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Law Librarian of Congress

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Abortions

PORTUGAL – Parliament Legalizes Abortion

On March 8, 2007, the Portuguese Parliament voted on and approved a bill legalizing abortion up until the tenth week of pregnancy. The approval came after the defeat of a second referendum on the issue, when approximately 60 percent of those who cast ballots approved a government proposal giving women the right to an abortion. However, the referendum was declared void due to a turnout of only 43.6% of the voters. For the results of a referendum to be valid and legally binding, the current legislation stipulates that more than 50 percent of registered voters must cast ballots. To become enforceable, the bill now must be ratified by the President and published in official government records, a process that can take several months. (Joana Mateus, *Portugal Parliament Liberalizes Abortion*, YAHOO! NEWS, Mar. 9, 2007; [Portugal to Legalise Abortion After Referendum](#), ABC NEWS ONLINE, Feb. 12, 2007.) (Eduardo Soares)

UNITED STATES – Partial-Birth Abortion Ban Upheld

On April 18, the U.S. Supreme Court ruled that the Partial-Birth Abortion Ban Act of 2003 (“the Act”), 18 United States Code Sec. 1531, was valid, reversing the judgments of the Courts of Appeals for the Eighth and Ninth Circuits, which had held the Act unconstitutional.

In 2003 Congress passed the Act in response to the Supreme Court’s opinion in *Stenberg v. Carhart*, 530 U.S. 914 (2000). The Court’s opinion in *Stenberg* struck down a Nebraska statute banning a particular procedure for late-term abortions, namely “intact dilation and extraction” or “partial-birth abortion,” on the grounds that the statute did not contain any exceptions from its ban for situations where the health of the mother would be in danger if any other procedure was used. The Act, which does contain an exception where the life of the mother is in danger but no other health exception, was challenged in three federal district court cases, and was held facially invalid in all of them. Two of these judgments were appealed, and both were affirmed by the Eighth and Ninth Circuit Courts of Appeals. The Act was held invalid on the grounds that it was too vague; that it placed an undue burden on a woman seeking an abortion; and that it contained no health exception. The Supreme Court accepted certiorari and reversed the decisions of the lower courts.

Justice Kennedy delivered the opinion of the Court, in which he stated that the Act was not void for vagueness, since it defined “anatomical landmarks” and techniques that made it clear what type of procedure was being banned, as well as including an intent provision, so that a physician could not be prosecuted under the act unless the physician had intended to carry out the proscribed procedure. The Court also found that the Act was not overbroad, since it still allowed the abortion procedure utilized in the large majority of late-term abortions, and thus did not place an undue burden on a woman seeking an abortion. The Court found that both in the lower court testimony and in testimony before Congress, there was no medical consensus that the banned procedure was medically safer than the more common procedure, and that where there is



no clear medical standard, a statute must be given deference by the courts. Finally, the Court noted that the Act was not facially invalid, but it could still be subjected to “as-applied” challenges in discrete cases where the particular facts of the case could render the statute unconstitutional as applied to that case.

([*Gonzales v. Carhart*](#), No. 05-380 (April 18, 2007) (including the opinions of Justice Thomas, with whom Justice Scalia joined, concurring; and Justice Ginsburg, with whom Justice Stevens, Justice Souter and Justice Breyer joined, dissenting).)
(Gary Robinson)



AIDS

MEXICO – Supreme Court Rules Armed Forces Cannot Expel HIV-Positive Members

In March 2007, Mexico's Supreme Court ruled that the armed forces cannot expel HIV-positive members because to do so is discriminatory and unconstitutional. The Court ordered Mexico's Defense Department to return to duty soldiers who were expelled from the armed forces for testing HIV-positive. The Court indicated that the military can still dismiss members who have full-blown AIDS or who cannot fulfill their duties due to health problems caused by HIV. The case rose to the Supreme Court after several soldiers appealed a Defense Department decision to dismiss them. (Press Release, Supreme Court of Justice of the Nation, Concluye SCJN Discusión de 12 Amparos Promovidos Por Militares (Mar. 12, 2007), official Web site of the Supreme Court of Mexico.)

(Gustavo Guerra)



Arbitration

JAPAN – ADR Promotion Law in Effect

The Alternative Dispute Resolution Promotion Law was enacted in December 2004 (Law No. 151 of 2004), and became effective on April 1, 2007. Under the Law, the Minister of Justice certifies alternative dispute resolution (ADR) service providers that satisfy the specified requirements in the Law, upon the request of the provider. The certification is not a license to conduct ADR; non-certified organizations can also provide ADR. If certified, the organization can appoint non-attorneys as moderators and the statute of limitations of the claim does not run out, among other things. (Ministry of Justice, ADR hō ni tsuite [Regarding ADR Law], Jan. 18, 2007.)

(Sayuri Umeda)



Border Zones

CANADA – Senate Recommends Pre-Clearance at Border

At the present time, persons flying from a number of airports in Canada to destinations in the United States can pass through U.S. customs before they board their flight. Pre-cleared flights can then land in the United States and passengers can disembark as if they were on a domestic flight. Pre-clearance does not exist at border crossings. Persons driving across the border generally stop when they reach the other side. This situation has raised concerns that terrorists can drive onto bridges or into tunnels connecting the two countries and detonate explosives without having to pass through an inspection station. The committee in Canada's Senate that has proposed raising the personal exemptions for Canadian travelers [*see next item below*] has also proposed "property swaps" that would give Canada and the United States the ability to establish pre-clearance stations in each other's territory. This would allow for pre-clearance before travelers cross major bridges or enter major tunnels. The committee has referred to pre-clearance in this manner as "reverse inspections" and has encouraged the government to negotiate the appropriate agreements with the United States. ([Border Guards Should Stop Being Tax Collectors: Report](#), CBC NEWS, Mar. 27, 2007.) (Stephen Clarke)

CANADA – Senate Recommends Raising Personal Exemptions for Cross-Border Shoppers

The prospect of the U.S. Western Hemisphere Travel Initiative coming into force for land crossings next year has many Canadian officials deeply concerned that the Initiative's passport requirement will greatly discourage cross-border shopping by U.S. residents. However, along the border, many U.S. businesses have long complained that Canada has been discouraging cross-border shopping by maintaining very low personal exemptions for returning Canadians. Those personal exemptions are Can\$50 (about US\$43) for 24-hour stays, Can\$200 for 48-hour stays, and Can\$750 for 7-day stays outside the country. Under the North American Free Trade Agreement, goods manufactured in a NAFTA country are not generally subject to customs duties, but they are subject to taxes that range from 6 to 14 percent, depending upon the person's province of residence. (Canada Border Services Agency, [I Declare: A Guide for Residents of Canada Returning to Canada](#) (RC4044(E) Rev. 06).)

Enforcing the low personal exemptions has strained the resources of the Canada Border Services Agency and led to the charges that border guards are spending too much time looking for unreported goods and collecting duties and taxes and too little time trying to identify criminals and potential terrorists. A Canadian Senate Committee has now responded to this situation by making a number of recommendations. One of its main proposals is to raise the personal exemption for persons re-entering Canada to Can\$2,000 a trip. The Canadian Senate is currently controlled by members of the Liberal Party. In order for its proposals to be enacted, they must be passed by the House of Commons. The Conservative Party currently heads a minority government in the House of Commons. Nevertheless, the Conservatives have not indicated that they are opposed to raising the personal exemptions for Canadian citizens traveling



outside the country. ([Border Guards Should Stop Being Tax Collectors: Report](#), CBC NEWS, Mar. 27, 2007.)
(Stephen Clarke)



Boundaries

INDIA - Constitution of India Includes Jammu and Kashmir as Part of Indian Territory

The Supreme Court of India dismissed a petition on the question of the territorial description of India given in various central acts.

The central acts of 1951 define India as "the territory of India excluding the state of Jammu and Kashmir." Two petitioners, B. S. Billowria and Manzoor Ali Khan, contended that different interest groups, including tourists and visitors, misuse the definition to impress upon residents that Jammu and Kashmir is not an integral part of India.

The petitioners' counsels argued that the definition of India has been unconstitutionally incorporated into various parliamentary acts, which is against the sovereignty and integrity of India. The petitioners have pointed out that there a difference between the territorial description of India under the constitution and the central acts of 1951. Most of the central acts such as the Indian Penal Code, the Indian Evidence Act etc. describe the territory of India as excluding Jammu and Kashmir.

The court dismissed the petition for lack of merit.

[SC rejects petition on validity of definition of "India"](#), IndiaLaws, Indlaw Communications Pvt. Limited. (ICPL), 05 February, 2007.
(Shameema Rahman)



Capital Punishment

CHINA – Supreme People’s Court Provisions on Death Penalty Review

On February 27, 2007, China’s Supreme People’s Court (SPC) issued the Provisions of the SPC on Several Issues Concerning Review of Death Penalty Cases, in thirteen articles, effective on February 28. The Provisions come in the wake of a revised Organic Law of the People’s Courts, under which the SPC formally reassumed the power to review death penalty sentences. Under that amendment, which entered into force on January 1, 2007, death sentences handed down by provincial-level courts must be reviewed and ratified by the SPC. It means that the SPC will handle review of such sentences, but the provincial-level courts will retain their jurisdiction over appeals of death penalty convictions.

There are several types of circumstances in which the original death penalty judgment may be revoked and remanded for retrial by the people’s court of second instance or of first instance if the SPC rules that the sentence should not be approved. In addition, there are three circumstances set forth in the Provisions in which the SPC may change the lower court ruling. If a finding of fact or citation of a statute is not accurate or correct, even though the first-instance decision on a death sentence was not inappropriate, the SPC may issue a judgment or ruling to approve the sentence upon rectification of the error(s). The other two circumstances are those involving either multiple death sentences faced by one defendant or multiple defendants all facing the death penalty, in which the findings of fact concerning some of the offenses or concerning one or several of the defendants, respectively, are correct but the death penalty should not be imposed according to law. In these circumstances, the original sentence may be changed. In regard to those offenses or those defendants for which or upon whom the death penalty should be imposed according to law, however, the SPC will make a judgment on whether to approve the death penalty sentence.

The Provisions also stipulate that whether the SPC approves a death sentence or not, it is to cite the relevant articles of law and judicial interpretations in its written judgment, along with the grounds for its decision. (*The Supreme People’s Court Promulgated the New Interpretation for Review of Death Penalty Cases*, 8 ISINOLAW WEEKLY (Feb. 26 – Mar. 4, 2007), from iSinoLaw.Limited@loc.gov; *Zuigao Renmin Fayuan guanyu fuhe si xing anjian ruogan wenti de guiding*, CHINALAWINFO.COM; [China Revises Law to Limit Death Sentence](#), XINHUA, Oct. 31, 2006.)

(Wendy Zeldin)



Children

EUROPEAN UNION – Missing Children Hotline

In 1999, the then European Community introduced the first common emergency number, 112. Now, the EU intends to introduce in the summer of 2007 another hotline, 116000, for missing children. There are also plans for additional hotlines offering social services and starting with the same three digit number, 116. The hotline for missing children would be free of charge and could be operated by private organizations in each Member State. According to some estimates by the European Network of Ombudspersons for Children (ENOC), at least 120,000 children known to the authorities live outside their home country without any supervision. ([EU Plans Missing Children Hotline](#), BBCNEWS, Feb. 15, 2007.)

(Theresa Papademetriou)



Communications and Electronic Information

GUAM – Searchable Legal Database

On January 29, 2007, the Governor of the unincorporated U.S. Territory of Guam signed a new law into force to authorize the Compiler of Laws to create a searchable database for the Guam Code Annotated and the Session Laws of the Legislature. This database will be available through the Internet, but will not include Attorney General's opinions, executive orders, administrative rules, or court cases. Access to the database is likely to be of great assistance to persons interested in researching the laws of Guam, as the Guam Code Annotated is not frequently updated and many session laws have been unavailable. (An Act to Amend Section 1603 of Title 1 G.C.A., Chapter 16 to Allow the Compiler of Laws to Provide a Searchable Database Via the Internet, [Public Law 28-179](#).)

