



# CHRI

COMMONWEALTH HUMAN RIGHTS INITIATIVE

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## NEWSLETTER

### CLASSICALLY BRITISH FUDGE: CODIFIED RIGHTS IN AN UNWRITTEN CONSTITUTION



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Gaiety in the  
Commonwealth?

Malaysia and the Irregular Maritime  
Movement in Southeast Asia

Australia's  
Guantanamo

From Presidential to Parliamentary Elections:  
Sri Lanka on the Cusp of Change

The Commonwealth Human Rights Initiative (CHRI) is an independent international NGO mandated to ensure the *practical realisation* of human rights in the countries of the Commonwealth

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**Commonwealth Journalists Association**  
**Commonwealth Lawyers Association**  
**Commonwealth Legal Education Association**  
**Commonwealth Parliamentary Association**  
**Commonwealth Press Union**  
**and**  
**Commonwealth Broadcasting Association**

These sponsoring organisations felt that while Commonwealth countries had both a common set of values and legal principles with which to work, they required a forum to promote human rights. It is from this idea that CHRI was born and continues to work.

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Dear Reader,

I present to you, the summer edition of CHRI's Newsletter.

Over the past several months, the issue of refugees has made waves across the world, be it on the southern shores of Europe or the Malaccan peninsula in Southeast Asia, all the way to Australia. The forced emigration and resultant statelessness of the Rohingyas, as part of Myanmar's state-sponsored discrimination aimed at excluding the ethnic minority from its demography, has precipitated one of the worst humanitarian crises of recent times. Thousands of Rohingyas, internally displaced and in order to flee persecution, have boarded boats on the Andaman Sea in search of asylum among the littoral states of Southeast Asia. Malaysia, Thailand and Indonesia are their first ports of call. At the height of the crisis, these littoral states were pushing back the boats in order to stem the influx of asylum seekers. According to the UN refugee agency, as many as 4,000 asylum seekers were feared to be trapped at sea in crowded, wooden boats in dangerous conditions with low running water and food supplies. These boats, abandoned by their human-trafficking captains, have been referred to as "floating coffins".

Further down the Malaysian peninsula, Australia's stance towards asylum seekers is becoming increasingly stricter and harsher. The UN High Commissioner for Human Rights expressed concern over Australia's handling of the issue, particularly its interception and return of asylum-seekers' boats, to the UN Human Rights Council. Contrary to the provisions of the Refugee Convention, to which Australia is a party, the country has discriminated against asylum seekers on the basis of their mode of arrival. The imploding human crisis and the plight of the refugees in this part of the world are brought to the fore by

Priya Kumari and Olivia Barlow in this edition of Newsletter.

As former colonies of the erstwhile British Empire, nineteenth century Victorian attitudes towards sex, and especially against homosexuality, continue to find place within many of the Commonwealth States' independent constitutions. While NGOs in Botswana have accused their government of fuelling hatred towards homosexuals, civil society organisations in Nigeria recorded 105 cases of human rights violations against the (Lesbian, Gay, Bisexual, Transgender, Intersex and Queer) populace, of which 39 cases were allegedly committed by state actors. Likewise in Kenya, the country's Deputy Prime Minister stated that homosexuality violates Kenyan society's religious and cultural beliefs and it would not be legally allowed. Elsewhere, in Cyprus, the country's parliament is expected to approve an amendment criminalising ill behaviour and violence on the basis of sexual orientation. While some Commonwealth States continue their archaic and regressive attitudes, the Rainbow Europe Index has ranked the United Kingdom as the best European nation to provide legal protections to LGBTIQ individuals, closely followed by Malta in the third place. In the following pages, Jill and Yash Ghai have written about a recent positive development and the Kenyan High Court's intervention in the sphere of LGBTIQ.

In the UK, parliamentary elections were held in May and to the surprise of many, the Conservatives won to form a majority government. In the aftermath of their electoral victory, the new government expressed its eagerness to repeal the UK Human Rights Act (HRA) of 1998, which was codified on the basis of the European Convention on Human Rights (ECHR). The present political dispensation feels the HRA, with its affinity to ECHR,

impinges on the sovereignty of the United Kingdom. Its proposal to introduce a UK Bill of Rights met with wide protestations from within the establishment as well as from the larger civil society. Sashy Nathan explains the arguments that are at the core of the HRA debate.

