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To the attention of the UN Special Rapporteur on the independence of judges and lawyers, prof. Ms. Margaret Satterthwaite

RE: Submission to report for HRC 56

31 January 2024

Introduction

1. Lawyers for Lawyers ("L4L") is an independent and non-political foundation based in the Netherlands, which seeks to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession. L4L supports lawyers worldwide who face reprisals, improper interference, or unreasonable restrictions in the execution of their profession. L4L was granted special consultative status with the ECOSOC in July 2013.

2. L4L welcomes the call for input issued by the Special Rapporteur on the Independence of Judges and Lawyers (the 'Special Rapporteur') and, in response, has provided the following information on the role of lawyers in safeguarding democracy with the view of informing the next thematic report. The information provided is largely based on previously published research and UN submissions by L4L.

3. This submission seeks to answer questions posed in the context of the Special Rapporteur's upcoming thematic report on 'Safeguarding the independence of judicial systems in the face of contemporary challenges to democracy'. It will focus on those issues related to L4L's mandate, namely: i) the role lawyers play in safeguarding democracy and upholding fundamental democratic rights, ii) the issues they face when fulfilling this role, including institutional obstacles, and iii) some of the different approaches taken to protect lawyers. In this regard, L4L wants to highlight the role played and risks faced by environmental lawyers and lawyers who represent clients who are perceived as members of the LGBT+ community, as well as the increased threats to the principle of lawyer-client confidentiality.

The role of lawyers in safeguarding democracy and human rights

4. Lawyers, together with judges and public prosecutors, play a vital role in the administration of justice and in upholding the rule of law. Besides this, lawyers are indispensable players in the protection of human rights, including the right to an effective remedy, due process, a fair trial, freedom from torture and other cruel, inhuman, or degrading treatment or punishment.¹ By providing legal services in the

¹ This has been widely affirmed in international law and jurisprudence. See, for example: UN Human Rights Committee, General Comment No 32 (2007) para 32; Preamble of the UN Basic Principles on the Role of Lawyers (1990); Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in

defence of universal human rights, they do not only expand access to justice to all peoples, they also contribute to an enabling environment for civil society, and consequently conditions conducive to democracy.

5. Informed by L4L's work and reports received over the past years, L4L recognises that lawyers contribute to safeguarding democracy and fundamental rights by: offering access to justice all, including the most marginalised communities; curtailing the abuse of power and combatting impunity in the context of corruption; safeguarding civil and political rights crucial to fostering democratic debate and a thriving civil space; and advancing the right to a healthy environment by combatting climate change through environmental litigation. The examples mentioned below do not stand alone but serve as illustrations of the ways in which lawyers serve as watchdogs of democracy.

6. Lawyers play a pivotal role in providing access to justice to marginalised and indigenous communities, particularly those whose lands are threatened or who live in remote areas and/or conflict zones. A striking example is lawyer Mr. Adil Meléndez Marquéz, a Colombian human rights lawyer who represents communities and victims of armed conflict in northern Colombia. Without his counsel, these communities would not have access to the Colombian legal system and remedies designed to protect and compensate victims of forced displacement and other human rights violations.² Similarly, lawyers in Cameroon contribute to the protection of minority groups in the Anglophone parts of the country.³

7. Corruption and abuse of power have a detrimental effect on human rights and are intrinsically linked to a decline in democracy.⁴ Lawyers play an indispensable role in identifying and investigating corruption as well as pursuing and ending impunity for crimes related to corruption. Guatemalan lawyer and laureate of the L4L Award 2023, Ms Claudia Gonzáles, has been active on this front in her capacity as the former president of the International Commission against Impunity in Guatemala (CICIG), and initiated a lawsuit against a judge in a corruption case in 2017.⁵ Chinese Lawyer Mr. Gao

Vienna on 25 June 1993, para 27; OSCE, Countering Terrorism, Protecting Human Rights: A Manual (OSCE Office for Democratic Institutions and Human Rights 2007) p 171, fn 518; The Guidelines and Principles on the Right to a Fair Trial and Legal Assistance in Africa, Part N(2)a; UNHRC, 'Independence and Impartiality of the Judiciary, Jurors and Assessors, and the Independence of Lawyers' (2020) UN Doc A/HRC/44/L.7, 13th preambular paragraph; and UNHRC, 'Independence and Impartiality of the Judiciary, Jurors and Assessors, and the Independence of Lawyers' (2017) UN Doc A/HRC/35/12, 5th and 9th preambular paragraphs and para 15.

