

## LRWC NEWSLETTER

February – March 2016 Edition

### LRWC ACTION NEWS

#### BAHRAIN

##### **Bahrain targets children of human rights defenders with trauma to punish mother and aunt**

On 14 March 2016, Bahrain security officers arrested Zainab Al-Khawaja and her 15-month-old son. Al-Khawaja and her son are being held in Isa Town prison, where there is an outbreak of Hepatitis C. As a result of the arrest, Al-Khawaja was separated from her six-year-old daughter. She is set to serve a two-month prison sentence that her lawyer reports could be extended for more than three years. Al-Khawaja has been subject to illegitimate prosecutions, arbitrary arrests, and unfounded convictions by the Government of Bahrain since 2011 when she began voicing her opposition and peacefully protesting the arbitrary detention of her father, Abdulhadi Al-Khawaja, co-founder and former president of the Bahrain Centre for Human Rights. The 14 March arrest appears to be in retaliation for the presentation by Zainab's sister, Maryam Al-Khawaja, of [a scathing report](#) about human rights abuses in Bahrain at a side event to the March session of the Human Rights Council in Geneva. LRWC's [17 March letter](#) calls on Bahrain to release Zainab and her son, vacate convictions and withdraw charges. LRWC (joint and sole) advocacy on behalf of members of the Al-Khawaja family includes letters objecting to: [the wrongful conviction](#) of Abdulhadi Al-Khawaja and twenty others; [his continued arbitrary detention](#); the [arbitrary detention](#) of Zainab Al-Khawaja in 2013; the [detention of Abdulhadi Al-Khawaja](#) in 2014; and the [arrest](#) and [prosecution](#) in 2014 of Maryam Al-Khawaja.



Zainab Al-Khawaja | ladycollective.com

#### CANADA

##### **Appeal discontinued in *Attorney General v. Khadr* in the Alberta Court of Appeal**

Canada discontinued its appeal of decision allowed the release on bail of Omar Khadr pending determination of his U.S. appeal against the conviction entered by the illegitimate Guantanamo Bay



Omar Khadr | AP Photo/Janet Hamlin

Military Tribunal in October 2010. Canada announced on 18 February that “[w]ithdrawing this appeal is an important step towards fulfilling the Government’s commitment to review its litigation strategy.”

### **Canadian NGOs call for repeal of *Anti-Terrorism Act* and national security oversight**

On 9 March 2016, LRWC joined the International Civil Liberties Monitoring Group and other civil society organizations in a [joint letter](#) calling on Canada to repeal the *Anti-Terrorism Act* and to create effective national security oversight, review and accountability mechanisms that include at a minimum a committee of parliamentarians, an expert review body, and an independent monitor of national security law.

### **LRWC files factum in TWU v LSUC case**

LRWC filed a factum as intervener in the Trinity Western University v Law Society of Upper Canada and the Attorney General of Canada case before the Ontario Court of Appeal on 25 February 2016. The Factum was prepared by LRWC members Gail Davidson, Lois Leslie, Gavin Magrath and Carolyn McCool and can be viewed [here](#). The factum outlines Canada’s international human rights obligations and the significance of international human rights in interpreting and applying the Charter protections at issue to support the decision of LSUC denying TWU’s application for accreditation. The appeal will be heard 6-7 June 2016.

## **CHINA**

### **Human Rights lawyers detained since July now charged with illegitimate offences**

Prominent human rights lawyers Wang Yu (arrested 6 July 2015) and Bao Longjun (arrested 25 August 2015) were charged with unfounded and specious charges of ‘subversion of state power’ and ‘inciting subversion of state power’ on 8 January 2016. They had been held incommunicado at a secret location under so called ‘residential surveillance’ since arrest. A few days later, the families of five other lawyers received official notice that their family members are also charged with either subversion of state power (Mr Zhou Shifeng and Mr Wang Quanzhang, each arrested 29 August 2015; and Mrs Li Shuyun, arrested 10 July 2015) or inciting subversion of state power (Mr Xie Yanyi, arrested 9 September 2015 and Mr Xie Yang, arrested 21 July 2015). Maximum penalties for ‘subversion of state power’ and ‘inciting subversion of state power’ are life imprisonment and 15 years, respectively. Although there is no evidence of criminal activities by any of these people, the charges will almost certainly result in convictions and lengthy imprisonment. Representing clients unpopular with the Chinese government has been considered by the government to be ‘subverting state power’. Lack of access to an independent judiciary forecloses any chance of raising an effective defense. LRWC communications to the Chinese government and to UN monitoring bodies can be viewed [here](#).



