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International Bar Association
SECTION ON GENERAL PRACTICE

Defendants, Defenders and the Right to Defence in UN Law and Practice

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Introduction

Anyone charged with a criminal offence should have the right to defence. This right was first internationally recognised in 1948 by the United Nations' General Assembly in the Universal Declaration of Human Rights. Ever since, however, implementation of this basic right has started to raise a number of issues, important for both the defendants and the defenders. This article reviews those issues by analysing the development of, first, the right to defence of alleged offenders and, secondly, the inter-related issue of the protection of legal counsel in the exercising of their functions. Finally, it raises the question of the implementation of the right to defence in a newly emerging context of the United Nations: the legal protection of United Nations personnel participating in peace-keeping missions as defenders of peace, who may be detained or imprisoned in the course of performing their duties in Member States. The article concludes with observations on the current status of the question of the right to defence, to be considered at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1995), under topic 3 of its substantive agenda.

Defendants – right to defence in the United Nations standards and norms

Since the time of the adoption of the Universal Declaration of Human Rights,[4] there has been a steady process of strengthening of the right to defence. The Declaration, which is a part of international customary law, states in art 11 that 'Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in *a public trial at which he has had all the guarantees necessary for his defence*' (emphasis added). The International Covenant on Civil and Political Rights (the 'Covenant'), a statutory instrument of international law, in art 14 (b) extends the right to defence to all the stages of criminal proceedings, including investigation, whereby everyone charged with a criminal offence shall 'have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing'.[5]

For almost 20 years the Declaration and the Covenant were the only instruments which offered to the national legal systems, and, indeed, to the alleged offenders and their lawyers a platform to build up their right to defence. In 1980 the Economic and Social Council took an interest in the matter and recommended that one of the subsidiary bodies of the Commission on Human Rights, through its Subcommission on Prevention of Discrimination and Protection of Minorities, should start work on the question of the independence and impartiality of judiciary, jurors and assessors and the independence of lawyers.[6]

The draft Declaration on the Independence of Justice recommended in July 1985 for adoption by the General Assembly had 100 paragraphs out of which 32 dealt with 'lawyers' including four which dealt with the question of the right to defence of offenders. In draft it was stated that '[a]ll persons shall have effective access to legal services provided by an independent lawyer to protect and establish their economic, social and cultural as well civil and political rights' (Paragraph 70).[7] In Paragraph 78 it was re-emphasised that '[e]very 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'. Finally, in Paragraph 88, it was stressed that '[i]t is a necessary corollary to the concept of an independent bar that its members shall make their services available to all sectors of society so that no one may be denied justice, and shall promote the cause of justice by protecting the human rights, economic, social and cultural, as well as civil and political, of individuals and groups'. In this connection, '[g]overnments shall be responsible for providing sufficient funding for legal service programmes for the poor' (Paragraph 89).

The draft Declaration, however was only considered at the level of the Subcommission (ie, it was not approved by the Commission on Human Rights. For this reason, it was not recommended for

possible endorsement by the Economic and Social Council which, in turn, could forward it to the General Assembly for approval). Indeed, and as each of those bodies might have requested amendments to the proposed text, the drafting work could have continued for years. Probably for this reason the international criminal justice community started to explore a 'faster track' and within a reasonably short time of six years (1984-1990) it developed, within the framework of the United Nations crime prevention and criminal justice programme, the 'Basic Principles on the Role of Lawyers',[8] this followed the successful experience of the elaboration of another set of Basic Principles, those for the independence of the judiciary.

The 'Basic Principles on the Role of Lawyers' were adopted in 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and was welcomed by the General Assembly in its resolution 45/121 (op para 3) of 14 December 1990. They contain 29 principles. Eight deal with access to lawyers and legal services, including special safeguards in criminal justice matters. Principle 1 clearly emphasises that '[a]ll persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings'. Principle 5 requires that the '[g]overnments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence'. The time for access to a lawyer must be prompt, and in any case no longer than 48 hours (Principle 7). Principle 8 states that '[a]ll arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials'.

