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Sincerely,

Rubens Medina
Law Librarian of Congress

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Abortions

RUSSIAN FEDERATION – New Abortion Restrictions

On October 29, 2007, the Russian Federation Health Care and Social Development Ministry issued an executive regulation that establishes a new procedure for providing abortion services. According to the new rules, while abortion remains covered by state health programs, each woman who is planning to undergo this procedure during the first 12 weeks of pregnancy in a state or municipal hospital will submit a signed declaration of intent to the hospital's social worker acknowledging the possible negative health consequences. The position of social worker is to be instituted in all hospitals providing abortion services, with the main duty of the position being to discourage women from having abortions. The regulation prohibits private medical clinics from providing abortions. Also, the number of medical or social situations for which termination of a late-term pregnancy is permitted has been decreased by 92 possible situations. The regulation states that newly discovered methods of medical treatment allow women to preserve a fetus that is at risk and to have a healthy child where previously that was not possible. Abortions are allowed in only two social situations, when the pregnancy is a result of a rape and when the child was fathered by a close relative. On October 22, 2007, a bill on complete prohibition of abortions other than for medical reasons was introduced in the State Duma (legislature) of the Russian Federation. (*Private Clinics Will Be Prohibited from Performing Abortions*, NEWSRU.COM INFORMATION AGENCY, Oct. 30, 2007)
(Peter Roudik)



Administrative Law

JAPAN – Korean A-Bomb Survivors

Although Japan's A-Bomb Special Measures Law of 1968 did not clearly exclude A-bomb survivors who lived outside Japan from being recipients of health maintenance allowances, the Health Ministry notification of 1974 excluded them. Forty Koreans who returned to Korea after the U.S. atomic bombing of Hiroshima sued the Japanese government in Japan, asking for compensation for emotional damages caused by the illegal notification, among other claims. The Japanese Supreme Court, on November 1, 2007, affirmed lower court decisions that admitted the illegality of the notification and the responsibility of the state, based on the State Tort Act, and awarded 1.2 million yen (about US\$11,000) per person. (*Kankokujin hibakusha soshō, 2shin hanketsu o shiji* [Korean A-bomb survivor case, the second instance judgment confirmed], YOMIURI ONLINE, Nov. 1, 2007.)
(Sayuri Umeda)



AIDS

SADC – Model Laws to Combat HIV

The Southern Africa Development Community's (SADC) Parliamentary Forum Standing Committee has initiated the preparation of model laws to complement its member countries' existing measures to combat HIV/AIDS. SADC legislators, lawyers, and health sector representatives from the member states took part in a consultative meeting on the initiative on November 10, 2007. (*SADC Preparing Modal Laws to Fight HIV/AIDS*, THE GUARDIAN (Dar es Salaam), Nov. 14, 2007, Open Source Center No. AFP20071114554014.)
(Wendy Zeldin)



Children

LIBERIA – U.N. Report Calls for Improved Juvenile Justice System

A November 14, 2007, report issued by the United Nations mission in Liberia states that the country's juvenile justice system needs to be made stronger to protect children's legal rights. As a result of the 14-year civil war, many Liberian public institutions must now be strengthened, including those bodies designed to protect young people. The mission's report covers a number of human rights issues and is based on information gathered from the West African nation from February to April 2007.

Among the problems highlighted in the report are the detention and trial of children who are younger than the age of criminal responsibility in adult facilities and courts, despite national law and international human rights standards forbidding the practice. In addition, the report discussed rights violations by law enforcement officers and the lack of court personnel, resulting in a backlog of cases in some parts of the country.

The mission in Liberia has a Human Rights and Protection Section that files reports four times a year. The Section focuses on four aspects of human rights work: monitoring, protection, and reporting; transitional justice and institution-building; child protection; and capacity-building. To date, 13 court houses, 7 detention facilities, and 24 police stations have been built or renovated through the Mission's efforts. (*New UN Report Calls for Strengthening Liberia's Juvenile Justice System*, UN NEWS, Nov. 14, 2007.)
(Constance A. Johnson)



Civil Code

TAIWAN – Draft Changes to Succession Rules

An amendment to the Civil Code of the Republic of China (on Taiwan) on the rules of inheritance was discussed in November 2007 by the legislature's Judiciary Committee, with a view to protecting minors under 20 years of age and the underprivileged from incurring excessive debt from inheritances. At present, the Civil Code provides that heirs must assume all the rights and duties pertaining to the deceased's estate unless they waive claim to the inheritance or make an inventory of it and apply to the court, within three months of the succession, to limit payment of the deceased's debts to the extent of the inherited property (arts. 1148, 1154, 1156, and 1174). The provisions create an onerous burden, however, for persons who inherited more liabilities than assets, particularly if they were not notified of the death or did not know that they had to take certain legal actions. According to Lin Lu-hong, president of Taiwan Women's link, "[t]here were unbelievable cases in which children inherited huge debts." (*MOJ to Protect Heirs from Excessive Debts*, 24:45 TAIWAN JOURNAL (Nov. 16, 2007), available at <http://taiwanjournal.nat.gov.tw/site/tj/ct.asp?CtNode=122&xItem=24886>; Civil Code, Part V Succession: Chapter II Succession to Property, available at <http://db.lawbank.com.tw/Eng/FLAW/FLAWDAT0201.asp?lsid=FL001351&beginPos=117> (last visited Dec. 11, 2007).

The Ministry of Justice (MOJ), to obviate the problems caused by the above provisions, has proposed that heirs under 20 years of age or mentally unable to handle their own affairs only be obliged to repay debts within the value of the inherited estate; they would automatically fall under the limited-debt inheritance system and would not have to submit an inventory. The MOJ further recommended that the three-month grace period people have to apply for their inheritance be dated from the time when the heirs learn about the testator's death, rather than the date of the death. The MOJ has called for the amendment to be retroactive for up to three years; therefore an inheritor would have to declare limited inheritance exempting debt repayment by age 17 at the latest. By contrast, Kuomintang presidential candidate Ma Ying-jeou, who took the initiative for amendment of the law in July 2007, believes that "[a] general amnesty is called for" so that "any minor who inherits a debt should be able to declare limited inheritance at any age"; the amnesty should be incorporated in the amendment, he added. In the view of the ruling Democratic Progressive Party, however, the amendment as proposed "will seriously affect the creditors." (*Ma Wants Minors to Be Free of 'Inherited Debt,'* CHINA POST, Nov. 20, 2007, available at <http://www.chinapost.com.tw/news/2007/11/20/131559/Ma-wants.htm>.)
(Wendy Zeldin)



Civil Disobedience

BANGLADESH - Supreme Court Ruling on General Strikes

The Supreme Court of Bangladesh has reversed a 1999 High Court Bench ruling that violence or coercion for or against a general strike, known in Bangladesh as a “hartal,” is illegal.

In Bangladesh, the hartal is recognized as an instrument to articulate political demands. On February 15, 1999, a High Court Bench in Bangladesh issued a show cause notice against certain members of the ruling and opposition parties asking why hartals should not be declared illegal. On May 13, 1999, the High Court Bench affirmed that violence or coercion for or against a hartal constituted criminal activity and directed the governmental authorities to take appropriate action. The Secretary General of the Bangladesh National Party filed an appeal against the High Court ruling, and the Supreme Court of Bangladesh stayed execution of the ruling.

Eight years later, in November 2007, the Supreme Court took up the appeal. On December 2, 2007, the Supreme Court set aside the High Court Bench ruling. (SC Sets Aside HC Ruling on Hartal, *The New Nation*, December 3, 2007, *available at*: <http://nation.ittefaq.com/issues/2007/12/03/news0680.htm>.)

(Shameema Rahman)



Civil Liability

NEPAL – Accident Victim Compensation in Disarray

Street justice, in the form of obstruction of vehicular traffic to press for higher compensation, has in recent months come to determine the amount paid to “third party” victims, as a result of contradictory provisions in Nepal’s laws on compensation for accident victims. Reportedly, “the more pressure the victim’s party is able to exert in the street, the more compensation they are likely to receive from vehicle owners.” (*How Much Compensation for Accident Victims*, EKANTIPUR.COM, (last visited Nov. 20, 2007).)

In the last seven months, according to police officials, the number of obstruction incidents have spiked, with the protests resulting in compensation amounts as high as Rs800,000 (about US\$12,550) for the deceased’s family. While the Vehicles and Transport Management Regulation 2054 BS (VTMR) mandates that vehicle owners must have insurance coverage of Rs300,00 (about US\$4,710) to cover persons run over by their vehicle, the Vehicle and Transport Management Act 2049 BS calls for a maximum compensation of Rs67,000 (about US\$1,050) to be paid to a third party when an uninsured vehicle is involved. The confusion was compounded by a directive of the Home Ministry issued to all district administration offices on June 28, 2007, in response to the growing demands for exceptionally high compensation, not to make vehicle owners pay more than Rs75,000 (about US\$1,180) in the case of uninsured vehicles. Victims’ families have been demanding at least Rs300,000 in compensation, the amount set forth in the VTMR. Thus, according to traffic officials, “[t]he government, on the one hand, has made it mandatory for vehicle owners to have insurance cover [sic] worth Rs 300,000 for third party victims, while on the other, it has issued a directive not to make vehicle owners pay more than Rs 75,000.” Moreover, they argue, the compensation amount of Rs67,000 provided by law “is far less than in the past if the value of today’s currency is taken into account.” (*Id.*) In the view of a senior metropolitan traffic police official, “the government should review the compensation amount, besides introducing some measures to ensure accountability on the part of drivers” (*Id.*) (Wendy Zeldin)



Constitutional Law

MALDIVES – Parliament Passes Draft of Constitution Chapter

The draft constitutional chapter concerned with procedures for amending the Constitution was passed by the Majlis, the Parliament of Maldives. The language written by the Drafting Committee was entirely retained. Under this chapter, parts of the Constitution may be amended by a three-fourths majority vote in the Majlis. The chapters on the Bill of Rights, the presidency, and the Majlis, however, can only be amended after a second step, a public referendum. Furthermore, the new text prohibits constitutional amendments during a state of emergency. Under the present Constitution, all amendments need only be ratified by the President following passage in the Majlis. (*Draft Chapter Dealing with Amendment of Constitution Passed*, EVENING HAVEERU ONLINE, Nov. 21, 2007, available at <http://www.haveeru.com.mv/english/?page=details&id=19664>.)

