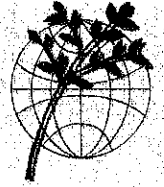


HUMAN RIGHTS

TRIBUNE

DES DROITS HUMAINS



Vol. 8, No. 1

2001



AMERICAS PREPARE FOR RACISM CONFERENCE
HUMAN RIGHTS DEFENDER ATTACKED IN TUNISIA
KOSOVO INTERVENTION: TWO YEARS LATER

**Tribune Team:****Mark Erik Hecht**

Editor-in-Chief

Jeff Sinden

Managing Editor

Solange Benoit

Design and Layout

Vernon Lang

Subscriptions Manager

International Editorial Committee:

Susana Cárdenas, Washington Office on Latin America

Roberta Cohen, Brookings Institution

Fraj Fenniche, Arab Institute of Human Rights

Ravi Nair, South Asia Human Rights Documentation Centre

Gopal Krishna Siwakoti, International Institute for Human Rights

Environment and Development, Nepal

José Miguel Vivanco, Human Rights Watch / Americas

ISSN No. 1192-3822

The **Human Rights Tribune** is published three times a year (Fall, Winter, Spring) by HRI. Editorial and subscription offices:

HRI / IDH

8 York Street, Suite 302, Ottawa, Ontario, K1N 5S6,
Canada

Tel: (1-613) 789-7407

Fax: (1-613) 789-7414

E-mail: <publications@hri.ca>

Website: <www.hri.ca>

Please note that the views expressed by contributors to the Human Rights Tribune do not necessarily reflect those of HRI.

HRI Staff

Mark Erik Hecht, Executive Director

Juan Antonio Blanco, Director International Cooperation

Jan Bauer, Researcher / Writer, Human Rights Report (FTR, UN)

Solange Benoit, Executive Assistant

Lisa DeLong, Research Associate

Kerry Emmonds, Project Associate

Margo Ferry, Accountant

Teresa Finik, Project Coordinator (FTR)

Michel Forand, Senior Editor, Human Rights Reports (FTR)

Bonnie Gervais, Information Officer

Susanne Hamm, Research Associate

Kristie Kelly, Internships Coordinator

Jordan Kemp, Web Application Developer

Vernon Lang, Publications Manager

Gebre Mekonnen, Web Developer / Systems Administrator

Jeff Sinden, Research / Web Associate

Christina Wanke, Web / Database Associate

HRI Board of Directors*

Barbara Adams, UN Non-Governmental Liaison Service (USA)

Juan Antonio Blanco, HRI (Canada)

Reed Brody, Human Rights Watch (USA)

Khedija Cherif, Tunisian Association of Democratic Women (Tunisia)

Ann Clarke-Okah, Carleton University (Canada)

Clovis Demers, Consultant (Canada)

Clarence Dias, International Centre for Law in Development (USA / India)

Lise Garon, Université Laval (Canada)

W. Anderson Joyce, Gowlings (Canada)

Yves Le Bouthillier, University of Ottawa (Canada)

Isfahan Merali, Ontario Human Rights Commission (Canada)

Clement Nwankwo, Constitutional Rights Project (Nigeria)

Robert Praw, Youth Representative (Canada)

Georges Proulx, Consultant (Canada)

Laurie Wiseberg, HRI (Canada)

*Organizations listed are for identification purposes only.

TABLE OF CONTENTS

Volume 8, Number 1

Spring 2001

FEATURES

- Forum of the Americas:
For Diversity and Pluralism**
by Mark Erik Hecht and Juan Antonio Blanco, p. 4
- Gender Apartheid and Cultural Absolution: Saudi Arabia
and the International Criminal Court**
by L.M. Handrahan, p. 8
- Iraq: Does Anyone Live There?**
by Mordecai Briemberg, p. 12

FROM THE HUMAN RIGHTS COMMUNITY

- Universal Jurisdiction in Prosecuting World Leaders**
by Rodney Neufeld, p. 14
- CHR 57: NGOs Address Concerns over State Efforts to Weaken Human Rights Standards**
by Teresa Finik, p. 14
- Hope Prevails in Refugee Camp**
by Steve Mason, p. 16
- HRI Board Member Attacked in Tunisia**
by Susanne Hamm, p. 18
- Rapid Response Leads to Freedom from Bondage**
by Nida Kirmani, p. 19
- Preparations for the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects**
by Christina Torsein, p. 22
- La Esmeralda: A Reminder of Chile's Past**
by Paola Evans, p. 23
- Compensation of Murdered Guatemalan Street Youth Discussed by Inter-American Court on Human Rights**
by Ann Birch, p. 24
- Argentina's Dirty War: An Update**
by Rita Maran, p. 25
- Tasting Tear Gas at the Summit**
by Gus Van Harten, p. 28
- Canada Prepares for the World Conference Against Racism**
by Phillipe LeBlanc, p. 29
- Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General):
Corporal Punishment Survives Constitutional Challenge**
by Lisa DeLong, p. 30
- Human Rights Education Pilot Program Launched in Canada**
by Miriam Woodall and Rosalyn Mendleson-Breshgold, p. 31
- Lives and Buddhas Destroyed in Afghanistan**
by Jeff Sinden, p. 32

DEPARTMENTS

- Editorial, p. 2**
- Calendar, p. 3**
- News Update, p. 20**
- From Where We Sit: OAS Summit, p. 27**
- Perspectives: Kosovo, p. 34**
- wired wURLd: Freedom of Religion, p. 37**
- International Resources, p. 38**
- End Note: Leonard Peltier, p. 40**

RETHINKING THE TRIBUNE by Mark Erik Hecht

Over the past few years I have had the opportunity to lecture about human rights in a variety of settings. Perhaps the most challenging assignment I was ever given was to teach social justice and current events to a group of teenagers. I was skeptical as to how much I could actually explain to students that age about the complexities of human rights in the 21st century and how it impacts their lives. After my first encounter with the teens, their curiosity and understanding of the issues impressed me.



The most difficult part of the job was locating material that was topical, well researched and written, and trustworthy. After spending several

days reading through journals and bulletins a colleague of mine suggested I bring my students the *Human Rights Tribune* and -- with appropriate facilitation -- base my lesson plans on the articles contained within the publication. I took her advice and at the next class I distributed copies. The students were immediately drawn to the magazine's content. The words of the authors, the majority being activists and human rights defenders "in the field", spoke to the teens in a manner they could connect with.

On the last class one of my students questioned why there was no youth perspective contained in the publication. I was about to say, "because HRI has never had one", but as a teacher I knew the inadequacy of that response; just because we had not included any new features in the recent past, did not mean we could not start adding sections from that point onwards.

The comment made by that student led to a series of discussions and meetings at HRI examining what the *Tribune* contributes to the human rights community and what we, the staff, could do to improve the magazine. Almost one year later I am proud to introduce the first revised edition of the *Human Rights Tribune*.

As you peruse the document you will notice several new features. For example, "Perspectives" (pg. 34) provides the reader with two opposing views of an issue from within the human rights community. We

have also restructured the "look" of the magazine and reorganized the material contained therein. We believe this reclassification has eliminated duplication of material and has made the magazine more "reader friendly". It is important to note that we have not removed any information, but rather enhanced the content which has always been the publication's trademark. And, yes, we have added the "youth perspective" in a feature called "From Where We Sit".

The cost of "upscaling" the *Tribune* and expanding its content is high. The production is labour intensive as the entire coordination and layout is done in-house. Further, there is no project money reserved for the magazine so we rely entirely on our staff to work on the *Tribune* in addition to carrying out their core responsibilities. Added to this are the rising cost of printing and paper in Canada. As a result, we will now be publishing the magazine three times annually (Fall, Winter and Spring) rather than four.

This issue of the *Tribune* contains some very interesting themes. In anticipation of the World Conference Against Racism, HRI co-organized an NGO regional meeting in Quito, Ecuador. A full report on the Forum of the Americas is included (pg. 4), along with an update of Canada's preparations (pg. 29). Many of the issues that were discussed at the Forum and during the Canadian preparations have been reflected in other meetings taking place around the world. It will be interesting to learn which controversial items, if any, are included on the governments' agenda for the WCAR.

Other news from Latin America highlight the region's efforts to come to a better understanding of its recent past. The piece on the public hearings at the Inter-American Court on Human Rights (pg. 24), for example, discusses the healing that comes from vocalizing frustrations with a "system" that failed to help. The article on Argentina describes the attempts by NGOs to reconcile the country's "dirty" history (pg. 25). Finally, a report on Chile's floating ambassador, *La Esmeralda*, outlines the disturbing facts that the government does not want the ships' visitors to know (pg. 23). This in-depth coverage of Latin America parallels the work that HRI has been conducting in that area for the past

year. Under our program of international cooperation we have become very involved with the NGO movements in Central and South America. Last week we were granted official NGO status with the Organization of American States; our plan is to monitor the OAS closely to identify parallels between the work being done regionally and internationally.

Another subject that permeates this issue is children's rights. An article by two educators on the necessity of human rights curricula (pg. 31) demonstrate the needs of students to understand their responsibilities in society and what they can do to contribute to the movement. At the same time however, a recent court ruling in Canada has upheld a controversial provision of the Criminal Code allowing for the physical disciplining of children by their teachers (pg. 30). One of our feature pieces analyzes the sanctions on Iraq (pg. 12), including the harm it has inflicted on the country's young people. Children's rights has been a central theme in HRI's work and we continue to research the issue of commercial sexual exploitation (CSE) in preparation for the Second World Congress against CSE that will be held in Yokohama, Japan in December 2001.

Some very late breaking news was added just before we went to print. The Summit of the Americas is reviewed by two area teenagers (pg. 27) and a protester who participated in the event (pg. 28). The difficulties faced by an HRI Board member in Tunisia (pg. 18) are detailed, along with the intervention that HRI addressed at the UN Commission on Human Rights on her behalf. The protection of defenders has been identified by our network as a subject that deserves greater attention and emphasis in our work. We are in the process of developing several new projects on the subject that we hope to implement within the next two years.

I hope you find this, the new *Human Rights Tribune*, interesting and informative. As always I welcome your comments. In fact, we would like to add a "Letters to the Editor" column in the next issue so I would encourage you to put your thoughts on paper and e-mail them to me at <hri@hri.ca>. **HRI**

MAY

Annual Human Rights Colloquium

Start Date: 13 May 2001

End Date: 25 May 2001

Location: Sao Paulo, Brazil

Description: The Annual Human Rights Colloquium was established as a forum for key players to discuss new strategies and recent developments related to the major human rights challenges faced by the Southern Hemisphere. It seeks to bring together leaders, journalists, members of non-governmental organizations, academics, and citizens working to defend and promote human rights in order to strengthen their institutional capacity to effectively carry out their human rights objectives.

Contact Information: Human Rights University Consortium

E-mail: <consorciodh@uol.com.br>

Tolerance, Respect and Human Rights 2001

Start Date: 17 May 2001

End Date: 21 May 2001

Location: Prague, Czech Republic

Information: <http://www.tolerance.cz>

Description: The seminar focuses on issues related to racism and discrimination in the post totalitarian countries in Europe and South Africa. It is targeted at educators.

Contact Information: Lukas Durda

E-mail: <globea@atlas.cz>

WCAR Second Session of the Preparatory Committee

Start Date: 21 May 2001

End Date: 1 June 2001

Location: Geneva (Palais des Nations)

Information: <www.unhchr.ch>

JUNE

22nd Annual International Human Rights Training Program

Start Date: 10 June 2001

End Date: 29 June 2001

Location: Montreal, Québec, Canada

Information: <www.chrf.ca>

Description: The CHRF's training and education programs are designed for activists who are engaged in human rights promotion and democratic development.

Contact Information: Lawrence Lefcort

E-mail: <lawrence@chrf.ca>

Women's Leadership in a Globalizing World

Start Date: 11 June 2001

End Date: 22 June 2001

Location: New Jersey, USA

Information: <www.cwgl.rutgers.edu>

Description: A two-week intensive working session of approximately 24 women representing diverse regions, cultures and interests. Participants spend time sharing their reflections on how the fundamental feminist value of respect for the diversity of women informs the movement and on strengthening the skills needed to carry out the work of women's human rights.

E-mail: <cwgl@igc.org>

Summer Course on Refugee Issues

Start Date: 16 June 2001

End Date: 24 June 2001

Location: Toronto, Ontario, Canada

Information: <www.yorku.ca/crs/>

Description: The Centre for Refugee Studies' Summer Course offers postgraduate training in refugee issues for up to 50 practitioners inside and outside government who work on some aspect of refugee protection or assistance. The Course includes panel discussions, case studies, a simulation exercise and lectures from international experts.

Contact Information: Sharryn Aiken

E-mail: <summer@yorku.ca>

Violence Against Women: From awareness and action to policy development

Start Date: 17 June 2001

End Date: 22 June 2001

Location: Oxford, UK

Information: <www.britishcouncil.org>

Description: This seminar on violence against women is designed to explore how individuals, groups and networks can move beyond awareness raising and action to wider policy development.

Summer Course on International Minority Rights Law

Start Date: 23 June 2001

End Date: 30 June 2001

Location: Galway, Ireland

Information:

<www.nuigalway.ie/human_rights/index.html>

Description: The course aims to provide students with an overview of the legal, political and philosophical issues pertaining to international minority rights law. During this week participants will seek to understand, assimilate and critically evaluate legal arguments with respect to the international minority rights regime.

Contact Information: Irish Centre for Human Rights

E-mail: <humanrights@nuigalway.ie>

JULY

25th UN Committee on the Elimination of Discrimination against Women

Start Date: 2 July 2001

End Date: 20 July 2001

Location: New York, USA

Information:

<www.un.org/women/watch/daw/cedaw/>

HRI's Internet Training Programme

Start Date: 2 July 2001

End Date: 6 July 2001

Location: Ottawa, Ontario, Canada

Description: HRI's Third Annual Internet Training Programme will bring 15 human rights activists from around the world to Ottawa for a week of intensive training on how to use the Internet for human rights research and publishing.

E-Mail: <training@hri.ca>

AUGUST

UN Working Group on Indigenous Populations

Start Date: 23 July 2001

End Date: 27 July 2001

Location: Geneva

Information: <www.unhchr.ch>

International Human Rights Advocacy Training

Start Date: 5 August 2001

End Date: 24 August 2001

Location: St-Paul, USA

Information: <web.hamline.edu/law/scotinstitute>

Description: This program is intended for committed human rights advocates and experienced professionals, social service providers, community activists and leaders, peace advocates, racial and social justice advocates, teachers, researchers, religious leaders, and advanced students.

Contact Information: Clarence Davis

E-mail: <cdavis@gw.hamline.edu>

WCAR NGO Forum for the World Conference

Start Date: 28 August 2001

End Date: 1 September 2001

Location: Durban, South Africa

Information: <www.sangoco.org.za>

E-mail: <major@wcar.sangoco.org.za>

World Conference Against Racism, Racial Discrimination, Xenophobia

Start Date: 31 August 2001

End Date: 7 September 2001

Location: Durban, South Africa

Information:

<www.unhchr.ch/html/racism/index.htm>

Contact Information: Office of the High Commissioner for Human Rights

E-mail: <husbands@un.org>

High Priestess of the Maya prepares Rigoberta Menchu for the closing ceremony.



Forum of the Americas: For Diversity and Pluralism

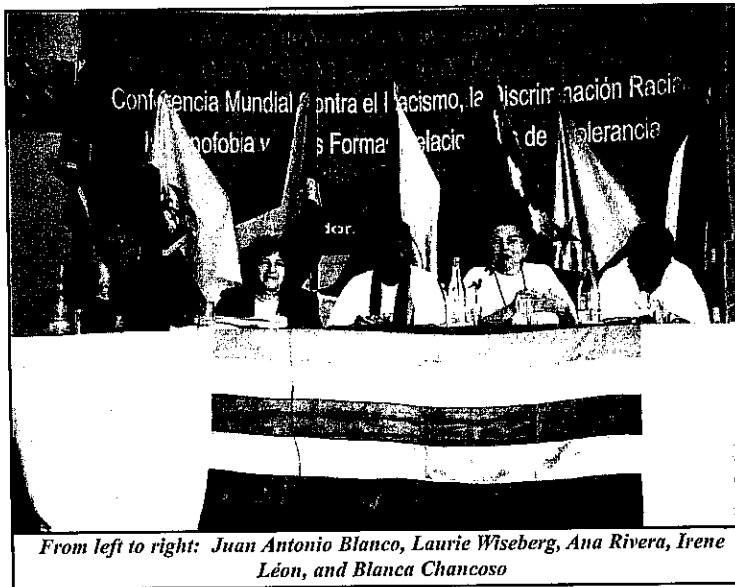
by Mark Erik Hecht and Juan Antonio Blanco*

In preparation for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), HRI in Canada together with one of its partners in South America, ALAI (Agencia Latinoamericana de Informacion) and the United Nations' Office of the High Commissioner for Human Rights (OHCHR) helped organize a non-governmental networking meeting for the Americas region. The Forum of the Americas was held in Quito, Ecuador from 13-16 March. The event was hosted by ALAI and CONAIE (Ecuadorian National Indigenous Confederation/Coordinadora nacional Indigena Ecuador) along with other local organizations, and brought together over 400 delegates from Canada, the United States and Central and South America to discuss continental issues of mutual concern and to draft a unified plan of action that would feed into the pre-WCAR processes taking place in other regions of the world.

Declaration drafted through consensus by the NGOs that attended the regional government meeting for the Americas in Santiago, Chile in December 2000. The Forum of the Americas' document contains over 100 points identifying priorities for the region and underlining the delegates' areas of interest, including the rights of Afro-descendants and the indigenous peoples, the treatment of the Roma people, the voice of the gay, lesbian, bisexual and transgendered community, and women and youth participation.

The themes of diversity and pluralism were reiterated throughout the first day's deliberations. The talks began with explanatory introductions by the conference organizers including Irene León from ALAI, Juan Antonio Blanco from HRI, and Laurie Wiseberg, the NGO Liaison for the WCAR from the OHCHR.

The first expert panel presented the challenges for the region while preparing for the WCAR. Myrna Cunningham from Nicaragua discussed contemporary forms and expressions of racism and Minerva Mella from the United States provided her reflections on xenophobia in the era of globalization. During the afternoon, small working groups drafted resolutions on the three central topics: Racism and racial discrimination; xenophobia; and intolerance. To ensure that diversity and pluralism were integrated throughout each workshop, the various representatives present were divided equally between all the working groups.



From left to right: Juan Antonio Blanco, Laurie Wiseberg, Ana Rivera, Irene León, and Blanca Chancoso

The second day of the conference opened with a review of the working groups' findings from the previous day.

The Forum of the Americas was the fourth NGO networking meeting in anticipation of the WCAR; others took place in Gaborone, Botswana (for Africa), Amman, Jordan (for Asia/Middle East), Warsaw, Poland (for Central and Eastern Europe), and Kathmandu, Nepal (for Asia). The mandate of these networking meetings was to build momentum toward the WCAR by linking groups within each region and having their delegates draft background materials that could form a basis for an international NGO plan of action in South Africa. The meetings were further meant as an opportunity for NGOs to coordinate their efforts for the NGO Forum of the WCAR that will take place in Durban from 28 August-1 September 2001 (For full text of all regional declarations and plans of action please visit the HRI Racism Website at <www.hri.ca/racism>).

For Diversity and Pluralism

The theme of the Forum of the Americas was diversity and pluralism. This abstract concept became more concrete at the opening ceremony where representatives from a variety of groups throughout the Americas addressed the assembly. Speakers included Denis De Oliveira and Ana Rivera from the Black Peoples of the Americas/Los Pueblos Negros de las Américas, Antonio Jocanamijoy from the Indigenous Organizations of the Amazon Territory/Organizaciones Indígenas de la Cuenca Amazónica; Venecer Gómez of the Rom People/Pueblo Rom, and Chief Margaret Penasse Mayer of the Assembly of First Nations of Canada.

Several sub-topics emerged from the plenary. For example, all groups pointed to the importance of not only protecting rights enshrined in international instruments but also of demanding the promotion of these rights. There was also agreement that the conclusions of the Forum needed to be placed in a historical context, not only outlining expectations for the future but also reflecting on past behaviours. As well, the concept of artistic expression as an essential element for the preservation and maintenance of culture and heritage in community efforts to combat racism and other intolerance was highlighted.

Following the welcoming remarks, a High Priest and Priestess of the Maya led the congregation in prayer. The inauguration closed with ritualistic performances by the local tribes people.

The Forum then met by sector. Groups included the Afro-descendants, indigenous peoples, migrants, the Roma people, youth and women. Each caucus was facilitated by experts and well-known activists, such as Juan Tiney from Guatemala, who coordinated the work of the indigenous peoples, and Lea MacKenzie from Canada, who assisted

The final outcome document of the Quito Forum is meant to build upon the Americas

FORUM OF THE AMERICAS

the women. There was also a parallel session which attempted to bring together the various committees and networks created in the Americas in preparation for the WCAR.

The third and last day of the conference was used to discuss the final plan of action, and reach agreement on the language in the document. The event closed with an address by Nobel Laureate Riogoberta Menchu. Her message was very appropriate for reinforcing the overall theme of the conference. "There are two fundamental struggles against racism", she explained, "the struggle of the people to dignify their own existence and the struggle to defend their positions".

The Road from Quito to Durban

The Forum of the Americas was the close of one process but the opening of another. The regional meetings are now complete, the Forum having been the second to last, but there is much more to be done before the South Africa conference. Serious organizing must now begin for Durban, planning for both the NGO Forum and the WCAR itself. The meeting dates have been finalized. The NGO Forum will begin on 28 August and conclude on 1 September. The government meeting, which accredited NGOs may attend, will start on 31 August and finish on 7 September. (For information on the accreditation process please visit <www.hri.ca/racism>).

The location of the conference has also been set. The NGO Forum will be held in Kingmead Cricket Stadium in Durban. Most of the events will be held outdoors in specially designed tents. The government meeting will be held a short walk away at the International Convention Centre.

There are two fundamental struggles against racism, the struggle of the people to dignify their own existence and the struggle to defend their positions.

Riogoberta Menchu

NGOs must ensure that they are registered to attend the NGO Forum. Information on this process is outlined on the Website of the South African NGO Coordinating Office (SANGOCO) at <www.racism.org.za>. Proposals for workshops, roundtables, panels and exhibits should be sent to SANGOCO immediately. The NGO Forum's organizers will coordinate all the sessions and may have the NGOs with similar interests talk to one another before the conference.

