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International Legal Updates

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International Legal Updates

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INTERNATIONAL LEGAL UPDATES

UNITED STATES

U.S.-Mexico Security Cooperation: The Mérida Initiative

The Mérida Initiative is a central element in a broader strategy of growing cooperation between the U.S. and Mexico to address the shared threat presented by organized crime. Major drug cartels control the narcotics trade in Mexico, and demand for drugs in the U.S. is a significant catalyst for their continued trafficking across the border. Additionally, the drug cartels purchase weapons in the U.S. and smuggle them into Mexico. The Mérida Initiative will allow the U.S. to provide significant support to Mexico as the fight against drug crime in Mexico grows more and more violent.

In October 2007, former U.S. President George W. Bush announced the Mérida Initiative to “. . . combat the threats of drug trafficking, transnational crime, and terrorism in the Western Hemisphere.” Signed into law on June 30, 2008, the initiative includes aid for seven Central American countries including Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. The Mérida Initiative provides \$1.4 billion over three years in equipment and training from the U.S. to the Mexican government to support both law enforcement efforts directed against organized crime and long-term institution building for federal police and the judicial system.

Mexican President Felipe Calderón, who took office in 2006, implemented an aggressive law enforcement strategy against organized crime and took significant steps to make the federal police more effective and dependable. The increased police presence has led to serious human rights violations by authorities. Civil society groups have gone before the Inter-American Commission on Human Rights (IACHR) to demand the investigation and punishment of torture and sexual abuse committed by state authorities during police operations at several locations, including Oaxaca and Jalisco. The Mexican government has acknowledged that Mexico’s National Human Rights

Commission received over 200 reports of human rights violations that occurred in a large-scale police operation in the Mexican town of San Salvador Atenco in 2006. The Miguel Agustín Pro Juárez Human Rights Center represents eleven women before the IACHR. One is María Patricia Romero who spent two years in prison after her convictions for insulting police and carrying prohibited weapons during an operation in San Salvador Atenco, Mexico State.

Although the aid package is largely in the form of military assistance, the Mérida Initiative requires the Mexican government to meet several benchmarks that address the human rights violations taking place. Specifically, the legislation prohibits 15% of the funds from being disbursed until the U.S. State Department reports that the Mexican government is (1) improving the transparency and accountability of police forces; (2) ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting members of federal police and military forces credibly alleged to have committed human rights violations; (3) enforcing the prohibition against using testimony obtained through torture as evidence in court; and (4) establishing a mechanism for regular consultation between the Mexican government and civil society to monitor implementation of the Mérida Initiative.

Wage Discrimination Safeguards

The U.S. Congress recognizes that “despite the enactment of the Equal Pay Act in 1963, many women continue to earn significantly lower pay than men for equal work. In many instances, the pay disparities can only be due to continued intentional discrimination or the lingering effects of past discrimination.” The Lilly Ledbetter Fair Pay Act gives individuals more time to file lawsuits claiming job discrimination. The Paycheck Fairness Act makes it easier for women to prove violations of the Equal Pay Act of 1963.

Lilly Ledbetter worked as an area manager at Goodyear, a position mostly held by men. After several years, her salary

became significantly less than the salaries of the male managers with equal or less experience. “Ledbetter was the only woman working as an area manager and the pay discrepancy between Ledbetter and her 15 male counterparts was stark,” stated Justice Ginsburg’s dissent in *Ledbetter v. Goodyear Tire & Rubber Co.* The 2007 Supreme Court decision ruled that employees subject to pay discrimination must file a claim within 180 days of the employer’s original decision to pay them less. Even if the employee continued to receive reduced paychecks or did not discover the discriminatory reduction in pay until after the 180 days, the individual was still subject to the 180-day limitation.

The Lilly Ledbetter Fair Pay Act, signed into law by President Barack Obama on January 29, 2009, effectively reverses the Supreme Court’s *Ledbetter* decision by allowing individuals to file complaints 180 days after any discriminatory paycheck or practice occurs. In other words, each new paycheck violates the law if it is the result of a discriminatory decision made in the past. Individuals can also receive back pay as compensation for discrimination that occurred up to two years preceding the filing of the complaint.

In addition to the Lilly Ledbetter Fair Pay Act, the House of Representatives passed the Paycheck Fairness Act introduced by Representative Rosa DeLauro and former Senator Hillary Clinton in 2007. The Senate is still debating the bill which would provide more effective remedies to victims of discrimination when the payment of wages was based on the sex of the individual. The bill seeks to allow unlimited punitive and compensatory damage awards under the Equal Pay Act, even when the wage disparity is unintentional. The bill calls for a study of data collected by the Equal Employment Opportunity Commission related to employee pay information for use in the enforcement of Federal laws prohibiting pay discrimination. It also proposes voluntary guidelines for employers on how to evaluate jobs with the goal of eliminating unfair disparities. President Obama supports this bill and is eager to sign it into law once it passes the Senate.

The Lilly Ledbetter Fair Pay Act and Pay-check Fairness Act ensure that women like Ms. Ledbetter and other victims of pay discrimination can effectively challenge unequal pay.

Enhanced Measures to Combat Human Trafficking

United States Congresswoman Carolyn B. Maloney stated, “Thousands of human trafficking victims are being held in often deplorable conditions in cities and towns throughout America. Let there be no mistake: human trafficking is modern-day slavery.” The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 enhances measures to combat human trafficking domestically and around the world. The legislation reauthorizes funding for the Trafficking Victims Protection Act of 2000. The legislation directs the U.S. Agency for International Development, the Department of State, and the Department of Defense. It incorporates anti-trafficking and protection measures for vulnerable populations, particularly women and children, into their post-conflict and humanitarian emergency assistance and program activities. The legislation includes language for targeting prostitution, slave labor, and forced child soldiers, as these are all interrelated to human trafficking.

From the years 2001 to 2007, the Department of Justice’s (DOJ) Civil Rights Division and U.S. Attorneys’ Offices prosecuted 156 trafficking cases, securing 342 convictions and rescuing more than 1400 victims. The DOJ has brought together federal, state, and local law enforcement investigators and prosecutors, along with social services agencies, to help identify and rescue all kinds of trafficking victims and to punish offenders. Congresswoman Maloney further stated, “The bipartisan Wilberforce Act will dramatically strengthen our efforts to fight human trafficking, giving prosecutors the tools they need to hold traffickers accountable and providing a helping hand to victims, as well.” The law specifically enhances systemic measures, tools for prosecutors, and help for victims.

One systemic improvement is the creation of a system for rating countries to help gauge the progress made in combating human trafficking. The U.S. Department of State produces reports that cover all countries’ compliance with minimum standards to combat human trafficking.

The law allows the U.S. to withhold technical and monetary assistance if a country fails to meet those minimum standards of improvement. The legislation also calls for studies of the commercial sex industry and the psychological and medical conditions of victims.

To assist with prosecution, the law expands federal jurisdiction to U.S. citizens and permanent residents who commit forced labor or sex trafficking crimes while they were living abroad. The law requires prosecutors to show “reckless disregard for the victim” in order to convict traffickers, making it easier to prosecute offenders. It also places restrictions on offenders’ passports for cross-border crimes, thus preventing them from leaving the country to escape prosecution.

