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International Legal Updates

Sebastian Amar

American University Washington College of Law

Shirley Woodward

American University Washington College of Law

Huwaida Arraf

American University Washington College of Law

Amy Tai

American University Washington College of Law

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INTERNATIONAL LEGAL UPDATES

LATIN AMERICA

PROSECUTION OF FORMER
DICTATORSHIP OFFICIALS IN “DIRTY
WAR” CASES

“*La tortura psicológica ... es tanto o más terrible que la física, aunque sean dos cosas que no se pueden comparar ya que una procura llegar a los umbrales del dolor. La capucha procura la desesperación, la angustia y la locura.*” — Lisandro Raúl Cubas, Argentine torture camp survivor.

“Psychological torture is much worse than physical torture, although they are two things that cannot be compared because one strives to reach the limits of pain and the other produces desperation, anguish, and madness.”

From 1976 to 1983 the Argentine military junta subjected citizens to torture and other cruel, inhuman, and degrading treatment. During that period, the junta engaged in kidnappings, tortures, and disappearances against leftist militants, dissidents, and intellectuals, which resulted in a death toll estimated at anywhere between 10,000 and 30,000 individuals. Although some high-ranking officials were tried and sentenced in the mid-1980s, the military staged two mutinies in an attempt to restrict the efforts of prosecutors to hold military officers legally accountable. These violent mutinies prompted former President Raul Alfonsín to enact amnesty laws designed to achieve what he referred to as “national reconciliation.” For the 20 years that followed, officials responsible for the perpetration of human rights abuses relied on the protection of these laws to avoid prosecution for the atrocities they committed.

This June, however, the Supreme Court of Argentina upheld a 2001 lower court ruling that overturned Argentina’s amnesty laws on constitutional grounds, allowing prosecutors to move forward with investigations of ex-military officials implicated in *crímenes de lesa humanidad* (crimes against humanity) committed during the “Dirty War.” The Supreme Court of Argentina found the “full stop” and “due obedience” laws unconstitutional by a seven-to-one vote. The full stop law shielded high-ranking officers from criminal and civil prosecution, while the due obedience law provided that all lower rank-

ing officials could not be held accountable because they were legally forced to carry out orders from their superiors.

Since this historic judicial decision, several members of the former dictatorship have found themselves in court. Perhaps one of the most significant cases is the prosecution of General Juan Antonio “Colores” Del Cerro and five other high-ranking military officers for the crimes of torture and kidnapping. The case was approved for oral arguments before the Court of Cassation by federal judge Daniel Rafecas on September 12, 2005. Del Cerro is allegedly responsible for directing the operations of one of several clandestine torture camps during the dictatorship. Specifically, Del Cerro specialized in electric shock as a method for the interrogation of prisoners and organized groups of soldiers that carried out the systematic kidnappings of men, women, and children believed to be anti-government sympathizers. His official charge alleges responsibility for multiple counts of torture, as well as the kidnapping of a child born to one of his detainees. Del Cerro is also accused of facilitating the disappearance of two Argentines and the subsequent adoption of their infant daughter by a fellow military official. In addition to Del Cerro, many of the junta’s top officials, including General Jorge Videla and Admiral Emilio Massera, are currently confined to house arrest on charges of kidnapping babies born to mothers held in captivity.

The importance of the abolition of amnesty for individuals implicated in human rights abuses during the “Dirty War” may well extend beyond the limits of Argentina’s judicial system. It could give other countries, such as Uruguay, Chile, and Colombia, the political momentum to address the constitutionality of their own amnesty laws. In the words of José Miguel Vivanco, Latin America and Caribbean Program Director for Human Rights Watch, “The crimes of the Dirty War are far too serious to be amnestied and forgotten, the era of sweetheart deals for the military, extracted at gunpoint from democratic leaders, is over.”

