

LEGISLATIVE WATCH/LEGISLATIVE FOCUS

LEGISLATIVE WATCH

[Legislative Watch reports on U.S. legislation relevant to human rights and humanitarian law. This list is not meant to be comprehensive.]

H.R. 1414, THE INTERNATIONAL RULE OF LAW AND ANTITERRORISM ACT OF 2003

Sponsor: Rep. Jim McGovern (D–Mass)

Status: Referred to the House Committee on International Relations on March 25, 2003.

Substance: H.R. 1414 would establish a permanent UN civilian peacekeeping force known as the United Nations Civilian Police Corps (UNCPC). According to the bill's drafters, such a force would reduce terrorism by decreasing the time necessary to re-establish law and order in post-conflict regions. The bill states that such a force would allow the UN to deploy in post-conflict areas faster than it currently does and ease the burden on UN Peacekeepers by reducing the need for combat soldiers and the duration of time they are deployed. The creation of a UNCPC would also bring uniformity and greater accountability to civilian policing in post-conflict countries by establishing disciplinary procedures and a code of conduct within the force. This bill requires the U.S. Representative to the UN to begin negotiating with other member nations to establish a UNCPC. It also directs the Secretary of State to work with the UN Secretariat to establish a force in conjunction with the UN Civilian Police Division, created in October 2000.

H.R. 1587, VIETNAM HUMAN RIGHTS ACT OF 2003

Sponsor: Rep. Chris Smith (R–NJ)

Status: Referred to House Financial Services Committee, Subcommittee on Domestic and International Monetary Policy, Trade, and Technology on April 11, 2003.

Substance: H.R. 1587 is a comprehensive bill to compel the Vietnamese government to respect human rights, ease immigration for Vietnamese nationals into the U.S., and increase U.S. assistance to individuals and groups working for democracy in Vietnam.

The bill prohibits non-humanitarian assistance for Vietnam until the president of the U.S. certifies that the Vietnamese government has made substantial progress towards releasing religious and political prisoners, respecting freedom of religion and human rights and has removed from government any individuals involved in human trafficking. H.R. 1587 authorizes \$2,000,000 to be used for democracy initiatives in Vietnam and makes Vietnamese nationals eligible for any U.S. refugee program from which they were previously disqualified due to errors beyond their control (e.g. inability to pay a bribe or lack of documentation).

S.J.RES. 3, A JOINT RESOLUTION EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO HUMAN RIGHTS IN CENTRAL ASIA

Sponsor: Senator John McCain (R–AZ)

Status: Passed the Senate on May 5, 2003 and referred to the House Committee on International Relations, where it remains awaiting consideration.

Substance: S.J.Res. 3 addresses democracy and human rights conditions in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. The resolution calls on these five Central Asian countries to release political and religious prisoners from jail, punish government figures responsible for corruption, allow for the operation of independent media outlets, hold fair and competitive elections, and investigate allegations of torture by government officials. The resolution also directs the president and secretary of state to consider these issues when allocating economic and military aid to these countries. Specifically, the resolution states that aid to these countries will only be sustained at the current rate if governments take steps to address human rights abuses.

H.CON.RES. 158, RECOGNIZING THE IMPORTANCE OF INHERITANCE RIGHTS OF WOMEN IN AFRICA

Sponsor: Rep. Juanita Millender-McDonald (D–CA)

Status: Referred to the House Committee on International Relations on April 30, 2003.

Substance: This resolution cites the devastating effects of tribal and customary laws on African women and, subsequently, on African economies. The resolution states that, due to numerous conflicts in Africa and the epidemic of HIV/AIDS, increasing numbers of households are headed by widows. The inability of women to inherit land from a husband or father has therefore led to a major crisis. H.CON.RES. 158 urges Congress to pay greater attention to the problem of women's inheritance in Africa when considering assistance for HIV/AIDS, post-conflict development, and violence against women programs. *HRB*

LEGISLATIVE FOCUS

THE LEAHY LAW AND THE WAR ON TERROR

The "Leahy Law" refers to a pair of amendments first attached to the Foreign Operations Appropriations Bill and the Defense Department Appropriations Bill in 1997 by Senator Patrick Leahy (D-VT). These amendments, now passed every year, prevent the use of U.S. funds to support a foreign army or security force which has committed "gross violations of human rights." The Leahy Law directs the Secretaries of State and Defense to withhold funding if they have credible evidence of such abuses.

