

Lawyers' Rights Watch Canada

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

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LRWC NEWSLETTER

June 2010

Letters for Lawyers

Canada, Mexico, Rwanda, Syria

Inter-America Court of Human Rights

Publications

The Validity of Amnesty Laws under International Law

Recalling the Rule of Law: A report on the protection of human rights defenders and the rule of law in the states of Guerrero and Oaxaca, Mexico, Bar Human Rights Committee of England and Wales.

UN Human Rights Council

Attendance at the 14th Session in Geneva; Parallel Event on Protective Measures; LWRC written and oral statements to the HRC

New LWRC & LRW(LRC) Officers

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Notable Development

Letters for Lawyers

Canada: LRWC signed a Declaration calling on the Prime Minister to stop threatening NGOs and individuals with reprisals for criticizing government, to support political diversity and public debate and to respect Parliament. The declaration was signed by over 140 Canadian organizations including Amnesty International and the BC Civil Liberties Association.

Mexico: LRWC received replies to our May call for an investigation of the ambush of 40 journalists and human rights defenders in Oaxaca that resulted in two deaths. Replies from the Mexican Ambassador to Canada and the Deputy Minister for Multilateral Affairs and Human Rights indicate that both the Federal Attorney General's Office and the Human Rights Commission are investigating.

Rwanda: LRWC continued to advocate for the release of Peter Erlinder, the U.S. lawyer and professor arrested on charges relating to statements made in reference to the defence of clients charged with genocide and genocide denial. LRWC signed a joint letter from the National Association of Criminal Defense Lawyers, the International Criminal Defense Attorneys Association, the International Bar Association and the Paris Bar Association and engaged with plans for a rally of lawyers in The Hague. Erlinder was released from custody June 17, 2010 on medical grounds and has now returned to the U.S. The charges remain. LRWC letters and a summary of the case is available at www.lrwc.org

Syria: Muhanad Al-Hasani (LRWC Newsletter, November 2009), President of Sawasiya, International Commission of Jurists Commissioner, winner of the 2010 Martin Ennals Human Rights Defender Award, was sentenced to 3 years imprisonment on charges of 'weakening national sentiments and transmitting false news likely to weaken national sentiment.' NGOs following the case have condemned the charges and the court proceedings as wholly illegitimate. Observers reported violations of virtually all Mr. Al-Hasani's trial rights, including rights to an independent court, presumption of innocence, disclosure of evidence, the opportunity to present a full defence, equality before the law and the right to appeal. The charges violated the penal offence requirement of certainty and the prohibition of absolute liability. The charges were so vague and broad as to enable the state to criminalize any potentially critical statement while making a defence impossible. Mr. Al-Hasani's conviction highlights the need for a brief examining the illegitimacy of false news charges and other criminal sanctions against 'weakening national sentiment.' Such charges mirror the offences first introduced in England by the 1275 *De Scandalis Magnatum* which prohibited, "...false news or Tales, whereby discord, or accession of discord or slander

may grow between the King and his people.” The essence of the offence was the effect—inspiring disaffection for a ruler or the state and therefore truth was not a defence. Although over 25 years ago Lord Denning said such offences had been obsolete for 150 years, many states are again resorted to such offences to punish lawyers whose legal work threatens to expose wrongdoing by state agents. For a summary see, http://en.euromedrights.org/index.php/news/emhrn_releases/67/4457.html

Inter-American Court of Human Rights

LRWC filed an *amicus curiae* brief with the Inter-American Court of Human Rights in *Valentina Rosendo Cantú et al v. The United States of Mexico*, Case No. 12.579, June 9, 2010. The brief was prepared by Cara Gibbons with assistance from Alyssa Briereley. The case involves a 2002 complaint alleging that members of the military raped an indigenous woman in Guerrero. In Mexico, this and other complaints of criminal wrongdoing against members of the military are handled by the military system and result in an impunity rate of close to 100%. The LRWC submissions focus on rule of law and advocacy rights violations within the military system that have prevented investigation and remedies.

Publications

- *The Validity of Amnesty Laws under International Law*, Laura Best.
- *Recalling the Rule of Law: A report on the protection of human rights defenders and the rule of law in the states of Guerrero and Oaxaca, Mexico* will be released July 15, 2010 by the Bar Human Rights Committee of England and Wales at a reception hosted by Lord Brennan at the House of Lords, London. The report contains the findings of the November-December 2009 delegation of lawyers from Canada (LRWC), U.S., U.K. and Germany to Oaxaca and Guerrero. LRWC Director Cara Gibbons was a member of the delegation and is one of the authors of this exhaustive report. The report will be available after July 15.

UN Human Rights Council

Attendance at the 14th Session of the Human Rights Council in Geneva

Isabel Stramwasser and Hugh Gwillim attended the 14th session of the UN Human Rights Council (HRC): Isabel attended from May 31 – June 4 and Hugh from June 9 to 15.

Both Ms Stramwasser and Mr. Gwillim were successful in promoting LRWC issues to NGOs, state representatives and UN officials and both recommend that LRWC continue to attend HRC sessions and to participate in its human rights work. Isabel and Hugh both stressed the importance of LRWC contributions, and the necessity for LRWC to continue to attend HRC sessions to present written and oral statements on issues of concern and to work with special mandate holders. Isabel delivered a joint oral statement on the Judge Baltasar Garzón case to the HRC on June 4th. A video of Isabel’s presentation can be viewed on the HRC website. Reports from Hugh and Isabel will be available soon.

