

Concluding statement of the Judicial Colloquium held in  
Banjul, The Gambia, from 7-9 November 1990

### **The Banjul Affirmation**

- 1 A high level judicial colloquium on the domestic application of international human rights norms was held in Banjul, The Gambia, from 7 - 9 November 1990. It was the third in a series of judicial colloquia begun in Bangalore, India in February 1988, followed in Harare, Zimbabwe in April 1989. The Bangalore Principles formulated at the first colloquium, and the Harare Declaration of Human Rights produced at the second are annexed to this Statement.
- 2 The Banjul colloquium was administered jointly by the Commonwealth Secretariat and Interights (the International Centre for the Legal Protection of Human Rights) on behalf of the Convenor, the Hon E O Ayoola, Chief Justice of The Gambia, with the approval of the Government of The Gambia and with assistance from the Ford Foundation, the Danish International Development Agency and the British Overseas Development Agency.
- 3 Following an opening address by Chief Justice Ayoola the colloquium was formally opened on behalf of His Excellency Alhaji Sir Dawda Kairaba Jawara, President of The Gambia, by the Hon Hassan B Jallow, Attorney-General and Minister of Justice.
- 4 The participants were:

<b>Australia</b>	Justice Michael D Kirby, AC, CMG
<b>The Gambia</b>	Chief Justice E O Ayoola - Convenor Justice P D Anin Justice M E Agidee
<b>Ghana</b>	Acting Chief Justice N Y B Adade Justice G L Lamptey Justice M Abakah
<b>India</b>	Justice Y V Chandrachud
<b>Nigeria</b>	Justice Kayode Eso, CON Justice P Nnaemeka-Agu Justice A B Wali, OFR Justice S U Onu Justice A O Ejiwunmi Professor U O Umozurike
<b>United Kingdom</b>	Recorder Anthony Lester, QC
<b>Zimbabwe</b>	Justice Enoch Dumbutshena

Representatives of the African Commission on Human and Peoples' Rights, the Commonwealth Secretariat, the Ford Foundation, Interights and the International Commission of Jurists were also present.

- 5 There was a searching exchange of views on the wide range of subjects covered by the various papers. There were papers on the development of international human rights norms, including a survey of the practice and jurisprudence of international and regional supervisory organs; the domestic application of international human rights norms in Nigeria; and the African Charter on Human and Peoples' Rights and the work of the African Commission. In addition there was an account from the International Commission of Jurists on international developments on human rights, as well as papers on the role of the judge in advancing human rights presenting the viewpoints and experience of several Commonwealth jurisdictions. Interights presented a study on personal liberty and reasons of state which examined the relationship between international human rights norms and domestic law; and there was an essay which considered fundamental rights in their economic, social and cultural context in India.
- 6 The participants welcomed the opportunity to address the issues in a practical way and to carry forward the Bangalore Principles and the Harare Declaration. Both documents stood at the core of the important judicial endeavour inaugurated in Bangalore and were kept clearly in mind throughout the discussions.
- 7 The Banjul colloquium was seen as having the particular objective of affording Commonwealth judges in the West Africa region the opportunity to study the domestic application of international human rights norms to constitutional and administrative law. It was important to do this on the basis of a comparative study and a free exchange of views in seeking practical ways to realise the ideals of the international human rights standards. The participants were concerned to develop for Commonwealth Africa a system of justice having common application in every country based on their common heritage of democracy and the rule of law. The participants were also concerned to include non-Commonwealth countries in Africa in the process. They recognised the pressing need to include human rights in legal education, in formal professional teaching and other training activities and to have wide and popular dissemination of information about basic human rights and freedoms.
- 8 Accepting in their entirety the Bangalore Principles and the Harare Declaration, the participants acknowledged that fundamental human rights and freedoms are inherent in humankind. They were convinced that any truly enlightened social order must be based firmly on respect for individual human rights and freedoms, peoples' rights and economic and social equity. They pledged their commitment and dedication to these goals and principles and decided to issue this Statement of Affirmation of the Bangalore Principles and the Harare Declaration on Human Rights.

- 9 They called attention to the need to ensure that judges, lawyers, litigants and others are made aware of applicable human rights norms as stated in international instruments and national constitutions and laws. For the purposes of Articles 25 and 26 of the African Charter on Human and Peoples' Rights the participants suggested that the African Commission on Human Rights should consider establishing local associations in each member state to facilitate the process of education and training and dissemination of human rights information.
- 10 The importance of complete judicial independence was underlined, as well as the complete independence of the legal profession. The colloquium also emphasised that it is essential for there to be real and effective access to the ordinary courts for the determination of criminal charges and civil rights and obligations by due process of law. These safeguards are necessary if the rule of the law is to be meaningful, and if the law is to be of practical value to ordinary men and women.
- 11 The participants urged closer links and cooperation across national frontiers by the judiciary of Commonwealth Africa on the interpretation and application of human rights law. In particular they called for effective arrangements for the publication and exchange of judgments, articles and other information and where appropriate the use of special expertise. They believed also that these links and cooperation should include non-Commonwealth African jurisdictions, many of which are also concerned with upholding and promoting human rights and with attaining the objectives of the African Charter.
- 12 Adequate resources of way of library stocks and other material should urgently be made available for all judges for their information and assistance and by way of dissemination and teaching of international human rights law. They noted in this respect and fully endorsed the proposals made in the Harare Declaration for the preparation and dissemination of human rights material.
- 13 The participants recognised the need to adopt a generous approach to the matter of legal standing in public law cases, while ensuring that the courts are not overwhelmed with frivolous or hopeless cases. They also considered that the courts would be assisted by well focussed *amicus curiae* submissions from independent non-governmental organisations, such as Interights, in novel and important cases where international comparative law and practice might be relevant.
- 14 National laws should enable non-governmental organisations and expert advocates (whether local or otherwise) to provide specialist legal advice, assistance and representation in important cases of public interest.
- 15 It was agreed that it is essential for the exceptions and derogations contained in the African Charter to be strictly construed, including an interpretation of "law" which rejects arbitrary or unreasonable "laws" in Chapter 1 of the Charter. Otherwise these exceptions and derogations would destroy the

very principles guaranteeing fundamental human rights and freedoms.

- 16 They expressed their belief that the time may have come for an independent African Court on Human Rights, whose decisions would be binding.

*Banjul*  
*The Gambia*