



DISSENT

Special Issue

€ 2,50

May, 2015

**International Association
of People's Lawyers**



DEFENDING THE DEFENDERS

ATTACKS ON LAWYERS

A PROBLEM IN SEARCH OF SOLUTIONS

Gill Boehringer, Stuart Russell, Kristian Boehringer, Júlio Moreira

Paper presented to the 9th Annual International Conference on Sociology, 4-7 May 2015, Athens, Greece, organized by the Athens Institute for Education and Research (ATINER). It is result of a process of collecting information, critical research and practical commitments of the authors in the issue of defending lawyers from attacks.



International Association of People's Lawyers
Asociación Internacional de Abogados del Pueblo
Associação Internacional dos Advogados do Povo
Internationale Vereinigung der Volks Rechtsanwälte
Association Internationale des Avocats du Peuple

info@iapl.net
www.iapl.net
defendlawyers.wordpress.com

IAPL Monitoring Committee on Attacks on Lawyers

Defending the lawyers involved in human rights cases has been a major concern of the International Association of People's Lawyers, since its foundation, in 2000. IAPL was created to gather lawyers involved in the legal support of collective struggles for people's rights and in situations of gross rights violations. In the latest 5th Congress, in Rio de Janeiro, there were presented reports of persecution of lawyers and disrespect of the exercise of legal profession from all the countries attending. As people's lawyer Romeo Capulong used to say, repression breeds resistance. And the more the people's struggle is repressed and the more ruthless the regime is, it affects even the lawyers and human rights defenders. The creation of the IAPL Monitoring Committee on Attacks on Lawyers is an outcome of this concern, and it goes along with other initiatives on studying, documenting and denouncing these attacks worldwide and offering contributions to restore and apply justice upon the violations.

<https://defendlawyers.wordpress.com/>



Summary

Introduction.....	4
Part One The Concept of “Attacks on Lawyers”	5
1. What constitutes an attack?	6
2. Some issues with numbers.....	9
Part Two The Nature and Extent of Attacks on Lawyers	10
Part Three Analysing the Problem of Attacks	27
Part Four Organising Resistance	29
1. Standards, institutions and organisations.....	29
2. An agenda for resistance.....	33
Conclusion	38
The basic question remains: what can be done to combat the onslaught?.....	38
SOURCES.....	40
APPENDIX.....	42



DEFENDING THE DEFENDERS ATTACKS ON LAWYERS A PROBLEM IN SEARCH OF SOLUTIONS¹

G. H. Boehringer², S. Russell³, K. Boehringer⁴, J. Moreira⁵

“Persecution of lawyers is worsening around the world”
Jonathan Goldsmith, former Secretary General of Council
of Bars and Law Societies of Europe (CCBE)

Introduction

In this paper we will demonstrate the awful truth of what Goldsmith has succinctly proclaimed. Lawyers are under attack as never before. Of course attacks of various kinds on lawyers are not new. The great legal philosopher, Cicero, lost his right hand and head as a result of his writings and denunciations of tyranny and the destruction of the Roman Republic for imperial rule. In Shakespeare's play, Henry VI, we see literary evidence of the late medieval hatred for lawyers who served ruling class interests: Dick the Butcher and Jack Cade agreed “First thing we do, let's kill all the lawyers” when they thought their rebellion was a success. In the modern period, Dickens had quite a few negative things to say about English lawyers and the judicial system generally in his novel, Bleak House. On the other hand, progressive lawyers in the USA were the target of deadly and other attacks throughout much of the twentieth century.

In recent reports we find that 1) in the Philippines 114 lawyers, judges and prosecutors have been killed since 1999 with innumerable other attacks; 2) in Pakistan, 20 lawyers were killed in 2014, and 41 between 2000 and 2014, again with innumerable other attacks; 3) in Iran,

¹ Paper presented to the 9th Annual International Conference on Sociology, 4-7 May 2015, Athens, Greece, organized by the Athens Institute for Education and Research (ATINER). It is result of a process of collecting information, critical research and practical commitments of the authors in the issue of defending lawyers from attacks.

² Macquarie University Law School, Sydney, Australia. E-mail: gill_boehringer@hotmail.com

³ Formerly of Macquarie University Law School, Sydney, Australia. E-mail: jsrussell301254@gmail.com

⁴ Lectures at Blue Mountains International School of Hotel Management, Australia, PhD candidate at University of Western Sydney. E-mail: k.boehringer@gmail.com

⁵ Federal University of Latin-American Integration, Brazil. E-mail: julio.moreira@unila.edu.br



since 2005, 38 lawyers have been killed and hundreds attacked for defending cases that the perpetrators claimed were against Islam; 4) in Croatia, 10 lawyers have been killed and 15 suffered bomb and fire attacks since 1972; 5) Colombia had over 400 killed in the 1990s.

In Part One, we discuss the concept of “attacks on lawyers” used in our research. Following that, in Part Two, we provide examples of the kinds of attacks we have found in our monitoring project for the International Association of People’s Lawyers, while the Appendix to this paper lists the 80 countries in which we know attacks have taken place.

In Part Three, we discuss the reasons why attacks on lawyers have now become a significant threat to democracy in many countries, indeed around the world. In our view this can be understood at the macro level by looking primarily at both 1) the changing nature of imperialism and the impact on societies of what has become known as globalization, and 2) the changing role of lawyers in the people’s resistance to the many serious negative impacts of the “new imperialism”. At the same time we argue that each country’s problem must be seen in all its complexity and socio-political and economic specificity. Thus, for example, the lawyer killings and attacks in the countries we mentioned above and, of course, countries where attacks frequent such as China, Turkey and other Middle Eastern countries, Brazil inter alia - must be understood within the frame of their own history and culture, as well as within the macro analytic we have indicated above.

In the fourth part of the paper we look at how the problem might be more satisfactorily addressed while recognizing the great, selfless and often very courageous work being done by so many organisations across the world

We end the paper with some brief concluding remarks.

Part One The Concept of “Attacks on Lawyers”

Attacks on lawyers generally involve human rights defenders, or people’s lawyers, praised by former Philippine Chief Justice Puno:

“By calling yourselves the “people’s lawyers” you have made a remarkable choice. You decided not to remain on the sidelines. Where human rights are



assaulted, you have chosen to sacrifice the comfort of the fence for the dangers of the battlefield. But only those who choose to fight on the battlefield live beyond irrelevance.”

Nevertheless, attacks on any lawyers are of concern, and since the motives of the perpetrators often remain unknown, there may be cases where the victim included in our research was not killed because they were engaged in the defence of human or environmental rights. Others attacked may not be human rights lawyers, but may just have been trying to see that the rule of law was followed in a particular case, a dangerous intention in many countries where violations of the rule of law is normal. Still others may have been advocating legal and other reform and thus appeared to represent a danger to entrenched interests at local, regional or national level.

We have come to believe that, with a few exceptions that we will mention, any attack on a lawyer-and we include judges, prosecutors, public and private lawyers, law students and academics, as well as paralegals and those acting in a “legal” capacity in informal justice systems, should be a matter for our concern, and action. In a sense, “an injury to one is an injury to all”.

1. What constitutes an attack?

Such attacks come in many forms. We include actions which directly interfere with, or are intended to interfere with, a lawyer’s capacity to fulfil their duty to protect the rights of people and the environment. While a measure which a government implements that potentially restricts a class of lawyers, e.g. reduced funding to legal aid as is happening across the world, might seem to be excluded by our criteria. However, today legal aid is considered by many commentators to be a human right, and we certainly believe that an attack on the funding for legal aid has a very serious effect on the capacity of lawyers generally to fulfil their duties to those who would normally qualify for legal assistance. Such measures should be opposed politically, and by every means possible as “austerity” in the legal system hurts those who cannot afford the costs of protecting their interests and those of the community that the rich and powerful can easily pay.



We exclude criminal actions, where the attack has nothing to do with the work of the lawyer. A clear example is the case of a restaurant owner in an Indian court complex who shot a customer dead because he had complained about the food. The victim just happened to be a hungry, but dissatisfied, lawyer. On the other hand, we do not insist that there should be a political motive. We include cases where there is a shooting or bombing by a disappointed individual, the “dissatisfied customer”, who seeks vengeance for some perceived personal wrong by a lawyer, judge or the justice system generally, in dealing with the perpetrator’s individual legal issues. An American writer has shown how frequent such attacks are in that country, and also how difficult law enforcement agencies have found it to prevent such attacks.

The categories of attacks are still developing as we do our research.

Currently, we include the following as attacks on lawyers:

Physical:

Assault, extrajudicial killings or disappearances, kidnapping and attempts to do any of these. Politically motivated prosecution, imprisonment or detention, whether on charges or not, is an attack, and one used frequently by some states e.g. Turkey, particularly with Kurdish lawyers and Spain with Basque lawyers.

We have found cases where a human rights lawyer’s wife was “disappeared” and would include it because of the probable intended effect upon the lawyer and the likely direct impact on the lawyer’s capacity to continue his work; we also found a case where a lawyer was imprisoned and deprived of adequate medical care, and would include the latter as a separate offence of “attack on lawyer”.

Non-physical:

Threats, harassment and intimidation are all included in the category of attacks. Another clear attack on a lawyer would be a wrongful or politically motivated professional disciplinary proceeding e.g. an attempt to procure a lawyer’s disbarment. Other forms of excluding lawyers from the legal profession appear in our research e.g. in Singapore, described in Part Two.

