

# Lawyers' Rights Watch Canada

## BI-ANNUAL REPORT

(April 1, 2003 to April 15, 2005)

*"Promoting human rights by protecting those who defend them."*

### OUR MISSION

Lawyers' Rights Watch Canada (LRWC) is a committee of Canadian lawyers dedicated to promoting the rule of law and human rights internationally by protecting human rights advocates and advocacy rights.

Our mission is threefold:

- To campaign for lawyers and other human rights advocates whose rights, safety or independence is threatened because of their advocacy.
- To produce legal analyses of national and international laws and standards protecting the safety, independence and advocacy rights of human rights advocates.
- To work in cooperation with other human rights organizations.

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## ACTIVITIES IN THE REPORTING PERIOD

### A. CAMPAIGNS

#### *I. MEXICO - Digna Ochoa y Plácido Investigation*

#### **LRWC ACTIONS**

##### ➤ **In-Country Investigation**

LRWC and the Bar Human Rights Committee of England and Wales (BHRC) sent a team to Mexico April 12-18 2003 to conduct a follow-up assessment of the investigation into the October 2001 murder of Mexican human rights lawyer Digna Ochoa y Plácido. The

LRWC/BHRC team members were Leo Mc Grady Q.C., British barrister Nadeem Ahmad and BHRC programme coordinator Jennifer Geen. The LRWC/BHRC team was able to obtain unprecedented access to the evidence gathered that included access to the physical exhibits as well as the records of witness interviews. McGrady and Ahmad were able to conduct lengthy question and answer sessions with the Special Prosecutor Margarita Guerra in charge of the investigation and other key government officials.

➤ **Public Statements and Letters**

LRWC and BHRC called upon Mexico, in cooperation with the Inter-American Commission of Human Rights and the Ochoa family, to set a Commission of Inquiry independent of any "institution, agency or person that may be the subject of the inquiry." Such a commission would be mandated to pursue an exhaustive investigation into the death of and attacks and threats against Digna Ochoa in compliance with applicable legal standards and with the orders of the Inter-American Court of Human Rights.

➤ **Education**

LRWC participated in the 29 October 2004 Ryerson University event featuring the Canadian premiere of *Digna*, a documentary about the life and work of Digna Ochoa, followed by presentations by representatives of Amnesty International, LRWC and the Mexican Mayan Community.

➤ **Publications and Letters**

- Elizabeth Houle, *Vancouver Lawyer Doubts 'Suicide' of Mexican Human Rights Lawyer*, THE LAWYERS WEEKLY, Vol. 23, No. 10. July 4, 2003
- Pronunciamiento de Lawyers' Rights Watch Canada sobre el asesinato de la abogada Mexicana y defensora de derechos humanos Digna Ochoa 30 de noviembre del 2001
- Letter re: Digna Ochoa Investigation: LRWC/BHRC Reject Suicide Theory, September 2, 2003.
- Carta en cuanto a Investigación Digna Ochoa: LRWC/BHRC Rechazan La Teoría Suicide, 2 de Tiembre del 2003
- Endorsed the October 2004 submissions of the Toronto based Peace and Progress for the People to President Fox rejecting the conclusions that Ochoa had died by her own hand and calling for the investigation to be re-opened.

## **BACKGROUND**

Digna Ochoa y Plácido, human rights lawyer, was murdered in her Mexico City office on October 19<sup>th</sup> 2001. Ms Ochoa was shot in the leg and head with a .22 caliber weapon.

At the time of her death, it was widely believed that Digna Ochoa was murdered because of her effective work as a lawyer. Amnesty International said, "There is no doubt that her murder was the result of her work in defence of human rights. In particular, her insistence that the authorities fully investigate cases of serious human rights violations in which state agents could be

implicated, including officials in the army and the Office of the Attorney General, Procuradouria General de la Republica (PGR).” (Amnesty International Press Release 20 October 2001. AI Index: AMR 41/035/2001 News Service 186)

Dean Claudio Grossman, President of the Inter-American Commission on Human Rights said, “Digna Ochoa was committed to forging a democratic society with complete respect for the rights of the individual, so that her death fills us with grief and a personal feeling of indignation.” (Press Release: *IACHR Condemns the Murder of Digna Ochoa in Mexico* No. 27/01 <http://www.cidh.org>)

Digna Ochoa represented some of the most difficult and politically charged human rights cases in Mexico. Her human rights work has been recognized internationally:

- Amnesty International awarded Ochoa the 2000 Enduring Spirit Award.
- June 6, 2002, Global Exchange posthumously awarded the International Human Rights Award to Ochoa.
- May 23, 2003, the Institute des Droits de l’Hommes du Barreau de Bordeaux (IDHBB) in partnership with the European Lawyers Union (UAE-Human Rights) awarded the prestigious Ludovic-Trarieux Human Rights prize to Ochoa.

For approximately five years prior to her death, Digna Ochoa had been the subject of threats and other harassment that appeared to be reprisal for her legal work. In response to an attempt on Ochoa’s life in November of 1999, the National Network of Civil Human Rights Organizations, the Center for Justice, and International Law, and the Lawyers Committee of Human Rights (now Human Rights First), petitioned the Inter-American Commission on Human Rights. The Inter-American Commission on Human Rights (IAHCR) passed a resolution and on November 19, 1999 the Inter-American Court on Human Rights (the Court) ordered the Mexican government to adopt all measures necessary to protect the safety of Digna Ochoa, to investigate the attacks against Ochoa, identify those responsible, and to punish them. These orders are binding on the Mexican government pursuant to Mexico’s ratification of the American Convention on April 3, 1982 and subsequent acceptance on December 16, 1998, of the contentious jurisdiction of the Court. No proper investigations of the attacks on Ochoa were completed and the protective measures were removed shortly before her death.

