

2004

International Legal Updates

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Recommended Citation

Rawani, Swati, and Sabrina Balamwalla. "International Legal Updates." Human Rights Brief 12, no. 1 (2004): 30-32.

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INTERNATIONAL LEGAL UPDATES

ASIA

CHINA AMENDS INFECTIOUS DISEASE PREVENTION LAW

During its most recent parliamentary session, China passed a revision to its Law on the Prevention and Control of Infectious Diseases. The revised law requires the central government to guarantee funding for disease control and prevention around the country and stipulates that the government should strengthen prevention and control of HIV/AIDS and take measures to prevent the spread of the disease. It also forbids discrimination against people infected with contagious diseases, people who carry the pathogen of an infectious disease, and people who are suspected of having an infectious disease. The revision emphasizes prevention and early warning of contagious diseases, isolation of patients with contagious diseases, and places greater responsibility on medical institutions to monitor the spread of contagious disease and prevent infections in hospitals.

The revision also regulates the buying and selling of blood to prevent the spread of HIV infections related to blood transfusions. It places responsibility on all levels of government to improve HIV prevention and control and for hospitals and blood collection centers to report any signs of infectious diseases among donors and patients.

The government passed these revisions in response to last year's SARS outbreak in China, when many Chinese officials realized they were unable to effectively control and report the spread of an outbreak. The SARS outbreak highlighted problems of inadequate funding, inefficient epidemic reporting, and weak prevention and control efforts. The new law attempts to address these issues.

The revised law is significant because it is the first time that HIV/AIDS is specifically targeted in Chinese law. HIV/AIDS is a significant health and human rights issue in China. According to a China/CDC survey, 840,000 people in China were living with

HIV/AIDS in 2003. UNAIDS, the Joint United Nations Programme on HIV/AIDS, reports that the number of infected Chinese could be as high as ten million by 2010 unless China adopts an aggressive program to curtail the epidemic. Among the reported cases, eleven percent were infected by blood transfusions. It is believed that in the 1990s, in the Henan province in Central China, as many as one million farmers were infected with HIV as a result of poorly monitored blood-selling programs run in part by health department officials. Local officials attempted to cover up this spread of HIV by harassing protestors and trying to prevent news coverage. For this and other reasons, independent estimates tend to report much higher infection rates than official figures.

Discrimination against people with HIV/AIDS is perceived as one of China's largest barriers in promoting prevention efforts against the epidemic. Many local regulations infringe on the employment, residence, and education rights of those living with HIV/AIDS. Human rights organizations and supporters of the revised law believe that this act was long overdue. Although these legal changes are necessary in light of the widespread abuses related to HIV status in China, observers caution that the revised law will not have any significant effect unless it is properly enforced.

INDIA REPEALS THE PREVENTION OF TERRORISM ACT (POTA)

The Indian government revised India's highly controversial anti-terrorism legislation on September 17, 2004. The parliament approved an ordinance to repeal the Prevention of Terrorism Act (POTA) and passed amendments to the Unlawful Activities Prevention Act.

On March 22, 2002, POTA was originally approved at a special joint session of the national parliament. The act was created in response to the global threat of terrorism following the 9/11 attacks on the United States and the attack on India's parliament in December 2001. The present government, which was elected in May, stated that the

human rights violations which occurred under POTA were a significant reason for its repeal. The purpose of the repeal, according to the government, was to ensure that innocent people did not suffer.

The POTA repeal has received both positive and negative reactions. Supporters have argued that POTA was a controversial, "draconian" piece of legislation that authorized human rights violations by the Indian government. Criticism of the Act focused on provisions whereby a suspect could be kept in custody for one year without bail; the accused had to prove his or her innocence rather than the prosecution proving his or her guilt; and confessions to police could also be used as evidence in court. Allegedly, POTA also unfairly targeted many Muslims and marginalized some communities and indigenous groups. Thus, many human rights organizations view the repeal of POTA as a step toward protecting civil liberties in India and believe that this is a positive move toward protecting human rights while maintaining counter-terror efforts.