(Stephen Clarke)

NEW ZEALAND – Anti-Spam Law

New Zealand's parliament has passed the Unsolicited Electronic Messages Act 2007, which prohibits unsolicited commercial electronic messages, requires all senders of commercial electronic messages to include both accurate sender information and a functional unsubscribe facility, and prevents the use of address-harvesting software or a harvested-address list in connection with the sending of unsolicited commercial electronic messages. Commercial electronic messages include emails, texts, and instant messages that market or promote goods, services, and other schemes of a commercial or dishonest nature. (Unsolicited Electronic Messages Act 2007 (NZ).)

(Lisa White)

SWAZILAND – Bill to De-Monopolize Telecom

The TIMES OF SWAZILAND reported on March 22, 2007, that the Swaziland Cabinet had passed legislation to de-monopolize the country's telecommunications industry. The legislation is currently awaiting parliamentary approval. If adopted, it would allow other mobile telephone or telecommunications companies to establish a presence in Swaziland. At present, Swaziland Posts and Telecommunications (SPTC) is both a player in and regulator of the telecommunications industry; if the bill is passed, a regulator would be appointed, and SPTC would be just a player. (*SWAZILAND: Cabinet Approves Draft Bill To De-Monopolize Telecom Sector*, under *Highlights: Daily News Digest for Botswana, Swaziland and Zambia*, Mar. 22, 2007, Open Source Center, No. AFP20070322516008.)

(Wendy Zeldin)

UNITED STATES – Federal Internet Censorship Law Permanently Enjoined

On March 22, the U.S. District Court for the Eastern District of Pennsylvania permanently enjoined a federal law, the Child Online Protection Act (COPA), which carried criminal and civil penalties for distributing sexually explicit information over the World Wide



Web without restricting access by children to the site. The District Court ruled that the law violated the First Amendment to the U.S. Constitution.

COPA was enacted in 1998, and the District Court issued a temporary injunction against enforcement of COPA in 1999. The temporary injunction was upheld by the U.S. Supreme Court. The case was returned to the District Court for a trial on whether the law should be permanently enjoined. After a four-week trial, the District Court found that COPA was not narrowly tailored to the governmental interest in protecting children from sexually explicit content, the government failed to show that COPA was the least restrictive and most effective alternative to achieving the government's interest, and COPA is unconstitutionally vague and overbroad. The District Court permanently enjoined the law's enforcement. ([*American Civil Liberties Union v. Gonzales*](#), No. 98-5591 (E.D. Pa. March 22, 2007).)
(Luis Acosta)



Constitutional Law

FIJI – Extension of Public Emergency

In an Extraordinary Gazette published on March 5, 2007, the President of Fiji, Ratu Josefa Iloilo, extended the Public Emergency Regulations 2007 (in force from Feb. 5, 2007) for thirty days. (Press Release, Fiji Government, [Public Emergency Declaration Extended](#) (Mar. 13, 2007).) Radio New Zealand International described the emergency decree as restricting “rights and freedoms granted in Fiji’s 1997 Constitution,” including those of “personal liberty, freedom from servitude and forced labour, freedom of expression, freedom of assembly, freedom of association, labour relations, and the right to privacy.” ([Fiji President Announces Extension of Emergency Regulations](#), RADIO NEW ZEALAND INTERNATIONAL, Mar. 13, 2007.) (Lisa White)

FRANCE – Constitutional Amendments

On February 19, 2007, both houses of the French Parliament convened for an extraordinary joint session in Versailles to approve three constitutional amendments. The first amendment enshrines the abolition of the death penalty in the Constitution.

The second amendment guarantees the President of the Republic sovereign immunity while in office, but also introduces the possibility of impeachment. Under the new provision, the President may refuse to testify before any court or administrative authority while in office; he can, however, be removed “for failing to carry out his duties in a manner manifestly incompatible with the exercise of the mandate” by a two-thirds majority of Parliament. Previously, a President of the Republic could only be impeached for treason.

The third constitutional amendment changes election rules in the French Pacific territory of New Caledonia. (Loi constitutionnelle no. 2007-239 du 23 février 2007 relative à l'interdiction de la peine de mort, Loi constitutionnelle no. 2007-238 du 23 février 2007 portant modification du titre IX de la Constitution, Loi constitutionnelle no. 2007-237 du 23 février 2007 modifiant l'article 77 de la constitution, JOURNAL OFFICIEL, Feb. 24, 2007, at 3354 & 3355.) (Nicole Atwill)

GERMANY – Return of Federalism

Germany is in the process of making extensive changes to its federated system of government. The first phase of this project was accomplished in the so-called Federalism Reform Package I, which consists of an Amending Act to the Constitution (Gesetz zur Änderung des Grundgesetzes, Aug. 28, 2006, BUNDESGESETZBLATT I at 2034) and a Federalism Reform Implementing Statute (Föderalismusreform-Begleitgesetz, Sept. 5, 2006, BUNDESGESETZBLATT I at 2098). The second phase of the project is being discussed by a commission that commenced work on March 8, 2007 (*Verhandlungen zur Foederalismusreform II gestartet*, DIE WELT, Mar. 9, 2007, at 2, LEXIS/NEXIS, News Library, Zeitung File).



The first phase of the reform serves the main purposes of streamlining the legislative process and bringing more transparency to the division of powers between the states and the federation. To accomplish these goals, the instrument of concurrent legislative power was abolished and with it the federation's right to make framework laws for implementation by the states. In addition, many subject matters were reallocated to the exclusive legislative power of either the states or the federation. The federation has thereby gained exclusive legislative power over firearms and explosives, nuclear energy, and cultural exports, whereas the states now have exclusive legislative power over the execution of prison sentences, education, civil service law for the employees of the states, and matters relating to the press. In the field of environmental law, it is now possible for the states to opt out of some federal laws by enacting new state laws. The second phase of the reform envisions major changes in interstate fiscal relations and it is designed to make the states more fiscally responsible by limiting the redistribution of funds between the states and the federation. It is therefore expected that it may be difficult for the commission to reach a consensus.

(Edith Palmer)



Criminal Law

EGYPT – Criminal Court Freezes Brotherhood Assets

On February 28, 2007, the Criminal Court of Cairo upheld the decision made by the general prosecutor to freeze the assets of 29 of the Brotherhood Movement leadership, their spouses, and minor children. The attorney representing those affected declared his intention to challenge the court decision before the High Court of Cassation, but added that the case is first and foremost a political and not a legal one. (*Criminal Court Freezes Brotherhood Assets*, AL-SHARQ AL-AWSAT, Mar. 1, 2007.)

(Issam Saliba)

EUROPEAN UNION/AUSTRALIA – Agreement Between Europol and Australian Federal Police

On February 26, 2007, after seven years of negotiations, the European Police Office (Europol) and the Australian Federal Police (AFP) signed an agreement on transnational crime. Under the agreement, both parties pledged cooperation to combat transnational crime. The AFP will have unlimited access to the intelligence information database operated by Europol and also will have the right to establish a permanent liaison officer attached to the Third Party State Liaison Bureau within Europol. European Commissioner Mick Keelty stated that this agreement “was significant in Australia’s strategic approach to strengthening its international capacity to fight all forms of transnational crime, including terrorism.” Europol consists of representatives of 27 European nations and is focused on combatting serious international crime. (Press Release, Australian Federal Police, [AFP and Europol Join Forces to Fight Crimes](#) (Feb. 27, 2007); Media Release, Senator the Honorable Chris Ellison, Minister for Justice and Customs, New Cooperation Agreement with Europol (Feb. 21, 2007), *available at* Attorney-General’s Web site.)

(Theresa Papademetriou and Lisa White)

INDONESIA – Muslim Militants Sentenced for Beheading Christian School Girls

Three Muslim militants have been jailed for an attack on Christian school girls in Central Sulawesi, Indonesia, in 2005. The militant Hasanuddin was sentenced to 20 years’ imprisonment. His accomplices, Irwanto Irano and Lilik Purwanto, were each sentenced to 14 years in a separate hearing. Hasanuddin is alleged to have claimed that his acts were to avenge the deaths of Muslims killed during previous religious violence in Indonesia. ([Indonesians Jailed for Beheadings](#), BBC WORLD NEWS, Mar. 21, 2007.)

(Lisa White)

IRAQ – Court Orders Arrest of Tareq Aziz Attorney

On March 17, 2007, the Supreme Iraqi Criminal Court ordered the arrest of the attorney who represents the former Iraqi official Tareq Aziz, Deputy Prime Minister under Saddam Hussein, accusing him of having attacked the Court and the judiciary. Mounir Haddad, one of



the judges of the Court, said in a news conference that “the court had decided to arrest Badii Aref in accordance with the Criminal Code and refer him to the Central Criminal Court to pursue legal proceedings against him.” He explained that the court had noticed for sometime that the defense team members, among them Badii Aref, attack the Court in television interviews and question its legitimacy. (*Court Orders the Arrest of Tareq Aziz’s Attorney*, AL-SHARQ AL-AWSAT, Mar. 18, 2007.)

(Issam Saliba)

NETHERLANDS – Crime Victim Compensation Scheme

On March 29, 2007, Justice Minister Ernst Hirsch Ballin submitted a letter to the Lower House of Parliament of the Netherlands to the effect that in future the state will advance compensation money to victims of sexual offenses and violent crimes and then reclaim the money from the perpetrators. At present, victims reportedly have to wait a long time before they can recover damages from the perpetrators. Introduction of the new arrangement, according to the Ministry of Justice, is in line with the wishes of the Dutch Parliament. The Justice Minister indicated that the advance payment arrangement would be limited to sex offenses and violent crimes because there is no insurance to cover the material or immaterial damage resulting from them, whereas damage from other types of crime can generally be covered. The precise wording of the arrangement will be set forth in a legislative proposal to be submitted to Parliament before the end of 2007. Under the proposal, not only victims but also the dependents of victims of violent crimes would be allowed to claim compensation from the Schadefonds Geweldsmisdrijven [Criminal Injuries Compensation Fund].

The Ministry of Justice has also decided to strengthen the legal position of victims within the work processes of the Public Prosecution Service, the police, and Victim Support Netherlands, with the cooperation of these organizations. The government’s ‘Focus on Victims’ Plan will examine how to improve the current system of reporting and protecting victim-supplied information; how to support victims during police interviews, and how to improve the compensation for damages scheme. The Plan will supplement a bill on strengthening victims’ legal position in criminal proceedings that is due to be debated by Parliament.

The measures mentioned above are the result of a policy analysis of victims of crime in the Netherlands made by the Finance Ministry, which showed that while there is a lot of help and support available to victims, the organizations concerned have not sufficiently focused their activities on the victim. While the state’s responsibility in regard to the policy on victims may be limited, the report concluded, “the available policy instruments can be applied in a wider context and in a better manner.” (Press Release, the Dutch Ministry of Justice, [Compensation Arrangement for Crime Victims](#) (Mar. 29, 2007).)

(Wendy Zeldin)



PAPUA NEW GUINEA – Fijian Soldiers Charged with Belonging to Illegal Militia

Four former Fiji soldiers are to be tried in Buka, the main town of the Papua New Guinean province of Bougainville, on charges of belonging to an illegal army and of training with an illegal army. ([Former Fiji Soldiers in Bougainville to Go to Trial Next Week](#), Radio New Zealand International, Mar. 13, 2007.)

(Lisa White)



Defense

ZIMBABWE – Security Officers to Man Border Posts

It was reported on March 23, 2007, that the Government of Zimbabwe had begun that week to remove Department of Immigration [DOI] civilian officials from border posts and airports and replace them with security and intelligence officers, in an effort to enhance security. Prior to the move, three senior assistant police commissioners were appointed to run the operations of the DOI. They will assume full-time employment at the DOI while retaining their police force posts. One of the officers will take over the newly created post of principal chief immigration officer; the other two will be assistant principal chief immigration officers. Current chief immigration officer Ellasto Mugwadi may be reassigned to the President's office. Sources indicated that the recent move is part of a wider plan to fill all positions in strategic security areas with Central Intelligence Organization, police, or army officers and that the DOI would employ additional security agents to man the country's ports of entry. Some observers view the move as a sign of the government's growing insecurity in the face of social and political unrest.

