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# **WORLD LAW BULLETIN**

**May 2007**

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5 W.L.B. 2007

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		Yemen

## ABORTIONS

### PORTUGAL – Abortion Legalized

On April 10, 2007, Portugal's President, Aníbal Cavaco Silva, promulgated a law amending article 142 of the Penal Code (Law No. 16/2007 of April 17, 2007). The provision now allows a woman to opt for an abortion up until the tenth week of pregnancy, with a mandatory three-day reflection period before the procedure.

Silva also made some recommendations regarding the application of the new law. He emphasized that the mother should be made aware of the possibility of giving the child up for adoption and of the possible physical and psychological problems that may occur as a consequence of the abortion. Publicity on abortions should be restricted, Silva stated, and doctors who oppose it should not be excluded from giving pre-abortion consultations. He added that private clinics licensed to perform abortions should undergo regular state inspections.

The previous law punished women convicted of having an illegal abortion with three years in prison, and the doctor found guilty of performing it with eight years in prison. Abortion was only permitted in cases of sexual violence or when the pregnancy threatened the life of the mother. (*Presidente de Portugal Promulga Lei do Aborto*, O GLOBO ONLINE, Apr. 10, 2007, available at <http://oglobo.globo.com/mundo/mat/2007/04/10/295296184.asp>.) (Eduardo Soares, 7-3525, [esoa@loc.gov](mailto:esoa@loc.gov))

## ARMS LIMITATION

### MEXICO/UNITED STATES – Fight Against Nuclear Smuggling

On April 16, 2007, U.S. Secretary of Energy, Samuel W. Bodman, and Mexican Minister of Finance and Public Credit, Agustin Carstens, signed an agreement to help detect and prevent the smuggling of nuclear and other radioactive material. Under the Megaports agreement, the Department of Energy's National Nuclear Security Administration (NNSA) will collaborate with Mexican Customs to install radiation detection equipment at four Mexican seaports that account for nearly 90 percent of container traffic in Mexico.

The agreement is part of the 2005 Security and Prosperity Partnership, a trilateral initiative between the United States, Canada, and Mexico that focuses on collaboration in trade, import and export controls, immigration and security. Under the partnership, the United States is committed to providing Mexico with radiation detection equipment to prevent illicit trafficking in nuclear and other radioactive materials. (Press Release 031/2007, Ministry of Finance and Public Credit, *Firman México y Estados Unidos un acuerdo de cooperación para reforzar la seguridad del comercio exterior mexicano a través de sus aduanas marítimas* (Apr. 16, 2007), available at [http://www.apartados.hacienda.gob.mx/boletines\\_prensa/documentos/2007/abril/comunicado\\_031\\_2007\\_16042007\\_12419.pdf](http://www.apartados.hacienda.gob.mx/boletines_prensa/documentos/2007/abril/comunicado_031_2007_16042007_12419.pdf).) (Gustavo Guerra, 7-7104, [ggue@loc.gov](mailto:ggue@loc.gov))

## CAPITAL PUNISHMENT

### UNITED STATES – Death Penalty Sentence Upheld

On May 14, 2007, the U.S. Supreme Court upheld the ruling of a federal district court judge in a capital punishment case, ruling that the judge had not abused his discretion in refusing to allow a death row inmate an evidentiary hearing on his claim of ineffective assistance of counsel in a habeas corpus proceeding. Jeffrey Landrigen, a convicted murderer who had been given the death sentence by an Arizona state court, first exhausted the appeals available to him under the Arizona state court system. Then he filed a federal habeas corpus petition, alleging ineffective assistance of counsel and asking for an evidentiary hearing on the issue of whether his trial attorney failed to present mitigating evidence that could have reduced the severity of his sentence. The federal district court judge denied Landrigen's request for a hearing, finding that Landrigen's claim of ineffective assistance of counsel had no merit, since Landrigen had knowingly instructed his attorney to present no mitigating evidence and on several occasions undermined any attempt to present it. The U.S. Court of Appeals for the Ninth Circuit reversed the district court. The U.S. Supreme Court accepted certiorari, and reversed the Ninth Circuit.

Justice Clarence Thomas delivered the opinion of the Court, in which he noted that the decision to grant such a hearing rests in the discretion of the district court. The opinion noted that the standard to be used in granting habeas relief under the Antiterrorism and Effective Death Penalty Act of 1996 is "not whether a federal court believes the state court's determination was incorrect, but whether that determination was unreasonable—a substantially higher threshold." The Court found that the district judge was correct to conclude that the Arizona courts had not been unreasonable in their reviews of Landrigen's case on the issue of mitigating evidence and therefore the district judge's denial of an evidentiary hearing was within his discretion. ([Schriro v. Landrigen](#), No. 05-1575 (May 14, 2007).) (Gary Robinson, 7-3802, [grob@loc.gov](mailto:grob@loc.gov))

## CHILD PORNOGRAPHY

### BRAZIL – Acquisition of Child Pornography via Internet to Be Criminalized

The Commission of Human Rights and Participative Legislation of the Brazilian Federal Senate approved a proposed law amending the Child and Adolescent Statute (Law No. 8,069 of July 13, 1990), which criminalizes the acquisition of pornographic material or material that contains explicit sex images involving children and adolescents. The proposed law punishes with up to six years in prison and a fine anyone convicted of acquiring, receiving (even for free), concealing, or having filed for personal use or use by a third party pornographic photographs, scenes, or images produced on the Internet that involve children and adolescents. It also makes it mandatory for the responsible personnel of the Internet service provider to inform the Public Ministry of the acquisition of such material.

The author of the proposed law, Senator Marcelo Crivella, was quoted as saying, "[n]ow, the Brazilian citizen who uses his credit card to acquire such material will be punished by the

Federal Police, who with this law will have the right to access the credit cards of those who are consumers of pedophilia on the Internet.” The proposed law is to be discussed and voted upon by the Chamber of Deputies. (*Projeto Aprovado Torna Crime Consumir Pornografia no Brasil*, JURID, Apr. 12, 2007, available at [https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=34933&Id\\_Cliente=16569#null](https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=34933&Id_Cliente=16569#null).) (Eduardo Soares, 7-3525, [esoa@loc.gov](mailto:esoa@loc.gov))

## COMMUNICATIONS AND ELECTRONIC INFORMATION

### CHINA – New Controls on Blogs and Webcasts Being Considered

Long Xinmin, head of China’s State Press and Publications Administration (SPPA), stated on March 12, 2007, that new regulations would be drafted to tighten control over the growing number of blogs and Web casts in the country. Such advanced network technologies, he is quoted as saying, have created new challenges for the government in its ability to supervise the Internet. As of the end of 2006, according to an official internet survey report issued in January 2007, there were some 20.8 million bloggers in China, of whom a little over three million are active writers; about 76 million of China’s 137 million Internet users visited YouTube-style Web sites.

The SPPA has been contemplating additional controls for several months. In 2006, as a result of a series of cases involving bloggers’ infringement of privacy and the posting of allegedly libelous material, the government considered requiring bloggers to identify themselves when registering a site. In addition, officials mulled launching a nationwide check on online video broadcasting and allowing only licensed Web sites to continue Web casts, in the aftermath of Web casts being made without copyright authorization and Web cast parodies of copyrighted materials being produced.

Long also disclosed that the SPPA is currently consulting with related agencies on the formulation of Internet publishing management provisions, so that, once these are issued, normative management will be applied to all e-books, e-newspapers and journals, and other Internet publishing activities. (*New Regulations Considered for Blogs and Webcasting*, BEIJING REVIEW, Mar. 14, 2007, available at [http://www.bjreview.com.cn/lianghui/txt/2007-03/15/content\\_59352.htm](http://www.bjreview.com.cn/lianghui/txt/2007-03/15/content_59352.htm); Long Xinmin: *Boke boke jiang you guanli guifan*, General Administration of Press and Publication of the People’s Republic of China Web site, Mar. 14, 2007, available at <http://www.gapp.gov.cn/GalaxyPortal/inner/zsw/zongsu3.jsp?articleid=10169&boardpid=89&boardid1=11501010111505>; China Internet Network Information Center, *Statistical Survey Report on the Internet Development in China* (Jan. 2007), available at <http://www.cnnic.net.cn/uploadfiles/pdf/2007/2/14/200607.pdf>.) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

### FRANCE – Digital Television Framework

The French Parliament passed Law 2007-309 of March 5, 2007, on Modernization of Audiovisual Broadcasting and the Television for the Future, setting forth the framework for the adoption of digital television. The Law provides that the switch from traditional analog

broadcasting to digital television must begin on March 31, 2008, and should be completed no later than November 30, 2011. The Conseil Supérieur de l'Audiovisuel (CSA), France's independent broadcast authority, will establish the schedule of a zone-by-zone analog switch-off.

The Law requires that all television sets sold after March 2008 be equipped with digital turners (switches that allow alternation between digital and analog formats) and, after December 2008, with high-definition turners. The Law also provides the necessary legislative framework to allow the introduction of HDTV and mobile television services. (Loi n° 2007-309 du 5 mars 2007 relative à la modernisation de la diffusion audiovisuelle et à la télévision du futur, JOURNAL OFFICIEL 4347 (Mar. 7, 2007).)  
(Nicole Atwill, 7-2832, [natw@loc.gov](mailto:natw@loc.gov))

### **NEW ZEALAND – Anti-Spam Laws Introduced**

The Unsolicited Electronic Messages Act 2007 has been passed by the New Zealand Parliament and will become law on September 5, 2007. This new Act will, among other measures, regulate the sending of commercial electronic messages, including “spam.”

Under the Act, a commercial electronic message is an electronic message that markets or promotes goods, services, land, or business opportunities or one that assists or enables a person to obtain a financial advantage via dishonesty. From the date of implementation of the Act, it will be prohibited to send unsolicited electronic commercial messages and all electronic commercial messages must include accurate information regarding the person who authorized the message to be sent (and how they may be contacted) and a functional “unsubscribe” facility.

