

# Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations  
[www.lrwc.org](http://www.lrwc.org); [lrwc@portal.ca](mailto:lrwc@portal.ca); Tel : +1 604 738 0338 ;Fax : +1 604 736 1175

## LRWC Newsletter - March 2011 Edition

### LRWC Action News

**China:** In response to the recent “Arab Spring” protests and movements across North Africa and the Middle East, a number of Chinese activists have been preemptively harassed, arrested, and illegally detained. Included are criminal defense lawyers Jiang Tianyong, Tang Jitian, and Teng Biao. On 16 February 2011, Beijing police surrounded a restaurant where the three were conducting a meeting. Jiang Tianyong was illegally arrested and taken to a police station where he was interrogated and tortured for approximately five hours. He was then released, and rearrested on 19 February. He has not been heard from since. Tang Jitian and Teng Biao experienced similar treatment following their arrests on 19 February; their whereabouts and conditions of detention are also unknown. LRWC China Monitor Clive Ansley has written a letter regarding these disappearances, and complaints have been submitted to the UN Working Group on Enforced or Involuntary Disappearances.

**Cambodia:** Human rights activist Sam Chankea is facing charges of disinformation and defamation in Cambodia following radio and newspaper interviews in which he expressed opinions over a land rights case involving a company owned by wife of Cambodia’s Minister of Mining and Energy. LRWC has sent a follow-up letter on behalf of Mr. Chankea drawing attention to violations of his right to freedom of expression in the context of human rights advocacy.

**Syria:** 80-year-old Syrian lawyer [Haitham al-Maleh](#) was released on 8 March 2011, one day after staging a hunger strike along with 11 fellow prisoners. Well known human rights lawyer Al-Maleh had been detained since his arrest on charges of ‘weakening national morale’ in October 2009. He was [convicted](#) on 7 July 2010, and ultimately sentenced to three years in prison and [LRWC wrote](#) calling for his release. In the 1980s Mr. Al-Maleh was imprisoned for 6 years in for criticizing the use of emergency measures which have been in place in Syria since 1963. Several Arabic television stations carried interviews with al-Maleh immediately following his release, confirming his continued courage and determination.

**Colombia:** On 14 October 2010, 14 year old Jenni Torres Jaimes was allegedly raped by a member of the 5th Mobile Brigade of the Columbian Army in the village of Caño Temblador in eastern Colombia. Ms. Torres and her two brothers Jefferson and Jimmi were forcibly disappeared from their home later the same day; their bodies were discovered on 16 October. Judge Gloria Costanza Gaona, due to preside over the case in which an army officer was implicated, was shot dead on 22 March 2011. A few hours later, a threatening call was made to the office of Humanidad Vigente, a human rights NGO working with the family to push for investigation and prosecution of the officers suspected of involvement. The Torres family also received death threats on 24 March 2011. LRWC member Heather Neun has written a letter on this case.

### LRWC attendance at the 16th Session of the Human Rights Council

#### *Side Event on Enforced Disappearances*

LRWC was proud to co-host the side event *The International Convention for the Protection of All Persons from Enforced Disappearances: Now What? The Problem of Continuing Impunity* held at the Palais des Nations in Geneva on 9 March, 2011. LRWC, along with the Asian Legal Resource Centre (ALRC), the Asian Federation against Enforced Disappearances (AFAD), and the Spain-based el Grupo de Trabajo sobre Justicia Internacional y Derechos Humanos (el Grupo) felt the time was right for such a discussion following the entering into force of the

*International Convention for the Protection of All persons from Enforced Disappearance* on 23 December 2010. The event was co-hosted by ALRC, AFAD, International Commission of Jurists (ICJ), International Federation for Human Rights, International Coalition against Enforced Disappearances, Asociación Española para el Derecho Internacional de los Derechos Humanos, el Grupo and Fédération Internationale de l'Action des Chrétiens pour l'Abolition de la Tortur.

Speakers at the event were Jeremy Sarkin, Chair of the Working Group on Enforced and Involuntary Disappearances (WG), former Special Rapporteur on Torture Professor Manfred Nowak and Dr. Paikiasothy Saravanamuttu Executive Director of the Centre for Policy Alternatives in Sri Lanka. Representatives from France (Emmanuel Pineda) and Argentina (Sebastien Rosales), two of the 23 states that have ratified the Convention to date, opened the event with comments on the history of the development of the international framework concerning forced disappearances, including creation of the WG, international declarations, and the Convention itself. Sebastien Rosales also spoke about Argentina's past experiences and the importance his government places on this issue. Professor Sarkin spoke about the need for states and civil society to insist on effective implementation and enforcement of the Convention and promote further ratifications (Canada has not signed or ratified the Convention). Professor Sarkin also described the WG's need for more resources to deal with 43,000 unresolved cases that have been reported to the WG. The WG clarified 70 cases during the reporting period. LRWC has spoken against the continued widespread use of enforced disappearances and state efforts to ensure impunity for perpetrators.

