

## LRWC NEWSLETTER

December 2015 – January 2016 Edition

### LRWC ACTION NEWS

#### ARGENTINA

##### **Newly elected government breathes life into investigation of Nisman's death**

On 18 January 2015, Prosecutor Alberto Nisman was found dead in his apartment the day before he was scheduled to give evidence before the Argentinean Congress implicating the government of President Cristina Kirchner in a cover-up of Iranian connections to the 1994 bombing of the AMIA Jewish Community Centre in Buenos Aires. Immediately after Nisman's death, the government, in the face of widespread convictions to the contrary, declared his death a suicide. LRWC sent letters on [7 February](#) and [11 September](#) 2015 criticizing the government's failure to protect Nisman, to ensure his independence from coercion, and to properly investigate the suspicious circumstances of his death, and calling for a proper investigation. On 10 December 2015, a new government was sworn in and President Mauricio Macri, who replaced President Kirchner, set about breathing new life into the Nisman investigation by ordering the declassification of all federal agencies' documentation relating to Nisman, and relieving all federal agents of their oath of silence relating to information on Nisman. In a 15 January 2016 Presidential Decree, Macri gave all agencies 30 days to turn the declassified information over to Judge Palmaghini, who is currently overseeing the investigation. Over the last month, Palmaghini has sought to re-examine witnesses and evidence. The declassified documents are expected to shed light on what really happened to Nisman in his final days. Read more [here](#).



Alberto Nisman

#### BAHRAIN

##### **Travel ban against Nabeel Rajab should be removed say NGOs**

On 12 January 2016, 27 NGOs, including LRWC, released [a letter](#) calling on Bahrain authorities to remove the travel ban preventing prominent human rights defender Nabeel Rajab from leaving Bahrain. Rajab is President of the Bahrain Centre for Human Rights, Founding Director of the Gulf Centre for Human Rights (GCHR), Deputy Secretary General of FIDH and on the Advisory Committee of Human Rights Watch's Middle East Division. The travel ban was arbitrarily imposed in relation to



allegations that tweets sent by Nabeel Rajab were critical of the Saudi Arabia-led war in Yemen, which the UN reports has [claimed](#) over 8,000 civilian casualties and [precipitated](#) a humanitarian crisis. The alleged acts upon which the two charges are based—referencing reports of torture in Jau Prison and war crimes in Yemen—involved the peaceful exercise of internationally protected rights to expression. The travel ban is preventing Mr. Rajab from accompanying his wife outside Bahrain for necessary medical treatment.

### **Dr. al-Singace ends 10-month hunger strike**

LRWC wrote on [22 January 2016](#) asking Bahrain authorities to ensure the release and medical treatment of Dr. al-Singace in a civilian hospital chosen by him. A prominent human rights advocate, Dr. al-Singace was arbitrarily sentenced in June 2011 to life in prison for peacefully exercising internationally protected rights to freedom of expression and for carrying out the duty to promote human rights. When sentenced, he was already suffering in 2011 from injuries sustained in custody. On 21 March 2015, Dr. al-Singace began a hunger strike to protest the torture, humiliation and collective punishment of prisoners at Jau prison. After he collapsed on 30 March 2015, he was transferred to Qalaa military hospital where he has been subjected to harsh conditions that have further compromised his health. Earlier calls for his release and access to necessary medical care and attention made in [August](#) and [October 2015](#) have been ignored. On 29 January, after 313 days Dr. al-Singace ended his hunger strike. He expressed his ‘warm thanks’ to those that supported him.



Dr. Abduljalil al-Singace | [pen-international.org](http://pen-international.org)

## **CANADA**

### **LRWC granted intervenor status by Ontario Court of Appeal**

*Trinity Western University v Law Society of Upper Canada and the Attorney General of Canada*, Ontario Court of Appeal 16 December 2015. LRWC's application to make submissions on this appeal, restricted to Canada's international human rights obligations and the significance of international human rights in interpreting and applying the *Charter* protections at issue, was granted. Gavin Magrath made oral submissions on behalf of LRWC. The court imposed conditions limiting the factums of all intervenors to 10 pages with oral submission to be at the discretion of the panel hearing the appeal. Intervenor status was also granted to the Canadian Bar Association, Canadian Civil Liberties Association, Seventh Day Adventist Church in Canada, Canadian Constitution Foundation, Canadian Secular Alliance, Justice Centre for Constitutional Freedoms, Out on Bay Street, OUTlaws, Association for Reformed Political Action Canada, Evangelical Fellowship of Canada, Christian Higher Education Canada, Criminal Lawyers Association, Advocates Society and the Christian Legal Fellowship.