Also included are wrongful or politically motivated civil or criminal libel cases. An action in defamation, like Strategic Lawsuits Against Public Participation (SLAPP suits)



generally, can be used as a legal tactic to stop actions which are intended to assert rights. In countries such as Malaysia the tactic has been used recently by a corporation against a human rights lawyer. Obviously, the possibility of being heavily fined, or even imprisoned, can have a negative effect on a lawyer's work.

Racial or gender discrimination, if intended to prevent a lawyer from carrying on his or her work as a lawyer would be considered an attack. A somewhat difficult case arose in Canada where a black lawyer was asked for his ID in order to be admitted to a lawyer's club after hours of work while working on a case in that city. It seems white lawyers were not asked to show their identification documents. We would not consider that as an attack per se. An inquiry apparently based on racial profiling, which, however offensive, was not intended to prevent a lawyer from practising, and not arising from the lawyer's work, would sit outside our category of attack.

Another difficult case involved a group of Nigerian lawyers who had organised under the name of "Lawyers for Change". They were supporting an opposition party during an election and met to organise some campaign events. They were physically attacked by a gang of thugs and told not to do any rallies, "or else". The gang was apparently hired by the ruling party. We concluded that this was an attack within our category. Part of a lawyer's work can be to advocate for conditions that will increase the protection of people's rights, for example, law reforms, anti-corruption policies and laws, fair and open elections. Threatening and assaulting the "Lawyers for Change" seems to have been a strategy of intimidation by a corrupt, or at least undemocratic, brutal political party.

We do not see it as necessary, even if possible, to draw distinctions between lawyers who are said to be human rights lawyers and others. It is very difficult in many cases to determine why a lawyer has been attacked. A human rights lawyer could be attacked for reasons other than the work done on human rights cases. Conversely, we are familiar with a case in which a Philippine government arbiter (who many suspect was corrupt, favouring property developers) was assassinated as he left his place of work, the Housing and Land Use Regulatory Board. In the media it was indicated that he was involved in a land dispute between communities, but we have no idea why he was killed or by whom. We have included this case as an attack on a lawyer.



Finally, lawyering for human rights is a nebulous concept. Many ordinary men and women lawyers are working with and for the people in ways that are laudatory, yet they have not assumed the label “human rights” lawyer, yet. We are reminded of the personal journey of the late, great Philippine human rights lawyer, Romy Capulong, who started off as a small town private lawyer, no doubt doing positive things for clients, but without any intention of lawyering for the people nor for defending “human rights”.

A second reason for not excluding what might be non-human rights cases is that any attacks, especially killings, can have correlative negative results. If it is seen that lawyers can be attacked with impunity then there are, arguably, likely to be more attacks. Our goal, *inter alia*, is to reduce the number of attacks on lawyers and to end impunity for attacks on lawyers.

2. Some issues with numbers

Accurate global figures are not available for a number of reasons, including the desire of governments not to have the matter publicised as it might indicate an unstable or repressive political order which might be bad for foreign aid or foreign direct investment. There may also be a lack of interest in the attacks because the lawyers attacked are seen to be a problem for the government. Alternatively, the government may be involved, as in the wrongful and politically motivated charges, detention and prosecution that are frequently used in, for example, Malaysia and the Philippines. The involvement of government police or military in the attacks is another reason governments may wish to turn a blind eye to such events, thus establishing, or maintaining, a regime of impunity.

As with crime reporting generally, there are other reasons why our knowledge of the number and kind of attacks on lawyers is restricted e.g. victims may not wish to draw attention to the incident for personal or professional reasons; they may believe that it is just a part of being a lawyer for the people; they may believe the state will not do anything about it, or that state forces may have been involved in the attack and it would be dangerous to report the matter.

It appears that in many countries record keeping of such attacks as we are monitoring in many countries is generally left to civil society organisations where it has a relatively low priority (because there are so many others suffering human rights abuses) and the slender resources available are understandably deployed on other, higher priority activities. Further, record keeping is ad hoc and not centralised. In some countries what records there are seem to be



based largely on media reports which are unlikely to be comprehensive. While there are a number of international organisations keeping track, as best they can, of human rights abuses, including attacks on lawyers, few focus entirely on lawyers, thus lawyers tend to get lost in the aggregate figures of most organisations. Mention should be made of the outstanding work done by groups such as Lawyers Rights Watch Canada, the National Lawyers Guild, Haldane Society of Socialist Lawyers, Frontline Defenders, and a number of continental European organisations including Lawyers4Lawyers, the Observatory for the Protection of Human Rights Defenders, Lawyers Without Borders, and such international organizations as the International Bar Association Human Rights Institute and the International Federation for Protection of Human Rights Defenders.

Part Two The Nature and Extent of Attacks on Lawyers

In this section we provide a range of examples from a number of countries to demonstrate the kinds of attacks occurring around the world on lawyers. This is illustrative, not comprehensive. One of the reasons for providing this material is because it seems to us, based on our experience and research, people are generally unaware of the nature and extent of attacks on lawyers. Where there is some knowledge of this phenomena, it is likely to be limited to the well publicised illegal detention of human rights activist lawyers in a few countries such as China, in particular, but also in Turkey (mainly Kurdish lawyers) or Spain (mostly Basque lawyers). Of course, at least in some parts of the world, there is an understanding that the killing of lawyers in such countries as Iraq or the Philippines is a significant problem. Pakistan's protesting lawyers of some years ago was probably the one most familiar event which brought to the attention of the world the phenomenon of conflict between lawyers and an oppressive state. In that instance it was the sacking of the Chief Justice that ignited a storm of protest from his professional colleagues.

While we understand that the media, from which most people get their news, are most interested in the attacks involving killings and imprisonment of lawyers, there are less publicised but more frequent attacks on lawyers that need to be brought to public attention. They are



frequent, with low visibility, but taken as a whole, represent a very substantial threat to democracy and the protection of human rights from abuse.

The incidents we list below are drawn from a much larger set of country accounts we have examined. Our intention is to provide examples taken from different countries that illustrate a variety of kinds of attacks on lawyers. It does not mean that these are the only attacks in a country listed, or even the most serious.

In the Appendix we list the 80 countries that our research indicates have had attacks on lawyers. Of course there are likely to be few countries today where there are no attacks of some kind on lawyers. We just do not find reports on such activity. Thus an important part of our project is to try to get information from people and groups in those countries, as well as international groups with contacts in the unlisted countries, so that we can get a more comprehensive understanding of the extent of the problem around the globe.

Afghanistan (2014) Lawyers (2) were killed in a targeted attack, thought to have been the responsibility of the Taliban. The attack took place in a northern province, Baghlan. Police said it was “the latest in a string of targeted killings in the country”. A “sticky bomb” was attached to the car used by the lawyers. When they entered the car just outside the court building about midday, it was detonated, killing them instantly. Targeted killings are aimed at “civilians considered to be supporting the government, civilian government employees, religious leaders, tribal elders, and persons involved in peace and reconciliation efforts” according to a news report.

Australia (many years) Aboriginal lawyer, and later magistrate, was subjected to police harassment and attempted intimidation consistently for many years until her retirement; she received innumerable anonymous death threats. She was also subjected to professional and state disciplinary procedures on several occasions as her decisions did not always favour corporations nor police. In recent years, a Muslim lawyer defending clients charged with “terrorism- related” offences has also been subject to police-and other-harassment.

Argentina (2015) Lawyer appointed as the Special Prosecutor to investigate the 1994 bombing of a Jewish Community Centre that killed 85 and injured hundreds more. He was found dead in his home with a bullet hole in his head. He had been working on the case for ten years and was to give evidence to the Congress the following day that would indicate a government scheme to cover up the truth about the perpetrators. He was going to name the



President of the country and the Foreign Minister as being involved. The government said he had committed suicide, even before the matter was investigated. A subsequent investigation indicated that it was a suicide. Not all are convinced. Questions have been raised about the absence of the 10 bodyguards who were assigned to protect the dead man.

Azerbaijan (2014) A practice has developed whereby lawyers defending human rights cases are removed from the defence team because the prosecution says they will be called as a witness and they would then have a conflict of interest. In one case, involving a leading human rights lawyer and activist who was in jail, several of her lawyers were removed from the case using this ploy. In the same case, another lawyer was removed, and later disbarred, because of his “behaviour in court”. A third lawyer was removed and sentenced to 250 hours of community service for allegedly committing libel. In another case, a lawyer for human rights activists, and journalists critical of the government, was removed from a high profile case involving a leading journalist detained and charged with treason, espionage and tax evasion. The removal followed a recommendation from the government controlled Azerbaijan Bar Association that he be disbarred for “breaching professional ethics” by questioning the fairness of the court’s decision to imprison his client. Recently a highly respected human rights lawyer and the Director of a Legal Education Society was sent to prison for 7 years. The charges were: tax evasion, illegal entrepreneurship and abuse of power.

Bahrain (2014) Lawyer with long experience as a human rights advocate for which he has gained international awards was arrested, detained and charged with “insulting public institutions” via Twitter. There appears to have been another charge of “inciting hatred against the regime”. He had been on a month long advocacy trip to Europe where he spoke at the U N Human Rights Council and had discussions with members of the European Parliament as well as with foreign ministries throughout Europe. This was the second time he had been jailed for his human rights activities through the Bahrain Human Rights Centre of which he was founder and Director. A number of other advocates have been imprisoned for speaking out about government human rights abuses, one being a lawyer with the Gulf Human Rights Centre.

