

Lawyers' Rights Watch Canada

LRWC NEWSLETTER

April – May 2015 Edition

LRWC ACTION NEWS AND UPDATES

ARGENTINA



Alberto Nisman

The ongoing investigation into the untimely demise of Special Prosecutor Alberto Nisman, charged with investigating the 1994 AMIA bombings, is set to take yet another turn. Prosecutor Viviana Fein is poised to release her report on the death of Mr. Nisman in early June and it is suspected that the report will conclude that Mr. Nisman killed himself. A 203-page medical report was submitted to Prosecutor Fein on 19 May 2015 outlining the findings of 15 appointed medical experts. The report hasn't been made public, but 13 of the 15 experts have

ruled out any third-party involvement in Mr. Nisman's death, according to the Prosecutor's office. Investigators representing the Nisman family have also submitted a document reviewing the forensic evidence and challenging the official narrative in the case. Prosecutor Viviana Fein is reviewing the two documents and should release her full report in the coming weeks. If Fein's report concluded that Mr. Nisman's death a suicide, it would signal the conclusion of domestic investigations into the mysterious death of Alberto Nisman. The Nisman family and victims' families of the AMIA bombings continue to reject the conclusion that Mr. Nisman took his own life just hours before testifying before congress on his decade-long investigation into Argentina's deadliest terrorist attack.

BAHRAIN

On 2 April 2015, Nabeel Rajab, President of the Bahrain Centre for Human Rights (BCHR), was again arrested, this time on charges that, by denouncing the torture of prisoners in Jaw Prison, he was "spreading false news". At the time of this arrest, he had been released pending his appeal from a six-month prison sentence for "publicly insulting official institutions". The Court of Appeal dismissed the appeal on 14 May and his lawyers have filed an appeal to the Court of Cassation. Rajab is serving his sentence in Jaw Prison. If convicted of the new illegitimate charges, he faces



Nabeel Rajab

up to 10 years in prison. LRWC communications about the illegitimate persecution of Nabeel Rajab can be accessed on the Bahrain page.

CANADA

➤ **Omar Khadr free at last:** On 7 May 2015, after 12 years of illegal imprisonment, Omar Khadr was freed following Alberta Court of Appeal Justice Myra Bielby's decision to grant him bail pending the appeal of U.S. 'war crime convictions'. Applause broke out in the Edmonton courtroom following the judge's announcement, "Mr. Khadr, you are free to go." As conditions of bail, Omar will wear an electronic tracking device, have limited computer use and live with the family of his lawyer, Dennis Edney. Judge Bielby's ruling was preceded earlier this year by a series of Canadian court decisions in Omar Khadr's favour. Despite Ottawa's attempts to obtain a stay of the 24 April decision by Justice June Ross of Court of Queen's Bench to grant bail, Omar was released. The appeal of this decision by the federal government will be heard in September. On 14 May 2015, in a rare ruling from the bench, the Supreme Court of Canada ruled unanimously to confirm the earlier order of the Alberta Court of Appeal that upon transfer from Guantánamo Bay Prison, Khadr should have been classified as a juvenile and served the sentence in a provincial facility.



Omar Khadr | cbc.ca

➤ **Trinity Western University (TWU) files lawsuits in BC, ON, NS:** Court cases are active in three provinces regarding the law school proposed by TWU, at which law students would be required to adopt a Community Covenant which prohibits sexual relations except between a man and a woman married to each other. In each of these three provinces, the provincial law society had ruled against TWU's application and TWU has applied for judicial review. The Supreme Court of Nova Scotia ([TWU v. NS Barristers' Society, 2015 NSSC 25](#)) overturned the decision of the Nova Scotia Barristers' Society (NSBS) not to accept law degrees from TWU's proposed law school, so long as the provisions of the Community Covenant are in place. No date has been set for the appeal by the NSBC. Starting 1 June, Ontario's Divisional Court will hold four days of hearings of *TWU and Brayden Volkenant v. Law Society of Upper Canada*, TWU's challenge to the LSUC's decision not to accredit its law students. Interveners are the AG Canada, the Christian Legal Fellowship, Justice Centre for Constitutional Freedoms, Evangelical Fellowship of Canada and Christian Higher Education Canada, Out on Bay Street and Outlaws, Advocates' Society and Criminal Lawyers' Association (Ontario). In B.C., the Supreme Court has scheduled five days of hearing starting 24 August 2015 in the matter of *TWU and Brayden Volkenant v. Law Society of B.C.*, TWU's challenge of the decision of the Law Society not to accept TWU's proposed law school as an approved law school: [TWU and Brayden Volkenant v. Law Society of B.C.](#) Interveners include the Canadian Council of Christian Charities, the Christian Legal Fellowship, Justice Centre for Constitutional Freedoms, Outlaws UBC, Outlaws UVic, Outlaws TRU, QMUNITY ("LGBTQ Coalition"), Association for Reformed Political Action (ARPA) Canada, the Evangelical Fellowship of Canada and Christian Higher Education Canada, the Roman Catholic Archdiocese of Vancouver, the Catholic Civil Rights League and Faith and Freedom Alliance, the Seventh-Day Adventist Church in Canada, and West Coast Women's Legal Education and Action Fund. In B.C., the case of *Loke v. British Columbia (Minister of Advanced Education)*, which challenged the provincial government's decision to approve TWU's proposed law school, was dismissed for being moot after the government reversed its decision.

