

Middle East and North Africa

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This article reviews significant legal developments that affected the Middle East and North Africa in 2011.¹ The year was the most unexpected and transformative year the Middle East has faced in the last 100 years. Protests planned using cell phones and social media summoned hundreds of thousands of people in many Arab countries, including Tunisia, Egypt, Libya, Morocco, Bahrain, Yemen, Saudi Arabia, and Syria to take to the streets and demand reforms. In some countries, such as Morocco, Saudi Arabia, and Bahrain, savvy rulers heeded the protestors' demands and proposed reforms. In other countries, dated dictators either fought until the end or fled their capitol. This series of protests, which many believe were inspired by protests in Tunisia that ousted President Zine El Abidine Ben Ali in January 2011, became known as the Arab Spring.

Where rulers subject to Arab Spring protests offered to make reforms, protests have ceased, with analysts noting that the promised reforms have not had the intended effect, such as in Morocco. Where dictators were overthrown, the people now struggle to participate in the formation of a new government, with recurring protests by citizens nervous about new but oppressive political forces usurping the people's will, such as in Egypt.

In the few Middle Eastern countries that did not participate in the Arab Spring, other key legal reforms took place. Attempts to broaden free speech rights were made in some countries. For example, the Iraqi government passed a law aimed at protecting journalists, and the Pakistani high court sentenced a man to death for killing someone who opposed an anti-blasphemy law. Contrarily, Turkey reaffirmed its limits on free speech, by continuing to limit access to many popular websites, including YouTube.

Some Middle Eastern countries made advances in the area of labor law. The National Labor Court of Israel handed down a detailed decision regarding employees' expectations

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1. For developments in 2010, see Anahita Ferasat et al., *Middle East*, 45 INT'L LAW. 561 (2011). For developments in 2009, see Anahita Ferasat et al., *Middle East*, 44 INT'L LAW. 713 (2010).

of privacy in the work place with regard to their emails, and spelled out limitations on employers' rights to monitor such emails. Saudi Arabia adopted a "Saudization" policy that targets and requires Saudi companies to hire more Saudi nationals. This law is driven by the fact that Saudi companies employ 6.5 million expatriates and only 700,000 Saudi nationals.

The effects of the Arab Spring will be felt for years, but the rise of undeniable protestors' demands has had two diverging effects: some long-standing dictators have been forced out or are on their way out, and other tyrants have acquiesced and promised certain reforms. For the countries seeking new leadership, the road will be bumpy and fraught with those who race to take power without considering the needs of the people. And for those countries with budding reforms, the dissatisfied protestors may be ready to march again if they do not see enough change.

I. Egypt*

The Arab Spring, arguably, is most poignantly defined by Egypt's "January 25 Revolution," which was set into motion within days of Tunisia's own dramatic government takeover. Egypt's revolution ended following just eighteen days of protests when President Hosni Mubarak resigned on February 11, 2011, after the Egyptian military renounced its support for him.²

Although the Egyptian military was seen as having a close bond with the Egyptian people,³ many in Egypt fear that the military is slowing progress toward a democratic society. After the revolution, the Egyptian military suspended Egypt's oppressive constitution and dissolved the parliament.⁴ The military then oversaw sweeping constitutional reforms that were approved overwhelmingly by referendum.⁵ In March 2011, the military promised to cede legislative and executive powers once parliamentary and presidential elections planned for September were completed.⁶ But those elections never happened, and the military continues to control Egypt.⁷

The military has stated that it will maintain control until parliamentary elections are completed, a new constitution is ratified, a constitutional assembly is appointed, and a new president is elected.⁸ All of this could take two years or longer.⁹ In the meantime, bloody

* Kinan H. Romman of Ahmad, Zavitsanos & Anaipakos in Houston, prepared the report on Egypt.

2. David Kirkpatrick, *Egypt Erupts in Jubilation as Mubarak Steps Down*, N.Y. TIMES, Feb. 11, 2011, at A1, <http://www.nytimes.com/2011/02/12/world/middleeast/12egypt.html?pagewanted=all>.

3. During the revolution, protestors often chanted, "The Army and the people are one hand!" See Tony Karon, *Will Egypt's Military Hijack its Revolution?*, TIME WORLD – GLOBAL SPIN (July 19, 2011), <http://globalspin.blogs.time.com/2011/07/19/will-egypts-military-hijack-its-revolution/>.

4. Raja Abdulrahim, Ned Parker & Jeffrey Fleishman, *Egypt military dissolves parliament, suspends constitution*, L.A. TIMES (Feb. 14, 2011), <http://articles.latimes.com/2011/feb/14/world/la-eg-egypt-aftermath-2011-02-14>.

5. Neil MacFarquhar, *Egyptian Voters Approve Constitutional Changes*, N.Y. TIMES, Mar. 20, 2011, at A4, <http://www.nytimes.com/2011/03/21/world/middleeast/21egypt.html?pagewanted=all>.

6. Amr Emam, *Elections in Egypt by the Fall, Leaders Say*, N.Y. TIMES, Mar. 30, 2011, at A11, <http://www.nytimes.com/2011/03/31/world/middleeast/31egypt.html>.

7. David Kirkpatrick, *Egypt's Military Expands Power, Raising Alarms*, N.Y. TIMES, Oct. 14, 2011, at A1, <http://www.nytimes.com/2011/10/15/world/middleeast/egypts-military-expands-power-raising-alarms.html?pagewanted=all>.

8. *Id.*

riots have taken place in June and October over perceived corruption among military elites and sectarian friction.¹⁰

Egyptians fear that the military may continue the old policies of Mubarak. On September 12, following a looting of the Israeli embassy in Cairo, Egypt's military government resurrected the old regime's feared and reviled "emergency law" to crush protests using detentions without trial.¹¹ The emergency law was activated in 1981 by Mubarak¹² and maintained continuously under his regime. The military also engaged in violence toward Coptic Christians and has used state-run media to cover up its attacks.¹³ Egyptians hope the military will allow the people to realize the democratic society for which they fought. This can only happen if the country's new constitution is ratified, fair elections held, and the military steps aside in favor of civilian rule.

II. Ethiopia¹⁴

A. ECONOMICS

In January of 2011, the government of Prime Minister Meles Zenawi attempted to address Ethiopia's artificial commodity shortage by issuing warnings to the local business community and threatening to allow "foreign wholesale giants" to enter the Ethiopian marketplace.¹⁵ Due to commercial inactivity, the government plans to institute an itemized licensing system to restructure the wholesale markets.¹⁶

B. ENVIRONMENT

The United Nations has weighed in on the planning of the Gibe III hydroelectric dam because its construction on the Omo River will ultimately kill the downstream Lake Turkana.¹⁷ First, the U.N. Committee on Racial Discrimination has given the government of Ethiopia until January 2012 to provide credible evidence that the indigenous peoples in the region have been consulted¹⁸ and independent socioeconomic impact as-

9. *Id.*

10. Maggie Michael, *Group Warns Of Cover-Up in Egypt Christian Deaths*, ASSOCIATED PRESS (Oct. 25, 2011), <http://news.yahoo.com/group-warns-cover-egypt-christian-deaths-122552642.html>.

11. David D. Kirkpatrick, *After Attack on Embassy, Egypt Vows a Tougher Stance on Protests*, N.Y. TIMES (Sept. 10, 2011), at A10, <http://www.nytimes.com/2011/09/11/world/middleeast/11egypt.html?pagewanted=all>.

12. See Law No. 162 of 1958 (Emergency Law) Official Gazette of 28 September 1958, No. 28, Bis. (dissolved). Although the law was enacted in 1958, it had only been used during the 1967 War before Mubarak came into power.

13. Michael, *supra* note 10.

14. Jenna DiCocco, Esq., is a Boston-based attorney and professor, focused on human and civil rights issues.

15. *Haset Sees Opportunity in Meles' Wholesale Trade Warning*, CAPITAL ETHIOPIA (Nov. 1, 2011), available at <http://www.dailyethiopia.com/index.php?aid=1026>.

16. *Id.*

17. U.N. Economic and Social Council, Permanent Forum on Indigenous Issues, 9th Sess., HR/5020 (Apr. 28, 2010), <http://www.un.org/News/Press/docs/2010/hr5020.doc.htm>.

18. *UN Demands Urgent Answers from Ethiopia Over Gibe III Dam*, SURVIVAL INT'L (Oct. 13, 2011), <http://www.survivalinternational.org/news/7783>.

assessments have been carried out.¹⁹ Additionally, the U.N.'s World Heritage Committee, stressing the importance of Lake Turkana as a research area, called on the government of Ethiopia to suspend all work on the dam until all of the environmental impacts have been assessed.²⁰

Drought struck the horn of Africa severely this year,²¹ resulting in a widespread famine that has affected more than thirteen million people, including 4.5 million Ethiopians.²² Prime Minister Zenawi has outlined plans for resettlement and new irrigation systems to alleviate the drought's effects on Ethiopians.²³

C. TERRORISM

Using the rubric of the 2009 Anti-Terrorism Proclamation,²⁴ the Ethiopian government this year detained a number of critics and opposition politicians.²⁵ Those arrested and charged with terrorism include actors, journalists,²⁶ and opposition party leaders, who were allegedly involved with Ginbot 7, a banned dissent group.²⁷ These charges were brought by the federal high court after WikiLeaks released a number of documents and reports tying the Ethiopian National Intelligence and Security Service to bombings in Addis Ababa, which were promptly blamed on opposition groups and Eritrean terrorist groups.²⁸ Human Rights Watch summed up the situation by stating, "it is very dangerous to criticize the government in Ethiopia" right now,²⁹ and has called upon Prime Minister Zenawi's government to stop using the Anti-Terrorism Proclamation to restrict Ethiopians' freedom of speech.³⁰

19. Joanna Eede, *UN Puts Pressure on Ethiopia Over Controversial Gibe III Dam*, NAT'L GEOGRAPHIC: NEWSWATCH (Oct. 12, 2011), <http://newswatch.nationalgeographic.com/2011/10/12/un-puts-pressure-on-ethiopia-over-controversial-gibe-iii-dam/>.

