



WORLD LAW BULLETIN

July 2006

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Legal Blow
Anti-Torture Treaty Protocol
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Peoples
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Draft Anti-Monopoly Law
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Rubens Medina,
Law Librarian



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WORLD LAW BULLETIN

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AFRICA

BOTSWANA – No Plan to Translate Constitution, Laws

The Constitution and major statutes of Botswana are written in English, the official language of the country, even though only about two percent of the population speaks English as the primary language, while over seventy-eight percent speaks Setswana. (Central Intelligence Agency, *Botswana*, WORLD FACTBOOK, <http://www.cia.gov/cia/publications/factbook/geos/bc.html> - Intro (last visited June 9, 2006).) Presidential Affairs and Public Administration Minister Phandu Skelemani has recently stated, however, that although it would be desirable as a way of enhancing understanding of the law, at present there are no plans to translate the legal documents into Setswana. The practical barriers of how to select which laws to translate and how to convey the exact legal meaning are considered too difficult to overcome. Skelemani made these statements in response to inquiries from representatives from various parts of the country, asking that translations into Setswana and the other languages of the population be done. Kgosi Lotlaamoren II of Barolong pointed out that it has been forty years since Botswana became independent, while South Africa translated its Constitution into eleven official languages in only two years. (*No Immediate Plans to Translate Constitution: Skelemani*, DAILY NEWS ONLINE, June 9, 2006, http://www.gov.bw/cgi-bin/news.cgi?d=20060609&i=No_immediate_plans_to_translate_Constitution_Skelemani.)

(Constance A. Johnson, 7-9829, cojo@loc.gov)

KENYA – Islamic Bank to Be Introduced

It was reported on June 6, 2006, that Islamic banking would be introduced in Kenya from September, when a new Islamic bank with a wide range of Shariah (Islamic law)-compliant banking services becomes operational. In the first year, the bank will open branches in Nairobi and Mombasa. In the subsequent four years, they are to increase to fourteen, targeting Muslim-dominated areas. A precursor to the new bank was the interest-free bank account launched by Barclay's Bank in late 2005 to attract Muslim customers.

Nadhif Jama Adam, a senior official with the Sharjah Islamic Bank in the United Arab Emirates, who helped conceive the project, stated, "the bank has identified reputable shareholders both within and outside Kenya to inject funds into the institution." Its activities are to be conducted according to Islamic principles, such as the stipulation that money be invested "ethically" – e.g., not in such businesses as tobacco, gambling, alcohol, and pornography – and that giving or receiving interest is forbidden. To ensure that the bank abides by this code, a body of Shariah scholars from the Middle East will join with local counterparts in supervising it. Aside from interest-free banking services, other products geared toward Muslim customers may include mortgages and car and health financing schemes. Non-Muslims may also use the bank. (*Kenya: Country to Have Islamic Banking in September*, AFRICA NEWS, June 6, 2006, LEXIS/NEXIS, News Library, 90days File.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

KENYA – New Resolve for Introducing GM Crops

It was reported on June 2, 2006, that some members of Kenya's Parliament had recently stated their willingness to fast-track a legislative agenda aimed at forcing genetically modified (GM) crops into the national market. They expressed concern that Kenya does not yet even have a biotechnology policy or a set of biosafety laws necessary for commercialization of GM products, even after fifteen years of GM research. It seems that the impetus for the members' resolve was their recent fact-finding mission to



South Africa, sponsored by several biotechnology groups. (*Kenya Declares Willingness to Fast-Track GM Agenda*, GREENWIRE, June 2, 2006, LEXIS/NEXIS, News Library, 90days File.)
(Wendy Zeldin, 7-9832, wzel@loc.gov)

NIGER – Protocol on Women’s Rights Rejected

It was reported on June 5, 2006, that the Parliament of Niger, in a vote taken at the weekend, rejected the “Maputo Protocol” on women’s rights, even though the government had approved it in January. The Protocol to the African Charter on People’s and Women’s Rights, adopted on July 11, 2003, in Maputo, Mozambique, by African heads of state, entered into force in November 2005 after being ratified by the threshold fifteen nations. The aim of the instrument is to guarantee women’s rights in marriage, employment, education, politics, and other areas. It requires states that have ratified it to respect such rights in their own domestic laws.

A government spokesman stated: “[t]he rejection of the motion is a serious setback for Niger, but this is a proper application of democratic principles.” The country is reportedly ninety-five percent Muslim and is one of the most conservative African societies. Common practices or customs there, such as female circumcision, child marriage, and polygamy, are discouraged or prohibited by the Protocol. (*Niger MPS Reject Protocol on Women’s Rights*, IOL, June 5, 2006, http://www.iol.co.za/index.php?set_id=1&click_id=86&art_id=qw1149543182315B216; Protocol to the African Charter on People’s and Women’s Rights, CRIN [Child Rights Information Network], http://www.crin.org/docs/Maputo_Protocol.pdf.)

(Wendy Zeldin, 7-9832, wzel@loc.gov)

SOUTH AFRICA – Privacy Legislation

Two new bills, the Protection of Personal Information Bill (PPI) and the Consumer Protection Bill (CPB), have recently been presented to the South African public for comment prior to being submitted to Parliament and promulgated into law. According to the Direct Marketing Association of South Africa, the proposed legislation will virtually outlaw the use of customer databases for prospecting for new business. This could have serious economic consequences for industry, in particular the financial services and retail industries, and for service providers like call centers and list brokers. (*DMA Raises Concerns About Privacy Legislation*, MARKETINGWEB, June 19, 2006, http://www.marketingweb.co.za/industry_news/562460.htm.)

(Ruth Levush, 7-9847, rlev@loc.gov)

SOUTH AFRICA – Registration of Foreign Visitors’ Cell Phones

South Africa's Parliament is currently considering new legislation that could require all foreign visitors to register their mobile phones with the authorities when entering the country. Phone owners will be required to register their passport numbers and handset serial numbers (IMEI) under a provision in the Regulation of Interception of Communications and Provision of Communications Related Information (RICA) Amendment Bill. Failure to register a handset would result in its being blocked from access to the three Global System for Mobile Communications (GSM) operators in the country. The proposal is causing serious concern among operators. (*Registration Required for South African Visitors*, CELLULAR-NEWS, <http://www.cellular-news.com/story/17832.php> (last visited June 19, 2006).)

(Ruth Levush, 7-9847, rlev@loc.gov)



TANZANIA (ZANZIBAR) – Bird Flu Precautions

Zanzibar, a semi-autonomous island that is part of Tanzania, has taken steps to control the importation of chicken as part of attempts to prevent a bird flu outbreak. Over the course of three weeks in late May and early June 2006, over 400 chickens that had been smuggled onto the island were confiscated; about 120 were returned and the rest were burned. Two people are being prosecuted for illegally importing the birds and failing to send them back to their points of origin, despite being ordered to do so. Kassim Bharib, of the Zanzibar taskforce on bird flu under the Ministry for Agriculture, Livestock, and Environment, has said that if found guilty, the two will be fined no less than US\$50, given jail terms of six months, or both. The island banned the import of chicken and other poultry products in 2005; the Tanzanian Government on the mainland has also reinforced its ban on importation of poultry. (*Tanzania: Zanzibar Tightens Import Controls over Bird Flu Threat*, ALLAFRICA.COM, June 12, 2006, <http://allafrica.com/stories/200606120423.html>.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

UGANDA – Construction Halted over Environmental Concerns

On June 7, 2006, President Yoweri Museveni of Uganda ordered construction on a plot of land in Bugolobi to be halted until it has been determined that it will not adversely affect wetlands and public utilities. Kampala businessman John Bosco Muwonge was issued the order, which was given partially in response to an earlier directive from the Land Probe Commission to halt construction, which had been ignored. Museveni further ordered that previously built structures be demolished if it is determined that those structures have either been built over utilities or interfere with the wetlands. (*Museveni Halts Bugolobi Works*, THE NEW VISION, June 13, 2006, <http://www.newvision.co.ug/PA/8/13/503706>.)
(Karla Walker, 7-4332, kdwa@loc.gov)

UGANDA – Tax Shortfall Leads to Reform

The Commissioner General of the Uganda Revenue Authority (URA), Allen Kagina, has said that the amount of tax collected since January 2006 has fallen short of expectations. The value-added tax on services and the local excise duty have been especially affected. In addition, the corporation tax has produced much less revenue than estimated, as the traditionally largest taxpayers have sent in less than in previous years. As of the end of May 2006, the shortfall amounted to twenty-nine billion shillings (about US\$16.2 million); in the previous year there had been a surplus. Kagina said the shortfalls could be blamed in part on electric power shortages, which had some businesses working at one-third of capacity, laying off workers, and running at a loss. However, a large portion of the deficit is due to non-payment by several government ministries and local authorities.

The URA has already implemented some reforms to streamline operations, including creating one, integrated department for all domestic taxes; classifying taxpayers into categories as large, medium, and small; reducing the number of administrative layers in the organization from eleven to seven; and consolidating the previous ten departments into five to improve the internal decision-making process. The URA has also proposed strengthening the tax laws to remove some loopholes and facilitate trade. (*URA Asks Govt to Strengthen Tax Laws*, THE MONITOR, June 13, 2006, LEXIS/NEXIS, MDEAFR Library, CURNWS File.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)



EAST ASIA & PACIFIC

AUSTRALIA – Civil Unions

Australia is debating the role of homosexual marriages with the introduction and disallowance of Australian Capital Territory (ACT) legislation on civil unions. Under the Australian Capital Territory (Self-Government Act) 1988 (§35(2)) (Cth), Australia's Governor-General, Major General Michael Jeffery, has the authority to disallow any legislation passed by the ACT. Jeffrey declared the ACT's Civil Unions Act 2006 invalid. A motion was introduced into the Senate seeking to disallow Jeffrey's instrument, but that motion was defeated. Senator Andrew Bartlett (Democrat) has, however, introduced legislation, entitled the Same-Sex Marriages Bill 2006, with the aim of amending the Marriage Act 1961 to allow for same-sex unions in Australia. (*Anger as Gay Civil Union Ban Upheld*, SYDNEY MORNING HERALD, June 15, 2006.)

(Lisa White, 7-4987, liwh@loc.gov)

CHINA – Draft Anti-Monopoly Law

After more than a decade, on June 7, 2006, China's State Council (Cabinet) approved in principle a draft of the Anti-Monopoly Law, which will be submitted to the National People's Congress Standing Committee (NPCSC) for review. The draft law targets monopolistic practices in various industries, regional trade barriers, and monopoly by administrative means, even though being a monopoly company is not in and of itself an offense. However, the contentious issue of which department should lead antitrust actions has not yet been settled; at present three departments each play a role in taking regulatory action against monopolistic activities. (*Chinese Govt Approves Draft of Anti Monopoly Law*, CHINA VIEW, June 8, 2006, http://news.xinhuanet.com/english/2006-06/08/content_4660808.htm; Mure Dickie, *Chinese Cabinet Approves Anti-Monopoly Law*, FINANCIAL TIMES, June 9, 2006, <https://registration.ft.com/registration/barrier?referer=http://www.google.com/search?hl=en&lr=&q=Mure+Dickie+Financia+l+Times+monopoly&btnG=Search&location=http%3A//news.ft.com/cms/s/02398e86-f76d-11da-a566-0000779e2340.html>.)

The drafting of the law has been particularly controversial because China still has a number of large state-owned enterprises with administrative monopoly power that dominate some key sectors, such as telecommunications, banking, railways, aviation, and infrastructure. According to the FINANCIAL TIMES, these enterprises are cosseted by ministerial patronage, and unless there are last-minute changes, the draft law may be "largely toothless," except for "empower[ing] Beijing to act against foreign companies' market positions, competitive conduct and mergers." (*Important Step Forward*, CHINA DAILY, June 9, 2006, http://www.chinadaily.com.cn/chinagate/doc/2006-06/09/content_612751.htm; *SCMP: Mainland Law Aimed at Tackling Monopolies Approved*, SOUTH CHINA MORNING POST, June 8, 2006, Open Source Center No. CPP20060608515002; Editorial Comment, *China's Monopoly Law*, FINANCIAL TIMES, June 12, 2006, <http://news.ft.com/cms/s/c71cbeaa-f9af-11da-8ced-0000779e2340.html>.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA -- IP Protection Campaign Targets Trade Shows

Trade shows have become a new target in China's efforts to improve intellectual property rights protection. The Blue Sky Trade Show Action was launched to prevent infringement of products exhibited at the trade show in Beijing on May 29, 2006.



Gao Hucheng, Vice Minister of the Ministry of Commerce, said at a press conference that an increasing number of complaints have been filed at trade shows, which was detrimental not only to China's IPR protection image but also to the sound development of the exhibition industry. Currently, China has approximately 150 large and medium-sized exhibition halls. In 2005, there were round 3,800 trade shows staged in China. (*China's IPR Protection Campaign Targets Trade Shows*, XINHUA NET, May 30, 2006, http://news.xinhuanet.com/english/2006-05/30/content_4621473.htm.) (Rui Geissler, 7-9864, rgei@loc.gov)

CHINA – Regulations on Protection of Internet Propagation Right

The Regulations on Protection of the Propagation Right in Information Networks were promulgated on May 18, 2006, to take effect on July 1. While the Copyright Law sets forth the principle of copyright for network information, it does not have specific provisions on its protection. The Regulations define the information network propagation right as the right of the public to select the time and venue to acquire works, performances, or audio-visual recordings publicly provided in cable or wireless format. Unless otherwise prescribed by law, any organization or individual that provides such material of others to the public through an information network must obtain the rights holder's permission and remunerate him. The rights holder may adopt technological measures to protect his information network propagation right; no organization or individual may intentionally evade or destroy those measures, or intentionally make, import, or provide to the public equipment or parts chiefly used for such a purpose.

Without the rights holder's permission, no organization or individual may intentionally expurgate or alter the rights-managed electronic information of a work, performance, or audio-visual recording provided to the public through information networks, unless the expurgation or alteration is unavoidable for technical reasons. Nor may they provide to the public through information networks such material that they knew or ought to have known to be expurgated or altered without the rights holder's permission. It is explicitly stipulated that no work, performance, or audio-visual recording that is prohibited from being provided will be protected under the Regulations. (18 ISINOLAW WEEKLY (May 22-May 28, 2006, from webmaster@isinolaw.com; Regulations on Protection of Propagation Right in Information Networks, May 18, 2006, available at iSinoLaw ID No. 283;285;76613–10016122.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

CHINA – State Council Approves National Emergency Response Draft

On June 2, 2006, China's State Council approved a national emergency response draft during an executive meeting. The draft is aimed to prevent and reduce natural disasters, accidents and public health epidemics.

