

PRIORITY

His Excellency Mr Xi JINPING
President
The State Council General Office
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Beijingshi 100017
People's Republic of China

His Excellency Mr Guo SHENGLUN
Minister of Public Security
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Geneva, 26 April 2021

Grave concerns about sanctions against UK's barristers

Your Excellency,

As an association representing the interests of lawyers, the Geneva Bar Association places a great emphasis on the protection of lawyers in Switzerland and abroad as well as the respect for the rule of law and human rights.

At the end of last month, media around the world reported on China's sanctions against four entities and nine individuals including several barristers and academic, in particular members of Essex Court Chambers, who, instructed by the World Uyghur Congress, gave a legal opinion dated 26 January 2021 concerning the treatment of the Uyghur population in the Xinjiang Uyghur Autonomous Region concluding that on the basis of the evidence seen, there would be a very credible case that acts carried out by the Chinese government against the Uyghur people in Xinjiang would amount to crimes against humanity and genocide. In doing so, they were accused by Chinese authorities of spreading "lies and disinformation" about the treatment of the Uyghur Muslim minority group in Xinjiang.

Among the individuals targeted by the Chinese sanctions are Baroness Kennedy QC, co-chair of the IBA Human Rights Institute, Sir Geoffrey NICE QC, international human rights barrister, Alison MACDONALD QC, Jackie MCARTHUR, Naomi HART and Lorraine ABOAGYE.

We understand that the sanctions aim to freeze China-based assets of those targeted, and ban those named and their family members from entering China, including Macau and Hong Kong, and from doing business with Chinese individuals or entities.

The Geneva Bar Association is extremely concerned by the sanctions issued against lawyers acting in their professional capacity, most particularly their denunciation of the international crimes which are suspected to be perpetrated against the Uyghur Muslim minority group in Xinjiang. As stressed in the 1990 UN Basic Principles on the Role of Lawyers, it is the fundamental role of lawyers to provide independent legal advice: "adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession." It appears that the sanctions issued against the above mentioned lawyers

had the sole purpose to prevent the legitimate exercise of the rights of the Uyghur minority and to discourage any present or future legal action in their favour.

The 1990 UN Basic Principles on the Role of Lawyers were adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990, that have a normative value under customary international law, and should be respected by China, which was present at the Congress and voted in favour of their adoption.

Accordingly Chinese authorities have an obligation to ensure that lawyers can perform all of their professional functions without intimidation, hindrance, harassment or improper interference; that they are able to travel and to consult with their clients freely both within their own country and abroad; and that they do not suffer, or be threatened with, prosecution for any action taken while carrying out their duties (Principle 16). Indeed, lawyers should not be identified with the acts or views of their clients, and the rule of law requires lawyers to be able to advise clients and give legal opinions without governmental interference.

Furthermore, lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions (Principle 18) and shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority (Principle 20).

We therefore call on the Chinese authorities:

- to immediately and unreservedly lift any sanctions against Baroness Helena KENNEDY QC, Sir Geoffrey NICE QC, Alison MACDONALD QC, Jackie MCARTHUR, Naomi HART and Lorraine ABOAGYE and Essex Court Chambers;
- to cease and to protect any lawyers against any present or future harassment, intimidation and/or reprisal in the exercise of their profession and of legitimate human rights activities.

We thank you for your attention to this very serious and urgent matter. We will continue to closely monitor this case.

Respectfully yours,



Philippe COTTIER
Chairman

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UN Special Rapporteur on the independence of judges and lawyers, Mr Diego GARCÍA-SAYÁN, Office of the United Nations High Commissioner for Human Rights (srindependencejl.dgs@gmail.com; srindependencejl@ohchr.org)

UN Special Rapporteur on the situation of human rights defenders, Mrs Mary LAWLOR, Office of the United Nations High Commissioner for Human Rights (defenders@ohchr.org)