



United Nations Human Rights Council 48th Session

Agenda Item 3: Interactive Dialogue with the Working Group on Arbitrary Detention

Oral Statement

20 September 2021

The Law Council of Australia and the International Bar Association's Human Rights Institute thank the Working Group for its report.ⁱ

Around the world, lawyers are arrested and charged with criminal sanctions simply for representing human rights defenders or political opponents. In Myanmar, lawyers acting for political leaders were arrested after the coup, including U Thein Hlaing Tun, lawyer for Dr Myo Aung. In Belarus, human rights lawyer Maxim Znak was last week sentenced to ten years.

This practice contravenes the principle that lawyers must not be identified with their clients or their clients' causes, and shall carry out their professional duties without interference, intimidation or reprisals.ⁱⁱ

States do this strategically to deny human rights defenders of their right to independent, effective legal representation, which itself renders their detention arbitrary.ⁱⁱⁱ In addition, intimidation and reprisals against legal counsel constitute a further violation of ICCPR article 14(3)(b), as the Working Group has identified.^{iv}

The Declaration on Human Rights Defenders guarantees the right to professionally qualified legal assistance in defence of human rights, and the right to lawfully exercise one's occupation or profession.^v

We urge the Working Group to address this alarming trend and ask what actions it intends to take.

This Statement was delivered by Dr Jacoba Brasch QC, President of the Law Council of Australia.

ⁱ See especially A/HRC/48/55 paras 47-50, which recognises the abuse of legal frameworks to detain human rights defenders and target their lawyers.

ⁱⁱ UN Basic Principles on the Role of Lawyers, paras 16, 18. See also *Guidelines on Remedies and Procedures on the Right of Anyone Deprived of their Liberty to Bring Proceedings Before a Court* (6 July 2015), A/HRC/30/37, para 15.

ⁱⁱⁱ See e.g. A/HRC/WGAD/2020/42 paras 87-89.

^{iv} Working Group on Arbitrary Detention, Opinion No. 17/2019, A/HRC/WGAD/2019/17, para 88.

^v UNGA, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (8 March 1999), A/RES/53/144, Articles 3(c) and 11.