

LRWC NEWSLETTER

February – March 2013 Edition

LRWC ACTION NEWS

BAHRAIN

LRWC and Canadian Journalists for Freedom of Expression (CJFE) sent a [letter](#) on March 22nd objecting to the arbitrary detention of prominent human rights activist Zainub Al-Khawaja. Ms Al-Khawaja, the daughter of jailed human rights defender Nabeel Al-Khawaja, was detained on February 27th and subsequently convicted for exercising her internationally protected freedoms of expression and assembly. Her detention is therefore arbitrary, and is itself a violation of Bahrain's obligations under the *International Covenant on Civil and Political Rights* (ICCPR). These include the legal obligation to ensure protection for all people—including government critics—of rights to expression, peaceful assembly and freedom from arbitrary detention. The joint letter calls for the release of Ms Khawaja, the review and commutation of her sentences, the withdrawal of other charges and amendments to bring Bahrain law into compliance with the ICCPR.



Zainab Al-Khawaja protesting alone before her arrest.

CAMBODIA



Mam Sonando
(frontlinedefenders.org)

Mam Sonando, sentenced to 20 years imprisonment 1 October 2012, was released on 16 March 2013. Prosecutors dropped the charges of 'inciting rebellion' but asked the Appeals Court to retain other charges and to add a third charge of illegal logging under Article 97 of Cambodia's 2002 Forestry Law. The Appeals Court reduced Mam Sonando's sentence to 5 years, suspended the remainder and imposed 3 years probation. The prosecution of Mam Sonando, owner of the independent Beehive radio station, President of the Democrats Association and critic of human rights abuses, was widely condemned as illegitimate and politically motivated; observers have noted that no evidence was presented at trial that could reasonably support the charges. A [joint letter](#) from LRWC, the Centre for Law and Democracy (CLD) and the International Federation of Journalists-Asia Pacific Region (IFJ) was sent 3 August 2012. The Guardian reported Oliver Courtenay of Global Witness observing that,

"... the Cambodian government has been pressured from every side to release Sonando." LRWC, CLD and IFJ issued a [joint press release](#) on March 22nd calling for a pardon.

CANADA

Twenty Canadian NGOs including LRWC and many individuals endorsed an [open letter](#), *The Campaign to Erode Aboriginal and Treaty Rights*, January 29, 2013 criticizing the Department of Justice campaign to erode Aboriginal rights in Canada.

CHINA

Mao Hengfeng was released from prison. Amnesty reports her husband as stating he believes she is home because of "international and domestic calls for her release." On January 9th, LRWC sent [a letter](#) outlining and calling for the remediation of her illegal detention and treatment.

COLOMBIA

The report of the Colombia Caravana 2012 on the situation of judges in Colombia will be launched April 29, 2012 in London, U.K. at a Roundtable to be held at the Law Society's Old Council Chambers offices. Carol Huddart, retired B.C. Court of Appeal judge and Judge Peter Ingelse, President of the Dutch Enterprise Court, Amsterdam Court of Appeal, will make presentations at the Roundtable which will be chaired by Sarah Chandler, chair of the Law Society's human rights committee. Judge Luis Ernesto Vegas, of the Colombian Constitutional Court will also speak. Carol Huddart and Heather Neun represented LRWC as members of the delegation of lawyers who visited Colombia in August 2012 to investigate attacks on jurists and other human rights problems: Peter Ingelse represented Judges for Judges.



Union negotiators Igor Díaz López and Aldo Raúl Amaya Daza received death threats during negotiations on behalf of mine workers with a coal company. Naveen Mehta of the United Food and Commercial Workers (UFCW) sent a letter, 2 February 2013, on behalf of LRWC and UFCW calling on protection for the union negotiators.

COSTA RICA

The civil and criminal defamation suits launched by Canadian mining company Industrias Infinito S.A. against Nicolas Boeglin, law professor, were dismissed with costs: in the criminal suit of 50 million colons (\$102,399 Cdn) and in the civil suit of \$500,000 colons (\$1,020 Cdn). Nicolas Boeglin said the decision set a precedent for ecologists in Costa Rica and was a victory for academics and others speaking against assertions made by corporations or the state. Infinito has announced the intention to appeal. This decision and the earlier dismissal of charges against professor Jorge Lobo, send a positive message to environmental activists. Concern has been expressed that Infinito's assets may be removed from Costa Rica by the time the appeal is determined. LRWC wrote letters [November 8, 2012](#) and [January 5, 2013](#).