Bangladesh (2015) Lawyers (200) aligned with a political party were sued for damaging the car of a High Court judge, attacking a policeman and barring legal practitioners from the Supreme Court premises in Dhaka. Accused included the Bar Association President, the



Secretary, a former President and a former state minister. Police said there was some agitation in the Court on the anniversary of controversial election results in 2014. There were claims of corruption from lawyers and others.

Belarus (2010) Lawyer was one of a number of lawyers disbarred for defending opposition leaders. He had defended a defeated presidential candidate against “the last dictator” in Europe. He had visited his client in a KGB detention centre and later commented publicly that his client had been tortured and was innocent. He was disbarred for “inappropriate statements”.

Belize (2003) Lawyer (and husband) charged by police with drug trafficking. A human rights activist, as was her husband a former journalist, she had campaigned against rampant police brutality and accompanying impunity for the perpetrators. Newly appointed district Police Assistant Commissioner for the District reported to have stated that he “would take care of them”. Both were submitted to “low-level but persistent harassment” previous to the drugs charge which appears to have been “ill-founded” according to the IBA Human Rights Institute.

Brazil (2014) Lawyers for human rights face a wide range of serious violations of their human rights. One incident at a street demonstration reveals the attitude and the subversive effect of impunity which they seem to enjoy. When lawyers were trying to protect protesters from police violence, a video recording caught a policeman saying in an intimidating manner: “In the police office you are lawyers, but here you aren’t”. Pepper gas was then sprayed in the faces of the protesters and the lawyers.

Canada (2015) One of the most interesting and active countries in the struggle to protect lawyers. Legal Rights Watch Canada has done excellent work domestically and internationally. They have made a most valuable intervention on the issue of a country's international law obligation to ensure that adequate legal aid is available. We believe the current “austerity budgets” being imposed upon legal aid in many countries is an attack on lawyers. LRWC has led a strong campaign against such an attack in Canada and its provinces.

In another development, the Canadian Supreme Court struck down part of an anti-money laundering and terrorist financing law as it was an interference with lawyers' duty to their clients. The legislation was a clear attack on lawyers as it required them to report to a government agency any “suspicious” financial activity relating to their clients, on pain of facing criminal charges.



China (2003) Lawyer who represented plaintiffs displaced from their homes by a government redevelopment project in Shanghai had his home searched twice and his wife warned not to talk about his case with foreigners. He was arrested for “illegally obtaining state secrets” through his work on the case. His license to practice law was revoked. No reasons given. Numerous applications for renewal were refused.

Colombia (2014) Lawyer who represents rural communities in cases of “land restitution” and protecting the ecosystem from “indiscriminate mining projects” was repeatedly threatened and attacked according to the Day of the Endangered Lawyer-Colombia media release of the Haldane Society of Socialist Lawyers, London.

Croatia (2015) Lawyer was shot dead by his client, who then committed suicide. The CCBE letter of concern to the president of the country notes that since 1972 nine lawyers and a “legal trainee” have been killed while fifteen lawyers have been attacked by bombing and deliberately lit fires.

Ecuador (2014) Lawyers for the defence of 53 workers and students who were injured by the police and detained for 'damaging property', filed a writ of habeas corpus, alleging physical and psychological torture. They also sought medical attention for the detainees injured by “excessive use of force” by police. The authorities denied the writ, denied the allegations, and did not provide medical attention. They scheduled a trial for a date two weeks after the arrests. The lawyers sought a postponement, claiming that they were denied the opportunity to prepare an adequate legal defence: “Failure to allow and ensure reasonable time to prepare a defence constitutes an abrogation of the right to a fair trial guaranteed by the ICCPR, Art. 14.”

Egypt (2014) Lawyers (2) were investigated for possible prosecution on the order of a judge before whom they appeared as defence counsels for an imprisoned political activist. They were accused by the judge of “instigating a riot” by their “violation of court etiquette” when one of them left the courtroom in anger after the judge refused a request to see and speak to the activist who was reputed to be ill, and was not visible though held in a “brown box” in court. The Director of the Centre for Egyptian Women's Legal Assistance was detained briefly and interrogated after she gave testimony to the Public Prosecutor concerning the death of a person



during a violent dispersal of a demonstration. Charges being investigated: “unauthorised protest”, “breach of security and public order” She was released “pending investigation”.

France (2014) Lawyers doing legal aid work were not paid for many months. As in other countries, legal aid is inadequately funded. The Bar Association called for general strikes in all courts in two different months. In 2015, the matter remaining unresolved, the President of the Bar Association warned that “if the government does not change this situation it will be the end of access to justice for everyone.” Lawyers in France were under treat from budget cuts and “re-structuring” during the early Sarkozy period, and held strikes and demonstrations throughout the country.

Germany (2006) Lawyer for Holocaust Denier who was on trial (such a view is a crime in Germany), was sentenced to three and a half years in prison for remarks she made during the trial, such as the Holocaust was “the biggest lie in history” and that the lay judges in the case should be given the death penalty “for giving succour to the enemy”. She also signed a document “Heil Hitler”.

Greece (2014)(2013) Lawyer and human rights activist for LGBT individuals and groups, suffered harassment, humiliation and intimidation, and physical assault while detained illegally at a police station where she had gone to try to defend a transgendered client who had been detained for the third time in four days. She was prohibited from entering the station or seeing her client. Having rung police emergency, she was able to enter the station. Then she was pushed into a cell with a group of others, taunted and held for a short time. When let out of the cell, her complaint was refused. She then went to another station and filed a comprehensive complaint. The public prosecutor refused to arrest the police as they were “acting while on duty”. Subsequently the lawyer had a complaint filed against her for “false accusation” and “aggravated defamation.”

Guatemala (2000) Five defence lawyers for a kidnapping gang received telephone death threats after they had entered appeals from sentences of death. They were told the men must die. They took the threats so seriously they all withdrew from the cases.

Honduras (2003) Lawyer received threats, suffered harassment and intimidation in forms including being followed by a car that was unlicensed and had blacked out windows. He was a human rights lawyer defending several indigenous leaders of a major civic organisation of



“Populares e Indigenas de Honduras”. Thus an identification with clients, in violation of international and presumably domestic laws.

India (2007) Lawyer forcibly detained by Punjab Vigilance Bureau officials after warrantless search, house ransacked. Arrested, tortured, humiliated by being stripped naked and tied with a rope. Object was to make him give information thereby breaching lawyer-client relationship. Context was a “political vendetta” between the Chief Minister and his predecessor.

Indonesia (2001) Judge was assassinated. He had been head of a panel of judges that sentenced “Tommy” Soeharto to prison and a large fine for corruption, and was on a panel that sentenced a friend and former cabinet minister of ex-President Soeharto to a prison term of 6 years.

Iran (2010) Lawyer arrested and sentenced to 11 years in prison and banned from practising law and travelling for 20 years. Her “crimes”, arising out of a visit to her client who was an imprisoned political prisoner at Teheran’s Evin prison, were: “propaganda against the regime”, “acting against national security”, and “not wearing hijab during a video-taped message”. As the Secretary General of the CCBE commented these are “charges which appear either not to be proper criminal offences or are unsubstantiated by evidence”. A lawyer who represented three captured Americans detained for 7 months was also barred from travelling, had his passport invalidated, and also was prohibited from defending human rights cases.

Iraq (2015) Probably the most dangerous country in the world today for lawyers (as it is for journalists) with at least 210 lawyers and judges killed in the period since the US invasion in 2003. Threats, harassment, intimidation are common. One lawyer has said it is a lose-lose situation “If you win the loser will kill you. If you lose your client will kill you”. Many lawyers have been killed because their arguments “go against Islam”. In Mosul, a lawyer who was well known for her defence and advocacy for human rights, especially for the poor and those detained, was executed in a public square by ISIL operatives.

Israel (2013) Palestinian human rights lawyer was released from detention because “confessions from other detainees submitted as evidence failed to prove he was a security threat”. According to Amnesty International, “It is unacceptable for Israeli authorities to continue to prosecute activists because of their peaceful work in defence of human rights. This



release should be a first step towards the authorities ending their harassment of Palestinian human rights defenders.” Two lawyers have been murdered in the past decade.

Italy (2015) Lawyer who defended a migrant who was being deported from the country drew harsh criticisms from a leader of the Northern League who is a member of the European Parliament. The criticisms, posted on Facebook, drew a number of “likes” and comments, including open insults and threats, including death threats, against the lawyer and his family.

Kazakhstan (2014) Lawyers who work for human rights and against corruption are often treated as if they were mentally ill. They are sometimes sent to a mental hospital, injected with drugs and told they will never leave if they try to appeal to a court against their hospitalisation. In one such case, after years of harassment linked to her complaints about a member of parliament who she alleged was interfering with the administration of justice, the lawyer was roughly taken from her home and, against her will, to a psychiatric hospital by “four police officers, one doctor, two nurses and two medical staff”. In the hospital she was told she was there for “refusal to admit her guilt”, her “interviews with the press” and for her “aspiration to justice”.

