



# Law Library of Congress **GLOBAL LEGAL MONITOR**

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Sincerely,

Rubens Medina  
Law Librarian of Congress

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## Capital Punishment

### UNITED NATIONS – Call for Death Penalty Moratorium

On December 18, 2007, the United Nations General Assembly approved a resolution calling for a moratorium on capital punishment. The vote, held in a plenary session, was 104 nations in favor of the moratorium, 54 against, and 29 abstaining. The resolution, as all such U.N. General Assembly resolutions, is non-binding. Secretary-General Ban Ki-moon stated of the vote that it was a “bold step by the international community.” He added that he was pleased to see that the proposal garnered support from many regions of the world, saying, “[t]his is further evidence of a trend towards ultimately abolishing the death penalty.” The resolution praises countries that have either implemented a moratorium on executions or ended the death penalty entirely. Regarding nations that continue to use capital punishment, the resolution expresses the hope that those nations will meet internationally agreed minimum standards on safeguards for individuals given death sentences. It also requests that those nations provide information about their death penalty practices to the U.N. Secretary-General. The resolution further asks countries to reduce the number of capital offenses. (*Secretary-General Welcomes Assembly’s Call for Death Penalty Moratorium*, UN News, Dec. 18, 2007, [unnews@un.org](mailto:unnews@un.org).) (Constance A. Johnson)

### UNITED STATES – New Jersey Passes Law Abolishing Death Penalty

On December 17, Governor Jon Corzine of New Jersey signed legislation abolishing the death penalty and replacing it with life in prison without eligibility of parole. According to a press release issued by the Governor, "New Jersey is the first state in the nation to enact a law to end use of the death penalty since it was reinstated by the United States Supreme Court in 1976. To ensure that the intent of the legislation was fully carried out as to the eight remaining inmates on death row, on Sunday evening Governor Corzine commuted the sentences of those inmates to life in prison without parole." (An Act to Eliminate the Death Penalty and Allow for Life Imprisonment Without Eligibility for Parole, Revising Various Parts of the Statutory Law, Repealing P.L.1983, c.245, and Supplementing Title 2C of the New Jersey Statutes, 2007 N.J. Laws C. 204 (Dec. 17, 2007), available at [http://www.njleg.state.nj.us/2006/Bills/S0500/171\\_U1.PDF](http://www.njleg.state.nj.us/2006/Bills/S0500/171_U1.PDF); Governor Corzine's Press Release of Dec. 17, 2007 available at <http://www.state.nj.us/governor/news/news/approved/20071217a.html>.) (Gary Robinson)



# Children

## CHAD – French Aid Workers Convicted

Six French aid workers from the organization Zoé's Ark have been convicted of attempting to kidnap more than one hundred children in Chad. The court in N'djamena, Chad's capital, sentenced them to eight years in prison with hard labor and ordered them to pay US\$8 million in compensation. They were also found guilty of breaching the children's civil rights and of fraud in connection with their actions in the town of Abeche in October 2007. Two African individuals, one from Chad and one from Sudan, were each sentenced to four years in prison in connection with the case; two other Chadian defendants were acquitted, and charges against 12 other suspects were dismissed. The head of the organization and the Sudanese defendant were also convicted on a charge of using forged documents.

In rendering this decision, the court rejected the aid workers' claim that they were taking the children to evacuate them from the region and that the children were orphaned by the conflict in the Darfur region of Sudan. International agencies that investigated the case had concluded that the children were Chadian. The Government of France is now requesting that the convicted French citizens be permitted to serve their sentences in France. (*Chad Kidnappers Convicted*, AFROL NEWS, Dec. 27, 2007, available at <http://www.afrol.com/articles/27607>.) (Constance A. Johnson)

## CHINA – Protocol to Child Rights Convention Ratified

China's National People's Congress Standing Committee (NPCSC) adopted a decision on December 29, 2007, to ratify the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts. China signed the Protocol on March 15, 2001. The Optional Protocol entered into force on February 22, 2002; the United States ratified it on December 23, 2002. (Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, Office of the [U.N.] High Commissioner for Human Rights Web site, <http://www.unhchr.ch/html/menu2/6/crc/treaties/opac.htm> (last visited Jan. 8, 2007).)

Article 38, paragraph 3, of the Convention on the Rights of the Child prescribes:

States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

(Convention on the Rights of the Child, Office of the High Commissioner for Human Rights Web site, <http://www.unhchr.ch/html/menu2/6/crc/treaties/crc.htm> (last visited Jan. 8, 2007).) The Optional Protocol states in its article 3 that States Parties are to raise the minimum



age for voluntary recruitment into their national armed forces from that set out in the provision above and that each State Party is to deposit 1) a binding declaration upon ratification of or accession to the Protocol on the minimum age at which it will permit voluntary recruitment and 2) a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced. It further prescribes that the States Parties are to maintain certain minimum safeguards to ensure, for example, that the recruitment is “genuinely voluntary” and carried out with the informed consent of parents or legal guardians.

The NPCSC ratification decision addresses some of the above issues. It states that the minimum age of voluntary recruitment of citizens into China’s armed forces is 17 years and lists various legal measures that have been adopted to ensure implementation of that age limit. ((Shouquan fabu) Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui guanyu pizhun <Ertong quanli gongyue guanyu ertong juanru wuzhuang chongtu wenti de renze yiding shu> de jueding [(Authorized for Issuance) Decision of the Standing Committee of the National People’s Congress to Ratify the <Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts>], XINHUANET, Dec. 29, 2007.)  
(Wendy Zeldin)



## Civil Disobedience

### ETHIOPIA – Activists Sentenced for Inciting Violence

Two Ethiopian anti-poverty activists were recently convicted and sentenced to two-and-a-half years in prison for inciting violence in connection with the civil unrest that claimed about 190 lives in the aftermath of the Ethiopia's 2005 elections. Because the defendants have been in prison for more than two years during their trial, their release on parole is anticipated.

The standard of evidence used to convict the defendants is one used for civil and not criminal cases. “Despite the lack of evidence proving their involvement in leadership and participation during the unrest, no evidence could be found to refute accusations of incitement . . . As a result, the court has found them guilty . . .,” Judge Mohammed Aminsani told the court, according to an AFP news report. The standard of evidence used for these cases appears to be one that would normally be applied in civil cases under the Ethiopian legal system, the “preponderance of evidence standard” as oppose to the standard that requires the prosecution to prove the charges “beyond reasonable doubt,” which is applied in criminal cases. (*Ethiopia Activists Found Guilty*, BBC NEWS, Dec. 24, 2007, available at <http://news.bbc.co.uk/2/hi/africa/7159253.stm>.)  
(Hanibal Goitom)





## Civil Procedure

### AUSTRIA – Damages for Pain and Suffering

In a decision of September 27, 2007 (Oberster Gerichtshof [Supreme Court], Sept. 27, 2007, docket no. 2 Ob 135/07b, *at* Bundeskanzleramt Rechtsinformationssystem [BKA/RIS]), the Austrian Supreme Court affirmed a trial court decision that had awarded €35,000 (about US\$51,550) for the mental anguish suffered by the 14-year-old survivor of the tortuous death of his mother, with whom he had a special relationship because she was his only close relative and he was mentally disabled. In affirming the trial court's decision, the Supreme Court reviewed other recent decisions that had awarded damages for the mental anguish of survivors under particularly harrowing circumstances and found that the award of the trial court was in keeping with the Austrian practice of awarding damages for mental anguish. The Supreme Court rejected a criticism voiced in the legal literature according to which the trial court's award amounted to "American trial practices." The legal basis of the decision was the general torts clause of the Austrian Civil Code, section 1295 (ALLGEMEINES BÜRGERLICHES GESETZBUCH, (last visited Dec. 31, 2007).) The Supreme Court decision shows that Austrian case law is beginning to increase damages for the mental anguish of survivors.

