

Holding the Line

A Critique of the Department of State's
Annual Country Reports on
Human Rights Practices



U.S. Department of State

Country Reports

2002 Human Rights Reports



LAWYERS COMMITTEE
FOR HUMAN RIGHTS

HOLDING THE LINE

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September, 2003

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Lawyers Committee for Human Rights

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PREFACE

Congress has imposed a range of systematic reporting requirements on the Executive Branch over the past thirty years intended to make congressional oversight meaningful in all spheres of government. The Department of State's country reports on human rights practices are a yearly reporting mechanism required by Congress since 1975 to assist in the performance of its oversight function over the foreign relations of the United States. In the preparation of the reports, the aim is to assess the performance of international partners and adversaries alike in accord with a common baseline criterion.

The baseline is human rights. The standards applied are those enshrined in the U.N. Bill of Human Rights—the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and on Economic Social and Cultural Rights, along with broader international standards of human rights, humanitarian, refugee, and labor law recognized by the United States and most of the world's governments.

For eighteen years the Lawyers Committee for Human Rights produced an annual *Critique* of the State Department reports, beginning with the third annual State Department report in 1978. In 1996, the Lawyers Committee published its last book-length *Critique*, although it continued to comment yearly on specific shortcomings in the reporting on individual countries.

After publishing our 1996 report we made a decision to stop producing the *Critique* based on our judgment that the reports “have become a progressively more thorough and reliable guide to human rights conditions throughout the world.”

This report examines the 2002 *Country Reports* as a response to the special strains placed upon human rights protection in the aftermath of the September 11 attacks on the United States and the call for international action against terrorism. Our review analyzes coverage of a selected group of countries, focusing on reporting that appears to relate to shifts in U.S. domestic and foreign policies since September 2001. In addition, this review addresses coverage of racist violence in Western Europe and Russia, and in particular of hate crimes driven by antisemitism—reporting the Lawyers Committee found inadequate in the 2001 country reports.¹

In our assessment, we looked for evidence that country reports either omitted or provided a positive gloss on abuses taken in the name of counter-terrorism—and considered whether this could be tied to U.S. counter-terrorism support. (This includes reporting on omnibus antiterrorist legislation rushed through by many governments after 9/11 which infringed upon civil liberties—and often went far beyond fighting terrorism.) We sought to evaluate how the new reports cover legislation that provides for detention without trial; secret, unacknowledged arrests and incommunicado detention; and the denial of judicial remedy and due process to political detainees. We also looked for unwarranted changes in the description of torture or other cruel, inhuman, or degrading treatment or punishment.

The findings are mixed. The country reports continue to reflect a strong commitment to international standards. Much of the

¹ Lawyers Committee for Human Rights, *Fire and Broken Glass: The Rise of Antisemitism in Western Europe* (New York: LCHR, 2002), pp. 7, 12.

reporting demonstrates a high level of objectivity, intellectual rigor, and integrity.

At the same time, there also are serious omissions and distortions in a number of chapters in the 2002 country reports. Coverage of some countries that are allies in the war on terrorism is frank and fair; coverage of others lacks this objectivity. This inconsistency appears to reflect political pressure. Some of the exceptions in country coverage are discussed in detail below.

In contrast to an emphasis in the 2001 reports on fighting terrorism, the 2002 reports, prepared under new State Department guidelines, largely excise the international context of counter-terrorism measures and the abusive practices often portrayed as such. The resulting distortion—in particular in reporting on countries in which United States military and security personnel are engaged—results in a serious misrepresentation of the human rights situation.

A new instruction in the 92-page guideline issued to the drafters of the 2002 reports may account for some of the new reports' shortcomings. It requires discretion in reporting that introduces new political factors to the human rights criteria set out in the guidelines for report writers: *“Actions by governments taken at the request of the United States or with the expressed support of the United States should not be included in the report.”*

We welcome the assurance by the Bureau of Democracy, Human Rights, and Labor (DRL) that the guideline on “Actions...taken at the request of the United States or with [its] expressed support” will not be included in the 2003 guidelines. This will remove one source of inconsistency from a process otherwise formally marked by a commitment to objectivity. It will not eliminate other pressures inherent to the drafting

process, including political considerations arising in the back and forth between U.S. Embassies abroad and Washington, D.C.

The overall product, notwithstanding its blank spots and distortions, is sound. The State Department deserves great credit for the mammoth feat of information gathering and evaluation required to produce these reports, and for the efforts of dedicated foreign service officers stationed at U.S. embassies around the world which make this possible. We commend the Department of State for holding the line on most important fronts in reporting on human rights around the world. To this end it should be able to count on firm congressional support—and congressional action to reaffirm its demand for the annual country reports to provide it with the unvarnished truth about human rights practices that it requires for its oversight functions. Congress should demonstrate such support by providing sufficient funds to ensure increased staffing and resources for the Department of State's Bureau of Democracy, Human Rights, and Labor (DRL).

Congress should also ensure funding to make the annual country reports available in the principal languages of the countries covered. Official translations of the country reports would be widely read on the Internet, and an antidote to misleading unofficial translations and reporting. But few U.S. Embassy websites publish their respective country reports in local languages (U.S. Embassies in Kyrgyzstan, Kazakhstan, and Russia are among the exceptions), and only a selection of translations of country entries are published on the Department of State website. This is an omission that should be remedied.

The annual country reports on human rights practices are the flagship publications of the DRL and have earned worldwide respect for their integrity over the past decade. This reflects the recognition by the current administration, as by its

predecessors, that international respect for human rights is critical to the national interest. The country reports have come to be important indicators of the United States' commitment to human rights standards at a time at which slippage in human rights observance may have global consequences. Any loss of credibility in its reporting and evaluation of human rights practices abroad will inevitably be taken as a wavering in those commitments.

Secretary of State Colin Powell sends the right message in his introduction to the 2002 reports, reaffirming that human rights protection is a core national interest—and that liberty and security are not only compatible, “but also interdependent.” He does not flinch from the obligation of the Department of State to report the facts, with “full objectivity,” however painful they may be. But while Secretary Powell sets the right standard for the 2002 reports, the 2002 reports in important ways fall short of that standard.

A critique of the country reports must be tempered by a recognition of the strengths of the process that has developed over the years to produce these annual reports, and the high quality of most of the information compiled and reported. It is in this spirit that we offer this critique, and recommendations which we hope will contribute to making these annual reports more useful tools for decision makers in the future.

Michael Posner
Executive Director
September 1, 2003

RECOMMENDATIONS

1. Guidelines for the country reports on human rights practices should require an assessment of the human rights implications of states of emergency and emergency legislation;
2. Guidelines should be amended to revoke the instruction to exclude reporting on actions taken at the request of the United States or with the expressed support of the United States;
3. Guidelines should expressly require coverage of human rights violations occurring in the context of counterterrorism measures or in the name of the global war on terrorism;
4. Guidelines should require reporting of new legislative or executive measures that suspend particular human rights;
5. Guidelines for reporting on killings in conflict by state agents should require this to include coverage of the actions of civilian militias or paramilitary forces that are supported or acquiesced in by any level of government;

6. Guidelines should require coverage of deliberate attacks on civilians by non-state actors, including groups identified by the Department of State and/or the U.N. Security Council as terrorist organizations;
7. Guidelines for reporting on forcible disappearances should be revised so that such acts by state agents are not conflated with common kidnappings and the “disappeared” are not described simply as people who are missing or unaccounted for;
8. Guidelines should require improved coverage of the human rights consequences of immigration control measures;
9. Reporting on racist violence, including antisemitic violence, should more accurately reflect the level and severity of racist incidents and government actions and omissions in addressing this;
10. Review the use of the passive voice in some country reporting as a factor that may insulate governments from responsibility for the actions of official forces.
11. Congress should provide sufficient funds to ensure increased staffing and resources for the Department of State’s Bureau of Democracy, Human Rights, and Labor (DRL).
12. Congress should provide sufficient funds to permit the Bureau of Democracy, Human Rights, and Labor (DRL) to provide translations of the country reports and require that these translations be made easily available on both Department of State and relevant Embassy websites.

INTRODUCTION

Assessing the Report: An Overview

In his preface to the 2002 country reports, Secretary of State Colin Powell reaffirms a strong commitment to human rights as a centerpiece of U.S. foreign policy. He declares that protection of internationally recognized human rights “serves a core U.S. national interest.” He then flatly discounts any suggestion that human rights can be set aside in the name of security: “The blessings of liberty and security,” Secretary Powell observes, must be shown to be not only compatible, “but also interdependent.”

Secretary Powell highlights the fundamental principle behind the legislation requiring the annual reports: that good reporting on human rights practices makes for good policy:

The Country Reports on Human Rights Practices for 2002 are grounded in the conviction that we must recognize the problem and describe it with full objectivity if we are to proceed to solving it. We gain little by ignoring human rights abuses or flinching from reporting them.

Measured against this standard set out by Secretary Powell, this year’s reports generally maintain the high standards of

accuracy and truthfulness in coverage of the majority of countries and subject areas. But in key places, as described below, the reports clearly fall short of these high standards articulated by the Secretary—including that of “full objectivity.”

In almost all such cases it appears that the problem comes from political interference with the content of reports on particularly sensitive countries, dealing with a handful of especially sensitive human rights issues, such as respect for the right to fair trial—where the United States itself now may feel vulnerable to international criticism. In some of the key chapters, including those on Colombia, Egypt, Indonesia, Kenya, and the Philippines, the State Department seems to have flinched from reporting on certain issues and thereby failed to achieve the standard of objectivity required by Congress and laid out by Secretary Powell.

While some country reports are marred by a misrepresentation of the facts or political spin, the more prevalent distortion is a consequence of omissions. Indeed, a subtle new bias colors some of the reports. The bias is an avoidance of reporting frankly on measures taken in the “war against terrorism” that have had repercussions for human rights.

In particular, in a number of the country chapters the State Department does not report on measures taken to combat violent groups. Secretary Powell’s preface makes no mention of the “war on terror” nor of any measures taken in its name—many of which have undermined human rights. Nor does Assistant Secretary of State for Democracy, Human Rights and Labor Lorne Craner do so in his “Year in Review” essay introducing the report—a key to the understanding of human rights conditions around the world, and discussed in more detail below.

In one sense the absence of a focus on combating terrorism in the preface and Year in Review is welcome. The Department of State might have recast its human rights monitoring role disproportionately around the theme of terrorism, or framed the principal challenges to human rights observance in such terms. It did not do so, which is a positive sign.

But the failure to even mention the war against terrorism—or to emphasize the human rights violations that are increasingly portrayed as counter-terrorism measures around the world, including detention without trial, military tribunals, restrictive anti-terror legislation, torture, and even extrajudicial executions—gives the reports a sense of unreality. This is reflected not only in the introductory essays, but in the body of the 2002 reports as well. Measures taken in the name of combating terrorism have been largely written out of the reporting—and with them, a broad swath of actions that have led to violations of the human rights of ordinary people.

The Bureau’s “Year in Review”

Each year, the Secretary of State’s introductory message to the country reports is followed by an essay that reviews major human rights developments over the year—The Year in Review. This summary statement from the Bureau of Democracy, Human Rights, and Labor sets the tone for the reports and indicates the Bureau’s focus and priorities in monitoring and reporting upon human rights practices around the world. This is often the section of the thousand-page plus report that receives greatest resonance with the media and with the public. As such, the way particular issues are covered and their illustration with particular country examples bear particular scrutiny.

This year’s reports represent both an index of the United States’ own wavering commitment to human rights and a

largely objective world survey. The strengths of most of the reports contrast with the new biases in reporting on some of those closest to the United States, in assessing actions taken as part of the “war against terrorism.”

This dichotomy, evident in the omissions from the reports’ introduction, carries into the executive summaries of key country reports—where the characterization of the overall human rights situation as “better” or “worse” can be of major political importance, not least in smoothing the way for U.S. assistance.

In other instances, references in the introduction to close U.S. partners appear to have been crafted with a view to casting them in the best possible light, although detailed reporting in the respective country chapters provides a fairer picture of the realities. This is of concern in part because the preface and introduction are the portions of the report most oriented toward the media and the public—who are less likely to dig into the details of the individual country chapters.

For example, the complex relations of the United States with **India** and **Pakistan**, both of which face serious challenges from violent opposition groups, are reflected in an awkward balancing act in the country reports. In each case, references in the Year in Review section highlight progress, with the more negative reporting confined to the subsequent country chapters.

In the chapter on **India**, sectarian violence in Gujarat in which “as many as 2,000 people—mostly Muslims—died” is acknowledged, but a new state government is praised for promising reform. Yet the responsibility of state officials for deliberate killings of Muslims in the violence is omitted. In contrast, nongovernmental human rights groups stressed not that at least 2,000 people *died*, but that they were killed in anti-Muslim pogroms that were state-supported.

India is further praised for holding elections successfully in Jammu and Kashmir, and in Gujarat, “despite widespread terrorist violence”—a qualifier that applies correctly to Kashmir, but can be misread to suggest that the anti-Muslim pogroms in Gujarat were in fact a response to terrorism.

The introduction’s only reference to **Pakistan**, in turn, is again a “good news” story: “Pakistan’s military regime began the process of restoring elected civilian governance at the national and provincial level in October. Observers deemed the elections to be flawed, but the new government seems reasonably representative.” Once more, the country chapter provides a far more complex picture, including numerous examples of gross human rights violations.

As a result, in both cases the overall picture presented is fragmented and lacking in analysis—even where considerable factual information is set out.

China’s commitment to reform is also highlighted in the introductory world overview: “The Chinese also continued to carry out some structural reforms in the areas of the rule of law and democracy. Direct elections at the village level took place in several provinces and pressure to move them to higher levels grew.” Considerable credit is given to free market policies as driving both economic and legal reform: “Economic reform has led to legal reform, and legislatures continued experimenting with public hearings to incorporate public opinion into policy.”