### **Zhang Kai released**

Zhang Kai was released on 23 March after being arbitrarily imprisoned at a secret location since 25 August 2015. Zhang Kai reported that he has been safely returned to his hometown in Inner Mongolia. Prior to his arrest he had represented churches threatened with demolition and removal of crosses. Because of this legal work, he was accused of ‘stealing, spying into, purchasing, or illegally providing

state secrets or intelligence’ to foreign actors and ‘disturbing social order’. On 25 February Chinese state television aired a clip showing Zhang ‘confessing’ to ‘violating national laws, disturbing social order, and endangering national security’. The statement is presumed to have been coerced through torture and other illegal treatment during his seven months of incommunicado detention. The arrest and secret detention of Zhang Kai was one of the cases raised in LRWC’s [September 2015 report](#) to the UN Special Rapporteur on the independence of judges and lawyers.



## HONDURAS

### Indigenous rights advocate Berta Cáceres murdered



Prominent indigenous rights advocate Berta Cáceres was shot to death in the early hours of 3 March 2016 by unknown assailants who forced their way into the home where she was staying in her hometown of Esperanza, in the Western Province of Intibuca. Ms Cáceres was the coordinator and co-founder of the Council of Indigenous Peoples of Honduras (COPIHN) and was internationally admired for her defense of indigenous rights, particularly rights to land and natural resources. In 2015 she received the prestigious Goldman award in recognition of her extraordinary environmental and human rights advocacy. Although protective measures for Ms. Cáceres

had been ordered by the Inter-American Commission on Human Rights she was utterly unprotected by the police when murdered. The only witness to the murder was her colleague Mexican environmental activist Gustavo Castro Soto who was injured himself. Prior to the murder Ms Cáceres had been threatened with harm for her opposition to the Agua Zarca Hydroelectric Generating Project. This mega-project in the Gualcarque River basin involves the expropriation of territory traditionally occupied by the indigenous Lenca people and is linked to human rights abuses. On 3 March LRWC sent a [letter](#) urging the Government of Honduras to move quickly to ensure accountability through a properly independent investigation of the murder. LRWC also urged investigation of the appalling failure to implement protection.

### LRWC calls for independent, competent investigation of murders

On 11 March 2016, LRWC wrote a [letter](#) calling on the Government of Honduras to institute a number of actions following the murder of Berta Cáceres, namely to ensure: effective precautionary measures for the family of Berta Cáceres, the members COPINH and Gustavo Castro Soto; Gustavo Castro Soto’s immediate return to Mexico; an impartial, independent and competent investigation that complies with international law requirements; and professional collection and preservation of evidence.



### Groups call for response from Canada to murders of Berta Cáceres and Nelson García

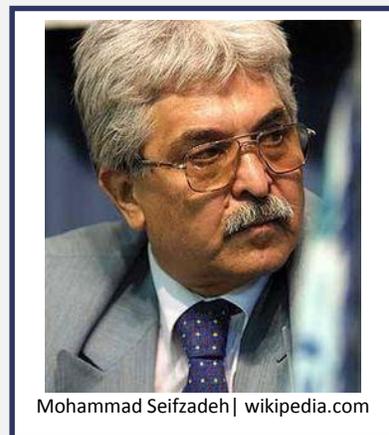
On 22 March 2016, LRWC joined 46 Canadian civil society organisations in a [letter](#) urging the Canadian government to respond to the murders of human rights defenders Berta Cáceres and Nelson García in a manner that demonstrates Canada’s commitment to protecting human rights, justice and the rights of

indigenous peoples. The letter expressed shock that Nelson Garcia, a COPINH leader, was murdered on 14 March 2016. The joint letter requests that Canada seek assurances from Honduran authorities that they will ensure the safety of all members of COPINH, incorporate independent international investigators to investigate the two murders, ensure that Gustavo Castro is returned safely to Mexico, and immediately revoke the Energy Development Company's concession for the Agua Zarca project, which was granted without the Lenca peoples' free prior and informed consent. The joint letter also calls on Canada to cut public funding to the Honduran security forces, ensure no Canadian overseas development aid reaches infrastructure projects operating without the free, prior and informed consent of Indigenous peoples whose lands and rights may be affected, and investigate Canada's role in the 2009 coup in Honduras.