(Constance A. Johnson)

NIGERIA – Vice-President Calls for Review of Constitution

Nigeria's Vice-President, Goodluck Jonathan, on November 20, 2007, said that the country's Constitution is inadequate and in need of amendment. Speaking at the International Conference on Federalism being held in New Delhi, he argued that the 1999 document does not accommodate current developments. Jonathan further said that most Nigerians see the current federalist system as militaristic in nature and the power relationships between federal, state, and local governments as unbalanced. He attributed the situation to the history of years of military rule in the country, which had the effect of weakening civil governance and ultimately of eroding the federalist structure. Decrees were imposed and rights limited under the post-1999 government. Jonathan also discussed the agitation in Nigeria today over military rule, environmental degradation, and poverty.

Agreeing with some of the critics of the current system, he said that they:

suggest that the present arrangements flow from the militarist tradition that is undemocratic in all its ramifications. They demand constitutional changes. And as the government at the centre, our focus is to deliver on the promise of our founding fathers that 'though tribe and tongue may differ, in brotherhood we stand.'

(*Why Constitution Must be Reviewed*, by Jonathan, THE GUARDIAN (Lagos), Nov. 21, 2007.)

(Constance A. Johnson)



Consumer Protection

ISRAEL – Duty to Label Computer Games

On October 29, 2007, the Knesset (Israel's Parliament) approved an amendment to the Protection of Consumers Decree, requiring that every computer game package be labeled in a way to indicate whether its content is suitable for minors who may play the game. The new decree incorporates the European classification system and will require specific labeling for content involving violence, sex, and gambling. Labels based on the European PEGI [Pan European Game Information] age rating system standards are required. In the first year the revised decree's enforcement, additional Hebrew-language labels will also be required. (Shai Zladis, *Knesset: A Duty to Label Computer Games*, YEDIOT ACHARONOT ONLINE, Oct. 30, 2007.)

(Ruth Levush)



Criminal Law

AUSTRALIA – Inquest Rules Murder in Balibo Five Case

International media have reported a Sydney coroner court finding that the five Australian-based journalists known as the Balibo Five (two Australians, two Britons, and a New Zealander) were murdered in East Timor by Indonesian troops, to prevent the disclosure of the invasion of East Timor. The court found that the journalists were captured and deliberately killed despite their status as journalists being known.

Indonesia has always maintained that the journalists were killed in cross-fire. Australia's Attorney-General has stated that the coroner's findings will be forwarded to police and prosecution authorities. (*Journalists "Murdered" in E Timor*, BBC WORLD NEWS, Nov. 16, 2007, available at <http://news.bbc.co.uk/go/em/-/1/hi/world/asia-pacific/7097652.stm>.) (Lisa White)

GHANA – Two Men Charged with Sodomy

The INTERNATIONAL HERALD TRIBUNE reported that a British journalist and a 19-year old Ghanaian have been charged with sodomy after police found photos of the two men having sex. The British journalist is also charged with possession of obscene pictures. While both men pleaded guilty to "unnatural carnal knowledge," the journalist pleaded not guilty to the possession charge.

Although sodomy is a crime in Ghana, it is rarely prosecuted. According to article 105(b) of the Ghanaian Criminal Code (Act 29), "unnatural carnal knowledge" is a misdemeanor. This case is said to be the first case of its kind in Accra this year. (*British Man on Trial for Sodomy in Ghana*, THE ASSOCIATED PRESS, Nov. 6, 2007, available at <http://www.iht.com/articles/ap/2007/11/06/africa/af-gen-ghana-homosexuality-trial.php>.) (Hanibal Goitom)

KOREA, SOUTH – Kim Dae-jung Kidnapping by KCIA Affirmed

The South Korean government made a report public in late October 2007, which concluded that the Korea Central Intelligence Agency (KCIA) had seized former South Korean President Kim Dae-jung while he was in Japan in 1973. The National Intelligence Service report said that evidence supported "the possibility that, up to a certain point, the plan had been pursued as an assassination." The negative impact on Japan-Korea relations was a concern of both countries, but Japan said it would not pursue the incident further after Seoul's ambassador to Japan visited Foreign Minister Masahiko Komura and said the kidnapping was regrettable. (Reuters, *Kim Dae-Jung Says He's Unhappy with Kidnap Report*, CHINA POST, Oct. 31, 2007, available at <http://www.chinapost.com.tw/asia/2007/10/31/128877/Kim-Dae-jung.htm>.) (Sayuri Umeda)



LATVIA – Restrictions on Sexual Services

On October 26, 2007, the Cabinet of Ministers of Latvia adopted a decree proposed by the Riga City Hall on limiting prostitution. Latvia is not a country where prostitution is legalized, but it is also not a place that prohibits the practice. According to the new rules, sexual services can be provided at premises owned or rented by the service provider personally. The authorities hope that this provision will curtail street prostitution. The rules outlaw services of middlemen, as well as by prostitutes working in groups, and list places where prostitution is prohibited. The latter include cultural, educational, religious, entertainment, health care, and sport institutions and buildings where state and municipal authorities are located. Because the creation of brothels is not allowed, hotel rooms cannot be offered for prostitution, and administrative punishment for hotel owners who ignore this rule has been introduced. Stricter measures against recruiters and owners of establishments that illegally offer sex services are foreseen. Also, the regulation lists specific sexual services for which paid performance is prohibited. Local governments are allowed to define areas where individuals cannot offer or provide sex services. (*Riga Bans Prostitution Next to Churches*, REGIONS.RU.)
(Peter Roudik)



Criminal Procedure

GERMANY – Continuing Detention of Sex Offender

On October 19, 2007, the Federal Court of Justice (Bundesgerichtshof) (FCJ) of Germany issued a decision that led to the release of a still dangerous sex offender after he had served his prison sentence (Docket No. 3 StR 378/07, available at <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/list.py?Gericht=bgh&Art=en&client=3&client=3&sid=c04b4f1c4cc54c4cd5d3b53a243a9613> (last visited Nov. 16, 2007)). The case involved a 60-year-old repeat sex offender who had always committed new violent offenses soon after being released from prison. For his latest series of break-ins and rapes, the Regional Court of Hanover had sentenced him to 14 years in prison but did not impose continuing detention for the time after his release. In 2006, when the convict had served his prison sentence, the Regional Court of Hanover placed him under continuing detention on account of his propensity to commit further violent sex offenses, which, according to the Court, had only become apparent while he served his prison sentence.

The FCJ reversed by holding that the placement of an offender under continuing detention had to be expressed at the time of sentencing if it was then apparent that the offender would continue to be dangerous after release from prison (*Strafgesetzbuch* (StGB), re-promulgated Nov. 13, 1998, BUNDESGESETZBLATT I at 3322, as amended, § 66)); only if new circumstances developed while the convict served his prison sentence was it permissible to impose post-sentencing detention (StGB § 66 b paras. 1 & 2). In the case at hand, the FCJ ruled, the Regional Court of Hanover had made a mistake at the time of sentencing, and detaining the offender through a later decision would have subjected him to constitutionally prohibited double jeopardy (Grundgesetz, May 23, 1949, BUNDESGESETZBLATT I, art. 103, para. 3). Although the detained offender had to be released, the Regional Court of Hanover imposed protective measures by requiring him to report to the police three times a week, subjecting him to therapy, and placing him under the supervision of a probation officer (*BGH hebt Sicherungsverwahrung für Sexualstraftäter auf*, SPIEGEL ONLINE, Oct. 19, 2007). (Edith Palmer)

GERMANY – Undercover Agents and Self-Incrimination

On July 26, 2007, the German Federal Court of Justice (*Bundesgerichtshof*) (FCJ) held that an undercover agent may not persistently urge a suspect to confide in him as to whether he committed a crime and may not interrogate him as a police officer, if the suspect had already asserted his right to remain silent in police interrogations. The Court held that such conduct by the undercover agent violates the privilege against self-incrimination of the suspect (German Code of Criminal Procedure, i.e., *Strafprozessordnung*, re-promulgated Apr. 7, 1987, BUNDESGESETZBLATT I at 1074, as amended, § 136, ¶ 1), and, as a rule, makes evidence thus obtained inadmissible (Docket No. 3 StR 104/07, FCJ Web site, <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/list.py?Gericht=bgh&Art=en&client=3&client=3&sid=4b6ed95162379cd662554fc8089fe118>). The decision quotes the *Allen v.*



United Kingdom decision of the European Court of Human Rights (ECHR) (Nov. 5, 2002, application number 48539/99, ECHR official Web site). According to German commentators, the German case may be a departure from previous decisions of the Federal Court of Justice that had allowed evidence obtained by undercover agents under similar circumstances (H. Meyer-Mews, *Anmerkung*, 60 NEUE JURISTISCHE WOCHENSCHRIFT 3142 (2007)).

(Edith Palmer)

IRAQ – Iraqi Official Admits the Use of Violence

General Abdel-Karim Khalaf, a spokesman for the Ministry of the Interior in Iraq, admitted that some officers in his Ministry had used violence to extract confessions from those accused of committing crimes, but without the knowledge of people in high positions. He added that the Ministry of the Interior has what he termed the biggest criminal forensic institute in Iraq that contributes to the criminal investigations conducted by the Ministry. (*General Khalaf: Our Members Used Violence to Extract Confessions Without the Knowledge of Higher Authorities*, ASHARQ ALAWSAT, Nov. 12, 2007.)

(Issam Saliba)



Disasters

PAKISTAN – Earthquake Damage Reconstruction Authority

On July 12, 2007, the Government of Pakistan issued the Earthquake Reconstruction and Rehabilitation Authority Ordinance, 2007, establishing the autonomous Earthquake Reconstruction and Rehabilitation Authority (ERRA). The authority will be responsible for carrying out surveys to assess damage and implement future planning in the affected areas. It will also formulate comprehensive development programs for reconstruction of government buildings and offices, including infrastructure, tourist facilities, and irrigation and agricultural facilities.