The main joint security board in Zimbabwe is the Joint Operation Command, to which the Registrar-General's Office, the DOI, and the Zimbabwe Revenue Authority (Zimra) are all linked. The Registrar-General sits on the JOC board; DOI and Zimra participate by invitation. (Shakeman Mugrai, *CIO Replace Immigration Officers*, ZIMBABWE INDEPENDENT, Mar. 23, 2007.)

(Wendy Zeldin)



Disability Law

UNITED NATIONS – Disabilities Treaty Open for Signature

On March 30, 2007, a new treaty designed to protect persons with disabilities opened for signature at the United Nations. It was signed by 81 nations and the European Union on the first day, and Jamaica also ratified the document, becoming the first nation to adopt it as law. The treaty will become effective once 19 additional countries follow Jamaica's lead.

The Convention on the Rights of Persons with Disabilities treats such persons as full-fledged citizens, with the goal of changing how the nations look at the disabled. Thomas Schindlmayr, of the UN Department of Economic and Social Affairs, who is himself a wheelchair user, stated of the Convention that

It's not asking for persons with disabilities to have any new rights. It's not asking for anything else that other people don't already enjoy. It's asking that persons with disabilities enjoy the same opportunities in society that everybody already enjoys.

The Convention states in article 1 that persons with disabilities “include those who have long-term physical, mental, intellectual or sensory impairments that, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.” It outlaws discrimination against persons with disabilities in employment, education, health services, transportation, and access to justice. There are an estimated 650 million people with disabilities in the world. (Press Release, [Press Conference on Opening for Signature of Disabilities Convention](#) (Mar. 29, 2007); *Landmark UN Treaty on Disabilities Opens for Signature Tomorrow*, UNNEWS, Mar. 29, 2007, & *Record Number of Countries Sign UN Treaty on Disabilities on Opening Day*, UNNEWS, Mar. 30, 2007.)
(Constance A. Johnson)



Education

GREECE – Parliament Adopts New Law on Higher Education

In March 2007, amid strong opposition from academicians, strikes and takeovers of the universities by students, and scuffles between police and students, the Greek Parliament adopted a new law on higher education. In Greece, education is free at all levels. The new law responds to European Union requirements, introduces much needed changes to the entire system of education at the higher level, and codifies the existing fragmented plethora of laws on issues involving higher education. The law clarifies that institutions of higher education are: a) universities, including universities, Polytechnic Schools, and the School of Fine Arts; and b) Schools of Technology. It endorses the notion of academic freedom in research and teaching and the freedom of expression and it prohibits the conducting of secret research.

Since the uprising of students against the military regime in November 1974 and the takeover of the Polytechnic School, to which the military police responded with violence, the police have been prohibited from entering university grounds. The new law allows police to enter a university only upon permission of the appropriate university authority and with a court official present. Police may enter universities only in case of felonies or when the offender is caught in flagrante delicto.

Another highlight of the law is that it sets a graduation limit of five years. Thus, it eliminates the phenomenon of “permanent students,” that is, those students who enjoy the benefits of being students with no intention to graduate.

The law also requires universities to adopt bylaws and to establish websites containing administrative and academic data and information, and it establishes the concept that universities are self-governed and accountable for their actions. Accountability is enforced through open discussions of balance sheets before the Greek Parliament. (Reform of the Establishment and Operation of Higher Education Institutions [in Greek], Mar. 13, 2007, official Web site of the Greek Parliament.)
(Theresa Papademetriou)

SWITZERLAND – Quality Standards for Universities

On December 7, 2006, the Swiss University Conference issued Guidelines for Quality Standards for Swiss Universities (Qualitätssicherungsrichtlinien July 30, 2004, AMTLICHE SAMMLUNG DES BUNDESRECHTS 727 (2007)). The Swiss University Conference is a governmental policy and rule-making body that consists of representatives of the cantons and the Confederation. The recently enacted Swiss quality standards implement various European guidelines and standards, among them, the Standards and Guidelines for Quality Assurance of February 2005 of the European Association for Quality Assurance for Higher Education. The Swiss Guidelines apply to all Swiss universities and equivalent institutions that are subsidized by the Swiss federal government, and they require these institutions to publish appropriate quality



standards, assess students according to published criteria, and periodically evaluate resources, curricula, procedures, and research programs.

(Edith Palmer)



Elections and Politics

INDIA – Convict Not Entitled to Enter Election

On November 27, 2006, the Supreme Court of India ruled that a person convicted in a criminal case cannot contest in an election unless an appellate court stays the conviction, not merely execution of the sentence imposed. A conviction stays operative when the execution of the sentence is stayed. However, when a conviction is stayed, it is no longer operative from the time a court grants the stay.

In the case at hand, Ravikant Patil was declared elected to the 2004 Legislative Assembly in the State of Karnataka. His election was challenged on the grounds that at the time of filing his nomination, he was disqualified because of his prior conviction in a criminal case. In accepting this contention, the High Court set aside the election and an appeal against the order was denied. ([*Convicted Can Contest Poll Only If Conviction Is Stayed*](#), THE HINDU, Nov. 27, 2006.)

(Krishan Nehra)

ISRAEL – Revolving Door Requirements for Military Service Personnel

On March 12, 2007, the Knesset (Israel's legislature) passed a law that extends from six months to three years the period that has to elapse following the retirement of top military officials before they are eligible to run for election to Parliament. The increase is said to guarantee the independent status of the state security systems. The bill states that when a person who was wearing a uniform only a short time earlier runs for office in parliamentary elections or is appointed as a minister, it raises doubts as to whether the decisions he made as a military official were influenced by his political views, views that become public upon his joining the list of candidates in the elections. Preservation of the independence of the security systems is deemed to justify the imposition of a long "cooling off" period. (Cooling Off Period for Security Force Service Personnel (Amendments) 5767-2007, and the corresponding 2006 bill, the Knesset Web site.)

(Ruth Levush)

JAPAN – Flyers Permitted in Gubernatorial/Mayoral Elections

The Public Offices Election Law was amended in February 2007. The number of flyers that public office candidates can distribute has been restricted in national elections and prohibited in local elections. The Law restricts the use of flyers mainly in order to reduce the candidates' election costs. Under the amendment, candidates will be able to distribute a limited number of flyers in gubernatorial or mayoral elections. (The Public Election Law amendment, Law No. 3, 2007.)

(Sayuri Umeda)



THAILAND – Lèse Majesté Charges to Be Laid Against PM

Thai police have recommended the imposition of charges against former Prime Minister Thaksin Shinawatra in relation to insults he is alleged to have made against King Bhumibol Adulyadej. The charges stem from comments made by Thaksin during a speech to a group of taxi drivers as part of his weekly national radio address and in relation to an incident during a visit when his supporters waved “Long Live the King.”

Other cases being reviewed by police include claims of lèse majesté arising from a television interview Thaksin gave in early 2007. Thaksin was removed from leadership by a bloodless military coup in September 2006. ([Thaksin Faces Lese Majeste Claims](#), BBC WORLD NEWS, Mar. 20, 2007.)
(Lisa White)

TURKEY – Parliament Passes Law Vetoed by President

On March 28, 2007, Turkey’s parliament approved in modified form a law that had previously been vetoed by the President, Ahmet Necdet Sezer. The bill had been returned to the legislature so that several articles could be reconsidered.

The bill as originally drafted would have required the amendment of several laws and statutory decrees because it removed an existing article of law on the employment of foreign doctors in the country. The new version does not include that change but does have regulations on family medicine, including the establishment of a council under the Turkish Health Ministry to be known as the “Expertise Council in Medicine.” (*Turkish Parliament Approves Law Vetoed by President Sezer*, ANATOLIA (Ankara), Mar. 29, 2007, Open Source Center No. GMP20070328742003.)
(Constance A. Johnson)



Employment Law

KOREA, SOUTH – Three-Day Paternity Leave

South Korea's Ministry of Labor submitted a bill in March 2007 to amend the Act on Equal Employment for Both Sexes. Under the bill, employers are obliged to allow male employees unpaid, three-day paternity leave when their spouses give birth, which would not count as regular vacation or paid paternity leave to which they are already entitled. If the employer fails to provide such leave to a qualified male employee, the employer will be subject to a fine of 5 million won (US\$5,000). ([Law Allows Moms to Break Up Maternity Leave](#), CHOSUNILBO, Mar. 14, 2007.)
(Sayuri Umeda)

PAKISTAN – Bonded Labor

On November 7, 2006, a three-member bench of the Supreme Court of Pakistan, comprised of the then Chief Justice, Iftikhar Mohammad Chaudhry, and two other judges, heard the testimony of petitioner Zohra Bibi. She alleged that she and her family members had been working on the farms of a powerful landlord in the Gujranwala region of the country, near Lahore, Fasil Khalid Cheema, for the past 18 years in return for only two meals a day. After hearing the harrowing tale, the Supreme Court directed the Lahore District and Sessions Judge to investigate the accusations and submit a report. The Court also directed the Punjab Police Chief to provide protection to the petitioner's family.

The petitioner alleged that her two daughters were often sexually assaulted and made to work as maidservants at Cheema's residence or in the houses of his relatives. She requested the Court to order a medical examination of her daughters to verify the correctness of her allegations. She further alleged that, after the kidnapping of her son by the Cheema family nine years ago, he was also made to work as a servant for the family. Furthermore, when her brother-in-law made a complaint with the Gujranwala District and Sessions Judge, he was arrested by the police on the premises of the court and subsequently tortured by the Cheemas. (Nasir Iqbal, [A Harrowing Tale of Bonded Labour, Rape](#), THE DAWN, Nov. 8, 2006.)
(Krishan Nehra)



Energy

BRAZIL/UNITED STATES – Memorandum of Understanding

On March 9, 2007, during the official visit of United States President George W. Bush to Brazil, the President of Brazil and the U.S. President signed a memorandum of intention of investment and research to advance cooperation on biofuels. In their speeches at the occasion, both presidents highlighted the importance of the technological cooperation agreement for the production of ethanol, aiming at the reduction of petroleum dependency and global warming. They were further quoted as saying that the agreement is “ambitious” as it intends to introduce ethanol as the global energy resource to replace petroleum.

The memorandum of understanding allows for the coordination between Brazil and United States in establishing international standards for biofuels, so that they can be traded in the international market. As a response to the continuous growth in demand for alternative sources of energy, both countries will also encourage the production of ethanol in Central American countries and in the Caribbean. (*Acordo é “Ambicioso”, dizem Lula e Bush*, JURID, Mar. 9, 2007.)

(Eduardo Soares)



Environmental Law

UNITED STATES – Forest Service Enjoined From Enforcing New Regulation

On March 30, the U.S. District Court for the Northern District of California enjoined the U.S. Forest Service (“FS”) from enforcing a 2005 regulation promulgated by the FS, until the FS has “fully complied” with the Administrative Procedure Act (“APA”), the Endangered Species Act (“ESA”), and the National Environmental Policy Act (“NEPA”).

Judge Phyllis J. Hamilton wrote the opinion of the court, in which she noted that the National Forest System comprises eight percent of the United States landscape. FS promulgated the “2005 Rule,” the regulation in question, to give national forest managers more discretion in allowing logging, mining and other activities. The court found that the rule had been adopted without the required amount of consultation with expert agencies, that the rule lacked supporting documentation regarding its potential environmental impact, and that no biological analysis had been conducted prior to adoption of the rule. The court enjoined FS from implementing the “2005 Rule” and ordered FS to conduct further analysis and evaluation of the impact of the rule in accordance with the APA, the ESA, and the NEPA, and to provide notice and comment on the rule. ([*Citizens for Better Forestry v. U.S. Dept. of Agriculture*](#), No. C 05-1144 (N.D. Cal. March 30, 2007).)