It does not take much to realise that in practice, in many contexts and places observance of the right to defence, as enunciated in the United Nations norms and standards, is still a *desideratum* and that full implementation of this crucial right, following the spirit and the letter of the relevant provisions of the Declaration on Human Rights, the Covenant, and the 'Basic Principles', still lays behind.

This may be exemplified by a number of cases involving alleged infringement of the right to defence, reported to the Human Rights Committee, which is a treaty body established under the Covenant to monitor implementation of its provisions in the States that have ratified or acceded to its Optional Protocol enabling individual complaints.[9]

At the pre-trial stage, alleged abuses of the right to consult a lawyer have involved the denial of *the right to access to counsel* while held incommunicado,[10] for the entire 10 months period of criminal investigation,[11] and denial of effective access while held in detention.[12]

As regards the trial stage, which involves the *right to be present* at the trial,[13] the Committee has determined that it is permissible to try an accused *in absentia* only when he is summoned in a timely manner and informed of the proceedings about him.[14] Other violations have involved the *right to choose one's own counsel*. In one case, in which the military court had provided the author merely with the choice of two *ex-officio* attorneys, the Committee found that the right of the accused to have a counsel of his own choosing had been violated.[15] The Committee confirmed its opinion in a similar case whereby the accused had been forced to accept a counsel appointed by a military court, even though he had an offer to resort to the services of a civilian attorney.[16]

Violation of both rights had been found by the Committee in some capital cases whereby the accused was denied the counsel of his own choice and could not be present at the appeal trial.[17] Consequently, the Committee determined that 'legal assistance to the accused in a capital case must be provided in ways that adequately and effectively ensure justice'.[18] In another case, The Committee noted that 'while art 14(3)(d) [of the Covenant] does not entitle the accused to choose counsel provided to him free of charge, measures must be taken to ensure that the counsel, once assigned, provides effective representation in the interest of justice'.[19] In this vein, the Committee concluded in another case that 'the State Party should have appointed another lawyer [for the defence of the accused] or allowed him to represent himself at the appeal proceedings'.[20]

In the above mentioned cases, the Committee emphasised the *right to effective defence* which is also extended to all other proceedings before State organs, as the right to effective remedies.[21]

The case of *Hammel v Madagascar* is here specially instructive, as it involved a defence lawyer, the Malagasy barrister of French nationality, who complained that he was expelled from Madagascar (art 13 of the Covenant). *Maître* Eric Hammel claimed to have built over a period of 19 years one of the best law practices in Madagascar until his expulsion in February 1982. He defended the principal leaders of the Malagasy political opposition, as well as other political prisoners, including successful defences before the Human Rights Committee.[22] Before his expulsion, Hammel was twice detained, and later arrested by a political police; and after, on a short notice, deported. He

also alleged various governmental interferences in his correspondents with his clients. Hammel appealed to the Malagasy Ministry of the Interior for the abrogation of an expulsion order, as illegal and unfounded. In the absence of reply, he formally applied to the Administrative Chamber of the Supreme Court of Madagascar. The Court found the expulsion order valid on the grounds that *Maître* Hammel allegedly made 'use both of his status as a corresponding member of Amnesty International and of the Human Rights Committee [*sic*] at Geneva, and as a barrister' to discredit Madagascar.[23] The Committee found that before his deportation, Hammel was not given an effective remedy to challenge his expulsion and that the State party had not shown that there were compelling reasons of national security to deprive him of that remedy.[24]

■ Defenders – protection of their status

As the above example demonstrates, the public stereotype that lawyers do not meet the fate of their clients is obviously false. Indeed, one may argue, that the more contentious domestic and international life becomes (due to political violence, strife, and civil wars), the more the status of lawyers is in peril. Reports in the *International Bar News* indicate that the conflicts continue to involve lawyers who are imprisoned or killed, in result of actions alleged to the State.[25] It is particularly in these contexts, that protection of their status is a matter of crucial importance.

That status is internationally acknowledged in the 'Basic Principles on the Role of Lawyers', an instrument which outlines the requirements for qualifications and training of lawyers; their duties and responsibilities; freedom of expression and association; membership in professional associations of lawyers; disciplinary proceedings; and guarantees for the functioning of lawyers.

