France, Guatemala, Greece, India, Japan, South Africa, Spain, Taiwan and Belgium (for the European Council and Parliament). The ICBL sent letters to heads of state, issued media releases, and engaged in other advocacy activities on the occasions of international events such as the Asia-Europe Summit, the U.N. General Assembly in New York, government summits such as of the European Union, the Francophonie, the Organization of American States, the Organization of African Unity, the Assembly of African Francophone Parliamentarians, the Rio Group, MERCOSUR, Association of Southeast Asian Nations, and the Inter-Parliamentary Union. Letters to heads of state and media releases were also issued on the occasions of bilateral visits of heads of state. Letters to heads of state were also sent to mark Mine Ban Treaty anniversaries of December 3 and March 1 urging governments to accede to or ratify the treaty. Letters were also sent congratulating new ratifications, and urging all signatories to ratify before the Third Meeting of States Parties in September 2001. Letters were also sent prior to the two meetings of the Standing Committee on the General Status and Operation of the Convention highlighting issues of concern to the ICBL in preparation for the meetings.

As in previous years, the third anniversary of the opening for signature of the Mine Ban Treaty galvanized campaigners into action worldwide. On December 3, 2000, which coincided with the International Day for Disabled Persons, activities were held around the globe, from exhibits, to concerts, film screenings and hockey on prosthetics matches. Similarly the first anniversary of the entry into force of the treaty on March 1, 2001 further spurred action worldwide. A concerted campaign effort in anticipation of Ban Landmines Week targeted the United States, urging the newly-elected President Bush to join the treaty. The ICBL also issued regular Action Alerts, including several Ratification Campaign Action Alerts, prior to March 1, 2001 and again in May 2001, in anticipation of the Third Meeting of States Parties to be held in September.

INTERNATIONAL JUSTICE

INTRODUCTION

The components of the emerging system of international justice took further shape in 2001. The apprehension of Slobodan Milosevic by the International Criminal Tribunal for the former Yugoslavia (ICTY) and the rapidly growing number of states parties to the International Criminal Court treaty demonstrated the effectiveness of and growing commitment to international justice. International prosecutions helped to open national court systems that had previously been inaccessible to victims in Chile, Argentina, and Chad. The attacks in the United States on September 11 underscored for many states the need to strengthen mechanisms of international justice.

While new trends for greater accountability developed, progress was uneven and in some instances there were setbacks. The establishment of the mixed national-

international courts for Sierra Leone and Cambodia, originally seen as a possible alternative to Security Council-created ad hoc tribunals, stalled. International prosecutions suffered a setback when Senegal's Cour de Cassation dismissed charges against Hissene Habre and challenges confronted Belgium's progressive law on universal jurisdiction.

INTERNATIONAL COURTS

International Criminal Tribunal for the Former Yugoslavia (ICTY)

During 2001, as the International Criminal Tribunal for the former Yugoslavia secured custody of senior officials, including former Bosnian Serb President Biljana Plavsic and Yugoslav President Slobodan Milosevic, it continued to contribute to the jurisprudence of international criminal law.

In its developing case law, the tribunal issued a highly significant ruling in the Foca case, convicting three men for rape, torture, and enslavement as crimes against humanity. The Foca case was the first indictment by an international tribunal solely for crimes of sexual violence against women as crimes against humanity and resulted in the first conviction by the ICTY for rape and enslavement as crimes against humanity. The tribunal ruled that the defendants had enslaved women and that enslavement did not necessarily require the buying or selling of a human being as had been traditionally required.

On October 23, the Appeals Chamber overturned the Trial Chamber's convictions in Prosecutor v. Zoran Krupeskic and Others. The Appeals Chamber found that the lower chamber, which had convicted all of the defendants, failed to do so with sufficient evidence for every count. This decision sent a clear message that the interests of the accused to a fair trial were paramount.

Slobodan Milosevic

Indicted in May 1999 for crimes against humanity and war crimes in Kosovo, Yugoslavia's handing over of Slobodan Milosevic to the tribunal was an historic milestone for international justice. U.S. law had imposed an April 1 deadline for Yugoslavia's cooperation with the tribunal in order to continue the flow of U.S. economic aid. While Milosevic's arrest was linked to U.S. government economic support for Yugoslavia, it was carried out by Serbian officials who were increasingly open to confronting the past. Milosevic's apprehension on corruption charges was a first step toward justice for the victims of the Balkan wars. Given the severity of the crimes charged in the ICTY indictment, Human Rights Watch insisted that Milosevic be surrendered to The Hague.

