

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

December 2011 – January 2012 Edition

LETTERS FOR LAWYERS

BURMA

LRWC and the Amsterdam-based Lawyers for Lawyers (L4L) sent a [joint letter](#) highlighting the revocations of lawyers' licenses in circumstances that suggest violations of international human rights standards and the rule of law in Burma. At least thirty-two lawyers have had their licenses revoked in judicial hearings that were held in private, without proper representation, and without adherence to relevant legal procedures. The revocations of these lawyers' licenses are thought to have been motivated not by any breaches of professional codes of conduct, but by the lawyers' political activities, their representation of clients accused in political cases, or convictions on these latter two factors. In the letter, LRWC and L4L ask that the Supreme Court conduct a review of each revocation on an urgent basis, while ensuring that the reviews are conducted in strict adherence to the relevant legal procedures; that each lawyer have legal representation of his or her choice; that the review hearings be conducted in accordance with international standards of fairness and impartiality; and that, pending completion of reviews, the licenses to practice law of all 32 lawyers be restored.

CAMBODIA

LRWC and the Centre for Law and Democracy (CLD) have been reviewing and making recommendations on drafts of the Cambodian Law on Associations and Non-Government Organizations (NGO law) since May, 2011. The fourth NGO law draft was released on December 12, and NGOs were invited to meet to discuss the draft on December 19. LRWC and CLD responded with a [joint letter](#) (on 21 December 2011, commenting on the draft and identifying additional amendments needed to bring the NGO law into compliance with international standards on freedom of expression and associations, and to engage in advocacy and political activities. On December 22, LRWC and CLD, along with Freedom House, South East Asia Press Alliance, OMCT/FIDH, Global Witness, Protection International, Human Rights Watch, Civil Rights Defenders, and Forum Asia issued a Press Release to the same effect: [Cambodia: Revise or Abandon Draft NGO Law](#)

The letter and press release both noted the need to extend the consultation period. On December 28, Prime Minister Hun Sen announced that discussions would continue until the draft law was acceptable to all.

CHINA

Chinese human rights lawyer, Gao Zhisheng, who had been missing for 20 months, is apparently now being held in a Xinjiang prison. In 2006, Mr. Goa was convicted of inciting subversion of the state and received a 3 year suspended sentence. Although he was released on probation, Mr. Goa has disappeared for lengthy periods since his conviction, which he reports as periods of detention and torture by security forces. The authorities now claim that Mr. Goa has breached his probation, and will serve a three year prison sentence. No details have been released of the alleged probation violations. Mr. Goa is one of China's most outspoken dissidents. His is known for defending activists and religious minorities, and taking on politically sensitive cases.



SPAIN

On 19 January 2012, LRWC released a joint statement with eight other human rights organizations calling on the Spanish Supreme Court to act in accordance with the duty to guarantee the constitutional and international laws that defines its jurisdictional function with regard to the international obligations taken on by Spain. The statement, which is available in [English](#) and [Spanish](#), comes as the court prepares to hear what has been termed the 'historic memory' case against Judge Baltasar Garzón, beginning January 24, 2012. In May 2010, Judge Garzón was suspended by the Supreme Court as a result of a criminal malfeasance investigation which had been opened against him. The crime of malfeasance concerns misconduct in the administration of justice and sanctions judges for making unjust judicial decisions. Judge Garzón is the only judge to have challenged the lack of accountability relating to the crimes committed during the Spanish Civil War and the subsequent Franco Regime. In October 2008, he applied the principle that crimes against humanity cannot be subject to statutes of limitation or amnesty, and authorized the investigation into the alleged disappearance, torture, and execution of 114,266 persons, identified as victims, between July 17, 1936 and December 1951. In the joint statement, the signatory organizations stress the need for any criminal offence, such as malfeasance by judicial officers, to be applied cautiously so as not to undermine the independence of the judiciary and/or to sanction a judge for following an accepted interpretation of international law.



