

PRINCIPLE COMMONWEALTH HUMAN RIGHTS TREATIES

DECLARATION OF COMMONWEALTH PRINCIPLES

Declaration issued at the Heads of Government Meeting in Singapore, 1971.

The Commonwealth of Nations is a voluntary association of independent sovereign states, each responsible for its own policies, consulting and co-operating in the common interests of their peoples and in the promotion of international understanding and world peace.

Members of the Commonwealth come from territories in the six continents and five oceans, include peoples of different races, languages and religions, and display every stage of economic development from poor developing nations to wealthy industrialised nations. They encompass a rich variety of cultures, traditions and institutions.

Membership of the Commonwealth is compatible with the freedom of member governments to be non-aligned or to belong to any other grouping, association or alliance.

Within this diversity all members of the Commonwealth hold certain principles in common. It is by pursuing these principles that the Commonwealth can continue to influence international society for the benefit of mankind.

We believe that international peace and order are essential to the security and prosperity of mankind; we therefore support the United Nations and seek to strengthen its influence for peace in the world, and its efforts to remove the causes of tension between nations.

We believe in the liberty of the individual, in equal rights for all citizens regardless of race, colour, creed or political belief, and in their inalienable right to participate by means of free and democratic political processes in framing the society in which they live.

We therefore strive to promote in each of our countries those representative institutions and guarantees for personal freedom under the law that are our common heritage.

We recognise racial prejudice as a dangerous sickness threatening the healthy development of the human race and racial discrimination as an unmitigated evil of society. Each of us will vigorously combat this evil within our own nation. No country will afford to regimes which practice racial discrimination assistance which in its own judgement directly contributes to the pursuit or consolidation of this evil policy.

We oppose all forms of colonial domination and racial oppression and are committed to the principles of human dignity and equality. We will therefore use all our efforts to foster human equality and dignity everywhere, and to further the principles of self-determination and non-racialism.

We believe that the wide disparities in wealth now existing between different sections of mankind are too great to be tolerated; they also create world tensions; our aim is their progressive removal. We therefore seek to use our efforts to overcome poverty, ignorance and disease, in raising standards of life and achieving a more equitable international society.

To this end our aim is to achieve the freest possible flow of international trade on terms fair and equitable to all, taking into account the special requirements of the developing countries, and to encourage the flow of adequate resources, including governmental and private resources, to the developing countries, bearing in mind the importance of doing this in a true spirit of partnership and of establishing for this purpose in the developing countries conditions which are conducive to sustained investment and growth.

We believe that international co-operation is essential to remove the causes of war, promote tolerance, combat injustice, and secure development among the peoples of the world; we are convinced that the Commonwealth is one of the most fruitful associations for these purposes.

In pursuing these principles the members of the Commonwealth believe that they can provide a constructive example of the multi-national approach which is vital to peace and progress in the modern world. The association is based on consultation, discussion and co-operation.

In rejecting coercion as an instrument of policy they recognise that the security of each Member State from external aggression is a matter of concern to all members. It provides many channels for continuing

exchanges of knowledge and views on professional, cultural, economic, legal and political issues among the Member States.

These relationships we intend to foster and extend, for we believe that our multi-national association can expand human understanding and understanding among nations, assist in the elimination of discrimination based on differences of race, colour or creed, maintain and strengthen personal liberty, contribute to the enrichment of life for all, and provide a powerful influence for peace among nations.

LUSAKA DECLARATION ON RACISM AND RACIAL PREJUDICE

Declaration issued by the Commonwealth Heads of Government Meeting in Lusaka, Zambia in 1979.

We, the Commonwealth Heads of Government, recalling the Declaration of Commonwealth Principles made at Singapore on 22 January 1971 and the Statement on Apartheid in Sport, issued in London on 15 June 1977, have decided to proclaim our desire to work jointly as well as severally for the eradication of all forms of racism and racial prejudice.

The Commonwealth is an institution devoted to the promotion of international understanding and world peace, and to the achievement of equal rights for all citizens regardless of race, colour, sex, creed or political belief, and is committed to the eradication of the dangerous evils of racism and racial prejudice.