COLOMBIAN JUSTICE AND PEACE LAW

In an effort to put an end to the guerilla

and paramilitary violence that has overwhelmed the country for the last 40 years, the Colombian Congress ratified the Justice and Peace Law in July 2005. At first glance, this legislation appears to be a step in the right direction toward reducing violence within the country. Many human rights groups, however, are exposing devastating flaws in the framework of this law, focusing primarily on the *de facto* amnesty it grants to guerrillas and paramilitaries through various procedural benefits.

These procedural benefits include significantly reduced prison sentences, short timeframes for the investigation of crimes (including war crimes and crimes against humanity), and an apparent disregard for the rights of victims to demand the truth and seek justice. According to the new legislation, combatants who demobilize will receive prison sentences of 5-8 years, regardless of the nature of the crimes for which they are implicated. Further, procedural requirements under the new law only give investigators a 36-hour window in which to charge a suspect, despite the complexities of the crimes involved and the large number of potential defendants.

In addition to the time constraint, the law provides for what many organizations, including Amnesty International, Human Rights Watch, and the Inter-American Commission on Human Rights have deemed an inadequate mechanism to perform the task effectively. The newly appointed Prosecutor’s National Unit for Justice and Peace is composed of only 20 prosecutors. Furthermore, there is no provision in place to account for false testimony given by guerrillas and paramilitaries who provide information to receive the procedural benefits outlined above. As it stands, individuals may take advantage of the shorter prison sentences regardless of the validity of the information they provide prosecutors and investigators.

The negative effects of this potential flaw are twofold. First, fabricated testimony will almost certainly hinder the investigation of crimes by sending law enforcement officials on fruitless searches. Second, and perhaps more importantly, inaccurate representations of the facts involved in any particular case will compromise efforts to establish

individual responsibility. Consequently, countless violent offenders benefit from an implicit amnesty that ultimately results in an inability to provide victims with truthful accounts of what happened to both them and to their families. Although the deactivation of combatants is of the utmost importance to achieve peace and end hostilities within the country, the victims must receive reparations through the adjudication and punishment of these crimes.

AFRICA

AFRICAN UNION

During its 5th Ordinary Session from July 4-5, 2005, in Sirte, Libya, the African Union (AU) adopted a decision to draft a legal instrument for the planned merger of the African Commission on Human and People's Rights (Commission), the African Court on Human and People's Rights (ACHPR), and the African Union's Court of Justice. Mr. Mohammed Bedjaoui, Minister for Foreign Affairs of the Republic of Algeria and former President of the International Court of Justice, agreed to contribute to the document. The Executive Council and the Assembly will consider the instrument at their next ordinary sessions, scheduled for January 23-24, 2006, in Khartoum, Sudan.

The African Union and Solidarity for African Women's Rights Coalition co-convened a conference addressing implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women from September 27-30, 2005, in Addis Ababa, Ethiopia. Heads of State and the Government of the AU adopted the Protocol on July 11, 2003. A year later they adopted the Solemn Declaration on Gender Equality in Africa, aiming to sign and ratify the Protocol by the end of 2004. To date, 13 countries have ratified the Protocol: Cape Verde, Comoros, Djibouti, the Gambia, Lesotho, Libya, Malawi, Mali, Namibia, Nigeria, Rwanda, Senegal, and South Africa. Two additional countries are required for the Protocol to be enacted. The conference focused on moving from campaigns for the Protocol's ratification to strategies for its implementation. Planned outputs include national and regional action plans, a booklet on strategies and options for domestication and implementation, and an outline for a campaign strategy on strengthening women's access to justice under the Protocol's provisions.

