

# Middle East

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## I. Overview\*

This article reviews significant legal developments that are pertinent to and affect the Middle East and North Africa in 2007. While the wars in Afghanistan and Iraq, potential nuclear conflict with Iran, and constitutional conflicts in Pakistan attracted most of the headlines concerning the Middle East this year, the region steadily continued to make movements toward democracy through market reforms, trade talks, foreign investment, and advances in women's rights.

Environmental issues in several countries in the Middle East also resulted in noteworthy legislation. Abu Dhabi, capital of the United Arab Emirates, embarked on an ambitious plan to become the world's first zero-carbon, zero-waste green city by establishing private joint stock companies to promote the commercialization of alternative energies and by enacting water laws aimed at reducing water consumption. Tunisia, in response to World Bank statistics on the detrimental effect of economic liberalization on Tunisia's environmental quality, also enacted laws designed to enhance air quality and manage water consumption. Such policy changes suggest that one of the world's energy hubs has its eyes on renewable resources and environmental sustenance.

Economic reforms in the Middle East took many forms, including anti-monopoly legislation, bank privatization and securities regulations. Kuwait passed laws in 2007 aimed at eliminating commercial monopolies and encouraging transparency in its stock exchange. Libya privatized two of the country's banks with a wide range of international bidders and

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also finalized its first international project financing. Syria made numerous advancements in its efforts to launch the Damascus Stock Exchange by 2008. The Middle Eastern nations' collective reforms in the private sector emphasize the fact that they recognize the need to maintain and improve economic growth by providing the business community with institutions that engender and sustain investor confidence.

Foreign investment continued to play a key role in nearly every country in the Middle East during 2007. As an example, the United Nations Conference on Trade and Development reported that direct foreign investment in Bahrain increased by 177 percent in a one-year period. Both Oman and Qatar passed new property laws to permit foreigners to own property subject to certain restrictions.

Advancements in trade relationships sought to boost local economies. The United States-Oman Free Trade Agreement is expected to increase trade between the two countries, which currently stands at \$1.7 billion. In addition, Tunisia, Morocco, Jordan, and Egypt met to implement an agreement for the establishment of a free trade zone among them.

The Middle East also experienced positive developments in the judiciary and in alternative dispute resolution during 2007. In Qatar, the legislature granted the judiciary the ability to review statutes and administrative actions, thereby progressing toward a system of checks and balances. In its push to foster greater transparency and accountability, Yemen's legislature passed an anti-corruption law that designates an entity independent from the executive branch to oversee implementation of the new law. Lastly, the Dubai International Arbitration Centre continued its push to become the leading arbitration center in the region through the implementation of its new arbitration rules, which reflect international best practices of more established arbitral tribunals.

Women's rights advanced as Jordan ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women and the Supreme Judicial Council in Egypt appointed women judges for the first time. Nevertheless, while there were some advances for women, there were significant setbacks for other civil rights. Egyptian voters approved controversial constitutional amendments in the areas of national security, the judiciary, and political party regulation, changes that civil society and human rights activists claim erode civil liberties. In particular, one such amendment allows authorities to search homes and monitor communications without a warrant. Afghanistan placed limits on civil liberties with the enactment of the Mass Media Law of 2006, which restricts foreign journalists by preventing them from publishing periodicals addressing internal Afghan politics.

While there were advancements in many arenas, including private sector reforms and enactment of environmental legislation, a few countries in the Middle East suffered setbacks in the democratization process. For example, the Palestinian Legislative Council (PLC) did not pass any new laws and the Palestinian judiciary did not issue any rulings or opinions in response to the imprisonment of PLC members and infighting between Palestinian factions. In addition, Iraq's failure to successfully pass a hydrocarbons law has depressed the country's oil production and potential for oil export, in turn adversely affecting the Iraq economy's stabilization.

Despite these setbacks in less stable parts of the Middle East, the region continued its path toward democracy through improvements in the economy, civil liberties, and other

significant areas. The country reports, as well as special reports, will elaborate on these and other legal developments pertaining to the Middle East region.

## II. Special Report: Developments in Office of Foreign Assets Control Regulations Applicable to Middle East and North African Nations\*

Notable changes in the United States Treasury Department's Office of Foreign Assets Control (OFAC) regulations applicable to Middle Eastern and North African countries in 2007 were largely limited to sanctions on certain prominent Iranian entities and the amendment of the Sudanese Sanctions Regulations, as described below.

### A. IRAN

On October 25, Treasury Secretary Hank Paulson announced sweeping sanctions on Iranian entities connected to Iran's defense and nuclear energy programs, as well as specific sanctions on the Islamic Revolutionary Guard Corps (IRGC) and related entities.<sup>1</sup> Most importantly, this included blocking certain banks owned by the Iranian government from the U.S. banking system, as well as the sanctioning of several large Iranian companies.<sup>2</sup> The sanctioning of the Iranian entities, done pursuant to Executive Order, prohibits U.S. entities from engaging in any activity with listed entities and calls for the blocking of all assets of such entities that come within U.S. jurisdiction.

Despite the broad reach of U.S. sanctions on trade with Iran, such as those contained in the OFAC Iranian Transactions Regulations,<sup>3</sup> certain transactions have been and continue to be permitted. These include services by U.S. banks and their foreign branches for certain transactions involving Iranian banks, such as so-called "u-turn" transactions, wherein an intermediary U.S. bank performs a dollar-clearing transaction between two non-U.S. banks.<sup>4</sup> The Treasury Department first began to bar certain Iranian banks from activities related to the u-turn exception in late 2006 and early 2007 when it blocked Bank Saderat and Bank Sepah from the U.S. banking system.<sup>5</sup>

The most prominent banks targeted as part of the October 25 announcement are Bank Mellat, Bank Melli Iran, and Bank Saderat Iran. All three banks are based in Iran, although their foreign branches and subsidiaries, such as Bank Melli's United Kingdom subsidiary Melli Bank PLC, are also included. Other financial service providers targeted include Arian Bank, a joint venture established in Afghanistan by Bank Saderat and Bank

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\* The OFAC report was prepared by Ronald A. Oleynik, partner, and Farhad R. Alavi, associate, of Holland & Knight LLP's Washington, D.C. office.

1. See generally Statement by Secretary Paulson on Iran Designations, Dep't of Treas. (Oct. 25, 2007), available at <http://www.ustreas.gov/press/releases/hp645.htm>.

2. See Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism, Dep't of Treas. (Oct. 25, 2007), available at <http://treasury.gov/press/releases/hp644.htm>.

3. 31 C.F.R. pt. 560 (1997).

4. See generally 31 C.F.R. § 560.516 (2006).

5. See generally Enforcement Information Through Sept. 1, 2006, Dep't of Treas. (Sept. 8, 2006), available at <http://www.ustreas.gov/offices/enforcement/ofac/actions/20060908a.shtml>; *Iran's Bank Sepah Designated by Treasury: Sepah Facilitating Iran's Weapons Program*, Jan. 9, 2007, available at <http://www.ustreas.gov/press/releases/hp219.htm>.

Melli, and Persia International Bank PLC, a British bank, created from the merger of the London operations of two Iranian state banks.<sup>6</sup>

The financial institutions named in the October 25 statement can no longer receive dollar-clearing services by U.S. banks or their foreign branches. Additionally, U.S. entities holding licenses enabling transactions with Iran may no longer use the targeted banks to facilitate their trading activities with Iran.

In addition to these bank-specific sanctions, OFAC imposed sanctions on the IRGC and its tactical arm, the Quds Force, as well as a number of companies affiliated with the IRGC.<sup>7</sup> It is speculated that these IRGC-related designations will ultimately affect a sizeable percentage of international business with Iran due to the IRGC's increasingly prominent role in the Iranian economy, which includes involvement in construction, engineering services, and automobile manufacturing.<sup>8</sup> The IRGC sanctions name several top officials and related companies such as Khatam al-Anbya Construction Headquarters and Oriental Oil Kish.<sup>9</sup>

## B. SUDAN

On October 31, OFAC amended the Sudanese Sanctions Regulations (SSR).<sup>10</sup> These amendments include changes to existing regulations and the codification of new regulations aimed at bringing the SSR into line with Executive Order 13412.<sup>11</sup> There are several particularly noteworthy changes.

Of particular importance is new Section 538.210 of the SSR, which prohibits transactions by U.S. persons relating to Sudan's petroleum and petrochemical industries, including oilfield services and oil and gas pipelines.<sup>12</sup> The prohibitions include not only the participation in a transaction but also the broader activities included in the definition of "facilitation."

The second important component of the October 31 amendments is the clarifications to the SSR. Two new definitions have been added, one for "Government of Sudan" and another for "Specified Areas of Sudan."<sup>13</sup> The definition for "Government of Sudan" was revised to exclude southern Sudan's regional government. The term "Specified Areas of Sudan" is defined as those areas where the SSR, with certain exceptions, do not apply.<sup>14</sup> The specified areas comprising this definition are defined as Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, and marginalized areas in and around Khartoum (specifically four official camps in the city for internally dis-

6. See [Persiabank.co.uk](http://www.persiabank.co.uk), About Us, <http://www.persiabank.co.uk/aboutus.asp> (last visited Mar. 28, 2008).

7. Paulson, *supra* note 1.

8. See generally Houchang Hassan-Yari, *Iran: Defending the Islamic Revolution—The Corps of the Matter*, Radio Free Europe/Radio Liberty, available at <http://www.rferl.org/featuresarticle/2005/08/dfead359-312f-4497-8686-559b29a226a6.html>.

9. See generally Fact Sheet, *supra* note 2.

10. Sudanese Sanctions Regulations, 31 C.F.R. pt. 538 (2007), available at [http://www.treas.gov/offices/enforcement/ofac/legal/regs/fr72\\_61513.pdf](http://www.treas.gov/offices/enforcement/ofac/legal/regs/fr72_61513.pdf).

11. See generally *id.*

12. *Id.*

13. See 31 C.F.R. § 538.305 (2007); 31 C.F.R. § 538.320 (2007).

14. See 31 C.F.R. § 538.320 (2007).

placed persons).<sup>15</sup> Lastly, the amendments clarify the application of prohibitions related to shipments of goods, services, and technology transiting areas in Sudan; these now include all parts of Sudan except the Specified Areas.<sup>16</sup>

### III. Special Report: Abu Dhabi's Environmental Developments\*

In 2007, Abu Dhabi made energetic progress towards completion of the state-controlled<sup>17</sup> Masdar Initiative's<sup>18</sup> first phase, which is expected to open in late 2009. Masdar represents Abu Dhabi's effort to create the planet's first green city. The impetus for the Initiative has been a combination of environmental pressures, rapid urban growth, and the need to diversify Abu Dhabi's historically oil-based economy. The Masdar Initiative is intended to set new standards in cutting edge clean and alternative energy technologies, conserve natural resources, and reduce the world's carbon footprint by creating the planet's first zero-carbon, zero-waste green city.

#### A. KYOTO PROTOCOL AND THE CLEAN DEVELOPMENT MECHANISM

Abu Dhabi further demonstrated its willingness to promote the broader sustainability agenda when His Highness Shaikh Khalifa Bin Zayed Al Nahyan, President of the UAE, in his capacity as Ruler of Abu Dhabi, issued Law No. 22 of 2007, establishing the Abu Dhabi Future Energy Company (ADFEC) as a private joint stock company specializing in the commercialization of alternative energies through emissions reduction and clean development mechanism (CDM) solutions in accordance with Abu Dhabi's ratification of the Kyoto Protocol.<sup>19</sup> In 2005, the Environment Agency—Abu Dhabi (EAD)—was nominated as the Designated National Authority for CDM. Implementation of CDM solutions pursuant to the Kyoto Protocol was pivotal in 2007 as Abu Dhabi took the lead as

15. *Id.*

16. *Id.*

\* Roxane Peyser serves as General Counsel to EPS, Inc., in Atlanta, GA.

17. Mubadala.ae, About Mubadala, <http://www.mubadala.ae/en/content/about.asp> (last visited Mar. 28, 2008). The Abu Dhabi Future Energy Company (ADFEC) was created to manage the implementation of Masdar, a renewable and alternative energy initiative in Abu Dhabi. The Mubadala Development Company (Mubadala) owns 100% of ADFEC. According to its website, Mubadala is a wholly owned investment vehicle of the Government of the Emirate of Abu Dhabi and was established in October 2002 as a Public Joint Stock Company through Emiri Decree No. 12 of 2002, issued by His Highness the Crown Prince of Abu Dhabi. As a wholly owned subsidiary of Mubadala, ADFEC is also charged with ensuring that Masdar continues advancing Abu Dhabi's continuing efforts in environmental stewardship. Mubadala was established as a public joint stock company by Emri Decree No. 12 of 2002 to act as an investment arm of the Abu Dhabi government both domestically and abroad and acts in partnership with local, regional, and international investors to generate sustainable economic development for the emirate in a variety of sectors, including energy, utilities, real estate, and basic industries and services.

18. The Masdar Initiative was announced in 2006 and consists of four principal elements: (1) an Innovation Center intended to support the development of sustainable energy technologies; (2) a first-rate university focused on graduate programs in renewable energy and sustainability, in partnership with leading international universities and research institutes including MIT; (3) a development company specializing in the promotion of the Kyoto Protocol's Clean Development Mechanism and refinement of emissions reduction commercialization; and (4) a Special Economic Zone for hosting institutions that are interested in development and production of renewable energy technologies and products. *Id.*

19. ADFEC is a wholly owned subsidiary of the Mubadala Development Company, which is an investment arm of the government of Abu Dhabi.

the political capital of the UAE in approving the first CDM project in the UAE.<sup>20</sup> Abu Dhabi's EAD further stated that the Supreme National Committee for CDM is encouraging environmental and energy reforms via investment projects under the CDM mechanism in order to ensure execution of its mandate.<sup>21</sup>

## B. GREEN FUEL AND GREEN BUILDING

EAD is also chair of the Higher Steering Committee for the Introduction of Ultra Low Sulfur Diesel (ULSD).<sup>22</sup> One of the Committee's more significant actions during 2007 was the introduction of a policy and action plan to phase out polluting diesel and replacing it with ULSD, or "green diesel."<sup>23</sup> Additionally, EAD announced in 2007 that it began implementation of its Green Building policy, which covers both residential and commercial buildings in the emirate. The plan is expected to be implemented starting in 2008.<sup>24</sup>

## C. WATER

Under the Wastewater Management Plan of 2007, the emirate will shift its policy focus from a supply to a demand model.<sup>25</sup> Abu Dhabi's reformed water laws will include dra-

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20. Press Release, Environment Agency—Abu Dhabi, Approval of the First Project Under the Clean Development Mechanism in the UAE (Aug. 1, 2007), available at <http://www.ead.ac/en/?T=4&ID=3201>. In July 2007, the UAE Minister of Energy, H.E. Mohammed Bin Dhaen Al-Hameli, chaired a meeting of the Clean Development Mechanism (CDM) Higher Committee during which a CDM landfill project in the emirate of Sharjah was approved. The Abu Dhabi Environmental Agency (EAD) states that advanced technology (SWS SMELL WELL SYSTEM) certified by Japan and Germany will be used in the project to address environmental issues associated with odors and bacteria.