Scholarships to attend the Forum and WCAR will be available from the OHCHR. Information on how to apply will be disseminated during the second session of the preparatory committee meeting (Prep Comm) from 21 May - 1 June when application forms will also be made available. Continue to visit the HRI Racism page for regular updates.

Over the next four months all of the regional declarations and plans of action, as created by the NGOs, will be reviewed by an international NGO drafting committee. The Committee will merge all the material into one cohesive document which will be sent to everyone who had been involved in the process for comment. The hope is that there will be a draft for NGOs to discuss in Geneva during the second session of the WCAR Prep Comm, with final editing to be completed in Durban. NGOs should be able to present the government meeting with their own Declaration and Programme of Action and also lobby to change the government's outcome document.

*Mark Erik Hecht is the Executive Director of HRI and Juan Antonio Blanco is HRI's Director of International Cooperation

HRI

(Editor's Note: Below are excerpts from the introductory section of the Action Plan as created at the Forum of the Americas. The Action Plan also contains sub-sections on: Indigenous peoples; People of African descent; Rom people; Persons of mixed ethnic origin; Persons of Asian descent; Migrants; Sexual diversity; and Youth. Please note the text below is an unofficial, nonprofessional translation of the original. To view the actual declaration in Spanish please visit <www.hri.ca/racism/meetings/quitoaction.htm>.)

Action Plan of the Forum of the Americas for Diversity and Plurality Quito, Ecuador, 13-16 March 2001

Convinced that the building of plural and diverse societies is a guiding principle in the eradication of racism, racial discrimination, xenophobia and all forms of intolerance, the Forum of the Americas for Diversity and Plurality, held in Quito, Ecuador on 13-16 March 2001:

Recognizing and undertaking all the progress achieved and commitments adopted in Santiago, Chile, as contained in the "Final Declaration of the Citizen Conference";
Acknowledging the document adopted by the governments during the Regional Prep Comm in Chile as a platform for advancing new achievements;
Assuming the need for incorporating a gender perspective as a methodological basis and a transversal axis;
Assuming that plural and diverse education is an effective way to eradicate intolerance, develop thought, feelings and action for a culture of peace;
Collectively assuming the commitment to carry out joint actions, with the aim of creating a new global society based on the principles of diversity and pluralism;
Recognizing the interculturality, pluriculturality and autonomy of the peoples, the historical justice, widely claimed by indigenous peoples, persons of African, Asian or mixed descent, the Rom people, women, migrants, displaced persons, internees, refugees and oppressed nationalities within a State or due to their ethnic origin, as well as of diverse

social actors --such as lesbians, gays, bisexuals, transsexuals, transgender, travesties, the elderly, boys and girls, adolescents, youths, and disabled persons -- committed to the struggle against all forms of discrimination and intolerance; Recognizing that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, convened by the UN, which will be held in South Africa in September, 2001, focuses on structural and historic problems, whose aims will only be achieved through the joint, wide and resolute participation of the civil society as a whole; and

Agreeing to adopt the following Action Plan for the Americas, to be submitted to the above-mentioned Conference.

The Forum of the Americas has decided:

To demand from the governments commitment, respect and compliance with the principles, norms, rules and regulations, and international instruments and safety nets, related to the promotion of human rights, especially the Charter of the United Nations and the Universal Declaration of Human Rights, reaffirming the principles of non-discrimination and equity, and proclaiming that all human beings are born free with equal dignity and rights, and that every person, without distinction, may invoke all the rights and freedoms proclaimed in the Declaration;

To demand the full implementation of the rights herein mentioned to the populations of the countries undergoing a self-determination process and under colonial relations.

To demand from the UN, the OAS and States that national legislation be consistent with the International Covenants and Conventions intended to eliminate racial discrimination, xenophobia and all forms of intolerance; as well as with the international instruments defending individual and collective human rights, whether economic, social, cultural, civil or political.

To recommend to the UN that compliance with all of its documents be made mandatory.

To demand that governments, national institutions, and regional and international organizations develop an awareness in the various strata of society while acknowledging that racism, racial discrimination, xenophobia, sexism, lesbophobia, homophobia and discrimination of sexual workers, whose impact is increasing daily, have historic and colonial roots that have brought about the structuring of a discriminatory world that enjoys impunity, a world that can be transformed if those scourges are eliminated.

To demand from the UN it urge all its State Parties to ratify all the international instruments and their relevant Optional Protocols for the protection of humans rights, mainly to guarantee that no person be discriminated against and their basic rights and dignity are protected.

To urge all non-governmental organizations to add their voices to the efforts of peoples, nationalities and populations in support of the international campaign launched by

various sectors to demand the ratification of the above-mentioned Conventions and International Instruments.

To urge States to enact, in their Constitutions, clauses guaranteeing non-discrimination and the enjoyment of all individual and collective rights by all persons -- regardless of race, ethnic origin, gender, age, sexual orientation, language, religion, national origin, migratory, social and economic status, artistic expression, employment or occupation, health status, disability and other diversities - and enact laws and codes imposing sanctions against all forms of discrimination and their individual and collective practices and guarantee the abidance of existing laws; and also to repeal all laws promoting all forms of discrimination, with the aim of allowing every person the enjoyment of all fundamental rights and freedoms, and to repeal laws penalizing sexual preferences and sexual work.

To demand States design and implement participatory comprehensive and pluralist policies, intended to eliminate the historical privileges upheld and promoted by the white supremacy ideology, which is a fundamental element in structural racism and is expressed through the accumulation of wealth, power and status and through the preservation of coercive mechanisms guaranteeing domination.

To demand States and international organizations enact and enforce sanctions against persons guilty of acts of genocide, ecocide, and ethnocide, who justify racial, gender, age, ethnic, religious, sexual or cultural preference discrimination, also migratory processes or forced internal displacement discrimination based on segregationist ideologies.

To demand States to provide adequate legal defense to the victims of racism, xenophobia, sexism, lesbophobia, homophobia, and social strata, sexual work, age, disability and health status discrimination since these people are generally also affected by other forms of discrimination limiting their potential for adequate defence. This situation is reflected, inter alia, in serious discriminatory treatment in legal and judicial processes as well as in police procedures.

To urge States to acknowledge the diverse forms racism, racial discrimination, xenophobia, and related intolerance.

To demand the States Parties of the UN establish national mechanisms intended to monitor, train, promote and encourage mechanisms for the protection of human rights; and that these actions be shared by various national actors such as educators, health promoters, the media and professional teams working at a governmental level in the judicial and legislative branches.

To recommend to the UN the elaboration of a Convention on other forms of discrimination that have not been a major focus of attention of other Conventions or of the Universal Declaration.

To demand the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance declare the various forms of discrimination such as racism, racial discrimination, xenophobia, sexism, lesbophobia, homophobia, and others, are crimes against humanity and serious violations of the fundamental human rights.

GENDER APARTHEID AND CULTURAL ABSOLUTION

L.M. Handrahan in Saudi Arabia wearing the required abaya.



GENDER APARTHEID AND CULTURAL ABSOLUTION

Gender Apartheid and Cultural Absolution: Saudi Arabia and The International Criminal Court

by L.M. Handrahan*

Introduction

On 17 July 1998, when the *Rome Statue of the International Criminal Court*¹ (the *Rome Statute* and ICC, respectively) was adopted, significant and inclusive consideration of gender as a relational concept was embodied, for the first time, within international human rights law. The following article argues that once the Rome Statue comes into effect² one of the first cases on the ICC docket should be an investigation of Saudi Arabian crimes against humanity -- as outlined in article 7 and defined in article 7(1), "as part of a widespread or systematic attack directed against any civilian population" -- committed by the Saudi government against the female population, citizens and foreign-guest workers alike.

Gender Apartheid and Cultural Absolution

Although serious human rights abuses are committed in Saudi against foreign laborers, largely from South East Asia, it is women, both citizens and foreigners, which suffer from state-established denial of the most basic of human rights. The breadth of the Saudi state's gender apartheid is severe and extensive and, thus, constitutes a crime against humanity perpetrated by the Saudi regime against its female population. Women, for instance, are prohibited, *inter alia* freedom of movement, association, speech and expression; the right to be free from violence; and the right to a fair trial and legal system. The list of human rights refused to women because they are women is too lengthy to enumerate in this article; however, both Amnesty International (AI) and Human Rights Watch (HRW) have completed various reports detailing the nature and extent of violations committed by the Saudi government.³

Because the systematic human rights abuses ongoing in Saudi Arabia fall, predominately, along gender divisions they have been under-reported and generally ignored by the global community. The United Nations Commission on Human Rights, the US and other United Nations' member-states have failed to pub-

licly address the violations in Saudi Arabia. Although similar types of human rights defilement invoke public, international offense when occurring in a racial dominant context (e.g., South Africa), when committed in gender advantageous circumstances, most often men over women, it remains virtually unnoticed. Hiding behind a fortification of so-called cultural and religious norms, the Saudi government has been, thus far, able to evade responsibility for, and condemnation of, a brutal policy of apartheid based on a person's gender.

The popular, and illegitimate, justification within the international community for ignoring such gender persecution is cultural sensitivity. Although the argument that human rights are culturally particular, rather than universally applicable, has been defeated in terms of traditional civil and political human rights when these relate to men, fundamental rights when applied to women remain hostage to "cultural" interpretation. The cultural justification derives from a common misperception that the gender apartheid in Saudi is a result of Islamic, and therefore cultural/religious, values rather than violations of international human rights laws and standards. Therefore, the argument goes, the Saudi system should be respected because it is how the people of this region desire to structure their lives. This understanding is erroneous on at least three essential levels.

The first flaw in the argument requires a review of Islamic law. The shari'a refers to the sum of legal rules embodied in the Quran, the holy book of Islam, and covers the entire spectrum of legal problems, both public and private, as well as nearly every aspect of daily life. Since Islam is an ancient religion there have been many splits resulting in different applications and interpretations of the shari'a. The two primary divisions are Sunni and Shi'ite. There is also the school of Median, later to become the Maliki School, in the Arabian Peninsula, and the School of Kufa in Iran that evolved into the Hanafi School. Median, one of the two sacred sites for Muslims -- the other being Mecca -- is located in Saudi Arabia. The Median school remained attached to traditional and tribal Arabian ideas while Kufa, a Persian and more cosmopolitan environment, produced a more liberal understanding of the shari'a. Therefore,

the Islam that is practiced in Saudi is not necessarily "the" Islam but rather the Median interpretation. Only in Saudi, for example, are women forced to wear an abaya, a complete covering, including the face, typically made of black polyester. The Quran does not stipulate black, head-to-toe, or polyester.

A second error relates to cultural norms and values. Values, religious or otherwise, that deny a human being, regardless of race, ethnicity, nationality, religion, political persuasion, or gender, their full dignity inherent in their being simply by dint of birth, and guaranteed by international human rights law, are illegitimate. The universality of fundamental human rights has no exceptions.

Third, and perhaps most importantly, it must be questioned who, within the culture, is defining these norms and values. In Saudi it is male leaders speaking on behalf of women and restricting any opportunity for women to contribute their own opinions. Many Saudi women, if the international community had an opportunity to hear their voices, would relate that they want to claim the rights and dignities guaranteed to them by the *United Nations Charter* and *Universal Declaration of Human Rights* and denied to them by the Saudi government. However, due to a system of swift and sure draconian punishment, through which the Saudi government maintains gender apartheid, it is almost impossible for women inside Saudi to challenge governmental despotism. Likewise, it is difficult for international human rights experts outside of Saudi to investigate, first-hand, the persecution of women in Saudi Arabia.

Women in Saudi Arabia

In November 2000 I had the opportunity to travel to Saudi Arabia with my husband who had been invited on business. The Saudi government does not grant tourist visas and women traveling alone are rarely provided the necessary special permission by the Ministry of Foreign Affairs to enter Saudi. It is, technically, illegal for women to travel outside of the home in Saudi without the escort of their husbands, fathers, or brothers. In order to receive my Saudi visa I had to provide the Saudi Embassy with a notarized copy of my marriage license and my husband's permission to accompany him, in addition to the necessary letters of invitation.

GENDER APARTHEID AND CULTURAL ABSOLUTION

Although I was not able to conduct formal research, I did have the opportunity to talk with a group of Middle Eastern women living in Saudi, an American woman who married a Saudi man and had lived in Saudi for more than twenty years, and a Saudi woman who had lived in the US for approximately twenty years, along with various other people. Due to well-founded fear of persecution, the people with whom I met shall remain anonymous. My explorations revolved around questions of women's human rights.

The responses from my informal discussions, and others I had during my seven days, pivoted three main issues. First, there was a demonstration of anger against the Royal Saudi regime⁴ and a knowledge that the government was, hypocritically, using Islam as a shield for human rights abuse. One woman told me, "Islam forbids royalty but they [the government] don't enforce this". Another woman thought it would take a revolution to break the regime and its violations against women. Second, there was the demonstration of anger against, and fear of, the Mataw'aa (i.e., religious police) who enforce the shari'a on the street. One woman said, "these people [Mataw'aa] who are calling people to pray should be praying themselves...they are criminals. It is a stupid concept -- they are used to control society". Fear of the Mataw'aa was a daily concern for me during my stay, and for those who live in Saudi. At anytime women, both Saudi and foreign, may be subject to severe treatment at the hands of the Mataw'aa in the name of the shari'a. Finally, there was a demonstration of severe tension between female employers and their domestic female help. This issue was reinforced by newspaper articles published during my visit when, apparently, the first public report on women in prison was released. The English language *Saudi Gazette* (3/11/00) featured an article, "Women Behind Bars! Jealousy Prime Factor for Crime", that provided several case histories of female prisoners. Most of these stories dealt with the abuse of female domestic help. During my discussions one woman told me that "the maids often sexually abuse the children they are looking after and this is the reason they must be punished".

As access to many Internet sites is denied in Saudi Arabia, I conducted a Web search from Washington, DC that, apart from locating a

number of mail-order brides from Saudi, retrieved Huda's Freaky Web Page (<<http://huda.sexy-page.net>>). Huda also offers a newsgroup, Arabianwomen, for those in Saudi who cannot access the site. The list-serve greets new members with, "Welcome! It is your turn to participate....Maybe you'll be the one who will make all the difference!" Huda's Website opens with a disclaimer that her site does not necessarily reflect the views of all Saudi women. The site continues: "I am HUDA & we are finally On the internet! at last we can say whatever we want & the whole world can listen without worrying about the Mataw'aa. We can get together & fight the oppression we are subjected to by men...we are not allowed to travel alone & we are treated like owned slaves. I think at least at least at least should be allowed to say what we feel to say on the internet, we are by far the most backward among all the women in the world & we are NOT EVEN ALLOWED TO TALK ABOUT IT?"

The ICC and Gender Rights

The *Rome Statute* represents, not only a substantial advancement for the entire body of international human rights law but also a momentous occasion for authentic gender integration within human rights law. This remarkable achievement is due, in large part, to the Women's Caucus for Gender Justice's (the Caucus) successful advocacy campaign. According to the Caucus, one of the most difficult achievements was obtaining "explicit inclusion" of gender within the *Rome Statute* (Integrating Gender-Part 1, <www.icc-women.org>). The Statute defines gender in article 7(3) as referring "to the two sexes, male and female, within the context of society".

Article 21 of the *Rome Statute* specifies that "the application and interpretation of law must be without adverse distinction on the basis of enumerated grounds, including gender". Thereby, the Statute provides overall assurance that gender is integrated into all deliberations of crime for which the ICC holds jurisdiction. These areas of authority, defined in article 5(1), are: (a)the crime of genocide, (b)crimes against humanity, (c)war crimes, and (d)the crime of aggression.

The only exception to gender congruity within the *Rome Statute* appears in article 7(j), the

crime of apartheid, defined in article 7(h) as "inhumane acts....committed in the context of an institutionalized regime of systematic oppression and dominated by one racial group over any other racial group or groups and committed with the intention of maintaining the regime." Nonetheless, it could be argued that article 7(h) must also, by virtue of article 21, consider institutionalized gender apartheid, as in the case of Saudi Arabia.

The Responsibility of the ICC: Gender Justice in Saudi Arabia

The *Rome Statute's* article 7 provides a powerful vehicle to overcome cultural relevance and ensure basic protection and justice for all women suffering violations classified as crimes against humanity. Indeed, the gender considerations within the section so threaten those who hope to escape persecution for gender based crimes against humanity and maintain gender apartheid, that the Arab League countries submitted a proposal to the *Rome Statute* delegates advocating that article 7 should not consider sexual violence, persecution, and imprisonment within the context of family, religious, or cultural norms⁵.

The forthcoming judges of the ICC must take up the challenge outlined in their mandate by the *Rome Statute* and investigate the crimes of humanity perpetrated against women in Saudi Arabia. The full power of article 7 must be used to negate cultural justifications that excuse human rights violations, and thus ensure that half of the world's population, women, no longer remain outside of the spectrum of justice and human rights law.

King Fahd bin 'Abdul 'Aziz Al-Saud, Custodian of the Two Holy Shrines, and Prince Naif bin 'Abdul 'Aziz, Minister of the Interior, should not be allowed to hide behind an "Islamic-cultural veil" any longer. Both should be called before the ICC and questioned about their participation in perpetuating crimes of humanity against women in Saudi Arabia. Particular consideration should be afforded to the following crimes outlined in article 7: 7(1)(c) Enslavement, as defined in 7(2)(c); 7(1)(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; 7(1)(f) Torture, as defined in 7(2)(e); 7(1)(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced steriliza-

GENDER APARTHEID AND CULTURAL ABSOLUTION

tion and other forms of sexual violence; 7(1)(h) Persecution against identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the ICC, persecution as defined in 7(2)(g); 7(1)(j) The crime of apartheid, as defined in 7(2)(h); and 7(1)(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health. (For the full-text of the *Rome Statute* and background material on the ICC please visit <www.hri.ca/doccentre/icc/>.)

Conclusion

If the ICC judges rise to the challenges outlined in the *Rome Statute* and, once and for all, overcome the cultural shroud that negates crimes of humanity committed against women, then the ICC certainly holds the potential to provide the first international, legal venue for authentic gender justice. The ICC may, thus, provide a place for women who are denied their own humanity, as well as national legal or political recourse, to give testament in opposition to their treatment. In this manner,

the ICC may become the first human rights body to “make a difference”, as Huda hopes, in the lives of women denied fundamental human rights because they are women. If the ICC unequivocally wants to promote gender justice, let it begin with the case of Saudi Arabia and article 7.

¹ Details can be located at <www.un.org/law/icc/statute/99_corr/cstatute.htm>.

² The first day of the month after the 60th day following the date of deposit of the 60th instrument of ratification, acceptance, approval, or accession - article 126. As of 12 February 2001, 29 countries were party.

³ These reports can be located AI and HRW's respective Websites <www.ai.org> and <www.hrw.org>.

⁴ Saudi Arabia is a monarchy ruled by a king chosen from and by members of the Al-Saud family. The king rules by royal decree, issued in conjunction with the Council of Ministers, and with advise from the Consultative Council. Both members are chosen by the king. Islamic law is the basis for authority.

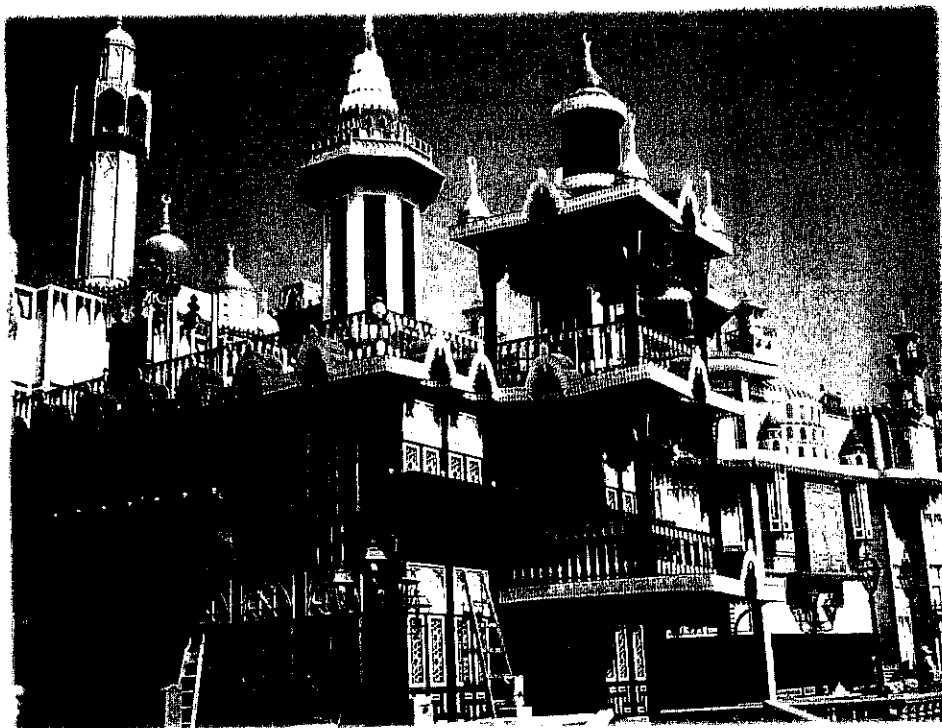
⁵ During November 29-17 December 1999.

See <www.iccwomen.org> for details.

⁶ Additionally, the ICC should consider other international human rights norms and protections, such as those outlined in The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which Saudi has not ratified and Measures to Improve the Situation and Ensure the Human Rights and Dignity of all Migrant Workers. HRW submitted a written statement of the situation with domestic workers in Saudi. See <www.unhcr.ch>.

* L.M. Handrahan is a human rights and gender consultant (<www.finvola.com>) who has completed a Ph.D. on gendered ethnicity in Kyrgyzstan at The Gender Institute of The London School of Economics and Political Science. She can be contacted at <L.M.Handrahan@lse.ac.uk>.

HRT



IRAQ

Iraq: Does Anyone Live There?
by Mordecai Briemberg*

As humankind crossed the artificial boundary into a new century, our rulers have shown no determination to take a different path, despite the last one hundred years having been the bloodiest in recorded history. Yet, along with the persistence of cruel disdain for the lives of others, there has been increased talk of human rights. This surface paradox, encapsulated by the term "humanitarian war", dissolves as soon as the words are examined in their political context. As Slovenian sociologist Sergej Flere wrote, "The concept of human rights is now used as a political tool in the legitimization of highly diverse acts on the part of the ruling actors on national and world stages".