(Edith Palmer)



# Communications and Electronic Information

## GERMANY – Telecommunications Surveillance

On December 31, 2007, Germany promulgated the Act Reforming Telecommunications Surveillance and Other Covert Investigative Measures and Transposing Directive 2006/24/EC (Gesetz zur Neuerung der Telekommunikationsüberwachung und anderer verdeckter Ermittlungsarten sowie zur Umsetzung der Richtlinie 2006/24/EG, BUNDESGESETZBLATT I at 3198). The Reform Act serves to transpose the European Union Directive 2006/24/EC (2006 OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES L 105/54), according to which providers of telephone services must keep data of customers' phone calls, including time, place, and the name of the recipient, for a six-month period. The German transposition lives up to these requirements, but exempts records on calls to and from pastoral advisors and attorneys. Only the communications data, not the content of the communications, must be stored and the data can be accessed by law enforcement only on the basis of a judicial warrant. The provisions relating to this storage of personal data are scheduled to become effective in 2009. Other reform measures effective as of January 1, 2008, include an enhanced catalog of offenses for which telephone surveillance can be imposed, a ban on surveillance of communications relating to the private sphere of individuals, and the requirement to inform persons subjected to surveillance of the measures after certain periods.

(Edith Palmer)

## ISRAEL – Authorization for Preservation of Telecommunication Data

On December 17, 2007, the Knesset (Israel's Parliament) passed the Criminal Procedure (Enforcement Authorities - Telecommunications Data) Law, 5768-2007. The Law authorizes the police to establish a database composed of technical data of telecommunications, telephone, and Internet transactions. The Law defines three ways in which the police could obtain such information: the first is by a judicial decree; the second, by special permit from high-ranking officers in case of serious crimes, to save human life, prevent offenses, or disclose information on the location of the offender; the third, and most controversial, by authorization of a police officer to request data from telecommunications companies. Such data include identification of subscribers and telephone equipment (IMEI) and of identifying elements of SIM cards, such as cellular antennas and their location, to enable tracing of conversations. In addition to the police, the military police, its internal investigation divisions, the stock exchange, and the anti-trust and tax authorities may have access to the data. The Law recognizes privileged information in the case of sensitive occupations such as those of lawyers, doctors, and religious leaders.

The new Law is said to provide modern tools for the police to fight crime. Critics of the Law, however, strongly object and argue that it is too invasive and that it does not achieve the proper balance between the need to protect the public and fight crime and the harm that could be done to the constitutional right to privacy. (Criminal Procedure (Enforcement Authorities - Telecommunications Data) Law, 5768-2007, the Knesset Web site (official source) (last visited



Dec. 17, 2007); *Approved by Law: Detection Authorities for Cellular and Internet, Computers, YEDIOT ACHARONOT ONLINE* (last visited Dec. 17, 2007).)  
(Ruth Levush)

### **LITHUANIA – Telecom Providers Required to Monitor All Customers**

On December 18, 2007, the Parliament of Lithuania adopted amendments to the nation's Law on Electronic Communications, which obligate the providers of regular and mobile telephone services to obtain and preserve information on use of these means of communications by customers. According to the amendments, all phone and mobile companies must locate and keep within the next six months information on the location from which, when, with or to whom, and for how long customers spoke on the phone or sent instant messages and the IP addresses of computers used for sending email correspondence. The legislators explained that it was necessary to pass this provision because of the requirements of the Data Preservation Directive adopted by the European Parliament earlier in 2007. According to the text of the amendment, the content of the telephone conversation or email message will not be controlled. (*V Litve budut Otslezhivat Vse Telefonnye Peregovory* [All Telephone Conversations in Lithuania Will Be Monitored] (in Russian), NEWSRU.COM, Dec. 18, 2007.)  
(Peter Roudik)



## Consumer Protection

### RUSSIAN FEDERATION – New Consumer Protection Law

On December 10, 2007, newly adopted amendments to the Russian Consumer Protection Law entered into force. The Law includes provisions aimed at introducing the right of a consumer to return an item of inferior quality to the seller and obtain a full refund. The right to almost unlimited return is expanded to large and expensive purchases, including cars, computers, and other home electronics. The Law states that if a buyer is dissatisfied with his purchase, he can return it within a 15-day period and receive a full refund or exchange. Previously this was possible only if the purchased item had “significant failures.” Merchants, especially car dealers, are afraid of possible “consumer blackmailing,” however. A full refund can be requested in other cases as well, such as if the repair work under a warranty takes longer than 45 days, or if an item is under repair more than 30 days during each year of a warranty coverage period.

The Law introduces a penalty for violation of a delivery date determined by contract, set at 0.5 percent of the prepayment amount. In addition, the Law obligates the issuer of a loan to inform the borrower of the full amount that will be paid to pay off the loan. (*Novyi Zakon Pugaet Avtodilerov* [Car Dealers Are Afraid of a New Law] (in Russian), NEWSRU.COM, Dec. 10, 2007.)

(Peter Roudik)



## Courts

### BANGLADESH – Lawyers' Fury Scares Judges

On November 30, 2006, irate members of the Bangladesh Supreme Court Bar stormed the courtroom of the Chief Justice of Bangladesh to protest his issuance of an order staying the proceedings of three politically sensitive writ petitions challenging President Iajuddin Ahmed's assumption of the office of head of the caretaker government. The order for stay came just minutes before the High Court was to issue a ruling on President Iajuddin, after hearing the writ petitions in the form of public-interest litigation (PIL) filed by several social organizations and leaders of the Awami League-led alliance, the Liberal Democratic Party, and the Tarikat Federation.

Shouting slogans against the unprecedented order of the Chief Justice, supporters of the petitioners broke windows and furniture and set ablaze the car of the former state Minister for Law, Justice and Parliamentary Affairs. Apprehending harm at the hands of the protesters, the judges shut themselves up in their offices. Former Law Minister Moudud Ahmed and the former telecommunications minister managed to escape from the angry crowd of lawyers who chased them.

The protesters demanded the immediate resignation of the Chief Justice and the Attorney General and the withdrawal of the stay order issued by the Chief Justice. They also declared the Attorney General, A.J. Mohammad Ali, persona non grata in the Supreme Court precincts and decided to boycott the Chief Justice's court. (*CJ's Order Sparks Violence in BD High Court*, THE DAWN, Dec. 1, 2006, <http://www.dawn.com/2006/12/01/int8.htm>.)  
(Krishan Nehra)

### PAKISTAN – Order Curtails Supreme Court Powers

On December 4, 2007, the Supreme Court of Pakistan refused to entertain a petition against amendments made to the Pakistan Electronic Media Regulatory Authority Ordinance (PEMRA), on the grounds that the scope of article 184(3) of the Constitution, under which the plea had been filed, had been curtailed under the Provisional Constitution Order (PCO) issued on November 3, 2007. Article 184(3) empowers the Supreme Court to take cognizance of any matter that involves a question of public importance with reference to the enforcement of any of the fundamental rights conferred by the Constitution. It further empowers the Supreme Court to make an order by issuance of an appropriate writ under article 199. The 2007 PCO requires judges to abide by the Proclamation of Emergency and the PCO, which took away powers of judges to issue writs for violations of fundamental rights.