The presidential election in January 2015 ushered in a mandate to strengthen democracy and good governance in Sri Lanka. Despite the optimism in Sirisena's presidency and the half-measures of the One-Hundred-Day programme in the following months, core issues of multiculturalism and devolution continue to remain unaddressed. The result of the recently concluded parliamentary election and the formation of a national government in Sri Lanka can be seen as the re-validation of the political reformation that began earlier this year with the presidential election. In the following pages the editor argues that in order to mark a distinct break from the past, the new parliament must prioritise the issue of transitional justice for genuine reconciliation and peace to prevail across the entire demography in Sri Lanka.

Lastly, the biennial Commonwealth Heads of Government Meeting (CHOGM) is scheduled for November 27-29 in Malta. This year's CHOGM is expected to bring together leaders, policymakers and members of civil society from across the Commonwealth to discuss and deliberate on issues affecting its people. CHRI will release its CHOGM report on the issue of civil society in the Commonwealth. The report offers several practical proposals aimed at strengthening and deepening the relationship between the Commonwealth Secretariat and civil society actors – and which would ultimately build a stronger, more powerful and effective Commonwealth.

Trinanjan Radhakrishnan  
Editor

## Gaiety in the Commonwealth?

By Jill Cottrell Ghai and Yash Ghai



Photograph by [www.politico.com](http://www.politico.com)

It is not easy being gay or lesbian in many countries, formerly British colonies, as in the middle of the nineteenth century Britain imposed on them Victorian attitudes to sex, particularly against homosexuality, through law. An example of that law is section 377 of the Indian Penal Code (upheld in a recent, retrograde decision of the Indian Supreme Court): “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished...” While this type of law has been abolished in some Commonwealth countries, including the UK, they persist in most of African and several Asian members.

A couple of recent positive developments are the decision by Mozambique to do away with old Portuguese colonial laws criminalising acts “against nature” and the Kenyan High Court decision about registering a group with “gay and lesbian” in its name. It is the latter we focus on.

The case came before three judges: Justices Mumbi Ngugi, Isaac Lenaola and G.V. Odunga (one woman and two men), who have all made other important human rights decisions. The petitioner had tried to register an organisation on several occasions, using slightly different names, but all using

the words “gay and lesbian”. He challenged the decision of the Non-Governmental Organisations (NGO) Coordination Board to refuse registration, relying on Articles of the Constitution about privacy, equality and non-discrimination, human dignity and freedom of association.

The NGO Board argued that its regulations allow refusal if a name is “repugnant to or inconsistent with any law or is otherwise undesirable”. Apart from arguing that the gay community is not a vulnerable group recognised by the Constitution, it said that the prohibition on discrimination on

the basis of “sex” does not include “sexual orientation”; that the right to associate can be limited if the association limits rights of other citizens and that all that was refused was registration of an association perpetuating “an illegality”; that because homosexuality is “learned behaviour” the petitioners cannot claim any “special rights” not available for other people, and that natural law dictates that sexual relations for the purpose of human procreation are to be protected; that to register the organisation would

persons of the opposite sex, and that the International Covenant on Civil and Political Rights (ICCPR) has been held not to recognise gay marriage (*Joslin v New Zealand* UN Human Rights Committee Communication No. 902/1999, U.N. Doc. A/57/40 at 214 (2002) available at <http://www1.umn.edu/humanrts/undocs/902-1999.html>). And they cited the African Charter of Human and Peoples Rights stressing the need for regard to morality (Article 27), and the duty of the State to promote “morals and

On the first, the Court said: “As we understand the Board’s position to be, it does not accept the names that the petitioner proposed for registration of his organisation because the name(s) represents groups whose interests the Board takes the view should not be accorded the right to associate on the same level as others. However, in a representative democracy, and by the very act of adopting and accepting the Constitution, the State is restricted from determining which convictions and moral

**“However, in a representative democracy, and by the very act of adopting and accepting the Constitution, the State is restricted from determining which convictions and moral judgements are tolerable. The Constitution and the right to associate are not selective. The right to associate is a right that is guaranteed to, and applies, to everyone.”**

give the impression that gays were allowed to promote homosexual practices contrary to “legal, religious and social tenets of Kenyan society”. It argued that the petitioner can advocate for the rights of the gay community by means other than registering an NGO, and that anyway the proposed NGO lacks the public interest and charitable purpose necessary for registration. It relies on the invocation of God in the Constitution’s preamble.

The High Court had little time for this spurious set of arguments. The Board also relied on the fact that the Constitution is drafted to give a right to marry but only to

traditional values recognised by the community” (Article 17(3)), while “...every individual has the duty to preserve and strengthen positive African Cultural Values and to contribute to the moral well-being of society” (Article 29(7)).