The Act allows trafficking victims to seek reparations and civil damages from anyone profiting from them in an attempt to reduce the incentives to engage in human trafficking. It also expands the eligibility for visas and non-visa status for trafficking victims and their families, enabling more individuals to reside in the U.S. and permit them to receive federal benefits. This is a significant provision in that it allows trafficking victims, commonly smuggled by force into the U.S., to stay in the country without fear of immigration proceedings. The Department of Homeland Security, the Department of Labor, immigration and trafficking experts, and the Congressional Budget Office project that these provisions will enable 100–150 additional people per year to become eligible for benefits—such as Medicaid—available to refugees sooner than they could have prior to the legislation.

LATIN AMERICA

Peru: Fujimori Awaits Verdict after Yearlong Trial

Prosecutors and defense lawyers gave final arguments in the trial against former Peruvian President Alberto Fujimori on January 12, 2009 in Lima. Fujimori stands accused of directing a dirty war against *Sendero Luminoso*, a Maoist guerilla insurgency that his administration ultimately crushed, at the expense of many civilian lives. The charges allege that he authorized specific human rights abuses throughout his decade in power. Now 70 and ailing, Fujimori faces up to 30 years in jail if con-

victed. He has repeatedly denied charges and openly professed his innocence, stating, “I never ordered the death of anybody.”

The trial addresses two high-profile massacres carried out by “La Colina,” an Army Intelligence Service death squad allegedly under Fujimori’s direct control during the height of the counterinsurgency campaign. In 1991, La Colina raided a barbeque in a poor suburb of Lima, killing 15 people, including a young boy. Then, in 1992, the group kidnapped and summarily executed nine students and a professor from La Cantuta University. Their remains were discovered in an unmarked grave. Fujimori is also charged with ordering the illegal detention of journalist Gustavo Gorriti and of businessman Samuel Dyer, both in 1992. Cesar Nakazaki, Fujimori’s principal lawyer, has admitted that, “a conviction is a possible scenario,” but asserted that the prosecutors “have not proved that ex-president Fujimori created policies violating human rights, nor that he created and controlled the Colina group.”

Lawyers representing families of the victims have expressed fears over the independence of Peru’s Supreme Court and of Lima’s High Court. The presidents of both courts have expressed favorable views of leaders closely tied to Fujimori. Javier Villa Stein, who has been president of the Supreme Court since January 1, 2009, is in a particularly influential position. As president, Villa Stein will play a major role in selecting the panel of judges that will have ultimate discretion in permitting Fujimori’s appeal, should he choose to contest the eventual verdict. One lawyer representing the families of the victims lamented, “the president of the Supreme Court has already expressed his views on the validity of evidence presented in the legal proceedings against Fujimori administration officials, which means that for the sake of independence, autonomy, and objectivity of the judiciary, he should have nothing to do with this trial.”

Other concerns about Villa Stein’s impartiality surround his past clients. As an attorney, Villa Stein defended two former owners of newspapers who received funds through a program under Fujimori’s direct control. Villa Stein also provided legal assistance to Fujimori’s former attorney general Blanca Colán and to his former army chief José Villanueva, both of whom have been convicted of corruption. Another

lawyer representing the victims' families summed up his concerns, saying, "I would have preferred another justice to be selected as Supreme Court president, someone who could guarantee that there is no threat of distortion in the process, but regretfully that did not happen."

The yearlong trial, which has been continuously televised via a live courtroom feed, has divided Peru. Many Peruvians view Fujimori with a lingering sense of loyalty, as their past president who defeated a brutal insurgency and revived an economy ravaged by inflation. Others, however, view Fujimori's ten-year reign as autocratic and corrupt. Fujimori rose to power through a grassroots campaign that appealed to Peru's poor. In his effort to avert a bloody revolution, Fujimori suspended democracy to seize dictatorial powers in his infamous *autogolpe* ("self-coup"). Fujimori resigned from the presidency in 2000 via fax from a hotel room in Japan after videos surfaced showing his de-facto head of intelligence Vladimir Montesinos bribing prominent politicians. A verdict is expected in the second or third week of March.

Up to 40,000 Working in Slave-Like Conditions in Brazil

The Brazilian Labor Ministry reports in January 2009 that its anti-slavery taskforce released more than 4,600 people forced into slavery on *fazendas* (ranches) in 255 raids during 2008. The National Conference of Brazilian Bishops (CNBB, after its Portuguese acronym) estimates that the government has freed over 7,000 slaves since 2003. Despite increased public awareness and policing efforts, *fazendas* with slave-like conditions persist.

The vast and sparsely populated jungles of the Amazon in northern Brazil create ideal conditions for forced labor. Despite daily domestic and international flights to Manaus and Belém—two regional metropolises—travel to rural areas of the Amazon remains difficult. Recruiters known as *gatos* ("cats"), lure impoverished laborers to work on far-away *fazendas*. The journey by bus and boat takes several days, but laborers persevere with promises of high pay, steady work, food, lodging, and in some instances, small cash advances. When laborers arrive, many are already in debt as employers may charge for the expenses of the arduous journey. Workers remain in a perpetual cycle of debt because wages often

cannot cover expenses. Fleeing is simply not an option as the *fazendas* are in remote locations. Moreover, ranchers warn that errant workers will be found and returned, if they escape, to repay their debts.

Determining the precise number of workers laboring in slave-like conditions has been difficult. The CNBB's Pastoral Land Commission estimates that there are between 25,000 and 40,000 workers in a state of forced labor. The Brazilian government has drawn up a National Action Plan and passed a number of initiatives that make it easier for numerous bodies and organizations to work together. Brazil entered a cooperation agreement with the International Labor Organization (ILO) to establish a series of training seminars for judges. The problem persists, but many authorities agree that the issue has become far more public. Public awareness is higher because the issue is discussed in the press and through advertising campaigns on television.

A continuing impetus behind this form of slavery is Brazil's booming ethanol industry. Brazil is the biggest exporter of ethanol in the world, and the second biggest producer. The fuel is extracted from sugarcane, and there are allegations that slave laborers work the sugar cane fields. "You cannot dismiss the fact that sugar cane cutters are transported and housed worse than animals, forced to work around the clock to exhaustion and even to death," remarked one church group.

Guatemala Continues to Struggle with Violence, though with Some Progress

Calixto Simón Cun, a thirty-seven-year-old Guatemalan man, became the first person prosecuted under a new law combating "femicide" and other forms of gender violence on February 7, 2009. The judge sentenced Cun to five years in prison for abusing his spouse. The Guatemalan National Congress passed Decree 22-08 in April 2008 which defines femicide as "the violent death of a woman, occasioned within the context of an unequal relationship between men and women." Moreover, femicide is "a homicide qualified by gender-based power exerted over a woman [by a man]." In a nation that struggles to break the cycles of violence, women are particularly vulnerable. In 2008, 722 "femicides" were reported. Presently, the police squad

charged with investigating gender violence is pursuing over 2000 leads.

December 12, 2008 marked the second anniversary of the UN-sponsored International Commission against Impunity in Guatemala (CICIG, the acronym for its name in Spanish). CICIG framers sought to create a tribunal that would independently investigate organized crime. The CICIG seeks to prosecute and punish illegal security groups and clandestine organizations and aims to strengthen domestic institutions such as the Public Prosecutor's Office. The CICIG has authority to enter into agreements with the Public Prosecutor's Office, the Supreme Court, and other institutions.

