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International Legal Updates

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INTERNATIONAL LEGAL UPDATES

ASIA

ARRESTS AND HARASSMENT OF MONTAGNARD CHRISTIANS IN VIETNAM AND CAMBODIA

On January 1, 2005, Cambodian National Police Chief Hok Lundy closed Cambodia's northeastern border in the Ratanakiri province to block the entry of Vietnamese Montagnard Christian asylum-seekers. The Montagnard Christians are in conflict with the Vietnamese government over issues of religious freedom and the loss of their ancestral lands, much of which were taken over by settlers after the Montagnard Christians moved away. The government has also confiscated some land to make way for industrial activities, such as state coffee and rubber plantations.

In December 2004, Vietnamese security forces arrested and detained dozens of Montagnard Christians during protests without any arrest warrants or formal charges. Montagnard activists maintain that the protests were peaceful and their purpose was to uphold religious freedom. Police also arrested Montagnard church leaders for organizing Christmas gatherings in the villages. At the same time that Vietnamese security forces have increased the number of arrests of Montagnard Christians, Cambodia has blocked the passage of Montagnards seeking refuge across the border. Cambodian officials arrested Montagnard Christians who crossed the border and sent them back to Vietnam. As a result, increasing numbers of Vietnamese Montagnard Christians risk arrest and prosecution at home.

Moreover, even when Montagnard Christians voluntarily returned to Vietnam from Cambodia, Vietnamese authorities treated them with suspicion. The returnees were placed under police surveillance and often summoned to police stations for questioning about their activities. In December, Vietnamese officials accused several Montagnard Christians returning from a Cambodian refugee camp of being spies for the United Nations High

Commissioner for Refugees (UNHCR) and sent them back to Cambodia.

Cambodia is party to the United Nations Refugee Convention, which prohibits the return of individuals facing a well-founded fear of persecution on political, religious, or ethnic grounds. Under this Convention, Cambodia has an obligation to make individual determinations about the validity of asylum claims, rather than blocking groups as a whole, as they have done in this situation. In addition, Cambodia is a State Party to the Convention Against Torture, which states in Article 3 that "no State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." By closing its border to Montagnard Christians, Cambodia has failed to follow its treaty obligations.

In response to this crisis, Vietnamese Prime Minister Pham Van Khai issued a decision in July 2004 in which he pledged to provide each low-income minority household in the Central Highlands with at least 200 square meters of housing land. In August 2004, the government also announced that it would immediately suspend government-sponsored migration of lowlanders to the Central Highlands and would put an end to spontaneous migration to the region by 2010.

CHINA'S SUSPENSION OF POWER PROJECTS

In January 2005, the Chinese government ordered the halt of 30 large construction projects, including two at the controversial Three Gorges Dam, reportedly because of violations of environmental protections and other regulatory concerns. Twenty-six of the construction projects were power plants planned in 12 different provinces in China. This order was unexpected because China suffered significant blackouts and electricity shortages last year and has been eager to increase its energy-generating capacity. Other halted projects include a cardboard factory, a petrochemicals plant, and construction of a section of a highway meant to stretch from

southwest Tibet to China's northeastern border with North Korea.

The State Environmental Protection Administration reported on its website that many of the halted projects began construction without the necessary environmental impact assessments and other required authorizations. The Administration spokesperson stated that some of the projects may be allowed to resume with proper permits, but that others would be cancelled.

Last year, the government announced that it would increase control over investment in power plants because many were being launched without legal authorization. It was estimated that the capacity of unauthorized power plants under construction was 120,000 megawatts. The biggest single energy project halted was the Xiluodu Dam project, which was designed to produce 12,600 megawatts of energy. The second and third biggest projects halted were segments of the Three Gorges Dam and were designed to produce 4200 megawatts and 100 megawatts of energy.

The Three Gorges Dam has been very controversial in China, and many environmental groups and human rights activists have criticized the project. The Dam, the world's largest hydroelectric project, would be one-and-a-half miles wide and more than 600 feet high and would create a reservoir hundreds of feet deep and nearly 400 miles long. Dam supporters argue the Dam will prevent the catastrophic flooding of the Yangtze River and provide much needed electricity. Additionally, China's growing coal consumption for electrical power poses a threat to the environment, and the Dam would reduce emissions of sulfur dioxide and carbon dioxide by generating electricity equal to about 40 million tons of coal.

Dam critics argue that the project is not worth displacing the more than 600,000 people who have been forced to leave their towns and villages to make room for the reservoir. Many poor residents have been left homeless by the relocation, and corruption

and inefficiency in project management have left many residents without their promised compensation. In all, the reservoir will engulf two cities, 11 counties, 140 towns, 326 townships, and 1,351 villages.