Kyrgyzstan (2015) Lawyers who defend human rights activists and advocates against police torture, and in one instance an American free-lance journalist, have had their homes raided and computers seized by agents of the Kyrgyzstan National Security Agency (GKNB). Confidential information, including much that was privileged by the lawyer-client relationship, was accessed. The offices at Bir Duino, a well known human rights defence organisation of which they are members, was also raided. No charges were laid against the two lawyers involved, indicating it was an exercise in intimidation of lawyers generally and harassment of the two who were involved in defending a criminal case against the American journalist.

Lebanon (2015) Lawyers representing the Lebanon Bar Association, attending an Arab Lawyers Union conference in Cairo, Egypt, were attacked physically by a group of allegedly pro-regime Syrian lawyers. According to a report by the Future Movement of Lebanon, the attack was “an aggressive and militant behaviour carried out by the thugs and bullies of the Syrian regime.”

Liberia (2015) Two lawyers were jailed for thirty days by a Judge in the Commercial Court, allegedly for “faking a ruling” and “failing to prove accusation that she was siding with a party in a case before her”. Lawyer for the two claimed that there was a constitutional matter



involved “ because there was no due process. The lawyers were grabbed and put in jail. If they had committed any crime they’re supposed to have been tried. But she didn’t do it and just put them in jail”. It was left to the Presiding Justice-in-Chambers to decide whether there might be grounds for the Judge’s actions, e.g. contempt of court.

Libya (2013) Senior judge was assassinated by an unidentified gunman outside the court in Derna. It is reported that this is the “latest of an increasing number of threats and attacks on the judiciary in Derna, a city known to be an Islamic stronghold and which houses extremist Salafist militias”.

Malaysia (2014) Lawyer was sued for libel (effectively a SLAPP suit) by a corporation who publicly denounced the treatment of the corporation’s employees. A sedition charge was brought against the lawyer defending the opposition leader Anwar Ibrahim facing criminal charge of sodomy. This year two lawyers, officials of Lawyers for Liberty, were detained over criticisms one had launched about government practice (a rape threat at a TV presenter by the Inspector general of Police) and the other had criticised the intended expansion of jurisdiction for Islamic law. The latter one was told by the Inspector of Police to “keep his mouth shut” and not to comment on religious affairs.

Maldives (2015) The country’s judiciary has been a source of controversy for some years. In 2012 then President Nasheed ordered the arrest-or forceful abduction- and detention of the then Chief Justice. Now out of office, ex-President Nasheed has recently been sentenced to prison for 13 years on ‘terrorism-related’ charges including the arrest and detention of the former Chief Justice.

Mexico (2014) One of the world’s most dangerous countries for human rights defenders, including lawyers, and journalists. The Mexican Association of People’s Lawyers, a chapter of the IAPL, expressed its concern for two lawyers who had been subjected to threats and harassment, and said they were “concerned about the systemic violation of human rights in our country, the deep climate of repression and criminalisation of popular struggles and now, the increasing harassment of lawyers.”

Nepal (2007) Lawyer received death threats as a result of his statements about the conditions people suffered in Army detention. While in detention he was severely beaten and witnessed harassment and the torture of other detainees.



Nigeria (2015) “Lawyers for Change” is a group of oppositional activists seeking reforms and supporting a Presidential candidate for the All Progressive Congress. They were meeting in Akure, capital of Ondo state in order to organise campaign events. Their meeting was disrupted and the lawyers were physically attacked by what the media called “hoodlums and thugs” armed with guns and machetes. The attackers threatened to kill the lawyers “if they carried out any rally in the state”. It is believed they were paid hirelings of the government party, the People's Democratic Party. One of the victims commented “Our democracy is under threat if lawyers cannot openly associate and freely express themselves or have a say during the election.”

Pakistan (2013) Lawyers, 68 of them, were charged with blasphemy in the Punjab. The charges arose out of an earlier event in which a policeman assaulted and detained a lawyer. It is said that in the Punjab there is a feud between police and lawyers. Scores of lawyers demonstrated outside the police station where their colleague was being held. They shouted insults inter alia calling the police officer involved, a dog. The name of the police officer is the same as an early Caliph. A Muslim fundamentalist claimed his feelings were hurt by hearing what he considered to be blasphemy. Apparently this is a charge increasingly used, apparently used between religious communities. People acquitted have been murdered. Two politicians who spoke of reforming the law were murdered. A lawyer who defended a person charged with blasphemy was murdered. This year a lawyer was killed because he had represented a Dr. who was accused of establishing a fake vaccination program in order to help the CIA find Osama Bin Laden. Having received death threats, he stepped down from the case. He was murdered anyway. The Taliban in Pakistan took responsibility.

Peru (2012) Lawyers are arrested and detained frequently on false charges, often relating to “terrorist offences”. Several lawyers who were tried won acquittals, so the USA concept of “providing material support” for terrorism was introduced into the country’s law. This has been interpreted with a Catch 22 twist: if a lawyer gives advice to a defendant on terror-related charges, this could be the subject of investigation for a possible charge of “providing material support”. As one Peruvian human rights lawyer has commented: “This is a harbinger of things to come. For the right to have a lawyer is now the right to have a lawyer who does not give advice!”



Philippines (2015) One of the most dangerous countries in the world for lawyers (3rd most dangerous for journalists). A recent Report of the Monitoring Committee of the International Association of People's Lawyers found there were 114 lawyers killed in the period from 1999 to the end of 2014. This includes 23 judges and 9 prosecutors. Other types of attacks include disappearances, death threats, harassment, intimidation, unjustified detention and false charges, libel actions and labelling e.g. as "enemies of the state".

Romania (2015) One of the most corrupt countries in the European Union, and ranked 69th of 177 countries in the world by Transparency International. The EU Cooperation and Verification Report for 2014 gave a "warning to end political pressure on the judiciary amid continuing concerns about corruption". Four judges were recently sentenced to long terms of imprisonment for taking bribes, and a business man was convicted for instructing his lawyer to bribe the judges in his case.

Russia (Dagestan Republic in North Caucasus) (2015) The country is not a safe place for human rights defenders, nor of course journalists as has been widely publicised. We cite events from Dagestan, a Republic of the Russian Federation in the troubled North Caucasus. A human rights lawyer defending one of several men accused of killing a prominent Sufi sheikh, was beaten on the steps of the courthouse during a break in proceedings. He suffered serious head trauma as a result of beatings from five or six men. According to a Human Rights Watch comment "The violent attack on a defence lawyer right outside the courthouse strongly indicates that the assailants were confident they would get away with it. This is a terrible crime against a courageous lawyer, and a chilling signal to lawyers like him in Dagestan." The Republic is the centre of an Islamic insurgency. The dead sheikh was involved in negotiations with a Salafist fundamentalist organisation. HRW also commented: "Lawyers and human rights advocates in Dagestan face serious threats to their lives and well-being. Those who defend Salafis or other people targeted in counterinsurgency efforts are especially at risk...In July, 2013 two gunmen shot and killed a lawyer who had defended suspected insurgents No one has been arrested for his murder".

Saudi Arabia (2015) Lawyer sentenced to 15 years imprisonment, thereafter a 15 year travel ban and a fine of about EUR 50,000. He has been moved six times since his arrest and detention; he has been severely beaten in his latest prison. Charges brought against him were



“striving to overthrow the state and the authority of the king”, “criticising and insulting the judiciary”, “assembling international organisations against the Kingdom”, “creating and supervising an unlicensed organisation and contributing to the establishment of another” and “preparing and storing information that will affect public security”. The organisations mentioned included the Monitor of Human Rights in Saudi Arabia. His application to register this NGO was rejected. The President of FIDH commented that the “summary and arbitrary sentence is a clear attempt to harass and discredit his tremendous human rights work. Charges against him are completely unfounded...Saudi authorities must stop the persecution of human rights activists and lawyers.” Three human rights lawyers were jailed in October 2014 on similar charges.

Senegal (2015) Lawyer arrested for remarks made at a political event concerning the trial for corruption and embezzlement of a prominent former government official, the son of a former president. The lawyer was one of the lawyers for the defence. Another lawyer in the same case was expelled from the court, leading others in the legal team to abstain from appearing.

Singapore (1990s) According to an Amnesty International observer, in political trials in Malaysia and Singapore, she saw “good criminal defence lawyers charged with criminal contempt of court and sedition. It became obvious to me that human rights cannot be protected unless human rights defenders are also defended”. A unique method the ruling government has instituted for attacking opposition lawyers is to sue them for defamation. The courts, lacking independence, have always found for the governing party, and have awarded very large damages. If the lawyer cannot pay, they are then declared bankrupt. That result means they are barred from sitting in Parliament, and lose their licence to practice law.

Somalia (2014) Lawyer was the sixth legislator killed in 2014 by al-Shabaab which stated they would continue killing them “one by one”.

South Korea (2014) Lawyers representing an alleged North Korean spy were sued in a civil action for defamation by agents of the National Intelligence Service.

Spain (2015) (Basque region) Lawyers (12) from the Basque country illegally detained during “anti-terrorist” mass round-up of Basques. They were charged with terrorist crimes. According to the ELDH (European Association of Lawyers for Democracy and World Human Rights) “All of the arrested lawyers have in common that they work as defence lawyers for Basque prisoners, some of them lawyers...this is not the first time that Basque lawyers have been arrested, prosecuted and imprisoned...ELDH has denounced this practice as a violation of



the right to a fair trial and other human rights...there was strong evidence that in violation of the 'Basic Principles on the Role of Lawyers' these lawyers were identified with their clients or their clients' causes".