Even more importantly for Belgrade than the bilateral U.S. economic aid was the prospect of more than $1 billion in assistance that an international donors' conference would pledge for Yugoslavia. After Milosevic's arrest on April 1, U.S. Secretary of State Colin Powell certified that the required threshold of cooperation had been met, but announced that U.S. support for the international donors' conference would depend on "continued progress" by Yugoslavia. Human Rights Watch urged

that specific benchmarks in this regard include the transfer of Milosevic and other indictees to the tribunal.

With Milosevic in custody, some argued that rather than turning him over to the ICTY, he should have been tried in Yugoslavia on corruption charges or possibly for war crimes. In Belgrade splits emerged between Republic of Serbia officials, Yugoslav President Kostunica, and Yugoslav Cabinet members over cooperation with the tribunal. President Kostunica repeatedly denigrated the tribunal and stated that he would never surrender Milosevic, a former head of state, to it. Increasingly, Kostunica sought to deflect international pressure by insisting that Yugoslavia could not surrender any ICTY indictee until it first adopted an enabling law. This stance patently ignored Yugoslavia's overriding international law obligation, mandated by numerous Security Council resolutions, to cooperate.

The opposition of pro-Milosevic deputies in the Yugoslav Parliament made it politically impossible to enact a cooperation law. After several unsuccessful attempts to pass legislation, on June 23 the Yugoslav Cabinet adopted a decree authorizing transfer of Yugoslav nationals. Milosevic filed a challenge before the Constitutional Court of Yugoslavia contesting the lawfulness of that decree. The court, composed of Milosevic appointees, unanimously suspended the decree. Serbian Prime Minister Zoran Djindic, citing the primacy of international law obligations, stated that Milosevic's transfer would go ahead even if the Constitutional Court struck down the decree. On June 28, one day prior to the international donors' conference and before the Constitutional Court had issued its ruling, the Serbian authorities surrendered Milosevic to The Hague.

Slobodan Milosevic's transfer to the United Nations war crimes tribunal was a victory for the victims of the Balkan wars and a transformative moment for international justice. The prosecution of a former head of state, indicted when he was a sitting president by an international tribunal was a groundbreaking precedent. More than a crude "payoff" for international economic support, Milosevic's surrender strengthened those authorities in Belgrade who sought to confront the crimes committed in the name of the Serbian people. After Milosevic's arrest in Belgrade and his surrender to The Hague, police began to uncover gravesites in Serbia containing the bodies of ethnic Albanians murdered in Kosovo and reburied in Serbia to avoid detection.

Many senior ICTY indictees, including former Bosnian Serb military commander General Ratko Mladic and Radovan Karadzic, formerly president of the Bosnian Serb Republic, remained at large. These two were charged with genocide in connection with the massacre of 7,000 Bosnian men at Srebrenica in July 1995. It was believed that at least eleven other indictees were living in Yugoslavia, however, Yugoslav officials had continued to stonewall all of the tribunal's requests for cooperation.

Foreshadowing some of the difficulties in prosecuting former heads of state in international fora, Slobodan Milosevic's initial court appearances in The Hague underscored the realities of a lengthy and difficult trial. Choosing to represent himself, Milosevic had denounced the tribunal's legitimacy and had not presented, as of mid-November, a legal defense. While it was necessary for the proceedings to move in an efficient and orderly way, it was vitally important that Milosevic's right to conduct his defense be scrupulously respected. At an August 30 status confer-

ence, Judge Richard May announced the appointment of three amici curiae to "assist the court" in the trial. These lawyers were not Milosevic's attorneys and it was crucial that they did not interfere with his right to a defense.

On October 9, the Prosecutor submitted a new indictment against Milosevic for events in Croatia in 1991-1992. It contained thirty-two counts of crimes against humanity, violations of the laws or customs of war, and war crimes. On November 23, the tribunal announced an indictment stemming from the 1992-1995 war in Bosnia that charged Milosevic with twenty-nine counts, including crimes against humanity and genocide.

MIXED NATIONAL-INTERNATIONAL COURTS

Sierra Leone

Despite the urgent need for accountability in Sierra Leone, progress in establishing the Special Court for Sierra Leone stalled in 2001. In 2000, the United Nations and the Government of Sierra Leone agreed to create a court that combined national and international components to try those individuals most responsible for serious crimes. This hybrid model was seen as an alternative to another Security Council-created ad hoc tribunal. The court would be based in Freetown, Sierra Leone, and would have both international and Sierra Leonean judges, prosecutors and staff.

