

Montreal Declaration UNIVERSAL DECLARATION ON THE INDEPENDENCE OF JUSTICE

Unanimously adopted at the final plenary session of the First World Conference on the Independence of Justice held at Montreal (Quebec, Canada) on June 10th, 1983.

Preamble

Whereas justice constitutes one of the essential pillars of liberty;

Whereas the free exercise of fundamental human rights as well as peace between nations can only be secured through respect for the rule of law;

Whereas States have long established courts and other institutions with a view to assuring that justice be duly administered in their respective territories;

Whereas the Charter of the United Nations has established the international Court of Justice as its principal judicial organ in order to promote the peaceful solution of disputes between States, in conformity with the principles of justice and international law;

Whereas the Statute of the International Court of Justice provides that the latter shall be composed of a body of independent judges, elected regardless of nationality, which as a whole shall be representative of the main forms of civilisation and of the principal legal systems of the world;

Whereas various Treaties have established other courts endowed with an international competence, which equally owe exclusive allegiance to the international legal order and benefit from representation of diverse legal systems;

Whereas the jurisdiction vested in international courts shall be respected in order to facilitate the interpretation, application and progressive development of international law and the promotion of human rights;

Whereas national and international courts shall, within the sphere of their competence, cooperate in the achievement of the foregoing objectives;

Whereas all those institutions, national and international, must, within the scope of their competence, seek to promote the lofty objectives set out in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Optional Protocol to the latter Covenant and other pertinent international instruments, objectives which embrace the independence of the administration of the justice;

Whereas such independence must be guaranteed to international judges, national judges, lawyers, jurors and assessors;

Whereas the foundations of the independence of justice and the conditions of its exercise may benefit from restatement;

The World Conference of the Independence of Justice recommends to the United Nations on the consideration of this Declaration.

1. International Judges

Definitions

LOI In this chapter:

- a) "judges" means international judges and arbitrators;
- b) "court" means an international court or tribunal of universal, regional, community or specialized competence.

Independence

1.02 The international status of judges shall require and assure their individual and collective independence and their impartial and conscientious exercise of their functions in the common interest Accordingly; States shall respect the international character of the responsibilities of judges and shall not seek to influence them in the discharge of these responsibilities

1.03 Judges and courts shall be free in the performance of their duties to ensure that the Rule of Law is observed, and shall not admit influence from any government or any other authority external to their statutes and the interests of international justice.

1.04 When governing treaties give international courts the competence to determine their rules of procedure, such rules shall come into and remain in force upon adoption by the courts concerned.

1.05 Judges shall enjoy freedom of thought and, in the exercise of their duties, shall avoid being influenced by any considerations other than those of international justice.

1.06 The ethical standards required of national judges Sun the exercise of the judicial functions shall apply to judges of international courts.

1.07 The principles of judicial independence embodied in the Universal Declaration of Human Rights and other international instruments for the protection of human rights shall apply to judges.

1.08 Judges shall promote the principle of the due process of law as being an integral part of the independence of justice.

1.09 N reseation shall be made or admitted to treaty provisions relating to the fundamental principles of independence of the judiciary.

1.10 Neither the accession of a state to the statute of a court nor the creation of new international courts Shall affect the validity of these fundamental principles.

Appointment

1.11 Judges shall be nominated and appointed, or elected in accordance with governing constitutional and statutory provisions which shall, if possible, not confine the power of nomination to governments or make nomination dependent on nationality.

1.12 Only a jurist of recognized standing shall be appointed or elected to be a judge of an International court.

1.13 When the statute of a court provides that judges shall be appointed on the recommendation of a government, such appointment shall not be made in circumstances in which that government may subsequently exert any influence upon the judge.

Compensation

1.14 The. terms of compensation and pension of judges shall be established and

maintained so as to ensure their independence. Those terms shall take into account the recognized limitations upon their professional pursuits both during and after their tenure of office, which are defined either by their statute or recognized and accepted in practice.

