

The Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative was founded, as a charity, in 1987 in a non-governmental effort to make human rights more significant for the Commonwealth and, so far as possible, to improve the condition of citizens in the 50 member countries. It is supported by the Commonwealth Journalists' Association, the Commonwealth Lawyers' Association, the Commonwealth Legal Education Association, the Commonwealth Medical Association and the Commonwealth Trade Union Council.

An international Advisory Group chaired by Flora MacDonald issued a comprehensive report, *Put Our World to Rights* in 1991. This was influential in persuading Heads of Government meeting at Harare to adopt a strong commitment to human rights. In 1992 the Initiative appointed a new Advisory Commission, chaired by Dr. Kamal Hossain.

Its office moved from London to New Delhi on August 1 1993 and was inaugurated the following day in the presence of the Vice-President of India and Dr. Kamal Hossain. Among its activities, the Initiative ran a workshop for non-governmental bodies (NGOs) in Kenya, in September 1993, on the protection of the rights of refugees. It is collaborating with the Commonwealth Secretariat on a curriculum project for secondary schools. It is planning a major Commonwealth Human Rights Conference, to link NGOs, and to promote dialogue between them and governments, for 1995 in Delhi.

ACT RIGHT NOW

**A Report by the Advisory Commission
The Commonwealth Human Rights Initiative
Chaired by Dr. Kamal Hossain**

1993

Members of the Advisory Commission

Professor Yash Ghai, Kenyan and nominee of the Commonwealth Legal Education Association. His area of specialisation is constitutional law and he has held senior academic posts in Universities in a number of countries including Australia, Canada, Singapore, Sweden, Tanzania, UK and USA. Since 1989 he has been Sir Y.K. Pao Professor of Public Law in the University of Hong Kong. He has served as constitutional adviser to several Commonwealth governments. He was a member of the Initiative's first Advisory Group.

Dr. Kamal Hossain is a Bangladeshi lawyer who is in private practice. He was a Member of Parliament (1972-75), Minister of Law (1972), Minister of Petroleum and Minerals (1973), Minister of Foreign Affairs (1973-75) and Chairman, Constitution Drafting Committee, Constituent Assembly of Bangladesh (1972).

Mr. Derek Ingram, British, is a nominee of the Commonwealth Journalists Association. He has been Editor of Gemini News Service since its inception in 1967. He has reported on many aspects of Commonwealth affairs, including all Heads of Government Meetings since 1969.

Ms. Sithembiso Nyoni, Zimbabwean, has been actively involved in rural development for over twenty-two years and is the Founder and Co-ordinator of the Organisation of Rural Associations for Progress (ORAP), the largest grassroots movement in Southern Africa. She has been an active worker for ZIMRIGHTS, a human rights movement in Zimbabwe.

Dr. Beko Ransome-Kuti is a Nigerian general medical practitioner nominated by the Commonwealth Medical Association. He was Secretary - General of the Nigerian Medical Association from 1979 - 1982. He has been President of the Committee for the Defence of Human Rights in Nigeria from 1989 to date. He is President of the Campaign for Democracy, founded 1992. He was a member of the Initiative's first Advisory Group.

The Hon. Margaret Reynolds, Australian, is a Senator for Queensland in the Australian Parliament. She has been Senate Team Leader since 1984, Minister for Local Government (1987 - 90) and Minister Assisting the Prime Minister for the Status of Women (1988-90). She is actively involved in Aboriginal and Women's issues.

Mr. Soli Sorabjee is an Indian lawyer nominated by the Commonwealth Lawyers Association. He has served as Solicitor General and as Attorney General of India. Areas of special professional interest are constitutional and administrative law and human rights.

Mr LeRoy Trotman is a Barbadian trade union leader nominated by the Commonwealth Trade Union Council. In 1989, he was elected President of the Caribbean Congress of Labour, and in March 1992, elected President of the International Confederation of Free Trade Unions. He is a Member of Parliament in Barbados.

FOREWORD

The Commonwealth Human Rights Initiative is an independent, non-governmental organisation committed to the promotion and protection of human rights in the Commonwealth. The Advisory Commission has been entrusted with the task of identifying areas and issues which should be of concern to Commonwealth governments and citizens, given the strong commitment to human rights expressed by CHOGM in its Harare Declaration. The Commission is also responsible for recommending strategies, policies and programmes to governments, citizens and non-governmental organisations in the Commonwealth which would help in the promotion and protection of human rights.

This Report to CHOGM is a sincere, if modest, effort on the part of the Commission to convey to the Heads of Government of the Commonwealth an independent assessment of the state of human rights in the Commonwealth, to share with them with their genuine concerns regarding the gap between commitment and actual implementation, and to offer practical recommendations with a view to better and more effective implementation.

It is recognised that in providing a global survey of the human rights record in the Commonwealth, the naming of certain countries to illustrate certain types of deviation from the norm may seem arbitrary and thus may cause unintended offence, but we considered that the value of the Report would be diminished if it limited itself only to pious affirmations of abstract principles and did not address itself to certain hard realities which can only be changed if these are acknowledged and corrective action is taken.

While appreciating the valuable contribution of the fellow-members of the Commission, I should like to thank specially Professor Yash Ghai for the preparation of the Report. The Commission is also grateful to Dr. Patricia Hyndman (and her assistant, Ms Renuka Thilagaratnam) for a study which provided valuable information for the Report. Thanks are also due to Mr. S Mahendra, Mr. Richard Bourne and Ms Jill Cottrell for the co-ordination of the Report.

We are very grateful to the Canadian International Development Agency, which has funded the CHRI since 1990, and to the Ford Foundation for specific resources for the Advisory Commission Report and its publication.

The Commission would also like to express its appreciation to the former Executive Committee in London, which was chaired by Mr. Derek Ingram, and to the new Executive Committee in New Delhi, chaired by Mr. Soli Sorajbee. Thanks also to our second Director, Mr. Kailash Prakash in Delhi and to those in the London office which is now closing - S. Mahendra, Administrator, Ms Eugenia George, Secretary, and Richard Bourne, first Director.

Kamal Hossain

CONTENTS

Executive Summary	Page
I The Background: From Harare to Limassol	
II The Record of Human Rights in the Commonwealth	
III What the Commonwealth Must Do to Fulfil the Promise of Harare	
Appendix	
Ratification of Conventions	

EXECUTIVE SUMMARY

(a) The Background: From Harare to Limassol

The Commonwealth Human Rights Commission (CHRI) welcomes the Harare Declaration adopted by the Commonwealth Heads of Government at the 1991 CHOGM. For the first time human rights and democracy are placed at the centre of the concerns and policies of the Commonwealth and its member states. Along with the Harare Communique issued at the same time, the Declaration provides a consistent and comprehensive framework for human rights policies. They establish close links between human rights, democratic politics, and sustainable development and provide a way to balance different kinds or generations of rights. Poverty is perceived as a cause of the denial of several rights, but economic policies that are designed to alleviate poverty must themselves respect human rights and dignity. Development must respect the precariousness and internal balance of the environment. Democratic values and practices will enhance the dignity of citizens, render government efficient and its operations transparent. The independence of the judiciary will protect the rights of individuals and groups and hold the executive responsible for its policies and acts.

By placing human rights within the different contexts of Commonwealth countries, and clarifying their links to democracy and development, the Declaration has found a way to reconcile differing perspectives on human rights priorities, while at the same time affirming the universality of the International Bill of Human Rights. It recognises the important role of non-governmental organisations in the promotion and defence of human rights, and envisages a fruitful partnership between them and state institutions.

Without fudging key issues, the Declaration encapsulates, in a forthright manner, a remarkable consensus on what were previously seen as difficult and controversial issues (globally and not only within the Commonwealth). This is indeed a significant achievement, which makes good the CHOGM claim of the ability of the Commonwealth to strike global consensus on complex issues. The key points of the Declaration were strongly endorsed by the recommendations of the World Conference on Human Rights in Vienna in June 1993. The Conference was preceded by numerous regional, official and non-official, meetings and numerous workshops and colloquia during which various, often conflicting, views on human rights were canvassed. The decisions and recommendations of the Vienna Conference thus represent a hard-won but firm consensus of the world community on human rights.

The deliberations and recommendations of the Conference have reinforced international resolve to give a high priority to human rights in the relations among states and in the domestic policies of member states. It is remarkable how closely the recommendations of the Vienna Conference follow the spirit of the Harare Declaration. The Conference was agreed on the common interest of mankind in the protection of human rights, recognising that so many of our present conflicts arise from the violation of human rights. It endorsed the concept of the universality of human rights, as exemplified in human rights international instruments negotiated under international auspices (like the CHOGM, the Conference urged all states that had not yet ratified these conventions, to do so immediately). It also emphasised the indivisibility of human rights, and the need to make progress on all fronts simultaneously. Rather as the Commonwealth has groped its

way towards a consensus on this point, the Conference stated that while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems, to protect all human rights and fundamental freedoms. In line with the thinking of the CHOGM, the Conference recognised that poverty is a major obstacle to the full realisation of human rights. Consequently it supported the right to development, but entered a caveat that while development facilitates the enjoyment of all human rights, the lack of development could not be a justification for the abridgement of human rights.

Like the Harare Declaration, the Conference decided that priority should be given to the rights of the more vulnerable sections of society, particularly women, children, the disabled, migrants and refugees, indigenous peoples, and minorities. It likewise found in racial and religious bigotry and intolerance grave sources of the violation of human rights. It considered that the responsibility for the achievement of human rights is widely shared, nationally as well as internationally, and acknowledged in emphatic terms the role of nongovernmental organisations, separately and in co-operation with official bodies. Like the CHOGM, it placed a special emphasis on democratic practices and adequate legal institutions to ensure the rule of law. It recognised the need for vastly increased resources for human rights activities, including education, technical co-operation, and institutional development.