21. *Id.* CDM is a voluntary mechanism that helps address the issues of global climate change. The purpose of CDM is to: (1) assist parties not included in Annex I (such as UAE) in achieving sustainable development and in contributing to the ultimate objective of the Convention; and (2) assist parties included in Annex I (developed countries) to achieve compliance with their quantified emission limitation and reduction commitments under Article 3 of the Convention.

22. Decree No. 5, Sess. 2/2006 (Abu Dhabi). The Committee was formulated by the Abu Dhabi Executive Council and consists of ADNOC Distribution, Abu Dhabi Police, TAKREER, Emirates Standardization and Metrology Agency, and Department of Transportation as members.

23. Press Release, UAEInteract, Introducing Green Diesel to Abu Dhabi (Jul. 31, 2007) available at [http://uaeinteract.com/docs/Introducing\\_green\\_diesel\\_to\\_Abu\\_Dhabi/26383.htm](http://uaeinteract.com/docs/Introducing_green_diesel_to_Abu_Dhabi/26383.htm). The so-called green diesel is intended to replace polluting diesel with a cleaner alternative that remains similar in effectiveness and efficiency but with significantly reduced exhaust emissions. According to EAD, the chief public policy interests spurring governmental action in the development and application of leading edge green technologies includes: (1) improving Abu Dhabi's air quality; (2) reducing the environmental, financial, health and social impacts associated with unsustainable products and technologies; and bolstering its economy through diversification ensuring Abu Dhabi's position as a world-leader in sustainable development. According to the UAE's official information website, the purpose of introducing green diesel in to the UAE market is: "(1) To enact the Council of Ministers' Decree No. (34)/2006; (2) To improve ambient air quality through reducing the pollutants emitted at the source; (3) To enhance health standards of the UAE's population while decreasing the associated health bill the government is currently enduring due to the respiratory diseases associated with the high sulfur diesel used widely in vehicles and industry across the country; (4) To implement the sustainable transportation and sustainable development strategies endorsed by the government." *Id.*

24. Green building necessarily takes into account reducing water consumption. The pressure on Abu Dhabi's water resources, compounded by burgeoning urban populations, has thus far relied largely on costly desalination plants for its drinking water.

25. See Rayeesa Absal, *Exploring Ways to Conserve Water*, GULF NEWS, Nov. 9, 2007, available at <http://www.gulfnews.com/nation/Environment/10166434.html> (last visited Mar. 28, 2008).

matic reductions in household water consumption.<sup>26</sup> Significantly, the Ministry of Energy released details of its 2008-2010 strategic plan that includes a proposal for a nationwide regulatory framework for the water and electricity sector. The Ministry said plans include studies to update strategic oil reserves and another to focus on developing water and electricity services by encouraging private investment.<sup>27</sup> The plan includes a number of key principles that focus on protecting financial and natural resources as well as safeguarding consumer rights and investor interests. Specific environmental targets scheduled for implementation in 2007 also included EAD's launch of a comprehensive environment, safety and health (EHS) system, with a test framework and manual, and the development of individual sector EHS plans.<sup>28</sup>

### III. Afghanistan\*

The Mass Media Law of 2006 placed restrictions on foreign journalists operating in the country.<sup>29</sup> Article 8 provides for nationals of Afghanistan to establish their own media outlets;<sup>30</sup> however, there are restrictions on foreign institutions.<sup>31</sup> Diplomatic missions may publish news bulletins and circulate them but only according to "diplomatic norms."<sup>32</sup> With the consent of the Afghan Ministry of Youth and Culture, inter-governmental organizations may publish periodicals but only those dealing with their specific activities within the country.<sup>33</sup> Finally, foreign NGOs may also publish periodicals addressing their "professional fields," but not only must they receive permission from the Ministry of Youth and Culture, they must also be edited by Afghan nationals.<sup>34</sup> The implication of Article 8 is that foreign entities operating in the country may not publish periodicals addressing internal Afghan politics.

26. Press Release, UAEInteract, Abu Dhabi to Cut Household Water Use by 200 Litres a Day (Oct. 22, 2007) available at [http://uaeinteract.com/docs/Abu\\_Dhabi\\_to\\_cut\\_household\\_water\\_use\\_by\\_200\\_litres\\_a\\_day/27268.htm](http://uaeinteract.com/docs/Abu_Dhabi_to_cut_household_water_use_by_200_litres_a_day/27268.htm). Secretary General of the Abu Dhabi EAD said, "At present, each resident in the Emirate uses on average 550 liters per day the second-highest consumption rate in the world. But in five years' time, the figure will be slashed by 200 litres per day." *Id.* Al Mansouri was further quoted as saying that, "with the implementation of a water management strategy, which has already been submitted to Abu Dhabi's Executive Council, domestic consumption is projected to come down to 350 litres per capita per day after five years." *Id.*; State of the Environment Abu Dhabi, Groundwater Depletion, [http://www.soe.ae/Abu\\_Themes-page.aspx?m=50&amid=488](http://www.soe.ae/Abu_Themes-page.aspx?m=50&amid=488) (last visited Nov. 11, 2007).

27. Press Release, UAEInteract, *supra* note 26; *UAE Unveils New Strategic Plan*, TRADE ARABIA BUS. NEWS INFO., Aug. 1, 2007, <http://www.tradearabia.com/news/newsdetails.asp?Sn=TTN&artid=128275>. The plan has been drafted following the recommendations of the UAE government strategy, which was announced earlier this year. "The strategy seeks to ensure a balanced sustainable development and high standard of living for the citizens and residents," the statement said. *Id.*, at ¶ 4.

28. EMIRATE OF ABU DHABI, THE EXECUTIVE COUNCIL POLICY AGENDA, 2007-2008 (2007), available at <http://www.abudhabi.ae/Sites/Portal/Citizen/EN/Government/policy-agenda.html>.

\* Christopher Scott Maravilla is a Washington, DC attorney and is a Vice-Chair of the ABA Middle East Committee.

29. The Mass Media Law of Afghanistan, Ministry of Foreign Affairs of the Islamic Republic of Afghanistan, available at <http://mfa.gov.af/Documents/massmedialaw.pdf>.

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

The restrictions in the law also apply to other media as well. Chapter 9, Article 37 requires foreign filmmakers to receive permission from the Ministry of Youth and Culture to film in the country.<sup>35</sup> Article 39 requires foreign news agencies in Afghanistan to get “work permits [from] the Media Relations Department [of the] Ministry of Foreign Affairs . . . and inform in writing the Ministry of Youth and Culture about the names of the related countries in question, kind of activities, duration thereof and the venue of operations.”<sup>36</sup> Article 40 requires publishers of books and pamphlets to register their publications with the Ministry of Youth and Culture.<sup>37</sup> In addition, the revenues of media are taxable under Afghan tax law.<sup>38</sup>

#### IV. Algeria\*

Algeria experienced a sharp increase in terrorist attacks during 2007, calling into question whether the government’s Charter for Peace and Reconciliation, enacted in 2005, would prove to be a lasting solution for the violence which claimed up to 200,000 lives between 1992 and the early 2000s.<sup>39</sup> The Charter reflects a policy granting amnesty to Islamist guerrillas in return for disarmament.<sup>40</sup> The period of relative calm in recent years was shattered in December 2006 when a roadside bomb struck a bus carrying staff of a U.S.-based oil firm, killing one. The Salafist Group for Preaching and Combat (GSPC) claimed responsibility and promised further attacks.<sup>41</sup> In January 2007, the GSPC renamed itself the “al-Qaeda Organization in the Islamic Maghreb,” and, in subsequent months, at least five deadly terrorist incidents were reported in Algeria. One attack, in April 2007, in the capital of Algiers, damaged government offices and killed thirty-three.<sup>42</sup> In September, an attempt to assassinate Algerian President Abdelaziz Bouteflika failed when a bomb exploded shortly before his arrival in the eastern city of Batna; however, twenty-two people waiting to greet the President were killed as a result of the blast.<sup>43</sup>

Some commentators fear that the terrorist acts may discourage the government from pursuing democratic reforms in Algeria,<sup>44</sup> which has been under a state of emergency since 1992.<sup>45</sup> Algerian law does not permit political parties to form without the approval

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35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

\* David W. Jordan, an attorney with Duane Morris LLP in Atlanta, Georgia, prepared the report on developments in Algeria.

39. See *Algeria Rules Out Ex-Rebel Islamists Forming Party*, REUTERS, Sept. 5, 2007, available at <http://www.reuters.com/article/latestCrisis/idUSL05883088>.

40. See William Maclean, *Algeria Rebel Attacks Test Government Security Policy*, REUTERS, Sept. 23, 2007, available at <http://www.reuters.com/article/latestCrisis/idUSL23469374>.

41. See BBC News, *Timeline: Algeria*, [http://news.bbc.co.uk/1/hi/world/middle\\_east/country\\_profiles/811140.stm](http://news.bbc.co.uk/1/hi/world/middle_east/country_profiles/811140.stm) (last visited Mar. 28, 2008).

42. *Id.*; see also *Terror in Algeria*, ECONOMIST.COM, Oct. 11, 2007, [http://www.economist.com/displayStory.cfm?story\\_id=9963207](http://www.economist.com/displayStory.cfm?story_id=9963207) (last visited Mar. 28, 2008).

43. See *Algerian Forces Kill 15 Islamic Militants*, REUTERS [Africa], Oct. 27, 2007, available at <http://africa.reuters.com/top/news/usnBAN738560.html>.

44. See Maclean, *supra* note 40.

45. See *Key Facts About Maghreb Political Systems*, REUTERS, Sept. 27, 2007, available at <http://www.reuters.com/article/latestCrisis/idUSCHI636805>.



of the Interior Ministry, which announced in 2007 that the Islamic Salvation Front (FIS) would not be allowed to re-organize and present candidates for political office.<sup>46</sup> In 1992, FIS candidates had been highly successful in the first round of elections, which led the military to step in and annul the election process. This was a flashpoint for the years of violence which ensued.<sup>47</sup> Some commentators fear that the current Algerian political landscape is similar to that which existed just before the unrest began in the early 1990s. Opening the political process and reducing highly concentrated central planning are seen as catalysts for improving the social climate marked by unemployment and poverty, conditions which may be fueling some of the terrorist activity.<sup>48</sup> Some commentators fear that President Bouteflika's efforts to have Algeria's constitution amended to allow him to run for a third term in 2009 does not bode well for democratic reforms in Algeria.<sup>49</sup>

Terrorism fears also have been cited as potentially hampering the Algerian government's effort to stimulate foreign investment in business sectors other than oil and gas, such as financial services, housing, retail and tourism.<sup>50</sup> Nevertheless, as of November 2007, the Algerian government was finalizing its plans to sell a 51 percent stake in the state-owned Credit Populaire d'Algerie bank to one of six foreign banks which had submitted bids. The government is doing this in an effort to modernize its banking sector and improve its ability to finance investment.<sup>51</sup> The oil and gas sector continues to provide the government with immense revenues; a new windfall tax imposed on foreign oil firms was expected to bring in an additional \$1 billion in revenue for the government in 2007.<sup>52</sup> The Energy and Mines minister has characterized the new tax as an effort to maintain "equilibrium" between the government and the foreign firms which have experienced a significant rise in profits as a result of high oil prices.<sup>53</sup>

In recognition of its finite supply of oil and natural gas resources, Algeria in 2007 signed a nuclear cooperation accord with the United States as a step toward generating nuclear energy for civilian purposes. In addition, Algeria enjoys significant uranium deposits and plans to publish a draft law shortly concerning the use of civilian nuclear power.<sup>54</sup>

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46. Algerian law denies participation in politics by anyone considered to have used religion for political purposes. See *Algeria Rules Out*, *supra* note 39.

47. See *Sour and Prickly: A General Election Has Made Almost Nobody Any Happier*, ECONOMIST.COM, May 24, 2007, [http://www.economist.com/displayStory.cfm?story\\_id=9230416](http://www.economist.com/displayStory.cfm?story_id=9230416) (last visited Mar. 28, 2008).

48. See Maclean, *supra* note 40.

49. See *Sour and Prickly*, *supra* note 47.

50. See *Terror in Algeria*, *supra* note 42.

51. See *Algeria to Open Technical Bids for CPA Bank in October*, REUTERS, Sept. 4, 2007, available at <http://www.reuters.com/article/companyNewsAndPR/idUSCHI46491720070904>.

52. See *Algeria Defines Top Energy Job in Boost to Kbelil*, REUTERS, Sept. 25, 2007, available at <http://uk.reuters.com/article/governmentFilingsNews/idUKL2580242720070925>.

53. See *A Sovereign Decision: Algeria, IOCs Debate Oil Law*, REUTERS, Nov. 22, 2006, available at <http://www.reuters.com/article/idUSL221307220061122>.

54. See *U.S. and Algeria Sign Nuclear Cooperation Pact*, INT'L HERALD TRIB., June 10, 2007, available at <http://www.ihf.com/articles/2007/06/10/frontpage/nukepact.php>.

## V. Bahrain\*

Bahrain began 2007 with a newly constituted lower house of parliament. The November 2006 elections were the second to take place under democratic reforms initiated in 1999 by King Hamad. The Shiite opposition party won seventeen of forty seats, and one woman was elected in an uncontested race. The newly appointed twenty-four-member cabinet included one member aligned with the opposition party.<sup>55</sup> In July 2007, the Cabinet agreed to the radio broadcast of parliamentary debate to promote transparency of government.<sup>56</sup>

Bahrain's new anti-terrorism law (adopted in 2006) will be tested with the trial of five suspects, including one non-national.<sup>57</sup> The law has been criticized as vague.<sup>58</sup> Within the Gulf Cooperation Council (GCC), Bahrain participated in a committee charged with preparing a new law to be entitled "Unified Court Inspection Law in the GCC Countries." According to press reports, the new law will provide for inspections within the courts of the Member States to evaluate the performance of judges and their adherence to the law.<sup>59</sup> In November, Bahrain and Saudi Arabia signed an agreement to permit the free movement of its citizens between the two states with only personal identification cards.<sup>60</sup> The agreement is part of the GCC-wide standardization of security measures.

The economy of Bahrain continued to prosper in 2007 fueled by government reforms and foreign investment. In August, Bahrain implemented a modernized national system for electronic funds transfers between individuals, companies and banks.<sup>61</sup> Under the new system, transfers take place in real time as opposed to the previous two to four days. In May, Bahrain rolled out an "e-Government" services portal on the internet permitting users to make online payments for services, and thereby integrating advances in information technology into Bahrain's economy.<sup>62</sup> In an October 17 speech to parliament, King Hamad called for additional reforms to "attract more local and foreign investments" and committed that the Government would not impose a corporate income tax in order to broaden its revenue base.<sup>63</sup> UNCTAD's 2007 World Investment Report showed that

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\* Brian J. Vohrer, an attorney with the Washington, D.C. office of the law firm Dewey & LeBoeuf LLP, prepared the report on developments in Bahrain.

