

# Lawyers' Rights Watch Canada

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

## NEWSLETTER

June 17, 2008 WINTER/SPRING 2008

*Protecting human rights by protecting those who defend.*

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#### ONGOING

#### **Inter-American Commission of Human Rights (IACHR) Petition**

On March 4, 2008, LRWC's Brazil Monitor, Paulo Arantes filed a Petition in Portuguese on behalf of Brazilian advocate Dr. Daniel Ponte, asking the IACHR to recommend, and the Inter-American Court of Human Rights (IACtHR) to order, the government of Brazil to:

- 1) Immediately provide effective protection for Dr. Ponte
- 2) Commence an impartial and independent investigation of the threats against Dr. Ponte and to identify perpetrators through appropriate prosecutions and trials.

Dr. Ponte is a legal expert and physician at the Legal Medical Institute (IMPAP) in Rio de Janeiro. He was the Vice-Director of IMLAP between 2005 and 2006.

LRWC is working with Front Line – the Dublin Based International Foundation for the Protection of Human Rights Defenders.

The Brazilian Government is apparently working towards a solution both in terms of offering adequate protection and bringing the perpetrators to trial. Developments to date include:

- Dr. Ponte has rejected the offer from the government of Brazil to put him in the witness protection program as this would curtail or hamper the visibility and mobility he needs to continue his advocacy. Brazil has no federal program for the protection of human rights defenders. Article 27 of the *Vienna Convention on the Law of Treaties* prohibits a state from invoking domestic law as an excuse for failure to provide the protection or remedies required by treaties.
- On May 29, Brazilian police arrested a Member of Parliament alleged to have been involved in threats to Dr. Ponte.

- Front Line has offered Dr. Ponte an internship in Ireland pending Brazil putting satisfactory protection measures in place.
- LRWC is continuing to pressure the government and the IACHR for remedial action.
- There have been no more threats since the Petition was filed.

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### **Guantánamo Bay: Violation of Right to Counsel Complaint to UN.**

On May 22, 2008, LRWC filed a complaint with the Leandro Despouy, UN Special Rapporteur on the Independence of Judges and Lawyers that US authorities, in violation of binding international standards, were refusing to allow US attorneys David Nevin and Scott McKay access to their client Khalid Sheikh Mohammed. Mr. Mohammed, who has been in US custody since March 1, 2003, and in Guantánamo Bay since September 2006, was charged in February 2008 under the *Military Commission Act* with murder and war crimes and arraignment is scheduled for June 5, 2008.

The US had maintained that security clearance was a pre-requisite to access, but failed to conduct clearance procedures. Security clearance has now been granted.

LRWC advised Mr. Despouy that security clearance has been granted to the attorneys and requested that the complaint be kept open on the issues of whether the access provided by US authorities complies with international standards regarding timeliness, confidentiality and freedom from interference and whether the delay in providing access has caused ‘irremediable prejudice’ to the right to present a defense. LRWC’s Geneva representative Paulo Arantes met with Mr. Despouy on June 2, 2008. The meeting was arranged by our colleague Edre Olalia of the National Union of Peoples’ Lawyers (Philippines). On Despouy’s recommendation the complaint was forwarded to Martin Scheinin, Special Rapporteur on the promotion and protection of human rights while countering terrorism. On June 17/08 On June 17, 08 Paulo met with Sonia Cronin and Julia Raue the assistants for Scheinin and Despouy. LRWC is continuing to track the situation. The American Civil Liberties (ACLU) advises that negotiations with US authorities regarding access by counsel to Guantánamo Bay clients are ongoing. LRWC

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### **UN Human Rights Council Special Session on World Food Crisis. May 22, 2008**

Top UN officials say the rise in global food prices is posing a major threat to basic human rights. Speaking before the UN Human Rights Council in Geneva Thursday, UN High Commissioner for Human Rights, Louise Arbour, said the soaring costs of basic staples should be seen as an issue of international humanitarian law. “Excellencies, the current food crisis stems from a perverse convergence of several factors, including distortions in supply and demand, unfair trade practices, as well as skewed policies involving incentives or subsidies. Yet, at its core and in its punitive effects, this crisis boils down to a lack of access to adequate food. Such access is a right protected in international law.”

Meanwhile, Oliver de Schutter, the independent UN expert on the right to food, said the world food crisis should not be seen as a natural disaster. “Natural disasters are not human rights violations in themselves, unless states who can help victims stand by and do nothing to help people. The world food crisis is not a natural disaster. The causes are political. The causes are known. So if we impose an obligation to act, this prevents us from remaining silent.”

LRWC representative Paulo Arantes attended this UN Special Session. A report will be available next month.

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### **China**

On May 7/8 2008 Clive Ansley, LRWC China Monitor, was a member of a three-member panel speaking before Parliamentarians regarding whether or not human rights were improving or deteriorating as a result of the Olympics.

On May 21, 2008, Clive and Gail Davidson met with Rose Keith, who is taking a delegation of lawyers to China in November. LRWC offered to provide education materials on the legal system including the independence of lawyers and judges in China.

Clive also met with Law Society of Upper Canada Benchers Paul Schabas, Heather Ross and Raj Anand to discuss collaboration on China between LRWC and LSUC.

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### **Bangladesh**

Bangladesh has been under Emergency Rule since January 2007. LRWC has obtained English language translations of the Emergency Powers Ordinances and Rules and John Cotter has prepared a draft legal brief that will form the basis of a statement regarding the independence of the judiciary and access to judicial safeguards of human rights in Bangladesh.