The introduction also appropriately acknowledges that “China continued to commit serious human rights abuses in violation of international human rights instruments,” including the arrest of dissidents and death sentences against Tibetans. However, the campaign against Uighur movements in the Muslim

northwest of the country is covered only in the country chapter itself, not in the introduction.

Russia is also lauded in the introduction for its reform process: “In Russia, a new Criminal Procedure Code that took effect in July permitted for the first time the application of existing Constitutional provisions that only upon a judicial decision could individuals be arrested, taken into custody or detained.” These were changes that “appeared to be having an effect on police, prosecutorial behavior and the judicial system,” despite some non-compliance.

The introduction also addresses the ongoing conflict in Chechnya, where “Russian forces and Chechen rebels continued to commit serious human rights violations.” Government forces “committed extrajudicial killings and at times used excessive force,” while committing further abuses in “cleansing operations.” But Russian forces’ responsibility for forcible “disappearances” on a large scale, although extensively documented in 2002 by human rights organizations, is not referenced in the introduction.

Human rights in **Africa** are given scant attention in the “state of the world” introduction. A single line refers to the upheavals in Cote d’Ivoire and the Democratic Republic of the Congo, and little attention is given to the regional dimensions of these conflicts. The situation in the Horn of Africa—Sudan, Somalia, Ethiopia—receives no reference. The human rights dimension of the HIV/AIDS crisis goes unmentioned.²

² This notwithstanding, the country chapters on new U.S. strategic allies in the Horn of Africa **Eritrea** and **Djibouti** continue to be frank and critical, with no notable concession to political expediency. Accords allowing the placement of listening posts, transit rights for military forces, logistical facilities, and the stationing of U.S. personnel have not influenced the human rights reporting on those countries to any significant degree.

Beyond these specific country and regional examples, the Year in Review introduction this year omits key countries cited in the past to illustrate such issues as torture, extrajudicial executions, detention without trial, and trials by special courts without due process. The introductory essay has the appearance of a tapestry eaten by moths—as the naming of countries to illustrate the categories of human rights issues described in the report has been trimmed selectively.

In the introduction to the 2001 reports, for example, the “Physical Integrity” subheading included examples of countries in which torture and the absence of due process and fair public trials were a particular concern. Those cited for torture included **Burma, China, Indonesia, Kenya, Mexico, Turkey, and Uzbekistan.**

This year’s reports, in contrast, drop such specific examples of countries in which torture was employed—apart from references to a basket of abuses by Burma, Iraq, and North Korea. A separate section on protection of “due process and of timely and fair public trials”—which in 2001 included examples of the use of military tribunals and unfair trials—has also been dropped. Country examples to illustrate the human rights violations most associated with harsh government actions in the name of counter-terrorism are largely missing. These issues have been almost erased from the world overview of human rights practices—although they are addressed in individual country reports to varying degrees.

Even where the reports’ compilers have done sterling work in reporting numerous abuses, there is a frequent reluctance to analyze the significance of the information presented. The depiction of the whole is often far less than the sum of its parts: the aggregate of facts to be gleaned from many country reports is simply not reflected in the summing up. In some of these

cases, political expedience appears to have prevailed over objective standards.

The Bureau's Reporting Guidelines

Over the past decade, one important factor in the improvement in the reports year-to-year was the revision of the lengthy guidelines issued by the State Department to embassy posts, which produce the initial country drafts. The comprehensive revision in 1993 had resulted in both increased accuracy and objectivity and in requirements to address a more comprehensive slate of issues, including: discrimination based on race, gender, religion, disability, language and social status; patterns of gender-based violations; labor rights; and the problem of impunity for past human rights violations. The improved guidelines provided a strong framework for objective and comprehensive reporting.

The unclassified guidelines for 2002 offered little warning of dramatic shifts in either substance or in nuance in the new reports. Indeed, most of the changes flagged in the guidelines were non-controversial. For example, advice that there were “new reporting requirements on Military Courts and Tribunals in Section 1.e.” actually pointed to instructions for more meticulous reporting of the fair trial issues posed in cases before such courts—while expressly requiring reporting on any special courts established outside the regular civil or military court systems, a reference that could apply to President Bush’s order on military commissions.

In addition, early indications that the 2002 guidelines would require a dramatic “streamlining” of the country reports did not materialize in any significant reduction in coverage. More importantly, there was no general recasting of the framework of standards applied. In general, the coverage remained both comprehensive and high in quality.

As noted, however, one new instruction raises important questions that warrant additional scrutiny, insofar as it provides that:

Actions by governments taken at the request of the United States or with the expressed support of the United States should not be included in the report.

This instruction could be read as gagging embassy human rights officers who would otherwise have reported upon violations committed by allied governments as a part of the war against terrorism.

A Blackout on the Role of the United States

As noted above, in most cases of those country reports that do not meet the general high quality of the overall product, the errors are either ones of omission, or of a failure to draw conclusions. In a small set of reports, these failings are more substantial and significant, particularly with respect to reporting on countries in which the United States is deeply involved in military and security operations, such as **Afghanistan, Colombia, and the Philippines.**

Again, these problems appear linked back to this year's explicit instructions to omit reporting on "[a]ctions by governments taken at the request of the United States or with the expressed support of the United States."

Some criticism of measures that may have been encouraged directly or indirectly by the United States is not omitted, but merely muted. This is the case in some of the reporting on states of emergency, draconian antiterrorism laws, detention without trial, unfair trials by special tribunals, and in

characterizing the description of detainees. These are reviewed in turn below.

Terminology

Although past country reports had become increasingly objective, bias in certain country reports nevertheless was often expressed through the inconsistent use of terminology. Human rights abuses by an ally or partner were frequently understated or unreported entirely—or reported in a manner implying that the context of abuse, as when combating terrorism or insurgency, somehow diminished a state’s responsibility. There also appeared to be considerable leeway in the choice of terms to characterize a political organization—for example as “extremist” or “terrorist.”

There is no apparent increase in the frequency with which the terms “terrorist” or “terrorism” are used in the 2002 reports, and indeed there are some instances in which past descriptions of organizations and acts in such terms are now altered to employ less emotive terms. In coverage of **Uganda**, the violent Lord’s Resistance Army (LRA) was in the 2001 report described as “a terrorist organization supported from Sudan.” The 2002 report drops both the reference to Sudan and the “terrorist” appellation: it now refers strictly to “the rebel LRA,” although the tactics of this organization have not changed.

In the chapter on **Russia**, Chechen armed groups are referred to as “separatists,” “fighters,” “guerrillas,” or “rebels”; “terrorist” is reserved for the hostage-taking incident in the Moscow theater in October 2002, which was attributed to “Chechen terrorist groups.” Similarly, in reporting on Georgia, armed groups in Abkhazia described as “partisan/criminal groups” in 2001 are in 2002 instead referred to as “partisan.”

At the same time, other terminology has crept into the country reports as foreign leaders have applied U.S. terms to their own efforts to suppress critics and political opponents. The 2002 report on **Liberia** describes President Charles Taylor's opportunistic effort to frame his own efforts to suppress the press and other critics as a part of the "war against terrorism" by declaring political prisoners to be "illegal combatants" beyond the reach of the courts. The report does not explain the origins of the term in U.S. practice, but uses this to illustrate the executive's "strong influence on the judiciary." It added: "For example, the Government's assertion that persons identified as 'illegal combatants' have no recourse to the civil courts appeared to have no basis in law; however writs of habeas corpus...were refused on such grounds."

Emergency Laws

In many countries emergency legislation was introduced in the wake of the September 11, 2001 attacks, or revitalized by the U.S.-led call for a "war on terrorism." Coverage in the country reports of this legislation and its human rights implications thus bears particular scrutiny.

Emergency laws, which typically set aside basic civil rights, are a common theme in the country reports on U.S. partners in the "war against terrorism." But the human rights consequences of counter-terrorism laws that often were rushed into place in 2002 are notably muted in country reports on **Colombia**, **India**, **Indonesia**, and **Pakistan**, while new legislation in **Tanzania** is simply not reported. (This critique does not review coverage of new anti-terrorism laws in Europe.) And reporting on preexisting emergency laws in countries such as **Malaysia** and **Singapore** reflects a view less critical than in past years of their abusive procedures and their use to imprison nonviolent members of civil society and deter

political dissent.³ The country reports' coverage of permanent emergency measures that restrict fundamental human rights also does not reflect international treaty law requiring that such measures be strictly temporary and limited in scope.

There has also been a shift in reporting on the employment of special courts or military tribunals to try civilians for political crimes. Reporting on **Egypt's** use of special courts provides a clear illustration of slippage from the more direct criticism of past years.

The reporting of "arbitrary detentions" in the context of emergency measures is also watered down in some critical country chapters. The descriptions of some political groups targeted for repression have been modified from past reports to be more consistent with the respective government's claims that these groups should be considered "extremists" or "terrorists." A notable example concerns members of **Uzbekistan's** nonviolent Islamic groups, from which most of that country's political prisoners are drawn: in past reports, they were referred to as "pious Muslims" or "independent Muslims," whereas the 2002 report chapter brands them as "extremists."

In **Kenya** and **Tanzania**, there is an absence of reporting on acts of terrorism and on ongoing security measures to seek out collaborators with terrorist organizations within their large Muslim and immigrant populations—despite these themes having preoccupied the governments and generated enormous public debate in both countries in 2002.

³ The context of this reporting is that the United States has strengthened relations with **Malaysia** and **Singapore** as these nations have committed to seeking out suspected Muslim extremists and international terrorists in their own multicultural societies.

The bombings of the U.S. embassies in Tanzania and Kenya in August 1998 led to major investigations by domestic and U.S. agencies; local sources report the subsequent sustained presence of U.S. investigators in both countries. Unaccountably, however, the deadly November 28, 2002 bombing of the Paradise Hotel in Mombassa is not covered in the Kenya report, nor is the series of arrests carried out in the aftermath of the attack and the resulting upheaval among Kenya's Muslim and immigrant communities.⁴

Counter-terrorism measures in **Tanzania** similarly are omitted from the reporting—a decision which may also relate to the presence of U.S. counter-terrorism investigators and their reported involvement in joint operations with local forces there and in neighboring Kenya. The Tanzanian parliament passed a sweeping new anti-terrorism law on November 5, 2002 giving police and immigration officials the power to arrest without warrant suspected illegal immigrants or anyone thought to have links with terrorists.⁵ The law was criticized by professional and human rights groups, including the Tanganyika Law Society. The country report, however, does not cover the passage of the act. Nor does it adequately reflect the concerns expressed by domestic nongovernmental organizations over the human rights implications of counter-terrorism measures, in particular for Tanzania's large Muslim population.

⁴ The Department of State's April 2003 report on international terrorism, *Patterns of Global Terrorism*, released by the Office of the Coordinator for Counterterrorism, describes the attacks in detail, while stressing "ongoing law-enforcement cooperation" and information sharing between the United States and Kenya.

⁵ "Tanzanian Parliament Passes New Anti-Terrorism Law," Agence France Presse, November 6, 2002. The April 2003 Department of State Report, *Patterns of Global Terrorism*, does report the new legislation, "that criminalizes support for terrorist groups operating in Tanzania or overseas," in the context of Tanzania's partnership in the global coalition against terrorism. The report also highlights the cooperation of the United States and Tanzanian governments in a number of bilateral counterterrorism initiatives in 2002.

Establishing Accountability

In some countries, measures now characterized as a part of the “war against terrorism” overlay longstanding counterinsurgency campaigns. The role played by armed civilian forces as a part of a government’s security effort is a central part of this picture. Whether termed paramilitary or militias (both terms are employed in the country reports), government accountability for the abuses of such forces should be an important part of the human rights reporting. This is an important failing of the 2002 country reports.

When governments or their armed forces operate through civilian irregular militias, the current reporting instructions shield governments from accountability by requiring that such forces be presented not as government forces, but as a distinct category of private actor. At the same time, evidence that regular army units are responsible for training, arming, transporting, protecting, and commanding such forces, or conduct joint operations with them, is in places either omitted or presented in a manner mitigating governmental responsibility for such actions. This misrepresentation is most apparent in the reporting on **Colombia** (see below).

The inadequacy of the country reports’ treatment of armed civilian forces with security functions extends both to some of those formally attached to government forces, with a basis in law, and those delegated police powers or a military function without official acknowledgment. The reports blur even the standing as state agents of militias that are acknowledged by governments to be official structures (see the **Philippines**, below). The actions of paramilitaries and militias are by and large represented as actions for which the state bears no responsibility—even where any suggestion that they are wholly

independent of the regular armed forces cannot hold up to scrutiny.

The State Department guidelines obliquely recognize the gray areas between formal state agents and those operating under their authority. The instructions under “Arbitrary or Unlawful Deprivation of Life,” for example, first require those reporting to address any situations “where there is reason to believe agents of the State committed, perpetrated, instigated, or condoned killings under color of authority without due process of law.” The guidelines explain further that reporting on “Killings by Security Forces” should cover killings by “police or other security forces (including undercover or vigilante elements).”

In reporting on **Colombia**, the **Philippines**, **Indonesia**, and other countries in which undercover forces and military-sanctioned civilian militias play an important role in internal armed conflicts, accountability for gross human rights abuse relies heavily on the identification of state responsibility for the acts of such forces. The Department guidelines, however, serve to protect states from being held responsible for the actions of these irregular militias—and this year’s country reports, in particular the chapter on **Colombia**, reflect this.

Despite the express instruction that “security forces” should be interpreted to include “vigilante elements,” special instructions for reporting on killings in conflict require a distinction between the actions of regular state agents and those of paramilitary forces and militias—even while these state-sponsored or condoned paramilitaries are to be clearly distinguished from rebels and other opposition forces.