Sri Lanka (2015) The Chief Justice was reinstated after having been impeached for corruption and removed two years previously. The removal was criticised by the U N Human Rights Council as an "assault on judicial independence" and "extremely politicised and characterised by lack of transparency, lack of clarity in the proceedings, as well as lack of respect for the fundamental guarantees of due process and fair trial". Commentators saw the removal as political revenge by the then President Rajapaksa's government. His successor reinstated the impeached Chief Justice.

Sudan (2000) Three lawyers were detained, held in solitary confinement, no visits were allowed, and they were denied medical treatment when needed. The IBA expressed "serious concerns about torture" and noted that commentators had alleged they were detained "solely for their political and human rights activities".

Swaziland (2014) Lawyer who is a human rights advocate was convicted and sentenced to two years in prison for "contempt of court" which may be considered preferable to being strangled which was the recommended fate for a professional colleague made by the Prime Minister in a Parliamentary speech.

Syria (2015) An extremely dangerous place for lawyers and the 2nd most dangerous for journalists in the world. In February 2015 the U N Human Rights Commissioner "urged the Syrian authorities to release all activists, lawyers and other detainees they have been holding without due process, including some jailed for years....He made a special plea for the release of prominent lawyer...who was arrested on February 16, along with...his colleagues at the Syrian Centre for Media and Freedom of Expression."

Tajikistan (2015) Lawyer named Human Rights Defender of the year (2011) received threats and harassment in a high profile case in 2013 in which he was defending a former Minister of Energy and Industry against charges of fraud and bribery. Because the lawyer spoke in public about the procedural irregularities in the case, he was in turn tried and convicted of fraud and bribery and sentenced to nine years in prison.



Thailand (2014) Lawyers find it difficult to defend their clients involving charges arising from the military coup and human rights cases generally. There is a practice of putting barriers in their way, for example great delays and difficulties in getting official documents regarding incidents involving their clients. Several lawyers have been assaulted by police, and one lawyer says he was called a “bandit lawyer” by a soldier guarding his client who was detained for showing the anti-coup symbol. According to the head and co-founder of the Thai Lawyers for Human Rights organisation, Thai lawyers are not threatened but “We feel we are being watched by people in power. However, our lawyers are not afraid of that power. We insist on continuing to work professionally.”

Timor L’este (2014) The government terminated the contracts of international judicial personnel who had been invited to assist in strengthening the country’s judiciary. It ordered five judges, two prosecutors and an adviser to leave the country. The U N Special rapporteur on the Independence of Judges and Lawyers commented “the government of East Timor has made progress in building sound judicial institutions in the past decade but should not disregard the importance of international personnel to strengthen the judiciary. She asked the government to reconsider, saying “[t]he reduction of the number of international judges, prosecutors and other legal professionals is a legitimate path to follow; however, this should be a process implemented in full conformity with international human rights law and standards, as well as national laws and procedures.”

Tunisia (2015) The National Authority of Lawyers called a one week general strike which their President claimed was supported by at last 95% of lawyers in the country. They were protesting the police beating of a lawyer who had gone to the police station to assist her brother who was detained for traffic violations. There had been previous beatings of lawyers. They also alleged that they were being excluded from the Supreme Judicial Council, and demanded that litigants, and people generally, should be made more aware of their rights. The Judges Association said that the strike was a political protest.

In 2011, there had been a general strike of lawyers in the wake of the self-immolation of a young Tunisian that set off the revolution and the Arab Spring. This was because of police beatings of lawyers in police detention but also out in the streets along with other protesters. The Judges Association condemned that strike and their Union called a judges strike against the lawyers, closing the courts, because the lawyers had attacked and beaten the investigating judge.



Turkey (2011) Lawyers (about 80) in the Kurdish region of the country were rounded up, charged with offences relating to “terrorism” and detained in prison. Subsequently they were found not guilty in a mass trial in Diyarbakir, the capital of Kurdish (eastern) Turkey. The country has one of the highest number of attacks on lawyers, both Kurdish and others.

Uganda (2015) Prosecutor in a terrorism case was shot dead. She was the lead prosecutor in a case involving thirteen defendants alleged to be connected with bombings in Uganda by the al-Shabaab organisation. These were amongst the largest bombing attacks by al-Shabaab and the first outside Somalia.

United Arab Emirates (2012) University professor of Constitutional Law and human rights activist, well known for defending human rights cases and, in 2011, political prisoners in the “UAE Five” case, was arrested and in 2013 went on trial as one of the “UAE 94” defendants-lawyers, judges, teachers and students, all of whom were seeking democratic reform. They were charged with “attempting to overthrow the government”. All 94 were convicted. Amnesty International, which was refused permission to observe the trial along with all other organisations, called the trial a sham. Techniques used against the defendants included solitary confinement, torture and refusal of legal representation until the day of the trial behind closed doors. This lawyer received a ten year prison term, other terms ranged from seven to fifteen years.

United Kingdom (2014) In 1989, a member of the Thatcher government spoke in Parliament to the effect that some solicitors in Northern Ireland were “unduly sympathetic to the cause of the IRA”. Within a few weeks, a Belfast solicitor who handled many IRA cases, was shot dead in front of his family by Loyalist paramilitaries. In 2015 another solicitor, this time in London, was “named and shamed” in Parliament by a senior government minister, and has received a large number of death threats. He was the solicitor for Iraqi claimants who alleged British soldiers fighting in Iraq had committed serious abuses of human rights of a number of Iraqis. The Inquiry into the matter found that there were some small irregularities but the serious claims were unfounded. The Daily Telegraph wrote that the lawyer should be disciplined. The Daily Mail upped the temperature by saying that “these human rights parasites should be tried for treason” and further, they should be killed “by a firing squad”.



USA (2014) Lawyer observing the Ferguson protest demonstrations in order to record police-or other-abuses of human rights was arrested by police. There are numerous other contemporary cases, and of course a history of attacks on lawyers in the early 20th Century, including a case (unsuccessful) of alleged jury bribery by Clarence Darrow, perhaps the greatest human rights defender in the history of the USA legal profession. Labour and civil rights lawyers in the 30s-50s, “Movement” lawyers in the 60s and 70s were often subjected to threats, harassment and tactics of intimidation.

Venezuela (2015) The International Bar Association’s Human Rights Institute expressed “grave concern at the deteriorating rule of law situation in Venezuela, where a growing number of arrests of legal practitioners have recently taken place.” A Judge was arrested after sentencing a drug trafficker and money launderer to fourteen years in prison. The reason for the arrest, according to the Attorney General was that the judge favoured the defendant and gave sentence that was too lenient. The IBAHRI also called for the release of a lawyer who was arrested in February this year because of his involvement in defending a supermarket chain which the government had accused of destabilising the economy. The IBAHRI reminded the government that all defendants were entitled to due process, the right of appeal and control of the process by the judiciary. It further reminded the government of the U N Basic Principles on the Role of Lawyers, “Lawyers shall not be identified with their clients or their clients’ causes”.

Vietnam (2010) Lawyer who defended two human rights lawyers who were convicted and sent to prison was himself arrested in 2013 and sentenced to two and a half years in prison. The charge against him was “tax evasion”. He was “a lawyer and a blogger, has been a vocal critic” of the government, writing “extensively about alleged human rights abuses, religious suppression and political censorship in Vietnam”. The arrest of other lawyers and activists caused Human Rights Watch to comment that the government is “systematically suppressing freedom of expression, association, and peaceful assembly, and persecuting those who question government policies, expose official corruption, or call for democratic alternatives to one-party rule”.

Zambia (2015) The Director of Public Prosecutions was arrested in connection with a complaint by a former Deputy Minister for Finance in the national government, alleging criminal conduct, abuse of authority and uttering false documents. However the court issuing the arrest warrant was found to have no jurisdiction so the Lusaka High Court stayed the warrant



and declared the arrest null and void. Subsequently, a tribunal was established to investigate the alleged illegal behaviour of the DPP. However the process appears to have violated his rights in a number of respects. The IBAHRI commented: “We urge President Lungu to avoid the case against (the DPP) becoming mired in political influence. The events leading to (his) arrest and the subsequent appointment of a tribunal appear to have infringed due process rights...the terms of reference for the disciplinary proceedings were published in the press, but (he) has not been notified of the charges against him. This is a significant violation of his rights preventing him from preparing his defence. The IBAHRI...urges the Zambian authorities to ensure that the DPP is afforded the full range of rights guaranteed by international legal standards, as well as national legislation during any proceedings”.

In Zimbabwe (2013), a lawyer who is a human rights activist and a member of the Board of Trustees of the human rights defending Southern Africa Litigation Centre has been, “the subject of numerous attacks by the Zimbabwean government and its agents” according to the former Executive Director of SALC. In one instance, she was arrested on charges of “obstruction of justice” and “unruly behaviour towards police forces”, allegedly for interfering with a search of her client’s office; her contention was she had simply asked the officers to produce a valid warrant. The court refused bail as she was a flight risk, being a citizen of Swaziland. Amnesty International called the arrest unlawful. Subsequently the High Court ordered her release as she had been following “professional legal procedures”. The lawyer stated that she believes “her arrest was part of a ploy to intimidate human rights defenders” prior to an election.

