

Lawyers' Rights Watch Canada

LRWC NEWSLETTER

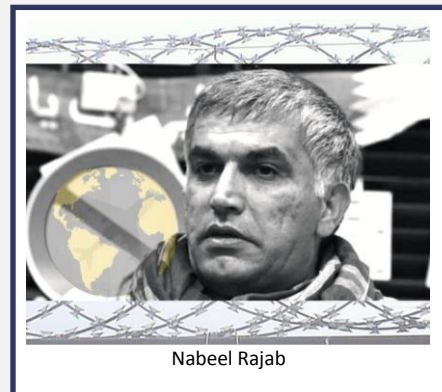
June – July 2016 Edition

LRWC ACTION NEWS AND UPDATES

BAHRAIN

Joint letter calling for release of human rights defender Nabeel Rajab

On 13 June 2016, Bahraini human rights defender Nabeel Rajab was arrested under the order of the Ministry of Interior's Cybercrimes Unit. His most recent arrest is part of a larger crackdown by the Bahrain authorities targeting lawyers, journalists and other human rights defenders in an effort to suppress criticism. On 12 June 2016, at least six individuals were prevented from travelling to Geneva for the 32nd session of the UN Human Rights Council by Immigration, Passport and Residency officials. Other political activists are also facing travel bans, including Dr. Taha Al-Derazi and Jalila Al-Salman. In a joint letter [dated 16 June 2016](#), 21 human rights organizations including LRWC requested the immediate release of Nabeel Rajab and other human rights defenders, the removal of travel bans restricting the mobility of activists and a stop to reprisals against human rights defenders attempting to engage with international mechanisms including the UN system. On 12 July, a court denied Rajab's application for pre-trial release and set 2 August as the next appearance date on false and undefendable charges of "insulting a statutory body", "insulting a neighboring country", and "disseminating false rumors in time of war". These charges are based on remarks allegedly made by Rajab on Twitter about torture at Jau prison and the Saudi war in Yemen.



Joint letter on suppression of dissent in Bahrain

In a [joint letter released 18 July 2016](#), LRWC and 11 other human rights organizations called on EU ministers to use the EU-Gulf Cooperation Council (GCC) Ministerial Meeting to pressure the Bahraini government to end the suppression of dissent and raise concerns with the GCC over the systemic human rights violations by Saudi Arabia. The government of Saudi Arabia has supported the Bahraini government's actions in suppressing dissent, and has been suppressing dissent in its own country through similar tactics.

CANADA

LRWC and others recommend reforms to Canada's *Access to Information Act*

LRWC joined the Centre for Law and Democracy (CLD) and the BC Freedom of Information and Privacy Association (FIPA) to compose a [series of recommendations](#) for reforming Canada's *Access to Information Act*. The Liberal Party of Canada promised to reform the Act in its 2015 election campaign, and while there has been some action there are still many changes needed. The government has proposed to complete the reform in two phases; however LRWC, the CLD and the FIPA propose the government carry out the reform in a single phase to maximize efficiency. LRWC also supports the eight short-term proposals the government has put forward, but has added several other ideas that would further improve the Act. These proposals include the elimination of both access and requesting fees, the extension of the scope of the Act, the extension of the right to request information to all people, and granting the Information Commissioner order-making power.

Ontario Court of Appeal upholds decision of Law Society of Upper Canada (LSUC)

On 29 June 2016, the OCA handed down its [decision](#) in *Trinity Western University v Law Society of Upper Canada* (2016 ONCA 518). Justice MacPherson, with both other judges agreeing, rejected TWU's appeal, finding the original decision of the LSUC to have been made reasonably. Gavin Magrath presented oral arguments as *amicus* on behalf of LRWC based on the [Factum](#) drafted by Lois Leslie and Gail Davidson. The Court rejected TWU's submission that the 2001 decision by the Supreme Court of Canada in *British Columbia Teachers' Federation* was determinative. The Ontario Court of Appeal found (at 57) that the TWU case involved "different facts, different statutory regime, and a fundamentally different question." The Court ruled, "I agree with the intervener Lawyers' Rights Watch Canada that international human rights law, and especially international treaties and other documents that bind Canada, is relevant in assessing the reasonableness of the LSUC's decision." (para. 139). [Read more](#).

