

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

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LRWC ACTION NEWS

BURMA

Seven lawyers in Burma have been readmitted to the bar after having been wrongfully disbarred. The 7 lawyers reinstated were amongst the group of 32 lawyers who were the subject of joint communications from LRWC, the Asian Legal Resource Centre and Lawyers for Lawyers (L4L) to Burmese authorities, the UN Office of the High Commissioner of Human Rights and Tomás Ojea Quintana, the UN Special Rapporteur on the situation of human rights in Myanmar/Burma. Written communications included letters on May 8, January 17 and a summary of facts and law. LRWC and L4L representatives (Gail Davidson and Irma van den Berg) met with the Special Rapporteur in Geneva during March to discuss this and other situations in Burma. After the reinstatements, LRWC Burma monitor Paul Copeland received two emails:

- July 21, 2012: Dear Sir, 17-7-2012 Union Supreme Court has informed me that i've been re-admitted as an advocate in accordance with Union Supreme court Judges meeting(2-7-2012)...[name deleted]. 7 lawyers have been readmitted, the source said. But only 3 lawyers, [names deleted], who are the Lawyers net work members are known. Thank u very much for U and comrade lawyers world-wide support for our just cause. Without outside heart-felt comradeship, they will never recognise us. [name deleted] and some members still have not submitted their applications to supreme court yet.
- July 24, 2012: Dear Paul, Today i've filed my attorney power to my first civil case after 10 yrs imprisonment and 11yrs of disbarred hellish times. I am to deliver one criminal revision admission argument and one final hearing of another criminal revision in Naypyidaw supreme court at 26.july. thanks.

Mr. Copeland views the re-admission to the Bar of these lawyers is a positive sign of meaningful change in Burma.

CAMBODIA

Thirteen women were released from jail on June 27th after the Appeal court in Phnom Penh upheld their convictions but reduced their 2 ½ year sentences to time served. The women had been arrested on May 22 and summarily convicted and sentenced the following day. The women, ranging in age from 25 to 72, were arrested and charged for peacefully protesting forced evictions and the destruction of homes without compensation in the Boeung Kak Lake area by Shukaku Inc Co. Ltd., a company owned by a ruling-party Senator. LRWC sent a letter criticizing the arrests and made a statement on June 21st to the UN Human Rights Council. Amnesty International is now calling for the convictions to be set aside.



CANADA

The Harper administration continues to refuse to approve the repatriation of Omar Khadr contrary to legal obligations arising from both domestic and international law. In June, 2012, the UN Committee against Torture urged Canada “to promptly approve Omar Khadr’s transfer application and ensure that he receives appropriate redress for human rights violations that the Canadian Supreme Court has ruled he experienced.” (CAT/C/CAN/CO/6, 25 June 2012, para. 16). LRWC and the International Civil Liberties Group had filed [a shadow report on the Khadr case](#) with the Committee.

LRWC members Grace Woo and Gavin Magrath sent a letter to Public Safety Minister Toews and others calling on the government to uphold the rule of law and its own diplomatic obligations by repatriating Omar Khadr immediately. The letter reminds the government that the Supreme Courts of both Canada and the United States have found the military tribunal process in place at Guantánamo to be illegal and unconstitutional. More shamefully, the federal government has been in breach of a Supreme Court ruling since January 2010 when the Court found his treatment to be a breach of the principles of fundamental justice such that 'all government power must be exercised in accordance with the Constitution' to remedy those breaches under s. 24(1).

The Supreme Court declined to order repatriation then as it did not know the status of negotiations in respect of Khadr and deferred to the government's foreign policy prerogative. We now know that the government of Canada's commitment to Khadr's repatriation was used to induce him to enter into a plea bargain, that the US government desires his repatriation, and that Canada is the only western democracy to fail to repatriate all of its citizens from Guantánamo. Accordingly, the government's continued obstructionism and delay in complying with the 2010 order and its own diplomatic undertakings cannot be justified by the foreign policy exception and is illegal.

The authors urged the government not to play politics with the rule of law and the most basic constitutional rights, and act immediately to bring Omar Khadr home to Canada.

PAKISTAN

LRWC member Charles R. Davidson wrote a [letter](#) to Pakistani authorities on 15 June in response to receiving information of a plot to assassinate Jahangir, the renowned human rights lawyer and founder of the Human Rights Commission of Pakistan (HRCP). The threat was leaked from Pakistan’s Inter-Service Intelligence agency (ISI), which has been accused of involvement in numerous killings of human rights

defenders. The HRCP has expressed concern that the ISI is trying to silence Ms. Jahangir and to intimidate all human rights defenders in Pakistan. The letter urged authorities to ensure Ms. Jahangir's safety, to publicly condemn the plot to kill her and to conduct a prompt and exhaustive investigation into the ISI's involvement. *The Express Tribune* reported on 15 July that Ms. Jahangir has now been provided with security by Pakistan's interior ministry after some 'foreign intervention', speculating that the intervention may have come from the UN. However, Amnesty issued a bulletin stating that Ms. Jahangir was still at grave risk. LRWC member Kumail Karimjee wrote a [letter](#) on July 24th calling on authorities to protect Ms. Jahangir and to identify and punish perpetrators of the threats against her.