Two years after its creation, however, the CICIG lacks the efficacy to fulfill its mandate. The CICIG was denied the power of subpoena or indictment in a series of compromises with the government and lacks a witness protection program. Some concessions were needed for the CICIG to survive once the Guatemalan Constitutional Court determined that the CICIG violated national sovereignty; however, these limitations have undermined the CICIG's ability to fulfill its mandate. Moreover, the CICIG has been slow to begin work; it only recently received its full complement of 60 investigators and 30 lawyers. These new additions have the potential to play important roles in transforming a culture of impunity once they begin to take test cases. If successful, the CICIG may serve as a model for other countries emerging from civil war, but given its limited powers, the CICIG faces an uphill battle.

CICIG structural deficiencies are unfortunate, as Guatemala suffers from a murder rate of 43 murders per 100,000 people, making it one of the world's most violent countries according to a 2007 government estimate. The problem is compounded by an ineffective justice system. For example, in neighboring El Salvador charges are filed in 45 percent of murders; in Guatemala that figure is just 2 percent. For a country of 12 million, Guatemala has only 26,000 police officers—many without cars and radios—and 12,000 employees in the public prosecutor department, and the national police force and law enforcement bodies are woefully underfunded. Although President Alvaro Colom has sought to combat corruption by firing hundreds of police and bringing in new defense and interior ministers, CICIG and the Guatema-

lan government will have to work together to develop a functional, sustainable judicial system.

AFRICA

Politics Cloud Pursuit of Justice in Struggle between Rwanda and France

Most international criminal prosecution is political. But, topping recent charts are a series of indictments, international warrants, and tit-for-tat politics culminating in Rwandan Minister of Protocol Rose Kabuye standing trial in France beginning January 28, 2009. Kabuye is one of nine senior Rwandan officials closely allied with President Paul Kagame who were indicted in France for alleged involvement in the assassination of former Hutu president Juvénal Habyarimana, the event generally recognized as triggering the 1994 Rwandan genocide. Kagame could not be included in the indictment because French law immunizes sitting heads of state.

The indictment was issued by controversial French antiterrorism judge Jean-Louis Bruguière on November 20, 2006. Bruguière's indictment of current senior Rwandan officials who have their political roots in the Tutsi guerilla army, the Rwandan Patriotic Front (RPF), runs counter to the more widely accepted view that blames Hutu extremists for Habyarimana's assassination. Bruguière, formerly an investigating judge and First Vice-President of the *Tribunal de Grande Instance de Paris* (who since retired from the court to go into politics), began his investigation in 1998. During the eight-year investigation, as Rwandan officials are quick to point out, he did not once come to Rwanda. The resulting 2006 indictment is criticized for failing to meet standards of objectivity and impartiality required in the investigation of a civil judge. Some suspect it is politically motivated. Others, however, praise Bruguière for challenging the popular narrative promulgated by the RPF to legitimize its power and for putting an end to impunity.

On November 23, 2006, a day after Bruguière issued the international warrants, Rwanda removed its ambassador from France. The two countries have not had diplomatic relations since. In 2007, two top Rwandan army generals named in the indictment, Charles Kayonga and Jack

Nziza, filed a petition in a Belgian court challenging its legality. The Rwandan government also attempted to challenge the legality of the indictments before the International Court of Justice (ICJ) but France allegedly refused to submit to ICJ jurisdiction, according to Rwandan newspapers. Finally, in the summer of 2008, a Rwandan commission released a 500-page report following a two-year investigation, naming thirteen French political leaders, including former French president François Mitterand and twenty military officials, as complicit in aiding the genocide. Rwanda says it plans to indict some of those named for their alleged political, military, and diplomatic support for the genocidal Hutu regime. Kagame spelled out the tit-for-tat strategy for reporters in Geneva, "[If] you indict our people, we indict your people."

Kabuye's November 2008 arrest on the two-year-old warrant in Germany, where she traveled on a diplomatic mission, has triggered protest from Rwandans and debate among those trying to make sense of the issues hidden in the political fog. Some speculate that the Rwandan government wanted to bring the issue to a head, because Kabuye chose to travel to Germany after being warned that the indictment would be enforced, and then chose to be transferred to France to face charges. Scholar Douglas Yates of the American University of Paris points out that the case illustrates fundamental problems in the structure of enforcement in international law, where powerful states such as France can enforce their international warrants but weaker states cannot. During its annual summit in Addis Abeba in early February 2009, the African Union echoed the sentiment, condemning Kabuye's trial and also calling for a review of the principle of universal jurisdiction, which it said EU countries are abusing.

Certainly, Kabuye and the Rwandan government seem to be winning media sympathy. In Rwanda and other African countries, she is portrayed as a martyr. The December 2008 issue of *Jeune Afrique*, a popular French-language magazine with distribution across the continent, published a long, sympathetic profile titled, "Me, Rose Kabuye, prisoner of the French state." The day after Kabuye's first day of trial, it published an account according to her lawyers titled, "Habyarimana assassination: Rose Kabuye has been able to give her version." Both *Voice of America* and the Brit-

ish *Guardian* have also published articles leaning towards sympathetic. American scholar Stephen Kinzer published an editorial in the *Los Angeles Times* hailing Kagame as a reformer who has been bold enough to stand up to France, and France as bent on shifting blame for the genocide and discrediting the Kagame regime since they cannot overthrow it.

Meanwhile, a parallel scenario has been playing out between Rwanda and Spain. In February 2008, Judge Fernando Andreu of the Spanish *Audiencia Nacional* issued indictments for forty Rwandan military members on charges of terrorism and genocide after the RPF took power in 1994. The public response from the Rwandan government was again quick and unequivocal: declaring the charges baseless, politically motivated, and questioning Andreu's method of investigation, which like Bruguière's, never brought him to Rwanda.

To find some sense in the political fog, it helps to turn to a humanitarian voice. Shortly after Kabuye's arrest, Paul Rusesabagina, the man whose work was dramatized in *Hotel Rwanda*, published a thoughtful piece on his foundation's website. He reminds us that neither the former Hutu government nor the RPF genuinely represent the people of Rwanda. "One of the inconvenient truths of the genocide aftermath involves the . . . numerous allegations of war crimes and crimes against humanity when estimates of over 100,000 people were killed in retribution during the Tutsi [RPF] conquest of the country." Rusesabagina calls the French indictment "just the tip of the iceberg," indicating that the Spanish indictment focuses on the more serious of RPF war crimes. Indeed, though by no means neutral territory, Spain could be a less politicized arena in which to investigate charges against both Rwandan and French officials.

Criminal Charges Used to Repress Journalists: Cameroon, Gabon, and Niger

The stories start to sound the same from country to country. Managing editor of *La Détente Libre*, Lewis Medjo, was convicted of "spreading false news" on January 9, 2009 and sentenced to three years imprisonment in Cameroon. On the same day, two journalists were released after ten days in prison in Gabon, still facing charges for "possessing a document with intent to dis-

seminate propaganda that incites rebellion against authorities,” a crime punishable by up to five years in prison. Twelve days later, Boussada Ben Ali, the managing editor of *L’Action* in Niger, was arrested for “publishing a false news report,” punishable by three years imprisonment.