² 'Adil Meléndez Marquez' (L4L, 22 December 2022) <<https://lawyersforlawyers.org/adil-melendez-marquez-when-starting-a-legal-case-there-is-no-guarantee-at-all-that-it-will-ever-be-treated-let-alone-that-environmental-and-human-rights-violations-are-actually-punished/>>.

³ L4L Submission on Cameroon to the 44th session of the Working Group on the UPR (2023) <<https://lawyersforlawyers.org/wp-content/uploads/2023/04/Universal-Periodic-Review-Cameroon-fourth-cycle-L4L.pdf>>

⁴ See, for example, the Preamble of the UN Nations Convention against Corruption (2003) <https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf> and the work of Transparency International. The TI Corruption Perceptions Index 2023 is available here: <<https://www.transparency.org/en/cpi/2023>>.

⁵ 'Guatemalan lawyer Claudia González Orellana laureate L4L Award 2023' (L4L, 19 April 2023) <<https://lawyersforlawyers.org/guatemalan-lawyer-claudia-gonzalez-orellana-laureate-lawyers-for-lawyers-award-2023/>>.

Zhisheng had been working on cases of arbitrary detention of petitioners seeking official accountability for acts of corruption, until his enforced disappearance in 2017.⁶

8. Lawyers also contribute to democratic debate and the protection of civic space by representing clients who are prosecuted for the legitimate exercise of their rights to freedom of expression, freedom of association, or freedom of assembly. In addition, lawyers themselves – like any other citizen – are entitled to freedom of expression, belief, association and assembly. In particular, when they take part in public discussions on matters concerning the protection of human rights.⁷ Lawyers play an active role in advancing human rights when sharing their critical views on matter of public interest, such as the illegal use of chemical weapons the Turkish Armed Forces,⁸ speaking out for LGBT+ rights in Cameroon,⁹ or when condemning police brutality in Nigeria.¹⁰ In addition, lawyers represent political opposition candidates and challenge the obstacles or arbitrary limitations placed on who can and cannot run for public office.¹¹ This is of particular importance in authoritarian settings, where the continued consolidation of power is at the heart of democratic backsliding.

9. Furthermore, L4L would like to highlight the role of environmental lawyers in their efforts to advance the right to a healthy environment through climate change litigation, thereby safeguarding democracy and fundamental rights.¹² Their conscious attempts to better integrate human rights in climate change policies aid democratic governance, for instance through defending people’s right to access to environmental protection, participation in decision-making and access to justice in environmental matters.¹³ A good example is the work of Bangladeshi lawyer Syeda Rizwana Hasan, who successfully challenged polluting shipbreaking practices in court, until more stringent environmental and safety

⁶ L4L and the Law Society of England and Wales, Joint letter on the Alleged Enforced Disappearance of Lawyer Gao Zhisheng (20 April 2021) <https://lawyersforlawyers.org/wp-content/uploads/2021/04/Letter-_Gao-Zhisheng-003.pdf>.

⁷ UN Basic Principles, Principle 23.

⁸ PEN Norway – Aryen Turan report (2023) p 3-4 <https://norskpen.no/eng/wp-content/uploads/2023/10/PEN-Norway_Legal-Report-on-Indictment-A-Turan-Eng.pdf>

⁹ Submission on Cameroon for the UPR (2023) para 20 <<https://lawyersforlawyers.org/wp-content/uploads/2023/04/Universal-Periodic-Review-Cameroon-fourth-cycle-L4L.pdf>>.