RUSSIA

LRWC sent a letter, by LRWC member Vicheka Lay, on [26 June 2012](#) following an urgent appeal from the Observatory, regarding threats against defense lawyer Rustam Matsev who is also a member of the "Memorial" human rights organization. Mr. Matsev was harassed and intimidated as a result of representing a client who reported having been kidnapped and beaten by special forces members and was subsequently charged with carrying an explosive device. Police threatened that they were watching After Matsev refused to pressure his client to withdraw the accusations against the police and plead guilty, police threatened Matsev that he was being watched and to 'be careful'. LRWC's letter calls on Russia to put an end to further threats against Mr. Matsev and to conduct a thorough investigation into the matter. It is rumoured that an investigation is being considered in response to the letters received.



SUDAN

LRWC Sudan monitor Joseph Hoffer wrote two letters on behalf of human rights defenders at risk in Sudan. On July 10th a [letter](#) was sent on behalf of Rashida Shams al-Din, a law student and member of the youth movement Girifna who has been detained apparently for taking part in criticisms of the government. She is being held incommunicado without access to her family or a lawyer and therefore believed to be at heightened risk of torture. LRWC's letter urged Sudanese authorities to guarantee al-Din's safety, release her from arbitrary detention and respect human rights in accordance with international instruments ratified by Sudan. On July 19th LRWC sent [a letter calling for her release](#) on behalf of 13 human rights defenders—including two lawyers—arrested between June 23rd and July 12th during a campaign of arrests targeting human rights defenders in the context of popular mass protests calling for regime change, peace and justice. Reports indicate that the 13 are being detained incommunicado and are therefore considered at high risk of torture. The two lawyers and 9 others had not been charged as of the date of the July 19th letter.



TURKEY

LRWC signed on to a [joint letter](#) from 17 international human rights organizations expressing concern with the November 2011 arrest and detention and the subsequent malicious prosecution of 50 persons including 46 lawyers, three law office employees and one journalist in Turkey. All of the parties are accused of involvement in the defense of Abdullah Öcalan, the jailed leader of the Kurdistan Workers' Party (PKK). They are charged with maintaining ties with the Union of Kurdistan Communities (KCK), an organization considered by government officials to be part of the banned KKK. The charges are set out in an indictment that defense lawyers report is 890-page long and does not identify individual accusations with sufficient particularity to enable a defense. The arrests, detention, investigation and charges have all been criticized as contrary to internationally accepted standards protecting the independence of lawyer and internationally protected rights to liberty, the presumption of innocence and fair trial.



Thirty-seven of the accused—36 lawyers and one journalist—were still in custody when the proceedings commenced on July 16th at Istanbul's Çağlayan courthouse. There were approximately 100 lawyers representing the accused in addition to dozens of lawyers from 27 countries present to observe the proceedings. Crowding prevented proper representation with lawyers having to take turns entering the courtroom and often having to shout above the noise. Lawyers for Lawyers (L4L) representatives attended the first stage of the mass 'trial' on behalf of L4L and LRWC and their report will be available soon. After 3 days of preliminary applications, another 9 of the accused were released leaving 27 lawyers still in custody. The proceedings were then adjourned to November 6, 2012 over objections from defense counsel and will recommence at the larger Sivivri courthouse.

Prior to the commencement of the proceedings, LRWC prepared [submissions outlining the lawyers' right to pre-trial release](#) and Turkey's international law obligations to protect and ensure that right. The Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT) signed onto the submissions which were sent to defense lawyers and to Margaret Sekaggya, the UN Special Rapporteur for human rights defenders, Gabriela Knaul, the UN Special Rapporteur for the independence of judges and lawyers and to the Working Group on Arbitrary Detentions. LRWC joined other international human rights organizations in two public statements on [July 13](#) and [July 22](#) criticizing the illegality of the proceedings and calling for fair trials.

UNITED KINGDOM

Baltasar Garzón, former judge of Spain's Audiencia Nacional court has joined the team of lawyers representing Julian Assange and Wikileaks. Although Mr. Assange has not been charged with any offence in any country, he has been under house arrest in the UK for over 650 days and has now sought refuge in the Ecuadorian Embassy in London to avoid extradition to Sweden for questioning. Rumours indicate that the United States will seek his extradition from Sweden to the US. Experience indicates that he would not receive a fair trial in the US.