COLOMBIA

LRWC and 21 other international human rights organizations LRWC published [a joint statement](#) expressing concern about a series of groundless and aggressive social media attacks against well-known human rights lawyer José Humberto Torres, by Mr. Dieb Maloof, related to the current ongoing criminal investigation into the murder of Mr. Nelson Mejía. José Humberto Torres has worked for many years as a trial lawyer defending human rights and combating impunity in Colombia. He is also the spokesperson for the Colombian Coordination Groups participating in the Guarantees Process as part of the peace process. The signatories expressed concern with the growing climate of hostility against lawyers and other human rights defenders, expressed in multiple threats, smears and legal actions. They also emphasized that special attention should be given this situation given the importance of guaranteeing prevention and protection for defenders as a precondition for progress towards peace. The signatories called on State authorities to speak out against the accusations, to provide protection for Mr. Torres, and to ensure progress in investigations and sanctions against those responsible for these and other attacks against human rights defenders.



MALAYSIA



Trial of sedition charges against lawyer Eric Paulsen on hold.

The trial of charges under the Sedition Act against lawyer Eric Paulsen are on hold pending the outcome of a constitutional challenge by law professor Azmi Sharon to the Federal Court. Sharon's lawyer, Datuk Malk Imtiaz Sarwar argued that the Section 4(1) of the *Sedition Act, 1948*), which restricts expression rights, violates Article 10(2) of the *Federal Constitution of Malaysia* under which Parliament has the exclusive powers to impose legal restrictions on the rights of freedom of speech guaranteed by the Constitution. The 1957 Constitution was amended by Parliament in 1971 to allow legal restrictions to expression rights. The *Sedition Act 1948* was proclaimed

by the Legislative Council a body formed as part of Britain's promise to grant independence to Malaysia. Members of the Legislative Council were originally appointed from the Malay, Chinese and Indian communities by the British High Commissioner. The first election was held and parliament formed in 1959. The Bar Council and the Human Rights Commission of Malaysia held watching briefs of the proceedings before the Federal Court. No date has been given for the decision. LRWC reports and letters on the illegality of the Sedition Act can be viewed on the [LRWC Malaysia page](#).

SAUDI ARABIA

➤Groups petition WGAD for a ruling that the imprisonment of Waleed Abu Al-khair is arbitrary.

LRWC and four other organizations have filed a [Petition](#) asking the UN Working Group on Arbitrary Detention to determine that the detention of Saudi Arabian lawyer Waleed Abu Al-khair is arbitrary and contrary to the *Universal Declaration of Human Rights* and other international law governing liberty rights in Saudi Arabia. Prominent democracy and human rights advocate Waleed Abu Al-khair is one of the best-known advocates for democratic and human rights reform in Saudi Arabia. He has used the written and spoken word coupled with his legal knowledge to fearlessly advocate for reforms to improve the lives of all in Saudi Arabia by calling on the Government of Saudi Arabia to allow its citizens to enjoy

internationally protected rights to freedom of expression, association, assembly and the right to participate directly and indirectly in public affairs. He was sentenced in July 2014 to 15 years in prison for his peaceful advocacy. Organizations endorsing the Petition are Lawyers for Lawyers (the Netherlands), the Law Society of England and Wales (U.K.), the Law Society of Upper Canada, the International Federation for Human Rights - FIDH (France) and the World Organization Against Torture - OMCT (Switzerland) and the International Association of Democratic Lawyers (U.S.). The Petition was filed in April for consideration at the next meeting of the WGAD in August 2015. Human Rights Watch is also endorsing the Petition. The organizations joined in issuing a [Press Release](#) announcing the Petition.

