

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

LRWC NEWSLETTER

March 2012 Edition

LETTERS FOR LAWYERS

Colombia

Bounty offered for murder of lawyer - LRWC sent [letters](#) in response to information that on March 14, 2012, a "bounty" was offered for the assassination of Colombian human rights lawyer, José Humberto Torres. Mr. Torres is a member of the Comité de Solidaridad con los Presos Políticos (Political Prisoners Solidarity Committee) and has provided legal representation for many human rights defenders and political prisoners in Colombia. A reward of 200 million pesos (approximately US\$120,000) was offered by politicians, paramilitaries and members of the criminal group "Los Rastrojos", to anyone who would assassinate him.



José Humberto Torres is spokesperson for the National Platform for Human Rights and is involved in legal cases against state officials. For example, he has recently participated in cases against Mr Jorge Noguera the former Director of Departamento Administrativo de Seguridad (Administrative Department of Security), for the killing of human rights defender Mr Alfredo Correa de Andreis. He has also participated in proceedings against paramilitary leaders and cases related to extra-judicial killings involving members of the Fuerza Pública (Public Force). He recently called for a criminal investigation of links between members of Congress and paramilitary groups, and the roles of members of Congress in various crimes including the killing of the Mayor of the Municipality of Santo Tomás-Atlántico, Mr Nelson Mejía Sarmiento.

LRWC expressed concerns for the safety of Torres and other members of CSPP, and called on the Colombian Government to take decisive and effective measures to guarantee their safety; to order a full and impartial investigations into the threats to kill Torres; to publish the results and to bring those responsible to justice. LRWC reminded Colombian authorities of obligations arising from the 1998 UN Declaration on Human Rights defenders.

Sri Lanka: LRWC members & others threatened over support for UN resolution.

One of the matters being debated at the 19th session of the Human Rights Council in Geneva was the resolution, Promoting Reconciliation and Accountability in Sri Lanka, A/HRC/19/L.2. The resolution calls on the Government of Sri Lanka to comply with the recommendations of its own Commission of Inquiry to ensure accountability for perpetrators and justice for victims of crimes carried out during the civil war period. The resolution was supported by a number of NGO—including LRWC—from Sri Lanka and other countries. The Government of Sri Lanka opposed the resolution and had over 70 representatives present to lobby against it. It came to light during the first week of the 19th session that Sri Lankan government representatives were conducting surveillance and taking photos of NGOs representatives supporting the resolution and this was causing a good deal of unease amongst those being watched. After LRWC representatives, Gary Anandasangaree and Vani Selvarajah, complained to UN officials, Council President Laura Dupuy made a statement reminding states and NGOs that the Palais de Nations was a place where debate was protected and warning against any further intimidation. After the resolution was passed on 22 March (24 approved, 15 opposed and 8 abstentions), United Nations High Commissioner for Human Rights Ms Navi Pillay made a strong statement condemning the surveillance as an, “unprecedented and totally unacceptable level of threats, harassment and intimidation directed at Sri Lankan activists who had travelled to Geneva to engage in the debate, including by members of the 71-member official Sri Lankan government delegation”, and warning that, “there must be no reprisals against Sri Lankan human rights defenders in the aftermath of yesterday's adoption by the Human Rights Council of a resolution on Sri Lanka”.

In spite of these warnings, on March 23, 2012, Sri Lanka's Minister of Public Relations Mervyn Silva publicly called four of the human rights defenders who had been in Geneva, Ms. Sunila Abeysekera, Dr. Paikiasothy Saravanamuttu, Dr. Nimalka Fernando and Mr. Sunanda Deshapriya, “traitors” and threatened to “break their limbs” if they were to dare to set foot in the Sri Lanka. The state-run newspaper, Dinamina reported Media Minister Keheliya Rambukwella as stating that human rights defenders present in Geneva had “betrayed the motherland for dollars after enjoying free education and health services,” and that “they are worse than the foreign elements”. The state television station ran photos of Sunila Abeysekera, Dr. Nimalka Fernando, Dr. Paikiasothy Saravanamuttu and Mr. Sunanda Deshapriya calling them members of the banned LTTE.