The petitioner's counsel, upon receiving the order on the returned petition, remarked that he would file an appeal against the order. (*Media Curbs Petition Returned*, THE DAWN, Dec. 5, 2007, available at <http://www.dawn.com/2007/12/05/top1.htm>.)  
(Krishan Nehra)



## Criminal Law

### CANADA – Government Introduces Bill to Create New Offense of Identity Theft

On November 21, 2007, Canada's ruling Conservative government, headed by Prime Minister Stephen Harper, introduced a bill that would create a new offense of identity theft and address a number of related matters (Bill C-27, 39<sup>th</sup> Parl. 2d Sess.). The bill would make it an offense to obtain personal identity information to commit such other offenses as fraud, deceit, or falsehoods. Identity information would include biological and physiological information that is commonly used alone or with other information. Fingerprints, voice prints, retina images, iris images, DNA profiles, addresses, date of birth, signature, names, credit card numbers, debit card numbers, account numbers, passport numbers, social insurance numbers, health insurance numbers, and driver's license numbers and passwords would all be included. Transmitting, selling, distributing, or possessing identity information with the knowledge that it is intended to be used illegally or with recklessness as to whether it could be used illegally would also be illegal. The bill proposes a maximum punishment of five years' imprisonment if the person is tried after being indicted. Persons charged with a summary offense would be liable for up to six months' imprisonment.

Bill C-27 also covers a number of other matters. For example, it creates a new offense of fraudulently impersonating another person for an illegal purpose. The maximum punishment for this offense is ten years' imprisonment. Persons convicted of illegally impersonating another could also be required to pay their victims any costs incurred in re-establishing their credit ratings and replacing their credit documents. In the case of impersonating a police officer, it would not be necessary to show that the accused intended to do so for an illegal purpose, but anyone who commits this offense would be liable to up to five years' imprisonment.

Bill C-27 had only received a first reading in the House of Commons before Parliament was adjourned until the end of January 2008. In order to become law, it will have to be studied and reported on by a committee, receive second and third readings, be passed by the Senate, and receive Royal Assent. Nevertheless, the introduction of Bill C-27 is part of the criminal law reforms, which are a major goal of the Conservative government.  
(Stephen F. Clarke)

### INDIA – Punishment Must Match Criminal Act of Offender

In a recently adjudicated case, the Supreme Court of India expressed concern at the frequency of sexual offenses against women in the country and directed all trial courts and high courts to deal harshly with sexual offenders. Quoting an earlier judgment, the bench observed, “[j]udges who bear the sword of justice should not hesitate to use that sword with the utmost severity, to the full and to the end if the gravity of the offence so demand.” (*Punishment Should be in Proportion to Crime: Apex Court*, THE HINDU, Dec. 5, 2007, available at <http://www.hindu.com/2007/12/05/stories/2007120561461500.htm>.)



In the case that led to the Supreme Court's ruling, a trial court in the State of Madhya Pradesh gave a sentence of seven years' imprisonment to the rapist of a married woman. The appellate High Court reduced the sentence to two months and three days, the period for which he was in prison before he was released on bail. The State pursued an appeal against the judgment in the Supreme Court. The Supreme Court set aside the judgment of the High Court and restored the original sentence awarded by the trial court.

In setting aside the High Court judgment, the Supreme Court emphasized the need for the courts to be vigilant in following the principle that punishment in criminal cases must be in proportion to the crime that the accused committed, so that it has an impact on the society in general and meets the ends of justice. (*Punishment Should Be in Proportion to Crime: Apex Court*, THE HINDU, Dec. 5, 2007, available at <http://www.hindu.com/2007/12/05/stories/2007120561461500.htm>.)  
(Krishan Nehra)

### **TAIWAN – Penalties for DUI Stiffened**

On January 2, 2008, an amendment to Taiwan's Criminal Law that increases the penalties for driving under the influence was promulgated. Article 185-3 specifies that those who, due to the use of narcotics, controlled substances, alcohol, or other similar substances, drive a motor vehicle while unable to drive safely, will be sentenced to a term of imprisonment of not more than one year, detention, a fine of not more than NT\$150,000 (about US\$4,620), or imprisonment or detention together with the fine. Formerly, there was no provision for a concurrent fine; the possible punishment was simply imprisonment, detention, or a fine of not more than NT\$30,000 (about US\$925). (*Amendment to Criminal Law* [Summary], 6778 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 13 (Jan. 2, 2008), available at <http://content.glin.gov/summary/201432>; Zhonghua Minguo xing fa [Criminal Law of the Republic of China] (in Chinese, accompanied by the former texts of revised articles), The Legislative Yuan of the Republic of China Web site (last visited Jan. 8, 2007).)  
(Wendy Zeldin)

### **UKRAINE – Wrong Interpretation of History Is a Crime**

On December 10, 2007, President Viktor Yushchenko of Ukraine introduced amendments to the Criminal Code of Ukraine that were supported by the legislature. The new provisions added to the Criminal Code establish criminal responsibility for denying that the 1932-1933 famine was a genocide of the Ukrainian people and for denying the Holocaust of World War II as genocide of the Jews. Reportedly, between five and ten million people died in Ukraine in 1932-33, from a famine instigated by the anti-peasant policies of Soviet Communist authorities. According to the new amendments, a "wrong interpretation of history" will be punished with a fine of from 100 to 300 times the minimum monthly wage (approximately US\$90-\$270) or imprisonment for a period of up to two years. The repeated denial of the Ukrainian famine or the Holocaust as facts of a genocide or the distribution of related materials will be punished with deprivation of freedom for up to four years.



Even though the year 2008 has been declared the year of remembering famine victims, the United Nations Educational, Scientific and Cultural Organization (UNESCO) did not recognize the Ukrainian famine as a fact of genocide against the Ukrainian people, because Russian and Belarusian nationals were also victims of this catastrophe. Opponents of the amendments argue that they violate the constitutional right of freedom of speech and thought. (*Ukrainskii President Predlozhit Sazhat v Tiurmu Za Nepravilnoe Ponimanie Istorii (Ukrainian President Will Imprison for Incorrect Understanding of History*, in Russian), NEWSRU.COM, Dec. 10, 2007.)  
(Peter Roudik)





## Criminal Procedure

### BRAZIL – Senate Approves Changes in Jury Procedures

On December 5, 2007, the Brazilian Senate approved a proposed law that amends the Code of Criminal Procedure, particularly the part that regulates the procedures of trial by jury. One of the amendments curtails the impact of a step (*libelo acusatório*) that sometimes is used for procrastination purposes only and that may take up to three days during the trial, by limiting it to only two hours. Another amendment eliminates the automatic right for a new trial in criminal sentences of more than 20 years, which, in practice, means that the criminal process starts all over again.

According to Senator Ideli Salvatti, coordinator of the group that analyzed the proposed amendments, an expeditious criminal process is essential in the fight against persons who violate the law with impunity. (*Senado Aprova Mudanças no Tribunal do Júri para Acelerar Processos*, JURID, Dec. 6, 2007.)  
(Eduardo Soares)

### SRI LANKA – Attorney General Opposes Non-Summary Proceedings

Speaking at a meeting of the Asian Crimes Prevention Foundation on December 15, 2007, the Sri Lankan Attorney General, C. R. De Silva, said that he opposed the use of non-summary proceedings in magistrate's courts for cases of serious crimes, such as murder, attempted murder, and rape. He argued that the cases in which such proceedings take place drag on for many years. He suggested, "At the very outset the Magistrate's Court should contact my department and then I would decide whether the case should be directly indicted before a High Court or allowed to take its own course in the Magistrate's Court."

The Attorney General went on to say that the criminal procedure code requires cases to be heard on a day-to-day basis, but that at the magistrate's courts there is a large backlog of cases. Given that long delays may result in the acquittal of a criminal or the conviction of an innocent person, De Silva argued, the current situation is causing people to lose confidence in the criminal justice system. In one case, he said, a rape victim had waited over eight years for justice. He also expressed the view that the current laws of Sri Lanka were not sufficient to deal with the increasing crime rate in the country. (Franklin R. Satyapalan, *AG Blames Non-Summary Proceedings for Laws' Delay*, THE ISLAND, Dec. 19, 2007, available at <http://www.island.lk/2007/12/19/news1.html>.)  
(Constance A. Johnson)



## Education

### UNITED STATES – Lawsuit Challenging No Child Left Behind Act Allowed to Proceed

On January 7, the United States Sixth Circuit Court of Appeals reversed a decision by a federal district court dismissing a lawsuit brought by a variety of school districts and education associations against the U.S. Secretary of Education. The lawsuit challenged the No Child Left Behind Act of 2001 (NCLB), federal legislation aimed at achieving nationwide education reform. The plaintiffs claimed that NCLB had not been fully funded by Congress since its enactment, and sought a judgment declaring that the states need not comply with the Act's requirements where federal funds did not cover the costs of compliance. The district court dismissed the suit on the ground that NCLB made it clear that the states, if they chose to participate in NCLB, would have to pay for any programs required by NCLB, even if federal funding fell short.