Also on January 19, 2012, the New York-based Center for Constitutional Rights (CCR) and the Berlin-based European Center for Constitutional and Human Rights (ECCHR), filed a formal [complaint](#) to the United Nations Special Rapporteur on the Independence of Judges and Lawyers, Mrs. Gabriela Knaul. The groups submitted evidence from U.S.-Madrid embassy cables obtained through WikiLeaks that show that senior U.S. and Spanish officials sought to interfere with the Spanish judicial process in order to shield Americans from criminal prosecution for torture and unlawful killing. The complaint focuses on three criminal cases currently before the Spanish courts in which all potential defendants are U.S. citizens. In the complaint, CCR and ECCHR request that the U.N. Special Rapporteur investigate the cable revelations, demand that the U.S. and Spanish governments refrain from further obstructing or interfering with these cases, and ensure that the cases are resolved according to Spanish law and binding international law, independent of political considerations.

TURKEY

In December 2011, LRWC wrote a [joint letter](#) with the Observatory for the Protection of Human Rights Defenders, a joint program of FIDH and OMCT, FrontLine, Conference International des Barreaux, and Union Internationale des Advocats concerning the frequent use of arbitrary detention and judicial harassment against a significant number of lawyers in Turkey. Turkish lawyers have been repeatedly targeted for defending their clients' rights in politically sensitive cases. Most recently, a campaign of arrest, launched on November 22, 2011, targeted 39 lawyers and one legal worker in an operation aiming to dismantle an alleged terrorist network known as the Kurdish Communities Union (KCK) - an organisation said to be the "urban branch" of the armed Kurdistan Workers Party (PKK). Such targeting of lawyers acting in politically sensitive cases has made it increasingly difficult for terrorism suspects to receive adequate defense in Turkey, and for lawyers to perform their mission to represent unpopular clients and to promote human rights standards, in general.

The contributor organizations to the letter noted the increasing frequency of cases of political targeting of human rights defenders in Turkey and called on the Turkish government act, in conformity with the Universal Declaration on Human Rights, the UN Declaration on Human Rights Defenders, and the Havana Rules to ensure that lawyers in the Republic of Turkey do not face any act of harassment. Further, the letter calls on the government to respect human rights and fundamental freedoms in all circumstances in accordance with international and regional human rights instruments ratified by the Republic of Turkey, including the International Covenant on Civil and Political Rights and the European Convention on Human Rights.

TURKEY

On January 26, LRWC and the United Food and Commercial Workers Canada (UFCW) sent a [letter](#) to Turkish president, Mr. Abdullah Gül, concerning recent raids on human rights organizations, trade unions, and cultural organizations in Diyarbakir. Reports available to LRWC indicate that those targeted were all peaceful Kurdish human rights activists working in the Diyarbakir offices of the Human Rights Association, the General Centre of the Public Workers' Trade Union, the Education Workers' Trade Union (Egitim-Sen), the Kurdish Language Research and Development Association (Kurdi-Der), and the Solidarity Association For Prisoners' and Convicts' Relatives (Tuhay-Der). In the letter, LRWC reminded the government of Turkey of its obligations under Turkish constitutional law to protect freedom of communication, thought, opinion, and association. Further, LRWC called on the government of Turkey to fulfill its obligations under international law by adhering to the Universal Declaration on Human Rights Defenders and working to protect the role of human rights defenders. LRWC urged President Gül to ensure the quick release of those detained and to ensure their physical integrity while they are incarcerated.

CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD)

LRWC AND BC CEDAW FILE A JOINT REPORT

On January 30, 2012, LRWC and the BC CEDAW Group, filed a [report](#) on BC and Canada's failure to eliminate and remedy racial discrimination against Aboriginal women and girls, contrary to the requirement of CERD, which was ratified by Canada on November 15, 1970.