On the one hand, using the criminal system to censure journalists may be a step above the completely extra-judicial beatings, office raids, disappearances, and murders of journalists chronic in some African countries. On the other hand, political use of the criminal law system strikes a sharp chord in countries like Cameroon, Gabon, and Niger where the most basic crimes against citizens—robbery, rape, murder—frequently go unreported and unprosecuted.

The criminal libel charges against Lewis Medjo relate to two articles published in *La D tente Libre*. One suggested that President Paul Biya was pushing the Supreme Court president into early retirement; the other reported an alleged attempt by the Delegate General for National Security to extort money from a businessman. Even after Medjo’s conviction, it is unclear whether these two articles were substantially true or false. But, whether or not the publications were libelous, a Reporters Sans Frontiers (“RSF”) press release claims, “This latest sentence underlines the fact that African jurisdictions far too often respond to press offences by imprisoning journalists rather than through fairer and more appropriate solutions.”

The Medjo case follows a year of worsening political repression of the media in Cameroon. The government crack-down was triggered, at least in part, by violent protests in February 2008 over rising cost of living and a proposed constitutional amendment to remove presidential term limits (which passed in April 2008). During the tense last week of February, government forces suddenly decided to enforce licensing requirements to suspend a TV station, seized equipment of a radio station, effectively suspending its operation, and stopped circulation of all privately-owned newspapers. In May, two journalists were arrested for writing about “the Albatross affair” involving President Biya’s purchase of an aircraft. They were charged with “publishing the report of a judicial investigation that has not yet been tried,” punishable by up to two years in prison.

Because of outreach and mobilization by *La D tente Libre*, Medjo’s case has received more international attention than others—but, his is by no means unique. On January 16, 2009, the Committee to Protect Journalists (CPJ) issued a public letter to President Biya, in which they declared Cameroon now “the second-worst jailor of journalists in Africa.” The letter referred to three other newspaper editors arrested on charges of fraud, blackmail, insult, and attempted extortion. Michel Mombio, Flash Zacharie Ndiomo, and Armand Ondo, each detained for about three months already, are currently standing trial.

In Gabon, international condemnation seems to have had more effect in obtaining the release of politically detained journalists. On December 30, 2008, two journalists, Gaston Asseko of Radio Sainte-Marie and L on Dieudonn  Koungou of *Tendance Gabon*, were arrested along with three civil society leaders. They were detained for a week before charges were leveled for possession of a document, an open letter published by a French-Gabonese journalist calling for an accounting of financial management during Gabon President Omar Bongo’s forty-year rule. Following an overwhelming response from international organizations, first Koungou was released on January 7 and then Asseko on January 9, 2009. Both still face charges and, if convicted, up to five years imprisonment—merely for having a copy of an open letter.

The most recent regional incident involves Boussada Ben Ali, managing editor of *L’Action* in Niger, who published an article on January 13, 2009 revealing a confidential trade deal and possible corruption by finance minister Ali Mahaman Lamine Zeine. Reports differ whether the trade deal was with China or Japan. Also facing charges that essentially amount to criminal libel, Ben Ali could be sentenced to up to three years imprisonment. According to an RSF report, two years ago Niger drafted a legal reform proposition to abolish prison terms for defamation, but postponed plans after an attack on army barracks by a Tuareg independence group in 2007. The government now claims it will have to wait for a return to peace before any reforms can proceed.

MIDDLE EAST AND NORTH AFRICA

Children in Gaza Bearing the Brunt of the Conflict

According to the Palestinian Ministry of Health, more than 400 children have been killed in Gaza since the start of the Israeli siege on December 27, 2008. The United Nations has reported that children account for one-third of the entire death toll. Children in Gaza have faced violence, shortages of food and other resources, and a lack of essential services, such as education and medical care, since the conflict began. The Fourth Geneva Convention explicitly states that violence against civilians is “prohibited at any time and in any place.” The Convention on the Rights of the Child similarly urges countries to ensure that children are not harmed during violent conflicts. Israel has signed and ratified both of these conventions and now faces possible charges by international courts for its alleged violation of these conventions.

The International Criminal Court (ICC) is currently considering whether the Palestinian Authority has the power to lodge a complaint against Israel, and whether Israel’s actions constitute international crimes. The legal issues at stake may take years to resolve. Meanwhile, the international community has expressed its concern for the well-being of these children, who make up more than half of the 1.5 million people living in Gaza.

The most recent siege in Gaza began when Israel launched a massive bombing campaign targeting militants in response to Hamas firing rockets into southern Israel. Claiming that militants were hiding in Gaza City, the Israeli Defense Forces (IDF) bombed civilian buildings, including three schools operated by the United Nations Relief and Works Agency (UNRWA) which housed refugees. The British Broadcasting Corporation (BBC) and other news agencies have reported incidents when children were killed in bombings and fired at in close range by IDF soldiers as they attempted to flee their homes with their families. Although sources differ on the number of civilians killed, the Israeli government has acknowledged that many children were inadvertently killed by bombing and gunfire aimed at Hamas militants.

On January 21, 2009, Israel pulled its ground troops out of Gaza. Both sides

instituted a temporary cease-fire and seem willing to negotiate a longer arrangement. Meanwhile, Gaza's students have returned to re-opened schools where their missing classmates' empty desks stand as a silent tribute to the many children who lost their lives during the conflict. Although the violence of the previous month has subsided, children in Gaza continue to suffer. A United Nations Children's Fund (UNICEF) official expressed concern over their psychological state and their inability to return to normal life: "Many kids have stopped eating. They are inactive, they barely talk, they cling to their parents all the time." Psychiatrists have already reported that children in Gaza are having trouble sleeping and eating, and are suffering from violent and emotional outbursts. While life goes on in Gaza, so too will the psychological effects of the conflict on those children that survived.

Violence Against Peaceful Protestors in Yemen

In January 2009, five demonstrators were wounded in Aden when Yemeni police opened fire on a group of army veterans calling for equal employment opportunities. Yemeni security forces have killed, wounded, and arrested peaceful protestors after opening fire on multiple demonstrations over the last year. The protesters spoke out primarily against political corruption and the conditions of Southern Yemenis since the end of the 1994 civil war. Local activists, international actors, and human rights organizations have denounced Yemen's violent response to the protests. The international community has further criticized the Yemeni government's lack of transparency. Concerns over the repression of civil liberties abound as demonstrations continue.

The seeds of the current human rights situation in Yemen extend back to the 1994 civil war, which devastated Yemen and divided it into two factions, consisting of the current government and the opposition Socialist party. The Southern Socialists were defeated, and as a result, over 600,000 Yemenis went into exile, unwilling to join a unified Yemen under President Ali Abdullah Saleh. The current administration granted those in exile amnesty and invited them to return, but it has still prevented Southern Yemenis from working in military and government positions. This ban is detrimental because military and

government positions constitute the majority of job opportunities in South Yemen. In late 2007, tensions erupted in a wave of demonstrations in South Yemen known as the Southern Movement. Those taking part in the demonstrations protested against the lack of employment opportunities.