The delay was due largely to the months-long impasse over the court's budget. There were several factors at work, including, dissatisfaction with the Security Council's decision to fund the court through voluntary, as opposed to assessed, contributions; a lack of confidence and commitment to this particular kind of hybrid court among some states; and disagreement between potential donor states and the United Nations Secretariat.

A group of "interested states" supporting the Special Court's early establishment were critical of the Secretariat's initial budget proposal, which totaled $114 million for three years of operations. These delegates regarded the U.N. Secretariat's estimates as excessive and sought to economize on the court's operations without affecting the quality of justice. As a result of a series of meetings between the Secretariat, the "interested states," and the Security Council, the Secretariat issued a revised budget on June 14. Under this budget, $16.8 million was required for the first year and $40 million for the next two years.

In mid-July Secretary-General Kofi Annan announced his decision to go forward with the Special Court's establishment despite a shortfall in pledges. As of mid-November, the small number of states that had pledged contributions included Canada, the Czech Republic, Denmark, Germany, Mauritius, the Netherlands, Lesotho, Finland, Norway, Sweden, the United Kingdom, and the United States.

There was further delay when the government of Sierra Leone proposed in late August to extend the court's temporal jurisdiction back in time to 1991, a position Human Rights Watch had long supported. This proposal was opposed by the United Nations Secretariat, the United States, and the United Kingdom. Human

Rights Watch sent a letter to the Security Council stressing the importance of a 1991 start date as well as the urgent need to get the court going. At this writing, the issue had not been resolved.

In early November, the court's Management Committee, mandated to oversee administrative and budgetary matters, held its first meeting in New York with the U.N. Secretariat and scheduled a planning mission to Freetown for January 2002. The mission was tasked to inspect conditions and prepare a detailed blueprint on the court's establishment for the secretary-general.

Cambodia

There was little progress in establishing the mixed national-international tribunal for Cambodia. While the authorities in Phnom Penh approved the statute, they failed to address serious concerns raised by the U.N. (See Cambodia.)

East Timor

As part of creating an East Timorese court system after the devastation of September 1999, the United Nations Transitional Administration in East Timor (UNTAET) decided to establish an international panel of the Dili district court to investigate international crimes that had occurred during 1999. In January 2001, the court handed down its first conviction, sentencing a pro-Indonesia militia member to twelve years in prison. Many low-ranking militia members had been detained, some for more than a year. It was a source of great frustration inside East Timor that justice proceeded so slowly. Inadequate training of investigators, changes in administrative structure, and a profound lack of resources and personnel plagued the court's investigative process.

INTERNATIONAL CRIMINAL COURT (ICC)

On July 17, 1998, when the Rome Statute of the International Criminal Court was adopted, only the most optimistic people imagined that it might take less than five years to garner the required sixty ratifications necessary for its entry into force. In the first half of 2001 it became a near certainty that this would happen as early as the first half of 2002. And the commitment to bringing the court into being as quickly as possible came from every region of the world.

At the General Assembly General Debate of the 56th Session of the United Nations in November 2001, many heads of state and foreign ministers made special mention of the ICC in their interventions, demonstrating the growing worldwide support for the ICC. Among those who highlighted the significance of the court were Argentina, Brazil, Canada, Chile, Czech Republic, France, Germany, Ireland, and Mexico.

From October 2000 to November 2001 twenty-six countries ratified the Rome Statute, bringing the total to forty-six. There were ten ratifications from the Americas, ten from Africa, five from the Asia/Pacific region and twenty-one from Europe. Many other countries are poised to ratify in the coming months.

A small number of states adopted domestic legislation to implement the Rome Statute. These include the Canada, New Zealand and the United Kingdom. As of the end of October 2001, a number of other countries, including Argentina, Australia, Germany, and South Africa had advanced in the process of drafting such law. Importantly, an increasing number of other states were recognizing the importance of comprehensive implementing law and were beginning the process of preparing it. Human Rights Watch saw the adoption of good implementing law as key to the effective functioning of the ICC and, in the past year, we made formal and informal submissions on draft implementing law in a number of countries, including Argentina, Australia, South Africa, and the United Kingdom.

