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INSTITUTE OF COMMONWEALTH STUDIES

Key Commonwealth Documents: The Victoria Falls Declaration

The 1994 Victoria Falls Declaration of Principles for the Promotion of the Human Rights of Women emerged from a judicial colloquium held in Zimbabwe on 19-20 August 1994. Participants included the Commonwealth Secretariat Gender and Youth Affairs Division, the Legal and Constitutional Division, the Commonwealth Magistrates' and Judges' Association and the Commonwealth Foundation.

1. The participants reaffirmed the principles stated in Bangalore, amplified in Harare, affirmed in Banjul, confirmed in Abuja, reaffirmed at Balliol, Oxford and reinforced at Bloemfontein. These principles reflect the universality of human rights - inherent in men and women - and the vital duties of an independent judiciary in interpreting and applying national constitutions and laws in the light of those principles. These general principles are applicable in all countries, but the means by which they become applicable may differ.
2. The participants noted that all too often universal human rights are wrongly perceived as confined to civil and political rights and not extending to economic and social rights, which may be of more importance to women. They stressed that civil and political rights and economic and social rights are integral and complementary parts of one coherent system of global human rights.
3. The participants were aware that universal human rights are usually interpreted as applying to regulate the public sphere. Violations of human rights in the private sphere, including the family - the site of much of women's experience of violations - are usually perceived to be outside the reach of the human rights. The participants noted that although the state does not usually directly violate women's rights in the private sphere, often supports or condones an exploitative family structure through various laws and rules of behaviour which legitimate the authority of male members over the lives of female members of the family and, in any event, often fails to act to protect women from private violations or tolerates or, indeed, encourages, a structure wherein private violations occur all too frequently.
4. The participants recognised that many of the existing international and regional human rights standards were formulated within a primarily male perspective and with insufficient gender sensitivity and sometimes fail to provide protection for the gender specific interests of women. The participants

emphasised the urgent need for the formulation of further specific rights for women, particularly in the economic and social field. The participants stressed the vital need for women to be centrally involved in decision making at all levels.

5. The participants recognised that discrimination against women can be direct or indirect. They noted that indirect discrimination requires particular scrutiny by the judiciary. The participants, further, emphasised the need to ensure not only formal, but also substantive equality for women and, for that purposes, affirmative action may be adopted if necessary.
6. The participants noted that although international human rights are inherent in all human kind, very often such rights are perceived to be owned, only or largely, by men. The participants emphasised, as did the 1993 United Nations World Conference on Human Rights, that the human rights of women are as valuable as the human rights of men.
7. The participants recognised that international human rights instruments, both generally and particularly with reference to women, and their developing jurisprudence enshrine values and principles long recognised as essential to the happiness of humankind. These international instruments have inspired many of the constitutional guarantees of fundamental rights and freedoms within and beyond the Commonwealth. These constitutional guarantees should be interpreted with the generosity appropriate to charters of freedom. Particularly the known discrimination guarantee should be construed purposively and with a special measure of generosity.
8. The participants agreed that it is essential to promote a culture of respect for internationally and regionally stated human rights norms and particularly those affecting women. Such norms should be applied in the domestic courts of all nations and given full effect. They ought not to be considered as alien to domestic law in national courts.
9. All Commonwealth governments should be encouraged to ratify the Convention on the Elimination of All Forms of Discrimination Against Women before the Fourth United Nations World Conference on Women to be held in Beijing in 1995. Those governments that have ratified the Convention with reservations should examine the content of those reservations, with a view to their withdrawal.
10. All Commonwealth governments should ensure that domestic laws are enacted or adjusted to conform to the international and regional human rights standards.
11. The judicial officers in Commonwealth jurisdictions should be guided by the Convention on the Elimination of All Forms of Discrimination Against Women when interpreting and applying the provisions of the national constitutions and laws, including the common law and customary law, when making decisions.
12. The participants agreed with the views expressed in the Vienna Declaration and Programme of Action encouraging the speedy preparation of an optional protocol to enable individual petition under the Convention on the Elimination of All Forms of Discrimination Against Women.

13. All Commonwealth governments should subscribe to the principles contained in the Declaration on Violence Against Women, adopted by the UN General Assembly in December 1993. The participants agreed with the Declaration's classification of violence against women as a form of discrimination and violation of human rights.
14. All Commonwealth governments should offer appropriate assistance to the United Nations Special Rapporteur on Violence against Women.
15. There is a particular need to ensure that judges, lawyers, litigants and others are made aware of applicable human rights norms as stated in international and regional instruments and national constitutions and laws. It is crucially important for them to be aware of the provisions of those instruments, which particularly pertain to women.
16. The participants recognised and recommended that gender sensitised new initiatives in legal education, provision of material for libraries, programmes of continuing judicial discussion and professional training to lawyers and other interest groups in the protection of the human rights of women and better dissemination of information about developments in this field to judges and lawyers should be undertaken for effective implementation of these principles.
17. The participants emphasised the need to translate the international human rights instruments and the African Charter of Human and Peoples' Rights into local languages, in a form accessible to the people and urged the governments to undertake or support that task.
18. The participants were of the view that the governments should mount extensive awareness campaigns through diverse means to disseminate and impart human rights education and encourage and support efforts by non-governmental organisations in this context.
19. The participants acknowledged the important contribution of non-governmental organisations in the dissemination of information about women's human rights and making women aware of those rights. The participants called upon the governments to acknowledge and support the work of non-governmental organisations in the promotion of the human rights of women.
20. The participants emphasised the need to enable non-governmental organisations to provide *amicus curiae* briefs and other legal advice, assistance and representation to women in cases involving human rights issues. The participants also stressed the need to provide free legal aid and advice to women at state cost for enforcement of their human rights.
21. Public interest litigation and other means of access to justice to litigants, especially women, who wish to complain of violations of their rights should be developed. Nongovernmental organisations involved in women's issues should also be permitted to bring violations of human rights of women before the courts for redress.
22. Judges and lawyers have a duty to familiarise themselves with the growing international jurisprudence of human rights and particularly with the expanding material on the protection and promotion of the human rights of women.

23. Closer links and co-operation across national frontiers by the judiciary on the interpretation and application of human rights law should be encouraged.

24. Law schools should be encouraged to develop courses in human rights, which must include a module on the human rights of women.

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