

CHARTER OF CIVIL SOCIETY FOR THE CARIBBEAN COMMUNITY

CARIBBEAN COMMUNITY
(CARICOM)



Charter of Civil Society
for the Caribbean Community

Charter of Civil Society

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Introduction

When the Heads of Government of the Caribbean Community affixed their signatures to the Resolution adopting the Charter of Civil Society on Wednesday, February 19, 1997 in St John's, Antigua and Barbuda, in so doing, they undertook to pay due regard to its principles, thus giving effect to one of the strongest recommendations of the West Indian Commission (WIC) as contained in its report, "Time for Action."

In the words of the Commission: *"We attach much importance to this proposal for a Charter of Civil Society. CARICOM needs normative moorings; we have found widespread yearning for giving the Community a qualitative character – values beyond the routine of integration arrangements themselves can be judged and to which they can be made to conform. The Charter can become the soul of the Community, which needs a soul if it is to command the loyalty of the people of CARICOM."*

The Heads of Government expressed similar sentiments in accepting the recommendation for the Charter at a Special Session at Port of Spain, Trinidad and Tobago, in October 1992 convened to consider the report.

The leaders declared in the Protocol of Port of Spain issued after the meeting, *"that a CARICOM Charter of Civil Society be developed as an important element of the Community's structure of unity to deal with matters such as free press; a fair and open democratic process; the effective functioning of the parliamentary system; morality in public affairs; respect for fundamental civil, political, economic, social and cultural rights; the rights of women and children; respect for religious diversity; and greater accountability and transparency in government."*

An Inter-Governmental Task Force, under the Chairmanship of the Secretary-General, which was established to revise the Treaty of Chaguaramas, was also mandated to draft the Charter. The task force completed this latter task in 1996, and presented the draft document to the Standing Committee of Ministers responsible for Legal Affairs (SCMLA) for their consideration prior to its submission to the Heads of Government. Agreement was reached on the texts of the Articles of this

critical Community instrument at a Special Meeting of the SCMLA held in Trinidad and Tobago on 28-29 January 1997 and the draft Charter was commended to Heads of Government for signature.

Conscious that the common historical, cultural and social bonds of the people of the Caribbean Community underpin the commitment of the Governments and peoples of the Community to the Charter, and in order to achieve the objectives prescribed by the WIC, the Leaders addressed a broad spectrum of human endeavour and behaviour, including –

Respect for Fundamental Human Rights and Freedoms

Human Dignity

Right to Life Liberty and Security of the Person

Equality before the Law

Political Rights, Meetings, Demonstrations and Petitions

Freedom of Expression and Access to Information

Religious and Cultural Diversity

Rights of the Indigenous Peoples

Women's Rights

Children's Rights

Rights of Disabled Persons

Access to Education and Training

Rights of the Family

Good Governance

Participation in the Economy

Workers' Rights

Health

Basic Necessities

Social Partners

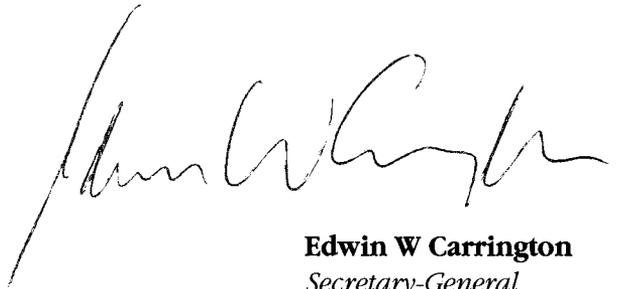
Environmental Rights and Awareness

Responsibilities of the People

The penultimate Article (Article XXVI) – Implementation – is a declaration by Member States of their resolve to pay due regard to the provisions of the Charter.

As Secretary-General, I wish to salute the hard work of the Inter-Governmental Task Force whose members sought to transform concepts such as good governance; fundamental human rights and freedoms; respect for cultural and religious diversity into a real framework of principles to serve as a guide for the continuance of the democratic tradition of our Region of which we are justly proud.