The Earthquake Reconstruction and Rehabilitation Council (ERRC), whose membership will include, *inter alia*, the Prime Minister, Chief Minister of the North-Western Frontier Province and other Northern Areas, and the Minister for Kashmir Affairs, is to provide policy guidelines and approve the policies, plans, programs, and projects submitted to it for execution by the ERRA. A Board, consisting of the Chairman and Deputy Chairman of the ERRA and other government officials and nominees, will exercise such powers and perform such functions as may be assigned by the ERRC. The Board will be responsible for implementation of plans, policies, and projects approved by the Council. (The Earthquake Reconstruction and Rehabilitation Authority Ordinance, No. 25 of 2007, THE GAZETTE OF PAKISTAN 1005-1014 (July 12, 2007).)
(Krishan Nehra)



Elections and Politics

GEORGIA – New Election Legislation

On November 20, 2007, as a part of the compromise between the opposition parties, the Parliament adopted amendments to Georgia's election laws, which will apply during the 2008 parliamentary elections. The amendments decrease the election threshold for the parties from the present seven percent to five, affect the composition of the election commissions, and establish new rules for the election of legislators. According to the new rules, the Chairman of the Central Election Commission and six commissioners will be appointed by the ruling party. The remaining six seats will be filled by the representatives of six opposition parties that during the last elections have cleared the four percent threshold, which made them eligible for state funding. The Central Election Commission will create lower-level election commissions, which together with the activists of the ruling party and leading local political parties will appoint precinct staff. In regard to the election of Members of Parliament, the country will be divided into 19 electoral districts, in which each party registered to participate in elections will nominate a list of candidates running from the constituency. The party that receives the most votes in the district will have the right to send the candidates on its ballot to the Parliament. (*Parliament Outlines Major Election Rules*, UNA-GEORGIA ONLINE MAGAZINE.)
(Peter Roudik)

KYRGYZSTAN – Constitutional Amendments Passed on Election System

On October 21, 2007, a national referendum was held in Kyrgyzstan to adopt constitutional amendments designed, according to President Bakiev, to “resolve problems of tribalism, gender inequality, and under-representation of ethnic minorities.” These amendments establish a new proportional electoral system, under which the parliament will be formed by political parties nominating nation-wide lists of candidates. In order to expand the participation of women, young people, and minorities in political life, a newly adopted constitutional provision requires that a list of candidates include no more than 70 percent of people of the same sex, no less than 15 percent of people under 35 years of age, and no less than 15 percent of individuals belonging to various ethnic groups. Another amendment prohibits the president of the country from being a member of any political party. It states that in order to treat all political forces equally, the president will suspend his party affiliation. (*Kyrgyz Referendum Adopts New Constitutional Amendments*, 11:194 RADIO FREE EUROPE RADIO LIBERTY NEWSLINE, Part I, Oct. 22, 2007.)
(Peter Roudik)

TAIWAN – Amendment of Election and Recall Law Provisions

Taiwan's Public Officials Election and Recall Law was significantly amended on November 7, 2007. The changes include revised provisions on campaign activities and expenditures and on candidate qualification requirements, as well as revised and new provisions on punishments for vote-buying. One example of the changes is that although the basic method of calculation of the maximum amount of campaign expenditures for legislators is the same – the



sum resulting from the number of candidates divided by 70 percent of the total population of the constituency concerned, multiplied by a basic amount, plus a fixed amount – the basic amount has been increased from NT15 to 30 (about US\$0.50-\$1) and the fixed amount from NT6 million to 10 million (about US\$186,000-\$310,000). Campaign expenditures may still be listed as a deduction on a candidate's tax return, but the Law now specifies that not only political contributions, but also government subsidies, are to be subtracted from the outlay. Furthermore, the Law no longer includes provisions specifying the amount of individual contributions that may be made to a candidate or a party. A new article on vote buying mandates that the rules on punishing bribery can also be applied to party primaries. Candidates convicted of buying votes may be subject to a prison term of three to ten years and a fine ranging from NT1 million to 10 million; their party will also be fined.

Another key amendment concerns recounts. If the disparity between the winning and losing candidates in an election is only 0.3 percent of the total vote, the losing candidate may ask the court with jurisdiction over the election for a recount.

The Law provides that media should remain impartial and treat different parties and candidates equally or face fines of between NT200,000 to 2 million (about US\$6,200-\$62,000). Government departments are also forbidden to engage in campaign publicity activities; those found to have used departmental funds for such purposes will be sentenced to up to three years' imprisonment and must restore the money.

The Law also newly specifically provides that no less than half the number of each party's seats, allocated under various circumstances, is to be reserved for women. The formula for calculating the number of votes received by each party has been revised as well. Another new provision stipulates that the election of legislators is to be held within 60 days from the day on which the President of the country declares the dissolution of the Legislative Yuan. A number of provisions of the former Law were repealed through the amendment, including those on the election of national assemblymen, provincial councilmen, and governor; on the system of canvassers; and on deprivation of voting rights of persons whose civil rights have been removed but restituted.

According to Taiwan's Central News Agency, legislators failed to reach consensus on an anti-corruption amendment aimed at imposing a stricter ethical standard on candidates. It stipulated that candidates who had been given the death penalty, a life sentence, or term of imprisonment of more than ten years, even if a final verdict had not been rendered, as well as those suspected of bribery, using violence to tamper with an election, or violating the Organized Crime Prevention Act, would be disqualified. Another rejected controversial article would have allowed two political parties to jointly put forward candidates.

The CEC issued a statement on November 9 indicating that Taiwan's seventh legislative elections would be held on January 12, 2008. (Public Officials Election and Recall Law, 6770 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 1-48 (Nov. 7, 2007), Global Legal Information



Network, ID No. 199694, available at <http://content.glin.gov/summary/199694> (in Chinese); Amber Wu, *Parties Accede on Election Law*, TAIWAN JOURNAL, Nov. 16, 2007, available at <http://taiwanjournal.nat.gov.tw/ct.asp?CtNode=122&xItem=24885>.)
(Wendy Zeldin)

ZIMBABWE – Election Laws Amendment Bill

Upon reconvening on November 20, 2007, the Parliament of Zimbabwe was to consider, among other legislation, an Electoral Laws Amendment Bill that would establish the framework for the March 2008 joint presidential, parliamentary, and municipal elections. Critics contend that the bill is aimed at furthering President Robert Mugabe's re-election bid and may gerrymander for Mugabe to provide for an electoral body that would be packed with the President's cronies.

Under the bill, the responsibility for managing the voters' register would be transferred to the Zimbabwe Electoral Commission, and security force personnel would be barred from being seconded to or hired by the ZEC. However, there is concern that "ongoing voter registration is being presided over by Registrar Tobaiwa Mudede, an alleged proxy of Mugabe whom he has helped through manipulation of previous elections." The government has declined to compile a new register despite complaints that the current one "is in a state of shambles." (*Zimbabwe: Parliament to Reportedly Pass Election Law Favoring Mugabe in 08 Polls*, THE ZIMBABWE TIMES, Nov. 19, 2007, Open Source Center No. AFP20071120534009.)

The bill also authorizes the ZEC to carry out the demarcation of constituencies, a task previously handled by the Delimitation Commission, but there has been a public outcry over the appointment of senior government officials to the ZEC, which is supposed to be an independent body. In the view of Dr. Lovemore Madhuku, a constitutional law expert and Chairman of the National Constitutional Assembly, the current ZEC, which will oversee the 2008 elections, will not permit any opposition party to form a new government: "[w]hat Zimbabweans will witness is a well stage-managed election in which president Robert Mugabe will retain his post as the head of government At best it might allow an insignificant number of MPS from the opposition to win in urban constituencies." (*Id.*; see also *Electoral Laws Amendment Bill, 2000: An Analysis by the Zimbabwe Election Support Network*, Zimbabwe Election Support Network Web site, Nov. 28, 2007, available at http://www.zesn.org.zw/publications/publication_138.doc.)
(Wendy Zeldin)



Employment

ISRAEL – Choice of Labor Law in West Bank Israeli Settlements

In a ground breaking decision rendered on October 10, 2007, the High Court of Justice in an extended bench held that Israel's labor laws apply to Palestinians who are employed by Israeli employers in the West Bank. The Supreme Court had already determined in the past that the West Bank was held by Israel by way of belligerent occupation. The applicable law there would therefore generally be Jordanian law as existed prior to the occupation by the Israel Defense Forces.

In spite of the above, the High Court determined that in the absence of an agreement regarding the law that applies to the employment contract, the law of the country most connected to the topic in the employment contract will apply. Considering that in the case under consideration the payment to employees was in Israeli currency and various documents regarding the employment and conditions of employment were issued in accordance with what was common in Israel, the conclusion must be that the linkage of the employment relationships to Israeli law is stronger than it is to Jordanian law. Any other interpretation will lead to prohibited discrimination against Palestinians as compared to Israelis working in the West Bank for Israeli employers. (H.C. 5666/03 A Line to the Employee Non- Profit Organization et al. v. the National Court of Labor in Jerusalem et al., the Nevo Legal Database.)
(Ruth Levush)



Environment

UNITED STATES – Court Enjoins Navy’s Use of Sonar to Protect Marine Life

On November 13, the United States Court of Appeals for the Ninth Circuit partially upheld an order enjoining the Navy’s use of medium-frequency sonar in training exercises off the Southern California coast.

A federal district court in California had issued a blanket preliminary injunction preventing the Navy from using the sonar due to its effect on marine wildlife, particularly whales. A motions panel of the Ninth Circuit stayed the district court’s blanket preliminary injunction on the ground that the injunction was overbroad. The Ninth Circuit vacated this stay, ruling that the environmental groups that filed the lawsuit had demonstrated a strong likelihood of success on the merits of their claims under the National Environmental Policy Act and the Coastal Zone Management Act, and had shown the possibility of irreparable injury in the absence of an injunction. The court observed that the Navy in prior exercises had successfully used mitigation measures to reduce the harmful effects of the sonar. The court remanded the case to the district court instructing it to modify the injunction to allow the Navy’s use of the sonar to proceed if conducted with satisfactory safeguards to protect the environment. (Natural Resources Defense Council, Inc. v. Winter, No. 07-56157 (9th Cir. Nov. 13, 2007) *available at* [http://www.ca9.uscourts.gov/ca9/newopinions.nsf/06934FBF5A0BE29C882573920073E3EA/\\$file/0756157o.pdf?openelement](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/06934FBF5A0BE29C882573920073E3EA/$file/0756157o.pdf?openelement).)