In March 2002 LRWC and BHRC sent a team (John McAlpine Q.C. for LRWC; Nicholas Stewart Q. C. and Kirsty MacDonald for BHRC) to Mexico to investigate and assess the Digna Ochoa investigation and the adequacy of safety and independence safeguards for lawyers and other human rights advocates in Mexico. On 3 June 2002 Renato Sales Herida, then lead prosecutor in charge of the investigation, announced to the media his conclusion that Digna Ochoa had killed herself as “a way to keep fighting, to recover a place in the world of human rights that she did not have anymore.” This announcement reactivated earlier criticisms and Sales resigned from the investigation on 21 June 2002. LRWC/BHRC rejected the suicide theory and released their report in July 2002.

In July 2002 Attorney General of the Federal District of Mexico City Bátiz announced the creation of a Special Prosecutor’s office to assume responsibility for the investigation into Digna Ochoa’s death. Margarita Guerra y Tejada was appointed lead prosecutor in July 2002 and on 19 July 2003 announced her opinion that Ochoa died by her own hand.

LRWC/BHRC again concluded that there had been no proper investigation and that the suicide theory was not credible and sent recommendations to the Mexican government in September 2003.

In July 2004 the Human Rights Commission of Mexico City released a 200-page report challenging the prosecutor's finding that Digna Ochoa committed suicide. Commission Chief Emilio Alvarez Icaza said that the group found the government prosecutors failed to properly investigate Ms. Ochoa's death, and had covered up important evidence. While the Commission would not declare whether or not it was a suicide, Mr. Alvarez felt that prosecutors did not pursue leads incriminating social, police and rural political bosses who were targets of Ms. Ochoa's human rights work. The report also noted errors in the way investigators collected and processed evidence, inconsistencies in the conclusions drawn by the three prosecutors, and mismatching and contradictory descriptions from medical and criminal experts investigating the death.

On February 25, 2005 Lic. Bernardo Bátiz Vázquez, the Attorney General of the Federal District of Mexico City, issued a bulletin indicating that prosecutors would re-open the investigation into the death of Digna Ochoa without delay following the ruling of a federal judge ordering prosecutors to re-examine forensic evidence. This ruling was made in a case brought by the Ochoa family.

Ms Ochoa's death highlights both the failure to protect lawyers representing claims of wrongdoing by government agents and the failure to bring to justice those responsible.

LRWC continues to monitor the investigation.

*Leo McGrady is the LRWC member in charge of monitoring the Digna Ochoa investigation; Monique Pongracic-Speier is the Mexico Monitor.*

## **II. NORTHERN IRELAND - PATRICK FINUCANE MURDER INQUIRY**

### **LRWC ACTIONS**

- Open letter to Prime Minister Blair and Attorney General Goldsmith calling for an immediate Inquiry under the under the *Tribunals of Inquiry (Evidence) Act of 1921* ("1921 Act") into the 1989 murder of lawyer Patrick Finucane, 28 February 2005. (<http://www.lrwc.org/pub1.php> Hugh Gwillim)
- LRWC endorsed *The Inquiries Bill: The Wrong Answer: A Joint Statement by:* Amnesty International, British Irish RIGHTS WATCH, The Committee on the Administration of Justice, Human Rights First, The Human Rights Institute of the International Bar Association, INQUEST, JUSTICE, Lawyers' Rights Watch Canada, The Law Society of England and Wales, Pat Finucane Centre and Scottish Human Rights Centre, 21 March 2005.
- (<http://www.lrwc.org/pub1.php> *The Inquiry: The Wrong Answer*

### **BACKGROUND**

On February 12, 1989, Patrick Finucane was shot dead in front of his wife and three children by two masked gunmen. Patrick Finucane was a lawyer in Northern Ireland who had acted as defense counsel on many politically sensitive cases including, just before his assassination, a case alleging Royal Ulster Constabulary maltreatment of persons in custody. Mr. Finucane was

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assassinated weeks after the Royal Ulster Constabulary had delivered death threats to Mr. Finucane and four weeks after Douglas Hogg MP, then Parliamentary Under-Secretary of State for the Home Department, in a Committee Stage debate on the Prevention of Terrorism (Temporary Provisions) Bill on January 17, 1989 said:

I have to state as a fact, but with great regret, that there are in Northern Ireland a number of solicitors who are unduly sympathetic to the cause of the IRA.

Protestant terrorists took credit for the killing the following day.

Most informed observers believed that Mr. Finucane was 'executed' because of his work as a lawyer and that the Royal Ulster Constabulary was involved in some capacity in his murder.

The following official proceedings into the murder of Patrick Finucane have taken place:

1. Inquest held 6 September 1990
2. Stevens Inquiry #1 headed by John Stevens, then Deputy Chief Constable of the Cambridgeshire Constabulary, mandated to investigate allegations of collusion between members of the security forces and loyalist paramilitaries commenced on 14 Sept. 1989 and a report was presented 5 April 1990.
3. Stevens Inquiry #2 headed by John Stevens, then Chief Constable of the Northumbria Police, mandated to inquire into the alleged involvement of British army agent Brian Nelson and other members of the Army in the death of Patrick Finucane. This Inquiry commenced April 1993 and reports were presented 25 April 1994, 18 Oct. 1994 and 21 January 1995.
4. Stevens Inquiry #3 headed by John Stevens, then Deputy Commissioner of the Metropolitan Police, mandated to conduct an independent investigation into the murder of Mr. Finucane
5. The Cory Collusion Inquiry, headed by The Honourable Peter Cory, former Justice of the Supreme Court of Canada, arose out of the Northern Ireland peace process and, in particular, the Weston Park Agreement of 2001 which required that the United Kingdom and Irish governments appoint a judge of international standing from outside both jurisdictions to investigate allegations of security force collusion in loyalist paramilitary killings, including the murder of Patrick Finucane, and to decide whether to recommend a Public Inquiry into any of the killings. The Cory Collusion Inquiry Report on Patrick Finucane was ordered by the House of Commons to be printed 1 April 2004. The report was completed in October 2003 and Cory released his recommendations to the Finucane family in February 2004.