The draft was submitted to the Standing Committee of the National People's Congress, the country's parliament, for further discussion and final approval. (*Emergency Response Draft Discussed and Approved by State Council*, PEOPLE'S DAILY, June 2, 2006, http://english.people.com.cn/200606/02/eng20060602_270395.html.) (Xiaomeng Zhang & Rui Geissler, 7-9864, rgei@loc.gov)

CHINA – White Paper on Environmental Protection

The Information Office of China's State Council (Cabinet) released the white paper "Environmental Protection in China (1996-2005)," on June 5, 2006. The document is the second of its kind issued since 1996. It covers, among other topics, China's environmental protection legislation and



system, the prevention and control of industrial pollution, protection of the urban and rural environments, ecological protection and conservation efforts, economic policy and investment, environmental impact assessment, the environmental science and technology industry and public participation, and international cooperation efforts related to environmental protection.

The white paper notes that the government elevated to the ministerial level the former State Environmental Protection Bureau, changing its name in 1998 to the State Environmental Protection Administration, and that now there are more than 3,000 environmental protection administration departments at different levels of government throughout the country, as well as almost 4,000 environmental supervision and law enforcement organs. As of the end of 2005, China had more than 2,300 nature reserves, constituting about fifteen percent of the country's land territory. The paper states that between 1996 and 2004, investment in environmental pollution control reached US\$119 billion, one percent of that period's GDP, and that environmental protection expenditure became formally itemized in the national budget in 2006. It further points out that China has thus far acceded to more than fifty international conventions on environmental protection, including the U.N. Framework Convention on Climate Change and the Kyoto Protocol, the Montreal Protocol on Substances That Deplete the Ozone Layer, and the Convention on Biological Diversity. (Embassy of the People's Republic of China in Australia, *China Issues White Paper on Environmental Protection*, June 5, 2006, <http://au.china-embassy.org/eng/xw/t256425.htm> (with a link to the full text in English of the white paper).) (Wendy Zeldin, 7-9832, wzel@loc.gov)

FIJI – Economic Partnerships Sought

Fiji is seeking to negotiate economic partnership agreements with India, Malaysia, and Indonesia as part of its Look North Policy. The Look North Policy is designed to access Asian countries' markets. (Press Release, Fiji Government, (May 28, 2006), http://www.fiji.gov.fj/publish/page_6806.shtml.) (Lisa White, 7-4987, liwh@loc.gov)

INDONESIA – Legislative Proposal to Outlaw Extremist Groups

Indonesia's Minister for Home Affairs, M. Ma'ruf, stated on June 9, 2006, that the government and legislators had agreed to revise a 1985 law on the freedom to organize, to allow the dissolution of organizations deemed to have disrupted security and public order. The current law does not permit the government to disband mass groups or non-governmental organizations involved in violent activities. The new article would "empower the government to take supervisory actions, including the dissolving" of such disruptive groups, according to Ma'ruf.

Impetus for the measure appears to be the mounting pressure on the government from moderate Muslim leaders and activists to take stronger actions against hard-line groups accused of using violence to further their aims. Ma'ruf was quoted as saying, when asked if the revision would contravene the constitutional guarantee of freedom of association, "people had the right to organize and express their opinions but were prohibited from using their organizations to attack others in the name of religion or to disrupt security." Among the groups being scrutinized by the government are the Islam Defenders Front (FPI), the Betawi Brotherhood Forum (FBR), and Hizbut Tahrir. Ma'ruf indicated that the government would first try to use persuasion with such groups, and if that proved ineffective, it would take repressive actions against them. (*Indonesia: Legal Revision to Let Govt Outlaw Extremist Groups*, THE JAKARTA POST, June 10, 2006, Open Source Center No. SEP20060610096007.) (Wendy Zeldin, 7-9832, wzel@loc.gov)



INDONESIA – Legislators Petition to Abolish *Sharia*-Based Bylaws

It was reported on June 15, 2006, that fifty-six members of Indonesia's unicameral House of People's Representatives had signed a petition urging President Susilo Bambang Yudhoyono to abolish *sharia*-based bylaws. The signatories included legislators from Muslim-based political parties. According to the petition, implementation of the bylaws by local administrations contravened the 1945 Constitution and the five principles of the state ideology, Pancasila. Should the President fail to act quickly, signatory Constant Ponggawa is quoted as stating, "the state would face disintegration." According to fellow signer Gayus Lulmbuun, the aim of the petition is to create a powerful legislative movement to reverse the country's drive for Islamization. Some legal experts also castigated the central government for hesitating to immediately revoke the bylaws, which they, too, consider to clearly contravene higher laws.

The petition is reportedly the first cross-factional effort to oppose the passage of Islamist-oriented regulations, found in twenty-two regencies (subdivisions of provinces) and municipalities in Indonesia. Some of the ordinances criminalize conduct prohibited under Islamic law; others restrict public freedom, as in the rules on women's attire. Some local governments cited the granting of special autonomy to the strongly Islamic area Nanggroe Aceh Darussalam as the inspiration for drawing up their Islamist bylaws. According to autonomy law expert Ryaas Rasyid, only the central government has the authority to regulate local religious affairs, based on article 3 of the 2004 Regional Administration Law (No. 32/2004) (RAL). The national unity and politics office in the Home Affairs Ministry is apparently looking into whether the *sharia*-based ordinances are in line with the RAL. The Ministry must first ask governors, mayors, and regents to identify all the bylaws that violate human rights, Pancasila, and higher laws. The local administrations can then review their own bylaws. Sixty days afterwards, the Ministry will assess whether the ordinances have violated the higher laws or not. (*Govt Told to Act Fast Against Sharia Laws*, THE JAKARTA POST, June 16, 2006, <http://www.thejakartapost.com/detailheadlines.asp?fileid=20060610.A03&irec=6>; *Sharia-Based Bylaws or Face State Disintegration: Legislators*, THE JAKARTA POST, June 15, 2006, Open Source Center No. SEP20060615111003.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

MALAYSIA – Restrictions on Prenatal Sex Selection

It was reported on June 26, 2006, that Malaysia will announce new laws by the end of the year to limit the use of a prenatal fertilization test, meant to screen for genetic disease, that can also help determine the gender of the fetus. According to Health Minister Chua Soi Lek, "[w]e are not against infertile couples seeking medical treatment to have babies, but they should not choose the sex," and doctors should stop offering procedures that lead to the creation of "designer babies." Guidelines that are being drafted will not allow sex selection for "social reasons," but will allow it if there is a predisposition of a given sex for a serious genetic disorder, such as hemophilia or Down syndrome, Chua stated.

The rules are likely to focus on "pre-implantation genetic diagnosis" (PGD), a screening test typically carried out during in vitro fertilization that can identify specific mutations in genes. It is used in privately run fertility centers in Malaysia but not in government-run hospitals. The government fears that widespread use of the procedure could lead to negative societal effects, such as an imbalance of males and females, given the predilection, especially among Malaysia's ethnic Chinese minority, for male children. (*Malaysia to Prevent Couples from Turning to Science to Choose Baby's Sex*, THE ASSOCIATED PRESS, June 26, 2006, <http://news.findlaw.com/>.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)



MONGOLIA – Windfall Profit Tax Law Adopted

A new law that imposes additional profit tax on copper and gold when their prices rise internationally entered into force in Mongolia on May 12, 2006. Copper exporters will now have to pay a tax that amounts to sixty-eight percent of the additional profit accruing to them when the London Metal Exchange's price of copper exceeds US\$2,600 per ton; gold exporters will have to pay the tax when the gold price is above US\$500 per ounce. (B. Bulgamaa, *Extra Profit on Copper, Gold to Be Taxed*, THE UB POST, May 18, 2006, http://ubpost.mongolnews.mn/index.php?subaction=showfull&id=1148013045&archive=&start_from=&ucat=37&; Unofficial Translation, Imposition of Price Increase (Windfall) Taxes on Some Commodities, Open Society Forum, <http://www.opensocietyforum.mn/policyissue/law20060523en.pdf> (last visited June 23, 2006).)

It may be noted that the Mongolian Parliament is considering several draft laws on mineral resources. Two of the draft laws that are radically different (one more protective of Mongolian interests, the other more protective of foreign investors' interests) were being discussed for the first time by the Parliament in May. (*Parliament to Discuss Two Drafts*, THE UB POST, May 18, 2006, http://ubpost.mongolnews.mn/index.php?subaction=showfull&id=1148012840&archive=&start_from=&ucat=37&; *Draft Minerals Laws/Proposal*, Open Society Forum, <http://www.openforum.mn/index.php> (last visited June 23, 2006 (provides the texts of the four draft proposals).) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

PHILIPPINES – Warrantless Arrests to Continue Despite Court Disapproval

It was reported on June 8, 2006, that the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) will continue to implement warrantless arrests, even if the Supreme Court has nullified such arrests now authorized under Presidential Proclamation 1017 on the declaration of the state of national emergency. AFP Public Information Office Chief Colonel Tristan Kison made the clarification that the Revised Penal Code allows warrantless arrests if they are made in the interest of national security. The AFP spokesman said that this type of arrest would be their last option and that the military would only resort to it if the situation so requires.

PNP Chief Director General Arturo Lomibao said that the police are authorized to carry out warrantless arrests and even civilians can perform citizen's arrests under the law. He explained that police officers are duty-bound to enforce the law and that their sworn duty is to protect the safety of the public against criminal elements. National Capital Region Police Office Chief Director Vidal Querol asserted that Republic Act 880, and not Presidential Proclamation 1017, is the basis for warrantless arrests. Querol insisted that police have not violated any law under the state of national emergency, which was declared in February 2006.

The new Supreme Court decision states that Proclamation 1017 is lawful but that warrantless arrests violate the Constitution. "Acting on the motion for a partial reconsideration of the decision of 3 May 2006, the Court resolved to deny with finality the said motion, as the basic issues raised therein have been passed upon the Court and no substantial arguments were presented to warrant the reversal of the questioned decision," the Court opined. (*Manila Authorities: Warrantless Arrests to Continue Despite Court Disapproval*, MAKATI CITY TANOD, June 8, 2006, at 3, Open Source Center No. SEP20060608007002.)

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SINGAPORE – Mutual Assistance in Criminal Matters

Singapore has amended its Mutual Assistance in Criminal Matters Act (Ch. 190A of the 2001 revised edition) to allow Singapore to provide assistance to any foreign country, regardless of whether or not that country has entered into a mutual assistance treaty with Singapore. (Second Reading Speech on Mutual Assistance in Criminal Matters (Amendment) Bill, Ministry of Law website, Feb. 13, 2006, http://notesapp.internet.gov.sg/_48256DF20015A167.nsf/LookupContentDocsByKey/GOVI-6LYDKS?OpenDocument.)

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TAIWAN – Amendment of Presidential and Vice Presidential Election and Recall Law

Minor amendments were made to the Presidential and Vice Presidential Election and Recall Law of the Republic of China (on Taiwan) on May 5, 2006, and published on May 30, 2006. Under the revised Law, any ROC citizen reaching twenty years of age will have the right to vote, unless a declaration of interdiction has not yet been revoked (art. 11). The former article 11, in addition to the exception of non-revocation of a declaration of interdiction, had also specified the exception of non-restitution of civil rights that had been revoked. The phrase "principal offender or accomplice" replaces the word "accomplice" in two articles on punishments (arts. 86 & 89). The effective date of these amended articles is July 1, 2006. (6691 ZONG-TONG FU GONG-BAO [THE GAZETTE OF THE OFFICE OF THE PRESIDENT] 53-55 (May 30, 2006), Global Legal Information Network, GLIN ID 178923, <http://www.glin.gov>.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Draft Landmines Law

On March 20, 2006, four years after it was first proposed, Taiwan's legislative caucuses reached consensus on a draft law on the removal and banning of landmines. However, residents of outlying islands that are afflicted with landmines are reportedly unhappy with the bill, contending that legislators complied with a Ministry of National Defense (MND) request that the weapons be left on the islands for military purposes. The definition of landmines in the proposed Landmines Regulation Act reportedly only covers "anti-personnel mines"; anti-vehicle mines, which, based on the interpretation of the Mine Ban Treaty, are considered anti-personnel mines and therefore banned, are not included in the bill. (Taiwan is not a signatory to the Treaty.) In addition, the bill has an article that grants the MND the right to use antipersonnel mines in wartime "when it is imperative."

The MND has indicated that as of September 2004 there had been 102 landmine explosion casualties in the outlying islands. In 1949 and 1958, the government planted over 100,000 landmines on the islands of Kinmen, Matsu, and Dong Yin, to prepare for a possible invasion by mainland Chinese Communist troops. One legislator indicated that there are a total of 200 minefields, covering almost three million square meters, although the MND has kept the size of the mined areas confidential and may not actually have an exact estimate. On April 25, 2005, two Zimbabwean mine disposal technicians were killed and another injured during a landmine clearance effort associated with a dam construction project in Kinmen County; some 800 landmines have been left unattended at four storage facilities as a result. Despite residents' appeals to do away with the landmines, to identify cracks in their houses caused by the blast, and to compensate them for their losses, the government has not yet taken any action. The draft law stipulates that the government is to remove anti-personnel mines within seven years and make reparations for the damage caused by them. To be enacted, the bill must pass a second and third reading in the



Legislative Yuan. (Shih Hsiu-chuan, *Residents Disappointed over Landmines Act*, TAIPEI TIMES, Apr. 3, 2006, <http://www.taipeitimes.com/News/taiwan/archives/2006/04/03/2003300671>.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Export Controls Tightened on Strategic, Sensitive Goods

On May 22, 2006, Taiwan’s Bureau of Foreign Trade (BOFT) issued a Public Notice on the revision of the Categories of Strategic High-Tech Commodities and the Restricted Areas for Export, to take effect on June 1, 2006. The legal basis for the notice is article 13, paragraph 3, of the Foreign Trade Act (promulgated on Feb. 5, 1993; as last amended on June 12, 2002).

The explanation accompanying the Public Notice states that the revision was done “[t]o comply with international export control rules and prevent the shipment of sensitive commodities to Iran and North Korea, where they may be converted for military uses or for the development of weapons of mass destruction” of various types. Specifically, eighty-seven items have been added to the Strategic High-Tech Commodities list under the natural graphite category. The explanation further states that exporters are required to apply to BOFT or authorized permit-issuing agencies for an export permit before exporting, re-exporting, transiting, and/or transshipping any commodity on the Sensitive Commodities List through Taiwan to Iran and North Korea. The exporter must also provide detailed lists of the commodities and apply for a permit from BOFT or the aforementioned agencies. (*Public Notice Announcing a Revision of the Categories of Strategic High-Tech Commodities and the Restricted Areas for Export, That Will, Moreover, Take Effect Starting from June 1, 2006*, Taiwan Association of Machine Industry website, http://www.tami.org/news/government_950601.htm; BOFT, Foreign Trade Act, Oct. 9, 2003, http://ekm92.trade.gov.tw/BOFT/web/report_detail.jsp?data_base_id=DB011&category_id=CAT457&report_id=3243.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Increased Employment Access for Handicapped and Disabled Persons

On April 23, 2006, at a ceremony marking the tenth anniversary of the implementation of the Law on Protection of the Handicapped and Disabled, Premier Su Tseng-chang announced three policies to give handicapped and disabled persons wider access to vocational opportunities in Taiwan. First, there will be an annual twenty percent increase in the government appropriation for enhancing employment for such persons, from NT\$890 million (about US\$28 million) in 2006 to NT\$1.7 billion in 2007. Second, there will be a twenty percent annual increase in the number of jobs made available by the Employment and Vocational Training Administration under the Council of Labor Affairs, from 7,000 postings in 2005 to 8,400 in 2006. Third, a shortfall of 3,400 handicapped and disabled persons unemployed in 2005, the result of companies not meeting the government requirement that they have a quota of physically challenged employees, is to be reduced by twenty percent to 2,720 in 2006. (*Premier Announces Wider Career Access to Handicapped*, CENTRAL NEWS AGENCY, Apr. 23, 2006, Open Source Center No. CPP20060423968039.)

(Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN – Legislature Considers First Recall Referendum Against President

On June 12, 2006, lawmakers in Taiwan led by the “pan-blue” alliance of the Kuomintang (Nationalist Party) and the People’s First Party, voted 113-97 to hold an extraordinary legislative session, beginning on June 13, to consider a plan for holding a referendum on whether to remove President Chen Shui-bian. After the President defends himself in a statement to the legislature, that body has fifteen days to take a vote on whether to refer the issue to Taiwan’s voters. This is the first time that Taiwan has



formally instituted the process of a recall initiative against a President. Two-thirds of the 225-seat legislature must vote in favor for a referendum to be held, and observers deem it unlikely that the opposition, with its slim parliamentary majority, will succeed. However, the move might place additional pressure on the embattled president to resign ahead of the scheduled expiration of his term in two years.

Although Chen has not been personally implicated in wrongdoing, the opposition has accused his wife and son-in-law of illicit activities. In the wake of the scandal, on May 31, 2006, Chen relinquished some of his major decision-making powers to Premier Su Tseng-chang, who will be in charge of the administration, although Chen will remain in control of foreign affairs, the military, cross-Strait ties and national security. Chen also will no longer be involved in his party's (the Democratic Progressive Party) decisions. In his first rebuttal of the recall campaign, issued on the website of the Office of the President on June 9, Chen deemed the move "a new version of the kangaroo court trial done repeatedly during China's proletarian cultural revolution." (Annie Huang, *Taiwan's Legislature Agrees to Consider Recall Referendum Against President*, ASSOCIATED PRESS WORLDSTREAM, June 12, 2006, & *Chen Likens Recall Motion to Kangaroo Court*, CHINA POST, June 9, 2006, LEXIS/NEXIS, News Library, 90days File; *Taiwan's Chen Hands over Some Powers Amid Scandal*, MEDIACORP NEWS, June 1, 2006, http://www.channelnewsasia.com/stories/afp_asiapacific/view/211420/1/.html.) (Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN -- Opposition Attempts to Copy U.S. Congressional System

The opposition "pan-blue" alliance made an attempt on June 16, 2006, to copy the congressional hearing system from the United States, just as Taiwan's legislature was set to review a historic motion for recalling President Chen Shui-bian in late June 2006. The legislative caucus of the main opposition party, the Kuomintang of Nationalist Party, said that if the new measures were adopted, the Kuomintang and its pan-blue ally, the People First Party, would invite the President and his wife to answer charges against them at the Legislative Yuan.

Kuomintang legislator Kao Sze-po said that the new measure, which is being drafted by a lawyer, will offer a forum "like a court hearing," in which the defendants have ample time to defend themselves while helping to "find all the facts for the nation." (*Opposition Attempts to Copy U.S. Congressional System*, TAIWAN HEADLINES, Jun. 15, 2006, <http://english.www.gov.tw/TaiwanHeadlines/index.jsp?catid=8&recordid=95891>.) (Rui Geissler, 7-9864, rgei@loc.gov)

TONGA – Parliament Lawfully Opened

The Supreme Court of Tonga has ruled that the opening of Tonga's Parliament by the Princess Regent was lawful and in accordance with the Constitution and the Legislative Assembly Act. A complaint had been brought on the basis that Parliament was opened by the Princess Regent and not the King in person or by a commission of three nobles appointed by the King, in accordance with the Legislative Assembly Act. (*Lasike v Noble Tu'iha'angana* [2006] TOSC 22; CV 431-2006 (19 June 2006), PACLII, <http://www.pacii.org/to/cases/TOSC/2006/22.html> (last visited July 7, 2006); *Tongan Parliament to Reconvene After Setback*, PACIFIC ISLANDS REPORT, June 20, 2006, <http://pidp.eastwestcenter.org/pireport/2006/June/06-20-09.htm>.) (Lisa White, 7-9847, liwh@loc.gov)



VANUATU – Whale Sanctuary

Vanuatu has officially declared its territorial waters to be a whale sanctuary in accordance with the Fisheries Act 2005, Pt 8. Under the Act, it is an offense (punishable by a fine and/or two years imprisonment) to harm, harass, keep captive, import, or export any marine mammal, marine mammal part, or marine mammal product. Mammals, parts, and products found in Vanuatu are presumed to be taken from the whale sanctuary. The term “marine mammal” includes all species of whales, dolphins, porpoises, and dugongs. Whaling is a significant issue in the Pacific, as Japan seeks support from smaller Pacific states for its whaling activities. (*Vanuatu Establishes Whale Sanctuary*, PACIFIC ISLANDS REPORT, June 5, 2006, <http://pidp.eastwestcenter.org/pireport/2006/June/06-05-06.htm>.) (Lisa White, 7-44987, liwh@loc.gov)

EUROPE

BELARUS – Amendments to Citizenship Law

On June 16, 2006, the Belarusian legislature, the Council of the Republic, approved amendments to the Citizenship Law. Under the new law, which will enter into force on July 1, 2006, a child born in a foreign country to a Belarusian parent is automatically granted Belarusian citizenship, unless the parent decides otherwise. Under the Law currently in force, such a child becomes a citizen of the country of residence. The Law protects the citizenship of young Belarusians between fourteen and eighteen years old. Their citizenship can now be changed only upon their written consent certified by a public notary. The legislation also tightens the procedure for granting Belarusian citizenship to adults. It states that the fact that an applicant for Belarusian citizenship meets the necessary requirements does not guarantee that citizenship will be granted and leaves it up to the state authorities to decide whether or not to grant citizenship. Under the revised Law, the national interest will be the main factor taken into consideration in resolving citizenship issues. A new eligibility criterion for citizenship will be continuous residence in the country for at least three months every year for seven years prior to the filing of an application. In addition, the Law will make a fast-track citizenship procedure applicable only to those ethnic Belarusians who return to the country for permanent residence, excluding the currently eligible ethnic Belarusians who permanently reside abroad. About 200,000 ethnic Belarusians have restored their Belarusian citizenship according to the simplified procedure since Belarus declared its independence in 1991. (*Parliament News*, BELAPAN INFORMATION COMPANY, June 19, 2006, <http://www.securites.com/>.) (Peter Roudik, 7-9861, prou@loc.gov)

BELARUS – New Transportation Law

On June 19, 2006, Belarus' President Alexander Lukashenko signed into law the Bill on Transportation and Forwarding, which regulates the liability, rights, and duties of transporters and freight owners. The Law defines the rights and duties of forwarders and of shipment recipients. Special attention is paid to the right of the forwarder to withhold the cargo if the client does not fulfill its liabilities. The Law gives the cargo recipient the right to claim compensation and even sue the forwarder. For forwarding contracts, the period of limitation for claims is set at ten months; under transportation contracts, the period for claims is set at one year. The two-month difference is necessary for forwarders to have enough time to sue transportation companies.

As the press service of the Belarusian Parliament reported, the Law is designed to bring those forwarders who are inclined to operate legally out of the shadow economy. It is also expected that the Law will protect the rights of consignors and consignees and enhance liability for non-performance of



contracts. The Law is the first legal act in Belarus that regulates this sphere of the economy. According to the Belarusian Association of International Forwarders, there were 1,124 forwarding licenses in Belarus as of January 1, 2006. (PRIME-TASS BELARUS NEWSWIRE, June 19, 2006, <http://www.prime-tass.com/>.)

(Peter Roudik, 7-9861, prou@loc.gov)

BELGIUM – Law on Firearms

The Belgian Parliament adopted a new Law Regulating Economic and Individual Activities with Firearms. The Law tightens controls on the sale and ownership of firearms. It entered into effect on June 9, 2006, the date of its publication in LE MONITEUR BELGE, Belgium's official gazette. The Law transposes, in part, Council Directive 91/477/EEC of June 18, 1991, on Control of Acquisition and Possession of Weapons. The Law divides arms into three categories: prohibited arms, arms that can be sold freely, and authorized arms.

The Law lists seventeen categories of prohibited arms, including military weapons, switchblades, electric shock weapons, and sprays. Buying and carrying these arms were already prohibited under the previous legislation. The new law bans possession as well and allows the possessor a six-month period to hand over such arms to the police before facing criminal charges. Any firearms manufactured in or imported into Belgium must be entered into a Central Arms Register. A unique identification number will be assigned to each firearm. This measure aims at improving arms traceability.

Arms that can be sold freely includes most non-firearms, firearms transformed into non-shooting arms, or arms for collections. The authorized arms category covers any other arms. Authorization to possess is granted for a five-year period after police screening and a psycho-medical check. The five-year period is renewable. In addition, any person wishing to possess a weapon must provide a legitimate motive to do so. Only hunters may still possess a firearm without an authorization, provided they have a hunting permit, and depending on whether or not they have a criminal record and on their ability to use firearms. Authorizations to carry a weapon are only granted for three years, with an exception for sport shooters and hunters within the framework of their sport or hunting activities. Arms dealers will have to prove their professional competence and justify the source of their financial means to fund this profession. Their professional license will be granted for seven years, after which it has to be renewed.

Finally, penalties for violation of the Law have been strengthened. The maximum term of imprisonment is increased from three years to five and the maximum fine from €1,000 to €25,000 (about US\$1,279-\$31,964). (Loi réglant des activités économiques et individuelles avec des armes, LE MONITEUR BELGE, June 9, 2006, http://www.ejustice.just.fgov.be/doc/rech_f.htm.)

(Nicole Atwill, 7-2832, natw@loc.gov)

CZECH REPUBLIC – Tighter Control of Explosives

On June 1, 2006, Czech President Vaclav Klaus signed a law that tightens the rules for handling military ammunition and explosives. The primary purpose of the new legislation is to reduce security risks by preventing uncontrolled stockpiling of dangerous material. People trading in military materiel will be obliged to obtain a license, issued by the trade office on the basis of a police statement. Those who own military materiel but do not trade in it will be able to complete a registration process. There will be a transition period for existing businesses to comply with the new rules. (*Czech President Signs Law Tightening Trade in Explosives*, CTK, June 1, 2006, Open Source Center No. EUP20060601950079.)

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DENMARK – Welfare Reform Adopted

On June 20, 2006, all of the major political parties in the Danish Parliament reached an agreement on a proposed welfare reform bill. A majority of the Members of Parliament have been concerned about the aging population and the ability of the younger generation to generate enough tax revenue for a long time, and as a result, a welfare commission was set up in 2003.

The approved bill includes a retirement scheme that will delay early retirement as well as the age at which state pensions can be collected. The bill also sets the goal that ninety-five percent of young people should complete some kind of youth education and that by 2015 fifty percent will receive an advanced education. Furthermore, public funding for research will be increased by the year 2020. The bill also stipulates that those who are unemployed will, after nine months of receiving welfare payments, be put in a job placement program. Those between the ages of fifty-five and fifty-nine will no longer be eligible for unemployment benefits but will receive a job guarantee. (*Welfare Reform Secures Parliamentary Agreement*, DENMARK.DK THE OFFICIAL WINDOW, June 21, 2006, available at http://denmark.dk/portal/page?_pageid=374,610566&_dad=portal&_schema=PORTAL.) (Linda Forslund, 7-9856, lifo@loc.gov)

FRANCE – Law on Nuclear Transparency and Safety

Law 2006-686 of June 13, 2006, on Nuclear Transparency and Safety overhauls France's Nuclear Safety Authority and provides for greater public access to nuclear safety-related information. The Law creates a new independent Nuclear Safety Authority (ASN). The previous authority was part of the administration and reported to the three ministers responsible for industry, the environment, and health.

The new ASN "participates in the regulating of nuclear safety, radiation protection, and information." It will consist of a five-member body to be appointed by decree. Three members, including the Chairman, will be appointed by the President of the Republic, and one each will be selected by the Presidents of the National Assembly and of the Senate for six-year non-renewable terms. However, for the initial composition of the ASN, the Chairman will serve for a term of six years, with the other two members named by the President of the Republic to serve for terms of four and two years. The remaining two members will be appointed for four-year terms. The Law also provides that no member of the ASN can be older than sixty-five when appointed.

The Law contains several provisions aimed at increasing public access to information on nuclear safety. One provision requires that operators of major nuclear facilities prepare an annual report on measures taken for nuclear safety and protection against radiation, including information on the nature and quantity of retroactive wastes stored in such facilities. Local information commissions must be established at each site that contains one or more nuclear facilities to provide information to the public on the impact of these sites on people and the environment. The Law further creates a High Committee for Transparency and Information on Nuclear Safety charged with providing information to the public through debates, opinions, and reports prepared by experts. It will also prepare an annual report, which will be made public.

Finally, the Law contains provisions on basic nuclear facilities, the transport of radioactive substances, the reinforcement of the role of nuclear facility employees in risk prevention, inspections, and penalties in cases of non-compliance with regulations. (Loi 2006-686 du 13 juin 2006 relative à la transparence et à la sécurité en matière nucléaire, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=DEVX0100081L>.) (Nicole Atwill, 7-2832, natw@loc.gov)



FRANCE – Law on Sustainable Management of Radioactive Materials and Wastes

Law 2006-737 of June 28, 2006, on Sustainable Management of Radioactive Materials and Wastes establishes a national policy for nuclear waste management. This policy calls for research and development work leading to: (1) the construction of a prototype transmutation reactor by the end of 2020; (2) the choice of a site and the building on that site of a deep geologic repository for retrievable disposal of final wastes by 2015 and the operation of that facility by 2025; and (3) the creation of long-term interim storage facilities and/or modification of existing facilities by 2015.

In addition, the Law provides several definitions of nuclear material and waste. Radioactive wastes, for example, are defined as “radioactive substances for which no future use is projected or envisaged,” while final radioactive wastes are “those substances that can no longer be treated by means of the technical and economic conditions of the time, notably by extracting their useful materials or by reducing their polluting or dangerous characteristics.”

