



Organization: Lawyers' Rights Watch Canada and the Asian Legal Resource Centre  
 Item: Item 3 – ID with Special Rapporteur on the situation of human rights defenders  
 Date: 3 March 2016  
 Speaker: Md. Ashrafuzzaman

**Joint Oral Statement to the 31st Session of the UN Human Rights Council from Lawyers' Rights Watch Canada (LRWC), a non-governmental organizations in Special Consultative status and the Asian Legal Resource Centre (ALRC), a non-governmental organizations in General Consultative status**

Mr. President,

Lawyers' Rights Watch Canada and the Asian Legal Resource Centre welcome the report of the Special Rapporteur on the situation of Human Rights Defenders.<sup>1</sup> Our work confirms Mr. Forst's observations of the many serious challenges facing defenders; we highlight three of those concerns.

States increasingly use laws that are non-compliant with international human rights standards that delegitimize or criminalize the work of defenders, subjecting them to surveillance, prosecutions, arbitrary arrests and detention, and restricted rights to freedoms of expression, assembly and association. Many states prosecute defenders, including lawyers, for exercising rights including Thailand,<sup>2</sup> Malaysia,<sup>3</sup> Cambodia,<sup>4</sup> and shockingly States that are members of this Council — China,<sup>5</sup>

<sup>1</sup> Report of the Special Rapporteur on the situation of human rights defenders, Good practices in the protection of human rights defenders, A/HRC/31/55, 1 February 2016, [http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55\\_en.pdf](http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55_en.pdf); Report of the Special Rapporteur on the situation of human rights defenders, Observations on communications transmitted to Governments and replies received, A/HRC/31/55/Add. 1, 19 January 2016, at paras 123-124, [http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55-Add-1\\_EFS.pdf](http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55-Add-1_EFS.pdf)

<sup>2</sup> See e.g., LRWC, Thailand: Cease Judicial Harassment of Human Rights Lawyer **Ms. Sirikan (“June”) Charoensiri**, LRWC, 7 February 2016, <http://www.lrwc.org/thailand-cease-judicial-harassment-of-human-rights-lawyer-ms-sirikan-june-charoensiri-statement/>; LRWC, Thailand: Cease Intimidation, Arbitrary Arrests and Judicial Harassment in Military Courts of Peaceful Civilian Human Rights Defenders and Democracy Activists, 5 February 2016, <http://www.lrwc.org/thailand-cease-intimidation-arbitrary-arrests-and-judicial-harassment-in-military-courts-of-peaceful-civilian-human-rights-defenders-and-democracy-activists-statement/>; LRWC Submission to the Universal Periodic Review, (Second Cycle), 25th Session, April – May 2016, 21 September 2015, [http://www.lrwc.org/ws/wp-content/uploads/2015/09/LRWC\\_UPR25\\_THA\\_E\\_Main.pdf](http://www.lrwc.org/ws/wp-content/uploads/2015/09/LRWC_UPR25_THA_E_Main.pdf);

<sup>3</sup> Malaysia: LRWC Applauds Discontinuance of Sedition Act Prosecution of Dr. Azmi Sharom and Calls for Withdrawal of Sedition Charges against Others Wrongly Prosecuted (**Eric Paulsen, N. Surendran** and others), LRWC Press Release, 18 February 2016. <http://www.lrwc.org/malaysia-lrwc-applauds-discontinuance-of-sedition-act-prosecution-of-dr-azmi-sharom-and-calls-for-withdrawal-of-sedition-charges-against-others-wrongly-prosecuted-press-release/>; LRWC and others, Malaysia: Drop charges against human rights defender **Lena Hendry**, Letter, December 10, 2015,

<http://www.lrwc.org/malaysia-drop-charges-against-human-rights-defender-lena-hendry-joint-letter/>; LRWC, Malaysia: Arrest of Eric Paulsen and Repeal of the Sedition Act and End to Arbitrary Detention, Letter, 20 January 2015, available at <http://www.lrwc.org/malaysia-arrest-of-eric-paulsen-and-repeal-of-the-sedition-act-and-end-to-arbitrary-detention-letter/>

