

# Lawyers' Rights Watch Canada

## ANNUAL REPORT

(September 30, 2001 to March 31, 2003)

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

### OUR MISSION

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

Our mission is threefold:

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

### IN THE ANNUAL REPORT

MESSAGE FROM EXECUTIVE DIRECTOR	1
ACTIVITIES IN THE REPORTING PERIOD	
Trial Observation and Lawyer Support	2
Other International Initiatives	5
Letters For Lawyers	7
Publications	12
Working With Other Groups	13
In Other News	13
CONSTITUTION	14
BOARD OF DIRECTORS	15
CONTACT US	15

### MESSAGE FROM THE EXECUTIVE DIRECTOR

Lack of adequate security and independence safeguards for human rights advocates around the world continues to both prevent the enforcement of human rights and to endanger those who defend them.

Hina Jilani, Special Representative on Human Rights Defenders reported in January 2003 that human rights defenders around the world continue to be subjected to execution, death threats, torture, arbitrary arrest and detention, beatings and other restrictions on their freedoms and advocacy rights and reported an increase in attacks on human rights defenders in some countries. Ms Jilani also observed that recent legislation described as 'security' or 'counter-terrorism' has created unacceptable exceptions to rule of law principles that affect human rights advocacy. She strongly recommends increased efforts internationally to support democratization by promoting the safety and security of human rights defenders.

In countries where advocates face the greatest risk of reprisals, those that threaten, attack or kill advocates go unpunished. Lack of safety and independence is characteristically accompanied by an abject failure of the state to investigate violations. Human rights enforcement in these countries depends on the development of an effective international support network – for advocates, from advocates.

## ACTIVITIES IN THE REPORTING PERIOD

### A. TRIAL OBSERVATION AND LAWYER SUPPORT

Due to the generous contributions of time and expertise of some LRWC members, LRWC has been able to respond to egregious situations by attending court proceedings around the world to monitor fairness and safety issues. During this reporting period, LRWC sent lawyer representatives to Malaysia, Singapore, Guatemala and Mexico. Richard Gibbs Q.C. traveled to Kuala Lumpur, Malaysia in January 2002 to hold a watching brief of the trial of lawyer Karpal Singh for sedition; Howard Rubin traveled to Singapore in July 2002 to monitor Dr. Soon Chee Juan's defamation appeal; Brenda Wemp traveled to Guatemala in September 2002 to attend the trial of military officers charged with ordering the 1990 murder of anthropologist and human rights activist Myrna Mack; and John MacAlpine Q.C. traveled to Mexico City in March 2002 to conduct an assessment of Mexican government compliance with Inter-American Court orders to investigate the October 2001 murder of human rights lawyer Digna Ochoa and to implement protection for lawyers working on politically sensitive cases.

#### 1. MALAYSIA

##### *Karpal Singh Sedition Trial, Kuala Lumpur, January 2002*

Richard Gibbs Q.C. went to Kuala Lumpur to conduct an LRWC watching brief of the trial of lawyer Karpal Singh on a charge of sedition. The charge against Mr. Singh was based on words he spoke in court while defending his client on criminal charges. In May 2000, LRWC wrote an analysis of the sedition prosecution indicating that Mr. Singh had been charged because of his effectiveness as defense counsel and that the charges and the broad scope of Malaysian sedition law imperiled lawyers' rights and duties to vigorously represent clients, including those involved in politically charged cases. The LRWC analysis was subsequently published in the September 2002 edition of the *Criminal Law Forum: An International Journal*.

Mr. Gibbs, first president of the Law Society of British Columbia during 2002, attended Mr. Singh's trial as a representative of LRWC, the Law Society of BC and the Federation of Law Societies of Canada. Taking up LRWC's support of Mr. Singh, the Federation of Law Societies of Canada and the Law Society of B.C. each adopted, in the fall of 2001, resolutions directing Mr. Gibbs to monitor and report on the independence of the Bar and the Judiciary in Malaysia and on the fairness of the sedition trial of Karpal Singh.

Attorney General Datuk Gani Patail (previously the lead prosecutor in *PP v. Anwar Ibrahim*) withdrew the charge against Mr. Singh on January 12, 2002. In a speech to the court, he acknowledged that the office of the Public Prosecutor had "received numerous representations from domestic and international legal bodies...seeking a reconsideration of the pending charge..." and concluded by saying that after reconsidering the representations, the public interest and "circumstances" he was withdrawing the charge against Mr. Singh.

The phrase "representations from international legal bodies" refers, we believe, to two legal analyses: Michael Birnbaum Q.C. & James Laddie, "Re Karpal Singh, An Opinion" (2000) written for the Bar Human Rights Committee of England and Wales; and G. Davidson, T. Friesen & M. Jackson, "Lawyers and the Rule of Law on Trial: Sedition in Malaysia" written in 2000 for LRWC.

The continuing willingness of LRWC and other international lawyers groups to send lawyers to monitor and report on the trial may well have been one of the "circumstances" that resulted in the sedition charge being withdrawn.

## 2. MEXICO

### *Digna Ochoa y Plácido Murder Investigation, Mexico City, March 2002*

LRWC and the Bar Human Rights Committee of England and Wales (BHRC) sent a joint team of lawyers to Mexico City March 2002, to investigate and report on two issues critical to the safety and independence of lawyers in Mexico: the progress and problems of the Mexican government's investigation of Ms Ochoa's death and the assaults on and threats against her; and safety and independence safeguards for lawyers and other human rights advocates. Ms Ochoa's death highlights both Mexico's failure to protect lawyers representing claims of wrongdoing by government agents and its failure to bring to justice those responsible for violating those advocates' rights.