Immunities and Privileges

1.15 Judges shall enjoy privileges and immunities, facilities and prerogatives, no less than those conferred upon chiefs of diplomatic missions under and recognized by the Vienna Convention on Diplomatic Relations. Only the nowt concerned may lift these immunities.

1.16 Judges shall not be liable for acts done in their official capacity.

1.17 a) In view of the importance of secrecy of judicial deliberations to the integrity and independence of the judicial process, judges shall respect secrecy in, and in relation to their judicial deliberations;

b) States and other external authorities shall respect and protect the secrecy and confidentiality of the courts' deliberations at all stages.

Discipline and Removal

1.18 All measures of discipline and removal relating to judges shall be governed exclusively by the statutes and rules of their courts, and be within their jurisdiction.

1.19 Judges shall not be removed from office, except by a decision of the other members of the court and in accordance with its statute.

Judges Ad Roe and Arbitrators

1.20 Unless reference to the context necessarily makes it inapplicable or inappropriate, the foregoing articles shall apply to judges ad hoc and to arbitrators in public international arbitrations.

II National Judges

Objectives and Functions

2.01 The objectives and functions of the judiciary shall include:

a) to administer the law impartially between citizen and citizen, and between citizen and state;

b) to promote, within the proper limits of the judicial function, the observance and the attainment of human rights;

c) to ensure that all peoples are able to live securely under the rule of law.

Independence

2.02 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 the law without any restrictions, influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

2.03 In the decision-making process, judges shall be independent vis-a-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.

2.04 The judiciary shall be independent of the Executive and Legislative.

2.05 The judiciary shall have jurisdiction, directly or by way or review, over all issues of a judicial nature. -

2.06

- a) No ad hoc tribunals shall be established;
- b) Everyone shall have the right to be tried expeditiously by the established ordinary courts or judicial tribunals under law, subject to review by the courts;
- c) Some derogations may be admitted in times of grave public emergency which threatens the life of the nation but only under conditions prescribed by law, and only to the extent strictly consistent with internationally recognized minimum standards and subject to review by the courts;
- d) in such times of emergency
 - I. Civilians charged with criminal offences of any kind shall be tried by ordinary civilian courts, expanded where necessary by additional competent civilian judges;
 - H. Detention of persons administratively without charge shall be subject to review by ordinary courts by way of habeas corpus or similar procedures, so as to insure that the detention is lawful, as well as to inquire into any allegations of ill-treatment;
- e) The jurisdiction of military tribunals shall be confined to military offences committed by military personnel. There shall always be right of appeal from such tribunals to a legally qualified appellate court. The power shall be exercised so as to interfere with the judicial process.
- b) The Executive shall not have control over judicial functions.
- c) The Executive shall not have the power to close down or suspend the operation of the courts.
- d) 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.

2.08 No legislation or executive decree shall attempt retroactively, to reverse specific court decisions, nor to change the composition of the court to affect its decision-making.

2.09 Judges may take collective action to protect their judicial independence.

2.10 Judges shall always conduct themselves in such a manner as to Preserve the dignity of their office and the impartiality and independence of the judiciary. Subject to this principle, judges shall be entitled to freedom of belief, expression, association and assembly.

Qualifications, Selections and Training

2.11 candidates for judicial office shall be individuals of integrity and ability, well trained in the law. They shall have equality of access to judicial office.

2.12 In the selection of judges, there shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or status, subject however to citizenship requirements.

2.13 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.

2.14

- a) There is no single proper method of judicial selection provided it safeguards against judicial appointments for improper motives.
- b) Participation in judicial appointments by the Executive or Legislature is consistent with

judicial independence, so long as appointments of judges are made in consultation with members of the judiciary and the legal profession or by a body in which members of the judiciary and the legal profession participate.