The commitment which our Member States have solemnly undertaken with this Charter is a tangible demonstration of the Region's belief in the democratic process.



Edwin W Carrington
Secretary-General
CARICOM Secretariat
Georgetown, Guyana
1997



CHARTER OF CIVIL SOCIETY

FOR THE CARIBBEAN COMMUNITY

PREAMBLE

We the People of the Caribbean Community, acting through the assembled representatives of our Governments;

Recalling that the Conference of Heads of Government of the Caribbean Community at their Special Meeting in Port-of-Spain, Trinidad and Tobago, in October 1992 adopted the recommendation of the West Indian Commission that a Charter of Civil Society for the Caribbean Community be subscribed to by Member States of the Community;

Conscious that the common historical, cultural and social bonds of the people of the Caribbean Community underpin the commitment of the Governments and peoples of Member States of the Community to this Charter;

Determined:

- to enhance public confidence in governance, thereby reinforcing the loyalty of all the people;
- to ensure continuing respect for internationally recognised civil, political, economic, social and cultural rights;

- to uphold the right of people to make political choices;
- to create a truly participatory political environment within the Caribbean Community which will be propitious to genuine consultation in the process of governance;
- to promote, foster and maintain racial harmony;
- to uphold the principle of freedom of religion;
- to promote economic growth and sustainable development through the wise use of the human and natural resources;
- to attain economic and social justice and to pursue the goals of health, education and employment for all;
- to eliminate, as far as possible, social problems such as crime and the abuse of drugs and other substances;
- to enter the Twenty-First Century on the basis of the best possible governance and to achieve and sustain such governance by mobilising action for change;

Declare our resolve to pay due regard to the following principles by which our Governments commit themselves to respect and strengthen the fundamental elements of a civil society:

ARTICLE I

Use of Terms

In this Charter, unless the context otherwise requires the following expressions shall have the following meanings:

- (a) “Social partners” shall mean the Government of a State, Associations of Employers, Workers Organisations and such Non-Governmental Organisations as the State may recognise;
- (b) “State” shall mean a Member State of the Caribbean Community and shall include Associate Members of the Caribbean Community.

ARTICLE II

**Respect for Fundamental
Human Rights and Freedoms**

1. The States shall respect the fundamental human rights and freedoms of the individual without distinction as to age, colour, creed, disability, ethnicity, gender, language, place of birth or origin, political opinion, race, religion or social class but subject to respect for the rights and freedoms of others and for the public interest.

2. Those fundamental human rights and freedoms include:

(a) the right to life, liberty and security of the person;

(b) protection for the privacy of the home and other property of the individual;

(c) protection from deprivation of property without due process and just compensation within a reasonable time;

(d) freedom of conscience, of expression and of assembly and association within the meaning of the constitutions of States;

(e) freedom of movement within the Caribbean Community, subject to such exceptions and qualifications as may be authorised by national law and which are reasonably justifiable in a free and democratic society.

3. The States shall promote and encourage the effective exercise of civil and political rights and, within the limits of their resources, economic, social and cultural rights all of which derive from the inherent dignity of the human person and which are essential for the free and full development of the person.

4. The States shall keep the general public informed of the provisions of this Charter and of international and regional agreements and declarations in the field of human rights to which they subscribe.

ARTICLE III

Human Dignity

The States shall, in the discharge of their legislative, executive, administrative and judicial functions ensure respect for and protection of the human dignity of every person.

ARTICLE IV

**Right to Life, Liberty
and Security of the Person**

1. Every person shall have the right to life. No person shall be deprived of his or her life intentionally save in accordance with national law.

2. No person shall be deprived of his or her personal liberty or the security of his or her person except by due process of law.

ARTICLE V

Equality before the Law

1. All persons shall be equal before the law, be entitled to the equal protection of the law and to a fair and impartial hearing within a reasonable time.