Infinito S.A. protest (globalpost.com)

SRI LANKA

Five opposition MPs and NGO representatives attending this session of the Human Rights Council, were threatened with arrest and prosecution on their return to Sri Lanka, “if they [had] made statements [to Council] detrimental to the unitary character of the state.” The threat was published in the Lakkbima newspaper, seen as the government media and was not denied by government officials. An earlier instance of intimidation occurred during the March 2012 session of Council. During both sessions, Council was debating a resolution on accountability for war crimes in Sri Lanka. LRWC wrote on [March 16, 2013](#) to the President of the Council to expose the threats and ensure that the targeted individuals were provided with protection.

TURKEY



LRWC was one of 25 NGOs sponsoring an [advertisement](#) published on March 23rd in Turkish newspapers to mark the 500th day that Turkish lawyers have wrongfully imprisoned on politically motivated charges brought to deter lawyers from acting for Kurdish activists. (The Turkish translation of LRWC is Kanada Avukat Haklan Izleme Orgutii.) This initiative was led by Lawyers for Lawyers (L4L) whose representatives, Angela Meijer and Irma Van den berg monitored the proceedings on March 28 for L4L and LRWC. Four more lawyers were granted bail, leaving 22 still in jail. On March 29, after failing to be granted a meeting with the Minister of Justice, L4L faxed him a [joint public statement](#) by over 30 organizations including LRWC, calling for the release of the 22 lawyers still in pre-trial detention.

VIETNAM

On 13 March 2013, twelve NGOs (LRWC, Media Legal Defence Initiative, L4L, Access Now, Media Defence – Southeast Asia, Electronic Frontier Foundation, Reporters Without Borders, Frontline Defenders, English PEN, Avocats Sans Frontières Network, Index on Censorship and Article 19) submitted a [Petition](#) requesting the UN Working Group on Arbitrary Detention (WGAD) to declare as arbitrary the detention of Le Quoc Quan and to recommend his immediate release. LRWC and L4L had previously a [letter](#) on behalf of Le Quoc Quan, lawyer, blogger and human rights activist on January 15, 2013.

The same group of twelve NGOs also submitted a [Letter of Allegation](#) on the Le Quoc Quan case to UN Special Rapporteurs on the Promotion and Protection of the Right to Freedom of Opinion and Expression; the Rights to Freedom of Peaceful Assembly and of Association; the Independence of Judges and Lawyers; and, the Situation of Human Rights Defenders, requesting them to investigate and intervene in the arbitrary detention. The signatory organisations asked the Special Rapporteurs to declare any continuing detention of Le Quoc Quan a violation of his human rights recognized by the United Nations Declaration on Human Rights and guaranteed by the ICCPR. This is the first time LRWC has attempted to resolve a case through a Petition and Letter of Allegation. In January 2013, the WGAD ordered (A/HRC/WGAD/2012/54), the release of Abdolfattah Soltani in Iran.



ZIMBABWE



(freebeatricemtetwa.com)

On March 17th Beatrice Mtetwa, human rights lawyer and member of the Council of the Law Society of Zimbabwe was arrested and detained on charges of ‘obstructing justice’ when she asked police to produce a warrant to search her client’s premises (Thabani Mpfu, Legal adviser of Zimbabwean Prime Minister, Morgan Tsvangirai) and objected when police seized her cell phone. Hours after her arrest, the High Court ordered her release. When police refused to release her, an application for bail was brought to, and rejected by, the Magistrates Court. On appeal, the High Court reversed this ruling and granted bail on March 25th, stating “[Ms Mtetwa] should not have been denied bail. She is a practitioner of many years experience.” LRWC, L4L, Zimbabwe Watch and the European Democratic Lawyers sent a [letter](#) on March 19th calling for her release, citing international law obligations.

