

# Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*

## LRWC ANNUAL REPORT 2011

(April 1, 2010 to March 31, 2011)

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

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### MISSION

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

- Campaigning for jurists and other advocates whose rights, safety or independence are threatened because of their human rights advocacy.
- Producing legal analyses of national and international laws and standards relevant to advocacy rights and the rule of law.
- Working in cooperation with other human rights organizations.
- Engaging in legal education and law reform in areas related to the rule of law and advocacy rights.

LRWC and LRW(Legal Research)C are non-profit societies incorporated under the *Canada Corporations Act*.

LRW(Legal Research)C engages in legal research and education and has charitable tax status.

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## Message from the Executive Director

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Throughout the reporting period LRWC effectively promoted advocacy rights and the rule of law through campaigns, legal research and education. LRWC campaign activities during the reporting period involved lawyers and other human rights defenders subjected to murder, assault, threats, false arrest, arbitrary and incommunicado detention, torture, denial of fair trial and due process, intimidation and malicious prosecution, as a result of their human rights work. Malicious prosecutions of human rights defenders were based on charges of murder, possession of explosives, publishing information likely to bring government into disrepute (e.g. propaganda against the regime, publishing false news), and advocating for peasant land rights. As in other years, advocates representing causes or clients unpopular with the government and/or with powerful corporations were at the highest risk. This year advocates promoting labour rights, peasant land rights, environmental protections, democracy and improved human rights were at heightened risk as were those associated with opposition to corporate activities (logging, mining, land and water use) seen as ruinous to local communities.

LRWC campaigned for lawyers and other human rights defenders in 18 countries through activities ranging from letters written solely by LRWC to in-country investigations carried out in cooperation with several organizations. Legal research and education formed a significant part of all LRWC work which included: producing letters, statements, legal briefs, complaints to United Nations monitoring bodies and written and oral statements to the UN Human Rights Council. LRWC intervened in proceedings before the Inter-American Court of Human Rights, organized, co-sponsored or participated in education events in Canada, the Philippines and Geneva. LRWC participated in all 3 sessions of the United Nations Human Rights Council in Geneva and co-hosted two successful side events in Geneva: one on the need for protective measures for human rights defenders and one on the need for NGOs to lobby for enforcement and ratification of the newly in force *International Convention for the Protection of all People from Enforced Disappearances*.

Many of these activities were done in cooperation with other human rights organizations around the world (LRWC worked with over 34 NGOs this year). There were many successes during the past year including—a favourable decision by the Inter-American Court of Human Rights, the release of arbitrarily detained human rights defenders, important contributions to the issues of ongoing concern regarding the independence of the judiciary, the right to legal aid and the intersection between amnesty laws and the right to remediation for enforced disappearances and extra-judicial killings, providing ongoing support to advocates at risk. LRWC volunteers did this work on a budget of \$26,000. from members and donors. In addition, volunteer largely paid for the expenses of their work. We thank our members, volunteers and donors and look forward to their support in the future.

## In-Country Investigation

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### Colombia

An international delegation of 60 lawyers and judges visited Colombia 18-23 August 2010 as part of an ongoing campaign to support Colombian lawyers and human rights defenders at risk and promote the rule of law through monitoring, in-country investigations and reporting. Ontario lawyer Alyssa Brierley was a member of the 2010 delegation as the joint representative of LRWC and Lawyers Without Borders/Canada. This 2<sup>nd</sup> Colombia Caravana was organized by Lawyers Without Borders Canada, the UK Caravana Lawyers Group, and the Colombian Association of Human Rights Defense Lawyers. Delegates visited eight regions to meet with lawyers, victims, and local officials including national and regional prosecutors, ombudsmen, members of the military and police forces, and embassy officials, in order to assess access to justice in Colombia.

During her visit, Ms. Brierley worked primarily in Barranquilla and Cartagena, meeting with local and regional authorities, lawyers, and victims groups. Issues of concern raised during meetings included threats to lawyers representing people associated with guerilla groups and victimization from state crimes. Judicial system concerns included access to justice, procedural fairness, inadequate disclosure, and the lack of public defenders. A [video](#) of Ms. Brierley's 16 October 2010 talk on the investigation can be viewed on the LRWC website.

The [full report](#), "[The Legal Profession Still Under Attack](#)", released in May 2011 recommends that the Colombian government place more value on the work of lawyers and judges, provide additional financial resources to judicial authorities, and provide information on measures taken to combat impunity. LRWC and other participating organizations continued to provide support through monitoring, meetings and letter writing.

In March LRWC members in Victoria, Vancouver, and Toronto met with Colombian human rights lawyer, Ms. Jomary Ortegón Osorio, to discuss further collaborations and LRWC assistance with the ongoing human rights work of the Colectivo de Abogados José Alvear Restrepo, an NGO that documents human rights violations, accompanies victims, and supports initiatives to investigate the violations and ensure that perpetrators are held accountable. Ms. Ortegón works for the Colectivo, specializes in aboriginal issues and the Inter-American human rights system.

## Country Monitoring

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### Canada

#### Voices for Democracy in Canada

Lawyers, activists, and other civil society actors have become alarmed at recent stifling of their voices and activities by the Canadian government. LRWC was proud to be one of over 200 NGOs that signed the [Voices/Voix Declaration](#) in June 2010. The declaration calls on the government to respect freedom of expression and the independence of civil society. On 6 May 2010, LRWC member Isabel Stramwasser wrote a [letter calling for the resignation](#) of Senator Nancy Ruth following the Senator's demand to women's groups to "*Shut the f--- up*," further threatening that "*if you push there'll be more backlash*." Senator Ruth, a self-described pro-choice feminist, had made the statements following questions about plans to cut government funding to international programs that educate women on family planning and help provide access to safe abortions.