HOW IT WORKS

Under the Leahy Law, the secretary of state may prevent funding from the Foreign Operations Appropriations Bill from being allocated to foreign security or military forces believed to have violated human rights. After a determination by the secretary of state that human rights violations have occurred, he or she is obligated to inform the foreign government of the basis for the restriction and offer to help bring to justice the members of security forces responsible for human rights violations. If the secretary of state believes that a government is making credible efforts to address human rights abuses, he or she may waive that restriction.

The secretary of defense can withhold funds from the Department of Defense

(DOD) Appropriations Bill for training of units guilty of “gross violations of human rights.” The secretary, however, will not necessarily withhold other monetary assistance. In “extraordinary circumstances,” the Secretary of Defense may waive this restriction and distribute funds from the DOD Appropriations Bill if he or she believes it necessary to train such units. However, the secretary of defense has 15 days to report to Congress the reasons for granting the waiver, including the nature of the training program being funded, the role of U.S. forces, and the nature of the human rights abuses.

ENFORCEMENT

The Leahy Law is administered by the U.S. embassies in countries for which foreign military aid has been proposed. For both DOD and State Department funds, individual embassies are responsible for investigating the backgrounds of military units eligible to receive funding. Since the law passed, there have been two main areas of confusion between the Defense Department, the State Department and the various embassies: who within a military unit should be vetted and what constitutes a gross violation of human rights. International and U.S.-based human rights organizations have criticized the State and Defense Departments’ enforcement of the law on numerous occasions. Security forces in Colombia and Indonesia, for example, have received military funding from the U.S. despite their appalling human rights records. These organizations cite numerous practices that hamper enforcement of the law, such as classified Defense Department reports, the training of units which turn around and train tainted units, and the embassies’ use of incomplete or unreliable information.

COUNTRIES RECEIVING ASSISTANCE FOR THE WAR ON TERROR

Since the war on terror began, several countries have seen sharp increases in military and non-military funding, including Jordan, Pakistan, Turkey, Indonesia, India and the Philippines. Considering these countries’ human rights violations documented in the 2004 State Department Human Rights Reports, it is difficult to understand their increases in aid. Three of these countries stand out for both the large sums they have received in aid and the gross violations of human rights within their borders.

Indonesia

Indonesia will receive approximately \$137 million in Anti-Terrorist funds. In separatist zones, police continue to employ torture, beatings and extra judicial killings against civilians as well as rebels. In the province of Aceh, 898 people, the vast majority civilians, were killed over the course of a year by rebels and security forces. Both police and rebels were accused of executing captured combatants. Over 200 people disappeared during the course of the year, many detained by security forces. According to one NGO in Aceh, 1,400 people were tortured by security forces. Human rights observers have also accused the police and military of rape and torture in other separatist provinces.

Turkey

Turkey will receive approximately \$255 million in funding through an Anti-Terrorism account. According to Turkish NGOs, 33 people were killed by Turkish security forces in 2002. While Turkish courts do investigate such incidents, the number of convictions is low and sentences are often light. In the southeast region of the country, inhabited by Kurds, unsolved killings are even more common. Over the course of a year, nine hundred and sixty-five individuals sought treatment for torture while in police custody, many in the Kurdish region of the county. Three-fourths of female detainees were victims of sexual violence.

Pakistan

Until 2001 and the war on terror, Pakistan was ineligible for all types of foreign aid except humanitarian assistance, because it conducted nuclear tests in 1998. Currently, however, Pakistan is eligible for approximately \$395 million in Anti-Terrorism funds. According to the State Department Report, at least 100 people die from police torture every year. Each year, paramilitary and police forces commit an unknown number of extra judicial killings. Individuals are often illegally detained by police for up to 6 months without being charged. Finally, Pakistan has recently introduced Hudood Ordinances, including the penalty of death by stoning to make the penal code more like Islamic law.

The Leahy Law is an invaluable tool for combating the transfer of equipment and training to foreign military forces guilty of gross human rights abuses. However, implementation of the law has been seriously hampered. The State and Defense Departments repeatedly allow assistance to abusive countries

despite documentation of human rights abuses in the State Department's own Human Rights Reports. Embassies are less than diligent in collecting and maintaining information on military and security units, and many abusive units not trained directly by U.S. forces indirectly receive the benefit of that training. In order for the Leahy Law to be fully effective, it must be enforced with the diligence that those it is meant to protect deserve. *HRB*

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