LRWC has produced [many reports and other communications](#)—alone and in cooperation with other international human rights NGOs—on the prosecution of Garzón. LRWC reports and other communications examined, and called for adherence to, international law regarding judicial independence

and state duties to prevent and punish international crimes (e.g. torture, enforced disappearances and extra-judicial killings) irrespective of the status of the suspected perpetrators. In December 2010 LRWC wrote [a letter](#) in response to the vilification by US authorities of one of Mr. Assange's previous lawyers.

UNITED NATIONS HUMAN RIGHTS COUNCIL

20TH SESSION OF THE HUMAN RIGHTS COUNCIL – JUNE 18TH - JULY 6TH

LRWC was one of approximately 70 NGOs attending the 20th session of the Council. Catherine Morris, Gary Anandasangaree and Paul Scambler attended on behalf of LRWC from June 18-22. Vani Selvarajah registered LRWC to make oral presentations.



Reports presented at the 20th session included reports of those appointed by the Council on special mandates including the Special Rapporteurs on independence of judges and lawyers, freedom of opinion and expression, freedom of association and assembly, the promotion and protection of human rights while countering terrorism, extra-judicial, summary or arbitrary execution, the right to education, and the Working Group on human rights and transnational corporations. See these and other reports presented at the 20th session.

The response of the Québec government to student protests of tuition hikes was sharply criticized by several UN officials. In a published statement, UN Special Rapporteurs on freedom of expression and freedom of assembly expressed concern with treatment of student protesters in Québec and with Bill 78. UN High Commissioner of Human Rights Navi Pillay, in her opening statement to the 20th session said, “Moves to restrict freedom of assembly in many parts of the world are alarming. In the context of student protests, I am disappointed by the new legislation passed in Quebec that restricts their rights to freedom of association and of peaceful assembly.” An advance unedited version of the HRC report on the 20th session was released for comment on July 17th.

Catherine Morris presented an [oral statement on June 18 about the State duties](#) to both ensure education of state officials and the general public about internationally protected rights and to ensure a safe and enabling environment for civil society groups to advocate and educate about international human rights. On June 21 Ms Morris made a [statement on behalf of LRWC and the Asian Legal Resource Centre](#) about the escalation of violent attacks and judicial harassment of people protesting labour or land-rights violations in Thailand, Myanmar and Cambodia.

Ms. Morris also met with officials of the UN Office of the High Commissioner for Human Rights (OHCHR) to discuss LRWC's recently published report on international human rights education and training. As a result, the report has now been placed in the OHCHR library along with a direct link to the report in the library catalogue.

LRWC delegates also attended several parallel events held in conjunction with the 20th Session including:

- “Shrinking space for civil society,” organized by the World Alliance of Citizen Participation (CIVICUS), with expert panelists including the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, Mr. Mina Kiai (22 June 2012).
- “Human Rights in Honduras,” organized by Centro Regional de Derechos Humanos y Justicia de Genero. Panelists included human rights workers under Protective Measures of the Inter-American Commission on Human Rights who provided data on enforced disappearances as well as murders of 39 lawyers, 24 journalists and other civil society activists since the coup in 2009 (22 June 2012).

INTERNATIONAL DELEGATION OF LAWYERS TO COLOMBIA

RETIRED BC COURT OF APPEAL JUDGE JOINS 3RD CARAVANA OF LAWYERS TO COLOMBIA

Two delegates will participate in the 3rd International Caravana of Lawyers to Colombia, a high level investigative mission taking place August 26 - September 1 2012. LRWC delegates are Heather Neun, Vancouver-based labour and human rights law specialist, and the Honourable Carol M. Huddart, recently retired from the British Columbia Court of Appeal. Ms Neun and Ms Huddart bring experience and knowledge invaluable to the investigation.

This investigation was requested by an association of Colombian human rights lawyers as a follow-up to the 2008 and 2010 Caravanas, which examined the egregious and systematic campaign of attacks on Colombian lawyers. During the 2012 mission, a group of international lawyers and judges will travel to the most remote regions of the country, where Colombian lawyers work with vulnerable communities at the highest risk of attacks. Delegates will meet with judges, state officials, the media, human rights NGOs and other social organizations, both to gather information and demonstrate publicly the attention of the international community. The Caravana will also investigate specific cases of attacks against human rights lawyers that have not been properly investigated or prosecuted. The delegation recognizes the vital role that Colombian lawyers play in ensuring access to justice. The campaign against lawyers and other justice system actors represents a serious threat not only to the legal profession but to the proper administration of justice and the rule of law in Colombia. After the trip, the delegation will produce a report that will be used as the basis for advocacy across the world. Alyssa Brierley attended the 2010 Caravana on behalf of LRWC and Lawyers Without Borders Canada.