(Gary Robinson)



Family Law

FRANCE – Cour de Cassation Rules Same-Sex Marriage Unlawful

On March 13, 2007, the *Cour de Cassation*, France's highest judicial court, held that same-sex marriages are invalid under French law and that marriage is a union between a man and a woman under the Civil Code, thus affirming a series of lower court decisions. The case at hand arose on June 5, 2004, when two men were married by the mayor of a small town near Bordeaux who also was the leader of the Green Party. The General Prosecutor of France argued that Parliament and not the courts should have the final word in any legalization of same-sex marriages. France, at this time only recognizes civil unions known as PACS for same-sex couples. (Cour de Cassation, No. 05-16627, Mar. 13, 2007.)

(Nicole Atwill)



Foreign Investment

KOREA, SOUTH – “Exon-Florio” Act

Currently, all investors, regardless of nationality, are allowed to hold majority shares in companies in South Korea. A group of lawmakers and policymakers are moving to enact a law aimed at placing restrictions on foreign investment in some key industries, such as the weapons, energy, and steel sectors and other high technology areas. (Kim Yon-se, *Bill Sought to Limit FDI in Key Sectors*, KOREA TIMES, Feb. 21, 2007.)
(Sayuri Umeda)



Government Ethics

NIGERIA – Anti-Graft Act Amendment Would Reduce President’s Power

On March 15, 2007, Nigeria’s Senate passed an amendment of the Economic and Financial Crimes Commission [EFCC] Act, accepting changes proposed by an ad-hoc committee that examined the existing law. The amended Act will no longer allow the President to fire the chair of the EFCC or any other Commission members without consent from two-thirds of the Senate. Another change ends the power of the EFCC to confiscate property, unless there is a court order directing the action. In addition, in the amended version of the Act, the punishment for terrorist acts is reduced to seven years in jail; it had been life imprisonment. The bill next goes to the House of Representatives for approval and then will be sent on to the President for his assent. (*Nigeria: Senate Amends Anti Graft Act, President’s Power Lessen* [sic], AFRICAN INDEPENDENT TELEVISION (Abuja), Mar. 15, 2007, Open Source Center No. AFP20070316606007; *Nigeria: Senate Strips Obasanjo of ‘Direct Influence’ over Crimes Commission*, VANGUARD (Lagos), Mar. 16, 2007, Open Source Center No. AFP20070316631002.) (Constance A. Johnson)

TANZANIA – Anti-Graft Bill Problematic

The Government of Tanzania had planned to table an anti-corruption bill in the next Bunge (parliament) session for discussion and subsequent approval, but legal experts stated on March 22, 2007, that the document needs further revision. According to Judge Joseph Warioba, the bill excluded a number of matters that need to be reviewed. “I don’t believe that in its current shape, the new law can bring significant changes in the battle against graft,” the judge stated. (*Tanzanian Experts Say Anti-Graft Bill Has ‘Serious’ Shortcomings*, THE GUARDIAN (Dar es Salaam), Mar. 22, 2007, Open Source Center No. AFP20070322950004.)

Among other shortcomings pointed out by Judge Warioba, the draft bill reduced the punishment for persons convicted of corruption from 14 years’ imprisonment to five. He contended that the basis for this change is unclear and suggested that the longer term be retained and that judges be given discretionary power to determine the sentence, instead of setting a five-year maximum sentence. In the judge’s view, the bill was also overly focused on high-profile corruption, rather than minor corrupt practices such as those in hospital transactions, processing of business licenses, and the like. Furthermore, he stated, because the anti-graft bill limited the investigative and prosecutorial powers of the anti corruption body, it failed to give that body teeth. Wilbroad Slaa, lawyer and Secretary General of the opposition Chama cha Demokrasia na Maendeleo party, added that the structure of the proposed Prevention of Corruption Bureau (PCB) advisory board would block the PCB from operating independently and that the effective modalities of the PCB’s financial expenditure once its budget has been approved by the Parliament were not clearly stipulated. Some other criticisms of the bill are that it did not define key terms like corruption and that most of the prescribed sentences for offenses (fines, imprisonment for relatively short terms, or both) were not adequate to meet the objective of eradicating crimes of corruption. (*Id.*) (Wendy Zeldin)



Government Organization

UNITED KINGDOM – Blair Announces Creation of Ministry of Justice

In the midst of a number of high profile errors ranging from terrorists absconding while under control orders to the release of foreign prisoners without considering them for deportation, British Prime Minister Tony Blair has announced that the Home Office will be split into two departments, with the current Department for Constitutional Affairs assuming control over probation, prisons and re-offenders, and sentencing, and being renamed the Ministry of Justice. The current Home Office will retain responsibility for dealing with terrorism, security, and immigration and will create a specific office for counter-terrorism strategy, currently under the control of the Cabinet Office, with the formation of an office for security and counter-terrorism and the number of staff responsible for counter-terrorism strategy being increased by 150.

The former Secretary of State for the Home Department has criticized this move, claiming that the problems within the Home Office stem from a lack of coordination. The Prime Minister claims, however, that the new roles will strengthen the Home Secretary's role in counter-terrorism strategy. (Daniel Bentley, [Blair Unveils New Justice Ministry](#), Mar. 29, 2007, THE INDEPENDENT (London); [Home Office to Be Split in Two](#), BBC News, Mar. 29, 2007.) (Clare Feikert)

VIETNAM – Standing Committee Considers Judicial Assistance and National Assembly Organization

Meeting March 1-8, 2007, Vietnam's National Assembly Standing Committee discussed, among other items, a bill on judicial assistance and a revised Law on the Organization of the National Assembly. Assistance in both civil and criminal matters as well as extradition cases and the transfer to other countries of those convicted of crimes were considered in connection with the bill on judicial assistance. The Committee accepted provisions of the bill that would require the Supreme People's Court to accept documents and files transferred from foreign governments and would have the Supreme People's Procuracy receive criminal documents from abroad. The Committee considered the application of a reciprocity policy for extradition cases involving countries that have not concluded extradition agreements with Vietnam.

Looking at the organization of the National Assembly itself, the Committee favored dividing the existing Law Committee into two separate committees, one on law and one on the judiciary. Similarly, the existing Economic and Budget Committee would be split into an Economic Committee and Finance Committee.

In addition to reviewing proposed legislation, the Standing Committee set the agenda for the next session of the full National Assembly, scheduled for March 20 to April 4, 2007. ([NA Standing Committee Discusses Bills and Reports](#), VIETNAM LAW & LEGAL FORUM, Mar. 9, 2007.)

(Constance A. Johnson)



Health Law & Regulation

CHINA – Public Health Emergency Prevention

China's Ministry of Health (MOH) recently issued a circular on preventing major public health emergencies such as plague, SARS, and bird flu. The circular stipulates that regional health bureaus must give top priority to stepping up efforts to guard against such diseases and must improve mechanisms for dealing with outbreaks of unidentified diseases. It calls upon the relevant authorities to prevent plague along the Qinghai-Tibet railway and near major construction projects and to improve preparedness plans and technological solutions for SARS and for human cases of bird flu so as to conduct the relevant work in a scientific manner. The circular also states that the authorities should make ample preparations to deal with a large-scale outbreak of bird flu and that the relevant government departments should share information on bird flu epidemics in a timely manner. ([China Steps Up Guard Against Major Health Emergencies](#), PEOPLE'S DAILY ONLINE, Feb. 21, 2007; MOH Circular on Strengthening Leadership, Perfecting Mechanisms, and Comprehensively Advancing Health Emergency Work (No. 390 of 2006), uploaded Feb. 12, 2007, Ministry of Health Web site.)

In addition, on January 16, 2007, the MOH issued a circular transmitting its Plan for Emergency Handling of Mass Outbreaks of Unidentified Diseases. "Mass outbreaks of unidentified diseases" refer to diseases that occur within a certain time frame (typically within two weeks), that appear within certain related, concentrated areas (e.g., in the same medical institution, natural village, community, construction site, school, and other collective work units) at the same time or in succession in three or more cases with the same clinical manifestations, whose pathogeny cannot be diagnosed after expert consultation organized by hospitals at the county level or above, and in connection with which there are cases of severe illness or death. (Circular of the Ministry of Health on the Printing and Issuance of the 'Plan for Emergency Handling of Mass Outbreaks of Unidentified Diseases' (for Trial Implementation) (Jan. 16, 2007) (in Chinese), Ministry of Health Web site.)
(Wendy Zeldin)

IRAN – All-Out Campaign to Control Tobacco

On September 23, 2006, the Islamic House of Representatives enacted a law to fight and control tobacco use by establishing a staff committee composed of the Ministers of Health and Medical Education, Culture and Islamic Guidance, Education, and Commerce; the Chief of Police; two members of the Islamic House of Representatives; Directors of the Islamic Voice and Vision Organization; and a representative from a private organization involved in a similar field of activity. The committee will be in charge of planning the anti-tobacco campaign. The Law prohibits any direct or indirect publicity in favor or support of consumption of tobacco. Import of all kinds of tobacco will be handled by the government.

Under the law, all tobacco products must bear the serial number and seal of the Tobacco Company. Tobacco packages must also bear the phrase "specially made for sale in Iran," as well



as health warning messages that cover at least 50 percent of the package. In addition, the sellers of tobacco products must have a special permit issued by the Ministry of Commerce as directed by the committee. The Ministry of Health must carry out anti-smoking preventive measures, as well as provide treatment for addicted individuals.

Conducting any kind of publicity in defiance of the objectives of the law will be considered a crime punishable by a fine of from 500,000 to 50 million *rials* (about US\$56-\$5,600). A court order will be issued to confiscate products for which such publicity has been made. The sale of tobacco products to individuals under 18 years of age is prohibited. Violators will be punished by a fine of from 100,000 to 500,000 *rials* (about US\$11-\$56). Recidivists will be sentenced to a fine of 10 million *rials* (about US\$1,128). Consumption of tobacco in public places or public transportation facilities will be punished by a fine of 50,000 to 100,000 *rials*. The fines may be adjusted by the Council of Ministers every three years.

Offer, sale, transport, or storage tobacco products except as permitted by law is forbidden, and any violation will be considered a crime of smuggling. Sale of tobacco products in unauthorized packages or in bulk is prohibited; violators will be punished by a fine of 50,000 to 200,000 *rials*. The law also provides that the price of tobacco products will be increased ten percent annually.

The provisions on punishments will come into force six months after the law's enactment date of September 23, 2006. The law stipulates that its implementing regulations are to be prepared by the Ministry of Health within three months of the Presidential order promulgating the law (which was issued in October 2006) and submitted to the Council of Ministers for final approval. (17962 OFFICIAL GAZETTE OF THE ISLAMIC REPUBLIC OF IRAN 1-3 (Oct. 23, 2006).) (G.H Vafai)

LATVIA – Additional Smoking Restrictions

On March 19, 2007, amendments to the Law on Tobacco and Limiting Smoking were passed by the nation's legislature. They permit smoking only in specially designated places and completely prohibit smoking in educational establishments; public transport; and public buildings, such as movie theaters, sports facilities, post offices, nightclubs, etc. As of July 1, 2008, smoking will be outlawed in all public catering establishments, including street cafes. Smoking is permitted in designated areas in hospitals and rehabilitation centers. A proposal to prohibit smoking in parks and public gardens was not supported by the legislature. According to the newly passed amendments, as of 2008, frightening images in color will be added to the already existing warnings on cigarette packs. (*Latvian Parliament Approves New Smoking Restrictions*, BNS BALTIC NEWS SERVICE, Mar. 19, 2007.) (Peter Roudik)



TAIWAN – Proposal on Medical Tourism

On March 21, 2007, officials of Taiwan’s Council for Economic Planning and Development stated that the government would give priority to promoting medical tourism, as part of its efforts to expand the number of tourists and enhance the medical services sector. Council officials noted that, because Taiwan enjoys an advantage in the areas of treatment of liver diseases, dental care, craniofacial surgery, herbal medicine, and health checkups, its promotional efforts would initially focus on these fields of medical expertise.