CHAD

On September 19, 2005, a Belgian court issued a warrant for the arrest and extradition of former Chadian president, Hissene Habré, on charges of torture and other atrocities committed during his rule from 1982-1990. After a military coup in 1990, Habré fled to Senegal where he currently lives in exile. The warrant was issued under Belgium's universal jurisdiction law, which allows for the prosecution of genocide, crimes against humanity, or war crimes, regardless of where they are committed or the nationalities of the perpetrators or victims. Under pressure from the United States, Belgium modified the law in August 2003 to require that an accused be either a Belgian national or have his/her primary residence in the country, but the Habré case was allowed to go forward because the investigation was already underway and three of the plaintiffs were Belgian citizens.

The extradition comes after a long and circuitous effort to hold Habré accountable for his brutal rule. A 1992 truth commission accused his regime of systematic torture and over 40,000 political murders. In 2000 a Senegalese court charged Habré with torture and crimes against humanity, but a year later Senegal's highest court (Cour de Cassation) ruled that he could not be tried in Senegal for crimes committed elsewhere. Meanwhile, another group of victims filed suit in Belgium and sought Habré's extradition to stand trial there. Shortly after the Senegalese court ruled that it could not try Habré's case, Senegal's President, Abdoulaye Wade, moved to expel him from the country as an act of support for Habré's victims. The victims, however, feared that an expulsion from Senegal would make Habré even harder to reach. They called on the UN Committee against Torture and UN Secretary General Kofi Annan, who asked President Wade to hold Habré in Senegal pending Belgium's extradition request. President Wade agreed and has expressed support for the issued request. Chad's government has also voiced its support.

If successful, Habré could become the first former president ever extradited in another country's courts on charges of human rights violations. At the time of publication, the extradition request was on its way to the Indicting Chamber of the Dakar Appeals Court. Habré has the right to challenge his extradition there. If the court rules that Habré may be extradited, President Wade can choose to sign the extradition

decree and send the former ruler to stand trial in Belgium.

RWANDA

Over 1,000 Rwandans convicted of genocide by community courts were sentenced to community service as punishment for their role in the 1994 killings. The community courts, known as *Gacaca*, were established to expedite the judicial process for approximately 760,000 Rwandans accused of committing crimes during the genocide. *Gacaca* judges are elected by their communities and can order punishments of up to 30 years in prison for those found guilty of voluntary homicide, violent acts without intent to kill, or crimes against property. Only official Rwandan courts may try principal organizers of the genocide, those who acted in positions of authority, and those alleged to have committed rape and sexual torture, and only these courts may hand out death sentences.

Under *Gacaca* court law, convicts are permitted to serve half of their sentences performing community service rather than remaining in jail. Convicts will build homes for genocide survivors, children orphaned by HIV/AIDS, and other vulnerable members of the community; work on soil erosion projects, construct roads and schools; and perform any other tasks the government deems appropriate. A recent amendment made this service component mandatory for those convicted by *Gacaca* courts, with the exception of those who continue to deny their guilt. Because most of the convicts starting service projects confessed their roles in the genocide and had already spent half their sentences incarcerated while awaiting trial, they could not be sent back to prison.

Proponents of the community service system say that it holds perpetrators accountable for their actions, promotes reconciliation and healing among communities, and contributes to the rebuilding of the country. Many genocide survivors, however, are angered at the release of the convicts back into their communities and question how much the community service will actually help those who were hurt most by their actions. Genocide survivor Stanislas Niyongabo commented, "Maybe this is good for the country in general, but I don't see any direct benefit to survivors who lost everything during the genocide."

LIBERIA

On October 11, 2005, Liberians voted in

their first presidential and legislative elections since the end of a 14-year civil war that killed an estimated quarter of a million people and displaced hundreds of thousands of others. A November 8, 2005, runoff election was scheduled for the top two presidential candidates, George Weah of the Congress for Democratic Change (CDC) and Ellen Johnson Sirleaf of the Unity Party (UP). Weah is best known as an international soccer star and Sirleaf is a Harvard-educated economist who has worked for the World Bank and the United Nations. On November 11, 2005, Sirleaf claimed victory as the first woman to be elected president of Liberia, or anywhere in Africa, garnering 59.1 percent of the vote.