2. The States shall use their best endeavours to have legal assistance extended in any case where the interest of justice so requires.

3. No person shall be favoured or discriminated against by reason of age, colour, creed, disability, ethnicity, gender, language, place of birth or origin, political opinion, race, religion or social class.

4. A law shall be deemed not to be contrary to paragraph 3 if such law provides for special measures for the sole purpose of furthering the development and advancement of hitherto disadvantaged communities or sections of the population to enable them to develop and realise their potential to the fullest.

ARTICLE VI

Political Rights

1. The States shall ensure the existence of a fair and open democratic system through the holding of free elections at reasonable intervals, by secret ballot, underpinned by an electoral system in which all can have confidence and which will ensure the free expression of the will of the people in the choice of their representatives.

2. The States shall take all appropriate measures to promote and maintain an effectively functioning representational system, including the holding of regular public sessions of representatives of the people.

3. Every person shall have the right to:

(a) form a political party or organisation;

(b) join a political party or organisation of his or her choice;

(c) attend public meetings of political parties or organisations;

(d) participate in the activities of a political party or organisation;

(e) give expression to his or her political beliefs in a peaceful manner;

(f) make himself or herself available for nomination for and election to any public office for which he or she qualifies.

4. The provisions of this Article shall not preclude the States from taking measures authorised by their Constitutions to regulate persons employed in the service of the State with respect to their participation in the activities of a political party or organisation.

ARTICLE VII

Meetings, Demonstrations and Petitions

Every person shall have the right to assemble, to demonstrate peacefully and to draw up and present petitions, subject to such restrictions as may be imposed by national law in the public interest and which are reasonably justifiable in a free and democratic society.

ARTICLE VIII

**Freedom of Expression
and Access to Information**

1. Every person shall have the right to the enjoyment of freedom of expression including the right to:

(a) hold opinions and to receive and communicate ideas and information without interference and freely to send or receive communications by correspondence or other means;

(b) seek, distribute or disseminate to other persons and the public information, opinions, and ideas in any form whatever.

2. The right conferred by paragraph 1 of this Article shall also be enjoyed by the media.

3. The exercise of the right conferred by this Article carries with it special duties and responsibilities and may be exercisable subject to such reasonable restrictions in the public interest, as may be imposed by law and are justifiable in a democratic society:

(a) for the protection of the reputations, rights and freedoms of other persons;
or

(b) in the interest of defence, public safety, public order, public morality or public health.

4. The States shall respect, encourage and promote the existence of a diver-

sity of sources of information as a means of ensuring greater public access to information.

5. This Article shall not be construed as preventing the State from requiring the licensing of broadcasting, transmission or other means of communication, public exhibition or public entertainment.

ARTICLE IX

Religious Diversity

The States shall recognise and respect the freedom of conscience of the individual to profess and practise alone or in community with others, in private or in public, his or her religion, belief or persuasion in accordance with the dictates of his or her own conscience, subject to such restrictions as may be imposed by national law in the interest of defence, public order or public safety or for the protection of public health or public morals or for the protection of the rights and freedoms of others provided that such restrictions are reasonably justifiable in a free and democratic society.

ARTICLE X

Cultural Diversity

The States recognise that:

- (a) each culture has a dignity and a value which shall be respected and that every person has the right to preserve and to develop his or her culture;
- (b) every person has the right to participate in the cultural life of his or her choice.

ARTICLE XI

Rights of the Indigenous Peoples

The States recognise the contribution of the indigenous peoples to the development process and undertake to continue to protect their historical rights and respect the culture and way of life of these peoples.

ARTICLE XII

Women's Rights

For the promotion of policies and measures aimed at strengthening gender equality, all women have equal rights with men in the political, civil, economic, social and cultural spheres. Such rights shall include the right:

- (a) to be elected or appointed to Public Office and to be eligible for appointment to positions of decision-making bodies at all levels of their society;
- (b) to be afforded equal opportunities for employment and to receive equal remuneration with men for work of equal value;
- (c) not to be discriminated against by reason of marital status, pregnancy, lactation or health-related matters which affect older women;
- (d) to legal protection including just and effective remedies against domestic violence, sexual abuse and sexual harassment.