The first reported protest in the Southern Movement was in August 2007 in the southern city of Aden. Police arrested roughly 1,000 protestors and fired into the crowd, killing one. Since then, security forces have opened fire on at least five other large-scale demonstrations and have arrested hundreds of people. One witness to the October 2007 protest in Radfan reported that the police fired "indiscriminately" at protestors. Some of the protests turned into riots. In January 2008, clashes during a protest in Aden left three demonstrators and one policeman dead. During another demonstration in al-Hablain in April 2008, police fired at over 5,000 demonstrators, wounding dozens, and arresting 120. Despite criticism for their use of force, Yemeni security forces continue to respond violently to demonstrators.

Investigations of excessive violence rarely emerge from these incidents. In September 2008, Amnesty International reported that police had killed Walid Salih Ubadi and another person during a peaceful demonstration in al-Dali. Yemeni police initiated an internal investigation, but it has since stalled. Within the human rights community, there is a serious fear that Yemen will dissolve into a failed state as it continues to use violence to address its political problems.

Unfair Trials and Detentions in Algeria

In February 2009, the Law Lords, members of the House of Lords and the United Kingdom's highest court, approved the deportation of two Algerian nationals to Algeria despite extensive proof that they would face torture and unfair trials. The Law Lords ruled that there were "no reasonable grounds" to believe that the Algerian government would torture the detainees, known only as "RB" and "U." Both Amnesty International and Human Rights Watch (HRW), however, have provided evidence of Algeria's use of unfair trials, torture, and secret detentions masked as counterterrorism measures.

In July 2008, Abderrahmane Houari and Mustafa Ahmed Hamlily were transferred from Guantánamo Bay to Algeria to be tried for their alleged links to terrorism. They were held incommunicado for two weeks with no access to their families or lawyers—standard practice for detainees deported to Algeria. In 2006, two Algerian nationals were deported from Great Britain to Algeria, where they were arrested for alleged ties to a terrorist organization, tortured, and tried on coercive statements obtained during their interrogations. Both Amnesty and HRW call on Algeria to end human rights violations against the detainees and to grant them access to a fair trial.

Algeria's Department of Information and Security (DRS) is renowned for its harsh counterterrorism measures in the wake of 9/11. Algeria has faced domestic attacks from its own section of Al-Qaeda, which claimed responsibility for bombings in 2008 that killed over 130 people. Various human rights organizations accuse the DRS of torturing Algerian nationals deported from other countries on suspicion of terror. In 2006, the U.S. State Department reported that security forces in Algeria were known to have tortured detainees. One year later, the United Nations Human Rights Committee (HRC) announced that human rights non-governmental organizations had claimed the existence of "secret detention centers" within Algeria. Algeria's National Commission for the Protection and Promotion of Human Rights denied the allegations and accused the groups of trying to damage Algeria's reputation.

Despite the Algerian government's denial of wrongdoing, human rights organizations have uncovered the existence of detainees who have been tortured or never heard from again. In July 2008, Mohamed Rahmouni was arrested outside his home in Algiers. By the end of the 2008, his relatives were still unsure of his whereabouts. Amnesty has also uncovered the cases of Algerian nationals sent from other countries on suspicion of being a part of a "terrorist network." In January 2008, Reda Dendani was deported from the United States to one of Algeria's secret prisons, where he was beaten and tortured by his guards. At his trial, he claimed that that he had been tortured and that DRS guards had forced him to sign a statement that he was not allowed to see. He was sentenced to eight years in prison and the Court did not investigate his allegations. Both HRW and Amnesty report

several similar cases where detainees were tortured, held in secret prisons, and denied access to a fair trial.

DRS' notorious record of human rights abuses has come under greater scrutiny since 9/11. HRW has already criticized Great Britain for continuing to deport Algerian nationals with full knowledge of Algeria's use of unfair detention and judicial practices. Under Article 3 of the United Nations Convention Against Torture, refoulement, or the extradition of a person to a state where he or she may be subject to torture, is prohibited. Both the United States and Great Britain have ratified the Convention but continue to deport detainees to countries where they are at risk of torture. Following President Obama's executive order closing Guantánamo Bay, human rights organizations have expressed concern that the U.S. government will deport detainees to countries that mistreat their prisoners, including Algeria. The organizations demand that Algeria start providing fair and transparent detention services and trials.

EUROPE

Disproportionate Police Violence in Greece Leads to Months of Civil Unrest

Police brutality in Greece sparked months of violence after an officer shot and killed a 15-year-old boy in December 2008. The shooting occurred in Athens's Exarchia district, a notorious hotspot for clashes between Greek leftist groups and local police. Although circumstances surrounding the incident are still unclear, Greek police claim that two officers were attacked by a group of youth. Bystanders widely refute this report, saying the officers verbally confronted the teens, eventually firing three gunshots and a stun grenade at the group. Teenager Alexandros Gregoropoulos was hit by one of the bullets, and died later that evening.

Greek police have been the subject of strong criticism in recent years, with humanitarian groups documenting multiple incidents of human rights abuses. In 2007, the European Court of Human Rights maintained that Greece was in violation of the European Convention on Human Rights in regards to discriminatory treatment of migrants and asylum-seekers. That same year, multiple videos were posted online

depicting graphic scenes of Greek police abusing detainees in police custody. International organizations maintain that police continue to commit serious human rights violations through excessive use of force, misuse of firearms, and torture.

The death of Gregoropoulos intensified the conflict, and rioting quickly spread throughout the country. Almost immediately after the shooting, young protesters threw Molotov cocktails in the streets of Athens, burning cars and shops and setting up flaming barricades. Although the government publicly condemned the killing, it has been widely reported that officers were instructed to take a defensive approach to the riots. The country has since settled into its first period of civil unrest in over 20 years.

Although violent protests were seen in the days after the killing, thousands of Greek citizens also came together in a series of peaceful demonstrations. Officers were accused of targeting nonviolent protesters and using extreme methods of crowd control such as tear gas and flash grenades. Multiple reports also emerged of officers shooting into unarmed crowds and beating bystanders. The clash between law enforcement and Greek civilians has continued for several months, and international spectators say the unrest is a sign of deeper social problems, including corruption in Greek state institutions and a continued pattern of disproportionate violence from police.

In the midst of international calls for peace, the violence in Greece recently reignited as domestic terrorist groups carried out multiple attacks across the country. In early January, masked gunmen shot more than 20 rounds into a crowd, critically injuring a 21-year-old policeman. Revolutionary Struggle, best known for its grenade attack on the U.S. Embassy in Athens two years ago, claimed responsibility for the attack, calling it "retaliation to the cowardly murder" of Gregoropoulos.

With human rights abuses being committed on both sides, the international community is calling for an end to the conflict. Aid organizations suggest this can only be accomplished with the continuation of peaceable protests and an internal investigation of the alleged police abuses.

Russia/Ukraine Dispute Causes Gas Crisis in Europe

Years of tension between Russia and Ukraine culminated in a major gas shortage across Europe as supplies were cut off for more than two weeks during January 2009. Russian state-owned gas supplier Gazprom and Ukrainian gas and oil company *Naftohaz Ukrainy* were in dispute over natural gas supplies and costs, provoking Russia to disconnect its gas supplies through Ukraine on January 1st.