The elections were a key part of the Liberian peace agreement negotiated by the Economic Community of West African States (ECOWAS) and signed by an interim Liberian government and rebels in August 2003. Local and international observers who monitored the electoral process have agreed that the elections were free, fair, transparent, and peaceful. The Liberian National Police and United Nations police quickly brought minor incidents under control. Voter turnout was reportedly very high, with many Liberians waiting over 12 hours in the sun for an opportunity to cast their votes.

MIDDLE EAST

OCCUPIED PALESTINIAN TERRITORIES

AUTHOR'S NOTE: The following discusses the barrier Israel is building in the Occupied Palestinian Territories (OPT), the nomenclature of which requires some explanation. The structure itself takes the form of a 25-foot-high concrete wall in some areas, and a 9-foot-high electronic fence, layered with razor wire, trenches, military patrol roads, and surveillance cameras, in other areas. Palestinians refer to the structure as the "Separation Wall," "Apartheid Wall," or "Annexation Wall," referencing the barrier's location, its impact on Palestinian movement, and its division of farmland and water resources. Israel refers to the barrier as the "Security Fence," arguing that the structure is necessary for Israeli security. The International Court of Justice (ICJ) referred to it as a wall in its advisory opinion. Here, the term barrier is used because it incorporates both of these meanings. When quoting or referring to the ICJ, or when quoting Palestinian or Israeli sources, the *Human Rights Brief* uses their respective terminology.

As reported in "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," 11 No. 2 Hum. Rts. Brief, the ICJ issued an Advisory Opinion on July 9, 2004, finding that "[t]he construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory (OPT), including in and around East Jerusalem, and its associated regime, are contrary to international law." The ICJ opinion emphasized four key points: (1) the illegality of the construction of a wall in the OPT; (2) Israel's obligation to stop the construction of the wall in the OPT and undo subsequent damage; (3) the international community's obligations vis-à-vis the construction of the wall in the OPT; and (4) the need for the United Nations to consider further action to end this illegal situation. More than a year after the ICJ rendered its opinion on the barrier that Israel is building in the OPT, Palestinians — NGOs and government officials alike — are seeking ways to compel the implementation of the decision and oblige the international community to live up to its commitment to uphold international law.

Israel objects to the findings of the ICJ, and has refused to acknowledge the legitimacy of what it has called a "politically motivated maneuver" and the "one-sided question put before the Court." According to Israel's Ministry of Foreign Affairs, the "Advisory Opinion fails to address the essence of the problem and the very reason for building the fence — Palestinian terrorism." Within hours of the ruling, Israeli officials said that they would not abide by the decision's provisions and Foreign Minister Silvan Shalom specifically stated that "Israel will continue building the security fence." In February 2005 the Israeli Ministry of Justice issued a written brief on the legal implications of the ICJ's Advisory Opinion. The brief argued that the factual basis of the Court's opinion was inexact, outdated, and irrelevant due to changes that the Israeli government had made in the barrier's route and "improvements" in providing for the needs of affected Palestinians.

The Ministry of Justice brief referred to changes in the route ordered by the Israeli Supreme Court. On June 30, 2004, nine days before the ICJ delivered its advisory opinion, the Israeli Supreme Court ruled that a section of the barrier in the West Bank violated the rights of thousands of Palestinian residents by separating them from their farmland in "a veritable chokehold, which will severely stifle daily life" and

ordered the Israeli military to reconsider the route. The high court ordered changes to approximately 18 miles of the planned 450-mile barrier system but it did not suggest a new route or set timelines for the changes. On February 20, 2005, the Israeli government approved a new route for the barrier. This route, however, remains problematic because an estimated 80 percent of the path of the barrier remains inside the OPT and still results in the annexation of approximately 10 percent of the West Bank, a violation of the ICJ Opinion and the legal principle prohibiting the acquisition of territory by the use of force. In addition, Israel's unchanged system of permits, checkpoints, gates, and closed zones enables the Israeli military to control 46 percent of the occupied West Bank in violation of the principles of international human rights law emphasized by the ICJ Opinion.