The Ministry of Foreign Affairs [MOFA] indicated support for the plan and for allowing foreigners to enter Taiwan for such purposes for a maximum six-month stay. However, spokesman David Wang stated, the ministry had no plans to create a new visa category for medical tourists, contrary to recent reports in some media. MOFA at present offers four kinds of visa -- diplomatic, courtesy, resident (long term), and tourist (short term); there is no “medical visa” category. Under current regulations, therefore, persons intending to come to Taiwan for medical purposes can apply for a visitor’s visa with proof of financial status and relevant medical documents. In addition to allowing up to six-month stays for medical tourists, the government will also have to establish an online medical bill pre-payment system before the plan could be carried out. ([*Foreign Ministry in Favor of Opening Up to ‘Medical Tourists,’*](#) TAIPEI TIMES, Mar. 23, 2007.)
(Wendy Zeldin)



Honors and Memorials

EUROPEAN UNION – Berlin Declaration

On March 25, 2007, the European Union adopted the Berlin Declaration to mark its fiftieth anniversary since the signing of the Treaties of Rome in 1957. The document begins with a brief reference to European unification, which, it states, has made peace and prosperity possible for millions of citizens. It reiterates the EU commitment to common principles shared by Member States and the Union, including respect for human rights and the rule of law and notes that the Union strives for mutual respect and joint responsibilities among its Members. At the same time, it states, the Union, as an area without internal borders, has grown strong and is enriched by the diverse identities and differing traditions of its Members.

The Declaration also makes reference to the challenges that face the EU, such as terrorism, organized crime, and illegal immigration, and emphasizes its commitment to the peaceful resolution of worldwide conflicts. The epilogue refers to the EU commitment to consolidate its progress and at the same time to continue to “promote democracy, stability and prosperity beyond its borders.” ([Declaration on the Occasion of the Fiftieth Anniversary of the Signature of the Treaties of Rome, Germany 2007 – Presidency of the European Union.](#))
(Theresa Papademetriou)



Human Rights

FRANCE – Editor Acquitted in Case of Prophet Mohammed Cartoons

On March 20, 2007, the Paris Correctional Court acquitted the editor of the satirical French weekly CHARLIE HEBDO of charges of publicly insulting a group of persons on the basis of their religion. The offense carries a punishment of six months of imprisonment and a €22,500 fine (about US\$29,000). CHARLIE HEBDO reprinted several of the cartoons featuring Prophet Mohammed that originally appeared in a Danish newspaper and that set off deadly riots across parts of the Muslim world. CHARLIE HEBDO ran the cartoons as an act of solidarity with the Danish newspaper and to defend freedom of expression. The Paris Mosque and the Union of Islamic Organizations of France brought the charges.

The court found that one of the cartoons showing Mohammed wearing a turban shaped like a bomb could potentially offend some Muslims if viewed out of context, but that given the context of its publication in an article addressing religious fundamentalism, it did not see any “deliberate intention to directly and gratuitously offend the Muslim Community.” The Union of Islamic Organizations of France plans to appeal the verdict; the Paris Mosque probably will not. (Thierry Lévêque, *Charlie hebdo relaxé dans l’affaire des caricatures de Mohamet*, LE MONDE, Mar. 22, 2007 (Archive).)
(Nicole Atwill)

MOLDOVA – Compensation for Victims of Repression

On February 29, 2007, the Government of Moldova adopted a resolution implementing the Law on the Rehabilitation of Victims of Political Repression, passed in 2005, which provides for the restitution of property confiscated during times of repression. The recently adopted resolution states that all rehabilitated victims of Soviet political repression will receive their property that had been confiscated by the Soviet authorities and establishes the mechanism for the restitution process. In cases in which the property cannot be returned, former political prisoners will receive monetary compensation in an amount equal to the value of the confiscated property. If the amount of compensation exceeds US\$15,400, it will be paid in equal installments over the next five years. After Moldova was acquired by the former U.S.S.R. in 1940 and after the end of World War II, about 30,000 Moldovans, specifically rich peasants, clergy, and members of the creative professions, were imprisoned or exiled. Although many returned to the country in the 1960s, Soviet laws prohibited them from claiming their nationalized property. (*Moldova Will Return the Value of Confiscated Property to the Victims of Political Repression*, NEWSRU.COM, Feb. 29, 2007.)
(Peter Roudik)



Immigration and Nationality Law

EUROPEAN UNION – European Agency for the Management of Operational Coordination at the External Borders (FRONTEX)

FRONTEX was established in 2004 and has several tasks, including coordinating the actions of the EU Member States in the area of management of external borders, assisting Members in the training of national border guards, and carrying out risk analyses. It liaises closely with other Community institutions, such as EUROPOL and the Customs authorities. ([*European Agency for the Management of Operational Cooperation at the External Borders \(FRONTEX\)*](#), EUROPA, Mar. 26, 2007.)

The European Commissioner on Justice, Freedom and Security, in a speech on March 27, 2007, called FRONTEX “an indispensable tool for the EU in addressing the common challenge of illegal immigration.” The Commissioner urged the Member States to continue supporting FRONTEX through financial contributions. (Franco Frattini, [*European Commissioner responsible for Justice, Freedom and Security, FRONTEX: An Indispensable Tool for the EU in Addressing the Common Challenge of Illegal Immigration \(Mar. 27, 2007\)*](#) (SPEECH/07/194).) (Theresa Papademetriou)

IRAN – Nationality of Children Whose Fathers Are Foreigners

As a result of the civil war in Afghanistan and the eight-year war between Iran and Iraq, resulting in the emigration of millions of foreign citizens from Afghanistan and Iraq, many Iranian women have married foreign nationals. Thus, many children have been born whose citizenship has been in limbo. Although they were residing in Iran, these children could not apply to become citizens, because under the Citizenship Law of Iran (art. 976, §2), only a person whose father is an Iranian citizen (whether born in Iran or in a foreign country) is considered an Iranian citizen.

The Iranian legislature has now passed a law that will determine the citizenship of thousands of children born to Iranian mothers and foreign nationals. The new law, which contains a single article, states:

Children resulting from the marriage of Iranian women to foreign men, who are born in Iran or due to be born within a maximum of one year after the passage of this law, may apply to become Iranian citizens after reaching the age of 18. Acceptance of the application is subject to a security clearance and rejection of foreign citizenship.

The Ministry of Interior will inquire into the birth of such children in Iran and will issue a special permit legitimizing the marriage of the Iranian woman to the foreign national under Iranian law and the Iranian police will issue a special residence permit to the foreign father of the child. The children born of such a marriage will be allowed to reside in Iran even before



obtaining Iranian citizenship. (17962 OFFICIAL GAZETTE OF THE ISLAMIC REPUBLIC OF IRAN 3 (Oct. 23, 2006).)
(G.H. Vafai)

MOROCCO – New Citizenship Law

On February 26, 2007, the First Chamber of Morocco's Parliament unanimously approved a new draft law on citizenship. Representatives of the majority and the opposition both supported the draft legislation, emphasizing its upholding of the equality principle in granting children born to a Moroccan mother the same right to citizenship as those born to a Moroccan father. The draft law now moves to the Second Chamber for approval before a final vote in a joint session. (*New Citizenship Law*, AL-SHARQ AL-AWSAT, Feb. 28, 2007.)
(Issam Saliba)

RUSSIAN FEDERATION – New Rules for Registration of Immigrants

A number of amendments to legislative acts governing the status of foreign and stateless individuals in the Russian Federation entered into force during the winter of 2007. These amendments simplify residence in Russia for those individuals who arrived from five former Soviet republics that have signed reciprocal agreements with Russia on visa-free entry for their nationals, and enable government authorities to obtain more accurate information on foreigners staying in Russia. It is estimated that between five and 20 million illegal migrants are currently in Russia.

According to the new provisions, those who do not need visas and are in Russia legally may obtain work permits within ten business days upon their arrival in Russia. Work permits will be issued for a one-year period and may be extended; however, the issuance of work permits will be a subject of government-imposed quotas based on each region's labor needs. The law allows regional administrations to define areas where employment of foreigners is prohibited, depending on social tensions in the region.

According to the newly passed amendments, all individuals visiting Russia must be registered in the locality of their stay. They must notify the authorities of their presence in each locality they visit within three days of arrival. The law also establishes a list of personal data to be reported by foreigners. Preliminary approval by the local authorities is required for registration of visitors in restricted areas defined by law. Violation of the registration procedure may cause problems for an individual when exiting Russia or applying for a new visa. Simultaneously passed amendments to the Code of Administrative Offenses provide for harsher penalties for failure to observe the rules governing the employment of foreigners. Hiring of illegal immigrants may entail substantial fines and loss of business licenses. (Evgeny Reyzman, *Rules on Foreign Nationals Revised Under Series of Changes*, 17:2 BNA'S EASTERN EUROPE REPORTER 19 (2007).)
(Peter Roudik)



UNITED KINGDOM – New Immigration Measures

As part of a substantial overhaul of the visa system in the United Kingdom, the government has announced that it will raise the age for marriage visa applicants from 18 to 21, in an attempt to decrease forced marriages. To discourage individuals who enter the country on family-sponsored visas from overstaying, the government has announced that it will impose fines of £1,000 (approximately US\$1,700) on the visa applicants' sponsor.

In addition to these new arrangements, a new government committee, the Migration Impact Forum, has been established to look at the social impact of migration in the UK. This measure is the consequence of concerns over the strain that immigrants place on social services, such as the National Health Service and public schools, as well as concerns over community cohesion. (Press Release, Home Office, [Government to Strengthen “Off-Shore” Border](#) (Mar. 28, 2007); [Marriage Visa Age Raised to 21](#), BBC NEWS, Mar. 28, 2007.)
(Clare Feikert)



International Relations

INDIA/BELGIUM – Agreement on Social Security

On November 3, 2006, India signed the first-ever, landmark agreement with Belgium on social security, aimed at making Indian companies more competitive internationally. The pact will exempt employees from liability for paying social security contributions, thereby substantially helping to reduce costs while ensuring payment of pensions to the employees. The agreement may serve as a model for execution of similar pacts with other countries in the European Union. At present, such agreements are under negotiation with France and the Netherlands.

The agreement would benefit Indians and Belgians working in each others' countries by allowing employees on short-term contracts to be exempt from paying social security contributions in the host country, as long as they pay them in their home countries. Those who live and work for longer than five years and make social security contributions under the host country's laws will be able to export those benefits should the employee relocate to the home country on completion of the contract or on retirement. These benefits would be especially beneficial to those employees who are sent to the host country from a third country. (Nilova Roy Chaudhury, *India, Belgium Ink Social Security Pact*, THE HINDUSTAN TIMES, Nov. 3, 2006.) (Krishan Nehra)

MOZAMBIQUE/CPLP – Extradition Treaty Ratified

On March 14, 2007, the Mozambican Parliament ratified an extradition treaty between members of the Community of Portuguese Speaking Countries (CPLP). The treaty had been previously signed during a CPLP conference of Ministers of Justice that occurred in November 2005 in Cape Verde. As a member of the treaty, Mozambique may now request the extradition of a person who is wanted for a criminal offense from any other CPLP member state who also has ratified the treaty. The treaty prohibits extradition in cases involving crimes carrying the death penalty or for political offenses. However, the extradition of people involved in genocide, crimes against humanity, hijacking, or other terrorist offenses is allowed.

The Assembly of the Republic (the Mozambican Parliament) also ratified two other conventions signed by the Ministers of Justice. One convention allows citizens of a CPLP member state to serve their criminal sentences in their own country; the other convention concerns assistance between CPLP member states in criminal cases, such as the exchange of information about suspects, undertaking of searches, and provision of documents. ([CPLP Extradition Treaty Ratified](#), AGENCIA DE INFORMACAO DE MOCAMBIQUE, Mar. 14, 2007.) (Eduardo Soares)



Justice

NEPAL – Deliberation on Court Structure

The Supreme Court (SC) of Nepal has formed a five-member committee, headed by Justice Anup Raj Sharma, to study the court system of countries with a federal model of government. The committee reportedly comprises representatives of the Nepal Bar Association (NBA) and experts in the field. The committee is to submit a report on courts under a federal structure, including the structure of judicial officials. The SC formed the committee in the aftermath of the decision by the state to establish a federal system of government by amending the interim constitution. ([SC Forms Committee to Study Model of Court in Federal Structure](#), LEGAL NEWS FROM NEPAL, Mar. 23, 2007.)

