

Preface

This year's Human Rights Watch World Report offers something new. Past volumes have featured summaries of human-rights-related developments in each of the seventy or so countries and themes we cover in-depth each year. This year, to mark the twenty-fifth anniversary of Human Rights Watch, we have chosen a single theme—human rights and armed conflict—and have produced a series of more analytical, reflective essays. Each essay takes stock of developments in a specific area and offers suggestions on the way forward.

The focus this year on armed conflict was influenced by events, most obviously the war in Iraq and continuing armed conflict in Africa, particularly in the Great Lakes region and in West Africa. 2003 also saw renewed bloodshed in Russia (Chechnya) and Indonesia (Aceh), to name only two of the many conflicts that continued to destroy civilian lives and the institutions and infrastructure on which they depend: justice, education, health, water. Almost without exception, the world's worst human rights and humanitarian crises take place in combat zones.

The United States-led war in Iraq was the major international political event of the year, and will continue to raise important challenges for human rights and international humanitarian law. As Kenneth Roth argues in the keynote essay of this volume, while the Bush administration has repeatedly cited the human rights crimes of the Saddam Hussein government to justify the war retrospectively, this never was a war that could be justified on strictly humanitarian grounds.

In their essay on conditions in post-Saddam Iraq, Joe Stork and Fred Abrahams note that the United States and its coalition partners have treated rights issues as matters of secondary importance. Themes that they identify in Iraq—from failure to provide troops with essential training in securing law and order to insufficient attention to justice for past serious crimes—echo themes identified by Sam Zia-Zarifi in his essay on post-conflict Afghanistan. Zia-Zarifi notes that, in Afghanistan, the focus of coalition forces on defeating remnant Taliban and al-Qaeda forces as quickly as possible led to reliance on warlords, many with long records of rights abuses. The result has been a deteriorating human rights situation, deepening fear among Afghans and growing insecurity in much of the country.

The human rights implications of the global campaign against terrorism, often portrayed by those who wage it as a new kind of war, loom large in a number of the essays. Entries on the United States and Russia (Chechnya) in particular demonstrate a clear and troubling trend: an assault on human rights in the name of counter-terrorism. Jamie Fellner and Alison Parker describe various ways in which the Bush administration is citing threats to national security as a justification for putting executive action above the law in the United States. The Bush Administration's indifference to norms of accountability that are at the core of the U.S. governmental structure as well as the international human rights framework is deeply troubling internationally and for the American public as well. Rachel Denber's essay on Chechnya shows how the international community, despite well-intended words on the importance of human rights and humanitarian law, has failed dismally to engage with the Russian government over its appalling human rights record in Chechnya, a conflict now justified by Russian authorities as their contribution to the global war on terror.

In his essay on the conduct of counter-terrorism operations, Kenneth Roth notes the unclear boundaries of what the Bush administration calls its war on terror. As Roth notes, if "war" were meant metaphorically, like the war on drugs, it would be an uncontroversial hortatory device, a way of rallying support to an important cause. But the administration seems to mean it literally, invoking the extraordinary power of a government at war to detain suspects without trial and even to kill them, despite distance from any traditional battlefield such as Afghanistan or Iraq. Roth also examines Israel's practice of targeted killings of alleged armed militants. He concludes that, even in war, law enforcement rules should presumptively apply away from a traditional battlefield, and war rules should be a tool of last resort, certainly not applicable when a functioning criminal justice system is available.

War in the Democratic Republic of the Congo (DRC), addressed by many of the essays here, is a profound, multi-faceted human rights crisis. Though neglected by virtually all of the world powers and major international media, an estimated 3.3 million civilians have lost their lives in the war since 1998—more than in any conflict since World War Two. These deaths are a combination of often brutal killings and the loss of access to food, health care, and other essentials of life as populations have been forced to flee and aid agencies have been overwhelmed by the needs of inaccessible populations in often insecure areas. The international system has coped with difficulty with a war which has involved six other African states, over a dozen rebel groups, and dozens of companies and individuals seeking to exploit the country's natural resources.

One hopeful development, analyzed by Binaifer Nowrojee in her essay on recent armed conflicts in Africa, is the emergence of new regional bodies such as the African Union that could play a more active role in insisting on rights protections in conflict prevention initiatives. Although the African regional framework is still nascent and rights have remained marginal in regional peacekeeping interventions to date, African leaders have now committed on record to take a more active role in curbing regional armed conflict and associated rights abuses. As Nowrojee notes, international engagement and assistance will continue to be critically important even as such regional initiatives get underway.

An important theme that emerges in many of the essays here is the extraordinary and awful gap between existing international legal standards and practice. In the last few years, new standards have included the Mine Ban Treaty, the Guiding Principles on Internal Displacement, the Optional Protocol to the Convention on the Rights of the Child banning the use of child soldiers, and the establishment of the International Criminal Court. Yet we seem no closer to preventing the brutality of DRC and so many other conflicts.

A number of essays highlight the critical importance of the U.N. Security Council, the key international body tasked with the maintenance of international peace and security. The Council has passed resolutions and established mechanisms that often put commitments to protect rights at the center of the U.N. system's response to international crises. Yet time and time again these commitments to protect children, to hold perpetrators accountable, to address arms flows, and to scrutinize the behavior of international companies are forgotten, ignored, or neglected in the face of political pressures.

As Jo Becker demonstrates in her survey of current developments in the global effort to stop the use of child soldiers, even innovative efforts such as Secretary-General Kofi Annan's public naming of armed groups and governments that recruit or use children will not succeed in changing the practices of the named parties without more systematic follow-through. Strict application of Security Council resolutions and concrete action against violators is required to ensure that the Council's commitments are more than empty promises to those caught up in brutal and chronic conflicts.

