

TAB 4



Report to Convocation November 9, 2016

Equity and Aboriginal Issues Committee/ Comité sur l'équité et les affaires autochtones

Committee Members
Dianne Corbiere, Co-Chair
Julian Falconer, Co-Chair
Sandra Nishikawa, Vice-Chair
Gina Papageorgiou, Vice-Chair
Marion Boyd
Suzanne Clément
Robert Evans
Avvy Go
Howard Goldblatt
Marian Lippa
Isfahan Merali
Sidney Troister
Tanya Walker

Purpose of Report: Decision and Information

**Prepared by the Policy Secretariat
(Ekua Quansah – 416-947-3425)**

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COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the "Committee") met on October 6, 2016. Committee members, benchers Dianne Corbiere, Co-Chair, Julian Falconer, Co-Chair, Sandra Nishikawa, Vice-Chair, Gina Papageorgiou, Vice-Chair, Marion Boyd, Avvy Go, Howard Goldblatt, Isfahan Merali, Sidney Troister and Tanya Walker attended. Elder Myeengun Henry and Kathleen Lickers, representative of the Indigenous Advisory Group, Julie Lassonde, representative of the Association des juristes d'expression française de l'Ontario, and Paul Saguil, Chair of the Equity Advisory Group, also participated. Staff members Darcy Belisle, Hyacinth Khin, Jennifer Khor, Marian MacGregor, and Ekuia Quansah were present.

TAB 4.1

FOR DECISION

HUMAN RIGHTS MONITORING GROUP REQUEST FOR INTERVENTION

Motion

2. **That Convocation approve the letters and public statements in the following cases:**
 - a. **Ramón Cadena Rámila – Guatemala – letters of intervention and public statement presented at [TAB 4.1.1](#).**
 - b. **Jamshed Yorov – Tajikistan – letters of intervention and public statement presented at [TAB 4.1.2](#).**

Rationale

3. The request for interventions falls within the mandate of the Human Rights Monitoring Group (the “Monitoring Group”) to,
 - a. review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
 - b. determine if the matter is one that requires a response from the Law Society; and,
 - c. prepare a response for review and approval by Convocation.

Key Issues and Considerations

4. The Monitoring Group considered the following factors when making a decision about the harassment of lawyer Ramón Cadena Rámila in Guatemala:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the harassment of lawyer Ramón Cadena Rámila falls within the mandate of the Monitoring Group; and
 - c. the Law Society has intervened previously in the cases of a lawyers and judges in Guatemala – most recently in June 2014.
5. The Monitoring Group considered the following factors when making a decision about the arrest of lawyer Jamshed Yorov in Tajikistan:
 - a. there are no concerns about the quality of sources used for this report;
 - b. the arrest of lawyer Jamshed Yorov falls within the mandate of the Monitoring Group; and

- c. the Law Society has intervened previously in the cases of a lawyers and judges in Tajikistan– most recently in January 2016 – in the case of Jamshed Yorov's brother, Buzurgmehr Yorov.

KEY BACKGROUND

GUATEMALA – HARASSMENT OF LAWYER RAMÓN CADENA RÁMILA

Sources of Information

6. The background information for this report was taken from the following sources:
 - a. Council of Bar and Law Societies of Europe;
 - b. International Bar Association's Human Rights Institute;
 - c. International Commission of Jurists;
 - d. The Guardian; and
 - e. The Law Society of England and Wales.

Background

7. Ramón Cadena Rámila is a well-known human rights lawyer and the International Commission of Jurists' (ICJ) regional director for Central America. He was "...a key witness in the trial of former President Efraín Ríos Montt for his role in the alleged genocide and other atrocities committed during the civil war of the 1970s and 80s."¹ Ramón Cadena Rámila also provides legal advice on behalf of the ICJ to communities fighting against mining projects in Guatemala.²
8. Reports indicate that on August 15, 2016, armed men ransacked Ramón Cadena Rámila's home in Guatemala City while he was attending a workshop in another part of the country. Ramón Cadena Rámila's family and a security guard were forced to wait on their knees outside.³
9. The Law Society of England and Wales (LSEW) notes that attacks against human rights lawyers in Guatemala have intensified in the past months. The LSEW has expressed concern that "the recent attack to Mr. Cadena's property reflect a pattern of systematic intimidations and harassment carried out against human rights lawyers in relation to their work in Guatemala."⁴

¹ "ICJ strongly condemns attack on its director in Central America," online: ICJ < <http://www.icj.org/icj-strongly-condemns-attack-on-its-director-in-central-america/>>