While some are happy to see POTA revoked, others claim that the government has weakened India's fight against terrorism. Tamil Nadu Chief Minister Jayalalithaa described the repeal of POTA as "ill-considered" and declared that it leaves a "vacuum in the country's defense against terrorism." She argues that legal officials no longer have a special law at their disposal to effectively address terrorism. Instead, they will be forced to rely on archaic laws, which have proved to be inadequate. Some members of the Bharatiya Janata Party, which originally approved this legislation in 2002, claim that the repeal of POTA was a politically motivated move by the current Congress Party.

In addition to the repeal, another ordinance amended the existing Unlawful Activities Prevention Act to maintain India's fight against terrorism. The government reports that provisions incorporated in the Unlawful Activities Prevention Act ensure that the fight against terrorism will not be weakened. The new provisions include lan-

guage to provide for: 1) a definition of terrorism; 2) specifications for how funding of terrorism can be blocked; 3) removal of the stringent provision under which bail cannot be granted for six months; 4) the inadmissibility of a confessional statement before the police; and 5) placing the onus of proving innocence on the prosecuting agency rather than on the accused.

In December 2003, the government established a review committee to address the alleged abuses under POTA. Despite the recent repeal, many people are still being tried in various parts of the country under POTA. In the last two years, 217 cases were filed under POTA. The government has set a one-year “sun-set” period during which the committee will review all POTA cases and finalize their decisions.

MIDDLE EAST UPDATE

SAUDI ARABIA

Saudi Arabia will begin its first municipal elections on February 10, 2005. These elections represent the country's first ever nationwide public vote. Half of the 178 seats in Parliament will be determined after completion of the third round of elections in April 2005. The opening of candidate registration in December 2004 may mark another notable moment in Saudi history—the first instance of women running for elected office.

In May 2003, the Council of Ministers endorsed King Fahd Ibn Abdul Aziz's decision to hold national elections—part of a series of post-September 11th reforms influenced by foreign diplomatic pressure and domestic struggles with Islamic insurgency. Women have been included in many of these reforms as participants in forums to discuss domestic challenges, beneficiaries of government efforts to create job opportunities for women, and recent appointees to national committees (including the National Human Rights Commission). Despite this general trend of inclusion, however, there has been contention surrounding women's involvement in the upcoming elections.

Saudi Arabia's first election law, issued by the Ministry of Municipal Affairs in August 2004, uses the masculine form of the Arabic word for “citizen” in its description of voter eligibility. This language, however, is common in Saudi Arabia's legal texts, and many suffragists claim that the law is not gender-specific. Following the publication of the

law, suffragists launched a campaign to rally women as potential voters and candidates.

In September 2004, 37 year-old Nadia Bakhurji of Riyadh announced her plans to run for a parliamentary seat. An architect and mother of two, Bakhurji was encouraged to run by fellow suffragists due, in part, to the notable leadership of her firm, which she has independently managed for 10 years. Her campaign platform includes environmental, safety, architectural, and community development issues.

In response to Bakhurji's announcement, Ministry of Municipal Affairs Undersecretary Mohammad al-Nagady claimed that women are ineligible to vote in the upcoming elections. Bakhurji's candidacy also sparked a debate among Shari'a Council members and Islamic legal scholars about whether Islam permits women to hold political office. On October 11, 2004, Interior Minister Prince Nyeef bin Sultan announced that women would not be allowed to vote, though this may change in future elections. The government did not release an official statement on women's candidacy.

One week later, Fatin Bundagji, head of the Women's Empowerment Department at Jeddah's Chamber of Commerce and Industry, announced her candidacy. Both Bakhurji and Bundagji are undeterred by claims that they will be unable to run for office and are awaiting the government's official word before ending their campaigns.

LEBANON AND SYRIA

On September 2, 2004, the UN Security Council passed Resolution 1559, enforcing Lebanese sovereignty and calling for the withdrawal of occupying troops from Lebanon. The U.S.-drafted Resolution, passed by a vote of 9-0, narrowly meets the minimum number of required votes. Though not explicitly stated, the Resolution is squarely directed at Syria—the only outside force in Lebanon. The Resolution also calls for dismantling the weapons of all Lebanese and non-Lebanese militias, referring to Hezbollah fighters and Palestinian militants who receive Syrian support. The impact of the Resolution has extended beyond the scope of Lebanese and Middle Eastern affairs, raising serious questions about appropriate applications of international law.

