

Lawyers' Rights Watch Canada

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USA: Allegations of judicial harassment and arbitrary detention of lawyer Steven Donziger

Briefing Note 29 July 2020

Lawyers' Rights Watch Canada (LRWC) is monitoring with concern the situation of Mr. Steven Donziger, a human rights lawyer in New York, United States (US). Mr. Donziger has reportedly been subjected to ongoing judicial and administrative harassment, including lack of due process and arbitrary detention. He has been deprived of his liberty without trial for nearly a year and has been suspended from practicing law for two years, resulting in severe financial burdens. The situation involves multiple, lengthy, and complex proceedings in several jurisdictions.¹ This briefing note provides a summary of facts and international human rights law relevant to the issues being monitored by LRWC in this case, including rights to liberty, presumption of innocence, due process, protection of the role of lawyers, and remedies for rights violations.

Factual Background

The alleged judicial and administrative harassment of Steven Donziger is related to his work as a human rights lawyer for Indigenous Peoples and local communities in Ecuador since 1993.

2011: Judgment against Chevron in Ecuador

In February 2011, a court in Ecuador awarded Mr. Donziger's clients a US\$19 billion judgment against Chevron for damages and clean-up costs of pollution of the environment and their communities in the Ecuadorian Amazon by its predecessor company, Texaco. Since then, Chevron has attempted to avoid paying the judgment. In 2013, Ecuador's Supreme Court upheld the judgment but reduced the award to US\$9.5 billion for clean-up costs.

Enforcement of the judgment in Ecuador was not possible, as Chevron has no assets there. In March 2011, US Federal Court Judge Lewis A. Kaplan granted Chevron's application for a global injunction against enforcement of the Ecuador court's judgment.² In 2012, the US Court

¹ See a timeline of the litigation from 1993 to 2018 at Texaco/Chevron lawsuits (re Ecuador), Business and Human Rights Resource Centre, n.d, [BHRRC timeline], available at: <https://www.business-humanrights.org/en/texacochevron-lawsuits-re-ecuador>.

² *Chevron Corp. v. Donziger*, 768 F.Supp.2d 581 (S.D.N.Y. 2011), as discussed by the Supreme Court of Canada in *Chevron Corp. v. Yaiguaje*, 2015 SCC 42, [2015] 3 S.C.R. 69, para 7, [Chevron SCC 2015], available at: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/15497/index.do>.

of Appeals overturned the injunction, ruling that the plaintiffs were entitled “to seek to enforce that judgment in any country in the world where Chevron has assets.”³

Plaintiffs’ enforcement actions

Since 2012, the plaintiffs have been engaged in actions to enforce the judgment in Canada and other countries. From 2012 to 2019, Mr. Donziger cooperated with Canadian lawyers⁴ and Indigenous rights defenders in attempts to enforce the plaintiffs’ judgment in Canada, where Chevron’s wholly-owned subsidiary, Chevron Canada, has assets.⁵

In 2015, the Supreme Court of Canada (SCC) ruled that the Ontario court had jurisdiction to adjudicate the recognition and enforcement action against Chevron Canada, upholding the Ontario Court of Appeal’s decision that the action could proceed based on “a real and substantial connection existed between the foreign court and the underlying dispute.”⁶ The case went back to the Ontario court to be heard on the merits, but the plaintiffs were unsuccessful.

In 2018, the Ontario Court of Appeal stated: “This is a tragic case. There can be no denying that, through no fault of their own, the appellants have suffered lasting damages to their lands, their health, and their way of life.” However, the court found that Chevron Canada was a completely separate legal entity from Chevron and declined to “pierce the corporate veil” by enforcing the Ecuador court’s judgment against Chevron Canada.⁷ In April 2019, the SCC declined the plaintiffs’ application for leave to appeal the 2018 Ontario Court of Appeal decision. To date, actions to enforce the judgement in other countries have also been unsuccessful.⁸

