

LRWC NEWSLETTER

November 2014 Edition

LRWC ACTION NEWS

BAHRAIN

Nabeel Rajab released - On 2 November, the Third Lower Criminal Court ordered the release of Nabeel Rajab and announced that the verdict on the case would be released on 20 January 2015. The Court ordered Rajab's release without conditions and then hours later, on the application of the prosecutor and in the absence of Rajab and his lawyer, prohibited Rajab from leaving the country. LRWC letters on this case call for his release and withdrawal of charges of insulting a government official. Nabeel Rajab, a prominent advocate for improved human rights in Bahrain, is the Director of the Bahrain Centre for Human Rights. In 2012 he was sentenced to two years in jail for taking part in protests under laws widely criticized as violating international human rights obligations. He was released in May 2014 after serving that sentence and then arrested for questioning on the current charges of insulting a government official on 1 October 2014. LRWC has characterized the prosecution as politically motivated for an improper purpose and criminalizing freedom of expression.



Nabeel Rajab | cihrs.org

the offences as illegitimately

Legitimacy of elections in Bahrain questioned by NGOs - LRWC joined 25 other NGOs in a statement released on the eve of the 22 November election in Bahrain. The joint statement expresses concern with grave ongoing human rights abuses, the lack of necessary reform and the fact that a coalition elections that is being boycotted by a coalition of the four main opposition parties. The opposition parties have announced their intention to instead hold peaceful gatherings to advocate for democratic reform. The largest opposition party, Al Wefaq, withdrew its 18 representatives from Parliament to protest the brutal government response to the March 2011 wave of protests for democracy, during which at least 89 people were killed and hundreds jailed. Reforms sought by democracy advocates include: dissolution of the Consultative Council appointed by the king, creation of an independent election



Protesters holding a signs march during a rally organized by Bahrain's main opposition party Al Wefaq in Budaiya | reuters.com

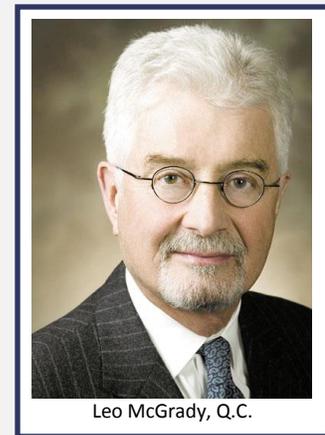
commission, permission for Parliament to question the executive and election of the prime minister by Parliament instead of appointment by the king.

BANGALDESH

Government withholds foreign funds from Odhikar - Although charges against Odhikar Secretary Adilur Rahman Khan and Director ASM Nasiruddin Elan have been stayed by the High Court Division, the NGO Affairs Bureau is refusing to release funds from foreign donors to Odhikar. Many governments are using measures to restrict and even penalized the receipt of foreign funds by NGOs to stifle criticism of laws and government policies and practices and exposure of wrongdoing by state officials. Funds from within the country in which human rights NGOs are situated are often not available for a variety of reasons. Where the primary work of human rights NGOs is promoting improved human rights implementation and enforcement within their own country, funds from within the country are often scarce.

CANADA

Right to Protest in British Columbia - LRWC is pleased to announce publication of [Guide to the Law of Protest in British Columbia: Workshops for the Kitasoo/Xainais Nation Edition](#), October 2014, by Leo McGrady Q.C. This edition is a further revision of a presentation made at *Days of Dissent: Rights under Attack in Canada*, a public forum sponsored in December 2012 by LRWC, Amnesty International, the Council of Canadians, and the New Media Journalism Program, SFU Continuing Studies. The original *Protesters' Guide* was written in 1968–70, to assist those demonstrating in opposition to the Vietnam War, revised for the *War Measures Act* in September of 1970, and then revised again in 1973 to address protests against U.S. sponsoring of the Chilean military coup. The guide has gone through many revisions over the intervening years.



Leo McGrady, Q.C.

MALAYSIA

UN experts called for repeal of *Sedition Act 1948* - Four UN human rights experts published a [statement](#) calling for the withdrawal of the *Sedition Act 1948*. “It is time for Malaysia to adjust its legislation, including the 1948 Sedition Act, to be in line with international human rights standards, and take firm steps towards the effective enjoyment of the right to freedom of expression,” said the Special Rapporteur on freedom of expression, David Kaye; the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai; the Special Rapporteur on the situation of human rights defenders, Michel Forst; and the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul. The statement comes in response to the prosecution of 23 government critics for sedition. Several lawyers have been charged along with members of Parliament, politicians, academics, journalist and other critics. LRWC analyses have condemned the *Sedition Act 1948* as contravening international human rights and common law standards.

