

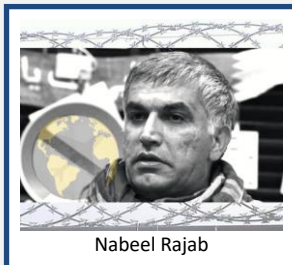
## LRWC NEWSLETTER

June – July 2017 Edition

### LRWC ACTION NEWS AND UPDATES

#### BAHRAIN

##### **Nabeel Rajab sentenced for exposing the truth about human rights violations**



Nabeel Rajab

Nabeel Rajab, prominent human rights advocate was sentenced on 10 July 2017 to two years imprisonment for criticizing Bahrain's human rights record during televised interviews in 2015 and 2016 and thereby, "disseminating false news . . . that would undermine [Bahrain's] prestige and status." Hospitalized since April, he was convicted and sentenced in absentia and his lawyers refused to attend proceedings held without his presence. On 7 August he faces court proceedings on similarly illegitimate charges of offending a foreign state (Saudi Arabia) and Bahrain by referring to reports of well documented human rights atrocities by Saudi Arabia in Yemen and torture in Bahrain's Jau prison. A

prominent human rights advocate, reputed to have 240,000 followers on twitter, Rajab is the co-founder and President of the Bahrain Centre for Human Rights, founding Director of the Gulf Centre for Human Rights, Deputy Secretary of FIDH and a member of the Human Rights Watch Middle East advisory committee. In 2011, he received the Ion Ratiu Award for his work "to advance the cause of democratic freedoms and the civil rights of Bahraini citizens." LRWC advocacy for Nabeel Rajab can be [viewed here](#).

#### BANGLADESH

##### **Malaysia prevents Adilur Rahman Khan from attending anti-death penalty conference**

Adilur Rahman Khan was denied entry to Malaysia on 20 July, detained without access to a lawyer and deported. He had travelled to Malaysia to attend a conference organised by the Anti-Death Penalty Asia Network. Malaysia retains the death penalty for many offences including murder, drug trafficking, treason and terrorism. Mr. Khan's detention is part of a larger trend in Malaysia. Since 2015, several activists have been blocked from entering the country, as the Malaysian government tries to prevent discourse on human rights and democracy. Mr. Khan, an articulate and well-known human rights activist (lawyer, Secretary of the human rights NGO Odhikar, member of OMCT and FIDH, former Deputy Attorney General of Bangladesh), has subjected to detention for his human rights advocacy in Bangladesh. In a letter written [21 July 2017](#) by Siobhan Airey,



Adilur Rahman Khan

LRWC asked the government of Bangladesh to guarantee the freedoms of movement, peaceful assembly and association of Mr. Khan and other human rights defenders in the country, and to allow human rights defenders to carry out their legitimate activities without any hindrance or fear of reprisals.

## BURMA

### Disappearance of suspected mastermind of U Ko Ni murder questioned



U Ko Ni

The trials of four suspects in the 29 January 2017 murder of constitutional expert and lawyer U Ko Ni are set to begin without Aung Win Khaing, the alleged mastermind of the murder plot. A retired lieutenant-colonel, Win Khaing is alleged to have paid assassins to murder U Ko Ni, who advocated for constitutional reform that would limit the military's political influence. Interpol issued a Red Notice for Win Khaing in April of 2017, but police maintain it is unlikely they will locate him. Sceptics of the independence of the police's investigation question Win Khaing's alleged disappearance in the capital city of Naypyitaw, given the military-built city's vast, empty streets. The possibility that Aung Win Khaing has evaded detainment because of his connections to the military, and the military's interest in maintaining the current constitutional order, casts doubt on the justice that will result from the upcoming trials. The inability or unwillingness of the police to facilitate the prosecution of Aung Win Khaing illustrates the continuing threat of violence against those with the education and political influence to effect constitutional reform within Myanmar. In February, [LRWC called for](#) a full investigation and prosecution of all suspects.