Flere's words are not a revelation, only an elementary proposition of which the international community must be reminded constantly, no more so than in the case of the intentional, bureaucratically elaborate, monitored and comprehensive sanctions -- war by siege -- inflicted upon the unarmed, non-combatant people of Iraq.



Without examining "human rights" as a political tool used to legitimate other objectives, we never will understand why governments, like the US, UK and Canada, participate in the mass murder of Iraqis of all ages, but particularly the most vulnerable; namely, the infants, the children, and the elderly. Surely the rationale that Iraqi civilians must be sacrificed to emancipate them from a vicious dictatorship, the same one which was armed

and welcomed as ally when he waged poison gas war on the Kurds and the child soldiers of Khomeini's Iran, lacks elementary humanity as well as logic.

What evidence is there of mass murder? Without caveat or shame, the evidence was acknowledged in May 1996 by the US on CBS' *60 Minutes*. The reporter Leslie Stahl posed the question, "We have heard that a half million children have died [as a result of economic sanctions against Iraq], more children than died in Hiroshima.... Is the price worth it?" The US Secretary of State Madeleine Albright replied, "I think this is a very hard choice, but the price, we think is worth it".

Please read her reply again; absorb the moral character of the speaker and the power structure for which she spoke. Children's lives are bartered. Over 500,000 children's lives are destroyed. They are killed by a policy consciously initiated, daily monitored and now sustained for over a decade. Killed for some ulterior political goal, for in her language, this is a kind of commodity exchange. Imagine any "Arab", or "Muslim", using the same vocabulary, but sacrificing one-hundred thousandth that number, five children, for their ulterior political goal. What would be the reaction, particularly in the media?

Today the World Food Organization and UNICEF say over one million people have died as a direct result of the sanctions, more than half are children under the age of five. Dale Hildebrand, Director of Inter-Church Action in Canada, wrote in January of this year:

This vast number of deaths is so shocking that sanctions proponents have gone to vast lengths to blame the carnage on Iraqi President Saddam Hussein. Iraq is allowed to sell its oil to buy enough food and medicine to prevent this humanitarian tragedy, they say [referring to the Oil-For-Food UN program first implemented in

1996]. [Saddam] is hoarding food in warehouses. He is selling powdered milk to other countries and using the cash to build palaces in Baghdad. If he would only cooperate with UN Security Council resolutions, the actions could be lifted. The stories about warehouse hoarding and powdered milk sales have turned out to be as fabricated as the one about Iraqi troops ripping babies out of incubators in Kuwait. In fact UN personnel in Iraq report a high level of cooperation from Iraqi officials in distributing desperately needed supplies.

Denis Halliday was an Assistant Secretary General of the United Nations, where he worked for 34 years. He was appointed the UN senior humanitarian official in Iraq to administer its then newly created "oil-for-food" program to 1997-98. Seeing firsthand the effects of the economic



sanctions, Halliday resigned rather than be complicit in what he felt was a "criminal violation of human rights". Halliday sacrificed his diplomatic career as a matter of conscience: the impact of the sanctions, he says, is "genocidal" both because they kill such large numbers and because they are destroying the fabric of the entire society, from its intimate relations to its social institutions.

Halliday's successor was Hans Von Sponeck, another longtime UN diplomat. After a short time in Iraq, he too resigned and became a vigorous public critic of the UN sanctions policy, including the Oil-For-Food program. Von Sponeck has pointed out that this "humanitarian" program amounts to only \$100 per year for every Iraqi, grossly insufficient to meet their elementary needs. Even with the Oil-For-Food program, UNICEF says 5,000 children still die every month as a direct result of the sanctions. The once eliminated disease of leishmaniasis ("black plague") has returned.

After Halliday and after Von Sponeck, the

head of the World Food Programme for Iraq also resigned in protest.

These unprecedented resignations, acts of conscience by people of stature with direct knowledge of the humanitarian situation in Iraq, speak volume. But for those committed to ulterior political objectives, it is only an embarrassment. Canada's former Minister of Foreign Affairs, Lloyd Axworthy, who spoke often of a human rights agenda, preferred to avoid any contact with Denis Halliday. The all-party House of Commons committee that did hear Halliday's testimony unanimously recommended that Canada call for an end to all non-military sanctions against Iraq.

The concerns related to Iraq's "weapons of mass destruction" must be viewed in this context as well. Just as United Nations' officials responsible for food programs have resigned to express public protest, so has a former head of the UN weapons inspection teams (UNSCOM), Scott Ritter. In his book *Endgame* Ritter writes, "Iraq simply lacks the stocks of chemical and biological agent needed to have any significant military effect".

Beyond inflicting death by total siege, itself a weapon of mass destruction, the US and UK continue a largely unreported bombing campaign against Iraq. Some 20,000 bombs and missiles have been dropped over the past two

years, killing families of rural sheep-herders and city dwellers alike. Only in April had the British Broadcasting Corporation informed its



listeners that the bombing is unauthorized by any UN resolution.

The "no fly zones", pretext for the bombings, were unilaterally declared by the US, UK and France, and as unilateral actions they are illegal under international law. But which governments have criticized these bombings that have sacrificed the lives of more than hundreds of Iraqi civilians?

Beyond both warfare by siege and by bombing, there is a third premeditated crime, an affliction that now is measured in rapidly rising rates of cancer and monstrous birth deformities. These are the consequences of the use of an estimated 600,000 pounds of depleted uranium in artillery shell casings and missile ballast by the US and UK military in 1991, particularly in southern Iraq.

On 21 April 1991 an official of the UK Atomic Energy Authority, sent a document marked "Restricted" to the UK military staff. In that document, since leaked, the Atomic Energy official wrote: "The tank ammunition alone will amount to greater than 50,000 pounds of Depleted Uranium....if the tank inventory of DU was inhaled, the latest International Committee of Radiological Protection risk factor...cal-

culates 500,000 potential deaths". Depleted uranium aerosolizes on explosion, spreads through the environment (air, water and soil), enters and remains a long time as radioactive poison in the soft tissues of the human body.

In 1999, UN statistics published in the *British Medical Journal* highlighted a seven-fold increase in cancer in southern Iraq between 1989 and 1994. An Iraqi cancer specialist and member of Britain's Royal College of Physicians, says most of his own family has cancer "and we have no history of the disease. It has spread to the medical staff of [the] hospital".

Yet such is the coldly calculated integration of all these three crimes inflicted on the Iraqi people that even "requested radiotherapy equipment, chemotherapy drugs and analgesics are consistently blocked by the United States and British advisers [to the Sanctions Committee]". So reports Professor Karl Sikora, chief of the cancer program of the World Health Organization.

Many details can be added to document the situation. But so much more remains to be done to bring these crimes to an end, especially the war by siege on which the Canadian government alone expends some \$40 million annually. It also is scandal that decent citizens are made complicit in this "evil" through a structured suppression of information and a crude manipulation of their manufactured fears.

*Mordecai Briemberg is the editor of *It Was, It Was Not: Essays and Art on the War Against Iraq* (New Star Books, 1992). For more information about the situation in Iraq and what Canadians can do to end these war crimes, contact: Canadian Network Against the Sanctions c/o Marc Azar <marca@arobas.net> or (1-514) 722-5538.

HRT



Among the rapidly rising numbers of Iraqis suffering cancer is this child with leukemia. He is in the oncology ward in Basra Hospital for Maternity and Pediatrics.

[Photograph: January 2001 by Dr. Atif Tejani, Vancouver]

UNIVERSAL JURISDICTION

Universal Jurisdiction in Prosecuting World Leaders

by Rodney Neufeld*

Human rights lawyers call it the "Pinochet Precedent". This phrase refers to the attempts made to have General Augusto Pinochet extradited back to Chile to face crimes committed under his regime. (See: *Human Rights Tribune*, Vol.6, No.1 for details.) However, Pinochet's case was only the first in a string of prosecutions against world leaders and ex-leaders, including Hissène Habré, Muammar Qadhafi, and Yerodia Ndombasi. The recent trend may suggest a diminishing of state sovereignty in the face of greater protection of human rights. However, as the cases demonstrate, while international laws permitting the prosecution of Heads-of-State may exist, the courts have been reluctant to enforce them.

In international law, presidents, prime ministers and foreign ministers personify the state and therefore enjoy immunity from prosecution. Immunity, however, does not extend to crimes deserving universal condemnation, such as torture and crimes against humanity. While universal jurisdiction may exist on paper, states have been reluctant to become involved in the domestic affairs of other states. The British House of Lords proved otherwise when it decided that General Pinochet could be extradited for crimes of torture committed in Chile as of 8 December 1988. This was the date on which the *Convention Against Torture* had entered into force in the UK, granting British courts jurisdiction over the former head of state for universally condemned crimes. Although Pinochet lost his immunity, he was ultimately relieved from extradition to Spain because it was thought that his frail health would not enable him to adequately manage his defence.

Another illustration of the challenges faced when trying a former Head of State can be seen in the case of Hissène Habré. Habré, the former leader of the country of Chad, was indicted on 3 February 2000 in Senegal, where he took up residence after fleeing Chad in 1990. The case was brought by complainants who alleged they were victims of the long pattern of torture carried out during Habré's rule. This indictment was later overturned based on the court chamber's decision

that Senegal had no jurisdiction to prosecute torture committed abroad. Perhaps more disturbingly, the judges responsible for the earlier decision were later fired.

A recent ruling by the French Courts provide further evidence as to the reluctance of courts, and indicate that Muammar Qadhafi is similarly "untouchable". After a French appeals court held that Qadhafi could be prosecuted in France for his alleged role in the Lockerbie bombing, SOS Attentat, a French association for victims of terrorism claimed victory. French prosecutors, however, persisted in arguing that Qadhafi is entitled to Head-of-State immunity. On 13 March 2001, the Criminal Division of France's highest court, la Cour de Cassation, overturned the lower court's decision. The high court held that the alleged crime, regardless of its seriousness, does not call for any exception to the principle of foreign Head-of-State immunity.

The *DRC v. Belgium* case provides another strong example. On 11 April 2000, a Belgian investigating judge issued an arrest warrant against Abdulaye Yerodia Ndombasi, Foreign Minister of the Democratic Republic of the Congo (DRC). The warrant sought his provisional detention pending a request for extradition to Belgium for "serious violations of international humanitarian law". The arrest warrant alleged that Yerodia Ndombasi made various speeches inciting racial hatred, contributing to the massacre of several hundred persons, mainly of Tutsi origin.

The DRC challenged the arrest warrant by bringing a case to the International Court of Justice (ICJ). It asserted that Belgium was violating its right to sovereignty, and requested that the Court indicate provisional measures calling on Belgium to annul the arrest warrant. To complicate matters, midway through the provisional measures hearings, Yerodia Ndombasi was shuffled from Foreign Affairs to the Education Ministry.

The Cabinet reshuffle prompted Belgium to argue that the Congo's Application on the merits had been deprived of its object and should therefore be removed from the Court's List. The DRC contended, on the other hand, that Belgium had violated the immunities of the Foreign Minister at the time of the issue of the warrant and that, "any minister sent by

his or her State to represent it abroad...enjoy[ed], *sensu lato*....[such] immunities". Ultimately, the ICJ observed that since the arrest warrant had not been withdrawn and continued to relate to the same individual, the DRC's Application was not deprived of its object. It refused to grant interim relief, but it determined that the case would proceed to the merits.

The ICJ has yet to rule on the DRC case. We are therefore left to wonder whether the "Pinochet Precedent" will be strengthened or weakened. To date, case law demonstrates that there is a greater willingness to point the finger at renowned culprits than to become embroiled in the domestic affairs of other states. The situation begs for direction from an international criminal tribunal, which unfortunately may have to wait until the establishment of the International Criminal Court (ICC). Article 27 of the *Rome Statute* for establishing the ICC guarantees that "official capacity as a Head-of-State or Government....shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence". Hopefully, the ICC, when applying its *Rome Statute*, will transform the application of universal jurisdiction from mere indictment to actual prosecution.

*Rodney Neufeld is a Research Associate at the Lauterpacht Research Centre for International Law at the University of Cambridge. He can be contacted at <neufeldrodney@yahoo.ca>.

CHR 57: NGOs Address Concerns over State Efforts to Weaken Human Rights Standards

by Teresa Finik*

The six-week period between 19 March and 27 April marked the 57th Session of the Commission on Human Rights (CHR) at the United Nations. While there were many positive developments -- such as the official announcement that Mary Robinson would remain as High Commissioner for Human Rights for another year -- there was a general feeling among human rights activists across the spectrum that not enough was being accomplished by governments to enhance human rights principles and mechanisms.

With some governments asserting that certain initiatives of the CHR interfere with the internal affairs of their countries, and others claiming that national jurisdiction takes precedence over international standards and justiciability, there was a growing concern among the NGOs that the standards set out in the *Vienna Declaration and Platform for Action* (VDPA) -- specifically the assertion that human rights are the legitimate concern of the international community -- had been forgotten.

There are many examples of the states' disregard for the VDPA. Some governments insist that domestic violence against women is a private matter not to be considered a human rights violation unless the state does not exercise due diligence. Other governments do not want "sexual orientation" and killings of gays and lesbians to be included

in the mandate on extrajudicial, summary or arbitrary execution. Certain governments do not want the issue of women's participation in conflict-resolution efforts, peace and conflict-prevention to be taken up by the Special Rapporteur on freedom of opinion and expression.

Another area of concern raised by the NGOs was the matter of consensus. While acknowledging the value of the CHR, many NGOs felt that the CHR has increasingly worked towards the lowest common denominator rather than to uphold principles and maintain strong and flexible mandates for, *inter alia*, special procedures. At times, it seemed that the desire to achieve consensus has superceded holding the line on principles or the inclusion in text of language which undermines long-standing agreements or understandings. Thus, instead of "calling" on

states to ratify or accede to an international instrument, the text of a resolution will merely "encourage states to consider to ratify or accede to" them.

After an information sharing session which documented instances of governments negotiating down on standards, there was a decision to draft an NGO statement addressing these and other concerns. The text of the statement which was presented to the CHR on 19 April appears below.

* Teresa Finik is Project Coordinator of HRI's For the Record

CHR Agenda Item 18 (c): Adaptation and strengthening of the UN machinery for human rights

Mr Chairperson: I am giving this joint statement on behalf of 11 NGOs that share concerns about the ways in which human rights are being discussed at this Commission. We have considered this statement carefully and wish to state that we value of the work of the Commission.

Mr Chairperson: It will be recalled, at the 1993 World Conference on Human Rights, in the VDPA, the international community:

- (1) Reaffirmed the solemn commitment of all states to fulfill their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the *Charter of the United Nations*, other instruments relating to human rights, and international law; (para. I.1);
- (2) Stated that the universal nature of these rights and freedoms is beyond question (para. I.1);
- (3) Affirmed that the promotion and protection of all human rights is a legitimate concern of the international community (para. I.4).

Mr Chairperson: In this session of the Commission, a deliberate, organized and concerted effort is being made by participating states to weaken or abandon a wide spectrum of hard-won principles and mechanisms and to redefine or narrow the scope of human rights. This assault on the content and meaning of rights is being waged by governments of both developed and developing countries for their own reasons and in the context of their own definitions of self-interest or political imperatives of whatever character.

The right to non-discrimination itself has been challenged, even though non-discrimination is a principle which is

enshrined in the UN Charter.

In addition, economic, social and cultural rights -- notably the rights to food, education and housing -- have been challenged, both in terms of their justiciability and in terms of their content. With regard to the human rights of women, we have seen a systematic effort being made to step back from previously articulated positions, particularly with regard to an understanding of violence against women as a human rights violation.

It is painfully apparent from the statements of governments at this Commission that there is also a systematic attempt being made to weaken the terms of reference and narrow the range of issues that thematic special rapporteurs, experts and working groups may address. This is apparent in the assertions by states of the primacy of national jurisdictions over international action with regard to the mandates on extrajudicial, summary or arbitrary execution, the right to housing, enforced disappearances, the right to development, torture, education, and violence against women. The same is also true, to a greater or lesser degree, with regard to a number of country-specific mandates and the initiative to establish a mandate on the rights of indigenous peoples. Further, while there has not been enough effort to integrate gender into the work of all mechanisms, we have seen an attack on those rapporteurs who have done so, and would, in this context, take particular note of the work of the Special Rapporteurs on freedom of opinion and expression and on extrajudicial, summary or arbitrary execution. And, we note, in some instances the integrity, independence and competence of special rapporteurs, independent experts and working groups have been questioned.

We wish to emphasize that this negation of the Commission's previous achievements -- and those of the World Conference on Human Rights as well as of the other world conferences

HOPE PREVAILS

and summits organized by the UN in the 1990s -- has not been limited to action by one state, one group of states or states belonging to one region.

Mr Chairperson: We recognize that within the international system there is a long-standing tradition of seeking to take decisions and to proceed on the basis of consensus. The experience of our own lives tells us that progress can best be made when all those concerned act in common cause by common agreement. At the same time, however, we do not accept that achieving consensus is, or can be allowed to be, the ultimate goal in the debates and negotiations at this Commission or at any other of the UN governmental forums. When the pursuit of consensus becomes corrosive in its effect and results in a compromise text or decision that is meaningless or, worse, negative in both form and content, the cost of that consensus is too great and must, on principle, be rejected. At this session, the insistence of both developed and developing countries -- with regard to a variety of issues and subjects -- that consensus is an imperative has placed in real jeopardy many of the previously agreed human rights principles and standards. Furthermore, what is happening at this session of the Commission is not unique. Rather, it is symptomatic of the erosion, throughout the UN, of the commitment of states to the principle affirmed in the VDPA that all human rights are universal, indivisible and interdependent and interrelated (para. I.5).

We respectfully remind the members and other participating states at this Commission that, in this forum, there is no right of veto. Further, we affirm unequivocally that there is a point beyond which the withholding by one or more states of agreement on text is no longer of account. In this regard, we recall the Chairperson's statement at the 1999 session which was the result of difficult negotiations over the package of proposed reforms of the Commission's mechanisms (28 April 1999). BY CONSENSUS, that statement read, in part:

The Commission carefully considered the decision-making basis on which the inter-sessional Working Group should operate. The value of a consensual approach was fully recognized; there were concerns, however, that a consensus requirement might impede progress in areas where a broad and representative majority wished to move forward. It was agreed that, as soon as the broadest possible agreement is

reached on particular issues, all participants in the Working Group will demonstrate a flexible and constructive approach in order to facilitate a consensual outcome.

Mr Chairperson: At this session of the Commission we have seen very little evidence of willingness on the part of many governments to be flexible and constructive, particularly in the matter of thematic mechanisms and similar or associated mandates. We affirm, absolutely, our support for all of the Commission's special procedures and reject any attempt by any state or group of states to undermine the integrity of their mission. In the face of the clearly uncooperative and confrontational representations that governments have made throughout the session, we call on this Commission to proceed to a vote, if necessary, on any text which, if adopted by consensus, would be so empty of content and so severely compromise principles as to be meaningless. We are prepared to live with the outcome of a vote -- up or down -- rather than to participate in any exercise that turns into nonsense the international community's 50-year effort to define, defend, promote and protect human rights for all persons everywhere.

Mr Chairperson: We recall to all governments that, this year during the Commission's day of special debate on tolerance and respect, Archbishop Desmond Tutu asked all of us "Are you able to dream?" Our answer, emphatically, is yes.

We call on all members of the Commission:

- (1) To support fully the system of special procedures;
- (2) To uphold international human rights law, standards and norms;
- (3) To respect the mandates of all special rapporteurs, experts and working groups of the Commission.

Mr Chairperson: This statement was circulated to NGOs worldwide over the past two days. In addition to the 11 NGOs signed onto this statement, 32 NGOs based, or with members, in at least 75 countries have chosen to associate themselves with this statement.

We thank you, Mr Chairperson.

Hope Prevails in Refugee Camp by Steve Mason*

There are at least thirty people packed into the small room, among them Nigerians, Congolese, Togolese, Chadians, Rwandans, and Sierra Leonians. Many people are speaking at once, some heatedly, and the air is tense. It is rare that members of the different communities living at the Kpomassé Refugee Camp in Benin sit down together, rarer still that they are afforded the opportunity to have their opinions and

concerns heard. Even though I have only been at the camp for a few weeks, I have managed to build just enough trust to convince the community leaders of the necessity of meeting to address common issues. The meeting has much potential, but I must proceed carefully to ensure that tensions do not flare and that the outcome is positive enough to encourage further meetings.

There are several topics under discussion. Of pressing concern is the security situation at the camp. There are no walls or fences sur-

rounding the area in which the 1500 refugees live, and it is a standing joke that the chickens and papayas in the agricultural enclosure next door are better protected than the refugees. Many live in fear of incursions from the very governments they had been forced to flee. Incidents of foreign presences on the site are not uncommon, and just days before two vehicles bearing Nigerian government plates appeared unannounced in the centre of the campground. Since then, all the refugees have been on edge, planning how they can improve the security situation and

how they can convince the UN High Commissioner for Refugees (UNHCR) -- with its limited capacity and stretched budget -- to take this matter into its own hands.

Other topics being discussed at the meeting include on-going concerns such as inadequate food provisions, deteriorating health conditions, lack of work, need for basic supplies, and a requirement for greater activity. The discussion is charged; voices are frequently raised, and occasionally someone will stalk out of the room, only to return a few minutes later.

It is not surprising that there is such tension in the room. There is not a lot of goodwill between the different communities living at the camp, and rumours that one group is receiving better treatment than others have not only spread quickly but have taken firm hold. Add to this the fact most refugees have been deprived of the right to speak freely for such a long time that, when they finally do get the opportunity to speak, it is an emotional and difficult process.

Underlying the immediate concerns being discussed rests something more basic, something directly related to the fundamental rights of refugees. Having fled their home countries, refugees are faced with what the UNHCR has identified as three "durable solutions". The first of these solutions is voluntary repatriation (i.e., the return to their country of origin should they so desire). The second solution is integration, meaning adapting to life in Benin, finding work, and becoming self-sufficient. The "solution of last resort" is resettlement, the process where a refugee is moved from his or her country of first flight to one of ten resettlement countries: Canada, US, Australia, New Zealand, the Netherlands, Denmark, Sweden, Norway, Finland or Switzerland.