The Law further prohibits long-term storage of foreign radioactive wastes in France and any import into France of foreign used fuel or wastes for treatment or research purposes. Transfers among foreign states must be covered by an inter-governmental agreement stipulating processing schedules and end uses. These agreements must be published in the OFFICIAL GAZETTE of France. (Loi 2006-739 du 28 juin 2006 de programme relative à la gestion durable des matières et déchets radioactifs, http://www.legifrance.gouv.fr/html/actualite/actualite_legislative/2006-739/dechet_radioactif.htm (last visited July 11, 2006).)

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GERMANY – Ethnic and Religious Profiling Outlawed by Constitutional Court

On April 4, 2006, the German Federal Constitutional Court ruled that a computer-aided profiling program that was used by the State of North-Rhine Westphalia after September 11, 2001, to discover Islamic terrorists, violated the constitutional right of privacy (Docket number 1 BvR) 518/02). The program was based on the police laws of the states and was instituted by agreements between the states and the Federal Criminal Office. The program involved the collection and use of data from various governmental and private sources. The search profile targeted men between the ages of eighteen and forty who professed to be Muslim and who were born in countries with a preponderant Muslim population or who were nationals of such countries. The Court held that the police laws of the states permit such broadly based computer-aided searches that collect data from many innocent individuals only in case of an imminent danger. It also held that no such danger existed after September 11, thus making the search unduly intrusive and thereby violating the constitutionally guaranteed right of privacy.

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GERMANY – Neo-Nazis Convicted as Terrorists

On January 10, 2006, the German Federal Court of Justice upheld a decision of the Higher Regional Court of Brandenburg that had convicted several right wing radicals of having formed a terrorist organization (docket number of the Federal Court decision: 3 StR 263/05; docket number of the Brandenburg Higher Regional Court decision: 1 – 5600 OJs 1/04 (1/04). The perpetrators had been convicted in accordance with section 129a of the Criminal Code (BUNDESGESETZBLATT 1998 I at 3322, as amended) for having conspired to intimidate foreigners living in Germany through acts of violence, including arson.

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ITALY – Court Testimony by Veiled Muslim Women

On June 6, 2006, in a trial of six people including Shaykh Abderrazak, charged with international terrorism, two female witnesses appeared before the First Court of Assizes of Milan with black veils completely covering their faces. The presiding judge, Luigi Cerqua, ruled that in order to verify the identity of the defendants' witnesses, the two Moroccan, Muslim women would be accompanied to a separate room and asked to take off their veils before a female police officer. The judge also ruled that these two witnesses would provide their testimony without veils behind a screening glass. Italian law states that in order to evaluate the reliability of the witnesses, it is necessary to look into their faces when they speak. "A blush of color on the face, a grimace, a twitch can reveal more than a word." (*Court Testimony by Veiled Muslim Women Brings Laws, Rights Into Conflict*, LA REPUBBLICA, June 7, 2006, Open Source Center No. EUP 20060607058006; *Terrorismo: Testimoni Velate, Identificate Fuori Dall'Aula; Sceicco Abderrazak Chiede Che Processo Venga Velocizzato*, ANSA NOTIZIARIO GENERALE IN ITALIANO, June 6, 2006, LEXIS/NEXIS, Europe Library, ANSAIT file.) (Grazyna Kolondra, Visiting Scholar in Residence, 7-4988, gkol@loc.gov)

ITALY – Jailing of Convicted, Illegal Immigrants Rejected

On June 6, 2006, Italy's highest court (the Court of Cassation) recently ordered the release from prison of Isabel M., who had been arrested in Bologna and sentenced to eight months' imprisonment for refusing to obey an expulsion order. The young immigrant was arrested for the third time for the same crime. Although the Court of Cassation respected the strictness of the 2002 Bossi-Fini Immigration Law, which introduced sanctions for irregular migrants from non-European Union countries, it rejected the jailing of illegal immigrants. Specifically, it ruled that

a foreigner already convicted for not having voluntarily complied with the expulsion order imposed on him by the chief of police cannot be arrested in case of repeat offenses; at most, only reception at a residence center can be ordered for him As for the hypothesis that the foreigner had already received a first conviction for violation of the order from the police chief to leave the territory in which he arrived illegally, it is no longer possible to proceed to a new arrest.

The Court also explained that the ruling "expresses the intention of the legislator to allow accompaniment to the border as the only form of execution of the new expulsion procedure adopted regarding foreigners, even if already convicted." If the illegal immigrants cannot be immediately accompanied to the border, "only reception at a residence center can be ordered for the necessary verifications of the identity and nationality of the immigrant, in view of the forced execution of the measure." (*Italy: Top Court Rejects Jailing of Illegal Immigrants Even If Repeat Offenders*, LA REPUBBLICA, June 7, 2006, Open Source Center No. EUP 20060607058007.) (Grazyna Kolondra, Visiting Scholar in Residence, 7-4988, gkol@loc.gov)

LATVIA – Enhancement of Fair Competition Rules

On June 20, 2006, the Latvian legislature approved amendments to the Law on Competition, drafted jointly by the Ministry of Economics and the Competition Council. These amendments are aimed at preventing actors with significant market shares from imposing unjust conditions on their suppliers – farmers and the food processing industry. The Law was amended in response to protests from Latvian grocery and food suppliers who claim that what they call harsh conditions regarding pricing and delivery imposed by major food retailing chains create unfair treatment. Claims of discrimination by food suppliers include up to six-month payment delays for food delivered to retail chains and contractual responsibility for spoilage, even if the produce was spoiled as a result of improper storage or handling by



the retailer. Initially, there were demands to pass a law on the organization of trade, but this was viewed by legislators as excessively market-distorting.

It is believed that the new approach will prevent retailers from applying different conditions to different suppliers of the same products. The adopted changes apply to retailers who have “significant market share,” which is defined as having turnover of more than LVL 70 (approximately US\$50 million) per year. They could also be applied outside the food retailing area, for example, to fuel retailers and pharmacies. (*New Latvian Law to Better Protect Small Players Against Dominant Retailers*, BALTIC BUSINESS NEWS, June 20, 2006, <http://www.securities.com/>.)
(Peter Roudik, 7-9861, prou@loc.gov)

LITHUANIA – Biometric Data Included on Passports

On June 20, 2006, the Lithuanian Parliament adopted laws prepared by the Interior Ministry legitimating the use of biometric data. Following this decision, the national government approved a new Statute on the Lithuanian Passport and ordered that as of this fall biometric data – digital photographs and fingerprints – will be included on Lithuanian citizens' passports. In accordance with EU standards, the issuance of passports containing digital photographs of passport holders will be started no later than August 28, 2006, and within three years all Lithuanian citizens will exchange their passports for those containing biometric information. Use of so-called biometric passports is one of the conditions for Lithuania to achieve a visa-free regime with the United States. Only members of the government, parliamentarians, and diplomats have such passports in Lithuania at present. (*Biometric Data to Be Included in Lithuanian Citizens' Passports*, BNS BALTIC NEWS SERVICE, June 20, 2006, <http://www.securities.com/>.)
(Peter Roudik, 7-9861, prou@loc.gov)

NETHERLANDS – Social Integration Law Debated

The Christian Democratic Appeal (CDA) parliamentary group criticized the draft of a new law of social integration, scheduled for debate in The Netherlands in June 2006, as insufficiently stringent. CDA members and their allies in the People's Party for Freedom and Democracy (VVD) want a more ambitious bill, one that would impose stronger requirements on immigrants already living in The Netherlands, particularly on their language skills. The new law on social integration, due to become effective in 2007, will include a compulsory social integration examination, to be taken within five years of arrival in the country. The existing plan was drawn up in consideration of the lack of education of many long-term immigrants; it requires them to meet only A-1 level test requirements in reading and writing Dutch, while newcomers would face higher standards (A-2 level). Others, including Chamber member Sterk, are concerned that many immigrants do not even have the linguistic skills to read notices from their children's schools. She said,

We are introducing this more stringent social integration system because we believe that many immigrants have insufficient command of the language, even after a stay of sometimes decades in the Netherlands. ... We will not resolve that problem by requiring just the A-1 level of them.

(*Netherlands Christian Democrats Suggest Tightening Social Integration Criteria*, NRC HANDELSBLAD, June 8, 2006, Open Source Center No. EUP20060609024002.)
(Constance A. Johnson, 7-9829, cojo@loc.gov)



NORWAY – Veils Prohibited in Schools in Oslo

On June 20, 2006, the Norwegian Ministry of Education approved a decision by the municipality of Oslo to introduce a ban in schools on veils that completely cover the face, except the eyes, called *niqab*. The prohibition only includes *niqabs* and not other forms of headscarves. The reason for prohibiting these scarves in schools is that they make it hard for teachers to teach when they cannot see their students' facial expressions or mouths. (*Slöjförbud i Norska Skolor*, DAGENS NYHETER, June 21, 2006, available at <http://www.dn.se/DNet/road/Classic/article/0/jsp/print.jsp?&a=554479>.) (Linda Forslund, 7-9856, lifo@loc.gov)

POLAND – Investigation of Presidential Election Campaign Funding Claims

Jacek Kurski, of Poland's ruling Law and Justice Party (PiS), filed charges with the National Prosecutor's Office against Donald Tusk, a leader of the Civic Platform Party (PO), claiming Tusk's 2005 presidential election campaign was illegally financed by the PZU state insurance company. Kurski claims that PZU paid for Tusk's campaign billboards "by buying out a driving safety campaign and selling off the billboards to the PO for one-third of their price through an agency tied to Rafak Olechowski, son of PO co-founder Andrzej Olechowski." (*Polish Ruling Party Deputy Accuses Opposition Leader of Election Crime*, WARSAW PAP, June 14, 2006, Open Source Center No. EUP 20060614950044.)

On June 14, 2006, the Warsaw District Prosecutor's Central Bureau of Investigations (CBS) secured all documents at the PZU headquarters in Warsaw pertinent to the accusations against the PO representatives. The spokesman for the prosecutor's office said that the cost of the billboard campaign by the PO "must have oscillated between the amounts of 25m and 30m zlotys" (roughly US\$7,800,000-9,400,000). (*Polish Prosecutors Move Quickly to Investigate Election Funding Accusations*, WARSAW TV POLONIA, June 14, 2006, Open Source Center No. EUP 20060614950059; *Polish State Insurer PZU Possible Victim in Political Party Advertising Scandal, Prosecutors Say*, ONET.PL BIZNES, June 19, 2006, <http://biznes.onet.pl/>.)

As a result of the investigation, on June 21, the PO sued Kurski for slander in a Warsaw court. The party and its leader seek an apology for public slander and payment of a 100,000 *zloty* (about US\$32,000) fine to the Caritas charity organization as compensation. (*Polish Opposition Party Sues Ruling Party Deputy in Billboards Case*, WARSAW PAP, June 21, 2006, Open Source Center No. EUP 20060621950066.) (Grazyna Kolondra, Visiting Scholar in Residence, 7-4988, gkol@loc.gov)

PORTUGAL – New Job Visas for Aliens Outside the EU

A new law is being proposed that would allow aliens outside the European Union (EU) to come to Portugal and work on a temporary residency visa. At present, only aliens from the EU Member States have the right to live and work in Portugal without getting a visa.

Pursuant to a 2002 law, aliens from outside the EU who want to live in Portugal must have a valid work contract in Portugal before they arrive and must apply for a work visa from their homeland. Under the proposed law, aliens would be able to come to the country legally to find work, giving Portuguese employers the opportunity to hire them, said the Minister of Interior, Antonio Costa. In order to qualify for a temporary residency visa, the alien must register with a Portuguese job center and an employer must



show interest in hiring the person. (*Portugal Mulls Changes in Job Visas for Foreigners*, JOURNAL OF TURKISH WEEKLY, June 1, 2006, available at <http://www.turkishweekly.net/news.php?id=32687#>.) (Eduardo Soares, 7-3525, esoa@loc.gov)

RUSSIAN FEDERATION – Definition of Extremism Expanded

On June 6, 2006, the State Duma of the Russian Federation adopted amendments to the Federal Law on Combating Extremist Activities. The Law has been criticized for its very broad and vague definition of extremism, which allows the authorities to recognize a wide spectrum of activities as extremist. It contains a set of very repressive measures that can be taken against a public association, media outlet, religious organization, or an individual. Recently approved amendments introduce criminal responsibility for those who have produced, manufactured, or authored materials later recognized as extremist and provide for a ban on electoral registration for political parties and individual candidates if they were somehow involved in extremist activities. The supporters of the Law stated that these amendments improve law enforcement and stop activities of radical groups. The Law has been only rarely applied, as acts of extremism are usually characterized and prosecuted as ordinary hooliganism. (INFORMATION BULLETIN OF THE RUSSIAN STATE DUMA, State Duma website, <http://www.akdi.ru/gd/NEW05/217.htm> (last visited June 19, 2006).) (Peter Roudik, 7-9861, prou@loc.gov)

UNITED KINGDOM – Anti-Terrorism Laws Dealt Another Legal Blow

On June 29, 2006, it was reported that the British Government's anti-terrorism laws have once again been dealt a blow by the judiciary, with the High Court quashing control orders that applied to six Iraqi nationals living in Britain. Control orders were introduced after the U.K.'s regime of detention without charge or trial had to be replaced as a result of an adverse judgment of the House of Lords. Control orders impose restrictive bail-like conditions that essentially amount to home arrest on individuals who are suspected of being international terrorists but who cannot be tried, either due to a lack of evidence or to the fact that the available evidence is sensitive or has been obtained by sensitive methods. The Government has expressed continued frustration at the judiciary's interpretation of the laws they have passed and has repeatedly noted that they may take steps to curb the power of the judiciary. (Robert Verkaik, *High Court Quashes Control Orders on Iraqis*, INDEPENDENT, June 29, 2006, <http://news.independent.co.uk/uk/legal/article1129703.ece>.) (Clare Feikert, 7-5262, cfei@loc.gov)

UNITED KINGDOM – Judge's Inquiry Highly Critical of British Prisons

In June 2006, Britain's Law Lords took the unprecedented step of ordering the government to conduct a public inquiry into the murder of an Asian teenager who was placed in a prison cell with a known racist. The High Court judge who conducted the inquiry has been highly critical of the state of British prisons and described the murder as "a preventable death."

The inquiry noted that vulnerable prisoners were being insufficiently protected, and their welfare was being jeopardized, due to over-crowding and under-funding, which was compounded by low staff morale, incompetence, and an indifferent attitude towards hate crimes. The inquiry also took note of the problem of prisons and sentencing being paradoxical electoral issues, as neither reducing sentencing terms nor increasing funding for prisons when sentencing increases are vote winners. (Brian Keith, 1 REPORT OF THE ZAHID MURBAREK INQUIRY (2005-2006) HC 1082-I, http://report.zahidmubarekinquiry.org.uk/volume_one.pdf.) (Clare Feikert, 7-5262, cfei@loc.gov)



NEAR EAST

EGYPT – Parliament Asks Government to Prohibit *The Da Vinci Code*

Members of the Egyptian Parliament asked the government to confiscate the Arabic and English versions of *The Da Vinci Code*, the book by Dan Brown, and prevent its import and display in Egypt, as they consider it offensive against Jesus Christ. The Government has confirmed that it will not allow the book or the movie based on it into the country. (*Parliament Asks the Government to Prohibit The Da Vinci Code*, AL-SHARQ AL-AWSAT, June 14, 2006, <http://www.asharqalawsat.com/>.) (Issam Saliba, 7-9840, isal@loc.gov)

IRAN – Ban on Smoking in Public Places

The Iranian legislature adopted a comprehensive law banning smoking in public places and transportation vehicles. Violators may be subject to a fine of from 5,000 to 10,000 *Tomans* (about US\$5 - \$10). The law bans the sale of cigarettes to persons under eighteen years of age. Violation of this provision of the law is punishable by a fine of about US\$11 - \$55.

