

lous arms brokers, often based in Europe, use forged documents to obtain weapons. Partly in response to such cases, numerous European countries undertook to institute or strengthen controls on arms brokers. While these measures were of uneven scope and effectiveness, they helped contribute to momentum—spurred by non-governmental groups—to negotiate a regional or perhaps even international instrument on arms brokering. In an important development, some countries arrested and opened prosecutions against arms brokers accused of illegal dealing. The most notorious traffickers, however, remained free; some were believed to be protected by national governments.

Central and Eastern European countries that in 2002 were candidates for membership in the E.U. or NATO continued to supply many of the weapons that wound up in the hands of abusers. The prospect of E.U. and NATO enlargement thus offered leverage that both governments and nongovernmental groups like Human Rights Watch used to press for needed reforms, with some success. In 2002, legal controls over the conventional arms trade were tightened in two countries (Bulgaria and Slovakia), a number of countries in the region undertook to improve implementation of existing rules to help combat the diversion of authorized arms deals, and greater efforts were made to investigate possible breaches of arms embargoes and prosecute those responsible. More efforts were needed, particularly as military modernization programs in these countries were likely to exacerbate the flood of surplus weapons to conflict regions. With decisions on enlargement set to be finalized in late 2002, Human Rights Watch sought to ensure that E.U. and NATO member states kept up the pressure for reform and set a positive example with their own arms dealing.

In forging its international coalition against terrorism after the attacks of September 11, 2001, the United States changed its legal regime to facilitate arms transfers, granted military assistance to states involved in the war in Afghanistan, and increased and expedited counter-terrorism and military assistance programs. Some countries that benefited from the U.S. program—such as Uzbekistan, which received U.S.\$16 million in military financing and security assistance—have long histories of serious human rights abuse. Over the past year, Human Rights Watch has monitored and publicized this worrying trend and advocated for better controls on assistance, such as reporting requirements on military aid to Uzbekistan.

REFUGEES, MIGRATION, AND TRAFFICKING

Global Backlash against Refugees and Migrants

Human Rights Watch continued to advocate against the restrictive impact of counter-terrorist measures on migration and asylum policy worldwide. In the wake of the September 11 attacks many governments adopted punitive and restrictive measures against asylum seekers and migrants. In the United Kingdom, a new law authorized the prolonged, arbitrary detention of foreigners suspected of terrorist activity. In the United States, more than twelve hundred foreign nationals were secretly detained, most on immigration charges, and questioned as part of the

criminal investigation of the attacks on September 11. Although none were charged with crimes related to September 11, some were subjected to prolonged detention without charge and to interrogations without access to counsel. In many cases, deportation hearings were closed to the press, the public, and even detainees' family members on national security grounds.

Multilateral efforts also seriously eroded refugees' rights by linking them with terrorism. Ongoing debate among governments on the U.N. Draft Comprehensive Convention Against Terrorism continued to make unwarranted linkages between asylum seekers or refugees and terrorists. Human Rights Watch continued to critique claims that the 1951 Refugee Convention is inadequate for the exclusion of terrorists from refugee status, or that recourse to the protections of the convention somehow offers safe haven to terrorists.

Secondary Movement

Efforts at the international level to stop asylum seekers from making "secondary movements" away from the first countries they reach remained a major policy focus throughout the year. The Australian government continued to promote internationally the draconian measures it has used as penalties against refugees and asylum seekers who make secondary movements toward Australia. These include interdiction of boats at sea; the diversion of intercepted asylum seekers to offshore camps in third countries; mandatory detention of persons applying for asylum from within Australia; and the punitive recourse to granting temporary protection instead of refugee status.