(Wendy Zeldin)

NEPAL – Poor Implementation of Supreme Court Orders

According to a first-of-its-kind study issued by Nepal's National Judicial Council (NJC), the record of implementation of Supreme Court (SC) directive orders in the country "is not satisfactory." Moreover, the study states, "[t]he implementation and the monitoring mechanism are not effective. There is a lack of coordination between the court and the bodies responsible for the implementation of directive orders." ([SC Directives' Implementation Unsatisfactory](#), THE KATHMANDU POST, Mar. 29, 2007.)

The orders, issued only in cases that involve the public interest or importance, instruct or direct the government or its subordinate agencies to take specific actions in connection with the case under consideration. After 1990, the study reports, with the coming into force of a new Constitution that year, the SC issued 67 directive orders. Only 13 of these have been fully implemented; 6 have been partially implemented; 22 are in the process of implementation; 11 are awaiting implementation, and the status of 15 could not be confirmed. By way of example, a directive order issued on January 9, 2004, to take legislative measures for implementing Nepal's obligations under the 1949 Geneva Conventions, reportedly has not even reached the implementing agencies concerned in the case (the Office of the Prime Minister and Council of Ministers or the Ministry of Law, Justice and Parliamentary Affairs) even though these agencies "are just a stone's throw" from the SC premises. (*Id.*)

(Wendy Zeldin)

NIGERIA – Commercial Fast-Track Courts

On April 12, 2007, commercial fast-track courts are to be launched in the Nigerian cities of Lagos and Abuja. Training of support staff and of the judges, two of whom are drawn from the Federal Capital Territory and four from the Federal High Courts, has already been completed. According to Minister of Justice Chief Bayo Ojo, who conceived of instituting the commercial fast-track courts, the number of judges will increase with time. Under the new system, it is expected that the maximum time it will take to hear commercial cases will be six months from the date of filing to the conclusion of the suit.



Ojo has encouraged attorneys-general of other states of the Federation to replicate the scheme. The Federal Attorney-General has reportedly indicated that in future the fast-track system might also be extended to criminal cases. (Funke Aboyade, [Fast Track Courts to Take Off Next Month](#), THIS DAY, Mar. 26, 2007.)
(Wendy Zeldin)

SUDAN/UNITED NATIONS – Legal Assistance Initiative

The United Nations has launched a legal aid network in Sudan that is designed to bring paralegals and lawyers together to provide services for those most at risk in the population. The work will be done on a pro-bono basis and will be organized in 14 Justice and Confidence Centres. These Centres will be independent, community-based units, staffed with a minimum of 25 Sudanese paralegals to work with attorneys. The aim is to contribute to justice while supporting the process of reconciliation between refugees returning to their homes, local communities, and the Sudanese government. One of the first actions of the network was to hold a week-long workshop to train more than one hundred paralegals from various parts of the country.

The program is being implemented by the U.N. Development Program (UNDP) and the People's Legal Aid Center. According to the Sudan Country Director for UNDP, Jerzy Skuratowicz, “[e]stablishing the Legal Aid Network in Sudan is essential in the broader context of training trainers on human rights and offering legal aid services, especially to the poor and vulnerable groups.” (*Sudan: UN-Backed Initiative Launched to Provide Legal Assistance to Most Vulnerable*, UNNEWS, Mar. 14, 2007.)
(Constance A. Johnson)



National Security

AUSTRALIA/JAPAN – Security Pact

On March 13, 2007, Australia and Japan signed a Joint Declaration on Security Cooperation for the purposes of strengthening cooperation and consultation on issues of common strategic interest in the Asia-Pacific region and beyond. In particular, Australia and Japan will undertake security cooperation in the areas of:

- law enforcement in combating transnational crime, including trafficking in illegal narcotics and precursors, people smuggling and trafficking, counterfeiting currency, and arms smuggling;
- border security;
- counter-terrorism;
- disarmament and counter-proliferation of weapons of mass destruction and their means of delivery;
- peace operations;
- exchange of strategic assessments and related information;
- maritime and aviation security;
- humanitarian relief operations, including disaster relief; and
- contingency planning, including for pandemics.

([Australia – Japan Joint Declaration on Security Cooperation](#), March 13, 2007, Australian Government, Department of Foreign Affairs and Trade Web site.)
(Lisa White)



Pensions and Retirement

MEXICO – Major Reform of Government Workers’ Pension System

President Felipe Calderón, in a message to the nation delivered on March 28, 2007, stated that the recent passage by the legislature of the reform of the law governing the Social Security and Services Institute for Government Workers (ISSSTE) constitutes a major advance for Mexico, achieved “thanks to the sense of responsibility and patriotism” of legislators and the leaders of the principal labor organizations. He added that the reform will save the ISSSTE from bankruptcy, allow substantial improvement in services provided to the beneficiaries and guarantee retirees their pensions, ensure the state’s financial viability and guarantee the quality of services to ten million beneficiaries and to future generations of public servants.

Moreover, the President announced that within the framework of the reform, eight million pesos will be invested in the construction and rehabilitation of hospitals and clinics, in the acquisition of high-technology medical equipment, and in the hiring and training of personnel, in particular medical doctors and nurses. Calderón stated that there are other valuable features of the reform, such as the creation of the “Pensionisste” to manage the retirement savings of workers, which will be scrupulously administered by highly qualified experts. He added that all the insurance, benefits, and services currently provided will be maintained and improved under the new system. (Press Release, Presidencia de la República, Sala de Prensa, Mensaje a la Nación del Lic. Felipe Calderón, Presidente de los Estados Unidos Mexicanos (Mar. 28, 2007).)
(Norma C. Gutiérrez)



Property Law

CHINA – Property Rights Law

On March 16, 2007, China's National People's Congress adopted a landmark Property Rights Law in 247 articles, for the first time granting equal protection to state and private property. What this means in practice is unclear, however; as far as land is concerned, the Chinese Communist Party, which controls the government, controls land ownership. Due to enter into effect on October 1, 2007, the Law is applicable to civil relationships arising from the ownership and use of property, which is defined as including movable property and real property. "Property rights" refer to exclusive rights enjoyed by obligees according to law to directly control specific property, including ownership, usufructuary rights, and security rights. The Law further stipulates that the property rights of the state, the collective, and the individual and the property rights of other obligees are protected by law and no unit or individual may infringe upon them. (*Authorized Issuance: The Property Rights Law of the People's Republic of China*, Xinhuanet, Mar. 19, 2007 [in Chinese]; [Property Rights Law of the People's Republic of China](#) (Unofficial Translation), Lehman Lee & Xu Web site; [Landmark Property Law Adopted](#), XINHUA, Mar. 16, 2007.)
(Wendy Zeldin)



Sports

UNESCO – Anti-Doping Convention and Olympics

On February 1, 2007, the International Convention Against Doping in Sport, the first binding and universal legal instrument of its kind, came into force upon receiving its 30th ratification. As of late March 2007, 48 countries had ratified the Convention, which was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) on October 19, 2005. The Convention imposes uniform rules, tests, and sanctions on doping, and emphasizes raising public awareness of the problem worldwide. It also promotes no-advance notice, out-of-competition and in-competition testing. (For the text of the Convention, *see* UNESCO, [International Convention Against Doping in Sport 2005](#), Oct. 19, 2005.)

On March 26, 2007, the UNESCO Director-General Koïchiro Matsuura welcomed a call by the International Olympic Committee (IOC) to render those cities in countries that have not ratified the anti-doping treaty ineligible to host the Olympic Games and he pledged UNESCO's full support for the proposition. Matsuura also urged the international community to speed up ratification of the Convention. He added, “[i]t is already remarkable that the next three Olympic Games - Beijing in 2008, Vancouver in 2010 and London in 2012 - will be held in countries that have ratified the Convention.” The Director-General also welcomed the current process of reviewing the World Anti-Doping Code with the aim of linking the organization of international sporting events to ratification of the Convention. ([Countries Must Ratify Anti-Doping Pact If They Want to Host Olympic Games – UNESCO](#), UN NEWS CENTRE, Mar. 26, 2007.)
(Wendy Zeldin)



Taxation

AUSTRIA – Taxation of Pension Reserves

On November 9, 2006, Austria amended its Income Tax Act by deleting section 14, paragraph 5 (BUNDESGESETZBLATT I No. 155/2006). The deleted provision had limited the deductibility of reserves for employee pensions and severance payments by requiring them to be secured to fifty percent by certain domestic debentures. The Austrian legislature eliminated this requirement after the Austrian Constitutional Court had ruled that it was unconstitutional (Verfassungsgerichtshof decision, Oct. 6, 2006, docket number G 48/06). The Court explained that, although it may be permissible for the legislature to promote the Austrian securities market through tax requirements, the principle of equality was violated because deductible reserves for other purposes did not require collateral securities.

(Edith Palmer)

CHINA – Foreign and Domestic Corporate Income Tax Rate Unified

The National People's Congress of the People's Republic of China (PRC) adopted a new Enterprise Income Tax Law on March 16, 2007, at its annual meeting. It enters into effect on January 1, 2008, abrogating the 1991 Law on Income Tax of Foreign-Invested Enterprises and Foreign Enterprises and the 1993 Provisional Regulations on Enterprise Income Tax. The Law unifies the income tax rate for domestic and foreign companies at 25 percent; incentives and rules on income and deductions are also unified. In the case of certain types of non-resident enterprises, a 20-percent rate will apply. At present, domestic companies are subject to a 33-percent rate that averages 25 percent after available incentives are taken into account, while foreign businesses have enjoyed a preferential effective average rate of 15 percent. ([Landmark Property Law Adopted](#), XINHUA, Mar. 16, 2007; Press Release, Deloitte, [China's Unified Enterprise Income Tax Law Brings Greater Clarity, Transparency & Fairness to the Tax System](#), (Mar. 16, 2007); *Zhonghua Renmin Gongheguo qiye suode shui fa* [Enterprise Income Tax Law of the PRC], Ministry of Finance Web site.)

Analysts have pointed out that the law includes several international taxation concepts not previously found in PRC tax law that will affect international investment by Chinese firms in particular. For example, there is the “managed or controlled” mechanism for determining tax residency, which may cause non-Chinese companies directed or managed within China – potentially including Hong Kong-listed companies that operate in China and Asian subsidiaries of multinationals directed from a China-based regional headquarters – to be subject to PRC tax.

In addition, the new Law changes the focus of incentives from special regions to the whole country; from being oriented towards regional development to being industry-oriented; and from favoring traditional industries to benefiting the new and high technology sector. The latter, moreover, are eligible for a 15-percent tax rate. The Law also seems to indicate a shift away from an export-oriented to a domestically-driven economy. A “super” tax deduction is



stipulated for certain research and development expenses, as well as for salaries paid to the disabled and other employees whose placement is encouraged by the state. (Deloitte, *id.*)

For the time being, current tax incentives for foreign companies, such as pre-tax reduction and a tax rebate for re-investment, remain in place, but there is speculation that they may be eliminated in the future. As of January 1, 2007, another preferential policy, tax relief in connection with the use of urban land, was removed. (XINHUA, *id.*)
(Wendy Zeldin)

GERMANY – Inheritance Tax Law Held Unconstitutional

On January 31, 2007, the German Constitutional Court ruled that the German inheritance tax law is unconstitutional (docket number 1 BvL 10/02, summarized in a press report on the Court's official Web site). The Court held that the current scheme of taxing all assets at their statutorily assessed value, as required by section 19, paragraph 1, of the Inheritance and Gift Tax Act (Erbchaftsteuer- und Schenkungsgesetz, repromulgated Feb. 27, 1997, BUNDESGESETZBLATT I at 378), violates the equal rights guarantee of article 3 of the Constitution (Grundgesetz, May 23, 1949, BUNDESGESETZBLATT 1), because real estate and businesses are valued at less than their market value whereas other assets are valued at their full market value (Bewertungsgesetz, repromulgated Feb. 1, 1999, BUNDESGESETZBLATT I at 230). The Court ruled that the law would have to be changed by the end of 2008. The Court explained that the current scheme of relief for owners of businesses and real estate was haphazard and did not differentiate according to justifiable criteria. These explanations may be used to draft tax advantages for the preferential inheritance tax treatment of small businesses and residential homes that are currently under discussion. (*Erbchaftsteuer verstösst gegen das Grundgesetz*, FRANKFURTER ALLGEMEINE ZEITUNG, Feb. 1, 2007, at 1.)
(Edith Palmer)

RUSSIAN FEDERATION – Tax Incentives for Foreign IT Companies

Recently passed amendments to the Russian Tax Code make eligible for tax benefits in the 2007 tax year foreign information technology companies currently operating in Russia through a subsidiary in the form of a Russian legal entity. These amendments are intended to promote offshore programming in Russia. They apply to Russian companies 90 percent of whose income is derived from development and sales of computer programs and databases; information processing; research and development; and program set-up, testing, and maintenance. In addition, they must be companies that employ more than 50 people and 70 percent of their revenue must come from contracts with foreign legal entities during nine months of the year. The benefits include reduction of the unified social tax, payroll tax deductions, and a simplified procedure to write off expenditures involved in acquiring computers. In order to be eligible, companies must undergo special accreditation. (Svetlana Lobovikova, *Recent Russian Tax Law Changes Create New Opportunities for Information Technology Operations*, 16:12 BNA'S EASTERN EUROPE REPORTER 20 (2006).)
(Peter Roudik)



Terrorism

AUSTRALIA/EUROPOL – Cooperation Agreement

Australian and European police will cooperate on transnational crime and terrorism under a new cooperation agreement signed on February 26, 2007, between Europol and Australia at The Hague in the Netherlands. Europol consists of representatives of 27 European nations and is focused on serious international crime. A member of the Australian Federal Police will be attached to the Third Party State Liaison Bureau within Europol. (Media Release, Senator the Honorable Chris Ellison, Minister for Justice and Customs, [New Cooperation Agreement with Europol](#) (Feb. 21, 2007), available at Attorney-General's Web site.)

