

Lawyers' Rights Watch Canada

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

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LRWC NEWSLETTER

April 2012 Edition

LRWC ACTION NEWS

CAMBODIA

On April 26, 2012, Cambodian environmental activist and human rights defender, Mr Chut Wutty was shot dead in Cambodia by military police. Mr. Chut Wutty is the founder and director of Natural Resource Protection Group (NRPG), which has been subject to [administrative harassment](#). Mr. Wutty had been subjected to threats in the past as a result of his advocacy regarding destruction of Prey Lang forest. At the time of the shooting, he was escorting two journalists from the Cambodia Daily and taking photos of suspected illegal logging activities in the forest. LRWC strongly condemns this killing and joins with other human rights organization in calling for an immediate, independent investigation.



COLOMBIA

LRWC and Lawyers without Borders Canada are preparing an amicus brief for *Members of José Alvear Restrepo Lawyers' Collective v. Colombia*, Case no. 12.380, before the Inter-American Commission of Human Rights. The amicus brief examines international human rights law (IHL) protections for lawyers engaged in human rights work and the failure of Colombia to comply with its legal obligations, specifically under the *American Convention on Human Rights*. The petition for relief is based on a sustained and intense campaign of persecution of lawyers with the Colectivo de Abogados José Alvear Restrepo (CCAJAR). Ongoing since the 1990s, the persecution has included: threats to life and physical integrity, public defamation and stigmatization, unfounded judicial proceedings, illegal surveillance and interception of personal and work-related communications. Evidence of state support at the highest level adds to the gravity of the allegations and the importance of the legal issues raised in this petition. The decades-long persecution has created a climate of fear intended to dissuade human rights lawyers from carrying out their legitimate and vital role in the defence of victims of human rights violations and in the efforts to reverse impunity and establish the rule of law and proper administration of justice in Colombia. Heather Neun is doing the research for LRWC.

PHILIPPINES

During March and April two former political prisoners in the Philippines, Dr. Merry Mia-Clamour and Angie B. Ipong visited Vancouver, Victoria, Winnipeg, Ottawa and Montreal as part of the campaign, "Our voices will not be silenced: Risking life and liberty in defence of human rights in the Philippines" Dr. Merry Mia-Clamour, one of the Morong 43 health care workers arrested in January 2010, was detained without charge for 10 months and Angie B. Ipong was detained without charge for 6 years. [LRWC letters](#) helped secure the release of the Morong 43. LRWC attended the Vancouver event and agreed to adopt one of



the estimated 350 political prisoners in the Philippines and to produce a brief outlining the applicable international and domestic law.

THAILAND

The verdict in the trial of Thai freedom of expression advocate Chiranuch Premchaiporn was postponed to May 30, the court citing the large volume of evidence to be studied. International scrutiny may have influenced the decision to postpone the verdict. LRWC jointly with many international NGOs has written [letters](#) to the Thai authorities requesting that the charges be dropped. Chiranuch Premchaiporn, Executive Director of the online news website Prachatai, is being tried on ten counts of lèse majesté for allegedly not quickly removing from the website anonymous third-party posts deemed offensive to the monarchy. She faces up to 20 years imprisonment if convicted.

BURMA

THE STRUGGLE FOR DEMOCRACY: AN UPDATE AS OF MAY 1, 2012

On In November 2010 what was generally regarded as a sham election was held in Burma for the Lower House and the Upper House. The Upper House has 224 members. The Lower House has 440 seats but 110 of those are reserved for the military. The National League for Democracy (NLD), led by The Lady, as Daw Suu is known, did not participate in the election. The military-supported party the USDA won the election. To the surprise of many observers, Nobel Prize winner Daw Aung San Suu Kyi was released from house arrest on November 13, 2010, and almost immediately started her political activity.



On March 30, 2011 former General Thein Sein was chosen as president of the country. Shortly after he was appointed, he started a series of reforms which have surprised many observers of the situation in Burma. In November 2011 many political prisoners were released, including a famous comedian Zarganar. More political prisoners were released in early January, 2012.

Restrictions on the media were dramatically reduced, a number of exiled people from Burma ventured to return home for a visit, Daw Suu and Zarganar held a film festival in Burma, and the spirit on the street of the Burman population areas of the country were abuzz with open discussions about the changes in the country. President Thein Sein suspended the construction of a huge Chinese electricity-generating dam project on the Upper Irrawaddy River in Kachin State.

