

PLAN OF ACTION
ON THE
COMMONWEALTH LAW MINISTERS DECLARATION
ON EQUAL ACCESS TO JUSTICE

Kigali, Rwanda, 25 June 2022

On 7 November 2019, at their meeting in Colombo, Sri Lanka, Commonwealth Law Ministers adopted the Commonwealth Law Ministers Declaration on Equal Access to Justice.

In order to achieve the objective of the Declaration, viz. to address the barriers to access to justice for the peoples of the Commonwealth, and to implement the Declaration's commitments, as well as putting into action the SDG pledge of leaving no one behind, Heads of Government resolve to endorse a Commonwealth Plan of Action on Equal Access to Justice.

Declaration Commitment 1: Ensure the adoption of a broad understanding of access to justice that looks beyond access to dispute resolution mechanisms only and focuses on equality of outcomes.

Actions

The Commonwealth Secretariat will:

- Consider and adopt a comprehensive definition of 'access to justice' that aims to ensure that every state takes all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid, where 'legal aid' is intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes.¹
- Conduct empirical research and collate examples of successful initiatives and mechanisms that support and increase equal access to justice for all and disseminate them across the Commonwealth.
- Draft model legislation and other necessary court and legal professional toolkits and/or guides to support and encourage a broad understanding of equal access to justice for all.
- Craft model legal curricula for law schools and other continuing legal education institutions that nurtures and advances the broad understanding of access to justice

¹ See UNGA 60th Plenary Session, Resolution (A/67/458) of 20 Dec 2012 on The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Annex 1, No. 8. See also The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa, Lilongwe, Malawi November 22-24, 2004.

through competency-based legal skills that will support the actual needs of all stakeholders.

- Support, as required, Commonwealth member countries' efforts in adopting model legislation, model curricula, and/or alternative dispute resolution mechanisms.
- Support, as requested, countries in reviewing their legislation to remove discriminatory legislation that could affect equality of outcomes.

Commonwealth Governments are encouraged to:

- Explore dispute resolutions frameworks and mechanisms, including on restorative justice and traditional justice systems, that meet the needs of all people, including members of vulnerable groups.
- Collaborate across governmental departments and involve key stakeholders to (a) identify and address the multiple drivers that fuel increased vulnerability for particular communities; and (b) identify strategies that will result in increased protection for vulnerable persons in both civil and criminal justice systems.
- Review their legislation with the aim of removing discriminatory provisions, which can negatively affect parts of their populations' ability to effectively utilise and to protect their rights within justice systems, or which increase their exposure and vulnerability to abuses within criminal justice systems. Governments should ensure that their judiciaries are provided with sufficient resources, human and financial, and appropriate professional development opportunities to maintain high standards and meet the justice needs of the population.
- Request research and other assistance and support from the Secretariat.

Declaration Commitment 2: Facilitate, where appropriate, the assessment of legal needs and the barriers to access to justice in our countries.

Actions

The Commonwealth Secretariat will:

- Conduct empirical research to identify key human, technical, and resource constraints to Commonwealth countries' capabilities to ensure equal access to justice for all.
- Share with Commonwealth countries information highlighting successful research, data collection, and analysis.
- Renew its efforts to build and maintain the Commonwealth Legal Knowledge Exchange Portal (CLEKEP), a comprehensive legal resource portal that helps countries collaborate, strengthen existing laws and exchange ideas on new legislation, best practices and jurisprudential developments.
- Identify in every law ministry, a focal point who can facilitate the relevant information update for CLEKEP.
- Support, as requested, Commonwealth countries' efforts to assess their legal needs and domestic barriers to equal access to justice for all.
- Seek practical solutions which may facilitate access to justice to the most vulnerable and remote societies.
- Draft model legislation and other necessary toolkits to address identified needs, inform the removal of barriers to equal access to justice for all, and the progressive transformation of justice systems.

- Facilitate the establishment of and provide guidance and assistance to a set of Taskforces and encourage member countries to become champions of the Declaration, each devoted to a particular access to justice issue.