Furthermore, environmental groups claim that the project will result in significant environmental damage. The Dam will sever the flow of the Yangtze River, which will cause pollution from industrial and residential sources to concentrate in the river. This will result in an accumulation of toxic material and potential pollutants in the reservoir, which would create health hazards and threaten the river's wildlife, including several endangered species.

MIDDLE EAST

MOROCCO

In December 2004, the first in a series of public hearings for victims of human rights abuses opened in Rabat, Morocco. The hearings—expected to include 200 testimonials from Moroccans in ten cities over the course of ten weeks—are a government initiative to investigate human rights violations that occurred in the 43 years between Morocco's independence and the present regime, from 1956 to 1999.

King Mohammad VI established the Equity and Reconciliation Commission (IER) in January 2004 to organize the hearings and selected some of the country's most respected figures in human rights to serve on the Commission. The IER's purpose, according to the Moroccan report on compliance with the International Covenant on Civil and Political Rights, is to “close definitively the file of human rights abuses committed in the past.” Commission members traveled around the country and conducted interviews with civil society representatives and citizens regarding measures for social assistance and rehabilitation. The IER will oversee the return of victims' bodies to their families, the payment of monetary reparations for past human rights abuses, and the creation of public memorials to honor victims.

To assess the 20,000 claims submitted for consideration, the Commission selected a diverse group of witnesses to testify in the hearings based on their age, gender, region of origin, circumstances surrounding their

arrest and detention, and the nature of their rights violations. The IER also plans to organize 12 thematic hearings to initiate public debate regarding the legal, historical, and political context surrounding the human rights violations.

The hearing opened on December 21 with the testimony of Chari El Hou. El Hou, a French teacher, was arrested in 1973 for belonging to the national union of teachers and the left-wing National Union of Popular Forces. Five of El Hou's 13 fellow prisoners died as the result of harsh conditions in the secret detention center where they were held for 11 months. Subsequent testimonials over the course of the hearing described kidnapping, torture, and forced exile. Witnesses delivered their testimonials in the language of their choosing, subject to 20-minute time limits. The Commission permitted the company of friends and family members to lend moral support. Radio and television stations broadcasted the hearings live.

At an Institute of Amazigh Culture colloquium entitled “Hearings and Oral History,” IER chairman Driss Benzekri stated that the hearings are different from those held in Ghana and South Africa. Benzekri explained that the Commission hearings are intended as a vehicle for people to voice their emotions and relate their experiences, rather than to serve as formal trials. “We need not only to study some individual cases of human rights violations,” he said, “but also fathom truth in its collective dimension by placing these events in their cultural, social and political dimensions in order to contribute to drafting genuine policies of change.”

The Commission's activities enjoy wide support from human rights organizations across the Middle East and North Africa. Moroccan political parties and the local press have also welcomed the public hearings; however, the Moroccan Association on Human Rights (AMDH), the leading independent human rights organization in the country, remains critical of the hearing's structure. While witnesses are “free to express themselves,” they are prohibited from naming their torturers and others responsible for committing human rights abuses. Abdelhamid Amine, head of AMDH, argues that these rules protect guilty parties, a number of whom still hold government positions. Public officials are also not required to

testify before the Commission or to furnish testimonies to aid investigations. Furthermore, the Commission is not prepared to guarantee the right for accused parties to defend themselves, which would be required in the event that the Commission allowed witnesses to identify their torturers. Benzekri has responded to these criticisms by stating that, in most cases, the witnesses lack cogent evidence to support their claims.

The tribunal does not include testimonies regarding human rights abuses committed after 1999 under the rule of King Mohammad IV. The current regime has garnered criticism from human rights groups for counter-terrorism laws that violate human rights norms.

Full testimonies from the IER hearings are available in French and Arabic on the Commission's website: <http://www.ier.ma/>.

IRAN

On January 1, 2005, one month after their release from prison, reformist journalists Omid Memarian and Ruzbeh Mir-Ebrahimi testified to the Article 90 Commission—a parliamentary, constitutionally-mandated body established to hear individual claims against the government—that they were tortured during their three-month detention. After the testimonies were made public, Tehran chief prosecutor Judge Saeed Mortazavi denied the journalists' allegations. In a press conference on January 3, he announced that the state would indict Memarian and Mir-Ebrahimi, as well as other journalists who testified to the commission, for their “politically motivated” accusations. Human Rights Watch reports that Mortazavi's operatives subsequently made harassing phone calls to the journalists and threatened them with death.

Memarian and Mir-Ebrahimi are among the 20 opposition journal and weblog contributors arrested in a government crackdown beginning in September 2004. On December 7, 2004, the Iranian press published letters written by Memarian, Mir-Ebrahimi, and fellow imprisoned journalists Javad Qolan Tamimi and Shahram Rafizadeh. Mir-Ebrahimi was released on November 26 on a bail of 300 million Iranian rials (\$34,080 USD), while Memarian and Rafizadeh were released from

jail on December 1 on a bail of 500 million Iranian rials (\$56,800 USD). Human Rights Watch speculated that the letters were a condition for the prisoners' release. In the letters, the journalists confessed to charges of publishing anti-regime propaganda, jeopardizing national security, disturbing the public, and insulting religious principles. They also claimed that they were "brainwashed" into criticizing the Iranian government.

