

1. Guide to researching

(NB references to paragraphs or annexes refer to the [Intervention Manual, December 2011](#))

1.1. There are 2 types of research required for Law Society interventions:

- Factual research: which is used to decide whether the Law Society should pursue this matter as an intervention. It is also used to write the first part of the intervention letter; and
- Legal research: which will assist with drafting the law section of the intervention. The letter drafter will ultimately have to select the most persuasive provisions from your legal research for inclusion in the final letter.

1.2. However, before carrying out research, you should first review the following preliminary issues:

Preliminary issues

1.3. Identify which strand of Law Society's mandate this intervention falls under by reference to paragraph 3.2.

1.4. Ask yourself the following 8 Key Questions:

1. Is the victim a lawyer or a judge carrying out their professional duties or exercising their legitimate rights?
2. Does the violation impede the work of the judiciary or the legal profession or threaten their independence?¹
3. Is the victim a non-lawyer who is effectively doing the work of a lawyer?² The UN Basic Principles on the Role of Lawyers state that they "*also apply, as appropriate, to persons who exercise the functions of lawyers without having the formal status of lawyers.*"
4. Is the victim a non-lawyer who works for a lawyer, law firm, an organisation doing legal work or organisation representing those doing legal work?³
5. Is the victim a non-lawyer who has been denied access to a lawyer or to a court or has been hindered in obtaining such access (e.g. travel restrictions, threats of violence etc) and/or the violation represents an interference with the proper administration of justice?⁴

¹ E.g. planned legislation to revise the regulation of the judiciary in Fiji
<http://international.lawsociety.org.uk/files/Fiji140509.pdf>

² E.g. human rights defenders such as journalists in Papua, Indonesia where there are virtually no lawyers

³ E.g. threats against workers at the Tlachinollan Human Rights Centre in Mexico which made lawyers' work virtually impossible,
<http://international.lawsociety.org.uk/files/Mexico%205%20June%2009.pdf> and Russian government action against Oleg Orlov, the chairman of the Memorial Human Rights Centre see
<http://international.lawsociety.org.uk/files/Oleg%20Orlov%20RUSSIA.pdf>

⁴ See e.g. mass trials in Iran at http://international.lawsociety.org.uk/files/Iran%20statement_0.doc

6. If none of the above, has another organisation or person produced a report about or a comment on the matter?⁵ Is that organisation or person a lawyer, law firm, an organisation doing legal work or organisation representing those doing legal work?⁶
 7. If none of the above, is the violation of the rule of law gross and systemic?⁷ Is it a failure to comply with a court judgment?⁸ Is it a breach of a *jus cogens* norm,⁹ or of a universally recognised or generally accepted principle of international law?¹⁰ Is it so exceptional that the Law Society should comment on it (e.g. it undermines respect for the rule of law)?¹¹
 8. If you cannot answer “yes” to any of the above, it is unlikely to be an intervention. Please contact the Law Society to discuss alternative actions.
- 1.5. Review the list of issues/violations on the first page of the relevant Annex as follows:
- Lawyers at risk (Annex 2)
 - Threat to independence of judiciary or legal profession (Annex 3)
 - Rule of law violation (Annex 4)
 - Death penalty (Annex 5)

Factual research

- 1.6. Most factual research will be carried out by using internet search engines and web-based news outlets. You may also wish to review the websites of various human rights organisations, for example:
- Human Rights Watch
www.hrw.org
 - Amnesty International – Write for rights
www.amnesty.org.uk/content.asp?CategoryID=10673
 - Frontline Defenders
www.frontlinedefenders.org/
 - FIDH
www.fidh.org/spip.php?page=appels&id_rubrique=2
 - OMCT – Observatory for Human Rights Defenders
www.omct.org/human-rights-defenders/urgent-interventions/
 - Lawyers for Lawyers (Netherlands)
www.lawyersforlawyers.nl/
 - Lawyers Rights Watch
www.lrwc.org/campaign.php?action=open&id=1

⁵ See Baha'is in Iran <http://international.lawsociety.org.uk/files/Bahais.pdf>

⁶ E.g. an amicus brief by the Cambodia Centre for Human Rights re admissibility of evidence obtained through torture <http://international.lawsociety.org.uk/files/Cambodia%207%20oct%2009.pdf>

⁷ For example, Guantanamo Bay detention

http://international.lawsociety.org.uk/files/US%20Attorney%20General%20letter%20May%202009_0.pdf

⁸ *Law Society's report on Mexico* to UN Special Rapporteur on the Independence of Judges and Lawyers, March 2011, at page 35, <http://international.lawsociety.org.uk/files/Mexico%20report%202011.pdf>

⁹ See Ref. No. 30B on page 57

¹⁰ For example, the execution of juveniles, the mentally retarded, or the mentally ill, see

<http://international.lawsociety.org.uk/files/China%207%20Oct%2009.pdf> and

<http://international.lawsociety.org.uk/files/20080721160750.pdf>

¹¹ See Ref No. 30A, page 56. For example, the government crackdown on protests in Burma in 2007, see <http://www.timesonline.co.uk/tol/comment/letters/article2584334.ece>

- 1.7. In researching the facts, you will have to do the following:
 - 1.7.1. Make a list of the key sources of information. Note down the URL hyperlinks so that the IAT Admin and Senior Lawyers' Team can access them later;
 - 1.7.2. Identify the facts and events which are material to the current incident. Please set these out in chronological order and cross-reference to your sources. Cross-referencing makes final checking and vetting easier for the IAT Admin Team and will speed up approval by the Senior Lawyers' Team;
 - 1.7.3. Set out the background facts which provide the context and also establish whether the latest incident forms part of a consistent pattern of behaviour or is a symptom of wider systemic problem, where relevant.
 - 1.7.4. Identify the name(s) and address(es) of the potential recipients of the intervention; and
 - 1.7.5. Find out the name of the country's ambassador in the UK, and the address, fax no. and email (where available) of their UK embassy.

Legal research

- 1.8. If you have not already done so, you should address the 'Preliminary issues' set out at paragraphs 26.3 to 26.5.
- 1.9. Review the list of international human rights instruments (see Annex 1) to identify those relevant to the human rights violation(s) in question. Review the text of any such instruments to identify relevant provisions. See <http://www2.ohchr.org/english/law/index.htm>.
- 1.10. Alternatively, you can review the shortcuts in Annexes 2 to 5 to identify relevant legal standards.
- 1.11. Check whether any TREATY you rely on has been ratified, has come into force or has any relevant reservations. The following link will assist: <http://www2.ohchr.org/english/bodies/ratification/index.htm>
- 1.12. Consider whether your research may be assisted by reference to "jurisprudence" from treaty bodies, Special Procedures, UPR and/or Regional Mechanisms (see paragraphs 18 to 22).
- 1.13. You will have to make a list of the names of the treaties, declarations or other international instruments/judgments which are relevant. If possible, include the Article numbers of relevant provisions, but do not quote the actual legal text.

Submitting your research

- 1.14. You will post your research in the pro-forma web-form via the IAT members-only website (or for corporate members, in accordance with any other instructions from your pro bono manager). An illustration of what the pro-forma looks like can be found at Annex 6.