

Commonwealth, some of whom are also funded by the CFTC, as is the law professor.

UWI will be one of the regional delivery centres for a distance training and learning programme, jointly developed by the Secretariat and the Vancouver-based Commonwealth of Learning (COL), which will be launched in September 1995 with some 50 students from all over the Commonwealth. The programme will be initially delivered through RIPA International in London, UWI for the Caribbean and the University of the South Pacific, Vanuatu.

Provision of Legal Information

The quarterly *Commonwealth Law Bulletin*, published by the Secretariat, continues to be a major source of legal information in many

jurisdictions, especially small states. It provides access to the collective Commonwealth experience by summarising legal developments throughout the Commonwealth. Many policy-makers, officials, judges and lawyers in developing countries regard it as their only up-to-date source of information on contemporary legal developments.

Protection of the Cultural Heritage

A new Scheme for the Protection of the Material Cultural Heritage, the fourth such scheme for the promotion of mutual legal co-operation within the Commonwealth, was adopted by Law Ministers at their meeting in Mauritius in November 1993. The scheme provides a framework for the return of important cultural items illegally exported from their country of origin.

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SOUTH AFRICA: A CELEBRATION OF FREEDOM

The two years since the 1993 CHOGM in Cyprus have seen momentous change in Southern Africa. South Africa's transformation into a non-racial democracy has important implications for Africa as a whole, and particularly for Southern Africa, where a peaceful solution has been found for Mozambique's long civil war and peace in Angola at last seems a real prospect. The countries in this region, the majority of which are Commonwealth members, are in the process of forging a regional community based on the twin pillars of democracy and development.

All this has great significance for the Commonwealth, whose commitment to such fundamental values was reconfirmed in the Harare Commonwealth Declaration, adopted in 1991.

The Cyprus CHOGM coincided with major breakthroughs in South Africa's multi-party negotia-

tions which had resumed at the beginning of April 1993. The parties had agreed on 27 April 1994 as the date for the first non-racial elections for a Constitutional Assembly and legislation had been enacted to establish a Transitional Executive Council (TEC) to supervise the key arms of government in the run-up to the elections. The entire process, however, remained fragile and while Heads of Government agreed at Cyprus to lift trade, investment and financial sanctions against South Africa, the arms embargo was to remain until a democratic post-apartheid government was established.

If the emergence of a united, democratic and non-racial South Africa was to be assured, the process needed to be safeguarded. Accordingly, Heads of Government agreed a number of measures. The Commonwealth Observer Mission to South Africa (COMSA), which had been in the country since



After South Africa's first non-racial election, President Mandela (centre) celebrates with First Deputy President Thabo Mbeki (right) and Second Deputy F W de Klerk

October 1992 helping to stem the violence, was to continue. And a Commonwealth Observer Group (COGSA) was to be assembled as an important component of the sizeable international observer presence considered indispensable to South African confidence in the electoral process.

The third pillar of Commonwealth help was a technical assistance programme. In April 1993, the Secretary-General had proposed that the CFTC set aside £500,000 to support the transition to democracy in South Africa, the first time that CFTC funds had been provided to a non-Commonwealth country. The programme, initiated in July 1993, first focused on sustaining the structures created under the National Peace Accord of September 1991. From December 1993, in fulfilment of the Cyprus mandate, assistance was provided to the institutions intended to facilitate the transition. Requests were received from the TEC, the Independent Electoral Commission (IEC), the Independent Broadcasting Authority and the Independent Media Commission (IMC).

Commonwealth Observer Mission to South Africa

In July 1993, the Secretary-General constituted the third team of Commonwealth observers (COMSA III) to work alongside the local peace structures and other observer groups from the UN, the Organisation of African Unity (OAU) and the

European Union (EU) in a continuing effort to help combat the violence which threatened the transitional process.

