

# INTERNATIONAL LEGAL UPDATES

## LATIN AMERICA

### POLICE CORRUPTION IN GUATEMALA

The February killing of three Salvadoran congressmen, and the subsequent deaths of the four Guatemalan police officers who confessed to the murders, exposed the rampant police corruption that continues to plague Guatemala. All three congressmen were members of El Salvador's ruling party, ARENA, including Eduardo D'Aubuisson, son of Roberto D'Aubuisson, the party's founder. The elder D'Aubuisson is widely accepted as the central figure behind the assassination of Archbishop Oscar Romero and the death squads that terrorized El Salvador during its 12-year civil war. The three congressmen were headed to a meeting of the Central American Parliament when the four police officers waylaid, and later executed them. During their confessions, the police officers claimed they thought the congressmen were Colombian drug dealers, although there is still speculation over whether the killings were politically motivated. The chief of the Salvadoran police force said that he believes the three politicians and their driver were killed by mistake, and that the assassins were tricked into believing they were targeting drug traffickers by those who had hired them. Authorities sent the police officers to a maximum security prison. Four days later, the officers were dead.

According to the police and the interior minister, rioting gang members killed the four officers. According to inmates, the inmates rioted only after the killings because they feared they would become scapegoats, and they wanted to tell their side of the story to reporters and Guatemala's human rights organizations. The inmates further explained that a group of heavily armed men in military garb charged through seven locked doors without interference from the guards before executing the four police officers.

Regardless of what actually happened inside the prison, human rights officials and Guatemalan authorities are exploring the corruption in the police force, including the existence of death squads and connections with drug trafficking. Authorities already forced one assistant police chief to resign and suspended another. The Guatemalan Congress

also questioned the interior minister and top police officials on the failure of the police to protect the four officers and whether death squads exist inside the police force.

Although human rights experts and opposition forces assert that groups of officers have formed death squads, Erwin Sperisen, the national police chief, denies that the force harbors death squads. Sperisen does acknowledge corruption among his officers, but blames the corruption on his inability to purge the nineteen thousand-member force of officers who came from police forces trained in torture and assassination for counterinsurgency efforts during the civil war in the 1980s.

The exposure of corruption in the police force also put pressure on President Óscar Berger, who, during his campaign four years ago, promised he would clean up corruption in Guatemala. However, the Guatemalan government has repeatedly stressed the need to allow the International Commission against Impunity in Guatemala (CICIG). CICIG is a United Nations backed independent body that would investigate high-level government corruption. Both Guatemalan authorities and human rights activists claim CICIG is Guatemala's only hope for uncovering the full extent of death squad operations in the country and for finally prosecuting high-level officials responsible for the crimes.

### IMPACT OF PRICE CONTROLS IN VENEZUELA

Venezuelan President Hugo Chávez's economic policies seem destined to create future economic harm, while already infringing on human rights. After a debilitating strike by oil workers in 2003, the government significantly strengthened price controls. Ever since, the country has faced sporadic food shortages. However, in recent weeks, shortages of basic foods have led to panicked reactions by some federal officials.

Supermarket shelves are full of imports, but often empty of basic staples. Government officials blame the shortages on producers, intermediaries, and grocers. Indeed, some vendors are hoarding items such as sugar and meat because they are unwilling to sell the goods at official prices. However, vendors explain the price controls prevent them from making a

profit after inflation rose and the value of the bolívar, Venezuela's currency, plunged in black market trading. In response to the failure of vendors to comply with price controls, President Chávez threatened to jail grocery store owners and nationalize their businesses.

The government also vaguely threatened newspapers that publish unofficial currency rates. In February, the bolívar was officially about 2150 to the dollar, while unofficial rates quoted the bolívar at about 4400 to the dollar. Further pressure on the currency comes from capital flight as rich Venezuelans try to take money out of the country because of fears that President Chávez will nationalize more private companies.

The decrease in value of the bolívar also affects food shortages because imported food, fertilizers, and agricultural equipment are now more expensive. Although Venezuela has some of South America's most fertile farmland, Venezuela still imports more than half its food. Domestic food production also suffers because new managers of recently expropriated farms and ranches must reorganize operations. The expropriations were part of President Chávez's effort to empower state-financed cooperatives.

Though economic meltdown in Venezuela is not imminent, economists say that soaring public spending is overheating its economy, and generating imbalances in the distribution of products. According to Francisco Rodríguez, a former chief economist at Venezuela's National Assembly, there are competent people in the government who know that President Chávez must lower spending. However, few people in positions of power are willing to risk telling President Chávez what he needs to hear to defeat the inflation and the food shortage.

### GLOBAL WARMING THREATENS PERUVIAN WATER SUPPLIES

Peru's Cordillera Blanca ("White Mountain Range") is turning brown. The disappearing glaciers are one of the casualties of global warming, and endanger future water supplies to Peru's arid coast. The Andes Mountains in Peru have lost at least twenty-two percent of their glacier area since 1970, and the rate is only accelerating.