Aboriginal women in Canada experience extremely high rates of violence and murder, accompanied by ongoing social and economic marginalization, and lack of equal access to the protection of the law and remedies as a result of prohibited racial discrimination. The report notes repeated recommendations for remedial action from NGOs and UN treaty bodies, and the inadequacy of government responses. Highlighted are Canada's ongoing failure to:

- ensure the “recognition, enjoyment or exercise, on an equal footing” of the rights and freedoms of Aboriginal women and girls as required by CERD, articles 1, 2.2, and 5(a), (e) iii, iv and v,
- eliminate racial discrimination against Aboriginal women and girls as required by CERD, article 2.1 (a), (b) and (d), and
- take ‘special and concrete’ measures to review, identify, and abolish discriminatory practices and to remedy consequences as required by CERD, articles 2.1 (c), (d), 2.2 and 6.

LRWC and the BC CEDAW Group recommend that Canada, in consultation with civil society groups, take effective measures both to prevent and punish violence against Aboriginal women and girls, and to remedy the underlying social and economic disadvantages identified as contributing factors. To address violence against Aboriginal women and girls, this report recommends that Canada conduct a national inquiry on missing women, develop a national action plan and implement policies to improve police and law enforcement practices and to ensure pan-Canada cooperation between them. To address social and economic disadvantages suffered by Aboriginal women and girls identified as contributing to the high incidence of violence and murder, the report recommends that Canada take special measures to remedy poverty, inadequate housing, unequal education opportunities, punitive child welfare policies and over criminalization. The report concludes that, as an integral part of remediation, Canada must ensure that Aboriginal women and girls have access to legal aid in proceedings to affect or determine their rights. The CERD Committee will review Canada's compliance with the treaty on February 22-23, 2012.

The report was prepared by Lois Leslie of LRWC and Shelagh Day of the BC CEDAW Group with assistance from Catherine Morris and Gail Davidson of LRWC.

The BC CEDAW Group is a coalition of: The Poverty and Human Rights Centre; Aboriginal Women's Action Network; Coalition of Child Care Advocates of BC; Hospital Employees' Union; Justice for Girls; Women's Housing Equality Network (Canada); North Shore Women's Centre; Vancouver Committee for Domestic Workers and Caregivers Rights; Vancouver Rape Relief and Shelter; Vancouver Women's Health Collective; and West Coast LEAF.

EDUCATION

FIRST NATIONS' RIGHTS: THE GAP BETWEEN LAW AND PRACTICE

Throughout the winter and spring of 2012, LRWC, Amnesty International, the Hul'qumi'num Treaty Group and the Vancouver Public Library are co-hosting a series of free public talks entitled, "First Nations' Rights: The Gap between Law and Practice." We are most grateful to David Maidman who has arranged to have the series video-taped, edited, and posted online. The first lecture was videotaped by John Prentice. David and John are from the EVOTV collective: <http://evotv.ca/>

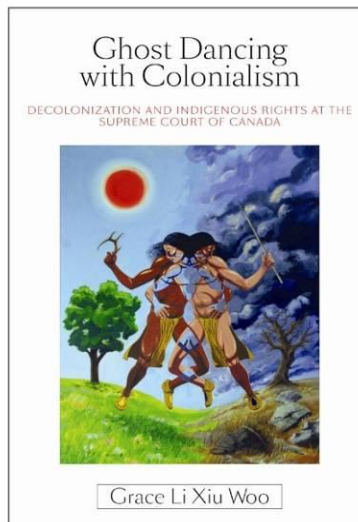
The February 2nd talk will take place at the Native Education Center, 285 East 5th Avenue, Vancouver BC at 4:00 pm. People wishing to attend must pre-register to lrwc@portal.ca. All other talks in the series will be held in the Alice Mackay room at the Vancouver Public Library, Central Branch, 350 West Georgia Street, Vancouver BC from 7:00 – 8:30 pm.