By-elections were announced for a total of 48 seats in the Lower and Upper House to replace those who were elected in November 2010 and who had then become members of the government. The NLD participated in the election which was held on April 1, 2012. Three of the 48 by-elections were cancelled because of fighting in Kachin State. The NLD contested 44 of the 45 by-elections. They won 43. Daw Suu was one of the winners. Even in Naypyidaw, the mainly military capital of the country, the NLD won the by-elections.

Many prominent political figures from around the world have visited Burma, meeting President Thein Sein and Daw Suu. Hilary Clinton, Ban Ki Moon, David Cameron and John Baird are some of those who went to Burma. The EU, Australia, and Canada have suspended the very severe sanctions that they had imposed on Burma when it was under the military dictatorship. The U.S. is expected to lift almost all its sanctions on Burma. Diplomatic relations with Burma and the U.S. have been restored.

Apparently productive ceasefire and peace talks have been held with the Karen National Union and with the Shan State armies.

That is the good news. Daw Suu has described herself as being cautiously optimistic about the changes in Burma. There are suggestions that President Thein Sein has to contend with a hard-line faction that is not in favour of reform. Last June, after a 17 year cease fire, the Burmese military attacked the Kachin Liberation Army and the Kachin people. It is now estimated that 50,000 to as many as 70,000 people are internally displaced in the Kachin State. Fighting is continuing there. And there are still political prisoners in Burma. International efforts, which include LRWC, are underway to allow 32 lawyers who were disbarred in Burma as a result of their political activity to be re-admitted to practice.

UN HUMAN RIGHTS COUNCIL NEWS

REPORT OF THE 19TH SESSION OF THE UN HUMAN RIGHTS COUNCIL

A [full report of the 19th session](#) of the HRC is now available which includes reports from NGOs, NHRIs, special mandate holders and other experts as well as resolutions and decisions of the HRC. This report includes LRWC reports and Resolution A/HRC/L.2 on Reconciliation and Accountability in Sri Lanka that LRWC's Gary Anandasangaree has been working on for three years.

UN COMMITTEE AGAINST TORTURE

CANADA: BRIEFING TO THE COMMITTEE AGAINST TORTURE ON THE OMAR KHADR CASE

LRWC and the Civil Liberties Monitoring Group (CLMG) filed a [joint shadow report](#) on the Omar Khadr case with the Committee against Torture (the Committee) for consideration on the review of Canada's compliance with the Convention against Torture. The report recommends the establishment of a Commission of Inquiry, investigation of the involvement of Canadian agents in Khadr's torture and illegal treatment, prosecution of suspects identified by the investigation and education about the requirements of the Convention for those involved in law enforcement including police, elected officials and other public servants. The report also recommends that on repatriation, Khadr be afforded full protection of his internationally protected rights and access to remedies for violations. The report was prepared by Gail Davidson and Gavin Magrath with editing assistance from Brendan Naef.

Amnesty International and CLMG provided the Committee with [omnibus reports](#). The Amnesty briefing cites breaches by Canada of the Convention in relation to: implementing international human rights obligations; preventing violence against Indigenous women; ensuring redress; the use universal jurisdiction; the torture and ill-treatment of Canadian nationals abroad (e.g. Arar, Almalki, Khadr); use of tasers and policing during G8/G20 protests, prisoner transfers in Afghanistan; and the mandatory detention of and denial of appeal rights to, refugee claimants.

Two shadow reports were filed ([Lawyers against the War](#) and a joint report by the [Canadian Centre for International Justice and the Center for Constitutional Rights](#)) on Canada's failure to either bar George W. Bush from Canada or arrest and prosecute him for torture.

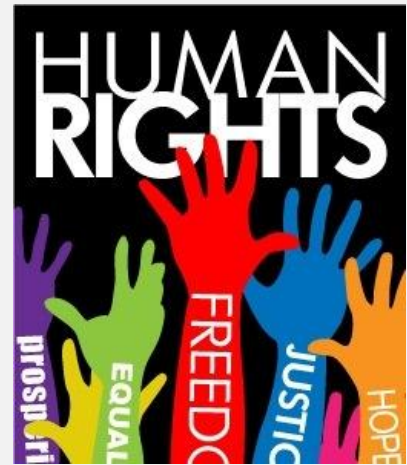
The Committee's review of Canada, which is scheduled to take place May 21-22 in Geneva, can be watched live at: <http://www.treatybodywebcast.org/>



FORUM ON INTERNATIONAL HUMAN RIGHTS EDUCATION AND TRAINING

THE RIGHT TO KNOW YOUR RIGHTS: HOW DOES BC MEASURE UP?