Peru's glaciers feed the rivers that bring water to the sprawling cities and shantytowns on the dry Pacific coast. About two-thirds of Peru's twenty-seven million people live on the coast, which has only 1.8 percent of Peru's water supply. The glaciers also serve agriculture and hydroelectric plants responsible for generating seventy percent of Peru's power. Although the rush of melted water could boost the country's hydroelectric energy, environmentalists do not think the water rush will last beyond 2050.

More immediate impacts of the glacial melt are felt by farmers who depend entirely on the glacial runoff from the Cordillera Blanca during the dry season, and on rainfall during the wet season. Unfortunately, rainfall during the last four years has been below average. Farmers and farm workers say there is much less water now than there was before, and continued water shortages will mean fewer jobs and nothing to eat.

#### **WOMEN'S RIGHTS ADVANCE IN CHILE**

President Michelle Bachelet, Chile's first female president, has succeeded in advancing women's rights during her first year in office. Chile is a socially conservative country that flatly bans abortion and only legalized divorce in 2004. However, President Bachelet has succeeded in promoting several important initiatives for women.

Among these revolutionary laws is the right for women to breast feed at work and stiffened penalties for men who fail to pay alimony. Chile also established hundreds of nurseries nationwide, as well as domestic violence shelters for women and children. Furthermore, equal numbers of women and men now hold top administrative jobs, including in President Bachelet's cabinet. Women were also finally allowed to enter Chile's naval academy. President Bachelet enacted by presidential decree a law allowing girls as young as fourteen to get free morning-after contraceptive pills.

Not all of these advances proceeded smoothly. For example, some mayors refuse to allow their city health services to distribute the morning-after pill. However, President Bachelet continues to promote women's rights, with the goal of increasing jobs for women and increasing the participation of women in the Chilean Congress. Currently, women only hold twelve percent of congressional seats, and President Bachelet is preparing a bill that would require political parties to reserve thirty percent of their slate of can-

didates in congressional and municipal elections for women.

### **AFRICA**

#### **SOUTH AFRICAN MIGRANT WORKERS FACE ABUSE**

Migrant workers in South Africa often face abuse from South African officials involved in arrest and deportation. This abuse generally consists of basic labor rights violations and assault, and has also extended to monetary extortion.

Because of South Africa's vibrant economy, many workers from neighboring countries migrate there. In particular, Zimbabwe's state of political and economic deterioration has influenced four million Zimbabweans to seek work in South Africa and many Mozambicans have stayed in South Africa since fleeing Mozambique's civil war in the 1980s. Zimbabweans and Mozambicans compose the majority of foreign migrant workers. Despite the lucrative draw, undocumented workers in South Africa suffer abuses when arrested, detained, and deported. The conditions the workers face violate the South African Immigration Act of 2002 and South Africa's international obligations under the UN International Covenant on Civil and Political Rights, which it ratified in 1998.

This situation presents a unique problem of abuses by public officials and employers, which violate both human rights, and employment and labor rights laws. The claims against public officials allege that during deportation, police assault and extort money from deportees and have even thrown them out of moving trains. A 28-year old Zimbabwean explained that when she crossed over the Limpopo River, she was stopped by South African soldiers who put a gun to her chest and made her lay on the ground. Migrant workers allege that employers abuse their basic entitlements by paying less than minimum wage, denying sick leave, and making unlawful deductions.

Human rights organizations have called on the South African Police Service and Department of Home Affairs to ensure that correct procedures for arrest, detention, and deportation, established in the immigration laws, are consistently followed by state officials. They have also suggested that the Zimbabwean and Mozambican governments improve the protection of migrant workers by increasing cooperation with other labor-sending countries. Finally, international organiza-

tions must urge the governments of Zimbabwe and South Africa to facilitate legal migration policies.

#### **NO JUSTICE FOR RAPE VICTIMS IN AFRICA**

Due to a plethora of civil wars in the past decade in Africa, hundreds of thousands of women have been victims of rape and sexual assault, often times committed by combatant forces. Possibly more devastating than wartime abuses are those of post-conflict periods when women continue to suffer abuse during a time ideally reserved for healing, or when governments fail to bring perpetrators to justice. These circumstances have affected women in numerous African countries, including Liberia and the Democratic Republic of Congo.

Although the Liberian government implemented the Truth and Reconciliation Commission to address abuses committed during Liberia's civil war, the government has made no formal plans for providing reparations to the hundreds of thousands of victims of rape, torture, and sexual violence. President Johnson-Sirleaf has expressed a commitment to address past human rights violations, but her administration has yet to follow through with its promises. The government has taken few steps to investigate and document rape and sexual abuse during the civil war, which lasted from 1989 through 2003. As a result, the perpetrators remain at large and the victims receive neither justice nor reparations to rebuild their lives.