Government offices are included among places where smoking is prohibited. If the violators are members of the staff, they may be subject to disciplinary punishments. The law permits the government to raise the minimum and maximum fines every three years, based on inflation indexes. The executive regulations for the law will be prepared by the Ministry of Health, Treatment, and Medical Education and by the Iran Opium Company, with the approval of the Council of Ministers. (*Smoking in Public Places May Cost 10,000 Tomans*, HAMSAHRI DAILY NEWSPAPER, May 11, 2006, at 3.) (G.H. Vafai, 7-9845, gvaf@loc.gov).

IRAQ – Parliament Approves Internal By-Laws

On June 14, 2006, the Iraqi Parliament unanimously approved its internal by-laws following several weeks of debate regarding the authority of the Speaker. Three parliamentary blocks argued for the Speaker's authority to be shared with his two deputies. The Parliament has also approved, following heated debate, a proposal that requires reading from the holy Koran at the beginning of each parliamentary session. (*Iraqi Parliament Approves Its Internal Bylaws*, AL-SHARQ AL-AWSAT, June 15, 2006, <http://www.asharqalawsat.com/>.) (Issam Saliba, 7-9840, isal@loc.gov)

ISRAEL – Assassin Granted Permission to Procreate

On June 13, 2006, Israel's Supreme Court, sitting as a High Court of Justice, accepted a petition by Igal Amir to allow him to transfer his sperm sample out of prison so that his wife could be impregnated by in vitro fertilization. Amir is serving a life sentence for the assassination of Prime Minister Rabin. He was prevented from having conjugal visits for security reasons.

The Court held that the right of a person to have a family and to be a parent is based on the right to dignity that derives from the Basic Law: Human Dignity and Liberty. This right applies to prisoners, including those serving a life sentence. The public's rejection of Amir's crime is not relevant to limiting his right to procreation, the Court stated, and the notion that it is possible to limit a prisoner's rights based on the severity of his offense is foreign to Israel's principles of criminal law and determination of penalties. The Court further held that such an approach also contradicts the substantive principles of the State of Israel as a Jewish and democratic state and "does not express any proper and proportional



objective.” (H.C. 2245/06 Dovrin et al. v. Prison Authority et al., <http://www.court.gov.il/> (last visited June 19, 2006).)

(Ruth Levush, 7-9847, rlev@loc.gov)

ISRAEL – Money Laundering Databank

On June 19, 2006, the Knesset (Israel’s Parliament) Committee for Constitution and Law refused to approve subsidiary legislation initiated by the Minister of Justice. The legislation was intended to enable the police and the general security agency to use confidential information from a money laundering databank in the investigation of unrelated criminal offenses. Members of the committee argued that the databank was not intended to be used for other purposes and that there was a danger that, once the information is used other than for implementation of the money laundering legislation, the databank authority would lose control over the data and the privacy interests of the public would be irreversibly harmed. (Zvi Lavi & Hadas Magen, *Constitution Committee Refused to Approve Extension of Use of the Databank of the Authority for Prevention of Money Laundering*, GLOBES ONLINE, <http://www.globes.co.il> (last visited June 19, 2006).)

(Ruth Levush, 7-9847, rlev@loc.gov)

JORDAN – Criminal Case Pursued Against Members of Parliament

Judicial sources have confirmed that the Government of Jordan will bring charges against four members of the Jordanian Parliament who offered condolences relating to the death of Al-Zarqawi in Iraq. It has also been announced that a defense committee of elite Jordanian attorneys has been formed to defend the four Islamist parliamentarians, Ali Abou Sukkar, Mohammed Abou Fares, Ja'afar al-Hourani and Ibrahim al-Mashoukhi. (*Criminal Case Pursued Against Members of Parliament*, AL-SHARQ AL-AWSAT, June 19, 2006, <http://www.asharqalawsat.com/>.)

(Issam Saliba, 7-9840, isal@loc.gov)

SAUDI ARABIA – Government Orders Autopsy

Saudi Arabian authorities have ordered an autopsy of the bodies of two Saudi nationals thought to have committed suicide at Guantanamo Bay, Cuba. A cousin of one of the dead men said on June 16, 2006, that the Saudi Government ordered the autopsy with the approval of the family to determine the real cause of death. The family of a Yemeni who died at Guantanamo is said to have refused to bury him and demanded an investigation into his death. (*Saudis to Probe Guantanamo Deaths*, AL-JAZEERA, June 17, 2006, <http://english.aljazeera.net/HomePage>.)

(Issam Saliba, 7-9840, isal@loc.gov)

SAUDI ARABIA – Study of Possible Law Regulating *Fatwas*

The Saudi Government is conducting a study of a possible law to combat the phenomenon of chaos in the issuance of *fatwas* (religious edicts). Islamic scholars complain that untrained people believe themselves qualified to issue *fatwas*, despite lacking all the necessary qualifications for *Ifta* (the function of issuing *fatwas*). Sources of the AL-HAYAT newspaper stated that the Saudi Government is putting the final touches on a country-wide system of regulations that will control the issuing of *fatwas* in the Kingdom, in order to limit the practice to qualified *Ulama* (clerics and other Muslim scholars). (*Saudi Arabia Is Conducting a Study to Combat the Fatwa Chaos Phenomenon*, AL-ARABIYA, June 14, 2006, <http://www.alarabiya.net/Articles/2006/06/14/24695.htm>.)

(Dr. Abdullah F. Ansary, 7-6303, aans@loc.gov)



SOUTH ASIA

BANGLADESH – Tax Imposed on Polygamous Marriages

Polygamy is valid in Bangladesh. Under the current practice, men marrying more than once are subject to a regulation that includes seeking permission from the existing wife/wives; they are subject to penalties if they do not seek that permission. This restriction on the practice of polygamy is imposed by the Muslim Family Law Ordinance of 1961.

According to section 5 of this Ordinance, no man is to contract a subsequent marriage without the previous, written permission of the Arbitration Council if he already has a wife or wives living, and such marriages contracted without such permission will not be registered. An application for permission must be submitted to the Chairman of the Arbitration Council in the prescribed manner, together with the required fee, and must state the reasons for the proposed marriage and whether the consent of the existing wife or wives has been obtained.

There were no taxation consequences for the practice of polygamy in Bangladesh until 2006. In June, Mayor Mijanur Rahman Minu of Rajshahi announced the imposition of a municipal tax on polygamy in Rajshahi, the fourth largest city in the country. This measure became effective on July 1, 2006. As part of the Rajshahi City 2006-2007 budget, any man marrying a second wife will face a one-time tax of \$142 (10,000 *taka*), a one-time tax on a third bride of \$444 (30,000 *taka*), and on a fourth bride it will be \$591 (40,000 *taka*). (*Bangladesh Polygamy Tax*, ISLAMIC REPUBLIC NEWS AGENCY, June 6, 2006, <http://www.irna.ir/en/news/view/menu-239/0606065094105102.htm>.) (Shameema Rahman, 7-3812, srah@loc.gov)

INDIA – Courts Do Not Run Country’s Administration

Citing examples of some Western countries where the deaf also have the qualified privilege of driving a vehicle, a Public Interest Litigation (PIL) petition, filed by the National Association of the Deaf, recently came up for a hearing before the Supreme Court of India. It sought to have the Court direct the relevant authorities to issue driving licenses to the deaf in India. In summarily dismissing the petition, the Court directed the petitioner to make a representation to the concerned authorities on the issue.

The Court also admonished the petitioner for approaching the Court in regard to such a matter. It observed that “courts should not try to run the country and judges must exercise restraint or else there would be reaction.” It further observed that judges should not enter into the domain of the executive. (*Court Should Not Try to Run the Country: SC*, INDLAW.COM, May 8, 2006, <http://www.indlaw.com>.) (Krishan Nehra, 7-7103, kneh@loc.gov)

INDIA – Disqualification of Members of Parliament

Following the disqualification of some of the Members of Parliament based on the recommendation of the Election Commission of India, it was found that forty-six additional MPs and 229 members of legislative assemblies of the states faced the prospect of being disqualified for holding a second, paid office. Article 102 of the Constitution of India forbids lawmakers from holding a second “office of profit” unless the second office is exempted by the Parliament (Prevention of Disqualification) Act, 1959.

The President of the Congress Party, Sonia Gandhi, at one time also held the post of Chairmanship of the National Advisory Council. The Speaker of the Parliament, Somnadh Chatterjee,



had been in a similar, potentially embarrassing position of holding posts that would result in disqualification. In order to avoid this, the Parliament approved a bill seeking to exclude forty-six posts, held by Members across the political spectrum, from being considered as offices of profit. After the bill was passed on May 17, 2006, however, the President of India refused to give his assent and returned it to the Parliament on May 25, 2006, for reconsideration. The President stated in his recommendation: “There should be no ad hoc approach in judging an office of profit.” The President also felt that the bill should be based on a proper and settled interpretation of office of profit as stated in the Constitution. (*President Returns Office of Profit Bill for Reconsideration*, THE TIMES OF INDIA, May 31, 2006, <http://timesofindia.indiatimes.com/articleshow/1598227.cms>; *Constitutional Procedure: Congress & Court Notice to Centre, EC*, THE HINDU, May 31, 2006, <http://www.hindu.com/2006/05/31/stories/2006053121571700.htm> & <http://www.hindu.com/2006/05/31/stories/2006053109021200.htm>, respectively.)

(Krishan Nehra, 7-7103, kneh@loc.gov)

INDIA – Rape Victim’s Sole Testimony Sufficient for Conviction

In the wake of rising crime against women, the Supreme Court of India ruled that a rape victim’s “sole testimony,” if trustworthy, would be considered sufficient to uphold conviction of a defendant. The Court stated that in cases where circumstantial evidence shows that the victim did not have a “strong motive to falsely” implicate the accused, the trial court must not hesitate to accept her sole statement as evidence.

The Court observed that it was settled law that the trial court must not treat a rape victim as an accomplice in the offense and require corroboration of her testimony by other evidence, including medical evidence, and that the victim’s testimony could be considered sufficient even if the medical report did not support her story. Apparently, the Court took into account recent cases where medical tests were conducted after the lapse of a considerable amount of time after the rape. Generally, Indian women have a tendency to conceal such offenses for fear of loss of personal and family prestige. Only in some cases does the victim have the courage to go to the police station to lodge a complaint.

However, the Court reduced the convicted person’s sentence in the case under consideration from ten years of rigorous imprisonment to seven, on the grounds that he did not know of the victim’s pregnancy. (*Rape Victim’s Statement Enough for Conviction: SC*, THE TRIBUNE, May 17, 2006, <http://www.tribuneindia.com/2006/20060518/main7.htm>.)

(Krishan Nehra, 7-7103, kneh@loc.gov)

MALDIVES – Defamation to Become Civil Matter

Speaking on television in early June 2006, Maldives Attorney-General Hassan Saeed said that libel and slander are expected to become civil offenses within the month. He explained the rationale for changing the treatment of those cases from criminal to civil by stating,

In many countries of the world libel and slander do not fall under the criminal justice system. They are considered offences that would be followed with civil actions. We in the Maldives are also trying to categorize defamation under civil justice.

Saeed added that defamation cases would no longer be filed through the police and the Attorney-General’s office. Members of the media, including writers and editors, will be subject to fines and damage assessment if they lose cases, but will not face jail time. The plan to adopt the new system in the very near future was criticized by some press members who question whether new legislation can be



properly adopted in the short time frame identified by Saeed. (*Defamation to Become a Civil Offence in June*, MINIVAN NEWS, June 11, 2006, <http://www.minivannews.com/news/news.php?id=2170>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

NEPAL – Declaration on Being Untouchability- and Discrimination-Free

On June 4, 2006, the Parliament declared Nepal to be an “untouchability-and-discrimination-free country.” The declaration is viewed as a significant step towards creating an equitable society, one that will bring *dalits* (untouchables), who reportedly comprise almost twenty-two percent of the population, and other disadvantaged groups into the mainstream and ensure the dalits’ fair representation in the formation of a constituent assembly and a new constitution. According to the Minister for Law, Justice and Parliamentary Affairs, Narendra Bikram Nembang, “[t]he practice of untouchability will [from] now onwards be considered as a social crime and the government will enact laws in such a way that the inhuman and discriminatory practice is more punishable.” The Minister made his remarks prior to tabling the proposal and also stated that a new bill on the subject would soon be introduced and that the government would make special arrangements for *dalits* in the areas of education and employment, in addition to those already in force. (*Parliament Declares Nepal “Untouchability”-Free*, EKANTIPUR.COM, June 5, 2006, Open Source Center No. SAP20060605950001.) (Wendy Zeldin, 7-9832, wzel@loc.gov)

NEPAL – Historic Proclamation to Curb Royal Powers

The House of Representatives of Nepal, restored after having been dissolved four years ago, unanimously endorsed House Proclamation 2063 on May 18, 2006, declaring the House the supreme authority of the country, bringing to an end the divine rule of King Gyanendra (the world’s last Hindu monarch), drastically curbing his powers, and declaring the nation secular. In April, after mass pro-democracy demonstrations organized by seven political parties in a loose alliance with Maoist rebels, the King was forced to relinquish the absolute rule he had instituted in February 2005 and reinstate the legislature. The King had sacked the government and taken direct control of the country on the grounds that the parties were corrupt and had failed to halt the decade-old Maoist insurgency. Among other moves, the proclamation also changes the name of “His Majesty’s Government of Nepal” to “Nepal Government,” brings all security branches (including the army) under the direct control of parliament, puts appointment of the chief of army staff as well as all executive rights in the hands of the Council of Ministers, and declares provisions of the Constitution of Nepal 1990 and other laws that contravene the proclamation to be null and void to the extent of the contravention. The King can also now be called before the legislature and the courts.