The breadth of support for the ICC became evident in the final months of the year 2000 when states rushed to sign the Rome Statute before the December 31, 2000 deadline. Nineteen states signed during the last three weeks of December, bringing the total number of signatories to one hundred and thirty-nine countries. Iran, Israel, and the U.S. all signed on the very last day.

International Criminal Court Campaign Developments

The worldwide campaign for the ratification of the Rome Statute was assisted by many regional, subregional and national meetings. These meetings brought government, civil society, and legal experts together to discuss the complex task of preparing for ratification and developing national law implementing the Rome Statute. For example, in June, the government of Argentina, Human Rights Watch, and the Coalition of NGO's for the ICC co-convened an Iberoamerican conference in Buenos Aires for more than seventy governmental and nongovernmental actors working on the ICC.

In addition, national level conferences and workshops were held in many countries around the world, including Bangladesh, Brazil, Cambodia, Ecuador, Mexico, Paraguay, and the Philippines. Subregional meetings were held in Namibia for Southern Africa, in Hong Kong for East Asia, in Bangkok for South East Asia, in Ghana for West Africa, and in Peru for the Andean States. These meetings were crucial to raising awareness about the ICC and helped to develop the expertise necessary for ratification and implementation into national law of the Rome Statute. Human Rights Watch actively participated in many such meetings. We also continued to visit target countries around the world to advocate directly with governments for ratification and implementation of the Rome Statute.

As happened last year, regional organizations, such as the Organization of American States (OAS), Economic Community of West African States (ECOWAS), the Rio Group, the Southern African Development Cooperation (SADC) organization, the European Union (E.U.), and the Council of Europe, took the opportunity of their annual assemblies and other meetings to reaffirm their commitment to the ICC and to call on their member states to ratify without delay. For example, in June 2001, in a move long anticipated by Human Rights Watch, the E.U. adopted a Common Position on the ICC. The Common Position, which binds the member states, was unequivocal in its support for the ICC and lists the means by which the E.U. and its member states would work for the early establishment of the ICC.

Americas

The number of ratifications in the Americas more than doubled over the year with the ratifications of Antigua and Barbuda, Argentina, Costa Rica, Dominica, Paraguay, and Peru. Important advances toward ratification were made in key states in the region including Brazil and Mexico, both of which will require a constitutional amendment as part of the ratification process. Argentina established an inter-ministerial commission to prepare comprehensive draft legislation to implement the Rome Statute into domestic law. Many other states in the region expressed the political will to be among the first sixty countries to ratify the Rome Statute.

Europe

Twenty European states ratified the Rome Statute, including twelve members of the European Union. The United Kingdom adopted comprehensive legislation implementing the Rome Statute, but it unfortunately did not include provision for the exercise of universal jurisdiction over the ICC crimes it incorporated into its domestic law.

In addition to adopting the Common Position, the European Union also sent a demarche to the U.S. government in June calling on the U.S. to be a partner in the establishment of the ICC rather than opposing it.

Croatia and the Federal Republic of Yugoslavia, both subject to the jurisdiction of the International Criminal Tribunal for the former Yugoslavia, ratified this year. Poland became the third Eastern European state to ratify. However, in many Eastern European states the question of compatibility of the Rome Statute with national constitutions continued to loom large, delaying ratification in a number of countries, including the Czech Republic and Slovenia.

Africa

Following South Africa's ratification in November 2000, the momentum for ratification and implementation continued to grow among African countries in 2001. Both Nigeria and the Central African Republic ratified in September/October and others states, such as Angola, Benin, Congo/Brazzaville, and Cote d'Ivoire were making good progress towards ratification. There was more awareness of the issues involved in ratifying and implementing the Statute, particularly constitutional issues, and some states that ratified last year, including Botswana, Lesotho, Mali, Namibia, and South Africa, began work on implementation.

Middle East/North Africa

Countries in this region were slow to ratify: no state had ratified at the time of writing. However, eight states in the region signed the Rome Statute in the last year, bringing the total number of signatories from the region to eleven.

Asia/Pacific

Countries in the Asia/Pacific region continue to be the most wary of the ICC and this was reflected in the low numbers of ratifications in the region. Tajikistan was the only Asian state to have ratified. However, several began to examine the implications of ratification, including the Philippines and Thailand. In addition, the

Cambodian prime minister publicly stated his support for the ICC and sent the ratification bill to the National Assembly for its approval. A number of states in this region signed the treaty in the last year, including Iran and the Philippines.

