

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

November 2012 Edition

LRWC ACTION NEWS

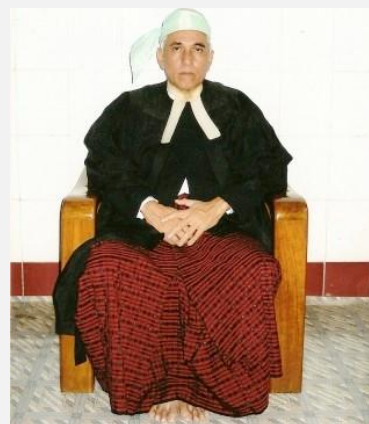
BAHRAIN

LRWC sent [a letter](#) expressing concern about the ongoing detention of human rights defender Nabeel Rajab, President of the Bahrain Centre for Human Rights (BCHR) and Director of the Gulf Centre for Human Rights (GCHR). Mr. Rajab was sentenced to 3 years' imprisonment on 16 August 2012 after being charged in relation to three occasions where he participated in peaceful gatherings promoting fundamental freedoms and democracy. On 08 November 2012, the Bahrain Appeals Court resumed the hearing of the appeal against Mr. Rajab's sentence. The appellant filed an application for a determination on the question: is the law banning demonstrations in Bahrain constitutional under domestic law, and legal under international conventions? This application was denied. LRWC called on Bahrain to end the criminalization of peaceful protestors and provide protective measures to ensure their right to freedom of assembly. The Court is expected to hand down its decision on the appeal against sentence 11 December 2012.



BURMA

U Aung Thane (U Aung Thein) has been notified that his practicing license has been restored. In May 2012, LRWC and Lawyers for Lawyers (L4L) wrote [a letter](#) calling for the restoration of the professional licenses of 32 lawyers. The letter also urged the withdrawal of February 2012 contempt charges against defence lawyers U Kyaw Hoe and Daw Thinza Hlaing who were threatened with disciplinary action for their legal work and charged with intentionally causing insult to a judicial officer for attempting to rebut evidence during the trial of their client who was sentenced to death. LRWC and L4L had also released [a joint letter](#) in January, calling for review of the revocation of 32 lawyers' licenses.



One of the 66 political prisoners released from prison on November 19, 2012 was lawyer Saw Kyaw Kyaw Min. Saw Kyaw Kyaw Min fled to Thailand after being sentenced

to 6 months for refusing to make his clients face the Court after they turned their backs in protest of the proceedings against them. He returned to Burma in May 2012 and was arrested in August. In September 2012, LRWC member Paul Copeland wrote [a letter](#) to President Thein Sein calling on him to commute Saw Kyaw Kyaw Min's six month sentence of imprisonment. For more on this story, please click [here](#).

CAMBODIA

Lawyers working in Cambodia have organized a lawyers' I-Petition for the immediate release from jail of Mam Sonando, a 71-year old radio broadcaster and human rights advocate, from a 20-year jail sentence on a conviction based on false and politically motivated charges in a trial that local and international legal observers found to be grossly inadequate and unfair. There have been longstanding concerns about the lack of independence of Cambodia's courts. LRWC is joining with other respected organizations in supporting this petition and requesting Canadian jurists members to join jurists from around the world in signing this petition. View and sign the [petition](#).



YORM Bopha was charged in conjunction with land rights demonstrations in September 2012, and denied bail November 8 by the Cambodian Court of Appeal along with demonstrator, TIM Sakmony. Photo: Jenny Holligan

In November, Catherine Morris spent several days in Phnom Penh, Cambodia, where she had more than a dozen meetings to discuss the current situation of lawyers and human rights defenders in Cambodia. Land rights violations continue to be a severe problem for affected communities. Lawyers and human rights defenders (HRDs) advocating on behalf of victims of land-grabbing frequently experience judicial harassment and other threats, including a number of violent attacks during 2012. The purpose of Catherine's visit was to gain deeper insights into some ways LRWC can advocate for lawyers, other HRDs and human rights educators in a situation where there are severe challenges to independence of the judiciary or legal profession. Ms. Morris plans to provide a report.

CAMEROON

Gail Davidson wrote an [urgent letter](#) on behalf of two lawyers whose lives and families were endangered as the result of defending a man charged with homosexuality under Article 347bis of the Cameroon Penal Code. The provision criminalizes "sexual relations with a person of the same sex" and has also been used to prosecute people for sending text messages (as in the current case) or exhibiting suspicious mannerisms. Lawyers Alice Nkom and Michel Tongue were threatened with harm for defending gay rights ("we will hit you where it really hurts"). Previous threats had specifically targeting their children. The family of Mr. Tongue had already left Cameroon to ask for political asylum in the US.





Drawing by Issa Nyaphaga, political cartoonist, artist and human rights activist.