## CANADA

### Court Challenges Program unlikely to include section 35 challenges

The National Association of Women and the Law met with a legal advisor to the Minister of Justice to discuss requests made by many groups and individuals in a [joint letter of 20 March 2017](#) for restoration of the historical mandate of the Court Challenges program (CCP) to protect and advance substantive equality and access to justice of disadvantaged groups and official language minority groups. Results of the meeting were mixed. While the legal advisor confirmed Canada's commitment to the historical CCP mandate, concerns about maintenance of funding for cases within the historical mandate were referred to the Department of Canadian Heritage. Regarding the request for section 35 (Aboriginal and Treaty) rights to be included in the reinstated CCP, NAWL was advised that no such expansion was contemplated for a variety of reasons including the high costs of such cases and Canada's preference that its relations with Indigenous Peoples are dealt with outside the courts and through negotiations.

## COLOMBIA

### Police violence against protesters results in death

The Colombian Caravana UK Lawyers Group, LRWC, Fundación del Comité de la Abogacía Española, Lawyers for Lawyers, Colombia Caravana de Juristas the Netherlands and Caravana Irish Lawyers' Group sent [a joint letter \(in Spanish and English\)](#) on 29 May regarding the events that took place in Chiriguaná on 11 July 2016. The letter highlighted the violent action allegedly taken by the National Police Mobile Anti-riot Squad (ESMAD) against people protesting closure of the San Andrés hospital. Naimen Agustín Lara, well-known



Naimen Agustín Lara

community leader and 39-year-old father of six was killed, allegedly by the National Police while searching for his son who had been at the protest. Delegates of the Caravana have been informed that, since that time, members of the family of Naimen Agustín Lara and the local community have been threatened and violently attacked. Reported attacks include the alleged attempted murder of the victim's niece, Yeraldin Lara Ditta, a key witness to Naimen Agustín Lara's murder. The joint letter calls on Colombia to investigate and remedy the murder and attacks.

## ISRAEL

### Palestinian lawyer protests arbitrary detention with hunger strike



Muhammed Allan

Palestinian lawyer Muhammed Allan was seized from his home on 8 June 2017, and placed under administrative detention where he is on a hunger strike to protest his arrest. He has since been transferred several times and placed in isolation. In November 2014 Mr. Allan was arrested and held under administrative detention for one year without charge on the basis of 'evidence' not been made available to him or his lawyers. He was released in November 2015 after a 66-day hunger strike. Again, no charges have been laid against Mr. Allan, but the Israeli military court has indicated it will charge him with "incitement" over his social media postings and his participation in demonstrations to support Palestinian prisoners. Mr. Allan joins 644 other Palestinians currently being held under administrative detention in breach of the international human rights law reflected in the ICCPR and other instruments. In an [11 July letter](#) (by Renée Mulligan), LRWC calls on Israel to comply with its international law obligations and to immediately release Muhammed Allan and end the practice of administrative detentions.

## PAKISTAN

### Student murdered over blasphemy accusations

In response to the brutal murder of university student Mashal Khan on 13 April 2017, [LRWC called on Pakistan](#) (by Hanna Bokhari) to investigate the murder and take steps to irradiate religious intolerance. LRWC recommended: creation of an independent commission of inquiry into the murder; repeal of the Penal Code blasphemy provisions; publication of statements by the Prime Minister, President, and Minister of Justice denouncing religious intolerance; universal education about the necessity to protect and respect freedom of religion and religious differences; and, accountability for those responsible. Pakistan has ignored earlier LRWC calls for action to prevent and punish attacks and murders motivated by extreme religious intolerance, in the cases of: the 30 March 2017 [murder of lawyer Saleem Latif](#); the 7 May 2014, murder of lawyer [Rashid Rehman Khan and injury of Nadeem Parwaz](#) and Afzal; and, the 3 December 2014 attempted murder of [Shahbaz Gormani](#). Khan and Gormani were murdered for representing clients charged with blasphemy: Latif for adhering to the beliefs of the Ahmadi sect of Islam. The report of the 13-member Joint Investigation Team (JIT) concluded that the murder of Mashal Khan was motivated by (false) blasphemy accusations and planned by members of the Pakhtun Student Association and the Employees at the Abdul Wali Khan University. The JIT report recommended actions against University administration involved and an inquiry by the Khyber Pukhtun Police and the Khyber Pukhtun Higher Education departments. Although both these inquiries have apparently been completed, LRWC is aware of no actions to identify and punish perpetrators or to address extreme religious intolerance.