LRWC wrote a [letter](#) calling on the President to retract the threats, investigate and remedy the threats and intimidation and ensure the safety of the threatened human rights defenders. LRWC also called on the President to publicly confirm the right and duty of all individuals to engage in human rights advocacy that includes criticism of the Government of Sri Lanka's human rights record during the armed conflict and post-conflict periods. One of the threatened advocates, Dr. Paikiasothy Saravanamuttu was speaker at a November 2009 event in Toronto on the rule of law co-hosted by LRWC and Amnesty and at a March 2011 side event in Geneva on combating impunity for enforced and involuntary disappearances. The latter event was co-hosted by LRWC and Asian Legal Resource Centre, Asian Federation against Enforced Disappearances, International Commission of Jurists, International Federation for Human Rights, International Coalition against Enforced Disappearances, Asociación Española para el Derecho Humano a la Paz and el Grupo de Trabajo sobre Justicia



Vietnam

The fate of independent journalist and blogger Nguyen Van Hai known as Mr. Dieu Cay remains uncertain. He was imprisoned in Vietnam in 2008 and has been held incommunicado for over 16 months. His whereabouts were last known when he was transferred to Cai Tau prison. Dieu Cay's blogs touched on politically sensitive issues and his imprisonment is thought to be in reprisal for his political criticisms. He was arrested in April 2008 and sentenced in September for tax evasion charges that Amnesty called 'trumped up' with an expected release date of October 2010. In 2009, the United Nations Working Group on Arbitrary Detention declared Mr. Dieu Cay to be a victim of arbitrary detention. Concerns for his safety occasioned by the failure to release him have been heightened by the fact that authorities have denied him access to family and legal counsel for the past 16 months. Vietnamese authorities have claimed to be holding him for 'investigative detention' which is normally limited to four months, under Vietnamese law. LRWC [wrote](#) to request information about Nguyen Van Hai's whereabouts, to call for his release and to point out the illegality of his detention under Vietnamese and international law.



ANNUAL GENERAL MEETING

INVITATION TO ATTEND

We invite you to attend the AGM for Lawyers Rights Watch Canada and Lawyers Rights Watch (Legal Research) Canada

Date: Friday, April 27, 4:00 to 6:00 pm
Place: 900 Howe Street, Vancouver BC.

To confirm attendance, receive an agenda or request to vote by proxy, contact lrwc@portal.ca

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

BRIEFING BY THE NATIVE WOMEN'S ASSOCIATION OF CANADA

On March 28th the IACHR heard a thematic briefing from the Native Women's Association of Canada (NWAC) and Canadian Feminist Alliance for International Action (FAFIA) regarding Missing and Murdered Indigenous Women and Girls in British Columbia, Canada. These materials presented were filed in response to BC's refusal to provide funds for aboriginal groups with standing before the BC Missing Women Commission of Inquiry to hire legal counsel. While there are 25 publicly funded lawyers representing police agencies before the Inquiry, there are no publicly funded counsel representing other groups granted standing and no participation of any aboriginal groups in the Inquiry. The video of the IACHR proceedings is available [here](#).

UNITED NATIONS COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

THE COMMITTEE'S CONSIDERATION OF CANADA'S COMPLIANCE WITH THE CONVENTION

The Committee on the Elimination of Racial Discrimination (CERD) considered Canada's nineteenth to twentieth periodic reports on its compliance with the *Convention on the Elimination of Racial Discrimination* (ICERD), on February 22 and 23, 2012, and released its [Concluding Observations](#) on March 9, 2012. LRWC and the BC CEDAW Group* had submitted a [joint shadow report](#) on the failure of B.C. and Canada to eliminate and remedy violence against Aboriginal women and girls. Among its recommendations, LRWC and the BC CEDAW Group urged that Canada, in consultation with civil society groups, take effective measures to prevent and punish violence against Aboriginal women and girls and to remedy the underlying social and economic disadvantages identified as contributing factors, including special measures to remedy poverty, inadequate housing, unequal education opportunities, punitive child welfare policies and over criminalization. The shadow report called for a national inquiry on missing women and girls, a national action plan for addressing the crisis of violence against Aboriginal women and girls, and policies to ensure inter-jurisdictional and inter-agency coordination of policing and law enforcement, with a view to preventing disappearances and violence against Aboriginal women and girls and responding quickly and effectively to cases that arise.

