

The Commonwealth and the Promotion of Human Rights

A Memorandum by the Commonwealth Secretariat

Background

The fundamental principles which have guided the Commonwealth association over the years were first articulated in the Singapore Declaration of Commonwealth Principles at the Commonwealth Heads of Government Meeting in 1971. They were reaffirmed *in extenso* most recently in the Harare Commonwealth Declaration of 1991, at the Commonwealth Heads of Government Meeting in Zimbabwe. Both documents reflect statements of principle and intent reached by consensus by Commonwealth Heads of Government, which attach priority to the promotion of democracy, human rights and sustainable development. These were reiterated in the recent communiqué from the 1993 Limassol Meeting. For the information of Ministers relevant extracts from this communiqué appear as Annex 1.

2. From its inception, these concerns have infused virtually every aspect of the activities of the Commonwealth Secretariat, whether it be combating racism and apartheid in South Africa or promoting debate on key economic developmental issues. Secretariat programmes have addressed needs in the fields of health, women, education, youth and the law, to mention but a few.

Creation of the Human Rights Unit

3. In 1977 it was proposed by The Gambia that the Secretariat should, in addition to these varied roles, have a specific mandate to promote human rights, drawing on the various international and regional human rights instruments and on relevant Commonwealth declarations.

4. The proposal was the subject of a discussion and study, and the Human Rights Unit was formally established in January 1985 initially within the International Affairs Division (now Political Affairs Division) of the Commonwealth Secretariat. It was charged with acting as a focal point for human rights activities, working in close co-operation with member governments and with other relevant Secretariat Divisions. It was agreed that it would not be appropriate within a Commonwealth context, for such a Unit to have any investigative or enforcement role. The Unit was also to ensure that, within the Secretariat itself due account is taken of human rights considerations in the work of all Divisions.

Location within the Secretariat

5. There has always been a strong legal element in the human rights work of both the Unit itself and within the various work programmes of the Legal and Constitutional Affairs Division (previously known as the Legal Division).

6. During the recent process of restructuring of the Secretariat, the question of where the Unit might operate most effectively was given careful consideration and the weight of opinion was in favour of the Unit being relocated within the Legal and Constitutional Affairs Division.

7. Given the legal basis of many human rights it is suggested that this move is appropriate. At the same time, the political aspects of human rights promotion, and particularly in the field of non-justiciable rights, required that the Unit continues to maintain close links with the Political Affairs Division (formerly the International Affairs Division). In practice, the Unit seeks to work with several other Divisions on common human rights concerns, for example, with the Women's Affairs Division on women's human rights, with the Education Department on matters related to human rights education etc, and the Economic Affairs Division on the right to development.

The Unit's Work Programme

8. The Commonwealth Governmental Working Group of Experts on Human Rights, convened by the Commonwealth Secretary-General in accordance with the directive given by the Heads of Government in Kuala Lumpur in 1989, reviewed Commonwealth co-operation in human rights and recommended possible avenues for further cooperation and action. Their Expert Group's Report submitted in July 1990, and endorsed by the Heads of Government in Harare and reaffirmed at Limassol, set out the following objectives for the Commonwealth:

- (a) to increase knowledge of international human rights standards and obligations among officials in Commonwealth countries; and among the populations at large;
- (b) to encourage and sustain high professional standards in the judiciaries and law enforcement agencies of Commonwealth countries in dealing with human rights matters, and to reinforce the independence of these judicial systems;

(c) to promote the adherence of Commonwealth countries to the main international human rights instruments, and to assist their effective implementation;

(d) to facilitate the promotion of human rights by governments, and exchanges of information on human rights programmes and activities.

9. The Report also identified specific programme areas to meet the broad objectives identified above:

- (i) A National Institutions Programme;
- (ii) A Regional Institutions Programme;
- (iii) An International Instruments Programme;
- (iv) A Professional Support Programme;
- (v) A Public Affairs and Information Programme;
- (vi) A Partnership Programme;
- (vii) A Commonwealth Human Rights Resource Directory;
- (viii) A Human Rights and Development Programme.