## IRAN

### Prominent human rights lawyer released from prison after five years

Mohammad Seifzadeh, lawyer and founding member of the Defenders of Human Rights Center (DHRC), was released on 10 March 2016 from prison in Iran. He was convicted on 29 October 2010 of "acting against national security" for founding the DHRC and "propaganda against the regime" for giving interviews to foreign media. At this time, he was sentenced to 9 years in prison as well as banned from practicing law for 10 years. On appeal, on 23 April 2013, the prison sentence was reduced to 2 years. On 23 February 2013 he was convicted on another charge of 'propaganda against the regime' and sentenced to an additional 6 years. That charge was based on an open letter written to the President of Iran from prison in July 2011, identifying widespread misuse of the law in the Iran. During Mr. Seifzadeh's imprisonment, LRWC has highlighted the arbitrariness of his imprisonment and called for his release and proper medical treatment in several communications including: a [23 July 2013 letter](#); a May 2014 [written report](#) to the UN Human Rights Council; and a March 2014 [report](#) for the Universal Periodic Review of Iran. LRWC has also made oral presentations to the Human Rights Council outlining the plight of imprisoned lawyers in Iran in March and June 2014.



## INDONESIA

### Lawyers Tigor Gempita Hutapea and Obed Sakti Andre Dominika arrested for legal work

LRWC and Lawyers for Lawyers sent a letter raising concern over the beating, arrest, criminal investigation and possible prosecution of public interest lawyers Tigor Gempita Hutapea and Obed Sakti Andre Dominika in connection with their efforts in monitoring police violence committed during a peaceful protest rally for increase in minimum wage by labor union workers. Tigor Gempita Hutapea and Obed Sakti Andre Dominika were charged for "disobeying police orders". The letter called on the Indonesian government to comply with international obligations under the UDHR and ICCPR to ensure the safety of Tigor Gempita Hutapea and Obed Sakti Andre Dominika; withdraw charges against them; increase police awareness on the role of advocates and their responsibilities to protect them; and end harassment of Indonesian advocates.



## LESOTHO

### LRWC and L4L call for protective measures for defense lawyers threatened with death

On 19 February, LRWC and Lawyers for Lawyers (L4L) issued a [press release](#) calling for withdrawal of charges and implementation of effective measures to protect defense lawyers subjected to death threats, arrest and prosecution. On 12 February Khotso Nthontho was arrested, charged with perjury and released. While in detention his house and personal vehicle were seriously damaged by gunfire. Nthontho is part of a team of five lawyers representing 23 soldiers accused of mutiny against ex-army chief Maaparankoe Mahao, who was killed on 25 June 2015. LRWC and L4L called on the Lesotho authorities to withdraw all charges against Nthontho and ensure the safety of all members of the defense team.



## MALAYSIA

### Attorney General stays *Sedition Act* prosecution of law lecturer Dr. Azmi Sharom



On 18 February 2016 LRWC issued a [press release](#) applauding the 12 February discontinuance of the sedition prosecution of law lecturer Dr. Azmi Sharom and calling for the repeal of the *Sedition Act* and discontinuance of all other prosecution under the act, including those against lawyers Eric Paulsen and N. Surendran. Sedition charges were laid in 2014 against Dr. Sharom based on his legal analysis of a controversial constitutional issue published in 2009. A constitutional challenge of the charges had been rejected by the court in October 2015. LRWC has been penning articles, letters and reports calling for repeal of Malaysia's *Sedition Act 1948* since 2000.

