

2006

International Legal Updates

Natalie Huls

American University Washington College of Law

Art Steele

American University Washington College of Law

Huwaida Arraf

American University Washington College of Law

Courtney Nicolaisen

American University Washington College of Law

Miya Saika Chen

American University Washington College of Law

Follow this and additional works at: <http://digitalcommons.wcl.american.edu/hrbrief>



Part of the [Human Rights Law Commons](#), and the [International Law Commons](#)

Recommended Citation

Huls, Natalie, Art Steele, Huwaida Arraf, Courtney Nicolaisen, and Miya Saika Chen. "International Legal Updates." *Human Rights Brief* 14, no. 1 (2006): 31-37.

This Column is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Human Rights Brief by an authorized administrator of Digital Commons @ American University Washington College of Law. For more information, please contact fbrown@wcl.american.edu.

INTERNATIONAL LEGAL UPDATES

LATIN AMERICA

FIRST “DIRTY WAR” CONVICTIONS IN ARGENTINA AFTER ANNULMENT OF AMNESTY LAWS

In June 2005, the Supreme Court of Argentina annulled two amnesty laws that prevented the prosecution of crimes committed during Argentina’s “Dirty War.” These laws, the “full stop” and “due obedience” laws, effectively prevented all prosecution against high-ranking military officers and lower-ranking officers who followed the orders of their superiors.

The annulment of the two laws opened the way for the prosecution of crimes against humanity perpetrated by the military during the 1976-1983 junta. The military junta was responsible for kidnappings, torture, and forced disappearances against dissident leftists and other groups. Government agencies and human rights organizations estimate the number of deaths at anywhere between 10,000 and 30,000 individuals.

The first trial for forced disappearance began on June 20, 2006. Miguel Osvaldo Etchecolatz, a former police commissioner, faced charges of illegal arrest and torture. In 1986, Etchecolatz received a 23 year prison sentence for similar crimes, but the “due obedience” law vacated his sentence a year later. After three months of trial in the current case, the federal court in La Plata convicted Etchecolatz of crimes against humanity, committed within the framework of genocide. On September 19, 2006, the court sentenced the 77 year old Etchecolatz to life in prison.

The sentence is unprecedented in Argentina as the first time the judicial system recognized guilt for crimes against humanity. The conviction is also the first concrete judicial recognition of a systematic plan of extermination or genocide implemented by the military junta during the “Dirty War.”

While Etchecolatz’s conviction is the first recognizing crimes against humanity, it is the second conviction for forced disappearances since the abolishment of the amnesty laws. On August 4, 2006, a federal court in Buenos Aires sentenced Julio Héctor Simón, a former police official, to 25 years in prison for the

illegal arrest and torture of José Poblete Roa and Gertrudis Hlaczik de Poblete, a Chilean/Argentine couple who were disappeared in 1978. Simón also took the couple’s eight month old daughter, Claudia, and gave her to a police lieutenant and his wife for adoption. Claudia’s adoptive parents concealed her true identity for 22 years.

The two convictions demonstrate the Argentinean determination to pursue justice for “Dirty War” crimes. In response to Simón’s sentencing, José Miguel Vivanca, Americas Director at Human Rights Watch, declared: “This sentence shows that democratic institutions can eventually overcome all the legal barriers erected to shield perpetrators of crimes against humanity. Justice was finally done where it needed to be done—in Argentina itself.”

Etchecolatz and Simón are among dozens of former police and state security officials who face prosecution. Observers expect other trials for crimes against humanity, including torture and forced disappearances, to begin soon.

Despite these advances, the trials have also faced some setbacks. A crucial witness in the Etchecolatz trial, Jorge Julio López, went missing a day before the sentencing. Argentine authorities and human rights groups fear that police officers or security forces may have abducted and killed Etchecolatz in order to intimidate future prosecutors, judges, and witnesses. The López family flatly rejects one theory that suggests López committed suicide, distressed by the trial. In fact, judges, prosecutors, and other witnesses report that they receive threatening letters and phone calls. Such happenings leave human rights groups to wonder whether, despite convictions for Argentina’s “Dirty War” crimes, the problem of forced disappearances is a contemporary phenomenon.

FIRST CASE OF FORCED DISAPPEARANCE REACHES GUATEMALAN COURTS

During 36 years of civil war in Guatemala, state security forces destroyed more than 400 villages, killed more than 140,000 people, and displaced hundreds of thousands of people from their homes. State security forces also “disappeared” more than 45,000 people,

though unrecovered disappearances are not reflected in the country’s wartime death tolls. The Guatemalan government and guerilla forces signed a peace accord ending the civil war in December 1996. Despite the large number of disappeared individuals, almost ten years passed before the first forced disappearance case reached the Guatemalan court system.

