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Legislative Watch

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LEGISLATIVE WATCH

The Human Rights Brief's Legislative Watch reports on key legislation in the U.S. and other countries relevant to human rights and humanitarian law. This list is not meant to be comprehensive.

FRANCE: 3030 RECENSEMENT, 3074 ET T.A. 610, TENDANT À RÉPRIMER LA CONTESTATION DE L'EXISTENCE DU GÉNOCIDE ARMÉNIEN (TENDING TO REPRESS THE DISPUTE OF THE EXISTENCE OF THE ARMENIAN GENOCIDE)

Status: Passed 106-19 in the National Assembly, France's lower house of parliament, on October 12, 2006.

Substance: The French bill criminalizes those who deny that the Armenian genocide occurred by imposing a 45,000 euro penalty and a one-year prison term. French lawmakers attempted to pass the bill in May 2006, but the legislative session ended before the National Assembly could agree on its provisions. The bill follows legal precedent, the *Loi Gayssot*, and would mirror the existing law, which criminalizes the public denial of the Jewish Holocaust.

History: The bill refers to the Armenian genocide that took place from 1915 to 1923 where the Ottoman Turkish government was responsible for the slaughter of 1.1 to 1.8 million Armenians living in the Ottoman Empire. It is believed that this number represents between half and three-quarters of all Ottoman Armenians. Nonetheless, the Turkish government does not recognize the killings as genocide; instead it claims that the deaths resulted from ethnic strife, disease, and famine. However, the International Association of Genocide Scholars and several countries, including France, Germany, and Argentina, officially recognize the Armenian genocide. Author and journalist Robert Fisk refers to the genocide as the Armenian Holocaust since it was the direct precursor to the Jewish Holocaust. Fisk also notes that some of the Nazi architects of the Jewish Holocaust were in Turkey in 1915 at the start of the Armenian genocide. An increasing number of Turkish historians, including Taner Akçam, author of "A Shameful Act: The Armenian Genocide and the Question of

Turkish Responsibility," also label the events as genocide.

Commentary: French publications, including *Le Monde*, note that the current bill differs from the *Loi Gayssot* because the *Loi Gayssot* addresses existing and future anti-Semitism whereas the current bill deals with past racism and discrimination. On the other hand, supporters argue that racism and discrimination against the Armenian population in France still persists, so the new bill would work similarly to the *Loi Gayssot*. For example, two days after the bill passed in the National Assembly, a bronze monument commemorating the Armenian genocide was stolen from the Paris suburb of Chaville. In April, a genocide memorial in Lyon was vandalized with the words, "there was no genocide." Armenians have also been subject to abuse including violent attacks by French Turks at genocide commemorations. Proponents of the bill believe that Armenian citizens of France deserve the same protection as their fellow Jewish citizens.

Turkey's prospective membership in the European Union (EU) has been an important political issue in France ahead of the presidential elections this spring. The potential candidates to succeed President Jacques Chirac, including Interior Minister Nicolas Sarkozy and leading socialist candidate Ségolène Royal, agree that Turkey must acknowledge the genocide before entering the EU. The EU opposes the French bill because it limits free speech and is harmful to EU-Turkish relations. A day after the bill passed in France, Turkey debated a retaliatory bill that would label France's killings of Algerians during the colonial era as genocide.

While Turkey strongly opposes France's bill, the Turkish government continues to charge individuals under Article 301 of the Turkish Penal Code, which punishes "public denigration of Turkishness, the Republic, or the Grand National Assembly of Turkey" with a six-month to three-year prison term. Turkey's concern seems not to focus on free speech, since Article 301 is seen as a violation of freedom of expression, but to censor any mention of the Armenian genocide, both domestically and internationally. Author and journalist Hrant Dink was convicted under

Article 301 and given a six-month suspended sentence for "insulting Turkishness." Although Dink did not believe that official Turkish recognition of the Armenian genocide should be a precondition for Turkish entry into the EU, he was seen as a traitor for referring to the mass killings as genocide. He was killed in Istanbul on January 19, 2007.

Presidential hopeful Ségolène Royal and France's Armenian population, consisting of about 500,000 people, are pushing for the bill, but the Senate and French president must ratify the bill for it to become law.

H.R.3127, DARFUR PEACE AND ACCOUNTABILITY ACT OF 2006

House Sponsor: Representative Henry Hyde (R – IL), 162 Co-sponsors

Status: Passed by roll call vote in the House, 416-3, on April 5, 2006. Passed by unanimous consent in the Senate on September 21, 2006. Signed into law on October 13, 2006.