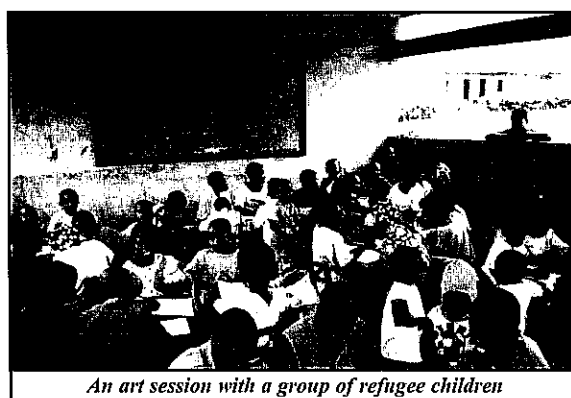
Unfortunately, for the majority of refugees at Kpomassè (and most other refugees worldwide) these possible solutions are not very likely to be attempted. The UNHCR has deemed their source countries unsafe for repatriation and most would not want to go back given the chance, having nothing, and no one, left to return to. When it comes to

local integration, Benin, although a stable country, is still one of the world's poorest, and most of its citizens struggle for daily survival. For a foreigner to become self-sufficient is a near impossible task, and the long list of UNHCR-financed micro-project failures readily attests to this.



Togolese refugees assembling the mats they will sleep on

The resettlement option may be the dream of most refugees but the harsh reality is that only around 200,000 of the world's 22 million refugees are resettled annually. Most of those resettled are hand picked either for political reasons or because survival is next to impossible in their current country of refuge.



An art session with a group of refugee children

With the only three durable solutions closed to them, many refugees begin to be marked with a despair and hopelessness that is difficult to break. Some of the refugees at Kpomassè have lived there for over eight years -- a whole generation is being born and raised in the camp. For some, this situation has led to a culture of dependency. With no possible source of income and nothing to do, people rely on the UNHCR and its partners to fulfill all their needs. Due to ever-

present underfunding, UNCHR cannot adequately fulfill this role. In fact, there is no UNHCR presence at the site, and only three people working at the camp full time -- two from the Red Cross and one from the Benin government. As a result there is poor communication between refugees and the UNHCR. People then become angry and lash out at the organization, and speak passionately against it.

The inadequate budget of the UNHCR is a constant theme underlying many of the problems which refugees face. With not enough money to adequately feed people, there is very little left over to direct to social problems and security concerns, and even less funds for facilitating local integration. The UNHCR's annual budget is close to one billion dollars, only a fraction of which is financed by the UN.

The vast majority of money is collected is contributed by donor countries, and fluctuates unpredictably from year to year, depending on a country's domestic priorities and overall economic health. With no stable base, it is exceedingly difficult for the UNHCR to plan far in advance or to even be able to respond effectively to the needs of refugees. This year the UNHCR's budget was more than \$20 million short, a deficit that was directly felt by refugees across the globe.

There is no indication that this funding crisis will be resolved anytime soon, or that the number of refugees will decrease in the years to come. With this reality, it is clear that the rights of refugees are best addressed before they become a cause for concern. More resources and analyzes must be put into the prevention of situations that cause refugee flows.

This line of argument does not carry much weight in a refugee camp, where it is too late to be talking about prevention. Yet, despite all that seems to be going wrong, possibilities still exist and hope still glimmers beneath the surface. As I listened to the community representatives crowded into that airless room, I witnessed them taking turns to detail their frustrations, the problems they were facing, the hopelessness they felt, and their desire to be out and resettled. I kept trying to respond to each concern in turn, only

BOARD MEMBER ATTACKED

to be met with new ones, or old ones reworded and personalized. It was at that moment that I really understood I could try to respond to individual problems forever and not make any difference; there will never be a shortage of problems for people living in a refugee camp situation. After everyone had spoken, I still felt that nothing tangible had been resolved, so I decided to speak very frankly. Acknowledging the extreme difficulties they had lived through and the considerable problems they were still facing, I told them honestly that resettlement might be a long way off and was not guaranteed for anyone. I explained the limits of the UNHCR, and the importance of working to become at least partly self-sufficient. Then, all of a sudden, we were talking solutions and not problems, options and not barriers, and I felt the whole atmosphere change. The tension broke. Although we were all aware that most solutions would be very difficult to achieve, just the fact that the focus had shifted made an enormous difference. Just for a little while, hope and optimism were winning out over the fear, frustration, and uncertainty that is the reality of most refugees' lives.

**Steve Mason, a former HRI intern, is currently the Director of Education for the United Nations Association in Canada. He worked with the UNHCR in Benin as part of its Camp Sadako programme. The programme has recently been cut due to lack of funds.*

HRI Board Member Attacked in Tunisia by Susanne Hamm*

In a recent speech made on the occasion of Tunisia's 45th anniversary of independence, President Ben Ali declared that Tunisia is a country where "the law is above all: a land of moderation and tolerance; a land of human rights in their fullest meaning and in all their dimensions". Despite these glowing statements, the situation remains gravely different for human rights defenders such as Khedija Chérif who continue to be targets of harassment, intimidation and repression by Tunisian authorities.

Chérif is a Professor of Sociology at the University of Tunis with a long-standing involvement in human rights work. She is a founding member of the National Council for Rights in Tunisia/Conseil National pour

les Libertés en Tunisie (CNLT), a human rights NGO affiliated with the International Federation of Human Rights Leagues, but not recognized in Tunisia. Chérif is also a member of the Board of Directors of the Tunisian Association of Democratic Women/Association Tunisienne des Femmes Démocrates (ATFD), former vice-president of the Tunisian League for Human Rights/Ligue Tunisienne pour la Défense des Droits de L'Homme (LTHD) and a member of HRI's International Board of Directors.

Recently, Chérif has been punished for her human rights activities, suffering two physical assaults. She has also been prevented from international travel due to an "administrative" delay in the renewal of her passport.

The first incident against Chérif occurred on 1 March 2001. While on her way to a reception organized by the CNLT, she was stopped by plainclothes officers who ordered her to leave. After she protested about the illegality of this intervention, the officers began to verbally and physically assault her by yelling misogynist comments and slap-

ping her face, head and body. "A handful of police officers surrounded me like wild dogs," Chérif said about the assault, "yelling at me to turn around, several hands made their way through my open window and began to slap my head, my neck, my body; punches hit my face with full force leaving bruises on my cheeks for several hours".

On 10 March, Chérif was attacked again as she was leaving a local courthouse. An unidentified man pushed her to the ground and took a dossier from her hands that contained information about the earlier attack she had suffered. Once again, the assault occurred in broad daylight and was witnessed by numerous people.

Through this retaliation, Chérif had been waiting for the renewal of her passport in order to attend HRI's annual meeting of its Board of Directors, in Ottawa, Canada.

Normally, the process takes about 15 days. In Chérif's case, over a month had passed since she had first submitted her renewal application to the authorities. On 24-25 March, HRI was forced to hold its meeting of the Board without the presence of Chérif who was effectively denied her right to travel. Her passport was finally returned to her in early April.

The Tunisian authorities have concluded that the assaults were isolated incidences of police misconduct. In a recent interview with *Le Monde*, for example, Tunisia's newly appointed Minister in charge of human rights and communication, Slaheddine Maâoui, states that: "...what happened to Ms. Chérif is absolutely intolerable. How could we accept that this intellectual figure from civil society be brutalized as she was? It is an unfortunate mistake which has been punished. The officer has been suspended of his

functions and will appear before the discipline committee. President Ben Ali is indignant about this affair...". (Translated from its original french.)

Chérif's experience is not unique. Rather, it is part of a strategic assault against human



Security officers surround Chérif in her car

rights defenders and all those who dare to envision a different reality in Tunisia, one where there is a respect for human rights and democratic principles. Restrictions on freedom of expression and association are the norm rather than the exception in Tunisia. Most independent NGOs are considered illegal, their members either jailed, and/or under continuous surveillance. Restrictions on the press and foreign media are standard. Thousands of political prisoners remain detained in poor conditions; many have been victims of torture. Other recent attacks reported from a range of NGOs include: An assault on 14 April 2001 against Souhayer Belhassen, vice president of the LTDH. Two plain clothed officers at the Tunis-Carthage airport verbally and physically assaulted Belhassen after she returned from a human rights mission to Europe. Airport immigration officers confiscated all her documents from her trip; the continued harassment

against Nejib Hosni, an eminent Tunisian lawyer who specializes in defending victims of rights violations. In 1994 Hosni was arrested and detained without trial for 10 months, stripped of his lawyer's licence, tortured and sentenced to 8 years imprisonment. Following extensive international pressure, he was released in 1996. In May, 2000, after obtaining formal recognition by the Tunisian Bar Association, Hosni resumed his legal profession. Not long after, in November, he is charged for the "illegal practice of his profession", and sentenced to jail for 15 days where he remains to this day. His earlier release has been revoked; ongoing precarious situation for Moncef Marzouki, founding member and former spokesperson of the CNLT. In addition to being improperly fired from his teaching post at the University de Sousse in 2000, Marzouki was found guilty of "maintaining and participating in an unrecognized association" [the CNLT] and for the "propagation of false information detrimental to public order". He was sentenced to one year in prison. Released pending appeal, the relevant judicial authorities had informed his lawyers that he could leave the country. However, on 10 March 2001, Marzouki was arbitrarily prevented from leaving Tunisia.

These reports are further substantiated in the study of Abid Hussain, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, who visited Tunisia from 6-10 December 1999. In his report, Hussain relays his concerns about a host of issues, including government censorship, freedom of the press, absence of political pluralism, and violations of freedom of association. Finally, with regards to the application of Tunisian laws that purportedly promote and protect human rights, Hussain concludes that "there still exists a chasm between declaration of intent and reality".

In response to the attacks suffered by Chérif, HRI presented a statement at the United Nations Human Rights Commission, 57th Session, on 6 April 2001 detailing its concern for Chérif and for human rights defenders in Tunisia more broadly. On that occasion, HRI requested that Hina Jilani, Special Representative on human rights defenders, visit Tunisia to see for herself the climate of repression against human rights defenders

and to bring needed international attention to the situation. HRI is preparing a report to be presented to Jilani shortly. A statement to be delivered at the African Commission for Human and Peoples' Rights is also pending. (To view HRI's statement visit <www.hri.ca/57en.html>).

On 22 March 2001, Chérif wrote HRI confirming her inability to leave Tunisia. Her words are testament to the harsh reality faced by human rights defenders and their perseverance for justice. She writes: "After being assaulted twice in the past 10 days by the political police, I find myself denied my right to travel for I don't know how long. The objective of these unacceptable assaults is to discourage and intimidate human rights defenders. For myself, and others who have also been victims of various assaults, and sometimes, more serious acts of aggression, this has done nothing but reinforce our determination and to continue the struggle which we have been leading peacefully within independent NGOs....Our firm engagement is dictated by the conviction that we all have the necessity to exercise our citizenship and participate in the construction of a democratic society, a society which is just and equal. Our only crime is our will to express ourselves freely, to denounce human rights violations and to express our views on issues which relate to our concerns and to the proper development of society....". (Translated from its original french.)

*Susanne Hamm is a Research Associate with HRI

Rapid Response Leads to Freedom from Bondage
by Nida Kirmani*

When an investigations team arrived at his home on 28 March 2001, Kuldip Singh was surprised to learn the siri system of bonded labour that he had considered part of his traditions and customs was, in fact, a crime. The team, composed of investigators from the National Human Rights Commission (NHRC), included NGO activists, police officers and former bonded labourers. The team charged Singh with offenses under section 342 of the *Indian Penal Code* and section 17 of the

Bonded Labour Abolition Act. Singh had allegedly been keeping 36-year old Karamveer Ram in slavery.

Earlier that day, Prabhjot Kaur, along with several other human rights defenders, visited the NHRC offices in New Delhi with Ram's case. Kaur, who works with the Philaur-based NGO, the People's Vigilance Committee on Bonded, Child and Migrant Labour, told the NHRC that Ram was being held in debt bondage for the past five years. According to his family, for the past few months Ram's "employer" was forcing him to work as an agricultural hand during the day and tying him up at night. This grave human rights violation called for immediate intervention.

Before visiting the NHRC, Kaur sent a complaint to the officials in Kaithal district, Haryana about Ram's case. She never received a response. She then wrote to the National Commission on Scheduled Castes and Scheduled Tribes. Again, her investigation met with silence. As a last resort, the People's Vigilance Committee took their case to the National Human Rights Commission, hoping that this body, mandated to protect and promote the human rights of all Indian citizens, would be able to help.

Just hours after Kaur contacted the Commission a team of two investigators was sent to Tarawali village, where Ram was being held. The team was joined by several others including Ram's brother-in-law, the only person who could locate Ram on Singh's farm.

Collecting some 15 police officers in Kaithal district, the team arrived at Singh's house in the middle of the night demanding that he take them to Ram. Singh obliged, visibly shaken by the presence of the investigations team. The team was led through the open fields to Ram. When he was found, Ram was sleeping on a charpai, untied. Later, he said that this was because Singh was rightfully convinced that he was too afraid to run away. On this night, however, Ram was not too scared to speak up and say that he wanted to leave the farm with the NHRC and the People's Vigilance Committee.

(continued on page 22)



Canada:

(January, 2001) The Supreme Court of Canada fought off a constitutional attack to the country's child pornography laws in

deciding recently that the *Canadian Criminal Code* provisions are legally valid. The court's nine judges unanimously dismissed the argument by John Robin Shape -- a self-professed collector of child pornography -- that Canada's possession laws infringed on his constitutional right to freedom of expression. However, the court was split on whether or not exceptions should be "read into" the offence. Four judges supported the notion that self-authored material that is created privately and is not for distribution (such as personal journals) are outside the scope of the legislation, as well as any other material for private use that does not depict illegal sexual activity. Three judges signed onto a dissenting opinion stating that there should be no exceptions read into the current law.

(Source: The Globe and Mail)



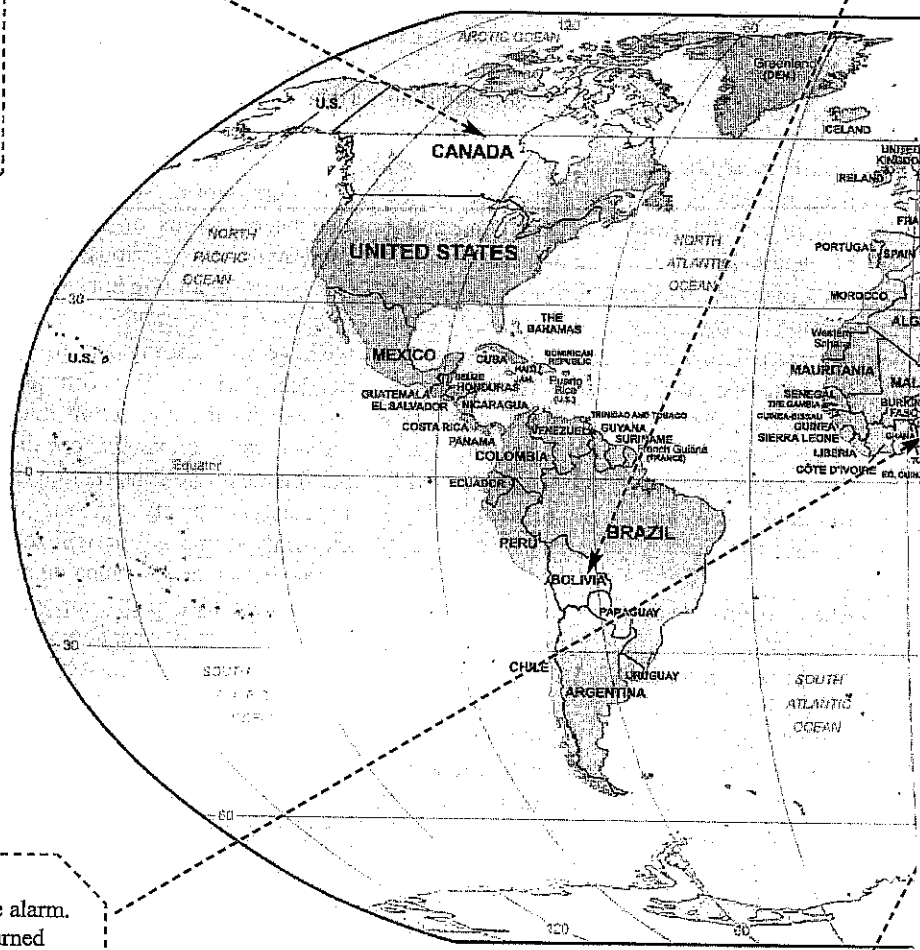
Bolivia:

(April, 2001) In the highland village of Pong...

forces dispersed peaceful marchers with tear gas. Approximately 70 marchers were detained, and unionist Oscar...

tion by US based Bechtel Corporation in Conchabamba in April. "Sovereignty of Our People" left the town of Cochabamba on 9 April, unfulfilled promises. More than 600 peasants, workers, coca growers. On 12 April 2001, the whereabouts of those detained was not known to police as an "illegal forced transport" and "illegal detention" of...

(Source: Coalition for the Defense of Water and Life)



Benin:

(April, 2001) It turned out to be largely a false alarm. Short of news over the Easter break, editors turned their attention to a rusting freighter chugging around

the Bight of Benin allegedly with 250 child slaves on board. The boat, the Nigerian-registered *MV Etireno*, had left Cotonou, Benin's capital, on 30 March and had been turned away by Cameroon and Gabon. Since the boat was at sea, the story was uncheckable. Some speculated that the captain might have thrown the children to the sharks. When it eventually returned to Cotonou on 17 April, the boat was found to contain few children but 139 adult passengers, most of whom were desperately seeking jobs in west Africa outside Benin.

(Source: The Economist)



South Africa:

(April, 2001) Amid intense international pharmaceutical companies dropped their suit against the African government. The suit, which

declared it would import cheaper generic AIDS medicines, brought criticism from human rights organizations. Two-thirds of the world's 36 million AIDS patients died last year alone as a result of the disease. Drug prices for many patients, cost thousands per year; prices are so high that the suit will allow South Africa to go ahead and import generic drugs.

(Source: The Globe and Mail)

...ose to 1,000 heavily armed members of Bolivian security...
 ...beating them and confiscating their personal possessions...
 ...era -- a key leader in the movement to reverse water privatiza-
 ...00 -- was arrested. The march called "March for Life and the
 ...l to call attention to a series of demands, some of them
 ...and other individuals were participating in the march. As of
 ...Bolivian human rights groups have denounced the actions by
 ...marchers. Since his arrest, Olivera has not been seen.



China:

(April, 2001) The United Nations Human Rights Commission in Geneva, voting on a 'no action' procedural motion by China, decided by a vote of 23 for, 17 against (with 12 abstentions and one government absent), not to debate or vote on a resolution on China's poor human rights record. During the past year China has been deemed guilty of a number of systematic human rights violations such as the fierce campaign against the Falun Gong and the repression of ethnic minorities in Tibet and Xinjiang. Human Rights Watch expressed disappointment at "the Commission's dismal failure to take action on China".

(Source: Human Rights Watch)



...onal condemnation, a group of the world's largest
 ...drug patent infringement suit against the South
 ...was launched after the South African government
 ...ation in violation of international patent agree-
 ...ions around the world.
 ...ve in Africa and an estimated 2.4 million Africans
 ...treatment, which has helped prolong the lives of
 ...expensive for most Africans. Withdrawal of the
 ...eneric drugs at a fraction of the price.



Australia:

(April, 2001) The Australian parliament recently passed The *Administration Decision Bill*, which prevents a person from challenging a governmental decision on the basis that it is inconsistent with rights guaranteed by international treaties to which Australia is a party. The government has been critical of the UN human rights treaty bodies after being assessed negatively by the Committee on the Elimination of Racial Discrimination and the Committee Against Torture for the mistreatment of aboriginals and asylum-seekers.

The Bill has been seen by many as part of a more general move away from human rights and towards xenophobia in a country that has been highlighted by the reemergence of Pauline Hanson's One Nation party which opposes Asian immigration, welfare for aboriginals and foreign aid.

(Source: BBC World News)

PREPARATIONS FOR SMALL ARMS CONFERENCE

The next morning, all the concerned parties had the opportunity to tell their sides of the story to the NHRC, as well as the district Magistrate. Ram recounted his years of bondage. He explained that from the time he was 12-years old he had been working off the interest from a cash advance. Since this time he had worked for eight different "employers". He was caught in a system of chain bondage, in which the debtor, who can never pay off his initial debt because of exorbitant interest rates, instead keeps borrowing money from different people and being transferred from owner to owner. Twenty-four years had passed and Ram was still caught in this cycle of increasing debt.

For the past five years he has been working for Singh. His initial advance was for 12,000 rupees, part of which was borrowed for the medical treatment of his now-deceased wife. Five years of work had not allowed Ram to pay off his debt. In fact, he did not have a salary at all, let alone receive the legal minimum wage. Instead, Ram says that he now owes a total of 49,000 rupees. Singh allegedly charged an astonishing 5% rate of interest per 100 rupees borrowed per month on Ram's initial advance. In addition, he added 100 rupees for everyday and 100 rupees for every night that Ram was not able to work. Instead of Ram making any money from his years of hard labour, Singh had managed to keep him perpetually in the chains of debt-bondage.

From August 2000 until March 2001, Ram managed to escape to the People's Vigilance Committee's transit rehabilitation centre for bonded labourers in Philaur. After spending months there, Ram went back to his own village to see his ailing mother. Hearing that he was back at his village, Singh sent two individuals to capture him and forcibly bring him back to his farm. It was after this incident that Singh allegedly began to tie up Ram at night in order to prevent him from escaping again.

With the help of the NHRC, and the hard work of Kaur and the People's Vigilance Committee, Ram is today a free man -- but a free man with few options. He will spend the following months in the rehabilitation centre, in a safe space. He will try to learn skills to be able to get a job with wages. Most impor-

tantly, he will not be in bondage to anyone. It took a courageous family, a conscientious NGO, and an alert human rights commission to help Ram break the chains of bondage.

Thousands of people in India, many of them women and children, are just like Ram and continue to be kept as slaves to wealthy masters. These people have not yet received the assistance of any state institution or NGO. However, as long as the NHRC and concerned groups of citizens like the People's Vigilance Committee continue to take rapid action in the face of such human rights abuses, there is hope for all of them.