Consent to receive electronic commercial messages may be given expressly, inferred by a person's conduct and relationship with the sender, or deemed to have been given in relation to messages relevant to a person's business or profession where a person's email address is published in a business or professional capacity without a statement that the person does not wish to receive unsolicited commercial messages. (Unsolicited Electronic Messages Act 2007, STATUTES OF NEW ZEALAND, [http://www.legislation.govt.nz/browse\\_vw.asp?content-set=pal\\_statutes](http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_statutes) (last visited Apr. 23, 2007).)  
(Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

### **RUSSIAN FEDERATION – Censorship of Blogging**

On April 12, 2007, the federal regional court in Russia's northwestern province of Komi accepted a criminal case initiated by a local federal prosecutor's office against an individual who, in an on-line blog of another local resident, left a denigrating comment about the local police. Despite the fact that the comment was immediately removed by the blog owner, the investigators obtained the text of the comment and the computer of the accused person was seized. The individual was charged with violating article 282 of the Russian Criminal Code, which punishes the crime of incitement of enmity committed publicly or with the use of mass media with a term of imprisonment of up to four years. The defendant did not admit guilt, stating that he had expressed his private opinion, because a blog is neither a form of mass media nor a venue for public expression. The court arranged for a psychological and linguistic analysis

of the blog comment in question to determine whether it was hate speech. Several other cases were also initiated by the prosecution against persons who used insulting language describing public officials or politicians in their blog postings. These cases raise concerns about the introduction of Internet censorship in Russia. (Oleg Fochkin, *Dnevnik Tvoi-Vrag Tvoi* [Diary Is Your Enemy], MOSKOVSKII KOMSOMOLET [a daily newspaper], Apr. 13, 2007, available at <http://web.mk.ru/numbers/2681/article95325.htm>.) (Peter Roudik, 7-9861, [prou@loc.gov](mailto:prou@loc.gov))

### **UKRAINE – Restrictions on Telephone Advertisements**

On April 3, 2007, the Verkhovna Rada (legislature) of Ukraine amended the nation's Advertisement Act with provisions regulating marketing communications. In addition to defining such activities as "actions of an advertisement character," "special exhibition actions," and "stimulating marketing events," the new version of the Act prohibits telecommunications networks, especially telephone companies, from distribution of advertisements via the networks without the consumer's preliminary consent. Directing advertisements at those individuals who contact telecommunications networks with service inquiries is not allowed; all other persons may become subjected to advertisements only after the consumer has received the requested information and the telephone conversation has been completed. If a consumer pays for the call, the advertisement time will be free of charge. (*Phone Advertisement to Be Banned Without Prior Consumers' Permission*, UKRAINIAN NEWS ONLINE, Apr. 3, 2007, available at <http://www.securities.com>.) (Peter Roudik, 7-9861, [prou@loc.gov](mailto:prou@loc.gov))

## **CONSTITUTIONAL LAW**

### **NEPAL – Second Amendment to Interim Constitution**

On April 10, 2007, Nepal's Cabinet approved the Second Amendment Bill to the Interim Constitution and registered it with the parliament. The bill contains new provisions on abolition of the monarchy by the Interim Legislature and on holding constituent assembly elections on June 20 among eight proposed amendments agreed to by the leaders of the country's eight political parties on April 1, prior to their forming an interim government. Under the proposed amendment of article 159 of the Interim Constitution, the Interim Legislature would be empowered to abolish the monarchy by a two-thirds majority if the king were found to be involved in a conspiracy against the Constituent Assembly polls. There is also a draft amendment providing for the ouster of the prime minister through a two-thirds majority vote in the Interim Legislature. Another provision would require the Prime Minister to seek a vote of confidence and summon a parliamentary session if called for by one-fourth of the lawmakers. The first amendment to the Interim Constitution, which was promulgated on January 15, 2007, was adopted on March 9.

At the same Cabinet meeting, a decision was taken to simplify the process of appointment of Nepalese envoys abroad by abolishing the mandatory system of parliamentary confirmation hearings. In future, mandatory hearings will be limited to examining persons to be

appointed on the recommendation of the Constitutional Council. (*Cabinet Approves Second Statute Amendment*, EKANTIPUR.COM, Apr. 11, 2007, available at <http://ekantipur.com/>.)  
(Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

### **UNITED STATES – Supreme Court Rules Police May End Dangerous Car Chase by Causing Wreck**

On April 30, 2007, the Supreme Court ruled that a police officer did not violate the constitutional rights of a suspect fleeing in a car at high speed by ramming the suspect's car and causing it to crash, where there was a substantial and immediate risk of serious physical injury to others that rendered it reasonable to force the car off the road to terminate the chase. The case arose out of an incident in which Georgia police officer Timothy Scott clocked Victor Harris driving at an excessive speed. When Scott tried to pull Harris over, Harris drove away at a high rate of speed. A videotape recording made from Scott's car indicated other drivers were endangered by the chase. After following him for over six minutes, Scott, in an effort to terminate the chase, rammed his police car into the rear of Harris's vehicle, which caused Harris to lose control of his vehicle and crash. Harris was rendered a quadriplegic. Harris sued, arguing that his constitutional rights were violated by the use of excessive force, resulting in an unreasonable seizure in violation of his rights under the Fourth Amendment of the U.S. Constitution. The U.S. District Court for the Northern District of Georgia denied Scott's motion for summary judgment based on an assertion of qualified immunity, ruling that material facts in dispute warranted submitting the case to a jury. The U.S. Court of Appeals for the Eleventh Circuit affirmed. The Supreme Court granted Scott's request for review.

The Supreme Court reversed, ruling that Scott was entitled to qualified immunity under these circumstances. The Court stated that "a police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death." ([Scott v. Harris](#), No. 05-1631 (Apr. 30, 2007).)  
(Luis Acosta, 7-9131, [laco@loc.gov](mailto:laco@loc.gov))

## **CRIMINAL LAW**

### **BRAZIL – Proposed Harsher Punishments for Money Laundering Crimes**

In April 2007, the Commission for Economic Matters of the Brazilian Federal Senate approved a proposed law designed to improve legislation to help fight organized crime by attacking its financial operations. The proposed law was based on suggestions made by ENCLA (*Estratégia Nacional de Combate à Corrupção e à Lavagem de Dinheiro*), a federal agency created in 2003 for the purpose of modernizing Brazilian penal legislation.

According to the existing law, money laundering is punishable by up to ten years in prison; the proposed law increases the punishment to 30 years. It also increases the fines applied to companies that do not report suspicious financial activities to the Council for Financial Activities Control (COAF, *Conselho de Controle de Atividades Financeiras*), a federal agency created to regulate, apply administrative sanctions to, receive pertinent information about, and

examine and identify suspicious occurrences of illicit activities related to money laundering. The proposed law also incorporates a mechanism that benefits convicted criminals who decide to collaborate with police investigations, by reducing by up to two-thirds of the offender's sentence.

The new legislation makes it mandatory for the Brazilian Federal Reserve (*Banco Central*) to create a national database of persons holding bank accounts in order to allow the police and the Public Ministry to more easily locate the bank accounts and financial operations of people under investigation. It also establishes that the judicial authorities have 24 hours, after receiving a police or Public Ministry request, to issue an order freezing the personal property of an accused person, when there is concern that the person might evade prosecution through the use of funds of illegal origin that were remitted abroad. (*Cerco à Lavagem de Dinheiro*, O ESTADO DE S. PAULO, Apr. 3, 2007, available at <http://txt.estado.com.br/editorias/2007/04/03/edi-1.93.5.20070403.3.1.xml>.) (Eduardo Soares, 7-3525, [esoa@loc.gov](mailto:esoa@loc.gov))

### **BRAZIL – Punishment for Hideous Crimes**

Two new laws sanctioned on March 28, 2007, by President Luiz Inácio Lula da Silva will make the lives of convicted criminals even harder in Brazil. The first law (Law No. 11,464) makes the release of criminals convicted of committing “hideous crimes” more difficult. Now, such convicts will only have the benefit of regime progression (such as daytime work release) or of early release after serving two-thirds of the sentence in the case of first-time offenders and three-fifths of the sentence in the case of recidivists. Additionally, the judge will decide whether a person accused of committing a hideous crime may be released before being sentenced, making continuous incarceration until a final sentence is issued no longer mandatory, a change highly celebrated by the Brazilian Bar Association.

The second law (Law No. 11,466) makes it a serious offense, subject to further punishment, whenever a convicted criminal carries or uses a cellular phone or radio communications device inside a penitentiary. The law also punishes, with up to one year in prison, penitentiary agents and directors who facilitate the entrance of these devices into the penitentiaries. (*Lula Sanciona Lei Que Endurece Progressão da Pena*, JURID, Mar. 30, 2007, available at <https://secure.jurid.com.br/new/jengine.exe/cpag?p=jornaldetalhejornal&ID=34525>; *OAB Comemora Nova Lei dos Crimes Hediondos*, O GLOBO ONLINE, Apr. 9, 2007, available at <http://oglobo.globo.com/pais/mat/2007/04/09/295281024.asp>.) (Eduardo Soares, 7-3525, [esoa@loc.gov](mailto:esoa@loc.gov))

### **CANADA – Government Proposes to Reverse Onus in Bail Hearings for Firearms Offenses**

On March 27, 2007, a bill that would reverse the onus in bail hearings for persons accused of firearms offenses – an Act to Amend the Criminal Code, Bill C-35 – received a second reading in the Canadian House of Commons. Having now been approved in principle, the bill will be studied by a parliamentary committee before it can be brought back to the House for a third and final reading.

The bill is significant because Canadian law currently provides that prosecutors must provide justification for imposing release conditions or for keeping an accused in custody

pending trial. Such grounds can be that detention is necessary to prevent the accused from fleeing, to protect the safety of the public or any witnesses and victims, and to maintain confidence in the administration of justice. However, there is a list of offenses that shifts the onus to the accused. Included on this list are murder, commission of an offense while on bail, participation in organized crime, terrorism, and trafficking in drugs. The government is now proposing to add 12 firearms offenses to this list. Included among these are trafficking, discharging a firearm with the intent of causing bodily harm, sexual assault with a weapon, kidnapping with a firearm, and robbery or extortion with a firearm. The legality of reversing the onus in drug cases has already been recognized by the Supreme Court of Canada. (*R. v. Pearson*, [1992] 3 S.C.R. 665.)