In parts of the former Yugoslavia—notably Croatia, Bosnia and Herzegovina, and Kosovo—the failure of international and domestic efforts to promote the return of refugees and displaced persons has left substantially in place the wartime displacement of

ethnic minorities. As Bogdan Ivanisevic's essay on ethnic minority returns in the region concludes, the Balkan experience offers an important lesson for other post-conflict situations: unless displacement and "ethnic cleansing" are to be accepted as permanent and acceptable outcomes of war, comprehensive and multi-faceted return strategies—with firm implementation and enforcement mechanisms—must be an early priority for peace-building efforts. When such elements are present, minority returns progress; when they are absent, returns stall.

LaShawn Jefferson's essay on sexual violence highlights an important point: the violations of human rights that we witness in conflict are often rooted in forms of prejudice, discrimination, marginalization, and impunity that were present long before the conflict began. Jefferson argues that women and girls are continuously at risk for wartime sexual violence because of women's subordinate status and abuses in peacetime, using as examples the brutal and insidious sexual violence that has characterized conflicts in Sierra Leone, Liberia, and DRC in recent years, and in Bosnia and Rwanda in the 1990s. Survivors of sexual violence often face daunting obstacles in post-conflict periods. Civil society groups have tried to step into the breach, but governments often fail to provide necessary services, and, in reconstruction and development plans, women's voices are all too often conspicuous by their absence.

The availability of natural resource wealth, particularly when paired with corrupt, unaccountable government, forms an important part of the backdrop of many armed conflicts. Though economists and political scientists continue to argue over the genesis of many of today's civil conflicts—greed or grievance?²—the role of corruption, lack of transparency, and private and public sector profiteering merits renewed attention. Arvind Ganesan and Alex Vines's essay on conflict and resources addresses just such issues. Lisa Misol's discussion of the role of arms-supplying governments and private traffickers who supply weapons to known rights abusers highlights, among other things, the dangers of governments abrogating their responsibilities to regulate the actions of private actors.

Misol's essay also reminds us that although we have many of the necessary laws in place to protect non-combatants, there is still room for improvement. A proposed international arms trade treaty, spearheaded by civil society groups, would prohibit arms transfers where the authorizing government knows or ought to know that the weapons will be used to commit genocide, crimes against humanity, serious human rights abuses, or serious violations of international humanitarian law.

Steve Goose, in his essay on the damage to innocent civilians wrought by cluster munitions both during and after armed conflict, similarly notes the importance of developing new legal tools. Cluster munitions are particularly dangerous to civilians because they are inaccurate, scattering explosive submunitions across wide areas, and because of the long-term lethal threat posed by landmine-like submunition duds. Cluster munitions have already been used in sixteen countries and existing stockpiles likely include well over two billion submunitions. As Goose explains, in the past decade the international community has banned two weapons—antipersonnel landmines and blinding lasers—on humanitarian grounds; cluster munitions now stand out as the weapon category most in need of stronger regulation to protect civilians during and after armed conflict.

Armed conflict continues to pose some of the most urgent questions for the international community and for the human rights movement in particular. The range of abuses associated with warfare—killings and maiming of civilians, sexual violence, poor conditions for refugees and internally displaced people, illicit arms flows to abusers, use of child soldiers, and so on—reflects the complexity of most conflicts. Add to the mix the difficulties of dealing with rebel movements (ranging from de facto civil administrations to Hobbesian thugs such as the Lord's Resistance Army), neighboring governments, diaspora communities, and the corporate sector—and the complexity increases.

It is easy for activists and people of goodwill to lose hope or question the continued relevance of human rights arguments. Reed Brody, reflecting on 25 years of the human rights movement, quotes Michael Ignatieff as asking “whether the era of human rights has come and gone.” Yet much has been achieved and, as Brody's essay reminds us, human rights discourse and institutions are now fixtures of the international relations landscape.

U.N. Secretary General Kofi Annan has said “we must do more to move from words to deeds, from the elaboration of norms to an era of application.” Many of the norms and commitments to which he refers are in place. Most of the laws required to protect in conflict are on the statute books. Even the mechanisms for holding perpetrators accountable are being put in place through the International Criminal Court and some of the ad hoc international tribunals that have been set up to try crimes committed in Rwanda, the former Yugoslavia, and Sierra Leone.

As Richard Dicker and Elise Keppler note in their overview of international justice mechanisms, the developing system of international justice that grew up in the 1990s faces a more difficult environment today. They offer an assessment of successes and failures to date and identify obstacles ahead. Still, the importance of justice to a society's health and long-term stability, coupled with the fact that national court systems, particularly in post-conflict settings, will likely continue to fall far short of minimally acceptable standards, strongly argues the need for consolidating gains to make international mechanisms more effective.

This volume provides but a snapshot of Human Rights Watch's work in seeking to protect the victims of conflict. It does not cover some key issues we regularly work on such as refugees and the displaced, or the special problems of dealing with armed groups; it does not address some of the conflicts we watched closely in 2003, including Colombia, Aceh, and Israel and the Occupied Territories. We offer it as a contribution to the current thinking on protecting human rights in conflict.

The essays here make clear that what is needed is the political will to implement existing commitments and the creativity to draw on past successes and failures to devise new institutional responses to the human rights challenges posed by pervasive armed conflict. Such change will require renewed activism to name and shame those who, by sins of omission or commission, are responsible for or complicit in the kinds of acts described in this volume. Activists must work to remind the world of the promises that have been made to women, to children, to the displaced, to the sick and the hungry, to ethnic and racial minorities and other vulnerable groups—the laws, the norms, the standards, the resolutions, and the policies that are meant to ensure their protection and the preservation of their lives, their well being, and their dignity.