Mashal Khan

## SOUTH AFRICA

### Coalition for an Effective SADC Tribunal objects to suspension and weakening of tribunal

On 17 July 2017, members of the Coalition for an Effective SADC Tribunal (SADC Tribunal Coalition) based in the Southern Africa Development Community (SADC), as well as other civil society partners including LRWC, sent a joint letter to Diego García-Sayán, Special Rapporteur on the Independence of Judges and Lawyers outlining concerns about the suspension and weakening of the SADC Tribunal, the regional human rights court of Southern Africa. The letter noted that recent SADC Protocols threaten to remove individual access to, and the human rights jurisdiction of the Tribunal, which will impede individuals' access to effective remedies for human rights violations. The letter calls on Mr. García-Sayán to appeal to the SADC Secretariat and heads of state and governments of SADC to reinstate the SADC Tribunal in its original form, and ensure individuals have access to remedies for human rights violations.

## SUDAN

### Locate and release disappeared lawyer Dong Samuel Luak and HRD Aggrey Idri

Dong Samuel Luak, a prominent South Sudanese lawyer and human rights activist went missing the night of 23 January 2017. The following day, Aggrey Idri, a member of the Sudan People's Liberation Movement-In Operation (SPLM-IO), also disappeared. The current whereabouts and fate of both men are unknown. Sources have advised that both men were detained at a prison facility in Juba, South Sudan but were removed 27 January 2017. The Kenyan High Court has ordered an investigation into their whereabouts. In a 1 June letter by Sudan Monitor Joe Hoffer, [LRWC urges](#) the authorities of South Sudan and Kenya to immediately disclose the fate and whereabouts of Dong Samuel Luak and Aggrey Idri, and if they are in custody to make public the reasons for their detention. LRWC also asks that the men are treated humanely and given access to lawyers and medical care.



### Human rights defenders face death penalty for contributing to Amnesty Report



Dr. Mudawi Ibrahim Adam

Three Sudanese human rights defenders have been charged under the 1991 Criminal Act for allegedly assisting with the publication of the 2017 Amnesty International Report *Scorched Earth, Poisoned Air: Sudanese Government Forces Ravage Jebel Marra, Darfur*. Mr. Hadiz Idris and Dr. Mudawi Ibrahim Adam were arrested on 24 November and 7 December 2016 respectively. They were then held incommunicado without being charged or given access to their lawyers. While in custody Dr. Adam was denied essential medication for a heart condition and Mr. Idris was tortured. In March 2017, Mr. Mobarak Adam Abdalla was also arrested. All have been charged with a range of offences under the 1991 Criminal Act, including espionage against Sudan and publication of false news. Two charges carry the death penalty. On 20 July 2017 the court in Khartoum North postponed the trial until August. [In a letter](#) written 13 July 2017 by Sudan Monitor Joe Hoffer, LRWC urged Sudanese authorities to release all three men and to drop all charges against them. LRWC also asked that the men not be subjected to further torture or cruel punishment, and that they are granted access to medical treatment and lawyers.