(Gary Robinson)

UNITED STATES – Fuel Economy and Emissions Standards Ruled Inadequate

On November 15, 2007, the United States Court of Appeals for the Ninth Circuit struck down standards promulgated by the National Highway Traffic Safety Administration (“NHTSA”) which would govern fuel economy and emissions for light trucks, including sports utility vehicles, minivans and pickup trucks, for the years 2008 through 2011. The court found that the standards failed to comply with the Energy Policy and Conservation Act of 1975 (“EPCA”), which requires NHTSA to set fuel economy standards for passenger vehicles at the maximum feasible level.

The court found the new standards to be arbitrary and capricious, and contrary to the EPCA, because they failed to monetize the value of carbon emissions, establish a minimum fuel economy standard, close the “SUV loophole” which allows certain light trucks to satisfy a lower fuel economy standard than cars, or set fuel economy standards for all vehicles weighing 8,500 to 10,000 pounds. The court also held that NHTSA’s environmental assessment was inadequate. The court remanded the matter to NHTSA to promulgate new standards and to prepare a full Environmental Impact Statement. (Center for Biological Diversity v. National Highway Safety Traffic Administration, No. 06-71891 (9th Cir. Nov. 15, 2007), *available at* [http://www.ca9.uscourts.gov/ca9/newopinions.nsf/775202DBA504085C88257393007B9729/\\$file/0671891.pdf?openelement](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/775202DBA504085C88257393007B9729/$file/0671891.pdf?openelement).)

(Gary Robinson)



VANUATU – Ban on Harvesting Sea Cucumbers and Clams

According to a media report of November 12, 2007, Vanuatu's Fisheries Department has issued a maximum five-year ban on sea-cucumber harvesting and a total ban on clam shell harvesting. The purpose of the bans is to replenish the stocks after the Fisheries Department's research showed a dramatic decline in them. (*Vanuatu Fisheries Dept Announces Ban on Sea-Cucumber [sic] and Clam Shell Harvesting*, RADIO NEW ZEALAND INTERNATIONAL, Nov. 12, 2007, available at <http://www.rnzi.com/pages/news.php?op=read&id=36361>.)
(Lisa White)



Export Controls

SWITZERLAND – Arms Control

On November 14, 2007, the Swiss Commerce Department (*Eidgenössisches Volkswirtschaftsdepartement*, EVD) announced that it suspended an export permit for 21 Swiss-produced anti-aircraft missile systems for Pakistan. The exports had been approved in December 2006 and six of the systems have already been delivered. The remainder of the exports, valued at approximately 98 million Swiss francs (US\$87,290), must be postponed indefinitely in view of the current political situation in Pakistan. (*Keine Fliegerabwehrsysteme für Pakistan*, NZZ ONLINE, Nov. 14, 2007.) In Switzerland, arms exports require a governmental permit in accordance with the Act on War Weapons (Bundesgesetz vom 13. Dezember 1996 über das Kriegsmaterial (Kriegsmaterialgesetz, KMG), Die Bundesbehörden der Schweizerischen Eidgenossenschaft Web site) and its implementing regulation (*Id.* at http://www.admin.ch/ch/d/sr/c514_51.html). According to article 2 of the War Weapons Act, Swiss arms control purports to live up to Swiss international obligations and foreign policy principles, while allowing for an industrial capacity sufficient to satisfy Swiss defense requirements.

(Edith Palmer)



Family

BRAZIL – Proposed Constitutional Amendment Changes Divorce Law

A Special Commission of the Brazilian Chamber of Deputies is analyzing a proposal for a constitutional amendment that would reduce to one year the necessary period before a couple can file for divorce. Appended to it is an additional proposal that would extinguish the institution of judicial separation, a legal remedy available before filing for divorce, and also allow a couple to immediately file for divorce.

Current Brazilian legislation does not allow a couple to file directly for divorce. Article 226, section 6, of the Constitution determines that in order to obtain a divorce, a couple must either file for a judicial separation, which will be converted into a divorce one year after the ruling declaring them judicially separated, or stay separated for two years and then file directly for divorce.

To become effective, the Special Commission must approve the proposal, the Chamber of Deputies must vote on and approve it in two plenary sessions and forward it to the Federal Senate for approval, and then the President of the Republic must sanction it. (*Projeto que Agiliza Divórcio Pode Ser Votado em 2007, Mas Encontra Resistência de Religiosos*, O GLOBO (O)NLINE, Oct. 22, 2007.)
(Eduardo Soares)

BRAZIL – Proposed Law Gives Estranged Couples Equal Rights over Children

On October 23, 2007, the Brazilian Federal Senate approved the draft of a proposed supplemental law that changes the way children of estranged couples are raised. According to the proposed law, both parents will share all aspects of the children's education, custody, expenses, educational and health responsibilities, and time spent with the family. The draft law also covers the children born of stable unions and relationships. The shared custody may be adopted consensually or judicially. The proposed law now will be analyzed by the Chamber of Deputies. (*Pai e Mãe Separados Poderão Dividir Criação de Filhos*, JURID, Oct. 24, 2007.)
(Eduardo Soares)

EGYPT – Fatwa Against Marriage to Israeli Women

A former undersecretary of Al-Azhar (an Egyptian University connected to a mosque in Cairo), Sheikh Farhat Saeed al-Munji, issued a *fatwa* (Islamic religious edict) in which he prohibits Muslim men from marrying Israeli women. The justification for his *fatwa* is that, among other factors, the children born to a Muslim man would also become Jews under the laws applied in Israel. This fact constitutes, in his opinion, a danger to the national security of Arab and Muslim countries. (*Fatwa Denouncing Marriage to Israeli Women Stirs Controversy*, ASHARQ ALAWSAT, Nov. 14, 2007, available at <http://www.asharq-e.com/print.asp?artid=id10871>.)
(Issam Saliba)



SWITZERLAND – Forced Marriage

The Swiss Federal Council (the executive branch of the Swiss government) communicated to the Swiss parliament its concern over the high incidence of forced marriages among the immigrant population from Islamic countries and its intention to propose law reforms to forestall such abuses. Among the contemplated measures is the voidability, for an indefinite time, of forced marriages and the refusal to recognize marriages of persons below the age of 18. In addition, civil registrars may be held to a higher standard of care in detecting and preventing forced marriages. (*Bundesrat nimmt Zwangsehe ins Visier*, NZZ ONLINE, Nov. 14, 2007.)

Currently, the Swiss Civil Code requires a minimum age of 18 for marriages in Switzerland (Schweizerisches Zivilgesetzbuch, Dec. 10, 1907 (ZGB), as amended, SYSTEMATISCHE SAMMLUNG DES BUNDESRECHTS (SR) 201, art. 94, para. 1) and makes forced marriages voidable for a period of six months (ZGB, art. 107, no. 4). However, the Swiss Conflicts Code recognizes a marriage of aliens celebrated abroad if the marriage requirements of the place of celebration are met (Bundesgesetz über das internationale Privatrecht (IPRG), Dec. 18, 1987, SR 291, art. 45, para. 1); according to this principle, the marriage of aliens below the age of 18 is recognized in Switzerland, unless this recognition were to violate public policy (IPRG, art. 27).
(Edith Palmer)



Foreign Exchange

KOREA, SOUTH – Foreign Remittance De-Regulation

The Korean Finance and Economy Ministry released the Foreign Currency System Improvement Plan on November 8, 2007. Korea currently allows a Korean person or firm to transfer abroad up to US\$ 3 million per person or firm to buy real estate for investment purposes. This limit will be removed during 2008. The government will also allow foreign remittances of up to US\$50,000 without written proof of the purpose of the remittance. (Chon Su Yong, *Kaigai sokin nenkan 5man doru made jiyuka e [Foreign remittance liberalized up to 50 thousand dollars]*, CHOSUNONLINE, Nov. 9, 2007.)

(Sayuri Umeda)



Foreign Investment

CHINA – New Foreign Investment Catalog

China's National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOC) issued the revised Catalog of Foreign Investment Industries on October 31, 2007, to be implemented as of December 1, 2007. (NDRC Web site). Compared to the 2004 Catalog it replaced, the new Catalog, in conformity with China's World Trade Organization (WTO) commitments, eases restrictions on foreign investment in commercial services, finance, and certain types of manufacturing. However, it "greatly expands" limits on foreign investment in real estate and imposes tighter controls on media, the Internet, and program production. (Posting of Donald Clarke, dcclarke@YAHOO.com to CHINALAW@HERMES.GWU.EDU (Nov. 17, 2007), transmitting *China Issues New Foreign Investment Restrictions*, CHINA MATTERS (Nov. 2007), Paul Hastings Web site, available at http://www.paulhastings.com/assets/publications/798.pdf?wt.mc_ID=798.pdf.) The 2007 Catalog retains the classification of industries based on those that are encouraged, restricted, or prohibited, but does not include the part of the 2004 Catalog's appendix on China's timetable for fulfillment of its WTO obligations, because most of the obligations have now been met. One major exception is foreign ownership limits in basic telecommunications. Overall, the new Catalog is described as being "more detailed and comprehensive, especially for certain manufacturing industries." (*Id.*)

In addition, the MOC issued a revised Catalog of Technology Prohibited and Restricted from Import by China on October 23, 2007, effective November 22, replacing a 2001 version. The issuing decree is available on the MOC Web site, at <http://english.mofcom.gov.cn/aarticle/policyrelease/domesticpolicy/200711/20071105207119.html> (last visited Nov. 28, 2007). It is linked to the Chinese text of the Catalog.

(Wendy Zeldin)



Government Employees

BRAZIL – Strike Rights Limited by the Federal Supreme Court

On October 25, 2007, the Brazilian Federal Supreme Court (STF) ruled that public servants have the right to go on strike, but imposed limitations on this right. Although foreseen by the Constitution of 1988, the issue has never been regulated by Congress with appropriate legislation. In its decision, STF declared Congress omissive because it did not deal with the situation for 19 years. Therefore, the Justices agreed that the same law that regulates the private sector, Law No. 7,783 of June 28, 1989, must be applied to the public sector.