In the Democratic Republic of Congo, justice was not served in the case of Bitondo Nyumba, a 56-year old woman who died as a result of injuries she suffered when government soldiers attacked and raped her in May 2005. After the incident, Nyumba was taken to the hospital where after one operation, doctors suspended further treatment because Nyumba's family could not afford it. After receiving international humanitarian aid, the doctors resumed treatment; however, due to the lack of treatment at an earlier stage Nyumba died from an infection. Two soldiers were arrested in August 2005 in connection with the rape but were released a few weeks later without explanation.

The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) expressly requires states parties to "take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise."

International human rights organizations have called on the governments of both countries to develop and carry out action plans to bring perpetrators of sexual violence to justice. A suggested action plan would include an independent judicial body to conduct prompt investigations into past and current rape incidents and hold perpetrators accountable for their crimes.

#### **AFRICAN COMMISSION SERIOUSLY CONCERNED ABOUT DETERIORATING FREEDOM OF EXPRESSION IN ZIMBABWE**

The already infirm grasp of human rights and general legal order in Zimbabwe is rapidly deteriorating. Recent weeks have seen increasing amounts of civil unrest because of crippling high inflation rates, which have caused extreme economic hardship. Moreover, in his efforts to retain singular authority, President Mugabe has cracked down on political opposition using strong-armed tactics.

In 2005 the Zimbabwean government destroyed huge swaths of urban slums (reportedly 700,000 people were left homeless), again eliciting international condemnation, including a United Nations report that called the situation a “grave humanitarian crisis.” Since then the crisis has only worsened. In response to the attacks on and expulsion of African and foreign journalists in the country, Pansy Tlakula, the Special Rapporteur on Freedom of Expression of the African Commission on Human and Peoples Rights, sent a letter to President Mugabe appealing that he “desist from wanton arrest and torture of journalists.” The letter was sent after the Media Institute of Southern Africa (MISA-Zimbabwe) and the Media Monitoring Project Zimbabwe (MMPZ) both complained about the severe assaults on Tsvangirai Mukwazhi and Tendai Musiyu by Zimbabwean police after their arrest while covering the heated protests by the Mugabe opposition leader Morgan Tsvangirai and his group, Movement for Democratic Change. Tlakula met with Mukwazhi while in the country and said that he had sustained serious injuries and his property had been confiscated.

Scores of journalist report that they been arrested and tortured by the Zimbabwean authorities. Mugabe claims to be pursuing a peaceful resolution, but his continually harsh actions contract his verbal assurances.

Scores of similar attacks across Africa prompted the African Commission to pass a resolution on freedom of expression last November.

Meanwhile, the international community managed to feign shock over these allegations. With an expected lack of action on the part of the international community, the role of the African Union and the African Commission has become all the more central to addressing concerns in Africa. With the economic and political situation in Zimbabwe slowly spiraling out of control, the mere pleadings and censures of the African Commission have continued to be fruitless. The ability for the African Commission to handle this new human rights crisis, both as an investigative body and the newly formed African Court of Human Rights, as its judicial organ, will serve as a barometer for the future protection of human rights on the continent.

#### **MIDDLE EAST**

##### **UN COMMITTEE DOCUMENTS RACISM IN ISRAEL**

The UN Committee on the Elimination of Racial Discrimination recently criticized Israel for institutionalized discrimination, both within Israel and in the Occupied Palestinian Territories.

During its seventieth session, held from 19 February—9 March 2007, the UN Committee on the Elimination of Racial Discrimination (CERD or Committee) considered the tenth to thirteenth periodic reports of Israel concerning its compliance with the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD). The Committee expressed serious concerns with Israeli laws and practices that discriminate against Israel's Palestinian Arab citizens, and against Palestinians in the Occupied Palestinian Territories (OPT). Israel's reports, which were more than five years late, excluded reference to the OPT and the Golan Heights, as Israel refuses to acknowledge that the ICERD applies to these areas. The Committee criticized this position, stating categorically that Palestinians in the Occupied Territories should “enjoy full rights under the Convention without discrimination based on citizenship and national origin.”

The Committee's report highlighted numerous Israeli policies and practices toward its Palestinian Arab citizens that violate the

ICERD. These include discrimination in land distribution and ownership, inequity in access to public services, restrictions on family reunification for Palestinian Arabs, and the maintenance of separate Arab and Jewish ‘sectors’ within Israel. Stressing the fundamental principle of “equality in the right to return to one's country and in the possession of property,” the CERD report expressed concern with Israel's denial of the right of many Palestinians to return and repossess their land in Israel, criticized Israel's forced relocation of inhabitants of unrecognized Bedouin villages, and urged Israel to revoke the 2003 Citizenship and Entry into Israel Law (Temporary Order), which prohibits residents of the OPT to live with spouses in Israel. The Committee also pointed to a general tolerance for hate speech against the Arab minority in Israel, noting that “the Attorney General has adopted a restrained policy in relation to prosecutions against politicians, government officials, and other public figures for hate speech against the Arab minority.”