The Sixth Circuit disagreed, finding the language of NCLB unclear as to whether the states would bear any financial responsibility if they participated in the program. The court observed that NCLB was enacted pursuant to the Spending Clause of the U.S. Constitution. Under Spending Clause case law, in order for states to be bound by federally imposed conditions, the legislation must be clear enough to enable states to accept such conditions “voluntarily and knowingly.” Because the language of the statute was unclear regarding whether the states might have to incur additional costs if they participated in NCLB, the court remanded the case back to the district court to allow the litigation to proceed. (*School District of the City of Pontiac v. Secretary of the United States Department of Education*, No. 05-2708 (6<sup>th</sup> Cir. Jan. 7, 2008) available at <http://www.ca6.uscourts.gov/opinions.pdf/08a0006p-06.pdf>.)  
(Gary Robinson)



## Elections and Politics

### CHINA – Decision Postpones Universal Suffrage in Hong Kong Again

On December 29, 2007, China's National People's Congress Standing Committee (NPCSC), which has the power to interpret and amend the Basic Law of the Hong Kong Special Administrative Region (HKSAR), which is often dubbed Hong Kong's mini-Constitution, issued a decision that will postpone for more than a decade the timetable of democratic elections in the HKSAR. A 2004 NPCSC decision had already postponed the possibility of universal suffrage for the Chief Executive (the leader of the HKSAR) and the Legislative Council (Hong Kong's legislature, or LegCo) until at least 2012. (Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the Year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2008, S.S. NO. 5 TO GAZETTE EXTRAORDINARY NO. 8/2004 E5-E11, available at [http://www.info.gov.hk/basic\\_law/fulltext/0426npcsc\\_e.pdf](http://www.info.gov.hk/basic_law/fulltext/0426npcsc_e.pdf).)

The December 29 decision states that the NPCSC

is of the view that the election of the fifth Chief Executive ... in the year 2017 may be implemented by the method of universal suffrage; that after the Chief Executive is selected by universal suffrage, the election of the Legislative Council ... may be implemented by the method of electing all the members by universal suffrage.

Therefore, the new ruling states, direct election of the fourth Chief Executive and of all members of the fifth HKSAR LegCo will not occur in 2012, and "[t]he half-and-half ratio between [LegCo] members returned by functional constituencies and members returned by geographical constituencies through direct elections shall remain unchanged." Since legislators serve four-year terms, the first LegCo elections after 2017 would be in 2020. (Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage (in Chinese), National People's Congress of the People's Republic of China Web site, Dec. 29, 2007, available at [http://www.npc.gov.cn/huiyi/cwh/31/2007-12/29/content\\_1387551.htm](http://www.npc.gov.cn/huiyi/cwh/31/2007-12/29/content_1387551.htm); Full Text of NPC Decision on Hong Kong's Constitutional Development, GOV.cn, Dec. 29, 2007, available at [http://english.gov.cn/2007-12/29/content\\_847120.htm](http://english.gov.cn/2007-12/29/content_847120.htm).) At present the Chief Executive is selected by an 800-member body comprised of representatives of the business community and professional organizations considered "mainly pro-Beijing," and while half of the 60 LegCo members are directly elected, the 30 functional constituency seats are also filled by business and other groups "mostly loyal to Beijing." (AFP: *Hong Kong Democrats Condemn China's Move to Delay Elections*, AFP (Hong Kong), Dec. 30, 2007, Open Source Center No. CPP20071230062001.)



While some news sources contend that Beijing's "nod to universal suffrage in 2017" is "a significant attempt to end the decades-long row over the pace of democratization" in Hong Kong as well as historic because "it is the first time Beijing has acknowledged the democratic process in electing a chief executive," others emphasize "both the uncertainty entailed in the use of the word 'may' -- and also the fact that 2017 in itself constituted a delay." (*SCMP: A Big Step But Still a Long Way to Go*, SOUTH CHINA MORNING POST (Hong Kong), Dec. 30, 2007, Open Source Center No. CPP20071230968021; *The Standard: 'Time to Stand Up and Be Counted,'* THE STANDARD, Dec. 31, 2007, Open Source Center No. CPP20071231701001; Patrick Goodenough, *China Postpones Democracy for Hong Kong – Again*, CNSNEWS.COM, Jan. 2, 2008, available at <http://www.cnsnews.com/ViewForeignBureaus.asp?Page=/ForeignBureaus/archive/200801/INT20080102a.html>, respectively.)

(Wendy Zeldin)



## Energy

### BARBADOS – Offshore Oil Exploration

In June 2007, Barbados planned to launch an offshore oil and gas exploration bidding round with the goal of awarding contracts to the successful bidders by the end of that year. (*Barbados to Launch Exploration Round June 1<sup>st</sup>*, RIGZONE, Mar. 28, 2007, [http://www.rigzone.com/news/article.asp?a\\_id=43140](http://www.rigzone.com/news/article.asp?a_id=43140).) At present, there is no offshore exploration underway, but the Barbados National Oil Company produces approximately 1,000 barrels a day from onshore fields. Barbados reportedly has proven oil reserves of around 2.5 million barrels, in addition to 142 million cubic meters of natural gas reserves. (*Barbados*, WORLD OF INFORMATION AMERICAS REVIEW WORLD OF INFORMATION, July 30, 2007, LEXIS/NEXIS, WORLD Library, NEWS File.) The government hopes that further exploration in its Exclusive Economic Zone will reveal the existence of much larger reserves.

For many years, offshore exploration in the region was complicated by overlapping claims of Barbados and Trinidad and Tobago to the underwater area between the two countries. In 2006, a five-member panel of the Permanent Court of Arbitration in The Hague rejected the claims of the two countries that they could exploit reserves beyond the halfway line between them. The tribunal followed the principle of equidistance and established a single boundary between Barbados and Trinidad and Tobago. (Peter Richards, *Caribbean: Maritime Rights Ruling Muddies the Waters*, INTER PRESS SERVICE, Apr. 13, 2006, LEXIS/NEXIS, WORLD Library, NEWS file.) Following this ruling, the Government of Barbados enacted the Offshore Petroleum Act (2007 Barb. Laws, No. 30). This law vests all petroleum and natural gas in the Crown, but invites foreign companies to apply for exploration licenses. Companies that discover new reserves can apply for production licenses after submitting development and decommission plans. The Law requires licensees to follow best industry practices, establishes environmental protection duties and health and safety standards, and it requires the use of Barbadian workers. The Law also allows the Crown to require a percentage interest in a license and gives it the power to take over operations. Despite these terms, there was considerable interest in the launching of the new bidding round for oil and gas exploration licenses. (Stephen F. Clarke)

### UNITED STATES – Comprehensive Energy Policy Statute Enacted

On December 19, President Bush signed into law a comprehensive energy policy law intended to increase energy efficiency and the availability and use of renewable energy. The legislation raises Corporate Average Fuel Economy standards for manufacturers' combined fleets of cars and light trucks to 35 miles per gallon, which manufacturers must meet by model year 2020. The law increases the level of renewable biofuels that petroleum refiners will be required to include in motor fuel and heating oil, including ethanol as well as biofuels derived from sources other than corn. The legislation also includes new energy efficiency standards for lighting and residential and commercial appliances, such as refrigerators and freezers. It includes various provisions intended to produce energy savings in residential, commercial, and government buildings. The statute provides for accelerated research and development in



technologies enabling the use of solar, geothermal, and other renewable sources of energy. (Energy Independence and Security Act of 2007, Public Law No. 110-140, 121 Stat. 1492, available *at* [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110\\_cong\\_bills&docid=f:h6enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h6enr.txt.pdf).)  
(Luis Acosta)