## TURKEY

### Head of Amnesty International/Turkey arrested and detained on illegitimate charges

LRWC and the Law Society of Upper Canada sent [a letter](#) on 5 July 2017 asking the Government of Turkey to release the head of Amnesty International Turkey Taner Kiliç and 22 other lawyers. Mr. Kiliç was arrested 6 June 2017, and has since been charged with “membership in a terrorist organization.” Authorities claim they discovered on his phone Bylock, a secure mobile messaging application, allegedly used by members of the “Fethullahist Terrorist Organization.” Mr. Kiliç denies downloading Bylock and even knowing about it. Twenty-two additional lawyers were detained in Izmir alongside Mr. Kiliç. On 9 June 2017 eight were remanded in pre-trial detention, one was released on bail and 6 remained in police custody. These arrests are the latest development in the government’s crackdown on human rights defenders, journalists, academics and activists. LRWC and the Law Society urge the Government of Turkey to withdraw all of the charges against the lawyers, and immediately release Mr. Kiliç and the others still in custody.



Taner Kiliç

### Director of Amnesty Turkey and 9 other HRDs arrested in continuing crackdown on HRDs



İdil Eser

Amnesty Director and nine HRDs were arrested while attending a digital security and information management workshop in Büyükdada, Istanbul on the basis of unfounded allegations of membership in “an armed organization with the purpose of committing the offences listed parts four and five of this chapter.” under Turkey’s Penal Code, Article 314 (2). Detained were: Özlem Dalkıran (Citizens’ Assembly); İdil Eser (Director, Amnesty International Turkey); Veli Acı (Human Rights Agenda Association); lawyer Günel Kurşun (Human Rights Agenda Association); Şeymus Özbekli (Rights Initiative); Nejat Taştan (Equal Rights Watch Association); Swedish national Ali Gharavi (information security consultant), and German national Peter Steudtner (well-being trainer and facilitator). Lawyer Nalan Erkem (Citizens’ Assembly); İlknur Üstün (Women’s Coalition); Şeymus Özbekli (Rights Initiative); and Nejat Taştan (Association for Monitoring Equal Rights). released under judicial control on 17 July. On 21 July the prosecutor ordered the re-arrest of all four. Nejat Taştan and Şeymus Özbekli were subsequently released while Erkem and Üstün remain detained. LRWC’s [17 July 2017 letter](#) concludes that the arrests and detentions violate Turkey’s international law obligations and are not justified by the Emergency Measures Declarations first declared in July 2016 and calls for immediate release.

## VIET NAM

### Detention of Nguyễn Văn Đài under Art. 88 of Penal Code, unlawful says WGAD

The Working Group on Arbitrary Detention ([WGAD Opinion](#)) published on 8 June 2017 concludes the detention of human rights lawyer Nguyễn Văn Đài is arbitrary and unlawful and calls for his immediate release. Nguyễn Văn Đài has been held incommunicado since his unwarranted arrest on 16 December 2015 ostensibly for ‘conducting propaganda against the state,’ prohibited by Article 88 of the Penal Code. The WGAD cautioned that “under certain circumstances, widespread or systematic imprisonment or other severe



Nguyễn Văn Đài

deprivation of liberty in violation of the rules of international law, may constitute crimes against humanity.” Some details of Viet Nam’s record of widespread misuse of criminal law powers to imprison lawyers and other human rights defenders for their advocacy were identified in the [joint submissions](#) for consideration on the Universal Periodic Review (UPR) of Viet Nam and the [follow-up on Viet Nam’s failure](#) to comply with UPR recommendations. The joint UPR report and follow-up submissions were filed (13 June 2013 and 28 May 2014) by LRWC, Lawyers for Lawyers and the Law Society of England and Wales. In October the UN High Commissioner of Human Rights [called on Viet Nam](#), then a member of the UN Human Rights Council (2014-2016) to release Nguyễn Văn Đài and others, repeal Article 88 and stop arbitrarily imprisoning people for exercising protected rights. The [WGAD Petition](#) and [Annexes](#) on behalf of Nguyễn Văn Đài were filed by LRWC, the Media Legal Defence Initiative, Lawyers for Lawyers, PEN International and Viet Tan in November 2016. [A response to Viet Nam’s reply](#) was filed in April 2017.