The Cory Collusion Inquiry Report on Patrick Finucane recommended a Public Inquiry into the murder of Patrick Finucane. Mr. Cory concluded,

Some of the acts summarized [in the report] are, in and of themselves, capable of constituting acts of collusion. Further, the documents and statements I have referred to in this review have a cumulative effect. Considered together, they clearly indicate to me that there is strong evidence that collusive acts were committed by the army (FRU), the RUC [Royal Ulster Constabulary], SB and the Security Service. I am satisfied that there is a need for public inquiry.

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Patrick Finucane's widow, Geraldine Finucane brought a civil suit against the Ministry of Defense and Brian Nelson for damages for her husband's murder and the judgment of the European Court of Human Rights (ECtHR) was released 1 July 2003. The ECtHR found that the Inquest and all three Stevens Inquiries had failed to "provide a prompt and effective investigation into the allegation of collusion by [UK] security personnel" and in so doing the United Kingdom government had violated Article 2 of the *Convention for the Protection of Human Rights and Fundamental Freedoms* ("Everyone's right to life shall be protected by law..."). The UK government breached its obligation "in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility."

The UK government responded to the Cory recommendations and the judgment of the ECtHR by introducing the Inquiries Bill to Parliament on 24 November 2004. If enacted, the Bill would, in the opinion of LRWC and many other commentators, hamper the current statutory system for establishing and conducting inquiries into issues of public importance and impair human rights enforcement.

Significant questions remain that can only be answered by an Inquiry properly constituted and empowered to compel witnesses and production of documentation including the significant body of documentation that continues to be withheld at military and civilian levels.

On April 1, 2004 the UK government committed to establishing public inquiries into three deaths allegedly involving collusion between members of the UK security forces and paramilitaries in Northern Ireland, but failed to include the Finucane case. UK authorities then announced, on 27 September 2004, that an inquiry into the death of Patrick Finucane would be established, but not, as recommended, under the *Tribunal of Inquiry (Evidence) Act of 1921*. Human rights groups and interested parties, including LRWC, expressed concern that new legislation may impede or curtail an inquiry's ability to shed light on the state's collusion in the murder of Patrick Finucane. The *Inquiries Bill* (Bill) intended to replace the *Tribunal of Inquiry (Evidence) Act of 1921* went to first reading 27 November 2004 in the House of Lords. The Bill went to 2<sup>nd</sup> and 3<sup>rd</sup> reading and then was referred to the Standing Committee 22 March 2005.

The *Inquiries Act* became legislation 7 April 2005.

<http://www.legislation.hmso.gov.uk/acts/acts2005/20050012.htm>

British Irish Rights Watch, The Committee on the Administration of Justice, and Amnesty International are seeking an independent legal opinion on whether an inquiry into the murder of Patrick Finucane held under the *Inquiries Act* would be lawful.

Amnesty International and Geraldine Finucane have called on judges to decline appointments as chairs or panel members to any inquiry established under the *Inquiries Act*. Critics have expressed concerns that the *Inquiries Act* violates the separation of powers between the executive and the courts and therefore impairs the independence of any tribunal created under the statute. Concern has been expressed that the new statute may violate Section 2 of the European *Convention for the Protection of Human Rights and Fundamental Freedoms* by granting Ministers power to withdraw funding, withhold publication of inquiry reports and restrict public access to inquiry proceedings and materials. Critics include the Honourable Peter Cory, the Joint Committee on Human Rights, the Public Administration Select Committee and Lord Saville, Chair of the Bloody Sunday Inquiry.

*Hugh Gwillim is the author the LRWC Open Letter to Prime Minister Blair and is the LRWC Manager of the Patrick Finucane campaign.*

### III. COLOMBIA

#### LRWC ACTIONS

##### ➤ Sin Abogados No Hay Justicia Campaign

In September 2003, Colombian lawyers began a campaign to draw attention to the difficult situation faced by Colombian lawyers and human rights defenders who have been murdered, disappeared and subjected to threats and intimidation because of their advocacy. LRWC supported this campaign by:

- Working in cooperation with other NGOs advocating for improved human rights protections and adherence to the rule of law in Colombia including Amnesty International/BC, Yukon Region, Peace Brigades International, In Minga Colombia/Canada, BHRC.
- Preparing educational materials on the legal standards designed to protect the safety and independence of advocates in Colombia, on the lack of implementation and enforcement of safeguards and on the failure of the Colombian government to investigate and punish violations.
- Nominating Colombian human rights lawyer Reinaldo Villalba Vargas for the Bernard Simons Human Rights Award annually awarded in October by the International Bar Association jointly with BHRC and In Minga Colombia/Canada. The award went to George Bizos of South Africa.
- Co-hosting "Breaking the Silence: Towards Peace and Justice in Colombia," a one day teach-in co-hosted by Amnesty International, LRWC, Oxfam, ENLACES, HIJOS and In Minga Colombia/Canada on 20 March 2004.

##### ➤ Letter Writing

LRWC wrote letters on behalf of approximately 30 Colombian advocates: lawyers, trade unionists, journalists, human rights defenders and peace activists, who had been the subject of attacks apparently intended to curtail their human rights advocacy. Attacks included: murder, disappearance, death threats, detention without charge and surveillance. For a report of the advocates on behalf of whom LRWC wrote letters see Heather Neun's *LRWC Colombia Country Report: April 2005* <http://www.lrwc.org/pub1.php>. In response to continuing grave and widespread attacks on human rights defenders, LRWC:

- endorsed the 28 February 2005 public statement from Peace Brigades International regarding the Apartadó massacres that occurred February 21<sup>st</sup> and 22<sup>nd</sup> 2005.
- signed the 18 March 2005 KAIROS letter to Canadian Minister of Foreign Affairs regarding the Apartadó massacre

#### BACKGROUND

The human rights situation in Colombia is extremely serious. While there has been some reduction in the rate of kidnappings, the number of arbitrary detentions, extra-judicial executions, enforced disappearances and torture of human rights defenders, union leaders, and

civilians in general, has increased. Most of these abuses were attributed to either state or paramilitary officials.

Amnesty International in *Human Rights Under Attack* <http://www.amnesty.ca/colombia/> released 10 March 2005 reported:

Killings, threats and intimidation of members of human rights organizations, trade unionists and other vulnerable sectors of civil society form part of a campaign by sectors of the Colombian security forces and their paramilitary allies to weaken the work of human rights defenders.