### **Canada Seventh Periodic Report on the Convention against Torture (UNCAT)**

For the sixth review by the Committee against Torture (CAT) of Canada's compliance with UNCAT obligations, LRWC and the International Civil Liberties Group (ICLMG) filed a joint report ([Canada: Briefing to the Committee against Torture \(48th Session, May 2012\) on the Omar Khadr Case](#)). In [Concluding Observations](#) published on 25 June 2012, CAT recommended, *inter alia*, that Canada ensure that Omar Khadr receive appropriate redress for human rights violations and raise awareness of UNCAT provisions among members of the judiciary and the public. In preparation for the seventh review of Canada, CAT requested answers to a List of Issues Prior to Reporting (LOIPR) and Canada invited LRWC and ICLMG to provide input. LRWC previously provided input on 2 November 2012, with [Implementing the Recommendations of the Committee against Torture](#). On 21 December, LRWC

and ICLMG provided Canada's Department of Heritage with [Canada's Response to the List of Issues Prior to Reporting \(LOIPR\) from the UN Committee against Torture](#). LRWC and ICLMG requests included that Canada, in responding to the LOIPR and reporting to CAT, treat the term "redress" as encompassing the full range of Article 14 duties identified by General Comment No. 3, including duties to fully investigate the torture and ill-treatment to which Omar Khadr was subjected during his imprisonment, to punish those responsible and to adopt measures to prevent further occurrences in accordance with the provisions of UNCAT.

## CHINA

### **Lawyer Shu Xiangxin arbitrarily arrested, convicted and sentenced to 6 months in jail**

Human rights lawyer Shu Xiangxin was arrested and summarily convicted and sentenced after state authorities characterized providing legal representation to clients seeking compensation for seizure of their land as extortion and/or blackmail of the government. Reports indicate that Shu was arrested 4 January, kept incommunicado for two days and subjected to torture and other prohibited treatment and then, on 8 January, convicted during a 30-minute proceeding from which his lawyers were excluded. Shu Xiangxin was sentenced to six months in jail. His licence to practice law had been revoked earlier. LRWC sent [a letter](#) on 27 January stating that the conviction and sentencing were illegitimate and could not justify his detention and calling on China to release him, set aside the conviction and restore his license to practice law.



Shu Xiangxin | chrdnet.com

### **Lawyers held incommunicado since 9 July 2015 given notice of bogus charges**

On 8 January 2016, prominent human rights lawyers Wang Yu and Bao Longjun, Wang Yu's husband, were given notice that there were to be charged with 'subversion of state power' and 'inciting subversion of state power', respectively. The two were arrested 9 July 2015 and have been held incommunicado since.

### **Lawyers and law office accountant detained since 10 July 2015 released**

Human rights lawyers Mr **Sui Muqing** and Mr **Huang Liqun** were reportedly released on 6 and 7 January 2016, respectively. They were arrested 10 July 2015 and had been held incommunicado since then under the so-called 'residential surveillance at a designated location' allowed by the Criminal Procedure Law art. 73 in cases alleged to involve state security, terrorism or serious cases of bribery. Ms Wang Fang, an accountant at the law firm where Huang Liqun worked, who was also arrested 10 July 2015, was released on 7 January 2016. LRWC letters, report to the UN Special Rapporteur on the independence of judges and lawyers and oral submission to the UN Human Rights Council calling for the release of these and others wrongfully detained during China's nation-wide crackdown on lawyers can be accessed [here](#).



Sui Muqing | frontlinedefenders.org

## LESOTHO

### **Lawyers on 'hit list' for representing soldiers charged with mutiny**

LRWC and Lawyers for Lawyers (L4L) wrote a [letter on 2 December 2015](#) in response to reports that

five Lesotho lawyers **Haee Phoofolo, Christopher Lephuthing, Koili Ndebele, Khotso Nthonto**



Haee Phoofolo | lestimes.com

and **Tumisang Mosotho** were at risk, possibly of death. All the threatened lawyers represent soldiers accused of plotting a mutiny with ex-army chief Maaparankoe Mahao, who was killed on 25 June 2015. Reports indicated that the lawyers had been threatened with harm and prevented from consulting clients by the Lesotho Defence Forces and were on a 'hit list.' Two people on an earlier 'hit list' had been killed soon after publication of the list. Other troubling factors include break-ins to Mosotho's office and Kumalo's house, investigation of Nthonto for 'perjury' and efforts by authorities to force Nthonto's client to falsely implicate him. LRWC is continuing to monitor the case.