In the Pacific, New Zealand, Nauru, and the Marshall Islands joined Fiji as states parties. New Zealand adopted comprehensive implementing legislation covering its obligation to cooperate with the ICC and incorporating the ICC crimes into national law so that national courts could prosecute them. Importantly, New Zealand also provided for the exercise of universal jurisdiction over the ICC crimes. Australia had completed its draft implementing legislation and invited public comment on it. It was expected to ratify in 2002. Human Rights Watch testified before an Australian Parliamentary Committee inquiry into the ICC in February 2001.

United States

In a very welcome move, President Clinton authorized signature on December 31, 2000, the last possible day for signing the Rome Statute. In his accompanying statement, he referred to continued concern about key elements of the Statute. He asserted the United States' commitment to bringing perpetrators of genocide, war crimes, and crimes against humanity to justice, but he firmly maintained that the signature did not signal U.S. approval of all aspects of the Rome Statute. Nonetheless, he explained that signature was essential for the U.S. to continue to work with other states to influence the evolution of the ICC.

Upon taking office, the Bush Administration announced that it would undertake a review of U.S. policy toward the ICC, which, at the time of writing had not been finalized. It was clear that the Bush administration did not support the ICC and would not refer the Rome Statute to Congress for ratification.

The United States Congress had expressed its hostility to the court more directly with the passage by the House of Representatives of the misnamed "American Servicemembers Protection Act" (ASPA). This legislation would prohibit any U.S. cooperation with the Court and would attempt to penalize countries that ratify the treaty. It had been characterized as "The Hague Invasion Act" because it also authorized the U.S. to use all means necessary to liberate any U.S. or allied persons detained on behalf of the proposed ICC.

The American Citizen's Protection and War Criminal Prosecutions Act of 2001 was presented by Senator Dodd to the Senate Foreign Relations Committee. Dodd planned to introduce this more reasonable bill to the Senate as an alternative to the ASPA.

The Bush administration expressed its support for the ASPA amendment in a State Department letter to Senator Helms on September 25, 2001. The administration's hostility to the ICC contrasted with its efforts to create a coalition to combat terrorism in the wake of the September 11 attacks. Almost all major U.S. allies were among the strongest supporters of the ICC and some had responded with alarm to the administration's support for Helms' legislation.

Throughout the year, Human Rights Watch continued to make known our opposition to the attitude of the U.S. towards the court. In particular, we met with, and wrote to, administration officials and legislators.

Preparatory Commissions

The Preparatory Commission for the ICC met twice in the past year. Meetings were held at U.N. headquarters in New York. The seventh session in March 2001 included discussion on a number of supplementary instruments included in the mandate of the commission. At the eighth session of the Preparatory Commission (September 24 - October 6, 2001) four of these instruments were adopted. They were the Relationship Agreement between the U.N. and the ICC, Rules for the Assembly of States Parties, the Financial Rules and Regulations for the ICC, and the Agreement on Privileges and Immunities. Negotiations are expected to continue in early 2002 on the Headquarters Agreement between the Host State and the ICC, the First Year Budget for the ICC, and the elaboration of the crime of aggression. Importantly, the commission also adopted a "road map," which detailed a timetable for the completion of a number of practical matters essential for the establishment of the ICC and which must be undertaken in advance of the entry into force of the Rome Statute. These included establishment of an interlocutor between the host state, the Netherlands, and the ICC and preparing documents for the first Assembly of States Parties.

The Preparatory Commission would stay in existence until the end of the first meeting of the Assembly of States Parties. This was expected to take place soon after the sixtieth ratification and entry into force of the Rome Statute. In expectation of the Rome Statute's entry into force by the middle of 2002, the General Assembly's Sixth Committee session in November 2001 approved two Preparatory Commissions for 2002, to take place in April and July, as well as authorizing the First Assembly of States Parties.

UNIVERSAL JURISDICTION

Habré Case

In February 2000, a Senegalese court indicted Chad's exiled former dictator, Hissène Habré, on charges of torture and crimes against humanity, and placed him under house arrest. It was the first time that an African had been charged with atrocities by the court of another African country. In March 2001, however, Senegal's Court of Final Appeals ruled that he could not be tried in Senegal for crimes allegedly committed in Chad. Habré's victims then sought his extradition to Belgium. The United Nations Committee against Torture and high U.N. officials subsequently requested Senegal not to let Habré leave the country except via extradition, and Senegal had agreed to hold him. In the meantime, the case opened new possibilities for justice in Chad itself.