➤ **Waleed Abu Al-khair nominated for 2015 IBA Award.** LRWC and L4L have nominated Waleed



Waleed Abulkhair | clarionproject.org

Abu Al-Khair for the 2015 International Bar Association Award given annually to recognize “outstanding contribution to the promotion, protection and advancement of the human rights of all, or any group of, people, particularly with respect to their right to live in a fair and just society under the rule of law.” The winner will be announced in August and the award presented in October at the IBA conference in Vienna. The [letter of nomination](#) and Curriculum Vitae filed by the nominees is available on the LRWC website.

SOUTHEAST ASIA

Systematic violations of rights of Rohingya and other migrants: The UN Special Rapporteur on Myanmar said in 2014 that severe persecution of Rohingya people in Burma (Myanmar) may amount to crimes against humanity as defined by the Rome Statute of the International Criminal Court. Persecution of Rohingya people has led tens of thousands to flee Myanmar only to fall into the hands of human traffickers operating in several Southeast Asian countries. The discovery of mass graves in South Thailand’s jungle human trafficking camps 1 May 2015 triggered a humanitarian emergency as human traffickers abruptly abandoned boatloads of migrants—men, women and children—including Rohingya from Myanmar and migrants from Bangladesh in the Indian Ocean. Thailand, Malaysia and Indonesia refused to allow the boats to land, leaving thousands stranded in life-threatening conditions. LRWC’s statement outlined several root causes of the crisis including failure by Myanmar, Thailand, Malaysia and Indonesia to abide by their international human rights obligations, lack of integrity of law enforcement officials and legal systems in several States, lack of commitment to international human rights standards by the member States of the Association of South East Asian Nations (ASEAN) and lack of consistent and firm insistence on implementation of human rights by other States with trading relationships in Southeast Asia. On 26 May 2015, LRWC released a [statement](#) urging States in the region and their economic partners to create a regional plan of urgent action to push the Myanmar government to end its systematic persecution of Rohingya people from Myanmar and to implement international human rights law in their own States and trade agreements. In advance of a Southeast Asia regional meeting on irregular migration in Bangkok on 29 May 2015, LRWC wrote an [open letter](#) to States attending the Bangkok meeting attaching LRWC’s May 26th statement and urging States to make public and private statements urging involved states to uphold their international human rights obligations to stop the violations of the rights of Rohingya people and human trafficking in the region. The LRWC statement was reported in the [Phuket Wan Tourism News](#) and in [The Diplomat](#).

SUDAN

➤ Senior human rights lawyers released and charges dismissed:

On 9 April, Farouk Abu Issa and Dr Amin Maki Madani walked free after the Justice Minister ended the case against them, after being in detention for 124 days. Sudan's Minister of Justice, under article 58 of Sudan's *Criminal Procedure Act, 1991*, dismissed the court case against Farouk Abu Issa and Dr Amin Maki Madani. Farouk Abu Issa, leader of the opposition alliance National Consensus Forces (NCF), and Dr Amin Maki Madani, head of the alliance of the Sudanese Civil Society organizations, were arrested on 6 December 2014 by the National Intelligence and Security Services (NISS). They were arrested after signing the "Sudan Call", a document calling for democratic transformation, the dismantlement of the de facto one-party state, and an end to conflict in Sudan. LRWC sent letters requesting their release in [December 2014](#) and [February 2015](#).



➤ Human rights advocate falsely charged with offences carrying death penalty:



On 16 April 2015, Mr. Adil Bakheit, a human rights defender and a member of the Board of Trustees of the Sudan Human Rights Monitor (SHRM) was arrested and interrogated by the NISS about communications with Tracks for Training and Human Development (Tracks), a group that provides human rights and capacity building instruction to NGOs. He was apparently charged under the 1991 *Criminal Act* with "criminal joint acts in execution of criminal conspiracy", (Article 21), "criminal conspiracy" (Article 24), "calling for opposition to public authority by use of violence or criminal force" (Article 63), "publication of false news" (Article 66), "impersonating a public servant" (Article 93), "offences against the State undermining the constitutional system" (Article 50), and "waging war against the State" (Article 51). Two of these charges carry the death penalty. LRWC sent [a letter on 28 April](#) calling for his release and stating that the charges were part of a pattern of persecution of human rights defenders in Sudan. On 5 May 2015, Mr. Bakheit was released. His lawyer has filed an appeal to the Minister of Justice calling for either a prompt trial or for the charges to be dropped.