In covering arbitrary killings, those reporting are to observe a consistent sequence, reporting first on killings by “state agents,” followed by political killings by unknown agents, then

“politically motivated killings, and other killings, by paramilitary forces if any,” and finally, “politically motivated killings by opposition groups, political parties, and rebel/insurgent/terrorist groups.” The instructions make clear that “paramilitary” forces are presumptively distinct from groups opposing the state and other non-state actors—while providing a clear path to insulate governments from responsibility for their actions.

The 2002 chapter on **Colombia** takes small steps backward from the emphasis of past reports on the army’s close involvement with paramilitary forces. The army’s role in the pattern of gross and persistent human rights violations in Colombia virtually disappears in the 2002 report, which tries to suggest that the army as an institution (if not all of its personnel) is firmly against paramilitary violence. The emphasis is on continuing violence by anti-government guerrilla organizations, contrasted with an improving rights record of paramilitary forces opposing them—forces which the chapter largely presents as independent and autonomous.

But this focus on progress in curbing the paramilitaries is not borne out by independent human rights reporting—and the evidence to the contrary cited in the reports of the U.N.’s human rights office in Colombia and organizations like Amnesty International and Human Rights Watch is largely omitted from the Department’s reports.

The chapter on the **Philippines**, where paramilitary forces also play an important counterinsurgency function, contains numerous references to paramilitary abuses and even their links to the military. The introduction to the Philippines report refers to human rights abuses by “some elements of the security forces, including police, soldiers, and *local civilian militias*,” while several references are made in the body of the text to atrocities committed by “militiamen connected to the

AFP [Armed Forces of the Philippines]” (see below). But beyond these brief references the Philippines chapter fails to explain, let alone criticize, such militias’ official role in the security system or their ongoing collaborative function in military operations (see below).

Although the report on the Philippines does not explain the official role of paramilitary militias, the contrast between that chapter and the **Colombia** report—where a principal thrust is to expressly deny that paramilitaries are sanctioned by *any* arm of government—is striking. In Colombia, systematic abuses by paramilitary forces long tied to the armed forces have become the primary concern of independent human rights monitors—and their relation to the state is central to the ongoing conflict. Assertions by U.S. policymakers that Colombia’s government is committed to reining in the paramilitaries, and severing their lifelines to the armed forces, is a major pillar of U.S. policy in support of the Colombian military. The Colombia report, with the potential to include data that could undermine that approach, thus involves particularly high stakes—making the shortcomings all the more troubling.

Torture and Ill-Treatment

Past country reports have cited a range of conditions under which safeguards against torture and “disappearance” have been swept away. They include prolonged incommunicado detention, the use of secret detention centers, and the denial of access to families, lawyers, or the courts.

Removing the treatment of detainees from judicial oversight has been a primary and longstanding human rights concern. Yet the 2002 reports cover a year during which the United States itself acknowledged utilizing similar practices as emergency measures to fight terrorism. It is therefore to the

credit of the Bureau of Democracy, Human Rights, and Labor that these reports do not as a result revise downward the human rights standards applied to the rest of the world. The absence of safeguards continues to be reported, and criticism of allies that engage in torture or other ill-treatment of prisoners follows much the same lines as it did in 2001.

In the 2002 reports, chapters continue to describe in detail systemic torture in countries that are now frontline states in the war against terrorism, including **Egypt**, **Indonesia**, **Jordan**, **Turkey**, and **Uzbekistan**. The reports include descriptions of the techniques employed, and the reality by which methods can shade from deliberate ill-treatment into torture is also well reflected—an oblique reaffirmation that ill-treatment is also prohibited by human rights law and the laws of war.

The report on **Jordan** states that the “alleged methods of torture” included “sleep deprivation, beatings on the soles of the feet, prolonged suspension with ropes in contorted positions, and extended solitary confinement.”

In **Egypt**, to which the United States has reportedly transferred detainees for interrogation in a process called “rendition,” the report identifies some of the “[p]rincipal methods of torture” reportedly used by the police: “Being stripped and blindfolded; suspended from a ceiling or doorframe with feet just touching the floor; beaten with fists, whips, metal rods, or other objects; subjected to electrical shocks; and doused with cold water.”

The report on **Turkey** provides an extensive list of torture methods described by human rights and medical observers, including methods used in combination; in addition to such crude methods as electric shocks and rape, they included “forced prolonged standing, isolation, loud music, witnessing or hearing incidents of torture, being driven to the countryside

for a mock execution, and threats to detainees or their family members.”

A section on the **Palestinian Authority (PA)** states flatly that its security officials “tortured and abused prisoners by threatening, hooding, beating, and tying detainees in painful positions, forcing them to stand for long periods of time, depriving them of sleep and food, and burning detainees with cigarettes and hot instruments.” It also notes that some detainees “alleged” that authorities “have shaken them violently while in PA custody.”

The report on **Israel**, in turn, cites allegations that security forces used methods prohibited in a 1999 High Court decision that banned “a variety of abusive practices, including violent shaking, painful shackling in contorted positions, sleep deprivation for extended periods of time, and prolonged exposure to extreme temperatures.”

THE COUNTRY COVERAGE

Afghanistan

The introduction to the 2001 country reports highlighted action by the United States to remove the Taliban from power in **Afghanistan** and declared the objective achieved: “Afghan citizens have been released from the brutal and oppressive rule of the Taliban.” Secretary Powell’s 2002 preface similarly leads with the efforts of American troops “to reverse the ill effects of the Taliban regime and the conditions that left unchecked its cruel disregard for human rights.” This constitutes one of several exceptions to the country reports’ blackout on reporting on the United States’ own actions in the “war against terrorism.”

The 2002 chapter on **Afghanistan** generally overstates the progress of the new Karzai government in improving human rights performance. At the same time, the report largely omits information concerning past abuses by forces other than the Taliban that are now allied in some way with the new government. The chapter also minimizes the continuing security threat posed by commanders outside Kabul. In doing so, it provides a misleading picture of the situation there and its real and potential consequences for human rights.

For example, the report credits President Karzai with forming a cabinet with “broad ethnic representation,” but neglects to mention that the most important ministries—defense and foreign affairs, as well as much of the interior ministry’s staff—are all ethnic Tajiks from the Panjshir valley. It also claims that all regional commanders “acknowledged the Karzai administration as the legitimate central authority,” when in fact the administration in Kabul has little if any control over some of the most powerful regional commanders.

The report seriously downplays the abuses that took place before and during the Loya Jirga, noting only that there were “some reports of intimidation and interference in the Loya Jirga process.” In fact, many Afghan delegates and U.N. officials involved in that process have criticized the intimidation of candidates by regional warlords, the participation of commanders in the proceedings, and the manipulation of the process that left delegates with little say in the selection of the cabinet and the structure of the government.

The preface by Secretary Powell reveals a propensity to blame most Afghan human rights problems solely on the Taliban regime and “its cruel disregard for human rights,” overlooking the fact that serious abuses and war crimes predated the Taliban and also were committed by its adversaries during its rule. In this vein, the chapter misidentifies Abdullah Shah, the only war criminal who has faced charges in an Afghan court, as a Taliban commander. In fact, Abdullah Shah was a commander under Abdul-Rasul Sayyaf, a political leader with considerable influence over figures in the current government and whose forces were responsible for the massacres of ethnic Hazaras and other war crimes in the early 1990s in Kabul.

Finally, the chapter does not address claims of abuses, including possible violations of international humanitarian law,

related to the ongoing efforts by the United States to eliminate suspected al-Qaeda groups.

China

Coverage of **China** in this year's reports is generally frank and on the whole comprehensive, with concessions to China's status and influence apparent only in the Year in Review overview and summary introductions to the country chapter.

As noted above, the introductory overview speaks positively of China's reform process, but also declares flatly that "China continued to commit serious human rights abuses in violation of international human rights instruments." It cites "a spate of arrests of political dissidents and the imposition of the death sentence on two Tibetans, the continued detentions of Rebiya Kadeer, Wang Youcai, Qin Yongmin and others, and restrictions on religious freedom and repression of some ethnic minorities" as "particularly troubling." Detailed information on a broad range of abuses is provided.

Abuses against the Muslim Uighur minority are covered much as in past years, and the report critically examines the Chinese government's use of charges of "ethnic separatism, illegal religious activities, and violent terrorism" in the Xinjiang-Uighur Autonomous Region. In a rare departure from the country reports' general skirting of references to counter-terrorism, it acknowledges that: "Many observers raised concerns about the Government's use of the international war on terror as a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders."⁶

⁶ A similar acknowledgment of China's misappropriation of the "war on terrorism" for its suppression of dissent appears in the Department of State's April 2003 report on international terrorism, *Patterns of International Terrorism*, released by the Office of the Coordinator for

The China chapter is by and large an exception (as is that on Malaysia) to the general unwillingness in the reports to recognize the link between the international “war against terrorism” and human rights practices in other countries. It is also worth noting that in its 2003 *Annual Report*, Amnesty International said “the authorities continued to use the September 11, 2001 attacks in the USA to justify further repression of Uighurs, particularly after the USA and UN classified the East Turkistan Islamic Movement as a ‘terrorist organization.’”⁷

Colombia

In covering the human rights situation of this close ally and partner, the 2002 report frequently makes the most of government pledges to reform an appalling situation, while meticulously avoiding language that could be read to ascribe to the armed forces any institutional responsibility for the operations of paramilitary forces. In addition, in line with the general guidelines for the reports, the chapter on **Colombia**

Counterterrorism. This report, which in most of its country chapters makes no reference to human rights issues, makes an exception in its reporting on China’s response to Uighur movements in Xingiang and the United States’ designation of one Xinjiang group as terrorist in nature:

Previous Chinese crackdowns on ethnic Uighurs and others in Xinjiang raised concerns about possible human rights abuses. For example, while the United States designated the East Turkestan Islamic Movement as a terrorist organization under Executive Order 13224 in 2002, it continued to emphasize to the Chinese that the war on terrorism must not be used as a substitute for addressing legitimate social and economic aspirations.

Available at <http://www.state.gov/s/ct/rls/pgtrpt/2002/> (accessed May 20, 2003).

⁷ Amnesty International, *Amnesty International Report 2003* (London: Amnesty International, 2003), available at <http://web.amnesty.org/report2003/Chn-summary-eng> (accessed June 20, 2003).

makes no reference to the involvement of U.S. military and intelligence forces in counter-terrorism and counter-drug operations.

Colombian counter-terrorism legislation in 2002 took the form of a declaration of a kind of state of emergency, and a presidential decree setting out special security measures. On August 11, President Alvaro Uribe declared a state of “Internal Disturbance” which grants the executive branch special powers. Using these powers, the president issued Decree 2002, which outlines special measures for the control of public order, allows for the creation of “Zones of Rehabilitation and Consolidation,” and eliminates many due process safeguards, while restricting freedom of movement and expression in these special zones.

The report, however, highlights corrective measures to reform the emergency law, even when uncritical of the abuses addressed. It notes correctly that several sections of this decree were struck down as unconstitutional by the Colombia Constitutional Court, the most prominent of them being the granting of police powers to the military (allowing for search and detention without warrants). Yet the report is silent on the Uribe administration’s efforts to reject the Court’s rulings, and underreports the military’s serious abuses during the year covered.

The report also does not acknowledge that the Uribe administration has made the reinstatement of these powers a priority through bills presented to Congress; that Justice and Interior Minister Fernando Londono has repeatedly criticized the Constitutional Court for this ruling; that in October the administration presented a new budget plan dramatically reducing funding for the Constitutional Court; or that the Attorney General has publicly supported the efforts to extend

police powers to the military even after they were declared unconstitutional by the Court.

The annual report of the U.N. human rights office in Colombia qualified the emergency decrees as “steps backward.”⁸ These concerns, and the information in the regular U.N. reports on Colombia, are not adequately taken into account in the State Department report.

The report avoids a serious look at the close relations of the regular armed forces with paramilitary forces, referring only to such ties by individual *members* of the security forces, while misleadingly stressing progress in limiting this relationship. Assistant Secretary Craner’s statement in the press conference issuing the report reflected this: “In terms of collusion between the army and paramilitaries, I think they are beginning to get a handle on that problem.” Similarly, the Year in Review introduction leads with the assertion that “Colombia showed signs of progress, with generally good elections and a declaration by paramilitary forces that they would negotiate peace in 2003”—although it does acknowledge that “problems remain serious, particularly extrajudicial killings.”

Moreover, while the introduction to the Colombia chapter notes that “[t]he Government’s human rights record remains poor,” it also stresses commitments to improve this. It states that government security forces committed relatively few human rights violations, without denying collusion by individual members of the security forces with paramilitary violence. It includes extensive detail on individual cases of abuse, in particular by guerrilla opposition groups and paramilitary forces, while focusing on measures to rein in the

⁸ United Nations, Commission on Human Rights, Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, E/CN.4/2003/13, February 24, 2003, p. 33.

paramilitaries and failing to adequately report on current government initiatives to accord such forces formal status.

This effort to seek some balance in reporting, while ignoring important abuses, is evident in passages such as the following:

A small percentage of total human rights abuses reported were attributed to state security forces; however, some members of the government security forces continued to commit serious abuses, including unlawful and extrajudicial killings. Some members of the security forces collaborated with paramilitary groups that committed serious abuses. Impunity remained at the core of the country's human rights problems.

But this is undermined by the fact that the mandated paragraph on the security system does not refer to paramilitary structures. This omission stands in contrast with the same section of the 2001 report, which stated: “Many observers maintain that government action to combat paramilitarism has been inadequate, and in the past security forces regularly failed to confront paramilitary groups.” The 2002 report’s paragraph on the security system concludes with a summary statement highlighting progress in respect for human rights, even while acknowledging continuing abuses by individuals: “Over the years, the public security forces have taken important steps to improve their human rights record; however, some members of the armed forces and the police continued to commit serious of human rights abuses.” And a subsequent paragraph on paramilitary forces makes no reference to any official ties—unlike the same section in the 2001 report, in which evidence of such ties was in fact the principal theme.