Bill C-35 is part of the Conservative government's continuing effort to combat the recent increases in firearms offenses and, in particular, the illegal uses of firearms by gangs in the greater Toronto area. (An Act to Amend the Criminal Code, Bill C-35, 39<sup>th</sup> Parl. 1<sup>st</sup> Sess., [http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Parl=39&Ses=1&Mode=1&Pub=Bill&Doc=C-35\\_1](http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Parl=39&Ses=1&Mode=1&Pub=Bill&Doc=C-35_1) (last visited May 7, 2007).) (Stephen Clarke, 7-7121, [scla@loc.gov](mailto:scla@loc.gov))

## FRANCE – Prevention of Delinquency Law

The French Parliament recently adopted Law 2007-297 of March 5, 2007, on Prevention of Delinquency. The Law, originally presented by Nicolas Sarkozy, the former Interior Minister who was recently elected President, primarily targets young offenders. The Law emphasizes the role of local authorities, in particular mayors, in the fight against crime. Sarkozy, who does not want to rely exclusively on the police forces for crime prevention, views the mayors as the “cornerstone” of his reform.

The Law provides that “the mayor activates the prevention of delinquency policy and coordinates its implementation in his *commune*.” Security and Crime Prevention Councils will be created in cities with more than 10,000 inhabitants; each will be presided over by the mayor or his designated representative. In addition, Councils for the Rights and Duties of Families, also chaired by the mayor, will be established to give official admonitions to minors for disorderliness or to impose “parental supervision” on parents whom the Councils consider to be “failing in their duties.” Mayors may notify the juvenile court of families and minors facing difficult social and/or psychological situations and also request that the court designate an official to administer family allowances paid by the state.

The Law also creates new offenses. Use of electronic communication by adults in making “sexual proposals” to minors 15 years of age or younger is punishable by two years' imprisonment and a €30,000 fine (about US\$41,744) and by five years in prison and a €75,000 fine (about US\$102,860) when the proposal leads to an encounter. A person who knowingly makes a video recording of acts of violence, unless he or she is a professional journalist or the recording is made to be used as evidence, is now considered an accomplice and is punished as such, depending on the type of violence. The dissemination of unlawfully recorded images is punishable by five years' imprisonment and a €75,000 fine.

The Law imposes additional obligations on Internet service providers. Aside from having to take part in the fight against hate speech, holocaust denial, and child pornography as required by a 2004 law, Internet service providers must now inform public authorities of any incitement to violence and infringement on human dignity allegedly committed by their subscribers and reported to the provider by Internet users. Internet service providers that disseminate materials considered harmful to minors must post a notice clearly indicating that such materials are forbidden to minors. In addition, in regard to gambling activities, they must inform their subscribers of gambling Web sites considered unlawful under French law and of the penalty that may be incurred for illegal gambling. Failure to do so may result in one year of imprisonment for the provider and a €75,000 fine. Advertising, by any means, of an unauthorized gambling activity is punishable by a €30,000 fine. (Loi n° 2007-297 du 5 mars 2007 relative à la prévention de la délinquance, JOURNAL OFFICIEL 4297 (Mar. 7, 2007).) (Nicole Atwill, 7-2832, [natw@loc.gov](mailto:natw@loc.gov))

### **GERMANY – Stalking**

On March, 22, 2007, Germany enacted a criminal provision against stalking (BUNDESGESETZBLATT I at 354) by introducing a new section 238 into the Criminal Code (Strafgesetzbuch, re-promulgated Nov. 11, 1998, BUNDESGESETZBLATT I at 3322, as amended). This provision defines stalking as the unauthorized hounding of a person by seeking physical proximity; making contact through telecommunications or third parties; ordering goods or services for the victim while abusing his or her personal data; making threats against the life, physical integrity, health, or liberty of the victim or someone close to the victim; or comparable conduct. These acts, however, are punishable only if they significantly impair the victim's lifestyle. The penalty for the basic offense is a fine or up to three years' imprisonment. Aggravated forms of commission are punishable with three months to five years in prison; if death is caused, the penalty is between one and ten years' imprisonment. The basic offense is punishable only if the victim presses charges, unless there is a public interest in prosecution. (Edith Palmer, 7-9860, [epal@loc.gov](mailto:epal@loc.gov))

### **KOREA, SOUTH – Electronic Tagging of Sex Offenders**

The National Assembly of South Korea passed a bill prescribing electronic tagging for five years for repeat sex offenders. The electronic devices will be used for sex offenders who have committed crimes against children under the age of 13. Also, anyone imprisoned more than twice for sex crimes with combined sentences totaling more than three years who re-offend within five years will be made to wear an electronic tag. (*Jōshū seihanzaisha ni GPS udewa* [GPS bracelet for repeated sex offenders], YOMIURI NEWSPAPER, Apr. 19, 2007, available at <http://www.yomiuri.co.jp/world/news/20070419it13.htm>.) (Sayuri Umeda, 7-0075, [sume@loc.gov](mailto:sume@loc.gov))

## COURTS

### EGYPT – Judges’ Opposition to Establishing a Military Cassation Court

It was reported on April 19, 2007, that the President of the Judges Club (*Nadi al-Kudat*) in Egypt, Zakaria Abd al-Aziz, warned in a press conference against the enactment of a new law establishing a Military Cassation Court and called upon President Hosni Mubarak to interfere and withdraw the proposed amending legislation. Abd al-Aziz described the law’s enactment as a serious matter, because it would create two Cassation Courts and that could lead to friction between them. (*Judges’ Opposition to Establishing a Military Cassation Court*, AL-SHARQ AL-AWSAT, Apr. 19, 2007, available at <http://www.asharqalawsat.com/>.)

(Issam Saliba, 7-9840, [isal@loc.gov](mailto:isal@loc.gov))

### NICARAGUA – New Code of Military Criminal Procedure

On April 19, 2007, the National Assembly of Nicaragua approved a new Code of Military Penal Procedure, which provides that the armed forces will be under the jurisdiction of military courts and ordinary courts. Members of the military will be tried by military tribunals for the commission of military crimes and by ordinary courts for the commission of crimes that are not of a military nature. This new Code, in contrast to the 1980 Code promulgated by the former Sandinista revolutionary government, is in harmony with the Constitution, the civil laws, and the 2005 Military Code. (*Aprueban Nuevo Código Militar*, LA PRENSA, Apr. 19, 2007, available at <http://www.laprensa.com.ni/archivo/2007/abril/19/noticias/ultimahora/186188.shtml>.)

(Norma C. Gutiérrez, 7-4314, [ngut@loc.gov](mailto:ngut@loc.gov))

### PAKISTAN – President’s Authority to Suspend Chief Justice Questioned

The counsel defending suspended Chief Justice of Pakistan Iftikhar Mohammad Chaudhry, in a reference before the Supreme Judicial Council (SJC), questioned the Council’s authority to restrain the Chief Justice or any judge of the apex court from performing his functions. The counsel, Aitzaz Ahsan, assailed the power of the referring authority (President Pervez Musharraf) to suspend or send a judge on forced leave in order to make him dysfunctional. Citing constitutional provisions, Ahsan emphasized the impact of the provisions on the powers of the Council to decide the vires of the statute under which the Chief Justice was sent on forced leave. The SJC declined counsel’s request to refrain from proceeding with the hearing until the completion of the disposal of separate petitions before the Supreme Court on the composition and competency of the Council to hear the reference.

Another counsel for the Chief Justice told reporters that the President had no authority to appoint an acting Chief Justice of the Supreme Court except when the Chief Justice is physically or mentally incapacitated under article 180 of the Constitution. While appreciating the sympathetic attitude of the acting Chief Justice towards the defense, the counsel deplored the fact that the Chief Justice of the Lahore High Court, who is a sitting member of the SJC, never took any note of the arguments advanced by the defense. (*Authority of SJC to Restrain CJ Questioned*, THE DAWN, May 3, 2007, available at <http://www.dawn.com/2007/05/03/top3.htm>.)

(Krishan Nehra, 7-7103, [kneh@loc.gov](mailto:kneh@loc.gov))

## DOMESTIC VIOLENCE

### SWITZERLAND – Stalking and Domestic Violence

On December 21, 2006, Switzerland promulgated an amendment to the Civil Code that allows those threatened by stalkers or domestic violence to obtain an injunction from a civil court that may order the perpetrator to keep at a distance from the victim or move out of the common home (AMTLICHE SAMMLUNG DES BUNDESRECHTS 2007 at 137). The amending act that introduces this new article 28b into the Civil Code was passed by the parliament on June 23, 2006, adopted by the Swiss people by referendum on October 12, 2006, and will become effective on July 1, 2007. In the meantime, the Swiss cantons are in the process of enacting the necessary procedural provisions to implement the new remedy. Switzerland does not have a criminal provision against stalkers, which, according to some commentators, is a serious problem. It is therefore hoped that the new civil provision will bring relief. (*Wandelnde Zeitbomben*, FACTS 34 (Nov. 9, 2006).)

(Edith Palmer, 7-9860, [epal@loc.gov](mailto:epal@loc.gov))

### TAIWAN – Domestic Violence Law Amended

On March 28, 2007, Taiwan's Domestic Violence Prevention Law, promulgated on June 24, 1998, was extensively amended. The amendments include, among other changes, a revision of the objectives of enactment of the Law, addition and definition of the terms "tracking" and "offenders' treatment program," revision of the competent authorities set forth in the Law, and provision of the respective functions and duties of the central competent authority and the local competent authorities. There are also revised and new provisions concerning the writ of civil protection, criminal proceedings, and penalties imposed for violation of the Law. In addition, the Law now specifies that the central competent authority will enact regulations governing executive agencies' enforcement of the writ of civil protection. (Amendment to Domestic Violence Prevention Law, 6737 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 46-66 (Mar. 28, 2007), Global Legal Information Network, GLIN ID 190890, available at <http://www.glin.gov>.) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

## EDUCATION

### ISRAEL – Supreme Academy for the Arab Language

On March 21, 2007, the Knesset (Israel's Parliament) passed a law establishing the Supreme Academy for the Arab Language. Among the duties of the Academy are researching the Arab language in different periods; its grammar, vocabulary, and form of writing; and related linguistic innovations and adjustment to the era of technology and advanced digitalization. The Academy will also engage in the study of the Arab language, including literature and poetry, and maintain contacts and exchange of information with the Academy for the Hebrew Language and institutions of the study of the Arab language in Israel and abroad.