Zimbabwe’s government has been criticised many times by organisations such as Human Rights Watch for failing to uphold human rights standards, and recently (March 2015) alleged, by the IBAHRI, to be threatening the independence of the judiciary: “It is extremely concerning that Mr. Mugabe...would seek to prejudice judicial matters in Zimbabwe and create an environment where judges there operate in a state of intimidation”.

Plaintiffs in a case against Mr. Mugabe and his party, Zanu-PF, have complained that they “had difficulty in securing legal representation because many lawyers had been intimidated into refusing to represent us”.



Part Three Analysing the Problem of Attacks

The question we will try to answer is not just why attacks on lawyers occur, but why is there such a high number in the present conjuncture? Answering that question will also provide an answer to the related question, why are the attacks increasing, as is claimed by every commentary we have seen and our own research appears to support. While it could be argued that we are just more aware of the attacks as a result of better communications through the mainstream media and social media, we do not believe that explanation can explain an increase so large and so continuous over a number of years. Nor do we believe that the proliferation of organisations monitoring the global assault on lawyers provides an adequate explanation of the perceived trend.

Our analysis proceeds at two levels. The first is the macro analysis of the material reality we are experiencing today. The essential factor in our lives today is globalisation, led by mega corporations and supported by state military and “soft” power. What David Harvey has referred to as a new stage of imperialism. Briefly, the first stage was the development of the colonial system where territory was seized and markets opened up, with resources plundered. As with the emergence of capitalism, much accumulation of capital was by what Harvey calls “accumulation by dispossession”, borrowing from Marx’s “primitive accumulation” but arguing it did not cease in the early stages of capitalist development. That is, in the early stage of imperialism, indigenous people, peasant communities and small scale industry were, in a sense, pushed aside, put out of home and business. Violence was used where necessary. In the second stage, mainly in the 20th century, finance capital began its ascent, and investment in overseas colonies was the method of capitalist expansion. Of course violence and accumulation by dispossession was not forsaken.

In the second half of the 20th century and particularly the last three or four decades, a new style of imperialism emerged, what we might call “political imperialism”. In this third stage, the emphasis is upon exporting capitalism, a notion discussed by Cammack in a critique of the United Nations and its associated entities, including especially the IMF, WTO and the World Bank. The powerful “Western” countries wished the former colonial/neo-colonial countries to build stable political systems, democratic where possible, in order to make capitalism safe under new elites or, where necessary, traditional leaders. These leaders were to



operate by the rule of law, cognisant of their human rights responsibilities. Thus to the extent allowable according to the needs of the new imperialists, they would be, and be seen to be, leading sovereign nations. As Wood says “(l)egal state sovereignty tends to mask imperial domination”. In this way, investments, profits, resources, strategic territory, would be guaranteed under the rule of law, and when necessary by sovereign state force, military and police. Wood further states “Formal democracy, with its ideology of freedom, equality and classlessness, has become one of the most effective mechanisms sustaining and reproducing capitalist class relations.”

What is required by capital, of course, is the continuing accumulation by dispossession. Now it is different from earlier stages of imperialism in important ways: people are conscious of their human rights and use them to resist the ruination of their environment, rivers, forests and communities; the taking of their land, mining to dispossess the people of their resources, the killing of the animals some of which are sacred, birds too. And so it goes on. As Wood further states, “The crucial difference, perhaps, is that in this stage, resistance by the people negatively affected is to some extent limited by the brutality and greed of the elites and other rulers in what are often semi-feudal countries. Trade unions and other civil society organizations have been repressed, or bought off directly or by ideological hegemony of the ideas of the elites, e.g. growth and “development” will be good for all.

With resistance constricted, and the dispossession largely no longer by force and fraud but through legal processes, people who have been dispossessed and/or had their human rights violated, have little recourse except the law or the gun. That is our answer to the questions we first broached above. Lawyers are being attacked because they are the first line of resistance to the conspiracies by the wealthy, backed by the state elite, against the common people, the masses. Human rights lawyers, advocates and activists are being murdered and disappeared, silenced by many other means, precisely because they are standing up for the poor, for the dispossessed.

The second level of our problematic requires a more diffuse analytical task and one that we have barely begun, given the amount of material we have gathered and, especially, the number of countries we would be considering in regard to their socio-political, economic, religious, ethnic and cultural histories, not to mention the presence or absence of internal



military conflict. Importantly we would also have to consider the nature and adequacy of their judicial system, the legal profession and the problem of corruption. That is, while all countries, directly or indirectly, are affected by the new imperialism, they are at different stages and depth of their contact with that process. Further, each country's specific history and cultural traditions, and other factors, will need to be addressed in order to explain why their lawyers are attacked in the contemporary period, and the manner of the attacks. An obvious contrast would be countries where killings are not uncommon, such as Iraq, Syria and the Philippines, with other Asian or Middle Eastern countries where killings and disappearances apparently do not occur, and the lawyers are attacked in different ways. Again, contrasting experiences exist between the USA and Canada, Mexico or Colombia with Brazil or Argentina.

Part Four Organising Resistance

1. Standards, institutions and organisations

Great efforts have been made and continue to be made around the world to protect human rights defenders, including lawyers. In this Part we will briefly indicate some important aspects of that effort, including normative standards and institutions at the international, regional and national levels; professional organisations; activist or advocacy NGOs and academic institutions. We do not intend to be comprehensive, rather to be indicative of what is happening. In the second section we offer suggestions for a program of resistance to this threat to democracy and peace.

The United Nations has developed the essential normative standards applicable in this area. Lawyers, like other citizens, are first of all protected by the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) and, less directly, the International Covenant on Economic, Cultural and Social Rights (1966). They are also covered directly by the U N Basic Principles on the Role of Lawyers (1990), and by the broader U N Declaration on Human Rights Defenders (1998). This is an impressive and substantial array of protective instruments. They cover just about everything in the way of lawyer's rights and the obligations of the state to ensure they are applied so that lawyers can get



on with their professional duties without being threatened, harassed nor intimidated, let alone killed, disappeared or tortured, the latter dealt with specifically by the U N Convention Against Torture (1984).

As we look at the problem of attacks against lawyers it is apparent that many, if not all, national states are not fulfilling their obligations to lawyers and, of course, to their clients and the community. In Part Two we have listed many examples of attacks on lawyers in which at least one, mostly more, of the applicable international standards were violated. Of course it is well known that such standards are frequently violated and humans abused and, in many countries, with impunity. Lawyers are, in that sense, no different.

International legal instruments are invaluable to set the standards and provide leverage whereby states and, indirectly at least, the corporations increasingly involved in human rights abuses, can be called to account. Nevertheless the facts are clear: the suite of international standards we have mentioned have not served to halt the increasing tide of attacks on lawyers. That is despite the proliferation of institutions mandated to try to supervise and coordinate international recognition, promotion and protection of human rights. The history reaches back to 1948 and the universal Declaration of human Rights and the establishment of the Commission on Human Rights. In 1993, the UN established the Office of the High Commissioner to strengthen the human rights mandate. In 2006 the Commission on Human Rights was replaced due to lingering disquiet that human rights “deficient” countries were constantly elected to membership. The UN Human Rights Council with 47 members, took its place. We note that the Philippines, with a shocking history of human rights abuse including deaths of lawyers and journalists, is one of several countries with poor human rights records on the Council. In order to provide comprehensive reports on conditions in countries and on themes, the Special Rapporteur system was set up with the first Special Rapporteur sent to Sudan (2005), followed by Somalia and Haiti in 2008, Cambodia (2009), Burundi and North Korea (2010), Iran (2011), Eritrea (2013), Myanmar and Palestinian Territories (2014). Thematic Special Rapporteurs with particular importance for lawyers under threat are: Human Rights Defenders (2014); Independence of Judges and Lawyers (2008); Protecting Human Rights while Countering Terrorism (2005-2011;2011); Extrajudicial, Summary or Arbitrary Executions (2008); Torture (2008); and three dealing with Peaceful Assembly and of Association (201); Freedom of



Opinion and Expression (2014); Freedom of Religion or Belief (2014). The work of such Rapporteurs is valuable, no doubt. They establish with great authority the problems existing and make recommendations that are oft quoted and cited, often to the dismay of recalcitrant governments. Nevertheless as with international standards, governments may ignore them and turn a blind eye to human rights abuses revealed. Impunity for abusers often continues despite such reports and their revelations.

Some countries have adopted their own institutions and standards for the protection of human rights. Brazil has legislation which provides a comprehensive range of rights specifically for lawyers, though it seems not to be effective in protecting lawyers from attacks, according to people's lawyers in the country.

In addition to the U N standards and institutions there are an array of international NGOs that do human rights work, including dealing with the problem of attacks on lawyers. Amnesty International and Human Rights Watch are two of many doing the important work of investigating, reporting and developing campaigns to protect against human rights violations some of which are aimed at lawyers. They do invaluable work, but again we have to recognise the limits of exposure and campaign work. Governments with poor human rights records may be persuadable but often remain unpersuaded and stubbornly resist external pressures. While they may act positively in some circumstances, in many others they will not act while waiting for the storm to blow over. In the meantime human rights continue to be violated and impunity remains.

Regional centres such as the Gulf Center for Human Rights and the Asian Centre for Human Rights (Hong Kong) are an important part of the international network of activists and advocates, as are national centres and organisations such as Lawyers' Rights Watch Canada.

