



# IJCSL NEWSLETTER

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## ANTI-TERRORISM LEGISLATION/REGULATIONS

### PARAGUAY—AMENDMENT TO ANTI-TERRORIST LAW PROPOSED

The Government of [Paraguay](#) has introduced proposals for the modification of the penal code and an Anti-Terrorist Law which could result in the criminalization of social protest and the paralysis of civil society organizations throughout the country. According to a news article published by [UPSIDE DOWN WORLD](#) on 8 August 2007, the proposed anti-terrorism law does not include a clear definition of what exactly constitutes the crime of “terrorism,” leaving it to an arbitrary decision by a judge. Behavior which could be considered terrorism include “dangerous interventions or obstacles on public roadways,” “noise pollution” and other actions which “intimidate Paraguayan citizens.” Under the law, financing terrorist activities is also a crime punishable by 5-15 years in prison, as is any kind of association with terrorist organizations.

### UNITED STATES--NEW VETTING SYSTEM FOR NGOS AND FOREIGN AID GROUPS RECEIVING USAID FUNDING DELAYED

The Bush administration plans to screen thousands of people who work with charities and not-for-profit organizations that receive [United States Agency for International Development](#) funds to ensure they are not connected with individuals or groups associated with terrorism, reported the [WASHINGTON POST](#) on 23 August 2007, quoting a recent Federal Register [notice](#). The program entitled “Partner Vetting System” demands that NGOs file information with the government on each officer, board member, and key employee and those associated with an application for USAID funds or managing a project when funded. The information is to include name, address, date and place of birth, citizenship, Social Security and passport numbers, sex, and profession or other employment data. The new system was to have become effective on 27 August 2007 unless further notice was placed in the Federal Register. Foreign aid groups, NGOs, and other stakeholders expressed grave concerns that the plan would impose undue burdens and has no statutory basis. They have requested that it be withdrawn, and as this issue of IJCSL-N went to press, the government had announced that it would delay the implementation of the policy so as to hear concerns of stakeholders. Under current regulations, the agency requires that recipients of federal money vet staff members on their own and certify to the government that no one associated with the organizations appears on terrorist watch lists.

## CITIZEN PARTICIPATION AND FREEDOM OF INFORMATION

### CHILE—

- **COURT FINDS A CONSTITUTIONAL RIGHT OF ACCESS TO INFORMATION**

Chile’s highest court has issued a seminal ruling, declaring for the first time that the right of access to government information is protected by the constitution’s guarantee of freedom of expression. A news article published by [JUSTICE](#)



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[INITIATIVE](#) on 17 August 2007 in states that in *Casas Cordero et al v. The National Customs Service*, the Court finding for the applicant struck down a statutory provision that granted officials excessive discretion to withhold information in the name of private interests. It was the first freedom of information case to reach the [Constitutional Tribunal](#). The case arose when a Chilean company filed a request for information from Chile's Customs Department, regarding alleged irregularities in setting customs tariffs. At issue was whether the government may withhold information provided by a private company, without even consulting the private party or considering the public's interest in the publication of that information. (For previous coverage see [May 2007 issue of IJCSL-Newsletter](#))

- **ARTICLE 19 ANALYZES DRAFT FOI LAW**

Article 19 has released a memorandum on the draft FOI law. [The Access to Government-held Information bill](#) ["draft Law"] contains a number of positive elements, according to the organization. At the same time, the draft Law suffers from a number of significant weaknesses, including an unduly broad regime of exceptions that confers an excessive degree of discretion to officials and weak provisions for proactive disclosure. Moreover, Article 19 finds "it troubling that the draft Law does not take precedence over secrecy laws as this could effectively undermine the access to information regime." The Memorandum sets out the organization's principal concerns with the draft Law.

