

Beirut Declaration

Recommendations of the First Arab Conference on Justice

Beirut, 14-16 June 1999

Convened by the Arab Center for the Independence of the Judiciary and the Legal Profession (ACIJLP), in collaboration with the Geneva-based Center for the Independence of Judges and Lawyers (CIJL), hosted by the Bar Association in Beirut, and under the auspices of the Lebanese Minister of Justice, 110 Arab jurists from 13 Arab states participated in a conference on "The Judiciary in the Arab Region and the Challenges of the 21st Century." The conference, held on 14-16 June 1999, focused on four main topics:

1. The main challenges faced by judiciary institutions in the Arab region in the 21st century.
2. The main impediments and problems related to the independence of the judiciary in the Arab region.
3. The judiciary in the Arab region and international standards on human rights and the independence of the judiciary.
4. The basic safeguards for the independence of the judiciary in the Arab region.

The participants discussed the ability of the judiciary in the region to confront the various challenges resulting from international political and economic transformations and the new technological challenges. The ability to confront such challenges depends on the existence of real support for the independence of the judiciary in the Arab region.

Moreover, the judiciary's capacity to be a substantial power in Arab countries and to be an active party in entrenching democratic principles and the rule of law is pending on the progress of democratic development and respect for the law, including the subjection of the main powers to it. The discussions stressed that democracy is progressing with difficulty, which in turn affects the development of the judiciary in many Arab countries.

In the conference, participants discussed several papers and other issues in detail. They stressed the importance of articulating and implementing a set of recommendations which would be put into effect by individuals, jurist institutions and Arab governments. This action would serve as real support for the judiciary in enabling it to confront the challenges of the coming century, and would also contribute towards entrenching the rule of law and democracy in the Arab region.

The participants proposed the following recommendations:

First: Safeguards for the Judiciary

1. To include the UN Basic Principles on the Independence of the Judiciary into Arab constitutions and laws, and in particular, to penalize any interference in the work of the judiciary.
2. The state shall guarantee an independent budget for the judiciary, including all its branches and institutions. This budget shall be included as one item into the state budget, and shall be determined upon the advice of the higher judicial councils within the judicial bodies.
3. The executive power shall not intervene in the activities of judicial inspection in any form, nor shall it breach the independence of the judiciary through orders or circulars.
4. The public prosecution shall be considered a branch of the judiciary. The authority undertaking this prosecution shall be separate from those of investigation and referral.
5. Judges shall have immunity associated with their jobs. Except in cases of illegal acts no judicial measures shall be taken unless upon a permission issued by the highest council.
6. Lawsuits shall not be transferred from the judges reviewing them unless for reasons related to incompetence.
7. It is important to reform the administrative structure and other work mechanisms pertaining to the work of judges, and to facilitate the means for an efficient administration of justice.
8. To link the work of the judiciary with a democratic environment on the basis that democracy is the approach for a more effective management of justice.
9. Lawsuits shall be distributed among judges of various courts through their general assemblies or according to their internal regulations in case such assemblies do not exist. Such distribution shall be made in a manner that guarantees the non-intervention of the executive.
10. Judges shall freely practice freedom of assembly in order to represent their different interests. In this regard, they shall have the right to establish an organization to protect their interests and guarantee their constant promotion.

Second: Electing and Appointing Judges

11. The election of judges shall be free of discrimination on basis of race, color, sex, faith, language, national origin, social status, birth, property, political belonging, or any other consideration. Particularly when electing judges, the principle of equal opportunity must be followed to guarantee that all applicants for a judicial position are objectively assessed.
12. Assuming the position of judge shall be possible, without discrimination, for all those who meet the its requirements. The appointment of judges shall be made through the higher councils of the concerned judicial bodies.
13. No judges shall be appointed by virtue of temporary contracts. They cannot be disciplined unless by boards made from their bodies, provided that the decisions made by such boards shall not have immunity against being challenged, unless the decision is made by the highest council of the concerned judicial body.
14. The law shall stipulate the rules for appointing, delegating, transferring, promoting, and disciplining judges, as well as for all other matters related to their affairs, particularly those concerning their livelihood while in office and in retirement. The aim of this is to guarantee in all cases their independence from the executive.
15. A percentage of no less than 25 per cent of vacant judicial posts shall be allocated to lawyers and those working in legal issues, provided that the appointment is made by the highest judicial boards in the concerned judicial bodies.

Third: Qualification and Training of Judges

16. The state shall endeavor, through specialized centers and institutes, to provide judges with an effective legal training in order to prepare them adequately to assume judicial posts. All aspects of the study and training programs shall be subject to the supervision of the judiciary.

