

Lawyers' Rights Watch Canada

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

www.lrwc.org; lrwc@portal.ca; Tel: +1 604 738 0338; Fax: +1 604 736 1175

3220 W.13th Ave, Vancouver, BC, V6K 2V5

LRWC NEWSLETTER

October 2010

LRWC Action News

Canada

- **Guantánamo Bay sentencing of Omar Khadr**

LRWC published a [statement](#) calling on Canada and the US to repatriate Khadr and expressing concern at the illegality of his sentencing. A plea bargain [sic] was struck whereby Omar Khadr's additional period of imprisonment would be capped at 8 years with the option of being repatriated after serving one year in U.S. custody in return for guilty pleas on all the (*ex post facto*) charges advanced by the U.S. In spite of this, the U.S. staged a mock sentencing where prosecutors asked for 25 years additional imprisonment and the panel of military officers (wrongly described a jury) ruled that an additional 40 years was appropriate. Since 2002, the US has successfully maintained the Guantánamo Bay prison as a law free territory where non-Americans who are arbitrarily categorized as enemies of the US, can be held indefinitely, treated illegally and prevented from seeking the protection of international law, the law of their own countries and ordinary US domestic law. So far violations of criminal sanctions prohibiting torture and other treatment routinely carried out at Guantánamo Bay by state agents have gone unpunished. LRWC has filed a [report](#) to the UN Human Rights Council, a [report for consideration on the Universal Periodic Review of Canada](#) and a [formal complaint](#) to the UN Special Rapporteur on Torture on the Omar Khadr case as well as publishing other articles and hosting and contributing to educational events.

- **Bill C-49, An Act to Amend the Criminal Code (Trafficking in Persons)**

On October 28, 2010 LRWC joined other Canadian groups signing a [statement](#) calling on Members of Parliament to defeat Bill C-49 on second reading. LRWC is concerned that the proposed amendments would allow violations of internationally protected rights under, inter alia, the *Convention relating to the Status of Refugees*, the *Convention on the Rights of the Child* and the *International Convention on Civil and Political Rights*: e.g. rights to: equality before and equal protection of, the law, freedom from arbitrary detention and the right of children to be protected from being treated as criminals and accorded special access to treatment that enhances opportunities for healthy development. Other NGOs signing include: Canadian Council of Refugees, Amnesty International Canada, BC Civil Liberties Association and the International Civil Liberties Group.

Colombia

- **Three human rights advocates gunned down**

Three human rights defenders have been killed in recent months: Mr. Hernando Pérez on 19 September, 2010, Mr. Alexander Quintero on 23 May, 2010 and Mr. Rogelio Martínez on 18 May, 2010. Mr. Hernando Pérez was a leader of the Association of Victims for the Restitution of Land and Property (Asociación de Víctimas para la Restitución de Tierras y Bienes, Asoviestibi) and was representing a number of groups seeking land rights. He was gunned down shortly after participating in a ceremony to return land to dozens of peasant farmers forcibly displaced by the "Bloque Bananero" paramilitary group. Alexander Quintero was president of the Alto Naya Association of Community Action Councils, represented victims of paramilitary groups in the Justice and Peace process and had been campaigning since 2001 for reparation for the victims of the Naya massacre and disappearances. He was gunned down when walking home from work. Rogelio Martínez, who was also killed by unknown gunmen, was the

advocate for families seeking the return of their land. Alyssa Brierley wrote a letter.

Kyrgyzstan

- **Human rights lawyer beaten and threatened.**

Human rights lawyer Tahiri Asanov was beaten and threatened outside the courthouse. Mr. Asanov represents people charged in events that led to the death of a police chief. The accused were beaten by uniformed officers from the Ministry of Internal Affairs while being held in a metal cage in the courtroom during a recess. Mr Asanov requested an investigation into the beatings and that the accused receive independent medical exams. Onlookers, apparently supporting the dead police chief, followed Mr. Asanov outside the courthouse and beat and threatened him. Dale Darychuk wrote a letter insisting that Mr. Asanov receive adequate protection.