The case against Felipe Cusanero, former chief of the Civil Defense Patrols, is the first case brought in Guatemala for civil war-era forced disappearances. Cusanero is charged with the disappearances of six people from Choatalum in central Guatemala between 1982 and 1984. The court in Chimaltenango, a southern Guatemalan city, was to hear arguments on the case beginning on August 17, 2006. The case however is currently before the Constitutional Court of Guatemala because Cusanero’s lawyers claim that it is unconstitutional. Cusanero’s lawyers insist that as the Guatemalan government did not define forced disappearance as a crime until after the government and the guerilla forces signed the peace accords, the court should not apply the penal code retroactively against Cusanero.

Edgar Pérez, the prosecuting attorney, argues that the question of whether the court must apply the penal code retroactively is inapplicable. In 2000, Guatemala ratified the Inter-American Convention on Forced Disappearance of Persons (“Convention”). According to Article III of the Convention, the “offense [of the forced disappearance of persons] shall be deemed continuous or permanent as long as the fate or whereabouts of the victim has not been determined.” According to Pérez and the Convention, the case against Cusanero is not unconstitutional because the offense in this case is continuous until the authorities can determine the fate or whereabouts of the victims.

The Constitutional Court of Guatemala heard arguments regarding the case on September 21, 2006. On the same day, a United Nations team of human rights experts visiting Guatemala to look into the wartime disappearances urged the Constitutional Court to allow the case to go to trial.

However, the court adjourned the hearing without reaching a decision on the constitutionality of the case.

If the case against Cusanero proceeds, many other forced disappearance cases are likely to follow. Maria Lopez, the wife of one of the victims in the Cusanero case, said, "I just want to know where his remains are so I can take them to the cemetery." Prosecution of those accused of forced disappearances may bring closure to the many families still waiting to hear what happened to their loved ones.

A decision by the Constitutional Court to allow the trial against Cusanero would demonstrate the government's commitment to human rights by addressing the crimes committed during the civil war. However, if the Constitutional Court decides that Cusanero's defense is valid and the case is unconstitutional, the prosecuting lawyers say they plan to take the case to the Inter-American Commission on Human Rights.

AFRICA

BURUNDIAN HOSPITALS DETAIN INDIGENT PATIENTS

The health sector in Burundi, which deteriorated during a decade-long civil war, still has not recovered under the new government of President Pierre Nkurunziza. The Burundian government continues to allow hospitals to detain patients who are unable to pay their hospital bills. Previously, a large portion of the detainees were women who suffered childbirth complications and were detained by the hospital with their children. In an attempt to relieve the health crisis, President Nkurunziza announced on May 1, 2006, that health care for children under the age of five and maternal health care would be free of charge. Though this measure provides relief to mothers and small children, it does little to aid the hundreds more who remain detained.

Most of the detained patients are those that underwent surgery, given that surgery is often more expensive than other medical care. Detention usually begins when patients receive their bills and are unable to pay. They are confined to the hospital premises and can only leave by permission or if they escape. The conditions under which the hospital holds the detained patients are deplorable. The hospitals generally do not provide meals to detained patients, who then have to go without food or depend on charities or family

members. Also, when detained patients demonstrate that they are unable to pay their bills, hospital officials sometimes refuse further treatment. In one case, a 13 year old boy, Felix M., was detained for over one year at Prince Regent Charles Hospital in Bujumbura. A UN vehicle hit Felix in July 2004, and the monetary compensation the UN gave his parents was only enough to cover a portion of his bill. When his parents could not pay the rest of the bill, the hospital detained him. During the year of his detention, he could not attend school and depended on a nun to bring him food twice a day.

According to the Burundian Association for the Protection of Human Rights and Detained Persons (APRODH), there are hundreds of stories like this one. Hospital detention based on the inability to pay a bill violates Article 11 of the United Nations International Covenant on Civil and Political Rights (ICCPR), which states that "[n]o one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation." The government's assent to this practice also violates Article 12 of the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), which requires states to progressively realize the right to the highest attainable standard of health. Additionally, this practice discriminates against the poor because it discourages indigent people from seeking health care.

In a report published in September 2006, Human Rights Watch called for the Burundian government and other international organizations to intervene. Among other things, the report calls for the Burundian government to immediately release all detained patients, order an end to the practice, and propose legislation to make patient detention illegal. The report also calls for the IMF and World Bank to ensure that the funds they give to the health sector go toward ending the detention of indigent patients.

