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Closing address to Commonwealth (Latimer House) Principles Colloquium

Honourable Justices, Honourable Ministers, Attorneys General, Members of Parliament, Senior Officials, Distinguished participants, Ladies and gentlemen.

Thank you for inviting me to close this Commonwealth Latimer House Colloquium.

I regret that I have not been able to join you for the entirety of the event, but I was adamant that I must be here, if only to acknowledge that what you contributed 10 years ago was a core value for the Commonwealth, and is a bedrock of its values of governance and its focus on its people.

The Commonwealth is an organisation of values, and the values – or Principles – of Latimer House are irreversibly embedded in the canon and the creed of this organisation.

They were debated and adopted by Heads of Government in Abuja in 2003, and - in being so - they greatly strengthened the existing body of beliefs and goals of this organisation, as set down in Singapore in 1971, Harare in 1991, and Millbrook in 1995.

So I am here, you might say, in deference to the centrality of the values which define us as an organisation.

The 'Separation of Powers' may look well on paper and sound well in speeches. As a concept, it is as old as Montesquieu, who is believed to be the first to have articulated it, in his great work *De L'Esprit des Loix (On the Spirit of the Laws)*, published in 1748.

On numberless occasions – on podiums such as these – we have spoken about the primacy of 'the accountability of, and the relationship between, the three branches of government', and stressed the independence of those bodies: the Executive, the Legislature, and the Judiciary.

And what is the origin of these cherished Principles, as adopted by our leaders? Who initiated them?

You did: Commonwealth partner organisations, Commonwealth Law Ministers, senior officials, and the Commonwealth legal community.

Because the rule of law sits alongside democracy and human rights as the key beliefs of this organisation – just as another threesome - governments, business and civil society - are its main actors.

But every Commonwealth member must continuously pose itself the question: how well does it observe the separation of powers?

Do our Executives respect the freedom of the Legislature and the Judiciary to discharge their responsibilities?

Theirs, of course is the greatest temptation to jettison these Principles – and there was a time, perhaps a generation ago, when many Legislatures and Judiciaries wilfully complied with over-reaching Executives.

In other words, they didn't properly believe in their *own* independence and power, as a key element of the sharing *of* power.

For *all* of us, from time immemorial, power has been difficult to separate, and thereby to control.

All are complicit, and in being so make ourselves dangerously vulnerable to poor governance, corruption and instability.

That is why you have discussed the Latimer House Principles today.

You have convened because you all know that there is a continuing gulf between the rhetoric and the reality.

You are continuing a process that began some twelve years ago in Kuala Lumpur, when Commonwealth Law Ministers first examined the role played by judges and lawyers in a healthy democracy.

Ten years ago – cajoled, inspired and actively assisted by four exceptional Commonwealth organisations – we produced the first Guidelines, at Latimer House in Buckinghamshire.

Here, I pay tribute to our Commonwealth Lawyers Association, our Legal Education Association, our Magistrates and Judges Association, and our Parliamentary Association, for their part in this great enterprise.

Those first guidelines, you will remember, focussed on just one of the three 'branches': that of parliament.

Then six years ago in St Vincent and the Grenadines, Law Ministers both widened them, and refined them.

Five years ago at the Heads of Government Meeting in Abuja, the 'Guidelines' were officially adopted, and became 'Principles'.

There followed a summit in Africa in early 2005, where we set out what we called the Nairobi Action Plan.

The final step in the establishment of the Latimer House Principles by the Commonwealth came three years ago, at our Heads of Government Meeting in Malta.

I draw your attention to Paragraph 8 of its Communique, which established the Principles as integral to the Commonwealth's fundamental political values.

But look further – at Paragraph 12 just below it, which states (with regard to Pakistan at that time, but it could have been to any member state...) ‘that the holding by the same person of the offices of Head of State and Chief of Army Staff is incompatible with the basic principles of democracy and the spirit of Commonwealth principles’.

My point is: this has taken time and will take more time – but it has been and remains an investment to which we are deeply committed.

We should go further: our next task is to focus on adherence to the Principles, and to enhance accountability.

That will take time.

For now, we acknowledge how far we have come and take encouragement from it.

Also, let us acknowledge the virtues of our pragmatism.

It is one of the key strengths of the Principles that they go beyond the “pure doctrine” of the separation of powers, and into the grey areas.

They recognise the complex and interlocking network of the relations between the legislature, the executive, and the judiciary.

They acknowledge the need for oversight mechanisms through which officers may be held responsible for their actions.

We recognise, for instance, that while the Judiciary is independent of the Executive, it is dependent on it financially.

Further, let us acknowledge the value of our capacity to prioritise our concerns – hence your discussions these last days on issues like accountability and gender equality.

I note, too, that you have discussed civil society.

I very much welcome civil society’s involvement with Ministers tomorrow.

As a body, the Commonwealth moves on a broad front.

This is our strength.

I end where I began, with the primacy of principle – in this case, the Latimer House Principles.

And I pose a simple question – what, or who, is the Commonwealth for?

I would answer that it is for Governments and Peoples.

These Latimer House Principles are designed to help the business of fair, efficient, transparent, responsive government - government *for* the people.

The confidence, belief and trust that people have in their government is the ultimate litmus test.

Let us not forget that we are not just splitting hairs about status here – we are trying to ensure a system of government whereby citizens have a voice, a role, a future, and that they live in the confidence that they are under the rule of law.

So in looking *back* ten years today, we also look *forward* to the time – whenever it may be – when there will be another gathering like this, where our successors will take stock, record further progress, and identify further work to do. We need these gatherings to maintain the momentum and achievement. Thank you for contributing to this important cause.

ENDS