Trần Thị Nga

### Ongoing persecution of Human Rights Defenders in Viet Nam

LRWC is monitoring the ongoing and increasing levels of persecution that human rights defenders in Viet Nam continue to face. The government of Viet Nam has recently stepped up its crackdown on human rights defenders, particularly online bloggers and pro-democracy activists. [According to reports](#), many prominent human rights advocates have been harassed, assaulted, arbitrarily arrested, detained for months, and denied proper access to legal and health care services as a result of their pro-democracy and human rights advocacy. In particular, LRWC recently sent a letter on [27 July 2017](#) (by Viet Nam Monitor Joshua Lam) calling for the immediate and unconditional release of Trần Thị Nga, a labour and land rights activist and member of Vietnamese Women for Human Rights. She was tried, convicted, and sentenced to 14 years (9 years imprisonment, 5 years of probation) on July 25, 2017, for “using the internet to spread propaganda videos and writings that are against the government of the Socialist Republic of Viet Nam”. Her conviction came under the draconian Article 88 of the Viet Nam Penal Code, which sets out harsh penalties for “conducting propaganda against the Socialist Republic of Viet Nam”. This persecution has taken an even darker turn, as [the government has revised the Penal Code](#) to hold lawyers criminally responsible for not reporting their clients for particular crimes (including Article 88).

## UN HUMAN RIGHTS COUNCIL 35<sup>th</sup> Session, 6 – 23 June 2017

### LRWC at the 35<sup>th</sup> Session of the UN Human Rights Council (HRC)

LRWC members attending the June session of the HRC in Geneva were: Renée Mulligan, Victoria-based lawyer and LRWC Director and Angela Walker, Halifax-based lawyer, who attended from 6 – 12 June, and Joey Doyle, law student at the Peter A. Allard School of Law (UBC), who attended from 12 – 16 June. LRWC made and contributed to seven oral statements on topics of ongoing concern. Renée, Angela, and Joey attended side events on freedom of expression and the media, freedom of expression in South Asia, as well as in Japan, the role of the private sector in upholding freedom of expression, the business case for civil society protection, informal consultations on draft resolutions, the human rights situations in the Maldives, Bahrain, the Philippines and Kenya, and discussions about freedoms of assembly and of association, extra-judicial executions, and migrant rights. They also met with representatives from various NGOs and the Permanent Mission of Canada to discuss how to coordinate human rights advocacy, build partnerships, and share the *Right to Dissent* guidebook.



Angela Walker at the UN HRC

LRWC and others raised the issue of the lack of accountability for persistent and serious rights violations by members of the HRC, citing repeated instances by Council members of egregious rights violations, failures to comply with remedial recommendations of monitoring bodies, and reprisals against human rights defenders, and calling for improved requirements governing the nomination, election and discipline of members. A number of NGOs highlighted the value of using amicus briefs and litigation as strategic tools to advocate on behalf of international human rights issues.

