

Draft Universal Declaration on the Independence of Justice ("Singhvi Declaration")

By its decision 1980/124, the UN Economic and Social Council authorised the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. L.M. Singhvi (India) with the preparation of a report on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers.

The Special Rapporteur accordingly submitted preliminary and progress reports on the subject in 1980, 1981 and 1982 (E/CAN/Sub.2/L.731, E/CAN/Sub.2/481 and Add.I, and E/CN.4/Sub.2/1982/23). At the thirty-eighth session of the Sub-Commission, he introduced his final report on the subject (E/CN.4/Sub.2/1985/18 and Add.I-6) and drew attention, in particular, to his draft declaration on the Independence and Impartiality of the Judiciary, Jurors and Assessors and the Independence of Lawyers (E/CNA/Sub.2/18/Add.5/Rev.I).

Pursuant to Sub-Commission decision 1985/107, the study was circulated to the members of the Sub-Commission for comments. These comments are contained in document E/CN.4/Sub.2/1987/17, which was submitted to the Sub-Commission at its thirty-ninth session.

At the fortieth session of the Sub-Commission, the Special Rapporteur submitted a report containing comments and suggestions on the draft declaration (E/CN.4/Sub.2/1988/20) and a revised version of the draft declaration (E/CNA/Sub.2/1988/20/ Add.I and Add.II Corr.I)

At its fortieth session, the Sub-Commission, in Resolution 1988/25 expressed "its appreciation and thanks to the Special Rapporteur, for the enduring and valuable contribution he made to the legal doctrine relating to the independence of justice, which is one of the primary prerequisites for the promotion and protection of human rights" and referred the draft declaration to the Commission on Human Rights for further consideration.

The Commission, at its forty-fifth session, by resolution 1989/32, invited governments to take into account the principles set forth in Dr. Singhvi's draft declaration in implementing the United Nations' Basic Principles on the Independence of the Judiciary, which had been approved in 1985.

Judges

Objectives and Functions

1. The objectives and functions of the judiciary shall include:
 - (a) Administering the law impartially irrespective of parties;
 - (b) Promoting, within the proper limits of the judicial function, the observance and the attainment of human rights;
 - (c) Ensuring that all peoples are able to live securely under the rule of law.

Independence

2. Judges individually shall be free, and it shall be their duty, to decide matters before them impartially in accordance with their assessment of the facts and their understanding of law without any restrictions, influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.
3. In the decision-making process, judges shall be independent vis à-vis their judicial colleagues and superiors. Any hierarchical organization of the judiciary and any difference in grade or rank shall, in no way, interfere with the right of the judge to pronounce his judgment freely.

Judges, on their part, individually and collectively, shall exercise their functions with full responsibility of the discipline of law in their legal system.

4. The Judiciary shall be independent of the Executive and Legislature.

5. (a) The judiciary shall have jurisdiction, directly or by way of review, over all issues of a judicial nature, including issues of its own jurisdiction and competence.

(b) No ad hoc tribunals shall be established to displace jurisdiction properly vested in the courts.

(c) Everyone shall have the right to be tried with all due expedition and without undue delay by the ordinary courts or judicial tribunals under law subject to review by the courts.

(d) Some derogations may be permitted in times of grave public emergency which threatens the life of the nation but only under conditions prescribed by law, only to the extent strictly consistent with internationally recognized minimum standards and subject to review by the courts.

(e) In such times of emergency, the State shall endeavour to provide that civilians charged with criminal offences of any kind shall be tried by ordinary civilian courts, and, detention of persons administratively without charge shall be subject to review by courts or other independent authority by way of habeas corpus or similar procedures so as to ensure that the detention is lawful and to inquire into any allegations of ill-treatment.

(f) The jurisdiction of military tribunals shall be confined to military offences. There shall always be a right of appeal from such tribunals to a legally qualified appellate court or tribunal or a remedy by way of an application for annulment.

(g) No power shall be so exercised as to interfere with the judicial process.

(h) The Executive shall not have control over the judicial functions of the courts in the administration of justice.

(i) The Executive shall not have the power to close down or suspend the operation of the courts.

(j) The Executive shall refrain from any act or omission which preempts the judicial resolution of a dispute or frustrates the proper execution of a court decision.

6. No legislation or executive decree shall attempt retroactively to reverse specific court decisions or to change the composition of the court to affect its decision-making.