In its Concluding Observations, CERD expressed ongoing concern that Aboriginal women and girls are disproportionately victims of life-threatening forms of violence, spousal homicides and disappearances, contrary to Article 5 of ICERD. CERD recommended that Canada strengthen its efforts to eliminate violence against Aboriginal women in all its forms by, *inter alia*, implementing legislation and preventive programmes, facilitating access to justice for Aboriginal women victims of gender-based violence and investigating, prosecuting and punishing those responsible, conducting awareness-raising campaigns and adopting a national action plan on Aboriginal gender-based violence and a national database on murdered and missing Aboriginal women. CERD called on Canada to implement and reinforce its existing programmes and policies to better realize the economic, social and cultural rights of Aboriginal peoples and to adopt a national plan of action to implement the UN Declaration on the Rights of Indigenous Peoples. Additional recommendations were aimed at addressing the excessive use of incarceration of Aboriginal people, including Aboriginal women. CERD reiterated its previous recommendation that Canada amend or adopt relevant legislation criminalizing and punishing acts of racist violence. Canada must report back in one year on its follow-up to CERD's recommendations in relation to: eliminating violence against Aboriginal women and girls; realizing the economic, social and cultural rights of Aboriginal people; and strengthening efforts to promote and facilitate access to justice by Aboriginal peoples.

*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. LRWC and the BC CEDAW Group will meet in May to discuss strategies for promoting and monitoring implementation of CERD recommendations.

HUMAN RIGHTS COUNCIL NEWS

UNIVERSAL HUMAN RIGHTS DATABASE INDEX

The Office of the High Commissioner on Human Rights launched the [Universal Human Rights Database Index](#), described as, “quite possibly the most important human rights research tool that has been created in the last twenty years.” The index enables comprehensive—country and issue specific—searches of the recommendations and documents from UN treaty bodies, special procedures [reports of UN special mandate holders] and Universal Periodic Reviews. The database revolutionizes research of UN commentaries interpreting treaties provisions and defining and assessing the treaty obligations of member states. The database will greatly enhance the ability of NGOs to prepare shadow reports for treaty bodies and UPRs and reports to special procedures and to Council.

HUMAN RIGHTS COUNCIL APPOINTS NEW SPECIAL RAPPORTEUR ON THE PROMOTION OF TRUTH, JUSTICE, REPARATION AND GUARANTEES ON NON-RECURRENCE



The Council appointed Pablo de Greiff, International Centre for Transitional Justice, director of research to carry out this special mandate created by [Resolution](#) of the Human Rights Council (HRC) on September to gather information on national situations relating to the promotion of truth, justice, reparation and guarantees of non-recurrence in addressing gross violations of human rights and serious violations of international humanitarian law, and to make annual recommendations to the HRC. Pablo de Greiff is an expert in transitional justice and written and lectured extensively on the topic. He was born in

Colombia and educated at Yale (B.A.) and Northwestern (PhD) in the US.

LRWC PARTICIPATION

Three LRWC representatives attended the 19th session of the HRC held February 27-March 23 in Geneva: Gail Davidson, Gary Anadasangaree and Vani Sevalrajah. Gail attended March 5-15; Gary travelled between Geneva and Toronto during the session as required to track the resolution on Sri Lanka; Vani attended the entire session as LRWC's intern. Irma van den Berg from Lawyers for Lawyers attended for 2 days. Activities included attending HRC session and side events, making and listening to oral interventions by NGOs and member and observer states, meeting with UN officials, state and NGO representatives.



Sri Lanka war crimes resolution campaign: LWRC expanded the work relating to Sri Lanka right after the end of the war in May, 2009. Since that time, we have had two monitors on Sri Lanka, Harini Sivalingam, and Gary, who have worked extensively on Sri Lanka. They collaborated with NGO's from

both Geneva and Sri Lanka, and worked with many governments in order to hold the parties to the Sri Lankan conflict to account. The UNHRC passed a resolution—*Promoting Reconciliation and Accountability in Sri Lanka*, A/HRC/19/L.2—at the 19th session calling on Sri Lanka to implement its own Lessons Learnt and Reconciliation Commission Report.

