

LRWC NEWSLETTER

December 2012 – January 2013 Edition

LRWC ACTION NEWS

BANGLADESH

In December, LRWC wrote a [letter](#) to Dr. Gauhar Rizvi, the International Affairs Adviser to the Prime Minister of Bangladesh, expressing concern over legislation currently being considered by the government. The legislation regulates NGOs and threatens the rights to peaceful assembly and freedom of expression in a manner contrary to the *International Covenant on Civil and Political Rights* (ICCPR), the *Universal Declaration of Human Rights* (UDHR), and Bangladesh's Constitution. Under the proposed law, the NGO Affairs Bureau is granted broad discretionary powers to, inter alia:

deny registration to NGOs in receipt of foreign donations/contributions, with provision for only a 'reasonable opportunity' to be heard; change or make corrections in the proposed project of an NGO before approving the project; monitor and evaluate the activities of NGOs in receipt of foreign donations/contributions at the local level, with vague guidance on how this should be undertaken; penalise NGOs that do not comply with the regulations on grounds that are too vague to enable compliance; and cancel NGO registration on extensive grounds that are also vague and overly broad. LRWC called on the government of Bangladesh to consult with civil society and revise the law in order to bring it into compliance with the ICCPR, UDHR, and Constitution of Bangladesh.



CAMEROON

LRWC wrote a [letter](#) to the government of Cameroon calling for the repeal of Article 347*bis* of Cameroon's Penal Code, which criminalizes homosexuality. Article 347*bis* carries a maximum punishment of five years imprisonment and a fine of 20,000 to 200,000 CFA. LRWC reminded the government of Cameroon of its international law obligations to adopt measures that effectively ensure rights to non-discrimination, privacy, and life. Under international law, the right to non-discrimination includes the right not to be discriminated against on the basis of sexual orientation. LRWC also urged the government to provide protection for lawyers Alice Nkom, Michel Togue, and Saskia Ditisheim who are under threat for representing a client accused of



homosexuality. LRWC called on the government to investigate threats against the lawyers and their client and to prosecute those responsible, in accordance with legal obligations under the ICCPR, the UDHR, and the *African Charter on Human and Peoples' Rights*. In addition, LRWC highlighted the need for public education on the rights of LGBT people and a public statement from the President, Prime Minister, and Minister of Justice condemning discrimination and vigilantism. This letter followed an earlier LRWC [letter](#) to the National Commission on Human Rights and Freedoms and the Canadian and Swiss embassies requesting interim protective measures.

CANADA

Information Obtained by Torture: LRWC sent a letter to the Mounted Police Professional Association of Canada (MPPAC), in response to expressions of concern regarding the Ministerial direction to the RCMP on the use of information obtained by torture and Bill C-42 which could put RCMP officers at risk of discipline for refusing orders to participate in, or acquiesce to, violations of the Convention against Torture (CAT). LRWC outlined the recommendation of UN Committee on Torture, that Canada “modify the Ministerial Direction to CSIS to bring it in line with Canada’s obligations under the Convention. The State party should strengthen its provision of training on the absolute prohibition of torture in the context of the activities of intelligence services.”



(straight.com)



Chief Spence (thegatewayonline.ca)

First Nations' Rights: On December 29, 2012, LRWC sent a letter to Prime Minister Steven Harper urging him to meet with Chief Theresa Spence, of Attawapiskat, in order to discuss First Nations' inherent and treaty rights. LRWC and 32 other Canadian organizations endorsed a [letter](#) from Friends of Service Committee (Quakers). The UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya issued a [statement](#) calling on all parties to use the January 11 meeting to “rebuild relationships in a true spirit of good faith and partnership” and to start a dialogue based on the UN Declaration on the Rights of Indigenous Peoples. A reply was received on January 31 stating that the Government “remains committed to ongoing dialogue on Aboriginal issues” and that the Prime Minister has agreed to further meetings and to provide “enhanced oversight from the Prime Minister’s office and the Privy Council on Aboriginal matters.”

CHINA

On January 9, 2013, LRWC sent a [letter](#) to Xi Jinping, General Secretary of the Communist Party of China, calling for the immediate release of Mao Hengfeng. Ms. Hengfeng, known for her work defending housing rights, opposing wrongful forced evictions, and promoting women’s reproductive rights, has been arbitrarily imprisoned and beaten by Chinese authorities over the last seven years. The beatings have resulted in Ms. Hengfeng being hospitalized on at least one occasion, and her being confined to a wheelchair since 2011. LRWC expressed deep



Ms. Mao Hengfeng (hrichina.org)

concern over the appalling treatment of Ms. Hengfeng and called on the Chinese government to immediately release her from prison, ensure her future safety, and investigate and punish those responsible for inflicting harm upon her. LRWC alerted the government to its international law obligations under a multitude international legal instruments, including the ICCPR, UDHR, and CAT, to prevent and punish such treatment. LRWC also highlighted China's failure to address systemic violations of human rights, despite having ratified the aforementioned treaties.