(b) The Rhetoric and the Reality

Through the Vienna Conference and the Harare CHOGM, we have a remarkable consensus on the utmost importance of the securing of human rights. Despite slightly different nuances on priorities, all state and international institutions are agreed that human rights must be protected and that new resources must be made available for this purpose. Yet as both the Conference and the CHOGM recognized, the violations of human rights have increased in recent years.

The Cyprus meeting of the Commonwealth leaders is a good time to take stock of the record of its member states, and to measure rhetoric against reality. Such a stock taking is necessary to determine the scope and nature of human rights violations, to fathom the causes of the violations and to help in devising policies and instruments for the more effective protection of human rights.

We first acknowledge the progress the Commonwealth has made in the protection of human rights. The most heartening development has been the implementation of the commitment to democracy. The people of various countries previously under military or one party regimes have overwhelmingly declared their commitment to democracy through referenda or vigorous participation in the electoral process (although we notice with great regret and sadness the disregard of the results of presidential elections in Nigeria). We also welcome the progress towards democracy in South Africa (difficult and tortuous though it is) and the constructive role played by the Commonwealth there.

With the restoration of democracy, progress has been made on other, related areas. Many political detainees have been released; politicians and others opposed to the regime find it easier to travel abroad; the press is freer; there is a greater freedom of association; and there is less

frequent use of statutory powers restricting human rights. There is a greater awareness of the disadvantaged position of women and a commitment to improve their status. The people have an enhanced sense of their worth and power. However, there is often a tendency to equate democracy with free elections. In fact democratisation is a complex and long term process, and the Commonwealth has a further role to play in countries recently returned to democracy to ensure that true democratic attitudes and practices are established.

The role of non-governmental organisations in the promotion of human rights is being acknowledged and greater accommodation and co-operation are being shown to them by some governments which were previously hostile to them. But the position is by no means uniformly positive, and NGOs and human rights activists are still greatly harassed. The NGOs themselves are now better organized, better informed on domestic and regional developments, more alert to violations of human rights, and more prepared to take advantage of mechanisms for complaints and redress.

The debit side of the record, however, is substantial and alarming. The Report summarises in some detail the gross violations of human rights in the Commonwealth. Many countries continue to rely on administrative detentions where the detainees are denied the benefit of a trial; persons are held in custody for long periods before being released without a charge; prisoners are kept in appalling conditions; and the incidence of deaths in custody continues to increase. Particularly disturbing is the frequency of torture and other forms of degrading treatment of detainees and prisoners.

The freedom of the press is still far from being secure in many countries. Mandatory licensing of newspapers and journals and the registration of journalists, and government control of the supply of newsprint are common methods by which governments control the media and promote self-censorship. In most developing countries, the broadcasting media are state owned or controlled. We found many instances of the harassment of journalists and the raiding of newspaper offices, the confiscation of their presses and the closure of newspapers and journals. The threats to the freedom of expression (as indeed to many other rights) also come from private (often terrorist) groups.

The rights of children, women, refugees and indigenous peoples and other minorities are grossly abused. Child labour is still pervasive in many countries; child labourers are denied the benefits of protective employment legislation. Children continue to be sold into slavery or prostitution. Women are abused and exploited both at home and in the workplace, given low wages and often denied trade union rights. Both women and children have suffered disproportionately from policies of structural adjustment favoured by or imposed on most Commonwealth countries. These policies have also reduced levels of nutrition, health care and education. The emphasis on the marketisation of the economies of member states has led to the attrition or weakening of trade union rights, and the denial in special areas of the right to associate for trade purposes. In these ways, despite the lip service paid to the right to development, the social and economic rights of the ordinary people have gradually worsened.

Other sections of the community whose rights have become worse include ethnic minorities and indigenous peoples. There has been an upsurge of ethnic violence, stimulated by religious fundamentalism or racial arrogance. Human rights (including the most fundamental of all, the right to life) are a casualty of such violence, as it leads to the militarisation of both the state and

private groups, the use of exceptional powers, the denial of the authority of courts and thus of the rule of law, the displacement of people from their traditional abodes, and a pervasive sense of insecurity in which many rights cannot be claimed or enjoyed. Despite various international and national initiatives (particularly in the Commonwealth) to recognise and protect the rights of indigenous people, their position remains precarious. There is increasing encroachment on their lands and other natural resources and there is a steady degradation of their environment due to its commercial exploitation. Their rights and culture are threatened by immigrants better able to manipulate state institutions for their own benefit.

Another group whose numbers increase steadily and who suffer from greater discrimination and deprivation are refugees and displaced persons-and who find themselves in that position precisely because their civil, political and economic rights have been denied them in the first place. This is a growing international problem (and has to be tackled on a global basis) but it also has a special Commonwealth dimension, since a large proportion of refugees and displaced persons are from its member states or seek asylum there. There is a pervasive and widespread denial of the rights of these people.

There is a special problem about a new group of potential refugee and stateless persons which we wish to draw to the attention of Commonwealth leaders. After the transfer of sovereignty over Hong Kong from the United Kingdom to China on 1 July 1997, members of ethnic minorities (i.e.. non-Chinese) who are currently British nationals, particularly those originating from India and Pakistan, will lose their current British nationality in return for an infinitely inferior status which negates most rights of citizenship. As they will not be entitled to Chinese citizenship (which is based on Chinese descent) they will virtually become stateless and as such will be unable to exercise many of their basic rights, and live in fear of becoming refugees.

Finally, we would like to direct the attention of Commonwealth Heads of Government to massive state complicity in violations of human rights. State lawlessness, particularly on the part of the military, police and prison services, is a major cause of violations. These violations occur across a wide spectrum of rights, but those which have attracted particular attention concern torture, disappearances and extra-judicial killings. These violations go unpunished, either because of executive complicity or an unwillingness or inability to bring these perpetrators to account. These circumstances breed an environment where authoritarianism flourishes, the rule of law is negated, and there is little prospect of official or private respect for human rights and dignity. They arise out of the arrogance and abuse of power and show great contempt for the people. They are a disgrace to the Commonwealth; and yet it is within the power and the responsibility of Commonwealth governmental leaders to bring such practices to an end.

(c) What the Commonwealth should do to fulfil the promise of the Harare Declaration

At the Harare CHOGM, Heads of Governments agreed “to do everything practicable, both within their own societies and internationally, to combat discrimination in all its forms and to promote democracy, human rights, mutual tolerance and the rule of law through process and institutions which have regard to national circumstances” (para 12 of the Communique). Our

survey, however, has shown that the Commonwealth and its members have largely failed to fulfil this pledge. The gap between the Harare rhetoric and Commonwealth practice remains embarrassing and alarming. There have been serious violations in almost every Commonwealth country (including the affluent and largely democratic ones). The record of the ratification of international conventions and their implementation (including reporting) has not improved. No significant new resources have been raised for human rights work. The Commonwealth Secretariat continues to give too low a priority to human rights (particularly as exemplified in the staffing of the Human Rights Unit).

If the task of the Harare Declaration was to affirm Commonwealth commitment to human rights, the challenge for Cyprus is to set in motion practical measures to achieve the Harare goals. It is imperative that substantial progress be made in the realisation of human rights over the next few years if the Commonwealth and its leaders are to retain credibility with its people. It is unlikely that sufficient or speedy progress will be made in the UN machinery for the promotion of human rights. The Commonwealth will need to take its own initiatives (which may also act as an example to the international community).

- (1) We recommend that an independent body should be established within the Commonwealth to look into allegations of violations of human rights, to secure appropriate redress, and to provide general advice on the protection and promotion of human rights. A suitable title for such an office may be the Commonwealth High Commissioner for Human Rights. In the Report we explain the rationale and functions of the Commissioner.
- (2) We endorse the recommendations of both the Harare (and before that the Kuala Lumpur CHOGM) and Vienna meetings for the speedy ratification of human rights conventions by states which have not done so, the removal of reservations that tend to negate the objectives of the conventions, and the timely reporting of progress.
- (3) We recommend that the Commonwealth should facilitate those states which have moved away from one party systems or military regimes to secure democracy, through recognition of the legitimacy of the opposition in these states, the establishment of open and accountable government, assistance to independent centres of research and policy, workshops and other forms of training for parliamentarians, and sanctions against and ostracism of governments which deviate from democracy.
- (4) The Commonwealth and member states should take more energetic action to protect the rights of the more vulnerable groups that we have identified in our report—women, children, refugees and migrants, workers, indigenous peoples and minorities, and the disabled.
 - (a) Since 1993 is the International Year of the World's Indigenous People, and the UN is likely to adopt a Declaration on Indigenous Rights, the Commonwealth should undertake a comprehensive study of the position of indigenous and tribal minorities throughout the Commonwealth, with a view to exchange of information and the basis of policy.
 - (b) As a multi-racial, multi-religious and multi-linguistic association, the Commonwealth has a special responsibility to promote ethnic tolerance and harmony, especially in view of the prevalence of ethnic conflict and the consequent suffering and the denial of

human rights, for example through research and exchanges among scholars and policy makers.

- (c) We recommend that CHOGM should urge the UK government to grant full UK citizenship to British nationals in Hong Kong who are members of ethnic minorities and would not be entitled to Chinese nationality after the transfer of power over Hong Kong to China in July 1997.
- (5) The Commonwealth and member states should ensure that rights which are frequently infringed (including those we discuss in our Report, personal liberty, the freedom of expression and the right to associate, the independence and protection of journalists, work and employment) are fully respected, if necessary by the provision of special machinery.
 - (6) The Commonwealth and its governments should ensure that all citizens enjoy full rights of personal liberty and review the legislation (and practice) on administrative detention and the treatment of detainees and prisoners. Torture or other forms of degrading treatment should be eliminated immediately.
 - (7) Commonwealth governments should ensure that there are no violations of any person's rights by its officials or security forces. Perpetrators of these violations should be promptly brought to justice.
 - (8) The Commonwealth should pay more attention to social and economic right, especially of the poor and the disadvantaged.
 - (a) Governments should seek the active involvement of the representatives of workers and women in the planning and implementation of social and economic programmes which affect the economy and society.
 - (b) The Commonwealth should ensure that the emphasis on the market and the profit motive does not lead to degradation of the environment.
 - (c) We endorse the recommendations of the Harare and Vienna meetings that disarmament must be speeded up, and the resources thus released used to promote social, economic and cultural rights. We recommend that ministries of finance should accompany their budget proposals with an analysis of their effect (and the effect of structural adjustment programmes) on socio-economic and labour rights.
 - (9) We recommend that the Commonwealth should seek the active co-operation of human rights activists and non-governmental organisations. The right of these activists and organisation to promote and protect human rights, through the criticism of governments, propagation of education, distribution of literature, organisation of meetings, and litigation should be fully recognised and respected. The Commonwealth Fund, the Commonwealth Foundation, and any special fund set up for human rights, should be competent and urged to provide assistance to these organisations.
 - (10) The Secretary General should be mandated to offer his good offices in disputes between member states or in ethnic or similar strife within a state which threaten human rights.

