

# 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

July 2010

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UN News	LRWC's status confirmed; General Assembly declares access to water a right; Gary Anandasangaree to attend 15 <sup>th</sup> session of Human Rights Council.
Caravana of Lawyers to Colombia	Alyssa Brierley a member of lawyers' delegation to Colombia, August 23-28.
Notable Decisions	International Court of Justice on independence declaration; Supreme Court of Canada rules damages a remedy for Charter violations in the Cameron Ward case, Federal Court of Canada, Khadr v. Canada

### Letters for Lawyers updates

**Canada:** The Voices-Voix Declaration signed by LRWC in June (June newsletter) has now been signed by over 156 Canadian NGOs and 1,500 individuals. Concerns about the 'absence of democracy and erosion of freedoms' in Canada underlying the declaration, were the subject of a July 28, 2010 article in the Ottawa Citizen, *A less proud country: Apathetic Canadians have allowed their government to trample freedoms -- but opposition is mounting* by Lawrence Scanlan. Scanlan is a journalist and the author of *A Year of Living Generously: Dispatches from the Front Lines of Philanthropy*. Douglas & McIntyre May 2010. Scanlan's article can be accessed at

<http://www.ottawacitizen.com/news/less+proud+country/3330366/story.html#ixzz0xG7IoQBr>

**Mexico - Raul Hernandez:** The Special Prosecutor for Human Rights in Guerrero replied to Cara Gibbon's letter on Raul Hernandez to advise that the matter was before the court, human rights were being recognized and inviting LRWC to email for further discussions.

**Spain – Judge Baltazar Garzón:** Gerald Straberock of the International Commission of Jurists (ICJ) met with Special Rapporteur on Torture Manfred Nowak, Working Group on Enforced Disappearances (WGED) Chair Jeremy Sarkin and Special Rapporteur on Judges and Lawyers Gabriela Albuquerque in Geneva on July 1/2010 on behalf of LRWC to follow-up on the Formal Complaint filed in May 2010. The WGED issued a public statement on the Garzón case shortly after receiving our complaint. LRWC will request that the Ms Albuquerque make a public statement condemning the criminalization of judicial functions.

**Syria: Haytham Al-Maleh:** Mr. Al-Maleh, well known 79-year old human rights lawyer, was sentenced to three years imprisonment by Second Military Court of Damascus for ‘transferring false and exaggerated news that weaken national sentiments’ (Articles 285 and 286 of the Criminal Code). The charges were laid after Mr. Al-Maleh criticized the continued use of the emergency laws in Syria and government control of the judicial system. Emergency measures have been in place in Syria since 1963.

## **Publications**

- 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 in Mexico](#), Bar Human Rights Committee of England and Wales, July 15, 2010 (London, U.K.). This report, authored in part by LRWC Mexico monitor Cara Gibbons was launched at the House of Lords July 15, 2010. The Canadian launch will take place in October.
- UNHRC: Report on Attendance at 14<sup>th</sup> Session of the HRC, Isabel Stramwasser, July 2010.
- UNHRC: Geneva Report, Hugh Gwillim, July 30, 2010. These two reports are for internal use and contain both reports of work done by Mr. Gwillim and Ms Stramwasser in Geneva and recommendations for LRWC follow-up and future work. Ms Stramwasser attended the 14<sup>th</sup> Session of the HRC from May 31 to June 4 and Mr. Gwillim attended from June 9 to 15. A video record, including Ms Stramwasser’s oral presentation of the 14<sup>th</sup> Session is available at <http://www.youtube.com/watch?v=6-LgtTILG2Y> These reports are available on request.
- Chelsey Thomas, *Protective Measures in the African Union*, LRWC, July 2010. This paper was produced for the LRWC work to promote the creation of a global NGO network to provide protective measures on a first response basis to human rights advocates in danger.
- Laura Best, *Amnesty Laws: Validity under International Law*, LRWC, July 2010. This paper is part of LRWC ongoing work on the Baltazar Garzón case.
- *Protective measures: the side-event in Geneva*, Lawyers for Lawyers (L4L) report on the event hosted and organized during the 14<sup>th</sup> session of the UNHRC by LRWC and L4Ls.  
<http://www.advocatenvooradvocaten.nl:80/cms/content/view/359/218/>

## **United Nations News**

**United Nations General Assembly (UNGA):** On July 28, 2010 the UNGA passed a resolution declaring access to drinking water and sanitation human rights. Canada’s Maude Barlow, formerly senior advisor to the UNGA on water, was instrumental in developing this resolution. Canada abstained on the vote which was 122 states in favour and 41 absentions.

**Special Consultative Status for LRWC Confirmed:** Lawyers Rights Watch Canada was granted Special Consultative Status with the UN Economic and Social Council (ECOSOC) in July 2005. We are pleased to report that on 19 July 2010 ECOSOC “took note of” the mandatory quadriennial report filed in June 2009 and confirmed LRWC’s consultative status.

**15th Session of the Human Rights Council September 13-30, 2010.** Gary Anandasangaree will attend this session as LRWC’s representative September 13-18.