2014: Chevron obtains RICO judgment against lawyer Steven Donziger

In order to impugn the validity of the Ecuador judgement, in February 2011 Chevron commenced an action against Mr. Donziger under the *Racketeer Influenced and Corrupt Organizations Act* (RICO). In 2014, US federal Judge Kaplan issued a 485-page RICO judgment against Mr. Donziger in a non-jury civil trial.⁹ Mr. Donziger contested the allegations at trial and on appeal, but he was unsuccessful in having the RICO decision overturned.¹⁰ In 2015, one of the witnesses against Mr. Donziger repudiated his testimony in the RICO case, stating that that he had been careless and untruthful, and that he had lied.¹¹ The RICO trial has also been

³ *Chevron Corp v Naranjo*, 667 F.3d 232 (2d Cir. 2012), as quoted in Chevron SCC 2015, para 7, *ibid*.

⁴ Margaret L. Waddell, John K. Phillips, and A. Julia P. Tremain, "Wrongful Detention of Human Rights Activist, Steven Donziger," Letter to the Law Society of Ontario, 24 June 2020, available at: <https://static1.squarespace.com/static/5ac2615b8f5130fda4340fcb/t/5ef3c95b897156101e58e353/1593035099548/2020-06-24-wp-to-convocation-re-donziger.pdf>.

⁵ Chevron SCC 2015, *supra* note 2.

⁶ *Ibid*.

⁷ *Yaiguaje v. Chevron Corporation*, 2018 ONCA 472 (CanLII), available at: <http://canlii.ca/t/hs4mz>.

⁸ See BHRRC timeline, *supra* note 1.

⁹ *Chevron Corp. v. Donziger*, 974 F. Supp. 2d 362 (S.D.N.Y. 2014), available at: <https://casetext.com/case/chevron-corp-v-donziger-8>.

¹⁰ *Chevron Corp. v. Donziger*, No. 14-826(L), 2016 WL 4173988 (2d Cir. Aug. 8, 2016).

¹¹ *In the Matter of Arbitration Between: Chevron Corporation (U.S.A.), Texaco Petroleum Company (U.S.A.), Claimants, and The Republic of Ecuador, Respondent*, Permanent Court of Arbitration, PCA Case No. 2009-23and,

criticized by lawyers and bar associations in several countries for lack of due process.¹² Among the allegations are that Judge Kaplan demonstrated bias in favour of the interests of Chevron and hostility towards Mr. Donziger and his clients.¹³

July 2018 to present: Suspension from the New York State Bar

In July 2018, the New York State Bar Association (NY Bar) suspended Mr. Donziger's licence to practice law. The suspension was issued in a summary court proceeding without a hearing. The NY Bar's Attorney Grievance Committee did not interview Mr. Donziger prior to undertaking the summary suspension proceedings. The court accepted the Committee's argument that Mr. Donziger was estopped from contesting the suspension, because Judge Kaplan's RICO decision was sufficient to provide "uncontroverted evidence of serious professional misconduct that immediately threatened the public interest."¹⁴ Two years later, Mr. Donziger did obtain a hearing before a referee, Mr. John Horan, who after hearing from 13 witnesses recommended in February 2020 that Mr. Donziger's licence be immediately restored.¹⁵ Mr. Horan described Chevron's "pursuit" of Mr. Donziger as "extravagant,...unnecessary and punitive."¹⁶ Mr. Horan's non-binding recommendation is still awaiting court confirmation. Mr. Donziger's law licence remains suspended.

July 2019: Criminal contempt proceedings and detention under house arrest

On 30 July 2019, Judge Kaplan charged Mr. Donziger with criminal contempt after Mr. Donziger appealed Judge Kaplan's March 2019 order to turn over his computer and cell phone for discovery purposes to a "Neutral Forensic Expert" selected by Chevron.¹⁷ Mr. Donziger

Transcript of hearing, April 23, 2015, available at

<http://files.courthousenews.com/2015/10/26/transcriptDay%203.pdf>.