2.15 Continuing education shall be available to judges.

Posting, Promotion and Transfer

2.16 The assignment of a judge, to a post within the court to which he is appointed is an internal administrative function to be carried out by the judiciary.
(Explanatory Note: Unless assignments are made by the court, there is a danger of erosion of judicial independence by outside interference. It is vital that the court not make assignments as a result of any bias or prejudice or in response to external pressures. These comments are not intended to exclude the practice in some countries of requiring that assignments be approved by a Superior Council of the judiciary or similar body.)

2.17 Promotion of a judge shall be based on an objective assessment of the candidate's integrity and independence of judgment, professional competence, experience, humanity and commitment to uphold the rule of law. Article 2.14 shall apply to promotions.

2.18 Except pursuant to a system of regular rotation, judges shall not be transferred from one jurisdiction or function to another without their consent, but such consent shall not be unreasonably withheld.

[Explanatory Note: Unless this principle is accepted, transfer can be used to punish an independent and courageous judge, and to deter others from following his example. This principle is not intended to interfere with sound administrative practices enumerated in the law. Thus exceptions may be made, for example, where a judge in his early years is transferred from post to post to enrich his judicial experience.]

Tenure

2.19

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 detriment.

b) Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or expiry of their term of office, where such exists.

2.20 The appointment of temporary judges and the appointment of judges for probationary periods is inconsistent with judicial independence. Where such appointments exist, they shall be phased out gradually.

[Explanatory Note: This text is not intended to exclude part-time judges. Where such practice exists, proper safeguards shall be laid down to ensure impartiality and avoid conflict of interests. Nor is this text intended to exclude probationary periods for judges after their initial appointment, in countries which have a career judiciary, such as in civil law countries.]

2.21

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 be regularly adjusted to account fully for price increases.

c) Judicial salaries shall not be decreased during the judges' term of office, except as a coherent part of an overall public economic measure.

2.22 Retirement age shall not be altered for judges in office without their consent.

2.23 The executive authorities shall, at all times, ensure the security and physical protection of judges and their families.

Immunities and Privileges

2.24 Judges shall enjoy immunity from suit, or harassment, for acts and omissions in their official capacity.

2.25

a) 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.

b) Judges shall not be required to testify on such matters.

Disqualifications

2.26 Judges may not serve in an executive or a legislative capacity unless it is clear that these functions are combined, without compromising judicial independence.

2.27 Judges may not serve as chairmen or members of committees of inquiry, except in cases where judicial skills are required.

2.28 Judges shall not be active members of, or hold positions in, political parties.

[Explanatory Note: This text is not intended to permit membership of judges in political parties in countries where under law or practice such is excluded, but to lay down standards limiting the scope of judicial involvement in countries where such membership is permissible.]

2.29 Judges may not practice law. [Explanatory Note: See note 2.20.]

2.30 Judges shall refrain from business activities, except as incidental to their personal investments or their ownership of property.

2.31 A judge shall not sit in a case where a reasonable apprehension of bias on his part may arise.

Discipline and Removal

2.32 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.

2.33

a) 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 and selected by the judiciary.

b) However, the power of removal may be vested in the Legislature by Impeachment or joint address, preferably upon a recommendation of a court or board as referred to in 2.33(a).

(Explanatory Note: in countries where the legal profession plays an indispensable role in maintaining the rule of law and judicial independence, it is recommended that members of the legal profession participate in the selection of the members of the court or board, and be included as members thereof.)

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

2.35 The proceedings for discipline of judges shall ensure fairness to the judge and the opportunity of a full hearing. discipline and removal shall be held in camera. The judge may, however, request that the hearing be held in public, subject to a final and reasoned disposition of this request by the disciplinary Tribunal. Judgments in disciplinary proceedings, whether held in camera or in public, may be published.

2.37 With the exception of proceedings before the Legislature or in connection with them, the decision of a disciplinary Tribunal shall be subject to appeal to a court.

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

2.39 In the event that a court is abolished, judges serving in this court shall not be affected, except for their transfer to another court of the same status.

Court Administration

2.40 The main responsibility for court administration shall vest in the judiciary.

2.41 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.