The critical need for international human rights education and training (IHRET) in BC was the subject of a Vancouver forum *The Right to Know your Rights* hosted by LRWC on April 25. Academics, members of the legal community, educators and representatives from BC human rights organizations gathered to consult on LRWC's draft report. Discussion included ways to address the belief that international human rights are not relevant in Canada and the need for better IHRET at all levels—including for students, civil servants, journalists, judges, lawyers and police in BC. The forum also generated ideas for improving networks and connections among BC human rights workers and educators in the NGO, academic, education and professional sectors.



The report, produced with funding from the Law Foundation of BC, examines the duty of states to provide IHRET about international human rights treaties ratified by Canada, and reviews IHRET in BC. The report concludes that in spite of UN programmes to encourage states to provide IHRET, the UN Declaration on Human Rights Education, treaty provisions and the recommendations of UN treaty bodies, there is little IHRET available in BC. BC government initiatives and funding for public education on human rights is focussed exclusively on the BC *Human Rights Code* and the Canadian *Charter of Rights and Freedoms*. The report makes recommendations for several sectors, including the BC government, the legal profession and human rights NGOs.

The meeting was facilitated by Michelle LeBaron, a professor in the Faculty of Law at the University of BC. The lead researcher for the report is Catherine Morris. The final report will be released 15 May 2012.

FIRST NATIONS RIGHTS: THE GAP BETWEEN LAW AND PRACTICE

CINDY BLACKSTOCK, REMEMBER THE CHILDREN

On April 24th, 2012, Dr. Cindy Blackstock challenged us all to stand on guard for Canada by upholding the UN Convention on the Rights of the Child. She told us about Jordan River Anderson, a First Nations child born with a rare muscular disorder. When he was two years old his doctors found he was well enough to go home, but he remained in hospital because of a funding dispute between the federal and provincial governments. He died at 5 1/2 without ever meeting his extended family.

Jordan's Principle, which requires the government of first contact to pay for services regardless of jurisdictional disputes, was passed unanimously by the House of Commons. However, services to First Nations children remain underfunded and the principle is not regularly applied. In 2007, the First Nations Child and Family Caring Society of Canada (the Caring Society) and the Assembly of First Nations filed a complaint with the Canadian Human Rights Commission which referred the case to the Canadian Human Rights Tribunal.



The tribunal's decision not to allow proceedings to be televised so people living on remote reserves could see what was happening was appealed successfully to the Federal Court. (*Aboriginal Peoples Television Network v. Canada (Human Rights Commission)*, 2011 FC 810 (CanLII)). The tribunal then dismissed the case on the basis of there being no comparator group as no one else received welfare services from the federal government. Stikeman Elliott, acted pro

bono for the Caring Society in the appeal to the Federal Court. So many children came to listen to the proceedings that they had to attend in shifts. The week before Dr. Blackstock's talk at the Vancouver Public Library, the Federal Court returned the case to a differently constituted panel of the Canadian Human Rights Tribunal for a hearing on its merits.

In stark contrast to the reluctance demonstrated by Canadian authorities to recognize the right of on reserves to enjoy the same rights as children off reserves, Dr. Blackstock has found during the campaign to promote [Shannen's Dream](#) that small children have a clear understanding of international law principles of equality and entitlement to education and other necessary services.

The school in Attawapiskat was built on a toxic waste dump. It had to be closed because the books and even the pencils were contaminated, so Shannen Koostachin began kindergarten in portable trailers that were supposed to be temporary. The federal government spends \$2000-3000 per child per year less on education than the provincial governments. Ten years later, the trailers were still there. They were rat infested, they had black mold and the heat did not work reliably. CBC aired a documentary on the *Forgotten Children of Attawapiskat* but nothing happened. Shannen Koostachin wrote to the Prime Minister and got no answer so she made a YouTube video asking kids to write to the Prime Minister.