UGANDAN TABLOID INSTIGATES HARASSMENT OF HOMOSEXUALS

In further attempts to harass homosexuals, the *Red Pepper*, a Ugandan tabloid, published the names of 13 women it identified as lesbians on September 8, 2006. Because a sodomy conviction carries a life sentence in Uganda, human rights organizations are concerned that the publication of the women's sexual orientation could put them in danger. This was the third time in recent weeks that

the *Red Pepper*, known for its sensationalism, identified lesbian, gay, bisexual, and transgender (LGBT) individuals. On August 8 the *Red Pepper* published the first names and workplaces of 45 men the tabloid identified as gay. The paper asserts it was publishing the list to show that sodomy is destroying Ugandan society. Following the publication, Amnesty International received several reports of harassment of individuals whom the tabloid named.

Previous allegations of individuals' sexual orientation in print media have led to police action in Uganda. In 2002 the *Red Pepper* published a banner headline and photographs reporting an alleged wedding between two women in the capital, Kampala. Police promptly arrested the women in question. State-owned media have also contributed to the harassment of homosexuals by calling for stronger measures against homosexual conduct. In 2005 the government-owned newspaper, *New Vision*, urged authorities to increase their vigilance of LGBT people. Later that month, local government officers raided the home of Victor Juliet Mukasa, a lesbian activist and Chairperson of Sexual Minorities Uganda. Although Mukasa was not present, the officers arrested and detained another lesbian activist who was staying in her home.

For the past two years, the Ugandan government has used censorship to silence discussion of LGBT rights. In October 2004 the Broadcasting Council, a board of government censors, fined a radio station for hosting a lesbian and two gay men on a talk show. In February 2005 the Media Council, a state sponsorship board, banned the staging of "The Vagina Monologues." The Media Council commented that they objected to the play because it promotes, among other things, illegal and unnatural acts of homosexuality.

Human rights organizations have called on the Ugandan government to respect the rights of LGBT people as prescribed by the International Covenant on Civil and Political Rights (ICCPR). Articles 2 and 26 of the ICCPR provide that States cannot violate human rights on the basis of sexual orientation. The same organizations have also called for Ugandan authorities to end a long campaign of homophobic statements, cease arrests under the sodomy laws, repeal the sodomy laws, and offer protection against violence and harassment to human rights defenders working to protect LGBT rights.

MIDDLE EAST

HUMANITARIAN CRISIS IN OCCUPIED PALESTINIAN TERRITORIES

Continued violence and Israeli-imposed restrictions are having a severe impact on civilians and civilian infrastructure in the occupied Gaza Strip. While all eyes focused on Lebanon this summer, the crisis intensified as economic conditions drastically worsened and the Israeli army increased its military operations inside Gaza. With poverty and unemployment rates at nearly 80 and 40 percent, respectively, UN humanitarian agencies have expressed alarm at the sharp decline in the humanitarian situation of the 1.4 million inhabitants of Gaza. Seventy percent of Palestinians in the Gaza Strip cannot feed themselves without assistance, a 30 percent increase in just over a year.

According to the World Bank, Palestinians are currently experiencing the worst economic depression in modern history. International sanctions and Israeli-imposed movement restrictions have devastated an already-crippled economy. The Palestinian Authority (PA) used to receive \$1 billion per year in annual aid from Western donors, and a monthly transfer from Israel of \$50–60 million in customs and tax revenues collected on the PA's behalf. Both were suspended shortly after the installation of the democratically elected Hamas-led government in March 2006.

Israel has also been imposing a near total closure on Gaza. The International Committee of the Red Cross reported that crossing points in and out of the Gaza Strip, including the Rafah border crossing with Egypt, remained closed for most of August. The closure of the main cargo transit point at Karni has resulted in a virtual cessation of exports and a sharp reduction in imports of raw materials. In a September 27 speech to the United Nations Relief Works Agency (UNRWA) Advisory Committee, Commissioner General Karen AbuZayd reported that UNRWA's food distribution in the Gaza Strip had been delayed because of the severe difficulties in transporting goods through Karni. Despite Israel's pull-out from Gaza in August 2005, it remains an occupying power in the Gaza Strip with control over borders, sea and airspace, public utilities, the public registry, and Gaza's internal economy. As an occupying power, Israel is obligated to uphold basic protections of the population and territory under its control, pursuant to the 1907 Hague Convention and the 1949 Fourth Geneva Conventions.