7. Judges shall be entitled to take collective action to protect their judicial independence.

8. Judges shall always conduct themselves in such a manner as to preserve the dignity and responsibilities of their office and the impartiality and independence of the judiciary. Subject to this principle, judges shall be entitled to freedom of thought, belief, speech, expression, professional association, assembly and movement.

Qualifications, Selection and Training

9. Candidates chosen for judicial office shall be individuals of integrity and ability. They shall have equality of access to judicial office; except in case of lay judges, they should be well-trained in the law.

10. In the selection of judges, there shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national, linguistic or social origin, property, income, birth or status, but it may however be subject to citizenship requirements and consideration of suitability for judicial office.

11. a) The process and standards of judicial selection shall give due consideration to ensuring a fair reflection by the judiciary of the society in all its aspects.
(b) Any methods of judicial selection shall scrupulously safeguard against judicial appointments for improper motives.
(c) Participation in judicial appointments by the Executive or the Legislature or the general electorate is consistent with judicial independence so far as such participation is not vitiated by and is scrupulously safeguarded against improper motives and methods. To secure the most suitable appointments from the point of view of professional ability and integrity and to safeguard individual independence, integrity and endeavour shall be made, in so far as possible, to provide for consultation with members of the judiciary and the legal profession in making judicial appointments or to provide appointments or recommendations for appointments to be made by a body in which members of the judiciary and the legal profession participate effectively.
12. Continuing education shall be available to judges.

Posting, Promotion and Transfer

13. Where the law provides for the discretionary assignment of a judge to a post on his appointment or election to judicial office such assignment shall be carried out by the judiciary or by a superior council of the judiciary where such bodies exist.
14. Promotion of a judge shall be based on an objective assessment of the judge's integrity, independence, professional competence, experience, humanity and commitment to uphold the rule of law. No promotions shall be made from an improper motive.
15. Except pursuant to a system of regular rotation or promotion, judges shall not be transferred from one jurisdiction or function to another without their consent, but when such transfer is in pursuance of a uniform policy formulated after due consideration by the judiciary, such consent shall not be unreasonably withheld by any individual judge.

Tenure

16. (a) The term of office of the judges, their independence, security, adequate remuneration and conditions of service shall be secured by law and shall not be altered to their disadvantage.
(b) Subject to the provisions relating to discipline and removal set forth herein, judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or expiry of their legal term of office.
17. There may be probationary periods for judges following their initial appointment but in such cases the probationary tenure and the conferment of permanent tenure shall be substantially under the control of the judiciary or a superior council of the judiciary.
18. (a) During their terms of office, judges shall receive salaries and after retirement, they shall receive pensions.
(b) The salaries and pensions of judges shall be adequate, commensurate with the status, dignity and responsibility of their office, and shall be periodically reviewed to overcome or minimize the effect of inflation.
(c) Retirement age shall not be altered for judges in office without their consent.
19. The executive authorities shall at all times ensure the security and physical protection of judges and their families.

Immunities and Privileges

20. Judges shall be protected from the harassment of personal litigation against them in respect of their judicial functions and shall not be sued or prosecuted except under an authorization of an appropriate judicial authority.

21. Judges shall be bound by professional secrecy in relation to their deliberations and to confidential information acquired in the course of their duties other than in public proceedings. Judges shall not be required to testify on such matters.

Disqualifications

22. Judges may not serve in a non-judicial capacity which compromises their judicial independence.

23. Judges and courts shall not render advisory opinions except under an express constitutional or statutory provision.

24. Judges shall refrain from business activities, except as incidental to their personal investments or their ownership of property. Judges shall not engage in law practice.

25. A judge shall not sit in a case where a reasonable apprehension of bias on his part or conflict of interest or incompatibility of functions may arise.

Discipline and Removal

26. (a) A complaint against a judge shall be processed expeditiously and fairly under an appropriate practice and the judge shall have the opportunity to comment on the complaint at the initial stage. The examination of the complaint at its initial stage shall be kept confidential, unless otherwise requested by the judge.

(b) The proceedings for judicial removal or discipline when such are initiated shall be held before a Court or a Board predominantly composed of members of the judiciary. The power of removal may, however, be vested in the Legislature by impeachment or

joint address, preferably upon a recommendation of such a Court or Board.