20. Argaw Ashine, *UN Calls for Suspension of Gibe III Dam*, ADDIS VOICE (July 28, 2011, 3:07 AM), <http://addisvoice.com/2011/07/un-calls-for-suspension-of-gibe-iii-dam-dn/>.

21. Nathaniel Gronewold, *Africa Drought Endangers Millions*, N.Y. TIMES (July 5, 2011), <http://www.nytimes.com/cwire/2011/07/05/05climatewire-africa-drought-endangers-millions-22493.html?pagewanted=all>.

22. Katharine Houreld, *Aid Groups: Famine Response Too Slow*, USA TODAY, Jan. 19, 2012, http://www.usatoday.com/USCP/PNI/NEWS/2012-01-19-BCAFEast-AfricaFamine6th-LdWritethru_ST_U.htm.

23. Andrew Meldrum, *Is Resettlement the Best Response to Drought and Famine?*, GLOBAL POST (Aug. 1, 2011, 5:57 PM), <http://www.globalpost.com/dispatches/globalpost-blogs/africa-emerges/ethiopia-responds-famine-land-resettlement>.

24. Proclamation on Anti-Terrorism, Proclamation No. 652/2009, Negarit Gazette, 15th Year, No. 57, available at <http://www.ethiopian-law.com/federal-laws/procedural-law/criminal-procedure-law/special-procedures/318-anti-terrorism-proclamation-no-6522009.html>.

25. *Ethiopia: Crackdown on Dissent Intensifies*, HUM. RTS. WATCH (Sept. 16, 2011), <http://www.hrw.org/news/2011/09/16/ethiopia-crackdown-dissent-intensifies>.

26. *Ethiopia Charges Six Journalists with Terrorism*, COMM. TO PROTECT JOURNALISTS (Nov. 11, 2011, 5:07 PM), <http://cpj.org/2011/11/ethiopia-charges-six-journalists-with-terrorism.php>.

27. *Id.*

28. Thomas C. Mountain, *WikiLeaks Ethiopia Files: Ethiopia Bombs Itself, Blames Eritrea*, FOREIGN POLICY J., Sept. 16, 2011, <http://www.foreignpolicyjournal.com/2011/09/16/wikileaks-ethiopia-files-ethiopia-bombs-itself-blames-eritrea/>.

29. *Ethiopia: Crackdown on Dissent Intensifies*, *supra* note 25.

30. *Ethiopia: Terrorism Law Undercuts Free Speech*, HUMAN RTS. WATCH (July 25, 2011), <http://www.hrw.org/news/2011/07/25/ethiopia-terrorism-law-undercuts-free-speech>; see also Alemayehu G. Mariam, *Ethiopia: Dictatorship is State Terrorism*, SALON.COM (Oct. 3, 2011, 12:26 AM), http://open.salon.com/blog/almariam/2011/10/01/dictatorship_is_state_terrorism.

D. WOMEN

In January of 2011, two districts in the Afar region formally outlawed female circumcision, due to health problems it causes for many women who have been subjected to the practice.³¹ While female genital mutilation and cutting (FGM/C) is illegal in Ethiopian criminal law, it was only with this formal denunciation of the practice that the regional state of Afar adopted the law.³²

Violence against women in Ethiopia is on the rise,³³ partially due to the implementation of the 2009 Charities and Societies Proclamation, which has posed serious challenges to local women's advocacy groups. The Network of Ethiopian Women's Associations held an emergency meeting after the brutal crime committed against Aberash Hailay by her ex-husband in September,³⁴ but is still restricted by the Proclamation and the Agency that oversees its implementation.³⁵ Indeed, 2011 saw the Charities and Societies Agency freeze the funds of the highly regarded Ethiopian Women's Lawyers Association.³⁶

III. Iran*

A. ELIMINATING THE PRESIDENCY?

In mid-October, Supreme Leader Ali Khamenei announced that, if the interests of the state required it, a prime minister elected by the parliament could replace the Iranian presidency, a post filled every four years via popular election.³⁷ Ten days after the radical pronouncement, Ali Larijani, speaker of the Iranian parliament, simultaneously endorsed and softened the proclamation by stating that the change would not be so much a replacement of the president but simply a change in the method of electing the head of state.³⁸

It is not clear when the change would take place, if at all, but a debate is underway and key figures and institutions are taking sides. Former president Ali Akbar Hashemi Rafsanjani opposes the election of the head of state by any means other than a popular election, while a key spokesperson for the Guardian Council has declared the change would not undermine the republican character of the Islamic Republic.³⁹ There is speculation

31. *Ethiopia: Pastoralists Battling FGM/C*, IRIN (Jan. 26, 2011), <http://www.irinnews.org/report.aspx?ReportId=91732>.

32. *Id.*

33. Billene Seyoum, *Ethiopia: Violence Against Women On the Rise*, ALL AFRICA (Sept. 22, 2011), <http://allafrica.com/stories/201109230898.html>.

34. *Id.*

35. Phillip Barea, *Ethiopian Charities and Societies Agency Shuts Down Organisations*, EZEGA.COM (Feb. 18, 2011), <http://www.ezega.com/News/NewsDetails.aspx?Page=Heads&NewsID=2776>.

36. Mahlet Mesfin, *Ethiopia: Board Upholds Revocation of NGOs, Licenses, Accounts Freeze*, ALL AFRICA (Feb. 7, 2011), <http://allafrica.com/stories/201102081019.html>.

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37. Shaul Bakhash, *No Elected President for Iran?*, IRAN PRIMER – UNITED STATES INSTITUTE OF PEACE (Oct. 31, 2011, 7:29 AM), <http://iranprimer.usip.org/blog/2011/oct/31/no-elected-president-iran>.

38. *Id.*

39. *Id.*

among members of the parliament that the shift in rules may be imminent, such that the currently scheduled 2013 presidential election may not take place.⁴⁰

Some analysts surmise that Khamenei's proposal arises from recent tensions between parliament and President Ahmadinejad,⁴¹ as the parliament has been severely restrained under Ahmadinejad's presidency.⁴² For example, Mr. Ahmadinejad's administration has delayed submission of the budget to the parliament, thereby forcing parliament to accept the administration's budget without proper review and revision to meet the approval deadline. Further, while the parliament approved the sum of \$20 billion to spend on subsidies as part of the new subsidy reform plan (discussed below), the administration appropriated \$40 billion.⁴³

Other analysts argue that roadblocks with just one president do not justify such a fundamental change, and attribute Ayatollah Khamenei's proposal to an ongoing rivalry with the office of the president in general.⁴⁴ While the Supreme Leader still has final authority on all law and policy, the presidency has evolved into a rival center of power, with each president contributing to key policy and effecting the country's direction.⁴⁵ In particular, the appeal of former president Khatami's reformist agenda of rule of law, political pluralism, and freedom of press still pose a threat to the Supreme Leader.⁴⁶

Eliminating the post of the president would require many steps. Procedurally, the Council for the Revision of the Constitution would need to convene and draft a constitutional amendment.⁴⁷ Perhaps more significantly, the Supreme Leader would need to be prepared to justify what will likely appear as an attack on popular sovereignty and popular will to the public.⁴⁸ The Supreme Leader appears to have the power to effect the change, but it is too early to know whether he will follow through with the threat.

B. SUBSIDY REFORM

Over the years, highly subsidized energy in Iran has made Iran one of the most energy-intensive economies in the world.⁴⁹ Iran's high domestic consumption has both depleted the reserve of energy products for export as well as starved funds needed for investment in developing the energy market.⁵⁰ To combat the rise in energy use and waste, the government decided to rationalize consumption by raising energy prices and simultaneously distributing energy dividends to the population to help offset a sudden rise in energy

40. *Id.*

41. *Id.*

42. *Challenging the Balance of Power: Ahmadinejad vs. Parliament, an Interview with Hosein Ghazian*, IRAN PRIMER—UNITED STATES INSTITUTE OF PEACE (Oct. 4, 2011, 11:58 PM), <http://iranprimer.usip.org/blog/2011/oct/05/challenging-balance-power-ahmadinejad-vs-parliament>.

43. *Id.*

44. Bakhsh, *supra* note 37.

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

49. DOMINIQUE GUILLAME, ROMAN ZYTEK, AND MOHAMMAD REZA FARZIN, INT'L MONETARY FUND, IRAN—THE CHRONICLES OF THE SUBSIDY REFORM 5–6 (July 2011), <http://www.imf.org/external/pubs/ft/wp/2011/wp11167.pdf>.

50. *Id.* at 6.

expenses.⁵¹ This plan is laid out in the Targeted Subsidy Reform Act (Reform Act). The Reform Act was approved by the parliament in January 2010, and the administration undertook a public relations campaign to sell the reforms to the public. The plan was implemented in December 2010.