#### The Defeat of Bill C-49

On 28 October 2010 LRWC joined with other Canadian groups to sign a statement calling on Parliament to defeat *Bill C-49: Preventing Human Smugglers from Abusing Canada's Immigration System Act* on its second reading. The proposed amendments had the potential to allow violations of rights of equality before the law, freedom from arbitrary detention, and the rights of children protected by, *inter alia*, the *Convention Relating to the Status of Refugees*, the *Convention on the Rights of the Child*, and the *International Convention on Civil and Political Rights*. Other NGOs signing the statement included the Canadian Council of Refugees, Amnesty International Canada, the B.C. Civil Liberties Association, and the International Civil Liberties Group.

#### Omar Khadr

LRWC continued its efforts to ensure advocacy and due process rights in the Omar Khadr case. In April, LRWC wrote an open letter to Parliament regarding the Charter-protected right to return to Canada that was subsequently published by the [Globe and Mail](#), [Global Research](#), and the Canadian Challenger. On 5 August, LRWC signed the ["We are Omar Khadr" petition](#) affirming Khadr's right to a fair trial, including a hearing of all relevant facts in open court before an independent and impartial judge, and a decision rendered by a jury of one's peers. In October, LRWC published a [statement](#)

calling on both Canada and the United States to repatriate Khadr, and expressed continuing concern over the illegality of his sentencing before the tribunal created by the Military Commissions Act.

## Mexico

### *Inés Fernández Ortega & Valentina Rosendo Cantú et al v The United States of Mexico.*

LRWC filed an [amicus curiae brief](#) with the Inter-American Court of Human Rights (IACtHR) in *Valentina Rosendo Cantú et al v. The United States of Mexico*, Case No. 12.579, on 9 June 2010. The brief was prepared by Cara Gibbons with assistance from Alyssa Brierley. The case involves a 2002 complaint alleging that members of the military raped an indigenous woman in Guerrero. In Mexico, this and other complaints of criminal wrongdoing against members of the military are handled by the military system and result in an impunity rate of close to 100%. The LRWC submissions examined advocacy rights violations within the military system that had prevented investigation and remedies.

On 1 October 2010, the IACtHR ruled that Mexico was in violation of a number of obligations arising from the *American Convention on Human Rights* and determined that using the military justice system to investigate and prosecute human rights abuses allegedly committed by the military violates the fair trial guarantees in the Convention. The analysis was the same as in *Fernandez Ortego v. Mexico* (the companion case involving similar facts).

The Court's ruling confirmed the rapes and identified further human rights violations resulting from the failure of the investigations, continuing impunity for those responsible for the rapes, and the harassment of the victims and their advocates. The Court emphasized Mexico's obligation to ensure that criminal complaints against members of the military are not sheltered within military courts. Sharply critical of Mexico's treatment of the women throughout the six year period, the Court recommended that Mexico:

- a) re-open the criminal investigation,
- b) investigate the officials who undermined the initial investigations,
- c) strengthen procedures for investigating rape cases,
- d) improve medical care provided to victims, and
- e) provide redress for the women, their relatives, and their community.

On 15 March 2011, the women and their lawyers met with Mexican government representatives in what was hoped to be the first step in carrying out the IACtHR's recommendations.

### Alba Cruz

Mexican lawyer Alba Cruz received death threats and continued intimidation following her defense of Juan Manuel Martinez, an Oaxacan political activist detained in 2008 for the murder of US journalist, Brad Will and eventually released. A [letter](#) was sent on 17 January 2011 by Mexico monitor, Cara Gibbons, and a reply was received from the Embassy of Mexico in Canada. The reply detailed legislative measures taken to improve the safety of lawyers and other human rights defenders in Mexico, and explained that protective measures requested by the Inter-American Commission for Ms. Cruz and others in 2007 had since been put in place. The letter also noted that the Congress of Oaxaca had recently recognized Ms. Cruz's human rights work on International Human Rights Day.

### Raúl Hernández

Raúl Hernández Abundio, a member of Memphis Indigenous People's Organization (OPIM), was released from prison on 27 August 2010. Mr. Hernandez had been arrested in April 2008 on political motivated murder charges brought in retaliation for his human rights work for the Me'phaa community which included exposing human rights abuses by local authorities. Hernández's case is an example of the widespread problem of harassment of human rights defenders in Mexico. Cara Gibbons wrote a letter in April 2010 calling for the release of Hernández. The Tlachinollan Human

Rights Centre, a group of human rights lawyers representing indigenous human rights defenders under attack asked for permission to distribute the letter.

Ms Gibbons again wrote a [letter](#) in July 2010 to which the Special Prosecutor for Human Rights in Guerrero replied advising that the matter was before the court, that human rights were being recognized and inviting LRWC to email regarding further discussions. During the investigative trip to Mexico 29 November – 5 December 2009, Ms Gibbons had visited Mr. Hernandez in prison and met with lawyers from the Tlachinollan Human Rights Centre. The report of that investigation, [\*Recalling the Rule of Law: A Report on the protection of human rights defenders and the rule of law in the states of Guerrero and Oaxaca, Mexico\*](#), was published in July 2010.