Implementing the Harare Mandate: Promoting the Fundamental Political Values of Democracy, Human Rights, the Rule of Law, Independence of the Judiciary, and Just and Honest Government

10. Since the promotion of the fundamental values of the Commonwealth is a multi-sectoral concern with political, economic, social and cultural dimensions, the Commonwealth Secretariat has sought to adopt an integrated approach in carrying out its mandate. Intra-Commonwealth development cooperation activities in key sectors together with Commonwealth strategies for promoting more effective global partnerships in pursuing sustainable development, seek to establish the foundation necessary for the promotion of its fundamental values. In the particular areas of democracy and human rights and law, the Secretariat concentrates on those activities where it is best placed to make an impact. These include:

A. National Institution and Capacity-Building

11. Since 1990, the Commonwealth Secretariat has intensified its efforts, at the request of member states, to assist in strengthening the capacity of key institutions. These include parliaments, public service commissions, electoral commissions, judiciaries, statutory human rights bodies and women's bureaux, as well as other organisations which sustain democracy and civil society and help to promote and protect human rights. In seeking to assist member countries in this area, the Secretariat has been careful to adopt a supportive and consensual role, working with and in support of relevant sectors of a member country in devising strategies which meet local needs and have local support. Assistance is essentially of a practical nature, aimed at devel-

oping self-sustaining local institutions and processes.

12. With this emphasis on practical assistance, the Commonwealth has, for example, developed what is now widely recognised as an effective system of election monitoring which is an important element in the setting up of a democratic system. As a result of its experience in observing ten major national elections over the last three years, the Commonwealth has been stressing the importance of action to create an environment conducive to the democratic process well ahead of polling day. Certain benchmarks have been identified which include a constitution that makes for a representative and accountable government; electoral laws that ensure proper registration of voters; fair nomination procedures; conditions that allow a secret ballot; adequate access to the publicly-owned media for contesting parties; and well-trained and vigilant political party agents whose work is complemented by national and international observers. Finally and most importantly, it is recognised that democratic structures cannot be imposed from outside but must be sustained from within, and that attention needs to be paid to the development of an indigenous democratic culture. This is a complex, dynamic and demanding process. This aspect of the Secretariat's work programme falls under the Political Affairs Division.

13. Another significant Commonwealth involvement in the area of furthering democratic development and human rights through institutional change has been in South Africa. The Commonwealth has had a long involvement in the campaign against apartheid. This has ranged from active pursuit of sanctions against apartheid in South Africa to the decision at Harare by Commonwealth leaders that the association should render whatever practical assistance it can to the negotiating process in South Africa. Following the UN Security Council Resolution 772 of August 1992, the Commonwealth presently has a Group of Observers in South Africa, working alongside monitors from the UN, the OAU and the EC in monitoring the violence that threatens to undermine progress towards the establishment of a non-racial, democratic government in South Africa. It has also been assisting the efforts of various professional and other groups who have been fostering dialogue on the shape and structures of the new South Africa.

14. Recently the Secretariat organised in collaboration with Inter-Rights the sixth in its series of high-level judicial colloquia as part of its programme of colloquia for judges on the domestic application of international human rights norms. For the first time a major Commonwealth event took place in South Africa with key topics of discrimination and freedom of expression chosen as being of particular relevance in a post-apartheid society. The Bloemfontein Statement is attached as Annex 2. In order further to strengthen the Secretari-

at's contribution in this field and in response to requests from judges at colloquia in Abuja and Banjul, the Secretariat and Inter-Rights are jointly establishing a central database of human rights jurisprudence for use in domestic courts, which would supplement the Commonwealth Law Bulletin.

15. The establishment and strengthening of national human rights institutions is being widely recognised as an important part of national mechanisms for the promotion and protection of human rights. The Secretariat has sought to play a facilitating role by encouraging discussions between governments and non-governmental groups on national strategies for human rights aimed at identifying structures and mechanisms necessary for the effective promotion and protection of human rights. The role that NGOs and community-based organisations (CBOs) can play in co-operation with national institutions is also being examined. As more than half of the Commonwealth members are small states, special attention is being given to the specific institutional needs of such countries. Assistance was recently given to The Gambia in establishing a national human rights commission.

B. Promoting Information Sharing and Exchange of Experience

16. The Commonwealth Secretariat has sought to facilitate cross-fertilisation of ideas, experiences, expertise and the dissemination of human rights educational materials as a way of supporting and strengthening national (including community and grass-roots activities) as well as regional efforts for the promotion of democracy, the rule of law and human rights. It has sought to achieve this in a variety of ways. It has, for example, sent experienced constitutional and electoral experts to emerging multi-party democracies in the Commonwealth to assist in the drafting of new constitutions based on democratic principles, and to help establish institutions and practices vital to the proper functioning of a democratic system. Again, by no means all of this work is undertaken by the Human Rights Unit as other Divisions are heavily involved.

