

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
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LRWC NEWS – August 2009

Tuesday, September 1, 2009

In-Country Investigations

Catherine Morris visited Cambodia from August 11th to 19th to further investigate the key problems with the independence of the bench and bar in Cambodia and to identify challenges and obstacles to effective intervention on these issues. Catherine also met with human rights advocates in Thailand. This investigation is a follow-up to problems identified in LRWC's July report to the UN Special Rapporteur, [Cambodia: Concerns about Independence of Jurists: Trends 2004-2009](#). Catherine is a Director of LRWC and an adjunct professor at the University of Victoria Faculty of Law. A report on the Cambodia will be available next month. LRWC's September fact-finding trip to Mexico with Peace Brigades International has been postponed.

Letters for Lawyers

During August LRWC members wrote letters on behalf of lawyers in Iran, the Philippines, Sri Lanka, Syria and Vietnam. These lawyers were subjected to: arbitrary detention (Walid al-Bunni of Syria, Abdolfattah Soltani of Iran and Le Cong Ding of Vietnam); malicious prosecution (Remigio Saldero of the Philippines); and death threats (Dr. Paikiasothy Saravanamattu of Sri Lanka). Abdolfattah Soltani, prominent Iranian human rights advocate and founder of the Defenders of Human Rights Centre, was arrested on June 6, 2009 and held incommunicado. Shortly after his arrest LRWC wrote a letter on his behalf, jointly with the International Association of Democratic Lawyers, and then sent monthly follow-ups. Mr. Soltani was released on bail on Aug. 26/09, in response, we presume, to pressure from LRWC and other NGOs. As part of LRWC work with Guria, a Varanasi-based group opposed to trafficking in children, LRWC sent a letter seeking remedies for a 12-year old child sex trafficking victim.

United Nations

Lois Leslie attended and reported on the Third Session of the UN Human Rights Council (UNHRC) Advisory Committee held August 3-7/09 in Geneva. ([Report on LRWC attendance at the Third session of the Human Rights Council Advisory Committee](#)) LRWC filed a report prepared by Catherine Morris, [Concerns with the independence of Lawyers and Judges in Cambodia](#), for consideration by the UNHRC during the 12th session of the UNHRC Sept. 14 to Oct. 2/09.

Notable Court Decisions

Pakistan: On July 31, 2009 a 14-member panel of the Supreme Court of Pakistan SCP, ruled that all:

1. orders declared by Musharraf during emergency measures (EM) were unconstitutional, illegal and of no effect;
2. judges removed from office for not taking the oath be restored;
3. judges appointed under EM be removed from office;
4. judges re-appointed after taking the oath be dealt with in accordance with the conduct review provisions of the Pakistan Constitution;
5. judgments of the illegal court having to do with the Constitution are invalid.

This unprecedented decision affirms the primacy of the Constitution of Pakistan and of rule of law and is important worldwide. In February 2008 LRWC filed a report with the UNHRC stating that the Pakistan EM violated international norms and were illegal ([Unlawful Emergency Measures in Pakistan](#)). For background on LRWC work on Pakistan see [LRWC Biennial Report 2009](#), pp. 4-5.

Canada: On August 14, 2009 the Federal Court of Appeal in [Canada \(Prime minister\) v. Khadr](#) (2009 FCA 246) affirmed Canada's duty to protect Omar Khadr's s. 7 right to life by requesting his release from Guantánamo Bay prison and return to Canada, citing duties arising under the Charter of Rights and Freedoms, the Convention on the Rights of the Child (CRC) and the Convention against Torture (CAT). In September 2008 LRWC filed a report with the UNHRC stating that Canada has a duty (arising under CAT, CRC and other international instruments) to protect Khadr by requesting his release and return to Canada. ([Duty to Protect Omar Khadr, September 8 2009](#))

Research in Progress

Meghan Clarke is researching decisions on the legality of EM including the recent Pakistan decision. LRWC will use Meghan's brief in the preparation of another report to the UNHRC on the need for a declaration clarifying international EM standards. Brian Cheng is researching fair trial and right to counsel issues arising in the Omar Khadr case. Ellen Gilley has prepared a brief on the Universal Periodic Review process as exemplified by the UPR of China. Meghan Clarke is a lawyer doing her masters in law focusing on international human and women's rights at the University of Toronto. Brian Cheng is an award winning law student at Seattle University School of Law. Ellen Gilley is an honours student at McGill University who hopes to qualify for a Rhodes scholarship.

Upcoming Events

- Harini Savalingam, LRWC Sri Lanka monitor, will attend the 12th session of the UNHRC in Geneva between September 14 and October 2 2009.
- Lois Leslie will attend the Information Briefing for NGOs on 16 September 2009 in Geneva.
- LRWC and Lawyers for Lawyers (L4L) have been invited to attend the UN General Assembly sitting in New York on October 22 for the presentation by the new UN Special Rapporteur on the independence of judges and lawyers, Gabriela Carina Knaul de Albuquerque e Silva, of Leandro Despouy's final report. ([Independence of Lawyers and Judges](#)) LRWC could also participate in a side event on advocacy rights. LRWC and L4L both contributed information for this report.

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