Regrettably, many other governments showed interest in these approaches, rather than rejecting Australia's flagrant breaches of its obligations under refugee law. This was nowhere more apparent than at the 2002 session in Geneva of the Executive Committee (ExCom) of the United Nations High Commissioner for Refugees (UNHCR), which Human Rights Watch attended. Many member states from Europe and other countries of "final destination" echoed the Australian rhetoric and called for greater emphasis on reception of refugees in countries neighboring those from which they flee. In September, hoping to direct such political interest toward constructive rather than deterrent measures, High Commissioner Ruud Lubbers had raised his agency's interest in seeking new agreements to address secondary movements of refugees at an informal meeting of the European Union Justice and Home Affairs Council in Copenhagen. Human Rights Watch plans to monitor the development and impact of this initiative, particularly in relation to the "Bali ministerial process," which aims to tackle secondary movement in the Asia-Pacific region.

During the UNHCR ExCom meeting, Human Rights Watch issued a briefing paper documenting failures of protection that cause secondary movement and the serious difficulties asylum seekers face in accessing organized resettlement programs in the first countries they reach. In an encouraging move during pre-ExCom consultations, the high commissioner called Australia's policy of arbitrary detention of refugees an unacceptable violation of human rights norms. Human Rights Watch's advocacy efforts at ExCom focused on raising these realities with govern-

ments that were showing signs of copying Australia's approach. This was followed by the publication in November of a report examining protection failures in Kenya and Uganda, countries from which some refugees attempt to make secondary movements. In December, Human Rights Watch issued a major report examining Australia's refugee policies.

Urban Refugees

Human Rights Watch also focused advocacy on the plight of refugees living in urban areas rather than camps, especially in the developing world. Refugees living in cities often represent an invisible population whose protection needs are ignored, even under UNHCR's own policies and guidelines. Refugees living in cities face specific risks, including police violence and harassment; sexual exploitation and abuse; and the denial of access to basic services. Human Rights Watch urged UNHCR to review its 1997 Policy on Refugees in Urban Areas and revise other guidelines (for instance on women and children) to address the specific protection and assistance problems facing asylum seekers and refugees in urban areas. These issues were explored in depth in a major report issued in November on the situation of refugees living in the Kenyan and Ugandan capitals.

UNHCR Global Consultations: Women and Children

Human Rights Watch was active at UNHCR's Global Consultations on International Protection, particularly on the protection of women and children. We participated in an expert roundtable in September 2001 to address the question of gender-related persecution and the 1951 Refugee Convention. The meeting affirmed that the refugee definition encompasses gender-related claims and that the Refugee Convention should be interpreted in a gender-inclusive and gender-sensitive manner; it therefore concluded that there was no need to add "sex" or "gender" to the definition of refugee under the Refugee Convention. The roundtable further resolved that the protection of refugee women also requires a gender-sensitive procedure for refugee status determination. As part of the Coalition to Stop the Use of Child Soldiers, Human Rights Watch in addition highlighted the specific protection needs of refugee and internally displaced children, including prevention of their recruitment by militaries and armed groups.

Human Rights Watch also focused on the interface between migration and asylum issues. During the year, we began a critical dialogue with the International Organization for Migration about its lack of human rights policies and accountability under human rights and refugee law standards. The agency's involvement in housing asylum seekers and refugees who required protection in Indonesia, its role in arbitrarily detaining refugees as a part of Australia's refugee policies, and IOM's programs throughout the world for refugees, asylum seekers, and internally displaced persons, all raised serious protection concerns.

Sexual Exploitation by Peacekeepers and Humanitarian Workers

Early in 2002, the international community was rocked by the findings of a study by UNHCR and Save the Children UK which brought to light serious allegations of widespread sexual exploitation and abuse of refugee and internally displaced women and children by humanitarian workers and peacekeepers in Liberia, Sierra Leone and Guinea. Allegations of abuse included agency workers deliberately withholding food and services in order to extort sexual favors from children, and U.N. peacekeepers trading money and food for sex with young girls. The report also documented sexual violence perpetrated against refugee children by soldiers in the United Nations Mission in Sierra Leone (UNAMSIL).

Human Rights Watch joined with other NGOs in calling for a full investigation and action against those involved, as well as comprehensive protection measures to prevent such abuse. Human Rights Watch has conducted extensive research on sexual violence in and around armed conflicts, including the plight of refugees and internally displaced women in Sierra Leone, Kosovo, Bosnia and Herzegovina, Liberia, and Guinea. We have also highlighted cases, for instance in Bosnia, where the presence of the International Police Task Force and Stabilization Force (SFOR) contractors exacerbated the trafficking of women and girls.