17. Towards the same goal of strengthening democratic systems, the Secretariat has brought together senior officials and judges in member countries to examine ways of promoting judicial review of administrative action. This exercise has produced a landmark set of guidelines for such a process which appears in paper LMM(93)17 which is before the meeting. Significantly, the government of Zambia then announced its intention to undertake a full-scale review of the law with a view to providing easier access to the courts for citizens aggrieved by government decisions. Similar exercises are being planned for other countries who have recently moved, or who are presently moving, from one party to multi-party democracies.

18. The Secretariat has also sought to assist in the domestic implementation of international human rights norms, mentioned earlier through the holding of colloquia with senior judges. These have had a direct impact on major court decisions in a significant number of Commonwealth countries and beyond. The scope of the colloquia is being extended to cover the domestic implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women.

19. On human rights, in addition to promoting useful exchange in areas such as institution-building as mentioned in the previous section, the Secretariat seeks to pay special attention to the rights and survival concerns of vulnerable social groups, which include female-headed and women-maintained households, working and street children, migrant workers, refugees and displaced families and indigenous and tribal communities. In this area, the Secretariat seeks to provide much-needed and meaningful assistance through strengthening networks amongst those engaged in improving the conditions of such vulnerable groups; dissemination of information on appropriate and effective initiatives for establishing access of disadvantaged groups to basic material and social needs; and making available a range of training materials and techniques.

20. Commonwealth exchanges at the regional level have also addressed, at the request of member countries, issues of concern which require regional co-operation for their resolution. In all such instances, the Secretariat has sought to ensure that the genuine concerns of communities have been represented through the presence of professional and non-governmental organisations. Such efforts have contributed towards a better understanding of common problems and sometimes to closer co-operation between governments and non-governmental groups in devising ways of dealing with particular problems.

C. Training

21. Commonwealth programmes have particularly in recent years focused on education and training activities in democratic practices and human rights with the objective of promoting just and honest government and the development of civic society. A wide range of human rights educational and training material is being developed for the use of officials, including those from foreign ministries, women's affairs, police, prison authorities as well as the judiciary. Particular attention has been paid to women's human rights concerns and resource material has been produced on the problems of violence against women and child abuse.

22. The training of trainers has been a part of this educational activity. Programmes have involved various government ministries, parliamentary and electoral institutions, trade unions, the media, etc. Because of the Secretariat's concern to ensure that its training pro-

gramme was reaching the grass-roots level, a full-scale evaluation was undertaken in 1992/3. The evaluation team concluded that the programme that had been developed was insufficiently focussed and targeted. It made a number of constructive recommendations which are under consideration for implementation. (These are attached as Annex 3).

23. The Secretariat is providing specialised training to a number of member states' personnel responsible for reporting obligations under international human rights treaties as well as regional treaties. Here again the Secretariat has pursued its well-tried strategy of bringing experienced practitioners together with newcomers to the field and has thereby promoted a fruitful learning process. The Commonwealth Training Manual on the reporting procedure of the Women's Convention has proved to be a useful resource and a similar manual is being developed for the reporting procedure under the African Charter.

Conclusions

24. In giving practical expression to its shared commitment to the promotion of democracy, the rule of law, human rights and just and honest government the Commonwealth Secretariat is uniquely positioned to provide timely and helpful advice and guidance. In the light of the endorsements by successive CHOGMs, its focus will continue to be on those areas of activity where it can make the most effective and meaningful contribution. In all its work, the Secretariat is able to call on a wealth of expertise and experience available in the Commonwealth. Various Commonwealth fora, ranging from the biennial Heads of Government Meetings to those of Ministers and officials, plus workshops and seminars, provide ongoing opportunities for such exchanges. In particular, the Secretariat looks to this Meeting for advice and guidance as the most fruitful way ahead.