**Nida Kirmani is a Research Assistant with the Delhi-based NGO, the Commonwealth Human Rights Initiative*

Preparations for the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects by Christina Torsein*

The proliferation and misuse of small arms affects people around the world, in conflict zones and in our own communities. Over the past few years there has been increasing international concern on the impact of the proliferation of small arms. In recognition of this, the United Nations will be hosting a conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects. The Conference, which will be held from 9-20 July in New York, will attempt to develop a politically binding Programme of Action. There have been three preparatory meetings in the lead up to the conference, the most recent of which took place in March.

Discussion at the third preparatory committee meeting (Prep Comm) centered on the issues of NGOs' access to the Conference and the Programme of Action, that is the working document being discussed by delegates to the UN. The Programme of Action document, commonly referred to as L4, has four sections: 1) Preamble; 2) Preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects; 3) Implementation, international development and assistance; 4) Follow-up after the Conference.

During the Prep Comm numerous states made reference to regional initiatives, aspects of which could be utilized to strengthen L4 (i.e., the OSCE "Document on Small Arms and Light Weapons" and the "Bamako Declaration"). The Chair of the Conference for the last two Prep Comms has been Ambassador dos Santos of Mozambique. The Chair for the July Conference will be Ambassador Reyes of Colombia.

Throughout the first week of the Prep Comm the dialogue focused on whether or not NGOs should receive access to the Conference. It was eventually decided that ECOSOC accredited organizations and others who go through the accreditation process will be able to attend. Regarding the document, a number of governments suggested additions to the preamble, notably the effects of the proliferation of small arms on women and children and the importance of recognizing international humanitarian law. Some progress will likely be made on brokering, and marking and tracing of arms.

The UN 2001 process is recognized as the main forum to address the international proliferation of small arms at the moment, yet governments failed to reach final consensus on the Programme of Action document. At the outset of the Prep Comm hopes were high that delegates could progress on their revisions of L4, but this was not the case. As a result, evening sessions were held during the second week in order to try and move discussion forward.

Dozens of NGOs from around the world attended the Prep Comm in order to lobby delegates and hear the proceedings, largely under the auspices of the International Action Network on Small Arms (IANSA). IANSA is an international network of over three hundred NGOs committed to combating the proliferation of small arms. IANSA has drafted a policy paper and recommendations on the L4 document urging governments to address six core demands. The demands include: An international convention on arms trafficking; an international convention to mark and trace small arms; international criteria governing small arms exports based on international law, including human rights; destruction of surplus government weapons and collection of illicit arms

from communities affected by armed violence; controls on the possession of weapons by civilians; and increased resources and funds to build the capacity of governments to implement new controls.

NGOs held many briefings over the course of the two weeks, and discussed a range of issues from women's rights, small arms and peacebuilding to arms transfers and the war in the Congo and small arms catastrophes in international law. NGOs play a vital role in the UN 2001 process. They are involved in both lobbying and campaigning work. One of the key lobbying campaigns is the "Biting the Bullet" project between the British American Security Information Council (BASIC), International Alert and Saferworld. This project seeks to influence policy makers through briefing papers and seminars on the full range of topics under discussion.

NGOs also expressed frustration that the Programme of Action document will only be a politically binding document and not a legally binding mechanism. A large number of NGOs, and some states, are interested in putting in place a legally binding agreement on brokering and an international Code of Conduct, yet there has been inadequate support for this during the conference process.

At the end of the first week of the Prep Comm, NGOs were allowed to address the floor for two hours. This was an important development as the discussions had switched to a largely closed format during the week. Throughout the NGO session former Canadian Minister of Foreign Affairs Lloyd Axworthy addressed the floor as part of the Eminent Persons Group. Dr. Axworthy called for three treaty making mandates to come out of the conference, namely an international treaty on marking and tracing, an international treaty on brokering and an international Code of Conduct.

Sally Joss, the IANSA co-ordinator, noted that "time is running out. There is a real risk that the July conference will not adequately combat the illicit arms trade. It is vital that governments agree on concrete measures to make our communities safer". There is concern about the possible outcomes of the July Conference. A number of foreign ministers are expected to attend the first week of the

Conference, and it is hoped that this will result in a stronger Programme of Action document. The UN 2001 Conference is the start of a process to address the proliferation of small arms, yet it is fundamentally important that concrete actions are taken in July for the process to start as effectively as possible.

Further information on the upcoming Conference can be found on the following Websites: Conventional Arms Branch, UN Department of Disarmament Affairs: <www.un.org/Depts/dda/CAB/smallarms/>; IANSA <www.iansa.org>; BASIC <www.basicint.org>; Small Arms Survey <www.smallarmssurvey.org>.

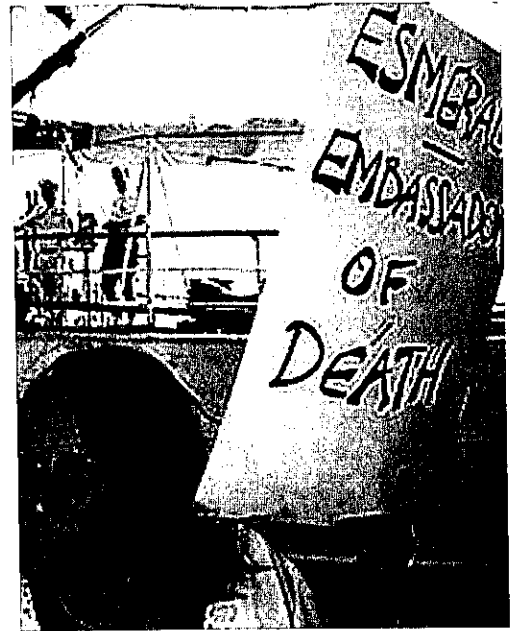
***Christina Torsein is an Analyst at the British American Security Information Council (BASIC) in the UK**

La Esmeralda: A Reminder of Chile's Past
by Paola Evans*

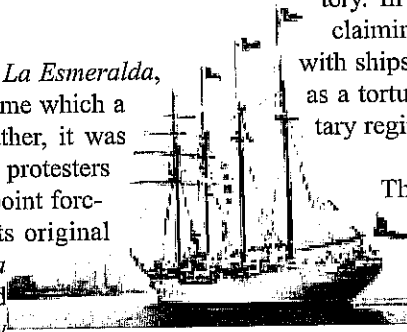
The Chilean ship, *La Esmeralda*, sailed into the port town of Valparaiso, Chile this past 5 November after completing the Tall Ships 2000 competition. Joining 80 other large sail boats from 25 different countries, *La Esmeralda* began her sail in this transatlantic race in celebration of the millennium from the port of Southampton, England. A beautiful four-mastered Chilean naval ship built in 1952 as a navy-training vessel, its Captain, Edmundo Gonzalez, described *La Esmeralda* as Chile's "greatest icon".

Upon its arrival in Chile, *La Esmeralda*, did not receive the welcome which a great icon deserved. Rather, it was greeted by hundreds of protesters gathered at the docking point forcing the ship to change its original location. In fact, *La Esmeralda* had sailed into protests by Amnesty International and other human rights defenders in every port since it left Southampton in April.

The reasons behind the protests are serious and cast a grim shadow over the outer beauty of the ship, but may be explained by the



condor painted on its side. Serving as the figurehead, the condor is not only a symbol of the Chilean coat of arms, but also as a reminder of the shady Condor Plan elaborated by Augusto Pinochet and his fellow military dictators of the Southern Cone countries in the early 1970s. Essentially a systematic plan to coordinate military terrorism and repression in Chile, Brazil, Uruguay, Paraguay and Argentina, the Condor Plan allowed the use of military intelligence services to eliminate political opponents through kidnapping, disappearances, torture and assassinations. The condor on the ship could thus indicate *La Esmeralda* as part of the most sinister plan ever implemented in this region. The protests in the countries which the ship visited gives credence to its dark history. In fact, there are various reports claiming that *La Esmeralda*, along with ships *Lebu* and *Maipo*, was used as a torture chamber during the military regime of Pinochet.



The information, however, distributed by crew members along the race failed to fully mention its background. Including only a short history on Chile and its geography, the navy chose to omit the most vital aspect of Chile's recent past -- Augusto Pinochet's 17-year rule. Perhaps the reason for this omission was that shortly after Pinochet came to power the Chilean navy made a special contribution to his new military junta by allow-

INTER-AMERICAN COURT

ing *La Esmeralda* to be used as a prison and torture chamber.

During Pinochet's rule, close to 120 political prisoners were held and interrogated for more than two weeks without charges or a trial in the chambers of *La Esmeralda*. These include the former mayor of Valparaiso who described being tied to one of the ship's masts and electrocuted repeatedly, and Michael Woodward, a British-Chilean priest, who died as a result of the torture he received on board. Reports from the OAS Inter-American Commission on Human Rights (24/10/74), Amnesty International (AMR 22/32/80), the US Senate (Resolution 361-16/JUN/86) and the Chilean National Commission on Truth and Reconciliation (Part 3, Chapter 1, Section 2 f.2), all confirm the use of the ship as a torture and detention centre where people were raped, beaten and disfigured. Perhaps the most noteworthy report is that of the Chilean Commission, entitled the "Rettig Report". Drafted in 1991, it provides the only official record in Chile which assigns human rights violations to the military government, and confirms that the navy "used the ships *Lebu*, *Maipo* and *La Esmeralda* as prison, interrogatory and/or torture sites in the port of Valparaiso".

The Tall Ships 2000 competition is not the only time that *La Esmeralda* had been greeted by protests. In 1974, activists in San Francisco succeeded in turning the ship away from its port. In 1976 Baltimore was also the scene of protests by human rights activists, when *La Esmeralda* participated in Operation Sail's American Bicentennial. In 1986, it again chose to participate in a bicentennial, in celebration of the Statue of Liberty. That time it was the US Senate which protested its presence by passing a resolution condemning the ship's participation calling on Operation Sail to withdraw the invitation. Senator Edward Kennedy proclaimed that "the Statue of Liberty would weep at the sight of *La Esmeralda* entering the gateway of freedom at New York Harbour".

Nonetheless, the captain of the ship and the rest of the navy firmly deny the allegations, passing them off as lies and accusing the protesters of living in the past. However, for many the past is still alive and will never be

forgotten. Woodward's sister, Patricia Bennetts, flew from Madrid to protest the Chilean government's use of the ship. She, along with other human rights activists, demand that the government (who is fully aware of, and has acknowledged the "Rettig Report") discontinue its use of the ship as a "floating ambassador". Most important for Woodward is the need for clarification and admittance by the navy to the events surrounding her brother's death and the hundreds of other tortures, so that those responsible are brought to justice. Although this will not bring Brother Woodward back, nor erase the memories of those tortured in *La Esmeralda*, it will be just one more step towards achieving justice at a time when Chile is making efforts to overcome the horrors of the Pinochet regime.

*Paola Evans is a former HRI intern and is currently employed at the Canadian Centre for Foreign Policy Development

Compensation of Murdered Guatemalan Street Youth Discussed by Inter-American Court on Human Rights by Ann Birch*

In 1990, the bodies of Julio Roberto Caal Sandoval (15), Jovito Josue Juarez Cifuentes (17), Henry Giovanni Contreras (18) and Federico Clemente Figueroa Tunchez (20) were found in an isolated suburb of Guatemala City. All four had been brutally tortured and shot through the head. Seventeen-year old Anstraun Villagran, a friend of the dead youths, was later shot in the back by the same two national police officers responsible for the earlier murders. Despite strong evidence, and the deaths of key witnesses, the two officers were freed due to a lack of proof. Casa Alianza, which took the case on behalf of the families in Guatemala, appealed it to the Supreme Court. The Supreme Court upheld the lower court's ruling and the youths' murderers remained free.

Representative from Casa Alianza and the Center for Justice and International Law (CEJIL) first presented the case of the five murdered youths before the Inter American Commission on Human Rights in Washington in 1994. Part of the

Organization of American States, the Commission then referred the case to the Court in 1997. In December 1999, in a unanimous decision, the Court found that the State of Guatemala had violated seven articles of the *American Convention on Human Rights*, the international legal instrument for the protection of human rights in the Americas. These violations included the right to life and the rights of the child. The state was also found to have violated articles 1, 6, and 8 of the *Inter American Convention for the Prevention and Punishment of Torture*, and



Bruce Harris, Executive Director of Casa Alianza, outside the Inter-American Court

was ordered to pay compensation to the victims' families. The Court then established a series of hearings to determine the level of the compensation to be paid.

In the case of children, the denial of justice has been a rule more than an exception", commented expert witness Emilio Garcia Mendez. His comments followed the latest, and last, of the hearings before the Court. "A good part of the impunity which surrounds the violation of children's human rights (in Guatemala)...can be linked to the belief that children do not have rights", continued Mendez.

It is true that the denial of justice towards street children and their families in Guatemala has proven to be something of a rule over recent years. Of the 392 criminal cases that child welfare organization Casa Alianza has presented before the authorities in Guatemala since 1990, a mere 17 cases have reached any form of conclusion. Fifteen cases were won by Casa Alianza, and two were absolved. More than 195 members

of the Guatemalan Security Forces have been formally accused of crimes against children, as well as more than 200 people who have yet to be identified as civilians or members of the armed forces.

These high levels of impunity are, in part, what makes the recent hearings in this case before the Court so special. It is the first individual case involving children brought before the Court in its 20-year history, and as such it has set a historical precedent.

Giving evidence before the Court, Margarita Urina explained how her 15-year old grandson Julio Roberto Caal Sandoval had been her only source of help and income, and that after his murder she has been left on the street. "Everyday he would bring me something, rice sugar or coffee. He was the only one that helped me", wept the 65-year old. "It wasn't just a dog that was killed", she protested.

Contreras' words signify the fundamental importance of this type of judicial process. The process attempts not only to establish an authoritative record of human rights violations on the part of an individual state, but also helps in the healing of the victims, when they survive, and their families.

Restoring dignity to the victims and their families, these hearings can aid in the rehabilitation of those who may not even be able to acknowledge that their relatives are dead. In addition, seeking financial compensation and other symbolic acts, such as naming a school after the dead youth, is crucial in the healing of these women and their relatives. Most have suffered both physical and mental illnesses as a result of the murders, but have never been able to afford medical attention. Monetary compensation will also allow Ana Maria Contreras, mother to murdered 18-year old Henry Giovanni Contreras, to exhume and properly bury her son. He is currently in a pauper's grave.

The hope also remains that this case will not only establish important jurisprudence in the realm of children's human rights law, but will also serve to begin to end the high levels of impunity, highlighted by Mendez.

Clearly the ultimate goal is to aid in the

establishment of a political order that respects the most fundamental human rights of its children. And in doing so, put an end to the senseless murder of them. The Inter American Court on Human Rights is expected to give its final declaration in this case in October.

Ann Birch is a writer working with Casa Alianza, the Latin America branch of the non-profit organization Covenant House. She can be contacted at <media@casa-alianza.org>.

Argentina's Dirty War: An Update by Rita Maran*

Tourists say that Buenos Aires is the most "European" city in South America. Indeed, the boulevards, monuments, parks, and ornate apartment buildings are laid out on a planned scale familiar to anyone who has roamed Paris or Barcelona. All the more jarring then, in that civilized, urbane setting, to find newspapers reporting on un-civilized practices all too familiar to "los porteños". Daily lives of the inhabitants of this port city are split between past and present. The "guerra sucia" of 1976-83 has not been consigned to the archives; it remains a point of reference. The "dirty war" that closed down after the defeat of the Argentine military in the Falklands/Malvinas Islands in 1982 continues to produce dirty by-products. Memories of the horrific abuses of that seven-year period fester below the surface and occasion-

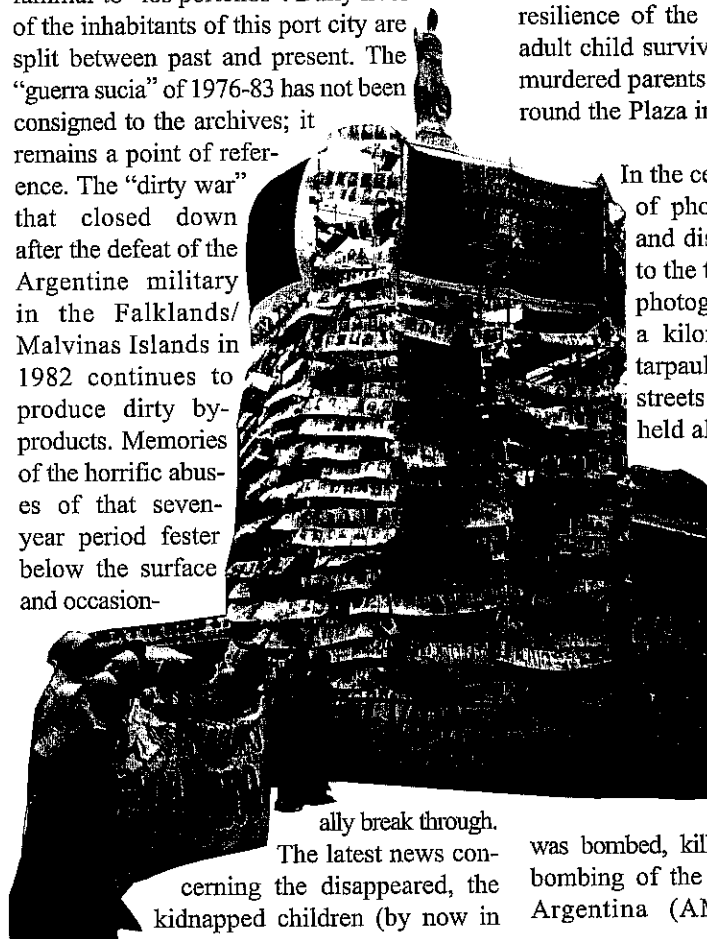
ally break through. The latest news concerning the disappeared, the kidnapped children (by now in

The Persistence of the NGOs

At 3:30 each Thursday afternoon, the Mothers of the Plaza de Mayo march round the Plaza facing the President's Casa Rosada, as they have done for over 20 years. Early in December 2000, two separate organizations, Mothers of the Plaza de Mayo/Asociación Madres de Plaza de Mayo, and Madres de Plaza de Mayo Linea Fundadora, organized a wide scale 24-hour demonstration in the Plaza. While the two organizations have different views on certain issues -- such as whether or not to accept government reparations to families of disappeared, and whether or not to negotiate with the government concerning acceptable evidence of death -- the demonstration calling for justice drew thousands of supporters. One of the participating groups, Hijos por la Identidad y la Justicia contra el Olvido y el Silencio (HIJOS) or "Children", filled onlookers with awe at the resilience of the human spirit, as the now-adult child survivors of the disappeared and murdered parents danced and sang their way round the Plaza in an affirmation of life.

In the center of the Plaza, hundreds of photographs of the murdered and disappeared went all the way to the top of the Monument. More photographs still were attached to a kilometer-long length of blue tarpaulin that wove through the streets of central Buenos Aires, held aloft by Madres and passers-by. This group-participation technique magnetized passers-by who felt drawn to support the long blue sea of photographs. Many of the marchers quietly wept, transported back in time by the photos close to their hands.

In 1992, the Israeli Embassy was bombed, killing 29 people. In 1994, the bombing of the Asociación Mutua Israelita Argentina (AMIA) killed 87 people.



ARGENTINA'S DIRTY WAR

Memoria Activa takes place in front of the Tribunales, Argentina's high courts, at precisely 9:53 every Monday morning, a memorial to the 1994 bombing deaths that occurred at exactly that time. A sobering minute of silence first; then, intellectuals, actors, citizens, business owners, religious leaders, and international visitors offer eloquent testimony. Several of the Madres participate each week in the Memoria Activa, their presence a testament to the Jewish people used as targets for torture and disappearance during the dirty war.

Servicio Paz y Justicia (SERPAJ), founded as a nonviolent human rights organization in the mid-1970s, has grown in strength and numbers. SERPAJ and Adolfo Pérez Esquivel, its active head and Nobel Peace Prize laureate, recently celebrated the 20th anniversary of the Award. Among its many national and international activities, SERPAJ promotes "Dialogo 2000", a dialogue on the question of the external debt and the politics of neoliberal adjustment. A Tribunal held by SERPAJ in Buenos Aires in September 2000 declared null and void the public external debt of the Argentine Nation, condemned those responsible for the illicit acts committed under the burden of the external debt, and called for reparations for the material and moral harm suffered by the people. The Tribunal requested that the International Court of Justice be asked to render an opinion on the legality of the external debt.

Laws and Justice

Former Navy chief Emilio Massera, one of the leaders of the 1976-1983 dictatorship, served time in prison for human rights abuses from 1985 to 1990, when he was abruptly granted a pardon by then-president Carlos Menem. In November 1998, he was indicted for baby thefts, and was awaiting trial under those charges. Because of his age, he was granted confinement to his house, a privilege granted to those over 70. Members of HIJOS photographed him walking in public; the photographs were used as evidence against his breach of the house arrest. Massera was imprisoned once again on 1 December 2000, a warning to other junta leaders under house arrest who have also been seen on the streets

and in restaurants.

Another leader during the dirty war is again facing justice -- delayed, but in this case not denied. In July 1999, charges were brought in Italy against seven Argentine military officers accused of kidnapping and murdering a number of Italian residents of Argentina during the dirty war (See *Human Rights Tribune*, Vol. 7, No. 4). The case came to trial in Rome in June 2000. The eight Italian victims were among more than 15,000 who vanished during the military's war against "leftists".



Under Italian law, the Argentine generals could be tried in absentia, unlike the International Criminal Tribunal for the former Yugoslavia and for Rwanda, both of which do not permit trials without the physical presence of the defendant.

One of the generals on trial in Italy in 2000 was Carlos Guillermo Suárez Mason. Mason was tried in 1988 in the 9th Circuit District Court in San Francisco, in several civil suits brought by Argentineans living in the US. One of them, Argentine attorney Horacio Martínez Baca, living in California, charged Mason, also living in California, with torture. Judge Samuel Conti found

Mason guilty, based on international human rights legal norms, and ordered a \$21 million settlement, the largest award ever in a human rights case. In a separate contemporaneous case, Judge Lowell Jensen issued an extradition order, and Mason was duly extradited, over his protests, to face 39 murder charges in Argentina. Mason meanwhile, has yet to pay the damages arising from the 1988 judgment. Baca has said, however, "I don't care about the money...The greatest satisfaction is to show (the torturers) that 16,000 miles away and several years later, they are still held responsible for the crimes they committed". Mason, meanwhile, has been under house arrest in Argentina, on charges of kidnapping or hiding the identities of kidnapped children during the dirty war. He has now been found guilty by the Italian court.

