Comments on the Legal Services Bill

made to the Irish Women Lawyers Association

26 November 2011

By Noeline Blackwell, Director General FLAC.

Yes but, where is, what if?

My discussion of the Legal Services Bill has to be in the context within which FLAC works.

We are first of all a human rights organisation which exists to promote the fundamental human right of access to justice.

In pursuit of that aim, we analyse existing law as it affects marginalised and disadvantaged people and propose better solutions to those that currently exist; we work to advance the use of law in the public interest – including through our Public Interest Law Alliance – and we co-ordinate and support the delivery of legal information and advice.

Last year, our phone line logged 9,712 calls, and FLAC volunteers around the country gathered data on 10,967 queries. So far this year – we have dealt with 11,102 phone calls and we have data back on 11,334 to the centres around the country.

People contact us about a lot of things. Questions in relation to debt and management of financial affairs either as a stand alone topic, or within queries relating to family law and employment law which have risen disproportionately as we progress through the recession.

Outside that framework however, the questions that people ask remain much the same. About 1 in 3 enquiries is a family law issue. Employment law is a constant concern. But we also regularly get questions relating to legal services. Principally within this area, people are concerned about the cost of legal service – (either how much will it cost, or why some service cost what it did); people ask how do they go about finding a suitable legal practitioner; or they are dissatisfied with the performance of their lawyer, or sometimes the lawyer on the other side of a case.

Through our volunteers work in FLAC clinics around the country and through the Public Interest Law Alliance which seeks to match the legal need of social justice organisations with

pro-bono legal services, we hear about the excellent work that practitioners do, both in meeting private legal need and advancing social justice.

However and inevitably, in the information and advice service that FLAC offers, we tend not to hear from people who received a good service. Rather we hear from people who are either fearful and at sea when dealing with lawyers or are frustrated with them, or distrustful and disillusioned about them and about the law. For example, in the month of October, we logged 31 phone calls which included the following:

> "*Caller wanted to know if a barrister can ask for payment for services rendered when case still ongoing;*
>
> *"Caller feels he was way overcharged by solicitor. Also having trouble repaying debts;*
>
> *"Caller wanted information about how to get a bill of costs from his solicitor;*
>
> *"Caller believed solicitors fees extortionate – already complained to Law Society;*
>
> *"Caller's former solicitor will not return the files;*
>
> *"Caller was unhappy with rate charged, informed at the beginning that it would be x amount and charged y;*
>
> *"Caller had engaged solicitor but didn't realise she would have to pay;*
>
> *"Caller wanted to know if she can challenge her bill of costs from her solicitor"*

I believe that many of these calls arise from a lack of clear communication about the cost or extent of a service rather than an attempt to charge extortionate fees. However, whether this is the case or not, the reality is that by the time they contact us, those people are unhappy and distrustful and resentful of the legal profession. It should not be that every month, 30 or 40 people contact us, dissatisfied with the legal service they receive.

The work that FLAC does in giving out information and in providing advice and in PILA's work of setting up pro bono referrals does indeed give a service to people who need it but it is also part of our broader aim to ensure the fundamental human right of equal access to justice for everyone. Access to justice is a broad phrase. Principally it is the right of people to have equal access to knowledge about their rights and responsibilities, to be aware of and

have access to relevant dispute resolution procedures and be able to use those processes to achieve a just outcome. Within access to justice therefore, knowledge of and access to the legal system and to the legal services necessary to achieve a just outcome is obviously crucial.

In addition to the analysis provided by the framework of the human right of access to justice, another framework which is helpful in looking at the Legal Services Bill is the set of international human rights standards relating to the independence and accountability of lawyers contained in the UN Basic Principles on the Role of Lawyers. This text did not create new rights and duties, but rather consolidated in one place the main human rights and democratic principles which underline the role of legal services in a democratic society. The principles address:

- access to lawyers and legal services (1-4)
- qualifications and training (9-11)
- duties and responsibilities (12-15)
- Guarantees for the functioning of lawyers (16-22)
- Freedom of expression and association (23)
- Professional associations of lawyers (24-25); and
- Disciplinary proceedings (26-29)

So using the frameworks of the concerns of the people who contact FLAC and of fundamental human rights, I could perhaps sum up what I am about to say in a comment and two questions. They are:

- Yes but;
- Where is?
- What if?

Yes but..

First I note that an objective of the new Authority proposed in the Legal Services Bill is to promote professional principles which are to:

- Act with independence and integrity in the best interest of their clients and maintain proper standards of work
- Comply with duties rightfully owed to a court when before the court;
- Keep client affairs confidential.