CHOGM should give clear instructions to the Secretariat and associated bodies to promote human rights in collaboration with Commonwealth and national NGOs. The Secretariat should identify and disseminate good human rights practices in the Commonwealth (of which there are several outstanding examples) and encourage their adoption more widely.

- (11) The Commonwealth should commit significantly increased resources to human rights activities. The special human rights fund should be strengthened with contributions from existing funds and additional mandatory and voluntary contributions. Disbursements from the Human Rights Fund should be determined by an independent board with major representation by the non-governmental sector.
- (12) The additional human rights mandate for the Secretariat and the availability of fresh funds should lay the basis for a Commonwealth Action Plan for Human Rights, setting goals, targets, policies and concrete measures for the promotion of human rights. The Commonwealth Action Plan should supplement National Action Plans, drawn up after consultation with the national NOGs, and with technical assistance from the Secretariat where necessary. Machinery should also be established to review periodically the progress of Action Plans.

I. THE BACKGROUND: FROM HARARE TO LIMASSOL

The first report of the Commonwealth Human Rights Initiative *Put Our World to Rights*, was published on the eve of the Commonwealth Heads of Government Meeting (CHOGM) in Harare in October 1991. It was prepared in part to influence the Heads of Government to commit the Commonwealth and their own governments explicitly to the promotion and protection of human rights by according human rights a central place in the policies and institutions of the Commonwealth.

It sought to analyse, within a changing global context, the situation and controversies about human rights in the Commonwealth. It argued that while specific policies of the Commonwealth (particularly in areas of economic development and national self-determination) had the potential to facilitate the achievement of certain human rights, the Commonwealth had not so far made human rights a central concern of its policies or institutions. It examined, in particular, controversies between the primacy of the individual and the community as well as the appropriate balance between traditional political and civil rights on the one hand, and social and economic rights and the right to development on the other. It suggested ways in which these controversies could be resolved, particularly by recognising that the essential purpose of human rights was to preserve human dignity, that poverty was a major cause of the violation of human rights, and that participatory democracy was the fundamental framework for the promotion and protection of human rights. Consequently, while economic development was imperative, development policies had to be conceived within a framework of and respect for human rights.

The report pointed to both the diversity of cultures, religions and states of development within the Commonwealth and its underlying common history and heritage, especially of democratic values and the rule of law, which placed it in a unique position to establish a global consensus on the importance and scope of human rights, and the modalities for their promotion and protection. It made a number of general and specific proposals for the Commonwealth and its member states, urging that human rights should constitute the general and overarching framework for Commonwealth policies and initiatives. It urged that human rights should be seen as the responsibility of government as well as nongovernmental organisations.

The CHRI was gratified by the welcome given to the Report by several heads of government as well as by the decisions of the Harare CHOGM (which adopted the premises of our report).

The Harare Declaration

The Harare Declaration and the accompanying Harare Communique represent a major commitment of the Commonwealth and its governments to human rights. The Declaration recognises the unique position of the Commonwealth to establish global consensus and act as a catalyst for the international community. Affirming its belief in the “liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual’s inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives”, the Declaration pledged the Commonwealth and its countries “to work with renewed vigour” especially on

- (a) the protection and promotion of the fundamental political values of the Commonwealth, defined to include
 - (i) democracy, democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary, just and honest government; and
 - (ii) fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, colour or political belief;
- (b) equality for women;
- (c) provision of universal access to education for its peoples;
- (d) the end of apartheid and the establishment of a free, democratic, non-racial and prosperous South Africa;
- (e) the promotion of sustainable development and the alleviation of poverty through various economic policies and instruments;
- (f) extending the benefit of development within a framework of respect for human rights;
- (g) the protection of the environment through respect for the principles of sustainable development;
- (h) combating drug traffic and abuse and communicable diseases;
- (i) help for small states in tackling economic and security problems and
- (j) support for the UN and other international institutions in the world's search for peace, disarmament and effective arms control.

The Declaration is forthright and emphatic in the Commonwealth's commitment to democracy and human rights. The political values of democracy and human rights are henceforth to be the touchstone of Commonwealth policies and actions.

The Declaration and the Communique provide a consistent and comprehensive framework for human right policies. They clarify the close links between human rights, democratic politics, and sustainable development and suggest a way to balance rights of various types or generations.

- * Poverty is perceived as a cause of the denial of several rights, but the economic policies that are designed to alleviate poverty must themselves respect human rights and dignity.
- * Development must respect the precariousness and internal balance of the environment.
- * Democratic values and practices will enhance the dignity of citizens, render government efficient and its operations transparent.

- * The independence of the judiciary will protect the rights of individuals and groups and hold the executive accountable for its policies and acts.

By placing human rights within the different contexts of the Commonwealth countries, and establishing their links to democracy and development, the Declaration has found a way to reconcile differing perspectives on human right priorities. At the same time it affirmed the universality of the International Bill of Human Rights. It recognises the important role of non-governmental organisations in the promotion and defence of human rights, and envisages a fruitful partnership between them and state institutions.

Without fudging key issues, the Declaration encapsulates, in a forthright manner, a remarkable consensus on what were previously seen as difficult and controversial issues (globally and not only within the Commonwealth). This is indeed a significant achievement, which makes good the CHOGM claim of the Commonwealth's ability to strike global consensus on complex issues. At the same time the Declaration and the Communique set the stage for policies and initiatives for the promotion and protection of human rights within the Commonwealth and its member states. It has placed the Commonwealth in the forefront of global advocacy of and campaigns for human rights. It provides clear guidance to the Commonwealth Secretary-General and associated institutions for policies and action to promote human rights. Above all, it sets standards by which the conduct of the Commonwealth and its executive bodies as well as that of its member states may henceforth be judged.

The Vienna Conference

When taking their decisions at Harare, the Commonwealth leaders reminded themselves of the changing global situation in which there is a resurgence of commitment to democracy and human rights. The Harare Declaration has undoubtedly added to the strength of that resurgence. The CHOGM meeting was followed by a World Conference on Human Rights in Vienna in June 1993. This intergovernmental conference under the auspices of the United Nations was preceded by a global NGO Forum, the largest-ever gathering of its kind, which submitted detailed recommendations to the Conference. The decisions and recommendations of the Vienna Conference represent a hard-won but firm consensus of the world community on human rights.

The deliberations and recommendations of the Forum and the Conference have reinforced international resolve to give a high priority to human rights in the relations among states and in the domestic policies of member states with a view to achieving substantial progress in the enjoyment of human rights. It is remarkable how closely the recommendations of the Vienna Conference follow the spirit of the Harare Declaration. The Conference was agreed on the common interest of mankind in the protection of human rights, recognising that so many of our present conflicts arise due to the violation of human rights. It endorsed the concept of the universality of human rights, as exemplified in human international rights instruments negotiated under international auspices (like the CHOGM, the Conference urged all states that had not yet ratified these conventions, to do so immediately). It also emphasised the indivisibility of human rights, and the need to make progress on all fronts simultaneously. Rather as the Commonwealth has groped its way towards a consensus on this point, the Conference stated that while the significance of national and regional particularities and various historical, cultural and religious

backgrounds must be borne in mind, **it is the duty of states, regardless of their political, economic and cultural systems, to protect all human rights and fundamental freedoms.**

In line with the thinking of the CHOGM, the Conference recognised that

- * poverty is a major obstacle to the full realisation of human rights; consequently it supported the right to development, but entered a caveat that while development facilitates the enjoyment of all human rights, the lack of development could not be a justification for the abridgement of human rights.
- * priority should be given to the rights of the more vulnerable sections of society, particularly women, children, the disabled, migrants and refugees, indigenous peoples, and minorities.
- * racial and religious bigotry and intolerance a grave source of the violation of human rights.
- * responsibility for the achievement of human rights should be widely shared, nationally as well as internationally, and acknowledged in emphatic terms the role of nongovernmental organisations, separately and in co-operation with official bodies.

It made a number of recommendations for the greater effectiveness of human rights. Like the CHOGM, it placed a special emphasis on democratic practices and adequate legal institutions to ensure the rule of law. It recognised the need for vastly increased resources for human rights activities, including education, technical co-operation, and institutional development. We recommend that the Commonwealth should give its full support to the proposals of the Vienna Conference, and integrate them into its own plan of action.

II. THE RECORD OF HUMAN RIGHTS IN THE COMMONWEALTH

Through the Vienna Conference and the Harare CHOGM, we have a remarkable consensus on the utmost importance of the securing of human rights. Even though there might be slight differences of nuance on priorities, all state and international institutions are agreed that human rights must be protected and that new resources must be made available for this purpose. Yet as both the Conference and the CHOGM recognised, the violations of human rights have, if anything, increased in recent years. A common feature of contemporary violations of human rights is its collective nature, when entire communities become the victim of horrendous brutalities. There are mass evictions of people and millions of displaced persons and refugees. Many sections of most national societies are vulnerable to violence and live in great insecurity and terror. The abuse and exploitation of women and children are on the increase. Many states are implicated in gross and massive acts of lawlessness, where violations are inflicted on people without any prospect of redress.