¹² International Association of Democratic Lawyers (IADL), Open Letter Demanding an End to Unprecedented House Arrest of Human Rights Attorney Steven Donziger and a Call to the International Human Rights Community to #MAKECHEVRONCLEANUP, 18 May 2020, available at: https://iadllaw.org/newsite/wp-content/uploads/2020/05/Donziger-case_Intl-Human-Rights-Open-Letter_Signed.pdf. Also see *In the Matter of Stephen R. Donziger, (admitted as Stephen Robert Donziger), RP No. 2018.7008 a suspended attorney: Attorney Grievance Committee, Before: Referee for the First Judicial Department, John R. Horan Petitioner*. Supreme Court of the State of New York, Appellate Division: First Judicial Department, Report and Recommendation, 24 February 2020, [Referee's report], available at: <https://www.courthousenews.com/wp-content/uploads/2020/02/Donziger-Report-02.24.20-complete.pdf>.

¹³ In Re: Steven Donziger, Petitioner-Appellant. Brief of Amici Curiae International Association of Democratic Lawyers ("IADL") and National Lawyers Guild ("NLG") in Support of Defendant-Appellant's Petition for a Writ of Mandamus. On Petition for a Writ of Mandamus from the United States District Court for the Southern District of New York (11-CV-691 AND 19-CR-561), available at: <https://iadllaw.org/2020/06/iadl-and-nlg-file-amicus-brief-in-donziger-case-highlighting-corporate-impunity-and-human-rights-violations/>.

¹⁴ See *Official Compilation Of Codes, Rules And Regulations Of The State Of New York, Part 1240. Rules For Attorney Disciplinary Matters*, 22 CRR-NY 1240.9, Interim suspension while investigation or proceeding is pending, available at:

[https://govt.westlaw.com/nycrr/Document/Iee4fd1dcb14f11e6b16798a968a6bf07?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/Iee4fd1dcb14f11e6b16798a968a6bf07?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)).

¹⁵ Referee's report, *supra* note 12.

¹⁶ *Ibid*.

¹⁷ *Chevron Corporation v. Steven Donziger, et al.*, Forensic Inspection Protocol, Lewis A. Kaplan, District Judge, 3/5/2019, <https://www.docketbird.com/court-documents/Chevron-Corporation-v-Donziger-et-al/FORENSIC-INSPECTION-PROTOCOL-Appointment-of-a-Neutral-Forensic-Expert-By-order-of-March-5-2019-the-Court-has>

appealed the order on the grounds that compliance would have the effect of violating solicitor-client privilege, including the rights of other lawyers to confidential communications, and also that compliance with the order could put Mr. Donziger's clients, many of them Indigenous Peoples, at risk.¹⁸ The appeal of Judge Kaplan's March 2019 discovery order is still pending.

After federal prosecutors declined to prosecute the criminal contempt case, Judge Kaplan took the unusual step of appointing a private law firm, Seward & Kissel LLP (Seward), to prosecute the case in the name of the US government.¹⁹ Judge Kaplan reportedly appointed Seward as private prosecutor without requiring the law firm to provide information about its financial or personal interests in Chevron or Chevron-related entities.²⁰ Publicly available documents indicate that Seward has Chevron and several Chevron-related entities as clients.²¹

Judge Kaplan also bypassed Local Rules of the US District Courts for the Southern and Eastern Districts of New York that prescribe random case assignment.²² Judge Kaplan selected Judge Loretta Preska to preside.

Judge Preska denied pre-trial release at an arraignment hearing on 6 August 2019, accepting the Seward prosecutor's arguments that Mr. Donziger poses a flight risk. This is despite the facts that Mr. Donziger has strong family and business ties in New York, that his passport has been seized, and that he has guaranteed his appearance in court with a bail bond of US\$800,000. A bail bond in such a large sum is reportedly unprecedented for a misdemeanor case in the US.

Mr. Donziger has been under strict house arrest for almost a year despite the fact that the maximum prison sentence, if convicted, is six months. Mr. Donziger is not permitted to leave his apartment for any reason without 48 hours prior approval from the court's Pretrial Services. He must wear a GPS tracking device around his ankle 24 hours a day. He is not permitted even to go into the hallway of his apartment building or to the lobby to collect mail without Pretrial Services' approval. Mr. Donziger lives with his wife and 14-year-old son in Manhattan, New York.