The House did not abolish the monarchy, even though this was a key demand of the Maoists. Commentators point out that Nepal’s future political course will depend on how the political parties, which apparently wish to preserve a parliament that safeguards democratic values against the communist agendas, accommodate the Maoists’ demand to dissolve parliament and the government and permit a new interim government to decide on election procedures. (*Nepal Parliament ‘Unanimously’ Endorses ‘Historic’ Proclamation to Curb King’s Powers*, EKANTIPUR.COM, May 18, 2006, Open Source Center No. FEA20060519023102; *Parliament Declares Nepal Secular, Curbs King’s Powers*, AFP, May 19, 2006, Open Source Center No. JPP20060519067005; Bikash Sangraula, *Nepal’s Parliament Sets Fast-Paced Agenda*, THE CHRISTIAN SCIENCE MONITOR, May 15, 2006, <http://www.csmonitor.com/2006/0515/p01s01-wosc.html>.) (Wendy Zeldin, 7-9832, wzel@loc.gov)



NEPAL – Parliamentary Resolution on Women’s Rights

The Parliament of Nepal unanimously adopted a resolution on May 31, 2006, to give full citizenship to children born of Nepalese mothers; to guarantee the provision of citizenship papers to children in their mother's name only, despite the father’s absence or if the couple is divorced; and to require more-proportionate representation of women – at least one-third – in the state work force. Although the resolution had not yet been adopted into law, women's rights groups hailed its passage.

Earlier this year, Nepal’s Supreme Court had struck down a law that allowed men to divorce infertile women; in 2005, it banned discrimination against menstruating women. It also issued landmark decisions on ensuring equal property rights for women and providing citizenship to children even if their father’s name is not known. According to the *Associated Press*, in a 2000 report a Nepal women's group found 118 laws that discriminated against women. (*Nepal Parliament Adopts Resolution on Women’s Rights*, JURIST, May 31, 2006, <http://jurist.law.pitt.edu/paperchase/2006/05/nepal-parliament-adopts-resolution-on.php>; *Nepal Women’s Rights Law Hailed*, BBC NEWS, May 31, 2006, http://news.bbc.co.uk/2/hi/south_asia/5032716.stm.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

PAKISTAN – Privatization of Steel Mills Challenged

In a scathing criticism of the manner in which the government is privatizing the Pakistan Steel Mills (PSM), the Supreme Court of Pakistan observed that the agreement between the government and the consortium of three parties for the sale was made in a “very cursory and casual manner.” Impugning the sale, petitioners had stated that the steel mills had been sold for the paltry amount of 21.68 million Pakistani rupees (about US\$362,000). One of the judges, Javed Iqbal, observed: “[u]ndertakings are never ambiguous, secret or hidden. But this agreement seems to be such.”

When PSM counsel stated that there was complete agreement between the government and the bidders that the 4,457 acres of land housing PSM would never be used for any other purpose, the Court insisted that, because the agreement was silent about this matter, the counsel “should concede that there is no categorical understanding in the agreement.” Chief Justice Chaudhry, heading the bench of nine judges, also observed that PSM’s equity in goodwill and the value of the land were not even considered in the evaluation, since its historical value, which depreciates with the passage of time, had been assessed instead of the market value. Moreover, evaluators had relied on unauthenticated PSM financial statements. The Court’s final judgment, pronounced on June 23, 2006, set aside the final sale of PSM.

Iqbal, J. stated that no framework was worked out regarding the fate of thousands of PSM employees and that this would lead to unemployment. The bench also noted that, despite its directions, the classified letters exchanged between the PSM Chairman and Pakistan’s President Pervez Musharraf, wherein this sale was opposed, had not been provided to the Court. Counsel undertook to produce them for the Court’s perusal. (*PSM Sale Deal Made in Casual Way: SC*, THE DAWN, June 9, 2006, <http://www.dawn.com/2006/06/09/top8.htm>; *Nasir Iqbal, Court Scraps PSM Deal: Govt Asked to Refer Issue to CCI*, THE DAWN, June 24, 2006, <http://www.dawn.com/2006/06/24/top1.htm>.)
(Krishan Nehra, 7-7103, kneh@loc.gov)

SRI LANKA – Plans to Sign Marine Conventions

The Maritime Pollution Prevention Authority, an administrative organ under the Ministry of Environment, has announced that Sri Lanka will sign three international conventions on pollution of the sea. The documents are the International Convention on Oil Pollution Preparedness, Response and



Cooperation (concluded in 1990), the International Convention for the Control and Management of Ships' Ballast Water Sediments (concluded in 2004), and the International Convention on the Control of Harmful Antifouling Systems on Ships (concluded in 2001). Sri Lanka is already a party to a number of other international conventions regarding the prevention of sea pollution. (*Sri Lanka to Sign Three International Conventions on Sea Pollution*, COLOMBO PAGE, June 9, 2006, http://www.colombopage.com/archive/June9_130148SL.html.)

(Constance A. Johnson, 7-9829, cojo@loc.gov)

WESTERN HEMISPHERE

BRAZIL – No LAN Houses Near Schools

The Legislative Assembly of the State of Rio de Janeiro approved a law that, if sanctioned by the governor, will prohibit the operation of LAN houses (Local Area Network – electronic game stores) in a radius of one kilometer (three-quarters of a mile) from educational units. According to the author of the law, state deputy Paulo Melo, its intent is to prevent students from skipping class.

In a similar effort, in 2003, the Mayor of the City of Rio de Janeiro sanctioned a law prohibiting the entrance of minors into LAN houses. The law was based on article 74 of the Statute of Minors and Adolescents, which determines that the government is competent to regulate issues related to recreation and public performances. At the time, the Brazilian Association of LAN Houses (ABLH) contested the law, stating that LAN houses promote the digital inclusion of the poor by giving access to the digital world to many children who do not have a computer at home. (Fábio Vasconcelos, *Alerj Aprova Proibição de 'Lan Houses' a 1km de Escolas*, GLOBO ONLINE, available at <http://oglobo.globo.com> (last visited June 1, 2006).)

(Eduardo Soares, 7-3525, esoa@loc.gov)

BRAZIL – No Lawyer Required in Lawsuits in Special Federal Civil Courts

On June 8, 2006, the Brazilian Federal Supreme Court (STF) decided that the parties involved in litigation under the competence of the Special Civil Courts for federal justice are not required to have lawyers. STF's decision was in response to a lawsuit proposed by the federal council of the Brazilian Bar Association (OAB) asking that article 10 of Law No. 10,259 of July 12, 2001, be held unconstitutional. The Law created special civil and criminal federal courts in accordance with article 98 of the Constitution. According to the lawsuit, article 10 enables a person to file suit with a special federal civil court personally or through a representative, not necessarily a lawyer. OAB supported its position against this provision by citing article 133 of the Constitution, which states that a lawyer is indispensable to the administration of justice.

In the decision, Justice Joaquim Barbosa observed that Law No. 10,259 aims at broadening access to justice and the rendering of speedy decisions pursuant to what is established in Law No. 9,099 of September 26, 1995, which regulates the special federal civil and criminal courts. (*Declarada Constitucional Lei que Dispensa a Atuação de Advogados nos Juizados Especiais*, JURID, June 6, 2006, available at <https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=24042#null>.)

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CANADA – BSE Safeguards Strengthened

The Government of Canada recently adopted new regulations to remove specified risk material from all feed, pet food, and fertilizer chains. The regulations strengthen the extant prohibitions on the inclusion of cattle tissue in cattle feed adopted to prevent the spread of Bovine Spongiform Encephalopathy (BSE). Canada has reportedly had five cases of “mad cow” disease, including two that were reported this year. Although these cases were traced to pre-control contaminations, the government has decided to strengthen the regulations to guard against accidental spreading of BSE through such materials as pet food and fertilizers. The new regulations are scheduled to go into force on July 12, 2007. (Regulation Amending Certain Regulations Administered and Enforced by the Canadian Food Inspection Agency, S.O.R 2006/147; Canadian Food Inspection Agency, Regulatory Impact Analysis Statement, June 26, 2006, http://www.inspection.gc.ca/english/reg/appro/2006/20098ria_e.shtml.)

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CANADA – Proposal for Fixed Elections

Canada’s Constitution currently requires that an election for the House of Commons be called five years from the previous election. (Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982, c. 11 (U.K.)) In practice, most general elections have been called in the third or fourth year of a parliament by the sitting Prime Minister. Timing is often critical and the ability of the government to dictate when an election will be held has often been thought to give the party in power an unfair advantage.

The new Conservative government has introduced a bill that would require a general election to be held in October of the fourth year following the previous election. If adopted, this change would bring the Canadian electoral system much closer to the system in the United States, although it would still allow for Parliament to be dissolved earlier. Proponents of the reform anticipate that under the new rule, most governments would wait until the statutory date for an election, rather than calling one sooner. In the past, many governments have been punished by voters who thought an election had been called too soon. Conversely, governments that have waited until the fifth year to call an election have often been perceived as weak and unwilling to go to the polls. The advantage of a fixed date is that it would put all parties on a more even footing and reduce the sometimes excessive speculation as to when the next election will be held. If the proposal is adopted, Canada’s first fixed date for an election would be October 2009. (Bill C-16, 39th Parl. 1st Sess.)

(Stephen Clarke, 7-7121, scla@loc.gov)

CANADA – Supreme Court Allows Group Sex Clubs

At the end of 2005, the Supreme Court acquitted of charges of indecency the operators of a commercial club in Montreal that was operated for persons to engage in group sex. The Court found that in order to uphold the convictions at trial, the government was obliged to meet two requirements. The first of these demanded a showing that the conduct posed a significant risk of harm. The second requirement was that this “harm or risk of harm is incompatible with the proper functioning of society.”

In deciding for the accused, the Court made a number of key findings, including that there were no anti-social acts or attitudes towards women and that no one was paid to participate. The fact that the club was a commercial establishment did not render the consensual activities to also be commercial in nature. The Court did acknowledge that there was the possibility that disease could be transmitted at the club, but discounted this factor “because it is conceptually and causally unrelated to indecency.” Because



the Court found that the government did not satisfy the first requirement for a conviction for indecency, it did not consider the second. (R. v. Labaye, [2005] 3 S.C.R. 728.)
(Stephen Clarke, 7-7121, scl@loc.gov)

COLOMBIA – Law on Displaced Persons Not Fully Applied

Walter Kälin, Representative of the Secretary-General of the United Nations on the Human Rights of Internally Displaced Persons, issued a report following a mission to Colombia that ended on June 27, 2006. He stated that millions of displaced persons in the country have been denied the full enjoyment of the rights to which they are entitled under law. This is true, Kälin reports, despite the existence of an excellent legal structure, including laws and decisions of the Colombian Constitutional Court. He said:

Colombia is a country with a commendable legislation and far-reaching policy framework on internal displacement. ... However, there is a clear gap affecting the human rights of many among the up to 3 million displaced persons between what the law says and what is implemented at the regional and local level. ... I am concerning [sic] in particular with the disproportionate impact of displacement on indigenous and Afro-Colombian communities. It is seriously affecting their culture and land rights.

According to the report, the principle difficulty is the lack of respect for neutral, civilian communities by armed groups in regions of the country with ongoing conflicts. (*Colombia's Laws Protecting Displaced Persons Not Fully Applied, UN Expert Says*, UNNEWS, June 27, 2006, from UNNews@un.org)
(Constance A. Johnson, 7-9829, cojo@loc.gov)

CUBA – Court Sentences Ousted Politburo Member

A communist Cuban official long held up as an example of the island's future leadership was sentenced to twelve years in prison for influence peddling. The Cuban Politburo provided this information in a press release published on June 21, 2006, in the official Cuban newspaper GRANMA. Juan Carlos Robinson Agramonte, among the youngest members of the ruling Politburo before being ousted from the elite body and the party in April 2006, pleaded guilty during a trial in Havana. "It was demonstrated that Robinson Agramonte, in the open process of his ideological weakening and with abuse of his position, forgot his high responsibilities and the integrity demanded of a revolutionary cadre and used his influence to obtain benefits," GRANMA said. The article offered no specifics on what benefits were obtained or how Robinson used his influence to obtain them. (*Court Sentences Ousted Politburo Member Robinson*, GRANMA, June 21, 2006, Open Source Center No. FEA20060622024487; *Cuban Official Gets 12-Year Prison Term*, THE GUARDIAN, June 21, 2006, <http://www.guardian.co.uk/world/latest/story/0,,-5901908,00.html>.)
(Gustavo E. Guerra, 7-7104, ggue@loc.gov)

MEXICO – Automated Immigration Control System for South Border

Mexico recently provided an automated immigration information system to Guatemala for use along their common border. It is referred to as the Comprehensive System of Immigration Operations (SIOM). SIOM will make it possible for Guatemala to keep stricter control of immigration flows and reduce corruption. It will also prevent Guatemalan immigration officers from allowing, at their discretion, the entry or exit of persons. SIOM scans passports with a reader connected to a database



capable of verifying an alien's immigration status. (Claudia Munaiz, *Tecnología Para Control Migratorio*, PRENSA LIBRE, June 27, 2006, <http://www.prensalibre.com>.)
(Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO – National Agreement Against Piracy

Nine Mexican federal agencies and President Vicente Fox signed the National Agreement Against Piracy on June 15, 2006. According to a Mexican scientific and technological daily, LA FLECHA, eighty percent of the movies and seventy percent of the records that are purchased in Mexico are illegal. The Mexican Government's Press Secretary, Rubén Aguilar, stated that the objective of the agreement is to prevent and fight piracy of authors' rights and industrial property; to recover control of the internal market, which is plagued by piracy; to develop intelligence and investigative operations against piracy; and to prosecute and impose penalties on those who commit crimes of piracy.

Piracy in Mexico is predominant in three major sectors: movies, records, and textiles. One of the strategies to be implemented under the agreement is the evaluation of growth or reduction of the crime and the assessment of the results of countermeasures. The private sector pledged to help the government develop anti-piracy goals and actions. (*Gobierno y Empresarios de México Firman un Acuerdo Antipiratería*, AGENCE FRANCE-PRESSE, in LA FLECHA, June 16, 2006, <http://www.laflecha.net>; *Firman Acuerdo Nacional*, REFORMA, June 15, 2006, <http://www.reforma.com>.)
(Norma C. Gutiérrez, 7-4314, ngut@loc.gov)

MEXICO -- Testimonial Privileges Enacted to Protect Journalists, Attorneys, Physicians, Clergy

On June 6, 2006, the Mexican Government amended the Federal Criminal Code and the Federal Code of Criminal Procedure in order to introduce a testimonial privilege that protects journalists from being forced to divulge their sources of information. The amendment provides that journalists cannot be forced to release information concerning names, recordings, notes, or any other information that, directly or indirectly, may lead to identifying their sources of information. The amendments also introduced attorney-client, physician-patient, and clergy-penitent testimonial privileges. (*Decreto por el que se Reforman y Adicionan Diversas Disposiciones del Código Federal de Procedimientos Penales y del Código Penal Federal [Decree That Amends Several Provisions of the Federal Criminal Code and the Federal Code of Criminal Procedure]*, DIARIO OFICIAL DE LA FEDERACIÓN [Mexico's Federal Official Gazette] (June 6, 2006).)
(Gustavo E. Guerra, 7-7104, ggue@loc.gov)

INTERNATIONAL LAW AND ORGANIZATIONS

ANGOLA/MOZAMBIQUE – Cooperation Accords

On May 19, 2006, Angola and Mozambique signed cooperation accords on mutual judicial assistance in penal matters and on juridical and judicial training. The Angolan Minister of Justice, Manuel Aragão, and the Mozambican Minister of Justice, Esperança Machavela, signed the cooperation accord on mutual judiciary assistance in penal matters, which is designed to coordinate actions in the fight against transnational crime. The protocol on juridical and judicial training was signed by the Director of the National Institute of Judiciary Studies for Magistrates (INEJ), Paula Furtado, and the Director of Mozambique's Juridical and Judiciary Training Centre, Benvinda Levi, and concerns the exchange of documentation and information.



