

**United Nations Human Rights Council
24th Regular Session, 9 to 27 September 2013
Agenda Item 3**

**ICJ Oral Statement in the General Debate on Item 3: Report of the Secretary
General on Human rights in the administration of justice: the protection of all
persons deprived of their liberty**

**JUDICIAL SUPERVISION AND PROMPT ACCESS TO A LAWYER AS CRUCIAL
SAFEGUARDS FOR ALL PERSONS DEPRIVED OF LIBERTY**

13/16 September 2013

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Mr President,

The International Commission of Jurists (ICJ) welcomes the Secretary General's report on the protection of all persons deprived of their liberty.

The ICJ agrees that effective and independent judicial supervision is a fundamental safeguard against arbitrary detention and torture and other ill-treatment. It is an obligation under specific treaties, and under general and customary international law.

The ICJ shares the concern that this obligation must be better respected in practice. Fair hearings before fully independent, impartial and competent courts, with the power to obtain release, must be available regardless of the kind of deprivation of liberty or the status of the individual.

The right of anyone deprived of liberty to have prompt access to his or her lawyer of choice, especially immediately following arrest and before questioning, is no less indispensable. This right has been emphasised by the Human Rights Committee and Committee against Torture (see e.g. UN Docs CCPR/C/ARM/CO/2 para 19, CAT/C/GC/2 para 13), by standards endorsed by the General Assembly including the UN Basic Principles on the Role of Lawyers, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (General Assembly resolutions 45/166, 43/173 and 67-187), and by regional standards and jurisprudence in Africa, the Americas and Europe (e.g. the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, and the jurisprudence of the European Court of Human Rights).

Prompt access to an independent lawyer is necessary for judicial supervision to be truly effective, and constitutes in itself a powerful safeguard against torture and ill-treatment and other abuse. Even in the rare case where grounds may exist to delay access to the lawyer of the detainee's choice, access should be immediately provided to another independent lawyer, for instance one appointed by a bar association or other such independent body. There should be no circumstances in which any person deprived of liberty is denied all access to legal counsel.

I thank you.

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