 22, three Ede men, Y Tim E Ban, Y Coi B Krong, and Y Tho Mas E Ya, were sentenced to eight years in prison on charges of inciting local people to flee Vietnam. State press reported that on October 24, two Ede men, Y Su Nie, and Y Khai, had “surrendered” to the police in Mdrak District, Dak Lak. On November 15, two Jarai, Ksor Dar and Rahlan Phyu, were sentenced to three and two years respectively for allegedly having guided Montagnard asylum seekers to Cambodia.

Public demonstrations continued to be strongly discouraged throughout Vietnam, although a group of women from the countryside were allowed to conduct a small rally against corruption in front of VCP General Secretary Nong Duc Manh’s home in Hanoi in February. In May, Manh stated that demonstrations timed with the National Assembly elections showed that “our democracy has become excessive.”

There were increasing numbers of reports of conflicts over state confiscation of farmers’ land. In February more than one hundred villagers protested in Ninh Binh province over a land dispute. The leader of the demonstration and eleven others were sentenced to up to thirteen years in prison after a four-day trial in October. In September, Pham Trong Son and Nguyen Thi Thai were sentenced to three years and twenty months, respectively, on charges of disrupting public order after they circulated a petition and organized a protest against inadequate state compensation after their land was confiscated in Ho Chi Minh City. In October, eleven people were injured during a demonstration in Hai Duong City near Hanoi by hundreds of villagers protesting their evictions and inadequate compensation for a new highway and trade center. In Ha Tay province in November, hundreds of villagers clashed with police after authorities forced 190 people to move for the construction of an industrial zone.

In March, the prime minister instructed the Public Security Ministry to upgrade prisons and detention facilities. However, lack of food and medical care in prisons

continued to be widespread. Human Rights Watch received reports of prisoners being subjected to police torture in detention or during interrogation, solitary confinement in dark cells, and shackling. Vietnamese state media reported in January that two police officers were to be tried for torturing a man to death during interrogation. In May, farmers in southern Binh Dinh province blocked traffic and threw rocks at police after a villager died in police custody, allegedly a suicide. In September and October, President Tran Duc Luong approved the early release of more than nine thousand prisoners in an amnesty to mark Vietnam’s National Day. No known religious or political prisoners were included in the releases.

Administrative detention without trial continued to be used against suspected dissidents, including minorities in the Central Highlands, under the 1997 Decree 31/CP. The death penalty continued to be widely used for a wide range of offenses, including corruption and drug trafficking.

Trafficking and HIV/AIDS

Criminal networks that often operated with the tacit support of government and police officials trafficked hundreds of Vietnamese women and girls for prostitution, domestic work, and forced marriage both internally and to other Asian countries, particularly Cambodia and China. Vietnam was also a transit country for women being trafficked from other countries in Asia.

Some sentences were handed down during the year under Vietnam’s law against trafficking in women and children. In May, the People’s Court in Hanoi convicted five Vietnamese people for trafficking women to China and sentenced them to up to fourteen years in prison. In September, the court in Ho Chi Minh City sentenced the operator of a prostitution ring to eight years in prison.

The problem of HIV/AIDS continued to grow, with the Ministry of Health estimating that 154,000 people were infected with HIV. The Ministry of Labor, War Invalids and Social Affairs estimated that one-quarter of Vietnam’s estimated 14,600 sex workers were HIV positive.

Officials adopted an increasingly harsh stance towards high-risk groups for AIDS, such as drug users and prostitutes, who were deemed “social evils.” In late 2001, the government announced plans to send all of Vietnam’s one hundred thousand registered drug addicts to compulsory drug detoxification centers for up to two years. As many as seventy-five thousand drug users remained in detention during the year in seventy-one crowded drug detoxification camps.

DEFENDING HUMAN RIGHTS

The government continued to prohibit independent human rights groups from operating in Vietnam, restricted the access of U.N. officials seeking to monitor repatriated refugees, and denied permission for international human rights organizations such as Human Rights Watch and Amnesty International to conduct official missions to Vietnam.