### Lena Hendry acquitted for private screening of award-winning documentary

Activist Lena Hendry Rasathi Hendry was freed by the magistrate's court without having her defence called over her uncensored Sri Lanka genocide documentary screening three years ago. The magistrate, Mohd Rehan Mohd Aris, held that the prosecution had failed to establish a prima facie case against the accused. Lena, a Community Communication Centre programme coordinator, was charged on 19 Sept 2013 with screening the award-winning documentary, 'No Fire Zone: The Killing Fields of Sri Lanka'. On 11 February 2014 LRWC (Amy Reier) wrote a [letter advising Malaysian authorities](#) that the prosecution contravened Malaysia's international law obligations such that withdrawal of the charges was necessary. LRWC and 12 other NGOs endorsed a [letter calling for withdrawal](#) of the charges on 10 December 2015.



## Malaysia Bar Association seeks judicial review of PM's closure of investigation and calls for resignation of Attorney General

The Malaysian Bar Association has filed for judicial review of the Attorney General Tan Sri Apandi Ali's two-fold decision clearing Prime Minister Najib Tun Razak of any criminal wrong doing in the transfer to him of 2.6b MYR (USD 681M) by SRC International, a former subsidiary of heavily indebted and scandal ridden 1Malaysia Development Berhad (1MDB). The Bar Association lawsuit also seeks judicial review of AG Apandi's decision to refuse a request for mutual legal assistance and to close down investigation of the transfer by the Malaysian Anti-Corruption Commission (MACC). The Prime Minister maintains that the transfer was a 'no-strings-attached' donation from the Saudi royal family and that he had returned, as unused, 2.03b MYR (USD 660M) of the transfer. On 19 March the Malaysia Bar Association [passed a resolution](#) calling on AG Apandi "to immediately resign as Attorney General, for the good of Malaysia, to restore public confidence and perception of the rule of law, in particular the administration of criminal justice in Malaysia." The controversial July 2015 appointment of Attorney General Apandi in the midst of the MACC investigation was made after Attorney General Gani Patail, who had led probes into 1MBD, was summarily removed. Apandi, a former federal judge, is known as a long-time supporter of the ruling UMNO, in power since 1957.

## PHILIPPINES

### Ombudsman exonerates authorities for arrest, torture and ill treatment of Morong 43

The term "Morong 43" refers to a group of 43 health care workers (doctors, nurses, midwives and health care workers) arrested without warrant on 7 February 2010, deprived of legal counsel, subjected to torture and other ill treatment and denied pre-trial release. In an attempt to justify the arrests, detention and treatment, the Government of the Philippines labelled them as members of the New Peoples' Army. In response to vigorous advocacy by many groups including LRWC, 35 of the health care workers were released by 28 December 2010. Since then the healthcare workers have sought accountability for the wrongful arrests and treatment. In June 2015, the Commission on Human Rights (Philippines) confirmed in June 2015 that the health care workers had been tortured. However on 1 February 2016, the Ombudsman found that the Morong 43 had been denied counsel during their interrogation but exonerated the former



President and military officials of robbery, illegal arrest, detention and torture of the Morong 43. LRWC advocacy during 2010 on behalf of the Morong 43 (and two babies born in jail) was covered extensively by media in the Philippines and included: a prison visit with 36 of the detained health care workers on 20 September 2010; a legal brief to the President and Secretary of Justice on [1 October 2010](#); a meeting with the Vice-Consul on 9 November; and a letter highlighting the needs of the infants born in custody. LRWC sent a gift of moccasins and blankets to the infants.

## SPAIN

### Spanish Court allows exhumation of victim Franco-era execution

In response to the order of Argentine Judge Maria Servini made in a lawsuit seeking redress for atrocities committed by Franco forces during the 1936-39 Spanish Civil War, a Spanish court has authorized the

exhumation of a man executed in 1939. Spanish fascists have successfully resisted investigation of Franco-era crimes through a variety of means. In October 2008, Judge Garzón opened Spain's first criminal investigation into Franco-era extra-judicial executions and enforced disappearances and ordered the opening of 19 mass graves. In a 68-page ruling, Judge Garzón noted that the count of those executed or disappeared by Franco's forces stood at 114,266, including an estimated 30,000 children of disappeared or executed parents who were either adopted by Falangist sympathizers or raised in orphanages. This investigation was halted and in January of 2009 Manos Limpias and Libertad e Identidad, two groups sympathetic to Spain's fascist party, filed criminal complaints alleging that by initiating the investigation, Garzón had knowingly made a biased and unfair decision outside the range of possible interpretation of the law and thereby misused his power contrary to *Ley de Amnestia* of 1977 and the Spanish Penal Code. Garzón was suspended from judicial office. Another politically driven prosecution led to his permanent removal from the bench. LRWC delivered [several reports and complaints](#) to UN bodies on the wrongful interference by various actors with Garzón's judicial independence and hosted Garzón as a speaker at an event on combating impunity in Geneva.