In addition to the dire economic conditions, Israel's continued military operations in the Gaza Strip have exacerbated the humanitarian crisis. Triggered by a June 25 Palestinian attack on an Israeli army post in which two Israeli soldiers were killed and one was captured, Israel launched "Operation Summer Rains." In three months, the Israeli military killed over 237 Palestinians, including 53 children, and wounded nearly 825, including 220 children. The Israeli military has also fired at least 260 air-to-surface missiles and thousands of artillery shells at mostly civilian targets, including government buildings, educational institutions, private homes, bridges, roads, and hundreds of acres of agricultural land. In the early morning hours of June 28, 2006, the Israeli Air Force attacked and destroyed the only electrical power plant operating in the Gaza Strip. As a result of the lack of electricity, the level of medical services provided by clinics and hospitals has declined significantly, most of the urban population receives only two or three hours of water a day, the sewage system is on the verge of collapse, and the lack of refrigeration has damaged food supplies and exposed many to the danger of food-poisoning. B'tselem, an Israeli human rights organization, labeled this attack a war crime and called on Israel to fund and facilitate the reconstruction of the plant, prosecute those responsible for the bombing, and pass a government resolution forbidding the Israeli military from attacking civilians and civilian targets.

IRANIAN POLITICAL PRISONERS

The death of two jailed political figures in less than six weeks has sparked concerns over the health and safety of Iranian political prisoners. Akbar Mohammadi and Valiollah Feyz Mahdavi were reported dead by the government on July 30 and September 6, respectively. According to co-prisoners, both men had been on a hunger strike to protest prison conditions and the tenuous grounds for their detention. Prison officials denied these reports, claiming instead that Mahdavi, in particular, had tried to commit suicide.

Mahdavi, who was 28, sympathized with the outlawed opposition group *Mojahedin Khalq*. Arrested in 2001, he was charged with the crime of "armed resistance against the state" and sentenced to death. The Iranian Labor News Agency reported on June 6 that the Chief of the Judiciary had commuted Mahdavi's death sentence to life in prison. Mohammadi, a 38-year-old student activist,

was detained in 1999 following his involvement in student protests at Tehran University. Originally sentenced to death in September 1999, his sentence was commuted to 15 years in prison in April 2001. Sources told Human Rights Watch (HRW) that after his arrest in 1999, Mohammadi suffered severe torture that led to serious health problems. Family who saw Mohammadi at the time of his burial reported that markings left on his body were consistent with torture.

The deaths of Mahdavi and Mohammadi have heightened fears regarding the fate of other political prisoners in Iran. HRW expressed serious concern for Ali Akbar Mousavi Khoini, a human rights defender and former Member of Parliament, who has been held without charge in Tehran's notorious Evin prison since June 12. Detained while attending a peaceful protest for women's rights in Tehran, Mousavi remains in solitary confinement without access to his lawyers. Recent reports allege that Mousavi is being tortured for his denouncement of the judiciary and intelligence services' human rights abuses, prison conditions, and lack of fair trials; criticisms that, in spite of his treatment, he refuses to recant.

REFUGEES FLEE IRAQ

A September 2006 report by HRW entitled *Nowhere to Flee* reveals that Palestinian refugees in Iraq continue to be victims of harassment, threats, kidnappings, and targeted killings, and an increasing number of them have left or are trying to flee the country. Neighboring Jordan and Syria have closed their borders to Palestinian refugees, leaving hundreds stranded on the borders, unable to return to Iraq or seek safe haven.

The Palestinian community has been in Iraq for decades, most arriving in 1948 after being uprooted from their homes in Palestine following the creation of the state of Israel. Palestinian refugees received special treatment under former Iraqi President Saddam Hussein. This included the provision of subsidized housing, often at the expense of Shi'a landlords who received little compensation in return. Immediately after the fall of Hussein's government in 2003, Shi'a landlords forcibly evicted their Palestinian tenants, precipitating violence and harassment against the Palestinian community. In mid-March, a militant group calling itself the "Judgment Day Brigades" distributed leaflets in Palestinian neighborhoods, accusing the community of collaborating with insurgents and threatening

death to those who did not leave Iraq. A group called "Al-Bayt Revenge Brigades" repeated this warning in early October, giving Palestinians 72 hours to leave. According to HRW, successive Iraqi governments have done little to protect Palestinian refugees over the past two years, instead often viewing them with open hostility. Rather than affording Palestinians their rights as refugees, the Ministry of Interior has imposed onerous registration requirements, and officials have been implicated in the arbitrary arrest, beating, and torture of Palestinian residents.

This violence has led to the internal displacement of thousands of Palestinian refugees, and the flight of hundreds to neighboring Jordan. Jordan initially blocked the border for Iraqi Palestinians, but then allowed a few hundred into the isolated al-Ruwaishid refugee camp 85 kilometers from the Iraqi border. HRW reports that Palestinian refugees have been "virtual prisoners" in the camp for three years. With no resolution in sight, more than 250 refugees elected to return to Iraq instead of remaining in the camp.