By most accounts, the administration's implementation of the subsidy reform has been a success, though its long-term effects cannot yet be determined. Protests did not ensue following the December 2010 implementation, and prices were upwardly adjusted as required by the law. Dividends were also distributed to Iranians to help them offset their increased expenses. It is estimated that by December 2011, Iranian households will have received at least \$30 billion in freely usable cash. Further, as part of the long-term strategy of the subsidy reform, \$10–\$15 billion will have been advanced to finance projects aimed at reducing energy intensity.⁵²

What is so far seen as the successful implementation of the price increases has created an opportunity for Iran to reform and develop the growth of its economy.⁵³ The corporate sector will play a significant role in this process, as it will have to adopt more energy efficient technologies and produce energy efficient products.⁵⁴ The government's involvement is crucial as only it can ease the pass through of higher energy prices to companies by reducing import/export tariffs and controlling inflation and exchange rate policies.⁵⁵ The hope is that cooperation between the corporate sector and the government sector will result in Iranian consumers purchasing more energy efficient products, thereby driving energy costs down on a permanent basis.⁵⁶

IV. Iraq*

A. MAJOR DEVELOPMENTS

The failure of the prime minister to form a government for much of 2010 caused delays in the passing of key legislation into 2011.⁵⁷ Iraq passed its first budget on February 20, 2011.⁵⁸ The \$82.6 billion cuts the salaries of the prime minister and members of parliament, forecasts a deficit of \$13.4 billion, and allocates large amounts to Iraq's social services.⁵⁹

The Nongovernmental Organization (NGO) law that provides for the establishment and regulation of NGOs operating in Iraq was implemented.⁶⁰ The law provides tax ex-

51. *Id.*

52. *Id.* at 3.

53. *Id.* at 21.

54. *Id.*

55. *Id.* at 21–22.

56. *Id.* at 22.

* Jason Tauches submitted the article on Iraq.

57. See *Iraq Elections*, N.Y. TIMES, (Dec. 21, 2010), <http://topics.nytimes.com/top/news/international/countriesandterritories/iraq/elections/index.html>.

58. U.S. DEP'T OF STATE, BUREAU OF NEAR EASTERN AFFAIRS, IRAQ POLICY & OPERATIONS GROUP, IRAQ STATUS REPORT, 1 (Mar. 3, 2011), <http://www.state.gov/documents/organization/157897.pdf>.

59. *Id.* at 1–2.

60. *NGO Law Monitor: Iraq*, INT'L CTR. FOR NOT-FOR-PROFIT LAW, <http://www.icnl.org/research/monitor/iraq.html> (last visited Mar. 9, 2012).

emption for public utility companies only, and provides for limited personal liability for NGO members.⁶¹

The government accepted the need for U.S. military trainers in Iraq, but refused to grant them legal immunity if they remained in the country beyond 2011, prompting the U.S. to withdraw its forces by the end of the year.⁶² U.S. troops finished their withdrawal from Iraq on December 18, 2011.⁶³

B. FREE SPEECH AND ASSEMBLY

The government passed what is known as the Draft Informatics Law to protect Iraqi journalists.⁶⁴ Critics, however, argued that its vague language did not protect Iraqi journalists.⁶⁵ The Draft Informatics Law was criticized for endangering freedom of speech and assembly.⁶⁶ Article 3, most notably, gives law enforcement broad powers to censor any computer use that it deems compromises the unity of the state.⁶⁷

C. PROTECTION OF WOMEN

Legislators in the Iraqi government declined to introduce legislation to protect women from domestic violence.⁶⁸ According to the Iraqi Penal Code of 1969, criminal actions are excused in the exercise of certain rights.⁶⁹ Men have the right to punish their wives according to the limits provided by law and custom.⁷⁰

D. HYDROCARBON LAW

Iraq has yet to pass a hydrocarbon law, which would provide for the regulation of investment, production, and revenue distribution of Iraq's oil and gas industry.⁷¹ The final draft, sent to the Parliament by the cabinet, increases tensions between the central government and the Autonomous Region of Kurdistan by providing that the central govern-

61. See The Law of Non-Gov't Orgs. No. 12 of 2010 (Iraq), *translated and reprinted by* Int'l Center for Non-Profit Law, <http://www.ncciraq.org/images/stories/NCCI%20DB/NGOs/NGOlaw/RepublicofIraqLawonNonGovernmentalOrganizationsof2010FinalTextENG.pdf>.

62. Tim Arango & Michael S. Schmidt, *Iraq Denies Legal Immunity to U.S. Troops After 2011*, N.Y. TIMES, Oct. 4, 2011, at A4, <http://www.nytimes.com/2011/10/05/world/middleeast/iraqis-say-no-to-immunity-for-remaining-american-troops.html>.

63. Tim Arango & Michael S. Schmidt, *Last Convoy of American Troops Leaves Iraq*, N.Y. TIMES, Dec. 18, 2011, at A6, <http://www.nytimes.com/2011/12/19/world/middleeast/last-convoy-of-american-troops-leaves-iraq.html?pagewanted=all>.

64. *New Law Fails to Protect Journalists, Creates New Problems*, REPORTERS WITHOUT BORDERS (Sept. 6, 2011), <http://en.rsf.org/iraq-new-law-fails-to-protect-06-09-2011,40930.html>.

65. *Id.*

66. *Iraq: Draft Informatics Crimes Law*, ARTICLE19.ORG (Oct. 26, 2011), <http://www.article19.org/resources.php/resource/2792/en/iraq--draft-informatics-crimes-law>.

67. *Id.*

68. Bushra Juhi, *Iraqi Women Abused Under Unchanging Laws*, HUFFINGTON POST (Oct. 11, 2011, 3:22 AM), http://www.huffingtonpost.com/2011/10/11/iraqi-women-abused_n_1005382.html.

69. *Id.*

70. *Id.*

71. *RPT-FACTBOX-Comparison of Iraq Oil Law Drafts, New and Old*, REUTERS AFRICA (Sept. 23, 2011, 2:08 PM), <http://af.reuters.com/article/energyOilNews/idAFL5E7KM3T420110923>.

ment will manage and regulate national resources, with all decisions made by an oil and gas council.⁷²

E. AUTONOMOUS REGION OF KURDISTAN

The Autonomous Region of Kurdistan passed its own NGO Law providing for the establishment and regulation of civil society within its borders.⁷³

Kurdistan took a positive forward step towards protecting women by outlawing female genital mutilation.⁷⁴

V. Israel*

The scope of employee privacy rights with respect to usage of employer provided information technology systems—particularly regarding email communications and the employer's corresponding ability to monitor employee usage of the same—had been somewhat unclear in Israel. The National Labor Court handed down a decision providing an in-depth analysis of employee privacy rights in this context, with a focused discussion on the scope of and limitations on employers' rights to monitor employee emails.⁷⁵

The case establishes the importance of applying an explicit policy to any conduct involving email monitoring, disclosing the policy to employees, obtaining a general consent to the policy, and exercising reasonable and proportionate discretion on a case-by-case basis in connection with any email monitoring, including, in certain cases, obtaining the individual employee's express consent with respect to monitoring of particular emails. In addition to establishing the terms of any monitoring, the policy may prohibit employees from visiting certain websites, limit the length of time employees can browse the web, and prohibit the introduction of "foreign" hardware into its computer network.

The monitoring policy must meet several conditions: monitoring must be reasonable; monitoring must be limited to business purposes sufficiently important to justify the intrusion into employee privacy; the means of monitoring should be the least harmful possible to employees' privacy; monitored data may only be retained if it relates to the purposes of a legitimate monitoring program, while extraneous information collected "incidentally" in the course of monitoring must be disregarded.

The decision distinguishes between work-only email inboxes, personal inboxes, and "mixed" inboxes. With respect to a work-only email inbox, monitoring is permitted subject to the terms of a legitimate policy as described above. With respect to a personal inbox, personal correspondence in a mixed inbox, or personal correspondence contained (even in violation of employer policy) in a "work-only" inbox, the employee's specific

72. *Id.*

73. *NGO Law Monitor: Iraq*, *supra* note 60.

74. *Iraqi Kurdistan: Law Banning FGM a Positive Step*, HUM. RTS. WATCH (July 26, 2011), <http://www.hrw.org/news/2011/07/25/iraqi-kurdistan-law-banning-fgm-positive-step>.

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75. LA 90/08, *Isaakov Inbar v. Women's Law Superior* [2011] (Isr.); *see also Israeli Market Developments, UNFOLDING* (Herzog, Fox & Neeman, Tel-Aviv, Israel), *available at* http://israel.ahk.de/fileadmin/ahk_israel/Dokumente/Herzog_Fox_Neeman_Newsletter/HFN_-_Newsletter_2.pdf.

consent is required prior to monitoring each private correspondence, such that a “double consent” is required, involving the employee’s consent to the general monitoring policy and specifically the monitoring of the particular emails involved. With respect to monitoring an external private email account (*e.g.*, Gmail), even employee consent will be deemed presumptively void and unenforceable. A court order may be sought to enable such monitoring.

Separately, two additional employment law developments are noteworthy. First, extending a clear trend towards further expanding employee pension and severance benefit schemes, a regulatory order established new contribution rates for pension and severance benefit programs, with cumulative contributions (including both employer and employee components) totaling 17.5% of salary, effective in 2014.⁷⁶ Second, on March 22, 2011, the Israeli legislature passed Amendment No. 4 of the Sick Pay Law, 5736-1976, increasing sick leave pay to fifty percent (up from 37.5%) of salary for the second and third days of absence and full salary (up from 75%) through the remainder of the sick leave period.⁷⁷

VI. Jordan*

Historic events in the region affected this year’s legal developments in Jordan. In particular, constitutional amendments were announced and legislative priorities were reassessed. The Kingdom also passed new laws including the General Pardon Law.⁷⁸

A. CONSTITUTIONAL AMENDMENTS

The Constitution was a prominent issue in the public discourse surrounding Jordan’s experience with the Arab Spring. King Abdullah II appointed a royal committee tasked with deliberating and proposing amendments to the Constitution.⁷⁹ The committee proposed several amendments that parliament later approved, and, subsequently, the King endorsed nearly forty amendments.⁸⁰ The amendments range from creation of new state institutions to addressing civil liberties.