## FISCAL MATTERS

### UNITED STATES—IRS ISSUE GUIDANCE ON " TRANSACTIONS OF INTEREST"

The [Internal Revenue Service](#) (IRS) has issued [Notice 2007-72](#), designating certain transactions as having the potential for tax avoidance or evasion and alerting participants to required disclosures and potential penalties. According to an IRS [press release](#) on 14 August 2007, these transactions are utilized by persons to claim charitable contributions that may be excessive and arise when a taxpayer acquires a successor member interest, directly or indirectly, in real property, transfers the interest to a tax-exempt organization, and claims a charitable contribution deduction that is significantly higher than the amount that the taxpayer paid for the interest. This notice also alerts persons involved with these transactions to certain responsibilities that may arise from their involvement with these transactions.

## FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY

### MALAYSIA—PROPOSED LAWS THREATEN WORKERS' RIGHTS

The government has tabled wide amendments to two labor laws that lawyers and trade union leaders say will deprive the workers of significant and long-standing protective



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measures, according to a news article published by [IPS news](#) on 21 August 2007. The bills would change various clauses in the Industrial Relations Act 1967 and the Trade Union Act 1959. The two laws provide significant protection and guarantee several rights for workers including right to association and to form trade unions. Labor experts say proposed changes are serious violation of citizen's rights, these will make difficult for workers to form meaningful unions. These also violate basic human rights as enshrined in the Malaysian constitution and run contrary to the United Nations Charter.

## **RUSSIA—FEDERAL LAW ON NGOs HAS LED TO SERIOUS VIOLATIONS OF FREEDOM OF ASSOCIATION**

The federal "Law on NGOs" has led to serious violations of freedom of association, according to the [Observatory for the Protection of Human Rights Defenders \(OMCT-FIDH\)](#) [press release](#) on 23 August 2007. According to the latest figures issued by the Federal Registration Service (FRS) Department in charge of the relations with NGOs, 216,279 NGOs had been registered so far on a list called the "unified State-list." The FRS said further that 467 of them would have to be shut down and 2,307 others would have to cease their activity as legal persons for failure to provide the necessary documentation. This is the consequences of the new Law on NGOs, which entered into force on 17 April 2006. This law, in particular, provides for amendments to three previously existing Russian laws, and aims at restraining the capacity of foreign NGOs to operate in the country, toughening the registration conditions for NGOs and strengthening the powers of the authorities to interfere in their activities. Previous coverage in IJCSL-N can be found in the [December 2005](#) and [April 2006](#) issues.

## **FREEDOM OF EXPRESSION**

### **AFGHANISTAN—MEDIA LAW PARTIALLY APPROVED BY UPPER HOUSE**

The Meshrano Jirga, the Upper House of Parliament, has approved the first two articles of the proposed media law, according to a news article published by [PAK TRIBUNE](#) on 25 August 2007. The approved articles guarantee freedom of speech and mass media in line with Article 34 of the Constitution and Article 19 of the ICCPR, to which Afghanistan is a state party. The rest of the draft could not be passed due to drafting errors in Pashto version. The draft has now been rectified and is expected to be passed by the Senate soon. The Lower House adopted the proposed law in mid-May. It added 16 new articles to the measure and deleted certain parts from 11 chapters. Previous coverage of this law can be found in the [May 2007](#) issue of IJCSL-N. The draft law is also available on the [ICCSL website](#).

### **BELARUS—GOVERNMENT PLANS TO CREATE WORKING COMMITTEE TO INTRODUCE LEGAL RESTRICTIONS ON INTERNET MASS MEDIA**

There are plans to set up a working party in Belarus within a month with a view to studying the experience of the CIS states and Europe in the legal regulation of Internet



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mass media business, reports BeLTA quoting the Belarusian Deputy Information Minister Alexander Slobodchuk. According to a news article published by [BeLTA](#) on 21 August 2007, the Minister further explained that the working party will scrupulously examine foreign practices used to regulate Internet mass media. The regulations will be aimed at excluding the possibility of extremism, neo-Nazi, pornographic information and calls to violence appearing on the Web. The working party will pass a resolution. Amendments will be introduced to the effective Mass Media Law or the law will be expanded with a new section.