The cutoff was largely driven by political discord between the two countries. Russia was angered when Ukraine sought membership with the Northern Atlantic Treaty Organization (NATO) alongside Georgia, a country that engaged in a brief war with Russia last year. Russia's relationship with the West also began to deteriorate as the country experienced a serious economic downturn. Oil and gas exports account for more than half the Russian budget, and intercontinental oil prices recently fell by nearly 70%.

Facing an economic crisis, the country sought to significantly increase the cost of gas exports. Gazprom raised the price Ukraine paid for gas from \$180 to \$450 per 1,000 cubic meters and requested billions of dollars in what it claimed were late payments. Ukraine paid more than \$1 billion to cover the country's debt, but refused to pay the additional fines or the increased fee for gas. Russia responded by halting its gas exports to Ukraine.

This had a significant impact across Europe, as Gazprom controls about a quarter of Europe's gas supplies. Within days of the cutoff, Bosnia and Herzegovina, Bulgaria, Croatia, Germany, Greece, Hungary, Republic of Macedonia, Moldova, Montenegro, Serbia, Slovakia, Slovenia and Turkey all reported a 100% drop in supplies from Ukrainian pipelines carrying Gazprom-supplied gas. By the time the dispute was resolved two weeks later, 18 European countries had experienced major declines or complete cutoffs in their gas supplies.

As many European countries rely solely on Gazprom for their gas supplies, this cutoff came at an especially crucial time. In the midst of frigid temperatures, several countries were forced to shut down their industrial heating plants and domestic heating systems to find alternative gas sources.

Many citizens were unable to pay for electric heating as the temperature in places such as Bosnia and Herzegovina fell to -14° Celsius (6.8° Fahrenheit). Bulgarian breweries, chemical plants, and smelters closed down, pushing the country further into an economic depression. Slovakia declared a state of emergency and halted gas supplies to companies and schools to preserve resources for hospitals and homes.

President of the European Commission (EC) José Manuel Barroso denounced the cutoff, saying “it was utterly unacceptable that European gas customers were held hostage to this dispute,” and that the cut had come “without prior warning and in clear contradiction of the reassurances given by the highest Russian and Ukrainian authorities.” In an effort to aid failing negotiation attempts, the EU sent delegations to both Russia and Ukraine. On January 20, negotiations between the countries were finalized and Russia finally reopened its gas taps.

In response to recent events, the EU has discussed an alternative pipeline project that would provide some of Europe’s gas supplies from Central Asia. The EU insists this is not an anti-Russia project, but an acknowledgement that the Committee needs to increase energy security to avoid a future similar stand-off.

Migrants Treated Inhumanely in European Detention Centers

The inhumane treatment of migrant detainees in European detention facilities has drawn international attention amidst growing concerns of extreme overcrowding and excessive confinement periods. Accusations of inhumane treatment escalated after footage of the conditions in a French detention center were anonymously given to international media and human rights groups.

The images, taken at the Pamandzi detention center, depict the deteriorating conditions of the facility. The center often surpasses its capacity of 60 by hosting more than 220 detainees at a time. Without beds, men, women and children crowd together on mats on the floor. Many of the bathroom facilities were broken and overflowing, and biohazard bags were piled outside the entryway. Pamandzi also lacks resources specifically for children, and has no proper medical facility.

Detainees in Greece are experiencing similarly inhumane conditions, as the country was unprepared for a surge of detainees in 2008. While the number of migrants entering the island of Lesbos doubled in 2008, the island only hosts one detention facility. The center has a capacity of 280 but has been known to house more than 990 detainees at a time. Those deemed “irregular migrants” are placed in trailers and rarely given the chance to go outside. More than 150 people are forced to share a bath and lavatory, and despite obvious health risks the facility only has one doctor. Detainees’ access to lawyers is also extremely limited.

Facilities in Italy are also strained to accommodate the influx of migrant detainees. The United Nations High Commissioner for Refugees (UNHCR) recently traveled to Lampedusa, voicing concern that overcrowding in the island’s facility was “creating a humanitarian situation of concern.” The facility, which has a capacity of 850, was housing almost 2,000 detainees. Overcrowding forced many people to sleep outside in the cold. In response, 700 detainees recently broke out of the detention center and staged a protest deploring their living conditions and asking for freedom. Italy’s Prime Minister Silvio Berlusconi downplayed the problem, stating, “There is no problem in Lampedusa. Those who arrive there can move freely. It isn’t a concentration camp. They’re free to go and drink a beer.”

Although the European Union (EU) promised to ensure that member states’ laws meet human rights standards, many have voiced concern over a new EU directive allowing countries to detain migrants for up to 18 months. Opponents fear that the law will encourage countries with shorter detention requirements, such as Ireland, Spain, and the Netherlands, to lengthen them unnecessarily. The directive also lends support to states such as Malta, Germany, and Latvia who have already implemented policies allowing detention lasting up to 20 months. Human rights organizations have called the directive excessive and disproportionate, especially given the current conditions of detention facilities.

SOUTH AND CENTRAL ASIA

India Seeks Extradition of LeT Members

Between November 26 and 28, 2008, ten armed terrorists killed at least 173 people and injured at least 308 in Mumbai, India. The militants were armed, trained, and directed by Pakistani based militant outfit, Lashkar-e-Toiba (LeT), which India, Pakistan, the United States, and others have deemed a terrorist organization. American and Indian intelligence officials believe that the Pakistani intelligence service, Inter-Services Intelligence (ISI), has supported and protected LeT for years.

Arriving on Indian shores by boat from Karachi, Pakistan, the terrorists proceeded to seize control of the Taj Mahal Hotel, Oberoi Trident Hotel, and Nariman House, a Jewish community center. The remaining militants proceeded to fire AK-47 rifles indiscriminately and launched grenades in the crowded Chhatrapati Shivaji Terminus train station. The militants also opened fire at Cama Hospital and Leopold Café, which are heavily frequented by tourists.

Meanwhile, the other terrorists proceeded to set fire to both the hotels and held hostages there in addition to those captured in Nariman House. Numerous occupants of the three buildings were killed and doctors who received victims from the siege reported signs of torture amongst the dead. Indian commandos raided the hotels and the Jewish community center, killing nine of the terrorists and freeing the remaining occupants. Mohammad Ajmal Kasab, a Pakistani citizen, is the only member of the group that was arrested and currently awaits criminal proceedings in India. Despite the capture of one operative, India seeks possession of other LeT members who helped effectuate the attack.

India has urged Pakistan to extradite senior members of LeT believed to be involved in the attack, but Pakistan has resisted extradition citing the lack of an extradition treaty between the two countries. Some Indian commentators have urged extradition under the SAARC Regional Convention on Suppression of Terrorism, a regional instrument that both India and Pakistan have adopted. The Convention, however, is largely impotent to extradite suspected terrorists since it affords state parties receiving the extradition request the choice of whether to extradite.

Under severe international pressure, the Pakistani government assumed control of Jamaat-ud-Dawa's (JuD) headquarters, a front organization for LeT. Government officials are allegedly monitoring activities at the headquarters and reports say that some senior LeT leaders are under house arrest in Pakistan, yet reports differ as to the extent of their freedom of movement and activity. Pakistan has not outlawed JuD despite a United Nations resolution declaring it to be a banned terrorist organization.