Members of the LRWC/BHRC investigation team were Canadian lawyer John McAlpine Q.C., British barrister Nicholas Stewart Q.C. and BHRC project coordinator Kirsty MacDonald. The LRWC/BHRC team interviewed government officials including the Attorney General's lead investigator, human rights lawyers, and diplomats and the findings McAlpine and Stewart of BHRC formed the basis of the LRWC/BHRC's July 2002 "*Report on the Digna Ochoa Murder Investigation.*"

Prior to her death, Ms Ochoa had represented some of the most politically charged human rights cases in Mexico, many of them involving allegations of torture and murder by Mexico's military and security forces. She had won international acclaim for her work with PRODH (Centro de Derechos Humanos 'Miguel Agustín de Juárez'), an independent human rights organization which, since 1995, had been the target of acts of harassment, violence and intimidation.

Ms Ochoa had been subjected to attacks and threats, some of which she attributed to the military groups accused of criminal acts during her defense of peasant ecologists in Guerrero since 1996.

The Inter-American Court of Human Rights (The Court) on November 11, 1999, ordered Mexico to investigate these attacks and threats, bring the perpetrators to trial, and provide adequate security to Ms Ochoa and her colleagues. After Ms Ochoa's death, The Court again ordered Mexico to conduct an effective investigation resulting in appropriate prosecutions, this time of her murder, and to put in place adequate protections for lawyers.

The LRWC/BHRC report concluded that Mexico had failed, as of July 2002, to comply with orders of the Court to investigate and to properly identify and sanction those responsible for Digna Ochoa's death and the attacks and threats against her. The investigation, plagued with problems and delays, including the apparent lack of political will to conduct an exhaustive investigation, had failed in particular to investigate the extent to which Ms Ochoa's work as a lawyer made her the target of attacks.

In response to continuing criticism of the investigation and an apparently unshakeable focus on a suicide theory, LRWC and BHRC will conduct a follow-up assessment of the Digna Ochoa murder investigation and the adequacy of security and independence safeguards for human rights advocates. Interviews with government officials, lawyers, human rights workers and journalists will take place in Mexico City April 5-12, 2003. The LRWC/BHRC investigative team for the April 2003 trip will be Canadian lawyer Leo McGrady Q.C., British barrister Nadeem Ahmad and BHRC Programme Coordinator Jennifer Geen. LRWC and BHRC will produce a report on the progress and problems of investigation since their report of July 2002.

## 3. GUATEMALA

### *Myrna Mack Trial, Guatemala City, September 2002*

LRWC representative, Brenda Wemp attended the trial September 10-26, 2002 in Guatemala City of three former high ranking military officials charged with planning and ordering the murder of anthropologist Myrna Elizabeth Mack Chang in September 11, 1990 (the Myrna Mack trial). Ms Wemp's role was to signal LRWC's concern for the safety of the jurists, interveners, and witnesses involved. Jurists and others

involved in the investigation and prosecution had been targeted with extreme violence and intimidation that continued up to the commencement of the trial.

Lawyers, judges, police officers and witnesses have been subjected to threats, intimidation, and violence as a result of their involvement in the investigation and trial. In 1991 police investigator Jose Marido Escabor was murdered shortly after he implicated the Presidential Security Unit (EMP) in the murder of Myrna Mack. In 1994 the president of the Guatemalan Constitutional Court was assassinated as he was about to rule on an appeal regarding the case. Others involved in the case were forced to flee Guatemala.

Just prior to her death in September 1990, Ms Mack had published a groundbreaking study concluding that Guatemalan government counter-insurgency policies had caused the internal displacement and subsequent suffering of the country's indigenous Mayan people. Many suspected that government agents were involved in her murder. Pressure from NGOs and individuals resulted in the 1993 trial of Sergeant Noel de Jesus Beteta Álvarez, a non-commissioned army officer in the EMP and the first to be convicted in the case. Continued pressure from the Myrna Mack Foundation, created by Myrna's sister Helen Mack, resulted in the indictments of the three military officers, General Edgar Augusto Godoy Gaitán and Colonel Juan Guillermo Oliva Carrera and Colonel Juan Valencia Osorio in 1996. All three officers were members of the EMP at the time of Myrna Mack's murder.

Colonel Juan Valencia Osorio was convicted on October 3, 2002 by the Third Trial Court for Criminal Matters Drug and Environmentally Related Crime of ordering the murder of Myrna Mack and sentenced to 30 years imprisonment. General Edgar Augusto Godoy Gaitán and Colonel Juan Guillermo Oliva Carrera were acquitted on the grounds of insufficient evidence. In September 1990 Colonel Juan Valencia Osorio was the chief of the EMP of the Presidential General Staff.

Valencia's conviction represents the first time that a high-ranking military official has been tried and convicted for a crime committed during Guatemala's 36-year internal conflict. This was only the second time a military officer had been convicted for a political crime in Guatemala and Valencia's conviction was the first time an officer has been convicted for ordering a crime. (In June 2001, military officers Colonel Bryon Lima Estrada, Captain Byron Lima Oliva, and José Obdulio Villanueva were convicted by the Supreme Court of Guatemala of the extra-judicial murder of human rights activist Bishop Gerardi. The convictions were overturned by the Guatemala Appeal Court on October 9, 2002 and a retrial was ordered. James Tate attended the first trial June 3-9, 2001 for LRWC.)