Similarly, in the section on the arbitrary deprivation of the right to life, the military’s commitment to break with abusive paramilitary forces is headlined: “The military high command

stated repeatedly that it would not tolerate collaboration between military personnel and paramilitaries, and that the armed forces would combat paramilitary groups.” A qualifier is added that in implementing the high command’s stated policy, “security force actions in the field were not always consistent with the leadership’s positions.”

The same rhythm of reporting—of bad news balanced by good—appears throughout the country report, often within the same sentence: “Members of the security forces sometimes collaborated illegally with paramilitary forces, and the authorities continued to investigate past cases of alleged collaboration with or failure to prevent massacres by paramilitaries.” Throughout, however, the emphasis is on high-level commitments to policies that respect human rights.

The report states as fact that state security forces “doubled operations against paramilitaries during the year and quadrupled the number of paramilitaries captured since 2000,” drawing uncritically on Colombian Ministry of Defense statistics that it cites repeatedly. The U.N. human rights report for 2002, in contrast, observes in assessing Ministry of Defense statistics on paramilitaries captured or killed: “It should be borne in mind that such statistics are not easy to evaluate, since there is no means of knowing how many are really members of illegal armed groups and how many are civilians released after capture.”⁹

The country report also implies, without factual basis, that the overall proportion of violence attributed to paramilitary forces was diminishing during the year in review. The 2001 report said that nongovernmental organizations had attributed the majority of political killings to paramilitary groups (in contrast to killings by opposition guerrilla groups and the regular security services). In 2002 paramilitary forces are said to have

⁹ Ibid., p. 3.

committed “numerous” abuses, but considerably fewer such cases are detailed, and no indication of scale is given (whereas statistics on killings by guerrilla opposition groups are cited). Amnesty International’s 2003 annual report, in contrast, refers flatly to “army-backed paramilitaries,” and concludes that “paramilitaries operating in collusion with the security forces were responsible for the vast majority of “disappearances” and killings of civilians.”¹⁰

Similarly, the assumption of a quasi-governmental role by paramilitary forces in many areas is portrayed in a largely beneficent light: “Paramilitaries in the city of Barrancabermeja, Santander department, exercised illegal ‘social controls,’ such as curfews for children, ad hoc punishments for domestic violence and petty crimes, and the issuance of paramilitary-produced identification cards to bona fide local residents.” Although these controls are enforced through political killings and the threat of murder, the report highlights that “[p]aramilitaries often interfered with personal privacy in areas where they exercised de facto control....” The U.N. human rights office in Colombia, in contrast, highlighted the serious human rights consequences of the “exercise of public functions by members of paramilitary groups and in the persistence of links between public servants and members of these groups.”¹¹

The report in different sections cites a “significant” and a “dramatic” reduction in the number of large-scale massacres attributed to paramilitary groups, reflecting a real shift in the pattern of killings. Yet the numbers remain very high. Elsewhere the report cites a nongovernmental organization’s

¹⁰ Amnesty International, *Amnesty International Report 2003* (London: Amnesty International, 2003), available at <http://web.amnesty.org/report2003/col-summary-eng> (accessed June 20, 2003).

¹¹ United Nations, Commission on Human Rights, Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, E/CN.4/2003/13, February 24, 2003, p.7.

report that 2,452 persons were killed in massacres during the year, contrasted with a Defense Ministry figure of 361 and a National Police figure of 680. However, there is no estimate of the percentage of killings attributed to paramilitary forces.

The reference to an apparent reduction in massacres misleadingly implies a reduction in the overall level of paramilitary violence: a conclusion disputed by Human Rights Watch in its 2003 *World Report*:

Massacres, traditionally used by paramilitaries to spread terror, were less numerous than in 2001, but the decrease appears to have reflected a change in paramilitary tactics rather than a decrease in overall violence. Witnesses, church officials, and municipal observers, among others, described to Human Rights Watch how paramilitaries seized large groups of people, then killed individuals separately, to avoid the publicity that results when incidents are recorded as massacres.”¹²

In its report on the same period, the U.N. human rights office in Colombia also acknowledges a slight change in the pattern of paramilitary killings, which it attributes to a command decision: “In their search for legitimacy, and in order to lessen the impact of practices such as massacres, the paramilitary groups opted for selective killings and death threats, issuing specific instructions to this effect within their ranks.”¹³

Both the State Department and U.N. reports highlight the destabilizing influence of the paramilitary system, but the latter is much more explicit in discussing the links maintained with

¹² Human Rights Watch, *World Report 2003*, available at <http://www.hrw.org/wr2k3/americas4.html> (accessed June 20, 2003).

¹³ United Nations, Commission on Human Rights, Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, E/CN.4/2003/13, February 24, 2003, p.14.

paramilitary groups by public officials,” as well as the ubiquity of abusive paramilitary structures and evidence that the military persistently provides a shield for them:

Paramilitary control is more marked in urban areas, where paradoxically the security forces and the authorities are also more active; this is constantly an element in complaints of collusion between public officials and the paramilitaries. Statements by civilian and military authorities denying the presence of paramilitary groups in their areas, even though that presence is common knowledge as in Cravo Norte and Tame (Arauca) and in Vigía del Fuerte (Antioquia) are worrying.¹⁴

The U.N. report also cites reports in which the regular security forces themselves went in advance of paramilitary forces, and cases “where local inhabitants recognized members of the military forces among paramilitary contingents.” It finds that close coordination was also shown “by the fact that paramilitary incursions have occurred either immediately before or after major military operations, such as in Arauca, the former ‘demilitarized zone,’ Valle del Cauca, Guaviare and El Catatumbo” and that the evasion of accountability for paramilitary attacks was further blurred because the armed forces’ own soldiers “sometimes wear no kind of identification to distinguish them from other armed groups.”

Paramilitary bases that have been openly operating for several years, in turn, have been openly tolerated. Human Rights Watch’s recent reporting has made much the same points covered in the U.N. report. In a February 2003 briefing for the U.N. Human Rights Commission, it summed up the challenge of paramilitary forces that “commit massacres, selective killings, and death threats” with impunity:

¹⁴ Ibid., p. 23.

These groups operate with the tolerance and often support of units within Colombia's military. There are numerous and credible reports of joint military-paramilitary operations and the sharing of intelligence and propaganda. Throughout Colombia, paramilitaries continue to move uniformed and heavily armed troops unhindered past military installations.¹⁵

This level of complicity is not reflected in the country report.

Human Rights Watch has also noted President Uribe's actions to regularize the paramilitary system—a recurring theme of his presidential campaign. To this end, moves have begun to recruit a planned one million “civilian informants to provide information in exchange for cash.” In addition, the Uribe administration “authorized the army to recruit a force of 15,000 peasants to fight in their home regions with regular troops”¹⁶—strategies that may perpetuate today's paramilitary structures under new names.

These programs are known as the Informants Network (Red de Informantes), and the Peasant Soldiers program (Soldados Campesinos). In a letter to the incoming Uribe administration last August, then-U.N. High Commissioner for Human Rights Mary Robinson expressed her concern about such plans,¹⁷ and the U.N. human rights report for 2002 stressed the danger that the new security policies “will stigmatize the civilian

¹⁵ Human Rights Watch, “Briefing to the 59th Session of the UN Commission on Human Rights: Colombia,” February 27, 2003, available at <http://www.hrw.org/un/chr59/colombia.htm> (accessed April 14, 2003).

“Local officials, human rights groups, the public advocate's office, and even some police detachments regularly inform the appropriate authorities about credible threats by paramilitaries.”

¹⁶ *Ibid.*

¹⁷ See, for example, Jason Hagen, “Uribe's People: Civilians and the Colombian Conflict,” *Conflict and Security*, Winter/Spring 2003.

population, particularly groups such as human rights defenders, and may be contrary to the principle of not involving civilians in conflict.”¹⁸

The country report’s section on the arbitrary deprivation of the right to life includes a paragraph on collusion similar to that of 2001, and should provide a basis for some serious questioning of the military’s institutional responsibilities for the violence:

Credible allegations of cooperation with paramilitary groups, including instances of both passive support and direct collaboration by members of the public security forces, particularly the army, continued. Evidence suggested that there were tacit arrangements between local military commanders and paramilitary groups in some regions, since paramilitary forces operated freely in some areas despite a significant military presence. Some members of the security forces actively collaborated with members of paramilitary groups—passing them through roadblocks, sharing intelligence, providing them with ammunition, and allegedly even joining their ranks while off duty.

This is not, however, reflected in either the report’s summary or its conclusion that the government and the armed forces remain committed to establishing accountability for crimes by paramilitary forces and eliminating the armed forces ties with them.

As noted, notwithstanding the recognition of past collusion, the report’s emphasis is on measures to investigate and halt such practices, and on cases in which those murdered were police or judicial officials. In most of the cases cited, the military is said to have taken steps to pursue those responsible; none of the cases in which military involvement was widely reported

¹⁸ United Nations Report, p. 21.

(including a massacre last August in El Limón, Guajira) receive attention. In short, the report acknowledges that impunity remains “at the core of the country’s human rights problems” but does not link this directly to the armed forces’ continued resistance to prosecutions of paramilitary human rights violations.

Egypt

The annual reports on **Egypt** in recent years have provided a generally accurate picture of the human rights situation there, without broad concessions based on its close and longstanding partnership with the United States. The 2002 chapter maintains this high standard, with a notable exception: slippage in the coverage of fair trial concerns that had already begun in the 2001 report.

In 2001, the Department of State had expunged an explicit criticism of Egypt’s trial of civilians before military tribunals that was a feature of past reports. The 2002 report further dilutes its reporting on the denial of fair trial standards by the emergency state security courts. A paragraph that appeared in the 2001 report distinguished proceedings in regular criminal courts from those in “military or State Security Emergency Courts, in which the accused do not receive all the normal constitutional protections of the civilian judicial system.” This critical language is omitted from the 2002 report.

The evolution of the treatment of the trial of civilians by military courts can be seen starkly in a comparison of the introductions to the Egypt chapters over the past three years.

In 2000 this stated: “The use of military courts to try civilians continued to infringe on a defendant’s right to a fair trial before an independent judiciary.” In 2001, it read: “The use of military courts to try civilians continued to infringe on a defendant’s *normal* rights under the Constitution to a fair trial

before an independent judiciary” (emphasis added). In 2002, a far more ambivalent—and misleading—description is employed: “There was a past practice of improper use of State Security Emergency Courts and military courts to try inappropriate cases which infringed on a defendant's normal right under the Constitution to a fair trial before an independent judiciary.”

This reference to “a past practice” is highly misleading: while no new cases were referred to military courts in 2002, the courts continued to process cases previously assigned to them—just as in the period covered by the 2000 report. Perhaps more significant is the reference to “inappropriate cases”—an implicit justification for the trial of “appropriate” individuals without the benefit of a fair trial or independent judiciary.

The easing of the critical tone towards manifestly unfair Egyptian trial procedures could be seen by some as a grudging acceptance of these practices. The 2002 report will be read by Egyptian authorities as confirmation of post-9/11 statements that the United States, where military commissions have been created by presidential decree to try terrorist suspects, would henceforth look differently at Egypt’s use of military tribunals.¹⁹

India

The **India** chapter describes “anti-terrorism” legislation in some detail, but provides little commentary on the human rights implications of the laws—consistent with previous years’ reports. The 2002 report is critical of the use of the

¹⁹ See Lawyers Committee for Human Rights, *A Year of Loss: Reexamining Civil Liberties Since September 11* (New York: LCHR, 2002), pp. 43-4, for references to statements to this effect by Egypt’s President Hosni Mubarek and other officials.

emergency laws. It introduces the section on arbitrary detention with a statement that “The Government implemented a variety of special security laws intended to help law enforcement authorities fight separatist insurgencies, and there were credible reports of widespread arbitrary arrest and detention under these laws during the year.”

The report’s criticism of aspects of the special legislation contrasts with the political support given by the United States to these measures. A special joint session of the Indian parliament on March 26, 2002 adopted the Prevention of Terrorism Act (POTA), making permanent a presidential Prevention of Terrorism Ordinance (POTO) that had introduced emergency powers in October 2001.²⁰ The new law was praised at that time by State Department Spokesman Richard Boucher as being in line with U.S. support for government efforts “to strengthen their legal systems...within constitutional bounds, so that we all have more effective tools to use against the threat of terrorism.”²¹

The 2002 report does not address the broad definition of terrorism, which invites sweeping abuses under the new law. Acts of terrorism are defined as acts “with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people,” by explosives or weapons or “by any other means whatsoever,” in a manner that causes or is likely to cause harm to people or property or to disrupt government

²⁰ United Nations, Security Council, Counter-Terrorism Committee, “Report of the Government of India,” December 24, 2001, available at <http://www.un.org/Docs/sc/committees/1373/> (accessed August 25, 2002). The report describes the legal basis for ordinances to be issued by the presidency and to be in force pending enactment by the legislature.

²¹ Ibid. See also Sridhar Krishnaswami, “U.S. Welcomes India’s Anti-Terrorism Law,” *Hindu*, March 29, 2002.

operations and services. The law also introduces broad new police powers and special rules of evidence.²²

The 2001 report, in the section on fair trial, had commented critically on the POTO of October 2001. Although not addressing the definition of terms in the POTA legislation adopted five months later, this year's report again describes the provisions in some detail:

It permits detention for 30 days without trial, summary trials, and the use of testimony exacted under duress. In addition, the bill provides for special courts to try offenses, place the burden of proof at the bail stage on the accused, make confessions to a police officer of the rank of superintendent of police admissible as evidence, extend the period of remand from 15 to 60 days, and set mandatory sentences for terrorism-related offenses...

The new law provides police powers to detain "terrorist suspects" for questioning for up to 30 days without being presented before a court, and 90 days without being charged with a crime. A special court can then extend detention without charge for a further 90 days.