The latter are embodied in seven principles. Among those, Principle 16 stipulates that '[g]overnments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference'. The same Principle states that the lawyers 'shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics'. Principle 18 reminds Governments that '[l]awyers shall not be identified with their clients or their clients' causes as a result of discharging their functions'. The two last Principles in this section further remind the competent authorities that lawyers should have ensured access to appropriate information, files and documents in sufficient time to enable effective legal assistance to their clients (Principle 21), stipulating also that governments shall respect confidentiality of all lawyer-client communications (Principle 22).

The level of protection of lawyers differs from country to country. In those countries which have well established legal institutions caring for 'checks and balances', observance of these elementary requirements does not pose any difficulty.[26] However, in the majority of countries in the world, the situation is different. Moreover, with the growing transnationalisation of crime, what happens in one part of the world will increasingly affect the quality (eg efficiency and professionalism) of legal assistance elsewhere. Therefore, one cannot treat the question of the role of lawyers as something that only 'others', in different contexts and places, should be concerned with. The case of *Maître* Hammel may be representative of a trend to emerge. For this reason alone, the International Bar Association and other relevant non-governmental organisations should be invited to pay more attention to the question of an effective exercise of the right to defence in the international context.

■ Alleged offenders and defenders of peace – effective exercise of the right to defence

There are today additional reasons to review the question and to renew efforts for more vigorous action by the international community in the light of the ever increasing number of United Nations peace keeping operations underway in many regions of the world – a new dimension in the Organisation's activities, which adds to its traditional multilateral work all over the world. As noted in the *Report of the Secretary-General on the Work of the Organisation*, 'in September 1993, some 80,000 civilian and military personnel were serving in 17 United Nations peace-keeping operations across the world and, by the end of 1993, this number rose to 100,000.'[27] In addition to military forces, the missions often include civilian personnel, such as administrative staff, political officers, human rights monitors, electoral officials, refugee and humanitarian aid specialists, and policemen.

Since United Nations peace-keeping operations began, some 950 peace-keepers have lost their lives, including more than 550 who died in ongoing missions. Others have been and still are detained or imprisoned, or missing. On a regular basis, the United Nations General Assembly considers a report of the Secretary-General on the security and safety of his officials, including those detained or imprisoned. According to the most recent report 45

peace-keepers and other staff on missions have been placed under arrest and detention or are missing as of 30 June 1993.[28] In the same report, the Secretary-General stressed that, as the United Nations was increasingly called upon to operate in areas where there was no Government or where the Government was unable to fulfill its commitments under the Charter, the 'acceptable safety threshold should have been pushed to a level inconceivable in the past', with an increasing number of staff members being 'attacked, injured, kidnapped, abused and harassed'.[29]

Unlike the right to defence for defendants, and likewise for legal protection offered to the lawyers through the United Nations and domestic instruments, the right to defence of United Nations personnel detained or imprisoned in the course of fulfilling their duties during all those missions is not adequately safeguarded. Usually, where a staff member is detained illegally, diplomatic pressure or intervention by the Office of the Secretary-General can help reach eventual release. However, in cases which the pressure or intervention does not suffice and the staff member has the right to defence, he or she may seek assistance of the legal counsel.[30] Presently, however, by and large, their right to defence is only augmented by voluntary financial contributions of other staff who cover expenses of a lawyer defending the staffer.

The General Assembly at its 48th session in 1993 considered two draft international conventions aimed at improving legal protection of United Nations personnel: one proposed by New Zealand on responsibility for attacks on United Nations personnel, [31] and another by Ukraine on the status and safety of personnel of the United Nations force and associated personnel.[32]

In an *Explanatory Memorandum*, New Zealand observes that 'the existing legal instruments and customary international law relevant to this matter give rise to anomalies and inadequacies'.[33] In an attempt to alleviate them, the New Zealand draft formulates a set of crimes against United Nations personnel, and lists among those 'murder, kidnapping or other attack upon the person or liberty of any United Nations personnel' (art 5, para 1 (a)). Obviously, the draft cannot employ instead of 'kidnapping' the term 'detention' or/and 'imprisonment' for the probable rationale behind the draft is to deal with illegal acts of representatives of warring factions who are not officially recognised as state representatives and such situations are not covered by conventions or customary law instruments.