The Myrna Mack trial highlights the grave danger facing advocates that press for an end to impunity for human rights violators and the critical role that LRWC and others must fulfill in providing support to human rights advocates. The Lawyers Committee on Human Rights concluded, "the dangers and obstacles faced by those pressing the [Myrna Mack] case suggest that justice in countless other still unresolved human rights cases in Guatemala remains distant or unattainable." (*A Test of Justice in Guatemala: The Myrna Mack Trial*" LCHR, page 4.)

#### **4. SINGAPORE**

##### ***Dr. Chee Soon Juan Defamation Suit Appeal, Singapore, February 2003***

Howard Rubin monitored the defamation appeal of well-known political opposition leader Dr. Chee Soon Juan in the Singapore High Court. Dr. Chee's appeal was important to three rule of law issues undermining advocacy rights in Singapore: unreasonable freedom of speech restrictions; a pattern of civil and criminal suits against government critics that impairs the right to fully engage in professions, such as law and public office, that carry with them the responsibility or duty to be critical of government; and the chilling effect of these suits on the availability of legal representation.

LRWC, in a 2002 report on the use of defamation suits against lawyer and parliamentarian J.B. Jeyaretnam, concluded that use of defamation suits in Singapore violates the right to freely hold and peacefully express opinions. (*Defamation in Singapore: In the Matter of Joshua Benjamin Jeyaretnam and Two Appeals in the Court of Appeal of the Republic of Singapore.*)

The defamation suit against Dr. Chee appeared to be a further example of the ruling People's Action Party's (PAP) use of civil defamation suits and other legal proceedings to suppress discussion of issues of public interest and to effectively prevent opposition. Singapore lawyers have consequently become unwilling to jeopardize themselves by representing litigants in cases brought by PAP members or which are otherwise politically sensitive.

Dr. Chee Soon Juan, leader of the opposition Democratic Party, was sued for defamation by Lee Kuan Yew, Senior Minister and Goh Chok Tong, Prime Minister for defamatory statements allegedly made at an election rally on October 28 2001 and in reference to election issues. Dr. Chee allegedly questioned the propriety of a US\$10 billion loan to the Suharto government in 1997.

Dr. Chee, a neuro-psychologist, was unrepresented when the two defamation suits were decided against him in August 2002. He was not able to find a Singapore lawyer to represent him and his applications for leave to be represented by foreign lawyers were dismissed by the High Court. Stuart Littlemore, a senior Australian Q.C. who had previously authored a report critical of the use of libel suits in Singapore, was judged to be not a fit person to appear in a Singapore court. Martin Lee, a Hong Kong senior counsel, and Henric Nicholas, an Australian Q.C., were rejected on the grounds that the case was not sufficiently complex to require foreign Q.C.s.

Dr. Chee's basic freedom of expression guaranteed by international standards was further constrained by the strict regulations that are enforced under Singapore's *Public Entertainments and Meetings Act* of 1959. For example, Dr. Chee's most recent imprisonment of five weeks was a result of his refusing to pay a fine of US\$2,540 for holding a public event without obtaining a police permit, an offence under the *Public Entertainments and Meetings Act*. This Act requires that police permission be obtained for public events involving more than five people. Amnesty International has declared Dr. Chee Soon Juan a prisoner of conscience. He has been jailed on several occasions for publicly advocating democratic values, and basic human rights.

## **B. OTHER INTERNATIONAL INITIATIVES**

Steven Kelliher attended conferences preparatory to the creation of an international criminal bar to represent and govern lawyers appearing before the International Criminal Court in Paris (December 2001), Montreal (June 2002), and Paris (November 2002). Mr. Kelliher also attended the first General Assembly meeting of the International Criminal Bar in Berlin in March 2003.

Gail Davidson attended the Global Exchange annual human rights awards ceremony in San Francisco in May 2002 and a conference and course in the International Criminal Court in The Hague in December 2001.

### **1. INTERNATIONAL CRIMINAL BAR**

On behalf of LRWC, Steven Kelliher, a member of the British Columbia Law Society, attended organizational meetings preparatory to the formation of the International Criminal Bar (Barreau Penal International – ICB/BPI) and the first meeting of the ICB General Assembly (see Conference section). In November 2002, Mr. Kelliher was appointed member of the Finance and Organization Committee of the ICB/BPI. At the March 2003 meeting of the ICB General Assembly, Mr. Kelliher also ran for a position on the ICB Council but due to an irregularity in the election process his status will not be confirmed until a review of the election has been completed.

The ICB was formed by a resolution passed in Montreal on June 15, 2002 as a result of international lobbying initiated by Canadian lawyer Elise Groulx, president and founder of the International Criminal Defense Attorneys Association (ICDAA). Soon after the Rome Statute was accepted in July 1998, Ms Groulx began lobbying for the creation of an international bar that would implement and enforce

safeguards critical to ensuring lawyers' rights to fully represent clients, such as independence, a code of ethics, security, competency standards, governance and discipline.

At the November 24–25, 2002, ICB Conference in Paris, subcommittees were formed to work on a Code of Ethics, Training and Qualification, Discipline, and Finance and General Assembly. Steven Kelliher is a member of the Finance and General Assembly Committee.

The first General Assembly of the International Criminal Bar was held in March 21-22, 2003, in Berlin. Members came from more than 50 countries and from all continents. Participants included 400 individuals and organizations (Bars and Law Societies, Independent Associations of Counsel, and NGOs) interested in the work of the ICC).

The Assembly adopted the ICB/BPI's Constitution, elected its first Council, and approved a Code of Conduct for Counsel for submission to the Registrar of the Court. The General Assembly elected approximately 42 people to the Council which then elected as co-presidents Canadian Elise Groulx, president and founder of the International Criminal Defence Attorneys Association, and Paul-Albert Iweins, past president of the Paris Bar. Their term of office is two years.

