

**Introductory Speech by Eleni Stamiris,
Director, Gender and Youth Affairs Division,
Commonwealth Secretariat**

It gives me great pleasure to welcome you to this Judicial Colloquium which is organised by the Gender and Youth Affairs Division and the Legal and Constitutional Affairs Division of the Commonwealth Secretariat, in collaboration with the Commonwealth Magistrates' and Judges' Association and the Caribbean Community Secretariat. It is an unprecedented honour for us to have judges from fourteen Commonwealth countries and four dependencies at this Caribbean meeting, to deliberate on strategies for promoting the human rights of women and the girl-child through the Judiciary. I am pleased to welcome representatives of the United Nations Development Fund for Women (UNIFEM) and the United Nations Division for the Advancement of Women, both organisations working in the area of women's human rights.

We are cognisant of the fact that, in many respects, non-governmental organisations (NGOs) initiate action to promote the rights of women and the girl-child. I therefore welcome NGOs such as the International Women's Rights Action Watch (Asia-Pacific), Women, Law and Development in Africa (WILDAF), Caribbean Feminist Research and Action (CAFRA), Development Alternatives for Women in a New Era (DAWN), the Bahamas Chapter, the Belize Human Rights Commission, Red Thread and the Federation of Women Lawyers Association in Guyana.

I wish to express sincere thanks to the Government and people of Guyana for agreeing to host this meeting. We are indebted to the Ministry of Justice, and particularly acknowledge the support and generosity extended to us by the Chancellor, the Honourable George Kennard, who graciously consented to open this Colloquium, and the Attorney-General and Minister of Justice, the Honourable Bernard dos Santos who has kindly agreed to close the Colloquium. Special thanks go to the Chief Justice of Guyana, the Honourable Justice Desirée Bernard, who has worked with us since the inception of this programme in 1994. We have benefited from her advice and attendance at colloquia and are particularly indebted to her for the dynamic role which she has played in making this Caribbean Colloquium a reality. I would also like to express my gratitude to the Honourable Indranie Chandarpal, Minister Responsible for Women's Affairs in Guyana, for her support of this programme which seeks to implement a mandate given to us at our recent meeting of Ministers Responsible for Women's Affairs. I wish to recognise the support provided by the Secretary-General of the Caribbean Community Secretariat (CARICOM) and the Director of the Commonwealth Youth Programme, Caribbean Centre. Their assistance has been critical in the organisation of this meeting and the warm hospitality accorded to participants is

Introductory Speech by Commonwealth Secretariat

deeply appreciated. I also wish to thank the Commonwealth Foundation for providing funds for NGO participation at the Colloquium.

In planning this Colloquium we had been guided by a vision of human rights which incorporates acceptance of equal and inalienable rights for all women and men. It is imperative that this vision also encompasses the principle that women's rights are an integral component of human rights. It was the recognition of this concept of women's rights which led to the prominence given to women's rights at the United Nations World Conference on Human Rights¹ and at the United Nations Fourth World Conference on Women in Beijing.² This Colloquium is part of the Commonwealth Secretariat's strategy to support respect for human rights which is one of the fundamental values of the Commonwealth as agreed in the *Singapore Declaration* in 1971³ and the *Harare Declaration* in 1991.⁴ This was reinforced by Commonwealth Heads of Government⁵ at their meeting in Auckland in 1995 when they reaffirmed that women's rights were human rights and urged member governments to adopt legislation and develop national strategies to promote the advancement of women. The Heads of Government also urged ratification and implementation of the human rights covenants and other international human rights instruments including the Convention on the Elimination of All Forms of Discrimination Against Women (the CEDAW Convention)⁶ and the Declaration on the Elimination of Violence Against Women.⁷ This was reiterated by Law Ministers when they met in Kuala Lumpur in April 1996 and expressed support for the promotion of women's human rights and the elimination of violence against women. When Ministers Responsible for Women's Affairs met in Trinidad and Tobago in November 1996, they emphasised the need for full and effective

¹ See the *Vienna Declaration and Programme of Action*, adopted at the United Nations World Conference on Human Rights, held in Vienna in June 1993, UN Doc A/CONF.157/24 (25 June 1993).

² See the *Beijing Declaration and Platform for Action*, in the *Report of the Fourth World Conference on Women*, adopted at the United Nations Fourth World Conference on Women, held in Beijing in September 1995, UN Doc A/CONF.177/20 (17 October 1995), 35 ILM 401.

³ The Declaration of Commonwealth Principles, 1971, issued at the meeting of Heads of Governments in Singapore. For background information and text see: <http://www.thecommonwealth.org/about/history/history2.html>.

⁴ Harare Commonwealth Declaration, 1991, issued by Heads of Governments in Harare, Zimbabwe, 20 October 1991.

