

LRWC NEWSLETTER

February 2014 Edition

LRWC ACTION NEWS

BANGLADESH

Since the beginning of the year, state authorities have been targeting Mr. Adilur Rahman Khan, Secretary of Odhikar, his family members and Odhikar staff with surveillance and harassment. This follows publication of the UN Working Group on Arbitrary Detention Opinion (A/HRC/ WGAD/2013/12) in December 2013. The WGAD concluded that the arrest and detention of Mr. Khan flowed “directly from his peaceful exercise of the right to freedom of expression” and therefore contravened rights to liberty and expression protected by the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights* (ICCPR). Charges were laid against Mr. Khan and Odhikar Director AMS Nasiruddin Elan following publication of an Odhikar report implicating state agents in the deaths of 61 people killed during a rally in May 2013. Charges against the two under Section 57 of the Information and Communication Technology (ICT) Act 2006 were approved 8 January. On 26 February 2014, the High Court Division of the Supreme Court extended Adilur Rahman Khan’s bail for 12 more months. LRWC sent a [letter on 19 February](#) to Bangladesh authorities outlining international law duties to protect rather than hamper the ability of lawyers and other human rights defenders to engage in human rights work. LRWC also again requested withdrawal of the charges.



Adilur Rahman Khan | bdtoday.net

BURMA/MYANMAR

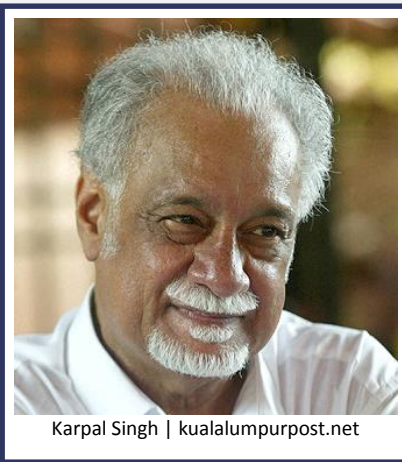
At their 68th session, the UN Working Group on Arbitrary Detention (WGAD) determined that the post-conviction detention of human rights defender Htin Kyaw was arbitrary on the grounds that the statutory provisions under which he was convicted “fall below the standards of international human rights law, offending in particular articles 9 [freedom from arbitrary detention], 19 [freedom of expression] and 20 [freedom of assembly and association] of the *Universal Declaration of Human Rights* (UDHR). The WGAD Opinion is notable both because it holds Burma, as a member of the UN, responsible for ensuring rights enshrined in the UDHR and rejects the legitimacy of penal provisions that violate internationally protected rights to freedom of expression and association. Htin Kyaw was convicted for engaging in a

peaceful protest against confiscation of land. LRWC communications calling for the release of political prisoners in Burma [are online](#).

CAMEROON

LRWC again called on Cameroon authorities to comply with international law obligations by taking steps to: a/ decriminalize consensual sexual acts; b/ promote acceptance of homosexuality; c/ prevent discrimination; and, d/ prevent and punish attacks on LGBTI people. [LRWC specifically called](#) for the repeal of Penal Code 347biz, a statement from the President condemning attacks on LGBTI and an investigation into the death of Roger Mbede.

MALAYSIA



Karpal Singh | kualalumpurpost.net

In 2009, Karpal Singh, prominent human rights lawyer, Member of Parliament and head of the Democratic Action Party, voiced his opinion that the summary removal of a minister (Menteri Besar) by the Sultan of Perak was ultra vires his authority and could be reviewed by a court. For expressing that opinion, Mr. Singh was charged with under section 4(1)(b) of the *Sedition Act* and was convicted on 21 February 2014 by the High Court in Kuala Lumpur with sentencing adjourned to 11 March. The Act provides for a maximum sentence of 3 years in jail and/or a fine of RM5,000. A jail sentence of more than one year or a fine of more than RM2,500 would disqualify Mr. Singh for being an MP. The International Commission of Jurists condemned the conviction as contrary to international law and as a signal that lawyers in Malaysia are not free to express opinions on legal

matters. As a jurist, Mr. Singh is knowledgeable, articulate and commanding. As a formidable opponent, he has been targeted with removal from his profession in the past. In October 1987 Mr. Singh was jailed under *Internal Security Act* and held without charge until March 1988. In 2000 while representing the former Deputy Prime Minister in a criminal trial that garnered attention around the world, he was charged with sedition based on statements made in court in the course of representing his client. On that occasion, LRWC intervened by sending a representative to monitor the trial and by publishing an analysis discrediting the legitimacy of the prosecution. The charges were withdrawn on the first day of the trial by the prosecution who is now the Attorney General of Malaysia. The LRWC analysis, [Lawyers and the Rule of Law on Trial: Sedition in Malaysia](#) and other LRWC work on the 2000 prosecution can be viewed online.