In the professional preparation of judges, the following principles shall be observed:

- a. To activate the Arab convention issued in Amman pertaining to the cooperation in the professional qualification of judges, and to reinforce the role of non-governmental organizations to secure their support for qualification programs and to serve as intellectual entities for judges, particularly in the field of human rights.
- b. These qualification programs shall focus on legal and professional training, as well as personal growth. The qualification programs shall particularly focus on managing and facilitating the role of the defense.

17. To develop national institutions specializing in qualifying judges, whether by developing courses or financial and information resources supported by modern technological systems, in such a way that would guarantee the modernization of the judiciary, change educational courses in the faculties of law and develop infrastructure for the legal profession.
18. To support continuous judicial education in developing an in-depth understanding of constitutional provisions in a way that would guarantee constitutional legitimacy, the structure of which is connected with the intelligent understanding of human rights.
19. To urge the judicial authorities to constantly refer to international human rights treaties ratified by states, as being part of the states' legal structure and a framework of the values which societies should adopt and try to implement.
20. To make the exchange of legal expertise between judges and lawyers, supporting human rights and freedoms, a firm methodology of Arab states, and a planned attitude of their legal systems in order to guarantee the objectiveness of their application and their consistence with modern concepts of advanced countries.
21. To develop educational law courses in Arab countries that will give special consideration to human rights and freedoms and constitutional legitimacy, and affirm solidarity with efforts made by the United Nations in this regard.

Fourth: Judicial Review on Constitutionality of Laws

22. States with no system for judicial review on the constitutionality of laws shall adopt such a system whether through establishing a supreme constitutional court for this purpose, or establishing constitutional councils to assume this task, provided that they are made of members of judicial bodies, lawyers, and law professors, and in a way that would guarantee the independence of such a court or council and secure the soundness of practicing its constitutional responsibility. All members of such a court or council shall be appointed without the intervention of the executive. The right of individuals to bring a constitutional lawsuit by means of original claim shall be guaranteed.

Fifth: Safeguards for the Rights of the Defense and a Fair Trial

23. To call on Arab states to ratify the optional protocol to the International Covenant on Civil and Political Rights (ICCPR), which enables individuals to bring their case before the Human Rights Committee after having exhausted national means of challenging through national judiciary without being able to obtain their rights.
24. Every defendant shall be guaranteed an attorney of his/her choice. In case the

defendant is unable to afford lawyer's fees, the judicial authority shall appoint a lawyer to the defendant.

25. Laws applied in Arab states shall set short periods for suspension whether in the stage of gathering information or during interrogations. During these two stages, the minimum human rights and freedoms must be observed including the right to a defense, as well as the constraints necessary to protect human rights and freedoms and secure everyone's right to refrain from making statements that would condemn him.
26. No suspension shall be made against misdemeanors of which the sentence is no more than one year in prison. Also, those in preventive detention shall not be denied their right to obtain, from the state, a suitable compensation for his imprisonment in case there is legal ground.
27. Decisions on judicial litigation must be made according to previously set legal rules which respect human rights and freedoms, provided that parties have equal chances to a defense, whether with respect to the actual dispute or its legal factors.
28. Judicial disputes shall only be decided on by judges who are the most objective given the nature of the case and the circumstances surrounding it.
29. Only natural judges shall decide on disputes of a judicial nature.
30. There must be a guarantee that any trial, be it civil or criminal, is heard within a reasonable time that would secure a fair trial. Trials shall be conducted with modern technical means as much as can be provided.
31. Refraining from implementing judicial rulings by law enforcement officials is a crime the penalty of which shall be stiffened. Impeding the implementation of rulings shall be considered as refraining from the implementation.

Sixth: Women and the Position of Judge

32. No discrimination is permitted between men and women with respect to assuming the judicial responsibility. Women shall not be subject to any discrimination for assuming this position.
33. The rights achieved by Arab women in the field of the judiciary shall be supported and extended. Existing laws shall be cleared from impediments which prevent or restrict the practice of these rights.
34. Links shall be made between the issue of women's rights in the society and cultural and social development in concerned Arab countries. Studies which stress women's rights in conscious work and in society shall be conducted.

35. To exchange experiences among Arab countries to support equal rights for men and women while practicing judicial work.

Seventh: The International Criminal Court

36. To assert the role of the International Criminal Court and call upon Arab states to sign its Statute to support the Court and guarantee the effective practicing of its jurisdiction.

37. To call upon Arab states to increase participation in preparatory meetings assigned to set the procedural rules of the Court in order to form a general trend with respect to the Court's safeguards, and particularly its independence from the Security Council.