We now, therefore, proclaim this Lusaka Declaration of the Commonwealth on Racism and Racial Prejudice. United in our desire to rid the world of the evils of racism and racial prejudice, we proclaim our faith in the inherent dignity and worth of the human person and declare that:

- i) the peoples of the Commonwealth have the right to live freely in dignity and equality, without any distinction or exclusion based on race, colour, sex, descent, or national or ethnic origin;
- ii) while everyone is free to retain diversity in his or her culture and lifestyle, this diversity does not justify the perpetuation of racial prejudice or racially discriminatory practices;
- iii) everyone has the right to equality before the law and equal justice under the law;
- iv) everyone has the right to effective remedies and protection against any form of discrimination based on the grounds of race, colour, sex, descent, or national or ethnic origin.

We reject as inhuman and intolerable all policies designed to perpetuate *apartheid*, racial segregation or other policies based on theories that racial groups are or may be inherently superior or inferior.

We reaffirm that it is the duty of all the peoples of the Commonwealth to work together for the total eradication of the infamous policy of *apartheid* which is internationally recognised as a crime against the conscience and dignity of mankind and the very existence of which is an affront to humanity.

We agree that everyone has the right to protection against acts of incitement to racial hatred and discrimination, whether committed by individuals, groups or other organisations.

We affirm that there should be no discrimination based on race, colour, sex, descent or national or ethnic origin in the acquisition or exercise of the right to vote; in the field of civil rights or access to citizenship; or in the economic, social or cultural fields, particularly education, health, employment, occupation, housing, social security and cultural life.

We attach particular importance to ensuring that children shall be protected from practices which may foster racism or racial prejudice. Children have the right to be brought up and educated in a spirit of tolerance and understanding so as to be able to contribute fully to the building of future societies based on justice and friendship.

We believe that those groups in societies who may be especially disadvantaged because of residual racist attitudes are entitled to the fullest protection of the law.

We recognise that the history of the Commonwealth and its diversity require that special attention should be paid to the problems of indigenous minorities. We recognise that the same special attention should be paid to the problems of immigrants, immigrant workers and refugees.

We agree that special measures may in particular circumstances be required to advance the development of disadvantaged groups in society. We recognise that the effects of colonialism or racism in the past may make desirable special provisions for the social and economic enhancement of indigenous populations.

Inspired by the principles of freedom and equality which characterise our association, we accept the solemn duty of working together to eliminate racism and racial prejudice. This duty involves the acceptance of the principle that positive measures may be required to advance the elimination of racism, including assistance to those struggling to rid themselves and their environment of the practice.

Being aware that legislation alone cannot eliminate racism and racial prejudice, we endorse the need to initiate public information and education policies designed to promote understanding, tolerance, respect and friendship among peoples and racial groups.

We are particularly conscious of the importance of the contribution the media can make to human rights and the eradication of racism and racial prejudice by helping to eliminate ignorance and misunderstanding between people and by drawing attention to the evils which afflict humanity. We affirm the importance of truthful presentation of facts in order to ensure that the public are fully informed of the dangers presented by racism and racial prejudice.

In accordance with established principles of international law and, in particular, the provisions of the International Convention on the Elimination of all Forms of Racial Discrimination, we affirm that everyone is, at all times and in all places, entitled to be protected in the enjoyment of the right to be free of racism and racial prejudice.

We believe that the existence in the world of *apartheid* and racial discrimination is a matter of concern to all human beings. We recognise that we share an international responsibility to work together for the total eradication of *apartheid* and racial discrimination.

We note that racism and racial prejudice, wherever they occur, are significant factors contributing to tension between nations and thus inhibit peaceful progress and development. We believe that the goal of the eradication of racism stands as a critical priority for governments of the Commonwealth, committed as they are to the promotion of the ideals of peaceful and happy lives for their people.

We intend that the Commonwealth, as an international organisation with a fundamental and deep-rooted attachment to principles of freedom and equality, should co-operate with other organisations in the fulfilment of these principles. In particular the Commonwealth should seek to enhance the co-ordination of its activities with those of other organisations similarly committed to the promotion and protection of human rights and fundamental freedoms.

COMMONWEALTH ACCORD ON SOUTHERN AFRICA (THE 'NASSAU ACCORD')

Adopted in 1985. Available at www.anc.org.za/ancdocs/history/commonwealth.