HONDURAS

Honduras' duties to investigate unlawful killings

In June 2016, LRWC published a [paper](#) examining Honduras' duties to investigate serious human rights violations in the form of unlawful killings. Homicide rates in Honduras are among the highest in the world, and most perpetrators go unpunished as a result of a lack of effective investigations into the crimes. The Inter-American Commission on Human Rights (IACHR) describes the situation in terms of a "structural impunity," in which over 80% of violent crimes go unpunished. Under both domestic and international law, Honduras is obligated to remedy violations of the right to life by conducting investigations into all violent deaths. These investigations must be competent, impartial, exhaustive, timely and independent of those suspected of involvement. In cases where the State is unable to conduct its own investigation in conformity with the above standards, it has a duty to appoint an independent commission of inquiry. If a State is unable to do so, it should seek the assistance of an independent international body such as the IACHR to establish an international commission of inquiry. The establishment of such a commission would help Honduras implement measures to remedy the structural causes of violence and impunity.



Berta Cáceres | ipsnews.net

IRAN

Iranian human rights defender freed

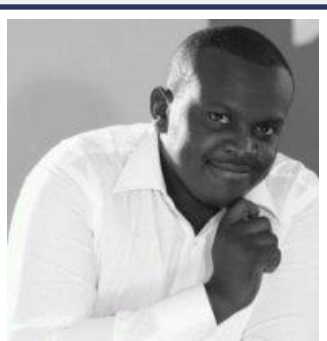
Mohammad Seifzadeh was freed on 10 March 2016 after serving a five-year prison sentence. Seifzadeh was released under Article 134 of Iran's Penal Code, which allows prisoners charged with multiple offences to serve only the maximum sentence assigned for their most serious offense.



Mohammad Seifzadeh |
humanrights.gov

KENYA

LRWC urges Kenyan government to investigate murder of lawyer



Willie Kimani

On 23 June 2016, lawyer Willie Kimani, his client Josephat Mwenda, and their driver Joseph Muiruri went missing following a court appearance pertaining to a claim Mr. Mwenda had filed against the Kenyan police. Their bodies were found 30 June 2016 in the Ol-Donyo Sabuk River outside of Nairobi. Extra-judicial killings and enforced disappearances violate both domestic and international laws, including the Constitution of Kenya, the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR). In Kenya, however, human rights groups reported as many as 97 extra-judicial killings by police and security forces in 2015 alone. In a [letter](#) sent 21 July 2016, LRWC applauds the government of Kenya for detaining three police officers in relation to the killings. LRWC urges the government to continue the investigation in an impartial, thorough manner, to provide adequate reparations to the families of the victims, and to create an Independent Commission of Inquiry to investigate the trend of enforced disappearances and extra-judicial killings.

MALAYSIA

Sedition charges against N Surendran stayed

On 12 July 2016, the sedition charges against N Surendran were stayed and will not proceed pending disposal of his appeal. Surendran, whose trial was scheduled to begin on 20 July, obtained an order from the Court of Appeal to stay the trial. As stated in the newspaper *The Malaysian Star*, "The two pending appeals pertained to the High Court's refusal to refer constitutional questions of his sedition case to the Federal Court, and on the High Court's dismissal of his application to strike out the charge." Unfortunately, during the trial, the High Court of Kuala Lumpur found the *Sedition Act* to be constitutional. While the charges against Surendran have been stayed, the *Sedition Act* is still being used by the Malaysian government today. On 28 June, Amnesty International released a public statement finding that the *Sedition Act* is a dangerous legal instrument not only because of its continued use against government critics, human rights defenders and activists, but also because it "raises concerns on the right of individuals to legal representation and defence."



