

# The Commonwealth Military Justice Principles



The Commonwealth

---

# The Commonwealth Military Justice Principles



The Commonwealth

---

© Commonwealth Secretariat 2026

Commonwealth Secretariat  
Marlborough House  
Pall Mall  
London SW1Y 5HX  
United Kingdom

[www.thecommonwealth.org](http://www.thecommonwealth.org)

All rights reserved. This publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or otherwise provided it is used only for educational purposes and is not for resale, and provided full acknowledgement is given to the Commonwealth Secretariat as the original publisher. Views and opinions expressed in this publication are the responsibility of the author and should in no way be attributed to the institutions to which they are affiliated or to the Commonwealth Secretariat.

Wherever possible, the Commonwealth Secretariat uses paper sourced from responsible forests or from sources that minimise a destructive impact on the environment.

Published by the Commonwealth Secretariat.

# Contents

Preamble	5
1. Military Justice	7
2. Judges in Military Courts	7
3. Non-judicial Members in Military Courts	7
4. Jurisdiction	7
5. Prosecution	8
6. Protection of Victims and Witnesses	8
7. Rights of Accused	8
8. Open and Accessible Proceedings	9
9. Executive Review and Appeals	10
10. Summary Proceedings	10



# Preamble

- i. *Emphasising* our commitment to the values and principles set out in the Commonwealth Charter and other Commonwealth statements, including the Singapore Declaration of Commonwealth Principles, the Harare Commonwealth Declaration, the Millbrook Action Programme, the Latimer House Principles, and the Trinidad and Tobago Affirmation of Commonwealth Values and Principles.
- ii. *Reaffirming* our core Commonwealth principles of the rule of law, separation of powers, and human rights.
- iii. *Reiterating* that an independent, effective, and competent legal system is integral to upholding the rule of law.
- iv. *Underscoring* our support for an independent, impartial, and honest judiciary.
- v. *Recognising* the unique roles of military justice systems to reflect the nature of armed forces defending their nations and international security, to support discipline, operational effectiveness and morale of the armed forces, to extend the laws of the country to personnel outside the relevant country's general jurisdiction, and to ensure accountability and compliance with international and domestic law.
- vi. *Emphasising* the need to ensure that military justice systems form an integral part of the general justice and judicial systems that are established under the authority of a constitution or statute, and reflect international norms and standards, including international humanitarian law and international human rights law, to guarantee the proper administration of justice, due process of law, and equal access to justice.
- vii. *Recognising* that each military justice system, which is uniquely situated in the country's constitutional system, is addressing each member country's particular needs and desiring to assist with further development in pursuance of these Commonwealth Military Justice Principles.
- viii. *Welcoming* the following Commonwealth Military Justice Principles, noting that they are aspirational and neither interpret nor clarify international norms, standards, or laws, and recognising that a member country's endorsement of these Principles imposes no obligation or commitment, legal or otherwise, on the member country or any other entity.



## 1. Military Justice

- a. Ensure that military courts,<sup>1</sup> when they exist, are established under the authority of the constitution or statute, comply with the general principles for the proper administration of justice, and reflect the democratic rule of law and the obligations of international law.
- b. Ensure that the law and procedure relating to military justice are reviewed at regular intervals to ensure their compliance with best practices and developments in international and domestic jurisdictions.

## 2. Judges in Military Courts

In military courts, ensure that civilian or military judges are independent, impartial and legally qualified civilian or military judges who have security of tenure and are free in the course of their judicial duties from:

- a. command interference
- b. executive or political influence or interference
- c. improper career consequences
- d. perceived or actual bias and
- e. personal interest in the proceedings.

## 3. Non-judicial Members in Military Courts

Where the determination of any issue in proceedings in military courts involves non-judicial members of the court, select those members by a process which is independent of the chain of command or prosecution. Take appropriate and effective measures to ensure that they are independent, impartial and free from:

- a. command interference
- b. executive or political influence or interference
- c. improper career consequences
- d. perceived or actual bias and
- e. personal interest in the proceedings.

## 4. Jurisdiction

### A. Military Personnel (Regular and Reserve Forces)

Ensure that proceedings against military personnel are conducted either in a military or civilian court that is established under the authority of the constitution or statute that comply with the general principles for the proper administration of justice. This determination should be made on a case-by-case basis, considering all relevant factors, including the nature of the alleged offence, the location of the alleged offence (on military property or elsewhere), the status of the complainant and witnesses (military or civilian), and the potential for rehabilitating the alleged offender.

---

<sup>1</sup> For the purposes of these Principles, military courts do not include summary proceedings. A reference to military courts includes military disciplinary tribunals constituted according to law, but not summary-level tribunals

## B. Civilians

Conduct proceedings against civilians in military courts only in circumstances which are prescribed in national law and limited to cases:

- a. where there is no appropriate civilian court with jurisdiction (for example, where civilians are deployed abroad with military personnel)
- b. where the proceedings relate to events that occurred when the civilian was subject to military law and the necessary military connection existed or
- c. when required or permitted by international law.

