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RIGHTS GROUPS SUPPORT BELGIUM'S UNIVERSAL JURISDICTION LAW

(Brussels, Paris, Geneva, November 26, 2001) Three leading international human rights groups today voiced support for the Belgian law, which permits prosecutions in Belgium for atrocities committed abroad.

Human Rights Watch, the International Commission of Jurists and the International Federation of Human Rights Leagues (FIDH) said that the law, based on the principle of "universal jurisdiction," is needed to prevent the perpetrators of serious international crimes from escaping justice.

A 1993 law, amended in 1999, gives Belgian courts the authority to prosecute individuals accused of genocide, crimes against humanity and war crimes regardless of the crimes' connection to Belgium or the accused's presence on Belgian soil.

"The Belgian law is part of a growing trend towards accountability for atrocities," the three groups said. "Prosecutions based on universal jurisdiction are an essential part of the emerging system of international justice. They help to break down the wall of immunity with which tyrants and torturers protect themselves in their own countries."

Under the law, complaints have been filed in Belgium against a number of alleged human rights criminals including Israeli Prime Minister Ariel Sharon and the former dictator of Chad Hissène Habré.

In a landmark trial, four Rwandans were convicted in June 2001 by a Belgian jury on charges of involvement in the 1994 genocide in their country.

The law has recently come under challenge on three fronts, however.

First, Belgian politicians have argued that the law has turned Belgium into a magnet for all the world's human rights cases. Second, the Democratic Republic of the Congo (DRC) has brought a case against Belgium before the International Court of Justice arguing that a Belgian arrest warrant for its then-Foreign Minister violates international law.

Finally, in the cases against Sharon and the DRC minister, an appeals court will hear arguments this Wednesday that the law cannot apply to defendants who are not on Belgian soil.

Like the laws that permitted General Augusto Pinochet's arrest in London on a warrant from a Spanish judge for crimes committed largely in Chile, the Belgian law is based on the principle of "universal jurisdiction," applicable to the most egregious atrocities. This mechanism, which was given explicit expression by the Nuremberg Tribunal after World War II, recognizes that all states have an interest in bringing to justice the perpetrators of the most

serious crimes of international concern, no matter where the crime was committed, and regardless of the nationality of the perpetrators or their victims.

A principal reason why international law provides for universal jurisdiction is to ensure that there is no "safe haven" for those responsible for the most serious crimes.

According to the groups, the way to avoid having all such cases filed in Belgium is for other countries to adopt similar "universal jurisdiction" legislation rather than cutting back on the Belgian law. Indeed, several other countries already have adopted similar laws as they ratify and implement in their domestic legislation the 1988 Rome treaty for the International Criminal Court. That court will come into effect when 60 states have ratified the treaty, which should happen early next year.

Courts in Austria, Germany, Denmark, and Switzerland have already applied laws based on universal jurisdiction to individuals accused of crimes arising out of the former Yugoslavia and Rwanda.

The groups said that the case of Hissène Habré illustrate the importance that the Belgian law can play in assuring that perpetrators of the worst international crimes are brought to justice. In February 2000, a court in Senegal, where Habré lives in exile, indicted the former Chadian dictator on charges of torture and crimes 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 Supreme Court ruled that he could not be tried in Senegal for crimes allegedly committed in Chad because Senegal had not adopted the necessary procedural laws. However a group of Habré's victims, including several Belgian citizens, are now seeking Habré's extradition to stand trial in Belgium, and the President of Senegal, Abdoulaye Wade, has recently agreed, after a plea by United Nations Secretary General Kofi Annan, to hold Habré in Senegal pending an extradition request from Belgium. That case is now before Investigating Judge Daniel Fransen of the Brussels district court.

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