

Lawyers' Rights Watch Canada

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Date: 17 September 2014

HRC section: Panel on the Rights of Indigenous Peoples

Speaker: Ms. Catherine Morris

Oral Statement to the 27th Session of the UN Human Rights Council from Lawyers' Rights Watch Canada (LRWC), a non-governmental organization in Special Consultative Status

Re: Indigenous peoples: access to justice and protection of human rights defenders in disaster risk reduction

Mr. President:

Lawyers' Rights Watch Canada welcomes the Expert Mechanism's study including its emphasis on consultation and on obtaining indigenous peoples' free, prior and informed consent on measures that may affect their lands, territories and natural resources.

Good access to justice and protection of indigenous activists and human rights defenders is key to the reduction of indigenous peoples' vulnerabilities. Yet human rights defenders are often subject to pressures when working with indigenous communities. For example:

- In Brazil, indigenous human rights defender Davi Kopenawa recently received death threats after his successful campaign against gold mining in Yanomami territory.¹
- In Canada, indigenous peoples are concerned about the lack of free, prior and informed consent to the use of indigenous lands and resources. There have been allegations of government surveillance of indigenous human rights activists.² Indigenous women and girls in Canada comprise a disproportionate number of those living in poverty and are particularly vulnerable to abuse, yet access to justice for cases involving economic, social or cultural rights remains inadequate due in part to lack of government legal aid funding.³
- In Colombia, indigenous leaders⁴ and human rights defenders are regularly targeted with threats,⁵

1 Death Threats against Indigenous Leader Mr. Davi Kopenawa, Letter from LRWC, 13 August 2014, available at:

<http://www.lrwc.org/brazil-death-threats-against-indigenous-leader-mr-davi-kopenawa-letter/>

2 Russell Diabo and Shiri Pasternak, "First Nations under Surveillance: Harper Government Prepares for First Nations

"Unrest." *Media Co-op* (June 7, 2011), available at: <http://www.mediacoop.ca/story/first-nations-under-surveillance/7434>

and Martin Lukacs and Tim Groves, "RCMP spied on B.C. natives protesting pipeline plan, documents show," *Toronto*

Star (May 9, 2012), as cited in LRWC, *The Shrinking Space for Dissent in Canada*. Written Statement by Lawyers Rights

Watch Canada to the 26th Session of the UN Human Rights Council, 26th Session, available at: <http://www.lrwc.org/canada-the-shrinking-space-for-dissent-in-canada-report/>

3 Lois Leslie. *The Right to Legal Aid: How British Columbia's Legal Aid System Fails to Meet International Obligations*

(Vancouver: Lawyers', Rights Watch Canada, September 2014, available at: <http://www.lrwc.org/ws/wp-content/uploads/2014/08/Right-to-Legal-Aid-BC-Fails-International-obligations.10.Sept..14.pdf>;

Lois Leslie. *The Right to Legal Aid: A Guide to International Law Rights to Legal Aid* (Vancouver: Lawyers', Rights Watch Canada, September

2014, available at: [http://www.lrwc.org/ws/wp-content/uploads/2014/08/International-Rights-to-Legal-Aid-](http://www.lrwc.org/ws/wp-content/uploads/2014/08/International-Rights-to-Legal-Aid-Sept.10.LML..pdf)

[Sept.10.LML..pdf](http://www.lrwc.org/ws/wp-content/uploads/2014/08/International-Rights-to-Legal-Aid-Sept.10.LML..pdf)

4 Regarding the concerning pattern of attacks on indigenous leaders, see the recently released report of the Inter-American Commission on Human Rights: *Truth, Justice and Reparation: Fourth Country Report on the Human Rights Situation in Colombia*, OEA/Ser.L/V/II. Doc. 49/13 13 diciembre 2013 (Spanish only), π 767-769, available online:

<http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>.

5 As an illustration of the alarming number of threats, the IACHR was informed by ONIC (National Organization of Indigenous People) of 32 threats between January and November 2012. Of this total, 22 were against leaders for their

harassment, stigmatization and killings for their defence of their ancestral culture and territories.

- In Thailand, Mr. Porlagee (Billy) Rakcharoen, a Karen human rights defender seeking recognition of indigenous land rights, is a suspected victim of enforced disappearance. He has not been seen since his arrest on 17 April, even though authorities claim to have released him.⁶

Attacks on indigenous human rights defenders are symptoms of a lack of consultation and collaboration that is essential for disaster risk reduction. Accordingly, we join the Expert Mechanism in seeking Council's particular attention to indigenous human rights defenders.⁷

Thank you, Mr. President.

positions in defence of their territories and against militarization, as well as opposition to large scale development and extractive initiatives: π771-772. An specific threat against an indigenous human rights defender was recently reported by Amnesty International, Colombia: Indigenous defenders receive death threat: Juan Pablo Gutiérrez, 21 August 2014, available at: <http://www.amnesty.org/en/library/asset/AMR23/029/2014/en/4a6f6aa1-72bd-4e76-a96d-dceeb60823ae/amr230292014en.html>; Lawyers Without Borders Canada, Abogados sin Fronteras Canadá manifiesta su profunda preocupación por las amenazas contra el defensor de derechos humanos Juan Pablo Gutiérrez, LWBC/ASFC, 26 August 2014, available at: <http://www.asfcanada.ca/en/news/abogados-sin-fronteras-canada-manifiesta-su-profunda-preocupacion-por-las-amenazas-contra-el-defensor-de-derechos-humanos-juan-pablo-gutierrez-362>.

⁶ LRWC, "Allegation of Enforced Disappearance of Mr. Porlagee Rakcharoen (also known as Billy Rakchongcharoen), a Human Rights Defender, available at: <http://www.lrwc.org/?p=8087>; Paritta Wangkiat, "Activists call for justice on 'vanishings'," Indigenous Peoples Human Rights Defenders, 30 July 2014, available online: <http://www.iphrdefenders.net/country-updates/thailand/427-activists-call-for-justice-on-vanishings>

⁷ Report of the Expert Mechanism on the Rights of Indigenous Peoples on its seventh session, Geneva, 7–11 July 2014, A/HRC/27/64, 8 August 2014, paragraph 11.