

# Lawyers' Rights Watch Canada

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

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### LRWC Annual General Meeting – Saturday April 24<sup>th</sup> 2010 in Toronto and Vancouver

LRWC's AGM will be held on Saturday April 24<sup>th</sup>, simultaneously in Toronto and Vancouver with the Toronto and Vancouver locations linked by video-conference. We are doing this so members can meet directors, monitors and other LRWC members. The meeting will be in Toronto from 3:00-5:00 p.m. at the Law Society of Upper Canada, 130 Queen Street West in the Lamont Room; and in Vancouver from noon-2:00 p.m. at Simon Fraser Harbour Centre, 515 West Hastings Street in Room 2300. **People attending should arrive half an hour early at each location.** Speakers will be Robert Diab in Vancouver and Paul Copeland in Toronto. Their talks will examine issues critical to current human rights struggles: Robert on *The Psychology of National Security: Refuting Claims that Human Rights are Incompatible with Effective Counter-Terrorism Measures* and Paul on *Criminal Violations, Civil Liability, Professional Misconduct and Unethical Practices: Lawyers in National Security Work*. Robert Diab is a lawyer, law professor and author of *Guantanamo North: Terrorism and the Administration of Justice in Canada* (Fernwood, 2008). Paul Copeland is a criminal barrister, a life bencher of the Law Society of Upper Canada and recipient of the Sidney B. Linden and G. Arthur Martin awards. His volunteer advocacy includes work with Law Union of Ontario, Criminal Lawyers Association, Association in Defence of the Wrongly Convicted and LRWC.

### United Nations: 13<sup>th</sup> Session of the Human Rights Council (HRC) in Geneva, March 1-26

Isabela Piacentini attended the 13<sup>th</sup> Session of the HRC from March 9 - 26 as the LRWC representative. The following issues from the Session received special attention and follow-up by LRWC:

1. Torture and other cruel, inhuman and degrading treatment or punishment and the role of the legal profession
2. Respect of Human Rights and Fundamental Freedoms while countering terrorism
3. Protection of Human Rights Defenders
4. Draft Declaration on Human Rights Education and Training
5. Optional Protocol to the Convention on the Rights of the Child
6. Universal Periodic Review of Cambodia

Ms Piacentini met with NGO and government representatives, UN Special Rapporteur on Torture, Manfred Nowak and Special Rapporteur on the Independence of Judges and Lawyers Gabriela

Albuquerque. In addition to attending sessions of the HRC, Ms Piacentini attended meetings to discuss and debate drafts of three resolutions prior to presentation to the HRC: the resolution sponsored by Denmark on *Torture and other cruel, inhuman or degrading treatment or punishment: The role and responsibility of judges, prosecutors and lawyers*; the resolution sponsored by Mexico on *Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*; and the resolution sponsored by Norway on *Protection of Human Rights Defenders*. Vigorous debates between states on the latter resolution revolved around whether the protected activities of human rights defenders had to comply with domestic law as well as with international standards or only with international human rights instruments. This issue is important to the safety and independence of human rights defenders given that many states use domestic laws to stifle and punish advocacy to uphold internationally protected rights.

Ms Piacentini attended the side event on Torture and accountability: the responsibility of the legal profession, hosted by the International Commission of Jurists. Speakers at this event included Professor Nowak and Italian prosecutor Armando Spataro. Mr. Spataro was the prosecutor in charge of the prosecution of 23 C.I.A. agents for kidnapping a man in Milan and transferring him to Egypt for torture. During the investigation Mr. Spataro was the target of surveillance, telephone taps and an investigation for the betrayal of state secrets. At one point he questioned whether it was possible for a prosecutor to conduct an independent investigation of a politically sensitive criminal allegation. In October 2009, the C.I.A. agents were convicted and sentenced *in absentia*.