27. All disciplinary action shall be based upon established standards of judicial conduct.

28. The proceedings for discipline of judges shall ensure fairness to the judge and the opportunity of a full hearing.

29. Judgments in disciplinary proceedings instituted against judges, whether held in camera or in public, shall be published.

30. A judge shall not be subject to removal except on proved grounds of incapacity or misbehaviour rendering him unfit to continue in office.

31. In the event a court is abolished, judges serving on that court, except those who are elected for a specified term, shall not be affected, but they may be transferred to another court of the same status.

Court Administration

32. The main responsibility for court administration including supervision and disciplinary control of administration personnel and support staff shall vest in the judiciary, or in a body in which the judiciary is represented and has an effective role.

33. It shall be a priority of the highest order for the State to provide adequate resources to allow for the due administration of justice, including physical facilities appropriate for the maintenance of judicial independence, dignity and efficiency; judicial and administrative personnel; and operating budgets.

34. The budget of the courts shall be prepared by the competent authority in collaboration with the judiciary having regard to the needs and requirements of judicial administration.

35. The judiciary shall alone be responsible for assigning cases to individual judges or to sections of a court composed of several judges, in accordance with law or rules of court.

36. The head of the court may exercise supervisory powers over judges only in administrative matters.

Miscellaneous

37. A judge shall ensure the fair conduct of the trial and inquire fully into any allegations made of a violation of the rights of a party or of a witness, including allegations of ill-treatment.

38. Judges shall accord respect to the members of the Bar, as well as to assessors, procurators, public prosecutors and jurors as the case may be.

39. The State shall ensure the due and proper execution of orders and judgments of the Courts; but supervision over the execution of orders and over the service or process shall be vested in the judiciary.

40. Judges shall keep themselves informed about international conventions and other instruments establishing human rights norms, and shall seek to implement them as far as feasible, within the limits set by their national constitutions and laws.

41. These principles and standards shall apply to all persons exercising judicial functions, including international judges, assessors, arbitrators, public prosecutors and procurators who perform judicial functions, unless a reference to the context necessarily makes them inapplicable or inappropriate.

Assessors

42. An assessor may either perform the functions of a judge or an associate or auxiliary judge or a consultant or a legal or technical expert. In performing any of these functions the assessors shall discharge their duties and perform their functions impartially and independently. Principles and standards which apply to judges are applicable to assessors unless a reference to the context necessarily make them inapplicable or inappropriate.

43. Assessors or Peoples' Assessors, or Nyaya Panchas, may be elected for specified terms on the basis of such franchise and by such electorates as may be provided by law to participate in the collegiate process of adjudication along with elected or appointed judges. There shall be no discrimination by reason of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or status among citizens in the matter of their eligibility for election as assessors. On their election, such assessors may be empanelled for short and limited periods to discharge their functions as assessors. Assessors may also be appointed or empanelled for technical advice or assistance on the basis of their specialized knowledge appointed to discharge certain simple adjudicating functions.

44. Assessors shall be duly and adequately compensated with a reasonable allowance for the duration of their service as assessors by the State except when they receive such allowance paid to them in their place of employment.

45. Assessors who are elected to participate in the process of adjudication or are appointed to render technical and other assistance shall be free from any restrictions, influences, inducements, pressures, threats or interferences, direct or indirect,

except that elected assessors may give periodic explanations to their electorate as a part of the system of citizen participation in the justice system.

46. Assessors shall be independent of the judges and of the Executive and Legislature and shall be entitled to participate in the process of adjudication to the extent and in the manner provided for in the law and practice of the legal system. Peoples' assessors who are elected to participate in the process of adjudication shall also be entitled to record their minutes of dissent which shall form a part of the record.

47. Any method of empanelment of assessors shall scrupulously safeguard against any improper motive in the matter of empanelment.

48. A provision may be made for the orientation and instruction for Peoples' Assessors or Nyaya Panchas elected to participate in the process of adjudication.

49. An assessor may be recalled by the electorate or may be disqualified or removed or his appointment may be terminated, but always strictly in accordance with the procedure established by law.

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Selection of Prospective Jurors

50. The opportunity for jury service shall be extended without distinction of any kind by reason of race, colour, sex, religion, political or other opinion, national, linguistic or social origin, property, income, birth or status, but it may, however, be subject to citizenship requirements.

51. The names of prospective jurors shall be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in the court jurisdiction.