In response to the West Africa allegations, the U.N. Inter-Agency Standing Committee established a special task force that developed a plan of action recommending clear codes of conduct for humanitarian staff, and effective enforcement and accountability mechanisms. However, a follow-up investigation by the U.N. Office of Internal Oversight Services that failed to substantiate some of the West Africa allegations was widely criticized as downplaying the problem. And throughout the year, High Commissioner Lubbers made a series of defensive statements that failed to demonstrate political leadership and commitment on the issue. Further allegations in November of sexual abuse by aid workers in Bhutanese refugee camps in Nepal highlighted the dangers to refugee women and children and the importance of avoiding complacency on this issue.

Human Rights Watch and other NGOs successfully lobbied for a “zero tolerance” policy to be incorporated into the mandate of UNAMSIL and other peace operations. The language adopted with regard to UNAMSIL was particularly important, since it required the home government of an accused and repatriated peacekeeper to follow through on prosecution.

Migrant Workers

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was adopted in 1990 but which governments have been slow to ratify, came closer to entering into force. The Migrant Workers Convention provides a comprehensive framework for the protection of the rights of migrant workers, documented and undocumented, but has been resisted by many industrialized countries because of its extensive social clauses. During 2002, the Migrant Workers Convention was ratified by Ecuador

and Tajikistan, and needed only one more ratification to enter into force. Human Rights Watch wrote to governments that have signed the convention urging the speedy ratification of this important human rights treaty.

BUSINESS, TRADE, AND DEVELOPMENT

Human Rights Watch continued to engage with a number of initiatives to develop standards for the human rights conduct of companies. We lent strong support to efforts by a working group led by Professor David Weissbrodt at the U.N. Sub-Commission on Human Rights to develop a comprehensive set of “Human Rights Principles and Responsibilities for Transnational Corporations and Other Business Enterprises.” The working group’s mandate has been extended for another three years, allowing for further consultations and refinement of the draft principles. Human Rights Watch encouraged the working group to use its mandate in creative ways, including by receiving information on the conduct of companies, and exploring possible monitoring mechanisms to apply sanctions or ensure compensation for infringement of the principles.

At the same time, Human Rights Watch and other NGOs grew increasingly critical of the United Nations Global Compact, a broader initiative launched in July 2000 by Secretary-General Kofi Annan to promote corporate responsibility on human rights, labor standards, and the environment. A progress report issued in July failed to address key NGO concerns, including the need for specific guidelines to clarify the broad standards contained in the compact; a mechanism for standardized, consistent, and public reporting of corporate practice under the compact; a formal structure for stakeholder—particularly civil society—involvement; strong criteria for expelling from the compact companies that fail to meet minimum standards; and a link between the compact and the U.N.’s own procurement and contracting activities. The urgency of these issues was further underscored when a U.N. panel investigating the illicit exploitation of economic resources in the context of the conflict in the DRC named at least three transnational companies that were formally members of the Global Compact who were in violation of Organization for Economic Cooperation and Development (OECD) guidelines.

In August, Human Rights Watch spoke out strongly when the U.S. State Department asked a federal judge to dismiss a lawsuit against the ExxonMobil Corporation for its alleged complicity in human rights violations in Indonesia. The civil suit alleged that the Indonesian military provided “security services” for ExxonMobil’s joint venture in Indonesia’s conflict-ridden Aceh province, and that the Indonesian military committed “genocide, murder, torture, crimes against humanity, sexual violence, and kidnapping” while providing security for the company from 1999 to 2001. The case was filed by the International Labor Rights Fund (ILRF), a U.S. NGO, on behalf of eleven anonymous plaintiffs. The plaintiffs allege that ExxonMobil violated the U.S. Alien Tort Claims Act, the Torture Victims Protection Act, international human rights law, and the statutory and common law of the District of Columbia. The suit claimed that ExxonMobil was liable for the alleged abuses because it provided “logistical and material” support to the military. Similar cases