This chimes with certain duties and responsibilities of lawyers as set out in the UN Basic Principles which require lawyers to maintain the honour and dignity of their profession as essential agents of the administration of justice, advising and assisting their clients appropriately, upholding human rights and fundamental freedoms, acting freely and diligently in accordance with law and recognised standards and ethics of the legal profession and loyally respecting the interests of their clients. This piece of legislation may be an opportunity to include the somewhat wider delineation of principles set out in human rights norms.

The Legal Services Bill 2011 addresses two of the areas that are of fundamental concern to members of the public who contact FLAC – complaints and legal costs.

One of the absolute constants in relation to complaints from the public is their suspicion and lack of confidence in the current complaints and disciplinary system. As people are principally dealing with solicitors, the main concerns that we hear in FLAC relate to solicitors although some concerns also relate to barristers employed in the course of a case.

In spite of a framework which aims to build independence and accountability within the complaints procedure, independent Disciplinary Tribunal and ultimate recourse to the High Court, the reality is that many members of the public who contact us in FLAC genuinely don't trust it. They believe that the system is run by the Law Society and that as the Law Society is the representative body for solicitors, that it cannot be fair to the complainant. I think from my own experience that it would be fair to say that for exactly the same reason – that it cannot be both representative and a disciplinary body – many solicitors also have concerns about the system. It may be that by any objective standards the system is entirely fair to all parties and totally independent. However, for as long as it is seen as having its roots in the Law Society – and similarly for as long as the Bar Council is seen as the foundation of the barristers' disciplinary system – then justice will not be seen to be done.

Therefore the introduction of a system of regulation including a complaints and disciplinary system which is independent of the legal professions will be welcome to people who, after all, approach the system with a complaint relating to lawyers, the law or the legal system. People will feel that they will get clearer information - for all that people who contact us can

be frustrated with the situation in which they find themselves, it is also quite true that a lot of people who contact FLAC don't want to make a complaint. Instead, they just need information as to how the system works. They would like an idea of whether the length of time that their case is taking is excessive, or whether a fee is likely to be a realistic one. People are likely to trust a system which is independent of the legal system more. They will not feel – as many now do – that the system is weighted in favour of the lawyer or that the hearing process must be a biased one. I stress again that this is not an objective finding that the system is unfair. It is the perception of many people that I relate. Therefore, as the current system stands, justice is not seen to be done.

However, in dismantling that system which is too often perceived as dependent, the replacement must not suffer from the same fatal flaw.

Under the Bill, the complaints and disciplinary system will be a substantial part of the work of the new Legal Services Regulatory Authority. The current structure of s.8 of the Bill has a regulatory authority which will be appointed by the Government. Four nominees are to come from the legal professional bodies (2 from the Law Society, 2 from the Bar Council) but are appointed by government and the other 7 are to be appointed by the government directly. The authority members would have a 4 year term, and would then be eligible for re-appointment – by Government. Members could be removed if 'in the opinion' of government, they had a significant 'conflict of interest' or the member's removal 'appeared to be necessary'.

I read both Dr. Carol Coulter's recent analysis where she concluded that the proposed new system lacks independence and Minister Shatter's defence in last Monday's Irish Times where he asserts the many ways in which independence is built in to the proposed Authority. However, that genuine defence will undoubtedly be perceived in much the same way that those who operate the current system are often perceived as making a special case for their own system. The proposed new Authority remains rooted in and composed by the government of the day in the same way that the current system remains rooted in the professional bodies. The proposed structure therefore will be seen to be to be as tainted by the perception of bias as that which went before.

That is not just a concern for the court of public opinion, however, it is also a problem concerning genuine access to justice and compliance with general principles of human rights and fundamental freedoms.

In addition to independent and impartial judges and prosecutors, lawyers constitute the third fundamental pillar for maintaining the rule of law in a democratic society and ensuring the efficient protection of human rights. The UN's Basic Principles on the Role of Lawyers, which were adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990 and later accepted by the UN's General Assembly by consensus provide as part of the pre-amble that:

> *"... adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession*".

Stressing that "the *independence of the judiciary and the legal profession is essential for a sound administration of justice and for the maintenance of democracy and the rule of law*", the UN's Human Rights Committee, the committee of experts overseeing the UN's International Covenant on Civil and Political rights has urged states "*to take all appropriate measures, including review of the Constitution and the laws, in order to ensure that judges and lawyers are independent of any political or other external pressure*".

With regard to professional discipline, Principle 26 of the Basic Principles provides that:

> "*Codes of professional conduct for lawyers shall be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and custom and recognized international standards and norms.*"

Complaints against lawyers "*shall be processed expeditiously and fairly under appropriate procedures*", and lawyers "*shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice*" (Principle 27). Furthermore, "*disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review*" (Principle 28).