### **Digna Ochoa**

On 24 November 2010, Gail Davidson and Leo McGrady QC [sent a letter](#) to the government of Mexico detailing legal duties to ensure an independent and effective investigation of the murder of Ms. Ochoa on October 19, 2001. Human rights lawyer Digna Ochoa was, in the words of the Inter-American Commission of Human Rights, “assassinated by one or more unidentified individuals in the office of her colleague Pilar Noriega Garcia in the Colonia Roma neighborhood of Mexico City.” Ms. Ochoa acted in highly controversial cases alleging criminal wrongdoing by the military and other government agents. The first team of investigators was removed after identifying her death as a homicide and singling out members of the military and local caciques working with the military as persons of interest. All subsequent investigations and reviews have focused on establishing that Ochoa committed suicide. LRWC and the Bar Human Rights Committee of England and Wales investigations were conducted in Mexico city by John McAlpine QC in March 2002 and by Leo McGrady QC in April 2003.

LRWC continues to call on Mexico to create an independent commission of inquiry to conduct a proper investigation. LRWC’s letter was supported by La Coordinación Alemana por los Derechos Humanos en México, a Germany-based group of 12 NGOs that includes the German chapter of Amnesty International. On 27 November 2010 the Procuraduria de Justicia del Distrito Federal (PJDF) released another report, again concluding that Ochoa committed suicide and dismissing any investigation of the identified suspect. The prestigious Ludovic-Trarieux Human Rights prize was awarded to Ochoa in 2003 following LRWC’s nomination.

### **Beatriz Alberta Carino Trujillo & Jyri Antero Jaakkola**

On 27 April 2010, armed men ambushed an international caravan of over 40 human rights defenders and journalists near San Juan Copala, Oaxaca. In the attack, Beatriz Alberta Carino Trujillo, Director of Mexican human rights organization CACTUS and human rights observer Jyri Antero Jaakkola from Finland were both shot and killed. Cara Gibbons and Alyssa Brierely wrote a [letter](#) on 5 May 2010 condemning the attacks and calling for investigations and prosecutions. Replies from the Mexican Ambassador to Canada and the Deputy Minister for Multilateral Affairs and Human Rights indicate that both the Federal Attorney General’s Office and the Human Rights Commission were investigating.

## **Philippines**

### **The Morong 43**

43 healthcare workers were arrested 6 February 2010 in Rizal, Philippines and detained (The Morong 43). The workers were charged with possession of explosives and firearms. LRWC recommended release and withdrawal of all charges based on unremedied violations of internationally protected rights as a result of illegal arrest, arbitrary detention, exposure to torture and other prohibited treatment and denial of timely access to counsel and other due process. In September 2010, Gail Davidson, along with nine other lawyers from India, England, Haiti, France, Belgium, Italy and Indonesia, visited the 15 men and 23 women at Camp Bagong Diwa Prison in Taguig City. Five of the women were held in a separate prison. Two women gave birth while in custody and they were under

hospital arrest. Ms Davidson also met with the health care workers' lawyers and with the doctor providing them with assistance. Following a [letter by LRWC](#) on September 29<sup>th</sup> 2010 to President Aquino, the Secretary of Justice of Lima, and the Chair of the Human Rights Commission there were some promising developments. The Secretary of Justice conducted a review of the case and sent her recommendations to the president. Although the recommendations were not made public, sources indicated the Secretary had recommended the release of the prisoners. LRWC then sent a [follow-up letter](#) to the President advising of a planned complaint to the UN and a [further letter](#) advising of the possibly irreparable damage to the babies resulting from their detention. LRWC sent moccasins and baby blankets to the babies. LRWC and representatives from other groups met with Philippines Vice Consul Melanie Rita Balisi Diano in Vancouver on November 9<sup>th</sup>. On 19 November, a full page ad, endorsed by LRWC and hundreds of other NGOs, calling for the release of the Morong 43 was published in the Daily Inquirer, a major Filipino newspaper. In December 2010, 38 of the health care workers were released after the Aquino Administration admitted the workers had been "illegally arrested". The group have filed a claim for damages of 2.5 million Philippine pesos per person (approximately 58,000 USD). Counsel is being provided by Edre Olalia, secretary-general of the National Union of Peoples' Lawyers (NUPL). LRWC has supported NUPL, along with a number of other international NGOs, in a campaign against impunity in the Philippines.

LRWC on the Morong 43 case received wide newspaper and television coverage in both the Philippines and Canada. Television interviews by Gail Davidson aired on Balitang Vancouver, a Filipino news program of OMNI Channel 1. Other coverage has included articles in the Asian Pacific Post<sup>1</sup>, GMA News, and CBCP News.

### **The Maguindanao Massacre**

23 November 2010 marked one year since the murder of 57 people in Maguindanao province. Two human rights lawyers, Concepcion Brizuela and Cynthia Oquendo and 32 journalists were among those executed. LRWC and the Asian Legal Resource Centre had issued [a joint statement](#) condemning the massacre, criticizing government inaction to prevent extrajudicial killings by state agents and others under the Arroyo regime, and calling for the creation of an international body to investigate the massacre and recommend remedies. Today, over 100 of the 200 suspected perpetrators of the massacre are still at large. Although trials of some accused have commenced, none have been completed. The Secretary of Justice of Lima has called government handling of the Maquindanao massacre a 'litmus test' of the new government's commitment to round up, try, and punish those responsible.