Professional bodies are important centres for resistance to government repression. Those in some countries e.g. Pakistan, Spain, France, the Philippines, have done strong work in advocacy and activism on behalf of lawyers and against government, and other, attacks. They need to be more pro-active across the world, however. Unfortunately there are countries without such organisations, and other countries, as we have found in our research, where the professional organisation is controlled by the state. Further, in a number of countries the Ministry of Justice or equivalent has the jurisdiction over issuing or revoking a license to practice, therefore putting a lawyer's career in jeopardy if they fail to "toe the line".



International bodies of legal professionals, such as the International Bar Association, and regional bodies such as the Council of Bar Associations and Law Societies in Europe have played an important part in keeping the issue of attacks on lawyers in the public eye, and putting pressure on governments to act to prevent attacks and to ensure the principles of, for example, the U N Basic Principles on the Role of Lawyers are implemented.

Organisations of lawyers outside the mainstream professional organisations are sometimes more active, or militant, in protecting their colleagues than the mainstream professional association. Examples would be the Lawyers for Lawyers (Netherlands), Progress Law Network and Lawyers Without Borders (Belgium), National Lawyers Guild (USA), the Haldane Society of Socialist Lawyers (UK), the National Union of People's Lawyers (Philippines) and other people's lawyers groups in Brazil (ABRAPO), Mexico (AMAP) and the People's Law Bureau (HHB) formed out of the Progressive Lawyers organisation (CHD) in Turkey; Japan Lawyers for International Solidarity and Action (JALISA) and the Law Union of Canada, the Syndicat des Avocats de France. One of the most beleaguered at this time is the Malaysian Lawyers for Liberty (see the entry for Malaysia in Part Two). Another is the regional body, Southern Africa Litigation Centre. Many of these organisations also have international programs to assist lawyers under threat around the globe.

One of the most impressive organisation that focuses specifically on the international problem of attacks on lawyers is Lawyers Rights Watch Canada. Another, national, organisation that has focused on attacks on lawyers is the Philippine Committee for the Defence Against Attacks on Lawyers, a response to the fraught conditions in which lawyers were working. It was re-formed in 2005, with the support of the Integrated Bar of the Philippines, inter alia to campaign against the increasing attacks against members of the legal profession.

The International Association of Democratic Lawyers has a long history of involvement in human rights advocacy and protection, while the International Association of People's Lawyers has made the problem of attacks on lawyers a major area of activity. Mention must also be made of the long and distinguished record of the International Commission of Jurists. The European Association of Lawyers for Democracy and World Human Rights (ELDH), the European Confederation of Democratic Lawyers (AED), the European Bar Human Rights Institute (IDHAE), International Association of Lawyers (UAI), International Federation for



Protection of Human Rights Defenders (FIDH) have all become seriously involved in the fight to protect lawyers.

A great deal of human rights education, advocacy and activism now comes out of the universities, especially perhaps the Centres for Human Rights that have mushroomed in the past twenty years, e. g. the University of Essex (UK) centre, the UNSW (Australia) centre and hundreds more around the globe. From what we can tell at this point most of these are not particularly active in protecting lawyers from attack but are more general in their approach. There are innumerable journals now dedicated to human rights issues, though we are not aware that any are specifically focused on the problem of attacks on lawyers.

2. An agenda for resistance

The work done by the groups mentioned above can cover a wide range of activities, in advocacy, support and solidarity. However, it appears that a great deal of time and energy is spent on recording and reporting attacks, passing resolutions at meetings of lawyers associations and writing to government ministers about the situation of their foreign colleagues; attempting to pressure political parties, individual legislators and even governments to act in the matter; making visits to the country concerned, then producing and publishing an account. These are not the only solidarity activities being carried out, as a visit to a number of solidarity groups' websites reveals various programs, commissions, and research projects, but we believe that, in the main, short term reactive initiatives are what largely occur.

Is this enough? Have efforts to support lawyers been adequately coordinated? Have they been successful? With all due respect to those who have thrown themselves into the effort wholeheartedly, our answer to all three questions must be, we think probably not. More needs to be done, more effectively. We say this with hesitancy as much has been done and, sadly, the killings and other attacks will never be entirely eliminated under the conditions people presently live in. We think some new thinking, new methods and some new strategies should be developed. We think that is possible, indeed imperative.

It seems likely that an international conference specifically for the purpose of dealing with the issue of attacks on lawyers, with structured practical workshops, would be a useful



initiative. The aim would be to bring together the groups we have referred to above, and others, with the aim of sharing our knowledge and experience in order to develop our collective capacity to support those who are at risk every moment.

Such a conference, bringing together a wide cross section of people and support groups including leading lawyers and victims, activists from both “front-line” developing countries and the developed “second line” countries, would also have significant spin-offs, i.e. it would surely catch the attention of the major media. Such publicity as we expect would follow, would bring before the world, in a focused way, the seriousness of the problem. It would put international pressure from a newly informed public opinion on governments and lawyers’ professional associations in countries where lawyers are at serious risk and, thus far, have not been given adequate protection.

What should be done?

It seems likely that an international conference specifically for the purpose of dealing with the issue of attacks on lawyers, with structured practical workshops, would be a useful initiative. The aim would be to bring together the groups we have referred to above, and others, with the aim of sharing our knowledge and experience in order to develop our collective capacity to support those who are at risk every moment.

Such a conference, bringing together a wide cross section of people and support groups including leading lawyers and victims, activists from both “front-line” developing countries and the developed “second line” countries, would also have significant spin-offs, i.e. it would surely catch the attention of the major media. Such publicity as we expect would follow, would bring before the world, in a focused way, the seriousness of the problem. It would put international pressure from a newly informed public opinion on governments and lawyers’ professional associations in countries where lawyers are at serious risk and, thus far, have not been given adequate protection.

In order to begin to develop an agenda for discussion at such an event, we offer some ideas of how we in the developed countries especially, can express in a practical way our



solidarity with lawyers threatened with attacks as well as the victims of such attacks. Some of the elements of a comprehensive program of support could include:

1. The establishment of a network of regional Centres to Support Lawyers Under Attack to collect, record, and analyse information specifically on attacks on lawyers, and to provide commentary and publicity on the issue; such centres to assist in organising, publicising and coordinating support activities in the region, such as country visits and reports back. Such centres might be organised by bar associations, NGOs or in an academic institution, or an alliance of such institutions.
2. An annual international lecture, widely publicised, by an outstanding human rights defender, not necessarily a lawyer, on the threats to lawyers, perhaps focusing on a different country each year, and perhaps to take place in a different country each year. One possible nomination would be the Philippine “Maguindanao Massacre”, of November 23 2009 when 58 people were murdered by a political dynasty close to then President Gloria Macapagal Arroyo. Included amongst the victims were 33 journalists and 2 young female lawyers, members of the Mindanao branch of the National Union of People’s Lawyers. No one has yet been convicted of this ghastly crime.
3. Regional seminars and workshops on the problem, based on research and experience of combating the attacks.
4. Support for speaking tours and visits of lawyers and other human rights defenders who have first hand knowledge/experience to academic campuses and other venues in the developed countries.
5. Visits by senior lawyers from developing countries to countries where they can expect to have discussions with government officials, bar associations and other legal groups, as well as access to the media.



6. Legal assistance such as working with local lawyers to get prosecutions and convictions, not so much because they need legal help, but because the involvement of a foreign lawyer might make government officials “try harder” under the gaze of the international community. There might be value in a program of internships for law students and young lawyers as a part of such a legal assistance scheme. These suggestions, and others we are canvassing would, of course, have to be worked out with local lawyers.
7. Educational work with journalists would be important. Many journalists would be sympathetic given what is happening to their colleagues; we just need to give them accurate commentary which they can use. We recognise that the major media is not free nor objective, and journalists operate within restrictions, nevertheless on this issue it would seem they would, in the developed countries, generally be able to use the information provided.
8. Educational work with NGOs and civil society organisations would also be important. These are organisations with the power to affect public opinion. And they have an interest in the safety of lawyers in developing countries with whom they sometimes work and share the dangers of confronting human rights abuse.
9. Educational work with university law faculties, and others, could include the development of units in the curriculum (either undergraduate or postgraduate) on lawyers as heroes and victims of political systems and social structures, perhaps with the award of prizes for outstanding theses or publications arising from their study.
10. Political work should be undertaken in developed countries to convince political parties and governments to apply sanctions against countries where the attacks on lawyers are continuing without prosecution and conviction. Statements of concern alone are not significant. The United States has law restricting the supply of



weaponry to human rights violating countries. Such a policy, if enforced, could be a wake-up call to some countries in the developing world.

11. Such political work would also seek resolutions condemning the lack of protection of lawyers, but also requesting the institution of parliamentary hearings exposing the “protection gap” in countries vulnerable to a change in public opinion and government policy, e.g. in regard to aid and/or trade.
12. Juridical work which would see violating countries, and individuals arraigned in the appropriate international tribunals or in countries such as Spain which allows prosecution for extra-territorial offences.
13. At some point, we envisage an international People’s Tribunal would be an excellent vehicle for an investigation to deal comprehensively with the issue as a major threat to a humane existence for those millions who often must rely on courageous lawyers to defend them from state power and the greed of those who employ assassins to attack lawyers.