Under the agreement, both parties pledged cooperation to combat transnational crime. The Australian Federal Police will have unlimited access to the intelligence information database operated by Europol. European Commissioner Mick Keelty stated that this agreement “was significant in Australia’s strategic approach to strengthening its international capacity to fight all forms of transnational crime, including terrorism.” (Press Release, Australian Federal Police, [AFP and Europol Join Forces to Fight Crimes](#) (Feb. 27, 2007).) (Theresa Papademetriou & Lisa White)

BANGLADESH - Six Islamist Militants Executed

The interim government of Bangladesh executed six Islamist militants on Friday, March 30, 2007 for the murder of two judges. The accused individuals confessed in court to the killings in November 2005. During their trial, the defendants admitted to targeting the entire judiciary because the courts rely on secular law as opposed to Sharia law (Islamic law).

In November 2005, two senior judges, Jagannath Pandey and Sohel Ahmed, were killed in the country's first suicide bombing, in the southern town of Jhalakathi. Before the November suicide bombing, approximately 450 small bombs were detonated across the country by the same extremist group as a warning of bigger terrorism plans.

In May 2006, the six accused individuals were given death sentences which were upheld by the Supreme Court of Bangladesh. The executions were carried out on March 30 after the president of Bangladesh rejected the appeals for clemency. A seventh militant, who has evaded arrest, has been sentenced to death in absentia.

Michael Sung, [Bangladesh executes Islamic militants convicted of killing judges](#), Jurist, Friday, March 30, 2007
(Shameema Rahman)



JORDAN – Trial in Bush Assassination Plot

On March 7, 2007, the Jordanian Court of National Security began the trial of three Jordanians who are accused of having plotted to assassinate President Bush and bomb the U. S. and Danish embassies in Amman. The accused, who were arrested November 28, 2006, face the death penalty if convicted. (*Trial of Those Accused of Plotting to Assassinate President Bush*, AL-SHARQ AL-AWSAT, Mar. 8, 2007.)
(Issam Saliba)

THE PHILIPPINES – New Anti-Terrorism Act Claimed to Impact Human Rights

On March 6, 2007, Philippines President Gloria Macapagal-Arroyo signed into law an anti-terrorism bill, which became the Human Security Act of 2007, Republic Act 9372. The law provides that the crime of terrorism includes piracy in general or mutiny on the high seas; rebellion or insurrection; coup d'etat, including acts committed by private persons; murder; kidnapping, and serious illegal detention; and crimes involving destruction, such as arson. The crime of terrorism is punishable by forty years of imprisonment without the benefit of parole.

On March 12, 2007, a human rights expert with the United Nations called on the Philippines Congress to amend or repeal the new law because it could adversely affect human rights. Martin Scheinin, the U.N. Human Rights Council's Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, indicated that the strict application of a penalty of forty years' imprisonment provided in the Act undermines judicial discretion in individual cases. He voiced further concern about the competence of various bodies authorized by the Act to review detention of an individual, because some of these are members of the executive rather than an independent judicial body. Scheinin added that another area of concern is that the Act provides for restrictions on movement, including the imposition of house arrest where the legal basis is simply "in cases where evidence of guilt is not strong" rather than positive suspicion or a higher evidentiary threshold. ([PGMA Signs into Law Human Security Act of 2007](#), official Web site of the Philippines Government, Mar. 6, 2007; [UN Rights Expert Calls on Philippines to Amend or Repeal Anti-Terrorism Law](#), UN NEWS CENTRE, Mar. 12, 2007.)
(Gustavo Guerra)

NETHERLANDS – Counterterrorism Alert System Expanded

According to a press release issued by the Dutch Ministry of Justice, as of March 1, 2007, the Counterterrorism Alert System (CAS) of the Netherlands will be expanded by the airport sector, to start at the low-threat level. This is the level at which Schiphol Airport started when it first took part in the CAS, which was introduced in 2005 as a result of steps taken world-wide after terrorist attacks against the United States on September 11, 2001. The alert system warns government services and businesses in the event of an increased level of terrorist threat, so that they can quickly take action. The expanded sector will now include all Dutch civil aviation airports: Rotterdam Airport, Eindhoven Airport, Maastricht Aachen Airport, Enschede Airport Twente, Groningen Airport Eelde, as well as Amsterdam Airport Schiphol.



The other eight sectors covered by the CAS are: the Rotterdam harbour and petrochemical industry sector; the railways, drinking water, electricity, gas, and nuclear sectors; the municipal and regional public transport operators' sector; and the financial sector. The sectors will conduct drills in close cooperation with the National Coordinator for Counterterrorism (NCTb) to ensure optimal operation of the early warning system. (The NCTb has its own Web site (in Dutch).)

The CAS distinguishes four levels of threat: standard, low, moderate, and high. Whether a given sector becomes part of the system depends on the extent to which it is deemed to be of vital financial and economic importance and an attractive target for terrorist attacks. Another criterion is the potential in that sector for terrorists to cause numerous casualties by unsophisticated means. A final factor is whether the targets that might be involved have great symbolic value for Western society. Twelve sectors in all are to be part of CAS by 2007, based on these factors. The three additional ones include the oil and chemical sector, large-scale public events, and hotel chains. (Press Release, the Dutch Ministry of Justice, [Dutch Counterterrorism Alert System Expanded by Airport Sector](#) (Mar. 1, 2007).) (Wendy Zeldin)

TAIWAN – Anti-Terrorism Bill

Taiwan's Cabinet introduced a draft "law against terrorist actions" on March 21, 2007, that would grant the Cabinet the power to define terrorist groups and broad powers of investigation. It would also have the authority to assume control of security agencies on the basis of what has been called "loosely defined requirements with minimal oversight." (Jimmy Chuang, [Cabinet Unveils Broad Anti-Terror Bill](#), TAIPEI TIMES, Mar. 22, 2007, at 1.) The draft law defines "terrorist actions" as acts of violence committed "by individuals or organizations based on political, religious, racial, ideological or other concepts that aim to create fear among the public." These may include, for example, murder; arson; kidnapping; hijacking of public or private means of transportation; sabotage of electronic systems; or spreading of harmful radioactive, biological, or chemical substances, by organizations comprising three or more persons (a "terrorist group"). (Dennis Engbarth, *Taiwan News: Cabinet Backs 'Terrorist Actions' Draft*, TAIWAN NEWS, at 2, Open Source Center No. CPP20070322968001.)

Under the draft law, the government would be empowered to bestow the death penalty, life imprisonment, or up to ten years' imprisonment for persons engaged in terrorist actions. Anyone who interacts with a terrorist group could face a prison term of more than five years and a fine of up to NT\$100 million (about US\$3 million). Those found guilty of sponsoring a terrorist group would be subject to a minimum sentence of one year and a maximum of seven years and a fine of up to NT\$10 million. The bill offers leniency, however, for individuals who provide law enforcement officers with information leading to the arrest of a terrorist or the prevention of an act of terror, in the form of decreased penalties for their involvement.

The bill prescribes that a special Cabinet Anti-Terrorist Action Policy Task Force would be established to coordinate intelligence-gathering and counter-terrorism operations in general,



while the Prosecutor-General of the Supreme Court Prosecutors' Office general would oversee the entire investigation and potential indictments. In the event of the commission of a terrorist act, Cabinet spokesman Cheng Wen-tsang stated,

the Cabinet would be authorized to circumvent normal legal processes and take direct command of all public-order related government agencies, including the police, the military, the Bureau of Investigation, the Ministry of Justice, the National Security Bureau and the Coast Guard Administration. Investigators would also be authorized to tap suspects' phones and monitor e-mail and other electronic information that might help the investigation.

The National Security Bureau is mandated under the draft law to report any intelligence on individuals or organizations suspected of being involved in terrorist acts. In addition, the Ministry of Justice Investigation Bureau and the National Police Administration have the authority to demand that Internet service providers submit records of Internet connections and related data on hardware and software, on suspicion that the Internet is being used for terrorist acts.

The Cabinet is also reportedly planning to cooperate with foreign countries in counter-terrorism activities. According to Premier Su Tseng-chang, the bill itself was finally approved "due to intense demands by international organizations." (Chuang, *id*; Engbarth, *id*.) (Wendy Zeldin)

UNITED STATES – Guantanamo Detainees' Habeas Corpus Petitions Dismissed

On February 20, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the provisions of the Military Commissions Act (MCA) that stripped the habeas corpus rights of "alien unlawful enemy combatants" (see *Global Legal Monitor*, Sept. 2006, at 45) did not violate the U.S. Constitution with respect to detainees held outside the sovereign territory of the United States, and dismissed the habeas petitions of detainees at the U.S. military base at Guantanamo Bay, Cuba. The court ruled that the right of habeas corpus found in the U.S. Constitution, art. I, § 9, cl. 2, extends only to persons detained within United States territory. Because the U.S. military base at Guantanamo Bay, while under the control of the U.S., is under the sovereignty of Cuba, the constitutional right of habeas corpus does not extend to persons detained there, the court held.

The detainees petitioned the U.S. Supreme Court for review of this decision. On April 2, over the dissent of Justice Breyer which was joined by two other Justices, the Court denied the petition. Justices Stevens and Kennedy, concurring in the denial of the petition, indicated that the Supreme Court may hear the detainees' cases eventually, after the detainees exhaust their other remedies, or in the event the government unreasonably delays proceedings or otherwise prejudices the position of the detainees in seeking review before the Supreme Court. ([Boumediene v. Bush](#), No. 05-5062 (D.C. Cir. Feb. 20, 2007); [Boumediene v. Bush](#), No. 06-1195



(April 2, 2007) ([*opinion of Justice Breyer dissenting from the denial of certiorari*](#)); ([*statement of Justices Stevens and Kennedy respecting the denial of certiorari*](#).)