The lawyers were fearful of attending their November 19 court appearance without protection. LRWC wrote separate letters to UN officials and to the British and Canadian High Commissioners requesting their assistance in securing emergency protective measures. LRWC also wrote to the government of Cameroon but it did not replied. Bodyguards were provided by the Swiss Embassy and the Canadian High Commission is tracking the situation. Thankfully, as a result, Mr. Tongue and Ms. Nkom were able to attend their Monday court appearance without incident, and the trial proceedings have now concluded. Threats to both lawyers have continued (“Give up this craziness ... or we will drop by [your neighbourhood] within the next days”) and LRWC wrote a second letter to UN officials, to the British High Commissioner and to the Swiss Ambassador in Cameroon, requesting daily protection. LRWC is currently researching the viability of a complaint about the penal code provisions to the UN Human Rights Committee. (Alice Nkom photo credit: Christi van der Westhuizen/IPS)

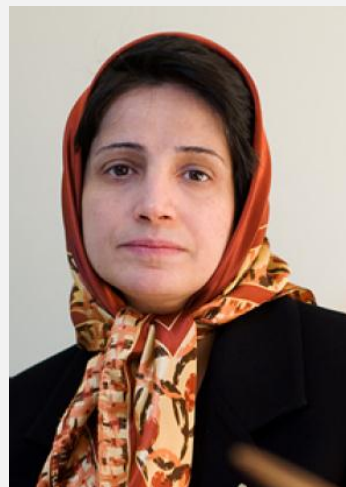
COSTA RICA

Gail Davidson and Marion Caussanel sent [a letter](#) to Costa Rican authorities on behalf of five people, a lawyer, a law professor, a biology professor and two environment specialists targeted with criminal and civil suits in reprisal for their opposition to the mining project of a Canada-based company. On 24 November 2011, the Administrative Tribunal of San José ruled in favor of nullifying a mining project of Industrias Infinito S.A. in the region of Las Crucitas. In response, the company initiated criminal defamation and civil damage suits (claiming between 200-500 colones) against the above mentioned people who had criticized the project and supported the application to nullify the permit. In addition a [company official demanded](#) that the University of Costa Rica (UCR) fire the professors, and take other steps to modify course content and provide information. [The rector of UCR refused](#), saying the demands were an unacceptable interference with the autonomy of the university. LRWC’s letter reminded Costa Rica of its duty, arising from domestic and international law, to ensure that defamation not be used as a means of hindering freedom of expression.



IRAN

On November 8, 2012, Hugh Gwillim, on behalf of LRWC, sent [a letter](#) to Ayatollah Sayed ‘Ali Khamenei, Leader of the Iranian Islamic Republic and Ayatollah Sadegh Larijani, Head of the Iranian Judiciary calling for the immediate and unconditional release of lawyer Nasrin Sotoudeh. Ms. Sotoudeh is a prominent and long-standing human rights lawyer and activist in Iran who has represented many individuals who were arrested and charged subsequent to the June 2009 presidential elections, including Nobel Peace Laureate Shirin Ebadi. She was unlawfully arrested and detained on September 4, 2009. In response to these conditions, Ms. Sotoudeh began a hunger strike on October 17, 2012. LRWC called on the government of Iran to: (1) release Nasrin Sotoudeh immediately and unconditionally; (2) reunite her family and allow her to return to her work as a lawyer; (3) ensure she is free and be protected from torture and other ill-treatment; (4) cease all restrictive, discriminatory, and arbitrary conditions of detention; and (5) ensure she has regular access to her lawyer, family, and medical care.



RUSSIA

This month, Russia enacted its new law on treason and espionage, which threatens freedom of expression and the legitimate work of human rights defenders in the country. The law defines treason as including “providing financial, technical, advisory or other assistance to a foreign state or international organization . . . directed at harming Russia’s security.” The effect of this law will likely be the stifling of interaction between Russian human rights advocates and NGOs and human rights advocates, NGOs and intergovernmental bodies outside Russia. The creation of this law is especially concerning, given the recent enactment of laws that: (1) significantly increase fines for participants in unauthorized demonstrations; (2) require all political NGOs receiving financial support from foreign entities to register as “foreign agents”; (3) re-criminalize libel; and (4) allow for sweeping bans of websites deemed to be harmful to children or have extremist content. On November 19, LRWC sent [a letter](#) to President Vladimir Putin calling for the treason and espionage law to be repealed. LRWC reminded Mr. Putin of his government's obligations under the *International Covenant on Civil and Political Rights* and the *Universal Declaration of Human Rights* (UDHR) to ensure that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (Article 19, UDHR). (Photo Credit: Sergei Guneyev; time.com)



