

Speech by Ms Eleni Stamiris,
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It gives me great pleasure to welcome you to this judicial colloquium which is organised by the Gender and Youth Affairs Division of the Commonwealth Secretariat in collaboration with the Commonwealth Magistrates' and Judges' Association and the Centre for Comparative and Public Law, Faculty of Law, The University of Hong Kong. It is an unprecedented honour for us to have judges from eleven Commonwealth countries in Asia and the South Pacific meeting to deliberate on strategies for promoting the human rights of women through the domestic application of international and regional human rights instruments. I am equally pleased to welcome representatives of the International Women's Rights Action Watch Asia/Pacific, the United Nations Division for the Advancement of Women and the Office for Development Assistance's Pacific Regional Human Rights Education Resource Team. I wish to express sincere thanks to the Government and people of Hong Kong for agreeing to host this meeting. We are indebted to the Judiciary, and particularly acknowledge the support and generosity extended to us by the Chief Justice, the Honourable Sir Ti-Liang Yang who has graciously considered to open this Colloquium, the Attorney General and the Solicitor General, who will close the Colloquium. I also wish to recognise the support provided by the Dean and Faculty of Law, The University of Hong Kong. Their assistance has been critical in the organisation of this meeting and their generous hospitality accorded to participants is deeply appreciated. We also wish to thank the Commonwealth Foundation for providing funds for non-governmental organisations' 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 1993 United Nations World Conference on Human Rights. This Colloquium is part of the Commonwealth Secretariat strategy to support respect for human rights which is one of the fundamental values of the Commonwealth as agreed in the Singapore Declaration (1971) and the Harare Declaration (1991).¹ This was reinforced by the Commonwealth Heads of Government at their meeting in Auckland in 1995 when they reaffirmed that women's rights were human rights and urged member governments to

¹ The overall theme of the Conference was "To Define, Promote and Improve the Human Rights Culture in the Commonwealth in the 1990s", see 18 *Commonwealth Law Bulletin* 771 for details.

adopt legislation and develop national strategies to promote the advancement of women. 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 Women's Convention)² and the Declaration on the Elimination of Violence against Women.³ 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.

The Gender and Youth Affairs Division in collaboration with the Legal and Constitutional Affairs Division has focused attention on the Women's Convention — now ratified or acceded to by over 35 Commonwealth member countries. Their first initiative was the production of an accession kit to encourage Commonwealth countries to accede to the Convention. Next, 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, has been widely used and has even attracted recognition by the Committee on the Elimination of Discrimination against Women, the monitoring committee established under the terms of the Women's 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.

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 these international laws 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. In addition, 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 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, whom I am delighted to have with us for this meeting, as one of the Co-Chairpersons. The judges agreed on

² 1249 UNTS 13.

³ GA Res 48/104, UN Doc A/48/49, at 217 (1994) reprinted in 1 IHRR 329.

the *Bangalore Principles*⁴ 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.

Five other colloquia have been convened at which the *Bangalore Principles* have been affirmed. 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 Commonwealth Magistrates' and Judges' Association. A significant outcome of the colloquium was the adoption of the *Victoria Falls Declaration of Principles on the Promotion of the Human Rights of Women*.⁵ 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.⁶

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 Fourth World Conference on Women at Beijing in 1995, at which participants expressed their support for the *Victoria Falls Declaration*. Since then, this *Declaration* has been adopted by the Commonwealth Magistrates' and Judges' Association and endorsed by Commonwealth Law Ministers. I hope that after reviewing it you will also endorse it.

We are honoured to have as co-chairpersons two eminent judges — Justice P N Bhagwati, former Chief Justice of India, and Justice Dame Silvia Cartwright of the High Court of New Zealand. Justice Bhagwati will deliver an address on “Creating a Judicial Culture to promote Women's Human Rights” and Justice Silvia Cartwright will deliver an address on “The Relevance of International Standards to Domestic

⁴ *The Bangalore Principles* (1988) in 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.

⁵ *The Victoria Falls Declaration on the Promotion of the Human Rights of Women* in Commonwealth Secretariat, *Report of the Commonwealth Judicial Colloquium on Promoting the Human Rights of Women*, Victoria Falls, Zimbabwe, August 1994 (London, Commonwealth Secretariat, 1995) at 8.

⁶ For details, see *Victoria Falls Declaration*, paras i and xi.

Litigation: the Case for New Zealand". We will also be privileged to be addressed by Justice Desirée Bernard of the Court of Appeal in Guyana; the Hon Sir John Muria, Chief Justice of the Solomon Islands; the Hon R B Lussick, Chief Justice of Republic of Kiribati; Justice Tracy Doherty of the Supreme Court of Papua New Guinea and Mrs Vusenga Helu, Magistrate of the Ministry of Justice of Tonga and Judge Hing-Chun Wong of Hong Kong. We will also be stimulated by papers from Professor Savitri Goonesekere of the University of Colombo, Ms Flavia Agnes of India, Ms Ranjit Jayanti, Focal Point for Women, Office of the United Nations High Commissioner for Refugees, Hong Kong and Dr Bart Rwezaura of The University of Hong Kong. Our able consultants are Ms Jane Connors, Senior Lecturer, School of Oriental and African Studies, University of London, and Mr Andrew Byrnes of The University of Hong Kong.

I have no doubt that the experience and expertise of our Co-Chairpersons and speakers will ensure that we have a successful meeting. I look forward to two days of thought-provoking discussions which will be a first step towards working together in the Commonwealth to promote the rights of women through the domestic application of international and regional human rights.