

Organization: Lawyers for Lawyers
Item: 6
Date: 24, 27, 28 March
Speaker: Ms. Julia Smakman

Oral Statement to the 52nd Session of the UN Human Rights Council from Lawyers for Lawyers and the International Bar Association's Human Rights Institute, NGOs in special consultative status.

Mr President,

We deplore that India has refrained from accepting any of the recommendations made at its fourth UPR related to the protection of human rights defenders, including lawyers.ⁱ

This is particularly concerning, considering a fundamental aspect of the rule of law and an effectively functioning justice system is access to legal representation by an independent legal profession. Lawyers must be able to carry out their professional duties without harassment, intimidation or improper interference.

In India, lawyers report being faced with violence, including physical attacks in connection to their professional activities, in several cases conducted by the police or by non-state agents in India.

Moreover, there are reports of judicial harassment of lawyers, including improper interference, arrests, and silencing tactics, in relation to their work on politically sensitive cases. Specifically, the vague clauses in the Foreign Contribution Regulations Act 2010 and the Unlawful Activities Prevention Act have been misused in this context.

Furthermore, lawyers have reported issues with lawyer-client confidentiality. We have serious concerns with regards to the systematic use of the use of surveillance software against lawyers in India.

We urge India to:

- Accept all the recommendations on Human Rights Defenders and explain why they rejected them.
- Implement the recommendations with regards to the protection of human rights defenders without delay;
- Take immediate measures to safeguard the independence of lawyers and provide protection against any form of undue interference with their work;
- Take effective measures to protect lawyer-client confidentiality against surveillance.

Thank you.

ⁱ Report of the Working Group on the Universal Periodic Review of India, 27 February 2023, A/HRC/52/11/Add.1.

Noted recommendations:

151.42 Adopt a comprehensive law on the protection of human rights defenders (Mexico)

151.47 Undertake a revision of the Unlawful Activities (Prevention) Amendment Act and assess its conformity with international law to prevent it from being used against human rights defenders (Switzerland)

151.85 Release all detained human rights defenders (Luxembourg);

151.102 Carefully review the Foreign Contribution (Regulation) Act and the Unlawful Activities (Prevention) Act to ensure freedom of expression, assembly and association and the protection of civil society organizations and human rights defenders (Estonia)

151.106 Adopt an effective protection framework for human rights defenders and journalists that protects them against acts of persecution, intimidation or harassment (Uruguay)

151.126 Take measures to foster a safe, respectful and enabling environment for civil society and human rights defenders, especially women and Indigenous human rights defenders, free from persecution, intimidation and harassment (Latvia)