Syrian troops first entered Lebanon in 1976 as one of the many intervening forces occupying the country throughout its 15-year

civil war. A 1989 agreement permitted Syrian forces to remain in Lebanon until the two governments conducted negotiations for their removal. According to Lebanese military sources, Syria currently maintains 17,000 troops in Lebanon and has final authority over Lebanese government decisions.

Pro-Syrian president of Lebanon, Emile Lahoud, was scheduled leave office in November 2004, upon expiration of his term. Following the issuance of Resolution 1559, however, the Lebanese Parliament convened to vote on an amendment to the Constitution that would extend Lahoud's presidency for an additional three years. The vote left the Parliament divided over loyalties to Syria and President Lahoud. On October 20, 2004, Rafiq Hariri, Lebanon's Prime Minister since the end of the civil war and a major figure in the process of national reconstruction, dissolved his cabinet and submitted his resignation over issue of the coerced vote. Four presidential cabinet members also resigned, and many members of Parliament expressed their frustration with Syrian influence over Lebanese domestic politics. UN Secretary General Kofi Annan also criticized the Parliament's decision.

The U.S. has placed considerable pressure on Syria regarding its weapons of mass destruction program and the government's continued funding of guerilla groups. These concerns were expressed at the Arab League meeting in Cairo on September 14, where views clashed over issues of international law, the role of the UN, and national sovereignty. Jordan and six Gulf countries pushed for the application of Resolution 1559. Syrian Foreign Minister Farouk al-Sharaa, however, claimed that the Resolution represents excessive American intervention in Syrian internal affairs and constitutes a threat to Syrian sovereignty. Other representatives added that the Resolution fails to hold the Israeli government to the same legal standards of occupation as the Syrian government. As a result of divided opinion, the Arab League Resolution drafted at the meeting makes no mention of UN Resolution 1559.

Lebanese Defense Minister Mahmoud Hammoud stated that Syrian forces would not withdraw until the end of the Arab-Israeli conflict. However, three weeks following the UN Security Council vote, Lebanese sources claimed that Syria relocated approximately 3,000 troops from their positions in

towns south of Beirut. The Syrian government did not notify the UN as to whether these were troops or military intelligence officers, and it is unclear how many of them were redeployed to Syria. Regarding the status of Hezbollah and Palestinian militants in Lebanon, the Lebanese government claims that the “fragile security situation” is too unstable for substantial government action against these militias.

BAHRAIN

On September 26, 2004, Bahraini police detained 'Abd al-Hadi al-Khawaja, Vice President of the Bahrain Center for Human Rights (BCHR). Al-Khawaja was summoned to the police station the day after he addressed the Poverty and Economic Rights Symposium, sponsored by his organization, where he criticized Prime Minister Shaikh Khalifa al-Khalifa's role in Bahrain's economic difficulties and history of human rights abuses. It is reported that al-Khawaja

will be detained for 45 days during the investigation of charges against him, namely “encouraging hate of the State” and “distribution of falseness and rumors” in violation of the National Penal Code.

The BCHR, a leading human rights organization in the Gulf, is one of two such organizations endorsed by King Hamad bin 'Isa al-Khalifa. One of the organization's most prominent projects is the Migrant Workers Group, which supports foreign workers and maintains a shelter for abused domestic employees. At the symposium where al-Khawaja delivered his controversial address, BCHR launched a two-year cooperative initiative to address poverty issues in Bahrain.

Four days after al-Khawaja's detention, the Ministry of Labor and Social Affairs ordered the dissolution of the BCHR and an audit of its books and activities by a government official. Nabeel Rajab, BCHR's president, told Human Rights Watch that the

office's electricity was cut and staff was prohibited from entering the building. Rajab met with the public prosecutor on October 2, but was denied permission to visit al-Khawaja or to secure him legal counsel.

The Ministry of Labor and Social Affairs also gave notice to an additional 80 civil society organizations, threatening to dissolve them should they fail to provide the address of their meeting locations and times of their general meetings. Despite Bahrain's recent history of reform, the National Penal Code still restricts freedom of expression and association. Al-Khalifa, the King's uncle and Prime Minister since 1971, was instrumental in developing and implementing the code. *HRB*

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