(Luis Acosta)



Trade and Commerce

AUSTRALIA – Implementation of UN Sanctions Against Iran

Australia has implemented sanctions against Iran in accordance with United Nation's Resolution 1737, adopted on December 23, 2006. Charter of the United Nations (Sanctions - Iran) Regulations 2007 (Cth) (Regulations) implement Australia's obligations under United Nations Security Council Resolution 1737 by restricting the supply, sale, or transfer of export controlled goods and the provision of related assistance to Iran and preventing persons from either using or dealing with assets owned or controlled by a designated person or entity or making an asset available to a designated person or entity (other than in accordance with the Regulations). The Charter of the United Nations (Sanctions - Iran) Regulations 2007 (Cth) are applicable to all persons within Australia and to Australian nationals overseas and took effect on February 21, 2007. ([Charter of the United Nations \(Sanctions - Iran\) Regulations 2007](#) (Cth) available on the Australian Government, Attorney-General's Department, ComLaw Web site.) (Lisa White)

KAZAKHSTAN – Easier Business Abroad

The Parliament of Kazakhstan recently amended the nation's Law on Securities Markets, simplifying initial public offerings by Kazakh companies. The Law repealed provisions that required Kazakh companies to offer their shares on the domestic market before offering them abroad and made it almost impossible to proceed with initial public offerings in the conventional way. The new version of the Law states that in the event of an IPO, no less than 20 percent of the total placement of shares must be offered in Kazakhstan. That provision gives more freedom to companies to decide how to proceed with the IPO and demonstrates the flexibility that Kazakh state authorities are trying to introduce as the country moves toward an established market economy. (Yuri Maltsev, *IPOs Simplified by New Amendments*, 16:12 BNA'S EASTERN EUROPE REPORTER 17 (2006).) (Peter Roudik)

MEXICO/CHILE – Agreements Signed

President Felipe Calderón of Mexico and Chilean President Michelle Bachelet signed three agreements, on sustainable development, the economy, and agriculture, during Bachelet's three-day official visit to Mexico from March 19-21, 2007. They also agreed to include a chapter on financial services in the free trade agreement that both nations entered into in 1999. Another significant achievement of President Bachelet's visit was the signing into effect of the establishment of the Advisory Council of the Strategic Association Agreement, which, the two parties believe, will strengthen their bilateral relationship and improve their levels of competitiveness in the international market. (Sergio Javier Jiménez, *Recibe Presidente a Michelle Bachelet*, EL UNIVERSAL, Mar. 20, 2007; José Goñi Carrasco, *Visita de Bachelet refuerza intercambio con México*, EL UNIVERSAL, Mar. 19, 2007.) (Norma C. Gutiérrez)



NAFTA – Agreement on Pending Agricultural Issues

On March 6, 2007, Mexican Secretary of Economy Eduardo Sojo stated that Mexico and the United States would seek to soften the total opening of the agricultural chapter of the North American Free Trade Agreement (NAFTA) in 2008. Under NAFTA, Mexico must eliminate all tariffs on beans, corn, sugar cane, and milk powder as of January 1, 2008. Such products have had the longest protection period under the agricultural chapter because the member countries acknowledged Mexico's structural asymmetries in regard to these products. Both Sojo and the Mexican Secretary of Agriculture Alberto Cárdenas informed U.S. Secretary of Agriculture Mike Johanns that Mexico is going to join the complaint that Canada has filed with the World Trade Organization regarding U.S. corn subsidies.

On the occasion of renewing both countries' Memorandum of Understanding on Commercial Issues, Secretary Sojo indicated that Mexico would be very careful in arguing some of the pending issues within NAFTA. Secretary of Agriculture Alberto Cárdenas indicated that the U.S.-Mexico Consultative Committee on Agriculture was reactivated on March 6, 2007, in order to settle the differences between the two countries in the agricultural sector, particularly in relation to the four sensitive products of corn, beans, sugar, and milk powder. He added that the two governments are engaged in talks on these issues. The Mexican government has submitted to its country partner six project proposals concerning corn and beans for the U.S. government's consideration and response. (Isabel Becerril, *Buscan Aterrizaje Suave de la Apertura Total del TLCAN*, EL FINANCIERO, Mar. 7, 2007.)

(Norma C. Gutiérrez)

NICARAGUA/VENEZUELA – New Trade Agreements Signed

Presidents Daniel Ortega of Nicaragua and Hugo Chávez of Venezuela signed a Memorandum of Understanding for the construction of a refinery; an agreement on Nicaragua's joining the Bank of the South (Banco del Sur); and a third agreement that will make official the participation of Nicaragua in the Television of the South (Televisión del Sur). The agreements were signed during Chavez's visit to Nicaragua on March 11, 2007. On that occasion, Chávez stated that the refinery will be located in the province of León, that it will cost US\$2.5 billion, and that it will refine about 150,000 barrels of crude oil. President Chavez stated that, with the refinery, Nicaraguans would never again have problems of fuel shortages and that in the not too distant future Nicaragua would be able to export oil derivatives. With respect to Nicaragua's joining the Bank of the South, he noted that with this financial project, he is sure the people of the region "will no longer need the wicked International Monetary Fund (FMI)." (*Venezuela y Nicaragua Firmaron Tres Nuevos Acuerdos de Cooperación*, AGENCIA BOLIVARIANA DE NOTICIAS, Mar. 12, 2007.)

(Norma C. Gutiérrez)

SADC – Deadline for Zero Tariffs Set

The Southern African Development Community (SADC), consisting of Angola, Botswana, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius,



Mozambique, Namibia, South Africa, Swaziland, the United Republic of Tanzania, Zambia, and Zimbabwe, is taking steps toward becoming a Free Trade Area. It has set 2008 as the time by which zero tariff rates will be introduced. By that date, over 85 percent of trade in the SADC region will be tariff-free. By 2012, the region should be at the 99 percent free trade level, according to Tomaz Salomao, the Executive Secretary of SADC. (Zeph Kajeju, [Southern Africa: SADC Sets Deadline for Zero Tariff Rates Introduction](#), THE VOICE (Francistown), Mar. 13, 2007.)

(Constance A. Johnson)

TAIWAN – Company Law

It was reported on March 19, 2007, that Taiwan's Ministry of Economic Affairs (MOEA) has decided to revise the Company Law to require domestic firms whose paid-in capital or number of shareholders exceeds a certain level to publicly offer their shares. The aim of the amendment is to augment corporate governance, in the wake of a recent scandal involving the undermining of shareholder equity in a company affiliate because powerful shareholders tied to the umbrella organization (the Rebar Group), taking advantage of the company's opaque financing due to its private corporate status, managed to embezzle its funds. The company affiliate, Asia Pacific Broadband Telecom, was not listed on the domestic stock exchange even though its capitalization is more than NT\$60 billion (about US\$1.8 billion).

The MOEA has preliminarily set the thresholds for the mandatory public share offerings at NT\$500 million (about US\$15 million) of paid-in capital and 200-300 shareholders; companies meeting these conditions will have to make their finances open to public scrutiny. The principle of this requirement will be incorporated in the Company Law, but the specific thresholds will be laid down by the MOEA in administrative regulations. The requirement had originally been in the Company Law, but was deleted in the 2001 amendment of the Law. Franchise businesses will also have to comply with the requirement; the thresholds will be set by the relevant regulatory bodies governing the type of franchise. Another MOEA revision of the Company Law will prohibit domestic companies from having representatives of the same institutional shareholder serve simultaneously as board director and supervisor. This provision complies with Taiwan's Stock Transaction Law.

In related developments, the National Communications Commission (NCC) has incorporated the mandatory public share offering requirement in revised radio broadcast and television laws, with the requirement threshold to be set at NT\$200 million (about US\$6 million), and it plans to intensify auditing of domestic communications firms' finances. In addition, the Financial Supervisory Commission will require listed companies and financial holding companies to adopt an electronic voting system for the election of board directors and supervisors and for voting on major corporate issues by shareholders, in order to avoid potential manipulation by management. (Philip Liu, [Gov't to Require Public Share Offering by Large-Cap Firms](#), TAIWAN ECONOMIC NEWS, Mar. 19, 2007; Judy Li, [MOEA to Revise Company Law to Better Govern Public Share Issuance](#), TAIWAN ECONOMIC NEWS, Mar. 20, 2007.)

(Wendy Zeldin)



Transportation

EUROPEAN UNION/UNITED STATES -- Progress on Open Skies Agreement

After four years of discussions between the European Union and the United States to liberalize competition in transatlantic air travel, on March 22, 2007, the EU transport ministers voted unanimously in favor of an “open skies” agreement with the United States. A basic element of the agreement is that it permits EU airlines to fly from any destination in Europe to any city in the United States and vice versa. The European Commission anticipates that the deal will increase competition and will result in cheaper airfares for passengers. However, two limitations are imposed on EU companies: a) they cannot purchase more than 25 percent of a U.S. airline; and b) they cannot fly within the United States from one airport to another. Questions have been raised about the environmental impact of the deal, since airplanes consume a huge amount of fuel at high altitudes. If the agreement is signed at the end of April, it is expected that it will enter into force in October 2007. ([“Open Skies” Agreement: Consumers vs the Environment](#), EUROPEAN PARLIAMENT NEWS, Mar. 13, 2007; (Press Release 7272/07 (Presse 51), Council of the European Union: Transport, Telecommunications and Energy, [EU-US Negotiations for an Air Transport Agreement](#) (Mar. 22, 2007).) (Theresa Papademetriou)

INDONESIA – Boeing Air Disaster Victims Sue

Relatives of the victims of a 2005 Indonesian air disaster have indicated their intention to sue Boeing and industrial conglomerate United Technologies Corp, which produces aircraft engines and aviation systems, for negligence. A lawyer representing some of the relatives has reported filing a claim in an Illinois court. If a mediation process, scheduled for April 26, 2007, is inconclusive, then the relatives intend to proceed to trial. (*Indonesian Victims of Air Crash Sue Boeing in US Court*, BORNEO BULLETIN, Mar. 18, 2007, media reports on LeifGlobal LLP Web site.) (Lisa White)

NIUE – Regional Agreements for Air Services and Safety Signed

Niue has signed both the Pacific Islands Air Services Agreement (PIASA) (a regional agreement for the liberalization of air services between Pacific Islands Forum countries) and the Civil Aviation Safety and Security Treaty (PICASST), thus ensuring Niue membership in the Pacific Aviation Safety Office (PASO) agreement (an international organization responsible for overseeing regional aviation safety). PIASA will be operational upon ratification by six countries. To date, Samoa, Cook Islands, Tonga, and Nauru have ratified PIASA. (Press Statement, Pacific Islands Forum Secretariat, Niue Embarks on New Chapter in Aviation, (Mar. 16, 2007).) (Lisa White)



War

UNITED KINGDOM – Coroner Claims U.S. “Friendly Fire” Death Unlawful

The coroner investigating the death of a British soldier by friendly fire from U.S. fighter planes in Iraq has ruled that it was a “criminal, unlawful act by pilots who opened fire with disregard for the rules of engagement,” as they failed to seek to confirm the identity of the vehicles in the convoy that they fired upon and to seek clearance prior to firing their weapons. The coroner was highly critical of U.S. officials for failing to cooperate with his investigation and announced that this failure has meant that all the facts of the case have not been disclosed. (Kim Sengupta, [Coroner Says Friendly Fire Killing of British Soldier Was a Criminal Act](#), THE INDEPENDENT (London) Mar. 17, 2007; Aislinn Simpson, [Coroner Criticises US over Unlawful Death](#), INDEPENDENT (London) Mar. 16, 2007.)
(Clare Feikert)

UNITED STATES – Rumsfeld Torture Lawsuit Dismissed

On March 27, the U.S. District Court for the District of Columbia dismissed four lawsuits filed by detainees against former Secretary of Defense Donald Rumsfeld and several high-ranking military officers for alleged abuses committed by U.S. military personnel in Iraq and Afghanistan. The court granted a motion to dismiss filed by the defendants.

Chief Judge Thomas F. Hogan wrote the opinion of the court, in which he noted that under the standards pertaining to a motion to dismiss, the court must assume the facts alleged by the plaintiffs to be true, in this case “horrifying torture allegations.” Nonetheless, the court found that the plaintiffs did not have a viable claim, for two primary reasons. First, U.S. constitutional rights do not apply to nonresident aliens detained abroad during a war. Second, federal employees acting within the scope of their employment are immune to private lawsuits because of the protection granted by the Westfall Act, Public Law 100-694 (codified at 28 United States Code Sections 2671, 2674, and 2679). ([Ali v. Sanchez](#), No. 06-0145 (D.C. March 27, 2007).)
(Gary Robinson)



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