As in the previous two teams, COMSA III included observers with backgrounds in the law and policing, politics and diplomacy. It was headed by the Hon Russell Marshall, former Foreign Minister of New Zealand. In view of the impending elections, COMSA III also included electoral experts. This combination of expertise enabled COMSA III to continue with its original mandate of helping to combat the violence while taking a close interest in the arrangements and preparations for the elections, and backing this interest with practical assistance and capacity-building. COMSA's work in the electoral field contributed to the creation of a level playing field and prepared the way for COGSA.

The National Peace Secretariat requested help in strengthening its conflict-resolution capacity as well as the training of monitors and party marshals in crowd-control techniques. The TEC and other transition mechanisms asked for assistance in supporting the electoral process, and in training electoral officers and a National Peace-Keeping Force for the elections; support to ensure that the media's election coverage was fair; advice and assistance in investigating charges of electoral malpractice; and in meeting the longer term objective of restructuring the police force. Under

the umbrella of COMSA, the Commonwealth was able to respond positively to these requests.

Commonwealth Observer Group to the South African Elections

Following a formal invitation in January 1994 from the Chairman of the TEC Sub-Council on Foreign Affairs, and in accordance with the mandate given by Commonwealth Heads of Government at the Cyprus CHOGM, the Secretary-General constituted for the April elections the largest observer group ever mounted by the association. It was led by the former Prime Minister of Jamaica, the Rt Hon Michael Manley, with the Rt Rev Sir Paul Reeves, former Governor-General of New Zealand, as his deputy.



Commonwealth observer discussing election materials at a township

The Group consisted of 60 core members, supported by an additional 44 drawn from Commonwealth technical assistance personnel, staff from the Commonwealth Secretariat, and staff seconded from Commonwealth diplomatic missions. In keeping with established practice, the Group was required by its terms of reference to observe all relevant aspects of the organisation and conduct of the elections in accordance with the electoral laws of South Africa and to arrive at an independent judgment on whether the conditions existed for the electorate to express freely its wishes and whether the result reflected these wishes.

Core members of the Group arrived in South Africa in early April and were briefed by the Secretary-General, officials of the IEC, IMC,

representatives of political parties, the South African Police, the human rights non-governmental organisations (NGOs), churches and other interested groups. On 16 April, the Group divided into 51 teams and deployed to all the nine provinces where they were again briefed before being further deployed to other urban centres, townships and rural communities.

In all, the Group covered some 120 districts before polling day and visited more than 700 stations during the poll. On 30 April, it issued a joint Interim Statement with the UN, EU and OAU which said that 'the people of South Africa were able to participate freely in the voting'. The Group submitted its own separate and independent report on its mission to the Secretary-General on 5 May.

In its final report, the Group concluded that: 'For the majority of South Africans, the elections were more than the exercise of democratic choice. Marked by the determination and patient way in which people voted, they were a celebration of freedom which sealed the final demise of apartheid'.

At the time of the elections, there were 109 Commonwealth experts from 19 countries providing practical assistance in a variety of fields. Most of these experts, such as the electoral experts and those providing assistance to the National Peace-Keeping Force, were engaged in their fields of activity on polling days. However, 21 technical experts also took leave from their assignments to serve as assistants to COGSA where their local experience, advice and support were invaluable.

Resumption of Commonwealth Membership

Two weeks after his inauguration on 10 May 1994, President Mandela wrote to the Secretary-General informing him of the unanimous decision of the new Cabinet that South Africa should apply to return to the Commonwealth. On the strength of the consensus at the Cyprus CHOGM, supplemented by further consultations with Commonwealth



The new South African flag takes its place among other Commonwealth members' flags in 1994

governments, the Secretary-General formally announced on 31 May 1994 South Africa's return to the Commonwealth with effect from 1 June 1994. The Secretary-General also pledged the support of the Commonwealth to the task of reconciliation and reconstruction which lay ahead for South Africa.

South Africa is now playing a full part in the Commonwealth, is contributing to its voluntary funds and will host the Health Ministers Meeting in December 1995. South Africa has become an important contributor to the CFTC, and has been elected to the CFTC's Committee of Management.