## Family

### IRELAND – Civil Unions Legislation

Article 41.3 of the Irish Constitution provides, “[t]he State pledges itself to guard with special care the institution of Marriage, upon which the Family is founded, and protect it against attack.” (Ir. Const. 1937, art. 41.3, available at <http://www.taoiseach.gov.ie/index.asp?docID=243> (official source).) In 2003, the High Court of Ireland held that this provision did not permit the recognition of a same-sex marriage entered into in Canada in a case involving a claim for tax benefits. (*Zappone and Anor v. Revenue Commissioners and Ors.* [2006] 1 IEHC 404, available at [http://www.courts.ie/80256F2B00356A6B/0/A4FE4E30EEF23925802572790040D30C?Open&Highlight=0,zappone,~language\\_en~](http://www.courts.ie/80256F2B00356A6B/0/A4FE4E30EEF23925802572790040D30C?Open&Highlight=0,zappone,~language_en~) (official source).) Since then, the refusal of the Irish government to recognize same-sex marriages and unions has been criticized by the Irish Human Rights Commission. In 2006, the opposition introduced a civil unions bill. The government postponed debate on the proposed law until after an election could be held. In February 2007, the government opposed the reintroduction of the bill on the grounds that it would be unconstitutional. However, on November 1, 2007, the government announced that it would introduce new legislation in 2008 to recognize the right of both same-sex and opposite-sex couples to enter into civil unions. (Alexis Unkovic, *Ireland Government Pledges Civil Unions Legislation*, PAPER CHASE NEWSBURST, Nov. 1, 2007, available at <http://jurist.law.pitt.edu/paperchase/2007/11/ireland-government-pledges-civil-unions.php>.) (Stephen F. Clarke)



## Freedom of Information

### UNITED STATES – Freedom of Information Act Strengthened

New legislation was enacted December 31 designed to strengthen the effectiveness of the Freedom of Information Act (FOIA). The new law broadens the definition of “news media” entities that are entitled to waiver of fees for FOIA requests to include non-traditional news sources. It liberalizes the standard for recovery of attorney fees in lawsuits in response to agency denials of requests for information. The legislation for the first time provides penalties for agencies that fail to comply with time limits for complying with requests, by forbidding the agency from assessing search or copying fees in such cases. The new law clarifies that agency records contained in electronic format, and records kept for an agency by an entity under government contract for records management purposes, are subject to FOIA. The legislation also creates a new office within the National Archives and Records Administration with authority to review agency compliance with FOIA, and to provide mediation services to requesters as an alternative to litigation. (Openness Promotes Effectiveness in our National Government Act of 2007, Public Law No. 110-175, 121 Stat. 2516, *available at* [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110\\_cong\\_bills&docid=f:s2488enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:s2488enr.txt.pdf).)

(Luis Acosta)





## Gender Equality

### INDIA - Women May be Employed as Bartenders

On December 6, the Supreme Court of India annulled as unconstitutional a colonial-era statute that prohibited women, as well as men under the age of 25, from working as bartenders. The ruling gives women the equal opportunity to work as bartenders in India, and lowers the permissible age for bartenders from 25 to 21.

The decision concerned the constitutional validity of Section 30 of the Punjab Excise Act, 1914, which prohibited women and men under 25 from employment as bartenders.

In defense of the law, the Delhi government cited prior incidents alleged to show the vulnerability of women working in bars. Responding to those examples, the court stated: “Instead of prohibiting women’s employment in the bars altogether, the State should focus on factoring in ways through which unequal consequences of sex differences can be eliminated. It is [the] State’s duty to ensure circumstances of safety which inspire confidence in women to discharge the duty freely in accordance with the requirements of the profession they choose to follow.” (Supreme Court Permits Women Bartenders in Delhi, *The Hindu*, December 7, 2007, available at <http://www.hindu.com/2007/12/07/stories/2007120755930100.htm>.) (Shameema Rahman)



## Government Ethics

### SOUTH AFRICA – Political Leader Faces Corruption Charges

Jacob Zuma, the new head of the South African National Congress (ANC), the ruling party in South Africa, faces fresh corruption charges in connection with a US\$5 billion arms deal carried out in 1999, according to a BBC news report of December 20, 2007. If Zuma is convicted, his prospects of becoming the next South African president will be over.

Although the charges of corruption, racketeering, and tax evasion come shortly after Zuma's election as head of the ANC, they are not his first run-ins with the law. Zuma was first charged with corruption in 2005. The case was dismissed, however, because the prosecution failed to produce adequate evidence after the court excluded as inadmissible vital incriminating evidence seized by police in a raid on the defendant's home. The charges have now been reinstated, following a South African appellate court ruling in November 2007 that the incriminating evidence that was once deemed inadmissible is in fact legal. Zuma was also tried and acquitted of rape in 2006. Zuma and his supporters claim that the current charges are politically motivated. (*South Africa's Controversial Arms Deal*, BBC NEWS, Dec. 20, 2007, available at <http://news.bbc.co.uk/1/hi/world/africa/7153473.stm>.)  
(Hanibal Goitom)

### ZIMBABWE – Abuse of Power

As reported by the Associated Press on December 16, 2007, President Robert Mugabe of Zimbabwe has suspended Sobusa Gula-Ndebele from his post as the attorney general in connection with a case of a fugitive banker who is wanted for alleged currency offenses. Mugabe also formed a tribunal to investigate the attorney general. The attorney general has allegedly met secretly with the banker, who had been in Britain, at a restaurant in Zimbabwe and told him that he would be spared from criminal charges. The tribunal is expected to make a recommendation to Mugabe on whether Gula-Ndebele should be re-instated to his position.

It has been reported that although the attorney general has not openly criticized the government, he has refused to approve politically motivated prosecutions. Several top bankers and corporate executives have recently been accused of currency crimes and fled the country. It is alleged that the charges have been designed to silence individuals who have been openly critical of the government's economic policies. These policies have been blamed for soaring inflation and shortages of basic necessities. It is therefore suspected that the suspension and investigation of the attorney general might also be politically motivated. (*Zimbabwe Attorney General Suspended*, THE ASSOCIATED PRESS, Dec. 16, 2007.)  
(Hanibal Goitom)



## Government Organization

### BANGLADESH -Four Cabinet Members Resign

The caretaker government of Bangladesh dropped four advisors from the Cabinet on January 8 following their submission of resignations. The four advisors are the Law Adviser, the Health Adviser, the Power and Food Adviser, and the Industry Adviser. These advisors are the equivalent of cabinet ministers.

The advisors mentioned to the news reporters that they tendered their resignation “as the government desired.” Five members of the current government’s eleven-member cabinet have now left since the interim government took charge in January 2007. The Education Advisor resigned on December 26. The Bangladesh Constitution allows ten members of advisers and one chief adviser with the rank and status of prime minister for a caretaker government. Five new advisors were sworn in to the Council on January 9 to fill the vacant positions. (Golam Ahsan Jewel, Bangladesh Caretaker Government Drops 4 Advisors Under the Guise of "Resignation," Bangladesh Journal, January 8, 2008, available at [http://www.bangladeshjournal.com/article/Bangladesh/172/.](http://www.bangladeshjournal.com/article/Bangladesh/172/)) (Shameema Rahman)



## Health

### **BRAZIL – Proposal to Require Chaperones for Medical, Dental Exams**

In an effort to obviate sexual abuse, the Legislative Assembly of Rio de Janeiro, Brazil, is analyzing a proposed law that makes mandatory the presence of a female assistant during the performance of medical and dental procedures on women, adolescents, and children. According to the author of the proposed law, Deputy Natalino, the idea is to guarantee the physical protection of these patients and to prevent illicit behavior by unscrupulous health professionals in the state. Natalino was quoted as saying that on many occasions, due to either fear or shame, the abused patient does not report the event and that this law will bring some protection to the patients. (*Exames Médicos em Mulheres Terão que Ser Acompanhados por Outra Mulher*, O DIA ONLINE, Nov. 28, 2007.)  
(Eduardo Soares)

### **KOREA, SOUTH – First Asbestosis Compensation Case**

The Daegu District Court ordered an asbestos cloth making company to pay 160 million *won* in compensation to the bereaved family of a former worker on December 4, 2007. This was the first court ruling in Korea for compensation for asbestosis. The court acknowledged the company's negligence in providing worker safety.