The Academy will cooperate with the Ministry of Education and with institutions for higher education and will provide advice and publish in areas within the academy's jurisdiction.

The law regulates the conditions for membership, appointment of consultants, and management of the academy, and procedures for Academy meetings and other activities. (Law on the Supreme Academy for the Arab Language, 5767-2007, the Knesset Web site, <http://www.knesset.gov.il> (last visited Apr. 18, 2007).) (Ruth Levush, 7-9847, [rlev@loc.gov](mailto:rlev@loc.gov))

## ELECTIONS AND POLITICS

### **NIGERIA – Media Closed Before Election**

On April 11, 2007, three days before elections for state governments and state parliaments in Nigeria, the government security forces closed two new broadcasting media, Link FM and GTV, which had been based in Lagos. After entering the premises of the radio and television stations, security forces ordered all the employees to leave and sealed the entrances. The stations had been broadcasting for only a few weeks, and Stanley Okoye, their director, stated that he did not know the reason for the closure.

The organization Reporters Without Borders criticized the move, stating, “[e]lection should be a time when the government takes more care than ever to respect the rule of law.” Another journalist in Lagos stated that the reason for the closure might be to prevent prompt reporting of election results by the opposition, in case the administration intended to interfere with accurate tallying of the votes. (*Nigeria: Radio, TV Station Closed Before Elections*, REPORTERS SANS FRONTIERES, Apr. 12, 2007, Open Source Center No. EUP20070413950061.) (Constance A. Johnson, 7-9829, [cojo@loc.gov](mailto:cojo@loc.gov))

### **SRI LANKA – Bill to Reform Elections**

The Government of Sri Lanka is planning to introduce a bill in parliament in May 2007 on electoral reform. On April 11, 2007, the Constitutional Affairs Minister, D.E.W. Gunasekera, stated that consensus had been reached after more than 30 meetings with different groups. The proposed electoral reforms would result in a mixed system, with both proportional representation and the first-past-the-post system. (*Sri Lanka to Introduce Electoral Reforms Bill Next Month*, COLOMBO PAGE, Apr. 12, 2007, available at [http://www.colombopage.com/archive\\_07/April12134040CH.html](http://www.colombopage.com/archive_07/April12134040CH.html).) (Constance A. Johnson, 7-9829, [cojo@loc.gov](mailto:cojo@loc.gov))

## EMPLOYMENT

### **KOREA, SOUTH – Age Discrimination to Be Banned**

South Korea’s Ministry of Labor submitted a bill in March 2007 to amend the Employment Promotion of the Aged Act. Under the bill, employers are prohibited from refusing employment based on the advanced age of the candidate. The bill also prohibits discrimination based on age regarding wages, welfare, education, and firing of employees. If a violation is

claimed, a local Labor Committee may investigate the case and issue an order to take corrective action. If the employer fails to follow the order, a fine will be imposed. (*Kōrei o riyū ni saiyo o kyohi suru to sabetsu ni* [Refusal of employment because of age will constitute discrimination], CHOSUNILBO, Mar. 30, 2007, available at <http://www.chosunonline.com/article/20070330000026>.)

(Sayuri Umeda, 7-0075, [sume@loc.gov](mailto:sume@loc.gov))

### **NEW ZEALAND – Extra Vacation Time**

From April 1, 2007, New Zealand employees will be entitled to four weeks' annual leave, after the first anniversary of when they commenced employment in their current position. (DEPARTMENT OF LABOUR, FACT SHEET, MOVING TO FOUR WEEKS LEAVE, available at Department of Labour Web site, [http://www.ers.govt.nz/holidays\\_act\\_2003/4weeks\\_print.html](http://www.ers.govt.nz/holidays_act_2003/4weeks_print.html) (last visited Apr. 23, 2007).)

(Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

## **ENERGY**

### **PAPUA NEW GUINEA – Proposed Act Commercializes Public Petroleum Assets**

It has been reported that the Papua New Guinea Parliament has passed two Acts, Petromin PNG Holdings Limited Authorisation Act 2007 and Petromin PNG Holdings Authorisation Act 2007, which, it is claimed, will transfer the mining and oil assets of Papua New Guinea to a commercial vehicle that is devoid of government control and oversight. Assets are to be transferred to Petromin PNG Holdings, a commercial enterprise that is not an instrumentality of the state and whose assets are not public assets. In addition, it is expected that the Audit Act 1989 will be amended to exclude Petromin PNG Holdings from operation of the Companies Act 1997. (*Petromin "Shocker,"* THE NATIONAL, Mar. 23, 2007, available at <http://www.thenational.com.pg/032307/nation1.htm>; *157 Bills Passed: Pruaitch,* THE NATIONAL, Mar. 23, 2007, available at <http://www.thenational.com.pg/042307/nation28.htm>.)

(Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

## **ENVIRONMENT**

### **HONG KONG – Clean Air a Human Right**

On March 27, 2007 the Clean Air Foundation, a non-profit anti-air pollution organization, filed with the Hong Kong High Court of First Instance a "Notice for Leave to Apply for Judicial Review," seeking judicial review and a declaration that the Basic Law and the Hong Kong Bill of Rights Ordinance impose a duty on the Hong Kong Government to protect the citizens of Hong Kong from the effects of air pollution. (Clean Air Foundation's Copy of Its Notice of Application of Leave to Apply for Judicial Review, Clean Air Foundation Web site, [http://www.cleanairfoundation.hk/doing/pdf/070329\\_jr\\_application\\_notice.pdf](http://www.cleanairfoundation.hk/doing/pdf/070329_jr_application_notice.pdf) (last visited Apr. 23, 2007).)

(Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

## UNITED STATES – Supreme Court Rules EPA Must Address Global Warming

The Supreme Court has ruled that the U.S. Environmental Protection Agency (EPA)'s denial of a petition urging it to regulate greenhouse gas emissions from automobiles violated the Clean Air Act. A group of private organizations and state governments petitioned the EPA to conduct a rulemaking proceeding to establish regulations on motor vehicle emissions of four greenhouse gases, including carbon dioxide, pursuant to the Clean Air Act's requirement that the EPA regulate air pollutants from motor vehicles reasonably anticipated to endanger public health or welfare. The EPA denied the petition, arguing that it lacked statutory authority to address global climate change, and that even if it had such authority, it would be unwise to regulate in light of the scientific uncertainty and international dimensions of the problem. The State of Massachusetts and others sought review in the U.S. Court of Appeals for the District of Columbia Circuit, which ruled in favor of the EPA.

The Supreme Court reversed. The Court first addressed the issue of petitioners' standing to challenge the EPA's actions and ruled affirmatively on the grounds that one petitioner, the State of Massachusetts, has territory threatened by global warming; the failure to regulate greenhouse gases could harm the state; and the relief requested likely would prompt the EPA to take action to reduce this risk of harm.

On the merits, the Court ruled that the EPA has the authority to regulate the emission of greenhouse gases from new motor vehicles, because such emissions fall under the Clean Air Act's broad definition of "air pollutant" and subsequent congressional actions have not deprived the EPA of such authority. The Court stated that the Clean Air Act permits the EPA to avoid taking action only if it determines that greenhouse gases do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not determine whether they do so contribute. The Court found that the excuses for not regulating offered by the EPA, such as the existence of voluntary programs, preserving the President's ability to negotiate with developing nations, and scientific uncertainty, fail to explain the EPA's refusal to decide whether greenhouse gases cause or contribute to climate change. Because the EPA rejected the rulemaking petition based on impermissible considerations, the Court held that the EPA's action was arbitrary, capricious, or otherwise unlawful under the Clean Air Act.

In response to this decision, on May 14, 2007, President George W. Bush issued an executive order directing the EPA and other federal agencies to develop regulations to reduce gasoline consumption and greenhouse gas emissions in motor vehicles. ([Massachusetts v. Environmental Protection Agency](#), No. 05-1120 (Apr. 2, 2007); [Exec. Order No. 13432](#), 72 Fed. Reg. 27,717 (May 16, 2007).) (Luis Acosta, 7-9131, [laco@loc.gov](mailto:laco@loc.gov))

## FAMILY

### TAIWAN – Artificial Insemination

On March 21, 2007, the President of the Republic of China (on Taiwan) promulgated the Law on Artificial Insemination. The Law's eight chapters, comprising 40 articles, cover the following topics: general provisions, management of artificial insemination conducted by medical institutions; implementation of artificial insemination; protection of the insemination cell and embryo; the status of artificial insemination children; the preservation, management, and utilization of data; penalties; and supplementary provisions. (Artificial Insemination Law, 6736 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 76-86 (Mar. 21, 2007), Global Legal Information Network, GLIN ID 190558, available at <http://www.glin.gov>.) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

## FREEDOM OF THE PRESS

### GAMBIA – U.S.-Based Journalist Charged with Sedition

The case of a Gambian journalist and pro-democracy activist based in the United States, who has been accused of sedition by the Gambian government, was heard before a Gambian court on April 4, 2007. Fatou Jaw Manneh, who was arrested at the airport upon her arrival in Gambia from the United States in late March 2007, had been detained for a week before appearing in court, in contravention of the 72-hour period allowed under the Constitution, and was denied access to a lawyer and her family. She reportedly was charged with three counts of sedition under Gambia's Criminal Code: "intention to commit sedition," "publication of seditious words," and "publication of false news intended to cause public fear and alarm to the Gambian public," each of which carries a maximum prison term of two years or a fine or both. Manneh, whose travel documents have been confiscated by the National Intelligence Agency, pleaded not guilty. She was released on bail of 25,000 dalasis (about US\$900). English PEN protested the trial and called for all the charges against Manneh to be dropped, or for assurances to be made that the trial would be fair and she would not receive a prison sentence.