COSTA RICA

On December 31, 2012, LRWC received a response from the government of Costa Rica regarding our November 8, 2012 [letter](#) on the harassment of five environmental defenders. The November letter called on the Costa Rican government to take appropriate measures to guarantee the rights and security of the lawyers and academics targeted with criminal defamation and civil damage suits for criticizing the mining project of Industrias Infinito S.A. In its response letter, the Costa Rican government misconstrued the central recommendation of LRWC, interpreting it to suggest a violation of the division of powers in Costa Rica. On January 5, 2013, LRWC wrote to clarify its position, and called on the government to bring its domestic legislation into compliance with its international law obligations to provide full and adequate protection to freedom of expression. LRWC noted that this is a duty of the state of Costa Rica as a whole and not of one particular branch of power.



SRI LANKA

On January 16, 2013, LRWC sent a [letter](#) to Sri Lankan President, Mahinda Rajapakse, calling for the immediate reinstatement of Chief Justice Shirani Bandaranayake of the Sri Lankan Supreme Court. The Chief Justice was recently impeached on what appear to be politically motivated grounds. The international legal community has cautioned Sri Lanka for months that its impeachment efforts are viewed as an attack on the independence of the judiciary and a derogation of the rule of law. LRWC called on the government of Sri Lanka not to execute the motion to impeach the Chief Justice and to ensure that the independence of the judiciary is respected and restored. On December 31, 2012, the UN Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaut had issued a [statement](#) calling for a stop to mounting attack on the independence of judges and lawyers in Sri Lanka. An article by LRWC Sri Lanka monitor Harini Sivalingam, [Sri Lanka government moves closer to authoritarian rule](#), was published in the January 17, 2013 edition of the Toronto Star.



TURKEY

Mass trial of 46 lawyers, 3 legal office employees and one journalist: The mass trial of these people recommenced on January 3, 2013 with 27 of the lawyers and the journalist still in jail. One lawyer, Mr Davut Uzunköprü was released pending trial on condition of weekly reporting to the police. The presiding judge apparently refused all other applications for release without properly considering the facts or the law. LRWC and FIDH/OMCT filed a [joint shadow report](#) on these wrongful detentions with the UN Human Rights Committee [recommended](#) that Turkey “reduce the legal period of pre-trial detention in compliance with article 9 of the Covenant, and ensure that it is only used as an exceptional measure. [Turkey] should guarantee the access of detainees to a lawyer, and to an effective and independent mechanism to challenge the lawfulness of their pre-trial detention.” Trial dates have been adjourned (from July 16 to November 4 & 6 and to January 3, 2013) in the midst of arguments about the right of the accused to give evidence in Turkish and other preliminary matters. On January 24th the Turkish Parliament [approved a bill](#) that will allow accused persons to request translation of the proceedings to Kurdish. The trial is now adjourned to March 28, 2013 reportedly to allow the appearance of a prosecution witness and to decide whether to call evidence from Abdullah Öcalan. Angela Meijer and Irma van den Berg from Lawyers for Lawyers (L4L) attended the January 3rd proceedings on behalf of LRWC and L4L. A report will be available soon.



Arrest of Turkish lawyer.
(advocatenvooradvocaten.nl)

Arrest of more lawyers January 18, 2013: LRWC, L4L and Fair Trial Watch (FTW) sent a joint letter to the Turkish government, condemning the arrest of 15 more lawyers. Most of these lawyers reportedly worked for the People’s Legal Aid Bureau and all are known for their work on human rights and torture issues. Three of the lawyers arrested represent lawyers arrested during the November 2011 sweep of arrests. Of these three, Mr Selcuk Kozagacli was detained, and Ms Gulvin Aydin and Mr Guray Dag were released pending trial. The lawyers are accused of transferring instructions from imprisoned leaders of the Revolutionary People’s Liberation Party/Front (DHKP/C) to so-called militants. LRWC and L4L cited Turkey’s legal obligation to protect the right and duty of lawyers to discharge professional responsibilities from interference and to release the

accused pending trial. The letter also addressed the wrongful convictions on 24 January 2013, of four other Ankara lawyers, Ms Filiz Kalaycı, Mr Hasan Anlar, Mr Halil İbrahim Vargün and Mr Murat Vargün who received sentences ranging from 6 years and 3 months to 7 years and 6 months in jail on charges of being a member of “an armed, illegal organization”. L4L and FTW also issues a [press release](#) on these convictions.