As the office of the High Commissioner for Human Rights has pointed out, it follows from these principles that any disciplinary proceedings against lawyers who are accused of having failed to conduct themselves in accordance with the recognized standards and ethics of their profession must – amongst other things - be truly independent of the Executive. An authority which is wholly appointed by government without independent process and whose members are subject to removal if they fail in their duties in the opinion of government is not able to meet these standards.

This particular concern does not take from the need for an independent, transparent process to deal with concerns about the legal profession – a profession that is crucial to access to justice. The structure we should get out of this reform opportunity is an authority and regulatory system which is independent of government as well as independent of the legal profession.

The other 'yes but' comment that I would make is in relation to costs. As you will have gathered from the selection of logged calls that I read out at the start, some of those who need legal services have little understanding of how much their service will cost. This Bill gives the opportunity to improve the costs regime.

Much of what is proposed seems to be a clearer re-statement of the law together with a stronger insistence on clarity about what various costs a client may expect to incur, and when. That is very welcome. The emphasis on communication with clients and some helpful descriptions of what must be communicated should allow people to understand their accounts more clearly. I also note that much of what is suggested is already emerging as good practice in legal offices and a statutory basis should help standardise good practice.

However, this is in itself is not going to reduce legal bills and the system for assessment of legal bills still seems to be onerous and complex. Callers to FLAC's phone line or centres are rarely delighted to be told that their remedy is to take a bill of costs to the Taxing Master of the High Court in order to resolve a dispute. Adding in a proposal that a bill may also be sent to mediation (terms unspecified) is unlikely to give them comfort but will rather delay the ultimate resolution of the dispute. That system – apart from a change of name – seems to

remain complex and difficult. It may be that other proposals to simplify this process, while preserving fairness, could be identified in the course of debate on the Bill.

It is good to see that the Bill provides that the Adjudicator may issue guidelines in relation to costs from time to time, and also that some decisions will be published. However, it appears that quite a substantial number of bills will be excluded from publication if all bills relating to in camera matters, matters settled and solicitor/ client costs are to be kept private.

Where is .. ?

Moving on then to the second comment 'Where is it', it is very disappointing that this substantial opportunity for law reform with the potential to increase access to justice does not address some major concerns which deny people access to the legal system, and in that context, denies them access to justice.

While today's seminar is to deal with what has been published, it seems to me that as the Oireachtas debates the Bill, there will be potential to look at what is *not* in the Bill, which is why I will briefly mention 3 different areas where it seems to me that there was an opportunity to do much more. They are:

- More access to the legal system for the poorest in our land through civil legal aid;
- Reform of delays and inefficiencies in the system; and
- Removal of barriers which deny people access to the legal system.

The Civil Legal Aid system is in serious crisis.
"*At this time when an increasing number of people are using the civil legal aid system there are decreasing resources. For example, the board's grant-in-aid, which accounts for the vast majority of its funding, other than in regard to asylum, has been as follows since 2008 - €26,988,000 in 2008; €26,310,000 in 2009; €24,225,000 in 2010; and €24,125,000 in 2011, based on the funding provided in budget 2010*..." – not my words, but those of Minister Shatter in June 2011.

At the same time as the budget has been reduced by almost 3 million, the demand for civil legal aid has risen enormously, resulting in a situation where in September 2011, almost 5,000 people were waiting for a first appointment with a solicitor. In Tallaght, Co. Dublin,

you could expect that wait to be 11 months, in Tipperary 10, and in Kildare 8 months. Apart from all the existing constitutional law and European Court of Human Rights jurisprudence relating to right of access to the courts, the UN principles set out that:
"*Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources.*"

My experience has been that the professional associations have always been committed to the promotion of a decent and effective civil legal aid scheme. The problem now is that government is not ensuring the provision of sufficient funding and other resources to a Legal Aid Board that, in addition to managing this scheme, has recently been given responsibility for the management of a number of other schemes and has not been adequately resourced to deliver legal services to the poor and other disadvantaged persons.

I do appreciate that the Minister is committed to bringing forward a mediation bill. However, mediation is also resource intensive and needs to be supported by access to adequate legal information and advice. While it may assist in a better dispute resolution, it must not be used as a way to deny people access to the legal information, advice and representation that they need to access justice.

