

Lawyers' Rights Watch Canada

LRWC NEWSLETTER

July – August 2013 Edition

LRWC ACTION NEWS

BAHRAIN

Ceartas Irish Lawyers for Human Rights [sent a letter calling on the Royal College of Surgeons of Ireland](#) to withdraw certification from the RCSI-Medical University of Bahrain (RCSI). Graduates of the Medical University of Bahrain are awarded with Irish medical qualifications from the RCSI and the National University of Ireland. The 2 August 2013 letter from Ceartas points out that medical personnel in Bahrain are required to provide police with a report of protesters seeking treatment and proceed with treatment only once police have given clearance. Following such requirements is likely to expose suspected protesters to illegal abuse and arbitrary detention by state authorities: refusing to adhere to such requirements could lead to prosecution. Under these conditions Ceartas says it is not possible for the RCSI to properly oversee the education and training of medical students in Bahrain.



Source: ceartaslaw.org

Bangladesh



Adilur Rahman Khan | frontlinedefenders.org

Adilur Rahman Khan, lawyer and Secretary of Odhikar, a major Bangladesh human rights organization, was arrested without warrant on 10 August and placed on a 5-day remand, ostensibly on charges relating to Odhikar's reporting on the killing of 61 people in May, by law enforcement agencies, and its call for an inquiry. On 11 August, police from the Detective Branch seized three laptops and two CPUs from the Odhikar office. These contain information on the victims' families, which potentially puts their safety at risk. Odhikar has recently reported that the Information Communication and Technology Act, 2006, under which Mr. Khan was taken away, was amended by Cabinet on the 19 August. The amendments have made certain offences cognizable and non-bailable and have increased the maximum punishment from ten to fourteen years. The law has now been

sent to the Information and Technology Ministry for vetting. Odhikar has expressed strong concern about the amendment and potential use of this law against human rights NGOs and human rights activists. LRWC wrote [a letter](#) cautioning that the involvement of state agents in depriving a person of liberty, through a false prosecution, is in contravention of international law and a grave offence. LRWC calls for the immediate release of Mr. Khan.

Cambodia

Mr Kuch Veng, a land rights activist and human rights defender arrested 19 May 2013, is still being detained. He was convicted at his 20 August trial despite evidence that he was facilitating a human rights workshop at the time of the alleged offence. He was sentenced to a year in prison, with all but three months, fifteen days suspended and is due for release on 4 September 2013. Mr. Veng was arrested while visiting villagers affected by the community's land conflict with the Pheapimex Company Ltd. LRWC wrote a second follow-up letter requesting Mr. Veng's immediate release, the withdrawal of false allegations and assurance that Cambodia will meet its international law obligations. The *International Covenant on Civil and Political Rights* (ICCPR) to which Cambodia is a party entitles Mr. Veng to the presumption of innocence and to release pending hearings or trial. [Read more here.](#)



Kuch Veng | kimedia.files.wordpress.com



Yorm Bopha | photo by Jenny Holligan

LRWC filed a petition with the United Nations Working Group on Arbitrary Detention (WGAD) requesting a determination that the detention of Cambodian land rights activist Ms. Yorm Bopha is arbitrary. The petition was prepared in consultation with Cambodian human rights lawyers. The WGAD will ask Cambodia to respond to the facts and law cited in the petition and will make a determination of the legitimacy of her detention. Amnesty International has designated Yorm Bopha a prisoner of conscience. Yorm Bopha has been in jail since 4 September 2012 on unsubstantiated charges of assault with violence. The

December 2012 conviction was based on contradictory evidence and speculation in a trial that failed to meet international standards of fairness. On 14 June 2013, the Appeals Court upheld the conviction and suspended one year of the three-year sentence. She is due to be released in September 2014. Ms. Yorm has appealed to Cambodia's Supreme Court, but no hearing date has been set. [Read more here.](#)

Colombia

UFCW Canada and LRWC wrote [a letter](#) to the President and Labour Minister of Colombia expressing concern over death threats made against members of the José Alvear Restrepo Lawyers' Collective (*Corporación Colectiva de Abogados José Alvear Restrepo*, CCAJAR) and 30 labour unionists and activists and their families by the paramilitary group Rastrojo - Urban Commandos. Several of those labour activists threatened are part of a mining union delegation on strike due to failed negotiations with U.S. mining company Drummond Ltd. Trade unionists are persistently threatened and murdered during labour disputes over campaigns to improve pay and working conditions, resulting in one of the highest rates of trade unionist homicides in the world. UFCW Canada and LRWC urged the Colombian Government to take immediate action to protect those threatened, to dismantle paramilitary groups and to conduct public and impartial investigations of the death threats.