### **Remigio Saladero**

On the case of Remigio Saladero, Jessica Fletcher and Constance Marlatt sent another letter on 5 May 2010 urging authorities to stay additional murder charges. LRWC views the current charges and those already dismissed as politically motivated, not supported by evidence and intended to punish Mr. Saladero for his able representation of cases defending labour rights and exposing human rights violations. Mr. Saladero wrote, "The letters you previously sent probably helped convince the Prosecutor about our innocence ... your support and that of the LRWC have kept me going. Thanks to all of you for the assistance you have extended on my case!" LRWC had sent letters [4 June](#), [13 July](#) and [9 November 2009](#), and [5 May 2010](#).

## **Issue Monitoring**

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### **Judicial Independence, the right to remedies and combating impunity**

In 2008 Judge Baltasar Garzón — renowned by victims as a fearless champion of justice and feared by perpetrators as fiercely independent — opened an investigation into over 100,000 enforced

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<sup>1</sup><http://www.asianpacificpost.com/news/topnews/article/free%E2%80%98morong43%E%80%9Dsaycanadianlawyers>

disappearances (including 30,000 children) and extrajudicial executions committed under the Franco dictatorship and during the Spanish Civil War. Judge Garzón terminated the investigation when his decision to investigate was appealed. Before closing the investigation in October 2008, Garzón had ordered the exhumation of 19 mass graves and identified Franco and 34 former generals and ministers as suspects. Following complaints by groups opposed to the investigation, Judge Garzón was criminally charged for ‘willfully ignoring the provisions of a 1977 Amnesty Law enacted in the course of Spain’s transition to democracy following Franco’s death.

The criminal complaint behind the charges was brought by three right-wing groups apparently representing Franco sympathizers: Falange, Manos Limpias and Libertad e Identidad. Garzón was suspended from the bench pending investigation and trial of the charges against him and if convicted could be barred from sitting as a judge for up to 20 years.

LRWC has examined the illegitimacy of the criminal proceedings against Judge Garzón in two submissions: a [report to the UN HRC](#), endorsed by the European Centre for Constitutional and Human Rights and a [formal complaint](#) to several UN special mandate holders endorsed by ten major international human rights organizations. In September LRWC released an [article criticizing the prosecution and suspension of Garzón](#) as a violation of judicial independence and of the legal duty to investigate and remedy state sanctioned disappearances and executions.

State sponsored disappearances and executions are amongst the most serious international crimes and are defined—by international instruments and jurisprudence—as continuing until the full particulars of the fate of victims are known. Both international and domestic tribunals have consistently identified amnesty laws as incompetent to prevent the investigations and remediation of state sponsored enforced disappearances and extrajudicial executions.

In July, Gerald Straberock of the International Commission of Jurists (ICJ) met with Manfred Nowak, Special Rapporteur on Torture, Jeremy Sarkin, Chair of the Working Group on Enforced or Involuntary Disappearances (WGEID) and Gabriela Knaul, Special Rapporteur on Judges and Lawyers. Straberock arranged the meeting on behalf of LRWC, in order to follow up on the complaint filed in May 2010. Shortly after receiving that complaint, the WGEID issued a public statement on the Garzón case.

### **International Law Obligations to Provide Legal Aid**

The Public Commission on Legal Aid was established in June 2010 to determine legal aid needs and priorities in British Columbia. Commissioner Len Doust led a process of public engagement that included review of written and oral submissions resulting in a March 2011 final report entitled “[Foundation for Change](#).” LRWC filed written submissions, “[International Obligations to Provide Legal Aid](#),” co-authored by Gail Davison, Catherine Morris and Heather Neun, which examined BC’s obligations under international law to provide legal aid. Catherine Morris made oral submissions on October 7, 2010 to the Commissioner outlining BC’s legal obligation to provide legal aid as part of their duty to ensure equality before the law and to ensure the enjoyment of all protected rights by all people.

UN reports have repeatedly criticized BC’s legal aid as failing to meet this standard with the result that many are denied access to rights enforcement and remedies for violations. UN reports have identified a resulting lack of access to justice for women, indigenous people and minorities. In November 2008, the UN Committee on the Elimination of all forms of Discrimination against Women expressed concern, “at reports that financial support for civil legal aid has diminished and that access to it has become increasingly restricted, in particular in British Columbia, consequently denying low-income women access to legal representation and legal services.” The LRWC recommended that BC enact legislation to bring legal aid funding into compliance with international human rights law and to prevent political tampering.

The Commissioner's report contains recommendations on improving the system of legal aid in BC including a recommendation that legal aid be considered an "essential public service." The report stated that "[i]t appears clear that the inadequacies in the current legal aid system leaves [sic] the provincial and federal governments at risk to legal challenges that they are failing to meet their statutory, common law, constitutional and international obligations." LRWC will prepare a response to the report underlining BC government obligations to ensure that all people in BC are in a position to access the courts to ensure the obtainment of their internationally protected human rights. The full report can be downloaded from the Commission's website. The Commission was a joint initiative of the Canadian Bar Association BC Branch, the Law Society of BC, the Law Foundation of BC, the BC Crown Counsel Association, the Vancouver Bar Association, and the Victoria Bar Association.

## Letters for Lawyers

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As part of LRWC's work to protect the professional and personal safety of human rights advocates and due process issues, LRWC sent written communications on behalf of dozens of lawyers and other human rights defenders in 18 countries (Bangladesh, Burma, Cambodia, Canada, Colombia, Egypt, Honduras, Hong Kong, Iran, Kyrgyzstan, Mexico, the Philippines, Russia, Rwanda, Spain, Sudan, Syria and the UK). LRWC members prepared letters, statements and formal complaints to government officials, United Nations agencies and monitoring bodies, members of the judiciary, security force personnel and human rights defenders. Factors improving the efficacy of letters were: endorsement by other NGOs, meetings with state officials and follow-up correspondence. To ensure a stronger voice, LRWC both invited endorsement of LRWC communications and accepted opportunities to endorse communications written by other NGOs.