THAILAND

LRWC rep in Thailand reports on deteriorating human rights under martial law

A representative of LRWC visited Thailand during November to monitor the situation of lawyers and

human rights defenders under martial law. Since a military coup on 22 May 2014, Thailand has been ruled under the *Martial Law Act 1914* by a military junta that calls itself the National Council for Peace and Order (NCPO). Those defying military orders or committing the crime of *lèse majesté* are subject to trial by military courts, which is unlawful at international law. The junta originally promised an election in 2015, but has since announced a postponement until 2016 and now says martial law will remain in place “[indefinitely](#)” (BBC). The NCPO revoked the 2007 *Constitution of the Kingdom of Thailand* and replaced it with an interim constitution that [puts the NCPO “above the rule of law”](#) (ICJ).

LRWC is also concerned that lawyers and law students are being threatened or obstructed while attempting to represent victims of human rights abuses or to report human rights violations.

On 19 November, members of the award-winning [Dao Din law student group from Khon Kaen University](#) (*Bangkok Post*) were arrested and sent to a military camp for a “re-education session” after staging a peaceful protest in front of General Prayuth, Thailand’s military ruler. Their protest consisted of removing their shirts to reveal other t-shirts saying “no coup”, and making a three-finger salute, based on the protest symbol in *The Hunger Games* films, which has become a gesture of protest against the military coup and martial law. The five were released without charge but remain concerned about their wellbeing and whether they are being followed and monitored. They say they “fear for their lives.” The law students’ group is well known for its work with communities, including assisting community members in Loei province with their activities in protest of a gold mine.

On 11 November, a meeting in Udon Thani province between [human rights lawyer, Ms. Sor Rattanamee Polkla](#) (Front Line Defenders), and local community group was interrupted by military officials who insisted on observing the meeting and that Ms. Sor seek permission for future meetings. Ms. Sor was meeting the community to discuss a case involving environmental concerns about construction of the Xayaburi hydroelectric dam on the Lower Mekong River.



[Leading human rights defender, Ms. Pornpen Khongkachonkiet](#) (HRW), Director of the Cross Cultural Foundation (CCF), and a law student at Thailand’s Thammasat University, remain charged with criminal defamation along with CCF President, lawyer Mr. Somchai Homlaor. In August, the CCF released a report on torture and enforced disappearances allegedly committed by Thai authorities in Thailand’s deep south. Ms. Pornpen and the CCF received a police warrant on 24 August 2014 concerning a criminal defamation lawsuit by Army Task Force 41. The case remains outstanding.

There has been little progress in Thailand’s investigation of the disappearance of [Mr. Somchai Neelapajit](#) (HRW) since his enforced disappearance in 2004. Several governments in Thailand have admitted to government involvement in the enforced disappearance and have paid compensation to Mr. Somchai’s widow, Ms. Anghana Neelapijit, now a human rights activist who remains under witness protection.

LRWC plans to remain engaged in these and other situations in Thailand such as the criminal defamation cases of labour rights activist, [Andy Hall](#) (LRWC), and *Phuketwan* reporters and human rights defenders, [Ms. Chutima Sidasathian and Mr. Alan Morison](#) (Front Line Defenders). LRWC continues to urge military rulers to revoke martial law, cease using military tribunals to prosecute civilians, and halt the

abuse of criminal law such as lèse majesté and criminal defamation to attempt to silence human rights defenders.

TURKEY

Specialized Heavy Penal Court can't be relied upon, say defense lawyers - The mass trial of 46 lawyers, three law office employees and one journalist resumed on 13-14 November 2014 before the Istanbul 19th Heavy Penal Court at the Caglayan Court House in Istanbul. The charges in this mass trial allege that the defendant lawyers, while representing jailed Kurdish leader Abdullah Öcalan, provided “information and direction” from Öcalan to members of a banned organization. Between the dates of the arrests in November 2011 and February 2014, trial proceedings were before the Specialized Heavy Penal Court. These courts, which originated from state security courts created by a military government in 1982, were widely criticized as failing to guarantee fair trials and independence of judges. The Specialized Heavy Penal Courts were finally abolished by law (enacted 21 February 2014 and in force 6 March 2014), and the trial was transferred to the Heavy Penal Court. A petition by defense lawyers to the Heavy Penal Court resulted in the release on 18 March of the nine lawyers and one journalist still in pre-trial detention. The trial proceedings were then adjourned to 13-14 November 2014. At the November proceedings, defense lawyers argued that the abolition of the Specialized Heavy Penal Courts was an admission of a systemic lack of independence and impartiality in the Specialized Heavy Penal Courts and therefore decisions made by the that court in the mass trial of lawyers could not be accepted as legitimate or otherwise relied on by the Court now hearing the case. These applications were dismissed without reasons and further proceedings adjourned to May 2015. Defense lawyers have asked that the legitimacy of the proceedings before the Specialized Heavy Penal Court be determined by the Constitutional Court. Legal and human rights organizations with representatives observing the November proceedings were Lawyers for Lawyers, the Rotterdam Bar Association, Conseil National des Barreaux, the Paris Bar Council and the Law Society of England and Wales. More information on the case is available in the Trial Observation Report prepared by Tony Fisher for the [Law Society of England and Wales](#). LRWC communications on this case are available [here](#).