Manneh allegedly granted an interview to a newspaper indicating that Gambian President Yahya Jammeh "is stupid and a betrayer," that it was time to speak out against these traits, and that Gambia needed change and Jammeh should be replaced. Manneh contributes to the U.S.-based opposition Web site, AllGambian.net, and formerly was a reporter with the Gambian private newspaper DAILY OBSERVER. She was granted political asylum in the United States in 1994. The subsequent court hearing had been slated for May 4, but was deferred. (*The Gambia: Journalist Fatou Jaw Manneh on Trial for Sedition*, ENGLISH PEN, Apr. 25, 2007, available at <http://www.englishpen.org/writersinprison/bulletins/thegambiajournalistfatoujawmannehontrialforsedition/>; Fabakary B. Ceesay, *Gambia: Journalist Fatou Jaw Manneh Charged with Sedition*, FOROYAA NEWSPAPER, Apr. 5, 2007, available at <http://allafrica.com/stories/200704050740.html>; Fabakary B. Ceesay, *Gambia: Fatou Jaw Manneh's Trial*, FOROYAA NEWSPAPER, Apr. 24, available at <http://allafrica.com/stories/200704230929.html>; Fabakary B. Ceesay, *Gambia: Fatou Jaw Manneh's Trial Deferred*, FOROYAA NEWSPAPER, May 10, 2007, available at <http://allafrica.com/stories/200705090402.html>.) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

## MEXICO – Law to Protect Journalists

The Mexican Congress passed and President Felipe Calderón signed into law a decree decriminalizing at the federal level crimes of defamation, slander, and libel. These offenses, found in articles 350 to 363 of the Federal Penal Code, were repealed by the decree; at the same time, the decree added several provisions to articles 1916 and 1916*bis* of the Federal Civil Code, under which defamation, slander, and libel are now civil offenses. At the signing ceremony, Calderón stated that the promulgation of this law is a “historic step in this battle to consolidate and strengthen the work of the news media.” He added that “thanks to this reform, journalists will be able to perform their work without fear of being put in prison due to the accusations of those who consider themselves [adversely] affected by the reporting of the media.” He said that this does not mean that journalism is synonymous with impunity; that people’s right to honor, reputation, and good name is a right that must be protected by the state, but it must be guaranteed through civil and economic sanctions, not penal ones.

One of the paragraphs added to article 1916 of the Civil Code states that the exact replication of information does not give rise to moral damages, even when the replicated information is incorrect and can harm the honor of a person, in light of the fact that it does not constitute the publisher’s responsibility as long as the source of the information is cited. The reform became into force on April 14, 2007, the day after its official publication in the federal official gazette. [Author’s note: At the local level, most of the Mexican states’ penal codes still carry libel, defamation, and slander as criminal offenses.] (*Decreto por el que se Derogan Diversas Disposiciones del Código Penal Federal y se Adicionan Diversas Disposiciones al Código Civil Federal*, DIARIO OFICIAL DE LA FEDERACIÓN, Apr. 13, 2007, available at [http://www.dof.gob.mx/nota\\_detalle.php?codigo=4975044](http://www.dof.gob.mx/nota_detalle.php?codigo=4975044); Press Release, El Presidente Calderón en la Firma del Decreto por el que se Derogan Diversas Disposiciones del Código Penal Federal, Sala de Prensa, Presidencia de la República (Apr. 12, 2007), available at <http://www.presidencia.gob.mx/prensa/?contenido=29778>.) (Norma C. Gutiérrez, 7-4314, [ngut@loc.gov](mailto:ngut@loc.gov))

## TONGA – Journalist Arrested on Charges of Sedition

It was reported on April 4, 2007, that Falisi Tupou, a senior journalist at Tonga’s KELE’A newspaper, had been arrested and charged with sedition. Tavake Tupou, KELE’A’s editor, was arrested and charged with defamation and sedition two weeks before Falisi Tupou. KELE’A is considered to be a pro-democracy newspaper. (*Another Tongan Journalist Arrested for Alleged Sedition*, RADIO NEW ZEALAND INTERNATIONAL, Apr. 4, 2007, available at <http://www.rnzi.com/pages/news.php?op=read&id=31288>.) (Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

## GOVERNMENT ETHICS

### TAIWAN – Major Revision of Law on Reporting of Assets

On March 21, 2007, extensive amendments to the Public Officials Asset Report Law were promulgated, affecting most articles. Some highlights of the revised Law are as follows. Amendments have been made to provisions on the list of public officials who are to report their assets; the list of government agencies in charge of handling asset reports; the list of items to be reported; and the asset reports made by legislators and municipal councilmen. Various provisions on mandatory trusts have also been amended. The revised Law specifies that public officials are to refrain from reporting assets for the year already reported on when assuming a new post, with the added provision that officials must report assets upon leaving office or being relieved of duty as a proxy. Reported information will be preserved for up to five years and then destroyed for persons who have lost their status as obligors, except in cases where judicial or prosecutorial organs give notice that the information be retained.

Under the amended Law, government agencies in charge of handling asset reports are to examine them on a case-by-case or a specific pro rata basis to determine whether any of them are untrue or reflect unusual property increases or decreases. Fines are to be imposed on obligors found to have purposely concealed assets and produced a false report or to have failed to place assets in trust without justifiable reasons. (Public Officials Asset Report Law, 6736 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 59-67 (Mar. 21, 2007), Global Legal Information Network, GLIN ID 190556, *available at* <http://www.glin.gov>.) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

## GOVERNMENT ORGANIZATION

### BANGLADESH – High Court Ruling on Government’s Treatment of Former Prime Minister

The Bangladesh High Court issued a ruling on a writ petition filed by former Prime Minister, Khaleda Zia, asking for an explanation as to why the restrictions on Zia’s movements should not be deemed illegal. Zia alleged before the court that she had been under house arrest and her phone lines had been disconnected by the government. She also alleged that the government intended to push her, as well as another former Prime Minister, Sheikh Hasina, into exile abroad. The Bangladesh government denied these allegations. The High Court ordered the government to submit an explanation within four weeks on the alleged restrictions and ordered restoration of Zia’s telephone connections within three days.

Former Prime Minister Hasina arrived in Bangladesh on May 7, 2007, after the government lifted a ban against her returning to the country. Hasina was originally scheduled to fly home following a private visit to the United States on April 23, but did not do so then because a ban was imposed on her return by the interim Bangladesh government. Hasina is currently facing charges of bribery and murder. She has denied both charges. According to news sources, Hasina filed a lawsuit against British Airways claiming over a million pounds in damages for the

airline's denial of her boarding pass while returning to Bangladesh. (*Alleged Restrictions on Khaleda: BD High Court Seeks Govt.'s Explanation*, DAILY TIMES (Pakistan), May 9, 2007, available at [http://www.dailytimes.com.pk/default.asp?page=2007%5C05%5C09%5Cstory\\_9-5-2007\\_pg4\\_14](http://www.dailytimes.com.pk/default.asp?page=2007%5C05%5C09%5Cstory_9-5-2007_pg4_14).)

(Shameema Rahman, 7-3812, [srah@loc.gov](mailto:srah@loc.gov))

## HEALTH

### GERMANY – Health Care Reform

On March 26, 2007, Germany instituted a major health care reform in the Act to Strengthen Competition in Statutory Health Insurance (BUNDESGESETZBLATT I at 378). The Act aims to reduce costs in the social health insurance system, which is mandatory for low- and middle-income earners and under which coverage is provided by sickness funds whose benefits and premiums can vary and thereby compete with each other.

The reform Act retains the basic principles of social health insurance paid for through employer and employee contributions; high wage earners may opt out of the social scheme by obtaining private health insurance. To cut costs, the Act requires the sickness funds to provide various plans among which the insured may choose. These are to include disease management system plans, managed care plans, plans that require a visit to the insured's general practitioner before consulting specialists, as well as plans that offer deductibles and savings features. The Act also requires producers of pharmaceuticals to enter into pricing agreements with associations of sickness funds while disallowing pricing agreements with individual physicians and pharmacies. In addition, the Act sets forth new rules for private health insurance companies by requiring them to provide a basic policy with conditions similar to those of the social health insurers. The Act is the result of several years of compromise among the political parties and has met with opposition from almost all stakeholders in the health care business. (W. Reiners, *Die unterlassene Reform*, STUTTGARTER NACHRICHTEN 2 (Apr. 2, 2007), LEXIS/NEXIS, News Library, Zeitng File.)

(Edith Palmer, 7-9860, [epal@loc.gov](mailto:epal@loc.gov))

## HUMAN RIGHTS

### INDIA - Supreme Court Stays Attachment Order Against Controversial Artist

Art work by M. F. Husain, a Muslim painter in India, has subjected the artist to death threats and lawsuits. The painting in question is called "Bharat Mata" (Mother India), a depiction of a nude woman on her knees, creating the shape of India's geographic borders. According to news sources, this painting resulted in controversy among conservative Hindus, who believe it is disrespectful to associate India with nudity. The conservative Hindus have previously objected to Husain's other paintings, because of his nude depiction of Hindu gods, which they view as offensive to the religious sentiment of Hindus.

A lawsuit was filed in Haridwar District Court in March 2006 alleging that Husain's painting offended Hindu religious sentiments. The court issued an arrest warrant against Husain and ordered that his property be seized, after the artist failed to appear for a hearing. On May 8, 2007, a Supreme Court bench headed by Justice B.N. Agrawal stayed the attachment proceedings initiated by the Haridwar Special Judicial Magistrate.