2.42 The budget of the court shall be prepared by the competent authority in collaboration with the judiciary. The judiciary shall submit their estimate of the budget requirements to the appropriate authority.

2.43 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.

2.44 The head of the court may exercise supervisory powers over judges on administrative matters.

Miscellaneous

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

2.46 Judges shall accord respect to the members of the Bar.

2.47 The state shall ensure the due and proper execution of orders and judgments of the courts; but supervision over the execution of orders and judgments process shall be vested in the judiciary.

2.48 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.

2.49 The provisions of Chapter II: National Judges, shall apply to all persons exercising judicial functions, including arbitrators and public prosecutors, unless reference to the context necessarily makes them inapplicable or inappropriate.

iIL Lawyers Definitions

3.01 In this chapter:

- a) "lawyer" means a person qualified and authorized to practice before the courts, and to advise and represent his clients in legal matters;
- b) "Bar association" means the recognized professional association to which lawyers within a given jurisdiction belong.

General Principles

3.02 The legal profession is one of the institutions referred to in the preamble to this declaration. Its independence constitutes an essential guarantee for the promotion and protection of human rights.

3.03 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 interferences, direct or indirect, from any quarter or for any reason.

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

Legal Education and Entry into the Legal Profession

3.05 Legal education shall be open to all persons with requisite qualifications, and no one shall be denied such opportunity by reason of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or status.

3.06 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.

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

3.08. Every person having the necessary integrity, good character and qualifications in law shall be entitled to become a lawyer, and to continue in practice without discrimination for having been convicted of an offence for exercising his internationally recognized civil or political rights.

Education of the Public Concerning the Law

3.09 It shall be the responsibility of the lawyer 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 to inform them about their rights and duties, and the relevant and available remedies.

Rights and Duties of Lawyers

3.10 The duties of a lawyer towards his client include: a) advising the client as to his legal rights and obligations; b) taking legal action to protect him and his interests; and, where required, c) representing him before courts, tribunals or administrative authorities.

3.11 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.

3.12 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. 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.

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

3.14 No court or administrative authority shall refuse to recognize the right of a lawyer to appear before it for his client.

3.15 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.

3.16 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 who participated in the proceedings which gave rise to the charge against the lawyer.

3.17 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 appearances before a court, tribunal or other legal or administrative authority.

3.18 The independence of lawyers, in dealing with persons deprived of their liberty; shall be guaranteed so as to ensure that they have free and fair legal assistance. Safeguards shall be built to avoid any possible suggestions of collusion, arrangement or dependence between the lawyer who acts for them and the authorities.

3.19 Lawyers shall have all such other facilities and privileges as are necessary to fulfill their professional responsibilities effectively, including: a) absolute confidentiality of the lawyer-client relationship; b) the right to travel and to consult with their clients freely, both within their own country and abroad; c) 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; d) the right to accept or refuse a client or a brief.

3.20 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) promote and recommend well-considered law reforms in the public interest and inform the public about such matters, and d) take full and active part in the political, social and cultural life of their country.

3.21 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 Services for the Poor

3.22 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, 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.

3.23 Governments shall be responsible for providing sufficient funding for legal service programmes for the poor.

3.24 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:

- the direction of such programmes or organizations being entrusted to an independent board, composed mainly or entirely of members of the profession, with full control over its policies, budget and staff;
- recognition that, in serving the cause of justice, the lawyer primary duty is towards his client, whom he must advise and represent in conformity with his professional conscience and judgment.

The Bar Association

3.25 There shall 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.

3.26 In order to enjoy the right of audience before the courts, all lawyers shall be members of the appropriate Bar Association.

Function of the Bar Association

3.27 The functions of a Bar Association in ensuring the independence of the legal profession 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 matters;
 - 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;
- Q to affiliate with, and participate in, the activities of international organizations of lawyers.

3.28 Where a person involved in litigation wishes to engage a lawyer from another country to act with a local lawyer, the Bar Association shall cooperate in assisting the foreign lawyer to obtain the necessary right of audience.