From March to May 2006, a group of nearly 200 Iraqi Palestinians was stuck on the Iraqi side of the Jordanian border after Jordan refused them entry. Following a request from the Palestinian Authority's foreign minister, Syria agreed to accept the refugees, but then immediately closed its borders to all Palestinians coming from Iraq. Consequently approximately 330 Iraqi Palestinians, including children and pregnant women, have been stranded since May in "no man's land" near the Al-Tanf border crossing with Syria. Iraqi citizens, in contrast, continue to enter Jordan and Syria in large numbers — approximately 2000 per day. Chapter I, Article 3 of the Convention Related to the Status of Refugees, which neither Jordan nor Syria have ratified, prohibits States Parties from discriminating between refugees based on race, religion, or country of origin. HRW called upon neighboring countries to open their borders to Palestinians fleeing Iraq, and to respect their rights as refugees. HRW also pressed for regional burden-sharing, appealing to the broader international community to contribute financial assistance to the host countries, or to offer third-country resettlement to the refugees on a humanitarian basis.

Palestinians remain the world's oldest and largest refugee population, comprising more than one fourth of all refugees. Their right to return is affirmed by International Refugee and Human Rights Law, as well as UN

General Assembly Resolution 194 (1948). Israel's continued refusal to recognize this right precipitates the vulnerability of the Palestinian community, made clear by the violence in Iraq. As part of the regional solution, HRW also called on Israel to permit Palestinians originally from Gaza to immediately return to their homes.

EASTERN EUROPE AND CENTRAL ASIA

TURKMEN JOURNALIST DIES IN PRISON

Imprisoned Turkmen journalist Ogulsapar Muradova died of reportedly natural causes in a Turkmen prison on September 14, 2006. Muradova, a Radio Free Europe/Radio Liberty (RFE/RL) journalist and human rights activist, previously stated that security agents followed and threatened to imprison her and her children if she continued to write for RFE/RL. While the constitution of Turkmenistan provides for freedom of the press, Reporters Without Borders ranked Turkmenistan 165th out of 167 countries in their 2005 Worldwide Press Freedom Index.

On June 18 the National Security Ministers brought Muradova and other activists into custody on suspicion of conspiring to engage in espionage. These charges were eventually reduced to illegal arms possession. After a two-hour trial, Muradova was sentenced to seven years imprisonment. On September 14 her body, reportedly showing signs of violence and torture, including severe bruising and large head wounds, was released to her family.

Turkmen President Saparmurat Niyazov issued a statement condemning Muradova and the other activists, saying "Let people condemn the traitors! The entire population is proud of their motherland, whereas they are trying to harm it!" According to a report released by the non-governmental organization Freedom House, Turkmenistan is one of the world's most repressive societies. Niyazov, also known as the *Turkmenbashi* (father of all Turkmens), has ruled the former Soviet republic since its independence on October 27, 1991. In 1999 the Parliament of Turkmenistan, the *Mejlis*, extended Niyazov's term in office indefinitely, although he recently announced that elections will occur by 2009. Currently, however, the Democratic Party of Turkmenistan (DPT) is the only legal political party.

In a statement released on September 21, the U.S. Mission to the Organization for

Security and Cooperation in Europe (OSCE) stated that Muradova's death and apparent torture underscore the need for greater transparency and international access to those arrested in connection with the November 2002 assassination attempt against President Niyazov. Following that event, human rights abuses, including the torture and punishment of families of the accused, have been reported. While Turkmenistan's government denies the charges, they have banned independent observers at trials, rejected a mandatory OSCE fact-finding mission, and refused the International Committee for the Red Cross access to prisons.

OSCE Chairman-in-Office Karel De Gucht called upon Turkmenistan to adhere to its OSCE commitments and conduct an immediate investigation into the cause of Muradova's death, and to make the results of this investigation widely available. On October 4 the European Union's International Trade Committee voted to stop further consideration of an interim trade agreement with Turkmenistan in light of its gross human rights violations. There is still concern over the fate of Muradova's two co-defendants who are currently serving out seven-year sentences.

KAZAKHSTAN MOVES TOWARD FREEDOM OF ASSEMBLY

On September 30, 2006, both chambers of Kazakhstan's parliament approved a first reading of a bill abolishing section six of article 44 of the country's election law. That article prohibits demonstrations from the day before voting begins until the time when election results are officially announced. The ban was put in place in April 2005 following populist movements in the post-Soviet republics of Georgia, Ukraine, and Kyrgyzstan, and before Kazakhstan's December 2005 national elections. The bill's parliamentary proponents believe that protests, which could bring about leadership change as they did in Ukraine's Orange and Georgia's Rose Revolutions, are no longer a threat in Kazakhstan. The bill will also accelerate what many regard as a lagging democratic process.