Consolidating the Transition

A crowded and complex agenda of institutional development and profound political and cultural change lies ahead for South Africa. Issues such as arrangements for elected local government, on which there was compromise or lack of clarity at earlier multi-party negotiations, are now being fully addressed.

As far as drawing up the final constitution is concerned, debates about federalism and a unitary state continue; local government elections scheduled for 1 November 1995 may not take place on

that date in two provinces; there have been delays in the legislative time-table and a number of the statutory bodies envisaged in the interim constitution are yet to be established; provincial governments are wrestling with the problem of establishing effective and integrated administrations; and the process of integration and cultural change in the National Defence Force (SANDF) and the police (SAPS) will be a long one.

There is a continuing shortfall of administrative and managerial capacity. In certain areas, for example training in community policing, most aspects of rural development, including land reform and local government, and in specialist and high-technology areas within the private sector, there is an absolute shortage of the necessary technical and relevant managerial skills.

Even before the April 1994 elections, the Secretariat had initiated discussions with representative South Africans and with the UN and other agencies on a donor conference on post-apartheid human resource development. When the new Government initiated its Reconstruction and Development Programme (RDP), the proposed international conference formed part of this process. The UN and Commonwealth co-sponsored the International Donor Conference on



Post-apartheid and the Commonwealth assists in voter education for local elections

Human Resource Development in the RDP, which was opened by the Secretary-General and other dignitaries in Cape Town in October 1994, and attended by senior officials from 47 governments, 22 intergovernmental organisations and 26 international non-governmental agencies. Specific financial pledges were not asked for, but delegates endorsed both the concept and the content of the RDP, as well as its implementation procedures.

The Commonwealth is expected to contribute a measure of relevant assistance to South Africa during this critical transitional phase. In the year following readmission to membership, the Secretariat has sent more than 60 Commonwealth experts to South Africa, and it provides a multilateral facility that can supplement and enrich larger bilateral programmes.

The report of the Secretariat's June 1994 mission assisted the IEC with its evaluation of the April elections. Electoral support continues to be important, this time for the local government elections, which are important for the establishment of the democratic local authorities required to help deliver the RDP. A major integrated project, the United Kingdom/Commonwealth/Australia Technical Resource Group for the 1995 community elections, has been developed jointly with the governments of Britain and Australia and the active involvement of electoral supervisory and management bodies throughout the Commonwealth.

Thirty-three electoral and local government experts from 13 Commonwealth countries (Australia, Barbados, Britain, Ghana, Guyana, India, Jamaica, Lesotho, Malaysia, Namibia, Pakistan, Trinidad and

Tobago and Zimbabwe) are working with the support of the electoral co-ordinating body in Pretoria and in eight out of South Africa's nine provinces.

Advice and assistance is also being provided in training for community policing. The most senior woman police officer in Zimbabwe is serving as a Commonwealth-funded international member of the Multinational Implementation Team on Basic Training for the South African Police Service. The governments of Botswana, India, Malaysia, Pakistan, Singapore and Zimbabwe have seconded nine police officers to work with British police officers in advising on the field training, in each province, of the first 1,700 police cadets recruited on a non-discriminatory basis.

The Commonwealth has also assisted in constitutional and institutional development. The Secretariat helped in the organisation in Pretoria in July 1995 of an International Round Table on Democratic Constitutional Development and provided Commonwealth expertise on such issues as the separation of powers between the centre and the regions, democratic institutions, and the relationship of national, provincial and local government with traditional authorities.



Assisting with the development of community policing...the new, friendly face of South Africa's police force

'A Free and Clear Expression ...'

Commonwealth technical assistance leading up to the April 1994 elections contributed a blend of skills and experience from a wide range of member countries, which was particularly suited to assisting the profound transformation in South Africa's plural society and helped make possible the free and clear expression of the will of the South African people which confirmed the end of apartheid.