Professor Manfred Nowak gave a presentation on the development of the Convention, obstacles to its enforcement, and difficulties in tackling impunity at the international level. Dr. Paikiasothy Saravanamuttu spoke of the challenges faced in Sri Lanka following the cessation of armed conflict, where enforced disappearances continue without impunity. All presentations provided valuable information on the history of the Convention, obstacles to implementation and enforcement and the need for more ratifications.

A number of NGOs in attendance including AFAD, Human Rights First, and ALRC participated through presentations and discussion. LRWC's intervention by Gary Anandasangaree queried: the application of the Convention to non-state parties; the application of the Convention to states that assist other states with enforced disappearances (for example the Maher Arar case in Canada); and how to increase the number of state parties to the Convention. In response, Professor Sarkin stressed the importance of applying the Convention to non-state practices, including the Arar case, and stated that all states that have ratified the Convention must promote further ratification. Professors Sarkin and Nowak responded in turn to questions and observations from all organizations at the event.

Another side event with Judge Baltasar Garzón on the topic of impunity, scheduled for March 11, 2011 had to be cancelled. LRWC, ALRC and el Grupo are discussing the rescheduling of this event to the June 2011 session of the Human Rights Council.

### ***Interventions at the Human Rights Council***

LRWC prepared two joint oral interventions for the 16th Session. The first statement, on enforced or involuntary disappearances, was scheduled for delivery during the general debate following the Report by the WG. This statement, by LRWC, ALRC and the International Association of Democratic Lawyers (IADL) was not delivered due to scheduling conflicts. A joint oral [intervention](#) by LRWC and the ICJ on attacks on lawyers in Colombia was delivered on 23 March by Adrie Van de Street of the Dutch Lawyers for Lawyers. A video archive of the statement can be viewed on the UN website [here](#). The written statement, *Judges and the Rule of Law: the prosecution of Judge Garzón in Spain*, submitted jointly by LRWC, ALRC and IADL and endorsed by Asociación Española para el Derecho Humano a la Paz (AEDIDH) and el Grupo can be accessed [here](#).

### ***Meetings with Special Rapporteur Margaret Sekaggya, High Commissioner Navanathem Pillay***

Gary Anandasangaree of LRWC along with members of the ALRC met with Margaret Sekaggya, Special Rapporteur on the Situation of Human Rights Defenders to discuss the urgent need for protective measures for human rights defenders at risk and the role of NGOs. Issues discussed at the meeting included the University of Toronto program to sponsor human rights defenders at risk, such as Dr. Saravanamuttu and Rohan Edirsinha, as lecturers and the need for an Asian regional human rights system. LRWC monitors will be encouraged to continue to report to the Special Representatives on protective measures. LRWC monitors have produced three reports on this topic: [Protective Measures in the African Union](#), [Protective Measures through the Inter-American System](#) and [Attacks on Jurists in Guatemala 2005-2009](#).

Mr. Anandasangaree also attended a meeting with High Commissioner for Human Rights Navanathem Pillay. Discussion focused on issues surrounding the detention of child refugees, with Ms. Pillay expressing concern over the detention of refugee children, particularly in Western

countries.

## LRWC Updates

Judge Garzón filed a case with the European Court of Human Rights on 24 March 2011 challenging the legality of his prosecution in Spain. Judge Garzón is being prosecuted for opening investigations into crimes committed during the Franco regime, following requests by families and representatives of victims. Judge Garzón argues that the criminal case against him in Spain violates Spain's obligations under the European Convention on Human Rights. These include the obligation to protect judicial independence, including protecting judges from unfounded criminal prosecutions. He is being represented by INTERIGHTS, an organization specializing in international law.

Helen Duffy, INTERIGHTS Litigation Director and Garzón's legal counsel before the European Court, said "Prosecuting a judge for reasoned, well-substantiated judicial opinions, whether you agree with them or not, is anathema to justice. Judge Garzón is being punished for giving effect to Spain's international obligations to investigate serious crimes and honouring the rights of victims. He is now himself the victim of an unjustifiable criminal prosecution, which has had a profound impact on his life. The potential chilling effect on other judges when they come to determine legally or politically controversial cases is obvious, and a serious threat to judicial independence and the rule of law ... It is surprising that a country with a strong commitment to the rule of law, which emerged from dictatorship decades ago, should respond to a leading judge's investigation of Franco era crimes in this way."

Reports and articles published by LRWC on the Garzón case in addition to the statement filed for the 16th session: [Formal Communication for Consideration and Action Re: Judge Baltasar Garzón](#), [Outlawing Judicial Independence: The Prosecution of Judge Baltasar Garzón in Spain](#) and [On behalf of Judge Baltasar Garzon and the Independence of the Judiciary](#).

LRWC continues to monitor this important case; a case that represents a threat to the independence of judges in their role in ensuring accountability for widespread and systematic crimes against international human rights and humanitarian law.