## **2. CONFERENCES & COURSES**

*Victoria lawyer Steven Kelliher attended a number of conferences on behalf of LRWC in relation to the International Criminal Bar. These included:*

**December 6–7, 2001:** Paris, France. “The Creation of an International Criminal Bar for the ICC” hosted by the Paris Bar and the International Criminal Defence Attorneys Association (ICDAA).

**June 6–7, 2002:** Montreal, Canada. The International Criminal Defence Attorneys Association (ICDAA) Conference where the International Criminal Bar was created by resolution.

**November 24–25, 2002:** Paris, France. Conference hosted by the ICDAA and the Barreau de Paris.

**March 21–22, 2003:** Berlin, Germany. The first General Assembly meeting of the International Criminal Bar.

*Other conferences attended by LRWC representatives included:*

**December 18–20, 2001:** The Hague, Netherlands. Gail Davidson attended a conference and a course on the International Criminal Court.

**June 6, 2002:** San Francisco, U.S.A. LRWC attended the Global Exchange Annual Awards Ceremony. A human rights award was presented to Mexican human rights lawyer Digna Ochoa posthumously.

**October 18–19, 2002:** Mexico. In lieu of attending the opening of the Digna Ochoa y Plácido Human Rights Centre in Mizantla, Veracruz a joint statement by LRWC/BHRC was read at the opening by a representative of Global Exchange.

## **3. AWARDS NOMINATIONS**

LRWC and the Canadian Journalists for Free Expression (CJFE) jointly nominated Digna Ochoa y Plácido for the 2002 Ludovic-Trarieux Human Rights Prize, an award given bi-annually by the Institute des Droits de l'Homme du Barreau de Bordeaux (IDHBB) in partnership with the UAE-Human Rights (European Lawyers Union). The prize was awarded on May 23, 2002 to Mehrangiz Kar, Iranian human rights lawyer prominent in the area of women's rights advocacy.

#### 4. **INTERNATIONAL NEWS**

##### ***Human Rights News***

The Inter-American Commission on Human Rights recently announced the creation of a special unit to receive information on human rights defenders in the region, to maintain contact with Non-Governmental Organizations (NGOs) and to coordinate activities of the Executive Secretary of the Commission on human rights defenders. The Organization of African Unity is considering a draft resolution that will create a focus on the protection of human rights advocates.

### C. **LETTERS FOR LAWYERS**

An important part of the work of LRWC is the writing of letters on behalf of jurists and other human rights defenders faced with reprisals as a result of their human rights advocacy. LRWC letters provide a check on the abuse of power and at minimum serve as a reminder to government officials that the violations of advocacy rights are being monitored by Canadian lawyers. Letters urging compliance with national and international requirements to safeguard the safety and independence of advocates are directed towards government officials directly responsible for the issue being addressed with copies to various other government and police officials, members of the press, and NGOs.

During the reporting period LRWC members wrote letters on behalf of more than 40 jurists in 15 countries. A brief summary of the dangers faced by these individuals appears below.

#### 1. **ARGENTINA**

##### ***Claudio Pandolfi, lawyer***

On June 26, 2002, photographs were taken during disturbances in Avellaneda, Buenos Aires province that clearly showed police involvement in the events leading to the killing of Dario Santillan and Maximiliano Costeki. Lawyer Claudio Pandolfi of the Association Against Police and Institutional Repression/Coordinadora Contra la Represion Policial e Institucional (CORREPI), was using these photographs in a case against the police officers believed to be involved in the deaths when he himself received death threats.

##### ***Laura Figuiroa, lawyer; Fernanada Sanssone, archaeology student; and Emilio Ferrer, Federal Court Prosecutor***

Laura Figuiroa, Fernanada Sanssone and Emilio Ferrer were all involved in the investigation of reported human rights violations in Tucuman Province in the fall of 2002. October 2002, reports indicate that they were being kept under surveillance, their homes and offices were being ransacked and they were receiving repeated threats by telephone and in person and that government agents were suspected of being the instigators.

#### 2. **BANGLADESH**

##### ***Rabindra Ghosh, lawyer***

Mr. Rabindra Ghosh, a lawyer in the Supreme Court of Bangladesh, experienced harassment, threats and physical abuse which, in the opinion of Amnesty International, were occasioned by his political and religious orientation and his advocacy for stronger government measures to protect members of the Hindu minority who had experienced attacks and rape following the general elections of October 2001. On July 1, 2002, there was an alleged physical assault on Mr. Ghosh and illegal confiscation of his personal property at a Bar Association meeting.

#### 3. **BRAZIL**

##### ***Dr. Agisandro da Costa Pereira***

Dr. Agisandro Pereira, president of the Ordem dos Advogados Brasileiros (OAB), his family and his colleagues at the OAB, have been the targets of harassment, death threats, and murder attempts. Recent threats are believed to have been sparked by Dr. Pereira's call for an investigation into the murder of lawyer Marcelo

Denaldai. On July 25, 2002, a bomb exploded in the offices of the OAB in Vitória, the capital of Espírito Santo state, during a ceremony recognizing new members of the OAB. Reports provided by Amnesty International suggest involvement of Brazilian police organization Scuderie Detetive le Coq (SDLC) in human rights violations and organized crime in Espírito Santo. Brazil has been internationally criticized for an abusive police force that has been accused of committing massacres, torture and killings of civilians, and for a judiciary that has repeatedly failed to bring offenders to justice.