We are aware that the above program, or even any part of it would require considerable resources, financial and otherwise. One of the issues we would raise at the suggested conference is the funding of the enterprise we hope will be launched. Should a sound program be developed, we are confident that the lawyers of the developed world will be able to find the money necessary. After all, with the global spread of lawyers from the USA and Europe, they have good reason to spend some of their profits seeking to ensure that they and their colleagues will be safe when working abroad.



Conclusion

We have provided a glimpse of the nature and extent of the worldwide threat to lawyers today. There is a very serious threat to governance under the rule of law and a regime of human rights protection. Indeed, the threat to lawyers is a fundamental challenge to democracy.

We have also shown that international, and national, legal standards intended to protect lawyers and others, are being breached with impunity in many countries. At the same time an array of public agencies and non-public, or NGOs, are struggling to cope with what is, in effect, an epidemic of overwhelming proportions.

The basic question remains: what can be done to combat the onslaught?

Our research has highlighted a major gap. While there are many groups taking actions to support lawyers under threat, there is insufficient coordination of these efforts. Thus we suggest, as a first and urgent step, a “summit” conference be called to bring together, to the extent possible, all of the groups from around the world who are “defending the defenders”. It would be expected to develop a “survival” plan, emphasising coordination, planning and funding of an agenda to protect lawyers but, importantly, to develop strategies-short and long term-to reduce the hazards they face.

A second step would be to form a group to approach the Permanent People's Tribunal and work with them to organise an international tribunal on this issue. The PPT is an outstanding resource that has been used for nearly 60 years to investigate a wide range of issues, mould public opinion, inform governments and the international community of problems that need urgently to be dealt with and to point the direction for change through its reports/judgements and the voluminous evidence presented to it. It could help to redress the lack of adequate media reporting. For understandable reasons the attacks on journalists receive relatively wide coverage while attacks on lawyers, probably more numerous, tend not to be covered as extensively.

Third, we recommend the establishment of an international network specifically dedicated to the defence of lawyers. It would have a monitoring or clearing house function. We have no accurate and comprehensive data on the killings and disappearances of lawyers, let



alone other attacks. In order to encourage the public and governments to take the problem seriously and consistently, they need to know the extent of the carnage out there.

While we have mainly focused on governments and the elites with power and wealth as those who, directly or indirectly are responsible for most of the attacks on lawyers, we should not overlook the corporations who are major beneficiaries of the repression of legal rights, e.g. in cases involving mining, environmental destruction, land grabbing and other activities that see ordinary people “dispossessed”. While corporations have been adept at convincing governments to roll out the red carpet for them (and sign up to disadvantageous “free trade” agreements), the silence of these predators is overwhelming when lawyers are killed or seriously attacked in other ways to the disadvantage of their clients who are opposed to many corporate activities.

Finally, in addition to the above, and actions recommended in Part Four, it is important that in trying to defend our colleagues in the legal sector, we commit to serious political work in order to pressure political parties and governments, at all levels, to bring an end to impunity for attacks on lawyers and to fulfil their human rights responsibilities. There should be a campaign developed for universal national human rights budgets with specific allocations for protections of the defenders (lawyers, journalists and others). Meaningful sanctions should be applied against those countries, or lower level governments, that try to operate on an “austerity budget” and have a resultant human rights “deficit”.



International Association of People's Lawyers
Asociación Internacional de Abogados del Pueblo
Associação Internacional dos Advogados do Povo
Internationale Vereinigung der Volks Rechtsanwälte
Association Internationale des Avocats du Peuple

info@iapl.net
www.iapl.net
defendlawyers.wordpress.com

SOURCES

REPORT OF THE WORLD OBSERVATORY FOR DEFENCE RIGHTS AND ATTACKS AGAINST LAWYERS, PUBLISHED IN 2014. ATTACKS REPORTED IN THE OBSERVATORY REPORT FOR 47 COUNTRIES WHERE THEY HAD INFORMATION OF ATTACKS; OTHER COUNTRIES IN WHICH ATTACKS OCCURRED WERE ADDED TO THIS LIST BY THE IAPL.

LAWYERS RIGHTS WATCH CANADA ([WWW.LRWC.ORG](http://www.lrwc.org))

EUROPEAN BAR HUMAN RIGHTS INSTITUTE ([WWW.IDHAE.ORG](http://www.idhae.org))

INTERNATIONAL BAR ASSOCIATION HUMAN RIGHTS INSTITUTE ([WWW.IBANET.ORG](http://www.ibanet.org))

IAPL MONITORING COMMITTEE RESEARCH PROJECT, REPORT ON ATTACKS ON LAWYERS IN THE PHILIPPINES

([HTTPS://DEFENDLAWYERS.FILES.WORDPRESS.COM/2015/02/REPORT-ATTACKS-PHILS-2.PDF](https://defendlawyers.files.wordpress.com/2015/02/report-attacks-phils-2.pdf))

HUMAN RIGHTS WATCH ([WWW.HRW.ORG](http://www.hrw.org))

HALDANE SOCIETY OF SOCIALIST LAWYERS ([WWW.HALDANE.ORG](http://www.haldane.org))

INTEGRATED BAR OF THE PHILIPPINES ([WWW.IBP.PH](http://www.ibp.ph))

KARAPATAN ALLIANCE FOR THE ADVANCEMENT OF PEOPLE'S RIGHTS ([WWW.KARAPATAN.ORG](http://www.karapatan.org))

NATIONAL UNION OF PEOPLE'S LAWYERS ([WWW.NUPL.NET](http://www.nupl.net))

PHILIPPINE NATIONAL POLICE ([WWW.PNP.GOV.PH](http://www.pnp.gov.ph))



International Association of People's Lawyers
Asociación Internacional de Abogados del Pueblo
Associação Internacional dos Advogados do Povo
Internationale Vereinigung der Volks Rechtsanwälte
Association Internationale des Avocats du Peuple

info@iapl.net
www.iapl.net
defendlawyers.wordpress.com

OTHER MEDIA ACCOUNTS AND MATERIAL WRITTEN BY HUMAN RIGHTS DEFENDERS OR ABOUT THEM

PERSONAL KNOWLEDGE, RESEARCH INCLUDING INTERVIEWS

BOEHRINGER, G., RUSSELL, S., BOEHRINGER, K. AND MOREIRA, J. “ATTACKS ON LAWYERS: A THREAT TO DEMOCRACY” IN (2015) 40 (1) 71-72 ALTERNATIVE LAW JOURNAL

SEE ALSO, ON LAWYERS' STRUGGLES IN FRANCE, PAKISTAN AND THE PHILIPPINES, G. BOEHRINGER AND S. RUSSELL, “GLOBALISATION, LAWYERS AND THE STATE” IN (2008) 33(3) 169-73 ALTERNATIVE LAW JOURNAL

JILANI, H. “THE PERILS OF DEFENDING HUMAN RIGHTS” IN (2014) 39 (3) 183-5 ALTERNATIVE LAW JOURNAL



International Association of People's Lawyers
Asociación Internacional de Abogados del Pueblo
Associação Internacional dos Advogados do Povo
Internationale Vereinigung der Volks Rechtsanwälte
Association Internationale des Avocats du Peuple

info@iapl.net
www.iapl.net
defendlawyers.wordpress.com

APPENDIX

LIST OF COUNTRIES WHERE ATTACKS ON LAWYERS HAVE BEEN RECORDED

1. Afghanistan
2. Argentina
3. Australia
4. Azerbaijan
5. Bahrain
6. Bangladesh
7. Belize
8. Botswana
9. Brazil
10. Belarus
11. Burundi
12. Cameroun
13. Canada
14. China
15. Colombia
16. Comores
17. Croatia
18. Dem. Rep. of Congo
19. Ecuador
20. Egypt
21. Equatorial Guinea
22. France
23. Germany
24. Greece
25. Guatemala
26. Guinea Bissau
27. Haiti



International Association of People's Lawyers
Asociación Internacional de Abogados del Pueblo
Associação Internacional dos Advogados do Povo
Internationale Vereinigung der Volks Rechtsanwälte
Association Internationale des Avocats du Peuple

info@iapl.net
www.iapl.net
defendlawyers.wordpress.com

28. Honduras
29. India
30. Indonesia
31. Iran
32. Iraq
33. Israel
34. Italy
35. Kazakhstan
36. Kenya
37. Kuwait
38. Kyrghistan
39. Lebanon
40. Liberia
41. Libya
42. Malaysia
43. Maldives
44. Mexico
45. Morocco
46. Myanmar
47. Nepal
48. New Zealand
49. Nigeria
50. Oman
51. Pakistan
52. Panama
53. Paraguay
54. Peru
55. Philippines
56. Romania
57. Russia
58. Saudi Arabia



International Association of People's Lawyers
Asociación Internacional de Abogados del Pueblo
Associação Internacional dos Advogados do Povo
Internationale Vereinigung der Volks Rechtsanwälte
Association Internationale des Avocats du Peuple

info@iapl.net
www.iapl.net
defendlawyers.wordpress.com

59. Senegal
60. Singapore
61. Somalia
62. Spain
63. Sri Lanka
64. Sudan
65. Swaziland
66. Syria
67. Tadjikistan
68. Thailand
69. Timor L' este
70. Tunisia
71. Turkey
72. Uganda
73. United Arab Emirates
74. United Kingdom
75. USA
76. Ukraine
77. Venezuela
78. Vietnam
79. Zambia
80. Zimbabwe
81. Ireland