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ANNEX 1

Extracts from the Communiqué of Commonwealth Heads of Government Meeting and from the Report of the Committee of the Whole on Commonwealth Functional Co-operation Endorsed by Heads of Governments in Limassol, Cyprus, 21-25 October, 1993

Democracy and Human Rights

Communiqué

7. Heads of Government expressed particular satisfaction at the increasing appeal of and commitment to democratic ideals, both within the Commonwealth and elsewhere. They reaffirmed, *inter alia*, their commitment to democracy, fundamental human rights, the rule of law, the independence of the judiciary and just and honest government, as essential ingredients of the Commonwealth's fundamental political values. Affirming the importance of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, they reiterated that all human rights were universal, indivisible, interdependent and interrelated. They stressed that democracy, development and respect for human rights and fundamental freedoms were interdependent and mutually reinforcing. They welcomed the reaffirmation of the right to development, as stated in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.

8. Heads of Government further reiterated their commitment to the International Bill of Human Rights, and called on member governments which had not already done so to make every effort to become party to the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights by 1995.

9. Heads of Government reaffirmed that women's rights were an integral and indivisible part of human rights and supported the principles embodied in the Vienna Declaration on Human Rights and the Convention on the Rights of the Child. They urged all Commonwealth governments to ratify by 1995 the Convention on the Elimination of All Forms of Discrimination against Women. They regarded violence against women as a contravention of women's rights and called on all governments to adopt the draft UN Declaration on the Elimination of Violence against Women.

10. Heads of Government expressed their appreciation for the proclamation of 1993 as the International Year of the World's Indigenous People as a reaffirmation of the commitment of the international community to protect the human rights and fundamental freedoms of in

igenous people and ensure respect for the diversity of their cultures and identities.

11. Heads of Government expressed serious concern at the continuing trends of ethnic chauvinism, xenophobia, racism and other related forms of intolerance, in particular their contemporary manifestations, which posed increasingly grave threats to peace and communal harmony. They pledged their commitment jointly and severally to combat discrimination in all its forms in their own countries, with emphasis on maintaining the rule of law and measures to promote the development of human rights institutions and other enduring strengths of pluralist society.

Role of the Commonwealth

Communiqué

56. Heads of Government also noted with satisfaction the Secretariat's efforts to promote human rights in all its aspects, through the dissemination of information; the provision of opportunities for consultation and the sharing of experience and expertise; human rights education and training; and assistance with the establishment or strengthening of national human rights institutions and mechanisms. They asked the Secretariat to provide for increased allocations to that area as much as available resources would allow.

57. Reiterating the important role played by non-governmental organisations in the area of promotion of human rights, Heads of Government encouraged increased practical co-operation between the Secretariat and NGOs.

58. Heads of Government reaffirmed the support given at Harare for the Report of the Commonwealth Governmental Working Group of Experts on Human Rights and its recommendations.

Child Survival and Development

Report of the Committee of the Whole on Commonwealth Functional Co-operation

24. The Committee welcomed the call made by the Vienna World Conference on Human Rights for universal ratification of the Convention on the Rights of the Child by 1995. In that context, it urged member governments that had not yet done so to ratify the Convention and recommended to Heads of Government that they discuss at their 1995 CHOGM progress made towards its realisation. They requested member governments to adopt means for the effective implementation of the Convention, particularly by bringing their national laws and practices into conformity with its provisions.

Women and Development

Report of the Committee of the Whole on Commonwealth Functional Co-operation

27. The Committee urged all governments to ratify the

Convention on the Elimination of All Forms of Discrimination against Women by 1995 and to endorse the draft UN Declaration on the Elimination of Violence against Women. It expressed support for the proposal that special measures as appropriate be taken to increase women's participation at all levels of the political and decision-making process at national level and in Commonwealth organisations. Acknowledging the value of mainstreaming gender issues into all policies and programmes in order to achieve sustainable economic and environmental development, it urged governments to ensure that immediate action was taken towards implementation of the Ottawa Declaration on Women and Structural Adjustment and Agenda 21, especially the chapter in the latter focusing on 'Global Action for Women Towards Sustainable and Equitable Development'.