VIET NAM

Dieu Cay released and exiled to US - Lawyer Nguyen Van Hai, also known by his pen name Dieu Cay, was released from prison, after serving four years of a 12-year prison sentence. He was taken from the prison and put on a plane to the US without notice to or a visit with his family. Mr. Nguyen Van Dai (also known as blogger Dieu Cay) founded the Committee for Human Rights in Viet Nam in 2006. A qualified lawyer, he is a well-known dissident and blogger in Viet Nam and has acted as lawyer for protesters facing prosecution. Dieu Cay had been in jail since April 2008 when sentenced to 30 months for tax evasion. After serving that sentence he was not released but charged with conducting anti-government propaganda and sentenced to 12 years. The plight of Dieu Cay has been the subject of LRWC letters and a report to the Office of the High Commissioner of Human Rights.



Dieu Cay | pencanada.ca

EDUCATION EVENTS

Justice for Children: a landmark case to end discrimination by Canada against First Nations children on reserves with Dr. Cindy Blackstock.

Thursday 15 January 2015, 7:00 – 9:00 pm, Alice MacKay Room, Lower Level Vancouver Public Library 350 West Georgia Street, Vancouver.

Admission free: Seating is limited.

Approved for CPD credits by the Law Society of BC

Dr. Cindy Blackstock, Executive Director of the First Nations Child and Family Caring Society, will explain the legal action against the Government of Canada to end the discriminatory practice of providing significantly less funding for social services for First Nations children living on reserves.

Dr. Blackstock, a member of the Gitksan Nation from northern British Columbia and an associate professor at the University of Alberta, has worked in child and family services for more than 20 years. In 2007, First Nations Child and Family Caring Society and the Assembly of First Nations filed a discrimination complaint alleging that, in violation of the *Canadian Human Rights Act*, Canada provides significantly less government funding for family and child services on reserves than that provided off reserves and that the Federal Government's implementation of Jordan's Principle is discriminatory. The action was filed after the *Canadian Human Rights Act* was amended to allow, for the first time in Canada's history, complaints regarding violation of rights of people on reserves. In April 2012, after 5 years of technical objections and the expenditure of 3 million dollars by Canada, the Federal Court directed the Canadian Human Rights Tribunal to examine Blackstock's evidence that First Nations children are discriminated against by federal underfunding of services on reserves. Between 24 February 2013 and 30 May 2014, the Tribunal heard 25 witnesses (18 for the complainants and the Commission and 7 for the Attorney General of Canada) and received over 500 documents in evidence. [Final submissions](#) were presented 20-24 October and a decision is expected by April 2015.



Blackstock will discuss the actions that led up to the court case, rulings by the court, evidence heard and the implications for Aboriginal children, as well as for individuals from minority groups and the moral fabric of Canada. For more information on the case, visit: <http://www.fncaringsociety.com/fnwtwitness/>.

The talk is sponsored by LRWC, Amnesty International, the Hul'qumi'num Treaty Group, and the Indigenous Law Studies Program of UBC.

LEGAL AID: A RIGHT OR A PRIVILEGE?

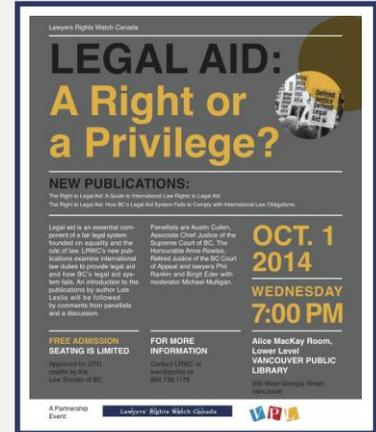
Webcasts and podcasts of this 1 October 2014 public forum and accompanying materials are now available online.

- [Webcasts](#) of *Legal Aid: A Right of a Privilege* available: <http://www.lrwc.org/legal-aid-a-right-or-a-privilege-video/>
 - The webcasts are also available on [YouTube](#).
- [Podcasts](#) of *Legal Aid: A Right of a Privilege* available: <http://www.lrwc.org/legal-aid-a-right-or-a-privilege-video/#Podcast>

- N.B. scroll down to bottom of the page.
- [Power Point](http://www.lrwc.org/legal-aid-a-right-or-a-privilege-powerpoint-slides/) accompanying the presentation by Lois Leslie available: <http://www.lrwc.org/legal-aid-a-right-or-a-privilege-powerpoint-slides/>

The web and podcasts are divided into 5 sections: Chapters 1 and 2, Presentation by Lois Leslie; Chapter 3, Presentations by Michael Mulligan, Justice Austin Cullen and the Honourable Anne Rowles, retired Justice of the BC Court of Appeal; Chapter 4, Presentations by Anthony Robinson and Birgit Eder; Chapter 5, Questions and answers moderated by Michael Mulligan.