INTER-AMERICAN COURT OF HUMAN RIGHTS (IACtHR)

LRWC and Lawyers Without Borders Canada (LWBC) have prepared joint submission amicus curiae submissions for consideration by the IACtHR in the matter of *Members of José Alvear Restrepo Lawyers’ Collective v. Colombia*, Case No. 12.380. This case is based on allegations that Colombia has failed to prevent and punish serious attacks against members of the [José Alvear Restrepo Lawyer’s Collective](#) (Corporación Colectivo de Abogados José Alvear Restrepo - CCAJAR), carried out since 1990. The Inter-American Commission admitted the case in October 2006, exempting the Petitioners from exhausting domestic remedies because Colombia was unable to justify its failure to identify any suspected

perpetrators of the attacks on lawyers or the measures taken to investigate and establish the facts. The joint *amicus* elaborates state duties to prevent and punish attacks and other acts that impair the right and duty to provide legal representation. The *amicus* examines the scope of Colombia’s responsibility arising from *American Convention on Human Rights* (Articles 1.1, 4, 5, 8.1, 11, 13, 16, 22 and 25). The *amicus* identifies the failure to identify and punish perpetrators and the resulting impunity as a major factor restricting access to legal representation for victims of human rights violations. Research and writing of the *amicus* was done by Heather Neun from LRWC and Vida Amirmokri and Geneviève Binette from LWBC. Editing assistance was provided by Philippe Tremblay, Gaël Pétilion and Gail Davidson.



Corporación Colectivo de Abogados José Alvear Restrepo
(pbicolombia.com)

PAST EDUCATION EVENTS

THE CHALLENGE OF IMPLEMENTING INTERNATIONAL HUMAN RIGHTS IN SRI LANKA

On February 14th 2013 at Osgoode Hall Law School and February 15th 2013 at the Law Society of Upper Canada, Toronto, panelists Paikiasothy Saravanamuttu and Steven Ratner, and moderator Sharryn Aiken, examined what the international community can do to promote peace and accountability in Sri Lanka. Dr. Saravanamuttu observed that the human rights situation has worsened despite the end of armed conflict and stated that the transition to peace must originate from the local population with the advice and support of the international community. Dr. Ratner discussed the need for strategies to address human rights violations that amount to war crimes. MPs joined the discussion on the 15th and talked about Canada's participation in the meeting of Commonwealth Leaders scheduled to take place in Sri Lanka in November. The first event was co-hosted by the Nathanson Centre on Transnational Human Rights, Crime, and Security, Amnesty International (AI) Canada and LRWC, and the second was co-hosted by the Law Society of Upper Canada, AI Canada, and LRWC.



Dr. Paikiasothy Saravanamuttu
(transcurents.com)

INDIGENOUS LAW AS A SOLUTION TO RESOURCE CONFLICT IN TREATY 8



Caleb Behn (yukon-news.com)

On February 28, 2013, Caleb Behn, J.D. who is Eh-Cho Dene and Dunne Za/Cree from the Treaty 8 Territory of northeastern BC, addressed law students and faculty at the University of BC (UBC) Faculty of Law at noon and the general public at an evening session at the Vancouver Public Library (VPL), about the resource conflict that is exponentially increasing in his home territory. Treaty 8 sits atop the second largest hydrocarbon deposit in the world. Mr. Behn discussed the ramifications of rapidly increasing hydraulic fracturing ("Fracking") in his home territory, including a dramatic increase in the number of toxic-chemical sites and seismic activity, and a decrease in

wildlife population. He concluded by discussing how the incorporation of Indigenous legal traditions could lead to more responsible resource development while ensuring the health and well-being of First Nations and others who depend on a healthy environment. This event was the seventh in the series, First Nations Rights: The Gap Between Law and Practice co-sponsored by LRWC, AI/Canada, Hul'qumi'num Treaty Group (HTG) and the VPL. The UBC session was co-sponsored by the UBC Indigenous Law Students' Association (UBC ILSA). A video of the VPL presentation will be available soon.

GLADUE GROWING PAINS: RACIST SENTENCING DISCOUNTS OR EMANCIPATION FROM RACIST SENTENCING?