1. We consider that South Africa's continuing refusal to dismantle *apartheid*, its illegal occupation of Namibia, and its aggression against its neighbours constitute a serious challenge to the values and principles of the Commonwealth, a challenge which Commonwealth countries cannot ignore. At New Delhi we expressed the view that 'only the eradication of *apartheid* and the establishment of majority rule on the basis of free and fair exercise of universal adult suffrage by all the people in a united and non-fragmented South Africa can lead to a just and lasting solution of the explosive situation prevailing in Southern Africa'. We are united in the belief that reliance on the range of pressures adopted so far has not resulted in the fundamental changes we have sought over many years. The growing crisis and intensified repression in South Africa mean that *apartheid* must be dismantled now if a greater tragedy is to be averted and that concerted pressure must be brought to bear to achieve that end. We consider that the situation calls for urgent practical steps.
2. We, therefore, call on the authorities in Pretoria for the following steps to be taken in a genuine manner and as a matter of urgency:
 - (a) Declare that the system of *apartheid* will be dismantled and specific and meaningful action taken in fulfilment of that intent.
 - (b) Terminate the existing state of emergency.
 - (c) Release immediately and unconditionally Nelson Mandela and all others imprisoned and detained for their opposition to *apartheid*.
 - (d) Establish political freedom and specifically lift the existing ban on the African National Congress and other political parties.
 - (e) Initiate, in the context of a suspension of violence on all sides, a process of dialogue across lines of colour, politics and religion, with a view to establishing a non-racial and representative government.
3. We have agreed on a number of measures which have as their rationale impressing on the authorities in Pretoria the compelling urgency of dismantling *apartheid* and erecting the structures of democracy in South Africa. The latter, in particular, demands a process of dialogue involving the true representatives of the majority black population of South Africa. We believe that we must do all we can to assist that process, while recognising that the forms of political settlement in South Africa are for the people of that country - all the people - to determine.
4. To this end, we have decided to establish a small group of eminent Commonwealth persons to encourage through all practicable ways the evolution of that necessary process of political dialogue. We are not unmindful of the difficulties such an effort will encounter, including the possibility of initial rejection by the South African authorities, but we believe it to be our duty to leave nothing undone that might contribute to peaceful change in South Africa and avoid the dreadful prospect of violent conflict that looms over South Africa, threatening people of all races in the country, and the peace and stability of the entire Southern Africa region.
5. We are asking the President of Zambia and the Prime Ministers of Australia, The Bahamas, Canada, India, the United Kingdom and Zimbabwe to develop with the Secretary-General the modalities of this effort to assist the process of political dialogue in South Africa. We would look to the group of eminent persons to seek to facilitate the processes of dialogue referred to in paragraph 2(c) above and by all practicable means to advance the fulfilment of the objectives of this Accord.
6. For our part, we have as an earnest of our opposition to *apartheid* reached accord on a programme of common action as follows:
 - (i) We declare the Commonwealth's support for the strictest enforcement of the mandatory arms embargo against South Africa, in accordance with United Nations Security Council Resolutions 418 and 558, and commit ourselves to prosecute violators to the fullest extent of the law;
 - (ii) we reaffirm the Gleneagles Declaration of 1977, which called upon Commonwealth members to take every practical step to discourage sporting contacts with South Africa;
 - (iii) we agree upon, and commend to other governments, the adoption of the following further economic measures against South Africa, which have already been adopted by a number of Member Countries:
 - (a) a ban on all new government loans to the Government of South Africa and its agencies;

- (b) a readiness to take unilaterally what action may be possible to preclude the import of Krugerrands;
- (c) no government funding for trade missions to South Africa or for participation in exhibitions and trade fairs in South Africa;
- (d) a ban on the sale and export of computer equipment capable of use by South African military forces, police or security forces;
- (e) a ban on new contracts for the sale and export of nuclear goods, materials and technology to South Africa;
- (f) a ban on the sale and export of oil to South Africa;
- (g) a strict and rigorously controlled embargo on imports of arms, ammunition, military vehicles and paramilitary equipment from South Africa;
- (h) an embargo on all military co-operation with South Africa; and
- (i) discouragement of all cultural and scientific events except where these contribute towards the ending of *apartheid* or have no possible role in promoting it.