Palestinians have become convinced of Israel's intransigence and are seeking action from the international community on four obligations outlined in the Advisory Opinion: (1) to acknowledge the illegal situation resulting from the wall's construction in the OPT; (2) to provide neither aid nor assistance in maintaining the situation created by its construction; (3) for all High Contracting Parties to the Fourth Geneva Convention to uphold their obligations under Common Article 1 and ensure respect of the Convention; and (4) for the UN to consider what further action is required to halt the illegal situation resulting from the Wall's construction in the OPT. Palestinians further argue that if security was Israel's primary consideration, it would have been most pragmatic to build the barrier along the Green Line, the internationally recognized border between Israel and the OPT. Instead, the barrier cuts deep into the West Bank, isolating Palestinians from much of their land and resources. In June 2005 Israeli officials testified in an Israeli court that the decision to construct the barrier in the Jerusalem area stems from political considerations, in addition to security purposes.

Although the ICJ defines Advisory Opinions as principally consultative in character, Palestinian Foreign Minister Nasser al-Kidwa, who led the Palestinian delegation to the Court, stated that "the decision of the ICJ cited applicable international laws and therefore is not merely advisory; all parties are obliged to comply." He also called on all signatories to the Geneva Conventions to take action to uphold the laws of the treaty. In addition, more than 170 Palestinian

organizations within and outside of the OPT have issued a call for boycott, divestments, and sanctions against Israel for its failure to heed the ICJ opinion. For the complete Advisory Opinion, see <http://www.icj-cij.org/icjwww/idocket/imwp/imwprframe.htm>.

ALGERIA

On September 29, 2005, Algerians took to the polls to vote in a national referendum aimed at ending over a decade of violence that has left more than 100,000 individuals dead. At stake was Algerian President Abdelaziz Bouteflika's "Charter for Peace and National Reconciliation." The Charter presents a plan to move Algeria out of the chaos and mayhem that has racked the country since the military cancelled legislative elections in 1992, when it appeared that an Islamic opposition group would win at the polls. With relatively high turnout reported by the government, the Charter passed with a resounding majority. Algeria's two main opposition parties, however, made claims of fraud after the initial results were announced. Algerians were given six weeks to review the Charter before going to vote, to allow for open discussion and dialogue about the plan. The tense political climate in Algeria and the government's general intolerance of opposition, however, restricted open, democratic debate.

The Charter, designed to further what Bouteflika describes as the peace and national reconciliation process begun by his 1999 Civil Harmony Law, Law No. 99-08, is unprecedented in the country's history and rare for the region. Nonetheless, the plan is controversial, both locally for its provision of blanket amnesty for many perpetrators of murder and other violent crimes and internationally for its failure to meet international norms and human rights standards. In pointing out some of the serious deficiencies, Human Rights Watch (HRW) noted that the Charter does not mention the "duty of the state to investigate serious human rights abuses, to prosecute those found responsible or to address the right of families." Further, HRW argued that the Charter does not meet the standards set by the United Nations Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity. According to these Principles, states have a general obligation to take action to combat impunity and victims have an inalienable right to truth, justice, and reparations. In a joint statement, Amnesty

International, Human Rights Watch, and the International Federation for Human Rights said, "a general amnesty would leave the heritage of the past unresolved and could undermine future prospects."

From a human rights perspective the Charter is problematic. It would end legal proceedings against detained, exiled, or fugitive Islamic extremists "who have already halted their armed activity," and although "those involved in mass massacres, rapes and bomb attacks in public places" would be excluded from the amnesty, the Charter does not define what constitutes a "mass massacre." According to Human Rights Watch, the list of excludable crimes is wholly inadequate, allowing pardon for extrajudicial executions, murder, torture, and forced disappearances.