## **CHINA—MEDIA CONTROLS TIGHTENED**

China has ordered its media to report only positive news. The Chinese government announced the crackdown on through state media and an official website saying it would encourage “a healthy and harmonious environment for a successful 17th Party Congress” by stamping out “illegal news coverage” and “false news.” According to a [HUMAN RIGHTS WATCH](#) news update on 17 August 2007, the tightening of the government’s stranglehold on the country’s media ahead of the 17th Congress of the Chinese Communist Party in October puts at risk journalists whose reporting runs counter to official propaganda. Chinese journalists already face tight constraints on reporting freedom, ranging from a regularly updated list of forbidden topics issued by the government’s Publicity Department to financial incentives for adhering to the Chinese Communist Party line on what and how news can be reported.

## **INDONESIA—JOURNALISTS PROPOSE CONSTITUTIONAL AMENDMENTS FOR PRESS FREEDOM**

The [Alliance of Independence Journalists](#) (AJI) has recommended an amendment to the [1945 Constitution](#) to clear the currently vague legal guidelines and guarantee press freedom for domestic media outlets, according to a news article published by [THE JAKARTA POST](#) on 16 August 2007. The AJI has also asked the Press Council to introduce a code of ethics for journalists, to create a sound self-regulation mechanism and to improve its overall role in press affairs. The current Article 28F of the Constitution could allow the government to practice censorship or impose a much-feared press ban and gave authorities room to intervene in media reportage.

## **KENYA—PRESIDENT REFUSES ASSENT TO MEDIA BILL**

Kenyan President, Mwai Kibaki, has refused to assent to Media Bill 2007, according to [THE STATE HOUSE KENYA press release](#) on 22 August 2007. In declining to sign the Bill, the President asked the house to delete the clause that would require editors to reveal the sources of their stories. The Media Bill was passed by the Parliament on 2 August (for previous coverage see [August 2007 issue of IJCSL-Newsletter.](#))

## **MALAYSIA--NEWSPAPER BANNED FOR PUBLISHING CARTOON OF JESUS**

The Malaysian government has taken a newspaper out of circulation for a month for having published a cartoon in which Jesus Christ drinks beer and smokes, according to a news article published by [ASIA NEWS.IT](#) on 25 August 2007. Prime Minister,



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Abdullah Badawi, has condemned the publication of material that could be regarded as offensive, saying that it was “unacceptable in a multi racial society that religions are made fun of.” A similar ban was placed last year on two papers for having printed a cartoon of Muhammad.

## **PAKISTAN—ELECTRONIC MEDIA REGULATORY AUTHORITY PUTS CHECK ON LIVE COVERAGE OF TERRORIST INCIDENTS**

The [Pakistan Electronic Media Regulatory Authority](#) (PEMRA) has asked the TV channels not to live cover the terrorist incidents or rather do it with “time delay-filtration technology.” According to a news article published by the [PAKISTAN PRESS FOUNDATION](#) on 7 August 2007, the Pakistan Broadcasters` Association (PBA) has agreed upon not to cover any violent, bloody, and traumatic terrorist activities live, as it would serve the cause of terrorists. The Chairman of PEMRA also mentioned that the Voluntary Code of Conduct prepared by PBA was about to be enforced within 10 days. Developing the Code, which will also ban the broadcast of nudity, obscenity and other matters, is in the final stages in which definitions of such terms are being added.

## **RUSSIA—RUSSIAN-LANGUAGE BROADCASTS OF BBC GO OFF AIR**

The Russian-language FM broadcasts of the British Broadcasting Corp. (BBC) have been taken off the air after the country’s media regulator ordered that they be removed. [BBC NEWS](#) issued a statement on 17 August 2007, saying that the Russian FM radio station, Bolshoye Radio, which had been re-broadcasting its Russian Service programs was told by the licensing authorities to stop doing so or risk being taken off the air itself. Bolshoye Radio’s owner -- financial group Finam -- maintains that Russia’s media regulators required that all programming be produced by the station itself. The BBC, however, claims that the licensing agreement allowed for 18% of Bolshoye's content to be foreign-produced. The BBC plans to appeal the decision.