ARTICLE XIII

Children's Rights

1. Every child has, in particular, the right:

- (a) not to be compelled to perform or to render services harmful to his or her physical or mental health, upbringing, education or social development;
- (b) to protection against economic or other exploitation, physical or mental violence, injury, neglect or abuse including sexual abuse;
- (c) where appropriate, having regard to factors including the child's age and mental and physical development, to be consulted and to have his or her view represented personally or by an independent person before the courts and other agencies or bodies which deal with the welfare of the child.

2. For the purposes of this Article and Article XV, "child" means every person below the age of eighteen years unless, under national law, majority is attained at an earlier or later age.

ARTICLE XIV

Rights of Disabled Persons

1. Every disabled person has, in particular, the right –

- (a) not to be discriminated against on the basis of his or her disability;
- (b) to equal opportunities in all fields of endeavour and to be allowed to develop his or her full potential;
- (c) to respect for his or her human dignity so as to enjoy a life as normal and full as possible.

ARTICLE XV

Access to Education and Training

1. The States shall ensure that every child has the right to, and is provided with, quality primary education.

2. The States shall ensure equal access to secondary and post secondary education and reasonable access to continuing adult education and training.

3. Every child, irrespective of colour, creed, disability, ethnicity, gender, language, place of birth or origin, political opinion, race, religion or social class shall have the right to equal access to State or State-assisted educational institutions.

4. Every child with a disability shall have the right to special education in accordance with his or her needs funded wholly or partially by the State up to an age determined by national law.

5. Every State shall put into place measures to ensure that parents enable their children to make full use of the educational opportunities provided by the State.

ARTICLE XVI

Rights of the Family

The States, recognising the family as the fundamental unit of society, shall endeavour to ensure:

- (a) the fulfilment of the necessary conditions for the promotion of family life and effective parenting skills, bearing in mind the importance of the role of each parent;
- (b) the full development and protection of the family, including the extended family.

ARTICLE XVII

Good Governance

1. The States shall adopt and implement all appropriate measures to ensure good governance which is just, open and accountable.

2. The States recognise and affirm that the rule of law, the effective administration of justice and the maintenance of the independence and impartiality of the judiciary are essential to good governance.

3. The States, recognising that integral to the concept of good governance are the complementary roles of government, the social partners and the citizenry, shall ensure that the rights and responsibilities of all are clearly established and that the appropriate environment for their exercise and discharge, as the case may be, is fostered.

4. The States, in order to ensure morality in public affairs, agree that holders of public office and all those who exercise power the exercise of which affects or may affect the public interest, shall so order their affairs in accordance with national law that such ordering gives no cause for conflict to arise or to appear to arise between their private interests and their duties to the public, or to otherwise compromise their integrity. To this end, the States agree to establish a Code governing the conduct of the holders of public office and all those who exercise power, the exercise of which affects or may affect the public interest.

5. The States shall undertake:

- (a) to foster continuously greater cost-effectiveness in their operations while being facilitative and supportive of the development process;
- (b) to ensure that all persons are treated fairly, humanely and equally by public authorities and holders of public office and all those who exercise power so as to affect the quality of life of our people;
- (c) to ensure responsiveness to the needs of the people as consumers in the delivery of goods and services.

6. The States undertake to preserve and respect the existence of an independent public service with attractive career opportunities open to all on the basis of merit and which is effective, efficient, responsive, adaptive and innovative in its conduct of public administration.

7. The States in order to further the participation of the people in the democratic process shall establish effective systems of ongoing consultations between the Government and the people.

8. The States shall undertake to ensure that in the process of governance, there is no victimisation of any person.

ARTICLE XVIII

Participation in the Economy

1. The States shall facilitate access by their peoples to resources in such a manner as to promote economic growth, sustainable development and full employment, especially of the young people, and to enhance the opportunities for the achievement by every person of a reasonable and secure standard of living.