52. The jury source list shall be representative and shall be as inclusive of the adult population in the jurisdiction as is feasible.

53. The Court shall periodically review the jury source list for its representativeness and inclusiveness. Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

54. Random selection procedures shall be used at all stages throughout the jury selection process except as provided herein.

55. The frequency and the length of time that persons are called upon to perform jury service and to be available therefor, shall be the minimum consistent with the needs of justice.

56. Except as may be expressly provided for by law, all automatic excuses or exemptions from jury service shall be avoided.

57. Eligible persons who are summoned may be excused from jury service only for valid reason by the court, or with its authorization.

Selection of a Particular Jury

58. Examination of prospective jurors shall be limited to matters relevant to determining whether to remove a juror for cause and to exercising peremptory challenges.

59. If the judge determines during the examination of prospective jurors that an individual is unable or unwilling to hear the particular case before

the court fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of a party or on the judge's own initiative.

60. In jurisdictions where peremptory challenges are permitted, their number and the procedure for exercising them shall be uniform for the same type of case.

61. Peremptory challenges shall be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.

Administration of the Jury System

62. The responsibility for the administration of the jury system shall be under the control of the judiciary.

63. The notice summoning a person to jury service shall be in writing, easily understandable, and delivered sufficiently in advance.

64. Courts shall employ the services of prospective jurors so as to achieve the best possible use of them with a minimum of inconvenience.

65. Courts shall provide adequate protection for jurors from threat and intimidation.

66. Courts shall provide an adequate and suitable environment for jurors, and jury facilities shall be arranged to minimize contact between jurors and parties, counsel and the public.

67. Persons called for jury service shall receive a reasonable allowance from the State except when they receive such allowance in their place of employment.

68. Employers shall be prohibited from penalizing employees who are called for jury service.

Jury Consideration and Deliberation

69. Procedures shall be provided to prevent a trial from being terminated because of unforeseen circumstances which would reduce the number of jurors.

70. Courts shall provide some form of orientation or instruction to persons called for jury service to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors.

71. In simple language the trial judges shall:

(a) Directly following empanelment of the jury, give preliminary explanations of the jury's role and of trial procedures;

(b) Direct the jury on the law.

72. (a) A jury's deliberations shall be held in secrecy. Jurors shall not make public reasons for their decisions.

(b) A jury shall be sequestered only for the purpose of insulating its members from improper information or influence.

(c) Standard procedures shall be promulgated to make certain that the inconvenience and discomfort of the sequestered jurors is minimized.

Lawyers

Definitions

73. In this chapter:

(a) "Lawyer" means a person qualified and authorized to plead and act on behalf of his clients, to engage in the practice of law and appear before the courts and to advise and represent his clients in legal matters, and shall, for the purposes of this chapter, include agents, assistants, procuradores, paraprofessionals and other

persons authorized and permitted to perform one or more of the functions of lawyers, unless a reference to the context makes such inclusion inappropriate or inapplicable;

(b) "Bar Association" means a professional association, guild, faculty, college, bureau, council or any other recognized professional body under any nomenclature within a given jurisdiction, and shall, for the purposes of this chapter, include any

association under any nomenclature of agents, assistants, procuradores, paraprofessionals and other persons who are authorized and permitted to perform one or more of the functions of lawyers, unless a reference to the context makes such inclusion inappropriate or inapplicable.

General Principles

74. The independence of the legal profession constitutes an essential guarantee for the promotion and protection of human rights.

75. There shall be a fair and equitable system of administration of justice which guarantees the independence of lawyers in the discharge of their professional duties without any restrictions,

influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

76. All persons shall have effective access to legal services provided by an independent lawyer of their choice, to protect and establish their economic, social and cultural as well as civil and political rights.

Legal Education and Entry into the Legal Profession

77. Legal education and entry into the legal profession shall be open to all persons with requisite qualifications and no one shall be denied such opportunity by reason of race, colour, sex, religion, political or other opinion, national, linguistic or social origin, property, income, birth or status.

78. Legal education shall be designed to promote in the public interest, in addition to technical competence, awareness of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law.

79. Programmes of legal education shall have regard to the social responsibilities of the lawyer, including co-operation in providing legal services to the poor and the promotion and defence of economic, social and cultural rights in the process of development.