The level of awareness of asbestos-related health problems was low until very recently. After a report warned that passengers had been exposed to asbestos from the ceilings and platforms of subways, the government started to plan stricter regulations on asbestos in February 2007. Korea implemented asbestos measures in July 2007. A basic survey of the damage is expected in 2008 and a systematic inquiry in 2009. (*Asbestos Victim's Family in Landmark Legal Victory*, CHOSUNILBO, Dec. 5, 2007, available at <http://english.chosun.com/w21data/html/news/200712/200712050016.html>; *Ban on Asbestos to Take Effect in 2009*, ARIRANG NEWS, Feb. 5, 2007, available at <http://english.chosun.com/w21data/html/news/200702/200702050011.html>; Domyung Paek, *Asbestos Problems Yet to Explode in Korea*, 9 INT'L J OCCUP ENVIRON HEALTH 3, 266 (2003).)  
(Sayuri Umeda)

### **NIGERIA – Drug Company Officials Face Contempt of Court Charges**

It was reported on December 25, 2007, that a judge in the Nigerian state of Kano ordered the arrest of high executives of the subsidiary in Nigeria of the United States drug company, Pfizer Inc., for failing to make a court appearance. The court ordered the arrest of the head of Pfizer in Nigeria, Ngozi Edozien, and of senior officials Lare Baale and Segun Donguro.

The company is being sued in connection with drug trials it conducted in 1996 on 200 children during a meningitis epidemic. The Nigerian government alleges "Pfizer conducted the trials illegally, without the full knowledge and consent of the government and the parents, causing the death of 11 children and injury to dozens of others." The federal government and



Kano state have instituted separate claims; the federal government is claiming US\$7 billion in damages while the state government is claiming over US\$2 billion. The two governments have also pressed criminal charges against the company. (*Nigerian Judge Detains Pfizer Officials*, THE ASSOCIATED PRESS, Dec. 25, 2007.)  
(Hanibal Goitom)



# Human Rights

## BANGLADESH – Human Rights Commission Created

On December 9, the Bangladesh National Human Rights Commission Ordinance of 2007 became law. It establishes the National Human Rights Commission. The Commission is empowered to investigate human rights violations and settle issues, or refer them to judiciary for further action.

The selection committee is headed by an Appellate Division Justice, nominated by the Chief Justice, and includes a cabinet secretary, the Attorney General, the Comptroller and Auditor General, the chairman of the Public Service Commission, and the Law Secretary as members. The chairman and members are appointed for a term of three years and for no more than two consecutive terms.

The process of creating the National Human Rights Commission started in 1994 but did not become effective until after approval by the current government of a revised proposal to establish the commission. (Sultana Razia, National Human Rights Commission Sees the Light of the Day, *The Daily Star*, December 15, 2007, available at <http://www.thedailystar.net/law/2007/12/03/index.htm>.) (Shameema Rahman)

## ZIMBABWE – Proposal to Amend Security and Media Laws

On December 18, 2007, Zimbabwe's government introduced proposed amendments to the laws on security and on the media. The changes were introduced in Parliament by Justice Minister Patrick Chinamasa, as part of a political deal involving the ruling ZANU-PF Party and the opposition Movement for Democratic Change (MDC).

The opposition has criticized the government for its implementation of the Public Order and Security Act, arguing that the law has been used to ban protest rallies. The media regulations, it has been said, have been used to expel a dozen foreign correspondents and shut down four independent newspapers. According to MDC spokesman Nelson Chamisa, "a wholesale package not piecemeal amendments" would have been preferable, but that party "remains committed to the process of dialogue." (*Government Introduces Amendments to Security, Media Laws*, AFP, Dec. 18, 2007, Open Source Center No. AFP20071218508002.)

The changes would permit foreign media ownership, although foreign journalists will still be barred from working permanently in Zimbabwe. A change in the security rules will permit political parties wanting to hold public gatherings to submit a request to a magistrate, if police turn down a permit application. Under present regulations, such requests can be appealed only to the Minister of Home Affairs. The MDC has suggested that since the Minister is part of the government and a member of the dominant party, that procedure would not be impartial.



*(Zimbabwe Adopts Changes to Media, Security Laws, ZWNEWS.COM, Dec. 19, 2007, available at <http://www.zwnews.com/issuefull.cfm?ArticleID=17944>.)*

(Constance A. Johnson)



## International Law

### CYPRUS/MALTA – Adoption of the *Euro*

As of January 1, 2008, the national currencies of two European Union Members, the pound of Cyprus and the lira of Malta, have been replaced by the *euro*. Thus far, 15 out of the 27 EU Members share a common currency. The two countries became full-fledged EU Members on May 1, 2004, and upon meeting the necessary requirements, received permission to join the *euro* zone in May 2007. In an effort to speed the smooth transition from the national currency to the new one, prior to the introduction date the EU distributed many *euro* converters to households in the two nations.

The three British military bases that still exist on the island of Cyprus also had to adopt the *euro*. On the other hand, the northern part of Cyprus, which is under occupation by Turkey, will continue to use the Turkish *lira*.

Slovakia will adopt the *euro* in 2009; Bulgaria and Romania are the next expectant *euro* zone members, with target dates of 2010 and 2014, respectively. Of the older EU Members, only Denmark and the United Kingdom remain outside the *euro* zone on grounds of economic independence. (*Cyprus and Malta Adopt the Euro*, EU OBSERVER, Jan. 1, 2008.)  
(Theresa Papademetriou)

### INDIA – Government to Ratify Hague Conference on Private International Law

The Ministry of Overseas Indian Affairs and the National Commission for Women, as a part of their efforts to counter fraudulent marriages by non-resident Indians, finally succeeded recently in persuading the Government of India to ratify the Hague Conference on Private International Law. India's ratification of the Convention may facilitate the mutual recognition of court orders of signatory countries on private law issues. Thus, it is hoped that settlement of inter-continental marital disputes and of disputes over custody of children when marriages fail will become easier.

The Hague Conference, established in 1893, currently has 68 member states and regional economic integration organizations (Hague Conference on Private International Law [HCCH] Web site, [http://hcch.e-vision.nl/index\\_en.php?act=states.listing](http://hcch.e-vision.nl/index_en.php?act=states.listing) (last visited Jan. 8, 2008)). It regulates differences in laws between member countries and works for the progressive unification of the rules of private international law and assists in the implementation of multilateral conventions by promoting harmonization of conflicts of laws among member countries. It is still unclear which specific Hague Conventions on family matters that India will adopt, but the Child Abduction Convention had previously been mentioned as one of the likely candidates. (*India to Ratify Hague Convention to Prevent Fraudulent Overseas Marriages*, DOORDARSHAN DD NEWS, Nov. 8, 2007, Open Source Center No. SAP20071108378001; *India to Join Hague Conference to Protect Married Women's Rights?*, CONFLICT OF LAWS.NET,





Jan. 7, 2007, available at <http://www.conflictoflaws.net/2007/family/india-to-join-hague-conference-to-protect-a-married-womans-rights/>.)