SYRIA

LRWC joined 70 organizations to distribute [a statement on 28 April 2015](#) calling for the release of lawyer Razan Zaitouneh and human rights defenders Samira Khalil, Nazem Hamadi and Wa'el Hamada—collectively referred to as the Duma Four. Ms Zaitouneh was head of the Violations Documentation Centre in Syria (VDC), winner of the 2011 Sakharov Prize for Freedom of Thought and the 2011 Anna Politkovskaya Award of RAW in WAR (Reach all Women in War). The Duma Four were abducted during a raid by a group of armed men on the offices of the VDC in Duma, near Damascus, on 9 December 2013 and have not been heard of since. The VDC is active in monitoring and reporting on human rights violations in Syria and the undersigned organizations believe that the abduction of the four activists was a direct result of their peaceful human rights work. Their abduction



and disappearance is part of a wider pattern of threats and harassment by both government forces and non-state actors seeking to prevent human rights defenders exposing abuses. The joint statement was released in English and [Arabic](#) on the 38th birthday of Razan Zaitouneh.

THAILAND

➤ **US Secretary of State urged to maintain Thailand on Tier 3 of the Trafficking in Persons Report:** LRWC was among sixteen NGOs who signed a [joint letter](#) to US Secretary of State John F. Kerry as the US State Department determines country rankings for its 2015 Trafficking in Persons (TIP) Report. The letter urged that the US maintain the lowest Tier 3 designation because of its failure to address trafficking in Thailand's fishing industry and other sectors. The letter also expressed concern about ongoing cases of criminal defamation and charges under the *Computer Crimes Act* being used against human rights activists and journalists who speak out about human trafficking and asked the US to recommend to Thailand that it halt all forms of intimidation and harassment of human rights defenders including labour rights researchers, advocates, journalists and others calling for adherence to Thailand's international law obligations.

➤ **Four years of arbitrary detention of human rights defender, Mr. Somyot Prueksakasemsuk:** LRWC released a [statement](#) on 12 May 2015 marking four years of detention of Mr. Somyot Prueksakasemsuk, a human rights defender and magazine editor, on lèse majesté charges under Section 112 of Thailand's *Criminal Code*, which states that "whoever defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent, shall be punished with imprisonment of three to fifteen years." Mr. Somyot has been imprisoned since 30 April 2011 and is currently awaiting appeal of his January 2013 conviction and eleven-year jail sentence. He has been denied bail 16 times despite a finding by the United Nations (UN) Working Group on Arbitrary Detention (WGAD) that he is being arbitrarily detained on charges that suppress "important debates on matters of public interest, thus putting in jeopardy the right to freedom of opinion and expression." LRWC provided a summary of the facts of Mr. Somyot's case and urged that he be released immediately and his prosecution under Thailand's lèse majesté laws immediately halted.



➤ **Human rights defenders tried in Military Courts:** On 25 May, LRWC released a [statement](#) outlining violations of civilians' fair trial rights in Thailand's military courts. Since the May 2014 military coup in Thailand, at least 700 civilians have been tried in military courts in violation of Thailand's obligations under the *International Covenant on Civil and Political Rights* (ICCPR), ratified by Thailand in 1996. Many of the charges against civilians facing military courts involve denials of rights to freedoms of expression, association and assembly. A number of civilians, including human rights defenders, have been arbitrarily detained. Thailand's military government, the National Council for Peace and Order (NCPO), has failed to investigate allegations of torture of persons in military custody. LRWC's statement called for immediate stay of all prosecutions of civilians in military courts and restoration of judicial and prosecutorial independence. Thailand was urged to stop judicial harassment of human rights defenders and to withdraw charges against lawyer Anon Numpu, law professor Worachet Pakeerut and human rights activists Sirawit Serithiwat, Pansak Srithep, Wannakiet Chusuwan and Jittra Cotshadet.

TURKEY

➤ **Lawyer acquitted:** On 9 April 2015, the court [acquitted](#) lawyer Ramazan Demir on charges of “insulting or (...) offending the dignity of a public authority in the performance of his duties”. These charges were based on defence submissions he made during the trial of 44 journalists suspected of ties with the Kurdish Communities Union (KCK). L4L was in Istanbul to observe the hearing and welcomes the decision of the court. LRWC sent [a lengthy letter](#) in August 2014 to Turkish authorities outlining the illegitimacy of the charges.