- [\*Accountability for non-complying members of Council: China, Egypt, the Philippines, Saudi Arabia\*](#), delivered by Renée Mulligan on 7 June during the General Debate on the High Commissioner's oral update. [Video can be accessed here](#). (#24)
- [\*Lack of access to effective remedies for victims of forced labour and victims of kidnapping for ransom\*](#), delivered on 9 June by Angela Walker during the Interactive Dialogue with the Special Rapporteur on trafficking in persons, especially women and children. [Video can be accessed here](#). (#60)
- [\*Human Rights Council must move to address non-compliance by members\*](#), delivered by Joey Doyle on 12 June during Item 3 General Debate. Watch video here. (#20)
- [\*Pakistan and Cameroon: Systematic failure to ensure protection of lawyers and defenders\*](#), 15 June delivered by Joseph Doyle during the Item 4 – General Debate: about Human rights situations that require the Council's attention [Video can be accessed here](#). (#20)
- [\*Myanmar: Ensure independent legal profession and remedy attacks and threats against lawyers\*](#), delivered by Joseph Doyle on 15 June during the Interactive Dialogue with the Special Rapporteur on the Situation of human rights in Myanmar.
- [\*Implement accountability measures for members of the Human Rights Council\*](#), delivered by Joseph Doyle on 17 June during Item 5 General Debate. [Video can be accessed here](#). (#19)
- [\*States must ensure independence of judiciary\*](#), a Joint statement by the International Bar Association's Human Rights Institute, delivered by Laure Elmaleh on 12 June during the Interactive Dialogue with Special Rapporteur on the independence of judges and lawyers. This statement was endorsed by LRWC, the Commonwealth Magistrates' and Judges' Association, Judges for Judges, Lawyers for Lawyers, the Law Society of England and Wales, the Southern Africa Litigation Centre. [Video can be accessed here](#)

## PUBLICATIONS

LRWC publication [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](#), was featured in the [July issue of The Drum Beat](#).

## NOTABLE DECISIONS – Executive Prerogative and Privilege

### The Supreme Court of Canada

The Supreme Court of Canada ruled that the “Crown” (Executive) can rely on a regulatory body (the National Energy Board) to partially or completely fulfill its duty to consult First Nations peoples in two decisions: [Clyde River \(Hamlet\) v. Petroleum Geo-Services Inc., 2017 SCC 40 \(36692\)](#); and, [Chippewas of the Thames First Nation v. Enbridge Pipelines Inc., 2017 SCC 41 \(36776\)](#). Summaries of the decisions are available in the [Supreme Court Advocacy Newsletter # 42](#). The two decisions (Rennie J.A. dissenting in Chippewas) illustrate the urgent need to identify the meaning of the rule of law principle enshrined in the Canadian Charter, so that jurists, activists and scholars can have meaningful discussions about how the rule

of law should affect the use of prerogative powers and whether the principle operates to enable meaningful participation by civil society, including First Nations, in decision making and ensure access to effective juridical review that properly balances the long-term interests of the many against the short-term interests of the few.

### **U.S. Court of Appeals for the District of Columbia Circuit**

The U.S. Court of Appeals ruled that executive decisions to use military force cannot be reviewed and that, “[i]t is not the role of the Judiciary to second-guess the determination of the Executive, in coordination with the Legislature, that the interests of the U.S. call for a particular military action in the ongoing War on Terror.” *Abmed Salem Bin Ali et al v. U.S.A. et al*, 20 June 2017. The appellants were supported by amici curiae from two Notre Dame professors, the John Marshall Law School International Human Rights Clinic, and three individuals.

For an analysis of the dangers to democratic decision-making posed by the decision, see [\*Courts Must Hold Executive Branch Accountable For Drone Strikes\*](#), by Marjorie Cohn, 20 July 2017. [Marjorie Cohn](#) is professor emerita at Thomas Jefferson School, past president of the National Lawyers Guild, [author](#) and a Director of LRWC. Her blog can be [viewed here](#).

## **LRWC MEMBERS WORKING PRO BONO IN JUNE & JULY**

Siobhan Airey, Clive Ansley, Audrey Boissonneault, Hanna Bokhari, Gail Davidson, Paul Copeland, Joseph Doyle, Charlotte Gill, Julius Grey, Joe Hoffer, Joshua Lam, Peggy Li, Gavin Magrath, Rasmeet Maher, Carolyn McCool, Catherine Morris, Renée Mulligan, Heather Neun, Megan Presnail, Cindy Song, Brian Samuels, Luiza Teixeira, Angela Walker, 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](mailto:lrwc@portal.ca) for access.

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

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