Parallel Event on Protective Measures

Isabel Stramwasser represented LRWC at the June 3rd side event organized by LRWC and Lawyers for Lawyers and co-sponsored by the International Commission of Jurists and Lawyers for Lawyers, *Attacks on Lawyers, Judges and Human Rights Defenders: The Urgent Need for Protective Measures*. The event was well attended by people representing NGOs from Europe, North America, Africa, Asia and South America. Representatives of Government missions from Mexico, the United Kingdom, Canada, Colombia, Brazil and Hungary also attended. LRWC will continue to promote the formation of a global first responder network of NGOs to provide protective measures to advocates in danger.

LRWC written and oral statements to the 14th Session of the HRC

- Joint Written Statement by LRWC and the Asian Legal Resource Centre (ALRC) on behalf of Judge Baltasar Garzón and the Independence of the Judiciary. This statement was also endorsed by European Center for Constitutional and Human Rights (ECCHR), May 17, 2010.

- Formal Communication for Consideration and Action Re: Judge Baltasar Garzón by LRWC, ECCHR, ALRC, Lawyers Without Borders/Canada, the Center for Constitutional Rights, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), the National Lawyers Guild, the International Association of Democratic Lawyers (IADL) and Asociación Española por el Derecho Humano a la Paz (AEDIDH), May 20, 2010.
- Joint Written Statement by ALRC and LRWC on Myanmar/Burma: *The absence of minimum conditions for elections*. May 20, 2010
- Joint Oral Statement by LRWC, ALRC, IADL on the Independence of the Judiciary and the Judge Garzón case. June 4, 2010
- Joint Oral Statement by IADL, American Association of Jurists (AJA), the World Council of Churches, Franciscans International, LRWC, American Indian Treaty Council & the Ecumenical Voice of Peace and Human Rights on Extrajudicial, Summary or Arbitrary Executions and Forced Disappearances. June 8, 2010
- Joint Oral Statement by CIVICUS, IADL, Franciscans International, LRWC & AJA on the Arrest on February 6, 2010 of 43 Health Care Workers in the Philippines. June 8, 2010

Follow-up Meeting on the Judge Garzón case

LRWC has a July 1 meeting in Geneva with Manfred Nowak, Special Rapporteur on Torture, Gabriela Albuquerque, Special Rapporteur on the independence of judges and lawyers and Jeremy Sarkin, Chair of the Working Group on enforced disappearances to follow-up on the report and formal complaint filed by LRWC. Gerald Staberock of the International Commission of Jurists will attend the meeting on LRWC's behalf.

UN appoints international Panel of Experts on Sri

UN Secretary General Ban Ki-moon has appointed a Panel of Experts to advise on “the issues of accountability with regard to any alleged violations of international human rights and humanitarian law during the final stages of the conflict in Sri Lanka.” Panel members are: Mr. Marzuki Darusman (Indonesia) – Chair, Ms Yasmin Sooka (South Africa) and Mr. Steven Ratner (USA). The Panel will look into the modalities, applicable international standards and comparative experience with regard to accountability processes, taking into account the nature and scope of any alleged violations in Sri Lanka. In the conduct of its mandate, the Panel hopes to cooperate with concerned officials in Sri Lanka. It is expected to complete its advisory responsibilities within four months of the commencement of its work. Unfortunately the Sri Lankan government has announced that it will not allow the Panel of Experts entry into Sri Lanka, making the work of the expert panel more difficult to conduct. The International Crisis Group, headed by former UN High Commissioner for Human Rights, Louise Arbour, has stated that war crimes and crimes against humanity have taken place during the final phase of the armed conflict in a [report](#) released in May.

LRWC applauds this development and the work of Sri Lanka monitors Harini Sivalingam and Gary Anandasangaree. For over a year, Ms Sivalingam and Mr. Anandasangaree have promoted the creation of an independent international inquiry to investigate allegations of crimes during the final phase of the armed conflict in Sri Lanka.. Their work for LRWC has included: attending regular and special sessions of the HRC in Geneva, attending a session of the General Assembly in New York, presenting statements and issuing reports, meeting with UN, government and NGO representatives and engaging in public education.

Welcome to LRWC and LRW(LR)C Officers Elected June 24.

LRWC: *Kelley Bryan, Chair; David F. Sutherland, Vice-Chair; Gail Davidson, Secretary; Harini Sivalingam, Treasurer.*

LRW(LR)C: *Catherine Morris, Chair; Cara Gibbons, Vice-Chair; Clive Ansley, Secretary; Peggy Stanier, Treasurer.*

International Criminal Court Notable Development

State Parties attending the *Review Conference of the Rome Statute* in Kampala, Uganda passed a resolution defining the crime of aggression. No jurisdiction can be exercised until after 1 January 2017. The text of the proposed amendments to the *Rome Statute of the International Criminal Court* can be accessed at http://www.icc-cpi.int/iccdocs/asp_docs/RC2010/RC-20-ENG-Annex.II.WGCA.report.pdf. Critics say the amendments are unlikely to result in prosecutions due to provisions limiting jurisdiction. For example, state parties can opt out of the aggression amendments by lodging a declaration with the Registrar and there is no jurisdiction to prosecute aggression by a non-state party or aggression by a state party against either a non-state party or a state party that has opted out. In addition, Article 124, which allows state parties to suspend the jurisdiction of the international court for war crimes committed by their citizens or on their territory for a period of seven years, was not deleted.

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

- Fees and donations can be made by cheque or through PayPal (fees & one-time donations) or Canada Helps (one time and monthly donations). Both are linked through lrwc.org
- Monthly donations increase LRWC's ability both to respond quickly and plan ahead.
- Airline points donated to LRWC qualify as a tax-deductible donation!
- Donations made by December 31, 2010 are eligible for a 2010 charitable tax receipt.

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Thanks for your support.