The Committee called on Israel to address the absence of any provision for equality or prohibition of discrimination in its Basic Law, which serves as Israel's Bill of Rights. It also called on Israel to ensure that its definition as a Jewish state “not result in any systemic distinction, exclusion, restriction or preference based on race, colour, descent or ethnic origin in the enjoyment of human rights.” According to the Arab Association for Human Rights, Israel's definition of itself as a Jewish state has created a “legal framework” for “institutional discrimination” against its non-Jewish population. On March 1, just days before the publication of the CERD report, Adalah (an independent civil rights organization serving the Arab population in Israel) issued “The Democratic Constitution,” a constitutional proposal urging Israel to abandon its Jewish identification and adopt a non-preferential system to achieve a democratic, bilingual, and multicultural state.

Addressing Israel's administration of the OPT, the Committee called upon Israel to dismantle the Wall it is constructing in and around the West Bank and East Jerusalem, as was ordered by the International Court of Justice in its July 9, 2004 Advisory Opinion. The Committee's other recommendations included calling for an end to Israel's discriminatory system of permits, checkpoints, closures and restricted roads that deny Palestinians their human rights “to freedom of movement, family life, work, education and

health”; an end to laws that discriminate against Palestinians, particularly in access to water resources; and an end to the demolition of Palestinian homes and respect for property rights of Palestinians. Furthermore, the Committee called upon Israel to protect Palestinians from violence by Israeli settlers, particularly in Hebron, and to ensure that attacks by settlers “are investigated in a prompt, transparent and independent manner, are prosecuted and sentenced, and that avenues for redress are offered to the victims.”

Amnesty International (AI) was among the many non-governmental organizations that submitted a brief on Israel’s practices to the CERD. Most notably, AI highlighted increasing barriers to entry to the OPT for Palestinians, spouses of Palestinians, and foreign nationals seeking to work or conduct business in the OPT.

### EXECUTIONS IN SAUDI ARABIA

On February 19, 2007, Saudi Arabia beheaded four Sri Lankan migrant workers convicted of armed robbery, and ordered their bodies to be publicly displayed, according to a report by Human Rights Watch (HRW). HRW accused Saudi Arabia of denying the Sri Lankans basic human rights and called on the Saudi government to immediately halt all executions and retry persons convicted in trials that do not meet minimum standards of justice. “The execution of these four migrants, who had been badly beaten and locked up for years without access to lawyers, is a travesty of justice,” said Sarah Leah Whitson, Middle East and North Africa director at HRW.

One of the four Sri Lankans, Ranjith de Silva, spoke with HRW by telephone one week before his execution. According to De Silva, he was severely beaten on the back, never told that he could face the death penalty for his offence, and was not informed that he had a right to a lawyer or a right not to incriminate himself. He also stated that after the conviction, he and his co-defendants did not know how to conduct an appeal. HRW reports that the Saudi justice system “failed to ensure that these four Sri Lankans had the basic safeguards required for anyone at risk of the death penalty.” In addition to a closed hearing, a non-transparent process, and no adequate means for their defense, the defendants did not have a meaningful right to appeal their verdicts, a right guaranteed to defendants sentenced to death under international law.

De Silva informed HRW that financial desperation drove him to armed robbery. He had arrived in Saudi Arabia in November 2003 to work pursuant to a contract that stipulated monthly wages of 400 Saudi Riyals (US \$115), but his employer only paid him 250 Riyals, the cost of monthly lodging. He and the other three men, Victor Corea, Sanath Pushpakumara, and Sharmila Sangeeth, were arrested in March 2004 and convicted of armed robbery by an Islamic court. Although all four were reportedly armed, only one of the defendants, Corea, had caused physical injury, shooting two shopkeepers during the robbery. According to information given by De Silva to HRW, both victims recovered from their wounds. One of the victims told the judge in a civil trial that he did not seek damages and even asked for clemency for the four Sri Lankans after learning that they had been sentenced to death in their criminal trial.

Saudi Arabia’s chief judge, Salih al-Luhaidan, told HRW that it is against Islam to issue a written verdict to those sentenced to death or to inform them of the time of their execution. HRW reported that De Silva did not know he was to be executed within one week when they spoke to him on February 12, and at the time was even hopeful that he could obtain clemency.

According to a July 2004 report by HRW, “Bad Dreams — Exploitation and abuse of migrant workers in Saudi Arabia,” foreign nationals account for 67 percent of the workforce and hold 90 to 95 percent of private-sector jobs in the kingdom. The overwhelming majority are poorly paid and heavily indebted due to the exorbitant fees charged by recruiting agencies. Moreover, migrant workers are often paid far lower salaries than promised and subjected to long working hours — up to 12 hours or more daily without overtime. Salaries can go unpaid for months but workers do not complain for fear of summary dismissal.