In his letter, Tamimi of the daily publication *Mardomsalari* denounced Ali Mazroi, head of the Iranian Journalists Association, for attempting to organize a march on behalf of the prisoners. He called for criminal indictment of "those who poison the atmosphere by . . . supporting criminals like me." After the letter was published, the director of Tehran's Evin prison sent faxes to news agencies indicating that Tamimi also confessed to supplying a foreign military *attaché* with secret documents.

Mir-Ebrahimi and Rafizadeh reported in their letters that they were treated humanely and permitted the company of other prisoners. The Iranian press, however, reported that the prisoners were placed in solitary confinement. Human Rights Watch contends that a squadron of former intelligence officers now employed by the judiciary extracted these "confession letters" under duress. The magistrate and interrogator delivered messages and threats to detainees on Mortazavi's behalf. The detainees were kept at a secret detention center outside of Tehran.

Human Rights Watch reported that the detainees were held in small cells and interrogated and tortured for up to 11 hours at a time. The prisoners were also denied access to medical care and legal assistance, and were only permitted occasional family visits. Interrogators threatened that they would arrest the prisoners' families and friends if the prisoners failed to cooperate.

On December 10, in a public letter to President Mohammed Khatami, Mazroi accused the judiciary of participating in the secret detention and torture of journalists. Judge Mortazavi, in turn, filed suit against Mazroi for libel. The following day, Mortazavi detained former prisoners Mir-Ebrahimi, Memarian, and Rafizadeh, threatening them and Tamimi with lengthy prison

sentences if they did not testify against Mazroi. According to Human Rights Watch, the prisoners were interrogated for eight hours a day for three consecutive days and denied access to lawyers. On December 14, the prisoners testified via televised broadcast that they were treated "as gently as flowers" while in detention. Tamimi reported that he occupied a cell "30 square meters in area, with a color television."

The European Union lodged a protest in November in response to Iran's curtailment of free speech and its practice of detaining and mistreating journalists. Human Rights Watch called on Iranian authorities to protect the journalists testifying before the presidential commission and to investigate Mortazavi's involvement in the detainment of journalists.

QATAR

On December 27, 2004, Qatar's parliament announced plans to pass a law banning the use of child jockeys in the sport of camel racing. Although the law does not specify a minimum age, a Qatari cabinet official stated that the bill is intended to apply to children under age 18. The bill, which has been under revision and consideration for the past year, arose from criticism regarding the trafficking of children from Bangladesh, Sri Lanka, and Pakistan to serve as jockeys.

Approximately 100 youth, aged nine and older, race or train as jockeys in Qatar. Some are motivated by hopes of providing for their families, with ten percent of the \$190,000 USD prize for Qatar's largest camel race going to the parent or guardian of the jockey. Jockeys also receive monthly salaries of up to \$400 USD. Human rights groups and the U.S. State Department report, however, that children as young as two years old are sold to or kidnapped by traffickers, then resold and trained for camel racing.

Jockeys face dangerous work conditions. Employers are known to starve jockeys to keep them as lightweight as possible. Small children are at risk of being thrown and trampled by camels three times their height. As the jockeys are strapped to the camels, they may be crushed in the event that the camel falls. The U.S. State Department reports that jockeys also suffer from genital bleeding due to the pressure and friction in

racine, and many become impotent. If a jockey is critically injured and unable to race, his employer usually abandons him, leaving him without legal residency or a work permit.

Qatar is a signatory to the ILO 1999 Worst Forms of Child Labor Convention. Article 3 of the Convention prohibits "all forms of slavery or practices similar to slavery," including trafficking, and "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children." Qatar, however, has not signed or ratified the Convention on the Rights of the Child or the Convention on Child Labor.

Sheikh Hamad bin Jassem bin Faisal al-Thani, chief organizer of the Qatari camel races, approves of the new law that will prohibit the use of child jockeys, which he says is one of "Qatar's moves to entrench a culture of human rights." Sheikh Hamad, however, denies that any South Asians have been trafficked as jockeys. He maintains that all jockeys are Sudanese, legal residents of Qatar, and accompanied by a parent or guardian.

A Swiss company is developing a new substitute "robot jockey" that will be finalized later this year. There is hope that this technological alternative will facilitate the enforcement of this law, making it more effective than the largely ignored 1993 ban in the United Arab Emirates imposing age and weight restrictions on jockeys. Sheikh Hamad claims that plans to transition to the robot jockeys originated within the camel-racing industry, not in response to pressure from human rights groups. HRB

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