## MALAYSIA

### **Lena Hendry prosecuted for showing award-winning documentary**

Eleven NGOs joined to send a [letter](#) on 10 December 2015 objecting to the prosecution of Lena Hendry for her involvement in a private screening on 9 July 2013 of "No Fire Zone: The Killing Fields of Sri Lanka," an award-winning film documenting uncontroverted atrocities, committed during the final months of the 26-year long civil war in Sri Lanka. Ms Hendry is being prosecuted under the *Film Censorship Act*, which imposes a mandatory prior censorship or licensing scheme on all films before they can be screened at any event, except films sponsored by the federal government or any state government. If convicted, she faces up to three years in prison and a fine up to RM 30,000. Ms Hendry is the Programme Coordinator for Pusat KOMAS. LRWC sent a [letter on 6 February](#) 2014 citing the charges as an illegitimate violation of expression rights and calling for withdrawal. On 14 September 2015, a 5-member panel of the Federal Court ruled that s. 6 (1)(b) and s. 8(2)(a) of the *Film Censorship Act* did not violate rights to freedom of expression and equality as protected by the Malaysia Constitution and directed that the trial proceed in Magistrate's Court. On 17 December 2015, the European Parliament passed a resolution calling on Malaysia to "drop politically motivated charges against" human rights activists Lena Hendry, academic Azim Sharom and others.



Lena Hendry

## SAUDI ARABIA

### **Samar Badawi arrested and interrogated**

Samar Badawi, Vice-Chair of the Monitor of Human Rights in Saudi Arabia, was taken into custody along with her infant daughter on 12 January 2016 in Jeddah, transferred to a police station, interrogated for four hours and then transferred to Dhaban prison. The same day, LRWC sent a [letter](#) asking Canadian authorities to intervene immediately to secure her release. The detention and interrogation of Samar Badawi cannot reasonably be separated from her role as Vice-President of the Ontario-registered organization Monitor of Human Rights in Saudi Arabia (MHRSA). Ms Badawi is the sister of imprisoned blogger Raif Badawi and the ex-wife of his (former) lawyer Waleed Abu al-Khair, who is now serving a 15-year prison term imposed for registering the MHRSA and other peaceful human rights related activities.



Samar Badawi



## SYRIA

### Canada asked for support to free Syrian human rights defenders

On the second anniversary of the abduction of Syrian human rights lawyer **Razan Zaitouneh**, **Samira Khalil**, **Nazem Hamadi** and **Wa'el Hamada**, her husband, nine international human rights organizations including LRWC [reiterated their call](#) for their release. The organizations join Zaitouneh's family in Canada in urging Canada to bring attention to the abduction and disappearance of the four human rights defenders, known as the Duma Four, and to seek their immediate release. On 9 December 2013, the Duma Four [were abducted](#) by a group of armed men who raided the offices of the [Violations Documentation Centre \(VDC\)](#) in Duma, near Damascus.

There has been no news of their whereabouts since. At the time of the abduction, Zaitouneh was head of the VDC, and had been awarded the 2011 [Sakharov Prize](#) for Freedom of Thought and the 2011 [Anna Politkovskaya Award](#) of Reach All Women in War (RAW in WAR), among other accolades, for her human rights work. LRWC joined 70 other organizations in an earlier call, on [28 April 2015](#), for the release of the four human rights defenders.