ANNEX 2

THE BLOEMFONTEIN STATEMENT

1. Between 3-5 September 1993, a significant event took place in Bloemfontein, South Africa, when for the first time senior judicial figures from around the Commonwealth and the United States of America joined with South African judges and jurists in a judicial colloquium on the domestic application of international human rights norms.
2. The Colloquium, the sixth in a series, was held in South Africa in response to the wishes of a broad section of South Africans, who wished to use the opportunity it presented to assist the transition process by furthering informed discussion on the interpretation and implementation of human rights provisions.
3. The Colloquium was administered by INTERRIGHTS (The International Centre for the Legal Protection of Human Rights) with assistance from the Commonwealth Secretariat and with financial support from the British Overseas Development Administration, the Commission of the European Communities, the Kagiso Trust, the Canadian Embassy Dialogue Fund and the British Council.
4. The participants reaffirmed the general principles stated at the conclusion of the Commonwealth judicial colloquium in Bangalore, India, in 1988, as developed by subsequent colloquia in Harare, Zimbabwe, in 1989, in Banjul, The Gambia, in 1990, in Abuja, Nigeria, in 1991 and in Balliol College, Oxford, United Kingdom, in 1992.
5. The participants welcomed the movement towards a non-racial democracy in South Africa devoid of apartheid and discrimination, with a constitution which guarantees the protection of fundamental human rights.
6. Participants were keenly aware that their own meeting, attended as it was by a large preponderance of males, itself reflected a legacy of discrimination against women over many generations and in many societies and which needs urgent remedial action.
7. The participants believe that the provision of equal justice requires a competent and independent judiciary trained in the discipline of the law and sensitive to the needs and aspirations of all the people. They stressed their conviction that it is fundamental for a country's judiciary to enjoy the broad confidence of the people it serves; to the extent possible, a judiciary should be broadbased and therefore not appear (rightly or wrongly) beholden to the interest of any particular section of society. They saw this as being of special relevance in cases involving complaints of discrimination in all their countries and so of being of the highest impor-

tance in the context of the judiciary which will interpret and enforce a new South African constitution with a justiciable Bill of Rights.

8. The Colloquium affirmed the importance both of international human rights instruments and international and comparative case law as essential points of reference for the interpretation of national constitutions and legislation and the development of the common law.

9. The specific subject matter of the Bloemfontein Colloquium was the effective protection through law of the fundamental rights to equal treatment without any discrimination and to freedom of expression.

10. There was substantial consensus that the principle of equality requires public authorities to take affirmative action to diminish and eliminate conditions which cause or perpetuate discrimination and to ensure equal access to and enjoyment of basic human rights and freedoms. Such affirmative action must be appropriate and necessary to achieve equality. Discrimination takes many forms in all societies. It may be indirect and unconscious as well as direct and deliberate. The principle of equal treatment forbids not only intentional discrimination. It also forbids practices and procedures which have a disparate adverse impact upon particular groups and which have no objective justification. It is essential to secure the elimination of indirect discrimination of this kind.

11. In democratic societies fundamental human rights and freedoms are more than paper aspirations. They form part of the law. And it is the special province of judges to ensure that the law's undertakings are realised in the daily life of the people. In a society ruled by law, all public institutions and officials must act in accordance with the law.

The judges bear particular responsibility for ensuring that all branches of government the legislature and the executive, as well as the judiciary itself conform to the legal principles of a free society. Judicial review and effective access to courts are indispensable, not only in normal times, but also during periods of public emergency threatening the life of the nation. It is at such times that fundamental human rights are most at risk and when courts must be especially vigilant in their protection.

2. Where derogations from fundamental human rights and freedoms are permissible they must be strictly construed so as to avoid weakening the substance of the rights and freedoms themselves and only to the extent demonstrably necessary in an open and democratic society.

ANNEX 3

Evaluation Study of Commonwealth Fund for Technical Co-operation/Commonwealth Secretariat (International Affairs Division/Human Rights Unit) Assistance for Human Rights Training for Public Officials

V Conclusions and Recommendations

61. The Commonwealth Secretariat programme of human rights training for public officials fits Commonwealth traditions of cooperation and technical assistance, matches the mandate of the HRU, was specifically endorsed by the Working Group of Experts, is valued by many Governments, has pioneered certain approaches, has demonstrated the benefit of sharing Commonwealth experience, and has particular advantages compared with those of other agencies. With the Commonwealth and international changes since the Harare Declaration it is possible for a more flexible phase of the programme, consolidating lessons learned, to evolve in a more supportive environment.