The Cyprus meeting of the Commonwealth leaders is a good occasion to take stock of the record of its member states, and to measure rhetoric against reality. Such a stock taking is necessary to determine the scope and nature of human rights violations, to fathom the causes of the violations and to help in devising policies and instruments for more effective protection of human rights. The CHRI commissioned a study of the record of human rights in the Commonwealth since the Harare CHOGM. The results of the study, which is summarised below, show a disturbing picture of the disregard of human rights. They demonstrate that an urgent priority of the Cyprus CHOGM must be a renewed determination to ensure that human rights are respected and protected, and that necessary institutional arrangements are put in place immediately for this purpose. It is imperative now to move from rhetoric and declarations to action. We believe that the success of the Cyprus CHOGM will be widely judged by the progress it achieves in strengthening the machinery (and allocating additional resources) for the protection of human rights.

Achievements

Before we examine the disregard or violations of human rights, we consider the positive developments since the Harare meeting. The most heartening development has been the implementation of the commitment to democracy. At the time of the Harare meeting, a number of Commonwealth countries still had one-party or military regimes. Although some are still in the process of being dismantled, there is now universal condemnation of such regimes and a wide recognition that they are incompatible with the fundamental values of the Commonwealth. The people of these countries have overwhelmingly declared their commitment to democracy, either through referenda or through vigorous participation in the electoral process. In recent years steps have been taken towards the restoration of democracy in Bangladesh, Ghana, Guyana, Kenya, Lesotho, Pakistan, the Seychelles and Zambia. Considerable progress towards democracy has been made in Malawi, and Uganda is expected to adopt a new constitution soon by an elected constituent assembly in preparation for the restoration of democracy. On this score, the Commonwealth can indeed be proud.

The Commonwealth and several of its members have made important contributions to the restoration of democracy, by providing advice and technical assistance and by attempting to ensure that the electoral process is fair and impartial, principally by sending election monitors. (These verdicts have not always been uncontested, as in Kenya, where some groups have argued that the Commonwealth did a disservice to democracy by endorsing the elections, pointing to the need to reconsider the role of and guidelines for monitors). The Commonwealth has also continued its efforts towards full, non-racial democracy in South Africa; its role has been helpful and constructive in an extremely difficult situation fraught with political and racial divisions, anxieties, fears, and the subversion of democracy. We support the continued Commonwealth involvement in and assistance to South Africa.

A big disappointment, however, has been the setback to the establishment of democracy in Nigeria, the most populous Commonwealth state in Africa. In July 1993, at our meeting in Cyprus, we strongly condemned the action of the Nigerian head of state in cancelling the results of the presidential elections held in June 1993 after careful preparations, and despite the favourable assessment of several domestic and international monitors on the fairness of the electoral process. The defiance of the will of the people in this arbitrary manner is totally inconsistent with the Harare Declaration and we have already urged the Heads of State not to allow a Nigerian representation at the Cyprus CHOGM unless a properly elected civilian government is in place by then.

With the restoration of democracy elsewhere, progress has been made on other, related areas. Many political detainees have been released; politicians and others opposed to the regime find it easier to travel abroad; the press is freer; there is a greater freedom of association; and there is less frequent use of statutory powers restrictive of human rights. There is a greater awareness of the disadvantaged position of women and a commitment to improve their status. The people have an enhanced sense of their worth and power. However, there is often a tendency to equate democracy with free elections. In fact democratisation is a complex and long term process, and the Commonwealth has a further role to play in countries recently returned to democracy to ensure that true democratic attitudes and practices are established.

The role of non-governmental organisations in the promotion of human rights is being acknowledged and greater accommodation and co-operation are being shown to them by some governments which were previously hostile to them. But the position is by no means uniformly positive, and NGOs and human rights activists are still greatly harassed. (The Nigerian member of our Commission, Dr. Beko Ransome-Kuti, was arrested on the eve of our meeting in Cyprus in July 1993; and his organisation, the Campaign for Democracy and other Nigerian human rights organisations are persecuted). The NGOs themselves are now better organised, better informed on domestic and regional developments, more alert to violations of human rights, and more prepared to take advantage of mechanisms for complaints and redress. Several countries have investigated strengthening of human rights machinery; and India is about to establish a Human Rights Commission (although there has been criticism of several provisions of the draft bill on the ground that the Commission will not be sufficiently independent and powerful).

In several countries the judiciary has delivered bold decisions in favour of democracy or human rights. We recall: the decision of the Bangladesh Supreme Court (following the Indian doctrine of the basic features of the constitution) holding that provisions of the Constitution establishing an independent judiciary

with an integrated Supreme Court at its apex are beyond the powers of amendment; the Pakistan Supreme Court's decision restricting presidential powers of dismissing an elected government; the British House of Lords judgment that ministers are always subject to full judicial review in the exercise of their executive powers (in a case involving the rights of an asylum seeker); the Court of Appeal in Kenya which has held that a person denied his rights by the government is entitled to monetary compensation (in a case alleging illegal detention and torture); and the High Court of Australia's decision that the indigenous people had enforceable title to their traditional land at the time of the British occupation.

Courts in most Commonwealth jurisdictions have broadened the rules of standing to sue to protect human rights or to ensure a fair and proper exercise of executive powers, enabling an increased use of public interest litigation pioneered by the Indian judiciary. The legal profession (and legal educators) in many countries have shown an interest in human rights and judicial review of administrative acts. and have begun to appreciate their responsibility for the protection of human rights.

Violations of Human Rights: Some Illustrations

There is, however, a substantial debit side to the record. It would take us too long to provide a complete guide to human right violations: summaries can be found in annual or special reports of various organisations, like Amnesty International, the Watchers, the US State Department, etc. Our account here is illustrative of the nature and scale of these violations. We have selected a few important rights and have examined the situation of the more vulnerable members of society.

(a) Administrative Detention and Prison Conditions

In our previous report, we commented on legislation which permitted administrative detention and their frequent use in a number of countries, embodying standards and regulations which fell well short of international rules, particularly as established in the International Covenant on Civil and Political Rights. Since Harare, no amendments to such legislation have been made to reduce its severity or conform to international standards (except in Mauritius which has abolished the Public Order Act which had allowed detention without charge or trial). In a number of countries persons were detained at the discretion of the executive, without charge or trial. In numerous instances, persons are held for unreasonably long periods under the ordinary criminal law before being brought to court, and then released without being charged with an offence.

The conditions under which detainees and prisoners are held continue to be appalling, and in contravention of international standards. Detainees have been subjected to torture in a number of countries. Everywhere it seems prisons are overcrowded and insanitary. It was reported that in 1992 in Malawi, 300 detainees were squeezed into one small cell; in Nigeria as in many other places, there is lack of clean drinking water, cells are insanitary and poorly ventilated, and disease is rampant. In 1991 a Council of Europe Committee described conditions in some UK prisons as "inhuman and degrading", and condemned overcrowding, lack of sanitation, and the

confinement of many inmates to cells for up to 22.5 hours a day .In many countries there is a high incidence of deaths in police or prison custody, often disproportionately among members of disadvantaged groups. Deaths of aboriginals in Australia were noted in our previous report; unfortunately these still continue. In 1991 the Nigerian Civil Liberties Organisation estimated that 2,000 prison inmates die annually; even the minister of the interior told a press conference that the figure for 1991 was 5,000. about 8 per cent of the prison population. The deaths of a high proportion of prisoners have also been reported in a number of other Commonwealth countries.

(b) Immunity, Extra-judicial Killings and Disappearances

We have already mentioned that lawlessness (frequently on the part of police and security forces) is a major cause of human rights violations. The violations occur across a wide spectrum of rights, but those which have attracted particular attention concern torture, disappearances and extra-judicial killings. These violations go unpunished, either because of executive complicity or an unwillingness or inability to bring these perpetrators to account. This phenomenon is not confined to the Commonwealth, and has given rise to great concern in the UN, where a Working Group has been established on Enforced or Involuntary Disappearances. Under various international conventions as well as domestic legal systems, it is the duty of the state to punish all perpetrators of such offences. Sometimes formal immunity is granted to these perpetrators, but even where an immunity does not apply, the practice is not to prosecute them. The UN Working Group has stated that “Immunity is the single most important factor contributing to the phenomenon of disappearances. Perpetrators of human rights violations...become all the more irresponsible if they are not held to account before a court of law”.

There is ample evidence that extra-judicial killings and disappearances continue to occur in Commonwealth countries, without those responsible being made accountable. In Kenya and Lesotho, among other Commonwealth countries, the government rarely makes any attempt to investigate complaints of torture, and prosecutions of those responsible are hardly ever conducted. In Nigeria police brutality to detainees continues without any accountability; and attempts to make the police responsible for extra-judicial killings have been largely ineffective. Human rights groups report that Nigerian government practice in such cases is to establish investigative commissions and then to ignore their findings. In Bangladesh, over 100 persons, including journalists, were reported to have been injured and a number of deaths occurred as a result of the unlawful or unnecessary use of force by government security personnel, or as a result of law-enforcement agencies failing to protect citizens, including students, from attack by armed hoodlums. In 1992 the numbers of people reported injured and killed as a result of such action increased. We are not aware of any measures to bring those responsible to justice.

In Jamaica in 1992 a number of people held in police custody died in circumstances which strongly suggested extra-judicial killings. The Jamaica Council on Human Rights is reported to have stated that this pattern represents the continuation of long standing practices by the Jamaican Constabulary Force. In India there is a general failure to prosecute police and security forces implicated in the ill-treatment of detainees. including fake “encounter” killings, and a similar lack of accountability is evident in violence towards members of particular ethnic groups during communal disturbances. Although extrajudicial killings of detainees received increased attention in 1992, there is little evidence of increased attempt at prosecutions. In Pakistan where beating, whipping the soles of the feet with rubber whips, sexual assault and prolonged isolation

occur in prisons, little is done to hold the police accountable for these abuses.