N Surendran | alchetron.com

SAUDI ARABIA

Waleed Abu Al-Khair nominated for Law Society of Upper Canada Human Rights Award

LRWC and the Union Internationale des Avocats have nominated Saudi Arabian human rights lawyer Waleed Abu al-Khair for the Law Society of Upper Canada's 2016 Human Rights Award. The nomination is endorsed by the Chair of the Human Rights Committee of the Law Society of England and Wales, and supported by Amnesty International Canada and Human Rights Watch. Waleed Abu al-Khair is a world-renowned human rights lawyer, democracy advocate and the founder of Monitor of Human Rights in Saudi Arabia. In July 2014, Mr. Abu al-Khair was sentenced to 15 years in prison, a 15-year travel ban to begin on his release and a fine of SAR 200,000 (approximately \$68,000 CAD) under the broadly worded *Anti-Terrorism Act*. In October 2015, the UN Working Group on Arbitrary Detention determined that his detention was arbitrary and recommended immediate release. Waleed Abu al-Khair was charged, convicted and imprisoned to silence and punish his work as an effective and articulate lawyer and human rights defender, representing clients unpopular with the Government of Saudi Arabia and identifying the obvious need for human rights and legal reform in Saudi Arabia. The recipient of the Law Society of Upper Canada's 2016 Human Rights Award will be announced in the fall.



Raif Badawi

LRWC urges Canadian Minister of Foreign Affairs to call on Saudi Arabia to release Waleed Abu al-Khair and Raif Badawi



Waleed Abu Al-Khair | clarionproject.org

On 27 June 2016 LRWC wrote a [letter](#) to Canadian Minister of Foreign Affairs Stéphane Dion requesting that he call on Saudi Arabia to immediately release detained human rights defenders Waleed Abu al-Khair and Raif Badawi. The letter followed up on a [previous letter](#) dated 26 May 2016. The letter criticized Canada's pursuit of a controversial arms deal negotiated by the former Conservative government despite Saudi Arabia's egregious human rights violations, and called on the Canadian government to prioritize human rights over economic interests.

Saudi Arabia suppressing news of gross human rights violations

LRWC's [29 July follow-up letter](#) queried whether the absence of a response or other statement by Minister Dion about the egregious cases of Waleed Abu al-Khair and Raif Badawi was due to influence by Saudi Arabia. Recent reports indicate that Saudi Arabia is taking extraordinary measures to suppress reports of its grave violations of international human rights and humanitarian law. In response to threats by Saudi Arabia to withdraw UN funding, the 20 April 2016 UN Secretary-General's Annual Report on Children and Armed Conflict was amended (on 24 June 2016) to remove a reference identifying the Saudi Arabia-led military coalition in Yemen as a party that kills and maims children and engages in attacks on schools and/or hospitals. Alarming, on 27 July 2016, an Ottawa newspaper (*The Hills Times*) gave Saudi Arabia a platform to advertise false claims that "[Canada and Saudi Arabia] share the same values", and that Saudi Arabia is recognized as "complying with a high standard of human rights regulation".

THAILAND

Charges laid to punish HRDs from exposing allegations of torture

On 13 June 2016, LRWC sent [a letter](#) objecting to criminal charges against three human rights defenders brought in reprisal for their work co-editing a report of 54 cases of alleged torture by Thai security personnel between 2014 and 2015. The three facing charges laid by Thailand's Internal Security Operations Command (ISOC) are: Mr. Somchai Homlaor, lawyer, Commissioner of the Law Reform Commission of Thailand, and President of the Cross Cultural Foundation; Ms. Pornpen Khongkachonkie, Director of the Cross Cultural Foundation; and Ms. Anchana Heemmina, President of Duay Jai Group (Hearty Support Group), a human rights organization based in Thailand's Deep South region. The charges violate Thailand's

international legal obligations to protect human rights defenders from retaliation or arbitrary action as a consequence of their legitimate exercise of their rights and duties as human rights defenders. LRWC called on authorities in Thailand to immediately and unconditionally withdraw the charges and to prevent any further reprisals against these and other human rights defenders conducting peaceful human rights advocacy.