¹⁰ L4L & IBAHRI, Joint Submission on Nigeria for the 45th session of the UN Working Group of the UPR (2023) paras 16-18 <<https://lawyersforlawyers.org/wp-content/uploads/2023/07/Joint-UPR-submission-Nigeria-L4L-IBAHRI.pdf>>

¹¹ Take, for example, the lawyers who represented Belarusian opposition candidate Viktor Babariko or the legal defence team of Alexei Navalny. See, respectively, L4L ‘Continuous Crackdown on the Legal Profession in Belarus: an update’ (2022) <<https://lawyersforlawyers.org/wp-content/uploads/2022/09/Final-Report-2022-continuous-crackdown-belarus.pdf>>; L4L, Statement on Three Defence Lawyers of Opposition Leader Aleksey Navalny have been Arrested and included in the List of Extremists (20 December 2023) <<https://lawyersforlawyers.org/three-defence-lawyers-of-opposition-leader-aleksei-navalny-have-been-arrested-and-included-in-the-list-of-extremists/>>; L4L, UPR Midterm report on Russia (2016) p 7 <https://lawyersforlawyers.org/wp-content/uploads/l4l-midterm_report_russian_federation-1.pdf>, see the case of Arkady Chaplygin.

¹² Climate change litigation has been recognised as a ‘frontier solution to change the dynamics of the fight against climate change’, as stated in the UN Global Climate Litigation Report: 2023 Status Review (2023) <https://wedocs.unep.org/bitstream/handle/20.500.11822/43008/global_climate_litigation_report_2023.pdf?sequence=3>.

¹³ These elements relate to what is understood as ‘environmental democracy’, as provided for by the Aarhus Convention (1998). Available in English here: <<https://unece.org/environment-policy/public-participation/aarhus-convention/text>>.

standards were met.¹⁴ At the Centre for Environmental Rights in Cape Town, South Africa, lawyers raise awareness about the constitutional right to a healthy environment among local communities by litigating for environmental justice.¹⁵

Threats, risks, and obstacles

10. In fulfilling their professional legal duties, lawyers around the world are at risk. They face an alarmingly wide range of threats and obstacles, differing in frequency and severity, but always to the detriment of the legal profession, their personal lives, and those of their clients. State and non-state actors aim to instigate a chilling effect, silencing both lawyers and their clients, by interfering with their work directly, violently or through legal means, and by creating conditions which effectively render the exercise of the independent legal profession impossible. The cases below represent merely a fraction of the overwhelming number of lawyers who are targeted across continents and jurisdictions.

11. Lawyers face arbitrary arrest, detention and criminal prosecution as a result of their legitimate work. Arbitrary arrest and detention is often part of a strategy to prevent lawyers from providing legal services to their clients, as precursor to disbarment,¹⁶ or simply for intimidation purposes.¹⁷ In some countries, like Nigeria, it has become so common that lawyers consider ‘arbitrary arrest as part of their job’.¹⁸ Across jurisdictions, lawyers may be prosecuted under terrorism legislation¹⁹ or for violating forcibly signed non-disclosure agreements.²⁰ L4L is particularly concerned about prosecutorial strategies that the Turkish Prosecutor’s Office is adopting against lawyers, prosecuting multiple

¹⁴ Interview with Syeda Rizwana Hasan: “Environmental justice is intrinsic to every other human rights issue” (L4L, 16 January 2023) < <https://lawyersforlawyers.org/en/interview-syeda-rizwana-hasan-environmental-justice-is-intrinsic-to-every-other-human-rights-issue/>>.

¹⁵ Dual interview with Mr Brandon Abdinor and Ms Thobeka Gumede (L4L, 5 July 2023) < <https://lawyersforlawyers.org/dual-interview-with-mr-brandon-abdinor-and-ms-thobeka-gumede-lawyers-at-the-centre-for-environmental-rights-cer-in-south-africa-it-is-sometimes-easier-to-engage-with-communities-who-are-a/>>. Later in 2024, L4L will publish a report about the threats faced by environmental lawyers.