Notably, the amendments create a new Constitutional Court with the authority to invalidate laws and regulations that it deems unconstitutional.⁸¹ Another significant development is the amendments’ restrictions on the passage and use of temporary laws.⁸² Temporary laws have been frequently used for key pieces of legislation, such as the Cyber

76. Extension Order for Comprehensive Pension Insurance (Aug. 3, 2011) (Isr.).

77. *Id.*

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78. General Pardon Law of 2011 (Act No. 15) (Jordan), available at http://www.petra.gov.jo/Public_News/Nws_NewsDetails.aspx?lang=1&site_id=2&NewsID=34285&Type=P.

79. Letter from King Abdullah II of Jordan to Ahmad Lozi (Apr. 26, 2011), available at http://www.kingabdullah.jo/index.php/en_US/royalLetters/view/id/285.html.

80. See CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN, available at http://www.law.yale.edu/rcw/rcw/jurisdictions/asw/jordan/jordan_const_eng.pdf.

81. See *id.* arts. 58–61 (the Constitutional Court, as yet to be formed, cannot review laws sua sponte, but rather upon a motion from specific government bodies).

82. See *id.* art. 94.

Crimes law and the Renewable Energy law of 2010.⁸³ Another key amendment establishes a body to oversee elections and places limits on the ability to dissolve parliament.⁸⁴

B. THE RENEWABLE ENERGY LAW

The Renewable Energy Law was issued last year as a temporary law and a priority under the national strategy.⁸⁵ It subsequently garnered much international interest. It was meant to spur investment and address Jordan's precarious energy security. But this legislation remained a temporary law subject to change and has not yet had the anticipated impact.⁸⁶ Key provisions regarding the financing and management of a fund called for in the law may be reworked despite donor agreements.⁸⁷

C. GENERAL PARDON LAW

In criminal law, a General Pardon Law granted pardons for a number of crimes and violations.⁸⁸ Affecting thousands of cases, the pardon applies to acts committed before June 1, 2011. The law excludes a number of crimes from this amnesty ranging from national security to fraud.⁸⁹ The pardon has no effect on civil liabilities arising out of the underlying crime.⁹⁰

VII. Libya*

Libya has undergone major transformations this past year because of the popular overthrow of Colonel Muammar Gadhafi, Libya's head of state and effective dictator since 1969. This regime change has spawned serious judicial reconsiderations that focus upon addressing human rights and humanitarian law violations perpetuated by the Gadhafi-led government and developing legal and political standards to reflect Libya's hopeful future.

Most notable are the number of international legal precedents set by the Libyan revolution: the Libyan United Nations delegation became the first to renounce its own government, instead vowing to solely represent its people;⁹¹ the U.N. Security Council Resolution 1973 went further than any past Resolution in authorizing the participation of

83. See Information Systems Crime Law of 2010 (Temporary Law No. 30) (Jordan); see also Renewable Energy & Energy Efficiency Law of 2010 (Temporary Law No. 3) (Jordan), available at <http://www.memr.gov.jo/Portals/0/Renewable%20Energy%20Law%20Translation.pdf>.

84. See CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN, arts. 67, 73–74, available at http://www.law.yale.edu/rcw/rcw/jurisdictions/asw/jordan/jordan_const_eng.pdf.

85. See Renewable Energy & Energy Efficiency Law of 2010 (Temporary Law No. 3) (Jordan).

86. See, e.g., *id.* art. 10.

87. See *id.* art. 11.

88. See General Pardon Law of 2011, *supra* note 78.

89. See *id.* art. 3.

90. See *id.* art. 4.

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91. *Unanimous Security Council Vote a Crucial Moment for International Justice*, AMNESTY INT'L (Feb. 28, 2011), <http://www.amnesty.org/en/news-and-updates/unanimous-security-council-vote-crucial-moment-international-justice-2011-02-28>.

international actors in the regime change of a U.N. member;⁹² the African Commission on Human and Peoples' Rights referred Libya's case to the African Court based, for the first time, on non-governmental organizations advocacy efforts;⁹³ and the International Criminal Court, in investigating the Gadhafi regime, issued indictments for crimes against humanity in record time.⁹⁴

A. CITIZEN ACTIVISM & INTERNATIONAL RESPONSES

In mid-February 2011, amid popular uprisings throughout the Arab region, peaceful Libyan civilians began calling for a national constitution and the establishment of rule of law.⁹⁵ Colonel Gadhafi quickly responded with unequivocal force, directing his military to control demonstrations with live ammunition, restricting all Internet access to thwart the people's attempts to organize, and arresting anti-Gadhafi lawyers and activists.⁹⁶ In defiance, anti-Gadhafi militias formed throughout the country, founding local governing councils, and pronouncing their loyalty to the Benghazi-based National Transitional Council.⁹⁷

In late February, the U.N. quickly responded to calls from within and without Libya for international assistance.⁹⁸ Like many Libyan officials and diplomats, Libya's U.N. delegation went so far as to denounce Gadhafi and assert its role as its people's representative.⁹⁹ Citing "the deaths of hundreds of civilians," the U.N. Human Rights Council established an independent International Commission of Inquiry to investigate the "recent gross and systematic human rights violations in Libya" and recommended the suspension of Libya's Council membership.¹⁰⁰ The following day, the U.N. Security Council passed Resolution 1970, demanding an immediate end to the violence and human rights violations, referring the situation to the Prosecutor of the International Criminal Court, setting up an arms

92. See Michael N. Schmitt, *Wings Over Libya: The No-Fly Zone in Legal Perspective*, 36 YALE J. INT'L L. ONLINE 45, 57 (2011), <http://www.yjil.org/docs/pub/o-36-schmitt-wings-over-libya.pdf> ("The no-fly zone now being enforced in Libya is the most robust no-fly zone authorized by the Security Council to date."); see also Mehrdad Payandeh, *The United Nations, Military Intervention, and Regime Change in Libya*, 52 VA. J. INT'L L. 355, 355 (2012) ("A closer examination of Resolution 1973 shows the considerably broad scope of authorization, which could—with certain restrictions—also be regarded as a legal basis for regime change in Libya.")

93. *The African Court on Human and People's Rights Seized of a Case against Libya*, INT'L FED'N FOR HUM. RTS. (FIDH) (Apr. 15, 2011), http://fidh.org/IMG/article_PDF/article_a9527.pdf.

94. *The Situation in Libya Referred to the ICC*, FIDH (Feb. 28, 2011), http://fidh.org/IMG/article_PDF/article_a9221.pdf; Prosecutor v. Gaddafi & Al-Senussi, Case No. ICC-01/11, Decision on the Prosecutor's Application Pursuant to Article 58, ¶ 41 (Jun. 27, 2011), <http://www.icc-cpi.int/iccdocs/doc/doc1099314.pdf>.

95. *Libya—Towards a Bloody Revolution*, FIDH (Feb. 21, 2011), http://www.fidh.org/IMG/article_PDF/article_a9174.pdf.

96. *Libyan Leader Must End Spiralling Killings*, AMNESTY INT'L (Feb. 20, 2011), <http://amnesty.org/en/news-and-updates/libyan-leader-must-end-spiralling-killings-2011-02-20>; *Libya: Governments Should Demand End to Unlawful Killings*, HUM. RTS. WATCH (Feb. 20, 2011), <http://www.hrw.org/en/news/2011/02/20/libya-governments-should-demand-end-unlawful-killings>.

97. See Peter Beaumont, *Thirty Miles From Tripoli - Frontline in the Libya Revolt*, THE GUARDIAN (Feb. 28, 2011, 2:40 PM), <http://www.guardian.co.uk/world/2011/feb/27/libya-30-miles-from-tripoli>.

98. Human Rights Council Res. S-15/1, Rep. of the Human Rights Council, 15th Sess., Feb. 25, 2011, A/HRC/S-15/1, at 3 (supporting statements by the Arab League, the African Union, and the Secretary General of the Organization of the Islamic Conference); *Unanimous Security Council Vote*, supra note 91.

99. *Unanimous Security Council Vote*, supra note 91.

100. *Id.*; H.R.C. Res. S-15/1, supra note 98, at 3.

embargo, establishing a travel ban, and freezing all of Gadhafi's assets.¹⁰¹ On March 1, 2011, the U.N. General Assembly suspended the Libyan Arab Jamahiriya from the Human Rights Council.¹⁰²

By mid-March 2011 the tensions between opposition militia and Gadhafi had only escalated.¹⁰³ As Gadhafi forces advanced towards Benghazi to quell the rapidly growing insurgency, the U.N. Security Council responded to deepening international humanitarian concerns by passing the wide-reaching Resolution 1973: establishing a no-fly zone primarily in response to reports that government aircraft were being used to target civilians, authorizing international actors to take "all necessary measures to protect civilians," and expanding the travel ban and asset freeze from Resolution 1970.¹⁰⁴

For the international legal community, Resolution 1973 sparked serious debate over the legality and legitimacy of U.N.-sanctioned regime changes within "the international system of collective security."¹⁰⁵ In the United States, President Obama's air-operations-only and multi-lateral strategy struck a contrast with previous U.S. interventions throughout the world.¹⁰⁶

Only days later, a coalition of Western powers began using air strikes to neutralize Gadhafi's military posts, air bases, and ground forces.¹⁰⁷ To the relief of Libyan rebels and concerned international parties, the effects in Benghazi and the rest of the country were immediate, reversing Gadhafi's unhindered assaults upon opposition forces.¹⁰⁸

B. REGIME CHANGE

As the civil war dragged on in Libya's cities and deserts, international actors continued to condemn Gadhafi and call for his resignation.¹⁰⁹ For the first time, the African Commission on Human and Peoples' Rights deferred to calls for action from NGOs and instituted proceedings against Libya, alleging, among other violations, excessive use of force against the civilian population and widespread unwarranted arrests of protesters and dissidents.¹¹⁰ By mid-July, the International Criminal Court finished its preliminary investigations and issued warrants of arrest for crimes against humanity (murder and persecution) against Colonel Gadhafi, his son Saif Al-Islam Gadhafi, and Abdullah Al-Senussi, a top military official.¹¹¹

101. S.C. Res. 1970, at 2–5, U.N. Doc. S/RES/1970 (Feb. 26, 2011).

102. G.A. Res. 65/265, at 1, U.N. Doc. A/RES/65/265 (Mar. 3, 2011).

103. See David Batty, *Libya Uprising*, GUARDIAN NEWS BLOG (Mar. 5, 2011), <http://www.guardian.co.uk/world/blog/2011/mar/05/libya-protests-gaddafi-live-blog>.