*Heather Neun is the LRWC Colombia Monitor.*

#### **IV. SINGAPORE - JOSHUA BENJAMIN JEYARETNAM, DEFAMATION SUITS**

##### **LRWC ACTIONS**

- LRWC continued to monitor the efforts of J. B. Jeyaretnam to obtain a discharge from bankruptcy.
- LRWC published *The Misuse of Bankruptcy Law in Singapore: An Analysis of the Matter of Re Joshua Benjamin Jeyaretnam, ex parte Indra Krishnan*, (October 2004) by Kelley Bryan and Howard Rubin. This article, which was distributed by LRWC and by Amnesty International, examines the legal proceedings that continue to prevent Mr. Jeyaretnam from practicing of law and from standing for election to Parliament.
- LRWC published *In the Matter of an Addendum to the Report to Lawyers' Rights Watch on the Trial of J. B. Jeyaretnam as a Result of Observations on the Trial Of Chee Soon Juan*. (April 2003), by Howard Rubin.

##### **BACKGROUND**

In July 2001, J.B. Jeyaretnam, human rights activist and former lawyer and Member of Parliament lost his final two appeals in defamation suits and was barred from practicing law and from sitting as a member of the Singapore Parliament. The appeals were the culmination of twenty-six years of defamation litigation initiated in 1976 by Lee Kuan Yew, Senior Minister and former Prime Minister of Singapore, and by members of the ruling party.

LRWC member Howard Rubin, as a joint representative of LRWC and Amnesty International, attended Jeyaretnam's final defamation appeals in July 2001 and produced a report of his findings. On March 23, 2002 the Inter-Parliamentary Union (IPU) passed a resolution affirming that Jeyaretnam's statements were a legitimate exercise of free speech rights and sharply criticized the proceedings as an attempt to silence Jeyaretnam and remove him from parliament. Ingeborg Schwarz of the IPU, which represents 142 member parliaments around the world, said LRWC's report "was instrumental not only in the decision to declare this case admissible but also to make it public."

On November 25, 2004 the Court of Appeal of Singapore upheld the decision denying Mr. Jeyaretnam's application to be discharged from bankruptcy: Jeyaretnam is therefore still barred from practicing law and from running for Parliament.



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*Howard Rubin is the J.B. Jeyaretnam Campaign Manager.*

## **B. GUATEMALA FOLLOW-UP**

### **I. Bishop Juan Gerardi Conedara**

#### **LRWC ACTIONS**

Over the course of its involvement in the case, LRWC members have prepared a fact summary of the case, written letters and a press release/statement, met with a judge that fled to Canada, attended the last week of the initial trial, and attended the hearing of the Appeal.

#### **BACKGROUND**

On April 26, 1998, Bishop Juan Gerardi Conedara, founder of the Guatemalan Archdioceses' Office of Human Rights (ODHA), was murdered in the garage of San Sebastian Church in Antigua, the capital of Guatemala.

Two days prior his murder, Bishop Gerardi had completed a report on the violence, murders, tortures and disappearances that plagued the country during its 36-year civil war. The report clearly implicated the Guatemalan army and associated paramilitary groups as the primary instigators of the killings, documenting 422 massacres and the deaths and disappearances of 52,000 civilians. Three high-ranking army officers, Colonel Byron Lima Estrada and Captain Byron Lima Oliva, and two civilians, Jose Obdulio Villanueva and a priest, Father Mario Orantes, were eventually charged with the murder.

The case has been plagued with threats and intimidation. In March 1999 the acting judge of the investigation fled to Canada after numerous death threats. In October 1999, Prosecutor Clevin Galindo also left Guatemala after being subjected to telephone surveillance, persecution, threats and intimidation. Three later judges assigned to the trial were under special protection because of threats and intimidation.

Nonetheless, in June 2001, all four persons charged were convicted: Colonel Byron Lima Estrada, Jose Obdulio Villanueva and Captain Byron Lima Oliva, were found guilty of the 'extra-judicial execution' of Bishop Gerardi and sentenced to 30 years in prison each. Father Mario Orantes was found guilty of being an accomplice to the murder and sentenced to 20 years. It was the first ever convictions on a charge of 'extra-judicial execution' in Guatemala.

On 9 October 2002 the Guatemala 4th Appeals Court overturned all four of the convictions, and ordered a retrial. Before the retrial could commence however the ODHAG and the State prosecutors (Attorney General) filed for a stay and appealed the Appeals Court decision. The decision was annulled by the Supreme Court in February 2003. The next day, Jose Obdulio Villanueva, the lowest ranking officer to be convicted in this case, was murdered in prison during a prison uprising which Amnesty International (see AMR 34/007/2003) fears may have been orchestrated to remove him as a potential witness against other military higher-ups. A reconsideration of the appeal of the convictions was granted and in December 2004 the matter was sent to a newly constituted appeal panel and is still pending.

LRWC continues to be in contact with the ODHAG and is monitoring the case as it continues through the legal proceedings.

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## **II. Myrna Mack Trial**

### **LRWC ACTIONS**

- Preparation of fact summary relevant to security and independence issues
- Letters to Guatemala government officials and departments
- Attendance at trial - LRWC sent Vancouver lawyer Brenda Wemp to attend the trial in September 2002. While in Guatemala, Ms. Wemp visited the Myrna Mack Foundation and met with staff. She also met with both State prosecutors as well as with the Prosecutors for the Myrna Mack Foundation, and with Helen Mack. Ms. Wemp was also introduced to the Attorney General of Guatemala, who attended the trial in the company of James Lambert, Canadian Ambassador to Guatemala.

### **BACKGROUND**

Myrna Elizabeth Mack Chang, a Guatemalan anthropologist investigating military atrocities in rural indigenous communities, was stabbed to death (27 stab wounds) outside her office on September 11, 1990. Her murder occurred after the publication of Mack's ground-breaking study which concluded the Guatemalan government counter-insurgency policies had caused the internal displacement of Guatemala's Mayan indigenous people and their subsequent suffering.