In March 2001 an Argentine Judge, Gabriel Cavallo, stated that two immunity laws from the time of the dirty war were in conflict with international laws and treaties that outline that no government can pardon crimes against humanity. While Cavallo's decision would apply immediately only to eleven officers involved in a kidnapping in 1978, if it goes to Argentina's Supreme Court and is upheld, specific cases waiting in the wings (including one involving the torture, and disappearances of French nuns) may be brought forward. In that connection, Ricardo Miguel Cavallo, known as "Serpico", and currently director in Mexico of the national motor vehicle bureau, is wanted by the French government for questioning concerning the French nuns. The walls are now closing in on torturers.

**Rita Maran is a professor at Boalt Hall, the Law School of the University of California at Berkeley*

Tasting Tear Gas at the Summit by Gus Van Harten*

Recently I experienced tear gas for the first time. I was in Quebec City for the Summit of the Americas, and was one of many peaceful protesters who came too close (within about four blocks,

(continued on page 28)

Summit of the Americas: A Human Rights Report for Youth, by Youth by David Salter and Eric Lepage*

The Summit of the Americas is a meeting in Quebec City of 4,000 delegates from 34 North, South, and Central American countries. The delegates' goal is to begin discussions on a new free trade agreement with less economic restrictions between countries of the Western Hemisphere, much like what the North American Free Trade Agreement (NAFTA) has done for North America. The delegates have been joined by thousands of protesters, many of them Canadian youth.

The government delegates say a free trade agreement could lead to an improved economy for all countries involved. This includes access to international markets for local industries, cheaper goods and services, less regulation and lower taxes. However, the protesters feel that globalization will only improve the financial situation of the wealthy, and further harm the poor. They fear free trade will lead to lower wages, fewer employee benefits, and higher unemployment for wealthy countries as corporations move their production facilities to areas of cheap labour. Another major concern is a decrease in environmental standards and protection programs. A current example of free trade



being dangerous to the environment is the refusal of the Canadian government to export Canada's fresh water to other countries. In a world of free trade, this refusal could be seen as trade protection. Corporations from other countries that are part of the free trade agreement, with the goal of forcing Canada to export water, could sue Canada.

It has not been easy for protesters to make themselves heard at the Summit. Fearing a repeat of the Seattle Summit, in which violence broke out and the summit was disrupted, authorities have erected a three-meter

high fence around the summit area and brought in 6,000 police officers to ensure nothing disrupts the official conference. This concrete and chain-link fence has been labeled "The Wall of Shame".

Are protesters being denied their right to free speech? They have literally been forced to the outskirts in the debate on globalization. The Canadian government cites the violence in Seattle as a need for concern, and justification for the measures they have taken. At the same time, the Canadian government had contributed \$300,000 to the People's Summit, a forum for discussion on globalization and free trade organized by citizens concerned about these issues.

The Summit of the Americas has now concluded, with only two outbreaks of violence; the fence was breached once and tear gas was used, and another time a water cannon was shot onto protesters trying to climb the fence. Otherwise, the demonstrations were peaceful -- and in the case of the People's Summit, quite productive. The question that still remains however is if free trade is a solution to the world's economic problems, or a problem in itself.

*David and Eric are grade ten students in Ottawa, Canada. David attends Canterbury High School and Eric is a student at Hillcrest High.



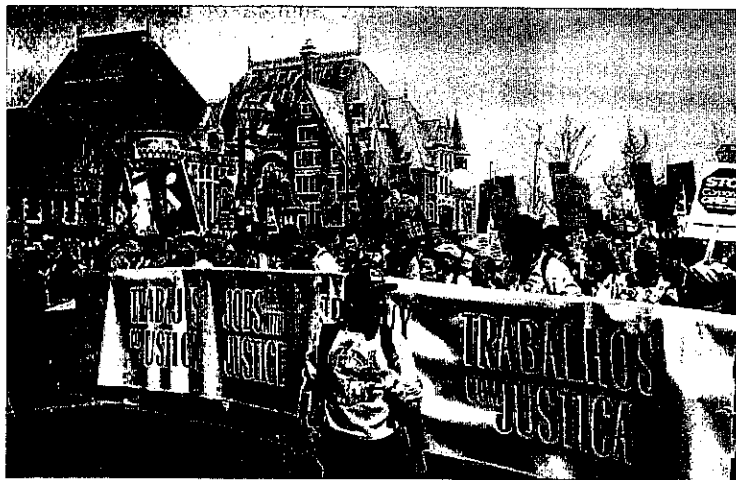
TASTING TEAR GAS AT THE SUMMIT

that is) of the fence that was erected to keep the negotiators away from the rabble. I did not climb the fence, nor did I approach it, in fact I could barely see it. I was driven back by the tear gas nonetheless.

I marched in Quebec City to oppose the Free Trade Area of the Americas (FTAA) and to support human rights. What is the connection? "Free trade", as currently proposed, offends human rights for two reasons. The first reason is that trade agreements do not protect minimum human rights standards, even though they could be written to do so. The second reason is that trade agreements threaten to further erode human rights in the era of corporate globalization.

Agreements like the proposed FTAA and the North American Free Trade Agreement (NAFTA) offer no protection for the most fundamental liberties. The agreements are filled with chapters on topics such as trade in services, intellectual property, and investment -- all oriented toward the priorities of corporations. In most cases, the documents fail to even mention human rights, let alone protect them in a meaningful way.

The alternative is simple enough. Drafters can write concrete human rights standards into the FTAA and incorporate them into the enforcement structure of the main agreement. That is, they can allow the victims of human rights violations to launch legal claims against abusive governments. They can also allow independent panels to hear



disputes and authorize sanctions against offending governments.

But governments are unlikely to pursue the human rights agenda in this context. Under NAFTA, as an afterthought, the US inserted side agreements on labour and the



environment. However, the side agreements are separate from, and profoundly weaker than, the main agreement.

To take another example, developing countries have pushed, since the 1970s, to establish international standards of conduct to govern corporations. Yet, industrialized countries have agreed to do so only if the standards are made non-binding and voluntary.

With this track record, one should be wary of government promises to insert a "democracy clause" as part of the FTAA. These feel-good promises mean nothing unless they result in clear, detailed language in the final wording of the agreement. If they truly mean it, they must write it into the text. Governments have let us down with these types of promises in the past.

An example of past government behaviour is article 1114 of the NAFTA, that purports to exempt "environmental matters" from the agreement. It per-

mits governments to adopt "any measure" to ensure that a foreign investment "is undertaken in a manner sensitive to environmental concerns". However, the measure in question must be "otherwise consistent" with the agreement for the

exemption to apply. Thus, in plain language, if an environmental measure does not breach the agreement, it is exempt from it. Why bother with such a circular, meaningless exemption? At best, it is legal trickery; at worst, it is a fraud on the public.

When the draft text of the FTAA is released, we should read it very carefully. Where the language is nice, the verbs will almost certainly be weak. In terms of social issues such as human rights, negotiators may rely on language like "recognize" and "should", instead of clear statements like "enact as law" and "shall". Ambiguous words make for weak standards.

In contrast to promoting human rights, trade agreements break new ground in establishing strong protections for corporate rights. In the era of corporate globalization, this further threatens some fundamental values.

Before NAFTA, for example, no multilateral trade agreement had ever allowed corporations to directly sue governments. Under NAFTA, Canada and Mexico submitted to pressure from the US on this issue. By agreeing to allow corporations to directly launch "investor-state" claims against governments, they compromised the basic principle of state sovereignty under international law.

The "investor-state" process is neither balanced nor transparent. The panels that hear the disputes are composed of people with backgrounds in international law, commerce and finance -- not human rights or social policy. There is no appeal of their rulings to national supreme courts. If both the corporation and the government agree, the claims may be kept secret.

The impact of these new corporate rights is to undermine the ability of national governments to impose human rights standards on foreign corporations. In cases where proposed legal standards -- such as new labour standards, affirmative action programs, or indigenous land claims agreements -- might reduce the value of a corporate investment, governments face the risk of a NAFTA challenge.

By exercising our human right to vote, we presume that we elect governments capable of imposing democratic priorities on corporations. But will governments be willing to do so in the face of corporate rights enshrined in the FTAA? Does this not undermine our right to vote?

Many people came to Quebec City to peacefully express their opposition to ongoing corporate globalization and to support human rights. As such, they found themselves on the wrong side of the fence that surrounded the negotiations. If they came too close to the wall, they risked tear gas, water cannons, and rubber-coated bullets.

As a supporter of peaceful protest, I object to those protesters who resorted to vandalism and violence. I also object to the cases of police abuse and overreaction that reportedly occurred. Most importantly, however, I condemn those who would turn the old city of Quebec into a gated community for the negotiation an agreement that offends human rights and undermines democracy.

**Gus Van Harten has written on the impact of an FTAA investment chapter on the peace accords in Guatemala. His article is available in the current issue of the *Yale Human Rights and Development Law Journal* at <<http://diana.law.yale.edu/yhrdlj>>.*

Canada Prepares for the World Conference Against Racism by Philippe LeBlanc*

The stakes are high in the forthcoming World Conference against Racism in Durban, South Africa. The demarcation lines are now clearly drawn at the United Nations between those countries who do not want the conference to take place and those for whom this is an opportunity for effecting change and obtaining results. The stakes are high in very significant ways both for the victims and for the perpetrators of racism and racial discrimination. It is bound to be one of the most controversial meetings ever organized on the topic.

Many Canadian NGOs are currently engaged in promoting action and campaigning against racism and in making anti-racism one of the pillars in the protection of human rights. The World Conference represents an opportunity both for NGOs and for the Canadian government to make a significant impact worldwide in the elimination of racism and racism discrimination.

The third World Conference Against Racism will take place in the context of the third UN Decade for Action to Combat Racism and Racial Discrimination (1993-2003). The two previous World Conferences were held in Geneva in 1978 and 1983. In Canada, on the occasion of the first UN Decade for Action to Combat Racism and Racial Discrimination (1973-1983), it was primarily the government that grasped the occasion of the Decade to initiate action.

The first Decade was seen as an opportunity to set a human rights agenda for the country. For this purpose, the Secretary of State Department convened in 1973, for the first time, a meeting in Montebello, Quebec of all federal, provincial and territorial departments with a responsibility for human rights. The resulting 1973 "Montebello Report" represents the consensus reached by government officials that set in motion the development of major human rights initiatives in Canada. On the basis of the Montebello consensus, there followed the joint launching of the Decade, the first federal-provincial conference of human rights ministers in 1975, the election of Canada as a member of the

UN Commission on Human Rights in the same year, the ratification of the two International Human Rights Covenants and the Optional Protocol in 1976, and the creation of the Canadian Human Rights Commission and of provincial commissions.

It should be noted that the World Conference Against Racism is above all a meeting of member states of the United Nations. Governments will have the primary responsibility for adopting a plan of action and for implementing the resulting document. Further, they will be held accountable before the international community for the success or failure of the conference.

However, many other actors need to be involved at the local, national and international levels. In particular, civil society, NGOs, voluntary groups, educational institutions and others have a role in eradicating racism and racial prejudice and thereby have a stake in the success or failure of the World Conference against Racism.

Actions undertaken by NGOs in Canada before the Conference can be as effective as their participation at the World Conference that, ultimately, may not live up to expectations. The Conference is an opportunity for NGOs to raise domestic issues and to develop corrective measures, as well as for coalition building around racism and racial discrimination.

There are a number of things that Canadian NGOs and members of civil society can do prior to the meeting. For example, Canadians can: Participate in regional and national conferences and forums; identify government ministries, departments, key officials and arranging meetings with them; encourage the government to allocate adequate resources to the UN Voluntary Trust Fund for the World Conference to support meetings and the preparatory committee; encourage the government to play a lead role at the conference; lobby the government to send a high-level delegation which is representative of the Canadian population and to include NGOs in the delegation; meet with members of the government delegation once it is appointed; inform our constituencies and the public of the high stakes of the World Conference; inform the media of the impor-

CORPORAL PUNISHMENT

tance of the World Conference; and network with NGOs in the country and internationally to develop joint strategies and to disseminate information in preparation for the NGO Forum in South Africa.

After the World Conference Canadians must ensure that the issues are not dropped from the government's agenda. They can do this by: Distributing the Conference Declaration and the Plan of Action and monitoring their implementation in Canada; following-up with relevant departments and all levels of government; and keeping in touch with international and other NGO to ensure that action is undertaken within the UN system.

Perhaps the most significant action Canadians can pursue, before and after the World Conference, involves article 14 of the UN treaty against racism. The year 2000 marked the 30th anniversary of the ratification by Canada of the *International Convention on the Elimination of all Forms of Racial Discrimination*. Canada ratified the Convention without any reservation on 14 October 1970. The International Convention sets the standards and establishes the benchmarks for the elimination of racism and racial discrimination.

Regretfully, Canada has not yet made a declaration under article 14 of the Convention that details the treaty mechanism for handling individual complaints. By making a declaration under article 14, Canada would recognize the competence of the UN Committee on the Elimination of Racial Discrimination to receive complaints from individuals or groups claiming to be victims of a violation by Canada of any of the rights set forth in the Convention. This would be an additional tool for individual citizens and groups to appeal and to advocate for redress when they have exhausted all other domestic remedies in Canada.

The World Conference would no doubt be the appropriate time for the government of Canada to announce that it will declare under article 14 of the Convention thereby providing victims of racism access to this UN complaints mechanism.

*Philip LeBlanc is the Permanent Delegate of the Dominicans at the UN Commission on Human

Rights. The article contains excerpts from his presentation at the Halifax and Montreal regional consultations.

Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General): Corporal Punishment Survives Constitutional Challenge by Lisa Delong*

Canada's Superior Court of Justice (Ontario) recently upheld the constitutionality of provisions of the *Canadian Criminal Code (CCC)* justifying the use of force by parents and teachers in disciplinary correction of children. This was the first time section 43 of the CCC faced a constitutional challenge. The section states, "Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable in the circumstance". Initiated by children's rights advocates, the case was resisted by educators and groups working to promote family autonomy. Although the court outlined guiding principles intended to protect children from harm, the court ultimately held that the impugned provision does not violate Canada's *Charter of Rights and Freedoms* (Charter). The decision runs counter to international developments in the protection of children from abuse and exploitation, and undermines work of children's rights advocates worldwide.

The case was brought to the court by the Canadian Foundation for Children, Youth and the Law, and was supported by the Ontario Association of Children's Aid Societies in the capacity of intervenors. These groups sought a declaration that the CCC section was unconstitutional and of no force and effect, and a further declaration that there is no common law right to use force in the correction of children. Evidence was presented that physical punishment does not benefit children, and may, in fact, lead to long-term psychological damage in addition to offering justification for physical harm. Moreover, the applicants observed that section 43 has often been applied to acquit people who have injured children or have used

such weapons as paddles or belts against them. The groups indicated that the provision violates section 7 of the Charter that guarantees security of the person, section 12 that guarantees freedom from cruel and unusual treatment or punishment, and section 15 that assures equality before and under the law, regardless of, *inter alia*, age. Further criticisms of section 43 include that it provides a "justification" at law, promoting the notion that parents and teachers have a "right" to use force against children. It is further argued that the defence is redundant as other sections of the CCC already allow for restraint in the maintenance of order.

The Attorney General, supported by two intervenors, the Canadian Federation of Teachers and the Coalition for Family Autonomy, resisted the case. Evidence was offered that, while the section may have been wrongfully applied to justify harm to children, in proper interpretation it offers only a narrow range of corrective force that does not constitute child abuse. It was asserted that section 43 reflects the important policy of creating a protected sphere of activity for parents and teachers. The Family Autonomy Coalition indicated that a declaration of the section to be unconstitutional would ultimately undermine family unity in allowing too deep a governmental intrusion. The Teacher's Federation, while rejecting corporal punishment of students, suggested that restraint authority was necessary to enable them to properly fulfill their educational responsibilities.

The Superior Court of Justice explored the history of the use by parents and teachers of corrective force, concluding that the objective of Parliament is to allow reasonable latitude -- to create a protected sphere -- in which to raise children. Although the court indicated a reluctance to undermine a Parliamentary enactment, it recognized the responsibility of Canadian courts to ensure the constitutionality of legislation. The court found that the provision was not not cruel or unusual treatment or punishment so as to violate section 12 of the Charter, nor was it a violation section 15 equality rights. A violation of section 7 protections of personal security was found; however, the court held that this violation was justified under section 1 of the Charter that allows for contraven-

tions that are in accordance with the principles of fundamental justice.

The court accepted that it is difficult to definitively outline effects, both deleterious and beneficial, of corporal punishment upon children, and, in fact, any long-term study of the issue would raise many ethical and human rights concerns. While there is a great deal of debate among experts about the effects on children of physical punishment, the court did note parameters that appear to be widely drawn. Experts tend to agree that corporal punishment of very young children is of no value, and can be extremely harmful. Physical punishment of teenagers is alienating, and can lead to aggressive and other anti-social behaviour. It is widely accepted that the use of objects such as belts in correction, slaps or blows to the head, and any form of aggression that could lead to physical injury should not be permitted at law. It is also generally accepted that there are appropriate alternatives to physical punishment such as the "time out" method whereby children are assigned to a few moments of solitude. The court recognized that, while many variables render it difficult to establish that corporal punishment causes long-term harm, there is also no reliable evidence that corporal punishment has a positive corrective effect. However, it was ultimately held that the sphere of authority held to parents and educators allows for independent decisions as to whether physical discipline is appropriate.

An examination of the international legal framework and trends in other countries reflects a movement away from the use of physical force in disciplining children. Article 19 of the *Convention on the Rights of the Child* provides that state parties must protect children from all forms of physical or mental harm, violence and neglect. Moreover, the United Nations Committee on the Rights of the Child has recommended that countries prohibit physical punishment of children in the family and in educational institutions. Eight countries in Europe have prohibited corporal punishment of children outright, using civil rather than criminal prohibitions. Notably, the Superior Court of Justice (Ontario) considered these facts to buttress, rather than contradict its decision in this case.

A finding of section 43 of the CCC to be unconstitutional would not necessarily mean direct criminalization of corporal punishment. It is true that section 43 serves as a shield from other provisions criminalizing abuse, but, as have been explored in Europe, there are many non-punitive educational options that can change attitudes about discipline. The decision ultimately favours the long-standing practice of corporal punishment over the protection of children. The Children's Aid Society aptly queried, "Why does the law say it is alright to hit children when there is no evidence that it does any good, and a good deal of evidence that it is harmful?" It remains to be seen whether the Parliament of Canada will revisit the issue to come in line with its international legal obligations and European trends, to respect the human rights of children.

*Lisa Delong is a Research Associate with HRI

Human Rights Education Pilot Program Launched in Canada by Miriam Woodall and Rosalyn Mendleson-Breshgold*

As two educators working in the Canadian province of Ontario, we saw an opportunity to send a strong message to our students based on the guidelines of the government's Ministry of Education curriculum. We set out to create a new pilot program on human rights, which prepares students to build, through knowledge, a stronger global community. In so doing, we have demonstrated through inquiry-based learning processes, a students' desire for connecting curriculum to real world issues.

The cross-curricular program is two-fold. The human rights aspect of the course of study teaches the need for equality. Freedom of thought, conscience, religion and the right to higher standard of living are all benefits derived from these rights. The environmental segment of the course gives students the opportunity to develop an understanding of global human rights

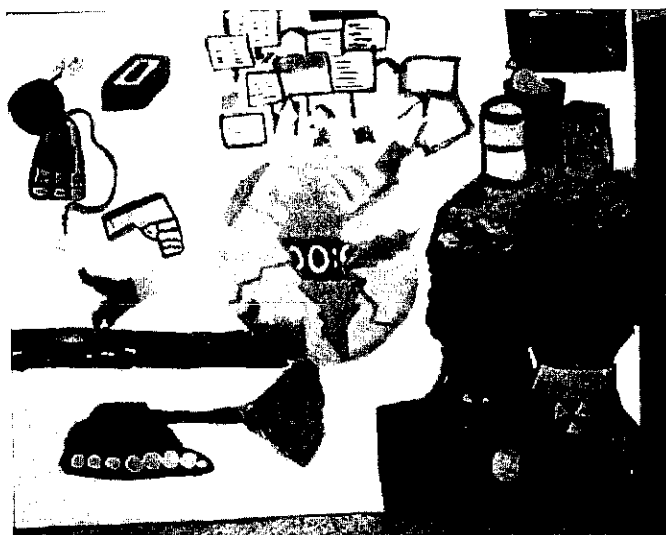
issues and to gain insight into how the interdependence of human rights and environmental issues affect the health, safety and well-being of all living things in the world community. The framework for this environmental science-based course of study is to help develop the students' global awareness of the significance, importance and impact of healthy, clean, safe water systems and protecting the environment.

The year-long course of study affords students the chance to explore a wide variety of



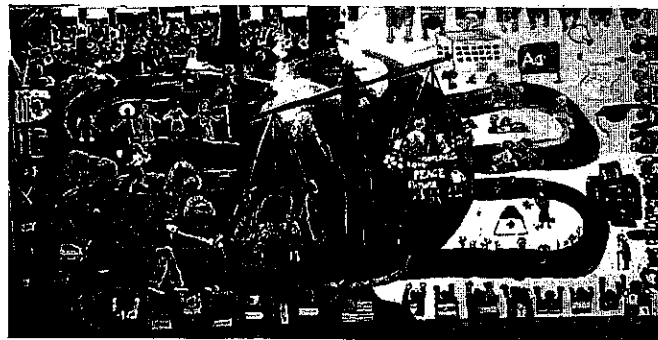
carefully selected topics in order to instill a personal commitment to work for the improvement of the worldwide environment.