¹⁶ L4L, IBAHRI, ABA, ‘Continuous Crackdown on the Legal Profession in Belarus: An Update’ (2022) <<https://lawyersforlawyers.org/wp-content/uploads/2022/09/Final-Report-2022-continuous-crackdown-belarus.pdf>> ; ‘Lawyers Under Threat: Increasing Suppression of the Legal Profession in Belarus’ (2021) <https://www.americanbar.org/content/dam/aba/administrative/human_rights/justice-defenders/belarus-coalition-lawyers-report-english.pdf>.

¹⁷ L4L, Submission on Nigeria (2023) < <https://lawyersforlawyers.org/wp-content/uploads/2023/07/Joint-UPR-submission-Nigeria-L4L-IBAHRI.pdf>> ; L4L Submission on Jordan for the 45th session of the UN Working Group of the UPR (2023) p 5 <<https://lawyersforlawyers.org/wp-content/uploads/2023/07/UPR-submission-Jordan-L4L-def.pdf>>.

¹⁸ Submission on Nigeria (n 17).

¹⁹ See, for instance, the case of Tunisia: OMCT, ‘Lawyers under the Watch: joint paper addressing the increasing number of prosecutions against lawyers in Tunisia’ (2023) available here <<https://lawyersforlawyers.org/tunisia-release-lawyers-under-the-watch/>>; Avocats Sans Frontières, ‘Defending the defense: Strengthening protection for lawyers to preserve freedoms in Tunisia’ (2023) <<https://asf.be/publication/french-defendre-la-defense-renforcer-la-protection-des-avocat-es-pourpreserver-letat-de-droit-en-tunisie/>>.

²⁰ See, for example, the cases of Belarus and China: Joint report, ‘Continuous Crackdown on the Legal Profession in Belarus’ (2022) p 7 <<https://lawyersforlawyers.org/wp-content/uploads/2022/09/Final-Report-2022-continuous-crackdown-belarus.pdf>> ; L4L, IBAHRI, 29 Principles, Joint Submission on China to the 45th session of the UN Working Group of the UPR (July 2023) para 14 <https://lawyersforlawyers.org/wp-content/uploads/2023/07/Final_Joint-Submission-UPR-China_L4L-IBAHRI-29P_17072023.pdf>.

lawyers in a single trial by alleging that they were part of a ‘legal structure’ of a designated terrorist organisation, as previously reported on by Human Rights Watch.²¹

12. Lawyers are subjected to violence and harassment of physical, legal, and digital nature. Physical harassment ranges from violent attacks (such as beatings and stabbings)²² and kidnapping (attempts),²³ to death threats,²⁴ assassination attempts,²⁵ and in the worst cases, murder.²⁶ In addition, legal avenues such as criminal investigations or disciplinary hearings, defamation lawsuits,²⁷ and costly SLAPP²⁸ cases are increasingly being used to interfere with lawyers’ work. The International Federation for Human Rights has identified this trend across Latin America and specifically points to this strategy being used against lawyers defending environmental and land rights. Criminalization is used as a strategy to hinder and delay judicial procedures, but also to delegitimize and intimidate lawyers working on specific cases.²⁹ Following criminal investigations or disciplinary proceedings, lawyers may have their license to practice revoked.³⁰ In addition, lawyers are regularly obstructed in their work due

²¹ Human Rights Watch, ‘Lawyers on Trial: Abusive Prosecutions and Erosion of Fair Trial Rights in Turkey’ (2019) pages 23-25 <https://www.hrw.org/sites/default/files/report_pdf/turkey0419_web.pdf>.