In 1993, Noel Beteta, an army sergeant who worked in the Security Division of the Presidential Guard was convicted of the murder of Myrna Mack and sentenced to 25 years. Beteta subsequently revealed that he had been acting on orders from higher levels in the military.

Retired General Edgar Augusto Godoy Gaitan, Colonel Juan Guillermo Oliva Carrera and Colonel Juan Valencia Osorio, Beteta's superiors in the Presidential Guard, were indicted in March 2000 and the trial finally commenced on 3 September 2002.

During the investigation of Ms. Mack's murder, policemen and numerous witnesses were forced into temporary and permanent exile, while those that remained in Guatemala have been the subject of threats and harassment.

The process of bringing General Edgar Augusto Godoy Gaitan, Colonel Juan Guillermo Oliva Carrera and Colonel Juan Valencia Osorio to trial was subject to serious delays due to lack of political will and ongoing threats to lawyers, judges and witnesses. One of the police investigators was himself murdered in 1995 and his colleague fled the country. The Secretariat of Strategic Analysis threatened the prosecutor in charge of the case, and the president of the Guatemalan Constitutional Court was assassinated in 1994 just as he was about to rule on an appeal regarding the case.

LRWC, together with other international observers, were asked to attend the trial and Vancouver lawyer Brenda Wemp attended on behalf of LRWC from September 10-25, 2002.

On October 3, 2002, Colonel Juan Valencia Osorio was convicted of ordering the murder of Myrna Mack and was sentenced to 30 years imprisonment. Valencia's superior officer, General Edgar Augusto Godoy Gaitan and Noel Beteta's immediate superior officer, Colonel Juan Guillermo Oliva Carrera, were acquitted on the grounds that there was insufficient evidence establishing their direct involvement with the murder.

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In May 2003, the Fourth Appeals Court of Guatemala reversed the conviction of Colonel Juan Valencia Osorio and upheld the acquittal of the other two officers. The decision with respect to Valencia Osorio was appealed to the Supreme Court of Guatemala, and in January 2004, the Supreme Court reinstated his conviction.

Valencia's conviction represents the first time that a high ranking military official has been tried and convicted for a crime committed during Guatemala's 36 year internal conflict. It is also the first time in Guatemala that a military officer has been convicted for ordering a crime carried out by a subordinate.

*Brenda Wemp is the Guatemala Monitor.*

## **C. PROJECTS**

### ***I. CAMEROON – Human Rights Advocacy Training Programme, Yaoundé, Cameroon, March 14th to 18th 2005.***

#### **LRWC ACTIONS**

LRWC, in partnership with the Bar Human Rights Committee of England and Wales (BHRC) and the British Council organized a one week Human Rights Advocacy Training Programme for jurists, human rights advocates and justice system officials which was held in Yaoundé, Cameroon, March 14th to 18th, 2005.

#### **BACKGROUND**

The goal of the advocacy training programme was to provide a bilingual program for judges, lawyers, prison officials, NGOs and academics from both the civil and common law systems and to establish the foundation for a long term exchange of human rights support between British, Canadian and African jurists, NGOs and government officials. The development of working relationships between Canadian, British and African human rights advocates will, we hope, enhance the development and implementation of human rights in Africa through an ongoing exchange of legal knowledge and jurisprudence.

LRWC hopes to contribute to a Law Library enhancement programme in Cameroon similar to the Sierra Leone Law Libraries Project.

Human rights implementation and enforcement in Cameroon is complicated by the fact that Cameroon provinces are divided linguistically between French and English and legally between common and civil law systems and there is no unified criminal code.

Instructors representing LRWC were the Honourable Claire L'Heureux-Dubé, formerly of the Supreme Court of Canada, Bernard Duhaime, professor of law at the Université of Québec at Montréal, Sylvain Roy, Québec barrister and former counsel before the Sierra Leone Special Court. Ottawa lawyer Jean-Louis Okomono attended as LRWC's coordinator and presented a session on minority language rights. Translation of course materials was done by LRWC volunteers Marievon Delanöe and Nathalie Zeolie, and LRWC members Isabel Stramwasser and Julie Skinner.

British instructors were Keir Starmer, Q.C., Jonathan Cooper and Quincy Whitaker. Jennifer Geen was the BHRC Project Coordinator. The British Council was responsible for organizing the

logistics on the ground including venue, on-site translation, invitations and distribution of the course material.

Sixty participants representing the Ministry of Justice, the Police School, National Security, National Commission for Human Rights and Freedoms, Penitentiary Administration, the Bar Association and NGOs took part in the training which proved to be a successful forum whereby NGO activists and lawyers had the opportunity to discuss serious issues of human rights abuses in Cameroon with authorities and decision makers within the Ministry of Justice. Participants were provided with course materials including papers and power points. Feedback was extremely positive and included requests for further training sessions on specific issues (fair trial procedures, rights to life, torture, corruption, detention) and workshops tailored for police and prison administration officials.

*Maureen Webb was the LRWC Cameroon Human Rights Advocacy Training Programme Manager.*

## **II. SIERRA LEONE - Law Libraries Project**

### **LRWC ACTIONS**

LRWC provided approximately 6,000 pounds of excellent legal texts and law reports primarily in the areas of criminal and human rights law to the Freetown and Special Court Law Libraries. All texts were donated to LRWC by Canadian law firms and law book publishers, as well as individual members of the legal profession. This project was carried out in partnership with the Bar Human Rights Committee of England and Wales (BHRC).

### **BACKGROUND**

Between 1991 and 2000, the West African nation of Sierra Leone suffered a bloody and destructive civil war during which the High Court Library in Freetown and its entire collection was destroyed. This left only a small collection of dated books at the law school library, entirely inadequate for Sierra Leonean lawyers to carry on practice.

In October 2000, the Special Court for Sierra Leone was established under Security Council mandate to hear cases involving crimes against humanity, war crimes and other serious violations of international humanitarian law committed during the civil war period.