The artist has been residing in London and the United Arab Emirates since the controversy erupted last year. Husain's lawyer said the painter may be killed if he appears before the court in Haridwar due to the current political climate in the city, and has requested a transfer of the case to New Delhi for security reasons. According to news sources, the Supreme Court had earlier transferred five similar cases pending in different parts of the country to New Delhi for a consolidated trial. The court ordered the painter to bear the expenses incurred by the complainants and witnesses in traveling to New Delhi to attend the proceedings. (Satya Prakash, *SC Stays Court Order to Attach MF Husain's Property*, HINDUSTAN TIMES (New Delhi), May 8, 2007, available at <http://www.hindustantimes.com/StoryPage/StoryPage.aspx?id=21ab5780-8b8d-4583-953f-69d84721a569&&Headline=SC+stays+court+order+to+attach+MF+Hussain's+property>.)

(Shameema Rahman, 7-3812, [srah@loc.gov](mailto:srah@loc.gov))

### **NEPAL – Anti-Human-Trafficking Bill**

It was reported on January 2, 2007, by THE HIMALAYAN TIMES that the Nepali government had registered an anti-human-trafficking bill at the Parliament Secretariat. Under the bill, convicted traffickers would be subject to 20 years' imprisonment and a fine of up to 100,000 Nepali rupees (US\$1,428). Persons found guilty of trafficking in human organs would be subject to a ten-year prison term and a fine of 200,000 to 500,000 rupees (US\$2,857 to \$7,143). Those convicted of forcing people to work against their will would be imprisoned for three months to two years and fined 50,000 to 100,000 rupees (US\$714 to \$1,428). The bill further stipulates a penalty of ten to 15 years of imprisonment and a fine of from 50,000 to 100,000 rupees for the crime of taking women abroad for the purpose of prostitution. (*Stringent Anti-Trafficking Law in Offing in Nepal*, PEOPLE'S DAILY ONLINE, Jan. 2, 2007, available at [http://english.people.com.cn/200701/02/eng20070102\\_337723.html](http://english.people.com.cn/200701/02/eng20070102_337723.html).)

The bill also has an article on providing compensation to victims from the fine imposed on the perpetrator. However, Supreme Court Justice Anup Raj Sharma, speaking on March 30, 2007, at the National Convention on the Anti-Trafficking Bill (jointly organized by the Forum for Women, Law and Development and the Daywalka Foundation Nepal), questioned how victims can be compensated "when the court itself is not ... able to collect the fines?" He added that the court cannot deliver justice to victims because of a lack of sufficient evidence, which is to be produced by prosecutors and police when filing cases. (*SC Judge Concerned About Courts' Failure to Collect Fines*, LEGAL NEWS FROM NEPAL, Mar. 31, 2007, available at <http://kanuni.sanchar.com/news/index1.php?Action=Full&NewsID=794>.)

(Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

## IMMIGRATION AND NATIONALITY LAW

### AUSTRALIA – New Citizenship Act

On April 4, 2007, Australia introduced the new Australian Citizenship Act 2007 (the 2007 Act), replacing the Citizenship Act 1948 (Cth) (the 1948 Act). It is likely that the new legislation will become effective on July 1, 2007. The 2007 Act restructures the 1948 Act and introduces new provisions, including:

- An increase in the residence requirement from two years to four immediately prior to making an application for Australian citizenship;
- Removal of age and time limitations for registration of citizenship by descent;
- Ability to register as Australian citizens children adopted overseas by Australian citizens in accordance with the Hague Convention on Intercountry Adoption;
- Permissibility of resumption of Australian citizenship by former Australian citizens who ceased to be citizens in order to acquire or retain another citizenship or to avoid significant hardship or disadvantage;
- Revocation of Australian citizenship by conferral if a person commits a serious crime and is sentenced to 12 months or more of imprisonment at any time prior to becoming an Australian citizen, or if the approval to become an Australian citizen was gained as a result of third-party fraud;
- Prohibition of the approval of a citizenship application during any period in which the applicant has been released on bail by a court, is considered a security risk by the Australian Security Intelligence Organization, or in which his or her identity cannot be verified; and
- Legislative provisions on the collection and use of personal identifiers (such as DNA or iris scans).

(AUSTRALIAN CITIZENSHIP ACT 2007 (CTH), ComLaw Web site, [http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/C352348D2480748FCA2572BB00297F8A/\\$file/AusCitizenship2007.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/C352348D2480748FCA2572BB00297F8A/$file/AusCitizenship2007.pdf) (last visited Apr. 24, 2007).)

(Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

### NETHERLANDS – Domestic Agreement on Handling Immigration Cases

The Netherlands State Secretary of Justice, Nebahat Albayrak, and the Association of Netherlands Municipalities (VNG) have reached agreement on the settlement of immigration cases under the old Dutch Aliens Act (1994) and implementation of the new Act (2000). The agreement stipulates how the settlement of old cases will be carried out and how persons in the target group will be integrated into Dutch society, the division of roles between the Immigration and Naturalisation Service (IND) and mayors, and the funding and implementation of the arrangement.

The IND assesses whether a residence permit can be issued, based on contra-indications. It will automatically do so for foreign nationals whom it can directly locate in a state reception facility or who are part of an admission procedure. The mayor will report to the IND those foreign nationals who cannot be located immediately but who are known to the municipality,

whereupon the IND will make a decision on granting a permit on the basis of any contra-indications. This is only permissible for asylum applications submitted before April 1, 2001, and where foreign nationals can prove they resided in the Netherlands for the whole of 2006. The VNG will be consulted on ways to improve the admissions procedure as well as on supplementary measures aimed at making the return-migration policy more effective.

The VNG is to submit the agreement to the municipalities for their opinions and indicate not later than May 25, on the basis of the feedback it receives, whether it accepts the agreement. (Press Release, Netherlands Ministry of Justice, State and VNG Agree on Implementation of Old & New Aliens Act (Apr. 27, 2007), *available at* <http://english.justitie.nl/currenttopics/pressreleases/archives2007/state-and-vng-agree-on-implementation-of-old--new-aliens-act.aspx>.)

It may also be noted that as of January 1, 2007, a new Integration Act is in force in the Netherlands. It states that persons who come to the Netherlands to live must learn the Dutch language and also know how Dutch society functions. Those who must integrate are called “integration subjects” and must pass an exam. The Integration Act is distinct from the Integration Abroad Act, which came into force on March 15, 2006. (“Integration” tab, VROM [Netherlands Ministry of Housing, Spatial Planning and the Environment] International Web site, <http://www2.vrom.nl/pagina.html?id=10696> (last visited May 2, 2007).) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

## INTELLECTUAL PROPERTY

### CHINA – IPR Judicial Interpretation

China’s Supreme People’s Court (SPC) and Supreme People’s Procuratorate (SPP) jointly issued a new judicial interpretation on April 5, 2007, aimed at combating intellectual property rights (IPR) piracy. Under the “Interpretation of the SPC and the SPP on Certain Issues of the Concrete Application of Law in Handling Criminal Cases of IPR Violation (II),” the threshold at which a criminal act entailing violation of IPR is deemed to have occurred is lowered and punishments for violators are stiffened.

The Interpretation provides that anyone convicted of reproducing and distributing 500 or more counterfeit copies (discs) of written work, music, movies, TV series, videos, computer software or other works will be subject to up to three years’ imprisonment and/or a fine, in conformity with article 217 of the Criminal Law. The definition of a “serious IPR offender” is also expanded, to cover anyone who produces more than 2,500 counterfeit copies, for which the punishment is from three to seven years of imprisonment and a fine. The Interpretation supersedes 2004 rules that set the reproduction limit at 1,000 pirated discs and defined “serious offenders” as producers of over 5,000 counterfeit copies. The Interpretation also makes more stringent the conditions under which probation will be granted.

The Interpretation states that people’s courts, in imposing fines for acts in violation of IPR, should take into consideration such factors as the amount of the illegal gains, the value of the illegal business operations, the losses caused to the rights holder, and the harmfulness to

society. The new range of the fines is from one to five times the illegally gained income or between 50 and 100 percent of the sales value of the goods produced. In addition, the Interpretation instructs IPR criminal courts to accept lawsuits directly filed by individual victims of piracy as well as those filed by procurators. (Zuigao Renmin Fayuan Zuigao Renmin Jianchayuan guanyu banli qinfan zhishi chan quan xingshi anjian juti yingyong falu ruogan wenti de jieshi (II), SPC Web site, [http://www.court.gov.cn/lawdata/explain/penal/2007\\_04090035.htm](http://www.court.gov.cn/lawdata/explain/penal/2007_04090035.htm) (last visited Apr. 11, 2007); Xie Chuanjiao, *New Ruling Designed to Snare More Pirates*, CHINA DAILY, Apr. 6, 2007, Open Source Center No. CPP20070406061017.)

The Interpretation follows on the heels of an SPC notice issued on January 11, 2007, the “Opinions of the SPC Concerning Comprehensive Strengthening of IPR Adjudicative Work and Provide Judicial Safeguards for the Establishment of an Innovation-Oriented Country,” which calls for stricter penalties for IPR violators. It states, for example, that “the application and enforcement of fines should be strengthened, illegal gains recovered, tools of the crime confiscated, pirated products destroyed, and compensation for losses mandated.” (Zuigao Renmin Fayuan yin fa “Zuigao Renmin Fayuan guanyu quanmian jiaqiang zhishi chan quan shenpan gongzuo wei jianshe chuangxinxing guojia tigong sifa baozhang de yijian” de tongzhi, LAW-LIB.COM Web site, [http://www.law-lib.com/law/law\\_view.asp?id=186266](http://www.law-lib.com/law/law_view.asp?id=186266) (last visited May 10, 2007).)

(Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

### **SINGAPORE – Ratification of Treaty on Law of Trademarks**

Singapore has become the first World Intellectual Property Organization (WIPO) member to ratify the Singapore Treaty on the Law of Trademarks (the Singapore Treaty). The Singapore Treaty (adopted at the WIPO Conference in Singapore in March 2006) updates the 1994 WIPO Trademark Law Treaty and further harmonizes trademark application procedures, including providing for electronic filing. (Press Release, Ministry of Law and the Intellectual Property Office of Singapore, Ratification of the Singapore Treaty on the Law of Trademarks (Mar. 26, 2007), available at <http://app.sprinter.gov.sg/data/pr/20070326983.pdf>.)

(Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

### **TAIWAN – Intellectual Property Laws Promulgated**

On March 28, 2007, the President of the Republic of China (on Taiwan) promulgated the Organic Law for the Intellectual Property (IP) Court as well as the IP Cases Trial Law. The former covers general provisions, the qualification requirements for judges, the assignment of technical examiners, the arrangements for support staff, the judicial year and distribution of assignments, the opening and closing of court sessions and courtroom order, supervision by the judicial administration, and supplementary provisions. The IP courts will have jurisdiction over four categories of cases: 1) first- and second-instance civil matters in dispute arising from IP rights protected under various IP-related laws; 2) certain first-instance criminal cases on appeal or counter-appeal involving violations of legal provisions on trademark, copyright, or industrial secrets; 3) first-instance administrative matters in disputes involving IP rights under various IP-related laws; and 4) other cases stipulated by law or designated by the Ministry of Justice (MOJ) to be under the jurisdiction of the IP Court. Depending on case load, the new court will have the

authority to assess its own needs and set up new branches. (Organic Act for Intellectual Property Court, 6737 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 2-14 (Mar. 28, 2007), Global Legal Information Network, GLIN ID 190886, available at <http://www.glin.gov>; Dan Nystedt, *Taiwan Gets Serious About Intellectual Property*, PCWORLD, Mar. 6, 2007, available at <http://www.pcworld.com/article/id,129642-c,legalissues/article.html>.)

In conjunction with the establishment of the new court, the MOJ will establish a High Prosecutors' Office IP Division to handle trials of second instance for IP rights infringement cases as designated under the IP Cases Trial Law. The new court and the IP Division were scheduled to be set up by April or May 2007, once a temporary site had been finalized. The MOJ will organize a preparatory committee to assist in the establishment of the IP Division. Special task units of select prosecutors versed in IP law will be formed by the IP Division for "the centralized, expert, and effective handling of IPR-related criminal cases." (*Ministry of Justice Plans to Establish High Prosecutors Office IP Division in Conjunction with IP Court Establishment*, Intellectual Property Office Web site, Apr. 13, 2007, available at [http://www.tipo.gov.tw/eng/press/ne20070413\\_1.asp](http://www.tipo.gov.tw/eng/press/ne20070413_1.asp); Nystedt, *id.*)

The IP Cases Trial Law, in five chapters, covers general provisions, civil actions, criminal actions, administrative actions, and supplementary provisions. (Intellectual Property Cases Trial Law, 6737 THE GAZETTE OF THE OFFICE OF THE PRESIDENT 14-25 (Mar. 28, 2007), Global Legal Information Network, GLIN ID 190887, available at <http://www.glin.gov>.) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

## **UNITED STATES – Supreme Court Clarifies Patent Law on “Obvious” Inventions**

On April 30, 2007, the Supreme Court reaffirmed traditional patent law principles governing when inventions based on combinations of prior art are patentable, reversing a lower court's stringent test for demonstrating when such combinations are "obvious" as a defense to a patent infringement claim. The Court ruled, contrary to the lower court, that a determination whether an invention based on a combination of elements of prior art is "obvious" does not require a showing of some teaching, suggestion, or motivation that would have led a person of ordinary skill in the art to combine the prior art.

The litigation arose when Teleflex Inc. sued KSR International Co. for allegedly infringing a patent for an adjustable gas pedal in an assembly that KSR sold to General Motors for use on certain truck models. KSR responded that Teleflex's patent was invalid because it was an obvious combination of prior art. At the trial court level, the U.S. District Court for the Eastern District of Michigan agreed with KSR that Teleflex's invention was obvious. The U.S. Court of Appeals for the Federal Circuit reversed, applying a standard for obviousness known as the "teaching, suggestion or motivation test," which required specific findings of some motivation, or suggestion for the combination in the prior art, the nature of the problem, or the knowledge of a person having ordinary skill in the art.

The Supreme Court reversed, stating that the Federal Circuit analyzed the obviousness issue "in a narrow, rigid manner" inconsistent with the Patent Act and Supreme Court precedent. The Court stated that if a person of ordinary skill in the art can implement a predictable variation on prior art and would see the benefit of doing so, such a combination likely fails to meet the

non-obviousness requirement for a patent. The Court ruled that in evaluating the obviousness of an invention, a court should consider all the inferences and creative steps a person of ordinary skill in the art would employ and that such analysis “cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents.” ([KSR International Co. v. Teleflex Inc.](#), No. 04-1350 (Apr. 30, 2007).) (Luis Acosta, 7-9131, [laco@loc.gov](mailto:laco@loc.gov))

## INTERNATIONAL RELATIONS

### THE PHILIPPINES/EUROPEAN UNION – Pressure to Ratify Implementation of International Criminal Court

The European Union (EU) is pressing the Government of the Philippines to ratify the Rome Statute to hasten the effective functioning of the International Criminal Court (ICC). Ambassador Alistair Macdonald, head of the delegation of the European Commission (EC) in the Philippines, said the EU wants the ICC implemented in the country. The EU, through the EC, has been reaffirming its commitment to pursue its worldwide campaign for universal ratification of the Rome Statute, which entered into force on July 1, 2002.

Under the Rome Statute, the ICC will have jurisdiction over perpetrators of genocide, war crimes, and crimes against humanity offenses that threaten the peace, security, and well-being of humankind including some acts that may be characterized as terrorism or aggression. However, the Philippine military and police have expressed reservations about the treaty’s ratification, in particular the concern that leftist groups might take advantage of the treaty to file frivolous and politically motivated cases against them once the government becomes a signatory. (*EU Urges Philippines to Ratify Treaty Implementing International Criminal Court*, THE DAILY TRIBUNE (Manila), Apr. 13, 2007, Open Source Center No. SEP20070415093005.) (Gustavo Guerra, 7-7104, [ggue@loc.gov](mailto:ggue@loc.gov))

## JUSTICE

### LEBANON – Judicial Source Defends Arrest of Four Generals

An unidentified source in the Lebanese judiciary rejected the accusation that the arrest of four high-ranking officers of the security forces implicated in the assassination of former Prime Minister Rafiq Hariri was a “political arrest.” The source explained that the arrest is based on documented facts and that the judicial decision rejecting the generals’ release is fully justified and is based on evidence that cannot be disclosed as long as the investigation remains secret. (*Judicial Source Defends the Arrest of Four Generals*, AL-SHARQ AL-AWSAT, Apr. 19, 2007, available at <http://www.asharqalawsat.com/>.) (Issam Saliba, 7-9840, [isal@loc.gov](mailto:isal@loc.gov))

## MARITIME LAW

### JAPAN – Maritime Law

The Diet (the Japanese Parliament) passed the Maritime Law, which was promulgated in April 2007. The Law is the first of its kind to integrate the nation's ocean and maritime policies. These policies include management of the exclusive economic zone, protection and preservation of the marine environment, development of underwater resources, and marine transport. (Hideki Kawasaki & Junya Hashimoto, *Maritime Law a Start to Securing Interests*, YOMIURI NEWSPAPER, Apr. 22, 2007, available at <http://www.yomiuri.co.jp/dy/national/20070422TDY03004.htm>.)

(Sayuri Umeda, 7-0075, [sume@loc.gov](mailto:sume@loc.gov))

## RELIGION

### ENGLAND AND WALES – Charities Commission to Play Greater Role in Preventing Muslim Extremism

The British government has recently announced the creation of a new, US\$1.2 million Faith & Social Cohesion Unit within the charity regulator, the Charities Commission, which aims to support faith-based charities. The Unit's goal is to increase the registration of faith-based organizations, focusing initially on Muslim charities and communities. It believes that this will

[build] community cohesion and [tackle] extremism by supporting faith-based charities, ... both in strengthening their governance [and accountability] and in promoting the valuable contribution they make to society. This new unit will allow ... us to continue and develop our work with faith based charities to promote good practice and provide specialist advice, guidance and training to trustees.

This announcement forms part of a number of measures to reduce and prevent Muslim extremism in the United Kingdom, including an additional US\$12 million in funding for 70 local communities to prevent extremism through a variety of grassroots activities. (*Regulator to Play Bigger Role in Supporting Faith-Based Charities*, GOVERNMENT NEWS NETWORK, Apr. 5, 2007, available at <http://www.gnn.gov.uk/environment/fullDetail.asp?ReleaseID=276874&NewsAreaID=2&NavigatedFromDepartment=True>; Communities and Local Government News Release, Kelly Sets Out Plan to Isolate and Defeat Extremists (Apr. 5, 2007), available at <http://www.communities.gov.uk/index.asp?id=1002882&PressNoticeID=2405>.)