55. *Bahrain Names Shia Deputy Premier*, BBC, Dec. 12, 2006, [http://news.bbc.co.uk/2/hi/middle\\_east/6171567.stm](http://news.bbc.co.uk/2/hi/middle_east/6171567.stm) (last visited Mar. 28, 2008).

56. *Bahrain to Broadcast Parliamentary Debates*, BBC, Jul. 2, 2007, <http://www.lexis.com> (find "news & business—news most recent two years," search for "Bahrain to broadcast parliamentary").

57. *Trial of Al-Qaeda Suspects Opens in Bahrain*, AGENCE FRANCE PRESSE, Oct. 23, 2007, available at <http://www.afp.com/english/home>.

58. *Five to Stand Trial Under Bahrain Anti-Terror Law*, GULF NEWS, Oct. 10, 2007, available at <http://archive.gulfnews.com/articles/17/10/10/10159149.html>.

59. *Gulf Experts Formulating Law to Evaluate Judges*, ARAB NEWS, Apr. 17, 2007, available at <http://www.arabnews.com/?page=1&section=0&article=95108&d=17&m=4&y=2007>.

60. *Saudi-Bahrain ID-card Entry Agreement Signed*, BBC, Nov. 5, 2007, <http://www.lexis.com> (find "news & business—news most recent two years," search for "Saudi-bahrain-ID card").

61. *New National Payment System Provides Major Boost to Bahrain's Economy*, MIDDLE EAST COMPANY NEWS WIRE, Sept. 9, 2007, <http://www.lexis.com> (find "news & business – news most recent two years," search for "new national payment system provides major boost").

62. *Bahrain Launches eGovernment Strategy and New National Portal*, AME INFO, May 24, 2007, available at <http://www.ameinfo.com/121245.html>.

63. *Bahrain's Monarch Calls for More Reforms*, GULF NEWS, Oct. 28, 2007, available at <http://archives.gulfnews.com/articles/07/10/28/10163187.html>.

Bahrain increased foreign direct investment by 177 percent in a one-year period.<sup>64</sup> In March, Bahrain announced the details of four offshore blocks to be offered for oil and gas exploration by international tender.<sup>65</sup> Bidding closed on September 19 and according to a Government website, the award of contracts was expected to take place on October 31.<sup>66</sup>

In September, Bahrain took part in the IAEA General Conference held in Vienna. During the meetings, Bahrain announced its intention to become a member state of the IAEA and signed an agreement with the organization.<sup>67</sup> Bahrain also announced that it and the GCC were working with the IAEA to introduce the peaceful use of nuclear technologies into those countries.<sup>68</sup>

## VI. Egypt\*

Over seventy-five percent of voters approved amendments to Egypt's constitution<sup>69</sup> in a national referendum held on March 26, 2007.<sup>70</sup> Observers reported voter turnout to be considerably lower than in the country's 2005 presidential elections referendum, with only an estimated twenty-five percent of all voters taking part.<sup>71</sup> The Egyptian government proposed the amendments as necessary to strengthen democracy in the country and safeguard the country from terrorism.<sup>72</sup> Critics of the amendments, however, cited the changes as anti-democratic and threatening to the fulfillment of fundamental human rights.<sup>73</sup>

Thirty-four amendments were passed in the referendum,<sup>74</sup> with the most sweeping reforms taking place in the areas of national security and political party regulation. Amendments to Article 5<sup>75</sup> strengthen prohibitions on political parties based on religion.<sup>76</sup> Critics of President Hosni Mubarak viewed this move as part of a sustained attempt to

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64. *Id.*

65. *Bahrain Offers Oil Exploration, Production Tenders*, REUTERS, Mar. 12, 2007, available at <http://uk.reuters.com/article/oilRpt/idUKL1241168520070312>.

66. Bahrain Bid Round 2007, <http://www.bahrainoffshorebid.com/bapco/content/keydates/keydates.jsp>.

67. *FM Returns to Manama*, BAHRAIN NEWS AGENCY, Oct. 1, 2007, available at <http://english.bna.bh/?ID=62781>.

68. *Bahrain Entering Nuclear Age*, GULF DAILY NEWS, Oct. 18, 2007, available at <http://www.gulf-daily-news.com/printnews.asp?Article=197141>.

\* Suzan Pritchett holds a Masters in Gender and International Development from the University of Sussex (UK) and is a third-year J.D. candidate at the University of Iowa College of Law.

69. *Dustur Jumhuriyyat Misr Al-Arabiyya* [Constitution of the Arab Republic of Egypt] (2007), available at <http://www.misr.gov.eg/english/laws/Constitution/index.asp> (English translation) [hereinafter *Egypt Const.*].

70. *Reform to Preserve: Democracy Takes a Battering in a Constitutional Referendum*, ECONOMIST, Mar. 29, 2007, available at [http://www.economist.com/world/africa/displaystory.cfm?story\\_id=8934761](http://www.economist.com/world/africa/displaystory.cfm?story_id=8934761).

71. Ashraf Khalil, *Few Egyptians Vote on Amendments*, L.A. TIMES, Mar. 27, 2007, at Main News A3; Paul Schemm, *Egypt Adopts Constitution Changes but Critics Cry Foul*, AGENCE FRANCE PRESSE, Mar. 27, 2007, available at <http://www.afp.com/english/home>.

72. Michael Slackman, *As Egypt Votes on Law, Cynicism Rules the Street*, N.Y. TIMES, at A11, available at <http://www.nytimes.com/2007/03/26/world/africa/26egypt.html?fta=y>.

73. *Egypt: Don't Enshrine Emergency Rule in the Constitution*, HUMAN RIGHTS WATCH, Mar. 6, 2007, <http://hrw.org/english/docs/2007/03/26/egypt15566.htm>.

74. *Id.*

75. *Egypt Const.*, *supra* note 69, at pt. I, art. 5.

76. Anthony Shadid, *Apathy Marks Constitutional Vote in Egypt*, WASH. POST, Mar. 27, 2007, at A07.

repress political dissidents in the country<sup>77</sup> and crack down on Islamist opposition.<sup>78</sup> In addition, amendments to Article 62<sup>79</sup> modify the parliamentary system from one based on individual candidates to one focused on party lists.<sup>80</sup> This amendment significantly complicates the political landscape for independents and members of the Muslim Brotherhood who want to run for office.<sup>81</sup>

Further constitutional amendments address the role of the judiciary and bolster the fight against terrorism. The amendment to Article 88<sup>82</sup> takes away the judiciary's power to supervise and monitor polling stations during elections. The amendment instead mandates that the legislature appoint an Elections Commission to the task.<sup>83</sup> Commentators now fear that the amendment gives the ruling party more power to rig elections in its favor.<sup>84</sup> The amendment to Article 179<sup>85</sup> replaces the emergency law that has been in place for years under Mubarak's government, which has given security services extraordinary powers.<sup>86</sup> Article 179 as amended allows Egyptian authorities to search homes and monitor communications without a warrant.<sup>87</sup> It also increases the role of military tribunals, allowing terrorist suspects to be tried by "any judicial body established by the Constitution or the law."<sup>88</sup>

The United States was critical of the amendments, saying that they did not give "a voice to all Egyptians."<sup>89</sup> Civil society and human rights organizations claimed that the amendments are yet another attempt by the Mubarak government to erode civil liberties and consolidate political power.<sup>90</sup> Amnesty International called the amendments the "greatest erosion of human rights in 26 years."<sup>91</sup> These fears may not be unfounded. The amended Article 179 was recently employed to justify stripping two members of Parliament from

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77. *Id.*

78. Ian Black, *Egypt: A Country in Crisis as Fearful Government Cracks Down on Islamist Opposition*, *GUARDIAN* (London), July 19, 2007, at 23.

79. Egypt Const., *supra* note 69, at pt. III, art. 62.

80. Adam Morrow & Khaled Moussa al-Omrani, *Egypt: Constitutional Amendments Weaken Civil Rights*, *INTER PRESS SERVICE*, Apr. 9, 2007 [hereinafter *Civil Rights*].

81. Nathan J. Brown, Michele Dunne, & Amr Hamzawy, *Egypt's Controversial Constitutional Amendments* (Mar. 23, 2007), available at [http://www.carnegieendowment.org/files/egypt\\_constitution\\_webcommentary\\_01.pdf](http://www.carnegieendowment.org/files/egypt_constitution_webcommentary_01.pdf).

82. Egypt Const., *supra* note 69, at part IV, art. 88.

83. Liz Sly, *Liberties at Stake in Egypt Vote: Opposition Says New Restrictions Harm Democracy*, *CHICAGO TRIB.*, Mar. 26, 2007, at News 8.

84. *Civil Rights*, *supra* note 80.

85. Egypt Const., *supra* note 69, at pt. VI, chap. VI, art. 179.

86. *Reform to Preserve*, *supra* note 70.

87. *Egypt Says Constitution Changes Crucial to Regional Stability*, *AGENCE FRANCE PRESSE*, Mar. 25, 2007, available at <http://www.afp.com/english/home>; Anthony Shadid, *Apatby Marks Constitutional Vote in Egypt*, *WASH. POST*, Mar. 27, 2007, at A07.

88. Egypt Const., *supra* note 69, at pt. VI, chap. VI, art. 179.

89. Heba Saleh, *Rice Tones Down Criticism of "Difficult" Egypt Reform*, *FIN. TIMES* (London), Mar. 26, 2007, at World News 7 (quoting Condoleezza Rice, U.S. Secretary of State, during her visit to Egypt).

90. Slackman, *supra* note 72.

91. Press Release, Amnesty Int'l, *Egypt: Proposed Constitutional Amendment Greatest Erosion of Human Rights in 26 Years* (Mar. 18, 2007) available at <http://www.amnesty.org/en/library/info/MDE12/008/2007>.

the Muslim Brotherhood of their parliamentary immunity from arrest and trying them in a military tribunal.<sup>92</sup>

Despite the apparent scaling back of civil rights through the constitutional amendments, the country also made positive legal and policy advancements in 2007, especially in the area of women's rights. In April, the Supreme Judicial Council appointed women judges for the first time.<sup>93</sup> Although a woman was already serving as a justice on the Supreme Constitutional Court, which considers the legality of legislation, the newly appointed family law judges will be the first Egyptian women responsible for handing down rulings to individuals.<sup>94</sup>

In another positive development, the Egyptian Parliament agreed to consider a proposed law banning female genital mutilation (FGM).<sup>95</sup> The death of a young girl from FGM fueled the legislative initiative and prompted the Egyptian Health Ministry to issue a decree, which states that it is "prohibited for any doctors . . . to carry out any . . . modification of any natural part of the female reproductive system."<sup>96</sup> The country's leading Muslim and Christian clerics support the prohibition, with the grand mufti announcing on television that circumcision is a forbidden practice.<sup>97</sup> The decree and subsequent law's effectiveness, however, remain to be seen.

## VII. Iran\*

### A. IRAN'S NUCLEAR DILEMMA

For the past four years, Iran has claimed that it is enriching uranium for nuclear power for civilian use as permitted under the Nuclear Non-Proliferation Treaty, but western powers, particularly the United States, have continuously claimed that Iran is enriching uranium as a step toward the production of a nuclear bomb.<sup>98</sup> Despite the United States' administration's long standing view on this subject, however, in November 2007, U.S. intelligence agencies declared that Iran halted its nuclear weapons program in 2003 and

92. Adam Morrow & Khaled Moussa al-Omrani, *Egypt: Islamist Lawmakers Face Military Tribunal*, INTER PRESS SERVICE, May 18, 2007, <http://www.lexis.com> (find "news & business—news most recent two years," search for "Islamic lawmakers face military tribunal").

93. Adam Morrow & Khaled Moussa al-Omrani, *Egypt: Controversy Simmers Over New Female Judges*, INTER PRESS SERVICE, Apr. 16, 2007, <http://www.lexis.com> (find "news & business—news most recent two years," search for "controversy simmers over new female judge").

94. *Id.*

95. *Egypt to Strengthen Penalties Against Female Circumcision*, AGENCE FRANCE PRESSE, Aug. 12, 2007, available at <http://www.afp.com/english/home>.

96. *Death of 12-Year-Old Girl Shocks Egypt, Prompts Health Ministry to Ban Female Circumcision*, INT'L HERALD TRIB., June 29, 2007, available at <http://www.ihf.com/articles/ap/2007/06/29/africa/ME-GEN-Egypt-Female-Circumcision.php>.

97. *A Little Less Purity Goes a Long Way*, ECONOMIST, July 5, 2007, available at [http://www.economist.com/world/africa/displaystory.cfm?story\\_id=9444160](http://www.economist.com/world/africa/displaystory.cfm?story_id=9444160).

\* Anahita Ferasat, editor of the Middle East Committee's contribution to the 2007 Year-in-Review article, prepared the report on developments in Iran. She is an associate at Baker, Olson, LeCroy & Danielian in Los Angeles, California.

98. *Q&A: Iran and the Nuclear Issue*, BBC NEWS, Nov. 15, 2007, available at [http://news.bbc.co.uk/2/hi/middle\\_east/4031603.stm](http://news.bbc.co.uk/2/hi/middle_east/4031603.stm).

that the program remains frozen, contradicting the administration's judgment that Tehran has been working toward building a nuclear bomb.<sup>99</sup>

During the past year the United Nations Security Council imposed two rounds of sanctions in connection with Iran's nuclear enrichment activities. Resolution 1737, passed in December 2006, called on Iran to halt uranium enrichment and mandated that all UN member states prevent the sale or transfer of any enrichment-related technology to Iran.<sup>100</sup> Resolution 1747, passed in March 2007, was more far-reaching.<sup>101</sup> It prohibits UN member states from, among other things, dealing with the state-run Bank Sepah and a host of named individuals and organizations connected with Iran's Islamic Revolutionary Guard Corps (IRGC) and Iran's nuclear program.<sup>102</sup> Iran continues its enrichment of uranium in defiance of the Security Council's resolutions.<sup>103</sup>

The United States has enacted laws to further the United Nations sanctions and is also applying pressure on its international partners to restrict trade with Iran.<sup>104</sup> In September 2007, the U.S. Senate voted seventy-six to twenty-two in favor of a resolution urging the State Department to designate the IRGC as a terrorist organization.<sup>105</sup> In October 2007, the United States sanctioned several IRGC-affiliated entities and individuals using authority granted by Executive Orders 13224 and 13382.<sup>106</sup>

In addition, several U.S. states, including California, Florida, and Louisiana, have enacted legislation aimed at pressuring the Iranian government by encouraging foreign companies doing business with Iran to sever their ties with that country.<sup>107</sup> Over \$2 billion in holdings could be affected in California alone.<sup>108</sup>

## B. TRADE

France, Germany, Britain, and Japan, once considered Iran's top trading partners, are divesting from Iran at a rapid rate by cutting guarantees, limiting access to letters of

99. NATIONAL INTELLIGENCE COUNCIL, NATIONAL INTELLIGENCE ESTIMATE, IRAN: NUCLEAR INTENTIONS AND CAPABILITIES (Nov. 2007), available at [http://www.dni.gov/press\\_releases/20071203\\_release.pdf](http://www.dni.gov/press_releases/20071203_release.pdf).

