

BALLIOL STATEMENT OF 1992

1. During the past five years an important series of judicial colloquia have taken place concerned with the application within national legal systems of international human rights norms. The meetings have been held under the auspices of the Commonwealth Secretariat and Interights (the International Centre for the Legal Protection of Human Rights). The participants have included judges from various countries of the Commonwealth, together with participants from common law countries outside the Commonwealth, from countries of the civil law tradition, and from international courts and other fora concerned with the legal protection of human rights.
2. The fifth meeting in the series took place at Balliol College, Oxford University, between 21 and 23 September 1992. It was convened by the Lord Chancellor (the Rt. Hon. the Lord Mackay of Clashfern). The Lord Chancellor and Lord Browne-Wilkinson chaired the proceedings. As in earlier colloquia, the Commonwealth Secretariat and Interights organised the gathering with the generous assistance of the Ford Foundation. The participants expressed their appreciation for the efficient preparation and administration of the conference. The participants were:

Australia	Hon Justice Michael Kirby, AC, CMG, President, Court of Appeal of New South Wales
Bangladesh	Hon Justice M H Rahman, Justice of the Supreme Court
European Court of Human Rights	Hon Rolv Ryssdal, President
Hong Kong	Hon Justice Patrick Chan, Justice of the Supreme Court
Republic of Hungary	Hon Justice Dr Laszlo Solyom, President, Constitutional Court
Republic of Ireland	Hon Justice Niall McCarthy, Justice of the Supreme Court
Jamaica	Hon Justice Edward Zacca, OJ, Chief Justice
Mauritius	Hon Justice Rajsoomer Lallah, Senior Puisne Judge of the Supreme Court and Member of the United Nations Human Rights Committee
New Zealand	The Rt Hon Sir Robin Cooke, KBE, President, Court of Appeal
Nigeria	Hon Justice Mohammed Bello, CON, Chief Justice of Nigeria Hon Justice P Nnaemeka-Agu, Justice of the Supreme Court
Pakistan	Hon Justice Muhammad Afzal Zullah, Chief Justice
Papua New Guinea	Hon Justice Kubulan Los, Justice of the Supreme Court
South Africa	Hon Justice Ismail Mahomed, Justice of the Supreme Court of South Africa and of Namibia, President of the Court of Appeal of Lesotho
Sri Lanka	Hon Justice Mark Fernando, Justice of the Supreme Court
Tanzania	Hon Justice Augustino S L Ramadhani, Justice of Appeal

United Kingdom	The Rt Hon The Lord Mackay of Clashfern, The Lord Chancellor The Rt Hon The Lord Browne-Wilkinson, Lord of Appeal in Ordinary The Rt Hon Lord Justice Balcombe, Lord Justice of Appeal The Hon Lord MacLean, Judge of the High Court of Scotland The Hon Mr Justice Campbell, Judge of the High Court of Justice, Northern Ireland The Hon Mr Justice Otton, Judge of the High Court of Justice
United States of America	Hon Judge Louis H Pollak, Judge of the United States District Court (3rd circuit)
Zambia	Hon Justice A R Lawrence, Justice of the Supreme Court
Zimbabwe	Hon Justice A Gubbay, Chief Justice
Others	Hon Justice P N Bhagwati, Former Chief Justice of India Hon Justice Enoch Dumbutshena, Former Chief Justice of Zimbabwe and Justice of Appeal for Namibia The Rt Hon Justice Telford Georges, PC, Member, Judicial Committee of the Privy Council and former Chief Justice of The Bahamas, Tanzania and Zimbabwe Mr Recorder Anthony Lester, QC Professor Rosalyn Higgins, QC, Member of the United Nations Human Rights Committee

3. 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, and in Abuja, Nigeria, in 1991.
4. The general principles enunciated in the colloquia reflect the universality of human rights - inherent in humankind - and the vital duty of an independent and impartial judiciary in interpreting and applying national constitutions, ordinary legislation, and the common law in the light of those principles. These general principles are applicable in all countries but the means by which they become applicable may differ.
5. The international human rights instruments and their developing jurisprudence enshrine values and principles long recognised by the common law. These international instruments have inspired many of the constitutional guarantees of fundamental rights and freedoms within and beyond the Commonwealth. They should be interpreted with the generosity appropriate to charters of freedom. They reflect international law and principle and are of particular importance as aids to interpretation and in helping courts to make choices between competing interests. Whilst not all rights are justiciable in themselves, both civil and political

rights and economic and social rights are integral and complementary parts of one coherent system of global human rights. They serve as vital points of reference for judges as they develop the common law and make the choices which it is their responsibility to make in a free and democratic society.

6. 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 see to it 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. It is vital that the courts should ensure that emergency powers be exercised, if at all, only to the extent, and for the limited time, demonstrated to be necessary.
7. The Balliol conference was the first of these colloquia in which judges from the Republic of Ireland and from Northern Ireland participated. It is hoped that the commitments to human rights embodied in the domestic laws and international instruments binding upon the United Kingdom and the Republic of Ireland, which rights are protected by the courts of both countries, may contribute to promoting a swift and enduring resolution of current problems.
8. The Chief Justice of Pakistan drew attention to the statement made in the Bangalore Principles that it is necessary to take fully into account local laws, traditions, circumstances and needs. He emphasised that international human rights norms could not, in his view, override national constitutional standards.
9. The participants express the hope that the Commonwealth Secretariat will provide within its Human Rights Programmes the resources necessary to service the Commonwealth Judicial Human Rights Association, in collaboration with Interights, as recommended by the colloquium held in Abuja, Nigeria. The participants attach the highest importance to disseminating to the judiciary and other lawyers, both within the Commonwealth and beyond, knowledge about the human rights norms of international law, the jurisprudence of international and regional human rights bodies, and the decisions of courts throughout the Commonwealth. The urgent necessity remains today, as it was expressed to be at Bangalore and at the colloquia held since, to bring the fine principles of fundamental human rights expressed in the foregoing sources into the daily consciousness and activity of courts and public officials alike. In this way a global culture of respect for human rights can be fostered, with the Commonwealth properly at the forefront, as befits its high ideals.

Balliol College
Oxford
23 September 1992