7. It is our hope that the process and measures we have agreed upon will help to bring about concrete progress towards the objectives stated above in six months. The Heads of Government mentioned in paragraph 5 above, or their representatives, will then meet to review the situation. If in their opinion adequate progress has not been made within this period, we agree to consider the adoption of further measures. Some of us would, in that event, consider the following steps among others:
- (a) a ban on air links with South Africa;
 - (b) a ban on new investment or reinvestment of profits earned in South Africa;
 - (c) a ban on the import of agricultural products from South Africa;
 - (d) the termination of double taxation agreements with South Africa;
 - (e) the termination of all government assistance to investment in, and trade with, South Africa;
 - (f) a ban on all government procurement in South Africa;
 - (g) a ban on government contracts with majority-owned South African companies;
 - (h) a ban on the promotion of tourism to South Africa.
8. Finally, we agree that should all of the above measures fail to produce the desired results within a reasonable period, further effective measures will have to be considered. Many of us have either taken or are prepared to take measures which go beyond those listed above, and each of us will pursue the objectives of this Accord in all the ways and through all appropriate fora open to us. We believe, however, that in pursuing this programme jointly, we enlarge the prospects of an orderly transition to social, economic and political justice in South Africa and peace and stability in the Southern Africa region as a whole.

BANGALORE PRINCIPLES

Principles released as a summary of issues discussed at a Judicial Colloquium on 'The Domestic Application of International Human Rights Norms', held in Bangalore, India from 24 - 26 February 1988. Source: Commonwealth Secretariat Developing Human Rights Jurisprudence vol 3 151. Also reprinted in 1 African Journal of International and Comparative Law/RADIC (1989) 345.

1. Fundamental human rights and freedoms are inherent in all humankind and find expression in constitutions and legal systems throughout the world and in the international human rights instruments.
2. These international human rights instruments provide important guidance in cases concerning fundamental human rights and freedoms.
3. There is an impressive body of jurisprudence, both international and national, concerning the interpretation of particular human rights and freedoms and their application. This body of jurisprudence is of practical relevance and value to judges and lawyers generally.
4. In most countries whose legal systems are based upon the common law, international conventions are not directly enforceable in national courts unless their provisions have been incorporated by legislation into domestic law. However, there is a growing tendency for national courts to have regard to these international norms for the purpose of deciding cases where the domestic law – whether constitutional, statute or common law – is uncertain or incomplete.
5. This tendency is entirely welcome because it respects the universality of fundamental human rights and freedoms and the vital role of an independent judiciary in reconciling the competing claims of individuals and groups of persons with the general interests of the community.
6. While it is desirable for the norms contained in the international human rights instruments to be still more widely recognised and applied by national courts, this process must take fully into account local laws, traditions, circumstances and needs.
7. It is within the proper nature of the judicial process and well-established judicial functions for national courts to have regard to international obligations which a country undertakes – whether or not they have been incorporated into domestic law – for the purpose of removing ambiguity or uncertainty from national constitutions, legislation or common law.
8. However, where national law is clear and inconsistent with the international obligation of the state concerned, in common law countries the national court is obliged to give effect to national law. In such cases the court should draw such inconsistency to the attention of the appropriate authorities since the supremacy of national law in no way mitigates a breach of an international legal obligation which is undertaken by a country.
9. It is essential to redress a situation where, by reason of traditional legal training which has tended to ignore the international dimension, judges and practising lawyers are often unaware of the remarkable and comprehensive developments of statements of international human rights norms. For the practical implementation of these views it is desirable to make provision for appropriate courses in universities and colleges, and for lawyers and law enforcement officials; and meetings for exchanges of relevant information and experience.
10. These views are expressed in recognition of the fact that judges and lawyers have a special contribution to make in the administration of justice in fostering universal respect for fundamental human rights and freedoms.

HARARE DECLARATION

Declaration adopted by the Heads of Government Meeting on 20 October 1991 in Harare, Zimbabwe. Also reprinted in 60 The Review (1998) 257.