In December 2006, HRW made a four-week, fact-finding trip to Saudi Arabia to research a number of human rights issues. HRW found that labor abuses are still pervasive in the country. In addition, the Saudi government has yet to put into practice laws passed in 2000-2002 to protect the rights of criminal defendants. As a result, thousands are detained without trial, charge, or access to counsel for months and even years. Additionally, judicial procedures remain largely closed to the public, criminal defendants are not afforded a fair opportunity to

present a defense, and prisoners suffer physical abuse and remain incarcerated beyond the expiration of their sentences.

### SUSPECT CONSTITUTIONAL AMENDMENTS IN EGYPT

On March 27, 2007, Egypt passed 34 amendments to its constitution following a public referendum. Although opposition parties boycotted the vote, and international human rights organizations warned of the loss of fundamental rights and freedoms, the initiative reportedly received over 75 percent of the popular vote. Official turnout, however, was only 25 percent, with independent organizations and media outlets estimating it as low as five percent. In addition to the low voter turnout, the Egyptian Organization for Human Rights (EOHR) protested government practices that it claimed “negatively affected the will of the voters.” These included “mass voting” (busing public employees to polling stations), automatic marking of ballot cards in favor of passing the amendments, bribing, and pro-amendment banners inside balloting stations. Finally, as a result of the Egyptian Parliament’s recent adoption of the amendments on March 19, the public had less than a week to consider the initiatives before the public referendum, raising suspicions that many voters lacked a thorough understanding of the amendments’ implications.

Calling the proposed constitutional amendments, “the greatest erosion of human rights in 26 years,” Amnesty International (AI) warned that they paved the way for a new anti-terrorism law that would entrench existing practices like arbitrary arrest and torture, both of which violate individual human rights and Egypt’s international human rights obligations. AI expressed particular concern with the proposed amendment to Article 179 of the Constitution, cautioning that it would “give sweeping powers of arrest to the police, grant broad authority to monitor private communications and allow the Egyptian president to bypass ordinary courts and refer people suspected of terrorism to military and special courts, in which they would be unlikely to receive fair trials.”

The Muslim Brotherhood and other opposition groups claimed that the amendment package, while billed as a political reform initiative, is really just an effort to strengthen the Mubarak government’s hold on power, including the attempt to secure succession by Mubarak’s son Gamal. Among

other things, the amendments prevent independent candidates from standing for the presidency and ban all political activity based on religious conviction. The latter is viewed as a direct attempt to weaken or delegitimize the Muslim Brotherhood.

## EUROPE AND CENTRAL ASIA

### SECURITY COUNCIL REVIEWS PLAN FOR AN INDEPENDENT KOSOVO

In a report under consideration by the UN Security Council, Martti Ahtisaari, the Secretary-General's Special Envoy for the future status of Kosovo, states that supervised independence is the only viable option for Kosovo. The Secretary-General expressed full support for Ahtisaari's report given to the President of the Security Council on March 26. The UN Interim Administration Mission in Kosovo (UNMIK) has governed the province since 1999 when NATO air strikes on Belgrade ended a Serbian repression of Albanian separatists.

In March negotiations were held in Vienna bringing together Serbia, the Kosovo government, the Contact Group — the United States, United Kingdom, Germany, France, Italy, and Russia, UNMIK, and NATO, to debate Mr. Ahtisaari's plan, which aims to address the needs of Kosovo's multi-ethnic society where Albanians outnumber Serbs and other ethnic groups nine to one. It includes a constitution protecting the rights of all — including culture, language, education, and symbols — as well as granting representation for non-Albanians in key public institutions and providing that certain laws may only be enacted if a majority of the Kosovo non-Albanian legislature members agree. It further calls for wide-ranging decentralization, creating six new or significantly expanded Kosovo Serb majority municipalities created with clear lines of responsibility between local and central institutions and giving the Serb community a high degree of control over issues such as health care, higher education, and financial matters, including accepting transparent funding from Serbia.

While both sides interpreted the plan as providing international community-supervised independence, the plan does not specifically mention independence, likely to avoid angering Serbia and losing support of its allies on the Security Council. Instead, it refers to Kosovo's right to govern itself and conclude international peace agreements, including its ability to gain membership in international

bodies. Subsequent to a Security Council endorsement, the comprehensive plan includes a 120-day transition period during which UNMIK would continue to exercise control of the province. The Kosovo assembly would then work with an EU civilian representative to approve a new constitution during a nine-month period, at the end of which Serbia would be required to hold general and local elections.

Many felt that the negotiations in Vienna ended in an impasse. Seeing Kosovo as Serbia's historic heartland, Serbian President Boris Tadic called parting with the province "unbearable." The Serbian leadership found the loss of up to 15 percent of its territory particularly deplorable. Serbia's nationalist Prime Minister Vojislav Kostunica warned that approving the plan would set "the most dangerous precedent in the history of the UN," encouraging other independence-minded regions to seek independence. He made it clear, however, that his government refrains from using force. At the same time, Kosovo President Fatmir Sejdiu emphasized that eventual independence was the only acceptable outcome.