Habré ruled Chad from 1982 until he was deposed in 1990 by current president Idriss Déby and fled to Senegal. Habré's one-party regime, supported by the United States and France, was marked by widespread abuse and campaigns against the ethnic Sara (1984), the Hadjerai (1987), and the Zaghawa (1989). In 1992, a truth commission accused Habré's government of 40,000 murders and systematic torture.

Chadian victims had sought to bring Habré to justice since his fall. With many

ranking officials of the Déby government, including Déby himself, involved in Habré's crimes, however, the new government did not pursue Habré's extradition from Senegal.

In 1999, with the Pinochet precedent in mind, the Chadian Association for the Promotion and Defense of Human Rights requested Human Rights Watch's assistance in bringing Habré to justice in Senegal. The Chadian Association of Victims of Political Repression and Crime (AVCRP) representing hundreds of Habré's victims, helped prepare the evidence. Meanwhile, a coalition of Chadian, Senegalese, and international NGOs was quietly organized to support the complaint.

In a criminal complaint filed in Dakar on January 26, 2000, the plaintiffs accused Habré of torture and crimes against humanity, providing details of ninety-seven political killings, one hundred and forty-two cases of torture, one hundred "disappearances," and seven hundred thirty-six arbitrary arrests, most carried out by Habré's dreaded DDS (Documentation and Security Directorate). A 1992 report by a French medical team on torture under Habré was also submitted to the court. After a number of victims gave closed-door testimony before the Investigating Judge, the judge called in Habré on February 3, 2000 and indicted him on charges of crimes against humanity and torture and placed him under house arrest.

After Abdoulaye Wade was elected president of Senegal in March 2000, the state prosecutor supported Habré's motion to dismiss the case. President Wade also headed a panel that removed the Investigating Judge. Habré reportedly spent lavishly to influence the outcome of the case.

On July 4, 2000, an appeals court dismissed the charges against Habré, ruling that Senegal had not enacted legislation to implement the Convention against Torture and therefore had no jurisdiction to pursue crimes that were not committed in Senegal. The United Nations special rapporteurs on the independence of judges and lawyers and on torture made a rare joint and public expression of their concern to the government of Senegal over the dismissal and the surrounding circumstances. The victims appealed the dismissal to the Cour de Cassation, Senegal's Court of Final Appeals.

On March 20, 2001, following repeated declarations by Senegal's president that Habré would never be tried in Senegal, Senegal's Cour de Cassation affirmed the appeals court decision. The effort to prosecute Habré continued, however.

In November 2000, Chadian victims had already filed a criminal complaint against Habré in Belgium, which has expansive jurisdictional laws, to create the possibility of extradition to stand trial there. That case was being actively investigated. The Belgian judge was seeking to visit Chad and it was hoped that in due course he would issue an international arrest warrant against Habré.

In addition, the victims filed a complaint against Senegal before the United Nations Committee against Torture (CAT) for violation of Senegal's obligations under the Torture Convention to prosecute or extradite Habré, asking the committee to recommend that Senegal amend its laws and either reinitiate the investigation against Habré or directly compensate the victims for their loss.

In April 2001, President Wade abruptly announced that he had asked Habré to leave Senegal. While this represented an important acknowledgement of the victims' efforts, they feared that Habré would move to a country out of reach of an extradition request or a final U.N. ruling and asked the CAT to issue an interim rul-

ing to preserve their ability to bring him to justice. The CAT responded by asking Senegal "not to expel Mr. Hissène Habré and to take all necessary measures to prevent Mr. Hissène Habré from leaving Senegalese territory except pursuant to an extradition." After the same request was made by high U.N. officials including, according to Wade, Kofi Annan, Wade announced that he would hold Habré. Habré's supporters had since then made clear that he was looking to escape.

The victims and their supporters continued to wage an international campaign to deny Habré a safe haven, even if he were able to leave Senegal. Madagascar, Mauritania, and Pakistan, countries reportedly contacted by Habré, stated publicly that they would not grant refuge to Habré after NGOs brought the issue to public attention.