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### **Omar Khadr: Denial of right to counsel and to impartial and independent tribunal**

Diane Tourell has produced a follow-up to the letter LRWC directors Paul Copeland, Catherine Morris, Leo McGrady and Gail Davidson calling for the release and repatriation of Omar Khadr.

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### **Pakistan**

LRWC published a statement applauding the courageous integrity of Pakistan lawyers on the Long March on June 12, 2008. LRWC continues to support Pakistan lawyers' advocacy to restore the judiciary and the Constitution and their opposition to state lawlessness.

### **OTHER ACTIONS**

**Feb. 11/08 Special Senate Committee on Anti-Terrorism/Security Certificates – Bill C-3**  
LRWC Director Paul Copeland gave evidence critical of Bill C-3 to the Senate Committee.

**Feb. 20/08 United Nations Human Rights Council (UNHRC) re: Pakistan** LRWC submitted a brief to the UNHRC calling for release of imprisoned jurists and restoration of the constitution and the judiciary in Pakistan. The LRWC brief was endorsed by 17 international NGOs including the Law Society of Upper Canada, the National Lawyers Guild and the American Association of Jurists,

**March 5 – 12 2008, 7<sup>th</sup> Session of the UNHRC** LRWC Executive Director Gail Davidson delivered an oral presentation to the UNHRC and met with the High Commissioner for Human Rights Louise Arbour, Special Rapporteur on Torture Manfred Nowak, Special Representative for Human Rights Defenders Hina Jilani and partner NGOs from other countries.

**March 17 – 31 2008, Guatemala** LRWC Director Heather Neun visited Guatemala to meet with human rights defenders regarding safety and independence.

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### **International Human Rights Lecture Series: Jan 26 – April 19, 2008**

- **The Development of International Human Rights and Humanitarian Law.** Lecture by the Honorable Claire L'Heureaux-Dubé, former Justice of the Supreme Court of Canada, human rights activist and LRWC director.
- **Bush's War on the Rule of Law** Lecture by Marjorie Cohn, law professor, president of National Lawyer's Guild and author of *Cowboy Republic: Six Ways the Bush Gang Has Defied the Law*.
- **Security Integration and Rights Disintegration in the War on Terror** Lecture by Maureen Webb, Canadian Lawyer, LRWC director and author of *Illusions of Security: Global Surveillance and Democracy in the Post 9/11 World*.
- **Transferring to Torture: Canada, Human Rights and Detainees** Lecture by Professor Michael Byers, Canada Research Chair in Global Politics and International Law at UBC and author of *War Law: Understanding International Law and Armed Conflict*.

### **THE FUTURE**

**On June 16, 2008,** Michael Jackson will be a guest speaker, on behalf of LRWC at a conference in Human Rights Law and Policy in Melbourne Australia. Michael will be speaking on Risking Rights, Freedoms and Independence: Advocating the Advocates. While in Melbourne, Michael will also be speaking to another group on international prison law standards.

**October 2008, LRWC Fund Raising Dinner** Hina Jilani, UN Special Representative on Human Rights Defenders from 2000 to 2008 (Margaret Sekaggya was appointed to this mandate May 1, 2008) has accepted our invitation to be the keynote speaker at the LRWC's fundraising dinner.

### **OF INTEREST**

The mandate on the situation of human rights defenders was established in 2000 by the UN Commission on Human Rights (as a Special Procedure) to support implementation of the 1998 Declaration on human rights defenders. Hina Jilani was appointed as the first Special Representative on Human Rights Defender and served in this role until May 2008 when Margaret Sekaggya was appointed to take her place. Mrs. Sekaggya is a magistrate from Uganda and had been the Chairperson of the Uganda Human Rights Commission since 1996. She was also a member of the United Nations High Level Task Force on the Implementation of the Right to Development.

### **ANNUAL GENERAL MEETING**

The Annual General Meeting was held April 26, 2008, 1:00 pm at #150 - 900 Howe St., Vancouver, BC.

We are proud to announce that Marjorie Cohn, President of the National Lawyers Guild, was elected to the board of LRWC and that James Tate of Ratcliffe and Co., N. Vancouver and Constance Marlatt of Dept. of Justice, Toronto joined the board of directors of LRW(Legal Research)C.

**Directors LRWC**

Kelley Bryan  
Paul D. Copeland  
Marjorie Cohn  
Gail Davidson  
Richard C. Gibbs QC  
Leo McGrady QC  
Howard Rubin QC  
Maureen Webb

**Directors LRW(Legal Research)C**

William A. Schabas  
James Tate  
Catherine Morris  
Constance Marlatt  
The Honourable Claire L'Heureux- Dubé  
Steven Kelliher  
Michael Jackson QC

**MEMBERSHIP FEE REMINDER**

**Many members have not yet paid their fees for 2008. The work LRWC does with your fees is good and necessary. You can pay (\$50/year) by cheque or visa. Donations in excess of the membership fee are eligible for an income tax receipt.**

**To pay by cheque or money order please mail to:**

**Lawyers Rights Watch Canada  
3220 West 13<sup>th</sup>. Ave.  
Vancouver, BC  
Canada, V6K 2V5**

**To pay by Visa, provide the following information by phone: 604 738 0338 or fax: 604 736 1175 or email: [lrwc@lrwc.org](mailto:lrwc@lrwc.org)**

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