In dealing with the question of responsibility of alleged offenders, in articles 8 through 12, the draft regulates not only the question of their prosecution, extradition and mutual assistance in criminal proceedings, but also stipulates the principle of the fair treatment of those offenders 'at all stages of the proceedings' (art 12). This includes the offender's right 'to communicate without delay with the nearest appropriate representative of the State of which such person is a national or which is otherwise entitled to protect that person's rights or, if such person is a stateless person, which that person requests and is willing to protect that person's rights' (art 8).

It would be important to emphasise here that one of the weakest points 'at all stages of the proceedings' may be the excercise of the right to defence in the extradition proceedings. This is because even in peaceful times in some jurisdictions this type of proceedings involves primarily the actions of State organs whereby the provisions for assistance of offender's counsel are interpreted narrowly or observed only formally.[34] If, additionally, such proceedings are conducted in countries affected by military conflicts, the right to defence may be further restricted.

The Ukrainian proposal addresses the same question of the right to defence from the standpoint of a better protection of the personnel participating in preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian operations, in accordance with the norms and principles of international law.

The draft starts with the obligation to respect the provisions of the convention, but in cases not covered by it or by other international agreements, the United Nations personnel should be regarded as remaining under the protection of universally recognised principles of international law, in particular, norms of international humanitarian law (art 1 para 1 and 2). Consequently, the exercise of the right to defence, would be implemented according to the Covenant, the Basic Principles (eg Principle 16) and other international instruments, as appropriate.

The draft stipulates that United Nations personnel should be accorded 'immunity from personal arrest or detention, as well as from any kind of legal process in respect of words spoken or written and all acts performed by them in their official capacity' (art 5 para 3 (a)). Other immunities and privileges would be determined in the status-of-forces agreement on the basis of the Convention on Privileges and Immunities of the United Nations of 1946 (art 5, para 3 (d)).

The draft envisages further that a State Party in whose territory the United Nations peace-keeping operation is conducted undertakes to provide comprehensive support to the personnel of the United Nations force and associated civilian personnel in fulfilling their functions and to take all necessary measures to ensure respect for and

guarantee the safety and security of those personnel (art 8, para 1).

Based on recent experience in the territory of former Yugoslavia (but also Somalia) where the governments are unable to exercise jurisdiction in order to ensure the safety and security of such personnel, and where warring factions are not recognised as official state entities, the draft obliges governments to act collectively to bring to hold responsible for international offences those involved in attacks against United Nations personnel (art 8, para 3). In this connection, the draft introduces a new principle that '[i]f one of the parties to a conflict is not a State Party to the present convention, the State Parties shall nevertheless remain bound by its provisions in their relations' (art 1, para 6).

Conclusion

While possible systemic improvements in the legal protection of the staff are under consideration,[35] there may be a reason to look into the role of the non-governmental community, including the IBA, in making interim arrangements for a more effective exercise of the right to defence, so as to address the call of the Eighth United Nations Congress that non-governmental organisations in consultative status with the Economic and Social Council 'become actively involved in the implementation of the Basic Principles'.[36]

In this context, the non-governmental organisations may wish to assist the United Nations Secretariat in identifying lawyers disposed to undertake *pro bono* assignments to defend the staff performing work in the framework of various United Nations missions. Should there be established a regular fund for legal assistance to staff members, those organisations may wish to consider offering general guidance to the Secretariat on legal defence issues in Member States, so as to obtain a comprehensive and actual picture on policies and practices important for effective exercise of the right to defence. In this way, the prestige and influential role of international and national bar associations may be helpful in implementing the guarantees for the functioning of lawyers in countries where the United Nations staff are detained or imprisoned and thus be an important factor in rendering that right truly effective.