2. Every person shall have the right freely and on the basis of full equality to engage in economic activities, including the right to participate in, establish and manage his or her own enterprise in the commercial, industrial, agricultural, service or other sectors.

3. The States undertake to collaborate with the social partners for the provision of creative employment for young people and the disabled and for fostering strategies for their employment.

ARTICLE XIX

Workers' Rights

1. Every worker has the right:

- (a) to form or belong to and participate in the activities of trade unions or other associations for the promotion and protection of his or her interest or the right not to belong to and participate in the activities of any such trade union or association;
- (b) to negotiate or bargain collectively;
- (c) not to be subjected to unfair labour practices, including intimidation and victimisation;
- (d) to work under safe, hygienic and healthy conditions;
- (e) to reasonable hours of work, rest, periodic holidays with pay and remuneration for public holidays;
- (f) to receive reasonable remuneration for his or her labour and to withhold his or her labour subject to such reasonable restrictions as may be imposed by national law in the public interest.

2. The provisions of this Article shall not preclude the States from taking measures imposing on persons in the service of the State, restrictions which are reasonably justifiable in a free and democratic society.

3. The States undertake:

- (a) to safeguard the right of workers to earn their living in freely chosen lawful occupations;
- (b) to recognise the desirability of workers earning a level of remuneration which would afford them and their families the enjoyment of a decent standard of living;
- (c) in recognition of the right of workers to collective bargaining, the responsibility to provide adequate machinery for the recognition and certification of trade unions enjoying the support of a majority of the workers based on the free choice of the workers concerned;

- (d) to foster and promote a harmonious and productive working environment by sensitising workers, trade unions and employers as to their respective and mutual obligations;
- (e) to provide protection for workers against arbitrary dismissal;
- (f) to provide adequate machinery for the speedy resolution of industrial disputes and the restoration of normalcy in the event of strikes, lock-outs and other forms of industrial action;
- (g) to provide an adequate period of leave with pay, or with adequate social security benefits for women before and after childbirth and to make it unlawful for an employer to terminate a woman's employment or take any other action that would unfavourably affect her status or promotion by reason of her pregnancy;
- (h) to establish standards to be observed by employers in providing workers with a safe and healthy working environment;
- (i) to provide workers with adequate social security benefits;
- (j) to ensure that every person who has attained the age of retirement and does not have adequate means of subsistence is provided with social and medical assistance.

ARTICLE XX

Health

The States shall use their best endeavours to provide a health care system that is:

- (a) sufficiently comprehensive to deal with all health challenges including epidemics; and
- (b) well administered, adequately equipped and accessible to all without discrimination.

ARTICLE XXI

Basic Necessities

The States shall endeavour to:

- (a) provide adequate social services and benefits for the population at large; and
- (b) ensure that the most needy persons have access to food, housing and other basic necessities.

ARTICLE XXII

Social Partners

The States undertake to establish within their respective States a framework for genuine consultations among the social partners in order to reach common understandings on and support for the objectives, contents and implementation of national economic and social programmes and their respective roles and responsibilities in good governance.

ARTICLE XXIII

Environmental Rights

1. Every person has a right to an environment which is adequate for his or her health and well-being and a corresponding duty to protect, conserve and improve the environment.
2. The States shall take steps to establish environmental standards and to monitor compliance with such standards.
3. The States, considering the shared universal responsibility for human survival, shall put in place measures to ensure the protection and improvement of the environment and the conservation and management of its natural resources for the benefit of present and future generations.