The limitations on the right to go on strike imposed by Law No. 7,783 include, inter alia, that the organs responsible for essential services to the population must guarantee that at least 30% of the services continue to be operational during a strike. Before STF's ruling, strikes by public servants did not occur due to the lack of a specific regulation. Justice Eros Grau was quoted as saying that after the decision, all strikes involving public servants are now subject to the Law's limitations. (*STF Limita Direito de Greve dos Servidores Públicos*, O GLOBO (O)NLINE, Oct. 26, 2007.)
(Eduardo Soares)



Government Ethics

FRANCE – Law on the Fight Against Corruption

Law 2007-1598 of November 13, 2007, on the Fight Against Corruption amends the Penal Code to bring it into conformity with the 1999 Council of Europe Criminal Law Convention on Corruption and the 2003 United Nations Convention Against Corruption. The Law punishes any public official who engages in corruption, including public officials from foreign states and officials from public international organizations. Under the previous legislation, foreign officials were only punished when the corruption was committed within the framework of international trade. The Law also criminalizes trading in influence, stating that both the public officials and the original instigators may be prosecuted. The Law also punishes obstruction of justice designed to interfere with foreign and international judicial systems.

Finally, the Law provides for additional penalties when the offenses described above are committed by legal entities. It amends the Labor Code to include provisions protecting employees who report or testify about acts of corruption that take place at their companies. (Loi 2007-1598 du 13 novembre 2007 relative a la lutte contre la corruption, JOURNAL OFFICIEL [Official Gazette of France], Nov. 14, 2007, at 18648.)
(Nicole Atwill)



Government Publications

BRAZIL – Government Decides to Charge for Official Gazettes

On October 23, 2007, the Director-General of the Brazilian National Press, Fernando Tolentino de Sousa Vieira, issued Administrative Act (*Portaria*) No. 275 establishing the commercialization of official gazettes and their electronic versions. In response, the national president of the Brazilian Bar Association, Cezar Britto, sent a letter to Vieira requesting the immediate revocation of the Act, based on a decision of the National Council of Justice determining that “the charging of any subscription fee by the tribunals might restrict the publicity of the acts, which must be given broad visibility.” (*OAB Quer Revogação de Portaria Sobre Venda de Diário da Justiça*, JURID, Nov. 6, 2007.)

(Eduardo Soares)



Gun Control

EUROPEAN UNION – Firearms Legislation

In the aftermath of a recent shooting at a school in Finland, the European Parliament moved quickly to approve at first reading the European Commission's proposal to amend Directive 91/477/EC concerning the acquisition and possession of firearms. The last step in the legislative process is that the proposal will be forwarded to the Council of the European Union for final approval. Once approved, the new Directive will harmonize the EU gun legislation with the United Nations Firearms Protocol, to which the Community acceded in 2001.

The main highlights of the new Directive are:

- Each member State must establish a computerized filing system containing all records on firearms for at least 20 years;
- The purchase of firearms by minors will be prohibited and the conditions of the use of firearms by persons less than 18 years of age will be strictly controlled;
- Manufacturers will be obliged to mark firearms at the time of manufacture with clearly identifiable particulars;
- Firearms must also be marked when transferred from government stocks to use by civilians; and
- The use and recognition of the European Firearms Pass within the European Union will also be strengthened.

(Press Release, European Commission, Commission Welcomes Parliament Agreement to Strengthen Gun Control in the European Union, IP/07/1813 (Nov. 29, 2007), *available at* <http://www.europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1813&format=HTML&aged=0&language=E>.)

(Theresa Papademetriou)

PERU - Possession of weapons and ammunitions

On October 17, 2007, President Alan Garcia Perez signed Law No. 29106 amending article 13 of Law No. 25054, which regulated the manufacture, trade, possession and use by individuals of weapons and ammunitions not destined to war and including amendment to articles 36 and 38 of the Criminal Code (Legislative Decree No. 635).

Article 13 deals with granting of licenses for the possession and use of firearms, valid for a period of five years that can be extended. The procedure to obtain a license of possession and initial use, transfer, and renewal requires the mandatory presentation of official documents of a person's criminal history.

Articles 36 and 38 of the Criminal Code determine the effects and duration of the revocation of licenses. The revocation will result in the suspension or cancellation of the



authorization to carry or make use of firearms. In cases of guilty verdicts for intentional crimes with punishment depriving the person of freedom for more than four years, the effect will be the ineligibility to obtain a license or certification from the competent authority to carry or make use of firearms.

This Law also adds article 41 to the above mentioned Law No. 25054 concerning the obligation of the Ministry of Justice and the Judiciary to inform the General Directorate for Control of Security Services, Arms Control, Ammunition, and Civil Use of Explosives for the Ministry of Internal Affairs of the results of the procedures following the intentional crimes that led to the suspension, cancellation, or denial of authorization to bear or make use of firearms. (Law No. 29106, Oct. 18, 2007, El Peruano. (Official source) *available at* <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/29106.pdf>). (Dario Ferreira)



Health

CUBA - Cuba to Market and Distribute a new Vaccine to Foreign Countries

Various products of Cuban biotechnology, among these the newly created pentavalent vaccine “Heberpenta,” will be at the disposal of commercial associates of Heber Biotec S.A. between 2008 and 2010.

Heber Biotec S.A., which is certified by Norm ISO 9001:2000, is the exclusive representative and commercial corporation [*comercializadora*] of the *Centro de Ingeniería Genética y Biotecnología* ([CIGB—in Spanish] Genetic Engineering and Biotechnology Center) and other institutions of the *Polo Científico del Oeste de la Habana* (Scientific Hub of Western Havana). Heber Biotec S.A holds more than 200 sanitary registries [*registros sanitarios*], approved in 52 countries, and signed distribution agreements with companies all over the world.

“Heberpenta,” which was created through the cooperation of the CIGB, the Finlay Institute (a scientific organization dedicated to vaccine research and production), and the *Laboratorio de Reactivos Químicos de la Universidad de La Habana* (Chemical Reagent Laboratory of the University of Havana), immunizes against five diseases at once: diphtheria, tetanus; pertussis (whooping cough); hepatitis B; and, *Haemophilus influenzae* type b (Hib), which causes meningitis, pneumonias and otitis, and is the cause of death of half a million infants in the world.

The vaccines that compose the pentavalent vaccine [*vacuna pentavalente*, i.e., having a valence of 5] provide protection as follows: 95% for diphtheria and tetanus; 80% for pertussis; 98% for hepatitis B; and, according to clinical studies, 99.7% for *Haemophilus influenzae* type b (Hib). (Riera, Lilliam, *Cuba comercializará al exterior nueva vacuna pentavalente: Heberpenta inmuniza contra la difteria, tétanos, tos ferina, hepatitis B y la bacteria Haemophilus influenzae tipo B*, GRANMA INTERNACIONAL DIGITAL, EDICIÓN EN ESPAÑOL, Nov. 30 2007.) (Francisco Macías)



Human Rights

ASEAN – Charter Signed

During their 13th summit, held from November 18-22, 2007, Members of ASEAN (the Association of South East Asian Nations, consisting of Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and Vietnam) signed a charter setting out ASEAN's principles and rules as well as a declaration indicating their intention to implement the charter. The charter is the first time in its 40-year history that ASEAN has established its principles and rules. Among other things, the charter commits ASEAN to establishing a regional human rights body. (ASEAN, DECLARATION on the ASEAN Charter, 13THASEANSUMMIT, Nov. 20, 2007, available at http://www.13thaseansummit.org.sg/asean/index.php/web/documents/declarations/declaration_on_the_asean_charter & Charter of the Association of the Southeast Asian Nations, 13THASEANSUMMIT, Nov. 20, 2007, available at http://www.13thaseansummit.org.sg/asean/index.php/web/documents/agreements/charter_of_the_association_of_southeast_asian_nations_1; see also 9 W.L.B. 2007.)

(Lisa White)

CAMBODIA – Genocide Tribunal Has First Hearing

International media have reported the first public hearing of the Genocide Tribunal of Cambodia. It was a request for bail by Kang Kek Ieu, the former head of the Tuol Sleng prison in Phnom Penh. The tribunal is supported by the United Nations and has a mandate to try surviving Khmer Rouge leaders. Further trials of alleged former Khmer Rouge leaders are expected to be held in 2008. (*First Hearing for Cambodia Court*, BBC NEWS, Nov. 20, 2007, available at <http://news.bbc.co.uk/go/em/-/1/hi/world/asia-pacific/7102898.stm>.)

(Lisa White)



Immigration and Nationality

CANADA – Supreme Court Refuses to Hear Appeals of U.S. Deserters

On November 15, 2007, the Supreme Court of Canada declined to hear the appeals of two U.S. military deserters who had sought refugee status in Canada. (Brandon David Hughey v. Minister of Citizenship and Immigration, No. 3211 & Jeremy Hinzman v. Minister of Citizenship and Immigration, No. 32112, http://scc.lexum.umontreal.ca/en/news_release/2007/07-11-15.3a/07-11-15.3a.html (last visited Dec. 6, 2007). The applications were dismissed without any statement of reasons.

The applicants had originally argued before the Canadian Immigration and Refugee Board that they should be granted asylum because of their moral objections to the war in Iraq and because they would face persecution if they were returned to the United States. In 2005, the Immigration and Refugee Board found that the deserters would receive a fair trial in the United States and that they would not face cruel and unusual punishment. The Federal Court of Canada upheld this decision before it was appealed to the Supreme Court.

The Supreme Court's refusal to hear the appeals of the two deserters is consistent with past Canadian practices. While Canada has received as eligible refugees persons who came to the country to avoid a draft, it has traditionally declined to receive deserters from an allied armed force. It is estimated that up to 200 former U.S. soldiers are in Canada and that approximately 20 have applied for refugee status. (Nick Fiske, *Canadian Supreme Court Refuses to Hear Asylum Appeals of U.S. Army Deserters*, PAPER CHASE NEWSBURST, Nov. 15, 2007, available at <http://jurist.law.pitt.edu/paperchase/2007/11/canada-supreme-court-refuses-to-hear.php>.) (Stephen Clarke)

FRANCE – Constitutional Council Validates DNA Testing for Immigration Cases

On November 15, 2007, the Constitutional Council of France found that voluntary recourse to DNA testing, limited to showing the relationship with the mother when there is serious doubt regarding the authenticity of a document presented to establish family ties, does not violate the principle of equality of citizens before the law. The Council, however, listed several reservations aimed at prohibiting “a systematic recourse to DNA testing in the states where the testing will be conducted during the trial period.” (See 11 W.L.B. 2007.)