VIETNAM

This month, LRWC and L4L wrote a [joint letter](#) to H.E. Mr. Ha Hung Cuong, the Vietnamese Minister of Justice, regarding prominent lawyer and human rights defender, Mr. Le Quoc Quan, who was recently arrested on allegations of tax evasion. Mr. Le Quoc Quan has regularly been subjected to arbitrary arrest and unreasonable surveillance. Given the lack of evidence establishing a reasonable apprehension of guilt, it appears that the current allegations against him are similarly arbitrary. LRWC and L4L have called on the government of Vietnam to release Mr. Le Quoc Quan immediately and unconditionally, to ensure his rights to free expression and engage in human rights activity, and ensure that his right liberty is not violated.



Mr. Le Quoc Quan (viet.rfi.fr)

UPCOMING EDUCATION EVENTS

THE CHALLENGE OF IMPLEMENTING INTERNATIONAL HUMAN RIGHTS IN SRI LANKA

February 14, 2013 at 3:00 p.m. at Osgoode Hall Law School's Helliwell Centre for Innovation in Dispute Resolution, Room #1014 at York University in Toronto.

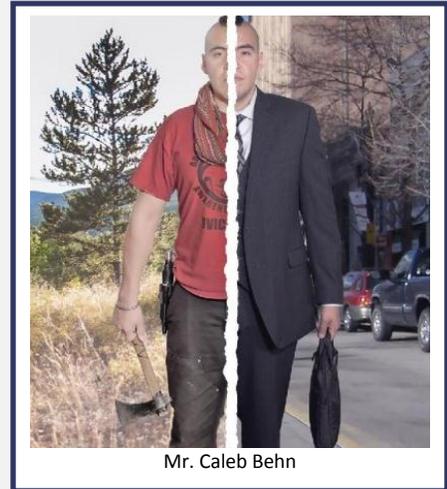
February 15, 2013 at 1:00 p.m. at the Law Society of Upper Canada, Osgoode Hall, 130 Queen Street West, Toronto

Panelists Paikiasothy Saravanamuttu and Steven Ratner, and moderator Sharryn Aiken will examine what the international community can do to promote justice, accountability and reconciliation in Sri Lanka. P. Saravanamuttu is Executive Director of the Sri Lankan Centre for Policy Alternatives; S. Ratner was an advisor to UN Secretary General Ban Ki-Moon on accountability in Sri Lanka; Sharryn Aiken is an associate professor at Queen's University. The event is co-hosted by the Nathanson Centre on Transnational Human Rights, Crime, and Security, Amnesty International Canada and LRWC.

INDIGENOUS LAW AS A SOLUTION TO RESOURCE CONFLICT IN TREATY 8

February 28, 2013 at 7:00 pm at the Vancouver Public Library, Alice MacKay Room, Lower Level, 350 West Georgia, Vancouver. Admission is free.

Caleb Behn, Eh-Cho Dene and Dunne Za/Cree from the Treaty 8 Territory of northeastern BC holds a J.D. with a concentration in environmental law and sustainability and is the subject of the transmedia project and documentary film *Fractured Land*. Unconventional energy development made possible by hydraulic fracturing ("Fracking"), has massively increased energy development in Treaty 8, which contains the second largest hydrocarbon deposit on earth. This has led to litigation, blockades and other forms of conflict with indigenous communities. Caleb Behn will examine the potential of indigenous laws and legal traditions to ensure preservation of the environment as a condition of energy development and to effect reconciliation. Co-hosted by LRWC, Amnesty International, the Hul'qumi'num Treaty Group and the Vancouver Public Library.