The Charter also disregards the rights and aspirations of families of the "disappeared." Although it recognizes state responsibility for those who were "disappeared" and acknowledges the need to help their families cope, it does not make a similar commitment to provide families with information concerning the fate of their missing relatives. The Charter provides for compensation for the beneficiaries of the "disappeared," but does not address the issue of compensation to the "disappeared" themselves.

Further, the Charter excludes the Islamic Salvation Front (FIS) from political life. The FIS was set to win the majority of seats in the 1992 election; it remains banned and many of its leaders are under constant surveillance or threat from the government. By criminalizing Algeria's political opposition, the Charter violates the right of Algerians to freedom of association and the right to take part in self-government through free and fair elections as guaranteed by Article 25 of the International Covenant on Civil and Political Rights.

Although this Charter is an initial step toward acknowledging and addressing the crimes of the past, it does not go far enough in adhering to both human rights standards and the expectations of Algerians and the international community. President Bouteflika insists that he will provide reparations to victims and exclude those who have raped, committed massacres, or placed bombs in public places from the amnesty provisions, but the Charter does not provide for truth-seeking mechanisms or other forms of accounting for the country's violent past.

CHINA'S RATIFICATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

In early September the government of the People's Republic of China (PRC) stated that it was making preparations to ratify the International Covenant on Civil and Political Rights (ICCPR), which it signed in 1998. China scholars and human rights activists assert that the PRC government has resisted ratification of the ICCPR to maintain control over the right to organize, limit access to information, impose the death penalty, and restrict other rights set forth under the ICCPR.

This announcement followed the August visit of the UN High Commissioner for Human Rights (UNHCHR), Louise Arbour, to China. During her visit she praised China for its rapid economic development and expressed her confidence that China was now in a better economic position to strengthen its legal system and ratify the ICCPR. She stressed that "China must tie its economic growth to faster improvements in the legal and political rights of its citizens." In particular, her discussions focused on China's weak legal system, widespread use of the death penalty, and system of "re-education through labor (RTL)," which results in detentions without trial.

The PRC government was reluctant to respond directly to the UNHCHR's inquiries regarding the death penalty and the RTL system, where over 250,000 Chinese individuals are held currently and can be detained up to four years without trial. China has the highest number of executions in the world. Amnesty International estimates that between 3,400 and 10,000 people are executed per year in China. Although the government was unwilling to release the number or nature of executions, Arbour commended the government for its announcement in October 2004 that it would send its death penalty cases to its Supreme Court for review under its Criminal Procedural Law. Prior to this amendment, the lower courts imposed 90 percent of death penalty sentences.

Arbour's five-day visit to China culminated with a Memorandum of Understanding between the PRC Ministry of Foreign Affairs and the UNHCHR entitled "Concerning the Agreement to Cooperate on the Formulation and Establishment of a Technical Cooperation

Program.” The objective of the agreement is for the UNHCHR, which has a dual mandate to execute technical cooperation programs and supervise the implementation of international human rights treaties, to work together with the PRC government to ratify the ICCPR.

CENSORSHIP IN CHINA

The PRC Government also announced in September that it would no longer treat death toll figures from natural disasters as state secrets. The declassification of these figures should allow Chinese officials and state media to report information from natural disasters as they unfold instead of waiting for the official version. The press conference announcing the new provision, however, did not allow foreign reporters to attend.

The PRC’s state secrets system is complex, vague, and overbroad. The government does not merely consider matters of national security as state secrets, but it may regard any information that has not been officially approved for publication or distribution as a state secret. The state secrets system prevents Chinese citizens from accessing critical information and creates a climate of self-censorship. Moreover, information that is already publicly available can be considered a state secret if it falls into the hands of a foreign entity, and any information can be classified retroactively based on the consequences of disclosing such information. This pervasive system implies that even if death toll figures of national disasters are no longer marked as state secrets, the government will continue to tightly restrict access to this information.