In an apparent bow to the "war on terrorism," the 2002 report alters an introductory sentence from the 2001 chapter, replacing "violence in Jammu and Kashmir remained a problem" with the awkward "terrorist attacks remained problems"—thereby shifting the focus to the actions of militant groups. This is in contrast to the discussion on Jammu and Kashmir in the body of the chapter, which provides a fairly detailed account of abuses by government forces, including

²² The full text of the law is available on the website of the Institute for Conflict Management's South Asia Terrorism Portal, available at <http://www.satp.org/satporgrp/countries/india/document/actandordinances/POTA.htm> (accessed August 25, 2002).

special counterinsurgent groups recruited by state security forces.

The chapter's section on "Arbitrary Arrest, Detention, or Exile" omits entirely any reference to the mass arrests of Muslims following the February-March violence in Gujarat. Scores were arrested and held under false charges; some Muslims were charged with crimes committed by Hindu mobs. In the months before state elections at the end of the year, Gujarat officials capitalized on the violence, campaigning on a platform of fighting terrorism and engaging in anti-Muslim rhetoric. Yet the report describes the elections uncritically: "In Gujarat international observers stated that the elections took place in a somewhat free and transparent manner; however, there were reports that persons had been left off the electoral register."

Finally, the chapter notes without comment that police have invoked the POTA statute against the People's War Group, an extremist Maoist-Leninist organization. It does not state that the law has also been used against low-caste laborers who have been labeled as members of the PWG when they protest unfair wages or working conditions imposed by local landlords.

Indonesia

Indonesian military and intelligence cooperation with the United States has become a high priority in the global "war on terrorism." Renewing close military ties, however, by law requires a show of progress in human rights observance.

This challenge increased in the wake of the deadly bombing attack on a tourist center in Bali on October 12, 2002, which brought renewed international pressure on Indonesia's government to investigate radical Islamist groups. President Megawati Sukarnoputri signed two anti-terrorism regulations

six days after that attack, on October 18, in response to intense pressure from the United States and other countries (and consistent with the U.N. Security Council's post-9/11 resolution requiring measures to combat international terrorism).²³ The decrees cut short many months of public and parliamentary debate on draft anti-terror legislation.²⁴

The 2002 report describes the decrees' provisions more or less accurately, including those stipulating up to six months of detention without charge on the basis of intelligence reports.²⁵ But the report then dismisses widespread criticism of the measures:

The country's largest Islamic organizations and parties across the political spectrum publicly supported the decrees. Some human rights NGOs raised concerns that the decrees could facilitate human rights abuses, but prominent human rights lawyers judged the safeguards were better than those in other parts of the Criminal Code.

²³ See, e.g., Human Rights Watch, "World Report 2003: Indonesia," available at <http://www.hrw.org/wr2k3/asia7.html> (accessed January 25, 2003).

²⁴ The first decree, which loosened restrictions on evidence gathering and detention of suspected terrorist is known as Perpu No 1/2002 or Peraturan Pemerintah Pengganti Undang-Undang RI Nomor 1 Tahun 2002 Tentang Pemberantasan Tindak Pidana Terorisme No 1, 2002 (Government Decree in Lieu of Law No. 1/2002 on the Elimination of Terrorist Crimes). The second decree made the first decree retroactive to cover the Bali attacks only. The decrees were effective immediately but required action by the parliament to make them into law. The decrees were enacted as parliamentary legislation in early 2003, but a further round of amendments are reportedly pending.

²⁵ Coordinating Ministry for Economic Affairs, Republic of Indonesia, Press Release, "Indonesian Government Will Brief APEC and G-15 Members on Developments in Bali," October 20, 2002. The Indonesian government has also submitted two anti-terror bills to the Indonesian House of Representatives that essentially mirror the emergency regulations. See Moch N. Kurniawan, "Bills Pave Wave for War on Terrorism," *Jakarta Post*, November 12, 2002.

This reference to support of the decree does not reflect its consequences for human rights protection, nor the real level of concern of human rights organizations. A spokesman from a leading human rights group, Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia (PBHI), said the decree had “no regard for the protection of human rights,” and that “you can’t escape the fact that it threatens the safety of every person in civil society.”²⁶

These kinds of security laws are especially controversial in Indonesia, given the history of abuses committed by the military and security services and decades of authoritarian rule.²⁷ Human rights activists have worried that the military might use the new climate as cover to reassert a more political role.²⁸ The decrees create a new terrorism task force that includes the intelligence body BIN and the Defense Ministry.

But the main concern is that the broader rules of evidence will give the military influence through allies and retired officers in the national intelligence body and through its own intelligence agencies. In October 2002 Army Chief Gen. Ryamizard Ryacudu blamed the Bali bombings on “the TNI’s weak territorial role,” and as laws on anti-terrorism and intelligence were drafted in early 2003, the government moved to give the

²⁶ “PERPU Anti Terorisme Mengancam Privasi Setiap Orang,” PBHI, Bandung, November 28, 2002. At the same workshop, RFK Human Rights Award winner Bambang Widjojanto described the decree as “wide open, with ‘rubber articles’ that will threaten civil society. So much authority is given to the state that it will easily threaten our freedom.”

²⁷ See “Indonesia’s Unease Over Anti-Terror Decrees,” BBC News, October 18, 2002.

²⁸ See Leonard Sebastian, “Indonesia’s New Anti-Terrorism Regulations,” Institute of Defence and Strategic Studies, available at http://www.ntu.edu.sg/idss/Perspective/Research_050225.htm (accessed January 25, 2003).

intelligence bodies arrest powers, raising fears of a return of Soeharto-era abuses.

The provision particularly open to abuse was that which facilitates detention without charge for up to six months, based solely on intelligence reports, and thus places great power in the hands of the military and intelligence services. In doing so, the decree threatens to reverse what little progress there has been in recent years in reducing the military's domestic political role.

In common with other omnibus anti-terrorism legislation enacted around the world since September 11, 2001, the first of the Indonesian decrees also establishes a vague definition of terrorism that is open to broad interpretations. It punishes:

Persons who deliberately use violence or the threat of violence to create an atmosphere of terror or fear among the general public or create victims on a mass scale, by depriving persons of their liberty or taking the lives and property of others, or causing damage or destruction on strategic, vital objects or the environment or public facilities or international facilities.”²⁹

Human rights and other nongovernmental groups warned that the definition could apply to a wide range of political or economic protest, and have raised concerns that the decrees are already being used to intimidate populations in conflict with “vital objects” such as mining operations.

The report's assertion that the decree had in fact incorporated “stronger than usual safeguards” is highly questionable (even giving the current failings of the judicial system). Critics have noted that the decree halted a lengthy but productive public debate on anti-terrorism laws that had promised to make them

²⁹ Unofficial translation by the Lawyers Committee for Human Rights.

more effective while safeguarding human rights. It is worth noting in this regard that, although the report presents the decrees largely in favorable terms, without elaborating upon the human rights problems posed, under the heading “Arbitrary Arrest, Detention, or Exile,” the Department’s instructions to embassies on this topic note that “if the law itself is arbitrary and unjust, that should be noted.” In this case, the instructions appear to not have been followed.

With respect to the Indonesian judiciary, the critiques of past years’ reports have noted a lack of a clear framework for discussion of judicial independence. Although the 2002 report describes corruption and political influence within the judicial system, it does not adequately characterize the level of such problems.

In this regard, it does not appear to take into account the public statements on the independence of the judiciary made by U.N. Special Rapporteur on the Independence of Judges and Lawyers Param Cumaraswamy in advance of his most recent report on the topic. (The rapporteur’s report did not come out until January 13, but the visit took place in 2002 and was accompanied by unusually candid public statements.)

In much of the reporting on violence in Indonesia, references to the government virtually disappear: where specific situations of violence are noted, at worst government forces and officials are said to have done nothing. This is particularly acute in the reporting on communal violence; the exception is in those situations where elite security forces were said to have been sent in to restore order.

The section on communal violence in Central Sulawesi notes: “Observers said Protestant and Muslim groups overreacted to violent incidents, with the effect that reciprocal attacks became exponentially more lethal.” This description of the escalating

conflict completely overlooks the failure of the government to investigate, arrest, and prosecute perpetrators of crimes at every stage of the cycle of violence. The government's failure to address the violence is stated elsewhere in general terms ("despite the reduced death toll in most conflict zones, the Government largely failed to deter social, interethnic, and interreligious violence."), but without identifying the failure of the judicial system in particular.

The section on military tribunals is both surprisingly brief and misleading: "A military justice system exists and during the course of the year, members of the armed forces were prosecuted, generally for common crimes." This does not mention that the courts are notorious for imposing light sentences on low-ranking soldiers and impunity for more senior officers. It also does not mention that while suspects may be *prosecuted* for common crimes or disobeying orders, the crimes actually alleged are often far more serious.

This is the unexplained background to the controversy around the investigation of the murder of Papuan leader Theys Eluay. The country report notes that an investigation team "delivered its findings to President Megawati on April 29, classifying the killing as an ordinary crime, not a gross human rights violation." The report omits the implications of this controversial decision: that the soldiers would be tried in the military courts, not a human rights court. In early 2003 military prosecutors asked for sentences of 2-3 years in the case; verdicts were announced on April 21, with two officers and two enlisted men found guilty of involvement in the murder given sentences from three to three and a half years in prison.

Similarly, the section on prison conditions mentions in passing that Hutomo "Tommy" Soeharto was sent to jail, but not that his crime was arranging for the murder of a judge who had

previously sentenced him to a year and a half on corruption charges.

In contrast, the report's description of the flawed East Timor tribunals is strong—providing an accurate and unqualified picture of the failure of the process to combat impunity. A positive assessment of the trials would have facilitated renewed U.S. military ties—but no concessions to this end were made, to the credit of those responsible for the reports.

The report's description of the Indonesian military (Tentara Nasional Indonesia, TNI, or Indonesia National Military) reaffirms the conclusions in previous reports that military and police personnel were responsible for serious human rights abuses:

The government's human rights record remained poor, and it continued to commit serious abuses. Soldiers and police murdered, tortured, raped, beat, and arbitrarily detained both civilians and members of separatist movements.

The report also accurately portrays efforts to hold senior military officials accountable for past abuses in unflinching terms as a failure:

Retired and active duty military officers who were known to have committed serious human rights violations occupied or were promoted to senior positions in both the Government and the TNI. By year's end, the East Timor Ad Hoc Tribunal on Human Rights had found only one member of the security forces—Army Lt. Col. Soedjarwo—guilty of crimes against humanity.... The tribunal's performance reinforced the impression that impunity would continue for soldiers and police who committed human rights abuses.

At the same time, while the reporting on specific issues and incidents involving the armed forces is certainly unflattering, the report offers little in the way of an overall picture of the situation. The report stops short of assembling the numerous references to military abuses into a coherent picture of an institution that is responsible for much of the crime, conflict, and violence in Indonesia.

Several important omissions stand out in this regard. These include the absence of references to the TNI's widely alleged links to the radical Laskar Jihad and Islam Defenders Front (FPI) groups.³⁰ Similarly, a reference to the men previously convicted in the September 2000 bombing of the Jakarta Stock Exchange does not mention that two of them were soldiers.

An account of an incident involving the Freeport McMoran mining company in Papua is particularly incomplete. The introduction to the report follows references to government abuses by highlighting that: "Terrorists, civilians, and armed groups also committed serious human rights abuses . . ." An example that follows is that of an August 31 attack in Papua province, where "unidentified gunmen killed 3 persons, including 2 foreigners, and injured 12 others when they ambushed a civilian convoy near the Freeport mine." Only much later does the report note, however, that "during the course of the initial police investigation, senior police officials were quoted in the press about indications that soldiers were involved in the attack" In addition to citing the ambush as an example of nongovernmental violence, the report failed to

³⁰ See, for example, Human Rights Watch, "Indonesia: Four Years of Communal Violence in Central Sulawesi, December 2002 Vol. 14, No. 9 (C), available at <http://www.hrw.org/reports/2002/indonesia/indonesia1102.htm#TopOfPage> (accessed May 20, 2003); Center for Defense Information, "In the Spotlight: Laskar Jihad," March 8, 2002; and International Crisis Group, "Indonesia: Violence And Radical Muslims," October 10, 2001.

reflect subsequent reporting tying the armed forces directly to the attack.

A local army detachment's direct responsibility for the attack was alleged in a November 2, 2002 *Washington Post* report ("Indonesian Military Allegedly Talked of Targeting Mine"). Citing U.S. intelligence sources, the *Post* reported communications between military officials prior to the ambush in which an attack on a Freeport facility was discussed as a way to discredit the separatist Free Papua Movement. The account also described FBI assistance in investigating the attack which killed two American citizens and one Indonesian. Military involvement in the incident was cited by members of the U.S. Congress as a basis for suspending moves to renew military assistance. In March 2003 Freeport disclosed that it had paid the Indonesian military some \$5.6 million to provide security for its mining complex in Papua province.³¹

Malaysia

In the report on **Malaysia**, there is a marked lack of detail on what the government has described as its anti-terrorism measures. The 2001 report had stated that the Internal Security Act (ISA) was used during that year to arrest and detain members of "the political opposition." This term is not used in the 2002 report to describe detainees: the report instead cites the detention of "43 suspected terrorists" under the ISA, while adding that it was not used against "political opponents" (a term left undefined). The implication is that these arrests were not arbitrary or politically motivated.

³¹ "Freeport paid Indonesian military US\$5.6m in 'protection money,'" *Jakarta Post* (online), March 13, 2003, citing a report by AFP's AFX Global Ethics Monitor. This cited a confidential disclosure statement to the U.S. Securities and Exchange Commission.