It is clear that if a solution is not reached soon, violence may break out in the region. Mr. Ahtisaari believes that a sustainable solution is of "vital importance" to regional peace and stability, and EU Enlargement Commissioner Olli Rehn stated that a Security Council impasse would trigger "the risk of instability and even chaos in the Balkans." Members of the Ethnic Albanian group, *Vetevendosje* — meaning self-determination — protest the plan because it falls short of their desire for an independent state. The group has emerged as the focal point for ethnic Albanian frustrations in Kosovo, and its numbers have been growing as uncertainty continues. Two protesters died in February in the capital Pristina after being shot with rubber bullets by UN police.

Although no date has been set, and it is not yet clear that the plan will be approved, the Security Council plans to vote this April or May. Russia, Serbia's traditional ally, previously indicated that it will oppose any plan not backed by Belgrade. Yet Russia's foreign minister Sergei Lavrov has made recent comments that indicate a willingness to negotiate, leading observers to believe that Russia will not exercise its Security Council veto power. President Putin has warned that Kosovo's independence would set a precedent for other "frozen conflicts," referring to Russian-backed

independence movements of South Ossetia and Abkhazia in Georgia, and Transnistria in Moldova.

### VICTIMS APPEAL DECISION NOT TO PROSECUTE UZBEK MINISTER IN GERMANY

Eight victims of Uzbek abuses appealed Germany's Federal Prosecutor's decision not to open a crimes against humanity investigation against former Uzbek Internal Minister Zokir Almatov. Four of those appealing are victims of general widespread torture that occurred in Uzbek prisons and pre-trial detention facilities under Almatov's watch. The other four were among the estimated 5,000 unarmed protesters — demonstrating against the jailing of local men on charges of "Islamic extremism" — upon whom Uzbek forces open-fired during the 2005 Andijan Massacre. Uzbek officials claim less than 200 deaths in the incident, which was also under the command of Almatov, although independent sources, such as the Institute for War and Peace Reporting and the *Turkish Weekly* place the number of casualties as high as 4,500.

Almatov was granted permission on "humanitarian grounds" to have a life-saving operation in Germany in 2005 despite an EU visa ban on all senior Uzbek officials who refuse to accept an independent international inquiry into the Andijan Massacre. In December 2005, the eight victims submitted a complaint against Almatov and eleven other Uzbek government officials for crimes against humanity under Germany's universal jurisdiction laws. In March 2006, former German Federal Prosecutor Kay Nehm decided not to pursue the investigation, noting the low likelihood of success given Uzbekistan's reluctance to cooperate in an investigation. Nehm's report relied upon information submitted by the Uzbek government, which claims to be working to combat torture. Without independent access to detention and prison facilities, however, no mechanism exists to verify these claims.

Nehm's decision was later upheld by current Federal Prosecutor Monika Harms. Organizations that assisted the victims have argued that a successful investigation could be carried out despite Uzbekistan's lack of cooperation by interviewing victims and witnesses living outside Uzbekistan and former UN Special Rapporteur on Torture Theovan Boven who issued a 2003 report documenting systematic torture in Uzbekistan.

The victims' appeal was submitted in late January to the Higher Regional Court in Stuttgart. The appeal emphasizes that because Germany has incorporated the International Criminal Court statute into its domestic law — which has never been used since its adoption five years ago — and is a signatory to the UN Convention against Torture, it is obligated to arrest Almatov and begin investigations based on the evidence available. Because Germany is a leader in creating accountability mechanisms for the most serious crimes under international law, the prosecutors' decisions have been heavily criticized by outside legal experts.

### **HIV OUTBREAK IN KAZAKHSTAN HIGHLIGHTS NEED FOR REFORM**

The trial of 21 medical workers responsible for the death of eight toddlers and the infection of 92 children and 12 mothers with HIV began in January and is expected to take several months. The workers deny criminal charges of professional recklessness, corruption, and the illegal sale of blood. If guilty, they face a maximum sentence of five years.

These deaths appear to be part of a deeply corrupt health care system in Kazakhstan. After an abnormally large number of HIV cases were detected in a group of infants in September 2006, the Kazakhstan government asked the U.S.-based Center for Disease Control and Prevention (CDC) to investigate. The CDC concluded that the problem stemmed from blood transfusion, likely through several hospitals in the city of Shymkent that have repeatedly used insanitary medical equipment and unsafe blood and blood products. Prosecutors allege that medical staff gave blood transfusions to extort money, usually \$20 per transfusion. By law, Kazakhstan's hospitals are prohibited from charging patients for blood and medicine. CDC's Central Asia office notes that these transfusions are not based on medical evidence; rather medical workers exploit local beliefs concerning the cure-all aspect of blood to supplement their low salaries. For example, an eight-month-old child received 24 blood transfusions to "boost his immunity."