TURKEY

On November 6, 2012, 17 organizations, including LRWC, released [a statement](#) regarding the ongoing trial of 46 Kurdish lawyers in Turkey. The trial had commenced July 16, 2012 and after 3 days of preliminary motions was adjourned to November 5. On November 6, the trial was again adjourned to January 3th 2013. The joint statement expressed concern over: (1) the lack of access that counsel have had

with their clients; (2) the inability of the accuseds' families to attend the trial due to space limitations; (3) the refusal of the Court to allow the accused to speak in Kurdish; and (4) the lengthy adjournments that have occurred, thus prolonging the custody of the accused. In protest over the Court's refusal to allow use of the Kurdish language, hundreds of Kurdish prisoners joined in hunger strikes, as have thousands of political prisoners. Defence lawyers joined in protest by walking out of court.



VIETNAM

LRWC, Lawyers for Lawyers (L4L), and the Law Society of England and Wales sent [a joint letter](#) to the President of the Socialist Republic of Vietnam, expressing concern over the recent, illegitimate, conviction of lawyer, Le Cong Dinh, on the false charge of “carrying out activities aimed at overthrowing the Peoples Administration”. Le Cong Dinh’s charges, lengthy detention, and 2010 criminal conviction, originated in his peaceful writings, media interviews and other expressions of free speech, in association with the Vietnam Democracy Party and Viet Tan, a pro-democracy group, recently declared a “terrorist organization” by the Vietnamese Government. LRWC has advocated for release of Le Cong Dinh since his first arrest. Le Cong Dinh’s health is reportedly deteriorating and he continues to be denied access to legal counsel while serving his 5 year sentence in the high security Ho Chi Minh City prison. L4L and LRWC continue to call on the Vietnamese government to abide by international laws and standards including the Basic Principles on the Role of Lawyers and *the International Covenant on Civil and Political Rights*, by releasing Le Cong Dinh from what appears to be arbitrary detention.



ASEAN HUMAN RIGHTS DECLARATION DENOUNCED

On November 18 the 10-country Association of Southeast Asian Nations (ASEAN) adopted an [“ASEAN Human Rights Declaration \(AHRD\)”](#). This document fails to measure up to the international legal obligations of ASEAN member states. On November 19, a coalition of 57 NGOs including Lawyers’ Rights Watch Canada released a [joint statement](#) denouncing the AHRD which “undermines, rather than affirms, international human rights law and standards. The Declaration fails to include several key basic rights and fundamental freedoms, including the right to freedom of association and the right to be free from enforced disappearance. (Photo credit: Reuters/Damir Sagolj)



UN HUMAN RIGHTS COMMITTEE REVIEW OF TURKEY

The UN Human Rights Committee (Committee) adopted [advance concluding observations](#) on Turkey's compliance with the International Covenant on Civil and Political Rights (ICCPR). LRWC and FIDH/OMCT had filed a shadow report outlining violations of the right to pre-trial release. The Committee was critical of Turkey's use of anti-terrorism laws to criminalize human rights activities and other legitimate exercises of fundamental freedoms. The Committee denounced several provisions of the 1991 Anti-Terrorism Law, noting that the definition of a terrorist act is too vague leading to a "high number of cases in which human rights defenders, lawyers, journalists [...] are charged under the Anti-Terrorism Law for the free expression of their opinions and ideas, in particular in the context of non-violent discussions of the Kurdish issues".

The Committee expressed concern about the widespread use of lengthy pre-trial detention and recommended that Turkey "reduce the legal period of pre-trial detention in compliance with article 9 of the Covenant, and ensure that it is only used as an exceptional measure. The State party should guarantee the access of detainees to a lawyer, and to an effective and independent mechanism to challenge the lawfulness of their pre-trial detention."

INTERNATIONAL CRIMINAL COURT

REALPOLITIK VS. THE RULE OF LAW

Ms. Arghavan Gerami attended the 11th Session of the Assembly of State Parties to the Rome Statute (ASP) at the Hague, as LRWC's representative. The relationship between the UN Security Council (UNSC) and the International Criminal Court (ICC) was the subject of much discussion and controversy at the November 14-22 ASP. Participants discussed the challenges presented by the interface between politically driven referrals from the UNSC and the necessity for the ICC to demonstrate independence and impartiality. The danger of the ICC being seen as a political tool engaging in unfairly selective prosecutions was also discussed with particular reference to prosecutions of African leaders. Participants made a number of suggestions for reform including, development of referral and prosecution guidelines, better support from the UNSC and more state involvement in improving the ICC.

SRI LANKA UNIVERSAL PERIODIC REVIEW

GROUP CALLS FOR IMMEDIATE INVESTIGATIONS INTO GENOCIDE AND WAR CRIMES.