100. S.C. Res. 1737, U.N. Doc., S/RES/1737 (2006).

101. S.C. Res. 1747, U.N. Doc., S/RES/1747 (2007).

102. *Id.* at para. 4 & appendix I.

103. IAEA DIRECTOR GENERAL, REPORT TO IAEA BOARD OF GOVERNORS, IMPLEMENTATION OF THE NPT SAFEGUARDS AGREEMENT AND RELEVANT PROVISIONS OF SECURITY COUNCIL RESOLUTIONS 1737 (2006) AND 1747 (2007) IN THE ISLAMIC REPUBLIC OF IRAN (Nov. 15, 2007), available at <http://www.iaea.org/Publications/Documents/Board/2007/gov2007-58.pdf>.

104. *U.S. Warns Firms Trading with Iran*, BBC NEWS, June 13, 2007, available at [http://news.bbc.co.uk/2/hi/middle\\_east/6747193.stm](http://news.bbc.co.uk/2/hi/middle_east/6747193.stm).

105. Paul Steinhauser & Sasha Johnson, *Iran Becoming New Iraq on Campaign Trail*, CNN NEWS, Oct. 25, 2007, <http://www.cnn.com/2007/POLITICS/10/25/iran.campaign/> (last visited Mar. 28, 2008).

106. See Press Release, Dep't of Treas., Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism, Oct. 25, 2007, available at (<http://www.treas.gov/press/releases/hp644.htm>). Specifically, the Department of State, under Executive Order 13382, placed sanctions on the IRGC and on the Ministry of Defense and Armed Forces Logistics. The Department of the Treasury, also acting under authority from Executive Order 13382, simultaneously placed sanctions on IRGC-affiliated entities and individuals, as well as on several banks. The Department of the Treasury, acting this time under authority from Executive Order 13224, also placed sanctions on the IRGC-Qods Force.

107. Danielle Pletka, *Congress's Ill-Timed Iran Bills*, WASH. POST, Aug. 28, 2007, at A13.

108. Cathy Landry, *California's New Law on Divestment of Iran Assets Draws Attention*, PLATTS OILGRAM NEWS, Oct. 17, 2007, available at LEXIS.

credit, and curbing export credits to companies doing business in Iran.<sup>109</sup> Nevertheless, where Tehran's top trading partners have pulled back, Islamic financial institutions, Asian banks, and China and Russia have stepped in.<sup>110</sup> In late 2007 Iranian President Ahmadinejad met with several Arab countries to discuss the creation of a free trade area<sup>111</sup> and later embarked on a Central Asian tour to meet with leaders of Turkmenistan, Uzbekistan, and Kazakhstan to discuss the enhancement of economic cooperation among the countries.<sup>112</sup>

### C. HUMAN RIGHTS

Iran made headlines in 2007 for its detention of a number of prominent Iranian-Americans on charges of espionage and endangering Iranian security.<sup>113</sup> In connection with these arrests, Tehran accused the United States of using intellectuals and others to bring about a bloodless "velvet" revolution aimed at undermining the Islamic government.<sup>114</sup> This was perceived to be linked with the U.S. government's allocation of \$75 million to be provided to various non-governmental organizations within Iran. As a result of these arrests, more than two dozen Iranian-American and human rights groups launched an appeal to Congress in October 2007 to reduce or eliminate any new financial support for the stated purpose of promoting democracy in Iran, arguing that the funding undermines democracy efforts and leads to the repression of activists on the grounds that they are foreign agents or traitors.<sup>115</sup>

While attention in the United States was focused on the detention of these Iranian-Americans, Iranians at home endured one of the most intensive crackdowns on domestic dissent since the 1979 revolution.<sup>116</sup> The attention was initially aimed at men and women whose attire in public was deemed inconsistent with Islamic standards of decency.<sup>117</sup> The campaign soon widened to the activities of scholars, student leaders, and the news media. Iranian news outlets were issued a letter from the Supreme National Security Council

109. Pletka, *supra* note 107; Steven Mufson & Robin Wright, *Iran Adapts to Economic Pressure*, WASH. POST, Oct. 29, 2007 at A01.

110. Pletka, *supra* note 107; Mufson & Wright, *supra* note 109. More specifically, Russia supplies arms and nuclear sales to Iran while China invests in Iran's energy sector.

111. Meena Janardhan, *A Free Trade Area in Middle East*, NOTICCIAS FINANCIERAS/GROUPO DE DIARIOS AMERICA, Sept. 12, 2007, available at LEXIS.

112. *Iran Plays the Central Asia Card*, Uzreport.com, Aug. 15, 2007, available at LEXIS. As an example, Iran advanced in talks with Tajikistan regarding a \$140 million joint project for constructing a tunnel that would promote trade in the region. *Iran, Tajikistan Stress Speeding Up Tunnel Construction Project*, ISLAMIC REPUBLIC NEWS AGENCY, Nov. 10, 2007, <http://www2.irna.com/en/news/view/line-18/0711104561115604.htm>.

113. See U.S. 'Disturbed' by Iran Detentions, BBC NEWS, May 31, 2007, available at [http://news.bbc.co.uk/2/hi/middle\\_east/6710255.stm](http://news.bbc.co.uk/2/hi/middle_east/6710255.stm); Robin Wright, *Cut Iran Democracy Funding, Groups Tell U.S.*, WASH. POST, Oct. 11, 2007, at A15. California businessman Ali Shakeri arrived home in the United States after four months in an Iranian prison. Washington scholar Haleh Esfandiari and journalist Parnaz Azima returned to the United States in September 2007. New York-based Kian Tajbaksh, who is affiliated with the George Soros' Open Society Institute, is still in Iran. Ali Shakeri was the only detainee never charged.

114. See U.S. 'Disturbed', *supra* note 113.

115. Wright, *supra* note 113; Akbar Ganji, *Why Iran's Democrats Shun Aid*, WASH. POST, Oct. 26, 2007, at A21.

116. Borzou Daragahi, *Iran Tightens the Screws on Internal Dissent*, L.A. TIMES, June 10, 2007, at A1.

117. *Id.* By the end of April alone, about 150,000 people had been stopped or detained for wearing skimpy headscarves, short overcoats, or tight shirts.

listing forbidden topics, which included the government's enforcement of Islamic dress, the impact of the United Nations sanctions on everyday life, international sanctions on Iranian banks, and travel bans on Iranian nuclear and military officials.<sup>118</sup>

## VIII. Iraq\*

### A. ENACTMENT OF A HYDROCARBONS LAW REMAINS AS ELUSIVE AS IT IS NECESSARY.

While the Iraqi people remain in desperate need of developmental progress, the country's oil production capacity remains significantly depressed.<sup>119</sup> Current oil production levels hover at a mere two million barrels per day,<sup>120</sup> far short of both quarterly projections and prewar production levels.<sup>121</sup> This is primarily due to the absence of a clear hydrocarbons law.

Income from the export of Iraqi oil is essential to the stabilization of Iraq's economy.<sup>122</sup> In December 2006, the Iraq Study Group found stabilization of Iraq correlated with Iraq's economic success or failure, further concluding that medium-term stability was highly dependant on the hydrocarbons industry.<sup>123</sup> Absent a hydrocarbons law, the new federation has no rules governing the management of resources or the revenues from hydrocarbons.

A recent attempt at such a law was drafted and approved by the Iraqi Council of Ministers in February of 2007.<sup>124</sup> The draft made declaratory statements about the ownership of Iraq's oil being vested in the people of Iraq and aimed to create (or recreate) the Iraq National Oil Company and the Oil Marketing Company that would facilitate the extraction and production of all hydrocarbons within the Republic of Iraq.<sup>125</sup> The draft further created a policy-making body to consist of representatives from all of Iraq's oil producing regions while placing the duty of monitoring the distribution of oil revenues among the regions in the hands of Iraqi Council of Ministers.<sup>126</sup> Commenting in March 2007, U.S. Ambassador Zalmay Khalilzad noted the draft would ensure the equitable distribution of hydrocarbon revenue among the country's regions on a per-capita basis and establish a predictable framework for regional cooperation.<sup>127</sup>

118. *Id.*

\* Moataz Hamza, a law student at the Thomas Jefferson School of Law in San Diego, California, prepared the report on Iraq.

119. See Dep't of Energy, Energy Info. Admin., Report No. DOE/EIA-0484, available at <http://www.eia.doe.gov/oiaf/iteo/oil.html>.

120. *Id.* (citing Int'l Energy Agency, Oil Mkt Report 14 (2006), available at <http://omrpublic.iea.org>).

121. See Dep't of Energy, Energy Info. Admin., Iraq Energy Profile, available at [http://tonto.eia.doe.gov/country/country\\_time\\_series.cfm?fips=IZ](http://tonto.eia.doe.gov/country/country_time_series.cfm?fips=IZ).

122. See Dep't of Energy, Energy Info. Admin., Iraq: Country Analysis Brief, available at <http://www.eia.doe.gov/emeu/cabs/Iraq/Background.html>.

123. *Id.*

124. See Zalmay Khalilzad, U.S. Ambassador to Iraq, On the Hydrocarbon Law (Feb. 27, 2007), available at [http://iraq.usembassy.gov/iraq/20070226\\_hydrocarbon\\_law.html](http://iraq.usembassy.gov/iraq/20070226_hydrocarbon_law.html).

125. See Draft Iraq Oil and Gas Law, No. — (2007) (Iraq), available at [http://www.krg.org/uploads/documents/Draft%20Iraq%20Oil%20and%20Gas%20Law%20English\\_\\_2007\\_03\\_10\\_h23m31s47.pdf](http://www.krg.org/uploads/documents/Draft%20Iraq%20Oil%20and%20Gas%20Law%20English__2007_03_10_h23m31s47.pdf).

126. *Id.*

127. See Zalmay Khalilzad, *A Shared Stake in Iraq's Future*, WASH. POST, Mar. 3, 2007, at A15, in U.S. DEP'T OF STATE, U.S. Envoy to Iraq Applauds Passage of National Hydrocarbon Law, March 03, (2007),



Yet, a mere ten months later, support for the February draft is fading.<sup>128</sup> Commentators have indicated that part of the difficulty in passing the draft stems from the Kurdish Regional Government's decision to press forward with regional exploration and production (E&P) contracts.<sup>129</sup> Others have indicated that the draft is simply unacceptable as it creates a framework permitting production share agreements (PSAs) that hand over excessive gains to private corporations, thereby limiting the capital returned to the Iraqi people.<sup>130</sup> Iraq's former oil minister has said that PSAs were completely inappropriate for Iraq as they are normally entered into when the risk of not finding oil is high or difficulty exists in its extraction; Iraq's oil fields are proven, and the costs of extraction are minimal when compared to the return per barrel of Iraq's high quality crude.<sup>131</sup>

The uncertainty surrounding E & P rights coupled with the persistence of violence remains immensely debilitating to developmental progress. Furthermore, recent developments indicate it is unlikely the February Draft will be enacted. Yet, the importance of a hydrocarbons law to stability and growth are of such significance that enactment of such a law during the coming year is far from unattainable.

#### B. IRAQ PARLIAMENT TO ENACT LAW NULLIFYING PROVISIONAL AUTHORITY'S DE-BAATHIFICATION ORDER:

The Iraqi Parliament is revising a controversial May 2003 law passed by the Coalition Provisional Authority.<sup>132</sup> That order resulted in the dismissal of all senior members of the Iraq government then in office.<sup>133</sup> The new law would authorize members of the Baath Party to be reemployed in government, participate in the political process, and serve in the civil and military service provided they have not been convicted of any crimes.<sup>134</sup> On some level, however, enactment of the law may be largely symbolic. Reports indicate that re-hirings of former Baath Party members have been quietly taking place for some time.<sup>135</sup>

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available at <http://usinfo.state.gov/xarchives/display.html?p=washfile-english&y=2007&m=March&x=20070303173414lnkais0.3565332>.

128. See James Glanz, *Compromise on Oil Law in Iraq Seems to Be Collapsing*, N.Y. TIMES, Sept. 13, 2007, <http://www.nytimes.com/2007/09/13/world/middleeast/13baghdad.html>.

129. *Id.*

130. See Ahmed Janabi, *Row Over Iraq Oil*, AL-JAZEERA ENGLISH, May 5, 2007, available at <http://english.aljazeera.net/NR/exeres/0D09B919-D28A-4CC4-A79F-0EE500239225.htm>.

131. *Id.*

132. See De-Baathification of Iraqi Society, Order No. 1 (2003) (Coalition Provisional Authority in Iraq), available at [http://www.cpa-iraq.org/regulations/20030516\\_CPAORD\\_1\\_De-Ba\\_athification\\_of\\_Iraqi\\_Society\\_.pdf](http://www.cpa-iraq.org/regulations/20030516_CPAORD_1_De-Ba_athification_of_Iraqi_Society_.pdf).

133. See Sharon Otterman, *Iraq: Debaathification*, COUNCIL ON FOREIGN RELATIONS, Apr. 7, 2005, available at <http://www.cfr.org/publication/7853/iraq.html>.

134. See Mariam Karouny, *Iraq Parliament Hears Draft Law on Former Baathists*, REUTERS, Nov. 25, 2007, available at <http://www.reuters.com/article/topNews/idUSL2516410520071125>.

135. See Steven Lee Myers & Alissa J. Rubin, *U.S. Scales Back Political Goals for Iraqi Unity*, Nov. 25, 2007, available at <http://www.nytimes.com/2007/11/25/washington/25policy.html?pagewanted=1>.

### C. IRAQI GOVERNMENT INITIATES DISMANTLING OF FOREIGN CONTRACTOR IMMUNITY.

On October 30, 2007, the Iraqi cabinet initiated the task of reigning in foreign private contractors by drafting a law that, if ratified, will strip these private corporations of their legal immunity.<sup>136</sup> Order 17 issued by the Coalition Provisional Authority in 2004 granted foreign private contractors operating in Iraq immunity from prosecution.<sup>137</sup> While the law will not enter into force until ratified by Parliament,<sup>138</sup> the Ministry of the Interior has already sent letters to private contractors entitled, "Removing the Legal Immunity."<sup>139</sup> Given the scores of civilians that have been killed by security personnel employed by foreign private contractors and the strong public pressure to remove immunity, ratification by Parliament is expected.<sup>140</sup>

## IX. Israel\*

On January 1, 2007, the Non-Ionizing Radiation Law went into effect.<sup>141</sup> Non-ionizing radiation arises both from nature and from man-made sources.<sup>142</sup> Radiation typically emits from a variety of sources including computers, cables, cell phones, and radio frequencies.<sup>143</sup> The law was promulgated as a health measure to protect people from the potential harmful effects from exposure to large quantities of non-ionized radiation.<sup>144</sup> The law regulates the handling, installation, and the amount of emissions.<sup>145</sup> It incorporates the Precautionary Principle on non-ionized radiation promulgated by the European Commission in its Communication from February 2, 2000 that calls for reasonable measures to be undertaken to limit exposure while scientific studies are made.<sup>146</sup> The law provides for strict criminal liability for violations.<sup>147</sup> It also requires licensing procedures at the administrative law level.<sup>148</sup> Finally, the law requires trained supervisors to undertake precautionary procedures when handling and installing devices that emit non-ionized radiation.<sup>149</sup> These include entering premises at reasonable hours, giving safety instruc-

136. See Alissa J. Rubin, *Iraqi Cabinet Votes to End Security Firm's Immunity*, N.Y. TIMES, Oct. 30, 2007, available at <http://www.nytimes.com/2007/10/31/world/middleeast/31iraq.html>

137. See Ross Colvin, *Iraq Cabinet Okays Law to End Foreign Firm's Immunity*, REUTERS, Oct. 30, 2007, <http://www.reuters.com/article/topNews/idUSL3026422620071030>.