February 2, 2012: **Canada's record - Ghost Dancing with Colonialism** with Dr. Grace Woo, legal historian and author of "Ghost Dancing with Colonialism: Decolonization and Indigenous Rights at the Supreme Court of Canada". Is the Supreme Court of Canada colonizing Indigenous peoples? Grace Woo's talk will address this question by examining Anglo-Canadian legal history, international law, and Supreme Court of Canada decisions and the remnants of colonialism that continue to haunt Canadian law.

Series: *FIRST NATIONS' RIGHTS: THE GAP BETWEEN LAW AND PRACTICE*

Ghost Dancing with Colonialism

Is the Supreme Court of Canada colonizing Indigenous peoples? Dr. Woo takes a hard look at Anglo-Canadian legal history, international law and Supreme Court of Canada reasoning. She will explain how her research can be used to diagnose the remnants of colonialism that continue to haunt Indigenous and other Canadians.



With Dr. Grace Woo, author of *Ghost Dancing with Colonialism*

Thursday, February 2nd at 4:00pm

Native Education Center
285 East 5th Avenue, Vancouver BC.
Admission is free. As seating is limited, please rsvp to lrwc@portal.ca.

For other talks in the series see www.lrwc.org or contact lrwc@portal.ca; 604-738-0338

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February 23, 2012: **Seeking Justice Elsewhere – The Hul'qumi'num Treaty Group land claim case before the Inter-American Commission of Human Rights** with Robert Morales lawyer and chief negotiator for the Hul'qumi'num Treaty Group. Robert Morales' talk will address indigenous rights in the context of the 1884 unlawful seizure and privatization of Hul'qumi'num peoples' land on Vancouver Island, the serious consequences for Hul'qumi'num survival and cultural integrity and the history of unsuccessful negotiations that led the Hul'qumi'num people to seek justice elsewhere.

Series: **FIRST NATIONS' RIGHTS: THE GAP BETWEEN LAW AND PRACTICE**

Seeking Justice Elsewhere

The Hul'qumi'num Treaty Group case before the Inter-American Commission on Human Rights



with Robert Morales, lawyer and chief negotiator for Hul'qumi'num Treaty Group

Thursday, February 23, 7:00 - 8:30 p.m.

Alice MacKay Room, Lower Level
Central Library, 350 West Georgia St.
Admission is free. Seating is limited.

Robert Morales will discuss indigenous human rights in the context of the 1884 seizure and privatization of Hul'qumi'num peoples' land on Vancouver Island. The land seizure has had serious consequences for Hul'qumi'num survival and cultural integrity. Years of unsuccessful negotiations led the Hul'qumi'num people to seek justice elsewhere.

For other talks in the series see www.lrwc.org or contact lrwc@portal.ca; 604-738-0338

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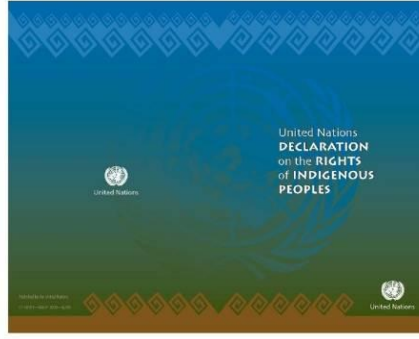
Vancouver Public Library
www.vpl.ca

March 19, 2012: **UN Declaration of the Rights of Indigenous People-Indigenous rights in the UN system** with Kenneth Deer of the Mohawk Nation at Kahnawake, a journalist and educator, internationally recognized for promoting the recognition and protection of Indigenous Peoples' rights. Kenneth Deer's talk will address the development of UNDRIP and its 25-year passage through the UN system, why Indigenous Peoples went to the UN, the obstacles they faced, Canada's involvement, and whether the declaration is binding on states.