Mass Trial of Kurdish Lawyers continues in Istanbul: On 7 May 2015 the mass trial of 46 mainly Kurdish lawyers, three law office employees and one journalist continued in Istanbul, Turkey. Arrests of the lawyers and journalist occurred in November and December 2011 and the trial proceedings commenced on 16 July 2012. The lawyers are charged with offences connected to their representation of jailed Kurdish leader Abdullah Öcalan. The last ten of the 42 defendants subjected to arbitrary pre-trial detention were released in March 2014. The state alleges that the defendants in their capacity as lawyers for Mr. Öcalan acted as “mediators” to provide members the KCK, an illegal organization, with “information and direction” from Mr. Öcalan. At the 7 May 2015 hearing, defence lawyers argued that the defendants should be acquitted on the basis that the trial had been pursued as a result of a fatally flawed and unfair procedure. It was also argued that the abolition in February 2014 of the Specialized Heavy Penal Court—the court originally hearing the trial—without any transitional provisions being implemented in relation to ongoing cases had led to a situation where it was unconstitutional to continue with the trial. To date, 11 different judges have dealt with this case. The application for acquittals was refused on the basis that the judges were not in a position to acquit. No reasons were given for this decision. An application was also made to have the case transferred to the Constitutional Court, which was also refused. The case was adjourned to 22 October 2015. LRWC work on this case, which includes a report to the UN Human Rights Committee, can be accessed on the [Turkey page](#) of the LRWC website.

UN HUMAN RIGHTS COUNCIL

RIGHT TO PEACE – On 20 April, 65 organizations including LRWC presented [a joint statement](#) to the 3rd Session of the Working Group on the Right to Peace criticizing the second draft declaration on the right to peace for failing to incorporate the essential elements of the right to peace identified in the 2010 Santiago Declaration and confirmed by the April 2012 Declaration by the Advisory Committee. By the end of the 3rd Session there was no consensus on the third draft. On 25 May 2015, three groups (Spanish Society for International Human Rights Law, International Observatory for Human Right to Peace and LRWC) [filed a report](#) calling on the HRC to extend the mandate of the Working Group on the Right to Peace with a view to achieving creation of a Declaration expanding on, not contracting, the principles spelled out by the 2010 and 2012 declarations.

NOTABLE REPORT

[Make Way for Justice: Universal Jurisdiction Annual Review 2015](#), European Centre for

Constitutional and Human Rights.

This report review the use of universal jurisdiction during 2014 in 37 cases in 14 countries and concludes that “a significant practice has taken shape globally over the course of 2014. In the majority of the identified countries, civil society, victims and/or lawyers have been the driving force behind universal jurisdiction cases, while, in others, criminal justice authorities pro-actively seek to prevent their territory from being used as a safe haven by suspected perpetrators of international crimes.” In Canada the use of universal jurisdiction remains under the absolute control of the Attorney General of Canada. Canada has ignored the 2012 recommendations of the UN Committee against Torture (in response to a report by the Canada-based Lawyers against the War) to “incorporate all the provisions of the Convention into Canadian law in order to allow persons to invoke it directly in courts...” and “...take all necessary steps to ensure that provisions of the Convention that give rise to extraterritorial jurisdiction can be directly applied before domestic courts.”

EDUCATION NEWS

Speaking out on Human Rights: Debating Canada's Human Rights System, by Pearl Eliadis has won the Huguenot Society of Canada award from the Ontario Historical Society for "the best book or substantial article published in Ontario in the past three years which has brought public awareness to the principles of freedom of conscience and freedom of thought." In June 2014, Pearl was the guest speaker at the Vancouver launch of her book, hosted by LRWC, the Hul'qumi' num Treaty Group, Amnesty International and the Vancouver Public Library. Pearl is a member of LRWC.



ANNUAL GENERAL MEETING

LRWC and LRW(Legal Research)C held their Annual General Meeting on Friday 24 April 2014 in Vancouver. Members from Vancouver, Toronto, Montreal, Victoria, Prince George and Brazil participated in person, by teleconference and by Skype. Election of Directors, annual business and resolutions were followed by reports from Heather Neun, David F. Sutherland, Brian Samuels, Catherine Morris and Gail Davidson about the past year's work and plans for the coming year. Elected as Directors of LRWC were: Clive Ansley, Julius Grey, Carolyn McCool, Leo McGrady Q.C., David F. Sutherland, Maureen Webb and Dr. Grace Woo. Elected as Directors of LRW(LR)C were: Siobhan Airey, Lois Leslie, Gavin Magrath, Renee Racette, Margaret (Peggy) Stanier, Vani Selvarajah and Samina Ullah.

LRWC MEMBERS CONTRIBUTING PRO BONO IN APRIL & MAY

Thank you to LRWC members and volunteers working *pro-bono* during February and March 2015 on letters, research, writing, investigations and advocacy: Brenda Belak, Grace Chen, Kathleen Copps, Gail Davidson, Dagmar Dlab, Joe Hoffer, William Liaw, Heather Liu, Gavin Magrath, Carolyn McCool, Catherine Morris, Renee Mulligan, Heather Neun, Avi Sharma, Ben Sutherland, Tiffany Scharff.

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Contact us at:

lrwc@portal.ca

Telephone: +1 604 738 0338

Fax: +1 604 736 1175

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