1. The Heads of Government of the countries of the Commonwealth, meeting in Harare, reaffirm their confidence in the Commonwealth as a voluntary association of sovereign independent states, each responsible for its own policies, consulting and co-operating in the interests of their peoples and in the promotion of international understanding and world peace.
2. Members of the Commonwealth include people of many different races and origins, encompass every stage of economic development, and comprise a rich variety of cultures, traditions and institutions.
3. The special strength of the Commonwealth lies in the combination of the diversity of its members with their shared inheritance in language, culture and the rule of law. The Commonwealth way is to seek consensus through consultation and the sharing of experience. It is uniquely placed to serve as a model and as a catalyst for new forms of friendship and co-operation to all in the spirit of the Charter of the United Nations.
4. Its members also share a commitment to certain fundamental principles. These were set out in a Declaration of Commonwealth Principles agreed by our predecessors at their Meeting in Singapore in 1971. Those principles have stood the test of time, and we reaffirm our full and continuing commitment to them today. In particular, no less today than 20 years ago:
 - we believe that international peace and order, global economic development and the rule of international law are essential to the security and prosperity of mankind;
 - we believe in the liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual's inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives;
 - we recognise racial prejudice and intolerance as a dangerous sickness and a threat to healthy development, and racial discrimination as an unmitigated evil;
 - we oppose all forms of racial oppression, and we are committed to the principles of human dignity and equality;
 - we recognise the importance and urgency of economic and social development to satisfy the basic needs and aspirations of the vast majority of the peoples of the world, and seek the progressive removal of the wide disparities in living standards amongst our members.
5. In Harare, our purpose has been to apply those principles in the contemporary situation as the Commonwealth prepares to face the challenges of the 1990s and beyond.
6. Internationally, the world is no longer locked in the iron grip of the Cold War. Totalitarianism is giving way to democracy and justice in many parts of the world. Decolonisation is largely complete. Significant changes are at last under way in South Africa. These changes, so desirable and heartening in themselves, present the world and the Commonwealth with new tasks and challenges.
7. In the last twenty years, several Commonwealth countries have made significant progress in economic and social development. There is increasing recognition that commitment to market principles and openness to international trade and investment can promote economic progress and improve living standards. Many Commonwealth countries are poor and face acute problems, including excessive population growth, crushing poverty, debt burdens and environmental degradation. More than half our Member States are particularly vulnerable because of their very small societies.
8. Only sound and sustainable development can offer these millions the prospect of betterment. Achieving this will require a flow of public and private resources from the developed to the developing world, and domestic and international regimes conducive to the realisation of these goals. Development facilitates the task of tackling a range of problems which affect the whole global community such as environmental degradation, the problems of migration and refugees, the fight against communicable diseases, and drug production and trafficking.
9. Having reaffirmed the principles to which the Commonwealth is committed, and reviewed the problems and challenges which the world, and the Commonwealth as part of it, face, we pledge the

Commonwealth and our countries to work with renewed vigour, concentrating especially in the following areas:

- the protection and promotion of the fundamental political values of the Commonwealth;
- democracy, democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary, just and honest government;
- fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief;
- equality for women, so that they may exercise their full and equal rights;
- provision of universal access to education for the population of our countries;
- continuing action to bring about the end of *apartheid* and the establishment of a free, democratic, non-racial and prosperous South Africa;
- the promotion of sustainable development and the alleviation of poverty in the countries of the Commonwealth through:
 - a stable international economic framework within which growth can be achieved;
 - sound economic management recognising the central role of the market economy;
 - effective population policies and programmes;
 - sound management of technological change;
 - the freest possible flow of multilateral trade on terms fair and equitable to all, taking account of the special requirements of developing countries;
 - an adequate flow of resources from the developed to developing countries, and action to alleviate the debt burdens of developing countries most in need;
 - the development of human resources, in particular through education, training health, culture, sport and programmes for strengthening family and community support, paying special attention to the needs of women, youth and children;
 - effective and increasing programmes of bilateral and multilateral co-operation aimed at raising living standards;
- extending the benefits of development within a framework of respect for human rights;
- the protection of the environment through respect for the principles of sustainable development which we enunciated at Langkawi;
- action to combat drug trafficking and abuse and communicable diseases;
- help for small Commonwealth States in tackling their particular economic and security problems;
- support of the United Nations and other international institutions in the world's search for peace, disarmament and effective arms control; and in the promotion of international consensus on major global political, economic and social issues.