In 1995 there will be the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Among four substantive topics, it has on its provisional agenda 'Criminal justice and police systems: management and improvement of police and other law enforcement agencies, prosecution, courts, corrections; and the role of lawyers'.[37] At the end of the 20th century the indispensable role of lawyers in administering justice will also be discussed at the Congress in the context of defending justice and peace internationally. The non-governmental community may wish to share its achievements and exchange experiences related to the newly emerging international legal order.

Notes

1 Registered by the Supreme Council of the Bar of Poland; living in Vienna, Austria.

2 Crime Prevention and Criminal Justice Officer, United Nations Office at Vienna, Crime Prevention and Criminal Justice Branch, UNOV.

3 Chief, Crime Prevention and Criminal Justice Branch, UNOV. The views expressed in this article do not necessarily reflect the views of the United Nations Secretariat.

4 General Assembly resolution 217 (A) (III) of 10 December 1948.

5 General Assembly resolution 2200 A (XXI) of 16 December 1966.

6 Decision 1980/24 of 2 May 1980 of the Economic and Social Council.

7 The term 'lawyer' was defined as 'a person qualified and authorised to practise before the courts and to advise and represent his clients in legal matters (§ 67 (b)). 'Bar association' was defined as 'the recognised professional association to which lawyers within a given jurisdiction belong' (para 67 (b)). See further, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, *The Administration of Justice and the Human Rights of Detainees: Study on the Independence and Impartiality of the Judiciary, Jurors and Assessors and the Independence of Lawyers, Final report by the Special Rapporteur, Mr L M Singhvi*, Doc E/CN.4/Sub.2/1985/18/Add.5, Annex II.

8 The text of the 'Basic Principles' is published in the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice'*, United Nations, New York 1992, United Nations publication, Sales No E.92.IV.1. A short history of legal developments preceding adoption of the 'Basic Principles' is given by F S Mariman, *Legal Guarantees on the Role of Lawyers in Protecting Human Rights: The Indian Experience*, (in:) M A Rishmawi (ed), *Legal Protection of Lawyers*, CIJL Yearbook vol 2/1993, p 17. See also L Joinet, *The Independence and Impartiality of the Judiciary, Jurors and Assessors and the Independence of Lawyers*, (in:) Criminal Justice and Human Rights. Central and Eastern Europe and former USSR, ISISC, Siracusa (Italy), 29 November-1 December 1991, International Review of Penal Law vol 63, nos 3-4/1992, pp 987-1009.

9 For a record of the decisions of the Human Rights Committee see: *International Covenant on Civil and Political Rights, Selected Decisions under the Optional Protocol*, vol I and II, United Nations 1985 and 1990, Sales publications No E.84.XIV.2 and E.89.XIV.1, respectively. A thorough review of the decisions on detention was conducted by P R Williams, *Treatment of Detainees. Examination of Issues Relevant to Detention by the United Nations Human Rights Committee*, Henry Dunant Institute, Geneva 1990. There are a number of books reviewing generally the work of the United Nations human rights bodies, including the Committee. See, for instance, M Nowak, *UN Covenant on Civil and Political Rights. CCPR Commentary*, N P Engel, Publisher, Kehl am Rhein – Straßurg

– Arlington 1993; D Mcgoldric, *The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights*, Clarendon Press, Oxford 1991. See also: P Alston (ed), *The United Nations and Human Rights. A Critical Appraisal*, Clarendon Press, Oxford 1992.

10 Doc CCPR/C/1/Add.3 at 25, Belgium State Report, cf Williams, p 42.

11 *Weight versus Madagascar*, Selected Decisions . . ., vol II, op p 154.

12 *Weismann and Perdomo versus Uruguay*, Selected Decisions . . ., vol I, op cit, p 47.

13 *Weinberger Weisz versus Uruguay*, Communication No 28/1978, Selected Decisions . . ., vol I, op cit, pp 57-60; *Touron versus Uruguay*, Communication No 32/1978, ibid, p 61-62; *Wolf versus Panama*, Communication No 289/1988, M Nowak, op cit, p 260, who also cites five other cases against Uruguay.