ARTICLE XXIV

**Awareness and
Responsibilities of the People**

The States hereby declare that the people have an important role to play in the pursuit and maintenance of good governance. Accordingly, the States shall build awareness, engender support and establish programmes to foster sound values and positive attitudes and shall enhance individual and institutional capacities to secure objectives, including:

- (a) the inculcating, nurturing and demonstration of love of one's country;
- (b) the participation in the electoral process;
- (c) the development of a positive work ethic at all levels in society in the recognition of the responsibilities of the people in the areas of production, the economy and the provision of goods and services;
- (d) the sensitising of the people to the importance of continuous skill upgrading, training and broadening of their skills and expertise;
- (e) the building of self-reliance and the engagement in self-help activities, whether alone or in community with others;
- (f) the promotion of awareness of parents to cooperate with and support the school system and programmes aimed at the character formation of students;
- (g) special consideration and support of the young, aged, the disabled and other vulnerable groups;
- (h) the resolution of interpersonal and domestic disputes by peaceful means, such as mediation, reconciliation and otherwise;
- (i) the caring and protection of the environment;
- (j) the preservation and protection of public property; and
- (k) the promotion, establishment and maintenance of community-based organisations.

ARTICLE XXV

Reports

1. The States undertake to submit periodically to the Secretary-General of the Caribbean Community (hereinafter referred to as the "Secretary-General") for transmission to the Conference of Heads of Government of the Caribbean Community, reports on measures adopted and progress achieved in compliance with the provisions of this Charter.

2. Reports, other than special reports which may be requested by the Conference at any time, shall be submitted every three years on a rotating basis to be determined by the Conference, indicating the factors and difficulties, if any, that affect the implementation of this Charter.

3. In the preparation of their Reports, States shall, in accordance with the provisions of Article XXII, undertake consultation with the social partners, having regard to their crucial role in the attainment of the objectives of this Charter.

4. (1) States shall each establish a National Committee or designate a body to monitor and ensure the implementation of this Charter and that National Committee or body shall comprise:

(a) representatives of the State;

(b) representatives of the other social partners; and

(c) such other persons of high moral character and recognised competence in their respective fields of endeavour.

(2) The National Committee or body, as the case may be, shall review the implementation of this Charter, analysing any problems and difficulties experienced, and receive reports of allegations of breaches of, or non-compliance with, the provisions of this Charter attributed to the State or to one or more social partners. No allegation of breaches or non-compliance may be brought by any individual or entity in relation to a matter which has been adjudicated upon by an international body, the decision of which is binding upon the State.

(3) The National Committee or body shall notify the State or social partner, as the case may be, of the receipt of any allegation and request their comments

thereon and the National Committee or body shall report to the Secretary-General on allegations received, together with their comments thereon, including their own views on the matter.

5. (1) The Secretary-General shall submit annually for consideration by the Conference, in accordance with criteria established by the Conference, reports received from the National Committees or bodies pursuant to the provisions of paragraph 4 (3) of this Article.

(2) The Secretary-General shall inform the States and their National Committees or bodies of the results of the deliberations of the Conference on reports submitted pursuant to this Article, together with any recommendation emanating from their consideration of reported violations, non-compliance, difficulties or problems experienced in the implementation of this Charter.

6. Allegations of violations or non-compliance shall not impose any obligations on a State to refrain from carrying out any decision of its Courts or other authorities pending consideration under this Article.

ARTICLE XXVI

Implementation

The States declare their resolve to pay due regard to the provisions of this Charter.

ARTICLE XXVII

Saving

Nothing in this Charter shall be interpreted as impairing the provisions of any regional or international agreement to which States are parties.



R E S O L U T I O N

The Conference of Heads of Government of the Caribbean Community at their Eighth Inter-Sessional Meeting:

Reaffirming their confidence in the Caribbean Community as an association of States and Territories bonded by a common heritage and cooperating in the interests of their own peoples;

Being committed to the fundamental principles of human rights and freedoms and conscious that this Charter should enhance the integration process;

Determined to pursue the principles declared in the Charter in response to the challenges of the Twenty-First Century;

Now therefore resolve to adopt this Charter and agree to pay due regard to its principles and to ensure that this Charter receives the widest possible circulation within their respective States and Territories.