The delays and inefficiencies of the court systems are not addressed at all in the Bill. Again when I look at what people are confused and concerned about when they approach FLAC, they worry about all the delays, the adjournments, the lack of certainty as to whether a case will proceed. This remains the case in spite of substantial advances in case management etc. in recent years. Apart from what callers say to us, there are also concerns raised about the reduction in court staff which may impact on when courts would open. The cost and availability of legal services is also hampered by these delays and inefficiencies which inturn hampers the administration of justice, and people's access to justice.

Finally, in this category of issues missing from the Bill, it would be really helpful if, in the course of debate on the bill, some substantial barriers for marginalised and vulnerable people could be addressed. In the experience of FLAC, as recently examined by the Public Interest Law Alliance, the cost of vindicating rights is one of the biggest barriers to justice.

Not only does the applicant incur their own legal fees; they run the risk of incurring those of their opponent.

For all potential litigants, the risk of exposure to an adverse costs order is a critical consideration in deciding whether to proceed with litigation. FLAC's colleagues in independent law centres have confirmed that public interest cases are not being pursued because of the costs exposure for clients. On one view, the public interest applicant should be expected to assume that risk like any other litigant. Yet by its very nature public interest cases often involve applicants who cannot afford such exposure. Should this prevent an issue of public importance and interest from being heard? The Bill provides that costs should 'follow the event' with some limited exceptions. FLAC would like to see these exceptions include provision for litigants who take cases which are of substantial public interest, and for ensuring that such people are not punished by costs and the worry about costs as they seek to vindicate their rights and the rights of others.

Another barrier is the absence of a multi-party or class action. In its earlier history, FLAC was involved in multi-party litigation for a number of people on social welfare. Such people are vulnerable not just because of poverty or the risk of costs being awarded against them but because they believe that they could be singled out by decision makers who have substantial power over their lives. In the current legal system, even if legal fees are not charged by either side, the cost and delay of bringing a case is often not worth it for what may be a pittance – restoration of a small social welfare benefit or the like. For such people, or for people with an action in consumer law, the multi-party or class action can be the just vehicle for challenging unfairness and abuse of rights. The Law Reform Commission has provided recommendations in this regard already and it would be helpful in advancing access to legal services and to justice if these proposals were to be seriously examined with a view to enacting a scheme to permit such actions.

What if ..?

In this third category, I believe that there is a very strong case to be made for deferring for further study certain proposals in the Bill which could do substantial harm to the access that people have to the legal services that they need.

These are the proposals to permit partnerships amongst barristers and to permit multi-disciplinary partnerships. The current system of legal services, while far from perfect, has some features which should only be dismantled after thoughtful study and debate. One of those features is the capacity of people to obtain the skills of any practising barrister for exactly as long as they need those skills, and no longer.

The current arrangement is achieved by an ad-hoc partnership between a person's usual practitioner and any barrister who is a member of the Law Library. It is like, but even simpler than, the connection between the GP doctor and the specialist. Currently, a person can work with their general practitioner lawyer and, depending on the problem, can look to a wide range of expertise and knowledge either for an opinion, or for court representation. The user of legal services may only need a property law specialist or an expert in administration law once in a lifetime. Currently, they access that expertise by hiring the specialist Property Law or Administrative Law specialist to deal with the precise issue.

Similarly, an independent law centre such as FLAC, working mainly with volunteer and pro-bono legal expertise or a small legal firm working in the suburbs or outside of a big city may be regularly engaged in issues of human rights or social justice issues where administrative law or constitutional or human rights law issues occur or where specialist advocacy is needed. Neither we nor the other law centres, nor indeed small firms can afford to employ all of the necessary expertise that we need. We too are able to call on and hire in the specialist administrative lawyers that we need from time to time and, depending on their own capacity – and that only – they are able to work with us. We don't have to employ them, or worry about them when they are not working on our cases – and equally, they don't have to worry about us.

Under the new proposal, it is at least conceivable and perhaps likely, that specialists would be absorbed into large firms, where they would of course be bound by the terms of that partnership, which would be a permanent arrangement.

From FLAC's point of view, I do not think that such alternative arrangements would deprive us or our sibling law centres of pro-bono expertise. I do not think that if lawyers were in partnership with each other or if solicitors and barristers went into partnership together, that all of the current capacity to access specialists would be lost. I know from the work of

our Public Interest Law Alliance that there is a capacity and willingness to do pro-bono work for human rights issues in big law firms as well as amongst sole traders. But it is at least highly arguable that there has to be more structure and less capacity even among willing barristers than there is now when people have obligations to other partners as well as barristers' current obligations to themselves, their clients and their need to run a sole-trader's business.