[appointed-a-Neutral-Forensic-Expert-for-the-purposes-of-this-Forensic-Inspection-Protocol-The-Neutral-Forensic-Expert-shall-send-his-invoices/nysd-1:2011-cv-00691-02172.](#)

¹⁸ Statement of Steven Donziger on Support from 29 Nobel Laureates on Day 255 of His House Arrest, 17 April 2020, available at: [https://www.makechevroncleanup.com/press-releases/2020/4/17/statement-of-steven-donziger-on-support-from-29-nobel-laureates-on-day-255-of-his-house-arrest.](https://www.makechevroncleanup.com/press-releases/2020/4/17/statement-of-steven-donziger-on-support-from-29-nobel-laureates-on-day-255-of-his-house-arrest)

¹⁹ Adam Klasfeld, "When Feds Demur, Judge Charges Ecuador Crusader Himself," Courthouse News Service, August 13, 2019 [Klasfeld], available at: [https://www.courthousenews.com/when-feds-demur-judge-charges-ecuador-crusader-himself/.](https://www.courthousenews.com/when-feds-demur-judge-charges-ecuador-crusader-himself/)

²⁰ Declaration of Professor Ellen Yaroshefsky in the case of *United States of America v. Steven Donziger*, 22 February 2020, [Yaroshefsky] available at: [https://static1.squarespace.com/static/5ac2615b8f5130fda4340fcb/t/5e59161ec5fa991928a9b007/1582896684082/20200227-mot-dismiss-decl-of-yaroshefsky.pdf.](https://static1.squarespace.com/static/5ac2615b8f5130fda4340fcb/t/5e59161ec5fa991928a9b007/1582896684082/20200227-mot-dismiss-decl-of-yaroshefsky.pdf)

²¹ *Ibid.*

²² Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, effective October 29, 2018, [Local Rules] available at: [https://img.nyed.uscourts.gov/files/local_rules/localrules.pdf.](https://img.nyed.uscourts.gov/files/local_rules/localrules.pdf)

Mr. Donziger's trial was scheduled to begin in June 2020. On 18 May 2020, Judge Preska adjourned the trial until 9 September 2020, largely because of the COVID-19 pandemic. She again denied pre-trial release on the same grounds of flight risk.²³

International human rights legal analysis

It is of major concern that Mr. Donziger appears to have been denied fair trial rights in the US criminal contempt case, including the right to the presumption of innocence, in that he has been denied pretrial release for a period of nearly twelve months on charges for which the maximum sentence upon conviction would be no more than six months or a US\$5,000 fine. It is believed that the longest sentence for the same charge ever imposed on a lawyer in New York is three months of home confinement. Further, it is believed that no US lawyer other than Mr. Donziger has ever been subjected to pretrial detention on a misdemeanor criminal contempt charge.

Pretrial detention in this case has the appearance of being punitive rather than necessary to ensure attendance at trial. The UN Human Rights Committee has affirmed that punitive pretrial detention violates the presumption of innocence.²⁴

Appearance of bias in charging processes and selection of prosecutor and judge

The *International Covenant on Civil and Political Rights* (ICCPR),²⁵ Article 14.1, guarantees the right to a fair trial by an independent and impartial tribunal. The ICCPR is binding on the US at international law. Mr. Donziger's fair trial rights appear to be compromised by an appearance of bias in the processes of charging and in the selection of the judge and prosecutor.

The criminal contempt charges were rejected by the US Department of Justice before being filed by Judge Kaplan, who then appointed a private law firm to prosecute. The chosen law firm has Chevron or Chevron-related entities as clients,²⁶ which is suggestive of a disqualifying conflict of interest.

The appointment of Seward as the prosecutor appears to violate the UN Guidelines on the Role of Prosecutors which point out that impartiality and fairness of both public and ad hoc prosecutors in criminal proceedings is integral to the right to a fair hearing by an independent and impartial tribunal.²⁷

²³ *United States of America v. Steven Donziger*, 19 CR 561 (LAP), Telephone Conference, US District Court, Southern District Of New York, 18 May 2020.