⁵ Details of the Commonwealth Heads of Government Meetings, Law Ministers Meeting and Meetings of Ministers Responsible for Women's Affairs can be found on the Commonwealth Secretariat's web site at <http://www.thecommonwealth.org>.

⁶ 1249 UNTS 13, adopted 1 March 1980, entered into force 3 September 1981.

⁷ GA Res 48/104 (1994), IHRR 329.

implementation of international human rights instruments, in particular those relating to the realisation of the human rights of women and the girl-child. They urged governments to enact domestic legislation based on these international human rights instruments.

The Gender and Youth Affairs Division in collaboration with the Legal and Constitutional Affairs Division has focused attention on the CEDAW Convention, which 43 Commonwealth member countries had ratified or acceded to as of April 1997.⁸ The first initiative was the production of an accession kit to encourage Commonwealth countries to accede to the Convention. Secondly, they encouraged effective reporting by Commonwealth countries by preparing a *Manual for Reporting* under the Convention. This manual, the second edition of which is now available,⁹ has been widely used and has even attracted recognition by the Committee on the Elimination of Discrimination against Women (CEDAW), the monitoring committee established under the terms of the CEDAW Convention. The Division's efforts to encourage effective reporting by Commonwealth countries also included the organisation of regional training workshops for government officials responsible for preparing the periodic reports required by the Convention. We are currently developing a *Handbook on Good Practices* from Commonwealth countries for the implementation of the CEDAW Convention. It will facilitate the sharing of experiences in Commonwealth countries and also demonstrate to policy-makers, lawyers, judges, police and law enforcement officers how the CEDAW Convention has been used to advance women's interests at the national level.

This Colloquium is an attempt to broaden our approach by facilitating dialogue on the significance of domestic legislation in the implementation of international and regional laws. Although in many Commonwealth countries the domestic legal system allows for the observance of these laws, sometimes international standards are not sufficiently well-known, partly because until quite recently the legal training of most lawyers did not include adequate instruction in international and regional human rights norms. Also judges and lawyers cannot easily get access to materials on these norms or obtain advice about international and regional human rights norms and jurisprudence.

However, some enlightened judges have sought to interpret fundamental rights and obligations against the background of international and regional human rights norms and jurisprudence. To encourage this trend, the Commonwealth Secretariat

⁸ For an up to date list of States that have signed, acceded, ratified and succeeded to the Convention on the Elimination of All Forms of Discrimination against Women see <http://www.un.org/womenwatch/daw/>

⁹ Jane Connors and Andrew Byrnes, *Assessing the Status of Women: A Guide to Reporting under the Convention on the Elimination of All Forms of Discrimination against Women* (Commonwealth Secretariat and International Women's Rights Action Watch, 2nd ed 1996).

Introductory Speech by Commonwealth Secretariat

embarked on a series of judicial colloquia which have explored the domestic application of international human rights norms. The first colloquium was convened in Bangalore in 1988 by Justice P. N. Bhagwati,¹⁰ whom I am delighted to have with us for this meeting. The judges agreed on the *Bangalore Principles* which confirmed the relevance of international and regional human rights jurisprudence for domestic courts and encouraged resort to such jurisprudence where domestic law – whether constitutional, statutory or common law – is uncertain or incomplete.¹¹

Six other colloquia have been convened at which the *Bangalore Principles* have been affirmed.¹² Although these colloquia were undoubtedly effective, they did not explore the domestic application of international human rights norms from a gender perspective. The Gender and Youth Affairs Division, therefore, considered it a priority to embark on a series of colloquia so that senior judges from Commonwealth countries could discuss how far the international and regional framework can be used to advance the position of women. The first colloquium was convened in Africa where most countries have an entrenched bill of rights and a number of benches have already interpreted the guarantee of non-discrimination on the basis of sex in the light of international norms. This colloquium was organised in Zimbabwe in August 1994 by the Gender and Youth Affairs Division in collaboration with the Government of Zimbabwe and the Commonwealth Magistrates' and Judges' Association. A significant outcome of the colloquium was the adoption of the *Victoria Falls Declaration of Principles for Promoting the*

¹⁰ See *Developing Human Rights Jurisprudence: The Domestic Application of International Norms, Judicial Colloquium in Bangalore, 24–26 February 1988* (London, Commonwealth Secretariat, 1988).

¹¹ For the text of the *Bangalore Principles*, see *id* at ix and *Commonwealth Secretariat and Interights, Developing Human Rights Jurisprudence: Conclusions of Judicial Colloquia and other meetings on the Domestic Application of International Human Rights Norms and on Government under the Law 1988-92* (London, Commonwealth Secretariat, 1992) at 1.