Commonwealth Governments are encouraged to:

- Gather data on the main barriers to equal access to justice for all faced by their populations, including women, vulnerable communities, and business.
- Use gathered data to review their justice systems and implement solutions to resolve identified issues and ensure the progressive transformation of their justice systems.
- Join the Taskforces and volunteer as champions for the Declaration.
- Request and rely on the research and assistance of the Secretariat.

Declaration Commitment 3: Use people-friendly approaches to address those barriers [to access to justice], including the use of technology to provide access to legal services as well as enhanced delivery of justice services.

Action

The Commonwealth Secretariat will:

- Conduct research on the implementation of technology in the delivery of justice services, which can be disseminated to Commonwealth member states.
- Based on the research, design a model guidebook and toolkit for courts and other stakeholders to deploy and maintain modern people-centric and people-friendly technologies that increase equal access to justice for all.
- Draft model legislation for the implementation of people-centric and people-friendly technology solutions to increase access to justice.
- Support, as required, Commonwealth member countries' efforts to adopt technology to increase overall efficiency, and reduce costs, delays and complexity inherent in dispute resolution systems.
- Develop guidelines on ethical issues associated with increased use of technology in dispute resolution systems, based on good practice in the Commonwealth.

Commonwealth Governments are encouraged to:

- Design and implement innovative approaches to make justice accessible, easy to understand, and inclusive - after assessing barriers to access to justice.
- Evaluate the potential impact on vulnerable groups and ethical issues that may arise - before implementing new technologies in the delivery of justice services.
- Adopt approaches centred on people's needs and based on data collated.
- Request and rely on the research and assistance of the Secretariat.

Declaration Commitment 4: Leverage the Commonwealth Law Ministers Meeting, Commonwealth Senior Officials of Law Ministries Meeting and their Working Groups to promote access to justice and rule of law across the Commonwealth.

Actions

The Commonwealth Secretariat will:

- Conduct research and consult with Commonwealth member countries on a regular basis to determine innovative approaches and emerging issues that need to be discussed by Commonwealth Law Ministers.

- Provide frequent updates on its progress on the Declaration commitments and action items.

Commonwealth Law Ministers should maintain equal access to justice for all as a standing item on the agenda of their meetings and report on challenges and good practice.

Declaration Commitment 5: Further utilise the fact that our countries share the common law and a common language, system of governance and values, inter alia, to build consensus and share experiences and best practices on rule of law issues and enhance access to justice for the peoples of the Commonwealth.

Actions

The Secretariat will:

- Support the design and coordination of mentoring and exchange schemes.
- Design tools to support Commonwealth member countries in increasing access to justice, such as model legislation, toolkits, guidelines and curricula.
- Collate experiences and best practices of Commonwealth member countries as each state implements and adopts legislation, policies, guidelines, and curricula that support equal access to justice, and share this with other Commonwealth member countries.

Commonwealth Governments are encouraged to:

- Support one another and share resources and ideas with each other and the Secretariat, as applicable.
- Actively participate in Commonwealth mentoring and exchange schemes in order to share and export good practices.
- Request and rely on the research, assistance, and networking capacity of the Secretariat.

Declaration Commitment 6: Provide collective leadership to ensure the realisation in the last decade of Agenda 2030 of SDG 16 on equal access to justice for all and on the rule of law.

Actions

The Secretariat will:

- Provide support to Heads of Government in maintaining equal access to justice for all on the agenda of their meetings.
- Convene forums of rule of law stakeholders to maximise the synergies and cross-fertilisation of ideas that different rule of law stakeholders provide in order to inform possible Commonwealth initiatives to promote equal access to justice for all.
- Facilitate the establishment of a set of Taskforces and encourage member countries to become Champions, each devoted to a particular access to justice issue.

Commonwealth Governments should use international and regional platforms to promote their initiatives on the realisation of SDG 16, as well as Commonwealth initiatives, including Taskforces, which will steer policy discussions and encourage resource mobilisation to leverage the thought leadership of all 54 Commonwealth countries and guide the development of tools and training.