² *Ibid.*

³ "Re: Concerns regarding Guatemalan lawyer Ramón Cadena Rámila" online: Council of Bar and Law Societies of Europe [http://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Guatemala - Guatemala/2016/EN_HRL_20160914_Guatemala_Ramon_Cadena_Ramila.pdf](http://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Guatemala-2016/EN_HRL_20160914_Guatemala_Ramon_Cadena_Ramila.pdf)

⁴ "Harassment of lawyer – Mr Ramón Cadena Rámila," online: The Law Society of England and Wales < <http://communities.lawsociety.org.uk/human-rights/interventions/2016/mr-ramon-cadena-ramila-harassment-of-a-lawyer/5057464.article>>

TAJIKISTAN – ARREST OF LAWYER JAMSHED YOROV

Sources of Information

10. The background information for this report was taken from the following sources:
 - a. Amnesty International;
 - b. International Commission of Jurists;
 - c. Lawyers for Lawyers; and
 - d. Reuters.

Background

11. Lawyers for Lawyers has reported the following:

Jamshed Yorov represented Muhammadali Hayit, the deputy chairman of the banned opposition Islamic Renaissance Party of Tajikistan (IRPT). On June 2, 2016, Mr. Hayit was sentenced to life imprisonment after a closed-door ruling by Tajikistan's Supreme Court. Hereafter, Jamshed Yorov was arrested and detained on 22 August 2016 on suspicion of 'dissemination of a state secret'. Allegedly, Atty. Yorov would have disclosed information about the closed-door ruling against Mr. Hayit. We were informed that under Tajik law, court rulings can no longer be a state secret after their announcement.

This case is not an isolated one. Jamshed Yorov is at least the third Tajik lawyer representing members of the IRPT that has been arrested. In September and October 2015, lawyers Buzurgmehr Yorov and Nuriddin Makhkamov were arrested. Atty. Yorov was initially charged with fraud related charges. In December 2015, authorities added charges of "arousing national, racial, local or religious hostility" and extremism. Nuriddin Makhkamov faces swindling charges. At the time of their arrest, both lawyers were representing members of the IRPT. When the trial against Attys. Yorov and Makhkamov started on May 3, it was closed to the public.⁵

12. Lawyers for Lawyers and the International Commission of Jurists believe that Jamshed Yorov's arrest may be as a result of the exercise of his legitimate duties in defending Muhammadali Hayit.⁶

⁵ "Tajikistan – Concerns about arrest lawyer Jamshed Yorov," online: Lawyers for Lawyers < <http://www.advocatenvooradvocaten.nl/11882/tajikistan-concerns-about-arrest-lawyer-jamshed-yorov/>>

⁶ "Tajikistan – Concerns about arrest lawyer Jamshed Yorov," online: Lawyers for Lawyers < <http://www.advocatenvooradvocaten.nl/11882/tajikistan-concerns-about-arrest-lawyer-jamshed-yorov/>> and "Tajikistan: arrest of lawyer raises concern over reprisals for defense of clients," online: International Commission of Jurists < <http://www.icj.org/tajikistan-arrest-of-lawyer-raises-concern-over-reprisals-for-defense-of-clients/>>

TAB 4.1.1

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

LAWYER RAMÓN CADENA RÁMILA

His Excellency Mr. Jimmy Morales
President of the Republic of Guatemala
6av. 5-34 zona 1,
Guatemala City
Guatemala

Dear Mr. President:

Re: Harassment of lawyer Ramón Cadena Rámila

I write on behalf of the Law Society of Upper Canada to voice our grave concern in the matter of lawyer Ramón Cadena Rámila. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Ramón Cadena Rámila is a well-known human rights lawyer and the International Commission of Jurists' (ICJ) regional director for Central America. He was a key witness in the trial of former President Efraín Ríos Montt for his role in the alleged genocide and other atrocities committed during the civil war of the 1970s and 1980s. Ramón Cadena Rámila also provides legal advice on behalf of the ICJ to communities fighting against mining projects in Guatemala.

It has come to our attention that on August 15, 2016, armed men ransacked Ramón Cadena Rámila's home in Guatemala City while he was attending a workshop in another part of the country. Ramón Cadena Rámila's family and a security guard were forced to wait on their knees outside.

The Law Society is deeply concerned about these reports. It is our understanding that attacks against human rights lawyers in Guatemala have intensified in the past months and that this incident is the latest in a string of incidents of intimidation and harassment against human rights lawyers in Guatemala. We believe strongly that lawyers should be able to exercise their legitimate duties without fear for their lives, for their liberty and for their security.