Mr. Caleb Behn

PAST EDUCATION EVENTS

DEBUNKING THE DOCTRINE OF DISCOVERY

On Thursday, January 24th, 2013, Tl'ul'thut Robert Morales shared his insights concerning why negotiations to settle "land claims" remain stalemated. The tentacles of the doctrine of Christian discovery developed for medieval crusaders reach into decisions of Canadian courts in *Calder*, *Sparrow* and *Delgamuukw*. Thus aboriginal peoples are seen as mere occupiers of their ancestral territories without the rights of self-determination and ownership. As recently as 2011, the BCCA Tsilhqot'in decision relied on British recognition of a right to occupy and denied the rights to sovereignty, legislative power and full

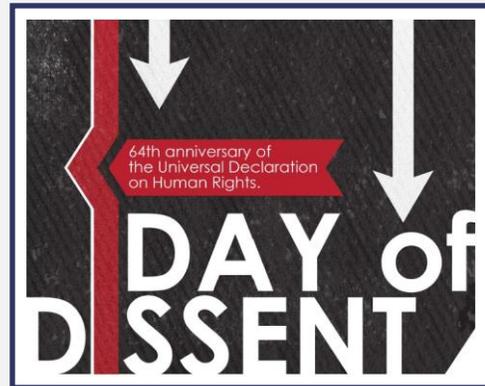
ownership of the land.

This was one of the best attended lectures so far in the series on the First Nations Rights: the Gap between Law and Practice. The series is co-sponsored by LRWC, Amnesty International, the Hul'qumi'num Treaty Group and the Vancouver Public Library. The thoughtful questions from members of the audience demonstrate a rethinking of the traditional relationship that has deprived Indigenous peoples from rights that most Canadians take for granted. The video and accompanying power point will be posted online.

RIGHTS UNDER ATTACK - DAY OF DISSENT

On December 7th, 2012 – the 64th anniversary of the UDHR – LRWC, Amnesty International, the BC Civil Liberties Association and the Simon Fraser University Continuing Studies New Media Journalism Programme co-sponsored a stimulating day of reflection in Vancouver.

After the opening by Rueben George, Sundance chief and member of the Tsleil-Waututh Nation, Leo McGrady, Q.C. outlined the law on civil disobedience in BC in a talk entitled, *Cedar as Sister: Indigenous Law and the Common Law of Civil Disobedience*. Next, Cameron Ward reminded us that the right to protest includes a right to be annoying. Mr. Ward drew on his experiences defending activists in Clayoquot Sound and during the APEC Inquiry. Jason Gratl considered the poorly developed nature of the concept of public consultations in his talk, *Quiet Suppression of Quiet Sedition: Occupy in the Courts*. Phil Lane, of Dakota/Chickasaw heritage, reported on the misfit between stated principles and actual behaviour, reviewing some of the multiple violations of the *United Nations Declaration of the Rights of Indigenous Peoples*.



After a break, Matt Eisenbrandt, outlined Canada's implication in human rights abuses in his talk, *Obstacles to Holding Canadian Corporations Accountable for Abused Abroad*. Gwen Brodsky pointed out that the right to dissent requires a level playing field and the denial of legal counsel for the women at Missing Women's Inquiry violated international law and protected police from effective cross-examination. In her talk, *Anti-mining activists experience violence for speaking out*, Fiona Koza recounted the 1995 killing of Ken Saro-Wiwa following his challenge to Shell Oil's practices on the Niger River delta. Similarly, in 2001 Kimy Perni disappeared following his protests against the Urra Dam project in Colombia on behalf of the Embera Katio peoples.



Pearl Eliadis delivers the key-note presentation

Key-note speaker Pearl Eliadis presented a well-documented and disturbing account of how democratic processes are being eroded in Canada. Ms. Eliadis noted that many organizations critical of government actions have been labeled as “terrorists”, money launderers, and/or as working against Canadian interests. Ms. Eliadis also pointed to action taken by the government against approximately 35 reputable and prominent community-based and human rights organizations, who have been defunded, subjected to surveillance, or whose charitable status has been attacked. These case studies demonstrate an emerging norm with respect to the restricting the activities of civil society, as well as a diminution in protection of the

freedoms of expression, peaceful assembly, and association. For more information, see [Voices-Voix](#) at

<http://www.rights-law.net>

To view videos of some of the talks listed above, click [here](#). Notes from Pearl Eliadis's talk, *Advocacy and Dissent in Canada: The State of the Union*, are available here.

NOTABLE DECISIONS AND LAW SUITS

Spain: The complaint regarding a 1936 Franco-era enforced disappearance filed by Rights International Spain, was declared inadmissible by the European Court of Human Rights. The Court referred to precedents rather than citing reasons particular to the application. The precedent cited seemed to indicate that the complaint was out of time notwithstanding that the decision of the Spanish court had only been made in 2012.

Canada: The Mikisew & Frog Lake Cree nations are challenging the legality of Bills C-38 and C-45 in an action filed in the Federal Court of Canada.

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