According to the Court, the Board predicted dire consequences from legitimisation of a “homosexual lifestyle”, and invoked both the Bible and the Qu’ran.

The Court said that the case was not about marriage or morals. The focus of its decision was on the freedom of association and the right to equality under the Constitution.

judgements are tolerable. The Constitution and the right to associate are not selective. The right to associate is a right that is guaranteed to, and applies, to everyone. As submitted by the petitioner, it does not matter if the views of certain groups or related associations are unpopular or unacceptable to certain persons outside those groups or members of other groups. If only people with views that are popular are allowed to associate with others, then the room within which to have a rich dialogue and disagree with government and others in society would be thereby limited.”



Photograph by [www.stockfresh.com](http://www.stockfresh.com)

And the Court turned to the South African Constitutional Court decision in *National Coalition for Gay and Lesbian Equality v Minister of Justice* ([1998] ZACC 15; 1999 (1) SA 6; 1998 (12) BCLR 1517), about the constitutionality of the offence of sodomy for the following:

91. The Court concluded that while the Constitution recognises the right of persons who, for reasons of religious or other belief, disagree with or condemn homosexual conduct to hold and articulate such beliefs, it does not permit the state to: “...turn these beliefs - even in moderate or gentle versions - into dogma imposed on the whole of society.”

The Kenyan Court added, “It cannot also be proper, as the Board suggests, to limit the right to

freedom of association on the basis of popular opinion.”

The freedom of association had been violated, and the Court held that there was no justification for any limit on the freedom that satisfied Article 24 of the Constitution (that sets out an elaborate proportionality requirement). The Penal Code penalises certain types of sexual behaviour, and if there was any reason to suppose that violation of that law occurred, there can be a prosecution. But the Court, quite rightly, observed that the Penal Code does not penalise sexual orientation as such. So a ban on an association of homosexual people was not necessary to avert any criminal activities.

The Court also delivered two

valuable clarifications on human rights issues, not limited to the particular facts. On Article 24 - an Article that often does not receive sufficient analysis, from either lawyers or judges - the Court stressed that it is for a party supporting the limitation of a right to show that the limitation was justified, not for anyone else to show why the right should not be limited. And here the Board did not show that the limitation was justified. The Court said, “The Board and the Attorney General rely on their moral convictions and what they postulate to be the moral convictions of most Kenyans. They also rely on verses from the Bible, the Qu’ran and various studies which they submit have been undertaken regarding homosexuality. We must emphasise, however, that no matter how strongly held moral and religious beliefs may be, they cannot be a basis for limiting rights: they are not laws as contemplated by the Constitution.”

This is perhaps a little unfair: Article 24 does indeed say that limitations must be by law. But the respondents were arguing that there was law: the Regulations that allowed refusal of registration because the name was “undesirable”. The supporters of limitation of rights must show that the limitation was justifiable in a democratic society - in other words that the purpose was constitutionally valid. If the respondents really were arguing

that the Bible and the Qu’ran are law, they were wrong. But arguing that rights may be legally limited in order to protect moral standards, is a rather different matter.

The Court went on to deal with this issue also: “The state has to act within the confines of what the law allows, and cannot rely on religious texts or its views of what the moral and religious convictions of Kenyans are to justify the limitation of a right. The Attorney General and the Board may or may not be right about the moral and religious views of Kenyans, but our Constitution does not recognise limitation of rights on these grounds. The Constitution is to protect those with unpopular views, minorities and rights that attach to human beings – regardless of a majority’s views. The work of a Court, especially a Court exercising constitutional jurisdiction with regard to the Bill of Rights, is to uphold the Constitution, not popular views or the views of a majority.”

An important clarification of the Bill of Rights relates to discrimination. The Court said: “In relation to Article 27(4), whilst it does not explicitly state that sexual orientation is a prohibited ground of discrimination, it prohibits discrimination both directly and indirectly against any person on any ground. The grounds that are listed

are not exhaustive – this is evident from the use of ‘including’ which is defined in Article 259(4)(b) of the Constitution as meaning ‘includes, but is not limited to’.”

And later it said: “It is not for the Board to only register NGOs whose names are in harmony with the personal views and convictions of its officials regarding gay and lesbian people. By refusing to register the proposed NGO because it objects to the name chosen for it, or because it considers that the group whose interests the proposed NGO seeks to advocate is not morally acceptable in Kenyan society, then it has arrogated to itself, contrary to the Constitution, the power to determine which person or persons are worthy of constitutional protection, and whose rights are guaranteed under the Constitution.”