Between September 1993 and April 1994, 113 experts from 19 Commonwealth countries were involved, including 33 army and police officers from eight countries who constituted the Commonwealth Peace-keeping Assistance Group (CPAG). Forty-seven experts were contracted by the Secretariat and 33 by Australia, Britain, Canada and New Zealand. The EU covered the costs of 16 experts drawn from Commonwealth countries in Africa and the Caribbean; and Norway made a grant which helped the Commonwealth make available police officers from Botswana, Namibia and Zimbabwe who provided training and advice in an electoral context to the Goldstone Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation.

Most Commonwealth assistance went to the IEC, in all nine of the country's provinces as well as at headquarters. Fifty electoral experts (of which the Secretariat sent 33) from 12 Commonwealth countries (Australia, Britain, Ghana, Jamaica, Lesotho, Namibia, Pakistan; Seychelles, Sri Lanka, Trinidad and Tobago, Zambia and Zimbabwe), advised on all aspects of election management, with particular emphasis on training electoral officials. A small group helped the IEC produce training materials and four police officers from neighbouring countries

provided on-the-job training within the Commission's Investigation Directorate.

Three media experts from Botswana, Canada and Kenya were attached to the IMC, which regulated state media, to advise on how best to ensure equitable treatment of political parties. Four Canadian broadcasting staff assisted in training field units which delivered the South African Broadcasting Corporation's radio and TV election coverage.

To help ensure that the elections were as peaceful as possible, assistance was directed to the National Peace Secretariat, set up under the Peace Accord to which 26 parties and interest groups were signatories. Training support was provided by police officers from Britain and Zimbabwe, as part of a programme substantially funded by Britain, to help create a nationwide programme for crowd control marshals from all major parties. A senior Zambian diplomat trained South Africans in conflict resolution techniques and a Ghanaian assisted in the training of peace monitors.

CPAG, comprising 33 police and military officers from Australia, Botswana, Britain, Canada, India, Malaysia, Pakistan and Zimbabwe, was constituted in late February 1994 in response to a request by the TEC for assistance in establishing a National Peace-Keeping Force (NPKF). The NPKF was envisaged as a local force comprising elements from armed formations in South Africa, ranging from the South African Defence Force to the ANC's Mkhonto we Sizwe, to assist with security during the elections. The Secretary-General used his good offices to mobilise bilateral contributions to CPAG under a Commonwealth umbrella.

Together with COGSA, the work of these experts contributed in practical ways to what President Mandela has described as the Commonwealth's 'crucial role' in ensuring the success of South Africa's first democratic elections.

The Commonwealth diplomatic training programme, developed with the Department of Foreign Affairs (DFA), was the first integrated training exercise at a senior level carried

out under the new Government. The services of two former Ambassadors from Britain and Ghana were made available to assist the department develop new approaches which would help inte-

grate serving officials of the DFA with new entrants from the African National Congress (ANC) and officials from the former 'homelands'. Senior diplomats and other resource persons from other countries such as Australia, Canada, India, Jamaica, Malaysia, New Zealand, Pakistan, Singapore, Tanzania and Zimbabwe also assisted with the training. Study tours to 14 Commonwealth countries, the UN in New York and the Commonwealth Secretariat were also arranged. The Secretariat has now been asked to

assist in a further stage of integration—a skills audit of 400 personnel from the diplomatic services of the former 'homelands'.

A Commonwealth mission, with members from Australia, Namibia, Nigeria, Zambia and Zimbabwe, to the Constitutional Assembly's National Workshop on Machinery of Government for Gender Equality contributed to the decision to establish an Office on the Status of Women in the President's Office. Expertise from Britain and New Zealand has been

Advancing Gender Equality in the New South Africa

In the struggle against apartheid, gender issues took a back seat to the task of overcoming racial inequality. But even before the April 1994 elections, women from across the political spectrum jointly produced a Women's Charter, demanding that gender issues be given priority.

Following consultations with South African women leaders, the Secretariat seconded a gender expert to the RDP. This expert has been working with the gender adviser to the RDP in setting up mechanisms to ensure that all its projects meet the needs of women, establishing a gender unit within the RDP and drafting a Women's Empowerment Policy Paper which will be debated by South African women just after the Fourth World Women's Conference in Beijing, China, in September 1995.