SRI LANKA

On 24 February 2014, the Supreme Court of Sri Lanka overturned a Court of Appeal judgment allowing review by the court of the dismissal of former Chief Justice Shirani Bandaranayake. On 22 January 2013, Parliament had voted to impeach the Chief Justice and two days later the President signed a decree dismissing her. The former chief justice argued that she had been denied due process. The Supreme Court held that the supremacy of Parliament excludes review by the court and supersedes any due process standards. In January 2013 [LRWC wrote a letter](#) calling on Sri Lanka to re-instate Chief Justice Shirani Bandaranayake and ensure that disciplinary proceedings against jurists were conducted



Shirani Bandaranayake | thehindu.com

by independent commissions with due process guarantees. LRWC also [raised the dismissal](#) at the 22nd session of the UN Human Rights Council.

UGANDA

On 24 February 2014 Ugandan authorities signed into force a law criminalizing homosexuality in contravention of domestic and international law obligations. The law imposes life imprisonment for homosexuality and allows imprisonment of up to seven years for promoting, attempting, aiding, abetting and conspiring to commit homosexuality. [LRWC sent a letter](#) joining the UN High Commissioner of Human Rights and others in denouncing the law as violating legal duties to ensure rights to expression, equality, non-discrimination, privacy and liberty.

VIET NAM



On 18 February, an appeal court upheld the 2 October 2013 conviction of Mr. Quan for politically motivated charges of tax evasion and his sentence of 30 months in prison and a fine of 59,000 USD. This Appeal decision comes just months after Viet Nam joined the United Nations Human Rights Council (UN HRC) in November 2013. The WGAD had published the Opinion on 29 November 2013 that the detention of Le Quoc Quan was arbitrary due to violations of fair trial rights and had recommended release or retrial and reparation for arbitrary detention. Contrary to the WGAD Opinion, Le Quoc Quan remains in prison. Prior to the appeal, a [Vietnamese language version of LRWC's report](#) on Viet Nam's duty to ensure pre-trial release was provided to lawyers and Viet Nam authorities. Diplomats representing Canada, the US and the EU attended the appeal. The [19 February 2014 press release](#) from the NGO group (LRWC and 13 other NGOs) expressing disappointment that the appeal court had failed to consider the international law obligations of Viet Nam was covered by [the BBC](#) and apparently well accessed. We are now waiting for the written reasons before planning the next steps.

ZIMBABWE

With Robert Mugabe turning 90 this past weekend, the world watches as the national courts and its lawyers continue to fight persistent harassment of human rights defenders. On 26 February 2014, a Harare Magistrate quashed charges against Martha Tholanah, the Chairperson of the Gays and Lesbians of Zimbabwe (GALZ), for running an “unregistered” organisation pursuant to the *Private Voluntary Organisations Act* (PVOA). In an earlier court decision, it was held that a search and seizure of the GALZ office in August 2013 and harassment of its members contravened the Zimbabwe Constitution and that GALZ was exempt from the PVOA. LRWC is pleased by the Commonwealth Lawyers Association (CLA) trial observation report released on 24 February 2014, which concludes that the arrest and detainment of the award-winning human rights lawyer, Beatrice Mtetwa, was contrary to the rule of law. Members of the Socio-Economic Rights Institute of South Africa (SERI) observed the trial proceedings from March 2013 to November 2013. The court ruled on 26 November 2013 that the State had failed to establish a prima facie case against Beatrice Mtetwa. LRWC communications on the Mtetwa case can be [viewed online](#).

EDUCATION EVENTS

UPCOMING EDUCATION EVENTS

LAND RIGHTS ARE HUMAN RIGHTS with Robert Morales

Thursday 3 April 2014, 7:00 – 8:30 pm, Alice MacKay room of the Vancouver Public Library, 350 West Georgia St. Vancouver. Admission is free.