Cases responded to by LRWC involved lawyers and other human rights defenders subjected to: murder, assaults, threats, false arrest, arbitrary and incommunicado detention, torture, denial of fair trial and due process, intimidation and harassment, and malicious prosecutions coupled with severe prison sentences. Human rights defenders were falsely charged with murder, possession of explosives, publishing information likely to bring the government into disrepute (e.g. propaganda against the regime, publishing false news), and advocating for peasant land rights. At heightened risk were lawyers representing causes or clients unpopular with the government and advocates promoting labour rights, peasant land rights, environmental protections, democracy and improved human rights.

### Success Stories

There were many successes as a result of letter-writing campaigns during the past year. LRWC work played a leadership role in some of these victories and a supporting role in others.

#### *Mexico*

Raul Hernandez, indigenous human rights activist was released after having been detained for two years on murder charges that LRWC believed were without merit and filed in reprisal for Hernandez' human rights work.

#### *Rwanda*

US lawyer Peter Erlinder was released from custody in Rwanda where he had been arrested after entering the country to conduct the defence of his client. LRWC challenged the legality of his detention.

#### *Spain*

The UN Working Group on Enforced and Involuntary Disappearances issued a public statement expressing concern with the prosecution of Judge Garzón after receiving a formal complaint from LRWC and other NGOs.

#### *Syria*

Long-time human rights lawyer Haytham Al-Maleh was released some 4 months into a 3 year sentence in response to international pressure.



### *Egypt*

A large group of lawyers, journalists and others (35 in total) were released days after their arrest after many NGOs, including LRWC, registered their objections to the arrests.

### *Philippines*

38 health care workers released from jail after 10 months and the charges dropped.

### *Online*

LRWC intervened when the reputation and safety of Canada and Hong Kong-based lawyers advocating for human rights in Sri Lanka was threatened when they were falsely identified online as being members or supporters of LTTE [Liberation Tigers of Tamil Eelam]. Hours after receiving LRWC's letter, the entire website was closed leaving only a message saying that LRWC's complaints were being investigated.

## **UN Participation**

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### *Side Event in Geneva on the Need for Protection Measures for Advocates at Risk – June 2010*

LRWC in cooperation with Lawyers for Lawyers and the International Commission of Jurists organized an event on [\*Attacks on Lawyers, Judges and Human Rights Defenders: The Urgent Need for Protective Measures\*](#) which was held on June 3<sup>rd</sup> at the Palais Des Nations in Geneva. Featured speakers include Gabriela Albuquerque, SR on the independence of judges and lawyers and judges from the Philippines and Colombia. The purpose of the event is to bring NGOs together to discuss and plan for the creation of a global NGO network to provide protective measures on a first response basis to human rights defenders in danger.

The event was well attended by people representing NGOs from Europe, North America, Africa, Asia and South America. Representatives of Government missions from Mexico, the United Kingdom, Canada, Colombia, Brazil and Hungary also attended. LRWC will continue to assess interest amongst NGOs in forming a first responder network of NGOs to provide protective measures to advocates in danger.

### *Side Event in Geneva on Enforced Disappearances – March 2011*

A side event on *The International Convention for the Protection of All Persons from Enforced Disappearances: Now What? The Problem of Continuing Impunity* was held at the Palais des Nations in Geneva on 9 March, 2011. The event was organized by LRWC, the Asian Legal Resource Centre (ALRC), the Asian Federation against Enforced Disappearances (AFAD) and el Grupo de Trabajo sobre Justicia Internacional y Derechos Humanos (el Grupo) and was co-sponsored by the International Commission of Jurists (ICJ), International Federation for Human Rights, International Coalition against Enforced Disappearances, Asociación Española para el Derecho Internacional de los Derechos Humanos, and Fédération Internationale de l'Action des Chrétiens pour l'Abolition de la Torture.

Speakers were Jeremy Sarkin, Chair of the UN Working Group on Enforced and Involuntary Disappearances (WG), former UN Special Rapporteur on Torture Professor Manfred Nowak and Dr. Paikiasothy Saravanamuttu Executive Director of the Centre for Policy Alternatives in Sri Lanka. Representatives from France (Emmanuel Pineda) and Argentina (Sebastien Rosales), two of the 23 states that have ratified the Convention to date, opened the event with comments on the history of the development of the international framework concerning forced disappearances, including creation of the WG, international declarations, and the Convention itself. Sebastien Rosales also spoke about Argentina's past experiences and the importance his government places on this issue. Professor Sarkin spoke about the need for states and civil society to insist on effective implementation and enforcement of the Convention. Professor Nowak spoke about the development of the Convention, obstacles to

its enforcement, and difficulties in tackling impunity at the international level. Dr. Paikiasothy Saravanamuttu spoke of the challenges faced in Sri Lanka. Another side event organized by LRWC, ALRC and el Grupo, scheduled for March 11 and featuring Judge Baltasar Garzón on the topic of impunity had to be cancelled.