In the meantime, the case opened up new avenues for justice in Chad itself. Just as Pinochet's arrest in Britain broke the spell of Pinochet's impunity in Chile, the Habré indictment in Senegal had an immediate impact back in Chad. The victims who had initiated the case gained a new stature in Chadian society, having accomplished something no one had thought possible, and announced their intention to file criminal charges in Chadian courts against their direct torturers. President Idriss Déby met with the Association of Victims' leadership to tell them that "the time for justice has come" and that he would support their cases. Déby also promised to clean up the administration by removing all former DDS agents, Habré's political police, and to grant full access to the files of the Truth Commission to the International Committee.

On October 26, 2000, seventeen victims lodged criminal complaints for torture, murder, and "disappearance" against named members of the DDS. The case was initially thrown out by the Investigating Judge who ruled that Chadian civil courts had no jurisdiction to hear complaints against the DDS because a 1993 statute had provided for a special criminal court to try "Habré and his accomplices," though that court never existed. The victims appealed and the appeals court turned to the Constitutional Court for advice, which ruled that the 1993 statute was unconstitutional. In May 2001, after the cases were reinstated, a new investigating judge began to hear witnesses. More than twenty victims filed new cases.

The victims' actions were a direct challenge to the continuing power of Habré's accomplices, who began to respond violently. The victims' Chadian lawyer, Jacqueline Moudeina, had a grenade thrown at her by security forces commanded by one of the ex-DDS defendants and was evacuated to a hospital in France, her leg full of shrapnel.

Belgian Law

Belgium's law providing Belgian courts with universal jurisdiction authority over genocide, crimes against humanity and war crimes is a model. The law had provided important opportunities in the struggle against impunity.

Rwandan Genocide Trials

In April, the Cour d'Assizes in Brussels began a trial of four Rwandans accused

of involvement in the 1994 Rwandan genocide. None of the four were government officials at the time of the genocide. Two of the defendants were nuns. Most unusually and importantly, a jury of Belgian citizens heard the case, and in June, found all four of the accused guilty. The jury trial validated the involvement of citizens in the pursuit of international justice. In the course of the proceedings, more than fifty witnesses traveled from Rwanda to appear in the courtroom. The trial and the conviction were covered extensively by radio in Rwanda.

Ariel Sharon

Controversy mounted in Europe in 2001 over Israeli Prime Minister Ariel Sharon's responsibility for the 1982 killings in the Palestinian refugee camps of Sabra and Shatila. The Israeli Government's Kahan Commission that had investigated the massacre in 1983 concluded that the then minister of defense, Sharon, bore "personal responsibility" and that he should "draw the appropriate personal conclusions arising out of the defects revealed with regard to the manner in which he discharged the duties of his office." The findings of the Kahan Commission, however authoritative in terms of investigation and documentation, could not substitute for proceedings in a criminal court in Israel or elsewhere that would bring to justice those responsible for the deliberate killing of hundreds of innocent civilians. In June, after the airing of a BBC documentary on the massacre, survivors lodged a complaint against Ariel Sharon in a Belgian court.

When Prime Minister Sharon visited the United States in July, Human Rights Watch urged that a criminal investigation be launched into his role in the massacre and asked that the U.S. government encourage Sharon to cooperate with any investigation. As prime minister, Sharon could invoke immunity from prosecution. However, this should not preclude an active criminal investigation either in Israel or elsewhere.

Democratic Republic of Congo v. Belgium at the International Court of Justice

In a potentially serious challenge to universal jurisdiction, the Democratic Republic of Congo (DRC) filed a case on April 11, 2000 with the International Court of Justice (ICJ) contesting the lawfulness of a Belgian arrest warrant issued against the DRC's then acting foreign minister, Abdoulaye Yerodia Ndombasi. A Belgian investigating judge had charged Yerodia with genocide, war crimes, and crimes against humanity. The accusations were based on public calls Yerodia had made for the Congolese population to kill members of the Tutsi ethnic group at the start of the rebellion against Congolese President Laurent Kabila in August 1998. The arrest warrant was based on a 1999 Belgian law giving Belgian courts the authority to prosecute individuals accused of atrocities regardless of the crimes' connection to Belgium or the accused's presence on Belgian soil. The Democratic Republic of the Congo contended that the law violated its territorial integrity and that the international arrest warrant was invalid as its acting foreign minister enjoyed diplomatic immunity.

The DRC sought provisional remedies from the court to have the arrest warrant invalidated. After several days of oral arguments in November 2000, the court denied the DRC's request for provisional measures. On October 15, 2001, the ICJ heard arguments on the substantive claims. The DRC dropped the challenge to the fundamental lawfulness of universal jurisdiction in its pleading to the ICJ.