104. S.C. Res. 1973, at 3–5, U.N. Doc. S/RES/1973 (Mar. 17, 2011); Eric Schmitt, *U.S. Gives Its Air Power Expansive Role in Libya*, N.Y. TIMES, Mar. 29, 2011, at A13, <http://www.nytimes.com/2011/03/29/us/29military.html>.

105. See, e.g., Payandeh, *supra* note 92, at 355.

106. See Schmitt, *supra* note 104.

107. See Chris McGreal, *War Rains Down on Libya*, THE GUARDIAN, Mar. 21, 2011, at 1, available at 2011 WLNR 5477203; see also Schmitt, *supra* note 104.

108. See McGreal, *supra* note 107, at 1.

109. See, e.g., Mark Landler, *Obama Says Qaddafi Must Leave Libya Now*, N.Y. TIMES, Mar. 4, 2011, at A11, available at 2011 WLNR 4243400.

110. See *The African Court on Human and People's Rights Seized of a Case against Libya*, *supra* note 93.

111. Prosecutor v. Gaddafi & Al-Senussi, Case No. ICC-01/11, Decision on the Prosecutor's Application Pursuant to Article 58, ¶ 41 (Jun. 27, 2011), <http://www.icc-cpi.int/iccdocs/doc/doc1099314.pdf>.

On September 19, 2011, with the anti-Gadhafi forces nearly victorious and bearing down on the coastal city of Sirte, Gadhafi's last stronghold, the U.N. Security Council issued Resolution 2009 urging the Libyan National Transitional Council to uphold democratic principles and protect human rights, establishing a U.N. Support Mission in Libya (UNSMIL), and partially ending the asset freeze and arms embargo.¹¹²

On October 20, 2011, anti-Gadhafi forces defeated the last of the Gadhafi loyalists and captured a badly injured Colonel Gadhafi, who shortly thereafter died from a close-range gunshot to the head.¹¹³ Three days later, the National Transitional Council issued a "Declaration of Liberation."¹¹⁴ By October 27, the U.N. Security Council, concerned by reports of continued reprisals against Gadhafi supporters, passed Resolution 2016 urging Libyans to refrain from reprisals, urging the apprehension of all violators of international human rights and humanitarian law, and ending the no-fly zone.¹¹⁵

C. A NEW (AND OLD) LIBYA

With the end of the revolution came the resurfacing of factional interests inherent in a Libyan society diverse with religious conservatives, social democrats, secular liberals, the Western-educated, and the rural-uneducated.¹¹⁶ In a speech announcing the end of the war, the National Transitional Council's chairman, Mustafa Abdel-Jalil, echoed calls for a Libyan government based on Islamic tenets, promising the creation of Islamic banks and intimating support for the growing and controversial movement in favor of legalized polygamy.¹¹⁷ Days later, Chairman Abdel-Jalil stepped down from power, signaling hope for a Libyan democratic future.¹¹⁸ Soon after, the National Transitional Council selected Abdel Rahim el-Keab, a Western-educated engineer and long-time exile, to serve as its prime minister until national elections in June 2012.¹¹⁹

Libya faces serious challenges as it prepares for its coming elections and the realization of a yet unwritten constitution.¹²⁰ Reluctant and insecure militias remain to be disarmed.¹²¹ The need to address human rights violations and humanitarian issues still lingers.¹²² Of particular concern are reports of mass executions of Gadhafi loyalists, allegations of widespread rape of women and girls by armed soldiers, and the uncertainty

112. S.C. Res. 2009, at 2-5, U.N. Doc. S/RES/2009 (Sept. 16, 2011).

113. Kareem Fahim, Anthony Shadid, & Rick Gladstone, *Qaddafi, Seized by Foes, Meets a Violent End*, N.Y. TIMES, Oct. 21, 2011, at A1, available at 2011 WLNR 21610853.

114. S.C. Res. 2016, at 1, U.N. Doc. S/RES/2016 (Oct. 27, 2011).

115. *Id.* at 2-3; see *Libya: Apparent Execution of 53 Gaddafi Supporters*, HUM. RTS. WATCH (Oct. 24, 2011), <http://www.hrw.org/news/2011/10/24/libya-apparent-execution-53-gaddafi-supporters>.

116. See Saskia van Genugten, *Libya After Gadhafi*, 53:3 SURVIVAL: GLOBAL POLITICS AND STRATEGY 61, 62 (2011).

117. See Adam Nossiter & Kareem Fahim, *Revolution Won, Top Libyan Official Promises Elections and a More Pious State*, N.Y. TIMES, Oct. 24, 2011, at A10, available at 2011 WLNR 21784341.

118. See David D. Kirkpatrick, *Libya Names an Engineer as Premier*, N.Y. TIMES, Nov. 1, 2011, at A11, available at 2011 WLNR 22466769.

119. *Id.*

120. See *Libya: New Era Needs Focus on Rights*, HUM. RTS. WATCH (Oct. 20, 2011), <http://www.hrw.org/news/2011/10/20/libya-new-era-needs-focus-rights>.

121. See Nossiter, *supra* note 117. As of mid-November, gun battles between uncertain, overzealous militias still persisted. C. J. Chivers & Clifford Krauss, *At Least Six Are Killed as Libyan Militias Clash on Coastal Highway Near Tripoli*, N.Y. TIMES, Nov. 14, 2011, at A12, available at 2011 WLNR 23447341.

122. *Libya: New Era Needs Focus on Rights*, *supra* note 120.

surrounding Gadhafi's execution-style death.¹²³ The foundations of Libyan law remain uncertain, caught between Islamic conservatives, women's rights advocates, and Western-educated seculars.¹²⁴ Indeed, in the midst of reconciliation, compromise, and trust building, Libya must remake national institutions and civil society, all under the shadow of imposing economic interests from abroad.¹²⁵ Many fear that it is not democracy on the horizon but more blood and tyranny.¹²⁶ Even in the best-case scenario, it will be years before the Libyan people can resolve the injustices and rifts of the past in order to realize the all-inclusive democracy for which many hope.¹²⁷

VIII. Morocco*

On July 1, 2011, more than seventy percent of eligible Moroccan voters went to the polls to approve a new constitutional framework¹²⁸ designed to strengthen democratic institutions and processes and to promote principles of "participation, pluralism and good governance."¹²⁹ The July referendum included changes designed to empower the Prime Minister and Parliament,¹³⁰ to extend political opportunities available to women,¹³¹ and to make the Berber language (Tamazight) an official language alongside Arabic.¹³² The referendum also added a new section on civil liberties, including freedom of the press and prohibitions against racism and torture,¹³³ as well as language emphasizing the presumption of innocence and right to a speedy trial.¹³⁴

123. Ian Black, *Gaddafi Loyalists Face Torture, Human Rights Groups Warn*, THE GUARDIAN 7 (Oct. 21, 2011, 3:48 PM), <http://www.guardian.co.uk/world/2011/oct/21/gaddafi-loyalists-torture-human-rights>; *ICC Prosecutor May Bring Libya Rape Charges*, REUTERS AFRICA (Nov. 9, 2011, 12:14 PM), <http://af.reuters.com/article/topNews/idAFJOE7A80CK20111109>; Nick Cumming-Bruce, *U.N. Panel Calls for Inquiry into Qaddafi's Death*, N.Y. TIMES (Oct. 21, 2011), <http://www.nytimes.com/2011/10/22/world/un-panel-calls-for-inquiry-into-qaddafis-death.html?scp=6&sq=qaddafi%20death&st=cse>.

124. See Genugten, *supra* note 116, at 62, 66–67.

125. *Id.* at 70; Phyllis Bennis, *After Gadhafi, the West Eyes the Libyan Prize*, SALON (Oct. 21, 2011, 2:00 AM), http://www.salon.com/2011/10/20/after_gadhafi_the_west_eyes_the_libyan_prize/singleton/.

126. See, e.g., Benjamin Barber, *Libya's Revolution has Triumphed, but Will Democracy?*, THE GUARDIAN, (Oct. 21, 2011, 12:42 PM), <http://www.guardian.co.uk/commentisfree/2011/oct/21/libya-revolution-democracy-muammar-gaddafi>.

127. See Margaret Coker, *Libya Speeds Oil Output but Sees Hurdles Ahead*, WALL ST. J. (Nov. 11, 2011), <http://online.wsj.com/article/SB10001424052970204358004577029531381366726.html>.

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128. *Morocco Approves King Mohammed's Constitutional Reforms*, BBC NEWS (July 1, 2011, 8:34 PM), <http://www.bbc.co.uk/news/world-africa-13976480>.

129. MOROCCAN CONSTITUTION, Preamble, available at http://www.justice.gov.ma/fr/legislation/legislation_aspx?ty=1&id_l=103 ("Fidèle à son choix irréversible de construire un Etat de droit démocratique, le Royaume du Maroc poursuit résolument le processus de consolidation et de renforcement des institutions d'un Etat moderne, ayant pour fondements les principes de participation, de pluralisme et de bonne gouvernance.") (for the Arabic, see <http://www.goud.ma/attachment/281139/>).

130. *Id.* tit. IV.

131. *Id.* tit. II, art. 19.

132. *Id.* tit. I, art. 5.

133. *Id.* tit. II, art. 19–40.