On March 17, 2010, Ms Piacentini delivered an oral statement, *Comments on the Report of the Working Group on the Universal Periodic Review of Cambodia*, to the HRC. The Asian Legal Resource Centre joined LRWC in this statement which highlighted the lack of independence of the bar and the bench in Cambodia and ongoing dangers faced by lawyers representing peasants in land rights cases. The presentation was summarized in a UN Press Release and is available on the UN video cast. (Press Release: Human Rights Council adopts outcomes of Universal Periodic Review on Cambodia, Norway and Albania: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9915&LangID=E>. The video is available at <http://www.un.org/webcast/unhrc/archive.asp?go=013>.)

### **Meeting with Manfred Nowak: Omar Khadr Update:**

On March 11, 2010 Ms Piacentini met with Manfred Nowak regarding the Omar Khadr case. Professor Nowak invited LRWC to make a formal complaint to him on the Omar Khadr case and agreed to take action on the complaint by sending direct requests both to the US and Canada asking for Omar Khadr's release from U.S. custody and repatriation to Canada. LRWC sent a formal complaint on March 22, 2010. LRWC reports on the Omar Khadr case filed earlier with the HRC are available on the UN document website. LRWC's September 8, 2008 Report is available at: [http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/LRWC\\_CAN\\_UPR\\_S4\\_2009\\_LawyersRightsWatchCanada.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CA/LRWC_CAN_UPR_S4_2009_LawyersRightsWatchCanada.pdf); LRWC's February 22, 2010 Report is available at [http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=16700](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=16700) (scroll down to LRWC document A-HRC-13-NGO121.)

A full report of LRWC's attendance at the 13<sup>th</sup> Session of the HRC is available on the LRWC website at <http://www.lrwc.org/documents/LRWC.Report.on.13th.Session.of.UN.HRC.Mar.30.2010.pdf>.

## Letters for Lawyers

**Mexico:** On February 16, 2010 a convoy of troops from the 19<sup>th</sup> Infantry Battalion, accompanied by a group of civilians, invaded the Mexican community of La Morena. Apparently looking for Javier Torres Cruz, they shot Torres' uncle, killed his brother, and arrested Torres' grandfather and another person charging them with arms and drug offences. On March 1<sup>st</sup> Hamburg-based INI-MEX and LRWC sent a joint letter to Mexican authorities urging protective measures for Javier Torres, who has been targeted with threats since he and his uncle testified that major landowner and ex-mayor of Petatlán Rogaciano Alva Álvarez had ordered three gunmen to kill Mexican human rights lawyer Digna Ochoa on October 19, 2001. (LRWC has been monitoring the investigations into Digna Ochoa's murder since early 2002.) Mexican newspaper *El Sur* published the INI\_MEX/LRWC letter on March 5<sup>th</sup> under the headline, *Piden al gobernador desde Alemania y Canadá que se investiguen abusos del Ejército en la sierra de Petatlán*. Two Austria-based NGOs, La Plataforma México de Viena and La Comité de Solidaridad México-Salzburg, have since endorsed the letter.

**Spain:** On February 3, 2010 an investigative judge of the Second Chamber of the Supreme Court of Spain decided to continue a judicial investigation against Justice Baltazar Garzón for breach of his legal duty to observe Spanish law, in particular the 1977 amnesty law. The complaint was brought by two right wing groups, Manos Limpias and Libertad e Identidad (joined by the Falange party in March/10), after Garzón opened an investigation in October 2008 into the forced disappearance of people during the Franco period. The investigation was opened in reliance on the 2007 *Ley de Memoria Histórica*. Before Garzón terminated his investigation in November 2008 he had identified 114, 266 disappearances and executions, ordered the exhumation of 19 graves and accused Franco and 34 former generals and ministers of crimes against humanity. Judge Garzón is widely known as the investigative judge responsible for issuing an international warrant for the arrest of Augusto Pinochet on charges of torture and murder. LRWC (Diane Tourell, Gail Davidson and Alyssa Brierley) is preparing a complaint that the accusations against Judge Garzón are illegitimate.