Responding to a letter from LRWC, in September 2002, the Ministério Da Justica Secretaria de Estatío des Direitos Humanes said that the murder of Marcelo Denaldai had precipitated the creation of a special unit of police officers and prosecutors to assist victims of violence in the state of Espírito.

#### **4. BURMA**

*Ko Htay, U Aung or Maung Htay, Aye Kyaw Zwa and others*

In late September 2002, at least 30 people were arrested, detained and believed to be at risk of torture or ill treatment by the military. All but four were known to be former political prisoners who since 1990 had served sentences of between three to ten years. Two or three of the detainees were lawyers. There was no information about whether charges had been laid and there were concerns that they had been arrested for peaceful political activities. In October 2002, Amnesty International reported that eleven of the people detained had been released.

#### **5. CANADA**

*Cameron Ward, lawyer*

Cameron Ward was arrested in Vancouver on August 1, 2002, while attending a public event in Chinatown because he fit the description of a man whom the officer believed might throw a pie at the Prime Minister. Mr. Ward is well known to the VPD as a lawyer who has acted against the VPD, the Prime Minister and the RCMP in the well-publicized RCMP APEC Inquiry and in various civil actions. A Police Act investigation of Mr. Ward's arrest and detention was subsequently conducted by the Abbotsford Police Department under the

oversight of the Office of the Police Complaint Commissioner. Mr. Ward has initiated civil proceedings.

*John Richardson, lawyer*

John Richardson, a lawyer of record for some of the Woodward's store protestors in Vancouver, was arrested September 22, 2002, for obstruction when crossing Hastings Street to advise his clients, who were apparently being (wrongfully) arrested by Vancouver municipal bylaw officers. Mr. Richardson was detained in custody for approximately nine hours, refused access to his lawyer for approximately five hours and attempts were made to strip search him. Mr. Richardson was well known to the VPD as the Director of Pivot Legal Services which was at the time preparing a report on illegal police practices in Vancouver's Downtown Eastside. LRWC's Howard Rubin has filed a civil suit against the VPD on behalf of Mr. Richardson.

#### **6. COLOMBIA**

*Diana Milena Murcia, lawyer, and members of the José Alvear Restrepo Lawyers' Collective*

Amnesty International reported that human rights lawyer Diana Milena Murcia and other members of the José Alvear Restrepo Lawyers' Collective involved in the investigation of reported human rights violations towards three Irishmen detained in Colombia were under surveillance, apparently by government agents.

*Daniel Prado and Gladys Avila*

Daniel Prado, Gladys Avila and other workers for the Association of Families of the Detained-Disappeared/ Asociacion de Familiares de Detenidos Desaparecidos (ASFADDES) were subjected to death threats, intimidation and illegal surveillance between June 8 and July 29, 2002. The ASFADDES is a human rights defence organization.

#### **7. EGYPT**

*Dr. Saad Eddin Ibrahim*

Sociology professor and internationally-respected human rights advocate Dr. Saad Eddin Ibrahim was sentenced to seven years of hard labour on July 29, 2002, after being convicted by the High State Security Court in Egypt of

accepting of foreign funds without the proper permission of authorities, distributing false information abroad harmful to Egypt's interests, and making false expense claims to the European Commission. The Egyptian Court of Cassation overturned Dr. Ibrahim's conviction and sentencing and ordered a third re-trial before the Court of Cassation. Dr. Eddin Ibrahim was released on bail pending the new trial which was expected to begin in February 2003.

## 8. GUATEMALA

### *Ovidio Paz Bal, lawyer*

Mr. Bal, legal advisor of the Solola branch of the organization Defensoria Indigena (Indigenous Defence), was subject to threats believed to have been made by individuals or groups seeking to hinder the work of Defensoria Indigena. On January 26, 2002, he received ten telephone threats, always with the same message: "We are going to kill you, we are going to kill you."

### *Roberto Romero and Carmen Aida Ibarra, lawyers*

LRWC received reports from a number of sources that there had been additional threats to the lives, personal security and independence of prosecutors Roberto Romero and Carmen Aida Ibarra, advocates involved in the trial of General Edgar Augusto Godoy Gaytan, Colonel Juan Guillermo Ovica Carrera and Colonel Juan Valencia Osorio on charges that they planned and directed the September 11, 1990, murder of Myrna Mack Chang. These included death threats against Roberto Romero and his son Manuel Gerardo Romero, an armed attack of Roberto Romero's home, and intimidation by surveillance of Carmen Aida Ibarra.

### *Tatiana Morales Valdizon*

LRWC received reports from a number of sources that Tatiana Morales Valdizon and other members of the Public Prosecutor's Office were subject to acts of intimidation while investigating allegations implicating ex-members of the Department of Antinarcotic Operations (DOAN) in extrajudicial executions and other violations of human rights.

## 9. HAITI

### *Marie Yolene Gilles, Viola Roberts and others*

On December 7, 2002, three members of Viola Robert's family were taken into custody by the Haitian National Police (HNP). Their bodies were found in the morgue with bullet wounds to their heads the following morning. An internal HNP investigation has resulted in the arrest of three officers of the HNP, while a fourth has evidently gone into hiding.

Reports indicate a systematic pattern of murder and intimidation surrounding the investigation of these crimes. Marie Yolene Gilles, the principal member of the Coalition Nationale des Droits des Haitiens (CNDH) investigating these killings and instrumental in speaking out against the HNP officers implicated in these crimes, has received anonymous threatening telephone calls at her home. She was warned that if she continues to be active in this case she will be killed. On February 11 and February 13, 2003, armed men approached her house and discharged firearms in the air, in what can only be seen as blatant acts of intimidation carried out with apparent impunity. It has been reported that a potential witness was killed by hooded men on December 17, 2002. Viola Robert has been forced into hiding.