²² ‘Red-tagged Philippine human rights lawyer stabbed in the head with screwdriver’ (L4L, 16 March 2021) <<https://lawyersforlawyers.org/red-tagged-philippine-human-rights-lawyer-stabbed-in-the-head-with-screwdriver/>>; ‘Soheila Hejab on hunger strike’ (L4L, 5 October 2021) <<https://lawyersforlawyers.org/soheila-hejab-on-hunger-strike/>>; UPR Submission on Jordan (n 17).

²³ ‘Concerns about the ongoing threats, kidnapping and harassment against Colombian lawyer Andrea Torres Bautista’ (L4L, 15 March 2023) <<https://lawyersforlawyers.org/concerns-about-the-ongoing-threats-kidnapping-and-harassment-against-colombian-lawyer-andrea-torres-bautista/>>;

²⁴ ‘Concerns over death threat against Colombian human rights lawyer Adil Meléndez Marquez’ (L4L, 10 July 2023) <<https://lawyersforlawyers.org/concerns-about-colombian-human-rights-lawyer-adil-melendez-marquez/>>; Joint letter on threats against Germán Romero Sánchez (6 November 2019) <<https://lawyersforlawyers.org/joint-letter-regarding-threats-against-german-romero-sanchez/>>. See, also, L4L Submission on Colombia to the 44th session of the Working Group on the UPR (2023) para 16 <https://lawyersforlawyers.org/wp-content/uploads/2023/04/Def-Final-Version-UPR-Colombia_.pdf>.

²⁵ Statement on the assassination attempt and harassment of Eswatini lawyer Maxwell Nkambule (L4L, 10 March 2023) <<https://lawyersforlawyers.org/statement-on-the-harassment-and-assassination-attempt-of-eswatini-lawyer-maxwell-nkambule/>>.

²⁶ The Philippines is one of the most dangerous countries to operate in as a lawyer. See, Human Rights Watch, ‘Record High Killing of Philippine Lawyers’ (2021) <<https://www.hrw.org/news/2021/03/15/record-high-killing-philippine-lawyers>>; L4L, Submission to the Human Rights Committee Consideration of the 5th Periodic Report of The Philippines (2022) <https://lawyersforlawyers.org/wp-content/uploads/2022/10/ICCPR-report-for-review-Philippines_September-2022_final.pdf>.

²⁷ See, for example, cases from Malaysia, Egypt, and Poland: ‘Charles Hector Fernandez: “Review of environmental legislation is urgently needed”’ (L4L, 27 July 2022) <<https://lawyersforlawyers.org/charles-hector-fernandez-review-of-environmental-legislation-is-urgently-needed/>>; ‘Two years since the arrest of Mohamed El-Baquer’ (L4L, 29 September 2021) <<https://lawyersforlawyers.org/egypt-two-years-since-the-arrest-of-mohamed-el-baquer/>>; ‘End harassment of Michal Romanowski’ (L4L & ICJ, 15 July 2021) <<https://lawyersforlawyers.org/end-harassment-of-michal-romanowski/>>.

²⁸ Strategic Litigation Against Public Participation (SLAPP). SLAPPs are abuse lawsuits filed by powerful individuals and companies as a means of silencing critical expression.

²⁹ L4L and IBAHRI, Joint Submission on Mexico to the 45th session of the Working Group on the UPR (2023) p 4 <https://lawyersforlawyers.org/wp-content/uploads/2023/07/L4L-UPR-Mexico_July-2023-2_def.pdf>.

³⁰ This practice is commonly adopted in China and Belarus. See Joint Submission on China to the 45th session of the Working Group of the UPR (2023) para 15-18 <https://lawyersforlawyers.org/wp-content/uploads/2023/07/Final_Joint-Submission-UPR-China_L4L-IBAHRI-29P_17072023.pdf>; ‘Statement on the deprivation of licenses from Belarusian Lawyers’ (L4L, 27 September 2023) <<https://lawyersforlawyers.org/en/statement-on-the-deprivation-of-licenses-from-belarusian-lawyers/>>.