²⁴ UN Human Rights Committee, *Rafael Marques de Morais v. Angola*, Communication No. 1128/2002, UN Doc. CCPR/C/83/D/1128/2002 (2005), para. 6.1, available at: <http://hrlibrary.umn.edu/undocs/1128-2002.html>.

²⁵ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

²⁶ Yaroshefsky, *supra* note 20.

²⁷ OHCHR, *UN Guidelines on the Role of Prosecutors*, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfProsecutors.aspx>.

In 2020, a report of the UN Special Rapporteur on independence of judges and lawyers stated: “Like judges, prosecutors are automatically disqualified from working on cases in which they have, or might appear to have, a personal or biased interest...”²⁸

There is considerable appearance of potential bias in this case, given Judge Kaplan’s role in the RICO case and his control of the contempt proceedings against Mr. Donziger, including laying the charges, appointing the prosecutor, and selecting Judge Preska to preside in divergence from New York rules for random selection of judges.²⁹

Right to liberty, freedom from arbitrary detention, and presumption of innocence

It appears that Mr. Donziger is being subjected to a violation of his right to liberty guaranteed by Article 9 of the ICCPR. There are also apparent violations of Mr. Donziger’s right to the presumption of innocence, guaranteed by ICCPR Article 14.2.

The rights to liberty and the presumption of innocence require pre-trial release unless the prosecutor demonstrates with evidence that detention is strictly necessary as a last resort, with no other options available to ensure an effective investigation or secure attendance at trial.³⁰ Pre-trial measures that are punitive, unreasonable, or unnecessary to secure attendance at trial or to preserve evidence are in violation of the right not to be subjected to arbitrary detention, guaranteed by ICCPR Article 9.1.

LRWC has grave doubts that pre-trial detention of nearly a year is necessary in this case. There appears to be no prospect of flight given that Mr. Donziger has no access to his passport, is wearing a GPS ankle bracelet, and has guaranteed his appearance with a very large bail bond. Mr. Donziger also has a strong reputation as a person of integrity, indicated by testimony of witnesses in the February 2020 NY Bar hearing.³¹ He has no criminal record. In this case, pre-trial detention appears to be punitive when it is both unnecessary and prolonged to more than twice the length of the maximum penalty for the alleged offence.

Duty of States to ensure protection of the role of lawyers

LRWC is monitoring with concern the allegations that members of the judiciary have made orders that interfere with Mr. Donziger’s duty and right to represent his client, including the duty to protect his clients’ solicitor-client privilege. It appears that judges have been enforcing such orders through contempt proceedings and unnecessary, punitive pre-trial detention.

²⁸ Cited in Report of the Special Rapporteur on the independence of judges and lawyers, A/HRC/44/47, 23 March 2020, para 53, available at: <https://undocs.org/en/A/HRC/44/47>.

²⁹ Local Rules, *supra* note 22.

³⁰ See a summary of international standards for pre-trial release, in Lois Leslie, *Pre-Trial Release and the Right to be Presumed Innocent: A Handbook on Pre-Trial Release at International Law*, Vancouver: Lawyers Rights Watch Canada (LRWC) 2013, available at: <https://www.lrwc.org/ws/wp-content/uploads/2013/04/Pre-trial-release-and-the-right-to-be-presumed-innocent.pdf>.

³¹ Referee’s report, *supra* note 12.

The principle of solicitor-client privilege is foundational to international human rights standards, and flows from the right of legal assistance guaranteed in ICCPR Article 14.3.³² The UN *Basic Principles on the Role of Lawyers*³³ elaborate this principle in Article 15: “Lawyers shall always loyally respect the interests of their clients.” The decision to override solicitor-client privilege appears to violate this principle, and contributes to the appearance of bias in favour of the interests of Chevron.

The alleged involvement of Judge Kaplan in seeking suspension of Mr. Donziger’s NY Bar law licence without a hearing has the appearance of unwarranted denial of due process, contributing to the appearance of improper interference in Mr. Donziger’s exercise of his professional duties.