In the opinion of Aragão, the accords are very advantageous, as they will help both countries in penal matters in general, in the gathering of testimonial evidence, and in other means necessary for the practice of penal law. Machavela observed that the mutual judicial assistance accord would enable the two countries to coordinate their efforts in the fight against transnational crime. In regard to the Protocol, Aragão noted that Angola has a lot to learn from Mozambique's experience, specifically in the setting up of communitarian courts and customary law, while Machavela remarked that it would enhance the training of both countries' judicial magistrates, as they will be able to exchange experience in the analysis of comparative studies and research. (*Angola: Cooperation with Mozambique in Penal, Training Matters*, ALLAFRICA.COM, May 19, 2006, available at <http://allafrica.com/stories/200605190688.html>.) (Eduardo Soares, 7-3525, esoa@loc.gov)

CAMEROON/NIGERIA – Border Dispute Accord

On June 12, 2006, the Presidents of Cameroon and Nigeria signed an agreement settling a long-standing border dispute. United Nations' Secretary-General Kofi Annan had been involved in talks with the leaders of the two nations dedicated to achieving the accord. The issue is sovereignty rights over areas extending 1,600 kilometers from Lake Chad to the Bakassi Peninsula. The Cameroon-Nigeria Mixed Commission, established in 2002 by the U.N. and chaired by Special Representative for West Africa, Ahmedou Ould-Abdallah, has determined that certain parts of the oil-rich land and sea reserves should go to Cameroon, while others should go to Nigeria. Part of the agreement is the arrangement for the withdrawal of Nigerian troops from the Bakassi Peninsula, within sixty days, with a possible thirty-day extension. The International Court of Justice awarded that area to Cameroon in 2002. (*Nigeria-Cameroon Accord Expected after Annan Brokers Talks on Border Dispute*, UNNEWS, June 11, 2006, from UNNews@un.org; *West Africa: Under Intensive UN Mediation, Nigeria and Cameroon Sign Accord Ending Border Dispute*, ALLAFRICA.COM, June 12, 2006, <http://allafrica.com/stories/200606121159.html>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

CENTRAL AMERICAN PARLIAMENT (PARLACÉN) – Proposed Reforms

The Presidents of Central American countries will make the reforms to the Central American Parliament (Parlacén) official during their meeting in Tikal, Guatemala, on August 18, 2006. The reforms would grant Parlacén new powers, such as the power to elect and remove the authorities of regional institutions like the Central American Bank of Economic Integration, the Secretariat of Central American Economic Integration, and the Central American Court of Justice; the power to oversee the finances of regional institutions; and the power to legislate on topics such as customs, freedom to travel in the region, and border issues. The reforms would also revoke the automatic membership that Parlacén currently grants to member nations' former presidents and vice presidents; they would instead have advisory, honorary membership without salary and without the immunity from prosecution that they currently enjoy. Lastly, the reforms would make Parlacén resolutions binding on its members. Guatemala, El Salvador, Honduras, and Panama reportedly support the reforms. Parlacén's Vice President, Eduardo Stein, will lobby to have the reforms approved by all its members. (Martín Rodríguez P. & Conié Reynoso, *Parlacén Quiere Tener Potestad Vinculante*, PRENSA LIBRE, June 27, 2006, <http://www.prensalibre.com>; Ericka Marroquín, *Avalan Reformas al Parlacén*, SIGLO XXI, July 5, 2006, <http://www.sigloxxi.com>.) (Norma C. Gutiérrez, 7-4314, ngut@loc.gov)



CHINA/SPAIN – Probe of Genocide in Tibet

On June 5, 2006, Spanish National High Court Judge Ismail Moreno initiated an investigation into the treatment of Tibetans by the Chinese Government in the 1980s and 1990s. The Court had argued in January 2006 that it had jurisdiction to investigate allegations of genocide in Tibet because such crimes were unlikely to be investigated in China or by the International Criminal Court. The first step in the inquiry was to question the director of the House of Tibet Foundation of Barcelona, Thubten Wangchen, as a witness. In addition, letters rogatory were sent to the United Kingdom and Canada, as additional witnesses and victims are sought. One possible outcome of the investigation could be a lawsuit against China's former President Jiang Zemin and other leaders. (*Spanish Judge Begins Tibet Genocide Probe*, RNE RADIO 1, June 5, 2006, Open Source Center No. EUP20060605950083.)

In response, China has condemned the investigation, saying charges of genocide amount to slander. Liu Jianchao, a spokesman from the Foreign Ministry, argued that in any case, Spain had no standing in the matter. "Tibet is an internal affair of China and we strongly oppose any country using the so called Tibetan issue to interfere in China's internal affairs," he stated. (*PRC FM Spokesman Condemns Tibet Genocide Hearing in Spanish Court*, AFP, June 6, 2006, Open Source Center No. CPP20060606055034.)

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CHINA/UNITED STATES – IPR Protection

On May 25, 2006, China's General Administration of Customs and the U.S. Trade and Development Agency signed a cooperation agreement on intellectual property rights (IPR) protection. Under the program, IPR protection experts from the two countries will introduce international customs rules and regulations, rules and laws on IPR protection in China and the United States, IPR professional knowledge, and other subjects to China's customs staff. Representatives from the U.S. commercial sector will also hold talks with Chinese customs officers to exchange views on IPR protection. China and the United States have adopted a series of cooperative measures on IPR protection, including research on related regulations and staff training. (*China, U.S. Launch IPR Protection Cooperation Program*, CHINA VIEW, May 26, 2006, http://news.xinhuanet.com/english/2006-05/26/content_4601169.htm.)

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COUNCIL OF EUROPE – Report on Secret Detention Centers in Member States

On November 1, 2005, the Parliamentary Assembly of the Council of Europe initiated an investigation based on reports suggesting that the U.S. Central Intelligence Agency (CIA) operated secret flights and detention centers in several of the Council of Europe Member States. On November 21, 2005, the Secretary General sent questionnaires to thirty-six of the forty-six Member States. The Members had to respond to the following main inquiries: a) control mechanisms (judicial, parliamentary, administrative, or other) on activities of foreign intelligence services within their jurisdictions; b) control mechanisms concerning transiting aircraft that could be used for rendition purposes by foreign agencies and whether national authorities have jurisdiction over such aircraft; and c) possible involvement of public officials in alleged secret detentions or rendition flights.

On March 1, 2006, the Secretary General published his report, and on June 7, 2006, the rapporteur presented his own. Highlights of some of the key conclusions include:

- Control mechanisms over national security services exist in most European countries. Nevertheless, it is unclear whether such mechanisms can provide full respect for the rights



and freedoms of the European Convention on Human Rights.

- There are no legislative and/or administrative measures to protect the human rights of individuals from activities of foreign agents operating within the territory of Member States. Even though domestic criminal law may apply to foreign agents, obstacles such as state immunity may prevent effective enforcement.
- A small number of countries have procedures to monitor whether a state aircraft transiting through their air space is used to violate human rights of individuals.
- A global “spider’s web” operated by the CIA exists. This web includes a world-wide network of secret detentions in CIA “black sites” and in military or naval installations. It also includes the rendition program, under which terrorist suspects were flown through European states on civilian aircraft, without legal safeguards, in order to be handed to states that systematically resort to torture.
- A number of Member States have knowingly colluded with the United States in order to carry out these unlawful operations, while others tolerated such activities. They also tried to keep such activities clandestine and outside of international scrutiny.
- Member States have violated their positive obligations under the Convention to investigate incidents of secret detentions and transfers.

(Council of Europe, *Alleged Secret Detentions in Council of Europe Member States*, <http://www.coe.int/T/E/Com/Files/Events/2006-cia/> (last visited June 22, 2006).)
(Theresa Papademetriou, 7-9857, tpap@loc.gov)

GABON/CHINA – Iron Ore Rights

The Government of Gabon announced on June 2, 2006, that it has granted the People’s Republic of China – specifically, a consortium headed by the China National Machinery and Equipment Import and Export Corporation (CEMEC) – “sole rights to exploit huge untapped iron ore reserves and build costly rail links need to reach them.” Gabon will also have a share in the project, which is to be launched at the end of 2006 with projected extraction of the first ore before 2010. The site of the ore is Belinga, perhaps “one of the last major untapped iron ore reserves on the planet,” located in a remote area about 300 miles east of Libreville, Gabon’s capital. The prohibitive cost of building the necessary infrastructure has heretofore prevented its development. In addition to a new railway, a hydroelectric dam must be built to provide power for the project, whose total cost is estimated at CFA300 billion (about US\$590 million).

The decision to accept China’s bid displaces the world’s leading iron miner, Brazil’s Vale do Rio Doce, which since April 2005 had headed a consortium with China’s CEMEC and other groups. The Brazilians and the Chinese apparently decided to make separate bids after falling out over who would be in charge of various operations. The disagreement also split the Gabonese Government between backers of the Brazilian bid, led by Richard Onouviet, Minister for Oil and Resources, and those in favor of the Chinese, led by Foreign Minister Jean Ping, whose father is Chinese. According to an influential minister quoted by Agence France Presse, there was “no contest” between the two bids, because “[t]he Chinese state offered to guarantee the project financially and promised to buy the entirety of Belinga’s production,” and to build a new railway, not just a branch line. Although Gabon’s President had promised that the mine would create thousands of jobs, the Chinese offer reportedly does not include many jobs for Gabonese because the Chinese tend to prefer shipping in their own workers to employing local labor. (*China Given Monopoly to Work Gabon’s Untapped Iron Ore Resources*, THE INDEPENDENT (Bangladesh), June 3, 2006, <http://independent-bangladesh.com/news/jun/04/04062006bs.htm#A17>.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)



GUATEMALA/BELIZE – Milestone Trade Agreement

Guatemala and Belize, neighboring countries with an age-old territorial dispute, signed their first-ever bilateral trade agreement on June 26, 2006. The Partial Scope Agreement, or PSA (*Acuerdo de Alcance Parcial*), will eliminate tariffs and trade barriers for 150 products. Guatemala will export duty free to Belize products such as livestock, cooking oil, lumber, plastics, rubber, and, gradually, various agricultural products. Belize will export to Guatemala marine products, tropical fruits, and some manufactured goods such as jellies and juices. Sensitive agricultural products were excluded from the PSA. Last year, Guatemala exported US\$28.6 million in goods to Belize and imported US\$2.4 million from Belize. Due to this trade imbalance and the difference in the scale of the economies, the parties negotiated that the PSA will grant more benefits to Belize. (Eduardo Smith, *Belice Abrirá su Mercado al País*, PRENSA LIBRE, June 27, 2006, <http://www.prensalibre.com>; *Guatemala y Belice Firman Acuerdo Comercial*, EL NUEVO HERALD, June 28, 2006, <http://www.elNuevoHerald.com>; *Belize & Guatemala Unlock Doors to Trade*, THE BELIZE TIMES, June 29, 2006, <http://www.belize-times.bz/news/story/5586.shtml>.)

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MEXICO/UNITED STATES – Meeting to Discuss Child Abduction

On June 9, 2006, government officials of the United States and Mexico met in Baja California, Mexico, to discuss issues concerning the Hague Convention on the Civil Aspects of International Child Abduction. The countries that are party to the Convention have agreed that a child who is habitually resident in one party country and who has been removed to or retained in another party country, in violation of the left-behind parent's custodial rights, will be promptly returned to the country of habitual residence. The Convention can also help parents exercise visitation rights abroad.

The objective of the meeting was to deepen the understanding of the legal implications for each country of correctly applying the Convention's provisions, to design legal procedures that will allow for the swift resolution of child issues that arise, and to create mechanisms of cooperation and communication between the parties that participate in the legal processes of returning abducted children to their countries of residence. (Press Release 119, Department of Foreign Relations, Mexico and the United States Meet for the Sixth Time to Discuss The Hague Convention on the International Protection of Children (June 6, 2006), <http://www.sre.gob.mx>.)

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NORDIC COUNCIL – Legal Cooperation Between the Nordic Countries

The Nordic Ministers of Justice met in Norway on June 20, 2006, to discuss legal cooperation. At the meeting, the ministers agreed to continue the informal legal cooperation that already exists between the countries. It was decided that a study would be performed on how to improve the official legal cooperation in conjunction with EUROJUST, which is the European organ that counteracts international organized crime. Common principles for the use of coercive measures were also discussed, in an effort to guarantee legal rights and efficient investigations. (*Efficient and Informal Legal Cooperation*, NORDEN - OFFICIAL CO-OPERATION IN THE NORDIC REGION, June 20, 2006, available at <http://www.norden.org/webb/news/news.asp?id=6230&lang=6>.)

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PANAFRICA – Plan to Fight Illegal Migration

On June 5, 2006, experts from a number of African and European nations meeting in Dakar, Senegal, finalized a plan to combat illegal migration, based on proposed measures to crack down on trafficking and to keep would-be migrants in the home country. The plan was also to be the basis for another ministerial conference on illegal migration to be held in Rabat, Morocco, on July 10-11. Measures agreed upon in the plan include, e.g., tighter border controls, establishment of a body to monitor migration, better police cooperation, state-of-the-art tracking equipment for African states, and promotion of economic development to keep African youth from going abroad. Under the Dakar plan, there are schemes to help migrants return home and set up businesses as well as to offer training courses in various sectors.

The escalating international effort to curb illegal migration follows a wave of poverty-stricken Africans boarding open wooden boats along the Senegalese and Mauritanian coasts to head for Spain's Canary Islands. To help Spain handle the influx, seven of its EU partners will conduct joint patrols with the Spanish off the West African coast. (*African, European Nations Draft Plan to Battle Illegal Migration*, IRIN NEWS, June 7, 2006, <http://allafrica.com/stories/200606070263.html>; *SPAIN (CANARY ISLANDS) — Immigration*, 6 W.L.B. 2006.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

TAIWAN/NICARAGUA – Free Trade Agreement

On June 16, 2006, Taiwan and Nicaragua signed a free trade agreement, after almost two years of negotiations. It is the third FTA Taiwan has signed with Central American nations, following the one inked with Panama in 2003 and with Guatemala in 2005. Deputy Director James Wu of Taiwan's Board of Foreign Trade stated: "Taiwan will take advantage of Nicaragua's close trade ties with the U.S. to expand textile sales in the U.S. market"; Taiwan textile manufacturers who have invested in Nicaragua, hiring some 30,000 employees, Wu noted, will benefit from the lower rates for their exports to North America. The FTA must be approved by the legislatures of both signatories before it will enter into effect, perhaps by early next year.