10. To give weight and effectiveness to our commitments we intend to focus and improve Commonwealth co-operation in these areas. This would include strengthening the capacity of the Commonwealth to respond to requests from members for assistance in entrenching the practices of democracy, accountable administration and the rule of law.
11. We call on all the intergovernmental institutions of the Commonwealth to seize the opportunities presented by these challenges. We pledge ourselves to assist them to develop programmes which harness our shared historical, professional, cultural and linguistic heritage and which complement the work of other international and regional organisations.
12. We invite the Commonwealth Parliamentary Association and non-governmental Commonwealth organisations to play their full part in promoting these objectives, in a spirit of co-operation and mutual support.
13. In reaffirming the principles of the Commonwealth and in committing ourselves to pursue them in policy and action in response to the challenges of the 1990s, in areas where we believe that the Commonwealth has a distinctive contribution to offer, we the Heads of Government express our determination to renew and enhance the value and importance of the Commonwealth as an institution which can and should strengthen and enrich the lives not only of its own members and their peoples but also of the wider community of peoples of which they are a part.

VICTORIA FALLS DECLARATION OF PRINCIPLES FOR THE PROMOTION OF THE HUMAN RIGHTS OF WOMEN

Declaration adopted in 1994 at a regional judicial colloquium organised by the Commonwealth, focusing specifically on the promotion of the human rights of women and the girl-child through the judiciary.

1. The participants reaffirmed the principles stated in Bangalore, amplified in Harare, affirmed at Balliol, Oxford and reinforced at Bloemfontein. These principles reflect the universality of human rights – inherent in men and women – and the vital duties of an independent judiciary in interpreting and applying national constitutions and laws in the light of those principles. These general principles are applicable in all countries, but the means by which they become applicable may differ.
2. The participants noted that all too often universal human rights are wrongly perceived as confined to civil and political rights and not extending to economic and social rights are integral and complementary parts of one coherent system of global human rights.
3. The participants were aware that universal human rights are usually interpreted as applying to regulate the public sphere. Violations of human rights in the private sphere, including the family – are usually perceived to be outside the reach of human rights. The participants noted that although the state does not usually directly violate women's rights in the private sphere, [it] often supports or condones an exploitative family structure through various laws and rules of behaviour which legitimate the authority of male members of the family and, in any event, often fails to act to protect women from private violations or tolerates or, indeed, encourages, a structure wherein private violations occur all too frequently.
4. The participants recognised that many of the existing international and regional human rights standards were formulated within a primarily male perspective and with insufficient gender sensitivity, and sometimes fail to provide protection for the gender specific interests of women. The participants emphasised the urgent need for the formulation of further specific rights for women, particularly in the economic and social field. The participants stressed the vital need for women to be centrally involved in decision-making at all levels.
5. The participants recognised that discrimination against women can be direct or indirect. They noted that indirect discrimination requires particular scrutiny by the judiciary. The participants, further, emphasised the need to ensure not only formal, but also substantive equality for women, and for that purpose, affirmative action may be adopted if necessary.
6. The participants noted that although international human rights are inherent in all human kind, very often such rights are perceived to be owned, only or largely, by men. The participants emphasised, as did the 1993 United Nations World Conference on Human Rights, that the human rights of women are as valuable as the human rights of men.
7. The participants recognised that international human rights instruments, both generally and particularly with reference to women, and their developing jurisprudence enshrine values and principles long recognised as essential to the happiness of humankind. These international instruments have inspired many of the constitutional guarantees of fundamental rights and freedoms within and beyond the Commonwealth. These constitutional guarantees should be interpreted with the generosity appropriate to charters of freedom. Particularly the known discrimination guarantee should be construed purposively and with a special measure of generosity.
8. The participants agreed that it is essential to promote a culture of respect for internationally and regionally stated human rights norms and particularly those affecting women. Such norms should be applied in the domestic courts of all nations and given full effect. They ought not to be considered as alien to domestic law in national courts.
9. All Commonwealth governments should be encouraged to ratify the Convention on the Elimination of All Forms of Discrimination Against Women before the Fourth United Nations World Conference on Women held in Beijing in 1995. Those governments that have ratified the Convention with reservations, should examine the content of those reservations, with a view to their withdrawal.