In pre-election debates, South African women argued for a package of measures to build gender concerns into all areas of public life. The issue now is how to get such structures established and functioning. One example is the Commission for Gender Equality, provided for in the Interim Constitution and conceived as an independent

watchdog body that would monitor government progress in redressing gender inequalities. Two important questions were whether or not the Commission should be entrenched in the final constitution, and what other structures could be established.

In June 1995, the Constitutional Assembly convened a workshop on National Machinery for Advancing Gender Equality and invited the Commonwealth to contribute its experience. A five-person advisory group from Australia, Namibia, Nigeria, Zambia and Zimbabwe, funded by the CFTC and AusAID, participated in the workshop and held consultations with key players afterwards. In its report, the Commonwealth group stressed the importance of having a structure highly placed and technically well staffed for promoting gender equality through a spider's web of focal points throughout government.

The workshop recommended that the President establish an Office on the Status of Women (OSW), to which a series of gender focal points would report, and that the Commission for Gender Equality should be entrenched in the final constitution. This independent watchdog is seen as necessary for the foreseeable future. South African women are drawing on information and exchanges made at the Commonwealth Women's and Youth Affairs Conference on National Machinery, held in Malta in June 1995, to make proposals for the OSW, and in drafting the Women's Empowerment Policy Paper.

provided to the Constitutional Assembly's specialist committees dealing with land and socio-economic rights.

Advisers from Australia and Zimbabwe are assisting the restructuring of the Department of Justice, including its personnel deployment, integration and financial priorities.

Following a visit by a retired Cabinet Secretary from Ghana in March 1995 and later a team of

senior officials from Australia and Malaysia, funded by their governments, proposals for a new central structure for the public service, including the establishment of an Office of the Minister for Public Service and Administration, have been put forward. Continuing support for the central and provincial administrations will be implemented later in 1995. Four provincial public services have made requests for integrated training and development programmes and support to a fifth will also be examined.

A REGION UNDER RECONSTRUCTION

Southern Africa is poised to chart a new course in regional co-operation. With peace in Angola and Mozambique, and the end of apartheid in South Africa – all of which have profound implications not just for each country but also for regional neighbours – a window of opportunity has opened. South Africa, which in the years of apartheid destabilised its neighbours, is now joining with its Southern African Development Community (SADC) partners in promoting regional integration, development and democracy.

The Commonwealth is assisting the reconstruction of this important region. Nine of the 11 member states of SADC are Commonwealth members and the Commonwealth has helped in the 'community-building' process, notably in institutional development for political co-operation and democracy. Support for economic co-operation, principally in trade and industry, mining and tourism, has also been maintained.

In 1993/94, as well as spending £200,000 of CFTC resources on SADC projects, the Secretariat provided assistance to SADC member countries amounting to more than £4 million, including special funds and AusAID contributions for Angola and Mozambique.

The Windhoek Treaty of 1992 enshrines Southern Africa's new course, marrying as it does democracy, development and human rights in the terms of the

treaty establishing SADC itself. It is through programmes and policies built on these foundations that the Commonwealth continues to support the efforts of countries in the region to help themselves. When Lesotho's newly restored democracy was grievously threatened by internal problems during 1994, the Commonwealth supported the efforts of the three Presidents of the Frontline Contact Group (President Masire of Botswana, President Mandela of South Africa and President Mugabe of Zimbabwe) to buttress democracy and to underwrite their continued moral and technical assistance to the government and people of that country.

The Secretariat has responded to requests from the governments of Botswana, Lesotho, Malawi and Seychelles to run workshops in administrative law for legal officers and other members of the public service to promote the principles of the Commonwealth's Lusaka Statement on Government under the Law.

The privatisation experiences of Malawi, Tanzania and Zambia have been examined and an interim report identifying both organisational and design weaknesses in the privatisation strategies of these countries has been prepared. In June 1995, a series of roundtables to examine the relevance of techniques adopted elsewhere began and are expected to result in suitably adapted strategies to overcome the impediments to privatisation in African countries.