It is easy to multiply these examples, but three more will suffice. The conflict in Sierra Leone's eastern and southern provinces along the Liberian frontier has been characterised by severe violations of human rights on all sides. Rebel troops are reported to have massacred civilians. Government forces are said to have publicly humiliated captives, paraded them naked, disfigured them, and executed them without trial-with total immunity. The largest number of disappearances in any Commonwealth country in recent years have occurred in Sri Lanka. The UN Working Group received 3,841 new cases from Sri Lanka for consideration in 1991 alone. The government has recently set up several commissions into different incidents and atrocities. although in a number of instances these bodies are unsatisfactory, as a commission's mandate may not enable enquiry into the period of most flagrant abuse of rights. We are glad to report that the government has recently shown more willingness to discuss human rights violations and in 1992 significantly fewer disappearances and extra-judicial executions were committed in the south of the country. although the situation in the north and east continued to be serious.

(c) The Freedom of Expression

The freedom of expression, particularly that of the press, has improved with the restoration of democracy in many states, as we note above. However, the freedom does not always last beyond the departure of the last election monitoring team, and there exist numerous ways of patronage or intimidation that serve to curb the freedom of expression. Threats of one sort or another to this freedom exist in most countries. Mandatory licensing and/or registration of journalists and newspapers, government control of the supply of newsprint, and limits on the circulation of papers and journals, as in Singapore, are common methods by which governments control the media and promote self-censorship. Several governments use their customs laws to exclude foreign publications which they find offensive. The control over broadcasting media gives rise to considerable concern as almost everywhere in the developing world this is state-owned. In many countries the control extends to excluding virtually all views critical of the government and denying broadcasting time to political opponents even during election periods. For example, Commonwealth observers in Kenya for the general elections in December 1992 reported that the ruling KANU party received six times as much air-time as the opposition combined (and since then the government has "persuaded" the only privately owned television company, which had tried to provide fair coverage, to stop broadcasts of local news, leaving the state owned corporation, which is heavily state biased and controlled, with a monopoly). In Malawi private newspapers continue to be banned and seized, and in the run-up to the recent referendum on the political system, opposition supporters were attacked and denied access to the media.

We have no space to relate the numerous instances of restrictions on the press that were uncovered in our research. However, we would like to bring to the attention of Commonwealth leaders the harassment to which fair and independent journalists, and others exercising their right to expression, are subjected. In Pakistan thousands of supporters of the Pakistan Democratic Alliance were arrested in different parts of the country in November 1992 before and during a demonstration called by the party, solely for the peaceful exercise of their right to express their political views. A number of journalists covering the arrests and several opposition members were reported to have been tortured. In Sri Lanka there has been a series of investigative visits by government agents to the offices of independent publishers. Editors and journalists have been

questioned, attacked, and arrested; presses have been sealed; and copies of publications have been seized. In Nigeria, known for the outspokenness of its journalists, harassment and persecution of them has continued, recent examples being the acid thrown in the face of Alifa Daniel, head of *Concord* in Kogi state, and the arrest of an editor-in-chief and journalist of the *Tribune* for writing an article critical of the police. The situation in Kenya, Lesotho and Malawi is worse. In Kenya recently the offices of a small publication, *Society*, was fire-bombed, the publisher and his wife arrested and charged with sedition, and the publisher's passport confiscated. Thousands of copies of publications carrying articles critical of the government have been seized, offending presses have been dismantled, and journalists' notes confiscated.

Attacks on the freedom of expression come not only from the government but also (as with threats to other rights) from terrorist groups. This has been a particular problem for Indian journalists, covering events in the Punjab or Kashmir, or communal riots following the recent religious conflict. In Northern Ireland many newsagents ceased stocking the *Sunday World* after death threats from the Ulster Volunteer Force. In Sri Lanka severe restrictions, in some instances amounting to censorship, are imposed by the Tamil militant group, the LTTE. As an instance of the consequences of voicing views perceived to be non-supportive of the LTTE we may cite the case of Mr. Soosapali Norbet, a Tamil author and journalist, who disappeared after being taken forcibly from his home in Jaffna late on 7 May 1991. Mr. Norbet, who had earlier been a member of PLOTE (another Tamil group), had consistently been critical of the advocacy of violence by the Tamils. The abductors were repolled to be in uniform and to have identified themselves as members of the LTTE.

(d) Social and Economic Rights

Although the opposition to civil and political rights is based on the primacy of social and economic rights, we have found little evidence of the improvement in these rights over the last few years in the Commonwealth. We discuss below the rights of women, children and indigenous peoples and minorities, and find that their socio-economic position in terms of nutrition, health and education has steadily worsened. This is attributable in part to policies of structural adjustment imposed on several countries in financial difficulties and in part due to the new impotence (endorsed by the Harare CHOGM) attached to the market as an organiser of the economy. While we appreciate that state owned enterprises have not, on the whole, been particularly efficient or profitable and that bureaucratic controls on economic activities have frequently led to corruption and inefficiency, we are sceptical of the ability of the unregulated market to meet the basic needs of the ordinary people, much less the poor and the disadvantaged. Market processes in many countries are still crude and primitive, and there is a particular need for governments to ensure adequate protection of workers, consumers and other, vulnerable, groups against their ravages. Otherwise we fear that the misery of the people will be deepened, in order to ensure profits for the new entrepreneurs. We have not had the time to do a complete survey of the consequences of new policies for social and economic rights.

We are heartened that the Harare CHOGM endorsed the Ottawa Commonwealth declaration on the adverse consequences for women of structural adjustment. Here we only examine the position of workers' rights since our last report. The picture is very grim, with the outlawing of strikes, the casuistic determination of what is "essential services", withholding of passports of trade unionists and other forms of harassment, exempting export processing zones from the

application of labour laws and prohibiting trade union activity, and legislating away wages and social benefits won by workers at the bargaining tables.

According to the *Annual Survey (if Violations of Trade Union Rights* in 1992, published by the International Confederation of Free Trade Unions (ICFTU), 260 trade unionists were killed and 2500 were arrested for legitimate trade union activity. The report singles out Malawi as one of the most dangerous countries for trade unionists, and points out that 38 people were killed in May 1992 while demonstrating outside the Supreme Court to demand the release of Chakufwa Chihana, the Secretary-General of the Southern African Trade Union Co-ordination Council (SATUCC). SATUCC offices were closed down by the government, and the running of its activities from Malawi prohibited. Shortly after Chihana's arrest, his wife was dismissed from her job at the University of Malawi, and evicted from her home. The passport of Chihana's lawyer was impounded, and they were both attacked outside the court. In a related incident, the mother of an SA TUCC employee was tortured to disclose his daughter's whereabouts.

While Malawi might be the worst case, other Commonwealth countries (Australia, Bangladesh, Canada, India, Malaysia, Namibia, New Zealand, Pakistan, Papua New Guinea, Solomon Islands, Sri Lanka, the United Kingdom, Zambia and Zimbabwe) are also cited for violating, to varying degrees, the fundamental trade union rights that are recognised and formulated in the ILO conventions. The harassment of union officials occurred elsewhere too. In July 1992 16 people were killed in India while demonstrating to demand the implementation of labour laws, including the Minimum Wage Act (and a month earlier thousands of workers were taken into custody as a precautionary measure in an attempt to lessen the effects of a 24 hour strike to protest at the government's economic policies). In 1991 and 1992 the Lesotho government used its powers under the Internal Security Act to charge trade union officials for holding meetings of union members, and in August 1991 an official of a construction workers union was shot and killed by the police. In Sri Lanka trade union activities, including the right to strike, have been seriously restricted by the indiscriminate application of anti-terrorist laws.

A number of countries restrict the right to join a trade union; for example, workers in the public sector, professional and managerial staff, and workers in the Chittagong Export Processing Zone are not allowed to belong to a union, and the Malaysia government has continued to refuse electronic workers their right to join unions of their choice, or to allow the ICFTU-affiliated MTUC to organise a national union in the industry. Others have restrictions on the formation of unions, or allow governments extensive powers of interference in the affairs of unions, for example, in Pakistan and Kenya.

In a number of other ways the benefits of trade union legislation are denied to various workers. The 1992 Finance Bill in Pakistan seeks to exempt industries exporting more than 70% of their products from all labour legislation. Until August 1992 a law in Sri Lanka made incitement to strike in the export sector an offence carrying a minimum sentence of 10 years. In the Solomon Islands, two of the country's biggest plantations, in palm oil and forestry, pressurised workers to become sub-contract workers rather than remain permanent employees, effectively removing them from protection under the collective agreement negotiated by the Solomon Islands National Union of Workers, and seriously undermining the union. Illegal employment also denies workers the benefit of the law; in Pakistan for example, illegal bonded labour - in brick, carpet, glass and fishing industries, is widespread. Bonded labour is also found in agriculture and construction; estimates of bonded labour reach over 20 million, several million of whom are children

(although Pakistan did pass the Bonded Labour System (Abolition) Act in 1992).

Many governments justify these restrictions on the basis that trade union rights, particularly those of collective bargaining, adversely affect economic development. Export-processing zones have become a popular strategy for development, and it is in these zones, as we have already indicated, that most pronounced violations of workers' rights occur. Forced to compete against each other for foreign investment, developing countries have fallen over themselves to offer "attractive" conditions to multinational corporations, including complete prohibitions on trade unions, low wage levels, appalling working conditions, and the "super-exploitation" of predominantly female work forces. Malaysia and Sri Lanka particularly show unfortunate examples of this tendency.

Workers in developing countries have suffered most from the vicious cycle of debt, low commodity prices, structural adjustment and frustrated development which characterised the past decade. However, the ICFTU report makes it clear that attacks on trade union rights are not restricted to the developing world. Governments from Australia, Canada, New Zealand and the United Kingdom are criticised for their anti-trade union legislation, and hostility to collective bargaining. New Zealand and Australia especially are viewed with concern. New legislation in the former "represents probably the most comprehensive legal attack on trade union freedoms in the world and has already attracted imitators at the state level in Australia". In the United Kingdom legislative proposals introduced in 1992 add to the range of grave legislative obstacles to basic trade union rights which have been introduced by governments successively since 1980.