News Briefing Central Asia notes that outside political commentators have been skeptical of the bill's ability to increase freedom of assembly, pointing out that assembly would still be subject to a 1995 bill initiated by President Nursultan Nazarbayev allowing public meetings only when sanctioned in advance by local authority. Sixty such applications have been rejected during the past year alone.

Justice Minister Zagipa Balieva noted that pressure from the OSCE also played a role in the bill's reading. OSCE Chairman-in-Office Karel De Gucht describes the bid for chairmanship as both "a challenge and an opportunity for the OSCE and for Kazakhstan." Deputy Foreign Affairs Minister Rakhat Aliyev recently noted that the Kazakhstani parliament would be adopting legislation to quell lingering doubts on the fitness of Kazakhstan to assume the OSCE presidency.

The United States is among those states encouraging Kazakhstan's efforts to play a leading role in the OSCE, but it believes that it is too early to consider Kazakhstan for the presidency. Within the last two months U.S. Secretary of State Condoleezza Rice has reportedly distributed a memo to all U.S. embassies in OSCE member states instructing diplomats to resist Kazakhstan's presidential aspirations. Because the OSCE makes decisions on a consensus basis, the U.S. position may affect the final decision on this matter. Parliament will give a second reading of the bill in November before a final decision is made.

STATUS OF KOSOVO MAY BE DELAYED

After G17 Plus, a crucial party in Serbia's minority coalition, resigned its cabinet posts over suspended EU talks, UN mediator Martti Ahtisaari announced that a possible Serbian parliamentary election in December may result in the delayed submission of a proposal settling Kosovo's status. With a population of about two million people, approximately 90 percent of whom are Albanians, Kosovo has remained a province of the Republic of Serbia since 1999 when a NATO bombing campaign forced out Serbian troops engaged in ethnic cleansing against Albanian Kosovars. Under a 1999 UN Security Council Resolution, Kosovo is governed by the UN Interim Administration in Kosovo. Ahtisaari, a former Finnish president appointed UN mediator by the Secretary-General in 2005, was due to deliver a proposal on the future political status of Kosovo by November. This delay comes just weeks after Ahtisaari's September 20 announcement that Kosovo's status would be determined by the end of 2006, winning him praise from western leaders, including the six-member Contact Group — the United States, United Kingdom, France, Germany, Italy, and Russia — a group of states with an interest in the Balkans that was created in response to the 1990s Bosnia crisis. It is widely believed that Ahtisaari will

recommend some form of EU-policed independence for the region; however, any such plan should include strong mechanisms to enforce rights for the Serbian minority living in Kosovo.

Albanian leaders in Kosovo pleaded against postponing a decision until after proposed elections, asserting that Serbia's election results must not "have any impact on the process." Hajredin Kuci, a senior party member of the Popular Opposition Party of Kosovo, warned that "[t]he credibility of the negotiations and the negotiators themselves would be lost" if a decision was delayed. The UN Governor in Kosovo, who felt that an early decision was essential given the tense situation, echoed this view. A delay may initiate violence in Kosovo, which is patrolled by 16,000 NATO-led troops. Attacks in September alone included a bombing in Shtuple Village, several car bombings — including that of the Minister of Internal Affairs — and a brutal attack on a returning Serbian family. The UN High Commissioner for Refugees notes that this attack was the third against returning Serb refugees in a short period.

The UN Secretary-General appointed Ahtisaari in October 2005 in response to ethnic unrest in Kosovo during the spring of 2004. He acts as a special envoy, supervising communication between the Serbian government and the Kosovo Provisional Institution of Self-Government in order to resolve Kosovo's final status. Ahtisaari has refused to comment on his pending recommendations for the region but, once made, diplomats say that weeks if not months could pass before they are put to a Security Council vote.

RUSSIAN JOURNALIST KILLED

On October 7 Russian journalist Anna Politkovskaya was found dead in her apartment building with a gunshot wound to the head. Politkovskaya was a special correspondent for Russia's *Novaya Gazeta* and a leading Russian human rights advocate. In a country with tightly controlled media, Politkovskaya gained international recognition for her criticism of President Vladimir Putin and the prolonged war in Chechnya. She had been working on an article about torture committed by the Pro-Kremlin Chechen government, including allegations that its leader Ramzan Kadyrov had participated in at least one torturous act.