a lack of access to information needed to build a case.³¹ Last, lawyers also fall victim to online violence in the form of threats, intimidation, and verbal abuse.³²

13. In this context, the principle of lawyer-client confidentiality ('LPPC') is under increased pressure due to advancing surveillance technologies. Several instances of illegitimate surveillance and interference with digital communications of lawyers with their clients have been reported in recent years,³³ including wiretapping and hacking of lawyers' phones through intrusive surveillance software.³⁴ Moreover, a lack of respect for LPPC during investigations by public prosecutors have posed problems.³⁵ The lack of transparency and foreseeability of surveillance poses issues, as it troubles avenues to effective recourse. Furthermore, it instigates a chilling effect on lawyers and seriously affects the fundamental rights of both lawyers and clients, notably the right to privacy, data protection, access to justice and a fair trial.³⁶

14. Multiple states have adopted laws and policies that form obstacles to the independent exercise of the legal profession. The Law on Safeguarding National Security in the Hong Kong Special Administrative region and the related sedition laws, for example, effectively strip suspects of fair trial rights and profoundly shrink the practice scope of lawyers, rendering them vulnerable to forms of interference due to the extensive investigative powers and lack of judicial oversight.³⁷ A 2015 amendment to the Law on Advocacy in Tajikistan effectively hinders admission of new lawyers and requires current practising lawyers to re-qualify, with the risk of not having their lawyers' status reinstated due to executive interference.³⁸ A series of changes to the Law on Advocacy in Belarus in 2021 have similarly strengthened the executive's control over lawyers' and bar associations, which triggered a dramatic outflux of lawyers from the bar.³⁹

³¹ Governments and corporations often conceal information, sometimes hiding behind intellectual property laws, causing lawyers to spend significant resources on obtaining access. See, for example, 'Interview Syeda Rizwana Hasan: "Environmental justice is intrinsic to every other human rights issue"' (L4L, 16 January 2023) <<https://lawyersforlawyers.org/interview-syeda-rizwana-hasan-environmental-justice-is-intrinsic-to-every-other-human-rights-issue/>>; 'Muhammad Jamil: "the denial and concealment of public information must be ended now"' (L4L, 30 November 2022) <<https://lawyersforlawyers.org/muhammad-jamil-the-denial-and-concealment-of-public-information-must-be-ended-now/>>.

³² See, 'Muhammad Jamil: "the denial and concealment of public information must be ended now"' (L4L, 30 November 2022) <<https://lawyersforlawyers.org/muhammad-jamil-the-denial-and-concealment-of-public-information-must-be-ended-now/>>.

³³ Described in the following report: L4L, 'Lawyer-Client Confidentiality in a Digitalized Society' (May 2023) <<https://lawyersforlawyers.org/wp-content/uploads/2023/05/Lawyers-for-Lawyers-Digital-Lawyer-Client-Confidentiality.pdf>>.

³⁴ See, for example, the case of Hala Ahed Deeb: L4L Submission on Jordan (n 17) paras 19-21.

³⁵ The Dutch Public Prosecutor serves as an example. See, L4L Submission on The Netherlands for the 41st session of the UN Working Group of the UPR (2022) paras 26-27 <<https://lawyersforlawyers.org/wp-content/uploads/2022/05/Final-UPR-the-Netherlands-March-2022-L4L.pdf>>.

³⁶ 'Lawyer-Client Confidentiality in a Digitalized Society' (n 33).

³⁷ L4L, IBAHRI, 29 Principles, 'Joint submission on China to the 45th session of the UN Working Group of the UPR' (2023) paras 27-30 <https://lawyersforlawyers.org/wp-content/uploads/2023/07/Final_Joint-Submission-UPR-China_L4L-IBAHRI-29P_17072023.pdf>.

³⁸ L4L Submission on Tajikistan for the 25th session of the Working Group for the UPR (2015) paras 18-19 <<https://lawyersforlawyers.org/wp-content/uploads/LAWYERS-FOR-LAWYERS-UPR-SUBMISSION-TAJIKISTAN-SEPTEMBER-2015.pdf>>.