Series: **FIRST NATIONS' RIGHTS: THE GAP BETWEEN LAW AND PRACTICE**

Indigenous Rights in the UN System

Development of the UN Declaration on the Rights of Indigenous Peoples



Kenneth Deer of the Mohawk Nation at Kahnawake is a journalist and educator who is internationally recognized for promoting protection of the rights of Indigenous Peoples'.

Monday, March 19, 7:00 - 8:30 p.m.

Alice MacKay Room, Lower Level
Central Library, 350 West Georgia St.
Admission is free. Seating is limited.

Kenneth Deer will discuss the development of the UN Declaration on the Rights of Indigenous Peoples and its 25-year passage through the UN system. Deer's talk will address why Indigenous Peoples went to the UN, the obstacles they faced, what Canada's involvement has been and whether the declaration is binding on states.

For other talks in the series see www.lrwc.org or contact lrwc@portal.ca; 604-738-0338



April 24, 2012: **Remember the children: What a landmark human rights case tells us about discrimination and justice in Canada** with Cindy Blackstock, Executive Director, First Nations Child and Family Caring Society.

May 17, 2012: **First Nations' own laws and legal systems** with Sarah Morales, assistant professor, University of Ottawa, Faculty of Law, specializing in the study of Coast Salish legal traditions and conciliation with the imposed legal system.

June, TBA: **Indigenous Rights within the Inter-American Human Rights System** with Robert Williams, University of Arizona law professor specializing in indigenous law and policy will be held in

June, funds permitting.

The first talk, presented by Dr. Grace Woo on January 12th at the Vancouver Public Library, was a tremendous success, with an over-capacity crowd in attendance. In recognition of Vancouver's location on Coast Salish territory, the proceeding commenced with an address by Jeri Sparrow, an elder of the Musqueam Band. Dr. Woo's talk accompanied the release of her book, *Ghost Dancing with Colonialism*, which takes a hard look at Anglo-Canadian legal history, international law, and Supreme Court of Canada reasoning. Dr. Woo's talk was approved by the Law Society of BC for continuing professional development credits, is available on [audio](#) and will be available on video. To accommodate those who couldn't gain entry to the January 12th event due to lack of seating, Dr. Woo will give her talk again on February 2, 2012, 4:00 – 6:00 pm at the Native Education College at 285 East 5th Avenue, Vancouver BC.

3rd CARAVANA OF LAWYERS TO COLOMBIA

LAWYERS WITHOUT BORDERS CANADA PLAN 3RD DELEGATION TO COLOMBIA Lawyers Without Borders Canada (LWBC) has been advised that a 3rd Caravana to Colombia to meet with lawyers would be useful, and have invited LRWC to send a representative on the 3rd Caravana to Colombia which will take place in August 2012. In August 2010, the Second International Lawyers Delegation to Colombia, a group of 57 lawyers from 15 countries, visited Colombia to assess the situation facing Colombian human rights lawyers and members of the judiciary. This international legal observation mission was part of the long-term commitment of LWBC to monitor and promote respect for the rights of legal professionals in Colombia. LRWC member Alyssa Brierley was part of the August 2010 delegation, representing both LWBC and LRWC. That delegation's report, *Colombia: [The Legal Profession Still Under Attack](#)* was published in May 2011. LRWC members interested in participating, please rsvp to lrwc@portal.ca.

NOTABLE STATEMENT

CANADA/ATTAWAPISKAT FIRST NATION: STATEMENT BY THE UN SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES

On December 20, 2011, Special Rapporteur on the rights of indigenous peoples, Mr. James Anaya, released a statement on the situation of the Attawapiskat First Nation and the living conditions of Aboriginal peoples across Canada:

“...the Government has allegedly been resisting efforts by the Canadian Human Rights Commission to inquire into allegations of discrimination on the basis of national or ethnic origin related to disparities in funding provided to First Nations as compared to non-aboriginal communities, inquiries that have been requested by First Nations themselves....



To read the full statement, please see:

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11743&LangID=E>

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](#)

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