## **TAJKISTAN—NEW INTERNET LIBEL LAW SIGNED**

Tajik President, Emomali Rahmon, has signed into law legislative amendments that criminalize libel and other forms of defamation on the Internet, according to a news article published by [RFE/RL](#) on 23 August 2007. Some media rights groups and Tajik journalists have criticized the new legislation and fear it has significant potential to hinder the free flow of information. Defamatory statements in print and broadcast media were already punishable by up to two years in prison.

## **FREEDOM OF RELIGION AND BELIEF**

### **GERMANY—COURT UPHOLDS BAN ON TEACHERS WEARING ISLAMIC HEADSCARF IN PUBLIC SCHOOLS**



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The administrative court in the western city of Düsseldorf ruled on 14 August 2007, that wearing a headscarf violated a state regulation against religious symbols in public schools. A news article published by [DEUTSCHE WELLE](#) on 14 August 2007 reported that the case was brought by a 52-year-old secondary school teacher who converted from Christianity to Islam at the start of the 1990s and decided to start wearing a headscarf in 2006. She had argued that her headscarf was a “fashion accessory à la Grace Kelly” that was in line with Christian-Occidental values. She maintained that it was not the traditional Islamic style and said the state’s laws contravened her right to religious freedom. Rejecting the argument, the court pointed out that since the teacher always wore the scarf it was a symbol of her religious beliefs. She plans to launch an appeal. The law banning Muslim teachers from wearing headscarves was [passed](#) in the western state of North-Rhine Westphalia in June 2006. Seven of Germany’s 16 states have banned teachers from wearing Islamic headscarves.

## **GLOBAL—EFFORTS TO CREATE A COMMON CODE OF CONDUCT FOR RELIGIOUS CONVERSIONS GAINS STRENGTH**

Roman Catholic, Orthodox, Evangelical Protestant churches, and other Protestant churches have joined in an effort to create a common code of conduct for religious conversions to preserve the right of Christians to spread their religion while avoiding conflict among faiths, according to a news article posted by [THE NEW YORK TIMES](#) on 16 August 2007. The prospective code of conduct is expected to be an “advocacy tool in discussions with governments considering anti-conversion laws” and should help advance the cause of religious freedom. It will also address concerns in other religions about Christians who seek converts and inspire those faiths to consider their own codes of conduct.

## **NORWAY—JOINT DECLARATION ON THE RIGHT TO CONVERSION SIGNED**

The Islamic Council of Norway and the Church of Norway Council on Ecumenical and International Relations have signed a joint declaration on the freedom of religion and the right to conversion. The declaration supports the right to convert between religions without fear of harassment as a basic religious freedom. A news article posted by [INTERNATIONAL HERALD TRIBUNE](#) on 22 August 2007, reports that this is the first time that a church and a representative national Muslim organization have jointly acknowledged the right to convert. Under many interpretations of Sharia, or strict Islamic law, conversion from Islam is forbidden, and can have serious consequences.

## **RUSSIA—RELIGIOUS ENTITY BANNED**

The Russian state of Chuvashia’s Supreme Court has banned the Biblical Center of the Chuvash Christian Evangelical Faith and removed it from the Single State Register of Legal Entities, reported [INTERFAX-RELIGION](#) on 21 August 2007. The prosecutor’s office alleged the Biblical center has not observed laws related to education, freedom of conscience, and religious associations. The Biblical College and a Sunday school set up by the Biblical Center have not been registered as legal



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entities and have not secured licenses. Fines were imposed on the Biblical Center and its head after charges of administrative offences were brought against them.