## **Second International Caravana of Lawyers to Colombia, 23 to 28 August 2010**

We are proud to announce that LRWC member Alyssa Brierley will represent LRWC and Lawyers without Borders/Canada on this 65-member delegation to support human rights lawyers in Colombia. Lawyers for Lawyers is also sending a representative. The Second Caravana is a follow-up to the 2003 Sin Abogada No Hay Justicia campaign (see 2004 LRWC Annual Report) and to the August 2008 Caravana of 70 jurists from around the world. The objectives of the Second Caravana are to: a. strengthen

links between Colombian lawyers and lawyers other countries and from different branches of law; b. raise awareness about the role of lawyers in the democratic system of justice by promoting their right not to be linked to the causes of their clients and not be persecuted for that reason; c. examine levels of access to justice and rates of impunity in cases of human rights violations; d. monitor the implementation of the recommendations made by members of the Caravan of Jurists 2008 and those of intergovernmental agencies which have recently visited the country; and, e. consolidate strategies of protection for lawyers in Colombia. The report of the 2008 Caravana is available at:

<http://international.lawsociety.org.uk/files/Caravana%20Report%205%2005%2009%20FINAL.pdf>

## Notable Decisions

**International Court of Justice (ICJ):** *Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo (Request for Advisory Opinion)* On July 22, 2010, the ICJ, in a 10 to 4 ruling in, declared that the independence declaration of the Serbian province of Kosovo was not a violation of international law. "The court considers that general international law contains no applicable prohibition of declaration of independence. Accordingly it concludes that the declaration of independence of the 17th of February 2008 did not violate general international law." The advisory opinion is at, <http://www.icj-cij.org/docket/files/141/15987.pdf>

**Supreme Court of Canada (SCC):** *Vancouver v. Cameron Ward*, Supreme Court of Canada Vindicates Civil Rights Lawyer. In its ruling of July 23, 2010, the SCC affirmed that a person whose Charter rights have been breached by the police or other public servants or agencies may be entitled to compensation, even if the breach was committed in good faith. Well-known civil rights lawyer Cameron Ward, who was mistakenly suspected by the police of planning to "pie" Prime Minister Chretien in 2002, was arrested, handcuffed, taken to the police station, strip-searched, held for several hours, and had his car impounded. He successfully sued the Vancouver police and the Corrections Branch of the Provincial Government and was awarded \$10,100 at trial. The City of Vancouver (on behalf of the police) and the Province of BC appealed that decision, unsuccessfully, to the BC Court of Appeal, and ultimately to the Supreme Court of Canada. All the appeals were dismissed, except for the award of \$100 for the impounding of his car.

The decision has far-reaching implications. It will apply to all government bodies. It may potentially affect persons wrongly convicted, subjected to cruel and unusual punishment, or other abuses by the state.

Mr. Ward's case, which took almost eight years from start to finish, could have been avoided from day one. Mr. Ward offered, shortly after he was released by the police, to drop his claim in exchange for an apology. The same offer was made just prior to the start of the trial. The police declined. It is distressing that the police, who have in other cases apologized to innocent people whose rights they have mistakenly violated, took such a hard line against Mr. Ward, who is well-known for representing claimants against the Police.

Vancouver lawyer Brian Samuels was counsel at all three levels of court and was assisted by Kieran Bridge and Jennifer Chan at the SCC. Brian and Cameron are both members of LRWC. LRWC wrote letters on Mr. Ward's behalf in 2002. <http://scc.lexum.umontreal.ca/en/2010/2010scc27/2010scc27.html>

**Federal Court of Canada:** *Khadr v. Canada* (2010 FC 715) On July 5, 2010 Justice Russel Zinn of the Federal Court ruled that Omar Khadr was entitled to procedural fairness and natural justice and that the Canadian government had to try to provide an effective remedy of violations of his right to life protected by the Canadian Charter of Rights and Freedoms until all potentially curative remedies were exhausted and then to attempt ameliorative remedies. The court also confirmed that repatriation would be an effective remedy. The court ruled that doing nothing was not a legal option and that the executive's response to the January 2010 decision of the Supreme Court of Canada Court (sending a diplomatic note and doing nothing) violated Khadr's right to procedural fairness. The Court ordered the Respondents

(Harper et al) to provide Khadr with a list of remedies that the executive would seek within 7 days of the Federal Court order and that Khadr could respond by agreeing or suggesting other remedies within a further 7 days. The government was to advance a remedy prior to the scheduled August 1, 2010 recommencement of the military commission proceedings. Canada filled an appeal and Pierre Blais, Chief Justice of the Federal Court of Appeal, stayed the Federal Court order pending hearing of the appeal, ruling that Zinn J. had overstepped his authority by mandating Ottawa to help Khadr. Chief Justice Blais, himself a former Conservative Member of Parliament and cabinet minister, stated his opinion that forcing the federal government to intervene diplomatically could result to irreparable damage to Ottawa. LRWC has filed two reports with the Human Rights Council on the Omar Khadr case and one complaint with the UN Special Rapporteur on Torture, Manfred Nowak.

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- 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](http://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.*