Razan Zaitouneh

## THAILAND

### LRWC participates in preparatory meeting for Thailand's UPR

On 21 December 2015, Renée Mulligan participated in the NGO preparatory meeting to inform Thailand's [Universal Period Review](#) ("UPR") State Report on behalf of LRWC. The meeting was held in Bangkok, Thailand, as part of the process leading up to Thailand's 2<sup>nd</sup> UPR before the UN Human Rights Council on 11 May 2016. The meeting allowed civil society NGOs to prepare their joint submissions identifying Thailand's international human rights challenges, which were presented to the Thai government the following day (as part of Thailand's National Consultation). The day provided clear guidelines about Thailand's 2<sup>nd</sup> UPR cycle, as well as an overview of the UN's new Sustainable Development Goals. In the afternoon, the participants broke into 14 thematic working groups and worked together to identify the international human rights challenges in Thailand on behalf of their organizations, and received feedback on their presentations. LRWC highlighted concerns from their submission to the UPR, including Thailand's failure to comply with its international human rights obligations to guarantee fair trial rights and to guarantee freedom from torture and prohibited treatment, as part of the thematic working group focusing on the administration of justice and the rule of law.

### Democracy activists arrested and denied access to lawyers

On 20 and 21 January, six human rights defenders and democracy activists were arrested after being charged with violating the military junta's order prohibiting political gatherings of five or more people without prior permission. Military authorities arrested the 36 at a train station while the activists were on their way to Rajabhakti Park in Hua Hin to demand an investigation into allegations of corruption in construction of the park. The activists spent several hours in military detention without access to lawyers. Twenty-five were released after signing pledges not to join any political movement in the future and not to leave Thailand without permission. The other eleven activists refused to sign the pledge and were charged with violating the junta's order. On 13 January 2016, the Bangkok Military Court had issued a warrant for the arrest of six students after they failed to report pursuant to a summons issued 22 December 2015. On 20 January 2016, one of the activists was seized by men wearing uniforms who forced him into a vehicle, ill-treating him before taking him to a Bangkok police station. Another five were arrested on 21 January. They were all granted pre-trial release by the military court, which will decide

whether eleven civilian activists will face a military court trial. If convicted, they may face up to six months' imprisonment and/or a fine of up to 10,000 baht (US\$276). A statement by LRWC is being drafted.

## TURKEY

### NGOs publish tribute to slain lawyer Tahir Elçi: investigation of his death marred



Tahir Elçi

LRWC and 30 organizations and individuals published [tributes](#) in two [newspapers](#) in Turkey on 2 December 2015 expressing respect for Tahir Elçi's extraordinary human rights advocacy and their shock and sadness at his death. Tahir Elçi, President of the Diyarbakır Bar Association, was killed on 28 November 2015 while giving a speech calling for peace. He had been arrested and interrogated by the 'anti-terrorism' police on 20 October for calling for a peaceful resolution of Kurdish issues. LRWC, in a [21 October letter](#), objected to the unwarranted arrest. The investigation of his death has been marred with controversy over the role of the

police and incompetent preservation, collection and handling of evidence by authorities. International organizations and opposition politicians have called for an independent investigation and Amnesty International has said the investigation to date "smacks of a cover-up". The opposing People's Democratic Party, of failing to protect Tahir Elçi. LRWC is working with other NGOs to monitor the investigation.

## VIET NAM

### Nguyễn Văn Đài arrested, convicted and sentenced without due process

Lawyers **Nguyễn Văn Đài** and **Lê Thu Hà** were both arrested on 16 December 2016 and held incommunicado. Viet Nam authorities have refused to approve the application by a Vietnamese lawyer to act as defense counsel for Nguyễn Văn Đài. As the legal basis for the arrests and detentions, Viet Nam relies on the Viet Nam *Criminal Procedures Code* Article 81, which purports to authorize the arbitrary arrest and detention of any person believed to be "preparing to commit very serious or exceptionally serious offences." Both have been charged under Article 88 of the *Penal Code* with 'conducting propaganda against Viet Nam', an offence that

violates international standards of certainty for criminal offences and contravenes internationally protected rights. The arrests and prosecutions are apparently intended to prevent and punish their human rights advocacy. Nguyễn Văn Đài is the co-founder of the Vietnam Human Rights Committee and a pro-democracy activist. He has provided legal assistance to government critics and members of religious minorities and written extensively on human rights, including providing commentaries to the BBC. Prior to his arrest, Nguyễn Văn Đài had been severely beaten in a 6 December attack by unknown assailants. LRWC, working with a group of Asia- and Europe-based NGOs, has sent three communications on this case. On 10 January 2016, LRWC sent [a letter](#) to Viet Nam authorities calling for the immediate release of Nguyễn Văn Đài and Lê Thu Hà and withdrawal of charges. On [18 December 2015](#), in response to a request from LRWC, the Canadian Ambassador to Viet Nam advised that Canada would make direct representation with the Viet Nam and monitor the situation.