Clara in Toronto saw the video and when she wrote to the Prime Minister she received a glossy 4 x 6 photo of him. That didn't satisfy her and the kids in her class wrote back saying "You didn't answer our question". Shannen's grade 8 graduating class was supposed to travel to Niagara Falls, but they cancelled that trip to send Shannen and two others to see the minister in Ottawa. His office was huge and luxurious but 13-year-old Shannen bravely spoke her piece. Her hands shook as she read her statement at a press conference. Shannen died tragically in a car accident when she was 15 years old-travelling out of her community to get the education she fought so hard to receive. Shannen's Dream that every child should have safe and comfortable school lives on and is supported by a growing number of school children. On February 27th, a private member's bill supporting Shannen's Dream was adopted by the House of Commons.

Dr. Blackstock reminded us that "It's what you do or do not do that defines how you stand on guard for Canada". She pointed out that the federal government has built 75 schools in Afghanistan while neglecting the needs of First Nations children, and it seems to have no problem justifying a miscalculation of 10 billion dollars in the cost of fighter jets. We cannot let this pass.

We were invited to set up community events to support Shannen's Dream. School children, cub groups and other organizations are preparing mail boxes. On June 11th, 2012 they will hold community walks to mail letters to the Prime Minister. The letters will be counted and registered on the Caring Society's website. The aim is to flood the Prime Minister's office with letters. To learn more see www.fncaringociety.com

She also told us about another child's amazing initiative to raise money for a playground for Attawapiskat. To learn more see www.northernstarfish.org

The Family Caring Society has organized a cross Canada campaign for June 11, 2012, [Our Dreams Matter Too: Walk for Culturally based Equity for First Nations Children](#)

UPCOMING TALK

May 17th, 2012, 7:00 pm, Vancouver Public Library, main branch, 350 West Georgia Street, Vancouver.

[Cooperation or Conquest: Coast Salish Legal Traditions and the Canadian State](#)

Prior to contact with Europeans the diverse norms and practices of different Indigenous peoples on the west coast of BC had evolved into highly developed legal traditions that guided the governance of community, the environment and relationships between people. Sarah Morales will explain Coast Salish legal traditions—*snw'yulb*—and the displacement of those laws during and after the colonial period. Against this background she

will examine the concept of legal pluralism and the potential for such a system today in Canada.

Sarah Morales J.D, LL.M, is an Assistant Professor in the Faculty of Law at the University of Ottawa and a PhD candidate at the University of Victoria. She is Coast Salish and a member of Cowichan Tribes.

GETTING INVOLVED

RESEARCHERS UNDERWAY

If you are interested in participating in any of our research initiatives, please contact us.

- ⬆ Restricting the human rights advocacy of Canadian NGOs: Does the law protect our work?
- ⬆ Does international law establish the right to bail?
- ⬆ The law and political prisoners in the Philippines.

NOTABLE DECISION

[Canada \(Human Rights Commission\) v Canada \(Attorney General\)](#), 2012 FC 445

In a precedent setting decision on April 18, 2012, the Federal Court sent the First Nations Child and Family Caring Society complaint back to the Canadian Human Rights Tribunal for a hearing. The judgment of the Federal Court,

- ⬆ Confirmed that domestic law must be interpreted in accordance with international law obligations arising from the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) and other international law.
- ⬆ Rejected as discriminatory an interpretation of the Canadian Human Rights Act that prevents review of discriminatory practices on reserves; and,
- ⬆ Stated that, “international human rights law requires Canada to monitor and enforce individual human rights domestically, and to provide effective remedies where these rights are violated.”

[A summary of the decision is available.](#)

ANNUAL GENERAL MEETING

LRWC and LRW(Legal Research)C held their Annual General Meeting on April 27, 2012. Welcome and thank you to the people elected as directors for the coming year. Elected as directors of LRWC are: Clive Ansley, Lisa Barrett, Paul Copeland, Gail Davidson, Heather Neun and Grace Woo. Elected as directors of LRW(LR)C are: Catherine Morris, Jane Henderson, Renee Racette, Paul Schabas, Margaret (Peggy) Stanier, David F. Sutherland. Minutes of the meeting will be available next week.

NEWSLETTER CONTRIBUTORS

Paul Copeland (Burma)
Gail Davidson
Catherine Morris (IHRET, Cambodia)
Brendan Naef (Case summary)
Heather Neun (Colombia)
Grace Woo (Cindy Blackstock talk)
Andrew Guaglio (Formatting)

Thanks to LRWC donors, volunteers and paid up members whose time and money makes LRWC work possible. You can pay fees or make donations online at www.lrwc.org or through the office.

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.
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