## **UZBEKISTAN—PROBLEMS FOR PRESBYTERIAN CHURCH RESURFACE**

Eight years after the Grace Presbyterian Church in the capital Tashkent bought a former cinema to use as its church, the city department of the State Property Committee wants to annul the sale, members of the church have told [Forum 18 News Service](#). The case is due to be heard at Tashkent Economic Court on 5 September 2007. On 13 August 2007, “without warning,” Justice Ministry officials arrived for a check-up on the church’s activity. If “violations” are found, the church could be stripped of legal status and thus the right to conduct any religious activity. The church also faces pressure from local residents. “The aim of the check-up was to strip the church of its registration,” one church member told Forum 18. “At the moment it is still registered and can still function,” a Justice Ministry official told Forum 18.

## **LEGAL FRAMEWORK**

### **BAHRAIN—NEW LAW TO REGULATE NGOS ACTIVITIES DRAFTED**

The government has drafted a new law to regulate the operations and activities of NGOs. According to a news article published by [GULF NEWS](#) on 30 July 2007, the draft law bans societies from receiving donations and financial aid from inside or outside the Kingdom unless these are approved by the Ministry of Social Development. Societies would also be closely monitored during fund-raising activities to ensure that money collected is being spent on a good cause. The draft law bans giving licenses to societies with the same objective if they are located in the same area so as to avoid a clash in interests.

### **CHINA—PREPARATIONS FOR CHARITY LAW CONTINUE**

As previously reported, the [SHANGHAI DAILY](#) ran a story on 22 August 2007 with regard to China’s proposed “Charity Law.” The story says that China’s top legislative body will map out the country's first “Charity Law” to regulate charity activities, quoting a senior official at the Ministry of Civil Affairs. The law will cover the rules on charity organizations, donations, trusts, volunteer services and awards. The ministry is conducting studies and talking to experts from around the world – including experts from ICCSL -- on the proposed law. For coverage of ICCSL’s activities in this area, see the [ICCSL website](#).

### **KENYA—NEW LAW TO REGULATE NATIONAL COUNCIL OF NGOS ON GOVERNMENT AGENDA**

The Government is seeking new laws to regulate and restore order at the National Council of NGOs, according to a news article published by [THE STANDARD](#) on 23 August 2007. The new law would be introduced through the Miscellaneous



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(Amendment) Bill to end persistent leadership wrangles in the umbrella body for non-governmental organizations.

## **RUSSIA—ORGANIZATION REFUSED REGISTRATION IN FORM PROPOSED**

On 24 August 2007, the Leninskiy District Court of Vladikavkaz issued a decision to stop the activities of the Public Organization (PO) “Voice of Beslan” in its present composition. Ella Kesaeva, Chair of the “Voice of Beslan,” said that she was confident that the decision was illegitimate and the court was non-objective. Ms Kesaeva has noted that the present members of the organization intend to appeal against the decision of the Leninskiy District Court. A statement of the organization may be found in its web site, according to a report published in [Caucasian Knot](#) for 25 August 2007. The statement indicates that the decision was based on forged minutes of the meeting on re-election of the current membership of the organization, and the forged minutes and the court decision substituted non-members for real members of the organization. The court has ordered the Department of the Federal Registration Service for the Republic of North Ossetia-Alania (RNO-A) to register the newly composed “Voice of Beslan.”

## **SCOTLAND—OSCR CLARIFIES ITS VIEWS ON THE USE OF THE TERMS “CHARITABLE” AND “CHARITABLE PURPOSES” IN THE CONSTITUTIONS OF CHARITIES**

The [Office of the Scottish Charity Regulator](#) (OSCR) has produced a [briefing note](#) clarifying its views on the definition of the terms “charitable” and “charitable purposes” in constitutions, according to OSCR press release on 3 August 2007. Under the briefing note, there is no requirement to include a clause defining the meaning of these terms in the constitution of a Scottish charity. In the absence of such a definition or interpretation clause in the case of organizations established under Scots law, these terms will be interpreted according to their meaning in the Charities and Trustee Investment (Scotland) Act 2005. However, where an existing charity or applicant has chosen to include a definition or interpretation clause in relation to these terms, OSCR needs to ensure that these terms are defined in a manner which is consistent with the 2005 Act, and allows the charity test to be met.