The Council also found that the provision on DNA testing, as drafted, did not infringe upon the right to family reunification, the right of privacy, and the principle of respect for the dignity of the human person. The Council struck down a provision of the law allowing the gathering of statistics showing the ethnic or racial origin of a person as contrary to article 1 of the Constitution, which states, “France is an indivisible, secular, democratic and social Republic. It ensures the equality of all citizens before the law, without distinction of origin, race or religion.” (Conseil Constitutionnel, Decision 2007-557 of Nov. 15, 2007.) (Nicole Atwill)



Intellectual Property

FRANCE – Enforcement of Intellectual Property Rights

France's Law 2007-1544 of October 29, 2007, on the Fight Against Infringement implements Directive 2004/48EC of the European Parliament and of the Council of 29 April, 2004, on the Enforcement of Intellectual Property Rights. The Directive addresses "the measures, procedures and remedies to ensure the enforcement of intellectual property rights," which include industrial property rights for the purposes of the Directive. (2004 O.J. (L157) 45.)

The Law covers community designs, patents, semi-conductors, plant breeder rights, trademarks, geographical indications, and copyright. It sets forth accelerated and simplified procedures to prevent or stop infringement acts. To assess damages, the competent court must take into consideration "the negative economic consequences, including lost profits that the injured party suffered, the profits realized by the infringer and the mental distress caused to the right holder by the infringer." As an alternative, upon request of the injured party, the court may "award a lump sum which cannot be lower than the amount of royalties or fee due if the infringer had requested the authorization to use the intellectual right in question." (Loi 2007-1544 du 29 octobre 2007 de lutte contre la contrefaçon, JOURNAL OFFICIEL [France's Official Gazette], Oct. 30, 2007, at 17775.)

The Law also amends the Code of Judicial Organization. It states that specially designated *Tribunaux de Grande Instance* (courts of general competence) will be competent to hear cases on the enforcement of intellectual property rights. Infringement is punishable by a maximum penalty of three years of imprisonment and a €300,000 fine (about US\$441,000). The penalty is increased to five years and a €500,000 fine when the offense is committed by an organized gang or when the products concerned are dangerous for the health and security of mankind or animals. Finally, the Law punishes violations of intellectual property rights, whether or not they are carried out on a commercial scale. (*Id.*)
(Nicole Atwill)

ISRAEL – New Copyright Law

On November 19, 2007, the Knesset (Israel's Parliament) passed the Copyright Law, 5768-2007. This Law replaces the British Copyright Law of 1911 and the Mandate Ordinance of 1924. The 2007 Law will become effective six months after publication. The Law recognizes copyright as applicable to original creations – literary, artistic, dramatic, or musical – as well as recordings, as long as they have a link to Israel or are protected under a decree issued by the Minister of Justice in accordance with a treaty between Israel and another country.

The Law extends the list of types of use that are either permitted or considered fair use. Among them are the use of a creation in legal or administrative proceedings; copying of a creation that is deposited by law for public review; indirect use of a creation by inclusion in



another creation such as a photograph, a film, or a record; copying of computer software for backup or maintenance; and use of a creation for broadcast; as part of an educational activity; in libraries, etc. The Law extends the period in which copyright applies to the lifetime of the creator or, in the case of a joint creation, the last creator remaining, to 70 years after his death. Seventy years of protection applies to anonymous creations, and 50 years is applicable to records and creations owned by the state. The Law further recognizes moral rights, entailing the creators' rights to name the creation and to be protected from any change or action offensive to the creation that can harm the creator's honor or name. (Copyright Law, 5768-2007, the Knesset Web site.)

(Ruth Levush)



International Relations

JAPAN/NORTH KOREA – Defectors Return to Japan

After Japan's defeat in the Second World War, Koreans who had entered Japan during the war, in many cases against their will, returned to the Korean peninsula. Those that remained in Japan immediately after 1945 could not return to South or North Korea during the Korean War (1950-53). From 1959 to 1984, 93,340 people went to North Korea from Japan, including 6,840 Japanese nationals, such as Japanese spouses of North Koreans, based on an agreement between the North Korean and the Japanese Red Cross organizations.

Recently, more North Korean defectors who had been born in Japan and returned to North Korea or who were Japanese nationals have come back to Japan to settle, bringing their families with them. It is estimated that about 150 North Korean defectors have settled in Japan. Japan enacted the Human Rights in North Korea Act in 2006, which states that the government will make an effort to support North Korean defectors. However, no concrete measures have been established yet and many of the defectors are on welfare. (*Fueru "yobiyose dappoku" [Increasing "being called defectors from North Korea"]*, YOMIURI ONLINE, Oct. 1, 2007.) (Sayuri Umeda)

NIGERIA/CAMEROON – Bakkassi Peninsula

The fate of the Bakkassi, a peninsula said to hold ten percent of the world's oil and gas reserves, is once again up in the air after the Nigerian Senate approved a motion on November 22, 2007, making its handover of the region to Cameroon illegal. The handover was part of the 2002 International Court of Justice decision that provided that the sovereignty of the peninsula lies with Cameroon and followed negotiations brokered by the United Nations.. The rationale behind the Nigerian Senate motion, according to a Nigerian Senator, is that the agreement reached to cede the Bakassi peninsula was not brought before the National Assembly for ratification as mandated by the Constitution of Nigeria.

Tension between the two countries remains high after 21 Cameroonian soldiers were killed in the peninsula two weeks ago. Although Nigeria denied involvement in the killings of the soldiers, it continued to reinforce its military presence in the area. Nigeria had withdrawn its military from the area in 2006, leaving behind a civilian administration that was supposed to remain in Bakassi until 2008. (*Bakassi Handover Ruled "Illegal,"* BBC NEWS: AFRICA, Nov. 23 2007, available at <http://news.bbc.co.uk/2/hi/africa/7108887.stm>) (Hanibal Goitom)

UNITED NATIONS – Advancing Rule of Law Deemed Vital

On November 20, 2007, U.N. Secretary-General Ban Ki-moon stated that upholding the rule of law is "crucial to the cause of peace." He was speaking to parliamentarians from many nations at the Annual Parliamentary Hearing, sponsored by the United Nations in cooperation with the Inter-Parliamentary Union. The speech stressed the importance of four aspects of the



international legal system, human rights, humanitarian provisions, criminal law, and refugee law. Describing how the rule of law benefits the world, the Secretary-General said, “It can help prevent or resolve conflicts and check weapons proliferation. ... It can protect people from genocide and other crimes against humanity. And it can aid the fight against terrorists and support efforts to limit the spread of communicable diseases.” (*Advancing the Rule of Law Is Vital Work, Says Ban Ki-Moon*, UN News, Nov. 20, 2007.)

Ban went on to discuss in detail the U.N.’s rule of law initiatives, including work on international treaties, support for efforts to reform the justice sectors of post-conflict states, and aid to poor nations to help them move to sustained economic development. His speech also touched on climate change and on the situation in Lebanon, which he said has a “Parliament in crisis” and for which he urged international support of the lawmakers.

At the same meetings, the U.N. General Assembly President, Srgjan Kerim, talked about the importance of cooperation between the U.N. and legislators from around the world. He stated that parliamentarians are important as opinion-formers in their nations, and added, “[y]our support is essential to promote more effective international relations based on the rule of law.” Kerim added that he will be inviting parliamentarians to participate in important debates in the General Assembly, including discussions on climate change and anti-poverty programs. (*Id.*) (Constance A. Johnson)



Investments

PAKISTAN – Settlement of Investment Disputes

On July 21, 2007, Pakistan promulgated the Arbitration (International Investment Disputes) Ordinance, 2007, in implementation of the International Convention on the Settlement of Investment Disputes Between States and Nationals of Other States. The new law requires a person seeking recognition or enforcement of an award rendered pursuant to the Convention to register the award in a high court in Pakistan. Registration of the award will be deemed to be a judgment of the court for the award's enforcement and execution.

Certain provisions of the International Convention, especially in articles 18-24, will have the force of law in Pakistan. The articles of the Convention have been incorporated in the schedule annexed to the Ordinance to give it the force of law. The government has reserved to itself the right to amend the schedule in conformity with any amendment to the provisions of the Convention. (The Arbitration (International Investment Disputes) Ordinance, 2007, THE GAZETTE OF PAKISTAN 1019-1045 (July 21, 2007).)

(Krishan Nehra)



Languages

UKRAINE – New Measures to Promote the Native Language

On November 20, 2007, Ukrainian President Viktor Yushchenko signed a decree on further promotion of the state language, which is Ukrainian, in the areas predominantly populated by non-Ukrainian minorities, especially in the Crimean peninsula. According to the Decree, new educational establishments, including a Ukrainian-Russian university, will be opened in such areas, special Ukrainian classes will be introduced in public schools, and programs aimed at studying language for the adult population will be initiated by the local administration. The decree provides for educational and other TV and radio programs in the Ukrainian language, allocates additional funds for libraries to purchase Ukrainian books and host Ukrainian theater tours, and orders the creation of local theaters performing in the Ukrainian language. (*Yushchenko Passed a Decree on Ukrainian Language*, UNIAN [Ukrainian National Information Agency], Nov. 20, 2007.)

(Peter Roudik)



Legislative Power

SOLOMON ISLANDS – Parliament Scheduled

The SOLOMON TIMES has reported that the Governor-General, Sir Nathaniel Waena, issued a proclamation scheduling a parliamentary session. The Solomon Islands is currently at a political impasse, with the current Prime Minister, Manasseh Sogavare, refusing to call a session of parliament. Under Waena's proclamation, parliament will sit on December 13, 2007. (*Governor General Sets Date for Parliament Meet*, SOLOMON TIMES ONLINE, Nov. 24, 2007, available at <http://solomontimes.com/news.aspx?nwID=987>.)