(e) Rights of Women

In our previous report we discussed at length the social, economic and legal disabilities that women suffer from. They have fewer opportunities than men for education; few women are elected to the legislature or appointed to senior positions in the public or private bureaucracies; their nutrition is worse than that of men; their working hours are longer; and legal rules regarding evidence, succession, and the right to own property often discriminate against them. They are subjected to a great deal of violence both at home and outside. Programmes of structural adjustment which have been forced on many countries have served to impose additional hardships on women, proportionately more than on other members of the community. The Commonwealth, in common with the world community, has made firm commitments to the improvement in the status and rights of women; the UN adopted a Convention on the Elimination of all Forms of Discrimination Against Women in 1979 and the Commonwealth meeting in Harare specifically mentioned improved rights of women as a particular objective, expressly endorsing the 1990 Ottawa Commonwealth statement on the reform of social, administrative and legal structures to give women full and effective rights to land, finance, and other resources. The object was to give them equal participation in education, the economy, and public decision making.

Regrettably, despite some progress, there has been a significant failure in translating intentions into action. 27 members of the Commonwealth have failed to ratify the Convention, and several of those who have ratified, have entered reservations that in some cases negate its very purpose, as in Bangladesh where the continued application of personal laws takes precedence over the obligation in Article 16 to take all appropriate measures to eliminate discrimination against

women in all matters relating to marriage and family relations. Commonwealth members have also been deficient in reporting on progress towards the objectives of the Convention as required under it. The position on the ground has scarcely improved, and in fact there is reason to believe that it has worsened. Between 1988 and 1991, 15,891 deaths of women in India were recorded as “dowry deaths”; and such incidents are also common in Bangladesh, particularly in the rural areas. The vast majority of these cases appear to be unreported to the authorities and as a rule, no proceedings are taken against those responsible. Female bondage, forced prostitution and child marriage remain common in parts of Indian society. In Bombay alone there are reported to be approximately 100,000 prostitutes, many of them minors, who are held in bondage at brothels. The revival of religious fundamentalism, as reflected in law and practice, has caused further suffering to women, as is evident from the treatment of women in Pakistan, who for example find themselves charged with adultery if they report a rape or file for divorce. Female genital mutilation continues unabated in many parts of Africa, despite the legal prohibition against it in some states.

(f) Children

Children are another vulnerable group whose plight has been recognised in various declarations and conventions. Their exploitation and abuse of children occurs, in different forms, in all Commonwealth countries - the form varying according to different stages of development, conditions and cultures. Our previous report provided extensive documentation of the exploitation of children. Unfortunately we have found little evidence of improvement since then, despite frequent Commonwealth declarations. Child sexual abuse, prostitution and pornography appears to be on the increase, especially in the more developed countries. Child labour, without any of the safeguards of the law on working hours, minimum wages, safety at work, and unionization, has undoubtedly increased, especially in Pakistan, Sri Lanka, Bangladesh and India, the last alone considered to employ one third of the world's child labour. The work children do is dangerous (sometimes involving drug trafficking, and in certain instances, as in Uganda and Sri Lanka, service in the armed forces of the state or rebels) and liable to cause permanent disabilities (in chemical factories or carpet weaving). A further consequence is the neglect of the education of the children; unfortunately even when not employed, many children have no access to education, due to the absence of schools or the inability to pay fees, locking them into a vicious cycle of poverty. A large number of Commonwealth children live in abject poverty, frequently without a roof over their head, suffer from malnutrition, and have inadequate health facilities. A 1992 report on children in Northern Ireland found that they are subjected to harassment on the street by the security forces, physically and psychologically abused in detention centres, and held in shameful conditions in adult prisons. Several have died at the hands of paramilitary and security forces, a phenomenon common in other parts of the Commonwealth as well. Past and contemporary civil conflicts have left a terrible legacy as far as the plight of children is concerned. Here is a major challenge for the Commonwealth.

(g) Refugees

There are over 17 million refugees in the world and untold millions of others in “refugee like circumstances” (including internally displaced persons), according to estimates of the UN High Commission for Refugees (UNHCR). There is a particularly close connection between human

rights and refugees; it is the denial of human rights that frequently causes people to seek asylum elsewhere. Once they are refugees, many of their human rights are in jeopardy, the international regime for their protection being weak and faulty. Refugees are a major concern of the Commonwealth, both as the cause of the flight of people from their countries and as the recipient of people seeking asylum and safety. The UNHCR lists Sri Lanka, Sierra Leone, Bangladesh and Uganda as among states producing the most refugees, while Pakistan, India, Tanzania, Zambia, Zimbabwe, Uganda, Kenya, Malawi, Canada, Cyprus, UK, Australia, Swaziland and Hong Kong are among the major asylum countries (hosting over 6 million refugees). There are over 268,000 internally displaced persons in Cyprus, 145,000 in Sierra Leone, 600,000 in Sri Lanka and 300,000 in Uganda.

It is unlikely that the number of refugees and displaced people, in the world or the Commonwealth, will decrease in the near future; the evidence is to the contrary.

Half of the world's refugees are children (80 per cent of them are women and children). Many of the children are "unaccompanied minors" who, separated from their families in the events causing their flight, arrive across borders in search of asylum totally alone. Almost all refugees and displaced persons have been traumatised - detained and tortured for their social origin, religion or race, witness to severe political repression and human rights abuses, to arbitrary murders or brutality in warfare, starvation and other hardships. The average refugee camp is not a satisfactory. Female refugees are commonly subjected to violence and physical abuse both during flight and in camps. Armed attacks are deliberately made on some refugee camps. From others refugees are recruited into belligerent forces. Conditions in camps are often appalling in other ways as well. Death rates in refugee camps in Kenya increased alarmingly in 1992 (mainly due to inadequate relief supplies and poor camp sites); and conditions in some of the detention centres for asylum seekers in Hong Kong are more squalid than local prisons (and considerably less safe). Children are born and grow into adolescence in these appalling conditions.

The primary international instruments for regulating the right of asylum and the situation of refugees are the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol (which several Commonwealth countries have still to ratify). They define the term "refugee"; provide a charter of rights which bind the ratifying states; and make provision for their implementation. They are inadequate to deal with the scale and complexity of the numbers and problems of refugees and displaced persons (and are in urgent need of reform). Even then, many traditional asylum countries show increasing reluctance to abide by their terms, and are introducing additional qualifications on asylum seekers. For many refugee status applicants there is no full and early access to fair determination procedures. In December 1991 Australia's backlog of undecided applications for refugee status stood at 23,000; in late 1992 the High Court upheld the government's right to hold asylum-seekers in detention (often for long periods) pending determination of their cases. The UK also regularly places asylum seekers in detention while assessing their claims. In many countries, including the UK and Australia, the imposition of visa requirements coupled with heavy fines for airlines bringing in passengers without proper documentation, prevents people subjected to persecution from arriving to make asylum claims. There have been various defects in the application of the screening process in Hong Kong for Vietnamese asylum seekers. Malaysian authorities are reported to have sent back to sea 4 vessels carrying 110 Vietnamese asylum seekers in 1991 and 1 vessel with 12 asylum seekers in 1992, while Zimbabwe forcibly returned refugees to Mozambique after questionable procedures for determining their status. All too often political considerations enter into a country's negative

treatment of refugees (as in the allegations against India regarding Burmese refugees).

On the other hand, many Commonwealth countries, with population problems and few resources of their own, have shown great generosity to refugees. Malawi has nearly 1 million refugees (and a GNP per capita of US\$ 160); in the early months of 1992 an average of 5000 refugees a day were crossing the border from Burma into Bangladesh, - ultimately imposing a burden of over 250,000 on one of the poorest countries in the world; and Zambia (with a GNP of US\$240) hosts 140,000 refugees. Tanzania has made grants of land to refugees. Nevertheless, there is need for concerted international and Commonwealth action to deal with one of the most pressing and pitiful cases of human rights abuses.

(h) Indigenous Peoples and Other Ethnic Minorities

Both the Harare CHOGM and the Vienna Conference recognised racial, religious and ethnic discrimination and intolerance as a primary cause of the denial of human rights. Since the end of the cold war, ethnic tensions have increased, either because of the collapse and subsequent disintegration of the Soviet empire or east European states, or because of the end of the firm tutelage or control by one of the two superpowers over a number of heterogeneous states. In the contemporary period, ethnic conflict is responsible for the most visible, extensive and horrendous violations of human rights. The international community is slowly coming to terms with this situation, and beginning to think in terms of group or ethnic rights and special machinery to protect them (in a reversal of the traditional UN position which had focussed exclusively on individual rights, except in the context of colonialism). There is now renewed discussion of the scope of the right to self determination outside the colonial context, although the matter remains controversial. In December 1992 the UN General Assembly adopted a Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities, and work has now begun on a convention to give binding effect to it. The EEC and the Council of Europe have made the furthest progress in recognising ethnic rights, and the Conference on Security and Co-operation in Europe has appointed a Commissioner for Minorities (and the Council of Europe has indicated to Estonia that its discriminatory legislation on citizenship is incompatible with the principles of the Council).

In our last report we analysed the pervasiveness of ethnic tension or conflict throughout the Commonwealth and recommended that the Commonwealth should take a lead in this field, through studies, legislation and the good offices of the Secretary-General. The continuing and seemingly intractable communal disputes in Cyprus, the recent ethnic clashes in Kenya before and after the general elections, and the much published ethnic violence in India after the December 1992 destruction of the Babri Masjid in Ayodhya, to take just three examples, make it all too evident that minority issues and divisiveness are not abating in the Commonwealth, and with it the denial of various human rights. We trust that the CHOGM, meeting in communally divided Cyprus, will give special consideration to its role in the prevention and resolution of ethnic conflicts in its member states.