(Krishan Nehra)



# Libraries

## ISRAEL – National Library Law

On November 26, 2007, the Knesset (Israel's Parliament) passed a law that regulates the status, objectives, and roles of the National Library. The law states that the National Library is located in Jerusalem. Its objectives are the collection, preservation, cultivation, and dedication of general treasures of knowledge, tradition, and culture, as well as those specifically related to the land of Israel, to the State of Israel, and to the Jewish people. In addition to its duties to collect and enhance the library's collections, the National Library is charged with providing the public in Israel and abroad "proper and reasonable" access to its collections, by advanced technological means. The National Library will serve as a central research library in Israel and as the research library of the Hebrew University in Jerusalem in liberal arts, especially in Judaic studies, the cultures of the Middle East, and Islam. It will provide public displays of its collections, maintain public programs, and consult with other libraries within and outside Israel.

The Law establishes the National Library Company (NLC) as a company for public benefit in order to carry out these tasks. NLC shares will be divided among the state (50%), the Hebrew University in Jerusalem (25%), and other state or public bodies agreed upon by both the state and the Hebrew University in Jerusalem (25%). The Law regulates the approval process for acquisition of shares by such bodies, as well as the composition of the National Library Council. It provides special protection to the National Library's assets by prohibiting such assets from being made collateral or subject to disposition upon non-payment or dissolution of the company. (The National Library Law, 5768-2007, and 2005 bill, Knesset Web site (last visited Dec. 17, 2007).)

(Ruth Levush)



# Money Laundering

## **RUSSIAN FEDERATION – Federal Passport Control System Created**

On December 18, 2007, the State Duma (legislature) of the Russian Federation adopted amendments to the Federal Anti-Money Laundering Law that provide for the creation of a national passport control system. To be established before the end of June 2008, this system is designed to review the validity of passports produced by Russian citizens to conduct financial operations. Because stolen, lost, or falsified passports are often used by Russians to conduct financial transactions, the new amendments state that as of July 2008, a transaction will be conducted only when the validity of the identification documents submitted is determined, there is confirmation that the passport bearer is its legal holder, and the legal capacity of the passport holder is not restricted. Passport reviews will be conducted electronically by the agencies of the Internal Affairs Ministry through its regional branches. (*Zakonoproekt of Sozdanii Obschfederalnoi Sistemy Proverki Dostovernosti Pasportov Odobren Dumoi* (Bill on Creation of the Federal Passport Control System Is Approved by the Duma) (in Russian), INTERFAKS NEWS AGENCY, Dec. 18, 2007.)

(Peter Roudik)



## Narcotics and Drug Abuse

### CHINA – Anti-Narcotics Law Adopted

On December 29, 2007, the National People's Congress Standing Committee (NPCSC) adopted China's first anti-drug law, 71 articles long; it abrogates a December 28, 1990, NPCSC 16-article decision on the subject. The new law will be in force as of June 1, 2008. Narcotics are defined under the law as opium, marijuana, methamphetamine hydrochloride ("ice"), morphine, cocaine, and other narcotic and psychotropic drugs, stipulated by the state to be controlled, that can cause addiction. The law stipulates a licensing and inspection system for research, production, management, use, storage, and transport of such substances.

The new law gives public security organs (police) the power to search people and luggage for illegal drugs in public places, including train and bus stations and border crossings. It also provides that "owners and managers of discos, bars, nightclubs, and other entertainment venues must report drug takers to the police or face punishment." (*Anti-Drug Law Cracks Down on Drug-Related Crime*, SHANGHAI DAILY.COM, Dec. 31, 2007, available at [http://www.shanghai-daily.com/sp/article/2007/200712/20071231/article\\_343459.htm](http://www.shanghai-daily.com/sp/article/2007/200712/20071231/article_343459.htm).)

Persons found to be taking drugs will be subject to public security management punishment unless they voluntarily register with the police or accept rehabilitative treatment. Addicts are to be rehabilitated, and the police are to register addicts. Drug addicts are permitted, under the new legislation, to undergo treatment in their communities for up to three years, instead of being subject to detention and a fine and, if they suffer a relapse, to reeducation through labor as stipulated under the 1990 decision. Compulsory rehabilitation does not apply to addicts under the age of 16; earlier drafts of the law had reportedly set the age limit for compulsory rehabilitation at age 14. Relevant Chinese agencies, the law stipulates, should strengthen anti-narcotics information-sharing with other countries or local law enforcement organs, as well as international organizations, and enhance cooperation in the work of anti-narcotics enforcement. (Zhonghua Renmin Gongheguo jin du fa, National People's Congress of the People's Republic of China Web site, Dec. 29, 2007; Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui guanyu jin du de jue ding, LAW-LIB.COM (last visited Dec. 31, 2007); *China Adopts First Anti-Drug Law Amid Rising Drug-Related Crimes*, XINHUA, Dec. 29, 2007, available at <http://en.chinaelections.org/NewsInfo.asp?NewsID=14322>; *China's First Anti-Drug Law Likely to Be Adopted this Year*, PEOPLE'S DAILY ONLINE, Dec. 24, 2007, available at <http://english.people.com.cn/90001/90776/90785/6325688.html>.)  
(Wendy Zeldin)



# Property

## JAPAN – New Lost Goods Law in Effect

An American university professor dropped mobile phones and wallets containing cash in Tokyo and New York. The return rate in Japan was higher. Because lost items have piled up at lost property centers and the cost of management of lost property is rising, the Diet passed a new Lost Goods Law (Law No. 73 of 2006) to replace the old Lost Goods Law (Law No. 87 of 1899). The new Law, effective on December 10, 2007, reduced from six months to three the maximum length of time that lost property must be kept in official storage places. The police are now allowed to sell low-value items, such as umbrellas, to recoup the cost of storing them. To make it easier for owners of lost items to find them, the National Police Agency set up an online database. It allows people to search for their property without visiting many police stations and lost property offices. (Richard Lloyd Parry, *Has Anyone Lost £66m and an Umbrella?*, TIMES ONLINE, Mar. 9, 2006, available at <http://www.timesonline.co.uk/article/0,,25689-2076821,00.html>; Kaisei ishitsu butsu hō ni tsuite [Regarding the amended Lost Goods Law], National Police Agency Web site (last visited Dec. 28, 2007).) (Sayuri Umeda)



## Religion

### EGYPT – Christian Shops Burned

On December 16, 2007, tension between Christians and Muslims in the southern city of Isna in Egypt led to the burning of Christian-owned shops and the damaging of a church. The incident is believed to have been the result of mob reaction to a rumor that a Muslim girl was having sex with two Christian boys. The police arrested 15 Egyptian Muslims accused of involvement in the riot. (*Cell Phone Causes Religious Violence in Isna*, AL-SHARQ AL-AWSAT, Dec. 17, 2007.)  
(Issam Saliba)



## Secrecy

### SWITZERLAND – Federal Archives

On December 28, 2007, the Federal Ministry of the Interior of Switzerland re-promulgated a list of federal archival material that is not being made available to the public 30 years after its creation but enjoys instead either a 50-year protective period or an indefinite period during which it cannot be made public (Archivierungsverordnung, Änderung, Nov. 30, 2007, Anhang 3, AMTLICHE SAMMLUNG DES BUNDESRECHTS 6589.) This list is published periodically in accordance with the Federal Archiving Act (Bundesgesetz über die Archivierung, June 26, 1998, SYSTEMATISCHE SAMMLUNG DES BUNDESRECHTS [SR] no. 152.1). Archival material must be kept secret for 50 years if its publication would disclose personal data of individuals, be harmful to the Swiss governmental interest or foreign relations, or reveal business secrets of Swiss enterprises (Verordnung zum Archivierungsgesetz, SR no. 152.11, art. 14). (Edith Palmer)



# Taxation

## CHINA – Income Tax Law

The Standing Committee of China's National People's Congress adopted a decision to amend the Law on Individual Income Tax on December 29, 2007 (Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui guanyu xiugai Zhonghua Renmin Gongheguo Geren suode shui fa de jue ding, National People's Congress of the People's Republic of China Web site, Dec. 29, 2007). The revision of article 6, paragraph 1, item 1, raises the tax threshold to 2,000 yuan (about US\$275) a month from the previous 1,600 (about US\$220). In 2006, the threshold had been raised from 800 yuan a month to the 1,600-yuan level. The aim of setting the resulting tax cut, according to China's official news service, Xinhua, is "to ease the burden of medium- and low-income earners facing higher living costs." To the same end, on August 15, 2007, the government reduced the tax rate on interest income from 20 percent to 5. (*More on PRC's Top Legislature Adopts Amendment to Raise Income Tax Threshold*, XINHUA, Dec. 29, 2007, Open Source Center No. CPP20071229968243.) The decision enters into force on March 1, 2008.