Meetings: Gail and Irma met with the Special Rapporteur (SR) on Human Rights in Myanmar, Tomas Quintano and his assistant; Vani and Gail met with Margaret Sekaggya, SR on human rights defenders; Gail met with Jeremy Sarkin, Chair of the Working Group on Enforced Disappearances; Vani and Irma met with Ugo Cedrangolo, assistant to the SR on the independence of judges and lawyers. Meetings scheduled with the Chair of the working group on arbitrary detention and the assistant to the SR on violence against children didn't take place because of calendar changes. Vani and Gary met with many representatives of governments and NGOs regarding the resolution on Sri Lanka that was passed March 22, 2012. Gary was a presenter at a side event on Human Rights and democratization in Sri Lanka. Gail met with representatives of NGOs regarding ongoing and future joint initiatives.

Oral Interventions: Gail made two oral interventions both during General Debate: one on the Omar Khadr case and one on the prosecution of Spanish judge Garzón for malfeasance. Gary made an oral intervention on human rights violations in Sri Lanka and Syria. LRWC was registered to deliver an oral intervention on Myanmar but missed the opportunity when the list was cut short. All three LRWC representatives attended many side events. LRWC statements on the malfeasance prosecution of Judge Garzón and the continuing violations of the rights of Omar Khadr are available on the [HRC Document website](#) under index numbers A/HRC/19/NGO/95 and A/HR/19/NTS/109 respectively.

LRWC attendance at the March 2012 session of the HRC saw the acceptance of the Sri Lanka resolution that LRWC Sri Lanka monitors have been promoting for the past three years. Meetings with special mandate holders resulted in useful exchanges around the issue of enhancing working relationships between special mandate holders and LRWC. The meeting with SR on Myanmar resulted in a plan for three NGOs—LRWC, ALRC and L4L—to promote the reinstatement of over 30 improperly disbarred Myanmar lawyers. The meeting with Jeremy Sarkin gave us new insights as to how to promote action on disappeared human rights defenders. Margaret Sekaggya, the SR on human rights defenders expressed interest in coming to Vancouver or Toronto in September to give a talk on the purpose and state observance of the Declaration on Human Rights Defenders. During this session there seemed to be increased calls from members of the HRC to get rid of special procedures and treaty monitoring bodies and rely on UPRs. Full reports on LRWC participation in the 19th session will be available to members next month.

LAW TALK SERIES: FIRST NATIONS RIGHTS – THE GAP BETWEEN LAW AND PRACTICE – PAST TALKS

INDIGENOUS RIGHTS IN THE UN SYSTEM: DEVELOPMENT OF THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE – KENNETH DEER

On March 19, Kenneth Deer, an accomplished journalist, educator and Indigenous rights advocate who belongs to the Bear Clan of the Mohawk Nation, spoke at the Vancouver Public Library about his experience with Indigenous Rights in the UN System and the Development of the UN Declaration on the Rights of Indigenous People (UNDRIP). Amnesty International and the Hul'qumi'num Treaty Group were co-sponsors with LRWC.



As Mr. Deer explained, Canada was initially instrumental in persuading other states to support the declaration but withdrew support, and on 29 June 2006 was the only state other than Russia to vote against the draft declaration at the Human Rights Council. On 13 September 2007 Canada, along with the United States, Australia and New Zealand voted against adoption of the declaration by the UN General Assembly. The General Assembly vote was 143 for, 11 abstentions and 4 against. Canada finally endorsed UNDRIP 12 November 2010, dubbing the declaration as aspirational and not binding. However, as Mr. Deer demonstrates, the declaration's key provisions are not new ideas but a restatement of binding provisions of human rights treaties ratified by Canada, such as the Convention on Civil and Political Rights. Mr. Deer observed that Canada's withdrawal of support for UNDRIP has damaged its international reputation. Mr. Deer is one of only two North American Indigenous representatives involved in organizing the 2014 United Nations World Conference on Indigenous Peoples and we hope to have the honour of hearing from him again. On March 17 Kenneth Deer was interviewed on Latin Waves about the CERD review on Latin Waves, CJSF 90.1 FM fm 90.1 and the interview is available on podcast. The video of Mr. Deer's talk will be available soon.

CANADA'S COMPLIANCE WITH THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION – KENNETH DEER

On March 20, in a talk co-sponsored by LRWC and the UBC Indigenous Law Students' Association, Kenneth Deer, spoke to law students and professors at the University of BC Faculty of Law about the CERD Committee's recent review of Canada's compliance with the Convention on the Elimination of all forms of Racial Discrimination. Mr. Deer discussed the CERD Committee's recommendations to Canada, in light of the substantial number of shadow reports that were filed concerning Canada's failure to meet its obligations under the Convention. Among the reports considered by the CERD Committee was the report of LRWC and the BC CEDAW Group (see above). Mr. Deer reported on the Committee's concern with Canada's treatment of Indigenous peoples in Canada, and explained the recommendations of the Committee, which address issues such as the disproportionately high incarceration rates of Indigenous peoples in Canada, lack of health and education services, and the specific dangers that face Indigenous women.