Politkovskaya's friends and colleagues speculate that her killing was politically motivated. Deputy Editor of *Novaya Gazeta* Vitaly Yaroshevsky said that the Makarov 9-millimeter pistol found by her side is "the signature of a contract killing" and that he was certain her murder was a result of her journalism. According to the Committee to Protect Journalists, 12 journalists have been killed in contract-style assassinations in Russia since 2000.

Putin's slow response was criticized within Russia and abroad. After two days of silence, he responded, calling her killing "an appalling crime" that "cannot go unpunished." He went on to say that he thought her "capacity to influence political life in Russia was severely insignificant," sparking outrage from journalists and activists who point to the amount of international news coverage her death has brought. A U.S. Department of State spokesman urged the Russian government to conduct an "immediate and thorough investigation" and bring those responsible to justice.

Over a thousand mourners came to Troyekurovskoye cemetery for Politkovskaya's funeral. Former Soviet president Mikhail Gorbachev described her death as a blow to the entire democratic press, "a crime against the country, against all of us."

ASIA

PHILIPPINE NGOS CONDEMN GOVERNMENT RESPONSE TO EXTRAJUDICIAL KILLINGS

Representatives of Philippine nongovernmental organizations (NGOs) attended the Second Session of the United Nations Human Rights Council (UNHRC) from September 18 to October 6, 2006. During the session they highlighted the deteriorating state of human rights violations in the Philippines, which could lead to suspension of the country's UNHRC membership, as well as the reduction of foreign aid from the international donor community. The delegates condemned the following statement made by the Philippine government under President Gloria Macapagal Arroyo: "There is a need to distinguish between actions of state agents made in the course of their duties and common crimes or those committed for personal ends. It should be only after proper court trial that certain offenses are classified conclusively as human rights violations."

The delegation of Philippine NGOs, including leaders from the Alliance for the Advancement of Peoples' Rights, Counsels for the Defense of Liberties, and the National Peasant Movement, considered this an attempt to conceal government culpability and deny the continuing reality of extrajudicial executions that have gone on in the country for years. Before appealing to the UNHRC, members of the delegation had exhausted all legal remedies to address human rights violations in the Philippines.

Latest NGO reports document that the Arroyo military, police, and paramilitary forces have committed 755 summary executions and 184 enforced disappearances, in addition to torture, food blockades, and forced evacuation of villages. Politically motivated extrajudicial killings, few of which have been successfully investigated, have targeted human rights advocates, journalists, lawyers, and church workers. According to the Committee to Protect Journalists, 22 journalists have been murdered for their work in the past five years, making the Philippines one of the most dangerous countries to practice journalism.

At the UNHRC session, the Working Group on Enforced or Involuntary Disappearances criticized the Philippine government for having hundreds of outstanding disappearance cases. Tasked with ensuring that all member states of the UN comply with human rights obligations under the Universal Declaration of Human Rights and other documents, the UNHRC could vote to suspend the membership of the Philippines in the UNHRC and the Economic and Social Council (ECOSOC) for gross and systematic violations of human rights. Already, the UNHRC has instructed the Philippine government to reply to several questions on its poor compliance with the International Covenant on Civil and Political Rights, which it ratified in 1986 without reservations. The Philippine government has been out of compliance with UN laws requiring the submission of human rights reports since 1992.

In response, President Arroyo appointed a new commission headed by retired General Jovito Palparan to investigate extrajudicial executions. Prior to his appointment, soldiers under his command allegedly committed hundreds of summary killings and kidnappings of civilians; subsequently, there is public distrust regarding the effectiveness of his investigation. In May 2005 the Reality of Aid Network, an international nongovernmental initiative, called for the cessation of all military

aid to the Philippines on account of various human rights abuses, with particular regard to extrajudicial killings.

SRI LANKA: MOUNTING CIVILIAN DEATH AND DISPLACEMENT

Since July more than 1,000 civilians have been killed and 220,000 internally displaced as a result of the continued violent conflict between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE). The LTTE, also known as the Tamil Rebels, is a political-military organization that initiated armed uprisings against the Sri Lankan government in the 1970s, citing discrimination by the Sinhalese majority and demanding autonomy for Tamils in northern and eastern Sri Lanka where they comprise the majority. The LTTE is known for committing human rights abuses, including child soldier recruitment and mass assassination. More than 60,000 people have died in the past three decades as a result of the civil war.