Drawing on other provisions of the Constitution it added: “An interpretation of non-discrimination which excludes people based on their sexual orientation would be in conflict with the principles of human dignity, inclusiveness, equality, human rights and non-discrimination.”

A final, nice touch was the observations of the Court about the name:

“There is a whiff of sophistry in the

recommendation by the respondent that the petitioner registers his organisation, but by another name. What this recommendation suggests is that the petitioner can register an organisation and call it say, the Cattle Dip Promotion Society, but carry out the objects of promoting the interests of the LGBTIQ community, which suggests that what the Board wants to avoid is a recognition of the existence of the LGBTIQ groups.”

This is a brave decision. The Court was fully aware that its decision might not be popular with certain sections of Kenyan society – and so it turned out. But it has also encouraged the LGBTIQ (lesbian, gay, bisexual, transgender, intersex and queer) communities to lobby for their case publicly.

It is important to note what the case is not, as the Court said: “It is not about whether it is constitutional to criminalise same-sex sexual activity.” And it is most certainly not about gay marriage. But for an agency of the State to declare so emphatically that gay people are fully entitled to the protection of the Constitution is an important development, encouraging the gay community and underlining an important aspect of the Constitution. And for other Commonwealth States still caught up in nineteenth century prejudices to ponder over. ■



# Classically British Fudge: Codified Rights in an Unwritten Constitution

By Sashy Nathan



Photograph by [www.humanrights.ie](http://www.humanrights.ie)

Unlike our counterparts in the US, the UK Constitution is not revered and its discussion is usually greeted by a huge, apathetic yawn. The few remaining defenders of the status quo of the UK's political structure traditionally opine that an unwritten Constitution is wonderfully flexible and evolves to adapt to the political environment of the times. That is why we don't get into a muddle with gun laws and school prayer like our transatlantic friends. However, as we all know, that is not entirely true and what's more, we are now in a right old structural mess.

The use of legislation to codify constitutional changes is well known in examples such as rights

for individuals (Human Rights Act 1998: 'HRA'), and the various devolution laws pertaining to the present powers in Scotland, Wales, Northern Ireland and London. There have also been less highlighted changes to our structures of governance such as fixed term parliaments, the civil service in primary legislation, the Freedom of Information Act, and the establishment of the Supreme Court itself as a separate entity (which is definitely not a constitutional court, honest). All this and more (the EU) mean that the Westminster Parliament is no longer as powerful as it was 30 years ago and some want to take some power back, and the first target is... human rights.

Universal human rights are principles enshrined in international and domestic laws to ensure that people are treated fairly and are free from tyranny. One of the main reasons why the scope of human rights was extended beyond national borders is that the Second World War taught us that often governments themselves needed to be accountable to international standards. UK conservatism presently maligns the mission creep of the European Court of Human Rights into areas such as prisoners' voting rights. What is less understood is that the Human Rights Act's strong hold over us is a reflection of long-standing imbalances in the unwritten Constitution rather than in a growth in the population and success of litigious, self-orientated, individuals from minority orientations and/or criminal backgrounds.

Put more plainly, there is a lack of checks and balances in the UK Constitution, most especially given the fusion of the legislature and executive in the government. This means that when the UK electorate returns a large majority government, such as under Thatcher and Blair, there are very few mechanisms that can inhibit law making and implementation by the majority party. It is not surprising that those two administrations embarked on

some of the most unpopular and controversial policies of the last 50 years. When a majority is so large, parliament is far from being an effective form of scrutiny, and an elective dictatorship ensues.

In this scenario where there is a power imbalance, other mechanisms become more important such as the print media and the judiciary. Whatever your views are on judicial intervention, the need and nuanced ability of the Supreme Court to produce judgements such as *Denbigh High School, A & Others*, and *Prolife Alliance* and the Strasbourg Court in *Pinnock*, *Al-Khawaja*, and *Al-Jedda* were anchored purely in considering the principles of human rights and the practicality of their effect. There was no power-hungry grab by either body for the UK political arena.

Proponents of the abolition of the HRA have two main gripes. First, they don't want people to go to court on every whim, and use human-rights-argued litigation to define every single aspect of the obligations of the State in detail. Second, they do not agree that an international tribunal such as Strasbourg should have any power over UK law. These are perfectly reasonable political standpoints, on the assumption of course, that they are not based on EU-xenophobia.