Recommendations:

- (i) The Secretariat should plan a new phase for the programme, covering the next four years, taking account of this study and discussions with individual Governments. In view of the significance of the programme in the light of the Harare Declaration, such discussions may appropriately be conducted at Deputy Secretary-General and Director level.
 - (ii) In devising such a plan, the HRU should take care to review the current contributions of the UN and independent human rights training providers, and the needs of member Governments. It should heed the advice of the Working Group: "the Commonwealth should build on its specific strengths. It should recognise the value of cooperation with other bodies such as the UN or regional organisations, and undertake activities only where it can make a distinct contribution and without duplicating existing efforts."
 - (iii) A new, more flexible phase for this programme deserves endorsement at the Limassol CHOGM. Training public officials in human rights is one of the most effective ways in which an inter-governmental body can underline its commitment, and support at the highest political level will assert a collective determination tempered by a sensitivity to the needs of each member.
62. The Secretariat has been right to treat this as a major programme, with reasonable resources attached. However, the same funds could have trained more people or financed longer workshops if at least some of these had been non-residential events for one nation.

The programme in the past has reached only 40 people a year. Training-the-trainers was not necessarily the cost-effective and catalytic strategy it purported to be when, for a variety of reasons, the great majority of workshop participants did not carry out training on their return to post.

Recommendations:

- (i) Adopting a menu model, the HRU should aim to train 70 persons a year, hold three workshops a year, and allocate staff time and resources to preliminary negotiation on content and participants, and to subsequent follow-up. A commitment on this scale is likely to involve half the time of a professional member of staff, with secretarial help. At least one workshop a year should be non-residential, for one country's nationals, and at least one should be regional and residential, serving several countries. Consideration should be given to making the regional workshops last four days and the national ones five. HRU staff should always participate in an HRU workshop.
 - (ii) Efforts should be made to cooperate with other agencies, partly to bring in additional funding, but also to increase the impact and deepen the constituency of interest in human rights for public officials. In the Pacific region, for example, it might be possible to work with the South Pacific Forum or the Pacific Islands Law Officers Meeting.
 - (iii) Local cost contributions should be sought from the Government concerned when a workshop for one country is being negotiated: it would help to cement the collaboration with the Secretariat, and to guarantee utilisation of the benefits.
63. The particular model pursued by the HRU, of workshops to train officials to train colleagues in human rights, was inflexible and not well adapted to the circumstances of most Commonwealth countries. In its planning, and its negotiation with Commonwealth Governments, the HRU should offer a menu and choice of training possibilities.

Recommendations:

- (i) The choice should include a regional or national workshop, training for and with public service training agencies as compared with persons from a variety of Ministries, specialist or generalist training, and training of persons to train others as compared with the training as an end in itself. At least one of these workshops over the four years should be at the most senior relevant level (eg Permanent Secretaries, or Directors of national Human Rights Commissions, or Directors of Police Training Colleges).

- (ii) In a more user-friendly programme it will often be necessary for an HRU official to visit a country or region in advance to negotiate an agenda, identify workshop resource persons (especially where there are competing NGOs and experts), to target participants, and to establish which is the agency or national focal point responsible for follow-up. The most crucial collaborator to identify will be the institution (public service, Ministry or academic), and the individual within that institution, which has the authority and resources to carry through effective follow-up.
- (iii) Even in a workshop which retains a training-the-trainers orientation it will be necessary to include rather more conceptual knowledge and discussion, and to provide more relevant written material, than has been the case in the past. For workshops of all types it will be essential that some materials reach participants before the start, that they should include items directly relevant to that country or region (eg regional human rights instruments, legal precedents from Commonwealth countries, administrative norms, reports from the UN Human Rights Commission and international NGOs), and that extra material shall be issued in the course of the workshop itself for retention by participants.
- (iv) In order not to waste effort, and to consolidate work done, it would be desirable to hold workshops over the next two years for those groups of officials for whom new Manuals have been drafted - law enforcement officers, the judiciary, prison officials, and Foreign Ministry personnel. They could then be published in the light of this and other comment.

64. In general the workshops seemed effective at the time and created enthusiasm. Participants recorded a positive verdict and were sensitised to human rights and training issues. However, the subsequent training fallout was small, and appears to have been tiny until the introduction of the special Fund to assist training.

Recommendations:

- (i) Much higher priority must be given to all matters relating to follow-up if public officials and their Governments are to be helped. This issue should be discussed before and during a workshop. After its completion the HRU should strengthen its responsibility to those who have participated, and they should be contacted twice, after six and twelve months respectively, to check progress and see whether they need assistance. The HRU newsletter could become a major channel for human rights training in the Commonwealth. As a matter of accountability, and to help guide the development of a more flexible programme, a short two-page evaluation report should be agreed by participants and

trainers before the end of each workshop. These should be collated on an annual basis with an introduction by the Head of the HRU and be made available to Governments, qualified Commonwealth NGOs and other appropriate bodies, and conclusions should be summarised in the HRU newsletter.