134. *Id.* art. 23; *id.* tit. VII, art. 120.

At the same time, the new constitution reserves many important powers to the King. The King retains the ability to appoint the prime minister (albeit from the majority party) and members of his cabinet,¹³⁵ dissolve parliament,¹³⁶ act as Supreme Chief of the Royal Armed Forces,¹³⁷ appoint Ambassadors¹³⁸ and preside over the High Judiciary Council.¹³⁹ The new constitution stresses the King's "inviolability"¹⁴⁰ and his continued ability to approve the nomination of judges¹⁴¹ and pronounce enacted laws.¹⁴²

The referendum responds to a series of demonstrations that took place over the first nine months of 2011. Protesters involved in what has come to be known as the "February 20 Movement for Change" called on the government to reform the country's constitution, create new jobs, reduce corruption, and guarantee the independence of the judiciary.¹⁴³ Since July 2011, the February-20 protestors and human rights organizations alike have expressed dissatisfaction with the result.¹⁴⁴ Some protestors continue to object to the process of the referendum's creation,¹⁴⁵ noting that it was drafted by a commission of legal experts and not by members of Parliament.¹⁴⁶ Others argue that the powers reserved to the king are still too great, and that the new constitution's guarantees of an independent judiciary are still too meager.¹⁴⁷ Still others dispute the legitimacy of the referendum results, pointing to "incidents of voters being bussed to polling stations by local officials, stations not carrying 'no' vote slips[,] and electoral officials not verifying identification or requiring voter signatures."¹⁴⁸

135. *Id.* tit. III, art. 47, 48.

136. *Id.* art. 51.

137. *Id.* art. 53.

138. *Id.* art. 55.

139. *Id.* art. 56.

140. *Id.* art. 46.

141. *Id.* art. 57.

142. *Id.* art. 50.

143. Aida Alami, *Morocco's Democratic Changes Fail to Appease All*, N.Y. TIMES (July 20, 2011), http://www.nytimes.com/2011/07/21/world/africa/21iht-M21-MOROCCO-REFERENDUM.html?_r=1.

144. See Maria McFarland, *Morocco May Not Be Changing Much*, HUM. RTS. WATCH (July 1, 2011), <http://www.hrw.org/news/2011/07/01/morocco-may-not-be-changing-much>.

145. In June 2011, the February 20 Movement called for a nationwide boycott of the referendum. *Protests Called Against Morocco Reform Plan*, ALJAZEERA (June 18, 2011, 11:00 AM), <http://www.aljazeera.com/news/africa/2011/06/201161810543184895.html>.

146. Simba Russeau, *A 'Late Spring' Might Reach Morocco*, ALJAZEERA (July 1, 2011, 12:22 PM), <http://www.aljazeera.com/indepth/features/2011/07/20117112327327383.html> (according to Moroccan journalist Abdelah Aoussar: "Despite the fact that the commission included highly respected personalities, professors, law experts, sociologists and invited all the political parties, trade unions, components of civil society and human right groups to offer suggestions, the February 20 movement along with three leftist groups, the banned Islamic Justice and Charity Party and the Unified Socialist Party, decided to boycott the referendum on grounds that the suggested draft is not made up by an elected commission, but rather by people nominated by the king.")

147. One coordinator of the February 20 movement, Elabadila Chbihna, was quoted as saying: "We are not at the vegetable market, negotiating prices. The king cannot propose an 80 percent democracy." Rolla Scolari, *Morocco's Referendum on Reform: Model for Arab Spring?*, CHRISTIAN SCIENCE MONITOR (July 1, 2011), <http://www.csmonitor.com/World/Middle-East/2011/0701/Morocco-s-referendum-on-reform-Model-for-Arab-Spring>.

148. Paul Silverstein, *Weighing Morocco's New Constitution*, MIDDLE EAST RESEARCH & INFO. PROJECT (July 5, 2011), http://www.merip.org/mero/mero070511#_2_.

Months after the fact, the full impact of the July 2011 constitutional referendum has yet to be seen. Though many agree that the agreed-upon changes provided an “alternative to the bloody confrontations that have marked the Arab Spring,”¹⁴⁹ the effect of changes designed to empower the Prime Minister and Parliament may not be completely clear until after early parliamentary elections are held in late November 2011.¹⁵⁰

IX. Pakistan*

A. BLASPHEMY CONTROVERSY

Blasphemy laws, which protect Islamic authority and forbid any attack on Islam, have been a controversial issue in Pakistan, attracting international attention and scrutiny.¹⁵¹ In January 2011, Punjab Governor Salman Taseer, a vocal opponent of the blasphemy laws, was assassinated by his bodyguard Malik Mumtaz Qadri, presumably because Qadri believed Taseer had threatened the blasphemy law.¹⁵² Some Pakistanis believed the murder was justified and that the blasphemy laws should not be threatened.¹⁵³ Qadri was charged with murder and Judge Pervez Ali Shah of the Lahore High Court sentenced Qadri to death by hanging.¹⁵⁴ Many expected Qadri to get away with murder, but his conviction was a notable exception.¹⁵⁵ The day the decision was delivered, protests ensued, and the Judge now faces death threats.¹⁵⁶ Since then the judge has left the country,¹⁵⁷ and Qadri’s death sentence was suspended in October, pending appeals.¹⁵⁸

149. Nadim Audi, *Offering Slow, Small Changes, Morocco’s King Stays in Power*, N.Y. TIMES, July 10, 2011, at A4, available at <http://www.nytimes.com/2011/07/11/world/africa/11morocco.html?pagewanted=all>.

150. Maati Monjib, *Will Morocco’s Elections Subdue Popular Protests?*, CARNEGIE ENDOWMENT FOR INT’L PEACE: SADA (Nov. 22, 2011), <http://carnegieendowment.org/2011/11/22/will-morocco-s-elections-subdue-popular-protests/7ntj>.

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151. See Declan Walsh, *Islamic Scholar Attacks Pakistan’s Blasphemy Laws*, THE GUARDIAN (Jan. 20, 2011), <http://www.guardian.co.uk/world/2011/jan/20/islam-ghamidi-pakistan-blasphemy-laws>; see generally Tahir Mahmood, *Religion in Contemporary Legal Systems*, 2011 BYU L. REV. 605 (2011); Paul Marshall, *Exporting Blasphemy Restrictions: The Organization of the Islamic Conference and the United Nations*, 9 REV. OF FAITH & INT’L AFFAIRS 57 (2011); *Pakistan Urged to Act over Escalating Violence*, AMNESTY INT’L (July 7, 2011), <http://www.amnesty.org/en/news-and-updates/pakistan-urged-act-over-escalating-violence-2011-07-07>.

152. See Saba Imtiaz, *Timeline: Pakistan Blasphemy law cases, Jan—July 2011*, THE EXPRESS TRIBUNE (Aug. 4, 2011), <http://tribune.com.pk/story/223353/timeline-pakistan-blasphemy-law-cases-jan-july-2011/>.

153. See Declan Walsh, *Pakistan’s blasphemy laws are proving so divisive that even judges fear for their lives*, THE GUARDIAN (Oct. 4, 2011), <http://www.guardian.co.uk/commentisfree/belief/2011/oct/03/pakistan-blasphemy-laws>.

154. *Id.*

155. See Suzanna Kostor, *Pakistan’s travesty of justice*, GLOBAL POST (Oct. 6, 2011), <http://www.globalpost.com/dispatch/news/regions/asia-pacific/pakistan/111005/pakistan-justice-terrorism-qadri-taseer-blasphemy-law>.

156. See Walsh, *supra* note 153.

157. *Id.*

158. See Shaan Khan, *Pakistan Court Suspends Death Sentence of Governor’s Killer*, CNN (Oct. 11, 2011), http://articles.cnn.com/2011-10-11/asia/world_asia_pakistan-death-sentence-appeal_1_salman-taseer-pakistan-court-mumtaz-

B. FRONTIER CRIMES REGULATIONS

The Frontier Crimes Regulations (FCR), which came into effect under British Rule, apply to Federally Administered Tribal Areas (FATA), and were enacted to protect governmental control in these areas.¹⁵⁹ The FCR stayed in effect, with some modifications, after Pakistan gained its independence.¹⁶⁰ The FCR have been criticized because they fail to offer to the people of the FATA equal rights under the Pakistani Constitution and other reforms.¹⁶¹ For example, they do not have access to a regular court of law and an entire community may be punished for the acts of an individual.¹⁶² Also, they are unable to engage in party politics because the Political Parties Act does not apply in FATA.¹⁶³

In November 2011, long-awaited reforms to the FCR were passed, which included the following changes: 1) no indefinite detention; 2) the FCR tribunal has the same authority as the High Court; 3) collective punishment will not apply to women, children under sixteen, and adults over sixty-five; 4) no deprivation of property without compensation; and 5) extension of the Political Parties Act to the FATA.¹⁶⁴ Despite these reforms, many assert that there is still a long way to go to improve the rights of the people in the FATA.¹⁶⁵

X. Saudi Arabia*

The pace of legislative change in Saudi Arabia appears to have slowed in 2011 with greater emphasis currently on social initiatives than on legislative modernization. The long-awaited new Companies Law again failed to emerge from the complex Saudi law-making process and the proposed new mortgage law has suffered a similar fate.

One policy announcement of major significance for foreign investors is the introduction of the "Nitaqat" scheme for increasing the employment of Saudi nationals in the private sector. Nitaqat is a reaction by the Saudi Government to continued high rates of unemployment amongst Saudi citizens in a country where some 6.5 million expatriates work in the private sector compared to 700,000 Saudi nationals.¹⁶⁶ The Saudi Government also

159. See Abdullah Khoso, *PAKISTAN: Frontier Crimes Regulation – Infringing Human and Child Rights*, ASIAN HUMAN RIGHTS COMM'N (Sept. 6, 2010), <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-047-2010>.