Internal Challenges

An increasing number of cases were filed in Belgian courts under its universal jurisdiction law. Many of these charged current and former heads of state with serious crimes, including Fidel Castro, Ange Felix Patasse, Yasir Arafat, and Hashemi Rafsanjani. Because of the provisions of Belgian law, these cases were initiated even when the accused was not present on Belgian territory. This proliferation of cases prompted some in the Belgian government to reconsider its universal jurisdiction law. In July, when Belgium assumed the rotating presidency of the European Union, the Belgian cabinet considered amending the law in Parliament, but was unable to reach agreement. Belgium's Chambre d'Accusation was to determine the admissibility of several cases filed against current heads of state, including, the case of Ariel Sharon and the Ivory Coast's Laurent Gbagbo. Through these cases the court was to decide whether to reinterpret the law to require the defendant's presence on Belgian soil before a case could move forward. In late November 2001, the International Commission of Jurists, the International Federation of Human Rights Leagues (FIDH), and Human Rights Watch issued a joint press release expressing support for the Belgian law. Shortly thereafter the court announced that it would likely issue its decision in January 2002. Whatever the decision, it would be appealed to Belgium's highest court, the Cour de Cassation.

Dutch Courts and Colonel Desi Bouterese

Of course, Belgium was not the only state with universal jurisdiction legislation. Over several years trials of low and mid-level accused had taken place in Switzerland, Denmark, and Germany on the basis of universal jurisdiction, but efforts to invoke universal jurisdiction were not always successful.

In March 2001, an Amsterdam Appeals Court issued an important ruling allowing Dutch prosecutors to investigate the "possible involvement" of former Suriname dictator Desi Bouterse in serious human rights crimes in 1982. The Appeals Court authorized the retrospective application of Dutch legislation implementing the Convention Against Torture. The judges found that because the acts had been prohibited by preemptory norms of international law, it was permissible to apply the 1988 Dutch enabling legislation to acts that had occurred six years prior to the law's enactment. In September, however, the Dutch Supreme Court reversed the Appeals Court decision.

INCREASED ACCESS TO NATIONAL COURTS

Despite the failure to hold Augusto Pinochet to account in Chilean courts, the synergy between justice at the international level and increased access to national courts continued most clearly in the Americas. Most of the results were positive.

Ricardo Miguel Cavallo

In August 2000, Mexican authorities arrested Ricardo Miguel Cavallo, a former Argentine navy lieutenant, at the request of Spanish investigating judge Baltasar Garzon. In February 2001, Mexican Foreign Minister Jorge G. Castaneda authorized Cavallo's extradition to face charges in Spain for human rights violations in Argentina during that country's "Dirty War." Cavallo's lawyers filed an amparo petition (recurso de amparo) before a federal court (the Juzgado Primero "B" de Distrito en Materia de Amparo) challenging the constitutionality of the foreign minister's decision. A decision from the court was still pending. Should it reject Cavallo's petition, he would have the option of filing a judicial appeal, which would ultimately be considered by the Mexican Supreme Court.

Argentine Amnesty Law

On March 6, Argentine Federal Judge Gabriel Cavallo struck down as unconstitutional two laws that had barred prosecution of those responsible for human rights crimes: the "Full Stop" and "Due Obedience" laws. This ruling would clear the way for trials of military officials accused of human rights crimes during the "Dirty War." The ruling was issued in a 1978 murder-kidnapping case and was an important step in ending more than two decades of impunity. In November, the Buenos Aires Federal Court upheld Judge Cavallo's decision by rejecting the defendant's appeal. Argentina's Supreme Court would review the case.

Alfredo Astiz

On July 1, former Argentinean naval officer Alfredo Astiz surrendered to Interpol in Buenos Aires. He was arrested on orders of Argentine Federal Judge María Servini de Cubría, who received a formal request for his extradition from an Italian court. Captain Astiz, notorious for human rights abuses committed during Argentina's military dictatorship (1976-1983), was charged in Italy with the kidnapping and torture of three Italian-Argentines. Human Rights Watch had called on President Fernando De la Rúa of Argentina to extradite Astiz to Italy. In a setback for international justice, the Argentine Foreign Ministry decided to release him on August 21.

Relevant Human Rights Watch Reports:

Making the International Criminal Court Work: A Handbook for Implementing the Rome Statute, 9/01