Following the establishment of the Special Court, BHRC embarked on a major project to support the rebuilding of Sierra Leone's legal infrastructure. The British Council funded the reconstruction of the High Court Library in Freetown. LRWC has contributed a substantial number of criminal and human rights texts and reports to both the Special Court and the High Court libraries.

The Special Court Library will devolve to Sierra Leone's Ministry of Justice at the end of the Court's mandate. Members of the legal profession and advocates/researchers from non-governmental organizations currently have, and will continue to have, access to both the Special Court and the Freetown Law Library collections.

On April 21, 2005, LRWC received confirmation that the books had been received at the Special Court. They are now being sorted to determine which books will remain at the Special Court Library and which will go directly to the High Court Library.

The Sierra Leone Law Libraries Project was extremely successful: publicity inspired a “copy-cat” project in the Bahamas. The Bahamian Bar collected and delivered an additional half tonne of books to Freetown.

LRWC will continue to communicate with staff at the Special Court in Sierra Leone to determine whether there are further steps that LRWC can take to support the rebuilding of the justice system in the country.

*Monique Pongracic-Speier is the Sierra Leone Law Libraries Project Manager.*

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## D. LETTERS FOR LAWYERS

The LRWC Letters for Lawyers has continued to grow and to become more effective as measured by the quality of the letters written by LRWC members, the increased rate of response from governments and the number of letters written.

During this reporting period, LRWC letters have been written on behalf of approximately 200 advocates in danger because of their human rights advocacy in 32 countries: Argentina (1), Bangladesh (2), Belize (2), Bolivia (2), Brazil (3), Burma (2), Canada (1), Chile (1), China (3), Colombia (12), Ecuador (3), England (1), Guatemala (12), Honduras (2), Indonesia (1), Iran (3), Laos (1), Malaysia (2), Mexico (18), Namibia (1), Nepal (9), Northern Ireland (2), Pakistan (1), Peru (1), Philippines (3), Russia (1), Sudan (10), Syria (3), Venezuela (1), United States (1), Zimbabwe (2). All available reports indicate that letter writing is effective in halting particular cases of abuse and generally in discouraging attacks against lawyers and other advocates.

To improve our ability to respond effectively LRWC has recently adopted a system of Country Monitors and currently has monitors for: Brazil, Burma, Cambodia, Colombia, China, Ecuador, Guatemala, India, Iran, Malaysia, Mexico, Nepal, Sudan, Syria, Zimbabwe. The following summaries are based on Country Monitor reports.

### 1. BURMA

If anything, the situation in Burma is getting worse. Democracy leader Aung San Suu Kyi has been under house arrest for 22 months. Another senior leader of the National League for Democracy, U Tin Oo, was imprisoned, then under house arrest for 22 months. The United Nations Special Envoy and Special Rapporteur were both denied entry into Burma in 2004 and 2005.

There are still approximately 1500 political prisoners in Burma. Long jail sentences are handed out by military courts. There is no independent judiciary and Habeus Corpus does not exist.

In this reporting period, LRWC has written letters on behalf of arrested Shan political leaders; and has assisted with writing letters on behalf of the Muslim people of Rakhine State.

*Paul Copeland is the Burma Monitor.*

### 2. COLOMBIA

The human rights situation in Colombia is extremely serious, and has displaced more than two million people from their homes in the last decade. The number of arbitrary detentions, extra-judicial executions, enforced disappearances and torture of human rights defenders, union leaders, and civilians in general, has increased.

In this reporting period, LRWC has written eleven letters on behalf of more than twenty-one lawyers, human rights advocates, journalists and union leaders

who have been murdered, unlawfully detained, received death threats or disappeared.

While the government of Colombia did not respond to any of LRWC's letters in 2004, members of the Asociación de Familiares de Detenidos Desaparecidos, who appeared as guest speakers at the March 19, 2004 'Breaking the Silence' teach-in, passionately reported to LRWC that letter writing saves lives: that the efficacy of letters written on behalf of advocates in danger cannot be accurately assessed by whether or not a response is received. The ASFADDES representatives urged LRWC to continue and increase LRWC letter writing.

LRWC is currently hoping to form and fund a trial-monitoring group of lawyers who would be willing and able to travel to Colombia to ensure that Colombian advocates are being provided proper security, and to monitor trials. LRWC also hopes to participate in organizing an international committee of lawyers and human rights defenders to monitor and report on threats to lawyers and other advocates fighting for improved human rights in Colombia.

LRWC needs the assistance of persons who are knowledgeable about Colombia to assist with research, coordination, updating of information, and network building among groups of persons working to uphold international human rights in Colombia.

*Heather D. Neun is the Colombia Monitor.*

### **3. GUATEMALA**

Human rights continued to be violated and human rights defenders, including lawyers, continued to be under threat and at risk throughout 2004 and 2005. Those who are involved in investigating and/or prosecuting past human rights violations by the military are particularly at risk. For example, the director and staff of the human rights organization Centre for Legal Action in Human Rights (CALDH), who are bringing charges of genocide against former

President Rios Montt, were subject to intimidation and threats, as was the director of the International Centre for Human Rights Investigations (CIDH), and the staff of an NGO investigating military involvement in the disappearance of children during the armed conflict

In addition, human rights defenders who are promoting the creation and implementation of a Commission to Investigate Illegal Groups and Clandestine Security Apparatus (CICIACS) have been under threat, and the Commission has not been implemented to date despite international support.

Lawyers and other human rights defenders seeking justice for poor agricultural workers in disputes with wealthy landowners, and other defenders of labour rights, have also been threatened, and legal processes are sometimes used against them.

The special Prosecutor for Human Rights Defenders was herself subject to threats and acts of intimidation in 2004. According to the Guatemalan NGO National Movement of Human Rights, after the appointment of a new Attorney General in February 2004, the office of the Human Rights Prosecutor has become considerably less effective due to reduction in personnel and limits to its independence through a series of administrative measures.

Other areas of concern with respect to the human rights situation generally include repression of protests against mining developments and the creation of the Central American Free Trade Agreement (CAFTA) between Central American countries and the U.S.A. It is anticipated that there will be more violations of human rights emerging from these conflicts.