EDUCATION EVENTS

PARTNERSHIP WITH INTERNATIONAL COMMISSION OF JURISTS: EVENT FOR VICTORIA LAWYERS

In a June 15, 2012 event in Victoria co-sponsored by LRWC and the International Commission of Jurists Canada (ICJ Canada), Catherine Morris spoke about the need for human rights education for lawyers and judges in BC. The talk was based on LRWC’s report, *The Right to Know Our Rights: How does B.C. measure up to international human rights treaty obligations?* Ms. Morris and ICJ’s John Waddell also introduced the work of LRWC and ICJ. See ICJ Newsletter for more details. LRWC and ICJ Canada are planning another Victoria seminar in November 2012.

OMAR KHADR DIALOGUE

On June 27th Gail Davidson spoke about the Omar Khadr case as part of the Justice Dialogue Series at St. John's College, a residential college of graduate students at UBC. The topic was new to many of the students in attendance, who represented a dozen different countries and a cross-section of disciplines. Gail's talk canvassed the basics of Omar's detention, mistreatment and current situation. She then opened the floor for questions and discussion. The dialogue that followed was lively, ranging from the specifics of Omar's charges to strategies for changing public perceptions. The organizers of the dialogue agreed it had been the most successful one St. John's has hosted to date. Follow up items include engaging student groups in advocacy and potential ways to get UBC involved as an institution.

THE INDIAN ACT IN HISTORICAL CONTEXT

On July 9th Grace Woo gave a talk on "The Indian Act in Historical Context" to the colonialism study group at Grandview Calvary Baptist Church in Vancouver. Drawing on her book, *Ghost Dancing with Colonialism: Decolonization and Indigenous Rights at the Supreme Court of Canada*, the power-point presentation illustrated the emergence of Canada and its changing relations with First Nations in the context of International law, the Canadian constitution and the Indian Act.

FIRST NATIONS' RIGHTS: THE GAP BETWEEN LAW AND PRACTICE

Dates for continuation of public talks on "First Nations Rights: The Gap Between Law and Practice at the Vancouver Public Library have been confirmed for Thursday January (24th), Thursday February (28th), Thursday March (28th) and Thursday May (23rd), 2013. The series will again be co-hosted by LRWC, the Hul'qumi'num Treaty Group, Amnesty International Canada and the Vancouver Public Library.

VIDEOS

Sarah Morales May 17th talk on "Cooperation or Conquest: Coast Salish Legal Traditions and the Canadian state" is available on video <http://www.lrwc.org/sarah-morales-cooperation-or-conquest-coast-salish-legal-traditions-the-canadian-state-video/>

THE RIGHT TO KNOW OUR RIGHTS

STATE DUTIES TO ENSURE INTERNATIONAL HUMAN RIGHTS EDUCATION AND TRAINING FOR JUDGES AND LAWYERS

The Special Rapporteur on the independence of judges and lawyers released an assessment and recommendations of the urgent need for international human rights education and training for judges and lawyers. This report, *Global thematic study of the Special Rapporteur on the independence of judges and lawyers to assess the human rights education and continuing training of judges, prosecutors, public defenders and lawyers, with recommendations for appropriate follow-up* (A/HRC/20/20) is a follow-up of her April 2010 report (A/HRC/14/26) which described international human rights knowledge and education opportunities for judges and lawyers as generally inadequate and identified that inadequacy as an impediment to human rights enforcement. The 2012 report notes that the main actors of the justice system lack knowledge of international law



and of state obligations imposed by international law. The report observes that jurists “have not had the opportunity to study international human rights law” and further states, “[t]his situation must be recognized in order to urgently move forward and work to remedy it.” The Special Rapporteur recommends that prosecutors receive adequate training on appointment and also periodically and that there be joint training for judges, prosecutors and lawyers.

PUBLICATIONS

Lois Leslie, B.Soc. Sc. (Hons), LL.B, LL.M, *Arrest and Detention of lawyers in Turkey - Right to pre-trial release*, July 13, 2012. This report examines the international law right to pre-trial release, as it applies to Turkey. The right to pre-trial release, which arises from the rights to liberty and to the presumption of innocence, is considered in the context of Turkey’s international obligations, including provisions of the *International Covenant on Civil and Political Rights* and the *European Convention on Human Rights*, and the relevant jurisprudence from the United Nations Human Rights Committee and the European Court of Human Rights. Affected rights include the right to be informed of reasons for arrest, the right to be tried within a reasonable time, the right to release pending trial, and the right to a remedy and compensation for unlawful deprivation of liberty.

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