This LRWC project had three core purposes: to provide a reference for lawyers, judges, legislators and other advocates in their efforts to ensure equal access to justice through the provision of adequate legal aid; to review and compare Canadian jurisprudence and British Columbia practice with the international law standards relevant to Canada; and to inform and equip Canadian professionals on the obligations set out in international law. A report on the 1 October event is available [here](#).



The publications are available online and print copies can be purchased through lrwc@portal.ca.

- [The Right to Legal Aid: A Guide to International Law Rights to Legal Aid](#)
- [The Right to Legal Aid: How BC's Legal Aid System Fails to Comply with International Law Obligations](#)

NOTABLE DECISION

Trans Mountain v. Gold et al, B.C. Supreme Court. On 27 November 2014 Justice Cullen, Associate Chief Justice of the BCSC refused the application by Trans Mountain (Kinder Morgan) to extend the [14 November 2014](#) injunction barring protesters from being on portions of Burnaby Mountain and Barnet Marine Park or otherwise interfering with the works of Kinder Morgan and its agents. The court also dismissed civil contempt charges against approximately 100 people.

The BC Civil Liberties Association had identified the fact that the areas on Burnaby Mountain taped off as ‘no go’ areas didn’t correspond to the GPS co-ordinates of the areas identified as no-go areas in the [BCSC injunction order](#) and as a consequence RCMP had wrongly arrested people protesting areas of the Burnaby Mountain and Barnet Marine parks not affected by the injunction.

Kinder Morgan, while applying to extend the injunction to 12 December, admitted it provided incorrect GPS co-ordinates to the court when applying for the injunction. Judge Cullen observed, “What’s happened thus far is that apparently people have been arrested on the basis of an order that refers to some other piece of property...The concern is that people have been arrested and subjected to restraints on their liberty.” Among those arrested was Grand Chief Stewart Phillip of the Union of BC Indian Chiefs who said, “I said...I would stand with the courageous people



Protestors gather on Burnaby Mountain | the-peak.ca

that were willing to be arrested as a matter of principle...We need to reclaim this country ... and return it back to the voices of the people that have invested a lifetime of hard work to build this province.”

Background: The proposal by Kinder Morgan to build a 1,000+ km pipeline to carry petroleum and crude from Alberta to Burrard Inlet in Burnaby, BC is opposed by the cities of Burnaby and Vancouver, First Nations with lands bordering Burrard Inlet and others. Kinder Morgan asserted the need to carry out destructive activities to investigate the feasibility of drilling a tunnel for the proposed pipeline under Burnaby Mountain. On 2 September the City of Burnaby issued stop-work orders prohibiting the proposed activities after the National Energy Board (NEB), on 12 August, had released its opinion that Kinder Morgan “had the power” to do the work without Burnaby’s agreement. On 8 September Brown J. of the BC Supreme Court rejected Burnaby’s application to enjoin Kinder Morgan from carrying out the proposed destructive activities and on 23 October the NEB ordered Burnaby to allow access. With both these orders under appeal, Kinder Morgan filed a multi-million dollar damages suit against protesters (for assault, trespass, nuisance, conspiracy and interference with contractual relations) and obtained the injunction upon which the police rely as authority for the arrests.

LRWC MEMBERS CONTRIBUTING PRO BONO IN NOVEMBER

Thank you to LRWC members and volunteers working *pro-bono* during November on letters, research, writing, education, investigations and advocacy: Heather Neun, Samina Ullah, Gail Davidson, Lois Leslie, Carolyn McCool, William Liaw, MJ Churchill, Randy Robinson, Catherine Morris and Grace Woo.

LRWC AIRMILES

Ways to Collect:

- Ask us for a LRWC Airmiles card and use it to collect miles from participating vendors.
- Contact us to receive YOUR card today (lrwc@portal.org, 604-738-0338).
- Ask for our barcode and scan it at participating vendors.

Ways to Donate:

- Transfer Airmiles from your account to LRWC by calling 1-888-247-6453.
- LRWC’s account is 8008-979-6800.



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

Fees and donations can be made by cheque, [PayPal](#), or [Canada Helps](#).

Monthly donations increase LRWC's ability both to respond quickly and plan ahead.

Airline points donated to LRWC qualify as a tax-deductible donation!

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