<sup>4</sup> LRWC, Oral Statement to the 30th Session of the UN Human Rights Council from Lawyers' Rights Watch Canada (LRWC), a non-governmental organization in special consultative status: Report of the Special Rapporteur on the situation of human rights in Cambodia, 29 September 2015 (including concern about prosecution of human rights lawyer **Mr. Ny Chakrya**), <http://www.lrwc.org/?p=9588>;

<sup>5</sup> China: Arbitrary Conviction and Sentencing of **Mr. Shu Xiangxin**, letter, 28 January 2016, <http://www.lrwc.org/china-arbitrary-conviction-and-sentencing-of-mr-shu-xiangxin-letter/>; China: Mass Arrest, Detention and Disappearance of

Saudi Arabia,<sup>6</sup> Bangladesh,<sup>7</sup> the United Arab Emirates and Viet Nam.<sup>8</sup>

Numerous States fail to investigate or prosecute serious crimes against defenders such as attacks, sexual assaults, torture,<sup>9</sup> murder and enforced disappearances.<sup>10</sup> Impunity for attacks on defenders is associated with States where courts lack independence, such as Cambodia,<sup>11</sup> and States that fail to

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Lawyers and Other Rights Advocates in China (including **Ms. Wang Yu, her husband Bao Longjun and their 16-year-old son Bao Zhosuan and hundreds of other human rights lawyers and defenders**, Report 16 September 2015, <http://www.lrwc.org/mass-arrest-detention-and-disappearance-of-lawyers-and-other-rights-advocates-in-china-report-to-the-special-rapporteur-on-the-independence-of-judges-and-lawyers/>; China: International Law Requires the Immediate Release of **Bao Zhuoxuan**, Letter, 21 October 2015, <http://www.lrwc.org/china-international-law-requires-the-immediate-release-of-bao-zhuoxuan-letter/>; China: NGOs Ask Council to Address China's Campaign of Unlawful Reprisals Against Human Rights Advocates | Oral Statement, <http://www.lrwc.org/china-mass-arrest-detention-and-disappearance-of-lawyers-and-other-rights-advocates-in-china-report/>; [http://www.lrwc.org/ws/wp-content/uploads/2015/09/China.Oral-Statement-by-LRWC.L4L.ALRC\\_Sept\\_15.pdf](http://www.lrwc.org/ws/wp-content/uploads/2015/09/China.Oral-Statement-by-LRWC.L4L.ALRC_Sept_15.pdf); LRWC, "Mass Arrest, Detention and Disappearance of Lawyers and Other Rights Advocates in China," Report, <http://www.lrwc.org/ws/wp-content/uploads/2015/09/China.Persecution-of-Lawyers-15-September-2015.pdf>.

<sup>6</sup> Saudi Arabia routinely uses its criminal law system to arbitrarily imprison its most capable human rights lawyers and advocates as a method of stifling dissent, blocking democratic reform and denying internationally protected rights. The Special Rapporteur on the situation of human rights defenders expressed grave concern at the sentencing of **Waleed Abu al-Khair (and two other human rights defenders)** stating that the sentencing reflected a pattern of Saudi Arabia "criminalizing the legitimate activities of human rights defenders and of curtailing the legitimate exercise of their rights to freedom of opinion and expression and of association in Saudi Arabia." Saudi Arabia, as a member of the UN Human Rights Council is obliged during its membership to, "uphold the highest standards in the promotion and protection of human rights" and to "fully cooperate with the Council." Instead Saudi Arabia flaunts its systemic and egregious human rights abuses, sure of impunity. In October 2015, the UN Working Group on Arbitrary Detention, after reviewing the relevant facts and law, concluded that the detention of Waleed Abu al\_Khair was arbitrary under both category II (detention based on the exercise of protected rights) and III (denial of fair trial rights) and recommended his release. *Report of the Special Rapporteur on the situation of human rights defenders, Addendum, Observations and communications transmitted to Governments and replies received*, A/HRC/31/55/Add.1, 19 January 2016 at para. 547; Lawyers for Lawyers, LRWC, FIDH and OMCT, Saudi Arabia: NGOs Call on the UN Human Rights Council to Condemn Human Rights Abuses in Saudi Arabia, Joint Oral Statement, 21 September 2015, [http://www.lrwc.org/ws/wp-content/uploads/2015/09/Saudi\\_Arabia.Oral-Statement.21.09.15.LRWC\\_L4L.pdf](http://www.lrwc.org/ws/wp-content/uploads/2015/09/Saudi_Arabia.Oral-Statement.21.09.15.LRWC_L4L.pdf);