In addition, on January 1, 2008, China's new unified (domestic and foreign-funded) Corporate Income Tax Law took effect. It will impose as of 2012 a universal tax rate of 25 percent in place of the current 33-percent rate for domestic firms and 15-percent rate for foreign firms. For the latter, the tax rate will jump to 18 percent in 2008 and then increase by two percentage points annually in 2009, 2010, and 2011 to reach 25 percent in 2012. (*China Focus: China Publicizes Policies to Cushion Impact of New Corporate Income Tax Law*, XINHUA, Dec. 30, 2007, Open Source Center No. CPP20071230968084; Denise Tsang, *Beijing Increases Tax on Foreign Firms to 18pc*, SOUTH CHINA MORNING POST, Dec. 31, 2007, Open Source Center No. CPP20071231721001.) One tax analyst commented: "[t]he new rate will begin at a harsher than expected level, and will jump to 25 per cent within four years instead of five years, which will increase costs and make the livelihoods of Hong Kong manufacturers even more difficult." Furthermore, it reflects "China's strong push into hi-tech development and the manufacturing of higher value goods" (Tsang, *id.*). (*See also* 12 W.L.B. 2007.)  
(Wendy Zeldin)

## ISRAEL – Increasing Participation in Workforce by Negative Income Tax

On December 18, 2007, the Knesset (Parliament) passed the Law for Increasing Participation in the Workforce and Minimizing Social Gaps (Negative Income Tax), 5768-2007. The Law provides special grants to a worker who has dependant children or who has reached 55 years of age at the end of the tax year. Excluded from those who qualify for the grants are persons who either earn above a certain annual income; own possess or use certain property determined by the Minister of the Treasury; or own, or have a spouse or dependant child who owns, at least 50 percent of a real property, not including a single residential unit, either in Israel or abroad. The amount of the grant may be lowered if the worker or his spouse earns additional income.





The Law aims to eliminate poverty and improve the welfare of working families. According to the explanatory notes accompanying the bill, an investigation of the causes of poverty in Israel indicated that the central cause is the low rate of employment among the poor. It was found that the poverty rate among families with two workers was only three percent. The government proposed the bill in order to encourage families to enter the workforce. (Law for Increasing the Participation Rate in the Workforce and for Minimizing Social Gaps (Negative Income Tax), 5768-2007 and bill, Knesset Web site (last visited Dec. 19, 2007).)  
(Ruth Levush)



# Terrorism

## EGYPT – Military Court Dismisses Terrorism Charges

On December 16, 2007, the High Military Court in Egypt, in a surprise move, dismissed the terrorism and money-laundering charges against 40 of the Muslim Brotherhood leaders who were arrested a year ago on these charges. The Court let stand a lesser charge of joining a banned organization. (*The High Military Court in a Surprise Move Dismisses Terrorism and Money-laundering Charges Against 40 of the Brotherhood Leaders*, AL-SHARQ AL-AWSAT, Dec. 17, 2007.)

(Issam Saliba)

## GERMANY – Terrorism

On December 5, 2007, the Higher Regional Court (Oberlandesgericht) of Düsseldorf convicted a citizen of Syria and two nationals of Palestine of membership in a terrorist organization and attempted insurance fraud (unpublished trial court decision, as related in *Hohe Haftstrafen für Terrorunterstützer in Düsseldorf*, FRANKFURTER ALLGEMEINE ZEITUNG, Dec. 6, 2007, at 1). The proceeding lasted longer than 18 months and had to be suspended several times to obtain interim decisions on procedural matters from higher courts. More than 200 witnesses were heard. The court viewed the proceeding as a model for future terrorist trials because it involved the application of several new provisions, among them section 129b of the Criminal Code (Strafgesetzbuch, repromulgated Nov. 13, 1998, BUNDESGESETZBLATT I at 3322, as amended), which penalizes membership in a foreign terrorist organization under certain circumstances. It was established in the proceeding that Al Qaeda was a foreign terrorist organization within the meaning of that provision. According to the presiding judge, however, the work of the court had been hampered by new restrictions on electronic surveillance in private dwellings.

The accused Syrian had come to Germany to petition for asylum and had been radicalized at some time by militant Muslims, after which he swore allegiance to Osama bin Laden and took training courses in terrorist warfare in Afghanistan. On his return to Germany, he recruited the two other defendants, and together they schemed to enrich Al Qaeda by committing insurance fraud. The sentences of seven, six, and three-and-a-half years' imprisonment were high by German standards.

(Edith Palmer)

## LEBANON – Verdict in German Train Bombings

On December 18, 2007, the felonies court in Beirut, Lebanon, issued a verdict in the case brought against five men accused of attempting to bomb German trains in 2006. Yousef al-Haj Deeb, held in Germany, was convicted and sentenced to hard labor for life; Jihad hamad, held in Lebanon, was convicted and sentenced to 12 years of hard labor; and the other three were



acquitted for lack of evidence. (*Verdict in the German Trains Case: Life, Hard Labor, and Acquittal*, AL-AKHBAR, Dec. 19, 2007.)  
(Issam Saliba)



## Trade and Commerce

### MERCOSUR/ISRAEL – Free Trade Accord to Be Signed

Delegations representing Mercosur and Israel held meetings in Geneva to negotiate a free trade accord that can be signed in early 2008. It will be the first accord signed between the bloc and a country outside Latin America. However, participants in the discussion said that there are still obstacles to be overcome by both sides. For example, Israel resists giving preferential treatment for exports from Paraguay and Uruguay, while Argentina and Israel cannot agree on trade treatment of agricultural herbicides.

The negotiations generated protests from non-government organizations and political parties that claim that with the accord, the governments of Mercosur country members are legitimizing the actions of Israel in the Middle East, such as the occupation of territory claimed by the Palestinians, who are discriminated against by the Israeli government. (*Mercosul Pode Assinar Acordo de Livre Comércio com Israel*, O GLOBO (O)NLINE, Nov. 26, 2007.) (Eduardo Soares)



# Transportation

## **BRAZIL – Air Companies Charged for Flight Delays**

On December 5, 2007, the Brazilian Minister of Defense, Nelson Jobim, announced that airline companies will have to indemnify passengers for flight delays. According to Jobim, the idea is to create a system that rewards the passenger and discourages flight delays. The penalty fee will only be applied when the delay is caused by the airline company and will not be enforced in cases involving delays of 30 minutes or less. For delays of 30 minutes to one hour, the penalty fee will be five percent of the cost of the airline ticket; for one-to-two-hour delays, ten percent; and so on with progressively increasing penalty fees. In delays involving more than five hours, the company will have to pay 50 percent of the cost of the ticket. (*Empresas Aéreas terão de Ressarcir Usuários por Atrasos*, O GLOBO (O)NLINE, Dec. 5, 2007.)  
(Eduardo Soares)



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