We also examined the situation of indigenous peoples - to be found in many Commonwealth states. Indigenous and tribal groups have distinctive cultures, a strong linkage to ancestral lands and a high vulnerability to economic and social changes initiated from outside their communities. During the colonial periods persecution of indigenous peoples was often of the

crudest type, amounting to genocide in some instances. Elsewhere the assault on indigenous peoples was less vigorous or physical, but populations were substantially reduced, lands were taken away and ways of life and self-respect destroyed. I think most of the worst excesses are a thing of the past, their consequences linger, and frequently public attitudes of majority populations result in continued discrimination. Indigenous peoples are typically the poorest, the most marginalised and most vulnerable groups within their countries.

Considerable progress has been made in recent years both at the international level and in specific Commonwealth countries. The ILO Convention on indigenous people (1989) is considered an improvement on the 1957 Convention, recognising, as it does, the value of indigenous cultures and the preservation of their autonomy. In Australia, New Zealand and Canada there is an acceptance of multi-culturalism, which recognises the right of the indigenous peoples to their culture. Canada has gone furthest in accepting the self-determination of indigenous peoples ("the first nations"), of which the best example is the recent agreement to create a political sub-division of the Northwest Territories. The new territory (Nunavut) where 85% of the people are Inuit, covers nearly a fifth of Canada. The land will be owned by the Inuit, and Inuit language will be used alongside English. However, the Supreme Court decisions have not been favourable to indigenous claims, and the people of the first nations are far from satisfied with their political or legal status. In New Zealand education in the Maori language has been extended from pre-school to primary school children; in 1992 an agreement was reached between the government and Maori leaders resolving Maori claims to fishing rights. Some progress has also been made in Australia, with increased funding for aboriginal programmes. Nevertheless the indigenous peoples of Australia and New Zealand remain marginal and economically disadvantaged; and are disproportionately represented as criminals and among the prison population.

Elsewhere the position of the indigenous peoples remains precarious. In India, despite some political progress in the north-eastern parts of the country, there has been considerable encroachment in recent years on tribal lands in almost all states of eastern India- by illegal immigration and by the exploitation of forest and mineral reserves within supposedly protected tribal boundaries. In Bangladesh government development and agricultural programmes are causing grave ecological damage and destroying the habitat of the tribal people of the Chittagong Hill Tract. Although not so well documented, reports indicate that the indigenous Adivasis of the Bangladesh plains suffer similar ecological problems as a consequence of development and the arrival of new settlers in their traditional areas. In Malaysia, the Orang Asli continue to suffer disastrous loss of land resulting from the insecurity of title to their traditional lands, to government schemes, logging and mining concessions, and highways and dam construction. The Penan in Borneo have also lost their lands to logging, and in Tanzania the Barabaig herders have lost more than 400 square kilometres of land to a mechanised wheat farm. Similar depredations of forestry resources are taking place in Papua New Guinea and Solomon Islands. Commercial fishing has depleted the fishing areas of many indigenous groups - for example fishing by Taiwanese fleets in the Torres Strait between Australia and Papua New Guinea.

(i) Nationality and Statelessness

There is a special situation - in Hong Kong - that may give rise to serious problems of statelessness and refugees that we wish to draw to the attention of Commonwealth leaders. After

the transfer of sovereignty over Hong Kong to China on 1 July 1993, members of ethnic minorities who are currently British nationals, particularly those originating from India and Pakistan, will suffer a change in their national status. Since under Chinese law nationality is based on Chinese descent, these people will not become Chinese citizens. However, they will cease to enjoy their present status, which for the most part is that of British Dependent Territories Citizens (BDTC). Introduced under the British Nationality Act 1981, a BOTC is not entitled to entry into the UK but does enjoy the right of abode in the relevant dependent territory, in this case, Hong Kong. The BDTC is a watered down version of the full K citizenship that these people enjoyed before the 1981 Act. Now even that limited status is likely to be taken away. After the transfer of sovereignty, all those who became a BOTC due to their connection with Hong Kong will cease to have that status and will instead become entitled to registration as a British National (Overseas) (BNO), provided the application is made by 30 June 1997. If no such application is made, a BDTC who would otherwise become stateless on the transfer of power, would automatically become a British Overseas Citizen (BOC), a category also established under the 1981 Act. So after July 1997, most members of these minorities would become either a BNO or a BOC. The rights of a BNO or a BOC are significantly inferior to those currently enjoyed by a BDTC. A BDTC enjoys a right of abode in Hong Kong; no such entitlement attaches to a BNO or a BOC. A BDTC expelled from a third country would have to be admitted to Hong Kong; for a BNO or BOC there is no right to be admitted to any country. This consideration will undoubtedly devalue the passport that they are entitled to; and it is not certain that many states will recognise these passports, making travel extremely difficult. An additional disadvantage of the BNO is that it is not transmissible to a second generation, and under BOC not beyond the second generation, so their descendants are threatened with statelessness. Nor is it entirely clear that BNOs and BOCs will be able to rely upon British consular protection either in Hong Kong or elsewhere since under the *Nottebohm* doctrine, they will not be able to establish a sufficiently close connection with the UK. Thus despite their formal status, they will suffer many of the consequences of statelessness, and their descendants will in fact be stateless. Apprehensions about how China will treat these minorities, and more generally whether it will respect human rights in Hong Kong, add to their anxieties. The number of members of the ethnic minorities is only 10,000, most of whom wish to stay on in Hong Kong in any case, and desire UK citizenship principally as a safeguard in the event that Chinese policies make their continued residence there difficult or impossible.

As a result of these arrangements, the UK is in breach of its treaty obligations as well as responsible for the denial of fundamental rights of the members of these minorities. Nationality has been recognised as a fundamental right, as stated in Article 15 of the Universal Declaration of Human Rights. The enjoyment of many other rights, like the protection of property, travel, franchise and residence are dependent on having a proper nationality. As a signatory to the Convention on the Reduction of Statelessness (1961) the UK has agreed not to deprive a person of her or his nationality if that would render her/him stateless. It is also required to ensure that a person does not become stateless on the transfer of a territory.

We would urge the UK to grant full UK citizenship to persons affected in this way. When the Commonwealth, in conjunction with the rest of the UN, is pressing for the promotion of human rights, and China is being urged to respect human rights, the present UK position is unworthy and counter-productive.

III. WHAT THE COMMONWEALTH MUST DO TO FULFIL THE PROMISE OF HARARE

At the Harare CHOGM, Heads of Government agreed “to do everything practicable, both within their own societies and internationally, to combat discrimination in all its forms and to promote democracy, human rights, mutual tolerance and the rule of law through processes and institutions which have regard to national circumstances” (para 12 of the Communique). They agreed to focus and improve Commonwealth co-operation in the advancement of human rights and to expand their contributions to the Commonwealth Fund for Technical Co-operation so that it could respond to the priorities of the Harare Declaration. The Harare CHOGM, as the Vienna Conference, proceeded on the assumption that there is now enough international agreement on the rights (elaborated in several instruments) which need to be protected, and that the priority for the coming years is their implementation. Although the Harare CHOGM adopted only a small part of the practical recommendations made in our report, *Put Our World to Rights*, we welcome the Harare commitment to place greater resources at the disposal of Commonwealth institutions (including NGOs) for progress in human rights and the direction to Commonwealth intergovernmental institutions to further the aims of the Harare Declaration.

Our survey, however, has shown that the Commonwealth and its members have largely failed to fulfil this pledge. The gap between the Harare rhetoric and Commonwealth practice remains embarrassing and alarming. We realise that two years is too short a time to achieve a transformation in the human rights situation. We fully appreciate the difficulties of governing what are largely heterogeneous populations, beset with dissent and in many cases with rebellion, several in the grip of poverty, stagnating economies and increasing population, and burdened with long habits of authoritarianism. We also realise that many violations occur due to the activities of terrorists or commercial or other groups in civil society. As we noted earlier in our report, some progress has indeed been made. However, what is disturbing is that there are few positive signs of a commitment to human rights by the Commonwealth and its members. The record of the ratification of international conventions and their implementation (including reporting) has not improved. No significant new resources have been raised for human rights work. Although we have been encouraged by the commitment of the Commonwealth Secretary-General to human rights, we believe that the Secretariat should give a higher priority to human rights.

If the task of the Harare Declaration was to affirm Commonwealth commitment to human rights, the challenge for Cyprus is to set in motion practical measures to achieve the Harare goals. Despite the difficulties that the Commonwealth faces, it is imperative that substantial progress be made in the realisation of human rights over the next few years if the Commonwealth and its leaders are to retain credibility with its people. A number of steps need to be taken now for this purpose, which we set out below. It is important to realise that, despite the consensus at Vienna to the effect that the UN must strengthen the international machinery for the promotion and protection of human rights and devote more resources to this task, it is unlikely that there will be any significant progress in the immediate future. The UN resources for human rights work are extremely limited: and the machinery for enforcement both under the Charter and the various conventions is skeletal, slow and weak. Nor are many Commonwealth states members of effective regional arrangements for the protection of human rights, whose machinery could be counted upon. It is therefore necessary to establish an effective Commonwealth machinery and to

strengthen national will and capacity to promote and assure human rights. In our previous report we made a number of recommendations for this purpose. We consider that those of our recommendations which have not been implemented should be put into effect. More specifically our recommendations for the Cyprus CHOG M are as follows. The CHRI stands ready to assist the Commonwealth in their implementation.