The report notes that two of the individuals seized were released, one of them conditionally, but glosses over the abuses in these cases; for example, it does not report the immediate rearrest of 45-year-old businessman Nasaruddin Nashir, who was then served with a second two-year detention order,³² nor that he had been released unconditionally after the High Court found the police had no evidence of involvement in illegal activities, and thus overturned the arrest order.

The report also fails to note that prior to the conditional release after two months' detention of Sejahtatul Dursina Chomel, she had alleged in court that she was being held under the ISA solely to exert pressure on her husband, Yazid Sufaat, who has been held under the ISA since December 2001 and is reportedly the subject of a joint investigation between the FBI and local police authorities. (In the course of the year, FBI chief Robert Mueller reportedly spoke with Malaysian police chief Norian Mai in Kuala Lumpur, and Malaysia's acting law minister Dr. Rais Yatim traveled to the U.S. for talks with Attorney General John Ashcroft.)³³

The report also contains no mention of the alleged affiliation or the religion of "suspected terrorists" reported detained by authorities, in contrast with the previous year's report. The 2001 report had said that detentions involved members of "an Islamic militant group—the so-called Kumpulan Mujahidin Malaysia (KMM)"—while also criticizing the misuse of the antiterrorism measures:

³² Claudia Theophilus, "KMM suspect re-arrested after cat-and-mouse game with family," *Malaysiakini*, November 9, 2002.

³³ "Mahathir says not aware of US bid to interrogate terror suspect," *Malaysiakini*, September 3, 2002; Yap Mun Ching, "DAP says Rais' ISA Statement 'one-sided', may not reflect truth," *Malaysiakini*, May 14, 2002; and "PAS slams US interrogation of terror suspect," *Malaysiakini*, November 19, 2002.

The Government states that deviant Muslim groups pose a danger to national security because of their radical beliefs. There were no reports of the Government using the ISA against political opponents during the year. The ISA, and the threat of invoking the ISA, however, are used to intimidate and restrict political dissent.

Civil society groups in Malaysia have said that most of the ISA arrests in 2002 were based on allegations of association with the group known by the initials KMM (alternatively, Malaysian Militant Group (Kumpulan Militan Malaysia) or Malaysian Mujahedin Group (Kumpulan Mujahidin Malaysia)).³⁴ The Department of State's 2003 *Patterns of Global Terrorism* report itself notes that Malaysian authorities "continued their investigations of the regional terrorist organization Jemaah Islamiya (JI) and domestic Kumpulan Mujahidin Malaysia group, resulting in about 40 arrests of individuals suspected of involvement in either group."

Finally, as in certain other country reports, the chapter on Malaysia acknowledges government claims to justify repressive measures as part of the international "war against terrorism." The report cites government claims for a similar justification for the ISA—and, in a rare oblique allusion to changes in U.S. policy, it does note concerns by human rights groups that the new international environment posed obstacles to reform:

Government Ministers publicly stated that the move by foreign governments to implement preventive detention measures to combat terrorism underscored the country's continued need for the ISA. Representatives of human rights organizations stated that the international campaign against terrorism dampened support for the anti-ISA

³⁴ Suaram, Executive Summary: Civil and Political Rights in Malaysia, 2002, p 2.

movement. Following several successful legal challenges to ISA detentions on procedural grounds, the Government reportedly was reviewing the law to further restrict the scope of judicial review.

Pakistan

New anti-terrorism legislation was also enacted by decree in **Pakistan**. In November 2002, the government promulgated an amended Anti-Terrorism Act, which allows the police to arrest terrorism suspects and detain them for a year without charge.³⁵ Under the previous law, the authorities could detain suspects for up to three months. The revised law was approved by President Pervez Musharraf's military-led cabinet, rather than by Pakistan's newly elected legislature.³⁶

The Pakistan chapter's discussion of the Anti-Terrorism Act gives undue weight to the government's position on the new law, suggesting that despite the claims of domestic and international critics it is both necessary and has proven effective. In a passage repeated from last year's report, it states that the statute amended in November 2002 was originally passed in response to the problem of the judiciary's inability "to try and convict terrorist suspects in a timely manner because of poor police casework, prosecutorial negligence, and the resulting lack of evidence."

The chapter notes without comment the 2002 amendment's extension of authority to the government to detain suspected terrorists without charge for up to a year. It acknowledges that the Act has been criticized by "leading members of the judiciary, human rights groups, the press, and politicians."

³⁵ See "Pakistan: New Law Authorizes Police to Detain Terror Suspects Up to One Year," BBC News, November 18, 2002.

³⁶ Ibid.

(The Pakistan People's Party, the party of former Prime Minister Benazir Bhutto, condemned the new decree, expressing fears that it would be used to silence members of the political opposition. Zia Ahmed Awan, president of the Karachi-based Lawyers for Human Rights and Legal Aid (LHRLA), also criticized it, saying that it would only increase the victimization of ordinary people at the hands of the police and other law enforcement agencies.)³⁷ However, in the next line it notes that "government officials and police believed that the deterrent effect of the act's death penalty provisions contributed to the reduction in sectarian violence after its passage."

In reporting on Pakistan's election process, the chapter does qualify the gloss presented in the introduction to the reports. It details a range of abuses that severely restricted the ability of candidates to run for office or campaign, and notes that there was both poll rigging and tampering with election results. The effort to mitigate criticism of the election leads, however, to contradictory descriptions: on the one hand, the report claims that "many" observers "alleged serious flaws" in the framework for the national elections, while later it says that the national elections "were deemed somewhat free and fair by many international observers" and that only "some NGOs and election observers accused the Government of pre-poll rigging ... and tampering with results."

The chapter also omits any criticism of the government's refusal to allow some 40,000 Afghans fleeing fighting to cross its borders in February 2002. Instead it notes only the government's view that the refugees did not meet its criteria for entry.

³⁷ See Nadeem Iqbal, "Pakistan: More Rights Abuses Feared with New Anti-Terrorism Law," Inter Press Service, November 19, 2002.

Significantly, there is no mention in the chapter of ongoing Pakistani efforts to assist the U.S. in arresting suspected members of al-Qaeda and its supporters, except a brief observation that Amnesty International had reported that “both citizens and non-citizens were arbitrarily arrested on suspicion of being al-Qa’ida or Taliban fighters, and some of these persons were deported to their home countries,” and that “the exact number of those detained, arrested or deported was unknown by year’s end.” The chapter does note that in September 2001 the Ministry of Information directed the media to avoid direct criticism of the United States or of the Pakistani government’s cooperation in combating terrorism.

The Philippines

This year’s report provides fairly comprehensive coverage of human rights issues and major incidents in the Philippines, but fails to describe or evaluate the larger picture of government policies and operations as they relate to this abuse. The report understates the connection between human rights abuses and ongoing counterinsurgency and counter-terror operations. The role of civilian militias is never fully explained and, in line with the country report guidelines, the role of the U.S. military in areas in which human rights abuses are reported is omitted altogether.

This year’s report includes a number of accounts of killings of civilians which are attributed to army and militia forces, and refers to “militiamen connected to the AFP [Armed Forces of the Philippines]” and “suspected AFP or paramilitary group members” as responsible. The introduction to the chapter states that while civilian authorities generally maintained control over the security forces, “some elements of the security forces, including police, soldiers, and *local civilian militias*, committed human rights abuses.” (Emphasis added.) There was no concerted effort to deny that militias operated under the

egis of the military, or to deflect responsibility for abuses by these civilian irregulars. At the same time, while referring to actions by paramilitary forces, the report did not describe their role within the broader Philippines security system.

The 2002 report further does not explain that tens of thousands of civilian paramilitaries are officially recognized militiamen. This omission represents an important departure from the more candid 2001 report, which had explained that the so-called Citizens Armed Forces Geographical Units (CAFGUs) were a controversial but nevertheless official government program: “To combat the [Abu Sayyaf Group] the Government, among other measures, revitalized the CAFGU's program. The CAFGU's had been guilty of many human rights abuses in the past.” The 2002 report never uses the term CAFGU or otherwise explains the creation or purpose of civilian militias, or the questionable practice of drawing indigenous fighters into counterinsurgency conflicts.³⁸

The Department of State's April 2003 report, *Patterns of Global Terrorism*, does provide some further detail on the role of civilian paramilitaries, noting that attacks claimed by the New People's Army (NPA) guerrilla group in September “prompted the AFP to launch a new counterinsurgency drive against NPA fighters. A coordinated campaign by military forces, police units, and civilian volunteers—called Gordian Knot—was aimed at overrunning CPP/NPA/NDF strongholds and capturing terrorist suspects.”

The State Department has for several years labeled one of the three major armed opposition groups in the Philippines, the kidnap-for-profit Abu Sayyaf Group (ASG), as a terrorist organization. The report maintains this designation, while it also retains the important qualification that the group “claimed

³⁸ “Human rights violations by commission and omission destabilize the state,” Task Force Detainees of the Philippines, July 19, 2002.

that its motivations were political or religious in order to attract sympathy for its actions, but during the year it again used terror mainly for profit.”

There is particular U.S. interest in the ASG because of its reported links to Libya, and, through its founder’s role in the anti-Soviet combat in Afghanistan and ties in that to Osama Bin Laden. The ASG is known to be responsible for the killing of at least one American citizen and kidnapping of others, and the United States has indicted Abu Sayyaf leaders for these crimes. The ASG was the primary target of joint U.S.-Philippines military operations in 2002, and is expected to be the object of those planned for this year as well.

The report provides fairly extensive case reports of particular abuses, including beheadings, by the ASG in the Zamboanga peninsula and Sulu archipelago. It also gives some detail of armed forces counter-measures, including a hostage rescue raid on June 7 in which two of the three captives were slain, and intermittent clashes through the year in which some 8,000 civilians were displaced.

In a significant development, the State Department has now designated the NPA, one of the oldest Philippines insurgent groups, as a terrorist organization—a change reflected in the language of the 2002 report. Amnesty International has noted that “high-ranking military officials have accused lawful groups critical of the government of having close links with the NPA. Those publicly portrayed as active NPA sympathizers risk being viewed by the military as legitimate targets of counter-insurgency operations making them highly vulnerable to torture.”³⁹ The added stigma of terrorism may put them further at risk.

³⁹ Amnesty International, “Philippines: Torture persists: appearance and reality within the criminal justice system,” 2003.

The Muslim separatist Moro Islamic Liberation Front (MILF), which is engaged in shaky peace talks with the government, is not labeled a terrorist group, although it has reportedly engaged in attacks on civilians and infrastructure such as power lines. Although there is some evidence that the United States is pressing for the designation of the MILF as a terrorist organization, Philippines authorities are reportedly hesitant to do so, on the grounds that this could disrupt the ongoing peace talks and alienate a group that has much stronger grass-roots support than does the ASG.

The chapter reports attacks upon, and killings of, members of the Bayan Muna political party and of nongovernmental groups perceived as Communist allies by “suspected AFP or paramilitary group members,” and “militiamen connected to the AFP.” In an account of the killing of a member of Karapatan, a member of an NGO umbrella group reported to be affiliated with the Communist Party, and three companions, the report states that “the AFP claimed they were NPA members,” while also citing official investigations that rejected this claim.

The report cites NGO allegations of torture, harassment, and arbitrary detention of suspected ASG and NPA members in several places. However, a comparison of the language used over the past three years reveals that the 2000 and 2001 reports more explicitly linked these abuses to counterinsurgency or anti-terrorism operations:

“Some members of the security forces, including police, soldiers, and local civilian militias, committed human rights abuses, often during counterinsurgency operations.” (2000)

“Many human rights NGO's accused the Government of abuses committed by the military and police in their pursuit of the terrorists.” (2001)

“Members of the security services were responsible for extrajudicial killings, disappearances, torture, and arbitrary arrest and detention; there were allegations by human rights groups that these problems worsened as the Government sought to intensify its campaign against the terrorist Abu Sayyaf Group (ASG).” (Introduction 2001)

In 2002, abuses in the course of counterinsurgency or counterterrorism are not featured in the introduction to the country chapter. A reference in the body of the report is specific but more understated, balancing complaints with army denials:

“Some citizens groups complained that the AFP, in confronting the terrorist Abu Sayyaf Group, illegally detained citizens, torched houses, and shelled villages suspected of being ASG strongholds. The AFP defended its actions.” (2002)⁴⁰

The army’s broad denial of responsibility for abuses is repeated several times in this year’s report. While the report refers to NGO claims of unlawful arrest, detention, and torture of Muslims suspected of being members or sympathizers of outlawed groups, it does not evaluate the claims and reach its own conclusions—continuing a pattern seen in previous years’ reports. The fact that U.S. military advisors served in the campaign against the ASG would seem to make a full

⁴⁰ Elsewhere the report states, “Human rights activists complained of abuses by government security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP frequently beat ASG suspects.” The section on NGOs adds another claim and counterclaim: “many NGOs criticized the Government for being overzealous in its efforts to defeat the ASG. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring ASG members. President Macapagal-Arroyo staunchly denied wrongdoing by the AFP.”

assessment of the excesses of the counter-terrorism efforts essential.

Indeed, reporting by NGOs on abuses is in fact extensive and specific. Task Force Detainees of the Philippines, TFDP, stated in July that most of the 37 cases of torture documented in the first part of 2002 involved Muslims in Mindanao.⁴¹ The Philippine Alliance of Human Rights Advocates (PAHRA) found that after the mid-2001 announcement of “a state of lawlessness” over a hundred residents were detained in Mindanao without warrants. In early 2002 the PAHRA reported that many of those still in detention had been tortured into confessing they were “Abu Sayyaf terrorists.”⁴²

The State Department report itself states flatly that “members of the security forces and police continued to use torture and to abuse suspects and detainees”; that “police forces committed a number of arbitrary and unlawful killings”; and that “Government forces were believed responsible for disappearances.” While it cites numerous reported killings, it offers little in the way of an overview of the situation; the only statistics cited blurred together killings of civilians by government forces and insurgents.