14 *Monguya Mbenge et al versus Zaire*, Communication No 16/1977 Cf Nowak, op cit, p 260.

15 *Estrella versus Uruguay*, Communication No 74/1980, Cf Nowak, ibid.

16 *Acosta versus Uruguay*, Communication No 110/1981, Selected Decisions . . ., vol II, op cit, pp 140-150.

17 With exception for one case, *Henry versus Jamaica*, Communication No 230/1987, Cf Nowak, op cit, p 261.

18 *Pinto versus Trinidad and Tobago*, Communication No 232/1987, Cf Nowak, p 260.

19 *Kelly versus Jamaica*, Communication No 253/1987, Cf Nowak, pp 260-261.

20 *Reid versus Jamaica*, cf Nowak, ibid.

21 In *Giry versus Dominican Republic*, the Committee noted that the State could not claim that the victim had an effective right to use remedies against his expulsion by questioning his legality after being expelled – an interpretation logically consistent with the argument that the right to effective defence can only take place before and not after final validation of the verdict. See: Official Records of the General Assembly, 41st Session, Supplement No 40 A/41/40), annex VI, para 9; Report of the Human Rights Committee, General Assembly document A/45/40, p 42.

22 See footnote 11.

23 *Hammell versus Madagascar*, Selected Decisions . . ., vol II, op cit, p 182.

24 Ibid.

25 *International Bar News*, September/October 1993, p 8.

26 See further, Hon Sir A Mason, *The Independence of the Bench; The Independence of the Bar and the Bar's Role in the Judicial System*, Commonwealth Law Bulletin, vol 19, No 2, April 1993, pp 753-760.

27 B Boutros-Ghali, Secretary-General fo the United Nations, *Report on the Work of the Organisation from the 47th to the 48th Session of the General Assembly*, September 1993, United Nations, New York 1993, p 102 and 106.

28 Doc A/C.5/48/5, Fifth Committee – Item 130 – *Personnel Questions: Respect for the Privileges and Immunities of Officials of the United Nations and the Specialised Agencies and Related Organisations* – Note submitted by the Secretary-General on behalf of and with the approval of the members of the Administrative Committee on Coordination.
Doc E/CN.4/1993/30, *Detention of International Civil Servants and Their Families. Updated report of the Secretary-General prepared pursuant to the Committee on Human Rights resolution 1993/39*, Annex I, Geneva, 20 December 1993.

29 Doc A/C.5/48/5, op cit, para 6.

30 See further, Position Paper on Agenda item no 15, *Coverage of Costs by the United Nations Organisations for Legal Defence of Detained Staff*, presented to the Ninth CCISUA Annual Assembly (Coordination Committee for International Staff Unions and Associations of the United Nations System, at Vienna, 20-28 January 1994.

31 Doc A/C.6/48/L.2, *New Zealand: Proposal for a draft convention on responsibility for attacks on United Nations personnel*. The draft convention has been now elaborated by the working group of the (Legal) Sixth Committee of the General Assembly.

32 Doc A/C.6/48/L.3, *Letter dated 7 October from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General*.

33 Doc A/48/144, *Letter dated 24 June 1993 from the Charge d'affaires a.i. of the Permanent Mission of New Zealand to the United Nations addressed to the Secretary-General*. Among many such inadequacies, there is, eg, the question of legal protection of workers of non-governmental organisations. See further: *New Zealand proposes conventions to protect United Nations staff in the field*, Secretariat News, United Nations Headquarters, New York, January 1994, p 6.

34 For examples see: J Redo, S Redo, Internationalisation of Crime in Poland: Are Effective Defences Available in Extradition Cases?, *International Legal Practitioner*, June 1993.

35 The Ninth CCISUA Assembly requested the next session Staff Management Coordination Committee of the United Nations Secretariat to pursue the establishment of a regular budget fund to cover the cost of local legal assistance for detained staff members.

36 *Basic Principles*, preambular paragraph 7.

37 Economic and Social Council resolution 1993/32, operative paragraph 2.4.