Recommendations

- (1) We recommend that an independent body should be established within the Commonwealth to look into allegations of violations of human rights, recommend appropriate redress and provide general advice on the promotion and protection of human rights. A suitable title for such an office may be the Commonwealth High Commissioner for Human Rights. The Vienna Conference was unable to reach a consensus on the establishment of a UN Human Rights Commissioner, and the matter has been referred to the General Assembly. We consider that a Commonwealth High Commissioner would provide a lead for the international community as well as valuable experience in deciding on the jurisdiction and structure of a UN High Commissioner. Our proposal is in keeping with the CHOGM statement in Harare (with which we entirely agree) that the Commonwealth is uniquely placed to serve as a model and as a catalyst for new forms of friendship and cooperation to all in the spirit of the Charter of the United Nations.
- (2) We endorse the recommendations of both the Harare (and before that the Kuala Lumpur CHOGM) and Vienna meetings for the speedy ratification of human rights conventions by states which have not done so, the removal of reservations that tend to negate the objectives of the conventions, and the timely reporting of progress. Half the states of the Commonwealth have not ratified the two conventions which constitute the cornerstone of the international system of human rights, the international Covenant on Civil and Political Rights and the international Covenant on Economic, Social and Cultural Rights, in the Appendix, we provide information on states which have not ratified these and other conventions; it will be obvious that the record is poor. As we have indicated, numerous reservations have been entered. Equally disappointing is the record of reporting, despite repeated reminders from the convention bodies. So frustrated are these bodies with non-reporting that they have decided to review the record of countries in the absence of official reports, relying upon what information they can gather from other sources.
- (3) We recommend that the Commonwealth should facilitate those states which have moved away from one party systems or military regimes (and others where democracy is fragile) to establish a secure democracy. We have already indicated our view that the establishment of democracy means a great deal more than a one off (or even periodic) elections. This may mean recognising the legitimacy of the opposition in these states, establishment of open and accountable government, and assistance to independent centres of research and policy, workshops and other forms of training for parliamentarians, and sanctions against and ostracism of governments which deviate from democracy. In this context we reiterate our recommendation that only representation of an elected, civilian Nigerian administration be allowed to participate at the Cyprus CHOGM.
- (4) The Commonwealth and member states should take more energetic action to protect the

rights of the more vulnerable groups that we have identified in our report-women, children, refugees and migrants, workers, indigenous peoples and minorities, and the disabled. The commitment of a state to human rights is indeed judged by the concern that it shows for the rights of such groups.

- (a) Since 1993 is the International Year of the World's indigenous People, and the UN is likely to adopt a Declaration on indigenous Rights, the Commonwealth should undertake a comprehensive study of the position of indigenous and tribal minorities throughout the Commonwealth, with a view to exchange of information and policy.
- (b) As a multi-racial, multi-religious and multi-linguistic association, the Commonwealth has a special responsibility to promote ethnic tolerance and harmony, especially in view of the prevalence of ethnic conflict and the consequent suffering and the denial of human rights. The Commonwealth should promote a programme of study and research, exchanges among scholars and policy makers, and workshops and seminars (specially geared to the prevention of conflict and support for victims of ethnic violence). We recommend later a specific mandate for the Secretary-General to ease ethnic tensions and conflicts in the Commonwealth.
- (c) We recommend that CHOGM should urge the UK government to reconsider its attitude towards the grant of full UK citizenship to British nationals in Hong Kong who are members of ethnic minorities and would not be entitled to Chinese nationality after the transfer of power over Hong Kong to China in July 1997. We consider that they should be granted full citizenship; this position has the support of all communities in Hong Kong.
- (5) The Commonwealth and member states should ensure that rights which are frequently infringed (including those we discuss in our report, personal liberty, the freedom of expression and the right to associate, the independence and protection of journalists, work and employment) are fully respected, if necessary by the provision of special machinery.
- (6) The Commonwealth and its governments should ensure all citizens enjoy full rights of personal liberty and review the legislation (and practice) on administrative detention and the treatment of detainees and prisoners. Torture or other forms of degrading punishment are totally unacceptable. Evidence produced through coercion should be disallowed by the courts and compensation should be awarded to the victims of torture or other degrading punishment.
- (7) Commonwealth governments should ensure that there is no violation of any person's rights by its officials or security forces. State lawlessness must be eliminated. Perpetrators of these violations should be promptly brought to justice. The safeguards of the legal system, including independent prosecutorial powers, must be strong and effective to ensure that justice is indeed done in these instances. The law must be applied with a balanced hand, and not selectively as happens all too frequently at present.
- (8) The Commonwealth should pay more attention to social and economic rights. We regret to note that despite so much talk of the right to development, relatively little regard is paid to the plight of the poor and the disadvantaged, and to their basic needs. The strengthening of the market mechanism, underway in most countries, often under external pressure, renders

these and other groups even more vulnerable to economic and social exploitation. As the CHOGM recognised at Harare, appropriate safety nets are ever more necessary to deal with these consequences.

- (a) However, we think that it is necessary to go beyond safety nets, and seek the active involvement of the representatives of workers and women in the planning and implementation of social and economic programmes which affect the economy and society.
 - (b) There is ample evidence that the emphasis on the market and the profit motive can lead to the degradation of the environment. The Commonwealth is committed to the principles of sustainable development. We consider that the time has come for it to commit itself to the practices of sustainable development.
 - (c) We endorse the recommendations of the Harare and Vienna meetings that disarmament must be speeded up, and the resources thus released used to promote social, economic and cultural rights. We recommend that ministries of finance should accompany their budget proposals with an analysis of their effect (and the effect of structural adjustment programmes) on socio-economic and labour rights.
- (9) We recommend that the Commonwealth should seek the active co-operation of human rights activists and non-governmental organisations. The right of these activists and organisation to promote and protect human rights, through the criticism of governments, propagation of education, distribution of literature, organisation of meetings, and litigation should be fully recognised and respected.
- (a) The Commonwealth should not tolerate any harassment of these activists, which is contrary to the Harare Declaration. The declaration of the Cyprus CHOGM should contain an explicit acknowledgement of the contribution of these activists and provide guarantees for their defence and safety.
 - (b) The Commonwealth Fund, the Commonwealth Foundation, and any special fund set up for human rights, should be competent and urged to provide assistance to these organisations.
- (10) The Secretary General should be mandated to offer his good offices in disputes between member states or in ethnic or similar strife within a state which threaten human rights. CHOGM should give clear instructions to the Secretariat and associated bodies to promote human rights in collaboration with Commonwealth and national NGOs. The Secretariat should identify and disseminate good human rights practices in the Commonwealth (of which there are several outstanding examples) and encourage their adoption more widely.
- (11) The Commonwealth should commit significantly increased resources to human rights activities. The special human rights fund established at the time of the Harare CHOGM on the initiative of The Gambia and Canada should be strengthened. Disbursements from the Human Rights Fund should be determined by an independent board with a major representation of the non-governmental sector.

- (12) The additional human rights mandate for the Secretariat and the availability of fresh funds should lay the basis for a Commonwealth Action Plan for Human Rights, setting goals, targets, policies and concrete measures for the promotion of human rights. The Commonwealth Action Plan should supplement National Action Plans, drawn up after consultation with the national NGOs, and with technical assistance from the Secretariat where necessary. Machinery should also be established to review periodically the progress of Action Plans.

RATIFICATIONS OR SIGNATURES OF INTERNATIONAL INSTRUMENTS (latest information available)											
	ICESC R	ICCPR (+OP)	CERD	APARTH EID	TORT URE	REFUG EES	WOM EN	GENOCIDE	CHILDREN	ILOS ?	ILO9S
TOTAL 50	24	22	36	22	11	24	33	22	32	21	30
Antigua & Barbuda			X	X			X	X	S	X	X
Australia (B)	X	X+OP	X		X	X	X	X	X	X	X
Bahamas			X	X			X	X	X		X
Bangladesh			X	X			X		X	X	X
Barbados (A) (B)	X	X+OP	X	X			X	X	X	X	X
Belize*					X	X	X		X	X	X
Botswana			X			X					
Brunei Darussalam											
Canada	X	X+OP	X		X	X	X	X	X	X	
Cyprus	X	X+OP	X		X	X	X	X	X	X	X
Dominica							X		X	X	X
The Gambia (B)	X	X+OP	X	X	S	X	S	X	X		
Ghana			X	X		X	X	X	X	X	X
Grenada	X	X	S				X		X		X
Guyana (B)	X	X	X	X	X		X		X	X	X
India (A) (B)	X	X	X	X			S	X			
Jamaica	X	X+OP	X	X		X	X	X	X	X	X
Kenya (A)	X	X		S		X	X		X		X
Kiribati											
Lesotho	X	X	X	X		X	S	X	X	X	X
Malawi						X	X		X		X
Malaysia											X
Maldives			X	X				X	X		
Malta (A)	X	X+OP	X		X	X	X		X	X	X
Mauritius	X	X+OP	X		X		X		X		X
Continued											

RATIFICATIONS OR SIGNATURES OF INTERNATIONAL INSTRUMENTS - continued											
	ICESC R	ICCPR (+OP)	CERD	APART HEID	TORT URE	REFUGE ES	WOMEN	GENOCIDE	CHILDR EN	ILO87	ILO98
Pakistan			X	X				X	X	X	X
Papua New Guinea			X			X	S	X	S		X
St. Kitts & Nevis							X		X		
St. Lucia			X				X	S		X	X
St Vincent & the Grenadines	X	X+OP	X	X			X	X			
Seychelles	X	X+OP	X	X	X	X	X	X	X	X	
Sierra Leone			X		S	X	X		X	X	X
Singapore											X
Soloman Islands	X		X								
Sri Lanka	X	X	X	X			X	X	X		X
Swaziland**			X						S	X	X
Tonga		X						X			
Trinidad &Tobago (A) (B)	X	X+OP	X	X		X			X	X	X
Tuvalu											
Uganda	X		X	X	X	X	X		X		X
United Kingdom (A) (B)	X	X	X		X	X	X	X	X	X	X
United Republic of Tanzania	X	X	X	X		X	X	X	X		X
Vanuata									S		
W. Samoa						X	X		S		
Zambia	X	X+OP	X	X		X	X		X		
Zimbabwe	X	X	X	X		X	X	X	X		

(A) Declaration/ Reservation regarding the International Covenant on Economic, Social and Cultural Rights.

* In an exchange of letter with the UN Secretary-General, Belize agreed to be bound by all instruments signed by Britain as the former colonial power.

(B) Declaration/ Reservation regarding the International Covenant on Civil and Political Rights.

** Swaziland has ratified the 1967 protocol to the Refugee Convention.