10. All Commonwealth governments should ensure that domestic laws are enacted or adjusted to conform to the international and regional human rights standards.
11. The judicial officers in Commonwealth jurisdictions should be guided by the Convention on the Elimination of all Forms of Discrimination Against Women when interpreting and applying the provisions of the national constitutions and laws, including the common law and customary law, when making decisions.
12. The participants agreed with the views expressed in the Vienna Declaration and Programme of Action encouraging the speedy preparation of an optional protocol to enable individual petition under the Convention on the Elimination of All Forms of Discrimination Against Women.
13. All Commonwealth governments should subscribe to the principles contained in the Declaration on Violence Against Women, adopted by the UN General Assembly in December 1993. The participants agreed with the Declaration's classification of violence against women as a form of discrimination and a violation of human rights.
14. All Commonwealth governments should offer appropriate assistance to the United Nations Special Rapporteur on Violence against Women.
15. There is a particular need to ensure that judges, lawyers, litigants and others are made aware, of applicable human rights norms as stated in international and regional instruments and national constitutions and laws. It is crucially important for them to be aware of the provisions of those instruments, which particularly pertain to women.
16. The participants recognised and recommended that gender-sensitised new initiatives in legal education, provision of material for libraries, programmes of continuing judicial discussion and professional training to lawyers and other interest groups in the protection of the human rights of women and better dissemination of information about developments in this field to judges and lawyers should be undertaken for effective implementation of these principles.
17. The participants emphasised the need to translate the international human rights instruments and the African Charter of Human and Peoples' Rights into local languages, in a form accessible to the people and urged the governments to undertake or support that task.
18. The participants were of the view that the governments should mount extensive awareness campaigns through diverse means to disseminate and impart human rights education and encourage and support efforts by non-governmental organisations in this context.
19. The participants acknowledged the important contribution of non-governmental organisations in the dissemination of information about women's human rights and making women aware of those rights. The participants called upon the governments to acknowledge and support the work of non-governmental organisations in the promotion of the human rights of women.
20. The participants emphasised the need to enable non-governmental organisations to provide *amicus curiae* briefs and other legal advice, assistance and representation to women in cases involving human rights issues. The participants also stressed the need to provide free legal aid and advice to women at state cost for enforcement of their human rights.
21. Public interest litigation and other means of access to justice to litigants, especially women, who wish to complain of violations of their rights should be developed. Non-governmental organisations involved in women's issues should also be permitted to bring violations of human rights of women before the courts for redress.
22. Judges and lawyers have a duty to familiarise themselves with the growing international jurisprudence of human rights and particularly with the expanding material on the protection and promotion of the human rights of women.
23. Closer links and co-operation across national frontiers by the judiciary on the interpretation and application of human rights law should be encouraged.

24. Law schools should be encouraged to develop courses in human rights which must include a module on the human rights of women.

MILBROOK ACTION PROGRAMME ON THE HARARE DECLARATION

Issued by the Heads of Government Meeting at Millbrook, New Zealand, 12 November 1995.

At Harare in 1991, we pledged to work for the protection and promotion of the fundamental political values of the association, namely democracy, democratic processes and institutions which reflect national circumstances, fundamental human rights, the rule of law and the independence of the judiciary, and just and honest government. We agreed at the same time to work for the promotion for socio-economic development, recognising its high priority for most Commonwealth countries. During our retreat at Millbrook, we decided to adopt a Commonwealth Action Programme to fulfil more effectively the commitments contained in the Harare Commonwealth Declaration. This Programme is in three parts: 1. Advancing Commonwealth fundamental political values; 2. Promoting sustainable development; and 3. Facilitating consensus building.

1. ADVANCING COMMONWEALTH FUNDAMENTAL POLITICAL VALUES

A. Measures in Support of Processes and Institutions for the Practice of the Harare Principles

The Secretariat should enhance its capacity to provide advice, training and other forms of technical assistance to governments in promoting the Commonwealth's fundamental political values, including:

- assistance in creating and building the capacity of requisite institutions;
- assistance in constitutional and legal matters, including with selecting models and initiating programmes of democratisation;
- assistance in the electoral field, including the establishment or strengthening of independent electoral machinery, civic and voter education, the preparation of Codes of Conduct, and assistance with voter registration;
- observation of elections, including by-elections or local elections where appropriate, at the request of the Member Governments concerned;
- strengthening the rule of law and promoting the independence of the judiciary through the promotion of exchanges among, and training of, the judiciary;
- support for good government, particularly in the area of public service reform; and
- other activities, in collaboration with the Commonwealth Parliamentary Association and other bodies, to strengthen democratic culture and effective parliamentary practices.