Pakistan

- **Lawyers disappeared and murdered in Balochistan**

LRWC is preparing a response to the reported murders of two Baloch lawyers engaged in human rights work and the enforced disappearance of a third lawyer. Zaman Khan Marri was abducted by Pakistani security forces August 18, 2010 and killed September 5. Ali Sher Kurd was abducted by security forces September 21 and his body discovered September 24. Munir Ahmed Mirwani, Secretary General of the Jhalawan Bar Association was abducted by Pakistani intelligence forces on June 17 and his whereabouts are unknown. Kachkol Ali, lawyer and opposition leader, was forced by threats to take asylum in Norway. LRWC was invited to Geneva in November to speak at a conference on this issue and attend a meeting with the UN Working Group on Enforced Disappearances.

Philippines

- **Health Care Workers may be closer to freedom**

Since LRWC's September 29/10 [letter](#) to President Aquino, Secretary of Justice de Lima and Human Rights Commission Chair Rosales there have been some promising developments. Secretary of Justice de Lima has conducted a review of the case and sent her recommendations to President Aquino. Although her recommendations have not been released to the public, rumours suggest that de Lima recommended the release of the Morong 43. LRWC sent a reminder letter to President Aquino advising of a planned complaint to the UN. LRWC now refers to the arrested health care workers as the Morong 45 to acknowledge the babies born in prison to two detained health care workers. The babies and their mothers are presently under hospital arrest. LRWC's letter has received press coverage in the Philippines and in Canada. Television interviews of LRWC's Gail Davidson aired on Balitang Vancouver, a Filipino news program of OMNI Channel I. Print media coverage has included: [Free the Morong 43, say Canadian lawyers](#), Asian Pacific Post Oct. 16/10, [Canadian lawyers join calls to free Morong 43](#), GMA News.TV, Oct. 7/10 and *Special Report: [Canadian Lawyers want Morong 43 free](#)*, CBCP News, Oct. 7/10,

Spain

- **Judge Baltasar Garzón:** Spain's Supreme Court (Oct. 20/10) indicated that new charges might be brought against Judge Baltasar Garzón for authorizing wire taps in a corruption investigation of the People's Party. Garzón already faces a trial on criminal charges for opening an investigation of over 100,000—including 30,000 children—unsolved enforced disappearances and summary executions. Judge Garzón has been suspended from the bench pending the trial. LRWC has examined the illegitimacy of the criminal proceedings against Judge Garzón in a [report](#) to the UN Human Rights Council, a [formal complaint](#) to several UN special mandate holders, an [article](#) criticizing the prosecution and suspension of Garzón as a violation of judicial independence and of the legal duty to investigate and remedy state sanctioned disappearances and executions. LRWC has also attended a conference in the Philippines to present a talk on this subject.

LRWC Human Rights Education and Training

- **International Human Rights Forum in Toronto and Vancouver**

On October 16/10 LRWC hosted an international human rights forum in Toronto and Vancouver featuring human rights lawyers examining the gap between international human rights law and domestic practice in Canada and Mexico. In Vancouver, Robert Morales lawyer and chief negotiator for the Hul'qumi'num Treaty Group (HTG) explained the Inter-American Commission on Human Rights ruling that because Canadian law and courts were not adequate to protect the HTG's land claims and provide compensation, there was no need to exhaust domestic remedies. The HTG petition alleges violations by Canada of rights protected by the American Declaration of the Rights and Duties of Man. In Toronto Cara Gibbons, lawyer and LRWC Mexico monitor, talked about her investigation in Mexico of the increase in human rights violations and attacks on human rights defenders. An informative and lively discussion followed the talks at each location. The planned video-conference connection of the Toronto and Vancouver locations failed. Both talks will be posted online and submitted for broadcast on cable television networks.