Pornpen Khongkachonkie | apt.ch

Failure to investigate and remedy enforced disappearances of human rights defenders

On 20 June 2016, LRWC published [a statement](#) objecting to Thailand's failure to investigate and remedy the enforced disappearances of high-profile human rights defenders Mr. Somchai Neelapaijit and Mr. Porlajee Rakchongcharoen. Mr. Neelapaijit was disappeared 12 March 2004 after being abducted by five plain-clothed police officers. Prior to being disappeared he had accused the police of torturing his clients, and the police and military of torturing and discriminating against Malay Muslims. The five police officers were ultimately acquitted on charges of robbery and coercion, and were not charged with murder. No other suspects were identified. Investigation of the 17 April 2014 enforced disappearance of Mr. Rakchongcharoen, which occurred after he was questioned by National Park Officials about a land rights case he was working on, has similarly failed to produce results. LRWC called on Thailand to ratify the UN Convention for the Protection of All Persons from Enforced Disappearance (signed by Thailand January 2012), pass the draft law criminalizing enforced disappearance, conduct investigations that comply with international standards and guarantee the safety of the victims' families.



Somchai Neelapaijit |
desaparecidos.org

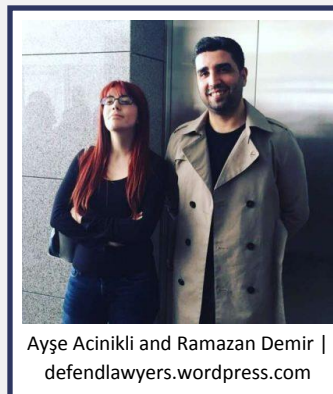
Amicus brief by LRWC and ICJ argues criminal defamation violates right to freedom of expression

LRWC and the International Commission of Jurists (ICJ) prepared [submissions to the Bangkok South Provincial Court](#) in criminal defamation proceedings by the Natural Fruit Co. Ltd. against human rights defender Andy Hall for his research on violations of labour rights in Thailand's fruit export industry. The amicus brief identifies Thailand's international human rights law obligations to ensure freedom of expression and protect human rights defenders and examines how criminal sanctions in defamation cases contravene these obligations. The brief is available in English and Thai.

TURKEY

LRWC members visit imprisoned lawyer in Turkey

Catherine Morris and Paul Scambler visited Turkey in July 2016, during which they met with human rights lawyers concerned with the [arbitrary detention of human lawyers in Turkey, including Ms. Ayşe Acinikli and Mr. Ramazan Demir](#) who are imprisoned without bail since 16 March 2016 on unspecified charges related to their legal representation of several lawyers charged under Turkey's anti-terrorism legislation. On 14 July 2016, Ms. Morris and Mr. Scambler, accompanied by a Turkish human rights lawyer, attended the Bakırköy Closed Prison for Woman and Juveniles and visited with Ms. Ayşe Acinikli. Ms. Morris and Mr. Scambler also visited the Silivri 5th L Type Closed Prison in an unsuccessful attempt to visit Mr. Ramazan Demir. The Turkish human rights lawyer accompanying Ms. Morris and Mr. Scambler attempted for several hours to negotiate their entry. The reason given for Turkish authorities' refusal of the visit was that Canadian lawyers are not permitted to visit those imprisoned in Turkey because of the lack of an official reciprocal arrangement between Canada and Turkey for lawyers' visits to prisoners. Their case was most recently heard on 22 June 2016, and has been postponed further until 7 September 2016 at which time the prosecutor supported the application for pre-trial release. The judge's decision came back with no reasons except that detention was ordered in case of flight risk.



Reinstate dismissed judges and ensure them due process, say lawyers

The Law Society of England and Wales, in a [22 July 2016 letter](#) endorsed by LRWC, called for reinstatement of and due process for the 2,745 judges summarily dismissed in Turkey on 16 July 2016. The dismissals, which took place immediately after what is referred to as the 'attempted coup,' were preceded by a variety of measures undermining judicial independence and increasing control by the executive. The Assembly of Council of Europe, the Venice Commission Declaration on Interference with Judicial Independence in Turkey and the Turkey 2015 Report of the European Commission have all noted the increased interference of the executive in judicial affairs, and asked the Turkish government to limit the High Council's power to control the judiciary.