## SYRIA

### NGOs call again for the location and release of Bassel Khartabil

On March 17 2016, LRWC and thirty other NGOs renewed their call for the release of Bassel Khartabil in a [press release](#) published on the fourth anniversary of his incarceration. Khartabil, a software engineer, has been imprisoned since 12 March 2012 for "spying for a foreign state". Khartabil is the recipient of the 2013 Index on Censorship Digital Freedom Award for using technology to promote an open and free Internet. Foreign Policy magazine named Khartabil one of its Top 100 Global Thinkers of 2012, "for insisting, against all odds, on a peaceful Syrian revolution." On 3 October 2015, he informed his family that he was being transferred from Adra central prison to an undisclosed location. His whereabouts are still unknown and some fear that he has been transferred back to the torture-rife facilities run by Syria's security forces. LRWC previously called for Bassel's release in letters sent on 7 [October 2015](#), 4 [November 2015](#) and 20 [November 2015](#).



## THAILAND

### Thailand: Judicial harassment of human rights defenders, activists and lawyer

In January 2016, charges were brought in Military Court against 11 human rights defenders and democracy activists for organizing a visit to Rajabhakti Park in Hua Hin, Thailand, to draw attention to allegations of corruption in relation to construction of the park, a military-sponsored project featuring statues of several of Thailand's past kings. One of the activists was reportedly ill-treated during arrest in violation of the *International Covenant on Civil and Political Rights* (ICCPR) and the *Convention against Torture* (CAT). On 5 February LRWC released a [statement](#) raising concerns about violation of the activists' freedom of expression, freedom from torture and ill-treatment, and right to trial before a civil court. LRWC called on Thai authorities to immediately withdraw all charges against the 11 activists and cease all judicial and other harassment against them and all other peaceful human rights defenders in Thailand.

### Lawyer charged for protecting clients from warrantless search

On 2 February 2016, Ms. Sirikan ("June") Charoensiri, a lawyer from Thai Lawyers for Human Rights

(TLHR) received a summons to report to the Chanasongkram Police Station on two charges: refusal to comply with a police order and filing a false police report. The charges are based on Ms. Sirikan's refusal to agree to a warrantless search of her car, and her filing of a complaint about police misconduct for seeking to conduct the search without warrant or permission. Ms. Sirikan was present during the arrest of 14 student members of the New Democracy Movement who she represents. The students—charged with sedition by a military court—left their possessions with Ms Sirikan for safe keeping when detained. On 9 February, LRWC issued a [statement](#) calling upon Thai authorities to halt all forms of harassment against Ms. Sirikan, withdraw all charges against her and comply with Thailand's international human rights obligations under the ICCPR, the UN *Basic Principles on the Role of Lawyers* and the UN *Declaration on Human Rights Defenders*. LRWC also called authorities to put an immediate end to retaliation against or interference with, the work of human rights defenders.



Sirikan Charoensiri |  
essex.academia.edu

## TURKEY

### **Nine lawyers arrested the day before appearance as defense counsel on controversial mass trial of 46 lawyers (KCK trial)**

On 24 March 2016, LRWC wrote a [letter](#) objecting to the arbitrary arrest and detention of nine lawyers. The letter calls on Turkey to follow through on its international obligations under the UDHR, ICCPR, and ECHR to protect, not violate, rights to liberty, pre-trial release, freedom from arbitrary detention, the presumption of innocence, representation by legal counsel, notification of charges and court proceedings and the right to present a defense at proceedings to determine rights. LRWC called on the Turkish government to immediate release the lawyers remaining in detention, withdraw charges against all nine of the lawyers and comply with international obligations to ensure the right and duty of lawyers to perform their personal duties.

