



Organization: Lawyers' Rights Watch Canada

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

Date: 19 September 2022

Speaker: Brian Samuels

Oral Statement to the 51st Session of the UN Human Rights Council from Lawyers' Rights Watch Canada (LRWC), the International Bar Association Human Rights Institute (IBAHRI), and Lawyers for Lawyers (L4L), NGOs in special consultative status

China, Turkey: Systematic arbitrary detention of human rights lawyers and defenders

This is a joint statement of Lawyers' Rights Watch Canada, the International Bar Association Human Rights Institute, and Lawyers for Lawyers.

Several countries systematically use arbitrary detention of lawyers to deprive human rights defenders of legal representation and access to justice. The Working Group notes that "...under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty ... may constitute crimes against humanity."¹

In particular:

Türkiye systematically misuses overbroad anti-terrorism laws to arbitrarily detain hundreds of lawyers and defenders.² We urge Türkiye to accept the Working Group's request for a country visit, without any further delay.³

China, a member of this Council, continues its systematic practice of arbitrary detention of lawyers and defenders.⁴ The former High Commissioner recently noted that "UN human rights bodies have found that China's system of Residential Surveillance constitutes arbitrary detention and have called for its repeal."⁵ The recent OHCHR assessment on Xinjiang notes allegations of "arbitrary detention on a broad scale"⁶ with no access to lawyers or fair trials.⁷ We urge the Council to create an independent mechanism to thoroughly investigate allegations of gross, widespread and systematic human rights violations in China.

Thank you.

¹ E.g. Opinions adopted by the Working Group on Arbitrary Detention at its ninety-first session, 6–10 September 2021. Opinion No. 30/2021 concerning Ding Jiaxi, Zhang Zhongshun and Dai

Zhenya (China), /HRC/WGAD/2021/30, 12 November 2021, para. 88, <https://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2021/30&Lang=E>

² Report of the Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, to the 50th session, A/HRC/50/36, 22 April 2022, notes that since 2022, authorities have prosecuted more than 1,600 lawyers, placed 615 in pretrial detention, and sentenced 474 to lengthy prison sentences. See the Special Rapporteur's annual report, *supra* note 1, at paragraph 40,

<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F50%2F36&Language=E&DeviceType=Desktop&LangRequested=False>. See LRWC interventions on Turkey at <https://www.lrwc.org/category/publications/campaigns/countries/turkey-letters/>

³ Human Rights Council, Report of the Working Group on Arbitrary Detention, HRC/51/29, 21 July 2022, para 40, <https://undocs.org/A/HRC/51/29>.

⁴ Lawyers for Lawyers and Lawyers' Rights Watch Canada, Mid-term Report - Review of the implementation of recommendations with respect to the rule of law and the role of human rights defenders accepted by China during the UPR in 2018, August 2021,

<https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/NGOsMidTermReports/Final-mid-term-review-China-L4L-LRWC.pdf>. Also available at

<https://lawyersforlawyers.org/en/china-upr-mid-term-report/> or <https://www.lrwc.org/china-universal-periodic-review-mid-term-report-joint-report/>, and Lawyers for Lawyers'

interventions, e.g. <https://lawyersforlawyers.org/lawyers-for-lawyers-monitored-first-hearing-in-trial-of-berrak-caglar/> and <https://lawyersforlawyers.org/lawyers-for-lawyers-monitored-hearing-in-the-trial-against-the-lawyers-of-the-ohd/>

⁵ Statement by UN High Commissioner for Human Rights Michelle Bachelet after official visit to China, 28 May 2022,

<https://www.ohchr.org/en/statements/2022/05/statement-un-high-commissioner-human-rights-michelle-bachelet-after-official>

⁶ OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China, 31 August 2022, para 1, <https://www.ohchr.org/en/documents/country-reports/ohchr-assessment-human-rights-concerns-xinjiang-uyghur-autonomous-region>.

⁷ *Ibid*, para 41, 48.