

11 July 2011 CLMM Sydney, Australia

Opening Ceremony – Monday 18:00

SG Address

Attorneys-General, Ministers, distinguished representatives of judiciaries and governments, delegates and senior officials, welcome!

It is a great pleasure and privilege to be with you here in Sydney for this important fixture in our calendar, the triennial Commonwealth Law Ministers' Meeting. Gatherings of Commonwealth Ministers are among the most visible expressions of Commonwealth co-operation and partnership.

I am grateful to the Government of Australia, and particularly to Attorney-General Robert McClelland and his Department, for their hospitality in generously hosting this meeting; the first time it has taken place in Australia. It is especially good to be here as we prepare for the Commonwealth Heads of Government Meeting in Perth in October.

It promises to be an exceptional CHOGM, an important staging post in the journey of the Commonwealth. Leaders will receive the recommendations of the Commonwealth Ministerial Action Group and the Eminent Persons Group. The latter has benefitted from having as a member a distinguished Australian retired judge and jurist who has made an important contribution to the thinking and imaginative ideas put forward by the group. Its brief has been to propose reforms that sharpen the impact, strengthen the networks, and raise the profile of the Commonwealth. The proposals that our Heads of Government will consider in October have the potential to do so significantly. Our Heads gave a clear direction at their last CHOGM in Trinidad and Tobago for the Commonwealth to shoulder the responsibilities for which it is so uniquely suited in a dynamically evolving world: to strengthen the values we as the Commonwealth have mutually distilled, upheld and continue to develop.

The Commonwealth works in a variety of ways in order to bring our collective and beneficial influence to bear, to draw on mutual support and to gain from shared experience. And it seeks to reflect and draw strength from its diversity as well as its commonality. We respect and show understanding of our unique

experiences: ours is the way of steady consensus rather than prescription.

Our efforts are most productive when they are a combination of exchanges reinforced with practical action and collaboration.

Meetings such as this are instrumental in ensuring that channels are kept open; they help promote dialogue between Ministers and broader multilateral exchanges. Added to this is the professional and technical expertise made available through the member states of the Commonwealth. This means that lessons learnt, and progress made, can be readily and directly shared among countries and regions, so that the pace of reform need not be unduly hampered by institutional, financial and capacity constraints.

Our approach is also to draw on all networks and resources, making the best use of those available to advance towards a particular goal. We may rely on Ministers, or officials, or any of our ninety or so Commonwealth professional associations, in civil society at large, or on any combination of these. The Commonwealth is distinguished for its talent in avoiding the sterilities and in finding practical ways forward, and of steadily but

surely raising the bar, over time, in our adherence to our shared values. This special working culture is what our member states cherish in advancing their national aspirations through Commonwealth collaboration.

It is why there is such breadth to the work delivered by the Commonwealth Secretariat in the legal and constitutional affairs areas. From an innovative web-based and mentor-based training programme for prosecutors; to developing practical measures to counter terrorism including its financing; to building national compliance with anti-money laundering obligations; to developing best practice guidance and model legislation in such areas as anti-corruption; to providing stronger court registries and better trained court staff. The actual list is far longer.

It is why there has been increased use of pro-bono mentoring and placements, and to promoting partnerships between one member country and another or even with a region. Ministers are encouraged to identify ways in which country-to-country support, to which I have alluded, can be rendered.

It is why there was a special Pacific Young Lawyers side event yesterday. In a Commonwealth where 60% of our 2 billion citizens are under 29 years of age – higher than the global average – we not only have a special challenge but also special responsibility to show leadership in responding to the needs and ambitions of our young people.

And in this year, when our Commonwealth theme is *Women as Agents of Change*, it is why we draw attention to the work done to strengthen understanding of the inter-relationship between gender, culture and the law. A particular focus has been on providing practical assistance to delivery legal literacy for women, and provide literacy to traditional and other community leaders about the rights of women.

Another example of a contemporary Commonwealth challenge to be addressed is in the area of sexual orientation. Our shared commitment, reaffirmed at CHOGM 2009, is to ‘rights for all without discrimination on any grounds’ and opposition to stigmatisation and victimisation. But progress has been uneven towards ensuring that domestic legislation reflects our belief that

vilification and targeting on grounds of sexual orientation is at odds with the fundamental values of the Commonwealth.

In my public pronouncements I have pointed out that many member countries are challenged with reconciling Commonwealth principles of dignity, equality and non-discrimination, as well as the Commonwealth value of respect for fundamental human rights, on one hand, with issues of unjust criminalisation found in the colonial legacy of domestic legislation in this area, on the other.

Ministerial reflection on this discrepancy could suggest avenues of moving forward in national circumstances. The judiciary offers another avenue. Only two or three weeks ago, in the UK, a judge's interpretation of the legislation governing bail conditions caused an immediate reconsideration: the law hadn't changed but the contemporary understanding of it had. And the adjustments required now through legislation, regulation and the like, are aimed at achieving a new balance that reflects our times. Similarly, in that area of sexual discrimination, change has been possible that reinforces Commonwealth values – not through a political path or a vocal public path, but through a thoughtful and measured judicial path. I have therefore drawn public attention to progress, such as

at the landmark decision by the Delhi High Court to decriminalise homosexual acts, based on the argument of inconsistencies that have been alluded to.

This is just one example of how the law affects every aspect of our lives. The issues that have been examined by senior officials from Law Ministries earlier today, and the topics that will be discussed by Attorneys-General and Law Ministers over the next three days, will have a direct bearing on the everyday lives and livelihoods of citizens in all our jurisdictions.

Making an impact, making a difference, is what the Commonwealth is about. Our overriding aim must be to provide a legal framework that has a positive influence on the life choices available to our citizens. Nobel Laureate Professor Amartya Sen, who chaired the Commonwealth Commission on Respect and Understanding, and is a good friend of the Commonwealth, developed what he called a 'Capability Approach'. This stresses the importance not only of how human beings can function in theory, but of their having a practical choice, the capability, to function in certain ways if they so wish in practice. We can be deprived of such capabilities in many

ways - through prejudice, through ignorance or through lack of resources. Professor Sen helped us to see that to be deprived of practical choice in our lives in any of these or other ways, or – as is particularly relevant to this conference - through oppressive government and oppressive laws, is indeed poverty.

That is why the theme for this meeting, ‘Fostering a just and secure Commonwealth’ is so important. It distils the content of a very full agenda with appealing simplicity. The democratic rule of law is the precondition of justice and security. At the meeting, the issues to be debated include climate change, independence of the judiciary, conventional weapons and international humanitarian law, forced marriage, cybercrime, combating corruption, human rights, prosecution disclosure, practices in correctional facilities, the ICC, human trafficking, and child abduction amongst others. I have no doubt advances will be made.

Your discussions, and decisions made as we work together in common purpose, can change the lives of millions of our people, making them safer and more equitable and helping to free them from deprivation in whatever manifestation. This is not simply a high ideal but a practical plan of action, and it is this noble purpose

which gives us confidence to describe the Commonwealth, and the work we have gathered to do, as a great global good.

Distinguished Ministers and delegates, allow me to reaffirm our commitment to partnership in having the outcomes of this week's meeting converted into practical benefit for all. One of the avenues for this is an ambitious internet gateway – the *Commonwealth Connects* portal – which is being developed at present. This is conceived particularly to serve the advancement of democratic culture, the rule of law and sound governance. It can also provide an interactive link between Ministerial meetings to make them more effective. There will be a presentation and discussion of this initiative.

Meanwhile, at this start to proceedings, I wish you all possible success in your deliberations over the days ahead.

[ENDS]