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## Legislative Watch

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## LEGISLATIVE WATCH

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

### **H.R. 4001, NORTH KOREAN HUMAN RIGHTS ACT OF 2004**

**Sponsor:** Representative James Leach (R-IA)

**Status:** Passed by the Senate and House of Representatives and signed by the President on October 18, 2004, whereupon the bill became Public Law No. 108-333.

**Substance:** Title I of the Act promotes the human rights of North Koreans and authorizes the President to use \$2,000,000 from fiscal years 2005-2008 to provide grants to non-profit organizations promoting human rights, the rule of law, democracy, and the development of a market economy in North Korea. Also, through fiscal years 2005-2008 with appropriations of \$2,000,000, this Act strives to increase the amount of information sources not under the North Korean Government's control to facilitate the free flow of information. The law also directs the President to appoint a Special Envoy for human rights within the Department of State.

Title II assists North Koreans in need and requires the Administrator of the United States Agency for International Development (USAID) and the Secretary of State (Secretary) to report annually for the next three years on U.S. humanitarian assistance to the region and improvements in humanitarian transparency and monitoring inside North Korea, including special efforts by the United States and U.S. grantees to secure such improvements. The Act authorizes the President to give assistance to persons or organizations providing humanitarian or legal assistance to North Koreans outside of the country without permission from the North Korea government. Title II appropriations for each of the fiscal years 2005 through 2008, in addition to funds otherwise available for these purposes, amount to \$20,000,000.

Title III of the Act increases protection of North Korean refugees by directing the Secretary to report on the refugee situation

in the region and U.S. policy toward North Korean refugees and defectors. The Secretary must facilitate the submission of refugee applications by Northern Korean citizens and, in accordance with the Secretary of Homeland Security, report annually for the next six years on the numbers of North Koreans admitted as political asylees or refugees. The reports must also include efforts taken to encourage access to the U.S. refugee program by persons fleeing countries of particular concern for violations of religious freedom.

### **S.1129 UNACCOMPANIED ALIEN CHILD PROTECTION ACT**

**Sponsor:** Senator Dianne Feinstein (D-CA)

**Status:** In the 108<sup>th</sup> Congress, the Senate passed S.1129 with an amendment by Unanimous Consent on October 11, 2004, and referred the bill to the House Committee on the Judiciary on November 16, 2004. The bill was reintroduced in the 109<sup>th</sup> Congress as S.119 and referred to the Senate Committee on the Judiciary on January 24, 2005.

**Substance:** S.1129 addresses the custody and care of unaccompanied alien children (UACs), who are defined as children less than 18 years of age with no lawful immigration status and no parent or legal guardian in the United States able to offer them care and physical custody.

Title I of the Act relates to the Custody, Release, Family Reunification, and Detention of UACs. The bill directs the actions of immigration officers encountering UACs at U.S. borders and states that UACs have the right to consult with a consular officer before repatriation with the Office of Refugee Resettlement (ORR) at the Department of Health and Human Services. The Act also gives ORR jurisdiction over the care and custody of all other UACs. The remainder of Title I provides many detailed requirements for a child to be considered a UAC, sets out standards for their governmental caretakers, and establishes procedures and programs for UAC care. For example, the bill would prohibit the placement of UACs in adult detention facilities, or in housing for delinquent children, unless the

UACs exhibit criminal or violent behaviors. It would also require the Secretary of Homeland Security and the Director of the Office of Refugee Resettlement to implement procedures prohibiting the unreasonable use of solitary confinement, pat or strip searches, and handcuffing, shackling, or other restraints on children.

Title II relates to UACs' access to legal guardians and counsel and specifies the requirements for and powers of legal guardians. Title III aims to strengthen policies to permanently protect alien children. It amends the Immigration and Nationality Act to further specify the definition of special immigrant juvenile (SIJ) status, the grounds for receiving SIJ status and the benefits available to SIJ visa holders. Title IV pertains to children and asylum seekers and calls upon the Executive Office of Immigration Review to adopt the Guidelines for Children's Asylum Claims created by the former Immigration and Naturalization Service. These guidelines promote child-sensitive procedures and increased training for Asylum Officers. Appropriations in Title V authorize the funds necessary to carry out the UAC provisions of the Homeland and Security Act of 2002 (HSA) and this Act. Finally, Title VI adds amendments to the HSA to make the Director of ORR responsible for UAC placements and standards of care and gives the Director the capacity to carry out the provisions of this Act.