138. See *New Law May Spell End to Iraq Contractors*, CBS NEWS, Nov. 9, 2007, available at <http://www.cbsnews.com/stories/2007/11/09/eveningnews/main3482676.shtml>.

139. *Id.*

140. See Rubin, *supra* note 136.

\* Christopher Scott Maravilla is Washington, DC Attorney and is Vice-Chair of the ABA Middle East Committee.

141. The Levinson Environmental Law Firm, *The Non-Ionizing Radiation Law (2006): Legal Aspects*, <http://www.icnirp.net/documents/emfgdl.pdf>.

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

146. *Id.* at 1-2.

147. *Id.* at 3.

148. *Id.* at 4.

149. *Id.*

tions and performing investigations pursuant to a court order take possession of devices, and supervising radiation removal procedures.<sup>150</sup>

## X. Jordan\*

Women's rights in Jordan received a major boost when Jordan endorsed the U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2007.<sup>151</sup> CEDAW ensures women's equal access to, and equal opportunities in, political and public life—including the right to vote and to stand for election—as well as education, health, and employment.<sup>152</sup> Some groups in Jordan were outraged by Jordan's endorsement, arguing that CEDAW represents a Western attack on Islamic values.<sup>153</sup>

Jordan, however, ratified CEDAW with reservations to Articles 9 and 16,<sup>154</sup> which could undermine the effectiveness of the convention.<sup>155</sup> Jordan did not offer any explanation for its reservations, but they may stem from the sensitive issues of state sovereignty and cultural-religious practices to which these articles relate. For example, Jordan reserved on Article 9 by mandating that children receive their citizenship status from their father but not their mother.<sup>156</sup> Similarly, Jordan made a reservation on Article 16 in regard to marriage and family relations.<sup>157</sup> Shari'a or Islamic law, which applies in Jordan in personal status matters, restricts the wife's rights to divorce by making it contingent on a judge's ruling, whereas no such restriction is laid down in the case of the husband.

The reservations expressed by Jordan appear to conflict with the object and purpose of CEDAW. The purpose of the Convention is the elimination of discrimination, and all of these reservations clearly hinder that objective. Several forms of discrimination against women still exist in Jordan such as "honor killing."<sup>158</sup> However, the endorsement of CEDAW is considered an improvement from the status quo.

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150. *Id.*

\* Bashar H. Malkawi is Assistant Professor of Law, Hashemite University, Zarqa-Jordan. The author can be contacted at [bmalkawi@gmail.com](mailto:bmalkawi@gmail.com).

151. Jordan ratified CEDAW on July 1, 1992. It was not until 2007, however, when the Jordanian government published the Convention in the Official Gazette, thus signaling its entrance into force. See Endorsement of the U.N. Convention on the Elimination of All Forms of Discrimination against Women, Official Gazette No. 4839, 4943 (Aug. 1, 2007).

152. See Felipe Gomez Isa, *The Optional Protocol for the Convention on the Elimination of All Forms of Discrimination Against Women: Strengthening the Protection Mechanisms of Women's Human Rights*, 20 ARIZ. J. INT'L & COMP. L. 291, 301-305 (2003).

153. See Islamists Slam Women's Rights Convention, JORDAN TIMES, Aug. 6, 2007. (Islamists state that CEDAW seeks to steer people from religion and destroy the Muslim family. Islamists describe it as "a most dangerous agreement").

154. CEDAW allows reservations unless they are contrary to the object and purpose of the convention. Article 28 of CEDAW states that the Office of the Secretary-General will collect and circulate reservations to all member states of the Convention. See CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, G.A. Res. 34/180, art. 28, 1249 U.N.T.S. 13, 23 Sept. 3, 1981.

155. See Endorsement, *supra* note 151, at 4956.

156. *Id.*

157. *Id.*

158. The Jordanian Penal Code allows reduced penalties for "honor killings," where male relatives only murder women who are believed to have committed a sexual indiscretion that besmirches the honor of the family. Women who discover husbands or relatives committing adultery are not accorded similar penalties.

## XI. Kuwait\*

### A. ANTI-MONOPOLY LAW

The Kuwait National Assembly has passed a law that seeks to eliminate commercial monopolies and create a competitive economic environment by restricting certain activities of individuals, entities, or groups of individuals or entities that control 35 percent or more of any market.<sup>159</sup> Prohibited activities specifically mentioned in the law include increasing or decreasing the price of a product artificially in order to harm a competitor; restricting the flow of, or flooding the market with products in an attempt to alter the unit price based on an artificial flow of products; restricting free competition to prevent a possible customer from accessing products in the market; and engaging in any form of anti-competitive price fixing or market discrimination activities.

The penalties for violation of this law include fines of up to KWD100,000 (the equivalent of approximately \$350,000) or the monetary value of any illegal gains, whichever is greater, as well as possible confiscation of the products in question.<sup>160</sup> If the offense is repeated, then the fine may be doubled and the aforementioned confiscation becomes mandatory.<sup>161</sup> This law does not apply to state-owned or state-managed projects or utilities, activities aimed at facilitating economic activity, or research and development projects.<sup>162</sup>

### B. STOCK EXCHANGE REGULATIONS

A new set of regulations aimed at attracting more international investors and creating a more transparent market environment within the Kuwait Stock Exchange (KSE) has been lauded by some yet has raised concerns among others. Under the new regulations, the KSE may stop trading shares in a company that has significant increases in share capital over a twelve-month period.<sup>163</sup> The regulations also provide for a one-year ban on the trading of shares in any merging company where such company has previously had an application for listing rejected by the KSE.<sup>164</sup>

Earlier this year the KSE introduced other regulations in an attempt to provide a more effective enforcement mechanism. Among other things, the KSE established a minimum capital requirement, as well as a further set of performance benchmarks that companies must meet prior to listing on the KSE.<sup>165</sup> In addition, under the new regulations, a company must now hold their Annual General Meeting no later than forty-five days after the approval of the company's financial statements by the General Assembly of Shareholders.

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See Catherine Warrick, *The Vanishing Victim: Criminal Law and Gender in Jordan*, 39 LAW & SOC'Y REV. 315, 322-328 (2005).

\* Prepared by David Pfeiffer, Partner, and Ola Saab, Associate, of the Kuwait office of Bryan Cave LLP.

159. Law No. 10 of 2007, Regarding the Protection of Competition (Kuwait).

160. *Id.*

161. *Id.*

162. *Id.*

163. Kuwait Stock Exchange Committee Decision No. 3 of 2007.

164. Kuwait Stock Exchange Committee Decision No. 5 of 2007.

165. Kuwait Stock Exchange Committee Decision No. 2 of 2007, arts. 2 and 3; Kuwait Stock Exchange Committee Decision No. 1 of 2007, arts. 2 and 4.

Finally, cash dividends must also be paid out within ten days of approval of the company's financial statements.<sup>166</sup>

These regulations, which have been criticized by some as lacking clarity, are the subject of several on-going court cases. In particular, the interpretation of the circumstances that will trigger trading bans has been called into question.

## XII. Lebanon\*

Lebanon has endured multiple constitutional crises in its efforts to elect a new president. Although Article 49 of the Lebanese constitution<sup>167</sup> clearly states the procedures and the circumstances by which a president can be elected, the interpretation has become profoundly politicized. The absence of a constitutional court to interpret the constitution has encouraged all politicians, loyalists and opposition, to interpret the constitution according to their respective agendas. As 2007 drew to a close, efforts to find a consensus candidate had stalled, with opposition MPs refusing to participate.<sup>168</sup> Against this state of affairs, no clear solution is in sight.

Lebanon's economy depends on tourism, as the tourism industry amounts to 22 percent of the total national gross income.<sup>169</sup> The industry suffered a severe set back due to the possibility of new war with Israel and continuing political uncertainty.

## XIII. Libya\*

Legal developments in Libya in 2007 focused on the country's banking and finance sectors. Chief among such developments was the privatization of two banks and the first major project financing in the country. These developments highlight Libya's efforts to modernize the financial sector and encourage further foreign investment in the country.

The first bank to be privatized in Libya was Sahara Bank (Sahara), which has assets of more than \$3.6 billion, making it Libya's second largest commercial bank. The bidding process pre-qualified six international banks.<sup>170</sup> As part of its agreement with Sahara and the Libyan Central Bank, BNP acquired a 19 percent stake in Sahara for more than \$212

166. Kuwait Stock Exchange Committee Decision No. 4 of 2007, arts. 1 and 2.

\* Hassan Elkhilil is a practicing attorney in Atlanta, Georgia. Mr. Elkhilil has authored several articles about Lebanese politics.

167. CONSTITUTION OF LEBANON, art. 49, available at [http://www.mallat.com/articles/lebanese\\_constitution\\_page\\_2.htm](http://www.mallat.com/articles/lebanese_constitution_page_2.htm).

168. Integrated Regional Information Networks, U.N., *International Tug of War Complicating Lebanon's Election Outcome* (Oct. 1, 2007), available at <http://www.worldpress.org/Mideast/2947.cfm>.

169. *Tourism Takes a Beating in Crises-Hit Lebanon*, AGENCE FRANCE-PRESSE, Feb. 08, 2007 available at <http://news.sawf.org/Travel/33232.aspx>.

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170. See *Libya Names 6 Banks for Sahara Bank Privatization*, REUTERS UK, Mar. 29, 2007, available at [http://uk.reuters.com/article/UK\\_SMALLCAPSRPT/idUKL2943039320070329](http://uk.reuters.com/article/UK_SMALLCAPSRPT/idUKL2943039320070329). The bidders included Arab Banking Corporation, Arab Bank, HSBC, Société Générale, and Standard Chartered, with BNP Paribas (BNP) of France winning the ultimate bid.

million. BNP also gained management control over the bank and retained the right to purchase 51 percent of Sahara's shares over the next three to five years.<sup>171</sup>

The Libyan Central Bank is also in the process of privatizing Al-Wahda Bank (Al-Wahda) under similar terms. Al-Wahda, with assets of more than \$2.5 billion, is Libya's fifth largest bank. The wide range of bidders from various parts of the globe<sup>172</sup> for each of the bidding rounds is a strong indication of the potential growth in Libya's financial sector.

In 2007, Libya also saw its first international project financing closing. The \$16 million Al-Waddan Hotel project, although relatively small in numbers of dollars, is only the tip of the iceberg in a country craving foreign investment dollars. ABC International Bank Plc acted as Lead Arranger, and Standard Bank Plc financed the development and expansion of this historic Tripoli hotel.<sup>173</sup> The Libyan bank Gumhoriya Bank acted as onshore security agent.<sup>174</sup> The deal saw pioneering Libyan law security mechanisms and structuring that should now pave the way for financing of foreign investment projects in Libya. The Libyan law firm Mukhtar, Kelbash and Elgharabli, advised the lenders.<sup>175</sup>

Other deals announced in recent times in Libya include a \$20 billion housing development by Dubai's Tameer Holdings<sup>176</sup> and the "largest-ever global project" from Dubai's Emaar Properties.<sup>177</sup> Following former British Prime Minister Tony Blair's visit to Libya in May, British Petroleum became the country's biggest oil sector investor by concluding a \$900 million exploration and production agreement with Libya's National Oil Corporation.<sup>178</sup> Dow Chemical and the National Oil Corporation are also negotiating a joint venture to operate and expand the Ras Lanuf petrochemical complex in Libya at a reported cost of around \$500 million.<sup>179</sup>

With oil trading near \$100 a barrel, it is no surprise that Libya, home to the world's eighth-largest oil reserves, will continue to be an attractive investment destination. Expectations run high that the Libyan government, with such excess petrol dollars, will itself look to invest both at home and abroad in 2008 as the country looks to expand its global reach and attractiveness to foreign dollars.

171. See *BNP Paribas Takes Operational Control of Libya's Sahara Bank with 19 Pct Stake*, FORBES ONLINE, July 18, 2007, <http://www.forbes.com/markets/feeds/afx/2007/07/18/afx3924610.html> (last visited Mar. 28, 2008).

172. Pre-qualified bidders include Société Générale (France), Intesa Sanpaolo (Italy), Arab Bank (Jordan), Arab Banking Corporation (Bahrain), and Attijariwafa Bank group (Morocco). See *Five Foreign Banks Shortlisted for Libya Privatisation*, AGENCE FRANCE PRESSE, Nov. 8, available at 2007, <http://www.aninaweb.org/en/actu-detail.php?actu=2432>.

173. Press Release, Arab Banking Corp., US\$16 Million Project Finance Facility for The Al Waddan Hotel in Libya (Nov. 5, 2007), available at <http://www.arabanking.com/press/NewsDetails.asp?ID=229>.

174. *Id.*

175. *Id.*

176. Press Release, Tameer Holdings, Tameer Holding Announce Libya Project That Exceeds \$20 billion (undated), available at <http://www.tameer.net/html/newsdetail.asp?nIdArg=13>.

177. See *Emaar Finalising Master-plan of Its Largest-Ever Global Project in Libya*, EMAAR, June 17, 2007, <http://www.emaar.com/MediaCenter/PressReleases/2007June17.asp> (last visited Mar. 28, 2008).

178. Press Release, British Petroleum, BP Agrees Major Exploration and Production Deal with Libya (May 29, 2007), available at <http://www.bp.com/genericarticle.do?categoryId=2012968&contentId=7033600>.

179. See *Libya's National Oil Corporation and the Dow Chemical Company Announce Joint Venture Plans to Expand Petrochemical Complex in Libya*, NEWS.DOW.COM, April 18, 2007, <http://news.dow.com/corporate/2007/20070418a.htm> (last visited Mar. 28, 2008).

#### XIV. Oman\*

The U.S.-Oman Free Trade Agreement (FTA), the Madrid Protocol, and a host of amendments have made 2007 a significant year in Muscat. Although the FTA was signed in late 2006,<sup>180</sup> in the first quarter of 2007 the United States immediately reaffirmed its commitment to implement the free trade agreement and expand its trade ties with Oman.<sup>181</sup> The FTA is expected to increase the already \$1.7 billion in trade between the two countries.<sup>182</sup>

In accordance to the provisions of the FTA, Article 15.1.2 requires the parties to ratify various international agreements regarding the registration and protection of intellectual property rights.<sup>183</sup> Oman announced in July that it had become the seventy-fourth member and the second Gulf nation to ratify the Madrid Protocol,<sup>184</sup> which went into force in October along with the Patent Law Treaty, the Trademark Law Treaty, and the Budapest Treaty on Microorganisms.<sup>185</sup> The ratification of the Madrid Protocol will facilitate the international application and registration for trademarks on a global scale, allowing trademark holders to obtain protection for their marks in Oman as well as other member states.<sup>186</sup>

The enactment of Sultani Royal Decree No. 12/2006 caused a boom in Oman's real estate development and tourist industry.<sup>187</sup> While traditionally only Omanis and GCC nationals were allowed to own property, the Royal Decree launched new land ownership laws that permit all foreigners to own property in Oman.<sup>188</sup> The new laws, however, limit foreign ownership to property located within a designated "integrated tourist resort."<sup>189</sup> Even with these limits, Oman is experiencing an influx of development projects geared towards foreigners and tourists.<sup>190</sup> With the need for financing and mortgaging and the development of infrastructure, in particular water, power and electricity, to support the "integrated tourist resorts," banks, financial institutions, and project investors are vying

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\* Anas A. Akel, a senior associate with the Law Firm of Bafakih & Nassief in Saudi Arabia, prepared the report on developments in Oman.