As part of its own investigation, Pakistan claims to have arrested over a hundred people, closed militant training camps, offices, schools, and websites linked to JuD. It is far from certain, however, whether suspects will be prosecuted in Pakistan. The leader of JuD, Hafiz Saeed, is currently under house arrest, but he has been placed under house arrest at least twice since 2001 and was eventually freed. Some commentators, such as India's former intelligence chief Ajit Doval, believe Pakistan is insincere about its partial crackdown on JuD. Doval alleges that the partial crackdown on JuD is "designed to save the state from embarrassment."

In addition to the issues surrounding the prosecution and extradition of those involved in the Mumbai attacks, the Indian government has also grappled with domestic legal reform of its terrorism laws. Shortly after the attacks, the Indian Parliament passed the National Investigation Agency (NIA) Act and amendments to the Unlawful Activities (Prevention) Act (UAPA). The NIA Act establishes a new federal investigative agency that will investigate and prosecute national level crimes, such as terrorism. The Act also creates special courts, which will speedily try all offenses the NIA has authority to prosecute. While the long established Central Bureau of Investigation could only assume power over a state's investigation or prosecution with permission from that state, the NIA is authorized to take over these state activities at its own discretion.

While the NIA Act has changed federal-state dynamics, the UAPA amendments have altered the power dynamic between the federal government and individual suspects. The amendments have extended the period that law enforcement can hold terrorist suspects in pre-trial detention without charges from 90 to 180 days, provided that a court grants the extension.

The amendments also allow a court, at the request of the prosecutor, to deny bail to suspects if it finds that there are reasonable grounds to believe that the accusation against the suspect is *prima facie* true. Bail for non-Indians who enter the country illegally is denied except in very special circumstances that are left undefined.

Not only do the UAPA amendments extend detention power, but they also mandate courts to presume guilt in certain cases. If arms, explosives, or other materials believed to be used in the offense are recovered from the accused, or if the fingerprints of the accused are found at the site of the offense on objects allegedly used in the offense, the court must presume that the accused has committed the offense. The presumption is only disproved under sufficient evidence rebutting the presumption of guilt. Some commentators, such as prominent lawyer and academic Rajeev Dhavan, believe that the UAPA amendments violate core civil liberties. Dhavan asserts that the amendments are "founded on the principle that everyone is suspicious or a suspect" and that over-ambitious law enforcement personal will arrest innocents as the "wrath of subjective suspicion will override the entire due process of the Criminal Code."

While the Indian government struggles with balancing the need for effective prosecution and security with civil liberties, the Pakistani civilian government walks a tightrope between appearing tough on terrorism while avoiding the ire of the powerful military establishment who allegedly collude with organizations such as JuD.

Kazakhstani Journalist Arrested

On January 6, 2009, a Kazakhstani journalist, Ramazan Yesergepov, was arrested and detained by the Kazakh National Security Committee (CNS) while undergoing treatment for hypertension at a hospital in Almaty, Kazakhstan. Yesergepov was arrested under suspicion of divulging state secrets in contravention to Kazakh Criminal Code Article "Illegal Receipt or Disclosure of State Secrets" for publishing internal documents from the CNS. The documents were labeled classified and reportedly dealt with CNS attempts to influence a prosecutor and a judge in a tax case regarding a local company.

Subsequent to the arrest, the CNS raided the Yesergepov's offices, confiscating computer drives. Yesergepov went

on a hunger strike because a CNS investigation poses a conflict of interest since the subject of his article and the published memos regarded CNS corruption. His wife claims that he will not end the fast until his case is moved to a different agency.

According to Human Rights Watch, arrests and imprisonment of journalists are rare in Kazakhstan; however, journalists operate in a climate of anxiety which prohibits a functioning free press. Contrary to the classification of libel in many countries, the Kazakhstan government may bring criminal libel suits against journalists. In 2008, at least seven criminal libel suits against journalists were filed. Furthermore, civil libel suits against journalists are common, and no cap on defamation awards exists.

For instance, Romin Madinov, a Kazakhstani parliamentarian, filed suit against the widely distributed opposition/independent newspaper *Taszharghan* regarding an article about Madinov's plausible links to prior incidents of corruption. The judge ordered a judgment for Madinov in the amount of \$25,000. In addition to libel suits, journalists have reported a sense of fear due to alleged surveillance of their communications and movements.

Taszharghan, however, is one of the few independent newspapers in Kazakhstan. Many news sources are owned by the Kazakhstani government, and therefore do not criticize politicians nor governmental policies. Some of the largest newspapers are owned directly by the government, who appoint the editor in chief and effectually making the publication a mouthpiece for the central government.

Despite the heavy burdens on journalists, Kazakhstan has recently taken a small, incremental step towards liberalizing its media laws. As a member of the Organization for Security Co-operation in Europe (OSCE), a large intergovernmental organization dealing with security and human rights, Kazakhstan will assume the OSCE chairman position in 2010. Before assuming this position, Kazakhstan agreed to liberalize its media and election laws and passed media law amendments in January 2009.

On February 6, 2009, President Nursultan Nazarbayev signed into law the amendments to the mass media law that was earlier approved by Parliament. The amendments

eliminate registration requirements for television and radio media outlets. Furthermore, the reforms shift the legal burden in defamation suits. Rather than requiring the defendant to prove the allegedly defamatory statements are true, the party who initiated the suit must now prove they are false.

Adil Soz, a Kazakhstani non-governmental organization that advocates for a free press, criticizes the reform. The group asserts that even though registration with the government for television and radio outlets is abolished, the legal requirement to obtain a license remains in force. Nevertheless, the president of Adil Soz, Tamara Kaleeva, claimed that the amendments are important as a first step towards greater liberalization. Miklós Haraszti, an OSCE representative on freedom of media, welcomed the amendments but also urged the Kazakhstani government to further liberalize by reducing governmental ownership of media, decriminalizing libel, and abolishing criminal suits against journalists who reveal classified information.

EAST AND SOUTHEAST ASIA

Critics Question Effectiveness of New Indonesian Anti-discrimination Laws

Indonesia passed new legislation addressing racial and ethnic discrimination on October 28, 2008; however, various human rights groups have criticized its effectiveness, citing narrow coverage. The legislation focuses more on racial and ethnic discrimination and only covers discrimination committed by individuals or discrimination in the workplace. The law does not address discrimination by government officials or institutions. The new legislation lacks mention of religion because lawmakers felt that religion was encompassed within ethnicity. While some believe this adequately protects against religious discrimination, others criticizing the legislation feel that religion was not explicitly addressed as a compromise between different factions of the legislator.

Indonesia has a long history of religious and gender discrimination. The government, for the most part, fails to protect the constitutional rights of religious minorities. By its reluctance to take appropriate action to punish the perpetrators of these crimes, the state has essentially allowed various forms of religious discrimination

and attacks to continue. A prime example would be discrimination against the Ahmadiyah sect by mainstream Islamic organizations who demand the Indonesian government ban them. The inaction on the part of law enforcement regarding attacks on their places of worship and the public attacks on their beliefs is interpreted as approval, thus resulting in increased violence and the attempt by a number of Muslim groups to force the President to ban the sect.