## 10. IRAN

### *Nasser Zarafshan, lawyer*

On March 18, 2002, a military court sentenced Mr. Nasser Zarafshan, age fifty-six, to seventy lashes and five years imprisonment, and banned him from practicing law for five years. The sentence was confirmed on appeal on July 16, 2002, by the Military Tribunal of Tehran. Amnesty International expressed concern that the charges against this lawyer were politically motivated.

Mr. Zarafshan, a prominent lawyer, had been arrested in December of 2000 following publication of an article he wrote in the journal Jomhuri Eslami and public expressions of concern about the December 2000 trial of the assassins of Iranian intellectuals including writer Mohammed Djafar Pouhandeh in December 1998. Mr. Zarafshan was charged with disseminating information relating to a controversial and well-publicized legal case in

which he represented the children of political activists who were murdered in 1998, allegedly by officials of the Ministry of Intelligence. Mr. Zarafshan had criticized the manner in which these murders had been investigated, including the absence of important information from court files.

***Qasem Sho'leh Sa'di, lawyer***

On February 24, 2003, Qasem Sho'leh Sa'di, a lawyer and political science professor at Tehran University, was arrested on his return to Iran after a visit to France. Qasem Sho'leh Sa'di had published an open letter addressed to the Leader of Iran on December 6, 2002. The letter, which respectfully questioned the basis of the Leader's position and criticized a range of the Leader's policies, was published on the writer's own website. Amnesty international fears that Mr. Sa'di, whose lawyer was not permitted to meet him, may be facing torture or ill treatment in incommunicado detention.

## **11. LIBERIA**

***Tiawon Gongloe, lawyer***

Tiawon Gongloe, a leading Liberian human rights lawyer, was arrested without charges on April 24, 2002, and believed to have been beaten while in custody. Amnesty International believes that his treatment was precipitated solely by his human rights advocacy. Tiawon Gongloe was discharged from hospital on May 1, 2002. The police put him in the charge of Archbishop Michael Francis, a prominent advocate of human rights and he was subsequently hospitalized for the injuries he received while in custody. Dato Param Cumaraswamy, UN Special Rapporteur on the Independence of Judges and Lawyers has advised that Liberian lawyers are in need of assistance.

## **12. MEXICO**

***Sergio Dante Amaraz, lawyer***

Sergio Dante Amaraz, who represents one of two men accused of the murder of eight young women in Ciudad Jurarez, is believed to be in danger because of his involvement with this case. Before being arrested by the police, the two men subsequently charged were kidnapped and tortured to confess to the killings. One of

the accused was later found murdered in his cell. On February 2, 2002, Mario Escolbedo Anaya, the lawyer for the murdered accused, was shot dead by state police who have since claimed self-defence saying the lawyer fired first. The Inter-American Commission on Human Rights has issued protective measures on behalf of Sergio Dante Amaraz and Miriam Garcia, the wife of the surviving accused. Despite these protection measures Miriam Garcia was threatened with death by men who broke into her home.

***Ernesto Ledesma Arronte, human rights defender***

LRWC received information that Ernesto Ledesma Arronte, director of the Centre for Political Analysis and Social and Economic Research (CAPISE) received a death threat by phone and was subjected to two break-ins: one to his home and the other to the CAPISE office. Mr. Arronte is a human rights advocate in the state of Chiapas, Mexico. He has been active in denouncing human rights violations alleged to have been committed by both armed forces and paramilitary groups.

***Arturo Requenses Galnares, human rights defender***

Arturo Requenses Galnares, a human rights defender working with Christian Action for the Abolition of Torture (Acción de los Cristianos para la Abolición de la Tortura - ACAT), was reported to have been under surveillance on July 16, 2002 and to have received a threatening phone call on July 17, 2002. Mr. Galnares had been working on a number of politically sensitive cases for ACAT, including several cases involving torture and a possible disappearance. On October 12, 2002, Director General of Human Rights for the Federal District of Mexico City replied to LRWC's letter advising that an investigation into the matter had been concluded, Mr. Galnares was safe and Attorney General Bernardo Bátiz Vázquez was committed to complying strictly with human rights.

***Samuel Alfonso Castellanos Pinon, lawyer***

Samuel Alfonso Castellanos Pinon, a lawyer acting on behalf of those accused of the Agua Fria killings, received an anonymous death threat. The written threat warned Mr. Pinon that he would be killed unless he stopped representing the accused. A similar threat had been made earlier against members of Christian Action for the Abolition of Torture (ACAT) and

the Oaxaca Indigenous Human Rights Organization (OIDHO). The accused allege that their confessions were extracted by torture.

***Leonel Rivero Rodriguez, lawyer***

Leonel Rivero Rodriguez, a lawyer who is involved in several politically sensitive cases, and his family have been subjected to serious threats for more than two years.

### 13. NEPAL

***Hari Prasad Phuyal***

Mr. Hari Prasad Phuyal, a lawyer representing members or sympathizers of the armed political group Communist Party of Nepal (Maoist), was arrested at his home on May 22, 2002. He was taken to the District Police Office and held for two days before being transferred to Morang prison under a preventive detention order. When his wife was allowed to visit him on July 29, 2002 he was unable to walk without physical support from two men. His body was covered with bandages, his face swollen, and he told his wife he was unable to eat. A lawyer who visited him on July 29 in the presence of several police officers confirmed that Mr. Phuyal's face and legs were swollen, and that he had been unable to eat for ten days because of difficulties swallowing. Mr. Phuyal was released on or about September 1, 2002 on condition that he publish a statement in several Nepali newspapers saying that he would not represent suspected members or sympathizers of the Communist Party of Nepal.

