

**United Nations Human Rights Council
32nd Regular Session, 14 June to 1 July 2016
Agenda Item 3**

**Joint Oral Statement (delivered by the International Commission of Jurists) in the
Interactive Dialogue with the Special Rapporteur on the independence of judges and
lawyers, Professor Mónica Pinto**

JUDICIAL ACCOUNTABILITY, AND ATTACKS ON LAWYERS

15 June 2016

Madame Special Rapporteur on the Independence of Judges and Lawyers,

The International Commission of Jurists (ICJ) and the other organizations joining this statement strongly support your mandate. An independent judiciary and legal profession are essential to the rule of law, and the rule of law is essential to the effective protection of human rights.

Independence and impartiality of the judiciary require integrity of individual judges and judicial institutions. Accordingly, there must be accountability for judicial corruption and judicial involvement in human rights violations.

Accountability mechanisms must themselves be independent, fair and transparent, in order to ensure they do not undermine the independence of the judiciary and that victims and the broader population see them as credible and accessible.

We welcome your indication that you will continue to include consideration of judicial integrity and accountability throughout your work, as you have done in the report of your visit to Guinea-Bissau. The International Commission of Jurists has just published a *Practitioners' Guide on Judicial Accountability*,ⁱ intended to assist your mandate and other international bodies, as well as governments and judiciaries, legal professionals, and civil society. We note also the International Bar Association report, *Judicial systems and Corruption*, in this regard.ⁱⁱ

As your report notes, Madam Rapporteur, the preconditions for an independent judiciary and legal profession are, in many parts of the world, under attack..

Indeed, simply for exercising functions and rights set out in the UN Basic Principles on the Role of Lawyers, lawyers in cases perceived to have human rights or political aspects have faced: intimidation and harassment; suspension or disbarment from practice of their profession; arrest, detention, unfair trial, and arbitrary imprisonment; and in some cases torture or other cruel, inhuman or degrading treatment, enforced disappearance, or even unlawful killings.

Such attacks not only violate the rights of individual lawyers and undermine the independence of the legal profession, they deny the rights of the people the lawyers are trying to protect, including the right to fair trial, the right to liberty, and the right to an effective remedy. Such attacks are also incompatible with the rule of law.

Among current examples, the scale and depth of repressive measures against lawyers, and the human rights defenders they work with, in China is particularly stark, but we also see lawyers being targeted in, for instance, Egypt, Turkey, Thailand, Azerbaijan, Malaysia, Tajikistan, and Vietnam. (I myself was arbitrarily imprisoned in my own country Swaziland, merely for publicly expressing my opinions about judicial misconduct.)

We welcome your plans for your upcoming General Assembly report to address the threats facing the legal profession and we will urge lawyers, legal professional associations and other stakeholders around the world to provide you with input through the questionnaire you have prepared.

I thank you.

Statement delivered on behalf of the International Commission of Jurists by
Mr Thulani Maseko.
For further information, please contact Matt Pollard, Senior Legal Adviser
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The following organizations have joined or otherwise support this statement:

- International Commission of Jurists
- International Service for Human Rights
- Commonwealth Magistrates' and Judges' Association
- Commonwealth Lawyers Association
- Judges for Judges (Rechters voor Rechters), Netherlands
- Lawyers for Lawyers, Netherlands
- Avocats Sans Frontières Suisse
- Southern Africa Litigation Centre

(If speaking time is reduced to two minutes, the ICJ will deliver the following version:)

Madame Special Rapporteur on the Independence of Judges and Lawyers,

Our organizations strongly support your mandate. An independent judiciary and legal profession are essential to the rule of law and to the effective protection of human rights.

Independence and impartiality of the judiciary require integrity of individual judges and judicial institutions. Accordingly, there must be accountability for judicial corruption and judicial involvement in human rights violations.

Accountability mechanisms must themselves be independent, fair and transparent, in order to ensure they do not undermine the independence of the judiciary and that victims and the broader population see them as credible and accessible.

We note in this regard the ICJ's newly published *Practitioners' Guide on Judicial Accountability*, and the IBA's recent report on *Judicial systems and Corruption*.

We also must highlight the growing problem of repression of lawyers who act in cases perceived to have human rights or political aspects, including through: harassment, suspension or disbarment; arrest, detention, unfair trial, and arbitrary imprisonment; torture or other cruel, inhuman or degrading treatment, enforced disappearance, or even unlawful killings.

This is inconsistent with the UN Basic Principles on the Role of Lawyers and incompatible with the rule of law. It violates the rights of individual lawyers and undermines the independence of the legal profession. It denies the rights of the people the lawyers are trying to protect.

Among current examples, the scale and depth of repressive measures against lawyers and HRDs in China is particularly stark, but similar concerns arise in, for instance, Egypt, Turkey, Thailand, Azerbaijan, Malaysia, Tajikistan, and Vietnam. (I myself was arbitrarily imprisoned in my own country Swaziland, for publicly expressing my opinions about judicial misconduct.)

We accordingly will urge lawyers, legal professional associations and others around the world to respond to the questionnaire you have prepared for your upcoming General Assembly report on the legal profession.

I thank you.

ⁱ International Commission of Jurists, *Practitioners' Guide No. 13: Judicial Accountability* (June 2016) <http://www.icj.org/icj-launches-new-practitioners-guide-on-judicial-accountability/>.

ⁱⁱ International Bar Association, *Judicial systems and Corruption* (May 2016), <http://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=34EC225A-EE67-4D6A-A2E8-B3718C12D347>.