#### *Work with Special Mandate Holders*

UN Special Rapporteurs Manfred Nowak (torture) and Martin Sheinin, (the promotion and protection of human rights and fundamental freedoms while countering terrorism), in response to submissions by LRWC, issued joint Urgent Appeals to Canada on 13 April 2010 and to the US on 27 April 2010. Mr. Nowak's office, while not able to divulge the confidential details of the appeals, confirmed that the appeals were both based on LRWC's March 2010 submissions asking the Special Rapporteurs to make two direct requests: one to the US Government to release Omar Khadr and one to the Government of Canada to repatriate him.

LRWC also produced a [Formal Communication for Consideration and Action, Re: Judge Baltasar Garzón](#) endorsed by ten other international NGOs. The request for action was addressed to UN Special Rapporteurs concerned with judicial independence, torture, extra-judicial executions, and the protection of human rights, as well as to HRC Working Groups on enforced disappearance and arbitrary detention. After receiving the complaint, the UN Working Group on enforced disappearances made a public statement expressing concern over Spain's actions. The written statement and the complaint were written by Gail Davidson and based on research by Gail Davidson, Diane Tourell and Matthew Stacey's 2009 article, "[States' Duty to Investigate Extra-Judicial Killings.](#)"

#### *Participation at the Human Rights Council*

**14<sup>th</sup> Session of the Human Rights Council, 31 May – 4 June 2010:** Isabel Stramwasser attended the 14<sup>th</sup> session of the Council in Geneva from 31 May–4 June 2010 and Hugh Gwillim attended from 9-14 June 2010 for LRWC. Ms. Stramwasser and Mr. Gwillim worked to promote the creation of a global NGO network to provide protective measures and gathered support on the Garzón case as well as meeting with NGOs and UN officials. They were successful in promoting LRWC issues to NGOs, state representatives and UN officials. Both stressed the importance of LRWC contributions, and the necessity for LRWC to continue to attend HRC sessions and present written and oral statements on issues of concern in addition to working with special mandate holders. Ms. Stramwasser delivered a joint oral statement on the Judge Baltasar Garzón case to the HRC on 4 June and represented LRWC at the 3 June side event.

**15<sup>th</sup> Session of the Human Rights Council 13 September – 1 October:** Gary Anandasangaree attending this session for LRWC from 13-30 September 2010.

**16<sup>th</sup> Session of the Human Rights Council, 28 February – 25 March:** Gary Anandasangaree attended this session of Council from 4-12 March 2011. Gary Anandasangaree and members of the ALRC met with Margaret Sekaggya, Special Rapporteur on the Situation of Human Rights Defenders to discuss the urgent need for protective measures for human rights defenders at risk and the role of NGOs. Mr. Anandasangaree also attended a meeting with High Commissioner for Human Rights Navanathem Pillay. Adrie Van de Streek, Executive Director of Lawyers for Lawyers also attended during the last week of the session as a representative of LRWC and presented a joint oral statement on the plight of lawyers in Colombia.

### *Oral Statements to the Human Rights Council*

- Spain: Joint Oral Statement by LRWC, ALRC, International Association of Democratic Lawyers (IADL) on the Independence of the Judiciary and the Judge Garzón case, 3 June 2010.
- Enforced Disappearances: Joint Oral Statement by LRWC, IADL, the American Association of Jurists (AJA), the World Council of Churches, Franciscans International, LRWC, the American Indian Treaty Council & the Ecumenical Voice of Peace and Human Rights on Extrajudicial, Summary or Arbitrary Executions and Forced Disappearances, 8 June 2010.
- Philippines: Joint Oral Statement by LRWC, CIVICUS, IADL, Franciscans International & AJA on the Arrest on 6 February 2010 of 43 Health Care Workers in the Philippines, 8 June 2010.
- [Colombia: Joint statement by LRWC and the International Commission of Jurists](#) on attacks on lawyers in Colombia was delivered on March 23, 2011 during the General Debate by Adrie Van de Streek.

### *Written Statements to the Human Rights Council*

- LRWC filed 4 written statements to the Human Rights Council and submitted a substantive complaint to a number of special mandate holders. Written statements were regarding judicial independence and the Judge Garzon case (two reports), the election in Burma and the protection of human rights defenders in Mexico. Further details of and links to these reports are in the Publications section on pages 13-14.

## **Human Rights Education & Training**

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In March 2011, the Human Rights Council adopted resolution HRC/16/L.1 which calls on the General Assembly to adopt the *Declaration on Human Rights Education and Training*. The Declaration is the culmination of efforts from several bodies, including the Office of the High Commissioner for Human Rights, the Human Rights Council Advisory Committee, the Platform for Human Rights Education and Training, and the Open-Ended Working Group on Human Rights Education and Training. The Declaration reinforces the right to education about internationally protected rights and explicitly states that human rights are a vital component of education at any level.

The Declaration also clarifies state responsibilities to promote, ensure access to and provide human rights education and training to students at the primary, secondary and university levels, to the public, to government employees, and police and military members.

### **Human Rights Education Online**

LRWC work on human rights education continued in 2010-2011 with a series of lectures and events. Many of these lectures, as well as oral statements and other talks, are available online on the LRWC website as well as on the LRWC Youtube and Vimeo channels.

LRWC – [www.lrwc.org](http://www.lrwc.org)

YouTube - <http://www.youtube.com/user/LawyersRightsWatch>

Vimeo - <http://vimeo.com/user5174736>

LRWC also maintains a presence in social media, with both Facebook and Twitter accounts. These accounts are used by LRWC to disseminate news, case updates, and information on upcoming events. The URLs for these groups are provided below:

Facebook – <http://www.facebook.com/pages/Lawyers-Rights-Watch-Canada/>

Twitter – <http://twitter.com/LRWCanada>

## Education Events

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**5 May 2010** – Clive Ansley, LRWC Director and China monitor, was a featured speaker at an information event for Members of Parliament on “*Chinese Courts, Human Rights, and Rule of Law: Fantasies and Realities.*” The event was sponsored by MPs Scott Reid, Irwin Cotler, Wayne Marston, and Jean Dorion. Other speakers included MP David Kilgour, and former Chinese prisoner of conscience Lizhi He.