180. Ebby C. George, *Oman—U.S. Free Trade to Begin in Early 2007*, OMAN DAILY OBSERVER, Dec. 7, 2006, available at <http://www.zawya.com/Story.cfm/sidZAWYA20061207042944/SecMarkets/pagMoney/lok042900061207>.

181. *U.S. Reaffirms Commitment on FTA*, TIMES OF OMAN, Feb. 7, 2007, available at [http://www.timesofoman.com/search\\_detail.asp?cat=&detail=3022&rand=6hS77aJYKt8maFwQvBwEE6XDF](http://www.timesofoman.com/search_detail.asp?cat=&detail=3022&rand=6hS77aJYKt8maFwQvBwEE6XDF).

182. *Id.*

183. Agreement Between the Government of United State of America and the Government of the Sultantante of Oman on the Establishment of a Free Trade Area, U.S.-Oman, November, 15, 2004, ch. 15, available at [http://www.ustr.gov/assets/Trade\\_Agreements/Bilateral/Oman\\_FTA/Final\\_Text/asset\\_upload\\_file\\_715\\_8809.pdf](http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Oman_FTA/Final_Text/asset_upload_file_715_8809.pdf).

184. *New Members for Madrid*, MANAGING INTELL. PROP., July 27, 2007, available at <http://www.managingip.com/Article.aspx?ArticleID=1397986>.

185. World Intellectual Property Organization, Contracting Parties—Madrid Protocol, [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=8](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=8) (last visited Mar. 38, 2008).

186. World Intellectual Property Organisation (wipo.int), Madrid System for the International Registration of Marks, <http://www.wipo.int/madrid/en> (last visited Mar. 28, 2008).

187. *Realty Boom*, OMAN ECON. REV., Mar. 2007, available at [http://www.oeronline.com/php/2007\\_mar/spotlight.php](http://www.oeronline.com/php/2007_mar/spotlight.php).

188. See Paul Sheridan, *Omania*, LAW., May 28, 2007, available at <http://www.thelawyer.com/cgi-bin/item.cgi?id=126145&d=pndpr&h=pnhr&f=pnfpr>.

189. *Id.*

190. *Id.*

for a piece of the action.<sup>191</sup> Accordingly, the new developments have sent land prices and rentals soaring in double digits while maintaining a rental occupancy rate of 98 percent to 99 percent.<sup>192</sup>

The Labor Welfare Memorandum of Understanding between India and Oman, which seeks to protect Indian expatriate workers, will address the exploitation by recruitment agencies, sponsorship and employee rights.<sup>193</sup> The Memorandum is expected to be signed in December and will bolster ties between the two countries.<sup>194</sup>

## XV. Pakistan\*

In Pakistan General Musharraf's suspension of the Pakistan Constitution<sup>195</sup> and the dissolution of the Supreme Court under an order of an emergency decree affected a variety of laws bearing on elections and international relations.

### A. CONSTITUTIONAL LAW

The suspension of the Constitution and the nullification of the Supreme Court are results of mounting political instability and security deterioration over the past year.<sup>196</sup> President Musharraf, as the head of the military and the executive branch, has been at odds with the Judiciary over a series of legal challenges posited against his broad authority to detain terror suspects.<sup>197</sup> The institutional conflict led President Musharraf to oust Chief Justice Iftikar Chaudhry in March, only to lead to mass civil protests led by Pakistani lawyers.<sup>198</sup> While the Chief Justice was reinstated due to such civil pressure, on November 3 the President declared a state of emergency, blackening all media and television stations and ordering troops into the streets, citing national security as justification.<sup>199</sup> To make the decree constitutional, the Supreme Court justices were ordered to sign a "provisional constitutional order," which at least six of the eleven justices, including the Chief Justice, declined.<sup>200</sup> Further, various members of the Pakistani bar, opposition parties,

191. *Id.*

192. *Realty Boom*, *supra* note 187.

193. *Oman and India to Sign Agreement on Labour Issues*, GULF NEWS, Oct. 2, 2007, available at <http://archive.gulfnews.com/articles/07/10/02/10157430.html>.

194. *Labor Pact Aims to Curb Exploitation of Workers*, GULF NEWS, Oct. 5, 2007, available at <http://archive.gulfnews.com/articles/07/10/05/10158071.html>.

\* Sheheryar T. Sardar, Emory University School of Law, Juris Doctor Candidate, 2008, Atlanta, Georgia, U.S.

195. Pakistan Const. of 1973, available at <http://www.pakistani.org/pakistan/constitution/> (providing a detailed timeline of emergency decrees and orders affecting the status of the Constitution).

196. David Rohde, *Pakistan Declares State of Emergency*, INT'L HERALD TRIB., Nov. 3, 2007, available at [http://www.iht.com/articles/2007/11/03/asia/pakistan.php?WT.mc\\_id=rssfrontpage](http://www.iht.com/articles/2007/11/03/asia/pakistan.php?WT.mc_id=rssfrontpage). (reporting that Musharraf's order states that militant attacks have risen to "an unprecedented level of violent intensity" and now "pose a grave threat" to the people of Pakistan.) It also accuses "some members of the judiciary" of "working at cross purposes" with the government by releasing . . . detained militants," accusing the Supreme Court of "overstepping the limits of judicial authority" in a variety of areas, including economic policy.").

197. *Id.*

198. Griff Witte, *Ousted Chief Justice Speaks Out in Pakistan*, WASH. POST, Mar. 29, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/03/28/AR2007032802069.html>.

199. Rohde, *supra* note 196.

200. *Id.*



and human rights organizations were either detained or placed under house arrest.<sup>201</sup> Whether the decree affects the pending elections, scheduled for January 2008, remains to be seen.

## B. ELECTION LAW

Under President Musharraf's orders, Parliament is to be dissolved and a temporary government will take its place until elections are held.<sup>202</sup> To critics, elections under the Army Act will be rendered meaningless due to the widespread detention of opposition parties' members, lawyers and democracy activists.<sup>203</sup> Further, they question whether the President is simply attempting to placate protesters and international dismay by maintaining the election date under an indefinite emergency.<sup>204</sup>

## C. INTERNATIONAL LAW

While U.S. and British military aid to Pakistan will likely remain unaffected,<sup>205</sup> the Commonwealth may suspend Pakistan's membership from its fifty-three-nation group, likely affecting trade and economic understandings between Pakistan and member nations.<sup>206</sup>

## XVI. Palestine\*

Since Hamas's parliamentary victory in January 2006,<sup>207</sup> the political and economic condition of the West Bank and Gaza has continued to deteriorate. Statistics are difficult to come by, but according to the International Monetary Fund and World Bank, as of 2006, the unemployment rate in Palestine is a staggering 23.6 percent.<sup>208</sup> Real GDP fell 8 percent from 2005, and real GDP per capita has fallen by 11 percent.<sup>209</sup> Real GDP per capital is currently 40 percent below 1999 levels,<sup>210</sup> with low-income households feeling the brunt of the economic recession.<sup>211</sup> Needless to say, the situation in Palestine is dire and is unlikely to improve in the near future.

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201. *Id.*

202. *Id.*

203. *Id.*

204. *Id.*

205. Matthew Lee, *Bush Administration Finds No Legal Reason to Cut Aid to Pakistan*, N. COUNTY TIMES, Nov. 9, 2007, available at [http://www.nctimes.com/articles/2007/11/10/news/nation/7\\_10\\_4411\\_9\\_07.txt](http://www.nctimes.com/articles/2007/11/10/news/nation/7_10_4411_9_07.txt). Aid has totaled \$10 billion since 2001 and is governed by legislative requirements, triggering automatic cut-offs. All aid however, is covered by locked-in presidential waivers.

206. Sophie Walker, *Pakistan Could Face Commonwealth Suspension-UK*, REUTERS, Nov. 7, 2007, available at <http://www.alertmet.org/thenews/newsdesk/L07597630.htm>.

\* Hisham Kassim, B.A. University of Virginia 2003, J.D. expected University of Iowa College of Law 2007. (All Palestinian Laws are in Arabic and are translated by the author.)

207. Adrien Katherine Wing & Hisham Kassim, *Hamas, Constitutionalism, and Palestinian Women*, 50 HOW. L.J. 2, 480 (2007).

208. International Monetary Fund-World Bank, *West Bank and Gaza: Economic Developments 2006—A First Assessment*, at 6, (Mar. 2007) <http://www.imf.org/external/np/wbg/2007/eng/032607ed.pdf>.

209. *Id.* at 8.

210. *Id.* at 2.

211. *Id.* at 10.

In 2007, the Palestinian Legislative Council (PLC) did not pass any new laws and the Palestinian judiciary did not issue any rulings or opinions. The PLC was unable to convene during 2007 for two main reasons: (1) the imprisonment of PLC members and (2) infighting between the two political factions— Hamas and Fatah. Almost one-third of the PLC legislators are being held in Israeli prisons,<sup>212</sup> and the opposing political party or Israeli security forces are blocking the remaining two-thirds from attending parliamentary sessions.<sup>213</sup>

Given that the PLC is unable to convene, the Amended Basic Law grants the President of the Palestinian Authority (PA) authority to issue decrees or executive orders that have the effect of law.<sup>214</sup> The Amended Basic Law limits this Presidential power by requiring all decrees to be presented and approved by the PLC once it convenes; otherwise, the decrees lose their effect.<sup>215</sup> In 2007, the President issued approximately fifty decrees that pertain to a wide variety of matters, from setting the work schedule of government employees<sup>216</sup> to reimbursing police cadets studying outside of Palestine.<sup>217</sup> As of this writing none of the decrees have been presented to the PLC.

The decrees are largely administrative in nature and touch on matters that are not likely to cause any controversy and therefore unlikely to be rejected by the PLC.<sup>218</sup> There are a few decrees that may be overturned by the PLC once it convenes since they favor one particular group over another. One such decree is Decree No. 18 that exempts all Palestinians residing in southern districts from all PA taxes and fees.<sup>219</sup> The PLC members from those provinces are likely to rally very strongly to maintain the tax-exempt status of their constituents. PLC members from northern districts, however, are unlikely to approve the tax exemption unless it is also extended to their constituents as well.

## XVII. Qatar\*

Since Qatar's enactment of a permanent constitution in 2005, the booming gulf country has continued an impressive campaign to modernize its legal system. Two of Qatar's most recent legal developments include recent laws arming the judiciary with the power of judicial review, and a 2006 resolution expanding property-ownership rights for non-Qataris.

212. Wissam Afifah, *The Palestinian Legislative Council Convenes in Gaza and the West Bank*, International Middle East Media Center, Nov. 7, 2007, <http://www.imemc.org/article/51349> (last visited Mar. 28, 2008).

213. *Id.*

214. Amended Basic Law, art. 43 (2003) (Palestinian Authority).

215. *Id.*

216. Council of Minister's Public Employee Work Schedule Decree No. 12/2007, PALESTINIAN GAZETTE, Aug. 13, 2007.

217. Council of Minister's Police Cadets Reimbursement Decree No. 5/2007, PALESTINIAN GAZETTE, Aug. 13, 2007.

218. Other examples include: Executive Decree For the Establishment of a Christian Affairs Committee No. 4/2007, PALESTINIAN GAZETTE, Apr. 27, 2007; Executive Decree For the Establishment of the Yasser Arafat Institute No. 5/2007, PALESTINIAN GAZETTE, Apr. 27, 2007; and Council of Minister's Decree For the Establishment of a National Document Registry No. 1/2007, PALESTINIAN GAZETTE, Aug. 13, 2007.

219. Executive Tax and Fee Exemption Decree No. 1/2007, PALESTINIAN GAZETTE, Aug. 9, 2007, arts. 2 and 3.

\* Kinan H. Romman, an associate with Fulbright & Jaworski L.L.P. in Houston, Texas, prepared the report on developments in Qatar. The author thanks Mr. Nader Kadasa for his invaluable assistance.

## A. JUDICIAL REVIEW

Qatar's recent judicial review legislation shows a commitment to the new constitution's separation-of-powers concept.<sup>220</sup> The Qatari legislature has granted its judiciary the ability to review statutes and certain administrative actions through two laws. The first law, Law No. 6 of 2007, comes into force January 2008.<sup>221</sup> It gives the judiciary the right to review any legislative act for constitutionality. Article 1 of that law establishes a new "constitutional panel" that will decide all constitutionality questions relating to new and old legislation.

The second judicial review law, Law No. 7 of 2007, came into force on October 1, 2007.<sup>222</sup> This law establishes a check against the executive branch by allowing review of administrative actions. Law No. 7, however, is less potent than its counterpart because of exclusions and procedural hurdles that limit its application. For example, all decisions made by the Emir are expressly excluded. Several exclusions are also carved out for decisions relating to the media, munitions, government takings, and government contracts, leaving it substantively limited. Additionally, Article 4 of this new law confines complaints to four grounds for contesting administrative decisions: (1) lack of jurisdiction; (2) existence of defect of form; (3) erroneous application or construction of laws and regulations; and (4) abuse of power. Lastly, Article 5 of the law requires that administrative remedies first be exhausted and that the litigant establish standing before challenging administrative actions by showing a direct personal interest.

Taken together, these new laws on enabling judicial review suggest that the Qatari government is taking steps toward placing checks on legislative and executive power. Judicial review in some countries, however, has proven limited in practice despite laws that expressly support the concept.<sup>223</sup> Thus, it is too early to say that Qatar's flavor of judicial review will resemble active American- or German-style judicial oversight.

## B. PROPERTY OWNERSHIP

Turning to Qatar's new property resolution, Cabinet Resolution No. 6 of 2006 now lists eighteen locations in Qatar in which non-Qatari will be allowed usufruct ownership of real property.<sup>224</sup> This resolution comes just two years after Law No. 17 of 2004, which first created these usufruct rights but did not define their geographic reach.<sup>225</sup> Usufruct property ownership resembles a contractual leasehold right, except that it is a property right that runs with the land. The right lasts for ninety-nine years, allowing the owner to enjoy the property for "profit, utility and advantage" and even to transfer or renew the

220. See Qatar Permanent Const. (2005), arts. 60, 129 (providing for separation of powers as the basis for Qatar's governance and as an essential pillar of the state).