Mr. Deer, who has a long history of advocating on behalf of Indigenous peoples at the United Nations,

also described the diminishing standing of Canada in the realm of international human rights as a result of the actions of the Harper government, including the Harper government's behaviour in relation to the UN Declaration on the Rights of Indigenous Peoples. After the conclusion of his talk, Mr. Deer fielded questions from students and professors, which predominantly centred around whether international instruments such as UNDRIP or the recommendations of treaty bodies such as the CERD Committee have the potential to affect the actions of the government. While stating that he was sceptical about the willingness of the current government to heed such recommendations, Mr. Deer voiced strong support for the power of international law generally, and optimism about Canada's ability to regain its standing in the international community, going forward.

TALKS AND INTERVIEWS ONLINE

Seeking Justice Elsewhere: the Hul'qumi'num Treaty Group case before the Inter-American Commission on Human Rights – Robert Morales

The [video](#) of Robert Morales' January 24, 2012 talk is now available.

Ghost Dancing with Colonialism: Dr. Grace Woo:

This talk which was first offered at VPL in January continues to generate interest. In March Dr. Woo repeated this talk three times: March 1st at the Vancouver Aboriginal Friendship Centre; March 7th at the Musqueam Nation; and, March 16th at UBC Faculty of Law and can be viewed [online](#). Dr. Woo was interviewed by Nick Ashawasega for Nation Talk, <http://www.nationtalk.ca>. Cheryl Mackenzie, host of Investigative Reports on the Aboriginal People's Television Network (APTN) interviewed Dr. Woo for a program on Assimilation.

LAW TALK SERIES: FIRST NATIONS RIGHTS – THE GAP BETWEEN LAW AND PRACTICE –UPCOMING TALKS

REMEMBER THE CHILDREN “IF CANADA WINS, CANADIANS LOSE” WHAT A LANDMARK HUMAN RIGHTS CASE TELLS US ABOUT DISCRIMINATION AND JUSTICE IN CANADA

Thursday April 24, 2012, 7:00 pm at the Vancouver Public Library, 350 West Georgia, Lower level, Alice Mackay room (poster)

Cindy Blackstock, PhD, member of the Gitksan Nation, Executive Director of the First Nations Child and Family Caring Society (Caring Society) and Associate Professor at the University of Alberta will talk about the a 2007 complaint filed by the Caring Society and the Assembly of First Nations that the Federal Government discriminates against First Nations children by failing to provide education and other services on reserve equal to those provided to children off reserve. On Canada's application, the complaint was by the Human Rights Tribunal dismissed without a hearing of the merits in March 2011. The Canadian Human Rights Commission, the Caring Society and the AFN appealed and the judicial review of the tribunals'



decision was heard by the Federal Court on February 13-15 and a decision is pending. Interveners on behalf of the appellants include the Union of Ontario Indian Chiefs and Amnesty International. (poster)

This talk qualifies for Continuing Professional Development Credits

COOPERATION OR CONQUEST: COAST SALISH LEGAL TRADITIONS AND THE CANADIAN STATE

Thursday May 17th at 7:00 pm in the Vancouver Public Library, 350 West Georgia Street, Vancouver, lower level, Alice MacKay room

Sarah Morales, LL.B., LL.M. is an Assistant Professor in the Faculty of Law at the University of Ottawa and a PhD candidate at the University of Victoria. She is Coast Salish and a member of Cowichan Tribes. Prior to contact with Europeans the diverse norms and practices of different Indigenous peoples on the west coast of British Columbia had evolved into highly developed legal traditions that guided these peoples in the governance of community, the environment and relationships between people. Professor Morales will explain Coast Salish legal traditions—*snuw'uyulh*—and the displacement of those laws during and after the colonial period. Against this background she will examine the concept of legal pluralism and the potential for such a system today in Canada.

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Contact us at:

lrwc@portal.ca

Telephone: +1 604 738 0338

Fax: +1 604 736 1175