**June 7, 2010** – LRWC, Lawyers for Lawyers and the International Commission of Jurists co-hosted a side event in Geneva on [\*Attacks on Lawyers, Judges and Human Rights Defenders: The Urgent Need for Protective Measure\*](#) (see UN Participation for more details).

**16-23 September 2010** – Gail Davidson was in Manila, Philippines, to attend the Fifth Conference of Lawyers in Asia-Pacific (COLAP) and give a talk on the prosecution of Judge Garzón. Ms. Davidson also attended the annual meeting of the National Union of Peoples’ Lawyers, gave a talk at the University of the Philippines School of Law, and made a prison visit to 37 members of the Morong 43. Ms. Davidson also met with human rights lawyer Remigio Saldero on whose behalf LRWC has been writing letters since November 2008.

**16 October 2010** – The LRWC Human Rights Forum featured a talk by Robert Morales on the decision of the Inter-American Commission of Human Rights to accept the petition of the Hul’qumi’num Treaty Group. Cara Gibbons also gave a talk on the deteriorating situation of human rights defenders in Mexico as detailed in her report on the subject.

**28 October 2010** – At the University of Ottawa, LRWC, Peace Brigades International-Canada and Lawyers without Borders Canada hosted a public discussion on human rights abuses in Mexico, “Standing up for your Rights Shouldn’t Be a Crime: So Why Are Human Rights Defenders in Mexico Being Treated Like Criminals?” The event was also the Canadian launch of [\*Recalling the Rule of Law: Report of the lawyers’ delegation to Mexico\*](#), the report of the 2009 investigative trip to Oaxaca and Guerrero Mexico.

**24 November 2010** – Clive Ansley was a panelist at “The Powers that Persuade: A Forum on Foreign Government Influence on Canadians” an event organized by the China Rights Network. The panel also included Michael Juneau-Katsuya, Sheng Xue, and Michael Craig, and was chaired by former MP David Kilgour.

**8 December 2010** – Following a nomination by LRWC, Executive Director of the BC Civil Liberties Association David Eby received the 2010 Renate Shearer award to mark the 62<sup>nd</sup> anniversary of the Universal Declaration of Human Rights. LRWC received this award in 2004 for “exceptional work in promoting international standards aimed at protecting the rights and the work of human rights advocates worldwide.”

**17 February 2011** – Gail Davidson gave a presentation on “*Wikileaks and the Right to Truth*” at the “*Wars, Lies, and Wikileaks*” event hosted by StopWar.ca at Simon Fraser University’s Harbour Centre campus. Other presenters were Micheal Vonn from BC Civil Liberties Association on “*The National Security State*” and Ian Beeching of StopWar.ca.

**7 March 2011** - LRWC and six other NGOs hosted a side event in Geneva on, “*The International Convention for the Protection of All Persons from Enforced Disappearances: Now What? The Problem of Continuing Impunity*”, in Geneva (See section on UN Participation for more details).

## Research & Publications

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### Reports and Legal Research

- [\*Protective Measures in the Inter-American Human Rights System\*](#), Isabela Piacentini de Andrade, April 2010.
- *The Validity of Amnesty Laws under International Law*”, Laura Best, July 2010.
- [\*Canada’s Failure to Support the United Nations Declaration on the Rights of Indigenous Peoples: an intersectional analysis of the repercussions as seen through the inter-woven lenses of women’s rights, environmental rights, and poverty alleviation\*](#), Heidi Fraser-Kruck.
- *Protective Measures in the African Union*”, Chelsey Thomas, July 2010.
- [\*International Obligations to Provide Legal Aid\*](#), Gail Davidson, Catherine Morris, and Heather Neun, 29 October 2010.
- [\*Protective Measures in the African Union\*](#), Chelsea Thomas, 25 November 2010.
- *Bangladesh: Continuing Impunity*, John Cotter.
- *Pakistan: Far It Has Come in 2010 ... Far It Needs to Go*”, John Cotter.
- [\*Recalling the Rule of Law: A Report on the protection of human rights defenders and the rule of law in the states of Guerrero and Oaxaca, Mexico\*](#), produced by the Bar Human Rights Committee of England and Wales and Others (with LRWC Mexico monitor Cara Gibbons), 15 July 2010.
- [\*Outlawing Judicial Independence: The Prosecution of Judge Baltasar Garzón in Spain\*](#), Gail Davidson, 10 September 2010.
- *UNHRC: Report on Attendance at 14<sup>th</sup> Session of the HRC*”, Isabel Stramwasser, July 2010.
- *UNHRC: Geneva Report*, Hugh Gwillim, 30 July 2010.
- *Protective measures: the side-event in Geneva*, LRWC and Lawyers for Lawyers (L4L).