The Prime Minister has publicly stated that the Solomon Islands government will challenge the legality of the Governor-General's proclamation in the High Court. (Press Release, Prime Minister and Cabinet, Gov't to Challenge GG over Declaration of Parliament Meeting (Nov. 23, 2007), available at <http://www.pmc.gov.sb/?q=node/1647> (last visited Nov. 26, 2007).)
(Lisa White)



Money Laundering

SAMOA – New Anti-Money Laundering Laws

Samoa has enacted new anti-money laundering legislation. This includes:

- Money Laundering Prevention Act 2007, which establishes a Money Laundering Prevention Task Force and a legislative basis for Samoa's Financial Intelligence Unit; increases the amount of money (cash or negotiable instruments) at a border crossing that requires mandatory reporting, now WST20,000 (approximately US\$7,490); and imposes obligations on financial institutions to verify the identity of customers, maintain records, monitor transactions, and report suspicious transactions;
- Proceeds of Crime Act 2007, which expands the definition of money laundering and removes any threshold requirement for a predicate offense (now a serious offense is unlawful activity); and
- Mutual Assistance in Criminal Matters Act 2007, which formalizes Samoa's procedural processes for providing assistance to other countries in the instance of serious offenses.

(Money Laundering Prevention Act 2007, Proceeds of Crime Act 2007, Mutual Assistance in Criminal Matters Act 2007.)

(Lisa White)



National Independence

BOLIVIA – Declaration of Regional Autonomy

Bolivia is now at a critical junction. Four departments (Santa Cruz, Tarija, Beni, and Pando) rich in oil, soy and cattle declared autonomy on December 15, 2007, while three others (La Paz, the “de facto” capital of the country, Potosi and Oruro, with heavy indigenous population) are in complete support of the government of President Evo Morales. The conflict and declaration of territorial division was sparked by the approval of a new constitution by a constituent assembly of supporters of the government meeting in emergency.

The new constitution is aimed at establishing a ‘new Bolivia’ by empowering and giving voice to the Quechua, Aymara, and other indigenous peoples who make up the majority of the population in Bolivia, and was promised by Mr. Morales in his campaign and election two years ago. It will also bring forth radical land reform, limiting the size of land ownership. It is precisely this reform that provoked the strong reaction and rejection by the departments which declared the autonomy.

Both sides claim that they have enough supporters to fight for their causes as shown by large demonstrations held in Santa Cruz, in favor of autonomy, and in La Paz, in support of the government of Mr. Morales.

The government promises that the indigenous population will never be ignored again and that it will not allow the division of the country by anyone; but at the same time, it also promises that it is open to dialogue. The autonomy legislation and the proposed constitution are subject to a referendum that will take place early in 2008. (Richard Lapper, *Bolivia set on collision course over autonomy*, FINANCIAL TIMES, Dec. 17, 2007, at 6.)
(Dario Ferreira)



National Security

NEPAL – Term of U.N. Mission Extended

The Cabinet of the interim government of Nepal agreed on November 20, 2007, to extend the term of the U.N. mission in Nepal by six months. The government must formally notify U.N. headquarters at least one month before the expiry of the term, which began on January 23, 2007, in order to obtain an extension. Before that can take place, the government must consult Nepal's seven political parties, including the CPN-Maoist Party. In addition, in response to public pressure and the demands of civil servants, dozens of whom resigned their posts recently to protest the lack of adequate government security measures, the Cabinet directed the Home Ministry to improve the security situation in the country. (*Cabinet Decides to Extend UNMIN Term by 6 Months, to Consult 7 Parties Soon*, EKANTIPUR.COM.)
(Wendy Zeldin)



Privacy

GREECE –Use of Cameras During Demonstrations Allowed

During the 2004 Olympic Games, the Greek government spent close to €250 million (about US\$359 million) to ensure the safety of athletes and spectators and the smooth operation of the games. Part of those funds was allocated to purchase and install 300 closed-circuit cameras. However, the Hellenic Data Protection Authority, which is the nationally designated body to support the privacy and personal data of individuals, voiced strong concerns about the camera use and warned against it on privacy grounds. If the cameras were used, the Authority insisted, it should be with software that makes identification of people's faces difficult. The Authority recently fined the police €3,000 after an investigation revealed that 49 of the cameras installed were not equipped with the required software. It also found that some of the images were kept for more than a week, which is also against the privacy rules. On November 1, 2007, a prosecutor of the Supreme Court of Greece granted authorization to police authorities to use a camera to tape public gatherings and, if criminal acts occur, to use the footage as evidence during court proceedings. The authorization specifically permits police to train closed-circuit cameras on public events including marches, demonstrations, and sports events and to use the footage to identify and prosecute individuals involved in crimes. In his decision, the prosecutor explained that police do not have the authority to confiscate footage created by television crews or individuals who record events through the use of private cameras.

The Minister of Justice justified the prosecutor's decision based on the greater societal interest versus that of the individual. By contrast, the Party of the Radical Left argued that such a decision falls exclusively within the power of the Data Protection Authority. (*Greek Daily Explains Supreme Court Decision on Camera Use at Demonstrations*, KATHIMERINI [Daily], Nov. 1, 2007, Open Source Center No. EUP20071101430008.)
(Theresa Papademetriou)



Religion

NEPAL – Petition for Muslim Public Holidays

It was reported on November 20, 2007, that the Supreme Court of Nepal, in response to a writ petition seeking that major Muslim festivals be declared public holidays and that a Muslim Promotion Commission be formed, had issued show cause notices to the Prime Minister's Office, the Cabinet, Speaker Subas Nembang, and the Home Ministry. The authorities were given 15 days by the bench to respond to the writ petitioner. (*SC Order on Holiday Plea*, LEGAL NEWS FROM NEPAL, Nov. 20, 2007, available at <http://kanunisanchar.com/news/index1.php?Action=Full&NewsID=1044>.)

(Wendy Zeldin)

UNITED STATES – Injunction Issued to Permit Religious Protests at Funerals

On December 6, the United States Court of Appeals for the Eighth Circuit ruled that a Missouri statute barring protests at funerals should be preliminarily enjoined pending review of its constitutionality.

Members of the Westboro Baptist Church in Kansas believe it is their religious duty to protest at the funerals of United States soldiers by preaching that God is punishing America for homosexuality by killing soldiers and other Americans. Following one such protest, Missouri enacted a law criminalizing picketing in front or around a funeral or procession within one hour before or after the funeral. Shirley Phelps-Roper, a member of the church, filed suit arguing that the statute violates her rights under the First Amendment of the U.S. Constitution. She requested a preliminary injunction barring enforcement of this law pending adjudication of the merits of the case.

The federal district court rejected the motion for preliminary injunction, but the Eighth Circuit reversed. The appellate court concluded Phelps-Roper has a fair chance of proving that any interest the state has in protecting funeral mourners from unwanted speech is outweighed by her First Amendment rights, that the statute is not narrowly tailored, and that it fails to afford her adequate alternative channels to disseminate her message. (*Phelps-Roper v. Nixon*, No. 07-1295 (8th Cir. Dec. 6, 2007) available at <http://www.ca8.uscourts.gov/opndir/07/12/071295P.pdf>.)

(Luis Acosta)

UNITED STATES – State Funding of Faith-Based Prison Program Held Unconstitutional

On December 3, the United States Court of Appeals for the Eighth Circuit ruled that government funding of an evangelical Christian prison treatment program violates the Establishment Clause of the First Amendment of the U.S. Constitution.

For several years, the Iowa Department of Corrections provided funding to a prison program in which inmates voluntarily enrolled and received various benefits not provided



nonparticipating inmates if they participated in Bible study, religious instruction, and church services. A group of taxpayers who objected to this program on constitutional grounds sued for declaratory and injunctive relief. A federal district court held in June 2006 that the program violated the Establishment Clause, and ordered that the ministry repay the government the funding previously provided. The Eighth Circuit affirmed the district court's ruling that the program violated the Establishment Clause, finding that the program had the effect of advancing or endorsing religion. The Eighth Circuit reversed the district court's ruling that the ministry was required to repay the money received from the government during the period prior to the district court's order, but ruled that funds received from the government following the date of the district court's order should be repaid. (*American United for Separation of Church and State v. Prison Fellowship Ministries, Inc.*, No. 06-2741 (8th Cir. Dec. 3, 2007) *available at* <http://www.ca8.uscourts.gov/opndir/07/12/062741P.pdf>.)

(Luis Acosta)



Taxation

CHINA – Foreign Corporate Tax Breaks to Be Phased Out

Xinhua News Agency, citing the CHINA SECURITIES JOURNAL, reported on November 14, 2007, that the final draft of new implementing regulations for China's new Corporate Income Tax Law that will align domestic and foreign tax rates has been submitted to the State Council (Cabinet) for approval. According to an unidentified expert on the issue, the current preferential tax rate of 15 percent for foreign companies in special bonded zones, economic development zones, and high- and new-technology development zones will gradually rise to 18, 20, 22, 24, and finally 25 percent (that of domestic companies), over a five-year period. However, foreign businesses that have a tax holiday will retain the concession for the full ten years (five tax-free and five at up to 50 percent tax reduction) before becoming subject to the new rates, and those companies that invest in China's central and western regions will continue to enjoy the 15-percent rate until 2010.

The regulations will set forth new criteria for high- and new-technology firms, which will also be taxed at the 15-percent rate, but the criteria will make it harder for companies to gain that status of investor. According to the expert, the high- and new-technology firms "would no longer enjoy the status forever and qualifications will be re-evaluated every one or two years. Those who fail to meet the standards would be disqualified." Other provisions in the draft regulations set forth favorable tax policies for infrastructure projects, environmental protection, and water and energy conservation. The Corporate Income Tax Law was adopted on March 16, 2007, and its enforcement date is January 1, 2008. (*Id.*; see also *Latest Insights into China's New Corporate Income Tax Law and the Draft Detailed Implementation Regulations*, 17 CHINA TAX/BUSINESS NEWS FLASH (Sept. 2007), available at http://www.pwchk.com/home/eng/chinatax_news_sep2007_17.html.)
(Wendy Zeldin)



Terrorism

NEW ZEALAND – Proposal to Amend Terrorism Suppression Bill

A bill to amend the Terrorism Suppression Amendment Act has been introduced in the New Zealand Parliament. The Terrorism Suppression Amendment Bill 2007 will ensure compliance with international obligations and improve workability. The bill provides for:

1. ensuring New Zealand's compliance with United Nations Resolution 1267 by automatically designating U.N.-nominated entities as terrorist entities under New Zealand law;
2. creation of a new offense of committing a terrorist act (with Attorney-General's consent being necessary prior to a prosecution being commenced); and
3. creation of new offenses involving nuclear and radioactive material.