CANADA

On March 20th at UBC Faculty of Law, retired provincial court judge Cunliffe Barnett and Pamela Shields, Legal Services Society Indigenous Programs Manager, examined the question of how to make space for indigenous legal traditions in the criminal context. A report tabled in the House of Commons

on March 7th noted a 40% increase in the number of First Nations people in Canadian prisons between 2001 and 2011 and concluded that First Nations people are sentenced to longer terms, spend more time in segregation and maximum security, are less likely to be granted parole, and are more likely to have parole revoked. The event was co-sponsored by UBC ILSA, UBC Indigenous Legal Studies Program, UBC Law Students' Society, Legal Services Society of BC, SFU Indigenous Students' Centre, Capilano University Kéxwusm-áyakn Students' Centre, UBC First Nations House of Learning, Kwantlen University Indigenous Services, and LRWC.

UPCOMING EDUCATION EVENTS

THE ACCOUNTABILITY GAP: CANADIAN MINING IN MEXICO (AND BEYOND)

Wednesday April 17, 2013, 7:00 – 8:30 pm at the Vancouver Public Library

Emily Dwyer and Alejandra Ancheita will identify abuses by Canadian mining companies operating outside Canada and possible means of obtaining legal remedies for victims and promoting adherence to international human rights standards. Emily Dwyer, from the Canadian Network on Corporate Accountability, will examine the international accountability gaps that exist with respect to the overseas operations of Canadian mining companies. She will discuss solutions that can be implemented in Canada to allow those impacted by the international operations of Canadian mining companies to access justice. Emily will present in English, but can field questions in English, French or Spanish. Alejandra is a well know human rights lawyer in Mexico with extensive experience representing human rights issues before national and international tribunals. She is the Executive Director of the Mexico-based Project on Economic, Social, and Cultural Rights. Alejandra will further explore avenues for achieving justice for workers and communities affected by destructive corporate practices and projects.

This event is co-sponsored by Migrante/KAIROS, LRWC, Amnesty International, Mining Justice and CoDev and is endorsed by Mining Justice Alliance, the Canada-Philippines Solidarity for Human Rights and the United Steelworkers. Preregistration is recommended: <http://mining-in-mexico.eventbrite.ca>

PUBLICATIONS

LRWC

Lois Leslie, B.Soc. Sc. (Hons), LL.B, LL.M, *Pre-trial release and the right to be presumed innocent: A Handbook on international law rights to pre-trial release*. March 25, 2013.

Production of this [handbook](#) was inspired by the fact that millions of people around the world are in pre-trial detention that violates international human rights law. LRWC identified a need in several countries for increased understanding of the international law regarding right to pre-trial release. This comprehensive handbook identifies international law provisions protecting rights associated with pre-trial release and explains the interpretation of those rights by international tribunals, monitoring bodies and experts. The provisions identified are in treaties and other instruments from the UN, European, Inter-American, and African human rights systems. The handbook is intended as a tool for advocates working



to secure the release of wrongly imprisoned people throughout the world.

LRWC MEMBERS

Leo McGrady Q.C., *Guide to the Law of Protests in British Columbia: 'Cedar as Sister': Indigenous Law and the Common Law of Protest*, February 2013. This important guide to the democratic right to protest through exercising rights to assembly, association and free expression touches on the history of protest and civil disobedience as an integral part of democracy and explains Canadian law regarding rights and restrictions. The guide provides critical information about arrest and searches and identifies controversial Canadian legislation. This edition is further to the Olympic Edition (November 2009) and the Community Edition (November 2011).



COUNTRY MONITORS

LRWC welcomes three new country monitors for Bahrain, Bangladesh and Zimbabwe. Let us know if you would like to join one of LRWC's country monitoring teams. Monitors for the Philippines and Malaysia in particularly needed.

Bahrain: Marion Caussanel is a law graduate from France who interned with LRWC from September-December 2012. Marion is currently a law intern with Ken Cush & Associates in Canberra Australia and will return to Paris in September to complete her bar admission course.

Bangladesh: Siobhan Airey is a human rights specialist who has worked in Bangladesh. She is currently pursuing her PhD in law at the University of Ottawa focused on human rights and trade agreements.