In addition to its follow-up on the Bishop Gerardi and Myrna Mack cases, in this reporting period LRWC has written 12 letters on behalf of many advocates: lawyers, employees of human rights organizations, representatives of the Office

of the Ombudsman, journalists and peasant advocates who were murdered, threatened, assaulted, robbed, subjected to office and home break-ins. LRWC has not received notice of any successful investigations of these attacks.

*Brenda Wemp is the Guatemala Monitor.*

#### **4. MEXICO**

Mexico continues to be an unsafe jurisdiction for many human rights advocates and lawyers. The number of reported attacks on human rights defenders in 2004 and early 2005 shows a slight increase over previous years, based on LRWC monitoring.

Despite having ratified the major United Nations and Organisation of American States human rights instruments, the targeting of advocates and those perceived as representing “unpopular” causes continues. The most egregious abuses often involve combined elements of private and public action against human rights defenders, such as where a powerful individual opposes a human rights defenders’ work, and is able, through political influence, to enlist the services of local police, government officials and/or the judiciary to block the advocate’s work. Police brutality, torture and substandard conditions of detention continue to be common concerns in requests for urgent action.

Unfair and corrupt trials also continue to be a major problem in Mexico. These include the use of false charges and detention pending trial, in an effort to silence and marginalize human rights defenders. LRWC monitoring over the course of 2004 and early 2005 indicates that such law enforcement and judicial manipulation is more prominent in the some of the poorest Mexican states, or is at least subject to greater reporting.

LRWC monitoring in 2004/early 2005 indicates that indigenous Mexican

communities and their advocates are the most likely targets of threats and violence.

LRWC will be seeking opportunities in 2005 to raise the profile of abuses against lawyers and human rights advocates in Mexico by linking safety standards for advocates to liberalization in the international trade of legal services.

LRWC wrote eighteen letters for advocates during the reporting period. Lawyers and other human rights defenders in Mexico are often subjected to threats to their safety and security including bombing, assaults, kidnapping, surveillance, death threats, office and home break-ins and a death by police gunfire.

An examination of the cases of eleven Mexican human rights advocates on whose behalf LRWC have written letters between October 2001 and December 2003, revealed a disturbing pattern of attacks on advocates representing causes or clients unpopular with government and a failure to effectively investigate attacks and to sanction the perpetrators. For example, Marcelino Santiago Pacheco disappeared while waiting to give testimony against the former governor of Oaxaca and other government officials.

Human rights lawyers Barbara Zamora López and Leonel Guadalupe Rivero Rodríguez continued to receive death threats after the IACTHR had ordered Mexico to provide special protection measures for them.

According to information available to LRWC none of these violations against human rights advocates has resulted in any criminal charges. Police admit killing defense lawyer Mario César Escobedo Anaya but the police conclusion that he was shot in self defense has been rejected by family and colleagues as false and contrary to the physical evidence. Prior to his death, Mr. Escobedo Anaya had made allegations of torture against state officials.

Government replies since December 2003 to LRWC inquiries tend to be unresponsive to

the specific queries asked and the information requested by LRWC. None of the attacks on advocates tracked by LRWC during this reporting period have resulted in prosecutions and trials.

*Monique Pongracic-Speier is the Mexico Monitor.*

## 5. NEPAL

Nepal's human rights situation has been very poor for a number of years. It is intertwined with political conflict involving an ongoing armed insurgency launched by the Communist Party of Nepal (Maoist) in 1996. Maoists now control many rural and even urban areas of Nepal. In 2003 and 2004, Nepal experienced the highest number of forced disappearances in the world.

The human rights situation in Nepal became even more serious after February 1, 2005, when King Gyanendra dismissed the Prime Minister, dissolved parliament and seized power. It is reported that there have been more than 1000 forced disappearances since that date.

Since February 2005, Nepal has suspended virtually all civil and political rights. Human rights defenders have been under particular threat, and many have gone into hiding or curtailed their human rights work. Among those detained are Sindhu Nath Pyakurel, the immediate past president of the Nepal Bar Association, Krishna Pahadi, the founding Chair of the Human Organisation of Nepal, and Gauri Pradhan, founding president of Child Workers in Nepal Concerned Centre.

In this reporting period, LRWC has written eight letters on behalf of more than fourteen lawyers and human rights workers. A number of reports and documents are currently being examined with a view of developing a strategy for Nepal that would include interventions on behalf of individual lawyers and interventions with the Canadian government and relevant bodies of the United Nations. LRWC needs the

assistance of persons who are knowledgeable about Nepal to assist with research, coordination and updating of information.

*Catherine Morris is the Nepal Monitor.*

## 6. SUDAN

Sudan was much in the news in 2004 as the world's attention focussed on the crisis in Darfur, in which more than 70,000 people have been killed and at least two million others displaced. The UN has found the government responsible for attacks by government-supported Arab Janjaweed militia against the ethnically-African civilian populations in the Darfur region.

Sudan has a lengthy history of arresting and harassing human rights defenders. In the aftermath of the 1989 military coup, which established the current government and resulted in a twenty-one-year civil war in which an estimated two million people have died, members of the legal profession, along with members of the political opposition, were detained without charge for months and in some cases years. 2004 saw a dramatic increase in the number of reports of violations of rights of human rights defenders and lawyers, with arbitrary detentions of at least nine lawyers and human rights defenders.

LRWC wrote ten letters on behalf of more than fifteen lawyers and human rights defenders.

LRWC plans to continue to monitor the situation in Sudan, and to build more in-depth understanding of the human rights situation in Sudan and to build networks among lawyers and human rights defenders in Sudan and among those knowledgeable about Sudan in Canada and elsewhere. LRWC needs the assistance of persons who are knowledgeable about Sudan to assist with research, coordination, updating of information, and network-building.