Nguyễn Văn Đài | vietnamnet.cn

## NGO AFFAIRS

On 26 November 2015, the UN General Assembly passed a resolution entitled “Recognizing the role of human rights defenders and the need for their protection,” which calls for accountability for attacks on human rights defenders (including attacks on their family members) and urges states to release defenders who have been arbitrarily detained for exercising their fundamental rights to freedom of expression, peaceful assembly and association. Norway, as the main sponsor of the resolution, faced many challenges in the negotiation phase with some States, notably members of the African Group, attempting to significantly weaken the text. Nevertheless, Norway and the co-sponsors of the resolution resisted pressure and delivered a strong text. Although such resolutions are usually adopted by consensus, China and Russia asked for a vote which resulted in 117 votes for the resolution and 14 states against (voting against were China, Russia, Syria, Burundi, Kenya, Myanmar, Nigeria, Saudi Arabia, Zimbabwe, North Korea, South Africa, Iran, Pakistan, and Sudan). The activities of civil society actors including NGOs, human rights defenders and environmental, democracy, anti-war and social justice activists are increasingly under attack around the world. A recent article [\*Civil Society Under Pressure\*](#), by Barbara Unmüßig, reviews some troubling trends.

## NOTABLE DECISION

On 26 January 2016, the Canadian Human Rights Tribunal rendered its long-awaited decision in [\*First Nations Child and Family Caring Society of Canada and Assembly of First Nations v. Canada\*](#). It concluded that the federal government had violated section 5 of the *Human Rights Act* by providing inequitable and insufficient funding for child and family services on reserves.

There had already been many comprehensive investigations into the notoriously poor conditions faced by children living on reserves. After reviewing the history of the various federal funding agreements with the provinces and territories and the findings of previous investigations, the tribunal relied on established jurisprudence to affirm that the Crown has a fiduciary relationship with Aboriginal peoples and must act honourably in its dealings with them. These principles plus the department’s own representations led the tribunal to conclude that the mandate and mission of the federal bureaucracy was to provide culturally appropriate child and family services and that funding itself constituted a part of this service.

The tribunal found that effective comparison could not be based on funding alone because actual need and the cost of delivery could be higher in some locations. It also affirmed that Jordan’s Principle places the needs of the child first and requires immediate provision of services without delays to resolve jurisdictional disputes. It took account of the devastating impact of the residential school system and concluded that substantive equality is required, not only under Canadian law, but also, as argued by Amnesty International, according to Canada’s obligations under the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the United Nations Declaration on the Rights of Indigenous Peoples and other international instruments that Canada has signed. It affirmed the relevance of international law to Canadian human rights law, pointing out that, as underlined by the Supreme Court of Canada on numerous occasions, public engagement to uphold the terms of a treaty or covenant reflects a commitment to ensure that its principles are reflected in national law.

The tribunal retained jurisdiction, saying it would contact the parties in three weeks concerning procedures for determining how to redress the discrimination and provide compensation. It also reserved judgment on the issue of costs for abuse of process in relation to the Canadian government’s failure to disclose relevant documents in its possession.

## LRWC MEMBERS WORKING PRO BONO IN DECEMBER AND JANUARY

Clive Ansley, Mary Goretti Byamugisha, Miranda Cheng, Gail Davidson, Daniel Frederiks, Olivia French, Becky Gormley, Delaney Griffiths, Adam Hummel, Lois Leslie, Ed Levy, Gavin Magrath, Carolyn McCool, Catherine Morris, Renee Mulligan, Amy Reier, Mark Stevens, Ben Sutherland, David F. Sutherland, Grace Woo.

We welcome feedback on Newsletter content, format, and delivery. Mail subscriptions are also available.

Fees and donations can be made by cheque, [PayPal](#), or [Canada Helps](#).

Monthly donations increase LRWC's ability both to respond quickly and plan ahead.

Airline points donated to LRWC qualify as a tax-deductible donation!

[Follow on Twitter](#) [Friend on Facebook](#)

### Contact us at:

lrwc@portal.ca

Telephone: +1 604 738 0338

Fax: +1 604 736 1175

### Lawyers' Rights Watch Canada

is an NGO in Special Consultative  
Status with the Economic and Social  
Council of the United Nations.

*Copyright © 2016 Lawyers Rights Watch Canada, All rights reserved.*