- (ii) The Secretariat should coordinate the supply of resource materials on human rights and training to countries in need. It should not continue its special Fund after present resources are used up because it is difficult for the HRU to manage and it implies that training will only take place with the external inducement of Commonwealth funding. However, the Secretariat should be prepared to respond to programmatic requests for assistance and expertise for human rights training for public officials, according to the usual procedures. In exceptional cases, involving significant innovation or the needs of smaller or poorer states, the HRU could provide modest funding for follow-up events on condition that the results are publicised.
- (iii) Future workshops should employ more varied and visual techniques. They should provide conceptual material, and guidance on human rights in practical administration, as appropriate to the audience. They should refer to Commonwealth experience (common law precedents, the role of NGOs, experience with Human Rights Commissions and devices to underpin probity and accountability in government, the advisory services of the Commonwealth Secretariat).
- (iv) Where appropriate the HRU should join forces with other arms of the Secretariat in arranging workshops - for instance, on women's and children's rights.
- (v) The HRU should be more actively involved with Governments in the selection of workshop participants. For example, where participants are supposed to come from several Ministries or agencies it should prevent a build-up of nominations from anyone.
- (vi) The continuing participation of NGOs in the workshops should be cherished. Care should be taken in the selection of NGO resource persons and, where only one or two can participate actively, others could be invited as observers. Other types of expert could also be utilised. Proven training resources, such as staff from the African Centre for Democracy and Human Rights Studies, could be employed again.
- (vii) Closer attention should be paid to the assessments given by participants at the end of each workshop: the HRU should be willing to change style, content and format in the light of such comment. A spirit

of frankness and objectivity should be encouraged when preparing an evaluation report at the end of each workshop: the report should be seen as a diagnostic tool for the future and any drawbacks or difficulties must be referred to. It may be desirable to invite a respected independent person, not hitherto involved in the workshop, to chair the evaluation session and to sign the agreed report on behalf of all.

65. There was a global imbalance in utilisation of the programme in its first phase. It was biased towards Commonwealth Africa and the island states of the Caribbean and Pacific. In spite of overtures by HRU, it was not used at all by 15 member countries, including such significant Commonwealth states as Britain, India, Canada, Pakistan, Bangladesh and Malaysia. In consequence it may have had some negative perceptions, as indicating that a Commonwealth input into the training of public officials is not relevant for all, but only to certain developing countries. Amongst those which did participate there was a disproportionate benefit to the two countries which hosted three workshops.

Recommendations:

- (i) The next phase of the programme should give preference, in the location of workshop venues, to countries which have not hosted an event before. If, as recommended, there are three workshops a year, they should be shared around the main regions of the Commonwealth. No country should host more than one workshop in a four year period.
- (ii) It should be emphasised that the next phase of the programme rests squarely on a Commonwealth consensus, a set of values set out in the Harare Declaration as representing the aspirations of all members of the association, and is not aiming to impose the values of some members on others. The needs of differing countries will receive appropriate offers of assistance. The specific Commonwealth experience which could be helpful will be identified in the preparatory discussions.
- (iii) The Secretariat should consult all the 15 Governments which have not hitherto participated in the programme to see whether, in a phase of greater flexibility, they may wish to take advantage of it. It goes without saying that not every Government may wish to do so, but the Secretariat should work to the principle that all could. The fact that 35 Governments have already used the programme testifies to the value that the majority of members put on training public officials in human rights. In view of the significance of this programme, within the priorities laid down at the Harare CHOGM for the 1990s and beyond, it would be right for HRU staff to be supported in their negotiations with Governments by the direct involvement of a Deputy Secretary-General and the relevant Directors

(for Legal and Constitutional Affairs, as the International Affairs Division will be known).

(iv) In prioritising Commonwealth partners and venues in future the HRU should seek to be equitable, though responding favourably to Governments responsible for large populations, or those particularly eager for such collaboration. It should underline the fact that training in human rights is a standard requirement for good administration in every Commonwealth state, and avoid any impression that it is a service exclusive to nations where human rights are thought to be exemplary, or thought to be problematic.