## 5. Prosecution

Ensure that the prosecution of proceedings in military courts is conducted by independent, impartial and legally qualified civilian or military prosecutors who are free in the course of their prosecutorial duties from:

- a. command interference
- b. executive or political influence or interference
- c. improper career consequences
- d. perceived or actual bias and
- e. personal interest in the proceedings.

## 6. Protection of Victims<sup>2</sup> and Witnesses

Ensure that victims and witnesses, where appropriate, in proceedings in military courts are:

- a. provided with general information about the military justice system, including their role, and the services, protections and remedies available to them
- b. provided with reasonable and necessary measures, including security measures, to protect them from intimidation, repercussions, and improper command or peer influence, to enable them to contribute to the case without fear or favour and without compromising their service commitments, if applicable;
- c. in the case of victims, able to inform the court of the impact of the offence upon them; and
- d. in the case of victims, entitled to have the court consider remedies, including compensation, for any loss or injury they have incurred.

## 7. Rights of Accused

Ensure that proceedings in military courts provide the internationally recognised rights of due process and a fair trial to a person charged with an offence, including, but not limited to, the following rights:

- a. to be equal before the court, regardless of rank, race, age, gender, marital status, religious belief, disability, political opinion, family status sexual orientation or any other characteristic

---

<sup>2</sup> 'Victims' means persons who, individually or collectively, have suffered harm through acts or omissions that are in violation of laws operative within a member state. A person may be considered a victim regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.

- b. to be presumed innocent until proved guilty according to law
- c. to be informed promptly of the details of the offence with which they are charged, in a language which they understand
- d. to have the free assistance of an interpreter if they cannot understand or speak the language used in court
- e. not to be charged with or prosecuted for an offence on account of any act or omission that did not constitute an offence at the time when it was committed
- f. to have timely access to all materials that the prosecution plans to offer in court against the accused or that are exculpatory
- g. to be tried without undue delay and in their presence
- h. to be guaranteed all the rights and facilities necessary for the preparation and conduct of their defence
- i. to defend themselves in person or through legal assistance of their own choosing or, if they do not have sufficient means to pay for legal assistance, to be given it free when the interests of justice so require
- j. to communicate in private with their legal representative(s)
- k. not to be compelled to testify against themselves or to confess guilt
- l. to examine, or have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them
- m. if convicted, to be subject to a sentence which is prescribed by law, proportionate to the gravity of the offence and the degree of responsibility of the offender, and not more severe than the penalty in force at the time the offence was committed
- n. if the person is a minor, to be guaranteed the specific international rights and safeguards that govern the prosecution and punishment of minors under 18 years of age and
- o. not to be liable to be tried or punished again for an offence for which they have already been finally convicted, acquitted or pardoned in accordance with their national law. However, this shall not prevent the reopening of the case in accordance with the national law if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.

## 8. Open and Accessible Proceedings

- a. Ensure that proceedings in military courts are open and accessible to the public, including the press.
- b. Require the presiding judge to decide whether circumstances exist which make it necessary to hold part or all of the proceedings in closed court in the interest of justice or to protect the state from a genuine threat to national security, and to provide an explanation for their decision in open court.
- c. Ensure that a decision to hold proceedings in a closed court can be subject to review by a higher court.

- d. If a presiding judge has determined that a part of the proceedings should be held in closed court, ensure that proceedings are re-opened to the public as soon as possible.

## 9. Executive Review and Appeals

- a. With the exception of extraordinary measures such as a royal or presidential prerogative of mercy or pardon, which should be established by the constitution, statute, custom or convention in accordance with the general principles for the administration of justice, ensure proceedings in military courts are not subject to command, executive or administrative review, or alteration.
- b. Grant the right to appeal from military courts and ensure that final judicial review and/or appeal from proceedings in military courts is conducted only by civilian appellate or constitutional courts.

## 10. Summary Proceedings<sup>3</sup>

- a. Where summary proceedings that involve penal sanctions of consequences are heard by commanders against military personnel, ensure that sufficient protections exist, including the right to elect trial in a military court which provides access to the internationally recognised rights set out in **Principle 7** above, or an unfettered appellate procedure to such a court.
- b. Ensure that summary proceedings are only used to adjudicate less serious cases and to impose sanctions which are proportionate to the gravity of the offence and the degree of responsibility of the offender, and which do not involve sentences of imprisonment or any other deprivation of liberty for a significant period of time, violation of human rights, or dismissal from service.

---

<sup>3</sup> Summary proceedings are not proceedings conducted in military courts.

**Commonwealth Secretariat**

Marlborough House, Pall Mall  
London SW1Y 5HX  
United Kingdom

[thecommonwealth.org](http://thecommonwealth.org)