3.29 To enable the Bar Association to fulfill 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 lawyer; and for the same purpose the association shall have prior notice for: t) any search of his person or property, ii) any seizure of documents in his possessions, and iii) any decision to .take 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 is safeguarded.

Disciplinary Proceedings

3.30 The Bar Association shall freely establish and enforce, in accordance with the law, a code of professional conduct of lawyers.

3.31 . The Bar Association shall have exclusive competence to initiate and conduct disciplinary proceedings against lawyers on its own initiative or at the request of a litigant. Although no court or public authority shall itself take disciplinary proceedings against a lawyer, it may report a case to the Bar Association with a view to its initiating disciplinary proceedings.

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

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

334 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.

IV. Jurors

Selection of Prospective Jurors

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

4.02 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's jurisdiction.

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

4.04 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.

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

4.06 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.

4.07 All automatic excuses or exemptions from jury service shall be eliminated.

4.08 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

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

4.10 if the judge determines during the examination of prospective jurors, that an individual is unable or unwilling to hear the particular case at issue fairly and impartially, the individual shall be removed from the panel. Such a determination may be made on notion of a party or on the judge's own initiative.

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

4.12 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

4.13 The responsibility for administration of the jury system shall be under the control of the judiciary. understandable, and delivered sufficiently in advance.

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

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

4.17 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.

4.18 Persons called for jury service shall receive a reasonable allowance.

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

Jury Consideration and Deliberations

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

4.21 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.

4.22 In simple language the trial judge shall: i) directly following empanelment of the jury, give preliminary explanations of the jury's role and of trial procedures; ii) prior to commencement of deliberations, direct the jury on the law.

4.23 A jury's deliberations shall be held in secrecy. Jurors shall not make public, reasons for their decisions.

4.24

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

b) Standard procedures shall be promulgated to make certain that the inconvenience and discomfort of the sequestered jurors are minimized.

V. Assessors Status

5.01 In defining assessor, the following shall be considered: In general, on certain judicial, quasi-judicial bodies or administrative tribunals, the assessor sits with a judge, magistrate or other jurist, to assist him in his duties. In most cases he is ..a person who does not necessarily have legal training, but who has some specific professional qualification or socio-economic expertise, that pertains to the subject-matter under consideration.

5.02 In some cases, the assessor shares with his legally-trained colleague, responsibility for the decision to be rendered: this then becomes a multi-disciplinary judicial or quasi-judicial body.

Appointment

5.03 Unless he is selected by the parties unanimously, the assessor shall be appointed by a neutral authority not involved in the dispute.

5.04 Unless agreed upon by the parties or provided by law, the assessor shall be paid according to the decision of a neutral authority not involved in the dispute.

5.05 The assessor shall be selected for reasons of integrity and competence especially relevant to the matter to be considered by him.

5.06 The assessor shall enjoy a tenure which guarantees his independence; if he serves on a permanent basis he shall be guaranteed security, adequate remuneration and conditions of service.

5.07 Before commencing his duties, the assessor shall take an oath or affirmation of office.

Exercise of Mandate

5.08 In the decision-making process, the assessor shall be free from any order or instruction by the authority which has appointed him, by the parties or by the professional associations to which he belongs.

5.09 The assessor shall have the right to participate in the decision with complete freedom and independence in the area of his jurisdiction.

5.10 The assessor shall behave in such a manner as will maintain the dignity of his position and the impartiality and independence of justice.

5.11 The assessor shall not sit in a case where a reasonable apprehension of bias on his part may arise.

5.12 The assessor shall be free to withdraw for generally accepted reasons.

Powers and Immunity

5.13 The assessor shall be vested with the authority, immunity and powers necessary to carry out his duties.

5.14 The assessor shall not be sued or harassed for acts and omissions in his official capacity.

Dismissal

5.15 The assessor shall not be dismissed in the course of his mandate except for incapacity or misbehaviour.

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