¹² Commonwealth Secretariat, *Developing Human Rights Jurisprudence, Volume 2: A Second Judicial Colloquium on the Domestic Application of International Human Rights Norms, Judicial Colloquium in Harare, Zimbabwe, 19 – 22 April 1989*, (London, Commonwealth Secretariat, 1989); Commonwealth Secretariat, *Developing Human Rights Jurisprudence, Volume 3: A Third Judicial Colloquium on the Domestic Application of International Human Rights Norms, Judicial Colloquium in Banjul, The Gambia, 7 – 9 November 1990*, (London, Commonwealth Secretariat, 1991); Commonwealth Secretariat, *Developing Human Rights Jurisprudence, Volume 4: A Fourth Judicial Colloquium on the Domestic Application of International Human Rights Norms, Judicial Colloquium in Abuja, Nigeria, 9 – 11 December 1991* (London, Commonwealth Secretariat, 1992); Commonwealth Secretariat, *Developing Human Rights Jurisprudence, Volume 5: A Fifth Judicial Colloquium on the Domestic Application of International Human Rights Norms, Judicial Colloquium at Balliol College, Oxford, 21 – 23 September 1992* (London, Commonwealth Secretariat and Interights, 1992); Commonwealth Secretariat, *Developing Human Rights Jurisprudence, Volume 6: A Sixth Judicial Colloquium on the Domestic Application of International Human Rights Norms, Judicial Colloquium in Bloemfontein, South Africa, 3 – 5 September 1993* (London, Commonwealth Secretariat, 1995); *Caribbean Colloquium on the Domestic Application of International Human Rights Norms, Georgetown, Guyana, 3 – 5 September 1996*, (1997) 23 (1–2) *Commonwealth Law Bulletin* 573.

Caribbean Judicial Colloquium on Women's Rights

*Human Rights of Women.*¹³ The *Declaration* affirms the universality of human rights, which are equally relevant to women and men, and emphasises the role of an independent judiciary in integrating and applying national constitutions and laws in the light of this principle.

The issue was brought to a wider audience when the Gender and Youth Affairs Division and the Commonwealth Magistrates' and Judges' Association organised a Judicial Colloquium at the United Nations Fourth World Conference on Women at Beijing in 1995, at which participants expressed their support for the *Victoria Falls Declaration*. Since then, the *Victoria Falls Declaration* has been adopted by the Commonwealth Magistrates' and Judges' Association, endorsed by Commonwealth Law Ministers and by participants at the Asia/Pacific Regional Judicial Colloquium in Hong Kong in May 1996.¹⁴ Participants at the Hong Kong Colloquium also adopted the *Hong Kong Conclusions on the Promotion of the Human Rights of Women.*¹⁵ I hope that after reviewing the *Victoria Falls Declaration* and the *Hong Kong Conclusions* you will also endorse these two documents. I believe that this meeting will build on what has been achieved so far in the previous colloquia, and advance the process by reaching consensus on a Programme of Action for Promoting the Human Rights of Women through the Judiciary.

We are honoured to have as co-chairpersons two eminent Judges – the Honourable Justice Desirée Bernard, Chief Justice of Guyana, and The Honourable Justice Joan Sawyer, Chief Justice of the Bahamas. Justice Bhagwati will deliver the Keynote Address on "Creating a Judicial Culture to Promote Women's Human Rights". We are also privileged to have with us Justice A. R. Gubbay, Chief Justice of Zimbabwe, who attended our first Colloquium in Victoria Falls, and Justice Tracy Doherty of the Supreme Court of Papua New Guinea, who participated in our Colloquium in Hong Kong. We are looking to them to provide the experience and perspectives from their regions to this Colloquium. Finally, our able consultant is Mr Andrew Byrnes, Director of the Centre for Comparative and Public Law of the University of Hong Kong.

I have no doubt that the expertise of our co-chairpersons, speakers and participants will ensure that we have a successful meeting. I look forward to four days of

¹³ For text of the *Victoria Falls Declaration of Principles for Promoting the Human Rights of Women*, see A. Byrnes, J. Connors, Lum Bik (eds) *Advancing the Human Rights of Women: Using International Human Rights Standards in Domestic Litigation*, (London, Commonwealth Secretariat, 1997) at 3.

¹⁴ For the proceedings of the Judicial Colloquium held in Hong Kong in 1996, see A. Byrnes, J. Connors, and Lum Bik, *supra* note 13.

¹⁵ See *Conclusions of the Asia/South Pacific Regional Judicial Colloquium for Senior Judges on the Domestic Application of International Human Rights Norms Relevant to Women's Human Rights*, *id* at 6.

Introductory Speech by Commonwealth Secretariat

I have no doubt that the expertise of our co-chairpersons, speakers and participants will ensure that we have a successful meeting. I look forward to four days of thought-provoking discussions that will be a significant step towards working together in the Commonwealth to promote the human rights of women and the girl-child through the judiciary.