### **H.R. 5321, FREE AND FAIR ELECTIONS IN ETHIOPIA ACT**

**Sponsor:** Rep. Michael M. Honda (D-CA)

**Status:** Referred to the House Committee on International Relations on October 8, 2004.

**Substance:** H.R. 5321 urges the Government of Ethiopia to hold peaceful, orderly, fair, and free national elections in 2005. The bill authorizes the United States to give assistance, in the amount of \$10,000,000, for election monitoring activities.

The bill recognizes a significant improvement in the relationship between the United States and Ethiopia, but expresses concern over remaining human rights issues in the

abuses. The plaintiffs appealed and the U.S. Court of Appeals for the Ninth Circuit decided to hear the case. Unocal settled the case in December 2004.

### MARÍA ELENA CUADRA: MOVEMENT OF WORKING AND UNEMPLOYED WOMEN (MEC)

[www.mec.org.ni](http://www.mec.org.ni)

María Elena Cuadra (MEC) was founded in 1994 by a group of women workers in Nicaragua who were dissatisfied with the male-dominated trade unions and frustrated by their lack of employment options. MEC began with the goal of improving labor conditions through a model of woman-to-woman labor rights training, direct negotiation with employers, and legal and political advocacy. Their work soon expanded to provide for the needs of

women beyond the factory door, including employment training, small business development, preventive health education, and housing improvement loans.

MEC's work is focused in the "free trade zones" of *maquiladoras*, or assembly plants, which make goods for export. MEC currently has over 70,000 women members in the provinces of Managua, Granada, León, Estelí, Chinandega, and Juigalpa. MEC members include workers in over 100 *maquiladoras*, mineworkers, domestic workers, and unemployed women. The women organize a yearly national colloquium that brings together workers, employers, policy-makers, and the press to discuss ways to improve the working conditions of women without endangering foreign investment and employment opportunities. Through this collaborative process, MEC successfully con-

vinced the Nicaraguan Parliament to pass three amendments to national labor laws, including labor standards enforcement initiatives and an increase in the minimum wage for workers in the *maquiladoras*.

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region, particularly as related to elections. The bill states that some prior elections were not free and fair because of voter intimidation, unlawful detentions of opposition party supporters, disappearances, and killings.

The bill acknowledges the Ethiopian government's efforts to hold democratic elections through its willingness to re-run the 2000 parliamentary elections in fourteen constituencies. The bill further commends the Ethiopian government's choice to increase private media sources and encourage dialogue amongst opposing governmental parties. The bill, however, acknowledges that Ethiopian civilians still require civic education about their democratic rights and duties. It also calls for the prosecution and penalization of local and regional officials engaged in intimidation and harassment of opposition party leaders.

Because of the continuing need to ensure future fair and free elections in Ethiopia, H.R. 5321 authorizes the President, acting through the Administrator of the United States Agency for International Development, to provide assistance to non-governmental organizations on a grant basis for activities related to monitoring the May 2005 national elections. The bill authorizes the President to appropriate \$10,000,000 for such purposes for fiscal year 2005. This

bill saw no further movement in the 108th Congress and has not yet been reintroduced in the 109th Congress.

### S.2939, ASSISTANCE FOR ORPHANS AND OTHER VULNERABLE CHILDREN IN DEVELOPING COUNTRIES ACT

**Sponsor:** Senator Richard Lugar (R-IN)

**Status:** Read twice before the Senate and referred to the Committee on Foreign Relations on October 7, 2004.

**Substance:** This bill amends the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries. The bill acknowledges that more than 110,000,000 orphans live in sub-Saharan Africa, Latin America, Asia, and the Caribbean and that the HIV/AIDS crisis has created an unprecedented orphan crisis, leaving 14,000,000 children who have lost one or both of their parents to AIDS.

The bill would authorize the President to provide basic care and services for vulnerable children, either directly or through non-governmental or international organizations. One measure would increase support to families and communities to assist them in mobilizing their resources. The bill would establish community-based organizations to assure basic care for these children. It also

proposes aid for school food programs that would increase primary school enrollment by eliminating fees and other barriers, and provide employment and training for children of working ages. The bill promotes and protects inheritance rights for widows and orphaned or vulnerable children, and it provides culturally appropriate psycho-social support. Finally, the bill includes increased access to pharmaceuticals, pediatric-specific technologies, and recruitment and training for pediatric treatments.

Under S.2939, Congress would authorize the President to carry out the efforts mentioned with as yet unspecified funds for the fiscal years 2005 and 2006. In creating the strategy, the President should consult with employees in the field missions of the United States Agency for International Development. Up to one year after the submission of the strategy plan and annually thereafter, the bill would require the President to submit a report on the implementation of the Act. This bill saw no further movement in the 108th Congress and, although there has been discussion about reintroducing it in the 109th Congress, it has yet to be reintroduced.

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