160. *Id.*

161. *Id.*

162. *Id.*

163. See *Parties Called for Immediate Extension of Political Parties Act and Other Reforms in FATA*, NAT'L DEM. INST. (Jun. 17, 2009), <http://www.ndi.org/node/15612>.

164. Said Nazir, Blog, *Reforms in FATA will not help*, THE EXPRESS TRIBUNE (Nov. 13, 2011), <http://blogs.tribune.com.pk/story/8869/reforms-in-fata-will-not-help/>.

165. *Id.*; *ANP Demands More Amendments to FCR*, DAWN (Nov. 14, 2011), <http://www.dawn.com/2011/11/15/anp-demands-more-amendments-to-fcr.html>.

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166. Hany Kenawi, *Nitaqat, the New Localization System for Jobs in the Kingdom of Saudi Arabia*, 15 LEX ARABIAE 3 (Meyer-Rumann & Partners, Dubai) (July 2011), available at <http://lexarabiae.meyer-reumann.com/issues/2011-2/vol-xv---issue-3-july-2011---articles/nitaqat-the-new-localization-system-for-jobs-in-the-kingdom-of-saudi-arabia/>.

addresses this issue by a policy known as "Saudization,"¹⁶⁷ which is found in the Labor Law and requires that the percentage of Saudi nationals employed by an employer in Saudi Arabia should not be less than seventy-five percent of the employer's total workforce unless otherwise specified by the Minister of Labor. In practice, Ministerial Resolutions have in fact reduced the required percentage for most fields of activity (e.g., a general reduction to thirty percent¹⁶⁸ and a Council of Ministers¹⁶⁹ reduction to five percent for all contractors that have entered into operation and maintenance contracts with government entities in Saudi Arabia).

Nitaqat applies specific quotas to individual fields of activity or industries. Further, the Ministry of Labor classifies entities into four categories: excellent, green, yellow, and red, based on their current Saudization rates.¹⁷⁰ Entities within the excellent and green categories comprise those companies that have already met the relevant Saudization rate. When fully implemented, these entities should enjoy certain benefits and can continue to obtain and renew visas for expatriate workers. Yellow-rated entities have until February 2012 to meet their Saudization rates and face certain limitations, including not being able to open new branches, being unable to transfer expatriate workers, and only being able to obtain one new visa for each two existing visas that are cancelled. Red-rated entities have until the end of November 2011 to meet their Saudization requirements; otherwise sanctions will be imposed to prevent such companies from opening new branches, obtaining visas for new expatriate workers, or renewing the visas of their existing expatriate workers beyond a term of six years applied retrospectively.

The main implication for foreign investors and Saudi businesses is that a greater number of Saudi nationals will need to be hired, trained, and retained because a failure to maintain the requisite Saudization rate has serious consequences. As a result, the costs for private sector companies will increase as Saudi nationals command higher salaries than many expatriates, particularly those from South and South East Asia, and training costs will be greater. Most foreign investors recognize the need for the Saudi Government to address Saudi unemployment. But there is widespread concern that Nitaqat will increase costs in the private sector at a time of low economic growth.¹⁷¹

167. Article 26(2) of the Labor Law, Royal Decree No. M/51, dated 23 Sha'aban 1426 corresponding to Sept. 27, 2005.

168. Ministerial Resolution No. 3767/4, dated 28/02/1427 corresponding to March 29, 2006. The resolution also exempted employers with less than twenty employees from the Saudization requirement.

169. Council of Ministers Resolution No. 23, dated 17/1/1428 H corresponding to Feb. 5, 2007.

170. See generally, Employment Law, SAUDILEGAL, http://www.saudilegal.com/saudilaw/17_law.html (last visited Mar. 9, 2012).

171. Studies suggest that the non-oil GDP growth in 2011 is lower than the private sector salary increases for the same period. See *Undermining Nitaqat*, ZAWYA (Oct. 9, 2011), http://www.zawya.com/story.cfm/sidZAWYA20111009062718/Undermining_Nitaqat.

XI. Syria*

A. LIFTING THE STATE OF EMERGENCY

In March of 2011, the fervor of the Arab Spring's unrest reached Syria.¹⁷² Armed Syrian security forces, however, began a fierce and immediate crackdown using live ammunition against protesters in an effort to crush this uprising before it spreads.¹⁷³ Faced with unprecedented challenge to its authority, the Syrian Government announced it would implement swift legal reforms in response to public demands.¹⁷⁴

On April 21, 2011, the Syrian President issued Decree No. 161 lifting the State of Emergency Law No. 2, which was issued in 1963 by the National Revolutionary Council.¹⁷⁵ The President also issued Legislative Decree No. 53, abolishing the Supreme State Security Court,¹⁷⁶ and Legislative Decree No. 54, regulating the citizens' rights to peaceful demonstration.¹⁷⁷

Article 2 of Law No. 54 recited the right of people to peacefully demonstrate as a basic human right, which is also guaranteed by the Syrian Constitution.¹⁷⁸ The law requires the Ministry of Interior to form a specialized committee that would accept applications from organizers for demonstration, and issue licenses following a review of such requests.¹⁷⁹ The Law further requires that organizers of demonstrations form a demonstration committee and provide such information as date, time, place of the demonstration, and its purpose.¹⁸⁰ The demonstration committee must also pledge in writing that it will be responsible for all damages to public or private properties resulting from the demonstration.¹⁸¹ Despite the government concessions, demonstrations continued relentlessly.¹⁸²

B. POLITICAL PARTIES LAW

The President issued Legislative Decree No. 100, Political Parties Law, on August 4, 2011, in an attempt to allow the establishment of political parties and to end the Baath Party's political monopoly over the country.¹⁸³ The law requires political parties to be

* Joseph F. Jacob, an attorney in Albany, New York, prepared the report on Syria.

172. See *In Syria, Demonstrations Are Few and Brief*, N.Y. TIMES (Mar. 16, 2011), <http://www.nytimes.com/2011/03/17/world/middleeast/17syria.htm>.

173. Khaled Yacoub Oweis, *Protests Spread Against Assad Rule in Syria*, REUTERS (Mar. 25, 2011), <http://uk.reuters.com/article/2011/03/25/us-syria-idUKTRE72N2MC20110325>.

174. Joshua Landis, *As Protests Mount, Is There a Soft Landing for Syria?*, TIME WORLD (Mar. 25, 2011), <http://www.time.com/time/world/article/0,8599,2061364,00.html>.

175. See *Decrees on Ending State of Emergency, Abolishing SSSC, Regulating Right to Peaceful Demonstration*, SYRIAN ARAB NEWS AGENCY, <http://www.sana.sy/ara/360/2011/04/22/342709.htm> (Arabic); <http://www.sana.sy/eng/361/2011/04/22/342711.htm> (English).

176. See *id.*

177. See *id.*

178. See *id.* Legislative Decree No. 54, art. 2(a).

179. See *id.* art. 4.

180. See *id.* art. 5.

181. *Id.*

182. Khaled Yacoub Oweis, *Lifting Syria's emergency law "useless" - Maleh*, REUTERS (Apr. 21, 2011, 3:32 PM), <http://uk.reuters.com/article/2011/04/21/uk-syria-emergency-maleh-idUKTRE73K3QY20110421>.

183. See R. Milhem & al-Ibrahim, *President al-Assad Issues Legislative Decree on Parties law*, SYRIAN ARAB NEWS AGENCY (Aug. 4, 2011), <http://www.sana.sy/eng/361/2011/08/04/362192.htm>; *President al-Assad issued*

committed to the Syrian Constitution, principles of democracy, and the rule of law.¹⁸⁴ It further prohibits parties from discriminating against members based on ethnicity, gender, or race and from being based on religious, tribal, or regional affiliations.¹⁸⁵ Subsequent articles of the new law regulated the process by which at least fifty founding members must sign the application forming the party and meet certain basic age, citizenship, and non-conviction of a crime conditions.¹⁸⁶ Specific terms for funding and accounting of the party are also detailed as well as government sponsorships and contributions.¹⁸⁷ Activists and protestors immediately dismissed the law and considered the government reform as a way of easing mounting pressure and criticism of its human rights violations and the use of force against civilians.¹⁸⁸

C. NEW MEDIA LAW

On August 28, 2011, the Syrian President issued a new Media Law No. 108,¹⁸⁹ premised on the preamble that the media is free, independent, and not restricted except as required by the Constitution and the country's laws.¹⁹⁰ Article 3 of the new Media Law states that the profession of media is based on freedom of expression, constitutional rights, and international human rights declarations.¹⁹¹ It also recognizes the citizens' right to be informed about the government and public affairs.¹⁹² Article 4 recites basic principles that the media should take into consideration when exercising freedom of expression, such as practicing "responsibly and conscientiously" while also respecting the "Press Code of Honor."¹⁹³ Despite the new law, scores of journalists are reportedly arrested or missing, suggesting that the Regime's reform is only an attempt to divert attention from its repressive tactics.¹⁹⁴

Legislative Decree No. 100 for 2011 on the law of parties, Syrian Arab News Agency (Aug. 6, 2011), <http://www.sana.sy/print.html?sid=362169&newlang=ara> [hereinafter *Legislative Decree No. 100*] (translated to English using Google Translate).

184. See *Legislative Decree No. 100*, *supra* note 183, art. 5(A).

185. See *id.* art. 5(D).

186. See *id.* art. 8.

187. See *id.* ch. III.

188. Jim Muir, *Syria Violence: Assad's multi-party decree dismissed*, BBC NEWS (Aug. 4, 2011), <http://www.bbc.co.uk/news/world-middle-east-14405293>; *Syria dissidents: new parties law a political ploy*, MIDDLE EAST ONLINE (Aug. 5, 2011), <http://www.middle-east-online.com/english/?id=47497>.