The outbreak has resulted in a blame game amongst local officials and the central government. Kazakhstan's Health Minister Yerbolat Dosaev maintains that fault rests with local officials who have refused to provide sufficient funds to the health care system and, at the same time, allow endemic corruption to persist. Meanwhile, parliament mem-

bers called for the resignations of Dosaev and local officials, saying that "they are equally guilty for the slow and tortuous deaths of children." However, local officials maintain that low medical salaries — for example, doctors' salaries start at \$175 per month — are a consequence of insufficient allocation of government funds to the Shymkent area.

In response to the outbreak, President Nursultan Nazarbayev dismissed the health minister and the regional governor in Shymkent, and the government has begun to conduct broad inspections of medical facilities nationwide. This outbreak comes just months after the government adopted a national strategy on HIV/AIDS to run through 2010, at which point the government has pledged to shoulder 50 percent of the costs for those living with HIV/AIDS. UNAIDS, a joint UN program combating AIDS, notes that less than 20 percent of those with HIV receive antiretroviral drugs in Kazakhstan. Meanwhile, during 2005 the number of people in Kazakhstan living with AIDS rose by twenty percent.

## **ASIA**

### **CHINA: RELIGIOUS PERSECUTION OF UIGHURS IN XINJIANG PROVINCE**

In early February, Chinese government officials executed ethnic Uighur Muslim activist Ismail Semed in Ürümqi, the capital of the predominantly Muslim Xinjiang province. Semed was executed by a bullet through the heart. His charges stemmed from allegations that he was a founding member of the East Turkestan Islamic Movement, which the United States, the United Nations, and China designated as a terrorist organization in 2002. Before his trial, Semed had been deported from Pakistan where he had fled after serving two jail terms for alleged involvement in a violent uprising in 1990. He was sentenced to death in 2005 after being found guilty of attempting to "split the motherland." Human rights groups condemned the case as marred by lack of evidence, a flawed trial, and a coerced confession. Chinese authorities refused to confirm the details of Semed's case, but a spokeswoman for the Ürümqi Intermediate People's Court told reporters that a group of people had been executed in Ürümqi that day. Amnesty International, Human Rights Watch, and other human rights groups accused the Chinese government of exaggerating the threat of violence to crackdown on movements committed to freedom of religion.

Uighurs are ethnically Turkic Muslims, accounting for eight of the nineteen million people in Xinjiang province, which borders eight separate countries. Though members of the Taliban have been captured in Xinjiang, human rights groups accuse China of using the 9/11 attacks as an excuse to further criminalize and repress its Muslim population, especially in Xinjiang, and blur the distinction between religious extremism and religious freedom. Despite religious freedom being guaranteed in the Chinese Constitution, few Uighurs are at liberty to practice their faith as they would like. For example, the curriculum of the Islam College in Ürümqi must be approved by China's Communist Party and may not be taught in the Uighur language. Students must also attend political education camps where the authorities dictate which version of the Koran should be used.

Some Uighurs are eager to re-establish an independent Islamic nation, and Xinjiang has suffered periodic separatist violence that China is keen to suppress. In 1950 Uighurs were 94 percent of the province's population; but China since has flooded the province with Han Chinese by investing heavily in its "Go West" policies to redevelop the province. As a result, Uighurs are now less than half of the population. Uighurs are linguistically and culturally isolated, and the new jobs are given to Han Chinese settlers. Fear is pervasive in Xinjiang; Uighur men and women have been imprisoned for simply speaking to foreign journalists. According to a joint report by Human Rights Watch and Human Rights in China, "People from the Uighur community are very much at risk of being arrested, detained, tortured or sentenced to labor camps for anything the government equates to separatist feelings," such as holding religious activities and disseminating peaceful religious and cultural messages. The systematic repression of religion in Xinjiang ranges from the closing of mosques to executions and the detention of thousands of people, mostly for illegal religious activities, every year, the report claims.

Rebiya Kadeer, a prominent Uighur exile from Xinjiang, President of the Uighur American Association, and a member of the World Uighur Congress, condemned Semed's execution as unjust. Kadeer was once appointed to a seat on one of China's highest consultative bodies. But she was imprisoned for five years for allegedly endangering national security by sending newspaper clippings on the treatment of the Uighur commu-

nity to her husband, former political prisoner Sidik Rouzi, who had fled China for the United States. While in prison Kadeer witnessed the torture and harassment of many innocent Uighurs, and was not allowed to read, write, or speak to others in the prison or even a lawyer.

According to a local Uighur, the war on terror has become a war on Islam. "They're punishing people for their religious beliefs," he said. "Uighur people are not terrorists. They don't want to be terrorists. They're peaceful people."

