

COMMONWEALTH JUDICIAL COLLOQUIUM ON COMBATting CORRUPTION WITHIN THE JUDICIARY

LIMASSOL CONCLUSIONS

1. Commonwealth Judicial Officers, including heads of judiciary, judges from a range of courts and magistrates, met in Limassol, Cyprus from 25-27 June 2002 to consider how best the judiciary could contribute to the goals of eliminating corruption and promoting high ethical standards in the court system. They represented 23 Commonwealth countries and jurisdictions. Their number was supplemented by judicial educators and experts in the area of combating corruption and by government officers whose responsibilities include the investigation of acts of judicial corruption.

2. The Judicial Officers accepted, as a common philosophical and practical starting point, the Commonwealth Harare Declaration that commits all member countries to the fundamental values of democracy, rule of law, independence of the judiciary and the promotion and protection of fundamental human rights.

3. They acknowledged that a judicial system free from corruption was an essential component of a truly democratic country and is critical to national development and the eradication of poverty. A court system that is free from corruption was recognised as one of the essential features of a country able to attract investment and thus develop in a way that would enhance the welfare of its people.

4. The colloquium welcomed the 1999 commitment of Commonwealth Heads of Government to the Framework for Commonwealth Principles on Promoting Good Governance and Combating Corruption (the Framework). They acknowledged, in particular, the commitment of Heads of Government to the concept that all Commonwealth countries should develop national strategies to promote good governance and eliminate corruption and recognised that judicial action to complement and supplement governmental action was both necessary and desirable.

5. Judicial Officers re-affirmed the statement of Heads of Government in the Framework that –

"An independent and competent judiciary, which is impartial, efficient and reliable is of paramount importance. This requires objective criteria for the selection and removal of judges, adequate remuneration, security of tenure and independence from the executive and legislative branches of government.

However, judicial independence does not imply a lack of accountability. Judges should act properly in accordance with their office and should be subject to the ordinary criminal laws of the land. There should be procedures to discipline or dismiss them if they act improperly or otherwise fail in the performance of their

duties to society. These procedures should be transparent and administered by institutions which are themselves independent and impartial”.

6. In their deliberations, judicial officers sought to identify strategies, best practices and actions that would achieve the objective of securing independence, integrity and accountability of judicial officers and a judicial system free from corruption.

7. The Colloquium conclusions combine recommendations for consideration, and where necessary and appropriate in national circumstances, implementation by the judiciary itself, by government and by the legal profession. Some of the recommendations may commend themselves for consideration by international organisations, both intergovernmental and non-governmental. The Colloquium trusts that its deliberations will assist in informing the thinking of, and action by, the appropriate national and international bodies that are seeking to achieve the Commonwealth’s goal of zero tolerance of corruption.

8. The Colloquium conclusions and recommendations cover a number of subjects and areas. Those considered by the Colloquium to be of paramount importance are the following: –

The Colloquium -

- i. recommends the adoption of guidelines on judicial ethics as a means of underpinning the integrity of the judiciary and promoting better public awareness of the requisite ethical standards. Such guidelines should be formulated by judicial officers and kept under constant review by them. Judicial officers should take responsibility for ensuring compliance with those guidelines.
- ii. urges all national and international legal professional organisations within the Commonwealth to promote anti-corruption programmes for the legal profession;
- iii. encourages the formulation of national strategies aimed at eliminating conflicts of interest and corrupt practices within the judiciary;
- iv. recognising that transparency assists in combating corruption, encourages judicial officers and their court staff to foster greater public awareness of the court’s operations, role and function;
- v. places on record its support in principle for the Latimer House Guidelines and their footnotes as they relate to the judiciary; and
- vi. notes that traditional or customary courts and other tribunals recognised in some national constitutions make a positive

contribution to the administration of justice. The public that is served by such bodies should continue to expect and receive fair and just resolution of their disputes.

9. In considering action within the courts, the Colloquium expresses the view that –

- vii. judicial training programmes should be available and should include training on ethical and corruption issues. For newly appointed judicial officers the practice of mentoring should be encouraged; and
- viii. there should be greater interaction between judicial officers at all levels nationally, regionally and internationally in order to promote the best judicial practice.

10. The Colloquium recommends for consideration by law ministers and governments the following: -

- ix. recognising the interdependence of an efficient, impartial and accessible machinery of justice and the process of good governance and development, that governments should allocate sufficient resources to the courts to ensure their ability to provide that efficient, impartial and accessible service;
- x. The process of appointment and promotion of judges should respect the principle of separation of powers and reflect principles of transparency, competitiveness and merit;
- xi. to promote the recruitment and retention of persons of the requisite integrity and competence, Governments should ensure at all times that the remuneration of judicial officers is fixed at a level that will ensure that they enjoy financial security during their tenure of office and that upon retirement they continue to enjoy such security.
- xii. Governments, in the light of threats to the personal safety of judicial officers, should provide adequate personal protection for all judicial officers particularly those who are regularly required to adjudicate on serious criminal offences.