189. See F. Allafi et al., *President al-Assad Issues Legislative Decree on Media Law*, SYRIAN ARAB NEWS AGENCY (Aug. 29, 2011), <http://www.sana.sy/eng/361/2011/08/29/366490.htm>; *President al-Assad issued Decree 108 on the law of the media*, SYRIAN ARAB NEWS AGENCY (Aug. 29, 2011), <http://www.sana.sy/print.html?sid=366489&newlang=ara> [hereinafter *Legislative Decree No. 108*] (translated to English using Google Translate).

190. See *Legislative Decree No. 108*, *supra* note 189, art. 2.

191. See *id.* art. 3.

192. *Id.*

193. *Id.*

194. See Dahlia El Zein, *The 'New' Syrian Media Law is Nothing New*, COMMITTEE TO PROTECT JOURNALISTS BLOG (Sept. 7, 2011, 12:46 PM), <http://www.cpj.org/blog/2011/09/the-new-syrian-media-law-is-nothing-new.php>; *Syrian Journalist Arrested, Held Without Charge*, COMMITTEE TO PROTECT JOURNALISTS (Sept. 6, 2011, 6:03 PM), <http://cpj.org/2011/09/syrian-journalist-arrested-held-without-charge.php>; *Syrian Journalists, Blogger Missing*, COMMITTEE TO PROTECT JOURNALISTS (Oct. 31, 2011, 5:19 PM), <http://www.cpj.org/2011/10/syrian-journalists-blogger-missing.php>.

XII. Turkey*

Turkey passed sweeping constitutional reforms to modernize the nation's human and civil rights protections. Unfortunately, Turkey still suffers from free speech restrictions, particularly in the area of cyber speech. In 2007, Turkey passed Law No. 5651 that allows Turkish courts to block websites with objectionable content, including websites that insult the memory of Atatürk, the nation's founder.¹⁹⁵ In May 2008, Turkey's telecommunications authority blocked YouTube and all YouTube-related websites because of a video that depicted Atatürk and Turks as homosexuals.¹⁹⁶

On October 30, 2010, the ban was lifted by a court in Ankara because, as the Turkish Transport Minister put it, "common sense prevailed."¹⁹⁷ But the ban was reinstated just a few days later.¹⁹⁸ Turkey has banned somewhere between 5,000 and 6,000 websites for various reasons, including "for criticizing Atatürk or the army, for perceived attacks on the nation's 'dignity' or for referring to Turkey's Kurdish and Armenian minorities."¹⁹⁹ Turkey's web-monitoring policy has been widely criticized by a number of human rights and free speech organizations, as well as Turks, and is seen as a step backwards in terms of gaining membership into the European Union.²⁰⁰

Although Turkey may be lagging in the area of free speech, the country seems to be developing a more progressive business legal framework. In February 2011, the Turkish legislature enacted the country's new Commercial Code.²⁰¹ The new code puts into effect several modern business regulations, including the "generally accepted financial reporting and auditing principles"²⁰² in line with the International Financial Reporting Standards, as well as strict corporate transparency regulations.²⁰³ The transparency regulations, for example, require companies to disclose a wide range of information on their websites.²⁰⁴ The new law will also ensure strong corporate governance principles for companies in Turkey, borrowing heavily from U.S. jurisprudence.²⁰⁵ In addition, the law's new auditing

* Kinan H. Romman, an associate with Ahmad, Zavitsanos & Anaipakos PC in Houston, Texas, prepared the report on developments in Turkey. For developments during 2010, see Anita Ferasat et al., *Middle East and North Africa*, 45 INT'L LAW. 561 (2011).

195. Allon Bar, *Turkey Explores the Internet, Along with Restrictions*, NEW MEDIA & DEV. COMM., <http://www.columbia.edu/itc/sipa/nelson/newmediadev08/Freedom%20of%20the%20internet%20in%20Turkey.html> (last visited Feb. 13, 2012).

196. *Turkey Lifts Two-year Ban on YouTube*, BBC NEWS (Oct. 30, 2010), <http://www.bbc.co.uk/news/technology-11659816>.

197. *Id.*

198. Ece Toksabay, *Turkey Reinstates YouTube Ban*, REUTERS (Nov. 3, 2010, 12:25 PM), <http://www.reuters.com/article/2010/11/03/us-turkey-youtube-idUSTRE6A227C20101103>.

199. *Id.*; see also *Turkey Lifts YouTube Ban After More Than 2 Years*, HUFFINGTON POST (Oct. 30, 2010, 4:37 PM), http://www.huffingtonpost.com/2010/10/31/turkey-youtube-ban-lifted_id_776618.html.

200. See, e.g., Dr. Yaman Akdeniz, *Report of the OSCE Representative on Freedom of The Media on Turkey and Internet Censorship*, ORG. FOR SECURITY & CO-OPERATION IN EUR. (2009), www.osce.org/fom/41091.

201. *Turkey Welcomes New Commercial Code*, ERNST & YOUNG T MAGAZINE (Mar. 23, 2011), <http://tmagazine.ey.com/turkey-welcomes-new-commercial-code/>.

202. *Id.*

203. Ece Güner, Managing Partner, Güner Law Office, *A Brief Overview of the Effects of the New Turkish Commercial Code on Acquisitions and PE Investments in Turkish Companies*, Presentation at Euromoney Turkey Acquisition Finance & Private Equity Forum (Feb. 15, 2011) (transcript available at <http://www.guner.av.tr/Ece%20Guner%20speech.pdf>).

204. *Id.*

205. *Id.*

regulations, it is reported, are “very similar to Sarbanes-Oxley.”²⁰⁶ The code even ensures protection for minority shareholders of Turkish corporations. It appears that large international accounting firms are gearing up to advise clients doing business in Turkey on how to comply with the country’s new code.

XIII. United Arab Emirates*

A. CORPORATE (FEDERAL)

UAE Cabinet Resolution No. 3 of 2011 concerning the Commercial Agencies Committee (the Committee) gave the Committee responsibility for settling commercial agency disputes, including disputes concerning agency de-registration.²⁰⁷ The Committee may defer disputes to UAE courts, and the parties may challenge in court the Committee’s decisions.

According to Ministerial Resolution No. 377 of 2010,²⁰⁸ wholly foreign-owned branch offices may not engage in general trading activities, i.e., buying or importing for resale in the UAE. This should not affect trading licenses previously granted. This resolution also confirms that free zone entities are allowed to register branch offices in the UAE proper.

Under Ministerial Resolution No. 208 of 2011, a foreign company must deposit a guarantee in the sum of Dhs. 50,000 with the Ministry of Economy for each branch office to be opened in UAE.²⁰⁹ Previously, such foreign companies were required to submit a bank guarantee for this amount from a bank operating in the UAE.

B. LABOR (FEDERAL)

The Ministry of Labor (the MOL) introduced five new types of work permits under Cabinet Resolution No. 25 of 2010.²¹⁰ These include part-time work permits, juvenile work permits for employees between the ages of fifteen and eighteen, and temporary work permits for employees engaged in a project for less than six months. Cabinet Resolution No. 26 of 2010²¹¹ provides for UAE employers to be classified into one of three categories in accordance with certain standards and requirements of the MOL, including Emiratisation. A benefit of a UAE employer being qualified in the highest category, i.e., Class One, is the exemption from the normal bank guarantee requirement for end of service benefits

206. *Id.*

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207. Cabinet Resolution No. 3 of 2011 concerning the Commercial Agencies Committee, UAE Official Gazette No. 519 (Mar. 15, 2011).

208. Ministerial Resolution No. 377 of 2010 on approving the guide to the licensing procedures for branches and offices of establishments incorporated abroad and in the Free Zones, UAE Official Gazette No. 514 (Oct. 31, 2010).

209. Ministerial Resolution No. 208 of 2011 concerning the bank guarantee applicable to the branches and offices of foreign firms incorporated abroad and in the UAE free zones.

210. Cabinet Resolution No. 25 of 2010 concerning internal work permits applicable in the Ministry of Labor, UAE Official Gazette No. 511 (Aug. 31, 2010).

211. Cabinet Resolution No. 26 of 2010 on regulating the classification of firms governed by the UAE Labor Law and the bank guarantees applicable thereto, UAE Official Gazette No. 511 (Aug. 31, 2010).

for its employees. It is too early to know how these changes will be implemented in practice.

C. CORPORATE (DUBAI)

Dubai Law No. 13 of 2011 regulating economic activities in Dubai,²¹² like Federal Ministerial Resolution No. 377 discussed above, contemplates the possibility of free zone entities establishing branch offices outside the free zone, in Dubai proper in this case. This law also provides that free-zone entities may be authorized to practice their licensed activities in Dubai proper, under certain terms and conditions to be issued by the Executive Council. We do not know yet what those conditions are, so we do not know how significantly this will expand the ability of free-zone businesses to operate outside the free zone in Dubai proper.

D. LITIGATION (DUBAI)

Pursuant to Law No. 16 of 2011 on amending some provisions of Law No. 12 of 2004 concerning the Dubai International Financial Centre (DIFC) Courts,²¹³ parties to a contract now may opt-in to the DIFC Courts' jurisdiction even if neither party nor the contract has any connection with the DIFC. This law expands the choice of forums for dispute resolution in Dubai. The DIFC Courts are English language civil and commercial courts that follow common law, rather than civil law, procedures. The extent to which the DIFC Courts' extended jurisdiction will be recognized outside Dubai remains to be seen.

212. Law No. 13 of 2011 on regulating economic activities in the Emirate of Dubai, Dubai Official Gazette No. 356 (Sept. 29, 2011).

213. Law No. 16 of 2011 on amending some provisions of Law No. 12 of 2004 concerning the Dubai International Financial Centre Courts, issued on October 31, 2011.