## Updates: Letters for Lawyers

**India:** LRWC received a reply to Trish Apland's February 7, 2010 letter written on behalf of lawyer Devi Singh Rawat who was arrested and charged in apparent reprisal for his work for the National Project on Prevention of Torture.

**Philippines:** LRWC received a reply from the Commission on Human Rights of the Philippines to Darlene Kavka's letter of February 10, 2010 on behalf of 43 medical workers and trainees wrongly arrested and detained. The reply advised that the CHRP had accepted a complaint from the Public Interest Law Center and the National Union of People's Lawyers alleging illegal actions by the Philippine Armed Forces, the National Police and other state agents in the arrest, detention and treatment of the medical workers. The CHRP is conducting an investigation and has ordered the respondents to reply to the complaint and has set the complaint for hearing.

## Notable Decisions

*Donald Vance and Nathan Ertel v. Donald Rumsfeld, United States of America and Unidentified Agents.* On March 5, 2010, Judge Anderson of the U.S. District Court for the Northern District of Illinois Eastern Division ruled that a damage action against former Secretary of Defense Donald Rumsfeld and others, for authorizing torture, could proceed. The court dismissed Rumsfeld's claims that as Secretary of Defense, he had immunity and that the U.S. Constitution empowered him to authorize interrogation techniques considered by human rights advocates to be torture. In the 39-page ruling, Anderson J. cited the definitive observation made by Justice O'Connor's in the 2004 *Hamdi v. Rumsfeld* decision of the U.S. Supreme Court: "We have long since made clear that a state of war is not a blank check for the president

when it comes to the rights of American citizens." The plaintiffs, two U.S. citizens employed in Iraq by Shield Group Security (SGS), allege they were arrested by the U.S. Armed Forces in Iraq after making complaints of corrupt dealings against SGS, and were then tortured for three months while imprisoned in Abu Ghraib. Illegal treatment alleged by the plaintiffs include extreme sleep deprivation, interrogation for hours at a time, enforced exposure to extremely cold temperatures, and denial of food and water. The decision can be accessed at: <http://chicago.indymedia.org/usermedia/application/6/vance.opinion.pdf>.

## LRWC Publications

- *Report on the 13<sup>th</sup> Session of the United Nations Human Rights Council (1-26 March 2010)*, Isabela Piacentini de Andrade, March 30 2010.
- *Formal Communication for Consideration and Action Re: Omar Khadr, March 22, 2010*. Complaint to Special Rapporteur on Torture, Manfred Nowak.
- *The Omar Khadr Case: How the Supreme Court of Canada Undermined the Convention on the Rights of the Child*, Grace Le Wiu Woo, LL.D., March 4<sup>th</sup> 2010.
- *Cambodia: Summary report on the situation of lawyers and human rights defenders in Cambodia 2009*, Catherine Morris, March 2010.
- *Iran: Country Monitoring Report from June 2009 to March 2010*, Tina Parbhakar, March 15, 2010.
- *Mexico: Country Monitoring Report from June 2009 to March 2010*, Cara Gibbons, March 16, 2010.
- *Pakistan: Country Monitoring Report*, John Cotter, March 25, 2010.

## New UN Website: CSO Net - the Civil Society Network

A growing demand from organizations from both the developed and developing countries to contribute to the UN's economic and social agenda has prompted UN Department of Economic and Social Affairs to launch a knowledge-based, open networking platform called CSO Net - the Civil Society Network (<http://www.un.org/ecosoc/csonet>). The network is designed to facilitate interaction among civil society groups worldwide, Member States and UN system agencies. Please take a moment to visit the site, and let us know how you think LRWC might participate in using the site.

Visit LRWC at [www.lrwc.org](http://www.lrwc.org) and on [Facebook](#) and [Twitter](#)!

## Defend Defenders around the world by becoming a monthly donor to LRWC

- Fees and donations can be made by cheque or Visa.
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- Monthly donations increase LRWC's ability both to respond quickly and plan ahead.
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