The Law Society of Upper Canada urges Your Excellency to comply with Guatemala's obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 of the *Basic Principles on the Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or

improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Article 17 states:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Article 18 states:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

The Law Society urges the government of Guatemala to:

- a. conduct an immediate and impartial investigation into the harassment and intimidation of Ramón Cadena Rámila and bring those responsible to justice;
- b. put an end to the harassment of lawyers and human rights defenders in Guatemala;
- c. ensure that all lawyers can carry out their legitimate activities without fear of physical violence or other human rights violations; and
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Paul Schabas

Treasurer

**The Law Society of Upper Canada is the governing body for more than 50,000 lawyers and 7,800 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

H.E. Ms. Rita Claverie de Sciolli
Ambassador of Guatemala to Canada
Embassy of Guatemala in Canada
130 Albert Street, Suite 1010
Ottawa, ON K1P 1B1

The Honourable Stéphane Dion
Minister of Foreign Affairs
Global Affairs Canada
125 Sussex Drive
Ottawa, ON K1A 0G2
stephane.dion@parl.gc.ca

President, Colegio de Abogados y Notarios de Guatemala
0 calle 15-46 zona 15, colonial El Maestro
Edificio de los Colegios Profesionales
Nivel 7 y 8
Guatemala

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Emma Achili, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriela Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Charlotte Ford, Head of International Policy and Engagement, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Harassment of lawyer Ramón Cadena Rámila

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to His Excellency Mr. Jimmy Morales, President of Guatemala, expressing our deep concerns over reports of the harassment and intimidation of lawyer Ramón Cadena Rámila.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Ekuia Quansah, Policy Counsel, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to equansah@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Teresa Donnelly
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 50,000 lawyers and 7,800 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

Letter to be sent to:

- President, Colegio de Abogados y Notarios de Guatemala
- Alex Neve, Secretary General, Amnesty International Canada

- Mary Lawlor, Executive Director, Front Line Defenders
- Emma Achili, Head of European Union Office, Front Line Defenders
- Kenneth Roth, Executive Director, Human Rights Watch
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers' Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights
- Gabriela Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Charlotte Ford, Head of International Policy and Engagement, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns over the harassment of lawyer Ramón Cadena Rámila

Ramón Cadena Rámila is a well-known human rights lawyer and the International Commission of Jurists' (ICJ) regional director for Central America. He was a key witness in the trial of former President Efraín Ríos Montt for his role in the alleged genocide and other atrocities committed during the civil war of the 1970s and 1980s. Ramón Cadena Rámila also provides legal advice on behalf of the ICJ to communities fighting against mining projects in Guatemala.

It has come to our attention that on August 15, 2016, armed men ransacked Ramón Cadena Rámila's home in Guatemala City while he was attending a workshop in another part of the country. Ramón Cadena Rámila's family and a security guard were forced to wait on their knees outside.

The Law Society is deeply concerned about these reports. It is our understanding that attacks against human rights lawyers in Guatemala have intensified in the past months and that this incident is the latest in a string of incidents of intimidation and harassment against human rights lawyers in Guatemala. We believe strongly that lawyers should be able to exercise their legitimate duties without fear for their lives, for their liberty and for their security.

The Law Society of Upper Canada urges the government of Guatemala to comply with Articles 16, 17 and 18 of the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 of the *Basic Principles on the Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Article 17 states:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Article 18 states:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

The Law Society urges the government of Guatemala to:

- a. conduct an immediate and impartial investigation into the harassment and intimidation of Ramón Cadena Rámila and bring those responsible to justice;
- b. put an end to the harassment of lawyers and human rights defenders in Guatemala;
- c. ensure that all lawyers can carry out their legitimate activities without fear of physical violence or other human rights violations; and
- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.1.2

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

LAWYER JAMSHED YOROV

His Excellency Mr. Emomali Rahmon
President of the Republic of Tajikistan
Rudaki Avenue, 80
Dushanbe 734023
Republic of Tajikistan

Your Excellency:

Re: Arrest of lawyer Jamshed Yorov

I write on behalf of the Law Society of Upper Canada to voice our grave concern in the matter of lawyer Jamshed Yorov. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Jamshed Yorov is known for representing Mahmadalli Hait, the deputy chairman of the banned opposition Islamic Renaissance Party of Tajikistan. On June 2, 2016, Mr. Hait was sentenced to life imprisonment after a closed-door ruling by Tajikistan's Supreme Court.

It has come to our attention that Jamshed Yorov was arrested and detained on August 22, 2016, and charged with "disclosure of State secrets" under part 1 of article 311 of the Criminal Code of Tajikistan. Jamshed Yorov informed his family that he was being questioned in connection with the alleged leaked publication of the text of a classified court judgment, concerning the case of Mr. Hait, on the internet.