³⁹ L4L 'Continuous Crackdown on the Legal Profession in Belarus: an update' (2022) pages 15-16 <<https://lawyersforlawyers.org/wp-content/uploads/2022/09/Final-Report-2022-continuous-crackdown-belarus.pdf>>.

15. With regards to the different types of harassment described above, several factors may play into the heightened vulnerability of some lawyers.⁴⁰ First, the sex and/or gender identity of both lawyer and client may give rise to more vicious harassment and interference. Women lawyers face particular challenges, both in the work place⁴¹ as well as related to the cases they take on.⁴² In Uganda, lawyers representing clients who are perceived to be part of the LGBT+ community experience systematic harassment, including being followed by security personnel and (attempted) bribery to drop or otherwise manipulate cases.⁴³ Second, lawyers working on politically sensitive cases concerning corruption or human rights are disproportionately targeted. In this respect, environmental lawyers face particular challenges given their litigation against powerful corporations and governments.⁴⁴

Approaches taken to protect lawyers

16. With regards to the approaches taken to protect lawyers in their role as guardians of human rights, the rule of law, and democracy, L4L affirms the protection offered by international law, through human rights treaties (UN and regional standards).⁴⁵ States have a primary obligation to respect, protect, and promote the independence of the legal profession.⁴⁶ Furthermore, bar associations play a vital role in upholding the independence of the legal profession and protecting their members from persecution, improper restrictions, and infringements.⁴⁷ As the previous section has demonstrated, these legal safeguards do not preclude the harassment and prosecution of lawyers across the world. A wide range of civil society organisations and lawyers' associations are therefore actively defending lawyers at risk

⁴⁰ The factors mentioned here represent a non-exhaustive list of characteristics that could indicate a heightened vulnerability, however, L4L chose to highlight these given the increasing number of reports received on these respective matters.

⁴¹ See, for instance, L4L Submission to the Human Rights Committee of the 6th Periodic Report of Sri Lanka (2022) para 22 <https://lawyersforlawyers.org/wp-content/uploads/2022/06/Final-Report-Sri-Lanka_L4L.pdf>.

⁴² Gender stereotyping is common in Colombia and unjustly minimizes real life threats faced by women lawyers. See Report of the VI International Caravana of Jurists (2018), 'Colombia: Seeking Justice, building peace, and the post-conflict illusion' p 25 <https://lawyersforlawyers.org/wp-content/uploads/2019/03/Report_Colombian_Caravana_6th20Delegation.pdf>.

⁴³ L4L Submission to the Human Rights Committee Consideration of the 2nd Periodic Report of Uganda (2023) <<https://lawyersforlawyers.org/wp-content/uploads/2023/06/Final-Uganda-ICCPR-submission-2nd-periodic-report-29-May.pdf>>.

⁴⁴ See the interview series on the L4L website, compiled as part of the #EnvironmentalLawyers campaign: <<https://lawyersforlawyers.org/environmental-lawyers-campaign/>>. L4L will launch a research report specifying the threats faced by environmental lawyers later in 2024.

⁴⁵ It is not within the scope of this submission to elaborate on the existing international legal standards on the role of lawyers. The most relevant UN treaties: International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965); ICCPR; International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984); CRC; ICMW; CPED; and CRPD. The relevant regional treaties: AfCHPR, AmCHR and the ECHR, and ArCHR. Relevant guidelines and principles: the UN Basic Principles (1990); UN Guidelines on Legal Aid (2012); CoE Recommendation No R(2000)21 on the Freedom of Exercise of the Profession of a Lawyer (2000); AfCmHPR Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2003); IBA Standards for the Independence of the Legal Profession (1990). Notably, the Council of Europe aims to finalise its Draft European Convention on the Profession of Lawyer this year. See the Committee of Experts on the Protection of Lawyers (CJ-AV) <<https://www.coe.int/en/web/cdcj/cj-av>>.