Jose Humberto Torres |
frontlinedefenders.org

Sudan

Asma Ahmed, a Sudanese lawyer and human rights activist, was released from detention on 11 June. Ms. Ahmed was arrested in May 2013 by the National Security Services (NSS) and detained without charge for over a month, during which time she was held in solitary confinement for long periods and was interrogated repeatedly. Asma Ahmed is a lawyer and a human rights defender who has represented numerous political prisoners and prisoners of conscience. Her detention is part of a pattern in Sudan of detention of activists, intellectuals, and religious leaders. LRWC Sudan monitor Joe Hoffer [sent a letter](#) on Ms. Ahmed's behalf on 14 May 2013.



Asma Ahmed

Thailand

LRWC sent a [letter](#) on 1 August 2013 alerting Thai authorities to flaws in a draft amnesty law and recommending withdrawal. The proposed bill, which was scheduled for debate in Parliament on 7 August, provided amnesties for those involved in political violence between 19 September 2006 and 10 May 2011. The bill fails to exclude amnesties for those who ordered or carried out extrajudicial killings and other human rights abuses in contravention of international law, specifically the *International Covenant on Civil and Political Rights* (ICCPR), to which Thailand is a State Party. There has been no progress towards accountability for the killing of more than 90 people and the injury of more than 2,000 during political turmoil in March-May 2010, nor for murders or disappearances of 20-plus human rights defenders in the past two decades. Thailand's international human rights obligations require the government to ensure thorough and impartial investigation of serious human rights violations and the prosecution of suspects. On 9 August 2013, Thailand's parliament gave preliminary approval to the amnesty bill despite concerns raised by the UN Office of the High Commissioner for Human Rights and several international human rights organizations.

Turkey

LRWC, in partnership with the Observatory for the Protection of Human Rights Defenders (FIDH-OMCT) sent Turkish authorities a [follow-up letter calling](#) for the release of 15 lawyers and one journalist remaining in jail since the mass arrest of 46 lawyers, 3 legal office workers and one journalist in November 2011. All are charged with “working for, or belonging to, a terrorist organization.” The charges are related to legal work or other advocacy in defense of jailed Kurdish leader Abdullah Öcalan. The mass trial of the 50 accused has been ongoing for over a year with little progress towards completion. The practice of scheduling trial dates—often of one day—separated by long adjournments is just one of the factors preventing a fair trial. Trial proceedings have been held on the 16th, 17th and 18th of July 2012; the 6th of November 2012; and the 3rd of January, 28th of March, and 20th of June 2013. Nine accused were released in July, one in January, four in March and seven in June. The trial proceedings are scheduled to recommence on 17 September 2013. LRWC’s most recent letter to Turkish authorities states that the continued detention of the 16 accused contravenes Turkey’s legal obligations under the *International Covenant on Civil and Political Rights* (ICCPR) and the *European Convention on Human Rights* (ECHR) to ensure rights to liberty, pre-trial release, the presumption of innocence and trial within a reasonable time. More extensive reviews of Turkey’s international law obligations to ensure pre-trial release are contained in two earlier reports by LRWC: [Arrest and Detention of Lawyers in Turkey: Right to Pre-Trial Release, July 2012](#) and [Joint brief to the Human Rights Committee, and 106th Session, on pre-trial release rights in Turkey, September 2012](#). The former report was provided to Turkish authorities in July 2012. The latter report was submitted by LRWC and the FIDH-OMCT to the UN Human Rights Committee in September 2012.



United States

LRWC sent another [letter](#) on 23 July in response to a refusal by the Director of the Federal Bureau of Prisons to approve Ms Stewart’s motion for statutory review of her sentence on compassionate grounds by the sentencing court. The Director refused on the basis that Ms Stewart was not likely to die within 18 months, despite a diagnosis of breast cancer. LRWC’s letter explained the international law obligations to release Ms Stewart for medical treatment. LRWC’s letter was sent to the UN Special Rapporteur on Torture as part of a request for urgent action made on 7 August by the International Petition Campaign to release Lynne Stewart. The request is based on the Special Rapporteur’s mandate to take action when persons are feared to be at risk of “means of restraint contrary to international standards,” “‘torturous’ conditions of detention,” and “the denial of medical treatment and adequate nutrition.”



