

This has been transcribed by Suha Mugarby from the hand written notes of Dr. Mugarby who is presently in custody and he has not had an opportunity to proofread the following text. Therefore it is being transmitted without such proofreading and an edited version will be available when conditions permit Dr. Mugarby to proofread.

Delivered to me by Dr. Muhamad Mugarby from the detention center of Beirut's Palace of Justice, August 14th, 2003:

I am being denied my most basic civil and human rights. I will briefly elaborate on some.

The Presumption of Innocence

This right, protected by Article 11 of the Universal Declaration, is a cornerstone of the Lebanese Criminal Justice System as well as all criminal legal systems in civilized nations.

The president of the Bar Association in Beirut has filed charges alleging that I have practiced law unlawfully because one or more of several disciplinary boards he appointed in clear violation of his mandate have purportedly issued decisions in absentia barring me from practice according to his complaint.

As I am innocent until proven guilty in a court of law, and as I have been a member of the Bar Association for 43 years, I am entitled to continue to practice until a court of law, such as the Court of Appeal before which I challenge the purported disciplinary decisions, decides otherwise.

Consequently, my first and only answer to the charges so far has been a procedural one. Under Article 79 of the Legal Practice Organizational Code (LPOC), no lawyer may be prosecuted until the prosecuting authority first applies to the Bar Association for permission. The permission may be granted or denied by the bar council. All decisions of the bar council on this subject are subject to appeal to the Court of Appeals by the interested parties. Without first satisfying this precondition, my prosecution is false and so is my arrest.

I have experienced Article 79 requests for permission to prosecute over ten times. If my memory does not fail me, I have already successfully defeated half of these attempts, and the Court of Appeals declined permission to prosecute. The remaining cases are pending. I, or one of my associates, can substantiate such details.

A decision of a disciplinary board is not a judicial decree. Even if it had the same force of a judgement, judgements do not have any force until they are confirmed on appeal, and often until they are affirmed by the highest court, the Court of

Cassation. Our law of civil procedure calls judgements of Courts of Appeal "katee" (definitive), and of Courts of Cassation "mubram" (irrevocable).

Article 108 of the LPOC establishes the right of appeal from decisions of a disciplinary board.

Article 111 of the LPOC penalizes a lawyer who continues practice in spite of a disciplinary decision barring him from such practice *provided that* such decision is "mubram", i.e. irrevocable.

Moreover, the purported decisions which are relied upon by the president of the Bar, both allegedly entered in absentia without any due process, clearly violate three or more conditions of the disciplinary mandate under the LPOC in the following ways:

- * Article 96 of the LPOC authorizes the president of the Bar to establish one disciplinary board consisting of two members under him personally as chairman. He may temporarily delegate to someone else to sit in for him. In the case at hand, the gentleman decreed the establishment of three boards, each consisting of three members, on a permanent basis. His appointment of nine permanent members exceeds his legal mandate by seven! One of these alleged boards issued one of the purported decisions in 2002, and another in 2003.

- * The board authorized under Article 96 has a term of one year. The second purported decision was issued in January, 2003, by a purported board appointed for 2002.

- * According to Article 97 of the LPOC, members of the board are subject to recusal according to the same rules as judges. I made a motion for the removal of one member, but the bar council, which has the authority to rule on such motion, never made a ruling. That member, a Mr. Andre Chidiak, signed the purported decision of 2002.

- * According to Article 105 of the LPOC, a disciplinary board is required to request and apply due process of law including the right of defense. Both purported decisions were entered in absentia without any request for due process.

- * Finally, and most significantly, the mandate of a duly constituted disciplinary board is not open but limited to violations by a lawyer of his professional duties provided in the LPOC (Article 80 et seq.) or for conducting himself in a way that disgraces the profession. No such grounds were alleged or proven!

In conclusion, the prosecutor was and continues to be duty-bound to apply for permission to prosecute pursuant to Article 79 of the LPOC and the present prosecution should be aborted because it is plainly unlawful.

Access to Counsel

Several members of my law firm are assisting in my defense. The Bar Association of Beirut has openly threatened them that they must first apply to the president of the Bar for permission to represent me, or else, which means disciplinary action against them. This is Gestapo and fascist-like.

When my associates come to the detention center to confer with me, we have no privacy and one or more guards sit in on the meeting. I am not permitted to exchange any documents with them without the prosecutor's prior approval following his review of the documents. This violates the most basic rights of defense generated by Article 7 of the Universal Declaration.

Conditions of Detention

The detention center is in the basement of the Beirut Courthouse and lacks ventilation and basic conditions of hygiene. I have not seen or experienced open air since Friday, August 8, except for a few seconds at a time when I was on my way to see the investigating judge. There were only three such trips.

My wife has more than once purchased and supplied the facility with septic agents such as Dettol and Pif Paf.

Trying to make some sense out of what has been going on:

- * This is an escalation in the attempts to silence me. But this time they are aiming to terminate my career both as an advocate for human rights and democracy and foe of corruption, and as a lawyer with a significant local and international practice.

- * They are furious that a successful campaign has been waged to insure my election as president of the Bar. The endorsement I received on the first of August by the Maronite Patriarch, Cardinal Sfeir, of my right to run on the basis of merit not confessional loyalties, made them more furious because as president of the Bar, if elected, I would become a more formidable threat to them.