VIET NAM

UN High Commissioner for Human Rights asked to intervene on behalf of Nguyễn Văn Đài

On 10 January 2016, LRWC sent a [letter](#) to the government of Viet Nam asking for the release of imprisoned human rights lawyer Nguyễn Văn Đài. Mr. Văn Đài was arrested 16 December 2015 and has been detained incommunicado since, without access to a lawyer or communication with his family and friends. He has also been denied his right to pre-trial release and possibly access to medical treatment. On [4 July 2016](#), LRWC sent a follow-up letter to the UN High Commissioner for Human Rights, asking the commissioner to intervene with the government of Viet Nam to request the immediate release of Nguyễn Văn Đài and the unconditional withdrawal of charges. LRWC is of the opinion that prolonged incommunicado detention together with other due process denials have irreparably prejudiced his fair trial rights.



LRWC PUBLICATIONS

The Right to Dissent

LRWC released for consultation (at the 2016 Paddle for the Peace event) an [advance edition](#) of *The Right to Dissent: International law obligations to respect, protect and fulfill the right to participate in public affairs by engaging in criticism, opposition and dissent*, written by Lois Leslie. The Right to Dissent explains the international legal standards and underlying principles and interpretations of the standards that comprise the international legal framework for the right to dissent and protest as an essential part of democratic rights. The guide is intended to provide lawyers, human rights workers and others with the knowledge about this routinely misunderstood and often violated area of international law, necessary to protect the lives and liberty of activists. Global Witness reports “2015 was the worst year on record for the killing of land and environmental defenders—people defending their land, forests and rivers,” with 185 land and environmental activists murdered in 17 countries. Please send feedback to lrwc@portal.ca before 15 August 2016. The final version of the Right to Dissent will be published in September 2016.



UN HUMAN RIGHTS COUNCIL, 32nd SESSION, 13 June-1 July 2016

LRWC members Catherine Morris and Paul Scambler attended the HRC from 21 to 24 June and met with representatives of other human rights organizations as well as the Secretariats of the Working Group on Business and Human Rights and the Special Rapporteur on the independence of judges and lawyers. Vani Selvarajah attended to registration of LRWC's oral presentation.

Oral statement

LRWC prepared and delivered a [statement](#) during the General Debate on the Report of the Forum on Business and Human Rights and the review of the mandate of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). The statement emphasized that EMRIP's mandate should include enhanced cooperation and interaction with other special procedures mandate holders such as the Working Group on Business and Human Rights. The statement drew attention to links between conduct of businesses and attacks on indigenous human rights defenders in Brazil, Colombia, the Philippines and Honduras. The statement pointed out the alleged role of mining interests in the murder of indigenous land rights defender Berta Cáceres in March 2016 in Honduras, where the impunity rate for murders of at least 80% has led to demands for an independent expert investigation under the auspices of the Inter-American Commission on Human Rights. The statement also emphasized the importance of speedy implementation of the UN Guiding Principles on Human Rights to hold businesses accountable for violations of international human rights not only in their home States but also in all other States where they operate. This statement was delivered by Mr. Paul Scambler on 24 June 2016.

UN Human Rights Committee appointments

On 23 June 2016, Marcia V. J. Kran, a Canadian lawyer and former international civil servant, was elected to the UN Human Rights Committee (HRC). The Committee is comprised of independent experts who serve on a volunteer basis and meet three times a year at the UN in Geneva to review countries' records on civil and political rights as required by the International Covenant on Civil and

Political Rights. Ms. Kran was one of 22 experts nominated by governments for nine open seats on the Committee.