Zimbabwe: Amy Reier practises criminal law in Cambridge, ON. She has experience working in Africa, Russia and India on a variety of international human rights issues. Amy has had an interest in Zimbabwe since studying there in 1994 as a Wilfrid Laurier University exchange student.

AWARDS

The UBC ILSA presented Gail Davidson with a 'Courage in Law Award' for her contributions to the First Nations Rights series, an amicus brief to the Inter-American Commission of Human Rights, the report to The UN Committee to Eliminate Racial Discrimination regarding the inequities of the Missing Womens' Inquiry. Awards were also presented to Cunliffe Barnett and Pamela Shields.

NOTABLE REPORT/DECISION ON EXTRAORDINARY RENDITION

CANADA INVOLVED IN U.S. TRANSFER TO TORTURE ACTIVITIES

[Globalizing Torture: CIA Secret Detention and Extraordinary Rendition](#), identifies Canada as one of at least 54 states involved in the U.S. extraordinary rendition operations. The report cites Canadian involvement in the rendition to torture of Maher Arar and notes that Canada permitted use of its airports and airspace for flights associated with CIA extraordinary rendition operations.

MACEDONIA FOUND LIABLE BECAUSE AGENTS WERE PRESENT DURING TORTURE

El-Masri v. The Former Yugoslav Republic of Macedonia (Application no. 39630/09)

In December 13, 2012, the European Court of Human Rights (ECtHR) [unanimously held](#) Macedonia guilty of, *inter alia*, enforced disappearance, arbitrary detention, extraordinary rendition, inhuman and degrading treatment, and torture, in relation to CIA's treatment of German citizen Khaled El-Masri. The ECtHR found that Macedonia abducted Mr. El-Masri in Skopje in 2003, arbitrarily held him for 23 days in a hotel, and transferred him to a CIA rendition team, who tortured him and then flew him to Afghanistan where he was tortured further. The ECtHR ruled that the beating, shackling, hooding, forced undressing and sensory deprivation of Mr. El-Masri by CIA agents at the Skopje airport amounted to torture and that the torture was imputable to Macedonia because it had been carried out in the presence of Macedonian officials. The Court also ruled that the incommunicado confinement outside any judicial framework 23 days was inhuman and degrading treatment.



Khaled El-Masri (rt.com)

This case sets a precedent by labeling CIA treatment as “torture” and by imposing liability on Macedonia.

UN PARTICIPATION

THE 22ND SESSION OF THE UN HUMAN RIGHTS COUNCIL (HRC): FEBRUARY 25 – MARCH 22, 2013

The HRC [adopted 39 texts](#) during this session, including another resolution calling on Sri Lanka (A/HRC/22/L.1/Rev1) to conduct an independent investigation into allegations of violations of international human rights and humanitarian law and to provide a report to the HRC in September. State duties to provide adequate protection for human rights defenders and to acknowledge the necessity of their work was the subject of another resolution adopted (A/HRC/22/L.13). A resolution (A/HRC/22/L.15) extending the mandate of the Special Rapporteur on maintaining human rights while countering terrorism for another three years reflected the continuing practice of states to repress rights under the rubric of national security. In response to a failure by states to prevent and punish torture by state agents, the HRC passed a resolution (A/HRC/22/L.11/Rev.1) affirming the duty of states to ensure the absolute prohibition of torture by taking effective measures to prevent and punish all instances.

Gary Anandasangaree and Vani Selvarajah attended the 22nd Session of the HRC in Geneva: Ms

Selvarajah attended March 4 to 15 and Mr. Anandasangaree attended for the first and last week. Ms Selvarajah and Mr. Anandasangaree attended side events and met representatives of NGOs, states and the UN in addition to lobbying for acceptance of the HRC resolution on Sri Lanka. LRWC made four oral interventions:

- [Sri Lanka: Deteriorating Human Rights in Sri Lanka | Video](#)
On March 4th in the Interactive Dialogue with the High Commissioner, Ms Selvarajah presented [a joint statement](#) by LRWC and International Movement against All Forms of Discrimination and Racism (IMADR) condemning the deteriorating situation in Sri Lanka.
- [Canada: Immunity and the Omar Khadr case | Video](#)
On March 11th Ms Selvarajah presented [a statement](#) on the states' failure to ensure accountability for torture citing the Omar Khadr case as an example.
- [Myanmar: Prisoners of Conscience | Video](#)
On March 12th Ms Selvarajah made a [statement](#) calling for the release of political prisoners, reinstatement of arbitrarily disbarred lawyers and more action to remedy past human violations.
- [Sri Lanka: Report of the High Commissioner of Human Rights \(HCHR\) - Video](#)
On March 20th Mr. Anandasangaree made a statement welcoming the HCHR report and the call for an international independent investigation of crimes committed during the conflict.

UN UNIVERSAL PERIODIC REVIEW PROCESS (UPR)

China: LRWC and L4L filed [a joint report](#) with the OHCHR for the second UPR of China on the issue of the right of lawyers to self-govern and to practice law free from malicious prosecutions, arbitrary detentions and other state abuse. Reference to the joint report was included in the Summary report of the OHCHR. The UPR of China will take place on October 22nd as part of the 17th session of the UPR Working Group.

Mexico: LRWC, L4L and the Law Society of England and Wales filed [a joint report](#) with the OHCHR for the second UPR of Mexico to take place in Geneva on October 23rd. The joint report focused on failures to: investigate crimes against human rights defenders, to implement protective measures, to prevent arbitrary detention and on the mechanisms needed to remedy these problems.

Canada: In October 2012 LRWC joined with the CLD, PEN/Canada, CJFE and the BC Freedom of Information and Privacy Association (collectively referred to in the OHCHR summary as "JS4") to file a report for the second UPR of Canada. LRWC also joined an AI/Canada report endorsed by 62 NGOs (NGO Coalition). Recommendations included in the OHCHR Summary (A/HRC/WG.6/16/CAN/3) were: JS4 recommendations for amendments to bring statutes in line with international law obligations (paras. 54, 56); and, NGO Coalition recommendations that Canada re-establish respectful relations with treaty monitoring bodies and special mandate holders and create a mechanism to implement international human rights obligations (paras. 14, 30). [All reports](#) are now available online. The UPR of Canada will take place on April 26, 2013 in Geneva.

LRWC PARTICIPATION WITH OTHERS

During February and March LRWC worked with many NGOs and other groups, including:

Access Now, Media Defence – Southeast Asia; AI/Canada; Article 19; Avocats Sans Frontières Network; Canada-Philippines Solidarity for Human Rights; CJFE; CoDev; Electronic Frontier Foundation; English PEN; First Nations House of Learning/UBC; Frontline Defenders; HTG; Index on Censorship; Indigenous Law Students' Association/UBC; Indigenous Services/Kwantlen University; Indigenous Students' Centre/ SFU; International Federation of Journalists-Asia Pacific Region; IMADR; Kéxwusm-áyakn Students' Centre/Capilano University; Law Society of England and Wales; Law Society of Upper Canada; L4L; Law Students' Society of UBC; LWBC; Legal Services Society of BC; Media Legal Defence Initiative; Migrante/KAIROS; Mining Justice; Mining Justice Alliance; Nathanson Centre on Transnational Human Rights, Crime, and Security; Reporters Without Borders; UFCW; United Steelworkers; VPL.

Lawyers' organisations that endorsed the call for release of the 26 lawyers detained in Turkey were. Conseil National des Barreaux, Union internationale des Avocats, European Association of Lawyers for Democracy and World Human Rights, L'ordre des barreaux francophones et germanophone de Belgique, L'Ordre français du barreau de Bruxelles et l'Institut des Droits de l'Homme du barreau de Bruxelles, Conférence des Batonniers, Syndicat des Avocats de France, Ordre des Avocats de Rennes, Ordre des Avocats de Marseille, Ordre des Avocats de Montpellier, Institut des droits de l'Homme de Montpellier, Institut des Droits de l'Homme de Grenoble, FIDH/OMCT, European Democratic Lawyers, Vereniging Sociale Advocaten Nederland, Solicitors' International Human Rights Group, Fair Trial Watch , Human Rights Commission of the Federation of European Bar Associations, Peace in Kurdistan..

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