By risking civilian lives, creating a refugee crisis, denying access to food, and blocking international monitor and aid worker entry into conflict areas, both the government and the LTTE stand accused of violating a ceasefire agreement signed in 2002. In 2004 violence resumed with a suicide bomb blast in Colombo, and the fragile peace process came to an end. Talks between the government and the LTTE in Geneva in February 2006 devolved into an argument about ceasefire violations. The LTTE pulled out of the talks in April amid a marked escalation in deadly violence. Large-scale hostilities broke out in July after government troops attempted to reopen an irrigation canal in the Jaffna Peninsula blocked by the LTTE. The worsening bloodshed comes amidst renewed efforts to arrange peace talks — which will be brokered by Norway in November — between the government and the LTTE. Both parties have agreed to unconditional talks, but many believe the LTTE only agreed in order to regroup after a series of recent military defeats.

The Sri Lankan armed forces have engaged in indiscriminate shooting, aerial bombing, and massive abductions of civilians. The military is allegedly responsible for the execution-style massacre of 17 Sri Lankan aid workers in August, though investigations into these killings have so far been inconclusive.

Since July, international aid agencies have spent millions of dollars assisting those dis-

placed by the conflicts. Human rights and humanitarian aid organizations have appealed to international government leaders, such as the United States and Japan, to withhold major reconstruction aid from the 2004 tsunami until the parties return to negotiations and respect their obligations under international humanitarian law. Human rights organizations have also appealed to the Sri Lankan government and the LTTE to accept a UN human rights monitoring mission in Sri Lanka and to adopt specific measures to protect the civilian population. The government has not responded but has noted the existence of ongoing efforts to end the violence. Even so, harassment of civilians continues to worsen.

THAILAND: HUMAN RIGHTS IMPLICATIONS OF THE COUP

Thai military officers opposing the administration of Prime Minister Thaksin Shinawatra took over government institutions in Bangkok on September 19, pledging to reform the government and fight corruption. In a public announcement, coup leaders suspended Thailand's constitution, parliament, and senate, and instituted an interim constitution that gives coup leaders significant powers over the new interim administration. Following the coup, Thaksin withdrew as head of the Thai Rak Thai (TRT) party, signaling the collapse of a political machine that had dominated the country for the last five years. Over 70 TRT members of parliament resigned after the military accused Thaksin and his cabinet of corrupt leadership. The military council appointed retired army commander General Surayud Chulanont interim prime minister. Under the council's plan, Surayud will hold office during the yearlong drafting of a new constitution and until a parliamentary election to restore democracy.

At the time of the coup, the military was split between officers supporting or opposing Thaksin. During Thaksin's five years in power he put loyalists in control of almost every sector of government and in every region of the country. The TRT had evolved into a pro-business, pro-privatization, and pro-foreign investment party that pushed for free trade deals with Japan and the United States despite vocal opposition from social groups and unions. Thaksin launched a "war on drugs" in 2003 that resulted in more than 2,000 extrajudicial executions of alleged drug dealers who had never been properly investigated. His forces responded to an insurgency in the

country's mostly Muslim southern provinces by committing widespread human rights violations, including arbitrary arrests and disappearances. His crackdown on the country's media and political dissenters led to massive political opposition and crisis.

Nonetheless, the United Nations, governments such as the United States, and human rights organizations have criticized the coup as a setback for elected leaders and urged democratic reform in Thailand. There is concern that installing a former army commander as prime minister could allow generals to maintain control of the government. The interim constitution empowers the coup leaders to remove the interim prime minister and cabinet members and to select a committee to draft a permanent constitution. It sidelines political parties and bans public assembly and freedom of speech; for example, the coup leaders prohibited political gatherings of more

than five people, and violators are subject to six-months imprisonment.

A small anti-coup movement has begun, largely among students. A group of civil society organizations urged the military council to withdraw its restrictions on free assembly and free press, to restore the Constitution — particularly its articles on civil rights — and to appoint officials who are free of corruption and have no ties to the Thaksin government.

Though the previous 1997 Constitution was flawed, it was drafted by a democratically elected assembly and included the participation of numerous independent civic groups to highlight public interests and monitor progress after the charter was enacted. It contained a wide range of human rights provisions and protections, whereas the new interim constitution only vaguely addresses the protection of human rights. The Asian

Human Rights Commission released a statement in September emphasizing that human rights are not upheld by military dictatorships and coups, even where a previous government has violated provisions of the constitution.

HRB

Natalie Huls, a J.D. candidate at the Washington College of Law, covers Latin America for the Human Rights Brief.

Art Steele, a J.D. candidate at the Washington College of Law, covers Africa for the Human Rights Brief.

Huwaida Arraf, a J.D. candidate at the Washington College of Law, covers the Middle East for the Human Rights Brief.

Courtney Nicolaisen, a J.D. candidate at the Washington College of Law, covers Eastern Europe and Central Asia for the Human Rights Brief.

Miya Saika Chen, a J.D. candidate at the Washington College of Law, covers Asia for the Human Rights Brief.