Lynne Stewart | blog.timesunion.com

On 9 August 2013, Judge Koetl of the United States District Court, Southern Division of New York, dismissed Ms Stewart’s application stating that the court’s jurisdiction, under the statute (28 U.S.C. § 2255 and 18 U.S.C. § 3582) to review sentences, arises only on the motion of the Director. LRWC [wrote on 14 August](#) advising that judicial and prison authorities and counsel for the Department of Justice had failed to consider applicable international law duties to protect the right to life by ensuring access to necessary medical treatment. LRWC advised that the procedural requirements of the domestic law do not exhaust or defeat either the individual’s right or the state’s legal obligations. Koetl J observed that, if he had jurisdiction, he would “give prompt and sympathetic consideration” to Ms Stewart’s request for

immediate release.

Vietnam

The trial of Le Quoc Quan was abruptly postponed a day before the scheduled start date of 9 July. Le



Quoc Quan graduated with a master's degree in law from Hanoi University in 2003. He practiced as a lawyer until being disbarred in 2007 after being arrested and accused of engaging in "activities to overthrow the regime." Since 2005 he has been an active blogger on issues such as civil rights, political pluralism and religious freedom. On 27 December 2012, Mr. Quan was arrested on charges of tax evasion, widely believed to have been fabricated to silence him. Canada, New Zealand, Switzerland and Norway had asked for permission to observe the proceedings. LRWC has urged Canadian officials to take an interest in the case in view of the 12 million dollar Canadian governments' 'Judicial Development and

Grassroots Engagement.' LRWC and other organizations wrote another [letter](#) 1 July 2013 calling for Mr. Quan's release.

In March, LRWC and 12 other human rights organizations submitted a petition to the UN Working Group on Arbitrary Detention (WGAD) asking for a determination that the detention of Le Quoc Quan is arbitrary. In a written communication to WGAD, the Government of Viet Nam countered the allegations of arbitrary detention by stating that Penal Code procedural requirements for the approval of charges and authorization of arrests had been followed. The response did not address allegations of wrongdoing by state authorities in violating Mr. Quan's internationally protected rights or using prosecution and arrest powers to suppress peaceful dissent.

UN HUMAN RIGHTS COUNCIL MEETINGS

The Report on the 23rd session held from 27 May to 14 June 2013 (document A/HRC/23/2) is now available on the [HRC Extranet](#).

CANADA IN THE NEWS

Organization of American States (OAS). On July 2, 2013, the presidential airplane taking Evo Morales, President of Bolivia, from Moscow to La Paz, Bolivia, was forced to make an emergency landing in Vienna, Austria, because of the cancellation, denial, or delay of previously issued overflight and landing permits for airspaces of France, Portugal, Italy, and Spain, which is in violation of international law. This action was ostensibly at the behest of the U.S. in retaliation to reports that Bolivia was considering granting asylum to U.S. whistleblower Edward Snowden. The OAS, on 9 July 2013, adopted a resolution "to condemn actions that violate the basic rules and principles of international law such as the inviolability of Heads of State," and "to firmly call on the Governments of France, Portugal, Italy and Spain to provide the necessary explanations of the events that took place with the President of the Plurinational State of Bolivia, Evo Morales Ayma, as well as apologies as appropriate."

The OAS resolution was adopted by consensus after long negotiations; however, in a move unknown to international law, the U.S. and Canada 'dejoined' the consensus. Normally when a text is adopted by consensus there is no option to disjoin. Following up on this ignominious performance, Canadian

Foreign Affairs Minister John Baird dubbed Russia a G8 'outlier' for harbouring Snowden, and announced, "This is not something that Canada would have considered to do."

Accountability in Canada for atrocities abroad

Choc v. Hudbay Minerals Inc., 2011 ONSC 4490. On 27 July, Justice Carole Brown of the Ontario Superior Court dismissed the preliminary application of the defendants (Hudbay Minerals Inc. and its subsidiaries HMI Nickel Inc and Compania Guatemalteca De Niquel Inc) to dismiss the plaintiff's application for damages for injuries that occurred in Guatemala. The 13 indigenous Mayan Q'eqehi' plaintiffs claim damages for rape, murder and injury carried out by security agents hired by Hudbay subsidiaries to forcibly clear lands for mining. The plaintiffs seek to establish first that Hudbay had a duty of care arising from the foreseeability of the harm, coupled with the proximity between corporations, and second, that Hudbay was negligent in failing to prevent the harm. The judge observed that if proven, the facts pleaded could establish that, "...authorizing the use of force in response to peaceful opposition from the local community could lead to the security personnel committing violent acts, including killing..." The judge went on to rule that "it is not plain and obvious that no duty of care can be recognized." The plaintiffs are represented by Murray Klippenstein and Cory Wanless.

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