The report references a number of cases of abuses by members of the armed forces, including noting that in March 2002 soldiers had reportedly beaten 27 “suspected ASG members” in Zamboanga City into confessing membership in the organization—before releasing twenty of them. Generally, though, the report provides more detail concerning abuses committed by the ASG and other opposition groups than those

⁴¹ “Human rights violations by commission and omission destabilize the state,” Task Force Detainees of the Philippines, July 19, 2002.

⁴² Report of the Philippine Alliance of Human Rights Advocates on Human Rights in the Philippines for the 58th Session of the United Nations Commission on Human Rights, March 18 - April 26, 2002.

by government forces. What is also missing here is any explanation of the connection between the gross abuses reported, the implications for the government forces involved, and how this affects the perspective of reported progress on human rights. The official Commission of Human Rights, for example, is said to have observed “greater sensitivity to the need to prevent human rights violations” within the armed forces; and to have determined that AFP “officers with human rights violations cannot be promoted.”

Russia

Coverage of **Russia** generally is in line with that of the 2001 report. Reporting on Chechnya continues to be detailed and fairly comprehensive, falling short principally in its summation. Despite the statement in the overview concerning “extrajudicial killings,” the section on arbitrary or unlawful deprivation of life is more qualified: “There were no confirmed reports of political killings by the Government or its agents; however, there continued to be credible reports that the federal armed forces engaged in extrajudicial killings in Chechnya.”

The report covers incidents involving Russian forces, but generally does so in the passive voice, as in reporting that operations “allegedly resulted in the deaths of many civilians.” Although some short references to individual incidents use direct language, the reporting on incidents of this kind in general does not adequately reflect the evidence that Russian troops deliberately and arbitrarily killed civilians, often after detention.

Coverage of “disappearances,” while omitted from the Year in Review, merits a short section in the body of the text that tends to understate both the scope of the problem and strength of the evidence. This conflates “disappearance” with kidnappings, and the “disappeared” with people who are “unaccounted for”

or merely “missing.” It also emphasizes the “good news” story that most people detained by federal military forces were ultimately released:

There were reports of government involvement in politically motivated disappearances in Chechnya; however, there were fewer reports of kidnappings than in previous years. The NGO Memorial claimed that federal military forces detained thousands of persons from Chechnya. Some of these persons disappeared, but most were released, often after their relatives paid a bribe. Memorial estimated that the number of individuals unaccounted for was somewhere between several hundred and a thousand. Former Presidential Representative for Human Rights in Chechnya Vladimir Kalamonov acknowledged that at least several hundred persons were missing in Chechnya.⁴³

⁴³ The coverage of “disappearance” and killings contrasts with Human Rights Watch’s summary of a Russian military raid in March 2002, in a major incident not covered in the Department’s country report:

The operation in Starye Atagi in early March was particularly notorious. Russian forces detained dozens of men and drove them off in military vehicles with obscured number plates; ten of the detainees subsequently “disappeared.” While the sweep was ongoing, villagers discovered seven burned corpses. Investigators’ failure to conduct a full forensic examination of these bodies left relatives of the ten “disappeared” not knowing whether their family members were among them.

The country report does cite Human Rights Watch’s coverage of another representative incident, the June 2 detention by Russian troops of a Chechen who had filed a complaint with the European Court of Human Rights over the detention. and “disappearance” of his son. It does not, however, note that he and his son remain “disappeared,” their detentions never acknowledged.

Human Rights Watch, *World Report 2003*, available on line at <http://www.hrw.org/wr2k3/europe11.html> (accessed April 20, 2003).

The introduction to the report on Russia acknowledges that “Societal discrimination, harassment, and violence against members of some religious minorities remained problems,” while adding that “[e]thnic minorities, including Roma and persons from the Caucasus and Central Asia, faced widespread governmental and societal discrimination, and at times violence.” The report provides considerable detail in its coverage of discrimination against “national/racial/ethnic” minorities, noting in particular that “Roma and persons from the Caucasus and Central Asia faced widespread governmental and societal discrimination, which often was reflected in official attitudes and actions.”

The section on “Freedom of Religion” begins by stating that “Muslims, Catholics, Jews, and members of other minority religions continued to encounter prejudice and societal discrimination.” Particular attention is given to discrimination against religions designated “non-traditional,” and the Muslim minority. The report also provides significant coverage of antisemitism, but is misleading on progress in eliminating state-sponsored antisemitism (and the lack of progress at the provincial level):

Although Jewish leaders have stated publicly that the State-sponsored anti-Semitism of the Soviet era no longer exists, Jews continued to face prejudice, social discrimination, and some acts of violence.

The report does not cite independent monitoring organizations that track antisemitic and other racist violence, such as the Union of Councils for Soviet Jews (UCSJ), nor does it reflect their reporting on Russian provincial governments that continue to espouse racist and antisemitic policies. The information provided, however, does give a fair approximation of the scope of antisemitic acts:

Anti-Semitic leaflets, graffiti, and articles continued to appear in some regions. For example, in July swastikas were drawn on the fence around the St. Petersburg synagogue. Anti-Semitic themes continued to figure in some local publications around the country, unchallenged by local authorities. During the year, unknown persons vandalized synagogues, Jewish cemeteries, and memorials.

There were also numerous cases of anti-Semitic signs rigged with explosive devices calling for "Death to Kikes" and other slogans. The devices detonated when unknowing citizens attempted to remove the signs, resulting in severe wounds or death. In May President Putin publicly recognized Tatyana Sapunova, the victim of one widely publicized incident. In April boxes with anti-Semitic signs but no explosives were found in Moscow outside a maternity ward and at the airport in Krasnoyarsk.

The report also notes the desecration of cemeteries, including Armenian and Muslim cemeteries, "accompanied by swastikas and other ultra-nationalist symbols."

Singapore

The introduction to the 2002 Singapore chapter describes the security services and the special powers exercised under the Internal Security Act (ISA) in terms almost identical to those of the 2001 report. Similarly, a paragraph under the heading "Arbitrary Arrest, Detention, or Exile," describes the provisions of the ISA, which is "employed primarily against suspected security threats," in the same terms as in the previous year. It explains that the Act permits detention without trial, giving broad discretion to the Minister for Home Affairs to order the detention for up to two years of a person deemed to pose a threat to national security. These periods can "be renewed without limitation for additional periods of up to 2

years at a time,” while detainees have “no right to challenge the substantive basis for their detention through the courts.”

There is little coverage of actual arrests under security legislation. The 2002 report repeats the previous report’s coverage of the arrests in December 2001 of “15 suspected Islamic militants...some of whom were alleged to have ties to the al-Qa’ida terrorist organization,” thirteen of whom were subject to two-year detention orders under ISA (and two conditionally released). The report adds only that “additional terrorist suspects” were detained in August, three of whom were released without restrictions. No information is provided on the number of the arrests or the identity of the detainees. Nor does the report name the clandestine organization to which detainees were alleged to be tied—the Jemaah Islamiya (JI), an international group said to have ties with al-Qaida and to operate throughout much of Southeast Asia.

In contrast, Singapore’s use of ISA powers is covered at length in the Department of State’s April 30, 2003 *Patterns of Global Terrorism* report. This noted that authorities “continued their investigation of the local JI network, a regional terrorist organization that has ties to al-Qaida,” and summarized their progress to this end:

Since December 2001, Singapore authorities have detained 36 individuals for suspected involvement in the JI. Thirty-one of those individuals were placed under renewable two-year detention orders. Singapore authorities have publicly provided details of the allegations against those arrested, including publishing in January 2003 a white paper on terrorism.

A two-page case study entitled “Singapore: Success Against Terrorism in Southeast Asia” follows the introduction; illustrated with photographs of suspects, the text uncritically

echoes information provided in the government of Singapore's *White Paper—The Jemaah Islamiyah Arrests and the Threat of Terrorism*.⁴⁴

Uzbekistan

The generally high quality of the reports on **Central Asian** countries designated as front line states in the war against terrorism won considerable well-deserved credit on the country reports' initial release to the media. The support of **Kazakhstan, Kyrgystan, and Uzbekistan** for U.S. operations against Afghanistan's Taliban regime won certain political and economic concessions for these nations, but importantly not a whitewash of their human rights records.

The assessment of Kazakhstan, for example, rightly finds that the human rights situation there "worsened" during the year in review.⁴⁵ Kyrgystan's record, in turn, is described as having "remained poor."

The report on **Uzbekistan**, in contrast, can be criticized for exaggerating progress in human rights observance in 2002 and giving the Uzbek government credit for "some notable improvements"—even while correctly stating elsewhere that the situation remained "very poor."

The positive developments it cites include the first registration of an independent human rights organization; the end of pre-publication censorship; the conviction of nine security officers for human rights abuses; the ability of an unregistered political

⁴⁴ Ministry of Home Affairs, *White Paper—The Jemaah Islamiyah Arrests and the Threat of Terrorism*, January 9, 2003.

⁴⁵ The Department of State's *Patterns of Global Terrorism*, however, praised Kazakhstan for having "strengthening its antiterrorism legislation," adopting "tougher penalties and more precise definitions of terrorist acts" in February—developments omitted from the human rights report.

party (Birlik) to hold a number of meetings; and the government's invitation to the U.N. Special Rapporteur on Torture to visit the country. But most of these represented only limited advances: opponents of the government, including within the human rights community, continue to face harassment and arrest; censorship has changed in form, but not substance; and Birlik and other opposition parties continue to be denied registration or a role in political life, their members subject to harassment and imprisonment. Finally, there still has been no progress in the implementation of the Special Rapporteur on Torture's *past* recommendations to Uzbekistan's government.

Although the International Human Rights Organization of Uzbekistan (IHROU) was in fact registered (immediately before a trip to the United States in March 2002 by President Karimov), its members continue to face government harassment, intimidation, and arrest. Among those harassed and/or detained even after the group was registered were: Jakhangir Shosalimov (detained), Yuldash Rasulov (detained on religious extremism charges, then released in January 2003), and Abdusalam Ergashev and his family (evicted from their home).

No other independent human rights organizations were registered during 2002. Moreover, the report seems to accept at face value the government's assertion that there is "de facto registration" of non-registered groups, ignoring the significance of a lack of registration for groups such as the Human Rights Society of Uzbekistan, Ezgulik, Mazlum, and the Committee of Legal Assistance to Prisoners. In these cases, the lack of legal status has been used by authorities as a pretext for the harassment, physical mistreatment, and imprisonment of members. For example, eight members of the Human Rights Society of Uzbekistan were imprisoned during the year (two of the eight are named in the report).

A further shift in the country report favorable to the government's interests was a change in the characterization of the independent Muslim groups whose members have long been detained. In the country reports of the previous three years, the Department had moved from characterizing these groups, particularly the Hizb ut-Tahrir, as "pious Muslims" or "independent Muslims" to "extremists":

- In 1999, Hizb ut-Tahrir was termed a "nonofficial Islamic organization" and it was reported that "pious Muslims [were arbitrarily arrested] on false charges...";
- In 2000, Hizb ut-Tahrir was termed a "nonofficial" or "political Islamic movement," with many of the suspected members of such groups jailed considered "political detainees";
- In 2001, detainees charged with association with Hizb ut-Tahrir were described as "Muslims suspected of extremist sympathies."

In the 2002 report Hizb ut-Tahrir is termed a "banned extremist Islamic political party." The report provides no explanation for this change in terminology or the conclusion reached, which brings the United States closer to the Uzbek government's characterization of an organization that has long been the object of severe repression. The report's section on religious freedom notes: "While the Government viewed members of the IMU [a violent Islamic group] as terrorists, it viewed members of Hizb ut-Tahrir and Wahhabists as potential terrorists." While the report provides details on the government's actions against Hizb ut-Tahrir and its alleged adherents, nowhere does it state whether there is credible evidence that the group is violent in nature and a legitimate security threat to the government. Nor does it indicate whether alleged members may have engaged in

or advocated violence—whether or not they were “political detainees.”⁴⁶

Many observers see Hizb ut-Tahrir as an organization with radical aims and rhetoric, but one that is committed to using peaceful means to establishing an Islamic state. In the large majority of cases involving alleged Hizb ut-Tahrir members, no credible evidence was available (and none was provided in the report) to indicate that they engaged in, or had plans for, violent activities.

Finally, independent human rights organizations have reported that torture continues to be employed systematically by the Uzbek government. The State Department report properly cites the nine reported prosecutions of security officials as an encouraging first step in addressing systemic torture. But the significance of the government’s invitation to the U.N. Special Rapporteur on Torture to visit the country is overstated.⁴⁷ Recommendations to government authorities were not implemented, and echoed those of the U.N. Committee Against Torture (in June 2002)⁴⁸ and the U.N. Human Rights Committee (in April 2001)⁴⁹—initiatives not cited in the 2002 report.

⁴⁶ The Department of State’s *Patterns of Global Terrorism* describes Hizb ut-Tahrir as “an extremist political movement,” its pamphlets “full of anti-US propaganda.” It adds that “There is no evidence to date that Hizb ut-Tahrir has committed any terrorist acts, but the group is clearly sympathetic to Islamist extremist objectives.”

⁴⁷ Report of the Special Rapporteur on the question of torture, Mission to Uzbekistan, UN Doc. E/CN.4/2003/68/Add.2 (3 February 2003).

⁴⁸ Conclusions and Recommendations of the Committee against Torture: Uzbekistan, UN Doc. CAT/C/CR/28/7 (6 June 2002).

⁴⁹ Concluding observations of the Human Rights Committee: Uzbekistan, UN Doc. CCPR/CO/71/UZB (April 26,2001).

Western Europe

The **European Union** (E.U.) countries receive much the same treatment in the country reports as they did a year ago—with a similar failure to go much beyond what the E.U. member governments themselves acknowledge as human rights challenges.