## Notable Development: Universal Jurisdiction

In a letter to the Spanish National Court, the U.S. government has asked for the closure of Spain's investigations into alleged torture at Guantánamo Bay prison, stating that US justices, and not Spanish, are competent to judge the facts. The U.S. has informed presiding Judge Eloy Velasco that investigations have been opened in the U.S. at the executive, parliamentary, and judicial levels. Judge Velasco had given the US authorities until 1 March to inform him whether the U.S. had any ongoing investigation into torture at the base. However the cases cited as ongoing U.S. investigations have little to do with torture at Guantánamo. Cited were the cases regarding: David Passaro, a CIA worker convicted for beating an Afghan detainee; Mr. Ayala, a security guard who shot a handcuffed Taliban prisoner; and Hamdam v. Rumsfeld, which centers on the legality of special military tribunals.

Judge Velasco has sent the U.S. communication to the prosecution to determine whether the Spanish National Court should proceed with its investigation. Investigations by Spanish courts of torture at Guantánamo Bay prison those involving the alleged torture of: Hamed Abderrahman Ahmed of Spain, Lahcen Iksrien of Morocco, Omar Deghayes of Libya, and Palestinian Jamal Abdelatif Al Banna.

## Online Education and Training

Now available online are: presentations by Cara Gibbons and Alyssa Brierley, at the LRWC International Human Rights Forum on 16 October and the 9 March 2011 Geneva event. To view these and other videos, visit our [YouTube](#) and [Vimeo](#) channels.

Cara Gibbons, "Lawyers visit Mexico to investigate attacks on human rights defenders in Guerrero and Oaxaca." ([video link](#))

Alyssa Bierley, "The Second Caravana of Jurists investigates attacks on lawyers and access to justice in Colombia." ([video link](#))

The International Convention for the Protection of All Persons from Enforced Disappearances: Now What? The Problem of Continuing

Impunity, Jeremy Sarkin, Manfred Nowak and Dr. Paikiasothy Saravanamuttu, 9 March 2011. ([video link](#))

## Work with other NGOs

In March, LRWC collaborated with Lawyers Without Borders Canada (LWBC) on the Victoria and Vancouver portion of a visit to Canada by Colombian human rights lawyer Ms. Jomary Ortegón Osorio. Ms. Ortegón works with the highly respected Colectivo de Abogados José Alvear Restrepo in Bogota, Colombia. The Colectivo has many years of experience litigating human rights issues both in national courts of Colombia and internationally in the Inter-American Court of Human Rights. Ms. Ortegón was accompanied by LWBC Executive Director Pascal Paradis and LWBC lawyer Pierre Rousseau, both of whom have been involved in LWBC initiatives to support the Colectivo's work in Colombia.

LRWC director Catherine Morris arranged a meeting between Ms. Ortegón and lawyers Robert Morales and Renee Racette to discuss the Hul'qumi'num Treaty Group petition to the Inter-American Commission on Human Rights and to compare the nature and scope of human rights violations against Indigenous peoples in Colombia and Canada.

Ms. Morris also organized an informal luncheon for the LWBC and Ms. Ortegón and faculty members at the University of Victoria. In Vancouver Heather Neun organized a dinner meeting hosted by the firm of Stevens Virgin. These meetings provided opportunities to learn about the work of the Colectivo and the challenges facing lawyers defending human rights in Colombia. The meetings also provided an opportunity for LRWC members to discuss further collaboration between LRWC and LWBC.

## Legal Aid in BC: Foundation for Change

The Public Commission on Legal Aid in British Columbia has released its report entitled "Foundation for Change." The report contains recommendations on improving the system of legal aid in BC. The report was based on a process of public engagement that included hearings and written submissions. LRWC participated through written and oral submissions on the international law obligations to provide legal aid and the failure of Canada and BC to do so. LRWC will prepare a response to the report underlining BC government obligations to ensure that all people in BC are in a position to access the courts for protection of their internationally protected human rights. The full report can be downloaded from the Commission's website, or directly by clicking [here](#).

## Upcoming Events

In an effort to inform the public about democracy and human rights issues in Canada, a coalition of NGOs across the country under the umbrella of Voices/Voix is organizing events on 5-6 April labelled "A Day for Democracy". A full list of events can be found [here](#). LRWC Executive Director Gail Davidson will be speaking at the event in Vancouver, along with David Eby, Executive Director of the BC Civil Liberties Association. The event will be held Wednesday, 6 April from 6:30-8:30 pm at the Vancouver Community College, 250 West Pender Street, room 420. All interested in attending should RSVP to [vancouver.intern@amnesty.ca](mailto:vancouver.intern@amnesty.ca). For additional information, and to endorse the Voices/Voix declaration, please visit their [website](#).

We welcome feedback on Newsletter content, format and delivery. Mail subscriptions are also available.

- Fees and donations can be made by cheque, PayPal, or [Canada Helps](#).
- Monthly donations increase LRWC's ability both to respond quickly and plan ahead.
- Airline points donated to LRWC qualify as a tax-deductible donation! [follow on Twitter](#)



[friend on Facebook](#)

*Copyright © 2011 Lawyers Rights Watch Canada, All rights reserved.*

**Contact us at:**

lrwc@portal.ca

Telephone: +1 604 738 0338

Fax: +1 604 736 1175