The United Nations document entitled *Agenda 21, Rescue Mission Planet Earth, A Children's Edition of Agenda 21*, explores various topics relating to environmental awareness and human rights. The document is comprised of 40 chapters divided into four sections: Part 1, Society, Economy and Nature; Part 2, How Can We Protect Our Resources; Part 3, Who Can Make a Difference? Part 4, Where Do I Start? This



LIVES AND BUDDHAS DESTROYED

has become a powerful teaching tool, because it is written in partnership with students from around the world. Another resource that can be used is *Stand Up for Your Rights*, a book about human rights written by and for the young people of the world. Not only do these resources support curriculum, they reinforce the importance relating the things that students learn, on a daily



basis, to the real world. This type of program is how students learn they can make a difference here and now.

Within the program, students have the opportunity to choose a related topic of interest to them. The students then write a project proposal as a plan to further clarify their thinking, as well as devise a list of "Top Ten Questions", that they hope to answer as a result of their research. Through the publishing process they compose a written piece of research, as well as a visual presentation. These presentations may include models, demonstrations, multi-media computer work such creation of Websites, videos, and interviews with local community representatives, etc. to further demonstrate their expertise in their chosen topic. At the conclusion of each topic, students are required to complete a self-assessment that allows them to reflect not only on the strengths and weaknesses of their project, but what they have learned as a result of their research and how this can be applied in "real life". A critical part of this written component is answering the questions: Why should I care? How does this concern me? Why should others be concerned about these issues?

Throughout this cross-curricular study, connections are continually being made between human activities, the environment and the impact on human rights, as a result of this interaction and interdependence. Inquiry-

based learning proves that students do make meaningful connections between curriculum and real-life issues. Through this teaching process, it has become evident that true enhancement occurs with core curriculum when students have the opportunity to relate their daily lessons to global issues and events.

Through our passion, commitment and beliefs, we have taken on the task of empowering our students to seek leadership opportunities, to develop a knowledgeable voice, become stronger academic students and better citizens in the global community. Our personal hope is that these students will continue, through their lifetime to investigate,

seek partnerships, communicate, and demonstrate through their understanding, that each, in their own individual way, can make a difference!

**Miriam Woodall and Rosalyn Mendleson-Breshgold are educators with the Greater Essex County District School Board in Windsor, Ontario, Canada. For more information contact them at <Rosalyn_breshgold@gecdsb.on.ca or> <Miriam_woodall@gecdsb.on.ca>.*

Lives and Buddhas Destroyed in Afghanistan by Jeff Sinden*

Taliban forces in Afghanistan recently destroyed two ancient Buddhist monuments in Bamiyan, west of the capital of Kabul. The statues, carved on the side of a mountain between the second and fifth centuries AD, were thought to be the world's tallest images of Buddha standing. The destruction of the religious monuments caused outcry around the world as CNN broadcast videos of Taliban soldiers firing upon the Buddhas with heavy artillery.

The order to destroy the statues came from the Taliban's supreme leader, Mullah Mohammed Omar, who had declared the statues an insult to Islam. "Because God is one God and these statues are there to be worshiped and that is wrong, they should be destroyed so that they are not worshiped now

or in the future," Omar declared in his edict, published by the Taliban-run Bakhtar News Agency.

Muslims around the world have condemned the devastation as un-Muslim and have expressed concern that the action of extremists will further erode the public's image of Islam. "You have to respect other religions to be respected yourself", explains Hafeez

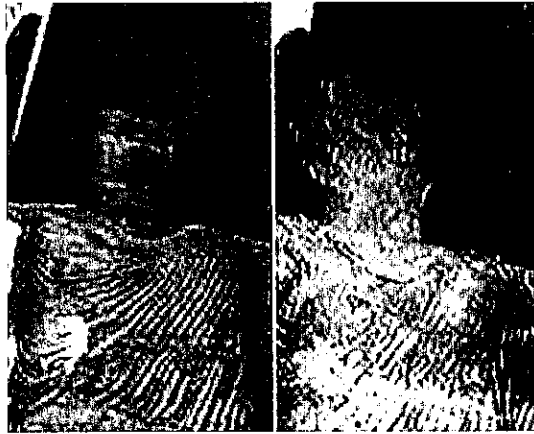


Yaqoobi, the founder and executive director of Guardians Afghanistan, an NGO that works with landmine victims and Afghan refugees in Afghanistan and Pakistan. He calls the action "cultural vandalism" and asserts that the Buddhas were a part of Afghan culture and history, predating Islam. Yaqoobi believes that the Taliban's action may have been influenced by their fundamentalist Pakistani benefactors, seeking revenge for the destruction of mosques in India.

While the destruction of the Buddhist monuments has been the most widely publicized violation on Afghanis' fundamental rights, it is certainly not the Taliban's only assault. Since their emergence in 1994 extremist Sunni Muslim militants, who now control 95% of the country, have been responsible for numerous and ongoing abuses.

One example of the anti-human rights policies of the Taliban is its treatment of women in Afghanistan. The Taliban and their interpretation of the Koran have all but abolished

the rights of the female population. Afghan women must be totally covered whenever they leave home. They are forbidden from working, and girls are banned from educa-



tion. Even alleged impropriety, which includes being found in the company of a man other than one's brother, father or son, can bring death by stoning. As Sally Armstrong, who recently traveled to Afghanistan with a member of Guardians Afghanistan, states, "the situation has deteriorated to the point where Afghan women live in fear for their lives". As she notes in her article in *Chatelaine* magazine, despite the few encouraging signs (i.e., some women have found work in gender segregated hospi-



tals) the reality is that "things are not getting better for women in Afghanistan. They are, in fact, getting worse".

Afghanis have had to endure other violations to their basic human rights. More than 1.5

million people have lost their lives as a result of the civil war between the Taliban and the National Islamic United Front for the Salvation of Afghanistan (the United Front) that currently controls about 5% of the country's territory. Another 5 million have fled as refugees. Both sides of the war have used thousands of child-soldiers. The country is riddled with more than ten million landmines. Yaqoobi states that four percent of the Afghani population has been disabled. The results have been devastating. The country has the world's lowest life expectancy and literacy rates and the highest rates of infant, child and maternal mortality. "Two generations of Afghans have been lost, the third and forth are in serious danger", explains

Yaqoobi. He wonders what will become of Afghanistan and its people in five or ten years.

Both the Taliban and the United Front have been guilty of massacring civilians suspected of collaborating with the enemy. Of particular concern is the large-scale abuse of ethnic Hazaras, a Shia Muslim group whom the Taliban believe to be heretics. In February 2001, Human Rights Watch (HRW) released a report detailing two such massacres. In May 2000, thirty-one civilians were found dead near the Robatak pass. In January 2001 approximately 170 men were killed in the Yakaolang district. HRW confirmed the killings through several eyewitness reports and discussions with survivors. In both instances, the men were apparently killed as a collective punishment for local residents "whom the Taliban suspected of cooperating with the United Front forces".



Yaqoobi believes that the current international approach needs to be critically evaluated. "There is a lack of coordination amongst the international actors working in Afghanistan". He believes that there is a

need for a long-term agenda focussed on community-based, grassroots development. Micro-credit programmes, which have been successful in Bangladesh and Africa, would be a good start. Funding to support Afghan civil society, which has all but been destroyed under the Taliban, is also necessary.

According to Yaqoobi, the international community also needs to rethink its sanctions policy. While he agrees that the removal of the Taliban is necessary, he claims that the current "sanctions are against the Afghan people, not the Taliban" who survive on monies gained through opium production and export. In the end, it is the Afghan people who suffer most.

*Jeff Sinden is a Research Associate with HRI, and Managing Editor of the *Human Rights Tribune*

HRT

WAS INTERVENTION IN KOSOVO RIGHT?

(Editor's Note: "Perspectives" is a new item in the Human Rights Tribune. The "Perspectives" feature provides the reader with two opposing views of an issue relevant to the human rights community. In the future we hope to attract original contributions from our network, but for this issue we have decided to reprint two compelling articles concerning the Kosovo intervention. It has now been two years since NATO involved itself in the Balkans' conflict, but the opinions of those who were effected by the action of the forces are as significant today as they were at the time these pieces were first printed in the international press.)

Was Intervention in Kosovo Right?

A Kosovar Perspective:

Interview with Leonora Visoka*

Human Rights Dialogue: How did NATO's intervention affect the human rights of Kosovar Albanians? How did they react to the intervention?

Visoka: In general, we feel that the NATO intervention improved our human rights situation. Before the action, the rights of Kosovars had been violated for years. From the early 1990s on, for example, we were not allowed to work in our chosen professions or to be educated in schools and universities. I



belong to a generation that literally was not allowed to enter school or university buildings.

During the two years before the intervention, our lives were threatened every day and in everything we did -- more than five Albanian citizens were killed each day. Put

very simply, we couldn't be sure that we would make it home each time we went out. An entire regime was responsible for this oppressive situation. Despite claims by Serbian politicians and diplomats that this was an internal Yugoslav affair, the international community decided that, in fact, the situation needed their attention. Everyone in Kosovo certainly feels that the NATO intervention was the right thing to do.

Dialogue: How do you feel about the way in which the intervention was carried out?

Visoka: As time went by and our situation under Serbian rule did not improve, intervention became our only hope, especially for those of us who had already lost our loved ones. It became unimportant how intervention was carried out.

During the bombing, massive groups of people were displaced to regions in Macedonia, Albania, and Montenegro. The conditions there were miserable. When I went in the refugee camps in Macedonia I felt like I was in an episode of *The Twilight Zone*. It was terrible. I saw a professor of mine, who had always been very elegantly attired. When he called my name, I found myself looking at a man in his bare feet wearing a long beard and dirty clothes like some homeless character in the movies. That was my elegant professor.

I simply couldn't believe that the conditions in the camps were so bad. I was terrified. I even saw members of my own family and close friends. The Serbian military and paramilitary had forced them to leave the country, and they went to a camp in Macedonia where the Macedonian police treated them like animals. I lived with those pictures in my head for months.

However, even the experience of massive displacement and terrible conditions does not bother people today because the hardest part is over. There is a great feeling in the air because we are alive!

Dialogue: Do you feel the intervention should have come sooner? Did you expect it to come sooner?

Visoka: Kosovars expected the intervention sooner, but it is never too late in cases like this.

Dialogue: Why do you think the intervention came so late?

Visoka: Because there were diplomats trying to solve the matter in a "diplomatic way".

Dialogue: Do you believe the intervention was motivated by human rights concerns?

Visoka: We definitely thought that the world was concerned with our situation because our human rights were violated. People were killed and raped on a massive scale and exposed to violence that you couldn't imagine - all happening in the middle of Europe. I worked in Kosovo during the war. Every day I saw houses on fire and villagers running away; every day I knew of at least one funeral for a baby. That is something that still haunts me. Why would a soldier want to kill a baby or a pregnant woman?

When NATO's KFOR troops entered in the first days following the bombing campaign, we regarded them as heroes. We loved them. The rest was not important.

Dialogue: How did the media portray your situation?

Visoka: Even though it is controlled by the Yugoslav government and could not present everything that happened, the Serbian media did play a part in the story. Our situation involved pure violations of human rights.



Part of the media didn't present it that way, but the reality was that people were being killed and it had to stop.

I remember the reactions after the massacre in Racak was shown on television. It was a total shock for the Serbian nation. When Ambassador Walker, head of the OSCE mission in Yugoslavia at the time, saw all those old people, women, and children cut into pieces, he couldn't hide his emotion from the TV cameras. After that, the Serbian media

announced that his mission was an unwanted presence in Yugoslavia. For the first time, Serbs feared that they would not get away with what they had done.

Dialogue: How do you feel about the international presence in Kosovo since the intervention?

Visoka: People here feel that the international presence is necessary. I believe it is important because it provides security from the growing crime problem for Kosovar Albanians. The Serbs in Kosovo also feel safer with the international police presence, even though many of them would prefer to have the Yugoslav army still there. At the same time, working together with the international police provides the local police with the opportunity to develop and improve. Through their funding and ideas, the international presence here is helping to promote and educate society about human rights. The United Nations produces human rights publications, translates them into local languages, and organizes seminars and training programs.

Dialogue: How has the intervention affected the legitimacy of human rights and the international human rights community in Kosovo?

Visoka: The intervention definitely made people value human rights more, and it has since sparked some educational efforts. Human rights will be taught regularly in primary schools and high schools. The Kosovo Protection Corps, an unarmed emergency unit of local people created by NATO and the UN, went through a number of seminars on human rights. In addition, Kosovar police are trained in human rights by the international police unit, foreign experts, and the university's law school in Pristina established a Center for Human Rights just recently with the help of the World University Service and the Åbo Academy in Finland. This tells me that Kosovars are working hard to protect human rights.

*Reprinted from *Human Rights Dialogue*, Winter 2001 © 2001 Carnegie Council on Ethics and International Affairs. The full issue of *Human Rights Dialogue*, which is devoted to perspectives on the human rights implications of humanitarian intervention, can be downloaded in PDF format from <www.carnegiecouncil.org>. To subscribe to *Human Rights Dialogue*, contact Deborah Carroll, at <dc Carroll@cceia.org>.

Kosovo One Year Later: From Serb Repression to NATO-Sponsored Ethnic Cleansing by Edward S. Herman and David Peterson*

Now a little more than one year after the ending of NATO's 78-day bombing of Yugoslavia and the beginning of NATO control of Kosovo (10-12 June 1999), the mainstream media have been exceedingly reticent in offering the public serious retrospectives on the war and its aftermath. One reason for this may be that NATO's bombing campaign and year-long occupation not only failed to realize most of NATO's proclaimed objectives, but the intervention also produced a far higher level of ethnic violence than had existed previously -- first against ethnic Albanians, then later against all ethnic minorities. As the Norwegian foreign affairs analyst Jan Oberg notes, "the largest ethnic cleansing in the Balkans [in percentage that fled] has happened under the very eyes of 45,000 NATO troops" in occupied Kosovo.

True, NATO did eventually succeed in getting Belgrade to withdraw the Serb army from Kosovo. But in the process, NATO's bombing campaign triggered a Serb military response against ethnic Albanians that NATO officials themselves had predicted would occur; a response that was based not on the unprovoked nastiness of Serbs but rather on rational military calculations. Expulsions were greatest where fighting was heaviest, mainly in territories controlled by the Kosovo Liberation Army (KLA). Indeed, in the words of the OSCE, much of the refugee flow was designed "to keep main communications routes open to supply Serb forces with material, fuel, and food". Moreover, although NATO had denied any collaboration with rebel forces during the bombing, top NATO officials now admit that KLA guerrillas were "constantly on the phone to NATO," and that NATO had "instigated" a major KLA offensive (Paul Richter, *LA Times*, 10 June 2000).



President Clinton may have announced that the main purpose of bombing was "to deter an even bloodier offensive against innocent civilians in Kosovo" (24 March 1999), but as the bombing increased it exponentially (as well as adding NATO's contribution to Albanian pain), that aim was clearly not met.

With the increase in violence following the bombing, NATO officials quickly announced that the Serb attacks and expulsions would have taken place anyway, under a pre-arranged plan the Serbs allegedly called "Operation Horseshoe". But no mention had ever been made of such a plan prior to the bombing, and a pre-war German Foreign Office report had even denied that Serb actions in Kosovo constituted "ethnic cleansing"; instead, the report found that the Serb military campaign was designed to



quell an insurgency. UN Special Envoy Jiri Dienstbier says the same: "Before the bombing Albanians were not driven away on the basis of ethnic principle. [They were] victims of the brutal war

between the Yugoslav army and the Kosovo Liberation Army" (*CTK National News Wire*, 20 April 2000). The fact that Belgrade was willing to allow 2,000 OSCE observers into Kosovo (although the OSCE contingent never exceeded 1,400), and that it objected strongly to their removal before NATO launched its bombing, is also inconsistent with a planned "Operation Horseshoe". As the retired German Brigadier General, and now a consultant with the OSCE, D. Heinz

KOSOVO ONE YEAR LATER

Loquai argues in his recent book, *Der Kosovo-Konflikt Wege in einen Vermeidbaren Krieg* ("The Kosovo Conflict: The Road to an Avoidable War"), the German Foreign Ministry's revelation two weeks into the war that it possessed intelligence confirming the existence of "Operation Horseshoe" was an outright fabrication culled from Bulgarian intelligence reports and the imagination of NATO military propagandists. None of this, however, has prevented apologists for NATO's war from repeating the lie that Operation Allied Force was justified by the imminent implementation of this mythical plan to "ethnically cleanse" Kosovo of its Albanian population. (On 11 June 2000, the ineffable George Robertson asked Jonathan Dimbleby on Britain's ITV to "imagine if almost 2 million refugees had been expelled...if Milosevic had succeeded with that ethnic cleansing").

In the face of the NATO-induced surge in violence in March and April 1999, NATO officials changed course and proclaimed that their new main objective was returning the Kosovo Albanians to their homes quickly and safely; and with the help of the media NATO successfully portrayed the bombing as a response to the mass exodus rather than its cause. But even this new objective was met only in part -- the Albanians who had fled Kosovo did return quickly, but their safety and welfare were compromised by several factors. One was that NATO bombs had killed and seriously injured many hundreds of fleeing Albanians. NATO also used both deadly cluster bombs and depleted uranium munitions in Kosovo, a choice of weapons not conducive to the long-run safety of the returnees. To date, an estimated 100 people have been killed and many hundreds injured by exploding fragmentation bombs. The toll from depleted uranium -- radiation-induced illness -- will come later, as it has in Iraq.

NATO's bombing also contributed heavily to infrastructure damage, and reconstruction has been slow. NATO's generosity was largely exhausted in providing resources to destroy and kill -- the estimated cost of the military operations against Yugoslavia has run in excess of \$10 billion, whereas the resources spent for humanitarian aid and

reconstruction in Kosovo have been well under \$1 billion. Thus, hundreds of thousands remain homeless, jobless, and lacking in basic facilities.

NATO's occupation also failed to bring law and order to Kosovo. This was partly a consequence of the destruction, poverty, and exacerbated hatred produced by the war. But it was also a result of the fact that, in direct violation of UN Resolution 1244 which called for the "demilitarization" of the KLA, under NATO authority the KLA has been



incorporated into a "Kosovo Protection Corps", thereby legalizing and legitimating what until then had been an armed rebel force. This, plus the NATO bias in favor of the KLA and against the Serbs, has helped institutionalize a system of violence and pervasive fear, mainly damaging to the minority Serbs, Roma and Turks, but also adversely affecting most Kosovo Albanians. On top of this, organized crime has soared throughout the region. The British-based *Jane's Intelligence Review* reports that "large numbers of international criminals are now seeking refuge in Kosovo" (Paul Harris, 1 June 2000). According to a study by the International Crisis Group, the areas of southwest Serbia (both Kosovo and parts of Serbia proper) where the KLA's influence remains greatest have become the preferred "Balkan route" for the "heroin trail" between Turkey and Western Europe ("What Happened to the KLA", 3 March 2000).

It must be admitted, however, that NATO did succeed in "teaching the Serbs a lesson." But what exactly was that lesson? Certainly not that ethnic cleansing is unacceptable to the Western conscience. Although NATO

allegedly waged war to terminate ethnic cleansing in Kosovo, and although an agreement of June 9, 1999, stipulated that NATO would "establish and maintain a secure environment for all citizens of Kosovo," under NATO's occupation somewhere between 60 and 90 percent of Serbs and Roma have left Kosovo, mainly because of KLA harassment, home burnings, and killing, and a large fraction of Kosovo's Jews and Turks have also fled. Thus the biggest story of NATO's 12-month occupation is that under NATO's watch, Kosovo's ethnic minorities have been subjected to a truly massive multi-ethnic cleansing. For the media, however, NATO is trying to do its best under difficult circumstances, and Milosevic remains the only villain in sight. And they fail to see that the only lesson taught the Serbs by NATO has been "Don't mess with us" -- a lesson devoid of moral content.

Now one year later, NATO's policies have not brought peace and stability to Kosovo and the Balkans. Kosovo is still legally a part of Yugoslavia, but while a NATO protectorate it has been turned over to the Albanians and KLA. This has allowed them to do a fine job of ethnic cleansing, but has made Kosovo a cauldron of hatred and violence and a likely base for further instability and warfare. Unwilling to provide large resources for rebuilding, NATO has no solutions and no evident "exit strategy". This was not "humanitarian intervention", it has been an irresponsible misuse of power that made a bad situation worse, gilded over with lofty rhetoric.

*Edward Herman is co-editor, with Philip Hammond, of *Degraded Capability: The Media and the Kosovo Crisis* (Pluto, 2000); David Peterson is a Chicago-based researcher and journalist

HRT

FREEDOM OF RELIGION SITES ON THE WEB

Oslo Coalition on Freedom of Religion or Belief**Address:** <www.hri.ca/partners/forob/>**Abstract:** Human Right Internet currently maintains a comprehensive Website on international freedom of religion. The site was developed in cooperation with the Oslo Coalition on Freedom of Religion or Belief. The site features a country-by-country summary of regional and national mechanisms that exist to protect religious freedom. It also includes an electronic documentation centre, including the annual report of the UN Special Rapporteur on religious tolerance, an organizational database, a news section, a calendar of events and an extensive links page.**The International Association for Religious Freedom****Address:** <www.iarf-religiousfreedom.net/>**Abstract:** The International Association for Religious Freedom is an organization based in the United Kingdom which was created in 1900 to resist intolerance. Its members today represent many different religions and more than thirty countries on four continents. The site includes full-text publications, history of the association, and information which details current programmes and advocacy.**Ontario Consultants on Religious Tolerance****Address:** <www.religioustolerance.org/>**Abstract:** The site is run by four activists, with different religious affiliations, and is dedicated to promoting religious tolerance as a civil rights issue. The site attempts to explain controversial topics from all sides of issues like abortion, physician assisted suicide, capital punishment, evolution and creation science, etc. It includes a wealth of interesting information and features descriptions of many "new" religions and cults.**Centre for Religious Freedom****Address:** <www.freedomhouse.org/religion/>**Abstract:** The Centre for Religious Freedom is a division of Freedom House. Founded in 1941 by Eleanor Roosevelt and Wendell Willkie to oppose Naziism and Communism in Europe, Freedom House is one of oldest human rights groups in the US. Although the Centre "defends against religious persecution of all groups throughout the world", its primary focus is the persecution of Christians. A theme of the site is the organization's Sudan Campaign, detailing the persecution of Christians in that war-ravaged country. It also includes full-text newsletters and reports, a news section and country profiles on China, India, Sudan, Vietnam.**Keston Institute****Address:** <www.keston.org/>**Abstract:** The Keston Institute is a research institute based in Oxford, England which monitors freedom of religion and researches religious affairs in communist and post communist countries. The site features a news section that is updated several times a week and which can be received via e-mail. Although not entirely available on-line, the site also includes information describing the institute's journal and magazine.**US State Department****2000 Annual Report on International Religious Freedom****Address:**

<www.state.gov/www/global/human_rights/irf/irf_rpt/irf_toc.html>

Abstract: The US State Department produces an annual report on the state of religious freedom in most of the world's countries. Each country report includes extensive information on the government policies on freedom of religion, societal attitudes and the US Government Policy. The site contains a wealth of useful information but reflects only official US policy.