Despite reduced censorship through the declassification of death toll information, the government continues to arrest journalists and tighten the flow of information over an already censored Internet. Moreover, major U.S. corporations continue to cooperate with the PRC government to censor and arrest its Internet users. In September, Yahoo! Inc. was accused of helping the PRC government arrest journalist Shi Tao by providing email communication as evidence that he was sending information deemed state secrets to foreign entities. Yahoo! defended its actions by claiming that it was complying with Chinese law. Yahoo! and Google are among the major U.S.-based companies that have received criticism from the media, human rights organizations, press freedom organizations, and consumers for conforming to government regulations that restrict freedom of expression and access to information.

Shi Tao, a journalist in Hunan Province, attended a meeting prior to the 15th anniversary of the June 4th Democracy Movement, to commemorate the day when the Chinese military opened fire on tens of thousands of unarmed students and other civilians protesting for democratic reform in Tiananmen Square. At the meeting he and his colleagues received verbal instructions from his communist party boss regarding coverage of the anniversary. Shi Tao then emailed his meeting notes using his private Yahoo! email account to an overseas Chinese democracy organization. As a result, he was charged with illegally revealing state secrets abroad and sentenced to ten years in prison.

Shi Tao is one of China’s 100 million Internet users who are subject to strict regulations of the Internet. At the end of September, in the first major policy update on the Internet since 2000, the government increased censorship of the Internet. The new rules forbid major Chinese websites from posting opinion pieces or commentaries by users, and only allow Internet postings from government-controlled newspapers and news agencies. Additionally, private individuals or groups are now required to register as “news organizations” before they can generate and use email distribution lists that spread news or commentary. This rule raises fears that individuals and private organizations will no longer be able to legally distribute information via email since they are unlikely to receive “news organization” status.

ELECTIONS IN AFGHANISTAN

One year after Afghanistan’s presidential election, parliamentary and provincial elections were held on September 18, 2005. These elections were intended to occur simultaneously with the presidential election but had been delayed twice. Whereas last year’s election resulted in a 75 percent turnout, this election generated just over 50 percent turnout, with approximately six million people voting in the country’s 34 provinces. The decreased voter turnout results from a number of factors, including the climate of fear generated from the threat of violence leading up to the elections, the large number of candidates (each person only votes for one of the 5,800 candidates running for 249 seats in the *Wolesi Jirga*, the lower house of the parliament), and a confusing and lengthy ballot.

These elections represent a significant step for a country that has undergone several tumultuous decades and is now working

to rebuild its infrastructure, economy, and judicial system. Nonetheless, human rights concerns over the fairness and legitimacy of the political process remain. In the month prior to the elections, threats of violence and attacks on government workers, coalition and Afghan military forces, police, election workers, potential voters, and candidates fostered a climate of fear and contributed to a distorted campaign and election process.

Intimidation from warlords and attacks from the Taliban and other insurgent forces have also undermined the campaigning process and voter participation, particularly in the south and rural areas. Some candidates were afraid to discuss key political issues, travel to remote areas, or even participate in the process, while other candidates are known warlords who have been accused of human rights abuses. Although election rules prevent those who have been convicted of crimes or are connected with armed militias from running for office, no present tribunal system exists to prosecute Afghan warlords and others implicated for human rights abuses.

Even though 25 percent of the seats were constitutionally guaranteed to women in this election, women only represented 12 percent of the candidates for the lower house of parliament and eight percent for the provincial council. Many women withdrew from the process, citing procedural issues, security threats, challenges to campaigning in rural areas, and limited financial resources. Although the security issues and threats of violence exist for both male and female candidates and voters, women have been especially targeted. Nonetheless, it appears this election generated slightly more participation from female voters, with 44 percent of women registered to vote, compared to the 41 percent who registered during the presidential election. *HRB*

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

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