<sup>7</sup> Bangladesh's *Information and Communication Technology Act* is used to target personnel of human rights NGOs as well as journalists. See ODHIKAR, Human Rights Monitoring Report, February 1-29, 2016, (paras 7-9), [http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2016/03/Human-rights-monitoring-monthly-report-February-2016\\_Eng.pdf](http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2016/03/Human-rights-monitoring-monthly-report-February-2016_Eng.pdf). See ODHIKAR, Human Rights Monitoring Report, February 1-29, 2016, [http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2016/03/Human-rights-monitoring-monthly-report-February-2016\\_Eng.pdf](http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2016/03/Human-rights-monitoring-monthly-report-February-2016_Eng.pdf), LRWC, Bangladesh: Threats by Bangladesh Police to **Odhikar and the Bangladesh Human Rights Commission (BAMAK)**, Letter, 19 August 2015, <http://www.lrwc.org/ws/wp-content/uploads/2015/08/Threats-to-Odhikar.19.08.15.pdf>

<sup>8</sup> LRWC, Viet Nam: Arbitrary Arrest and Incommunicado Detention of **Nguyễn Văn Đài and Lê Thu Hà**, Letter 9 January 2016, <http://www.lrwc.org/viet-nam-arbitrary-arrest-and-incommunicado-detention-of-nguyen-van-dai-and-le-thu-ha-letter/>; LRWC, Viet Nam: End of Arbitrary Detention of Mr. Le Quoc Quan, letter, 23 June 2015, <http://www.lrwc.org/ws/wp-content/uploads/2015/06/Le-Quoc-Quan-released.23.June-15.pdf>

<sup>9</sup> UN Committee Against Torture, Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, January 2016, para 18, [https://chrnet.com/wp-content/uploads/2016/01/CAT\\_COB-2015.pdf](https://chrnet.com/wp-content/uploads/2016/01/CAT_COB-2015.pdf). Regarding torture in Thailand See LRWC's Submission to the Universal Periodic Review, (Second Cycle), 25th Session, April – May 2016, 21 September 2015, paragraph 17-19 and note 41. [http://www.lrwc.org/ws/wp-content/uploads/2015/09/LRWC\\_UPR25\\_THA\\_E\\_Main.pdf](http://www.lrwc.org/ws/wp-content/uploads/2015/09/LRWC_UPR25_THA_E_Main.pdf).

<sup>10</sup> The forcible disappearances of lawyer **Mr. Somchai Neelapaijit** in 2004 and indigenous human rights defender **Porlajee ("Billy") Rakcharoen** in 2014, have reportedly never been properly investigated, and despite numerous cases of enforced disappearance in which officials are reportedly involved, Thailand has failed to criminalize enforced disappearance in its legislation in line with international standards. See, "Zeid urges Thailand to fully investigate enforced disappearances," OHCHR, 6 January 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16924&LangID=E#sthash.7Ipgw2GO.dpuf>

<sup>11</sup> Examples of impunity in Cambodia include murders of labour rights leader, Mr. **CHEA Vichea**, in 2004, and the murder

adequately protect judges and lawyers, such as Colombia.<sup>12</sup>

Civil society organisations working to protect defenders face grave risks from many sources including anti-NGO laws that unduly restrict registration, activities and funding, such as in Cambodia<sup>13</sup> and Bangladesh.<sup>14</sup> Security laws with broad and vague language put defenders at risk of wrongful prosecution or arbitrary detention. Examples are Canada's Bill C-51<sup>15</sup> and Saudi Arabia's *Penal Law for Crimes of Terrorism and its Financing*.