221. See Law No. 6 of 2007 Regarding the Constitutional Disputes (Qatar).

222. See Law No. 7 of 2007 Regarding the Administrative Disputes (Qatar).

223. See Jose E. Alvarez, *Judging the Security Council*, 90 AM. J. INT'L. L. 1, 25 (1996) (explaining that countries around the world exercise judicial review with varying levels of deference to the other branches of government and noting that Japan is extremely reserved despite expressly adopting judicial review in its constitution, and that, by contrast, Germany and India are extremely active in judicial oversight).

224. See The Council of Ministers Resolution No. 6 of 2006 Establishing Free Zone Areas and Determining Their Space and the Permitted Activities to be Conducted in These Areas (Qatar).

225. See Law No. 17 of 2004 Regulating the Ownership and Usufruct of Real Estate and Residential Units by Non-Qataris (Qatar).

right. The usufruct owner may also devise the property to legal heirs. In addition, if the usufruct right is associated with a residential property, the true owner must ensure the quiet enjoyment of the property and must indemnify the usufruct right holder against destruction of the home or a governmental taking.

This law greatly expands investment options for properties throughout Doha and surrounding areas. The hope is that Qatar will continue to expand the number of usufruct and outright ownership zones within the country through future resolutions. A proliferation of these zones could help bring down a recent spike in property values caused in large part by increased foreign demand, and could also bring additional investment to Qatar.<sup>226</sup>

## XVIII. Syria\*

### A. CAPITAL MARKETS

Syria continued its drive to establish the Damascus Stock Exchange (DME) aimed at going into service in 2008.<sup>227</sup> Law No. 22, enacted in 2005, serves as the basis for creating the Syrian stock market.<sup>228</sup> Syria has established the Syrian Commission for Financial Markets and Securities (SCFMS) to serve as the market regulator.<sup>229</sup> To date, 46 percent of Syria's family-owned companies have completed IPOs that tend to be oversubscribed due to the limitations in investment vehicles within the country.<sup>230</sup> The new laws require general partnerships to reorganize as Limited Liability Companies before being eligible for listing on the DME.<sup>231</sup> Syrian companies are also required to keep accurate balance sheets and provide for transparency.<sup>232</sup> The Syria Banking and Financial Services Conference was held in Damascus in November 2006 to promote the establishment of the DME and the new securities laws.<sup>233</sup>

### B. ACCESS TO HOUSING

Law No. 17 was enacted in July 2007 upon signature by President Bashar Assad to assist lower- and middle-income families with housing and to encourage investment in the real estate sector of the economy.<sup>234</sup> The new law is aimed at regulating Syria's large housing

226. See Ala'a Tamneh, *Qatar Property Market, Al Tamimi & Company Law Update: New Property Law Made Simple*, Aug. 2007, <http://www.tamimi.com/downloads/lawupdates/1u-198sep07.pdf> (last visited Mar. 28, 2008).

\* Christopher Scott Maravilla is Washington, D.C. attorney and is a Vice-Chair of the ABA Middle East Committee.

227. Alison Brooks, *Great Expectations: Reports on the Preparations for the Opening of the Damascus Stock Exchange*, SYRIA TODAY, Aug. 2007, available at [www.syria-today.com](http://www.syria-today.com) (in search box, type "Alison Brooks").

228. *Syria's Stock Market Law Shows Determination for Economic Reform, Minister*, SYRIA, ECONOMICS, June 21, 2005, available at <http://www.arabicnews.com/ansub/Daily/Day/050621/2005062106.html>.

229. See Iran's Bank Sepah, *supra* note 5.

230. *Id.*

231. *Id.*

232. *Id.*

233. Mohammed Imady, Chairman of the Board of Commissioners, Syrian Commission on Financial Markets and Securities, Speech at the Syrian Banking & Financial Services Conference: The Establishment of the Syrian Securities Exchange Market (Nov. 3-5, 2006), available at <http://www.syrianbankingconference.org/speeches/MohammedImady.htm>.

234. *Home Owning in Syria Easier*, <http://www.ameinfo.com/127974> (last visited Apr. 30, 2008).

cooperatives.<sup>235</sup> The law is expected to lower building costs, lower interest rates on mortgages, and extend terms to twenty-five years in line with those for agricultural cooperatives.<sup>236</sup>

## XIX. Tunisia\*

Building on past progress, Tunisia continued to move toward opening its economy to external trade. Significantly, on June 21, 2007, the first Ministerial Commission meeting of the member states of the Agreement for the Establishment of a Free Trade Zone among the Arabic Mediterranean Nations (the "Agadir Agreement") was held, marking the start of the technical implementation of the agreement.<sup>237</sup> The Agadir Agreement entered into force on January 1, 2006.<sup>238</sup> The purpose of the Agadir Agreement is to allow the member states to slowly open their markets to greater regional competition and increase Arab economic integration.<sup>239</sup> Additionally, on September 4, 2007, Tunisia signed four bilateral agreements with Pakistan in the areas of industry, science, technology, and tourism.<sup>240</sup>

The development and growth resulting from this ongoing economic liberalization has led to environmental challenges. According to the World Bank, the cost of damage to the environment from pollution and climate change amounts to 2.1 percent of Tunisia's gross domestic product.<sup>241</sup> To address the risks to its natural resources and improve living conditions, Tunisia's parliament passed new environmental legislation. Tunisia's new air pollution law, which came into effect on June 4, 2007, strengthened Tunisia's authority to enforce air quality standards.<sup>242</sup> The law places mandatory requirements on automobiles and companies for monitoring air quality and imposes fines from 1,000 to 50,000 dinars on companies that fail to limit air polluting emissions.<sup>243</sup> Further, the law requires firms to install technological equipment to prevent and limit air pollution at the source and join a national monitoring network at their own cost.<sup>244</sup> A new law concerning water quality

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235. *Id.*

236. *Id.*

\* Bobbie S. Neal, an attorney in Washington, D.C., prepared the report on developments in Tunisia.

237. *Agadir Agreement Member States Launch Work of Technical Committee*, JORDAN TIMES, June 22, 2007, available at <http://www.jordanembassyus.org/06222007004.htm>.

238. See Agreement for the Establishment of a Free Trade Zone between the Arabic Mediterranean Nations, Feb. 25, 2004, available at [http://www.bilaterals.org/article.php3?id\\_article=2513](http://www.bilaterals.org/article.php3?id_article=2513). The Arabic Mediterranean Nations are comprised of Tunisia, Morocco, Jordan and Egypt.

239. *Id.* at art. 2.

240. *Pak-Tunisia Sign 4 Agreements, Vow to Enhance Trade Volume Up to U.S. \$300 mln*, ASSOCIATED PRESS OF PAKISTAN, Sept. 4, 2007, available at [http://www.app.com.pk/en\\_/index.php?option=com\\_content&task=view&id=15910&Itemid=2](http://www.app.com.pk/en_/index.php?option=com_content&task=view&id=15910&Itemid=2).

241. WORLD BANK GROUP, ENVIRONMENT IN MENA, Sept. 2007, <http://siteresources.worldbank.org/INTMNAEGTOPENVIRONMENT/Resources/ENVIRONMENT-ENG-2007AM.pdf> (last visited Mar. 28, 2008).

242. See Loi n 2007-34 du 4 juin 2007, sur la qualité de l'air (Law no. 2007-34 of June 4, 2007, on air quality), available at <http://faolex.fao.org/docs/pdf/tun72480.pdf>.

243. *Id.* art. 13.

244. *Id.* art. 9.

also came into effect on June 4, authorizing the National Sanitation Utility to provide incentives or subsidies for treating wastewater.<sup>245</sup>

While Tunisia's economic progress in 2007 once again outpaced its democratic reform,<sup>246</sup> two promising events occurred, raising expectations for greater social and political freedoms. In early October, the Administrative Court of Tunisia declared that a twenty-year-old law banning the Islamic veil at work and in schools violated the freedom of religion guaranteed by the constitution.<sup>247</sup> The law banned hijab in public offices as a sign of extremism.<sup>248</sup> The court held that the prohibition violated individual rights and gave too much authority to the government over religious freedom.<sup>249</sup>

Additionally, in July, political activist lawyer Mohammad Abbou was released from custody after serving more than two years in prison, along with twenty-one other political prisoners, to mark the fiftieth Anniversary of the founding of the Republic of Tunisia.<sup>250</sup> Abbou was convicted in 2005 for assaulting and defaming the judiciary in an online article.<sup>251</sup> Human rights activists claimed that in reality Abbou's arrest and conviction was for writing an article criticizing Tunisian President Zine El Abidine Ben Ali's meeting with Israel's prime minister.<sup>252</sup> Abbou's conviction brought widespread condemnation from the international community and greater attention to the government's crackdown on freedom of expression.<sup>253</sup>

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245. See Loi n 2007-35 du 4 juin 2007, complétant la loi n 93-41 du 19 avril 1993 relative à l'Office National de l'Assainissement (Law n 2007-35 of June 4, 2007, complimenting Law n 93-41 that came into effect on Apr. 19, 1993 under the National Agency of Water Quality), available at <http://faolex.fao.org/docs/pdf/tun72481.pdf>.

246. See e.g., U.S. Dep't of State, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES—2006: TUNISIA (Mar. 6, 2007), <http://www.state.gov/g/drl/rls/hrrpt/2006/78864.htm> (last visited Mar. 28, 2008); U.S. Dep't of State, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2007: TUNISIA, (Sept. 14, 2007), <http://www.state.gov/g/drl/rls/irf/2007/90222.htm> (last visited Mar. 28, 2008); AMNESTY INT'L REPORT 2007, TUNISIA, <http://thereport.amnesty.org/eng/Regions/Middle-East-and-North-Africa/Tunisia> (last visited Mar. 28, 2008); *Tunisia Bans Human Rights Congress*, TURKISH DAILY NEWS, Feb. 19, 2007, available at <http://www.turkishdailynews.com.tr/article.php?enewsid=66468&mailtofriend=1>; Int'l Freedom of Expression Exchange (IFEX), *Joint Action IFEX-TMG Members Write to UN Secretary-General About Government's Obligations to Cease Harassment of Human Rights Defenders and Journalists*, Jan. 19, 2007, <http://www.ifex.org/en/content/view/full/80526> (last visited Mar. 28, 2008).

247. *Court Revokes Women's Veil Ban in Tunisia*, DEUTSCHE PRESSE-AGENTUR INT'L SERV., Oct. 11, 2007, available at <http://www.wwrn.org/article.php?idd=26555&sec=33&com=57>. A female teacher who had been suspended by school administrators for wearing hijab brought suit.

248. *Id.*

249. Mohammad Ahmad, *Eid Special for Hijab-clad Tunisians*, ISLAMONLINE NETWORK, Oct. 14, 2007, [http://www.islamonline.net/Servlet/Satellite?c=Article\\_C&pagename=Zone-English-News/NWE-Layout&cid=1190886347896](http://www.islamonline.net/Servlet/Satellite?c=Article_C&pagename=Zone-English-News/NWE-Layout&cid=1190886347896) (last visited Mar. 28, 2008); Jamel Arfaoui, *Tunisian Court Reinstates Veiled Teacher*, MAGHAREBIA, Oct. 10, 2007, available at [http://www.magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2007/10/10/feature-02](http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2007/10/10/feature-02). The verdict has been subject to a media blackout. *Id.*

250. Jill Carroll, *A Rare Free-Speech Victory in Tunisia*, CHRISTIAN SCIENCE MONITOR, Sept. 28, 2007, available at <http://www.csmonitor.com/2007/0928/p06s02-wome.html>.

251. *Id.*

252. *Id.*

253. *Id.*

## XX. Turkey\*

Turkey is experiencing stable, uninterrupted economic growth in its push to create a pro-business, pro-investment climate. The transactions completed for this year to the end of October 2007 were in excess of \$24.1 billion.<sup>254</sup>

In its bid for accession to the European Union (E.U.), Turkey has made progress in bringing its legislation in line with E.U. standards; however, it has experienced a slow-down in the reform process in comparison to the previous year. This may be due in part to the European Council's decision in December 2006 to delay commencement of negotiations for eight of its chapters until the European Commission (the "Commission") confirms that Turkey has fulfilled its commitments regarding Cyprus<sup>255</sup> in accordance with the Commission's recommendations.<sup>256</sup> As part of its accession negotiations with the E.U., Turkey prepared a series of presentations in October 2006.<sup>257</sup> The Commission presented screening reports on more than one-third of all chapters of the *acquis communautaire*, and similar reports are expected to follow by the end of 2007. The "Science and Research" chapter was provisionally closed, and Turkey prepared its negotiation position on the "Enterprise and Industrial Policy" chapter for its third meeting with the Commission at the Accession Conference in June, 2007. At this Conference, two new chapters (Statistics and Financial Control) were opened, with benchmarks noted. The Conference also confirmed the commencement of ministerial-level negotiations on the "Enterprise and Industrial Policy" chapter, which had been opened previously at the deputy level.<sup>258</sup> On November 6, 2007, the Commission's annual report on Turkey's accession progress was published.<sup>259</sup> This report urges Turkey to renew the momentum of political reforms, and states that greater efforts must be made, especially on freedom of expression, civilian control of the military, and the rights of non-Muslim communities. Moreover, enlargement remains at the top of the agenda in the Commission's 2008 policy strategy.<sup>260</sup>

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\* Hakki Gedik and Dirk Gaupp of Hergüner Bilgen Özeke, Attorneys at Law, Istanbul, Turkey, prepared the report on Turkey.

254. See Dealwatch—Turkey, available at <http://www.securities.com>.

255. See Presidency Conclusions, Brussels European Council (Feb. 12, 2007), available at [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/92202.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/92202.pdf); Press Release, Council of the European Union, General Affairs and External Relations (Dec. 11, 2006) available at <http://europa.eu/rapid/pressReleasesAction.do?reference=PRES/06/352&format=HTML&aged=1&language=EN&guiLanguage=fr>.

256. See Press Release, Council of the European Union, Commission Presents Its Recommendation on the Continuation of Turkey's Accession Negotiations (Nov. 29, 2006), available at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1652>.

257. See Hakki Gedik, Middle East Committee, Middle East Law Bulletin, 2007 A.B.A., Sec. Int'l L. Rep. 1, 23, available at <http://meetings.abanet.org/webupload/commupload/IC850000/newsletterpubs/MiddleEastLawBulletin1-1-2007.pdf>.

258. See Press Release, Council of the EU, Third Meeting of the Accession Conference at Ministerial Level with Turkey (June 26, 2007), available at [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/er/94975.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/er/94975.pdf).

259. See Commission at the European Communities, Enlargement Strategy and Main Challenges 2007-2008, at 8-9, COM (2007) 663 final (Nov. 6, 2007), available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/turkey\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf).

260. See Commission at the European Communities, *Annual Policy Strategy for 2008*, COM (2007) 65 final (Feb. 21, 2007), available at [http://ec.europa.eu/atwork/synthesis/doc/aps\\_2008\\_en.pdf](http://ec.europa.eu/atwork/synthesis/doc/aps_2008_en.pdf); see also Commission at the European Communities, Enlargement Strategy and Main Challenges 2007-2008, COM (2007) 663 final (Nov. 6, 2007), available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/strategy\\_paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/strategy_paper_en.pdf).