LRWC's Sri Lanka monitors, Gary Anandasangaree and Vani Selvarajah attended the second [Universal Periodic Review \(UPR\) of Sri Lanka](#) in Geneva on November 1st, 2012. 46 NGOs submitted reports and 99 states commented, on Sri Lanka's human rights record. Of particular concern are ongoing human rights violations and impunity for past violations. Sri Lanka rejected 100 of states' recommendations for improved compliance with human rights obligations.

On November 14th, 2012, the sharply critical [Report of the Secretary General's Internal Review Panel on UN Action in Sri Lanka](#) was released. This 128-page report concludes that “events in Sri Lanka mark a grave failure of the UN to adequately respond to early warnings and to the evolving situation during the final stages of the conflict and its aftermath, to the detriment of hundreds of thousands of civilians and in contradiction with the principles and responsibilities of the UN.” [Read more...](#)



UN SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS

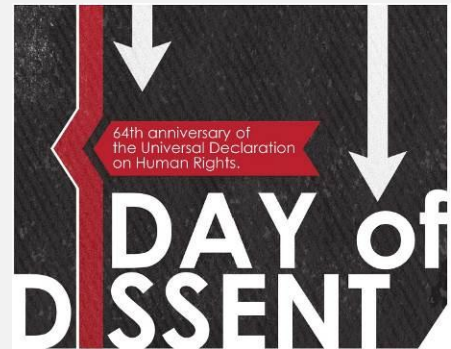
NATIONAL LAWS MUST NOT RESTRAIN THE WORK OF RIGHTS DEFENDERS.

The Special Rapporteur on Human Rights Defenders made [a statement](#) criticizing growing use around the world of laws to restrict NGOs access to funding. “Restrictions on funding from abroad are being swiftly introduced in a number of States, with associations risking treason charges, having to declare themselves ‘foreign agents’ and to seek prior approval to do fundraising.” Ms Sekaggya stressed that none of these restrictions are justifiable under international human rights law. She said national legislation must not be used to restrict the work of human rights defenders.

UPCOMING EVENTS

DAY OF DISSENT

Dissent is an indispensable component of democracy. In response to decreasing democratic space in Canada and increasing efforts to stifle criticism, human rights defenders are getting together to examine and discuss the right and duty to engage in dissent. Montreal lawyer Pearl Eliadis will document government efforts to close down opposition from civil society, prevent reliable investigation and reporting, and interfere with watchdogs and whistleblowers. Panelists who include, Jason Gratl, Leo McGrady, Cameron Ward, Gwen Brodsky, Matt Eisenbrandt and Phil Lane will outline domestic and international law on dissent, recount on-the-ground experience, and explain the response of courts and international tribunals to efforts to advance and squelch advocacy. This event is co-sponsored by LRWC, Amnesty International, BC Civil Liberties Association, the Council of Canadians and the New Media Journalism Program, SFU Continuing Studies.



Date and Time: Friday, December 7, 2012, 1:00 pm – 5:00 pm

Location: SFU Harbour Centre, 515 West Hastings, Vancouver, BC, Room 1400

Cost: This event is free to the public

FIRST NATIONS RIGHTS: HOW TO BRIDGE THE GAP

Deconstructing the Doctrine of Discovery. Robert Morales, lawyers and chief negotiator for the Hul'qumi'num Treaty Group will the continuing effects of this archaic doctrine. Under this doctrine, Europeans asserted that their superiority justified theft of native lands in the Americas and mistreatment of the people. Mr. Morales will examine the resulting practices throughout the centuries. This free public talk will be on Thursday January 28th 2013 at the Vancouver Public Library main branch at 350 West Georgia St., Vancouver BC from 7:00 – 9:00 pm.



MISSING WOMEN COMMISSION OF INQUIRY REPORT

The BC Civil Liberties Association, Pivot Legal Society and West Coast Women's Legal Education Fund – LEAF, have published a report critical of the inquiry, [Blueprint for an Inquiry: Learning from the failure of the missing women inquiry](#). The report beginning with the quote, “few rights are more fundamental than the basic right to be safe from violence and murder” and concludes that the inquiry was an absolute failure.

INTERNSHIPS WITH LRWC

MARION CAUSSANEL

Marion Caussanel from Toulouse France is completing a 3-month research internship with LRWC in December. Marion has a bachelor of law from L'Univeristé Capitoile 1 in Toulouse (France) and has completed the masters' exchange program in International and European Law at Maastricht University in the Netherlands. She has been accepted for her bar exams at the Université Paris 1 Assas in September 2013 where she will also complete the last year of her Masters in international law. Prior to returning to university Marion will work as an intern in Canberra (Australia). LRWC has benefited greatly from Marion's intelligence, enthusiasm and hard work. We are very pleased to announce that Marion has joined LRWC and will continue working with us.



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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