(Terrorism Suppression Amendment Bill 2007 (No 105-1), available at <http://www.knowledge-basket.co.nz/gpprint/docs/bills/20071051.txt>.)

(Lisa White)

UNITED KINGDOM – Court Approves Extradition of Muslim Cleric

Abu Hamza al-Masri is currently serving a seven-year term in the United Kingdom on terror-related charges. Known as a radical Muslim cleric, he was convicted of urging his followers to kill Jews and other non-Muslims. He now faces charges in the United States for attempting to establish terrorist training camps in Oregon, conspiring to take hostages in Yemen, and helping train terrorists in Afghanistan. City of Westminster Magistrates Court in London has now approved in theory his extradition to the United States; this decision means that that Home Secretary, Jacqui Smith, could decide to permit the extradition.

The United States initialing requested al-Masri's extradition in February 2006, but the hearings were not held due to the appeal of the UK conviction; the request was renewed in 2007. (Gabriel Haboubi, *UK Court Approves Extradition of Jailed Muslim Cleric to US for Terror Charges*, JURIST PAPER CHASE NEWSBURST, Nov. 15, 2007, available at <http://jurist.law.pitt.edu/paperchase/2007/11/uk-court-approves-extradition-of-jailed.php>.)

(Constance A. Johnson)

UNITED KINGDOM – First Woman Convicted Under Terrorism Act

Samina Malik, a female employee of the bookstore WH Smith at Heathrow Airport, is the first woman to have been convicted in the United Kingdom under the Terrorism Act. She has been found guilty of keeping terrorist manuals, specifically, articles "likely to be useful to a person committing or preparing an act of terrorism." Malik had been arrested in October 2007 and had earlier been found not guilty of a more serious charge of possessing an article for terrorist purposes, a crime under section 57 of the Terrorism Act. (*UK: London Court Convicts*



First Woman Under Terrorism Act, BBC NEWS, Nov. 8, 2007, Open Source Center No. EUP20071108167007.)

Malik has described herself as the “lyrical terrorist” and has written poems entitled “How to Behead” and “The Living Martyrs”; she maintained a collection of documents described as useful to terrorists and listed her interests on an Internet social networking Web site as “helping the mujaheddin in any way which I can.” She is scheduled for sentencing in early December. (“*Lyrical Terrorist*” *Convicted over Hate Records*, GUARDIAN UNLIMITED, Nov. 8, 2007, available at <http://www.guardian.co.uk/terrorism/story/0,,2207426,00.html>.) (Constance A. Johnson)

YEMEN – Court Convicts Al-Qaeda Members

A Yemeni court with national security and terrorist jurisdiction convicted 34 suspects of membership in al-Qaeda and of planning to blow up oil installations in the provinces of Mareb and Hadramout during the month of September 2006. It sentenced them to prison terms of up to 15 years. (*Yemen: 32 Convicted of Membership in “al-Qaeda” and of Planning Attacks Against Oil and Gas Installations*, ASHARQ ALAWSAT, Nov. 8, 2007.) (Issam Saliba)



Trade and Commerce

EU/CANADA – Trade Dispute over Seals

The European Union is the second largest market for seal products originating from Canada. Canada annually exports €12.7 million (about US\$18.6 million) worth of seal products to the EU. Only white seal cub furs are prohibited for import. This ban has been in place since the 1980s, following the vocal campaign against the practice by actress and animal rights activist Brigitte Bardot. However, in early 2007, in addition to the European Parliament – which has long voiced its strong objections to the inhumane killing of seals for their skins – several EU Member States began to adopt a hostile approach towards the trading of seal products. Belgium was the first EU country to prohibit trade in seal pelts, followed by the Netherlands. Italy and Luxembourg have discontinued granting licenses for trade in seal products. Other Members, including Austria, France, Germany, and the United Kingdom, are reportedly planning to follow suit soon.

In September 2007, Canada requested consultations with the World Trade Organization (WTO), located in Geneva, to initiate a formal complaint against the EU Members. Canada has a strong interest in the sealing business, since it is an important source of revenue for a number of coastal areas in Canada, including Newfoundland, Labrador, and Quebec. The Canadian Minister of International Trade, Francois Jubinville, stated, “there is no basis from the point of view of science or conservation to justify banning imports of seal products.” On the other hand, the EU Trade Commissioner, Peter Mandelson, stated that the EU intends to defend the actions of its Members before the WTO and that it will explore whether an EU-wide ban is justified. (*Canada Starts Trade Dispute with the EU over Seals*, EU OBSERVER, Sept. 27, 2007.)
(Theresa Papademetriou)

HONG KONG – New Building Laws Proposed

The Hong Kong Government has proposed an amendment to the Buildings Ordinance to introduce a system for the approval of minor works. Currently all building works (regardless of complexity) are subject to the same procedures. Under the Building (Amendment) Bill 2007, minor works will be classified into three categories (depending on scale, complexity, and risk to safety) and will be subject to different degrees of control. (Building Department, HKSAR, AN INTRODUCTION TO LEGISLATIVE PROPOSAL ON MINOR WORKS CONTROL SYSTEM (Dec. 2007), available at <http://www.bd.gov.hk/english/documents/code/minorworks.pdf>; Buildings (Amendment) Bill 2007.)
(Lisa White)



Trafficking in Persons

MEXICO – Government Promulgates Law Against Human Trafficking

The Mexican Federal Government promulgated the Law to Prevent and Punish Trade in People on November 27, 2007, effective the same day, its official date of publication, President Felipe Calderón announced the Law's publication the day before, during a commemoration of the International Day for the Elimination of Violence Against Women.

The new Law protects women and minors. Under its provisions, perpetrators of human trafficking crimes may be subject to prison sentences of up to 27 years and fines of up to 3,375 days' worth of the minimum wage. The Law also mandates the establishment of a national action program in which the federal agencies undertake commitments to combat human trafficking. The Law also amends the Federal Law Against Organized Crime, the Federal Penal Code, and the Federal Code of Criminal Procedure. (Decreto que Expide la Ley para Prevenir y Sancionar la Trata de Personas, y se Reforman, Adicionan y Derogan Diversas Disposiciones de la Ley Federal Contra la Delincuencia Organizada; el Código Federal de Procedimientos Penales y el Código Penal Federal, DIARIO OFICIAL DE LA FEDERACIÓN, Nov. 27, 2007; Press Release, Office of the President of the Republic, El Presidente Calderón en el Desayuno con Motivo de la Conmemoración del Día Internacional de la Eliminación de la Violencia Contra la Mujer, (Nov. 26, 2007.)

(Norma C. Gutiérrez)

UNITED NATIONS/AFRICA – Action Against Child Trafficking Urged

Speaking at an international meeting on trafficking in children and armed conflict, Antonio Maria Costa, the head of the U.N. Office on Drugs and Crime, urged West and Central African states to protect their children. He described child trafficking as something “which not only harms innocent lives but also efforts to secure peace in countries recovering from conflict.” He also said that human trafficking is a problem around the world, but that the crime is especially rampant in the parts of Africa where there are large numbers of “lost children” as a result of warfare and because the law enforcement is lax in some places due to internal conflicts or corruption. Costa stated, “[i]n some countries, anti-trafficking legislation is weak or non-existent.” Some of the vulnerable are orphans; others were child soldiers and may have been separated from their families and communities.

Costa went on to describe girls as more vulnerable than boys, both as victims of rape and sexual harassment and because most programs for disarming child soldiers and reintegrating them into society focus on boys. He advocated more support for rehabilitation of girls and supported efforts to redress injustices committed against them in armed conflicts. He expressed concern that safe havens be kept free of human traffickers, stating, “[w]e must deepen the knowledge base on the plight of girls in conflict situations to ensure that prevention and intervention become more effective.”



The conference was held in Abjian, in the Ivory Coast, and began on November 26, 2007. Costa promised that the United Nations would provide assistance to the African nations involved through the Global Initiative to Fight Human Trafficking, so that those countries could criminalize human trafficking, prosecute the perpetrators, and protect children. (*UN Anti-Crime Chief Urges Action to Prevent Child Trafficking in Africa*, UN NEWS, Nov. 27, 2007.)

(Constance A. Johnson)



Women

LIBERIA – Anti-Rape Campaign Launched

The Liberian government, with assistance from the United Nations, has undertaken a national campaign to prevent and punish the crime of rape. The project was launched by Liberia's President Ellen Johnson Sirleaf with the slogan "Stop rape – it could be your mother, your daughter, your sister, your niece." The United Nations Police Commissioner has reported that the number of rapes in Liberia rose from 351 in 2006 to 425 by early December in 2007. Part of the campaign will be establishing women and children's protection units staffed by specially trained police officers to work on arresting the rapists. The Special Representative of the U.N. Secretary-General and head of the U.N. Mission in Liberia, Alan Doss, said that "Rape is the most frequently committed serious crime in Liberia so we must find more effective ways to stop these crimes before more women and girls are hurt and abused." (*UN Helps Launch Nationwide Anti-Rape Campaign in Liberia*, UN NEWS, Dec. 3, 2007.)
(Constance A. Johnson)

SAUDI ARABIA – Rape Victim Sentenced to 200 Lashes

An appeals court in Saudi Arabia has doubled the sentence to 200 lashes and six months in prison for a Saudi woman who was gang-raped. The crime for which the woman was sentenced was that of being in a car driven by a person not related to her when the rape occurred. In justifying its decision to increase the sentence, the court said the woman tried to use the media to influence them. (*Saudi Gang Rape Sentence Unjust*, BBC NEWS, Nov. 16, 2007, available at http://news.bbc.co.uk/2/hi/middle_east/7098480.stm.)
(Issam Saliba)



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