HRT

HRI'S REDESIGNED WEBSITE WINS TWO AWARDS!

March 2001

League for Human Rights Media Award

"Winner in the World Wide Web Category for 'Linking the Digital Divide', awarded for alerting, informing and sensitizing the public with regard to the nature and value of human rights in Canada".



April 2001

Wellesley Mo Award

"As we move into the era of hi-tech, it is always refreshing to see that human rights activists are moving with the times as well. This site shows itself to be truly professional in both its presentation and its attitude. Congratulations...on winning the Award for highlighting human rights issues on the Internet".

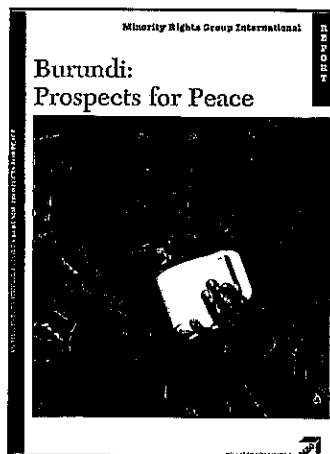
Type: Report

Title: *Burundi: Prospects for Peace*

Author: Filip Reyntjens

Publisher: Minority Rights Group International

To order: Contact Minority Rights at MRG, 379 Brixton Road, London, SW9 7DE, UK; Telephone: + 44 020 7978 9498; Fax: + 44 020 7738 6265; E-mail: <minority.rights@mrgmail.org> or visit their Website at <www.minorityrights.org>



Burundi has been ravaged by an eight-year old civil war, which has seen the health, education and living standards of the country's people plummet. In this recently published report from the Minority Rights Group International, Filip Reyntjens details the history of the conflict and the prospects for peace.

The central African country has been in a state of conflict since its independence in 1962. Historically, the conflict has pitted the Hutu majority against the Tutsi minority

whom, despite comprising only 15% of the population, dominate political and economic power. In 1972, the Tutsis murdered approximately 200,000 Hutus. The general election in 1993 saw the majority Hutus finally gain political power. The current civil war began shortly thereafter as the Tutsi dominated army staged an unsuccessful coup, setting off a wave of large-scale violence and the establishment of Hutu militias. Since then, tens of thousands of civilians have been killed and many more have become refugees. The focal point for the peace process moved to Arusha, Tanzania in 1998 and is currently under the leadership of Nelson Mandela.

In the report Reyntjens argues that while the conflict has been organized along ethnic lines, the central issue is actually the control of political power. In this poor rural nation control over the bureaucracy -- which is one of the only sectors that pays a reasonable wage -- is guarded jealously. The author argues that there are other important cleavages, such as gender and region, which should not be ignored.

The report makes several key recommendations that are necessary if Burundi is to make a successful transition to peace. They include the continuing support of the international community for the peace process, reform of the army, and the rehabilitation of social programs.

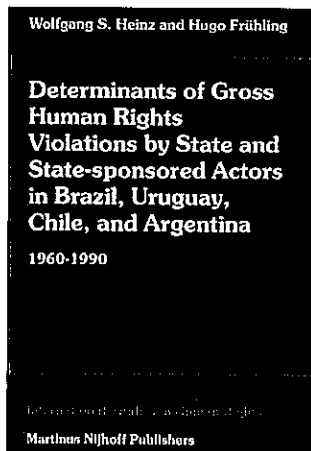
Type: Book

Title: *Determinants of Gross Human Rights Violations by State and State-sponsored Actors in Brazil, Uruguay, Chile and Argentina*

Author: Wolfgang S. Heinz and Hugo Frühling

Publisher: Kluwer Law International

To order: Contact Kluwer Law International, P.O. Box 85889, 2508 CN The Hague, The Netherlands. From the Americas call: +1 617 354 0140; for the rest of the world call: +31 78 654 6454



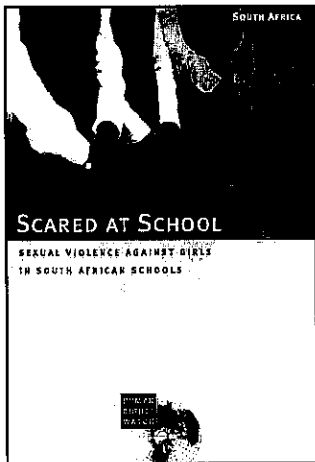
This book analyzes several decades of military repression and human rights violations that occurred in Argentina, Brazil, Chile and Uruguay in the 1960s through the 1980s. Authors Heinz and Frühling, two experts on the subject, conducted extensive research in each of the four countries by building on the existing scholarly work by interviewing generals and officers directly involved in the repression. The authors also uncovered secret documents and investigated several international angles, such as the interaction

between guerrilleros and urban terrorists on the one hand and the military, the police forces and the death squads on the other.

The outcome of their research is an 800-page comprehensive volume that reconstructs in detail a time when torture, extra-judiciary killings and disappearances occurred daily in Brazil, Uruguay, Chile and Argentina. Heinz and Frühling provide insights vital to understanding why so many people suffered under the military regimes. Their careful review allows the reader to comprehend the causes behind the surge of massive human rights violations that occurred in those years and the factors that ultimately made the transition to more democratic regimes possible. The book includes useful statistics through its many tables, graphs and charts. The personal testimonies of various individuals allows the reader to further comprehend the real suffering behind the numbers and facts.

By bringing the reader a step forward in understanding the military repression and its consequences, *Determinants of Gross Human Rights Violations by State and State-sponsored Actors in Brazil, Uruguay, Chile and Argentina* will be of interest to academics, students, activists and to those with a general interest in these four countries.

Type: Report
Title: *Scared at School: Sexual Violence Against Girls in South African Schools*
Author: Erika George
Publisher: Human Rights Watch
To order: The report is available on HRW's Website at <www.hrw.org>



Violence and sexual abuse against South African schoolgirls is endemic, according to a new report released by Human Rights Watch (HRW). The 138-page report, *Scared at School: Sexual Violence Against Girls in South African Schools*, is based on extensive interviews with victims, parents, teachers, and school administrators in KwaZulu-Natal, Gauteng, and the Western Cape. It documents how girls are raped, sexually abused, sexually harassed, and assaulted at school by their male classmates and teachers.

The report contains information on: School-based sexual violence; school and state responses to sexual violence; the discriminatory impact on girls' education rights when the government does not respond adequately and effectively to gender-based violence; and recommendations to rectify the problems.

The document concludes that school officials continue to conceal sexual violence and delay disciplinary action against perpetrators of such violence at great cost to victims, even though South Africa has admitted to the problem and has made some improvements. Rather than receiving redress from school officials, girls who do report abuse are often further victimized and stigmatized by teachers and fellow students.

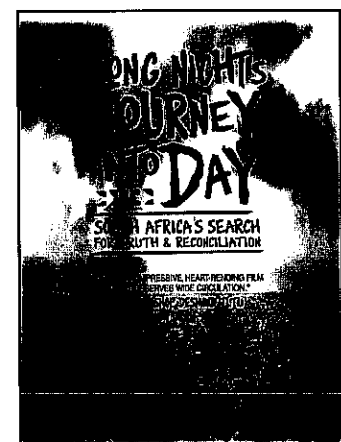
The result of the abuse is a high dropout rate amongst young girls, which puts them at a further disadvantage. "Girls are learning that sexual violence and abuse are an inescapable part of going to school every day -- so they don't go", said Erika George, counsel to the Academic Freedom Program at Human Rights Watch and the author of the report.

HRW asserts that the South African government has constitutional and international obligations to protect women and girls from violence. International human rights treaties that South Africa has ratified, as well as its national legislation, require the government to provide all children an education that is free from discrimination on the basis of sex. Failure to prevent and redress persistent gender-based violence in schools operates as a discriminatory deprivation of the right to education for girls.

In the report HRW urges the South African government to adopt and disseminate a set of standard procedural guidelines governing how schools are to address allegations of sexual violence and explaining how schools should treat victims, and perpetrators, of violence.

Type: Documentary
Title: *Long Night's Journey Into Day*
Directors: Deborah Hoffmann and Frances Reid
Producer: Frances Reid
To order: Contact California Newsreel at <contact@newsreel.org> or visit their Website at <www.newsreel.org>

After more than forty years of Apartheid, South Africa's Truth and Reconciliation Commission (TRC) was established in 1995 to address the crimes committed during that period, provide justice for Apartheid's victims, and to assist the country in moving forward. More than 22,000 stories were conveyed to the TRC in an attempt to achieve reconciliation and restorative justice. As a powerful record, *Long Night's Journey Into Day* documents the TRC by following four specific cases over a two year period.



Each of the four cases provides a very personal demonstration of individual conflict and the struggle to move beyond the past. The stories include: A police officer who faces the mothers of the "Guguletu 7" and requests their forgiveness for the action which set up, ambushed and killed their sons; the parents of a young American student killed in a riot who support their daughter's memory by providing amnesty for the young men who killed her; the wives of two murdered activists who finally hear the truth of how their husbands were killed by the Special Forces; and a member of the military wing of the African National Congress (ANC) who expresses his remorse to the victim's families for his involvement in a bomb attack which killed three women and injured many others.

Commentary given by the Commissioners of the TRC during the film denotes how reconciliation and healing is fundamental to all South Africans in order to move beyond the tragedy of Apartheid. The film serves as an important witness to the South African process and sparks reflection on how restorative justice can be applied to other conflicts.

The documentary has been widely acclaimed. *Long Night's Journey Into Day* has been named the winner of the Grand Prize for Best Documentary at the 2000 Sundance Festival and was a nominee for the Academy Award for Best Documentary, 2000.

HRT

OPPORTUNITY MISSED

Opportunity Missed
by Jeff Sinden*

On 20 January 2001 outgoing President Bill Clinton granted executive clemency to 140 Americans. Those pardoned included Clinton's former Whitewater business partner Susan McDougal, his brother Roger Clinton, former CIA Director John Deutch and billionaire fugitive Marc Rich. The human rights community was disappointed and angered by the exclusion of Leonard Peltier from this list.



Peltier, a Native American, has been imprisoned since 1977 for the murder of two FBI agents on the Pine Ridge Indian Reservation in North Dakota. Peltier was defending native rights on the reserve as a founding member of the American Indian Movement (AIM). On 26 June 1976 a standoff between the FBI and natives occurred as the FBI attempted to serve an arrest warrant. The standoff resulted in a shootout between a few dozen natives and approximately 100 law enforcement agents. Two FBI agents and one native man were killed. Peltier readily admits to participating in the shootout but has always denied that he had killed the two agents.

The atmosphere in which the shootout took place is important. A journalist present during the firefight, Kevin McKiernan, has stated, "The climate of fear back then was all too real, and it matched anything I have experienced reporting from war zones like El Salvador and the Middle East. In those days, the reservation seemed like the Wild West, and almost everyone was armed". The "cli-

mate of fear" was a factor used by two other AIM members who were later acquitted on grounds of self-defense. Testimony by the two members acknowledged that they had fired in the direction of the agents.

Peltier's conviction remains highly controversial. His extradition from Canada, to which he had fled, was based on the testimony of Myrtle Poor Bear, who allegedly witnessed the shootout. She has since recanted her testimony, asserting that the FBI had coerced her statement. The government has never produced an eyewitness in the deaths of the agents, and prosecutors admit they still do not know who actually killed the men. Further, a great deal of evidence put forth by the government rested on the reliability of its ballistics reports, much of which is now in dispute. Nevertheless, Peltier remains in jail.

In a nation which so prides itself on a strong and incorruptible judicial system and a human and responsive government, it is sad indeed to think that in nearly a quarter of a century, justice has been elusive for this man. If the matter continues without remedy and action, it will soon be too late for any justice at all. A tragedy of this magnitude cannot be allowed.

Archbishop Desmond Tutu

The facts of the case have led most international observers, including Amnesty International, Nelson Mandela and the European Parliament, to call for Peltier's release. In the weeks before Clinton's announcement, groups such as the Leonard Peltier Defense Committee were assured that the President was reviewing the case file closely and would personally make a decision. The Whitehouse was flooded with

faxes, e-mails and telephone calls urging Clinton to pardon Peltier. Unfortunately, clemency was denied.

A review of the list of individuals pardoned suggests that Clinton's decisions were based on financial and political influence rather than merit. The clemency roster is riddled with Clinton's colleagues, friends and family. The pardon of Rich, whose ex-wife has given



\$867,000 to various Democratic Party committees since 1993 (including \$7000 to Hillary Clinton's senate campaign) has caused considerable outcry. In failing to pardon Peltier, Clinton missed an important opportunity to provide an aging man with the justice he deserves. He also missed an opportunity to make a symbolic gesture to Native Americans who continue to be the victims of injustice in the US at the hands of the American government.

The American justice system has failed Leonard Peltier, and other lesser-known Native Americans, as well. The death of Joe Stuntz, the native man killed in the shootout, was never even investigated. Current President Bush will review the next petition for clemency. The likelihood for leniency, with the man who oversaw the execution of hundreds of Texans, is not very good.

*Jeff Sinden is a Research Associate with HRI and Managing Editor of the *Human Rights Tribune*

HRT

For the Record: The UN Human Rights System

Produced in partnership with the Canadian Department of Foreign Affairs and International Trade (DFAIT), For the Record is an annual report of human rights developments at the United Nations, organized thematically as well as by country. All relevant UN documentation over a full calendar year is summarized including: State reports to the Treaty Bodies; reports of the Special Rapporteurs, Special Representatives and Working Groups of the Commission on Human Rights (CHR) and the Sub-Commission; and all relevant resolutions and decisions adopted in UN fora. The 2000 report is now available in English and French on HRI's Website, with a PDF version for downloading and printing purposes, and as a CD-ROM.



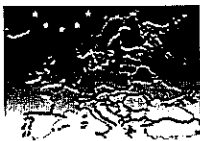
Bilan: système des droits humains à l'ONU

Publié en collaboration avec le ministère canadien des Affaires étrangères et du Commerce international (MAECT), le Bilan est un rapport annuel sur le développement des droits humains à l'ONU, présenté aussi bien par thème que par pays. Tous les documents pertinents de l'ONU pour l'année entière sont résumés y compris: les rapports d'États présentés devant les organes de surveillance des traités; les rapports des Rapporteurs spéciaux, des Représentants spéciaux, des Groupes de travail de la Commission des droits humains (CDH) et de la Sous-Commission; et toutes les résolutions et décisions pertinentes adoptées aux tribunes de l'ONU. Le rapport 2000 est disponible en français et en anglais sur le site Web d'IDH. Il y a aussi une version FDP (« PDF ») qui permet de télécharger et d'imprimer les documents, ainsi qu'un CD-ROM.

*To order these publications please see details on the back cover.
Pour commander ces publications voir l'arrière de la couverture.*

For the Record: The European Human Rights System

For the Record Europe is a parallel report reviewing the European Human Rights System. Produced in collaboration with the Netherlands Institute of Human Rights (SIM) and funded by the European Community, who have also contributed to the UN component, the new volumes are organized thematically as well as by country, and review the major human rights developments within the Council of Europe with respect to: European Convention on Human Rights; European Social Charter; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment and its protocols; Framework Convention for the Protection of National Minorities; and the European Commission against Racism and Intolerance. The report is available in English and in French, in hard-copy as well as on CD-ROM.



Bilan: système européen des droits humains

Bilan Europe est un rapport parallèle qui présente le système européen pour la défense des droits humains. Publiés avec la collaboration de l'Institut néerlandais pour les droits humains (« SIM ») et grâce à un financement par la Communauté européenne, qui a également participé au projet en tant que composante de l'ONU, les nouveaux volumes sont présentés par thème aussi bien que par pays et passeront en revue les réalisations importantes pour les droits humains, au sein du Conseil de l'Europe, à savoir: la Convention européenne sur les droits humains, la Charte sociale européenne, la Convention européenne pour la Prévention contre la torture et les traitements inhumains ou dégradants et ses protocoles, la Convention-cadre pour la protection des minorités nationales et la Commission européenne contre le racisme et l'intolérance. Ce rapport est disponible en anglais et en français, en ensemble de deux volumes ou sur CD-ROM.



HRI

Information is power and an essential ingredient in the defense of human rights. On the premise that accurate information is a precondition for the effective protection of human rights, **Internet: the International Human Rights Documentation Network** -- also known as **Human Rights Internet (HRI)** -- was founded in 1976. Internet is committed to serving the information needs of the human rights community.

Our Mission Statement:

Human Rights Internet (HRI) is dedicated to the empowerment of human rights activists and organizations, and to the education of governmental and intergovernmental agencies and officials and other actors in the public and private sphere, on human rights issues and the role of civil society.



IDH

Le pouvoir que confère l'information est un élément essentiel à la défense des droits de l'homme. C'est là le principe qui a présidé à la création en 1976 de **Internet: the International Human Rights Documentation Network** -- mieux connu aujourd'hui sous le nom d'**Internet des droits humains (IDH)** -- qui a pour mission de répondre aux besoins en information de ceux et celles qui se consacrent à la promotion et à la protection des droits fondamentaux.

Notre Enoncé de mandat:

Internet des droits humains (IDH) se consacre à renforcer le pouvoir des activistes et organisations défenseurs des droits humains, ainsi qu'à former des organismes gouvernementaux et intergouvernementaux, des agents publics et d'autres personnes des sphères privée et publique, concernant les problèmes relatifs aux droits humains et au rôle de la société civile.

New Human Rights Resources!

Back issues of the
Tribune are also
available.

Contact:
HRI

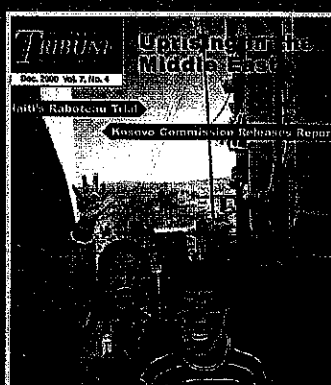
8 York Street, Suite 302
Ottawa, Ontario, K1N 5S6
Canada

Tel: (1-613) 789-7407

Fax: (1-613) 789-7414

E-mail: <publications@hri.ca>

Website: <www.hri.ca>



Vol. 7, No. 4



Vol. 7, Nos. 2 & 3



Vol. 7, No. 1

The List 2000

The List, formally The Masterlist, is a compilation of over 2500 organizations concerned with human rights and social justice issues worldwide. The majority of these entries are non-governmental organizations (NGOs), but also included are governmental bodies, national institutions, and inter-governmental agencies. Each entry includes contact details such as telephone and fax numbers, addresses, e-mails and Websites. The List 2000 is an important "phonebook" for human rights organizations.

\$50 + \$10 (shipping & handling)

Funding Directory

A directory of foundations, funding agencies and other organizations funding human rights work. (Latest ed., 1999). A must for anyone trying to finance human rights projects. Includes awards for human rights, plus basic information to guide the application process.

\$40 + \$8 (shipping & handling)

For the Record: The UN Human Rights System and The European Human Rights System

A bilingual annual report on the human rights mechanisms at the UN and EU.

UN Hardcopy (set of 6 volumes)

1997-1999 only; English or French:

\$100 + \$10 (shipping & handling)

UN CD-Rom 1997-2000:

\$100 + \$10 (shipping & handling)

EU 2000 hardcopy (2 volumes);

English or French:

\$80 + \$10 (shipping & handling)

EU 2000 CD-Rom:

\$80 + \$10 (shipping & handling)

Human Rights Tribune Tribune des droits humains

A magazine of analysis and information for the human rights community and concerned public. Primarily English; some French articles. / Un magazine d'information et d'analyse

pour la communauté des droits de la personne
et le public bien informé.

\$35/3 issues

Human Rights & HIV/AIDS: Effective Community Responses

This volume is a collection of 20 accounts of initiatives on HIV/AIDS, taken from the experiences of organizations from around the world. Produced in cooperation with UNAIDS.

\$10 (shipping & handling)

Human Rights Thesaurus

2,000 terms and concepts related to human rights accompanied by cross references, equivalent terms in French and scope notes of relevant instruments. (French or English editions).

\$40 + \$8 (shipping & handling)

The Canadian Component of The Protection Project:

A legal analysis of international jurisdiction on the commercial sexual exploitation of women and children.

A review of international laws and cases respecting women and children. Researched and drafted by HRI in conjunction with Harvard University's John F. Kennedy School of Government.

\$35 + \$7 (shipping & handling)

Do It Right!

Who is doing what on children and youth rights in Canada. A directory of organizations and resources. (Latest ed., 1997)

\$25 + \$5 (shipping & handling)

Human Rights Internet Reporter

Vol. 16, No. 2 of the HRI Reporter is devoted to Human Rights Education and includes information on HRE Websites, programmes, and hard-copy materials.

\$35 + \$7 (shipping & handling)

Order now! Because being informed is the best contribution you will ever make.

All orders must be prepaid. The *Human Rights Tribune* will be sent by air; all other publications are sent surface rate unless airmail postage is prepaid. Canadian prices include the GST. We accept Canadian or US money orders or cheques drawn on Canadian or US banks. No other foreign cheques accepted. Cheques should be made out to Human Rights Internet. We also accept VISA and Mastercard credit card orders.

Mode de règlement: toute commande est payable à l'avance. La *tribune des droits humains* est expédiée par voie aérienne; toutes les autres publications sont expédiées par voie normale. Nous acceptons les mandats canadiens et américains ainsi que les chèques des banques canadiennes et américaines. Nous n'acceptons pas les chèques des banques étrangères. Nous acceptons également les paiements par carte Visa et Mastercard. Les chèques et mandats doivent être fait à l'ordre d'Internet des droits humains.

Send orders to/Abonnement et règlement à envoyer à:

HRI, 8 York Street, Suite 302, Ottawa, Ontario, K1N 5S6, Canada

Tel: (1-613) 789-7407. Fax: (1-613) 789-7414. E-mail: <publications@hri.ca>