Adding to this concern is the NY Bar referee’s opinion that the suspension of Mr. Donziger’s licence to practice law was “unnecessary and punitive.”³⁴ LRWC is highly concerned that the suspension was made in 2018 without a hearing until February 2020, and that the NY Bar referee’s recommendations remain unconfirmed by the court, thus depriving Mr. Donziger of his right to earn a livelihood from the practice of his profession without due process.

These facts suggest violations of the UN *Basic Principles on the Role of Lawyers*, which give responsibility to governments to ensure the protection of lawyers from judicial harassment and other interference. Article 16 states:

16. 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.

Alleged abuse of process by Chevron

In reports of Chevron’s behaviour in this case, numerous commentators have seen the hallmarks of abuse of the US legal system through what is known as Strategic Litigation Against Public Participation (SLAPP) — generally, litigation pursued primarily by powerful parties to silence criticism and intimidate opponents rather than to resolve legitimate legal claims. Chevron has stated that its long-term strategy was to “demonize” Mr. Donziger,³⁵ and reportedly threatened to

³² The right of legal assistance also applies not only in criminal proceedings, but also in civil and administrative proceedings. See UN Human Rights Committee (HRC), *General comment no. 32, Article 14, Right to equality before courts and tribunals and to fair trial*, 23 August 2007, CCPR/C/GC/32, para. 22, available at: <https://www.refworld.org/docid/478b2b2f2.html>.

³³ UN *Basic Principles on the Role of Lawyers*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba, 7 September 1990, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>. The UN General Assembly welcomed the *Basic Principles* in its resolution on “Human rights in the administration of justice,” adopted by consensus (without a vote) 18 December 1990.

³⁴ Referee’s report, *supra* note 12.

³⁵ Chevron internal correspondence by email dated 26 March 2009. PDF copy on file with LRWC.

fight the plaintiffs “until hell freezes over”³⁶ if they pursued the judgment against the corporation or its affiliates. Chevron has the duty to respect human rights, and all levels of the US government, including the judiciary, have the duty to protect rights and ensure the availability of remedies against human rights abuses. These principles are set out in the UN *Guiding Principles on Business and Human Rights*.³⁷ The duty to provide remedies for human rights violations is set out in ICCPR Article 2.3. At international law, appropriate remedies for arbitrary detention include immediate release and/or compensation.³⁸

Conclusions

LRWC is monitoring this situation to ensure that Mr. Donziger is guaranteed:

- Immediate pre-trial release in accordance with the internationally guaranteed rights to liberty and the presumption of innocence;
- A fair trial conducted without further delay by a judge who is, and who is seen to be, entirely independent and impartial;
- Immediate impartial consideration and confirmation of the recommendations issued by the independent and impartial NY Bar referee on 24 February 2020 for the reinstatement of Mr. Donziger’s licence to practice law;
- Remedies for all violations of human rights by State or corporate actors.

Lawyers’ Rights Watch Canada (LRWC) is a committee of lawyers and human rights defenders who promote international human rights, the independence and security of human rights defenders, the integrity of legal systems, and the rule of law through advocacy, education, and legal research. LRWC has Special Consultative Status with the Economic and Social Council of the United Nations (UN).

³⁶ Amazon Watch, “Braving Death Threats, Ecuadorian Villagers Ask U.N. to Block Chevron From Attacking Human Rights Defenders Who Obtained Historic Judgment,” Press release, 21 January 2016, available at: <https://chevroninecuador.org/news-and-multimedia/2016/0121-ecuadorian-villagers-ask-un-to-block-chevron-from-attacking-human-rights-defenders>. Other threats are reported in a letter to the International Commission of Jurists, 23 February 2006, available at <https://chevroninecuador.org/assets/docs/2006-20-23-icj-letter.pdf>.

³⁷ United Nations. *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, 2011, available at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

³⁸ UN Human Rights Council, Report of the Working Group on Arbitrary Detention, A/HRC/30/36, 10 July 2015, para. 64, and references, available at: <https://www.refworld.org/pdfid/55f7d5844.pdf>.