#### **DETAINEE DEATHS IN AFGHANISTAN: FAILURES OF U.S. ACCOUNTABILITY**

On February 13, a U.S. federal court sentenced David Passaro to eight-and-a-half years in prison for the beating death of Abdul Wali in June 2003. Passaro, a U.S. Central Intelligence Agency (CIA) contractor, was stationed with U.S. military forces at a post on the Afghanistan-Pakistan border. He had ordered military guards to keep Wali, an Afghan farmer suspected of involvement in rocket attacks on a military post, from sleeping, and to deny him food and water. He also forced Wali to endure over 48 hours of interrogation and brutal beatings. Wali continued to deny any role in the rocket attacks until his death on his fourth day in custody.

The Passaro case is similar to many other cases of alleged abuse by U.S. officers in Afghanistan. Human rights advocates highlight that Passaro's sentence was a singular exception to an otherwise deficient record of accountability. The United States has neither investigated nor prosecuted most of the numerous cases of detainee abuse and killings in Afghanistan that implicate U.S. military personnel. The failure of accountability in Afghanistan is particularly notable because a military unit involved in interrogations in Afghanistan in 2002 was later sent to Iraq and later carried out the infamous abuses that took place at Abu Ghraib prison.

No officers were held accountable for killings or torture evidenced in autopsy and death reports of detainees held in U.S. facilities in Afghanistan. Many of these detainees died during interrogations. The U.S. Department of Defense released the documents in 2005 in response to a Freedom of Information Act request filed by the American Civil Liberties Union, the Center for Constitutional Rights, Physicians for Human Rights, Veterans for Common Sense, and Veterans for Peace. The documents show

detainees were hooded, gagged, strangled, beaten with blunt objects, and subjected to sleep deprivation and extreme environmental conditions. Suspects were detained without legal authority and held without access to their families or the legal system.

In one instance in December 2002, the U.S. Army's Criminal Investigation Division recommended that 28 U.S. soldiers be charged in connection with the beating death of two prisoners at the U.S. airbase at Bagram. Autopsies found "blunt force injuries" on the bodies of two detainees, Mullah Habibullah and a taxi driver known as Dilawar. By the end of 2004, only one soldier had been charged—with assault, maltreatment, and dereliction of duty.

Another death in custody was investigated in September 2004 by the UN, the office of the Attorney General of the Afghan National Army, and the Crimes of War project. Jamal Naseer, a soldier in the Afghan National Army, was killed after he and seven other soldiers were mistakenly arrested and severely beaten by U.S. officers. The Army Criminal Investigative Command opened an investigation of the case in May 2004. In January 2007, Special Operations Command released a statement that two soldiers would receive administrative reprimands but would not face courts-martial.

Human rights organizations point out that United States, Afghanistan, European Union, and other efforts to implement the 2006 Afghanistan Compact to rebuild and stabilize Afghanistan have failed to improve basic security. In 2006, more than 4,400 Afghans died in conflict-related violence, twice as many as in 2005 and more than in any other year since the United States helped oust the Taliban in 2001. The UN estimated that the armed conflict displaced about 80,000 people in Afghanistan. According to Human Rights Watch Asia, "Security is the first pillar of the compact, but ... life is so dangerous that many Afghans are unable to go to school, get health care, or take goods to market."

The U.S. military continues to operate in Afghanistan without a legal framework such as a Status of Forces Agreement with the Afghan government, and to detain hundreds of Afghans without any legal process. Furthermore, in March 2007, the U.S. Court of Appeals for the Fourth Circuit dismissed a case filed by Khaled el-Masri, a German citizen of Lebanese descent who was allegedly first detained in Macedonia and then flown to

Afghanistan, where he was questioned about ties to terrorist groups and beaten by U.S. officers. He was apparently subjected to extraordinary rendition, the practice of taking foreign nationals to third states for interrogation because, according to the U.S. government, these states' interrogation practices are not accountable to U.S. laws. Secretary of State Condoleezza Rice has called the government's rendition program "a vital tool in combating transnational terrorism." In his complaint, Masri maintained that the CIA violated the U.S. Constitution and international law, but the court dismissed the case claiming that hearing it would put national security secrets at risk.

Human rights advocates assert that U.S. forces are, at a minimum, obligated to treat detainees in accordance with international humanitarian law principles under the Geneva Conventions. Despite repeated calls by international human rights organizations for independent investigations of deaths in custody and reports of torture by U.S. forces, investigations have been conducted under the auspices of the U.S. Department of Defense. Requests for access to detainees by the UN, the Afghanistan Independent Human Rights Commission, and other non-governmental bodies continue to be refused. "The failure to investigate senior U.S. officials for their role in authorizing detainee abuse is not for lack of evidence but for lack of political will," said a Human Rights Watch Research Director. Human rights advocates urge that only an independent prosecutor can mount credible investigations into detainee abuse issues, and the U.S. Congress should press the current administration to appoint one. **HRB**

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