80. Every person having the necessary qualifications, integrity and good character shall be entitled to become a lawyer and to continue to practise as a lawyer without discrimination on the ground of race, colour, sex, religion or political or other opinion,

national, linguistic, or social origin, property, income, birth or status or for having been convicted of an offence for exercising his internationally recognized civil or political rights. The conditions for the disbarment, disqualification or suspension of a lawyer shall, as far as practicably, be specified in the statutes, rules or precedents applicable to lawyers and others performing the functions of lawyers.

Education of the Public Concerning the Law

81. It shall be the responsibility of the lawyers and Bar Associations to educate the members of the public about the principles of the rule of law, the importance of the independence of the judiciary and of the legal profession and the important role lawyers, judges, jurors, and assessors play in protecting Fundamental rights and liberties and to inform the members of the public about their rights and duties and the relevant and available remedies. In particular, the Bar Associations shall prepare and implement appropriate educational programmes for lawyers as well as for the general public, and shall collaborate with the authorities, non-governmental organizations, bodies of citizens and educational institutions in promoting and co-ordinating such programmes.

Duties and Rights of Lawyers

82. The duties of a lawyer towards his client include:

- (a) Advising the client as to his legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the client's legal rights and obligations;
- (b) Assisting the client in every appropriate way, and taking legal action to protect him and his interest; and,
- (c) Representing him before courts, tribunals or administrative authorities.

83. The lawyer in discharging his duties shall at all times act freely, diligently and fearlessly in accordance with the wishes of his client and subject to the established rules, standards and ethics of his profession without any inhibition or pressure from the authorities or the public.

84. Every person and group of persons is entitled to call upon the assistance of a lawyer to defend his or its interests or cause within the law and it is the duty of the lawyer to do so to the best of his ability and with integrity and independence. Consequently, the lawyer is not to be identified by the authorities or the public with his client or his client's cause, however popular or unpopular it may be.

85. No lawyer shall suffer or be threatened with penal, civil, administrative, economic or other sanctions by reason of his having advised or assisted any client or for having represented any client's cause.

86. Save and except when the right of representation by a lawyer before an administrative department or a domestic forum may have been excluded by law, or when a lawyer is suspended, disqualified or disbarred by an appropriate authority, no court or administrative authority shall refuse to recognize the right of a lawyer to appear before it for his client, provided, however, that such exclusion, suspension, disqualification or disbarment shall be subject to independent judicial review.

87. It is the duty of a lawyer to show proper respect towards the judiciary. He shall have the right to raise an objection to the participation or continued participation of a judge in a particular case, or to the conduct of a trial or hearing.

88. If any proceedings are taken against a lawyer for failing to show proper respect towards a court, no sanction against him shall be imposed by a judge or judges who participated in the proceedings which gave rise to the charge against the lawyer, except that the judge or judges concerned may in such a case suspend the proceedings and decline to continue to hear the lawyer concerned.

89. Save as provided in these principles, a lawyer shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in his professional appearance before a court, tribunal or other legal or administrative authority.

90. The independence of lawyers in advising, assisting and representing persons deprived of their liberty shall be guaranteed so as to ensure that such persons have free and fair legal assistance. Safeguards shall be built to avoid any possible suggestion of collusion, arrangement or dependence between the lawyer who acts for them and the authorities.

91. Lawyers shall have all such other facilities and privileges as are necessary to fulfil their professional responsibilities effectively, including:

- (a) Confidentiality of the lawyer-client relationship and the right to refuse to give testimony if it impinges on such confidentiality;
- (b) The right to travel and to consult with their clients freely both within their own country and abroad;
- (c) The right to visit, to communicate with and to take instructions from their clients;
- (d) The right freely to seek, to receive and, subject to the rules of their profession, to impart information and ideas relating to their professional work;
- (e) The right to accept or refuse a client or a brief on reasonable personal or professional grounds.

92. Lawyers shall enjoy freedom of belief, expression, association and assembly; and in particular they shall have the right to:

- (a) Take part in public discussion of matters concerning the law and the administration of justice;
- (b) Join or form freely local, national and international organizations;
- (c) Propose and recommend well considered law reforms in the public interest and inform the public about such matters;
- (d) Take full and active part in the political, social and cultural life of their country.

93. Rules and regulations governing the fees and remunerations of lawyers shall be designed to ensure that they earn a fair and adequate income, and legal services are made available to the public on reasonable terms.