(Clare Feikert, 7-5262, [cfei@loc.gov](mailto:cfei@loc.gov))

## RIGHT OF PRIVACY

### CZECH REPUBLIC – Medical Records Open to Patients

On April 19, 2007, the Czech Parliament approved a law that allows patients to have free access to their medical files and copy them. Patients are also allowed to designate other individuals to do so. After the death of an individual, the medical file will be available to his or her close relatives if the deceased patient did not express a request to keep the medical records closed. The national association of physicians lobbied strongly against the law, claiming that it would place an extra burden on physicians and arguing that oral information on one's health provided by a doctor is enough, because data from medical records can be misleading to those who do not have a medical education. Proponents of the law believe that easier access to medical records will simplify the resolution of disputes regarding medical mistakes. (*Czech Senate Wants Patients to See Their Medical Files*, CTK [Czech Press Agency] – DAILY NEWS, Apr. 19, 2007, available at <http://www.securities.com>.) (Peter Roudik, 7-9861, [prou@loc.gov](mailto:prou@loc.gov))

## TAXATION

### MOLDOVA – Tax Amnesty

On April 12, 2007, the Government of the Republic of Moldova passed a regulation providing for income tax reform and legalization of previously acquired assets. The main purpose of the document is to allow the writing off of tax debts, including penalties for past-due payments, incurred by individuals and legal entities prior to January 1, 2007. All taxpayers will be given a chance to declare all their assets without any questions asked after paying a fee equal to five percent of the declared amount. Review of sources of income by fiscal and commercial authorities, except in cases of money laundering, is not allowed. According to the regulation, frozen company assets will also be released. At present, Moldova's tax authorities collect no more than 15 percent of the taxes due. (*President Voronin Calls for Tax Amnesty*, INFOTAG NEWS AGENCY (Moldova), Apr. 12, 2007, available at [http://www.infotag.md/news\\_en\\_2/](http://www.infotag.md/news_en_2/).) (Peter Roudik, 7-9861, [prou@loc.gov](mailto:prou@loc.gov))

### THAILAND – Former PM's Wife Charged with Tax Evasion

Former Thai Prime Minister Thaksin Shinawatra's wife, Pojaman Shinawatra, her brother, and her secretary have been charged with tax evasion in relation to a transfer of shares in 1997 involving the telecom firm now known as Shin Corp. These charges are not related to the controversial sale by Prime Minister Thaksin's family of its stake in Shin Corp. in 2006. That sale, which was tax free and resulted in a significant financial benefit to the Thaksin family, was met with widespread protests and calls for Thaksin to resign. (*Thaksin Wife Charged in Tax Case*, BBC NEWS ASIA PACIFIC, Mar. 26, 2007, available at <http://news.bbc.co.uk/1/hi/world/asia-pacific/6494397.stm>.) (Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

## TERRORISM

### **KENYA – British Journalist Released by Anti-Terror Police**

On April 20, 2007, Kenyan police arrested Dan Edge of the United Kingdom, together with Kenyan Susan Safarico. They were in Nairobi filming a documentary outside a police station for a news program that covered the arrests of Islamists in the country. The arrest was on suspicion of terrorism, but the two were released and no further action is planned in their cases. The report they were working on covered the secret detention of scores of men, women, and children in Somalia and Ethiopia following a major push to flush out Islamist extremists in neighboring Somalia earlier this year.

While the two reporters were under arrest, Kevin Sutcliffe, an editor with their news organization, said that all the proper permits had been obtained and that, “I am surprised at this turn of events given that earlier in the day the crew had been conducting an interview with the Kenyan foreign minister as part of their film.” Kenya has been in a high-alert status following an effort at the beginning of the year to track down what are believed to be Al-Qaeda operatives fleeing from war-torn Somalia. (*Kenya Police Free UK Journalist*, BBC NEWS, Apr. 22, 2007, available at <http://news.bbc.co.uk/1/hi/uk/6580481.stm>.) (Constance A. Johnson, 7-9829, [cojo@loc.gov](mailto:cojo@loc.gov))

### **OSCE – Counter-Terrorism Workshop**

The Organization for Security and Co-Operation in Europe (OSCE), together with the U.N. Office on Drugs and Crime (UNODC), sponsored a workshop on March 22-23, 2007, on countering terrorism through international legal co-operation in criminal matters. More than 165 prosecutors, judges, judicial, and other officials from 53 OSCE participating and Partner for Co-operation States, as well as more than 20 experts from international and regional organizations, also took part.

The workshop discussions focused on the international legal framework for mutual legal assistance and extradition; practical issues, challenges, and potential solutions; and human rights aspects and shared national experiences. The UNODC also demonstrated technical assistance tools, such as “Mutual Legal Assistance Request Writing Tool” software.

Karl Wycoff, Head of the OSCE's Action against Terrorism Unit, stated: “[t]his is the third major OSCE-wide conference in this area that we have co-organized with UNODC, providing OSCE participating States with a platform to network, discuss and share experiences and best practices, thereby contributing to enhancing international co-operation against terrorism.” (Press Release, OSCE, Experts Discuss How Legal Co-Operation Can Help Counter Terrorism at OSCE Workshop (Mar. 23, 2007), available at <http://www.osce.org/item/23787.html>.) (Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

## ENGLAND AND WALES – Judge Quashes Control Order in High-Profile Terror Case

A judge sitting at the High Court for England and Wales has issued another blow to the government's anti-terrorism legislation by quashing a control order made against a suspected terrorist, Mr. Abu Rideh. The orders are preventive in nature and allow a government minister, upon the approval of the court, to impose stringent bail-like conditions that aim to prevent individuals whom the government suspects are, or have been, engaged in terrorist activity, from doing so. As with previous cases, the judge ruled that the cumulative effects of the control order deprive the individuals of their liberty accorded under the European Convention on Human Rights, which was incorporated into the national law of the United Kingdom by the Human Rights Act 1998. He further ruled that the Secretary of State has no authority to make such an order and thus quashed it. (Robert Verkaik, *Judge Quashes Control Order on Terror Suspects*, THE INDEPENDENT (London) Apr. 5, 2007, available at [http://news.independent.co.uk/legal/article\\_2422645.ece](http://news.independent.co.uk/legal/article_2422645.ece).)

(Clare Feikert, 7-5262, [cfei@loc.gov](mailto:cfei@loc.gov))

## YEMEN – Trial of Man Accused of Firing at American Embassy

The Special Tribunal of Yemen with jurisdiction over terrorism cases has begun the trial of a Yemeni man accused of firing at the American Embassy premises in the capital, Sana'a, on December 5, 2006. The indictment alleges that the accused, Saleh Mohammed Salem Alawi al-Meemari, brought the weapon from outside the capital and hid it in his suitcase. The prosecutor described the accused's act as very dangerous because it affects the reputation of Yemen and its international relations. (*Trial of the Person Accused of Firing at the American Embassy*, AL-SHARQ AL-AWSAT, Apr. 17, 2007, available at <http://www.asharqalawsat.com/>.)

(Issam Saliba, 7-9840, [isal@loc.gov](mailto:isal@loc.gov))

## TRADE AND COMMERCE

### CAFTA – Costa Rica to Hold Referendum on FTA with the United States

On April 23, 2007, the National Assembly of Costa Rica, at the request of President Oscar Arias, adopted a decree approving a nationwide referendum on whether the country should ratify the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA). On April 25, the President of the National Assembly submitted the decree to the Supreme Elections Tribunal (TSE), which must decide within 15 days on how to proceed with the referendum. This will be the first referendum ever to take place in the history of Costa Rica. (Ismael Vanegas & Carlos A. Villalobos, *Diputados Aprueban Petición de Referendo*, LA NACIÓN DIGITAL, Apr. 24, 2007, available at [http://www.nacion.com/ln\\_ee/2007/abril/24/pais1072655.html](http://www.nacion.com/ln_ee/2007/abril/24/pais1072655.html); Ana Lupita Mora, *Entregan Petición de Referendo al TSE*, LA NACIÓN DIGITAL, Apr. 25, 2007, available at [http://www.nacion.com/ln\\_ee/2007/abril/25/ultima-sr1075121.html](http://www.nacion.com/ln_ee/2007/abril/25/ultima-sr1075121.html); Arturo Gudiño, *Arias Pide al Congreso Convocar a Referendo sobre el CAFTA-DR*, LA PRENSA, Apr. 18, 2007, available at <http://www.laprensa.com.ni/archivo/2007/abril/18/noticias/internacionales/185766.shtml>.)

(Norma C. Gutiérrez, 7-4314, [ngut@loc.gov](mailto:ngut@loc.gov))

## WOMEN

### CAMBODIA – Unauthorized Detention of Woman

It was reported on March 22, 2007, that Heng Pov, the former head of the Phnom Penh police, was given a seven-year jail sentence for detaining a woman for more than two months without charge. Under Cambodian law, a person may only be detained for 72 hours without charge. This charge against Heng Pov is only one of several involving brutality. (*Cambodia Ex-Police Chief Jailed*, BBC NEWS ASIA PACIFIC, Mar. 22, 2007 available at <http://news.bbc.co.uk/1/hi/world/asia-pacific/6477095.stm>.)

(Lisa White, 7-4987, [liwh@loc.gov](mailto:liwh@loc.gov))

### UGANDA – Unconstitutionality of Certain Provisions on Adultery and Succession

On April 5, 2007, five justices of the Constitutional Court of Uganda unanimously declared unconstitutional and quashed several provisions of the laws on adultery and succession, stating that the provisions discriminated against women. Under section 154 of the Penal Code, it is an offense for a married woman to have an affair with a man, married or unmarried, but not for a married man to have an affair with an unmarried woman. The new ruling means that adultery is no longer a crime; however, an aggrieved party can seek damages, separation, or divorce in civil courts. The law on succession does not allow women to inherit the property of a deceased person, including the husband's. It also provides that only male relatives of the man are entitled to be guardians of a minor whose parents are dead and enables a married woman to take over the home of a late husband, but not a married man to take over the home of a deceased wife. The petitioner's representative argued that all these provisions were discriminatory and contrary to the Constitution; the Court agreed and nullified them.

Law and Advocacy for Women in Uganda, a female lawyers' association headed by Sylvia Tamale, Dean of Law of Makerere University, filed the petition against the Attorney General on which the judgment is based. Senior State Attorney Patricia Metosi conceded the petitioner's arguments but asked the Court to modify, not nullify, the law's discriminatory sections. The justices overruled her, stating that the Court's duty was not to modify laws but to declare the sections in contention constitutional or unconstitutional.

Religious leaders in Uganda reportedly condemned the Constitutional Court's decision and called upon the parliament to immediately adopt new laws against adultery. In their view, the ruling "would worsen the already increasing immorality in the country." (*Uganda: Adultery No Longer a Crime, Says Court*, THE MONITOR, Apr. 6, 2007, available at <http://allafrica.com/stories/200704050974.html>; *Uganda: Church Criticizes Decriminalisation of Adultery*, CATHOLIC INFORMATION SERVICE FOR AFRICA, Apr. 10, 2007, available at <http://allafrica.com/stories/200704100632.html>.)

(Wendy Zeldin, 7-9832, [wzel@loc.gov](mailto:wzel@loc.gov))

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