We commend Mr. Forst's report on good practices as a template for determining whether States' laws, policies and practices ensure an enabling environment for defenders to exercise "rights described in the Declaration on Human Rights Defenders."<sup>16</sup> We ask Council to recommend that all States implement the Declaration through legislation and national action plans.

Thank you Mr. President.

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of Mr. **CHUT Wutty** in 2012. Neither case has been properly investigated. See Amnesty International, "Cambodia: Release scapegoats for killing of trade union leader," 1 May 2013, available at <http://www.amnesty.org/en/news/cambodia-release-scapegoats-killing-trade-union-leader-2013-05-01>; Amnesty International, "Kingdom of Cambodia: The killing of trade unionist Chea Vichea," 3 December 2004, available at <http://www.refworld.org/pdfid/42ae98890.pdf>; Lawyers' Rights Watch Canada, Cambodia, Myanmar, Thailand: Business enterprises and attacks on human rights defenders and protestors, Oral statement to the 20th Session of the Human Rights Council, 21 June 2012, available at <http://www.lrwc.org/?p=3940>; Lawyers' Rights Watch Canada, Letter regarding Cambodia: Escalation of Serious Human Rights Violations by Government Authorities, 30 May 2013, available at <http://www.lrwc.org/?p=3634>.

<sup>12</sup> IV International Caravana of Jurists to Colombia, Judges at Risk Continued: Report of the Judge Delegates of the Colombia Caravana (Monitoring Visit August 23-31, 2014, <http://www.colombiancaravana.org.uk/our-work-2/reports/>). Also see the Report of the Special Rapporteur on the situation of human rights defenders, Observations on communications transmitted to Governments and replies received, A/HRC/31/55/Add. 1, 19 January 2016, which at para 132 discusses a case in Colombia involving threats and aggression suffered by a lawyer and member of a human rights organization called Fundación Nydia Erika Bautista (FNEB), Andrea Torres Bautista, in relation to two cases of forced disappearances that she was representing, [http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55-Add-1\\_EFS.pdf](http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55-Add-1_EFS.pdf). See also LRWC, Colombia: Threats against Colombian Lawyer Andrea Torres Bautista (La Combinada Matter), Letter, July 3, 2015, <http://www.lrwc.org/colombia-threats-against-colombian-lawyer-andrea-torres-bautista-la-combinada-matter-letter/>

<sup>13</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2015: The Year in Assembly and Association Rights, January 2016, p 27, [http://freeassembly.net/wp-content/uploads/2016/01/UNSR-FOAA-Annual-Report-2015\\_r.pdf](http://freeassembly.net/wp-content/uploads/2016/01/UNSR-FOAA-Annual-Report-2015_r.pdf)

<sup>14</sup> For example, Bangladesh's NGO Affairs Bureau, under the Prime Minister's Office, has blocked release of ODHIKAR's funds for approximately two years in order to thwart ODHIKAR's human rights work. See ODHIKAR, Human Rights Monitoring Report, February 1-29, 2016, (para 55), [http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2016/03/Human-rights-monitoring-monthly-report-February-2016\\_Eng.pdf](http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2016/03/Human-rights-monitoring-monthly-report-February-2016_Eng.pdf)

<sup>15</sup> LRWC and ALRC, Canada: Restoring the Space for Dissent in Canada | Joint Written Statement to the UN Human Rights Council, 15 February 2016, <http://www.lrwc.org/canada-restoring-the-space-for-dissent-in-canada-joint-written-statement-to-the-un-human-rights-council/>. See also Report of the Special Rapporteur on the situation of human rights defenders, Observations on communications transmitted to Governments and replies received, A/HRC/31/55/Add. 1, 19 January 2016, para [http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55-Add-1\\_EFS.pdf](http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55-Add-1_EFS.pdf)

<sup>16</sup> Report of the Special Rapporteur on the situation of human rights defenders, Good practices in the protection of human rights defenders, A/HRC/31/55, 1 February 2016, para 51, [http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55\\_en.pdf](http://www.ohchr.org/Documents/Issues/Defenders/A-HRC-31-55_en.pdf)