Legal Service for the Poor

94. It is a necessary corollary of the concept of an independent bar that its members shall make their services available to all sectors of society and particularly to its weaker sections, so that free legal aid may be given in appropriate cases, no one may be denied justice, and the Bar may promote the cause of justice by protecting economic, social, cultural, civil and political human rights of individuals and groups.

95. Governments shall be responsible for providing sufficient funding for appropriate legal service programmes for those who cannot afford the expenses on their legitimate litigation. Governments shall also be responsible for laying down the criteria and prescribing the procedure for making such legal services available in such cases.

96. Lawyers engaged in legal service programmes and organizations, which are financed wholly or in part from public funds, shall receive adequate remuneration and enjoy full guarantees of their professional independence in particular by:

- (a) The direction of such programmes or organizations being entrusted to Bar Associations or independent boards composed mainly or entirely of members of the profession, with effective control over its policies, allocated budget and staff;
- (b) Recognition that, in serving the cause of justice, the lawyer's primary duty is towards his client, whom he must advise and represent in conformity with his professional conscience and judgement.

The Bar Association

97. There may be established in each jurisdiction one or more independent and self-governing associations of lawyers recognized in law, whose council or other executive body shall be freely elected by all the members without interference of any kind by any other body or person. This shall be without prejudice to their right to form or join in addition other professional associations of lawyers and jurists.

98. In order to foster the solidarity and maintain the independence of the legal profession, it shall be the duty of a lawyer to enrol himself as a member of an appropriate Bar Association.

Functions of the Bar Association

99. The functions of a Bar Association in ensuring the independence of the legal professional shall be inter alia:

- (a) To promote and uphold the cause of justice, without fear or favour;
- (b) To maintain the honour, dignity, integrity, competence, ethics, standards of conduct and discipline of the profession;
- (c) To defend the role of lawyers in society and preserve the independence of the profession;
- (d) To protect and defend the dignity and independence of the judiciary;
- (e) To promote the free and equal access of the public to the system of justice, including the provision of legal aid and advice;
- (f) To promote the right of everyone to a fair and public hearing before a competent, independent and impartial tribunal and in accordance with proper procedures in all such proceedings;
- (g) To promote and support law reform, and to comment upon and promote public discussion on the substance, interpretation and application of existing and proposed legislation;
- (h) To promote a high standard of legal education as a prerequisite for entry into the profession;
- (i) To ensure that there is free access to the profession for all persons having the requisite professional competence and good character, without discrimination of any kind, and to give assistance to new entrants into the profession;
- (j) To promote the welfare of members of the profession and render assistance to a member of his family in appropriate cases;
- (k) To affiliate with and participate in the activities of international organizations of lawyers.

100. Where a person involved in litigation wishes to engage a lawyer from another country to act with a local lawyer, the Bar Association shall, as far as practicable, co-operate in assisting the foreign lawyer to obtain the necessary right of audience.

101. To enable the Bar Association to fulfil its function of preserving the independence of lawyers it shall be informed immediately of the reason and legal basis for the arrest or detention of any of its members or any lawyer practising within its jurisdiction; and for the same purpose the Association shall have notice of:

- (a) Any search of his person or property;
- (b) Any seizure of documents in his possession;
- (c) Any decision to take proceedings affecting or calling into question the integrity of a lawyer.

In such cases, the Bar Association shall be entitled to be represented by its president or nominee to follow the proceedings and in particular to ensure that professional secrecy and independence are safeguarded.

Disciplinary Proceedings

102. The Bar Association shall establish and enforce in accordance with the law a code of professional conduct of lawyers, Such a code of conduct may also be established by legislation.

103. The Bar Association or an independent statutory authority consisting mainly of lawyers shall ordinarily have the primary competence to conduct disciplinary proceedings against lawyers on its own initiative or at the request of a litigant or a publicspirited citizen. A court or a public authority may also report a case to the Bar Association or the statutory authority which may on that basis initiate disciplinary proceedings.

104. Disciplinary proceedings shall be conducted in the first instance by a disciplinary committee established by the Bar Association.

105. An appeal shall lie from a decision of the disciplinary committee to an appropriate appellate body.

106. Disciplinary proceedings shall be conducted with full observance of the requirements of fair and proper procedure, in the light of the principles expressed in this Declaration.