***Saligram Sapkota, lawyer***

Saligram Sapkota, President of the Bank District Appellate Court Branch of the Nepal Bar Association, was arrested March 12, 2002 by seven soldiers and was reported to have been beaten and perhaps tortured. An additional bulletin reported that the Nepal Bar Association was initially refused permission to visit Mr. Sapkota and then told that he was not in custody.

***Raman Kumar Shrestha, lawyer***

Mr. Raman Kumar Shrestha, a lawyer working at a Legal Relief Centre in Kanuni Uddhar Kendra, Bagbazar, Kathmandu, was reported to have been arrested by army personnel August 23, 2002 on his way to work. Information on the reasons for his detention, as well as his

whereabouts, has not been forthcoming. Mr. Raman Kumar Shrestha may have been detained because of his work as a lawyer representing alleged sympathizers with the CPN (Maoist).

### 14. SUDAN

***Mohamed al Hassan Ibrahim, Omar Sidahmed, Bakri Gibreil, Jalal Mohamed al Said, Nasr Aldeen Yousef, Haydar (released November 2) Adil Mohamed. (released November 17) Yousef Hussein, Abbas Mohamed al Tahir, (still in custody December 7)***

Nine lawyers were arrested and held in custody without charge and there were some reports of torture during their detention. Seven were released subject to onerous daily reporting and then were subjected to harassment. The whereabouts of the remaining two lawyers remains unknown. A reply to an LRWC letter requesting the Sudan government investigate allegations of torture and take immediate steps to ensure the lawyers received no further ill treatment received from the office of the Sudan Ambassador to Canada did not address any of the concerns raised by LRWC.

### 15. ZIMBABWE

***Sternford Moyo, President, and Wilbert Mapombere, Secretary, Law Society of Zimbabwe***

On June 3, 2002 Mr. Sternford Moyo and Mr. Wilbert Mapombere were arrested under the Public Order and Security Act (POSA), released on bail and required to relinquish their travel documents. The POSA passed by the Zimbabwe parliament in January 2002 appears to have been regularly used to suppress peaceful opposition, political organizing, criticism of the government and independent media reporting. Canadian Minister of Foreign Affairs W.C. Graham wrote to LRWC indicating that Canada had responded to the arrest of Mr. Moyo and other events in Zimbabwe by withdrawing Canadian funds from the Zimbabwe government and supporting the Commonwealth Committee decision of March 19, 2002 to suspend Zimbabwe from the Councils of the Commonwealth for one year.

## D. PUBLICATIONS

Publications during the reporting period included a joint LRWC/BHRC report on the Digna Ochoa murder investigation; the publication of an LRWC analysis of the Karpal Singh sedition prosecution in the Criminal Law Forum, a journal of international criminal law; three editions of the LRWC newsletter; a Latin American newsletter and various articles about LRWC campaigns published in the Advocate, the Lawyers Weekly, the Ontario Lawyers Gazette, the Law Times and on the Law Society of Upper Canada website.

The July 2001 LRWC Singapore report (H. Rubin and G. Davidson, “*Defamation in Singapore: In the matter of Joshua Benjamin Jeyaretnam*”) helped prompt the Inter-Parliamentary Union (IPU) to pass a resolution in March 2002 affirming that Mr. Jeyaretnam’s allegedly defamatory statements were a legitimate exercise of free speech rights. An IPU spokesperson advised LRWC in a letter that the March 2002 IPU resolution drew “largely on Howard Rubin’s trial observer report, which was instrumental not only in the [IPU] decision to declare the [Jeyaretnam] case admissible but also to make it public.” The Singapore report has since been added as an appendix to Frances Seow’s book, “*Beyond Suspicion: The Singapore Judiciary*” now awaiting publication by the Yale University Press.

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Dlab, Dagmar, *Canadian Lawyers Defend the Independence of the Bar in Malaysia*, The Advocate, Vol. 60 Part March 2, 2002, page 227. A publication of the Law Society of British Columbia, 2002.

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Jacob, Stephen, *World Responds to Murder of Civil Rights Lawyer*, The Lawyers Weekly, Vol. 21, No. 30, December 7, 2001.

Kelliher, Steven, *Steps Taken Toward Forming International Criminal Bar*, The Lawyers Weekly, Vol. 21, No. 36, February 1, 2002, page 6.

Kelliher, Steven, *Pieces Falling into Place for the International Criminal Bar*, (January 2003).

McAlpine, John, Q.C., *The Homicide of Digna Ochoa*, The Advocate, Vol. 60 Part May 3, 2002, page 379.

Schabas, William, *Human Rights and Terrorism*, The Lawyers Weekly, Vol. 21. No. 21, October 5, 2001 (Toronto Ontario).

Schabas, William, *Human Rights and the Reaction to Terrorism*, The Advocate, Vol. 59 (2001), page 905.

Wemp, Brenda, *Guatemala: Myrna Mack and Gerardi Appeal Observations*, (September 2002). Preliminary report.

## **E. WORKING IN COOPERATION WITH OTHER GROUPS**

LRWC has increased the number of campaigns undertaken in cooperation with other human rights groups in the form of joint projects, producing joint reports and statements and information sharing. During the previous reporting period LRWC completed a joint campaign with Amnesty International (Singapore-July 2001) and shared campaign information with BHRC and the Canadian Bar Association.