B. Measures in Response to Violations of the Harare Principles

Where a Member Country is perceived to be clearly in violation of the Harare Commonwealth Declaration, and particularly in the event of an unconstitutional overthrow of a democratically elected government, appropriate steps should be taken to express the collective concern of Commonwealth countries and to encourage the restoration of democracy within a reasonable time frame. These include:

- i) immediate public expression by the Secretary-General of the Commonwealth's collective disapproval of any such infringement of the Harare Principles;
- ii) early contact by the Secretary-General with the *de facto* government, followed by continued good offices and appropriate technical assistance to facilitate an early restoration of democracy;
- iii) encouraging bilateral *démarches* by Member Countries, especially those within the region, both to express disapproval and to support early restoration of democracy;
- iv) appointment of an envoy or a group of eminent Commonwealth representatives where, following the Secretary-General's contacts with the authorities concerned, such a mission is deemed beneficial in reinforcing the Commonwealth's good offices role;
- v) stipulation of up to two years as the time frame for the restoration of democracy where the institutions are not in place to permit the holding of elections within, say, a maximum of six months;
- vi) pending restoration of democracy, exclusion of the government concerned from participation at ministerial-level meetings of the Commonwealth, including CHOGMs;
- vii) suspension of participation at all Commonwealth meetings and of Commonwealth technical assistance if acceptable progress is not recorded by the government concerned after a period of two years; and
- viii) consideration of appropriate further bilateral and multilateral measures by all Member States (eg limitation of government-to-government contacts; people-to-people measures; trade restrictions; and in exceptional cases, suspension from the association), to reinforce the need for change in the event that the government concerned chooses to leave the Commonwealth and/or persists in violating the principles of the Harare Commonwealth Declaration even after two years.

C. Mechanism for Implementation of Measures

We have decided to establish a Commonwealth Ministerial Action Group on the Harare Declaration in order to deal with serious or persistent violations of the principles contained in that Declaration. The Group will be convened by the Secretary-General and will comprise the Foreign Ministers of eight countries, supplemented as appropriate by one or two additional ministerial representatives from the region concerned. It will be the Group's task to assess the nature of the infringement and recommend measures for collective Commonwealth action aimed at the speedy restoration of democracy and constitutional rule.

The composition, terms of reference and operation of the Group will be reviewed by us every two years.

2. PROMOTING SUSTAINABLE DEVELOPMENT

We reaffirmed our view that the Commonwealth should continue to be a source of help in promoting development and literacy and in eradicating poverty, particularly as these bear on women and children. With a view to enhancing its capacity in this area, we agreed on the following steps:

- i) to strengthen the Secretariat's capacity for undertaking developmental work through support for its various funds and especially by restoring the resources of the CFTC to their 1991/92 level in real terms; and to provide adequate resources to the Commonwealth of Learning and to the Commonwealth Foundation;
- ii) to support a greater flow of investment to developing Member Countries through such schemes as the Commonwealth Private Investment Initiative;
- iii) to work for continued progress in assisting countries with unsustainable debt burdens and to promote enhanced multilateral concessional financial flows to developing countries; in particular to support new and innovative mechanisms for relief on multilateral debt, such as the one proposed by the British Chancellor of the Exchequer at the 1994 Commonwealth Finance Ministers Meeting in Malta, and reiterated subsequently;
- iv) to support the Secretariat in facilitating the adoption by more Commonwealth countries of successful self-help schemes, with non-governmental agencies and others acting as catalytic agents, for mobilising the energies of people in alleviating poverty;
- v) to support the efforts of small island developing states to mitigate the effects on their development of environmental change, natural disasters and the changing international trading system; and
- vi) to combat the spread of HIV/AIDS, which threatens large parts of the younger population of many countries, recognising that the effective exploitation of economic opportunities requires a healthy and educated population; and to provide further resources to renew the core funding of the Southern African Network of AIDS Organisations (SANASO), along with increased funding for UNICEF initiatives in Southern Africa.

3. FACILITATING CONSENSUS BUILDING

We were convinced that the Commonwealth, with its global reach and unique experience of consensus building, was in a position to assist the wider international community in building bridges across traditional international divides of opinion on particular issues. We therefore agreed that there was scope for the association to play a greater role in the search for consensus on global issues, through:

- i) use of their governments' membership of various regional organisations and attendance at other international gatherings to advance consensual positions agreed within the Commonwealth;
- ii) use, where appropriate, of special missions to advance Commonwealth consensual positions and promote wider consensus on issues of major international concern; and
- iii) use of formal and informal Commonwealth consultations in the wings of meetings of international institutions with a view to achieving consensus on major concerns.