11. In order to strengthen judicial independence and integrity the Colloquium requests the Commonwealth Secretariat to facilitate the carrying out a comprehensive survey of the methods of determining conditions of service of judicial officers throughout the Commonwealth so as to provide guidelines on prevailing best practices. The Colloquium notes the practice adopted in some jurisdictions of determination of judicial salaries and terms and conditions by an independent commission.

12. In dealing with the issue of judicial accountability, the Colloquium -
- xiii. notes with approval that in some jurisdictions the judiciary publishes periodic reports of its activities. The Colloquium considers that this is a desirable practice for purposes of accountability and promoting greater understanding of its role.
 - xiv. expresses its view that there should be a greater degree of judicial awareness of the work of the court staff and liaison with the said staff should be encouraged in order to ensure the smooth operation of the judicial system.
 - xv. in order to maintain public confidence in the judicial system, recommends that the Courts should at all times ensure that their rules and procedures are simplified and that, except for good cause, cases should be heard in public.
 - xvi. recommends that judicial officers should ensure that their judgments are well reasoned and delivered within a reasonable time; and
 - xvii. notes that a pro-active leadership role of Heads of Judiciary is essential in promoting an impartial and independent, competent, efficient and effective judiciary.

13. The Colloquium considered the issue of judicial education and training. Its recommendations on this subject are set out in Annex A to this report.

14. The Colloquium requests the Commonwealth Secretariat to convey its conclusions to national heads of judiciary, Law Ministers and each of the Commonwealth legal professional associations. It also requests the Secretariat to continue to work with the Commonwealth Magistrates and Judges Association, as well as with national judiciaries, to advance programmes that will assist in the entrenchment of principles of independence, integrity and accountability of the judiciary at all levels.

Appreciation

15. The Colloquium expresses its appreciation to the Government of Cyprus for its hospitality and to the Honourable Justice Georghios Piki, President of the Supreme Court of Cyprus, for his chairmanship of their deliberations. The assistance provided by the Lord Chancellors Department of the United Kingdom was welcomed by the Colloquium as a positive contribution towards the achievement of Commonwealth objectives relating to the independence of the judiciary and the elimination of corruption in court systems.

Limassol, CYPRUS
27 June 2002

ANNEX A

THE LIMASSOL COLLOQUIUM

Recommendations of the Colloquium for judicial education on issues relating to corruption and judicial integrity.

1. All judicial officers should be given training on anti corruption, issues and on the promotion of professionalism and integrity both on appointment and at regular intervals during their tenure.
2. Such training shall include:-
 - i. the promotion of awareness of the guidelines for judicial behaviour applicable in the judicial officer's jurisdiction and the consequence of any breaches of those guidelines;
 - ii. the promotion of the Latimer House Guidelines for the Commonwealth on Parliamentary Supremacy and Judicial Independence, and awareness of the tensions that arise between judicial independence and judicial accountability;
 - iii. the training of judicial mentors;
 - iv. the promotion of systems of mentoring for newly appointed judicial officers. Where possible such mentors should be of similar judicial rank;
 - v. the writing of judgments;
 - vi. the management of time, in particular with a view to ensuring reserved judgments are handed down with the minimum delay;
 - vii. the handling of relations between the judicial officer, members of the general public, and local organisations, including members of the legal profession.;
 - viii. where possible and appropriate, the use of information technology and computers;
 - ix. where they exercise a judicial role, the training of traditional leaders in ethical and anti-corruption issues;
 - x. the consideration of differences between ethical issues and criminality;
 - xi. the relationship of the judicial officer with members of the court staff;

- xii. awareness of the disguised nature of corrupt approaches and the broader effect of corrupt activity both on the judiciary as a body and upon society generally;
 - xiii. where they exist, an awareness of agreed procedures for reporting corrupt approaches and information relating to corrupt activities, together the disciplinary consequences of a failure to follow those procedures;
3. The planning and running of such judicial training programmes should be the responsibility of judicial officers under the direction of a senior judge and should include contributions from judicial officers of all levels.
 4. Time should be made available for preparation for and attendance of judicial officers at training programmes.
 5. For the promotion of collegiality amongst members of the Bench, it is considered best practice for such training to be carried out in groups of judicial officers of differing ranks.
 6. It is the recommendation of the Colloquium that training programmes in this area comprise a significant element of group discussion of practical problems.