The Law Society is deeply concerned about these reports. It is our understanding that Jamshed Yorov's arrest may be as a result of the exercise of his legitimate duties in defending Mahmadalli Hait. We believe strongly that lawyers should be able to exercise their legitimate duties without fear for their lives, for their liberty and for their security.

The Law Society of Upper Canada urges Your Excellency to comply with Tajikistan's obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

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Article 18 states:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

The Law Society urges the government of Tajikistan to:

- a. release Jamshed Yorov immediately;
- b. guarantee all the procedural rights that should be accorded to Jamshed Yorov and other human rights lawyers and defenders in Tajikistan;
- c. put an end to all acts of harassment against Jamshed Yorov as well as other human rights lawyers and defenders in Tajikistan;
- d. guarantee in all circumstances the physical and psychological integrity of Jamshed Yorov;
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Paul Schabas
Treasurer

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The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

H.E. Mr. Mahmamin Mahmaminov
Permanent Representative of Tajikistan to the United Nations
216 East 49th Street, 4th Floor
New York, NY 10017
USA

The Honourable Stéphane Dion
Minister of Foreign Affairs
Global Affairs Canada
125 Sussex Drive
Ottawa, ON K1A 0G2
stephane.dion@parl.gc.ca

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

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Charlotte Ford, Head of International Policy and Engagement, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Arrest of lawyer Jamshed Yorov

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to His Excellency Mr. Emomali Rahmon, President of Tajikistan, expressing our deep concerns over reports of the arrest of lawyer Jamshed Yorov.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

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- Charlotte Ford, Head of International Policy and Engagement, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns over arrest of lawyer Jamshed Yorov in Tajikistan

Jamshed Yorov is known for representing Mahmadalli Hait, the deputy chairman of the banned opposition Islamic Renaissance Party of Tajikistan. On June 2, 2016, Mr. Hait was sentenced to life imprisonment after a closed-door ruling by Tajikistan's Supreme Court.

It has come to our attention that Jamshed Yorov was arrested and detained on August 22, 2016, and charged with "disclosure of State secrets" under part 1 of article 311 of the Criminal Code of Tajikistan. Jamshed Yorov informed his family that he was being questioned in connection with the alleged leaked publication of the text of a classified court judgment, concerning the case of Mr. Hait, on the internet.

The Law Society is deeply concerned about these reports. It is our understanding that Jamshed Yorov's arrest may be as a result of the exercise of his legitimate duties in defending Mahmadalli Hait. We believe strongly that lawyers should be able to exercise their legitimate duties without fear for their lives, for their liberty and for their security.

The Law Society of Upper Canada urges the government of Tajikistan to comply with Tajikistan's obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

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The Law Society urges the government of Tajikistan to:

- a. release Jamshed Yorov immediately;
- b. guarantee all the procedural rights that should be accorded to Jamshed Yorov and other human rights lawyers and defenders in Tajikistan;
- c. put an end to all acts of harassment against Jamshed Yorov as well as other human rights lawyers and defenders in Tajikistan;
- d. guarantee in all circumstances the physical and psychological integrity of Jamshed Yorov;
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

TAB 4.2

FOR INFORMATION

**EQUITY LEGAL EDUCATION AND RULE OF LAW SERIES CALENDAR
2016**

13. The Equity Legal Education and Rule of Law Series calendar is presented at [TAB 4.2.1](#).

Tab 4.2.1

FOR INFORMATION

EQUITY LEGAL EDUCATION AND RULE OF LAW SERIES CALENDAR

FALL 2016

November 17, 2016

Louis Riel Day Event

Relationships, Reconciliation and Redress: The Road Ahead for the Métis

November 16, 2016, marks the 131st anniversary of the execution of Louis Riel. Members of the Métis community traditionally join together each year to honour and commemorate the life and work of Louis Riel, and to celebrate Métis culture.

Join the Law Society of Upper Canada and the [Métis Nation of Ontario](#), on November 17, to mark this important occasion. Hear from a panel that includes Métis leadership, legal experts and those involved in this “road ahead” with the Métis.

Thursday, November 17, 2016

Program: 4:30 to 6:30 p.m.*

Reception: 6:30 to 8:00 p.m.

Location: Osgoode Hall, 130 Queen St. W., Toronto

**This program is also available as a simultaneous webcast*

For additional information and to register for this event, please visit:

www.lawsocietygazette.ca/event/louis-riel-day-2016