⁴⁶ See, IBA Human Rights Institute 'International Legal Digest: Lawyers' protection and states' obligations', available here <<https://www.ibanet.org/MediaHandler?id=c0a1f2cc-0a0c-4e97-a180-fa6fc53b4a32>>.

⁴⁷ UN Basic Principles, Preamble and Principle 25. See, also, UNGA, 'Report of the Special Rapporteur on the Independence of Judges and Lawyers, Diego García-Sayán – Bar associations' (2018) UN Doc A/73/365, para 105.

while promoting the enhanced protection of the legal profession, of which the Special Rapporteur is well-aware. The following paragraphs will focus on some initiatives instigated on a domestic level.

17. Several states have set up protection or complaint mechanisms offering protection to groups of individuals at risk, including lawyers. Although these efforts are a step in the right direction, the effectiveness of such mechanisms is regularly undermined by a lack of resources and corruption. In 2012, Mexico created the Protection Mechanism for Human Rights Defenders and Journalists at a federal level, intended to fund protection programs through independent trust funds. However, due to mismanaged funding and a lack of personnel as well as concerns with regards to the integrity and independence, the mechanism is found to be extremely vulnerable to corruption, leaving lawyers under its mandate in a precarious situation.⁴⁸ Colombia's National Protection Unit (Unidad Nacional de Protección- UNP) operates under the Ministry of Internal Affairs and is similarly entrusted with the protection of human rights defenders, including lawyers at risk. During the 2018 CARAVANA fact-finding mission, it was found that the UNP is under-resourced and that protection strategies are often not tailored to the respective lawyer's context. In some cases, security incidents were caused either intentionally or negligently by the protection agents themselves.⁴⁹

18. In response to the inadequate protection offered by state mechanisms, some communities have adopted innovative approaches by collectively taking responsibility for their protection. An example is Ruta Pacífica de las Mujeres, a feminist pacifist movement in Colombia, whose main self-protection measure is to constantly confirm each other's location and well-being.⁵⁰ While lawyers who are members of these communities may benefit from such bottom-up approaches to protection, most also consider their public profile relevant to their safety. In this context, both high and low profiles can serve as a strategy. Lawyers in Cartagena said they tend to keep a low profile, especially when working on land restitution cases or cases regarding alleged links to paramilitary groups or multinational corporations.⁵¹

Concluding remarks

19. The above answers intent to portray the many ways in which lawyers contribute to safeguarding fundamental rights and democracy, as well as demonstrating the sustained efforts on the side of state and non-state actors to impede the safety and independence of the legal profession. As stated, the cases and countries mentioned are merely illustrations of such practices and by no means represent a complete overview of the types of interferences experienced by lawyers across the world.

20. L4L invites the Special Rapporteur to take note of the trends summarized in this submission and recognise the crucial role played by lawyers in the protection of fundamental democratic rights, particularly when autocratic forces challenge democracy by disturbing institutional checks and

⁴⁸ Joint Submission on Mexico for the UPR (n 29).

⁴⁹ Report of the VI International Caravana of Jurists (2018), 'Colombia: Seeking Justice, building peace, and the post-conflict illusion' < https://lawyersforlawyers.org/wp-content/uploads/2019/03/Report_Colombian_Caravana_6th20Delegation.pdf>; L4L Submission on Colombia to the 44th session of the Working Group on the UPR (January 2023) < https://lawyersforlawyers.org/wp-content/uploads/2023/04/Def-Final-Version-UPR-Colombia_.pdf> para 20.

⁵⁰ Reports of the VI international Caravana of Jurists (n 49).

⁵¹ Ibid.

balances. In addition, L4L urges the Special Rapporteur to pay attention to the lack of effective protection mechanisms available to lawyers, specifically in the context of corruption and strong executive control over bar associations and other lawyers' associations traditionally intended to monitor and safeguard the independence of the legal profession.