Whatever about those who can access pro-bono services, such as us and the other independent law centres, the real potential for loss is for those who need specialist services occasionally. So the small firm which just needs to engage a specialist company law barrister for perhaps one or two clients in a life time – that is the kind of capacity that could be lost. That lawyer will have to tell her or his client to go to the large firm where the specialist operates, which may be a distance from where the person lives - and pay the greater fees charged by that large firm. That reduces the access of the normal consumer of legal services and could lead to a situation where, more than ever, the people who need legal services get the services they can afford, rather than those they need in order to access justice.

/End

APPENDIX

UN Basic Principles on the role of lawyers

The UN Basic Principles on the Role of Lawyers constitutes a compilation of the international norms relating to the key aspects of the role of lawyers and a person's right to independent counsel. The Basic Principles were unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in September 1990. Subsequently, the UN General Assembly welcomed the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly. They are as follows:

Preamble:

- Whereas in the Charter of the United Nations the peoples of the world affirm, inter alia , their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international cooperation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion,
- Whereas the Universal Declaration of Human Rights enshrines the principles of equality before the law, the presumption of innocence, the right to a fair and public hearing by an independent and impartial tribunal, and all the guarantees necessary for the defence of everyone charged with a penal offence,
- Whereas the International Covenant on Civil and Political Rights proclaims, in addition, the right to be tried without undue delay and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,
- Whereas the International Covenant on Economic, Social and Cultural Rights recalls the obligation of States under the Charter to promote universal respect for, and observance of, human rights and freedoms,
- Whereas the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that a detained person shall be entitled to have the assistance of, and to communicate and consult with, legal counsel,
- Whereas the Standard Minimum Rules for the Treatment of Prisoners recommend, in particular, that legal assistance and confidential communication with counsel should be ensured to untried prisoners,
- Whereas the Safeguards guaranteeing protection of those facing the death penalty reaffirm the right of everyone suspected or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings, in accordance with article 14 of the International Covenant on Civil and Political Rights,
- Whereas the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power recommends measures to be taken at the international and national levels to improve access to justice and fair treatment, restitution, compensation and assistance for victims of crime,
- Whereas adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession,
- Whereas professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and cooperating with governmental and other institutions in furthering the ends of justice and public interest,

The Basic Principles on the Role of Lawyers, set forth below, which have been formulated to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general. These principles shall also apply, as appropriate, to persons who exercise the functions of lawyers without having the formal status of lawyers.

Access to lawyers and legal services

1. All 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.

2. Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status.

3. Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources.

4. Governments and professional associations of lawyers shall promote programmes to inform the public about their rights and duties under the law and the important role of lawyers in protecting their fundamental freedoms. Special attention should be given to assisting the poor and other disadvantaged persons so as to enable them to assert their rights and where necessary call upon the assistance of lawyers.

Special safeguards in criminal justice matters

5. Governments 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.

6. Any such persons who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.

7. Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.

8. All 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.

Qualifications and training

9. Governments, professional associations of lawyers and educational institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law.

10. Governments, professional associations of lawyers and educational institutions shall ensure that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, political or other opinion, national or social origin, property, birth, economic or other status, except that a requirement, that a lawyer must be a national of the country concerned, shall not be considered discriminatory.

11. In countries where there exist groups, communities or regions whose needs for legal services are not met, particularly where such groups have distinct cultures, traditions or languages or have been the victims of past discrimination, Governments, professional associations of lawyers and educational institutions should take special measures to provide opportunities for candidates from these groups to enter the legal profession and should ensure that they receive training appropriate to the needs of their groups.

Duties and responsibilities

12. Lawyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.

13. The duties of lawyers towards their clients shall include:

(a) Advising clients as to their legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the clients;

(b) Assisting clients in every appropriate way, and taking legal action to protect their interests;

(c) Assisting clients before courts, tribunals or administrative authorities, where appropriate.

14. Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

15. Lawyers shall always loyally respect the interests of their clients.

Guarantees for the functioning of lawyers

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

19. No court or administrative authority before whom the right to counsel is recognized shall refuse to recognize the right of a lawyer to appear before it for his or her client unless that lawyer has been disqualified in accordance with national law and practice and in conformity with these principles.

20. Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

21. It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.

22. Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.

Freedom of expression and association

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct

themselves in accordance with the law and the recognized standards and ethics of the legal profession.

Professional associations of lawyers

24. Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.

25. Professional associations of lawyers shall cooperate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics.

Disciplinary proceedings

26. Codes of professional conduct for lawyers shall be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and custom and recognized international standards and norms.

27. Charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice.

28. Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review.

29. All disciplinary proceedings shall be determined in accordance with the code of professional conduct and other recognized standards and ethics of the legal profession and in the lig