THE ROLE OF THE INTERNATIONAL COMMUNITY

At the annual Consultative Group meeting conducted in December 2001, international donors pledged U.S.\$2.4 billion in assistance to Vietnam. Most of Vietnam's donors were circumspect regarding pressure on Vietnam to improve its human rights record. A number of donors supported Vietnam's ambitious ten-year Legal Reform Strategy.

Vietnam, which continued in its membership in the U.N. Commission on Human Rights, maintained an edgy relationship with UNHCR. In February, Vietnamese officials interfered with and then barred UNHCR officials from conducting site visits in the Central Highlands, despite the tripartite agreement for voluntary repatriation of Montagnard refugees.

In August, the U.N. Human Rights Committee issued its concluding observations in regard to Vietnam's report on its implementation of the International Covenant on Civil and Political Rights. The committee expressed concerns about reports of harassment and detention of religious leaders; restrictions on public meetings, demonstrations, and freedom of expression; the situation of ethnic minorities; capital punishment; prison conditions; the continued application of administrative detention under decree 31/CP; and the lack of an independent judiciary.

The U.N. special rapporteur on disability visited Vietnam in September. He commended the government's policies in regard to disabled people but called for more active implementation of rehabilitation, education, and employment programs.

Asia and Australia

Relations with China thawed a bit with the February visit of Chinese President Jiang Zemin to Vietnam. Jiang praised the improvement in political and economic ties between the two countries. The visit came amidst a criticism from dissidents about controversial border agreements between Vietnam and China.

Relations with Cambodia remained cooperative. During a February visit to Phnom Penh by the Vietnamese deputy prime minister, Cambodia and Vietnam agreed to implement a repatriation agreement calling for return of all Montagnard refugees to Vietnam by April 30. Cambodian border police reportedly cooperated with Vietnamese officials in forcibly deporting hundreds of Montagnard asylum seekers back to Vietnam during the year.

Australia held its first human rights dialogue with Vietnam in June in Hanoi. The Australian government reportedly raised concerns about arbitrary detention, freedom of association, and capital punishment.

European Union

The European Union remained Vietnam's third largest donor. In talks with Prime Minister Phan Van Khai in Brussels in September, the European Commis-

sion president expressed E.U. support for increased bilateral trade and Vietnam's membership in the World Trade Organization, while raising concerns about human rights and religious freedom. In July, the Swedish International Development Cooperation Agency approved a three-year U.S.\$840,000 study on corruption in national and local government.

In April, the European Parliament issued a resolution about treatment of the highlanders in Vietnam and closure of the refugee camps in Cambodia. Hanoi-based E.U. diplomats conducted several short visits to the Central Highlands, although they were reportedly denied access to highlanders in detention and refugees who had been repatriated from Cambodia.

United States

Bilateral political and economic relations between the United States and Vietnam continued to slowly improve, despite Vietnam's strong reaction to U.S. pressure on human rights and religious freedom. In April, Vietnam reacted defensively to the annual report of the U.S. Commission on International Religious Freedom (USCIRF), which condemned Vietnam's "grave violations" of religious freedom and designated it as a country of particular concern. A USCIRF delegation, which visited Vietnam in March, expressed concerns about the detention of religious dissidents and the government's suppression of both unregistered as well as officially recognized religious organizations. In August, the U.S. ambassador for religious freedom visited Vietnam.

In September, the U.S. pledged up to \$20 million for a five-year plan to reduce the rate of HIV/AIDS in Vietnam among high-risk groups. In announcing the grant, U.S. Ambassador Raymond Burghardt stressed that HIV/AIDS is a virus, and not a "social evil."

In April, Vietnam's state media called the U.S. offer to resettle Montagnard refugees from Cambodia a "scheme to sabotage repatriation, ignite a new rash of illegal border crossings and cause instability in both the Central Highlands and throughout Vietnam." Burghardt visited the Central Highlands in late March, where he discussed land rights issues with local people and explored aid and investment opportunities for the United States.

During the annual U.S.-Vietnam human rights dialogue, conducted in Hanoi in November, the U.S. proposed that Vietnam open up access to the Central Highlands, release political prisoners, and authorize return visits by the U.N. special rapporteurs on religion and ethnic minorities, and by the U.N. Working Group on Arbitrary Detention. Few concrete commitments were secured.