Our focus on the country reports on European countries is on the coverage of violence motivated by racial or religious animus, and government responses to such violence. It does not cover new European legislation severely restricting the rights of immigrants and asylum seekers, although such anti-immigration measures often provide the context for a rise in racist violence.

An important blind spot in the reports on certain European countries, such as **Belgium** and **France**, continues to be the issue of racist violence, including in particular antisemitic violence, and government action or inaction in response. Reporting on countries where governments have taken important action to counter antisemitism and racist violence, in contrast, received more substantial coverage; such reporting on anti-racist measures improved significantly this year in the reports' chapters on Germany, the Netherlands, and the United Kingdom. Coverage of many countries, however, showed little progress in addressing the broader theme of racist violence.

A further concern arises with respect to coverage of immigration issues in the E.U., including new restrictive legislation—although this critique's limited scope does not permit detailed review of this aspect of the country reports. The general anxieties and xenophobia generated by the events of 9/11, and measures by some political officials to capitalize on these fears, have been factors in generating violence directed toward national minorities and immigrants. These

same political currents have fueled pressure for the introduction of increasingly restrictive immigration controls in Europe. While reporting on this broader phenomenon is beyond the scope of this analysis, a brief review of the country reports' coverage of the issues of discrimination and racist violence in certain European countries is provided below.

Racist violence and other discrimination against national minorities and immigrants remains a major human rights concern in Western Europe. European Union and Council of Europe antiracism bodies, which play an important role in fighting discrimination in the region, have identified important disparities in the actions of member states in this regard. In particular, they have found that little progress has been made in developing systems for the consistent and comprehensive monitoring and reporting of crimes driven by religious or racial hatred.⁵⁰ This has been particularly acute in recent years, in particular in the failure of some countries, notably France and Belgium, to address adequately a dramatic rise in antisemitic violence—or to even acknowledge this crisis.

Rising anti-Muslim and anti-immigrant violence, fueled in part by government policies to curb immigration and impose new security measures, pose similar challenges to government reporting and programs to combat racist violence. Even where governments do not provide detailed information on incidents of racially or religiously motivated violence, such reporting is generally available from nongovernmental organizations and the news media. The State Department reports, however, have been uneven in discussing this aspect of discrimination.

⁵⁰ See Lawyers Committee for Human Rights, *Fire and Broken Glass: The Rise of Antisemitism in Europe* (New York: LCHR, 2002), pp. 4-9, for a review of these reports.

The country reports cover racist or religious-based violence under the standardized headings on discrimination and freedom of religion. The coverage of discrimination in some of the reports on E.U. countries at times reflects some governments' efforts to attribute discriminatory violence largely to the immigrants and refugees who often are its targets. Particular groups targeted for racist violence in most cases are not named in the reports, and the high level of violence against them is not reflected. Government and media campaigns to attribute crime and the threat of terrorism to immigrants, a backdrop to attacks on immigrants and Muslim minorities and pressure for harsh anti-immigrant measures, is also not reported.

In other respects, the reporting has moved in a positive direction. For example, the 2001 country report on **Belgium** made no reference to the extensive anti-Jewish violence there, or to other forms of antisemitism—a failure the Lawyers Committee identified in its September 2002 report *Fire and Broken Glass: The Rise of Antisemitism in Europe*. The 2002 report, in contrast, reports under the “Freedom of Religion” heading that there were “several anti-Semitic incidents...including a number of incidents of arson and assault.” The Belgian government was said to have been responsive:

Jewish authorities described the atmosphere as hostile and frightening, and the Government deemed a police presence around some synagogues during worship services necessary at year's end. Local police addressed the problem on a case-by-case basis with the various synagogues.

While an improvement over the previous year, the 2002 report on Belgium still does not adequately reflect the severity or scale of anti-Jewish violence—nor address the high level of anti-Muslim and other racist violence in the country. The level

of violence was indeed significant. In March a Brussels synagogue was attacked with two firebombs and badly damaged; in April another synagogue, in Charleroi, was fired upon repeatedly; and on November 30, an Antwerp synagogue was firebombed. (These incidents were specifically noted in the Department's September 2002 report on religious freedom.) More than 2,000 antisemitic incidents were reported by nongovernmental sources in Belgium between September 2001 and April 2002.⁵¹ The Brussels-based organization Human Rights Without Frontiers, in its February 2003 report, cited a series of violent attacks in concluding that "Belgium was one of the focal points in Europe for a sharp escalation of anti-Semitism in 2002." The 2002 country report, notwithstanding the above-noted improvements, still is a pale reflection of this reality.

In the 2001 report on **France**, coverage of anti-Jewish violence was limited to reporting a decline in incidents, notwithstanding dramatic evidence that a very high level of such violence continued, with little government response. The report also uncritically echoed French government observations that a rise in violence in 2000 was an almost inevitable side effect of renewed violence in the Middle East—an assertion disregarding the broader picture of antisemitism and other racist violence in France. The 2001 report also provided no details of particular incidents of anti-Jewish violence. In contrast, the official human rights commission (Commission Nationale Consultative des Droits de l'Homme) 2001 report stressed the extreme gravity of antisemitic violence during the year, citing details on 29 very high-profile incidents—including fifteen assaults on synagogues and other places of prayer, and arson attacks on four Jewish schools.

The 2002 report provides increased detail on antisemitic as well as anti-Muslim violence in France, while noting a

⁵¹ Ibid., p. 6.

reduction in the number of incidents during the second half of the year. Considerably more attention is given to these incidents and other racist attacks, even as the influence of events in the Middle East continues to be emphasized:

In the first half of the year, the number of anti-Semitic incidents increased. Attacks ranged from graffiti and harassment to cemetery desecration and firebombing, mainly as a result of increased tensions in the Middle East. According to the press, the police reported approximately 400 incidents from March 29 to April 17, with the most serious occurring over the Easter-Passover weekend. French authorities increased security for Jewish institutions, investigated the attacks, and made arrests. Disaffected youths were apparently responsible for many of the incidents.⁵²

However, in a significant understatement echoing the tone of the previous year's report, the 2002 report continues: "In addition, several incidents occurred against members of the

⁵² This paragraph is drawn from the Department of State's September 2002 annual report on religious freedom, which added further detail on the Easter-Passover violence:

On March 30, a synagogue was damaged by fire in a suburb of Strasbourg; on March 31, a synagogue and adjoining library in Marseille were burned to the ground and a second was attacked 2 days later; in March in Toulouse, there was a drive-by shooting of a Kosher butcher shop; on April 7, assailants threw gasoline bombs at a synagogue north of Paris; and in April in Lyon, 15 masked assailants smashed 2 cars into a synagogue and set it on fire. On April 10, a group of youths armed with baseball bats attacked and robbed young Jewish soccer players.

The religious freedom report also provides greater detail on the measures taken to provide greater security to Jewish institutions. Department of State, "International Religious Freedom Report 2002: France," available at <http://www.state.gov/g/drl/rls/irf/2002/13938.htm> (accessed May 20, 2003).

large Arab/Muslim community, including incidents of harassment and vandalism.”⁵³

The report also describes new French government educational campaigns to combat racism and antisemitism, and gives considerable attention to legislative action to combat hate crimes: “On December 10, the French National Assembly voted unanimously in favor of a new law to toughen penalties for crimes of a ‘racist, anti-Semitic, or xenophobic’ nature.”

The 2002 report on the **Netherlands**, as in 2001, reports on anti-Jewish and other racist violence, but not in the Department’s own voice, stating that “the Center for Information and Documentation on Israel (CIDI) reported sporadic anti-Semitic incidents during the year” and that “[m]ost such instances involved physical and verbal intimidation of Jews perpetrated primarily by Arab youths.” One example cited was a March assault on a boy wearing a yarmulke “by Moroccan youth in front of the Portuguese-Israeli synagogue in Amsterdam.” The report says that there were no serious attacks on synagogues or Jewish shops during the year, and it contains much less detail on antisemitism in the Netherlands than did the 2001 report—which had included an extensive reference to a breakdown of CIDI statistics on antisemitic violence and threats.

Under the heading “Freedom of Religion,” the 2002 report cites “a sharp increase” in late 2001 in anti-Muslim incidents, “including vandalism, arson, the defacing of mosques or Islamic institutions, harassment, and verbal abuse in public places, directed particularly at women wearing headscarves.”

⁵³ The September 2002 report on religious freedom similarly refers to anti-Muslim violence in France only in passing, with a brief reference following the section on antisemitism: “In addition, several incidents occurred against members of the large Arab/Muslim community, including incidents of harassment and vandalism..”

It states that “there were few incidents of arson or defacing of mosques and Islamic institutions, but Muslims frequently were subjected to verbal or physical intimidation, as the overall public attitude towards Muslims became less tolerant.” No reference is made in this, or other country reports on EU members where there has been a significant rise in anti-Muslim violence, to the possible influence of government measures in the aftermath of the 9/11 attacks.

The 2001 report on **Denmark** reported rather blandly that there was “some tension between Danes and immigrants”—adding that there were “90 incidents of racial discrimination or racially motivated violence in the first 11 months of the year” without describing the criteria employed, the numbers of violent incidents, or the source.

In the 2002 report, discrimination is more directly attributed to an influx of foreigners: “Inflow of ethnically and racially diverse refugees and immigrants caused some tension between citizens and immigrants...and led to some legislative reforms” which “tightened immigration laws.” It reports 63 incidents of racial discrimination, adding that “only 6 involved violence.” The groups discriminated against, however, are not identified in the report.⁵⁴

The 2001 report on **Italy** referred to “some anti-immigrant prejudice, including against Muslims.” In the 2002 country report, the introduction says that “discrimination and scattered violence against immigrants and other foreigners continued to

⁵⁴ The Department of State’s September 2002 report on religious freedom in Denmark reported “isolated incidents of anti-Semitic and anti-immigrant vandalism, primarily graffiti, during the period covered by this report. The Government criticized the incidents and investigated several of them.”

be problems,” but the report contains no further reference to racist violence. The section on discrimination deals expressly only with discrimination against women, French and German speaking communities, and the Roma minority, while stating that “increasing immigration...led to some anti-immigrant sentiment.” There is no reference to antisemitism, including the widely reported desecration of a Jewish cemetery in July. The report also omits any mention of the high levels of violence against people of African origin and the large Albanian minority.

THE EVOLVING COUNTRY REPORTS

Since their inception in 1975, the Department of State's annual country reports have developed into an important source of basic information on human rights practices. The reports today cover 190 countries in a more comprehensive format than the annual world surveys produced by public interest groups, though they include less analysis or clearly stated conclusions than those of nongovernmental organizations. The reports are a useful gazeteer covering a fairly comprehensive range of issues in a generally objective style. This gives the U.S. Congress an indispensable tool for its oversight role—and provides information needed for an informed public to consult in seeking to better understand the actions of U.S. allies and adversaries alike.

In their early years, however, these annual reports were deeply flawed, their coverage compromised by Cold War politics. Perceived friends of the United States were shielded from criticism, and descriptions of the violations by U.S. enemies were often exaggerated.

There was some improvement in the objectivity and comprehensiveness of the reports even before the Cold War wound down. Users of the reports in and out of government increasingly recognized the value for U.S. policymakers of an

objective description of foreign government policies and practices.

The reports also became a routine to which foreign governments became accustomed, if never wholly comfortable. Over time, the reports adopted a frank but nonjudgmental and largely non-ideological evaluation of human rights in other countries. Their strength was a foundation in fundamental rights principles to which most of the countries reported upon formally adhered.

In the United States, policymakers increasingly realized that accurate, dispassionate reporting was respected by many foreign counterparts and allies as a form of constructive criticism. Growing respect for the process was also won from the European Union, which in 1999 initiated its own review of human rights practices, although not adopting the country-by-country format of the United States model.⁵⁵

Another factor that led to these improvements was the revisions in the State Department's reporting instructions in 1993, which resulted in both increased accuracy and objectivity, and requirements to address a more comprehensive slate of issues, including: discrimination based on race, gender, religion, disability, language and social status; patterns of gender-based violations; labor rights; and the problem of impunity for past human rights violations.⁵⁶

⁵⁵ The first report covered the period June 1998 to 30 June 1999 and was adopted by the E.U.'s General Affairs Council on October 11, 1999 (available at http://ue.eu.int/pesc/human_rights/main99_en.htm, accessed March 10, 2003).

⁵⁶ The simultaneous publication of the reports in both print and electronic form by the end of the decade also made them an increasingly accessible reference (few would read the entire compendium), even as more comprehensive coverage made the printed form unwieldy. Those concerned with such issues as diverse as women's rights, censorship, antisemitism,

In short, by the late 1990s the overt political bias of past reporting had largely disappeared—although with some notable exceptions (with respect to both countries and particular issues). Texts approved in the Department’s Bureau of Democracy, Human Rights, and Labor (DRL) were less likely to be distorted by a final political editor committed to shielding an ally, disparaging an independent critic, or vilifying an adversary. With increased objectivity, accuracy, and scope of reporting, this crucial congressional oversight mechanism became an increasingly respected tool of foreign affairs.

In light of the heightened level of objectivity and accuracy, the reports won the respect even of perhaps their toughest and best-informed audience: the nongovernmental human rights organizations dedicated to human rights monitoring and promotion year round.

For eighteen years the Lawyers Committee for Human Rights produced an annual *Critique* of the State Department reports, beginning with the third annual State Department report in 1978. In 1996, the Lawyers Committee published its last book-length *Critique*, although still commenting yearly on specific shortcomings in the reporting on individual countries. After publishing our 1996 report we made a decision to stop producing the *Critique*. This was based on our judgment that the reports “have become a progressively more thorough and reliable guide to human rights conditions throughout the world.” This review of the 2002 reports reflects a need to reconsider this judgment and to seek improvements in the 2003 reports.

torture, “disappearance,” or electoral fraud could readily search the electronic form without concern for the overall size of this resource.
