

# Lawyers' Rights Watch Canada

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

[www.lrwc.org](http://www.lrwc.org); [lrwc@portal.ca](mailto:lrwc@portal.ca); Tel: +1 604 738 0338; Fax: +1 604 736 1175

3220 West 13<sup>th</sup> Avenue, Vancouver, B.C. CANADA V6K 2V5

## **Check Against Delivery**

**Organization:** Lawyers Rights Watch Canada  
**Item:** Item 3 Interactive Dialogue  
**Speaker:** Paulo de Tarso Lugon Arantes  
**Date:** Friday 31 May 2013  
**Re:** Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

## **Oral Statement to the 23<sup>rd</sup> Session of the UN Human Rights Council from Lawyers' Rights Watch Canada (LRWC), a non-governmental organization in special consultative status**

Mr. President:

Lawyers' Rights Watch Canada welcomes with appreciation the Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises.

We are pleased to note that the Working Group is finding increased interest by businesses and increased acceptance by States of the Guiding Principles on Business and Human Rights. Despite this evidence of increasing acceptance of these norms, the complicity of corporations and other businesses in targeting human rights defenders with abuse remains entrenched in States where judicial harassment and arbitrary detention of human rights workers is escalating, such as in Cambodia<sup>1</sup>; as well as in States where laws fail to meet international human rights standards such as Thailand's criminal defamation laws that are regularly used to prosecute human rights activists;<sup>2</sup> and in States where deep-rooted patterns of impunity protect powerful individuals from accountability for attacks and murders of human rights defenders,<sup>3</sup> such as in Cambodia;<sup>4</sup> Honduras<sup>5</sup> or Colombia.<sup>6</sup> Problems of corporate complicity in abuses are not confined to States with poor rule-of-law indicators. Transnational corporations registered in States with relatively robust legal systems are associated with severe human rights violations committed by their contractors or subsidiaries outside their States of incorporation, such as Canada and the United States. Yet victims find themselves without remedies either in their home states where the rule of law is weak, or in states where corporations (or parent corporations) are registered.<sup>7</sup>

Given the scope and magnitude of concerns world-wide, LRWC is disappointed that only 24 States responded to the Working Group's 2012 survey.<sup>8</sup> We request that Council urge all States to increase their cooperation and positive engagement with the Working Group.

The Report indicates that while the Working Group received more than 40 submissions on situations of grave concern, it is unable to address individual cases except in a limited number of "particularly emblematic" cases. This is unfortunate. We urge Council to ensure that the Working Group has the resources to address a broad range of individual submissions.

The Working Group's Report to the 20<sup>th</sup> Session stated an intention to "to explore the further development of international standards."<sup>9</sup> Since the current Report does not address this topic, we wonder if the Working Group could elaborate on its progress in this area.

Thank you, Mr. President.

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## References

<sup>1</sup> In Cambodia, there is an escalating pattern of corporate complicity with government officials; community activists organizing protests or speaking out about corporate land grabbing by agri-business or extractive businesses owned by powerful officials, often government officials, that control large areas of Cambodia through land concessions. Examples are the current cases of human rights defenders Ms. YORM Bopha and Mr. KUCH Veng working on cases involving the powerful Shukaku and Pheapimex corporations respectively. Lawyers' Rights Watch Canada. Letter regarding land Rights Advocate Yorm Bopha Arbitrarily Detained in Cambodia, available at <http://www.lrwc.org/land-rights-advocate-yorm-bopha-arbitrarily-detained-in-cambodia/>; Lawyers' Rights Watch Canada. Letter regarding Cambodia: Judicial Harassment and Arbitrary Detention of Human Rights Defender Kuch Veng, available at <http://www.lrwc.org/cambodia-judicial-harassment-and-arbitrary-detention-of-human-rights-defender-kuch-veng-letter/>

<sup>2</sup> For example, The Natural Fruit Company is currently using Thailand's criminal defamation law to attempt to silence and punish respected labour researcher, Andy Hall, because of his report that the company has violated international human rights of migrant workers. If convicted, he reportedly faces a fine of approximately €7.7 million. This is despite urgings of UN bodies that States should abolish criminal defamation laws replace them with civil laws that meet international human rights standards. Thin Lei Winm "Thai defamation laws allegedly used to muzzle activists and critics," Thomson Reuters Foundation, 1 May 2013, available at <http://www.trust.org/item/20130501165909-ridvm/>

<sup>3</sup> These are also States in which organized crime and conflict complicate matters, but this does not abrogate these States' responsibilities to take all possible measures to protect human rights and hold corporations and businesses accountable for human rights abuses in independent courts.

<sup>4</sup> Examples of impunity include murders of labour rights leader, Mr. CHEA Vichea, in 2004,; and the murder of Mr. CHUT Wutty in 2012. Neither case has been properly investigated. See Amnesty International, "Cambodia: Release scapegoats for killing of trade union leader," 1 May 2013, available at <http://www.amnesty.org/en/news/cambodia-release-scapegoats-killing-trade-union-leader-2013-05-01>; Amnesty International, "Kingdom of Cambodia: The killing of trade unionist Chea Vichea," 3 December 2004, available at <http://www.refworld.org/pdfid/42ae98890.pdf>; Lawyers' Rights Watch Canada, Cambodia, Myanmar, Thailand: Business enterprises and attacks on human rights defenders and protestors, Oral statement to the 20<sup>th</sup> Session of the Human Rights Council, 21 June 2012, available at <http://www.lrwc.org/?p=3940>; Lawyers' Rights Watch Canada, Letter regarding Cambodia: Escalation of Serious Human Rights Violations by Government Authorities, 30 May 2013, available at <http://www.lrwc.org/?p=3634>.

<sup>5</sup> E.g, Lawyers' Rights Watch Canada. Letter regarding Honduras: Impunity for murders of human rights defenders in Honduras: Shooting of Mr. Antonio Trejo, available at <http://www.lrwc.org/re-impunity-for-murders-of-human-rights-defenders-in-honduras-shooting-of-mr-antonio-trejo/>

<sup>6</sup> Colombian Caravana UK Lawyers' Group. [Colombia: Protecting Access to Justice, Report of the Third International Caravana to Colombia, 21 May 2013, available http://www.lrwc.org/colombia-protecting-access-to-justice-report-of-the-third-international-caravana-to-colombia-21-may-2013-report](http://www.lrwc.org/colombia-protecting-access-to-justice-report-of-the-third-international-caravana-to-colombia-21-may-2013-report); Lawyers' Rights Watch Canada and Lawyers Without Borders Canada. Amicus curiae submissions for consideration by the IACHR in the matter of *Members of José Alvéar Restrepo Lawyers' Collective v. Colombia*, Case No. 12.380, Inter-American Court of Human Rights, available <http://www.lrwc.org/colombia-members-of-jose-alvear-restrepo-lawyers-collective-v-colombia-amicus-curiae/>.

<sup>7</sup> Written statement submitted by the International Commission of Jurists on "Corporate complicity and access to justice," A/HRC/23/NGO/12, 16 May 2013, available at <http://www.icj.org/icj-addresses-human-rights-council-on-corporate-complicity-and-access-to-justice/>

<sup>8</sup> Human Rights Council, Uptake of the Guiding Principles on Business and Human Rights: practices and results from pilot surveys of Governments and corporations, Addendum to the Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/HRC/23/32/Add.2, 16 April 2013.

<sup>9</sup> Human Rights Council, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/HRC/20/29, 10 April 2012, Para 44.