History: The bill is a response to the continued conflict in the Darfur region of Sudan. In the past three years, at least 400,000 people have been killed, more than two million civilians have been forced to leave and resettle in refugee camps in Sudan or Chad, and more than 3.5 million people are completely dependent on international humanitarian aid for survival. Since 2003, the Sudanese government, through its own armed forces and the Janjaweed, its government-backed militia, has been fighting two rebel groups in Darfur. The rebel groups, the Sudanese Liberation Army/Movement (SLA/SLM) and the Justice and Equality Movement (JEM) stated goal has been to push the government to address the political marginalization and underdevelopment of Darfur. The Sudanese government has targeted civilian populations and ethnic groups that support the rebels. President Bush has recognized these atrocities as genocide and the United Nations recently passed resolution 1706, which authorized a strong peacekeeping force for Darfur.

Substance: The Darfur Peace and Accountability Act of 2006 (DPAA) has several key provisions to help ease the situation in Darfur. The bill, with a presidential waiver, imposes travel bans and freezes the assets of individu-

als found by the president to be complicit in atrocities in Darfur. The bill also authorizes U.S. assistance to strengthen and expand the African Union Mission in Sudan (AMIS). The DPAA urges the Bush administration to use its influence at NATO (North Atlantic Treaty Organization) to push for more NATO reinforcement of the AMIS. The bill also calls for the Bush administration to deny the Sudanese government access to oil revenues by prohibiting the entry of cargo ships carrying Sudanese oil to US ports.

Prior to the DPAA, there was the Darfur Genocide Accountability Act (H.R.1424), which had strong support (120 co-sponsors) and noteworthy public attention. It did not, however, have the bipartisan backing needed to move forward, primarily because of provisions regarding the use of force and oil sanctions. The original sponsors of H.R.1424 worked with members of the House to create a new bill that would have the needed bipartisan support to move forward and become law while still addressing the key issues of civilian protection, accountability, an end to violence in Darfur, and a lasting peace in Sudan. This bill eventually became the DPAA which lacks some of the stronger provisions of H.R.1424 but does maintain support for the AMIS and includes a call for cooperation with the International Criminal Court, a component that H.R.1424 lacked.

PAKISTAN: PROTECTION OF WOMEN BILL

Status: Passed in the National Assembly, Pakistan's lower house of Parliament, on November 15, 2006. Approved by the Senate, Pakistan's upper house of Parliament, on November 23, 2006. Signed into law by President Pervez Musharraf on December 1, 2006.

Substance: The bill is an effort to amend harsh rape laws by transferring jurisdiction of rape cases from religious courts to civil courts. Under existing law, the Hudood Ordinance, enacted in 1979 by former military dictator General Muhammad Zia al-Haq, a woman who reports rape must have four male witnesses to prove the crime or else she faces prosecution for adultery. Potential punishments for adultery include lashing, stoning, and death. Under the Protection of Women Bill, rape cases will be moved from Sharia (religious) courts to civil courts following the Pakistan Penal Code. The bill also addresses fornication, which has always been illegal, but

under the new law, it can be tried by both Sharia and civil courts, depending on which jurisdiction the complainant selects. Previously, the Islamic code had outlawed sex with females before puberty; the bill introduces a provision on statutory rape, banning sex with females under 16 years old.

The bill came about after women's and human rights groups put significant pressure on the government following many high-profile cases in the country. The independent Human Rights Commission of Pakistan estimates that a woman is raped every two hours and gang raped every eight hours in Pakistan. According to human rights advocates, the current law has made it almost impossible to prosecute rape and has led to the punishment of thousands of innocent victims.

Many oppose the bill, including Maulana Fazlur Rahman, leader of the six-party Islamic resistance Muattahida Majlis-e-Amal, who said that the bill would turn Pakistan into a "free-sex zone" and that the changes are not in line with Islamic teaching. Days after the bill passed, more than a thousand veiled women rallied in Islamabad, condemning the changes in the Hudood Ordinance and holding up banners that read, "do not sell faith for dollars." Others argue that the bill is less about women's rights than about upcoming elections.

Supporters of the bill include President Pervez Musharraf who said that the government did not cave in to the mullahs. Musharraf's signing of the bill was seen as a test for his philosophy of enlightened moderation, which stands for a moderate and progressive practice of religion in the mainly Muslim country. The Pakistan People's Party of former Prime Minister Benazir Bhutto supports the bill, although they wanted a complete repeal of the Hudood ordinance. Human rights advocates — including Farzana Bari, a prominent women's rights activist — are encouraged by the new rape law; however, they are disappointed that the government succumbed to the Islamists by including the fornication clause, which they argue "open[s] a new chapter of misuse and abuse." *HRB*

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