## **SOLOMON ISLANDS--GOVERNMENT PLANS NEW LAW ON NGOS**

The government of Solomon Islands is planning a new law for NGOs. According to a news article published by [RADIO NEW ZEALAND INTERNATIONAL](#) on 23 August 2007, the planned law makes all non-governmental organizations and members of civil society answerable for their actions. [Transparency International](#) Solomon Islands and other stakeholders have alleged the planned law does not make any sense and violates basic principles of democracy.

## **ZAMBIA—GOVERNMENT PROPOSED NGO LAW SUBJECT TO CRITICISM**

A report published by [IRINNews](#) on 17 July 2007 indicates that civil society fears that the imminent introduction of legislation aimed at regulating NGOs will severely compromise their work and independence, and could even result in their operations



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being closed down. The NGOs bill, introduced in mid-July in parliament by justice minister George Kunda, calls for “the registration and co-ordination of NGOs - [and] to regulate the work, and the area of work of NGOs operating in Zambia.” If the bill becomes law it would empower the interior minister to form a 10-member board, comprised of government members and two representatives from civil society, which would “receive, discuss and approve the code of conduct [of NGOs], and ... provide policy guidelines to NGOs for harmonising their activities to the national development plan of Zambia.” Civil society and international NGOs have joined forces to oppose the bill, according to a report published in [MS Zambia](#) on 1 August 2007.

## MISCELLANEOUS MATTERS

### MAURITANIA—ANTI-SLAVERY LAW PASSED

Mauritania’s legislature has passed a law providing prison time for people who keep slaves. A news article posted by [GUARDIAN UNLIMITED](#) on 9 August 2007, reports that the law calls for prison sentences of up to 10 years for people found keeping slaves and reparations for those who have been enslaved. The new law also makes any “cultural or artistic work defending slavery” punishable with two years in prison, and makes it an offense for governmental authorities not to pursue slaveholders. Slavery has existed for hundreds of years in Mauritania. The government officially abolished slavery in 1981, but no one has ever been prosecuted for it and no law created a punishment.

## ANNOUNCEMENTS

### UNITED KINGDOM—DRAFT CHARITY TRIBUNAL RULES CONSULTATION BEGINS

The Ministry of Justice is [consulting the Council on Tribunals, charities and other stakeholders on the draft Charity Tribunal Rules](#), according to [OFFICE OF THE THIRD SECTOR news update](#) on 21 August 2007. The Rules, expected to come into force in early 2008, will govern the proceedings before the Charity Tribunal which was created by the Charities Act 2006. The Tribunal will hear appeals from Charity Commission decisions and enable references to be made by the Attorney General and the Charity Commission to consider wider questions in order to help clarify or develop charity law. The consultation on the Rules ends on 7 November 2007.

## RESOURCES

### AFGHANISTAN—AGA KHAN SEEKS PRIVATE SECTOR-LED PEACE



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An article entitled “[Makeover time in Kabul](#)” appeared in [CIVIL SOCIETY ONLINE](#) in July maps the endeavors of Aga Khan Foundation towards seeking private sector led peace. The author notes that in Afghanistan the revival effort is complex. Legal and political measures required for implementing growth strategies have yet to be put in place. The Enabling Environment Conference held by [Aga Khan Development Network](#) (AKDN) in Kabul in June 2007 sought to identify ways forward to involve the private sector in Afghanistan’s Development. For more coverage on the conference, see [ICCSL’s website](#).

## **AZERBAIJAN—ARTICLE 19 PROVIDES ANALYSES OF DRAFT LAW ON DEFAMATION**

Article 19 has released a [Memorandum on the fourth version of the draft Law of the Republic of Azerbaijan on Defamation](#). The memorandum puts forth several recommendations to help bring the draft law up to par with international standards governing the right of freedom of expression.

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