VI Lessons Learned and the Future

66. A major lesson from this evaluation is that where the objectives of a programme are as tightly defined as was the case here -- namely that success was to be judged by the number of subsequent training activities that were instigated -- the management of a Secretariat programme itself is exposed to a tight yardstick. It is necessary to be sure of an accurate feedback, and to make modifications where a programme falls short of the objectives. In this case, following the extension of the workshop from two days to three after the Gambian trial in 1989, there were no significant modifications until the introduction of a small grants Fund in the second half of 1992 and the testing of a Trainers' Guide in St Vincent at the end of that year.

67. A related point is that, in retrospect, it was probably mistaken to adopt such precise targets for effectiveness. Human rights training for public officials was a new programme. When it began in 1989 -- it was conceived even earlier -- Commonwealth activity for human rights was still controversial in some member states. The end of the Cold War and the Harare Declaration still lay in the future. In the circumstances, a more exploratory approach, following more detailed consultation with Governments likely to use the programme, could have led to more open-ended and flexible guidelines.

68. The attempt to combine training about human rights with the training of trainers to prepare colleagues to operate human rights norms and conventions was extraordinarily ambitious. It too easily assumed that, with one day of overview on the conventions, and a simulation exercise, the public officials at the workshops would be capable of running effective programmes of their own. The enthusiasm generated at the workshops concealed serious difficulties: the officials who attended did not always have preexisting knowledge, the workshops did not get into enough detail on the challenge of operating to human rights criteria in practical administration, the time and resources for follow-up by these particular officials rarely existed. A more modest approach could have brought greater dividends.

69. A particular weakness was the lack of a governmental counterpart in each country from which workshop attenders came who would take responsibility for supporting implementation on their return home. Whether described as a national focal point, or a line Ministry (or even someone in a Human Rights Commission or public service training agency), such a defined person in a defined organisation is a prerequisite for effective follow-up. Even in countries which hosted the workshops there was confusion; by often relying on NGOs to make local arrangements for a workshop the HRU had forgone the opportunity of consolidating governmental responsibility in advance, while the fact that attenders came from a scatter of Ministries and agencies meant that none of them had the national authority to oversee subsequent training.

70. With regard to the future, there is every reason for the Commonwealth and its Secretariat to consolidate the programme which commenced in practice in 1989. Even though imperfectly attuned to their needs it has already been used by the majority of Governments, and enjoys their goodwill. There is a real likelihood that some Governments which have not used it hitherto will participate in the next four years, especially if it evolves in a more flexible manner. It has already produced rich experience, and sensitised a core group of public officials. It would be a waste, a defiance of the priorities laid down at Harare, and an avoidance of some of the most significant challenges faced by public administration in all Commonwealth countries if the programme was now to be abandoned or curtailed.

71. However, in planning ahead it will be necessary to recall that there are other training providers in this field and that the Secretariat will never have the resources to be a provider on a vast scale. It is quite likely that, due to international interest, there will be a steady growth in funding and professionalisation elsewhere. This sug-

gests that the HRU should look to areas of comparative advantage for the Commonwealth. Furthermore the situation is steadily changing within Commonwealth countries themselves. For example, more are establishing Human Rights Commissions (as in India), which could be partners in training. Governments are increasingly collaborating with NGOs and academic experts in their own countries to provide specific training and courses. The effectiveness and impact of the Commonwealth programme may be judged against increasing competition, and the quality of the HRU "after-sales service" will be crucial.

72. In guiding the development of the programme the HRU will need to get as much feedback as possible. If, following the recommendation in the report by the Working Group of Experts, it is decided to establish a Programme Advisory Group of Commonwealth officials to assist the work of the Unit, then one of its chief tasks should be to comment on the progress of this training programme.

73. Continuing political support, at various levels, will ensure the success of the programme in future. In this connection a strong endorsement of training in human rights for public officials at the Limassol CHOGM would be valuable. This could be complemented by expressions of support, and input on their own professional needs, from specialist meetings of Commonwealth Ministers - in particular the Law Ministers (especially because their officials have been the largest beneficiaries in the past), the Ministers Responsible for Women's Issues, and the Education Ministers. It could also be helpful if qualified Commonwealth non- governmental bodies - such as the Commonwealth Parliamentary Association and the Commonwealth Human Rights Initiative - could be encouraged to take a supportive interest in the programme.