*Catherine Morris is the Sudan Monitor.*



## E. PUBLICATIONS and LEGAL RESEARCH

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Rubin, Howard, *In the Matter of an Addendum to the Report to Lawyers' Rights Watch on the Trial of J. B. Jeyaretnam as a Result of Observations on the Trial Of Chee Soon Juan. (April 2003)*.

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## F. COOPERATION WITH OTHER HUMAN RIGHTS ORGANIZATIONS

LRWC has worked successfully with many human rights organizations including: the Bar Human Rights Committee of England and Wales, In Minga Canada/Colombia, Amnesty International, British Irish RIGHTS WATCH, Peace Brigades International, KAIROS, The Committee on the Administration of Justice, Human Rights First, The Human Rights Institute of the International Bar Association, INQUEST, JUSTICE, The Law Society of England and Wales, Pat Finucane Centre and Scottish Human Rights Centre.

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## G. AWARDS

**Renate Shearer Award-2004** was awarded by the United Nations Association of Canada and the British Columbia Human Rights Coalition to Lawyers Rights Watch Canada “for their exceptional work in promoting international standards aimed at protecting the rights and the work of human rights advocates world wide.” The award was given on the 56th anniversary of the Universal Declaration of Human Rights.

**Great Trekker Award 2004—University of British Columbia Alma Mater Society** was awarded February 2004 to LRWC founder Gail Davidson to “acknowledg[e].. / the work she has done in human rights and in founding Lawyers' Rights Watch Canada...a group of Canadian legal professionals that promote human rights and the rule of law by providing support to human rights defenders across the world that live in danger.”

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## H. IN MEMORIAM

David W. Gibbons Q.C. founding Director of LRWC, Bencher of the Law Society of British Columbia, champion of human rights and colleague died Friday August 27, 2004 of ideopathic pulmonary fibrosis.

The success of LRWC’s work has been built on the firm foundation of David’s support for Canadian lawyers working to defend human rights defenders and the rule of law.

David was a giant in the legal profession: honoured for his legal excellence, his unfailing integrity and his unshakeably good character. David was irreplaceable.

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## I. MEMBERSHIP

LRWC has 190 members.

### 1. DONATIONS

LRWC is funded solely through membership fees and by donations of money, labour and campaign materials from members and non-members. Members generously donated their own campaign travel expenses, and donated time to campaign travel, attending conferences, writing reports, and writing letters for lawyers. LRWC is grateful for the generosity of all of our donors and the strength of their commitment to defending defenders around the world. LRWC is also grateful for the ongoing support from our volunteer staff and from the growing number of non-member donors. LRWC’s work honours the commitment of all our donors.

#### **Monetary donations – Members**

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### **Other Donations**

#### **Campaign Travel**

Leo McGrady Q.C., Howard Rubin, Gail Davidson.

#### **Cameroon Human Rights Advocacy Training: Course Instruction and Translating**

Instructors: The Honourable Claire L'Heureux-Dubé, Professor Bernard Duhaime, Sylvain Roy, Jean-Louis Okomono.

Course Materials Translators: Nathalie Zeol, Maryvon Delanœ, Isabel Stramwasser, Julie Skinner

#### **Project Management**

Leo McGrady Q.C., Monique Pongracic-Speier, Maureen Webb, Hugh Gwillim, Howard Rubin.

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Paul Copeland - Burma  
Dagmar Dlab - Women  
Advocates  
Richard Fowler – Malaysia

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Hugh Gwillim - Iran  
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Naveen Mehta - India  
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Nepal & Cambodia

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Isabel Stramwasser - Ecuador  
Brenda Wemp - Guatemala

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Paul Copeland  
Jai Dahr  
Gail Davidson  
Dagmar Dlab

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#### **Letters for Lawyers**

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### **Donations of Books to the Sierra Leone Law Libraries Project**

*Dr. Lloyd Axworthy P.C., O.C., O.M*

*Blake, Cassels, Graydon LLP, Vancouver Office*

*Dr. Peter Burns Q.C*

*Canada Law Books Inc.*

*Canadian Council on International Law*

*Continuing Legal Education Society of British Columbia*

*The Honourable Mme. Justice Janice Dillon*

*Fasken Martineau DuMoulin, Vancouver Office*

*Fraser, Milner Casgrain LLP, Edmonton Office, and a monetary donation to cover transportation costs to Vancouver.*

*Wendy Van Tongeren Harvey*

*Irwin Law Inc.*

*Professor Michael Jackson Q.C.*

*Judicial Library Services of the Ontario Superior Courts*

*Ogilvy Renault, Toronto Office, and a monetary donation to cover the transportation of the books from Toronto to Vancouver.*

*Members of the Faculty of Law at the University of British Columbia*

## **2. VOLUNTEERS**

LRWC has no paid positions and is staffed by a team of dedicated volunteers.

*Caroline Blair  
José Garcia  
Gaelen Henry*

*Elizabeth Houle  
Rong Liang  
Xin Liu*

*Simrin Parmar  
Jenna Virk  
Nathalie Zeoli*

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# **CONSTITUTION**

## **LAWYERS RIGHTS WATCH CANADA**

Incorporated June 2000

- To provide support internationally to lawyers whose rights, freedoms, or independence are threatened as a result of their human rights advocacy
- To promote and protect lawyers' right to engage in independent advocacy
- To preserve and enhance the rule of law
- To encourage governments and other institutions to respect fair trial rights including the rights of lawyer to engage in independent advocacy
- To encourage ratification and implementation of international human rights treaties that impact on legal advocacy rights and the integrity of legal systems

- 
- To encourage constitutional and legislative amendments necessary for conformity with international human rights standards relevant to the independence of lawyers and judges, the integrity of the legal systems and fair trial rights
  - To provide research and public legal analyses with respect to the above
  - To complement the support to lawyers from other human rights organizations.

## **CONSTITUTION**

### **LAWYER'S RIGHTS WATCH CANADA (LEGAL RESEARCH)**

Incorporated January 2, 2002

- To do legal research on jurisprudence, national laws and international laws and standards related to the integrity of legal systems and the right of lawyers and other human rights defenders to engage in independent advocacy
  - To make such research available to the public
  - To provide public legal education on the above topics
- 

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