With the agreement's entry into effect, Taiwan economic officials stated, Nicaragua will provide immediate tariff-free treatment for almost 3,400 products from Taiwan (about fifty-two percent of its exports to Nicaragua), while Taiwan will immediately remove tariffs on nearly 5,800 products from Nicaragua. After fifteen years, about ninety-seven percent of Nicaraguan products will freely enter the Taiwan market, and about ninety-five percent of Taiwan products will freely enter the Nicaraguan market. (*Taiwan and Nicaragua Sign FTA*, AGENCE FRANCE-PRESSE, June 20, 2006, at 9, http://www.taiwannews.com.tw/etn/index_en.php; *Taiwan, Nicaragua Sign Free Trade Agreement*, CENTRAL NEWS AGENCY, June 17, 2006, <http://www.taiwansecurity.org/CNA/2006/CNA-170606.htm>.)
(Wendy Zeldin, 7-9832, wzeld@loc.gov)

UNITED NATIONS – Anti-Torture Treaty Protocol

A Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment became effective on June 22, 2006, following its signature by twenty countries. It sets up an international Subcommittee on the Prevention of Torture and establishes the right of independent international and national bodies to visit prisons and other detention locations. The U.N. High Commissioner for Human Rights, Louise Arbour, described the provision as a "milestone in efforts to fight torture and impunity" and went on to say that the monitoring mechanisms are "critical new methods of ensuring the protection of detainees around the world against all forms of mistreatment."



The U.N. General Assembly had adopted the Protocol in December 2005. Bolivia and Honduras acceded to the Protocol on May 23, 2006, and were followed by Albania, Argentina, Costa Rica, Croatia, Denmark, Georgia, Liberia, Maldives, Mali, Malta, Mauritius, Mexico, Paraguay, Poland, Spain, Sweden, the United Kingdom, and Uruguay. (*Landmark New Protocol to Enhance UN Anti-Torture Treaty Enters into Force*, UNNEWS, June 22, 2006, from UNNews@un.org.) (Constance A. Johnson, 7-9829, cojo@loc.gov)

UNITED NATIONS HUMAN RIGHTS COUNCIL -- Declaration on the Rights of Indigenous Peoples

On June 29, 2006, the United Nations Human Rights Council adopted the U.N. Declaration on the Rights of Indigenous Peoples. Hailing the vote as a major achievement and a victory for all indigenous persons, thirty countries, including China, Ecuador, Guatemala, South Africa, and Zambia voted in favor of the non-binding declaration; Algeria, Argentina, Bahrain, Bangladesh, Ghana, Jordan, Morocco, Nigeria, Philippines, Senegal, Tunisia, Ukraine abstained and Canada and the Russian Federation voted against the declaration. Djibouti, Gabon, Mali were absent. The declaration now goes to the U.N. General Assembly for final approval in September.

According to the declaration, indigenous persons

have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law. Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity. Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Citing the importance of defending the rights of indigenous persons, and explaining its reasons for voting against the declaration, the Russian Federation said

the draft should be effective and an authoritative international document. To date, the proposed text which had been submitted to the Council did not represent all of these characteristics, as the text did not enjoy genuine consensus, and had not been agreed on by all sides. Its adoption would set a negative precedent, and in this context Russia could not support the draft declaration in this form and in the procedure that had been used.

Canada, which was once a supporter of the Declaration, led the opposition and was known to be reflecting the views of non-Council members Australia, New Zealand, and the United States. Canada argued that several of the Declaration's articles would violate its national constitution or prevent the country's armed forces from taking necessary measures for its defense.

Diplomats and representatives of the Indigenous Peoples Caucus believe that opposition to the Declaration is motivated by fears over the potential loss of state control over how natural resources, such as timber, oil and gas, are exploited, whereas, they contend, the Declaration will provide states with the basic guidelines for helping their indigenous populations maintain their cultures and their separate identities. (*Human Rights Council Adopts Texts for Protection from Enforced Disappearance, Rights of Indigenous Peoples* June 29, 2006, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/B20EBDAF668>)



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UNITED STATES – Annual Global Trafficking in Persons Report

On June 6, 2006, the U.S. Department of State (DOS) released its sixth annual *Trafficking in Persons Report*, in conformity with the Trafficking Victims Protection Act of 2000 (TVPA), as amended. The 2006 Report (covering April 2005 through March 2006) analyzes trafficking and government efforts to combat it in 149 countries. It includes jurisdictions deemed countries of origin, transit, or destination for a significant number of victims of severe forms of trafficking. The stated aim of the Report is “to raise global awareness, to highlight the growing efforts of the international community to combat human trafficking, and to encourage foreign governments to take effective actions to counter all forms of trafficking in persons.”

The “country narratives” chapter of the Report sets forth for each country covered the scope and nature of the trafficking problem, the reasons for the country’s inclusion, and the government efforts to prosecute traffickers, protect victims, and prevent trafficking. Efforts at rescue, rehabilitation, and reintegration are addressed as well. The narratives also assess a given government’s compliance with the minimum standards for the elimination of trafficking, based on those set forth in the TVPA, rate the jurisdiction based on those standards (from Tier 1, full compliance, to Tier 3), and recommend actions to combat the practice. A “special cases” chapter of the Report covers certain countries for which insufficient information was available to apply a tier rating. Other chapters are on, among other topics, international best practices, tier placements, an international conventions matrix, and the TVPA. (OFFICE OF THE UNDER SECRETARY FOR GLOBAL AFFAIRS, U.S. DEPARTMENT OF STATE, VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000: TRAFFICKING IN PERSONS REPORT (June 2006), <http://www.state.gov/g/tip/rls/tiprpt/2006>.)
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VIETNAM/UNITED STATES – WTO Agreement

On May 31, 2006, Vietnam and the United States concluded bilateral negotiations on Vietnam’s request to join the World Trade Organization (WTO). The agreement was signed by Vietnamese Vice Minister of Trade Luong Van Tu and U.S. Deputy Trade Representative Karan Bhatia in Ho Chi Minh City. Vietnam hopes to enter the WTO by the end of 2006. Vietnam has agreed to make its regulatory trade practices more open and to create an equal trade environment for foreign and domestic companies. Bhatia said of the agreement that it “would create a vibrant and growing market for American manufacturers and open a door for Vietnam to join the international rules-based trading system.” He went on to predict that the U.S. Congress would soon grant permanent most favored nation status to Vietnam. (*Vietnam, US Sign Final WTO Agreement*, VIETNAM NEWS AND LEGAL FORUM, June 1, 2006, http://news.vnanet.vn/vietnamlaw/Reports.asp?CATEGORY_ID=1&SUBCATEGORY_ID=18&NEWS_ID=1358.)
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WTO – Japan, Korea Computer Chip Dispute

At the request of South Korea and after the failure of bilateral talks, in June 2006 the World Trade Organization (WTO) established a dispute resolution panel to settle the issue of Japan's punitive tariffs on computer chips exported from South Korea. In January 2006, Japan imposed a 27.2 percent import tax on DRAM (dynamic random access memory) chips made by Hynix Semiconductor of South Korea, arguing that they were being dumped on the Japanese market at a below-cost price. In requesting that the WTO resolve the matter, South Korea stated that Japan had not shown that the Government of South Korea extended any financial contribution or benefit to the company that would justify the tariff as a countervailing measure. (*WTO Sets Up Panel to Settle Japan, Korea Chip Dispute*, TELECOM ASIA DAILY, June 21, 2006, <http://www.telecomasia.net/telecomasia/article/articleDetail.jsp?id=337628>.) (Constance A. Johnson, 7-9829, cojo@loc.gov)



RECENT DEVELOPMENTS IN THE EUROPEAN UNION

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EU Court Annuls EU-U.S. Data Transfer Agreement; New Plan Announced

In the aftermath of the September 11, 2001, terrorist events, the United States requested that airlines flying to and from the United States transfer passenger data, Passenger Name Records (PNR), to the homeland security authorities. Those authorities gather thirty-four types of data from airline records, including name, address, phone number, credit card numbers, and names of travel companions. The United States may store this data for three years and may share the information with third countries. The European Parliament expressed strong concerns on the impact of the transfer of data on the privacy of European citizens. Nevertheless, an agreement was signed between the European Commission and the United States on sharing passenger data. An adequacy decision was issued confirming that the United States must meet the privacy and personal data protection standards required by EU legislation. The European Parliament challenged the agreement before the European Court of Justice.

On May 30, 2006, the Court delivered its judgment and held that “neither the Commission decision finding that the data are adequately protected by the United States nor the Council decision approving the conclusion of an agreement on their transfer to that country are founded on an appropriate legal basis.” (*Court Annuls EU-US Data Sharing Agreement*, EUOBSERVER, May 30, 2006, available at <http://euobserver.com/921724/?rk=1>.)

Following the ruling, the European Commission was forced to alter its course. Thus, on June 19, 2006, the Commission announced its decision to comply with the ruling by altering the legal basis of the agreement and hence the legal process for the data transfers. The new agreement, whose provisions remain unaltered, will take place under an intergovernmental process. In this way, the Commission is successfully bypassing the European Parliament’s privacy concerns in connection with the EU-U.S. agreement on data transfers. A spokesperson for the Commission pointed out that since “the court did not rule on the content of the agreement, it did not say that it is illegal” and added that, nevertheless, the Commission fully respects the opinions expressed by the European Parliament. (*MEPs to Be Sidelined in Revived Airline Data Deal*, EUOBSERVER, June 6, 2006, available at <http://euobserver.com/9/21904/?rk=1>.)

EU-U.S. Visa Waiver Program

The United States visa waiver program applies to fourteen long-time EU Members and Slovenia. Ten Members, the Czech Republic, Cyprus, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, and Slovakia, were not on the list of countries. Consequently, citizens of these countries need a visa to enter the United States. EU and U.S. administration officials have discussed the visa reciprocity issue on numerous occasions. The U.S. point of view is that membership in the EU does not automatically ensure participation in the visa waiver program. It has put in place roadmaps for each country, to guide them in their efforts to eventually join the program. Thus far, only Poland has achieved a break from the visa restriction. For a two-year trial period, Polish citizens may travel in the United States without a visa, based on the fact that Poland, along with other countries, sent over 300 soldiers to Iraq and Afghanistan.

This issue will feature prominently in the next EU-U.S. summit, scheduled to be held in Vienna on June 21, 2006.. The European Commission President Manuel Barroso plans to exert more pressure on the U.S. administration to resolve the matter. He stated, “we do not see that progress. Just the opposite, we see a tendency in Washington towards scrapping the visa waiver program for security reasons.” In



spite of EU threats of possible imposition of retaliatory measures, experts suggest that any changes in the near future are highly unlikely, since visa restrictions are based on U.S. legislation and are affected by immigration and security concerns. (*EU Threatens Sanctions over US Visa Issue*, EUOBSERVER, June 20, 2006, available at <http://euobserver.com/9/21907/?rk=1>.)

First Chapter of Entry Negotiations with Turkey Closed

Prior to becoming a full-fledged EU Member, Turkey must harmonize its legislation with the thirty-five chapters containing the *acquis communautaire* (the EU body of law). The twenty-five EU Members must agree on opening and closing each chapter. On June 12, 2006, the first chapter, dealing with science and technology, was opened, despite Cyprus's protests. Cyprus argued that there was no progress regarding the issue of non-recognition of the Cyprus Government by Turkey or Turkey's blockade of Cyprus shipping and air traffic. Last year, the EU issued a statement requiring Turkey to recognize Cyprus and to open its ports and airports. Thus far, Turkey has not done so. Finally, the chapter closed after Austria, which was holding the EU Presidency, Greece, and the Commission tried to smooth out differences. The second chapter, dealing with education and culture, is more critical. France and The Netherlands have indicated their intention to raise sensitive political questions related to equal access to educational opportunities for girls and boys. Other potentially troublesome issues relate to minority access to education. (*EU Agrees to Start Turkey Talks*, BBC NEWS, June 12, 2006, available at http://news.bbc.co.uk/1/hi/world/middle_east/5071806.stm.)

EU Postpones Decision on Entry Date for Romania, Bulgaria

The European Commission, in a report released on May 16, 2006, decided to postpone the decision on the exact EU accession date for Romania and Bulgaria until early October. Both countries are expected to join in January 2007, unless entry preparations fail. In that case, the entry date will be delayed by another year. The President of the Commission, Manuel Barroso, stated emphatically, "the rules of the club must be respected" in reference to the slow process of harmonizing domestic legislation with the *acquis communautaire* chapter on justice and crime fighting. (*Romania and Bulgaria Must Wait Until Autumn for Entry Date*, EUOBSERVER, May 16, 2006, available at <http://euobserver.com/9/21610?rk=1>.)

European Evidence Warrant

For the last three years, EU Members have been working on adopting rules on a new legislative initiative called the European Evidence Warrant. On June 1, 2006, the twenty-five Ministers of Interior finally ironed out differences and came to an agreement. While the European Arrest Warrant focuses on a speedy transfer of criminals across Europe, the European Evidence Warrant will facilitate the exchange of evidence among judges and prosecutors in cross-border investigations.

During the negotiations, Germany and The Netherlands raised serious concerns. Germany argued that six types of crimes, including terrorist acts and racism, were not clearly defined and were not in line with Germany's domestic legislation. In these cases, a clause should be inserted offering the option to double-check the evidence request. The Netherlands insisted on retaining its right to refuse to give out evidence for crimes committed in its own territory. Finally, the Ministers agreed to allow the judicial authorities of a country to refuse to deliver evidence in cases "where the offence concerned has been committed wholly or partly in the territory of the executing state." For the time being, the evidence warrant will focus on evidence "which exists and is readily available." There are plans to include other types of evidence, such as monitoring of bank accounts, interviews, and biometric data including



fingerprinting or DNA samples. (*EU Clinches Deal on Transfer of Criminal Evidence Across Borders*, EUOBSERVER, June 2, 2006, available at <http://euobserver.com/9/21751/?rk=1>.)

More Transparency on Ministerial Meetings on EU Legislation

Recently, EU Members agreed to open up all ministerial meetings dealing with EU legislation, in spite of strong protests against the measure by the United Kingdom. The Finnish Prime Minister, whose country has assumed the EU Presidency, endorsed the proposal and stated that Finland will be ready to implement it within the next six months. Not all meetings will be public. For instance, those dealing with security issues will still be behind closed doors, and others will be decided on an *ad hoc* basis. The public meetings will be broadcast in all languages through video streaming. The Council will keep the records of such meetings on its website for a month. (*UK Fails to Block Plan on Televised EU Meetings*, EUOBSERVER, June 16, 2006, available at <http://euobserver.com/9/21890/?rk=1>.)

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