Within Turkey, the most significant law enacted in 2007 was the long-anticipated Mortgage Law.<sup>261</sup> The amendments were intended to establish the framework for the housing-finance system. This in turn is expected to provide an increase in capital market ventures for Turkish and foreign investors through the creation of new-debt instruments, financial institutions, and different types of funds; it will also assist in developing a fully-fledged mortgage system with E.U. standards.

Although there was much grumbling surrounding the general and presidential elections in July and August 2007, respectively, there has been no significant instability in the marketplace. The broadening of the current account deficit, however, remains a factor of uncertainty. Investment is still on the rise, and with stricter economic policies emanating from the Government, there is much optimism that Turkey will maintain consistent economic growth.

## XXI. United Arab Emirates\*

There have been a number of significant legal changes in the United Arab Emirates (UAE) in 2007. Two noteworthy changes include the new Anti-Fronting Law and Insurance Law in the UAE, with other significant legal developments in Dubai, discussed below.

The Anti-Fronting Law, passed in 2004, was intended to become effective on November 15, 2007.<sup>262</sup> According to recent newspaper reports, however, the enforcement of the Anti-Fronting Law has been deferred to December 31, 2009.<sup>263</sup> This law may affect the manner in which certain businesses in the UAE are currently structured. Under existing laws, foreigners can only own up to 49 percent of a UAE limited liability company (LLC) and cannot undertake certain activities (e.g., ownership of real estate in most areas of the UAE).<sup>264</sup> In order to circumvent such restrictions, a practice was developed whereby UAE nationals set up enterprises or service companies for activities prohibited to foreigners or to permit them to own shares in excess of those permitted to foreigners and then the nationals entered entering into “side agreements” with the foreign party(ies).<sup>265</sup> In

261. See Law No. 5582 on Amendments in Various Laws Related to House Financing System, published in the Official Gazette No. 26454 on March 6, 2007. For an unofficial translation of the Mortgage Law into the English language, see the website of the Capital Markets Board, <http://www.cmb.gov.tr/displayfile.aspx?action=displayfile&pageid=25&fn=25.pdf>. The Mortgage Law amends the provisions of several laws, such as Law of Foreclosure and Bankruptcy No. 2004, Capital Markets Law No. 2499, Consumer Protection Law No. 4077, Stamp Duty Law No. 488, Value Added Tax Law No. 3065 and Duties Law No. 49.

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262. See generally Federal Law No. 17 of 2004 Concerning Combating Commercial Harboursing (U.A.E.) (stating that “[e]nabling a foreigner—whether a natural or a juristic person—to perform any economic or professional activity which the laws and resolutions . . . do not permit him to perform” is prohibited).

263. See *UAE to Enforce Companies and Commercial Law in Phases*, GULF NEWS, Nov. 2, 2007, available at <http://archive.gulfnews.com/articles/07/11/03/10164727.html> (noting that “the U.A.E. Cabinet’s resolution No. 229 12, issued in 2007, will be adhered to as it defers the enforcement of the federal law No. 17, issued in 2004, on prevention of commercial secrecy, until December 31, 2009”).

264. See generally Federal Law No. 8 of 1984 Regarding Commercial Companies (U.A.E.).

265. Mahyra Roy, *New Anti-Fronting Law Released*, INT’L TAX REV., Apr. 2005, available at <http://internationaltaxreview.com/includes/magazine>.



this manner, certain foreigners would engage in activities they could not otherwise undertake. The Anti-Fronting Law essentially prohibits local companies from acting as illegal proxies for foreign companies. Second, if a foreign company wishes to establish a local LLC under existing laws, it may do so only if it enters into a joint venture with a local partner owning at least 51 percent of the shares of the UAE LLC.<sup>266</sup> In some arrangements that are not properly drafted, the foreigner's beneficial ownership is essentially 100 percent of the dividends in the LLC, which is in excess of those dividends permitted for the minority shareholder in the Articles of Association of the LLC, and in violation of the Anti-Fronting Law.<sup>267</sup> The Anti-Fronting Law likely also prohibits the situation in which a UAE national purchases property on behalf of a foreigner in a restricted area in UAE.<sup>268</sup> Proposed penalties for violating the law include heavy fines and potential imprisonment for repeat offenses.<sup>269</sup>

The UAE also implemented a new Insurance Law on February 15, 2007, to regulate all local insurance companies, foreign insurance companies, and agents licensed to carry out insurance activities in the UAE.<sup>270</sup> This law requires all those subject to the law to register and obtain a license to conduct insurance activities in the UAE.<sup>271</sup> The Insurance Law also prohibits placing any insurance on any funds, assets, or liabilities located or occurring in the UAE with a non-UAE admitted insurance company.

In addition to such significant legal developments in the UAE, the Emirate of Dubai has enacted various laws regulating companies dealing with property and construction in the Emirate of Dubai. These developments are not surprising in light of the current activity in this sector. One important law having a wide-range of implications for the property market is Dubai's new law providing an escrow regime.<sup>272</sup> This new regime requires the registration, licensing, and regulation of all developers undertaking property development activities in the Emirate of Dubai.<sup>273</sup> All such developers must comply with the law by December 28, 2007.<sup>274</sup> The law requires that any funds received in relation to a development must be administered through an escrow account controlled by the Dubai Lands Department (the "Department"),<sup>275</sup> and the proceeds are to be used solely for the purpose of constructing the particular real estate project.<sup>276</sup> The Department will keep 5

266. See Federal Law No. 8, *supra* note 264, art. 22.

267. It is, however, widely expected that a new version of the U.A.E. Companies Law will soon be promulgated and will increase the ownership percentage permissible for foreign parties in a U.A.E. LLC.

268. Historically, ownership of land and buildings in the U.A.E. has been restricted to U.A.E. nationals. Over the past few years, however, some emirates such as Dubai and Abu Dhabi have allowed foreigners to own property in certain designated areas. See Dubai Law No. 7 of 2006 In Respect of Real Estate Registration in the Emirate of Dubai, *available at* [http://www.dubailand.gov.ae/ld\\_website/pdfs/trust\\_law\\_eng.pdf](http://www.dubailand.gov.ae/ld_website/pdfs/trust_law_eng.pdf).

269. Federal Law No. 17 of 2004 Concerning Combating Commercial Harboursing, art. 3 (U.A.E.).

270. See Federal Law No. 6 of 2007 In Respect of Forming an Insurance Association and Organizing its Activities in the UAE (U.A.E.).

271. *Id.*, art. 47 (stating that no insurance company is to be established unless permission has been granted from the Insurance Committee as it deems appropriate and upon the needs of the local economy).

272. See Law No. 8 of 2007 Concerning Guarantee Accounts of Real Estate Developments in the Emirate of Dubai (U.A.E.).

273. *Id.* (specifying that the law applies to a developer who sell units off-plan and receive payments from buyers or financiers before completion of the development).

274. *Id.*, art. 18.

275. *Id.*, art. 7 (indicating that any funds raised by way of a mortgage secured for the development must be deposited into a guarantee account opened by the developer for each project).

276. *Id.* art. 8.

percent of the “total amount of the guarantee account” for a period of one year after the certificate of completion is issued, and the release of such funds will not be made until one year after all units in the development are registered in the purchaser’s name.<sup>277</sup> Non-compliance with such provisions of the Escrow Law may lead to heavy fines and incarceration for an undefined period.<sup>278</sup>

Finally, it is important to note that Dubai International Arbitration Centre (DIAC) has recently published new arbitration rules for all arbitral proceedings commenced on or after May 7, 2007.<sup>279</sup> DIAC aims to be the leading arbitration center in the region, and the new rules were drafted for use in arbitrations held abroad as well as in Dubai. The new rules reflect and consolidate many international best practices embodied in the rules of more established arbitral proceedings. International practitioners will therefore find the DIAC rules familiar. It is important to remember, however, that arbitration rules must always be read in conjunction with applicable national arbitration laws or regulations, such as the arbitration provisions of the UAE Civil Procedure Law.

## XXII. Yemen\*

The Yemeni government this year continued its drive to attract greater foreign aid and ease growing dissatisfaction among the country’s citizens<sup>280</sup> by holding elections and undertaking reforms to demonstrate a commitment to democratic principles and greater transparency.

The push to create greater transparency and accountability in Yemen’s government culminated in the Anti-Corruption Law No. 39, ratified by Parliament in December 2006.<sup>281</sup> This law establishes a National Supreme Anti-Corruption Authority (NSACA) made up of figures from the public and private sector, as well as civil society, who together act as a watchdog over all governmental bodies, investigating acts of corruption, and re-

277. *Id.* art. 14.

278. *Id.* art. 16.

279. Dubai Int’l Arbitration Ctr., *Dubai International Arbitration Center Rules*, May 7, 2007, available at <http://www.diac.ae/idiias/rules>.

\* Mark Youakim, a Chicago-based attorney who has worked with prominent law firms in the Middle East and Asia, prepared this report on Yemen.

280. Yemen, positioned on the southwestern tip of the Arabian peninsula, is the poorest country in the Arab World. Although Yemen is an oil exporter, and these exports provide about 70% of all government revenue, the oil has done little to benefit the people of Yemen. Widespread corruption has siphoned off much of the gains to be made from the country’s oil exports, and Yemen’s meager oil reserves are quickly being depleted; by some estimates, they will be exhausted by 2012. Other factors are contributing to instability: an exponentially growing population, the resulting strain on the country’s water supplies, a significant decrease of foreign investment in the country in recent years, growing anxiety of its citizens over a worsening economic situation, and the difficulty of the Government to assert its authority over the outlying tribal areas. These factors are all worrying developments that have promoted some observers to describe Yemen as on the brink of reverting into a failed state, which in turn have pushed President Ali Abdallah Saleh to take on high-profile measures to address these challenges. See Malcolm B. Russell, *The Middle East and South Asia*, 185-91 (2007); See also, *Letter from the Deputy Prime Minister and Minister of Planning and International Cooperation on the Outcome of the Yemen 1st Post CG Follow Up Meeting Held on June 20, 2007 in Sana’a*, Republic of Yemen (July, 24, 2007), available at <http://www.yemencg.org/post/Letter%20from%20DPM%20-%201st%20Post%20CG%20Follow%20Up%20Meeting.pdf>.

281. Ginny Hill, *Millions In Aid Linked to Yemeni Reform*, CHRISTIAN SCIENCE MONITOR, Feb. 27, 2007, <http://www.csmonitor.com/2007/0227/p07s02-wome/htm>.

taining the authority to seize and confiscate corrupt proceeds.<sup>282</sup> The NSACA will have political and financial independence from the executive branch, and it is hoped will engender more confidence in Yemen's political system by foreign donors and its citizens.<sup>283</sup>

The Yemeni government's reform efforts, which began in early 2006 and continued throughout 2007, were noted and duly rewarded by foreign aid donors. The United States reinstated Yemen's eligibility for Threshold Assistance under the Millennium Challenge Corporation (MCC), a Bush administration plan that ties aid to governance benchmarks, in February 2007.<sup>284</sup> In September 2007, the MCC awarded Yemen \$20.6 million under a two-year Threshold program to fight corruption, increase judicial capacity, improve elections, and strengthen the investment climate.<sup>285</sup> Yemen would need to demonstrate broader and deeper governmental reforms to be eligible as a full member under the MCC.<sup>286</sup> Britain and the Gulf states too demonstrated renewed confidence in Yemen and in total pledged \$4.7 billion in aid over the next four years.<sup>287</sup>

Yemen's new-found financial support will help President Saleh manage some of the country's daunting problems, but it remains to be seen what impact these reforms will

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282. See Zaid al-Alaya'a & Abdul-Aziz Oudah, *Anti-Corruption Audits High-Ranking Officials*, YEMEN OBSERVER, Oct. 2, 2007, available at <http://www.yobserver.com/front-page/printer-10013035.html>; Ismail Al-Ghabri, *Anti-Corruption Committee Members Elected*, YEMEN TIMES, Mar. 29, 2007, available at [http://yemen-times.com/print\\_article.shtml?i=1037&p=front&a=2](http://yemen-times.com/print_article.shtml?i=1037&p=front&a=2); U.S. Dep't of State, *Country Reports on Human Rights Practices—2006: Yemen*, Mar. 6, 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78867.htm> (last visited Mar. 28, 2008); *Arab Political Systems: Baseline Information and Reforms—Yemen*, at 23, available at <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=16918>.

283. U.S. Dep't of State, *supra* note 282; see also Ministry of Planning and International Cooperation, *Republic of Yemen Consultative Group Meeting: The National Reform Agenda: A Progress Report* (Nov. 15-16, 2006), available at <http://www.yemencg.org/library/after/Opening%20statements/World%20bank%20Statement.pdf>.

284. Hill, *supra* note 281. Yemen had previously been a member of the Threshold Program, but its membership was suspended in November 2005 due to "deteriorating" performance in certain areas. According to the Millennium Challenge Corporation (MCC), "MCC's Board of Directors selects countries for eligibility for Compact or Threshold Program assistance from a pool of candidate countries based on each country's commitment in three broad policy categories, ruling justly, investing in people, and promoting economic freedom, as measured by performance on sixteen independent, non-U.S. Government policy indicators within their income peer group. Threshold countries do not meet the criteria for Compact eligibility, but are close and have demonstrated a commitment to improve policy performance." See Millennium Challenge Corporation, *Yemen Reinstated to Threshold Program: Aggressive and Demonstrable Progress On Reform Made* (2007), available at <http://www.mcc.gov/press/factsheet/2007/factsheet-021407-yemen.php>

285. *Arab Political Systems*, *supra* note 282, at 2.

286. Millennium Challenge Corporation, *supra* note 284.

287. Hill, *supra* note 281. However, funding from Western donors in Yemen is very limited compared with what is given by the Gulf states, which tend to have different political priorities for funding they provide to their neighbors. Western donors should attempt to coordinate and negotiate their funding priorities with the Gulf states to increase the impact of the programs they support. See Sarah Phillips, *Evaluating Political Reform in Yemen, Democracy and Rule of Law Program: Middle East Series*, Carnegie Endowment, No. 80, at 21 (Feb. 2007), available at [http://www.carnegieendowment.org/files/cp\\_80\\_phillips\\_yemen\\_final.pdf](http://www.carnegieendowment.org/files/cp_80_phillips_yemen_final.pdf). In addition, the United States may have been enticed to reinstate the Threshold Program and convince other Western and the Gulf states to contribute significant amounts of aid out of American interests to retain President Saleh as a close ally in the war on terror. See Heba Saleh, *Analysis: Yemen After the Vote*, BBC NEWS, Feb. 10, 2006, available at [http://news.bbc.co.uk/2/hi/middle\\_east/5398558.stm](http://news.bbc.co.uk/2/hi/middle_east/5398558.stm).

have on Yemen and whether they will continue to have significance after President Saleh leaves office.<sup>288</sup>

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288. The Government has proposed a series of constitutional amendments that would reduce the length of the presidential term to five years. See Millennium Challenge Corporation, *supra* note 284. As of now, President Saleh may serve two seven-year terms since a 2001 amendment. This amendment allows President Saleh to remain in office subject to reelection until 2013. See Arab Political Systems, *supra* note 282, at 3.