- **Standing up for your Rights Shouldn't Be a Crime: So Why Are Human Rights Defenders in Mexico Being Treated Like Criminals? In Ottawa**

On October 28 at the University of Ottawa, Fauteux Hall LRWC, Peace Brigades International-Canada and Lawyers without Borders Canada hosted a [public discussion](#) of human rights abuses in Mexico and the Canadian launch of the [report](#) of a 2009 international human rights delegation to Mexico. Five Canadian lawyers participated in the 2009 investigation of violations of human rights and the rule of law by state authorities and the difficulties faced by lawyers representing indigenous groups struggling to enforce protected rights.

BC Public Legal Aid Commission

LRWC made oral and [written submission](#) on BC's international law obligations to provide legal aid to the Public Legal aid commission in Vancouver on October 7. LRWC's oral submissions were presented by Catherine Morris to Commissioner Len Doust who was joined that day by MPs Libby Davies, Ujjal Dosanjh and Don Davies; MLAs Jenny Kwan and Ralph Sutan. International treaties require BC to provide legal aid that ensures the enjoyment of all protected rights by all people. UN reports have repeatedly criticized BC's legal aid as failing to meet this standard with the result that many are denied access to justice. UN reports have identified a resulting lack of access to justice for women, indigenous people and minorities especially in cases involving family and poverty law. LRWC's submissions recommend BC enact legislation to bring legal aid funding into compliance with international human rights law and also to prevent political tampering.

Notable Decisions

- ***City of Vancouver v. Zhang et al***

On October 19, the BC Court of Appeal, in *City of Vancouver v. Zhang et al*, struck down the section of the City Bylaw regulating the use of streets on which the City had based its 2006 decision to force Falun Gong practitioners to remove the protest structure supporting their 24/7 vigil in front of the Chinese Consulate-General. The vigil and protest structure had been a permanent fixture for five years at the time and had been publicised around the world.

The City had recognized the FLG's right to protest and had said it had no objection to the political content of the message. The protesters were free to march with placards, chant slogans, and assemble in groups. But they could not erect any structure on City property.

The bylaw section in question simply prohibits any structure for any purpose without the permission of the City engineer. But the Council has over the years enacted policies for vetting applications to erect

structures and has set out policies to govern the granting of such applications. There are specific policies to cover art, street vendors, newspaper stands, sandwich boards, fruit vendors, restaurant expansions across sidewalks. However, there is no policy to accommodate structures bearing a political message. The BCCA drew the obvious conclusion. The blanket prohibition, with no policy to cover political expression, amounts simply to the prohibition of all structures erected for a political purpose, as opposed to those erected for a commercial purpose, and is therefore unconstitutional. FLG was represented by Joe Arvay and Clive Ansley. Clive Ansley is a Director of Lawyers' Rights Canada and its Country Monitor for China.

Publications

International Obligations to Provide Legal Aid, Gail Davidson, Catherine Morris & Heather Neun, October 29, 2010.

Getting Involved

Research and Writing

LRWC members are invited to assist with ongoing research which includes:

1. Amicus brief for the case of *Hul'qumi'num Treaty Group v Canada* before the Inter-American Commission of Human Rights on international rights to equality before the law, the equal protection of the law and equal access to remedies.
2. Law prohibiting/allowing the criminalization of judicial functions for another brief on the prosecution of Judge Baltasar Garzón in Spain.
3. Survey of effective protective measures for advocates in danger that can be provided by NGOs.
4. The illegitimacy of the Guantanamo Bay sentencing of Omar Khadr.
5. The scope of absolute immunity for lawyers and the Peter Erlinder prosecution.
6. Murder and enforced disappearance of Balochistan lawyers.

Upcoming Events

[Amnesty International Film Festival](#) November 18-21 in Vancouver at the VanCity Theatre. LRWC and BC Civil Liberties Association representatives will participate in a panel discussion on the evening of Friday November 19 following viewing of two films: "The Trial" and "Ghosts".

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.

LRWC is funded entirely by members and private donors.

Thanks for your support.