During this reporting period, LRWC participated in several joint initiatives, including: an ongoing joint campaign regarding the Digna Ochoa investigation with the Bar Human Rights Committee of England and Wales (BHRC) (Mexico-March 2002 and April 2003); the production of a LRWC/BHRC joint report on the Digna Ochoa investigation (July-2002); trial monitoring of the Karpal Singh sedition trial with the Law Society of British Columbia and the Federation of Canadian Law Societies (January-2002); a joint human rights award nomination with the Canadian Journalists for Free Expression (Ludovic-Trarieux Human Rights Award-February 2002 ); campaign assistance from Global Exchange (Mexico-2002/3) and information sharing with several organizations. LRWC and BHRC return to Mexico in April 2003 for a follow-up assessment of the Digna Ochoa investigation and will produce an additional joint report.

## **F. IN OTHER NEWS**

### **1. MEMBERSHIP**

LRWC membership has grown to more than 130 Canadian lawyers and law professors.

### **2. MEMBER DONATIONS**

LRWC is funded entirely through membership fees and donations from members. Donations from members provide all the funding for LRWC's work for human rights defenders, including international campaigns, research and letter writing campaigns. Members donated generously through monetary donations, paying their own campaign travel expenses and donating time to campaign travel, attending conferences, writing reports, and writing letters for lawyers. LRWC is grateful for the generosity of members and the strength of their commitment to defending defenders around the world.

#### ***Monetary donations***

William Andrew, Richard Brooks, Lynda Cassels, Pinder Cheema, Justine Cook, John Conroy Q.C., Susan Coristine, Vincent del Buono, Brian Donovan, Diana Davidson, Gail Davidson, Ian Donaldson Q.C., Richard Fowler, David Gibbons Q.C., Richard Gibbs Q.C., Frances Gordon, Keith Hamilton, Timothy Holmes, William Holmes, Mark Jetté, Steven Kelliher, Nicola Mahaffy, Maureen Maloney Q.C., Leo McGrady Q.C., Peter Ritchie, Carol Roberts, William Schabas, Ron Shulman, Don Sorochan Q.C., and Maureen Webb

#### ***Donations of Campaign Travel and Conference Expenses***

Gail Davidson, Richard Gibbs Q.C., Steven Kelliher, Leo McGrady Q.C. and Howard Rubin.

#### ***Letters for Lawyers***

Catherine Morris, Diana Davidson, Brenda Wemp, Nerys Poole, Gail Davidson, Robert Gourlay Q.C., Howard Rubin, Brian Donovan and Constance Marlatt.

#### ***Campaign Travel and Report Writing***

John McAlpine Q.C., Steven Kelliher, Howard Rubin, Richard Gibbs Q.C., Brenda Wemp, Gail Davidson.

### 3. *VOLUNTEERS*

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

**Formatting and Editing**– John Fornelli, Leigh Ratcliffe and Diana Davidson

**Interns** – Deanna Scott (Kwantlen College), Alenna Anuik (Simon Fraser University) and Balkis Brofft (Tamwood College)

**Letters for Lawyers** – Lugon Arantes Paulo de Tarso, Michael Rough, Jenna Virk, and Rosalind Wong

**Newsletters** – Elizabeth Houle, Nancy-Louise Hustins

**Office Assistance** – Rong Liang, Jenna Virk, Rosalind Wong and Benita Ling.

**Research** – Benita Ling, Stephen Takahashi, Christie Hurrell and Monisha Martins

**Translations** – José Garcia, Susana J. Santa Maria Bravo and Carlos Franco

**Website development, design and maintenance and data base creation** – Xin Lui

**Website design** – Xin Lui, assisted by Lori Dagg.

**Writing** – Dagmar Dlab, Elizabeth Houle and Stephen Jacob

### 4. *WEBSITE*

Members can now join or change their contact particulars, areas of interest or other information via the website: [www.lrwc.org](http://www.lrwc.org). Existing members can email [lrwc@portal.ca](mailto:lrwc@portal.ca) to obtain their entry password.

## CONSTITUTION

### LAWYERS RIGHTS WATCH CANADA

incorporated June 2000

- To provide support internationally to lawyers whose rights, freedoms, or independence are threatened as a result of their human rights advocacy
- To promote and protect lawyers' right to engage in independent advocacy
- To preserve and enhance the rule of law
- To encourage governments and other institutions to respect fair trial rights including the rights of lawyer to engage in independent advocacy
- To encourage ratification and implementation of international human rights treaties that impact on legal advocacy rights and the integrity of legal systems
- To encourage constitutional and legislative amendments necessary for conformity with international human rights standards relevant to the independence of lawyers and judges, the integrity of the legal systems and fair trial rights
- To provide research and public legal analyses with respect to the above
- To complement the support to lawyers from other human rights organizations.

## **CONSTITUTION**

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

incorporated January 2, 2002

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

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Howard Rubin, member of the Law Societies of BC and Alberta

David Gibbons Q.C., Bencher and member of the Law Society of British Columbia

Richard Gibbs Q.C., Bencher, member and past President of the Law Society of British Columbia

Reiko West, member of the Law Society of British Columbia

William A. Schabas LL.B., Professor of Human Rights Law, Faculty of Law and Director of the Irish Centre for Human Rights, National University of Ireland and distinguished author, lawyer and international human rights expert.

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William A. Schabas LL.B., Professor of Human Rights Law, Faculty of Law and Director of the Irish Centre for Human Rights, National University of Ireland and distinguished author, lawyer and international human rights expert.

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