International human rights law is the framework needed to bring justice to Aboriginal people in Canada. Meaningful reconciliation of First Nations' land issues is hampered by persistent colonial attitudes. International human rights law provides a way determine remedies by recognizing and balancing rights. Robert Morales will discuss the indigenous land rights argument he made to the Supreme Court of Canada as intervener in *Tsilhqot'in Nation (William) v. BC and Canada*. This event is co-hosted by LRWC, Amnesty International, the Hul'qumi'num Treaty Group and the Vancouver Public Library. The poster for this event is available [online](#).



Robert Morales

SAFEGUARDING THE INDEPENDENCE AND INTEGRITY OF THE BAR, COURTS AND TRIBUNALS: INTERNATIONAL HUMAN RIGHTS, THE RULE OF LAW AND CAMBODIA'S ELECTION CONFLICT

Wednesday 23 April 2014, noon – 1:15 pm, Barristers' Lounge, Victoria Courthouse, 850 Burdett Avenue, Victoria, Canada.

Robert Patterson and Catherine Morris will present a case study on this topic drawing attention to the work of LRWC and the ICJ with a discussion to follow. John Waddell QC will moderate the discussion. John Patterson was the Chief Electoral Officer of BC from 1990-2002 and has been Head of Party for the International Foundation for Electoral Systems in Cambodia since 2010, Catherine Morris is a Director of, and the Cambodia monitor for LRWC. John Waddell QC is a Director of ICJ/Canada. The event is co-hosted by LRWC and the ICJ. More information at <http://www.lrwc.org/?p=7806>

PAST EDUCATION EVENTS

THE RIGHT TO SAY NO

Dr. Judith Sayers, former chief negotiator for the Hupacasath First Nation in Port Alberni, B.C. and law professor at the University of Victoria discussed the Right to Say No at the Vancouver Public Library on 20 February. She related that people once wealthy in salmon, cedar and deer are now fighting to maintain these resources as well as rights to them. She explained that although the land is still theirs having never been relinquished it by treaty, settler society has failed to uphold their right to say no to "development". The Supreme Court of Canada recognized the right to be consulted in the *Delgamuukw* case, but subsequent reasoning has pulled back on this right. Indigenous people were not included or even notified regarding the negotiation of the Canada China Foreign Investment Promotion and Protection Agreement, which grants significant commercial and resource exploitation privileges to



Dr. Judith Sayers | ecotrust.org

China. Provincial governments seem fearful of retaliation if they withhold support, so Indigenous people may be the only ones willing or able to resist. The Hupacasath successfully delayed the signing of this treaty, but the government is engaged in negotiating other secret agreements with other states. The environmental degradation, loss of economic resources and subversion of political rights is of concern to all Canadians.

CONSENT OR CONSULTATION

The power point that accompanied this 30 January 2014 [presentation by Grand Chief Ed John](#) is available online.

ANNUAL GENERAL MEETING

The Annual General Meeting for Lawyers Rights Watch Canada and Lawyers Rights Watch (Legal Research) Canada will take place on Friday, 25 April 2014, 2:00 – 5:00 pm, at 900 Howe Street Vancouver, BC. Business will include election of directors for the coming year and a review of LRWC work and finances during the past year. Attendance by skype and telephone can be arranged. The meeting is open to LRWC members. Let us know if you would like to attend.

RESEARCH & PUBLICATION NEWS

Speaking Out on Human Rights: Debating Canada's Human Rights System, McGill-Queen's University Press by Pearl Eliadis

In her new book, *Speaking Out on Human Rights*, Pearl Eliadis analyzes the rhetoric and reality surrounding Canada's human rights commissions and tribunals. Canada's human rights system has been ferociously contested and in some cases, scaled back as a result of a human rights backlash that has affected both the institutions and the rights they protect. Eliadis provides a frank assessment of commissions and tribunals as vehicles of public policy and of their mandate to mediate rights conflicts in areas such as hate speech, religious freedoms, and sexuality. Pearl Eliadis was a speaker at the December 2012 Day of Dissent co-hosted by LRWC, BC Civil Liberties Association, Amnesty International, Council of Canadians and the New Media Journalism, SFU Continuing Studies. A webcast of this talk along with the accompanying speaking notes and power point [are available here](#).

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Contact us at:

lrwc@portal.ca

Telephone: +1 604 738 0338

Fax: +1 604 736 1175

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