The KCK trial hearing scheduled for 17 March 2016 was postponed at the last minute because of the case before the Constitutional Court challenging the constitutionality of a newly adopted rule of the Code of Criminal Procedure. The judgment has not yet been delivered, and other penal courts hearing similar cases have begun to proceed with the cases. It is likely that the 19<sup>th</sup> Heavy Penal Court will ultimately proceed with the KCK trial without waiting for the judgement of the Constitutional Court.

## VIET NAM

### **Arbitrarily detained lawyer and human rights defender still held incommunicado**

As of 4 February 2016, Nguyễn Văn Đài had not been allowed to see a lawyer or allowed other visitation. He has been permitted to write a letter to his father, but it is unknown whether the contents of his communication were censored by authorities. Nguyễn Văn Đài, lawyer and co-founder of the Vietnam Human Rights Committee, and human rights activist Ms Lê Thu Hà were arrested on 16 December 2015 and charged with 'conducting propaganda against the state'. The illegal nature of the arrests is examined in a January LRWC [letter](#). LRWC in cooperation with other NGOs is continuing to monitor the case.



Nguyễn Văn Đài | vietnamnet.cn

## LRWC PARTICIPATION AT THE UN HUMAN RIGHTS COUNCIL

### UN HUMAN RIGHTS COUNCIL, 31<sup>st</sup> SESSION, 29 February to 24 March 2016

#### Written Statement

*Restoring the Space for Dissent in Canada*, LRWC and the Asian Legal Resource Centre (ALRC), February 2016. This [report](#) prepared by Pearl Eliadis follows up on the issues of concern raised in the report, *The Shrinking Space for Dissent in Canada*, also prepared by Pearl Eliadis, filed for consideration by the 29<sup>th</sup> Session of the HRC in June 2014. The February 2016 report focuses on the continuing need for Canada to repeal laws that threaten dissent and advocacy, establish security service oversight mechanisms, end CRA “political activities audits”, and create an enabling environment for civil society organizations.

#### Oral Statement

*Use of internationally non-compliant laws to criminalize the work of human rights defenders*. This [joint LRWC/ALRC statement](#) was scheduled for presentation on 3 March by Md. Ashrafuzzaman of ALRC during the Interactive Dialogue with the UN Special Rapporteur on human rights defenders. The statement was not delivered because of HRC time constraints.

Lois Leslie attended the HRC during the last two days. Vani Sevarajah attended to registration of LRWC’s oral presentations.

## ANNUAL GENERAL MEETING

The Annual General Meeting for Lawyers’ Rights Watch Canada and Lawyers’ Rights Watch (Legal Research) Canada will take place on Friday, 29 April 2016, noon – 3:00 pm, at 900 Howe Street, Vancouver, BC. Business will include election of directors for the 2016-2017 year, a review of LRWC work and finances during the year ending 31 December 2015 and discussion of LRWC’s work plan and finances for 2016. Members may attend in person or by phone. Please make sure your 2016 membership fee is paid at least two weeks prior to the meeting and let us know if you plan to attend.

## AWARDS

**The Council of Bars and Law Societies of Europe (CCBE)** granted its [2015 Human Rights Award](#) to Mr Intigam Aliyev, an Azerbaijani human rights lawyer and, due to the recent crackdowns on human rights lawyers in China, decided to grant a second award to the Chinese law firm Fengrui.

**Law Society of Upper Canada** [Human Rights Award](#)

LRWC would like to nominate someone for this award and invites your suggestions of nominees. The award, in its second year, is for a person who has made an outstanding contribution to human rights and/or promoting the rule of law. Irwin Cotler received the inaugural award last year.

## LRWC MEMBERS WORKING *PRO BONO* IN FEBRUARY & MARCH

Miranda Cheng, Gail Davidson, Pearl Eliadis, Daniel Fredericks, Olive French, Adam Hummel, Lois Leslie, Ed Levy, William Liaw, Gavin Magrath, Carolyn McCool, Catherine Morris, Renee Mulligan, Heather Neun, Georges Prat, Amy Reier, William Schabas, Avi Sharma, Mark Stevens, Vani Selvarajah, Ben Sutherland, Grace Woo.

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