### UN Human Rights Council Written & Oral Statements

- *Spain: [\*Formal Communication for Consideration and Action Re: Judge Baltasar Garzón\*](#)* Joint complaint to UN Special Rapporteurs concerned with judicial independence, torture, extra-judicial executions, and the protection of human rights and the Working Groups on enforced disappearance and arbitrary detention by LRWC, the European Center for Constitutional and Human Rights, the Asian Legal Resource Centre, Lawyers Without Borders Canada, the Center for Constitutional Rights, the International Federation for Human Rights, (FIDH) and the World Organisation Against Torture (OMCT), the National Lawyers Guild, and the International Association of Democratic Lawyers, May 10, 2010.
- *Spain: [\*Statement on Behalf of Judge Baltasar Garzón & Judicial Independence\*](#)* – to the 14<sup>th</sup> session of the HRC on behalf of LRWC and the ALRC and supported by the European Center for Constitutional and Human Rights, May 19, 2010, A/HRC/14/NGO/57.
- [\*Myanmar/Burma: The absence of minimum conditions for elections\*](#) – Joint written statement to the 14<sup>th</sup> session of the HRC by the Asian Legal Resource Centre and LRWC, March 20, 2010, A/HRC/14/NGO/40.
- [\*Mexico: The protection of human rights defenders in Mexico\*](#), Joint written statement to the 15<sup>th</sup> session of the HRC by LRWC and Lawyers Without Borders Canada and endorsed by the Bar Human Rights Committee of England and Wales, September 6, 2010, A/HRC/15/NGO/65.
- [\*Judges and the Rule of Law: the prosecution of Judge Garzón in Spain\*](#), Joint written statement to the 16<sup>th</sup> session of the Human Rights Council by LRWC, Asian Legal Resource Centre and International Association of Democratic Lawyers, endorsed by

Asociación Española para el Derecho Humano a la Paz (AEDIDH) and el Grupo de Trabajo sobre Justicia Internacional y Derechos Humanos, 14 February 2011, A/HRC/16/NGO/46.

## Cooperation with other NGOs

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LRWC collaborated with other NGOs on: in-country investigation, letters, statements and reports, complaints to UN Human Rights Council Special Mandate holders, written and oral statements to the UN Human Rights Council, education events, research, campaigns and Geneva side events. NGOs that LRWC worked with this year included:

- American Association of Jurists (AJA)
- American Indian Treaty Council
- Amnesty International/Canada
- Asian Legal Resource Centre/Asian Human Rights Commission
- Asian Federation against Enforced Disappearances
- Asociación Española para el Derecho Humano a la Paz
- Asociación Española para el Derecho Internacional de los Derechos Humanos (AEDIDH)
- Bar Human Rights Council of England and Wales
- BC Civil Liberties Association
- BC Committee for Human Rights in the Philippines
- Centre for Law and Democracy
- Center for Constitutional Rights
- CIVICUS
- Colectivo de Abogados José Alvear Restrepo
- Ecumenical Voice of Peace and Human Rights on Extrajudicial, Summary or Arbitrary Executions and Forced Disappearances
- European Center for Constitutional and Human Rights
- el Grupo de Trabajo sobre Justicia Internacional y Derechos Humanos
- Fédération Internationale de l'Action des Chrétiens pour l'Abolition de la Torture, Franciscans International
- Hul'qumi'num Treaty Group
- INI-MEX
- International Association of Democratic Lawyers
- International Coalition against Enforced Disappearances
- International Commission of Jurists
- International Federation for Human Rights - FIDH
- Judges for Judges
- Lawyers for Lawyers
- Lawyers Without Borders Canada (LWBC)
- National Lawyers Guild
- National Union of People's Lawyers
- Organisation of Indigenous Me'phaa People (OPIM)
- Peace Brigades International Canada
- StopWar.ca, World Council of Churches
- Tlachinollan Human Rights Centre
- World Organisation Against Torture-OMCT

## Constitutions

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### **Lawyer's Rights Watch Canada Constitution**

- 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

### **Lawyer's Rights Watch (Legal Research) Canada**

- 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

## LRWC Directors

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List of Directors for LRWC and LRW(LR)C 1 April 2010 to 31 March 2011:

### **Lawyers Rights Watch Canada**

- Kelley Bryan, Chair, Law Society of Upper Canada, Toronto, ON
- Marjorie Cohn, California Bar, Professor of Law, Thomas Jefferson School of Law and President of the National Lawyers Guild, San Diego, CA
- Paul D. Copeland, ex-Officio Bencher - Law Society of Upper Canada, Toronto, ON
- Gail Davidson, Secretary, Law Society of BC, Vancouver, BC
- Leo McGrady QC, Law Society of BC, Vancouver, BC
- Harini Sivalingam, Treasurer, Law Society of Upper Canada, Toronto, ON
- David F. Sutherland, Vice-Chair, Law Society of BC, Vancouver, BC

### **Lawyers Rights Watch (Legal Research) Canada**

- Clive Ansley, Secretary, Law Society of BC, Courtney, BC
- Cara Gibbons, Vice-Chair, Law Society of Upper Canada, Toronto, ON
- Jane Henderson, Q.C., Law Society of British Columbia, Vancouver BC
- Constance Marlatt, Law Society of Upper Canada, Toronto, ON
- Catherine Morris, Chair, Law Society of BC and Associate, Adjunct Professor, Faculty of Law, University of Victoria, Victoria, BC
- Isabela Piacentini de Andrade, Université de Paris, Paris, France
- Margaret (Peggy) Stanier, Treasurer, Law Society of British Columbia, Vancouver BC

## LRWC Donors, Contributors, and Volunteers

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List of LRWC donors from 1 April 2010 to 31 March 2011:

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### Contributions

List of people who have contributed travel time and expenses:

- Gail Davidson
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- Cara Gibbons
- Catherine Morris

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- Tanya Bones
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