NGO NEWS

ECOSOC Committee on NGOs criticized for denying Status to human rights NGOs

On 25 July 2016, the 54-member UN Economic and Social Council (ECOSOC) [voted 40-5 \(with 6 abstentions and 3 not present\) to grant consultative status](#) to the Committee to Protect Journalists (CPJ). ECOSOC's approval of CPJ's application concludes a four-year process that included seven deferrals on the basis of UN procedure. The July vote overturned the 23 May 2016 decision to deny the CPJ's application. Countries voting against the application included Azerbaijan and Cuba, both listed on [CPJ's list of top 10 most censored countries](#). The Committee on NGOs has been criticized for politicising the application process and using procedural grounds to deny status to NGOs effectively advocating for human rights. A group of over 230 NGOs, including LRWC, had published [a joint letter](#), objected to the original denial of CPJ's application. LRWC joins CPJ in hoping that CPJ's approval will lead to changes that increase ease of access by NGOs to the UN.

Civil society resolution

The Resolution *Promotion and protection of all human rights*, [A/HRC/32/L.29](#) was adopted on 27 June 2016 at the 32nd session of the UNHRC. Canada was one of 54 countries that sponsored the draft resolution. There were 15 amendments proposed by China and Russia, 12 of which were defeated by vote and the other three were withdrawn. The resolution passed with 31 votes in favour and 7 against, which included China, Russia and South Africa. There were 9 abstentions. In May, LRWC had joined 243 NGOs in a joint letter asking UNHRC members to reject repressive amendments and vote in favour of the resolution.

GVADATA – Geneva Data Portal for NGO research

LRWC has been invited to contribute to the Geneva Data Portal (GVADATA), a joint project between international NGOs and the UN. The data portal will be a place for NGOs to consolidate their research, making it easier and quicker for others to access the information. The database will include not only articles, but also a wide variety of materials including presentations, photos, country profiles and infographics. There is also the option for experts to publish a profile of their work and area of study so others may contact them for discussion. To organize the database, every item LRWC uploads to the data portal will be categorized under both a global goal and a thematic area. The database will be launched in the fall of 2016. LRWC members interested in contributing work or being added on the expert page should email us at lrwc@portal.ca. More information on the GVADATA can be found at <http://gvadata.ch/>.

AWARDS

SFU appoints Gail Davidson as Grace MacInnis scholar

In June, Gail Davidson received the Simon Fraser University Grace MacInnis Visiting Scholar Award recognizing her “advocacy for human rights, work against war, torture, and other crimes against humanity, and solidarity with the Aboriginal Peoples of Canada.” As part of the award, Gail will give a talk at Simon Fraser Harbour Centre on 9 September 2016. Other recipients are: Shirley Williams (1993), Joy Kogawa (1995), Lynn McDonald (1997), Myrna Kostash (2002), Elaine Bernard (2003), Linda McQuig (2006), Jean Barman (2009), and Libby Davies (2015).



Wang Yu receives ABA Human Rights Award

The American Bar Association (ABA) International Human Rights Award was given to Chinese human rights lawyer Wang Yu. The award was announced one year after Wang was imprisoned as part of a crackdown on defense lawyers and human rights activists. She remains in jail and will receive the award in absentia. LRWC was invited to be a nominator of Wang Yu for the award, but declined as the organization had already nominated Waleed Abu al-Khair for the same award. The ABA did not respond to LRWC's suggestion to give the award to both imprisoned lawyers.



LRWC MEMBERS WORKING PRO BONO DURING JUNE-JULY

Gail Davidson, Maya Duvage, Annamaria Enenajor, Cait Fleck, Daniel Frederiks, Delaney Griffiths, Adam Hummel, Karol Kudyba, Lois Leslie, Gavin Magrath, Carolyn McCool, James Mitford, Catherine Morris, Charlotte Munk, Heather Neun, Tina Parbhakar, Robert Peake, Clayton Ruby, Paul Scambler, Rohan Shah, Cody Soloff, Grace Woo.

Visit LRWC's online Volunteer page to view and sign up for work and monitoring positions currently available. Email us at lrwc@portal.ca for access.

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

Lawyers' Rights Watch Canada
is an NGO in Special Consultative

Telephone: +1 604 736 1175
Fax: +1 604 736 1170

Status with the Economic and Social
Council of the United Nations.

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