Indonesian lawmakers attested to the fact that the law passed only after many days of debate. Islamic parties were allegedly strongly opposed to any mention of religious or sexual orientation discrimination, forcing them out of the bill. As a result, after its passage, many human rights organizations criticized the bill for its narrow coverage and found it to be facially ineffective.

However narrow its coverage may be, others in the human rights community have found the passage of the bill as a positive step towards justice and equality in Indonesia. Ahmad Baso, a member of the National Commission on Human Rights (Komnas HAM), said the commission welcomed the new law despite its perceived shortcomings. Komnas HAM was established by Presidential Decree in 1993 and works independently of the state government to conduct research, monitor, mediate, and investigate issues of human rights.

Already, standing Indonesian law recognizes the political and social equality of women; however, many feel that gender discrimination is still pervasive in society. For example, only six percent of women civil servants occupy positions of authority. Women represent the majority of the workers in the textile, garment and footwear factories and are often bypassed for positions of authority. Furthermore, feminist movements were fervently stifled and progressive women's organizations banned until just recently. The root of much discrimination against women in Indonesia also rests within the Muslim community, which still practices female genital mutilation and allows marriage once a female reaches puberty in some rural parts of the country.

Many have high hopes that the Anti-Discrimination bill will grow to include religious, gender, and sexual orientation discrimination in the future. As the legisla-

tion is put into effect, some human rights and religious organizations are thinking of placing the law under judicial review in hopes of creating a more inclusive and effective law. Despite its possible shortcomings, the Indonesian law seems to have a strong base and can be a positive step forward in the name of human rights. Addressing some forms of discrimination presently can pave the way for more expansive legislation in the future. Enforcing the present law, while simultaneously working to expand its reach, may be the most effective way to address the nation's social construct.

Thai Court Finds Soldiers to Blame in Imam's Death

A court in Narathiwat, Thailand shed light on the torture and brutality employed by the Thai army when it ruled that a number of soldiers were to blame for the death of a Muslim Imam on December 25, 2008. The ruling came shortly after the election of Prime Minister Abhisit Vejjajiva, who has vowed to bring an end to the use of torture and restore justice to the violence-strewn southern provinces of Thailand, such as Narathiwat, Yala, and Pattani.

Soldiers sent to quell separatist insurgents in the south detained, interrogated, and then tortured to death Imam Yapa Kaseng in March 2008. The coroner's report determined that the cause of Imam Yapa's death was blunt-force trauma, including rib fractures from the front, side, and back that punctured his lungs. Bruises and wounds were found all over his body, including his eyes, forehead, and lips. Imam Yapa also had long abrasion marks on his back, indicating that he may have been dragged some distance by his ankles.

The Imam Yapa's fate is not uncommon with the Thai government's counterinsurgency operations throughout the south. There is widespread mistreatment of Muslims in army custody, many of whom have come forth and testified to being tortured by interrogators both in army and civilian clothing. Various news organizations reported that throughout the ongoing conflict in the south, Muslims had been tortured, deprived of their basic human rights, and killed while held in Thai prisons and camps. Forms of torture include suffocation due to the "stacking" of prisoners, ear-slapping, punching, kicking, beatings with wooden and metal clubs, forced nudity,

exposure to cold temperature, electric shock, strangulation, and suffocation with plastic bags.

Muslims also complain about discrimination in daily life. Thailand's Muslims are largely concentrated in the four southern provinces of Narathiwat, Pattani, Songkhla and Yala; areas which are considerably less developed than the cities of northern Thailand. Muslim inhabitants of these areas complain of government discrimination and find that they are at a disadvantage in comparison to the country's Buddhist majority. Education is insufficient, jobs are scarce and difficult to obtain, and basic forms of government assistance are more or less unavailable.

After assuming office on December 17, 2008, Prime Minister Abhisit spoke out against the acts of torture and violence against Muslims in the conflict and has stated that justice will be the driving force behind a resolution to the violent conflict that has stretched over 30 years. Though military sweeps and mechanisms such as the Southern Border Provinces Administration Centre (SBPAC) are in place to prevent such deviant acts, they are unable to function properly due to army interference. Furthermore, the Decree on Government Administration in Emergency Situations (Emergency Decree), a relic of former Prime Minister Thaksin's administration, gives soldiers considerable leeway and breeds an atmosphere where virtually no disciplinary measures exist.

The Narathiwat court's ruling in the death of Imam Yapa is viewed as a crucial victory in the battle against torture and human rights violations in this region. Many hope that Prime Minister Abhisit will press forward with the ruling and take further initiative to stop abuses against Muslims in the south.

Khmer Krom Buddhists Imprisoned in Vietnam

A recent demonstration by Theravada Buddhists in the Mekong Delta ended in violence when Vietnamese officials raided and imprisoned several of the Khmer Krom monks and political activists who were protesting against the detention of former monk Tim Sakhorn, as well as state-sponsored discrimination of their religious and political beliefs. The Vietnamese government was criticized for its mistreatment of the protesters as part of its on-going

oppression of the Khmer Krom Buddhists in southern Vietnam. Highly suspicious of a possible nationalist movement within the ethnic Khmer, the Vietnamese government actively discriminates against the minority and suppresses demonstrations calling attention to the mistreatment.

The ethnic Khmer are indigenous to the southern regions of Vietnam and are presently the ethnic and religious minority in and around the Mekong Delta. Inhabiting the area long before the arrival of the Vietnamese, the Khmer people have a distinct background and religious belief, causing tension and strife with the Communist government in Hanoi. Though recently established organizations such as the Khmer Krom Federation Youth Committee, the Khmers Kampuchea-Krom Federation (KKF) and various NGOs have brought attention to the matter, Western media has largely ignored the plight of the Khmer Krom. Reports by these organizations show that the Khmer face severe violations against their basic religious and human rights.

The Khmer face much difficulty in practicing their religion. They, like many Cambodian and Thai people, are Theravada Buddhists, unlike the Vietnamese who are predominantly Mahayana Buddhists and Roman Catholics. The Vietnamese government does not officially recognize their existence, and in fact, identify Theravada monks as having no religion. The KKF reports that Theravada monks at times face forced renunciation of their faith, arbitrary arrests, and public defrocking.

The Khmer minority in the Delta are forced to adopt Vietnamese last names, speak the Vietnamese language, and have difficulty finding jobs outside of the fields. Their property is subject to confiscation and destruction by the state without due process. The KKF also have reported that Hanoi neglects basic education for children in the Khmer community and that state health services are often not available to them. The recent epidemic of blindness affecting children in the Delta was barely addressed and continues to go largely untreated.

Theravada monks stage regular protests against the Vietnamese government calling for greater religious freedom, better access to healthcare, and more Khmer-based education; however, Mahayana Buddhist government officials have done nothing

but stifle the protests. This recent protest mirrors the infamous February 2007 protest in which government officials expelled 20 monks from the monkhood and drove them out of their pagodas. Many were imprisoned or placed under house arrest. There were further reports of police brutality and corruption of justice; five were arrested without warrants, were never charged with specific crimes, and were convicted and sentenced in May 2007.

The KKF and the Khmer Krom Federation Youth Committee have organized and created a network to preserve their ethnic history and to provide the Khmer with a strong, unified voice against the state-sponsored discrimination. They now call for the government in Hanoi to release the imprisoned monks and restore those banished from the monkhood to their pagodas. **HRB**

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