

INTRODUCTION BY THE COMMONWEALTH SECRETARY-GENERAL TO THE REPORT OF THE FIRST COLLOQUIUM

The quest world-wide for the effective realisation of fundamental human rights in all their manifestations - economic, social, political, cultural - is one which has come to characterise much of the twentieth century. This was a process which could only begin once the universality of the human condition and of the rights and needs fundamental to it, were clearly and unambiguously recognised. It needed, first, a renunciation of human bondage in all its forms, like slavery and indenture, and of course commitment to the decolonisation process. This process of change is by no means ended, as the persisting stain of apartheid in South Africa bears sordid witness. But the quest for respect for the wider rights of humanity is well underway.

Within both Commonwealth and non-Commonwealth countries, there is a constant process of defining and applying human rights norms under national rules and procedures. Coinciding with this development of national formulations of human rights, is the international process of developing and refining international human rights norms. These global norms are not the invention of international civil servants but the evolution, after considerable debate and deliberation of common standards for all nations based on generally accepted principles of law. They reflect concepts of basic human rights which have been long recognised in domestic law and frequently spelt out in the Constitutions of countries.

Some of these internationally recognised principles are comparatively well-known: expressed, for example, in the Universal Declaration itself and the two International Covenants of 1966. Others are of general application but concerned with specific areas; others still are regional, with varying degrees of acceptance in their particular regions: such as the European Convention on Human Rights, the Inter-American Convention on Human Rights and the African Charter on Human and Peoples' Rights. Others are less well-known and not yet accorded general acceptance in the community of nations. Thus the international process continues.

Until quite recently, the legal training of most lawyers has neglected specific instruction in international human rights norms. This reflects, and in turn induces, many inadequacies: a lack of awareness by educators of the legal profession, the unavailability of relevant materials to the legal profession - even to judges themselves, the absence of resource institutions to advise lawyers and judges about international human rights norms and jurisprudence. There are exceptions; but, together, all this has led to a general lack of awareness of the relevance and utility of developing and applying international human rights norms within domestic jurisdictions. Recently, however, a new process has begun. Judges in jurisdictions as diverse as Britain, Zimbabwe and Australia, have begun to have recourse to, and to interpret fundamental rights and obligations against the background of, international human rights norms. This process will be stimulated and be better informed if legal practitioners are encouraged to highlight relevant international human rights jurisprudence in domestic courts.

The time has come for the legal profession to look afresh at the flowering of the international jurisprudence of human rights, and for judges and lawyers everywhere to consider the relevance of such norms and their possible application in the resolution of practical questions determined in their courts according to law on a daily basis. This need is reinforced by the fact that so many states are now parties to the relevant international instruments and therefore have a common need to translate the fine words and sentiments of these instruments into practical application and reality. There is, therefore, a mutuality of interest - both of individuals and of governments - in the process of universalising human rights norms in the application of domestic law.

The legal profession, with its special role in the administration of justice, has much to contribute in its daily work to the advancement of the human rights of all. The initiative taken by Justice P N Bhagwati in bringing together an international gathering of judges in Bangalore, India, to discuss the domestic application of international human rights norms deserves our collective gratitude. The thoughtful and constructive statement made at the conclusion of the deliberations, charts the way forward to judges throughout the Commonwealth, and points them in the direction of a creative, yet consistent, development of human rights jurisprudence.

It is a particular pleasure that the Secretariat could play its part in the organisation of this Meeting, since the values and principles which lie at the core of the Commonwealth association, and which were expressed in such simple but eloquent terms by Commonwealth Heads of Government in Singapore in 1961, embody the Commonwealth message of concern for fundamental rights in all their manifestations. This concern, based on the principles adopted by successive Heads of Government Meetings, pervades the work of the Secretariat at many levels - whether through economic development, law, health, women and development issues, education or public administration. In recent years, Heads of Government Law Ministers and Senior Officials have given particular attention to ways of actively promoting human rights within the Commonwealth. The Report of the Commonwealth Working Group on Human Rights which was set up in 1979 to advise on the possibility of a human rights role for the Commonwealth, resulted in the establishment, in January 1985, of a special Unit within the Commonwealth Secretariat for the promotion of human rights and the provision of appropriate assistance to governments in the development of domestic measures to promote human rights and sustain and nourish human dignity.

There is a great opportunity ahead for new initiatives in the domestic application of international human rights norms. At Bangalore, a pebble was cast into the waters of the common law. I share the hope that the ripples it created will reach into the farthest corners of the Commonwealth.

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