Gripe 1: Defining human rights to the nth degree is not a failing of human rights law per se. All laws need defining and clarification whether they involve a tax dispute, a house

purchase, or the intellectual property of a multinational corporation. The problem is that legal culture and practice involves extracting detail, accuracy, consistency, fairness and universality from legislation. These have become very expensive qualities in human rights when the State is often on the wrong side and foots the bill. No one bats an eyelid when companies take each other to court at their own expenses to settle some minutely different interpretation of a corporate agreement. The legal discipline is of itself no different, but litigating a human right is more politically expensive than a commercial right.

Gripe 2: If there are to be codified civil, political and economic rights, they will have to be adjudicated upon by some body. There is no evidence to suggest that the UK Supreme Court would return judgements more favourable to the government, or in line with partisan perceptions of UK politics, than Strasbourg. This is because judges are independently appointed not elected, human rights are universally interpreted and their application should never be a domestic political football.

What cuts through both these gripes is that UK constitutionalism, emboldened by the HRA, has moved on to inherently resist potential lurches into ill-liberalism and untrammelled parliamentary sovereignty. The UK Supreme Court has exemplified this recently by increasingly justifying its decisions by deference to the common law rather than Strasbourg jurisprudence.

It is highly questionable whether the creation of a British Bill of Rights that redresses perceived failings of the HRA is more of a priority than: the West Lothian question and asymmetrical devolution; the composition of the House of Lords; transparency and fairness in political party funding; the legal status of royal prerogatives and conventions; press freedom; electoral voting and boundary reform; digital rights; and much, much more.

The UK does not have a Constitution but a system of primary legislation, conventions, common law and prerogatives that have the characteristics of constitutionalism. At a time when public confidence in perceived political classes is scarred by a decade including the expenses scandal, poor financial services regulation, cash for honours, phone-hacking, and the extent of spying at Government Communications Headquarters (GCHQ), can the UK continue to allow important and far-reaching constitutional changes to be adopted according to short-term partisan pragmatism?

There is a fantastic analogy to behold on structural weakness, with the current government deciding on how to repair the crumbling Palace of Westminster. Surely Britons also need a supra-partisan, supra-national, publicly-engaged forum on a British federal Constitution once the crucial debate on our level of participation in the EU is decided. ■

# Malaysia and the Irregular Maritime Movement in Southeast Asia

By Priya Kumari



Photograph by Tommy Japan

“If I beat them, the money will come out,” these were the words of the human smugglers responsible for trafficking Nurul and Faisal from Myanmar to Malaysia.

Over the past few years, Malaysia has become one of the biggest human trafficking destinations. Since 2012, approximately 130,000 people have been illegally trafficked across Southeast Asia. As of end April 2015, about 141,920 refugees and asylum seekers registered with the United Nations Human Rights Commission in Malaysia are from Myanmar. The US in its recently released 2015 Trafficking in Persons Report, removed Malaysia from its list of the world’s worst offending nations for human trafficking. In light of this new report, it is useful

to examine the steps taken by Malaysia to tackle modern slavery and trafficking.

Every year Malaysia receives an overwhelming majority of trafficking victims. To effectively deal with all forms of human trafficking, Malaysia adopted the Anti-Trafficking in Persons Act in 2007. Under the Act, the Council for Anti-Trafficking in Persons was set up to make Malaysia free of illegal activities in connection with human trafficking and smuggling of migrants. In November 2010, the Act was broadened to include all actions involved in acquiring or maintaining the labour or services of a person through coercion.

However, Malaysia lacks a legislative

and administrative framework to protect asylum seekers and refugees. They are treated as irregular migrants. They are subjected to the Immigration Act, 1959/63 and are treated as other undocumented migrants. As a result, if they enter or remain in Malaysia illegally, they are liable to be imprisoned, detained and removed. Furthermore, Malaysia is not part of the 1951 UN Refugee Convention, which is the key legal document in defining who is a refugee, their rights and the legal obligations of States. Hence, it is difficult for UN agencies to access asylum seekers in Malaysia.

To effectively deal with the sudden upsurge in the illegal human migration in Southeast Asia, Malaysia needs to work closely with the source and transit countries.

The source of the problem lies in Myanmar and Bangladesh. Political persecution and poverty force thousands of individuals to flee their country in the hope of finding a better future. Rohingya Muslims, numbering about 1.3 million, have lived in Myanmar for decades, but are still considered illegal settlers from Bangladesh. During all this period, they have been subjected to state-sanctioned discrimination and persecution in Buddhist-majority Myanmar. Human traffickers took advantage

of this situation and built a lucrative business. Each year, thousands of people are illegally trafficked from the Bay of Bengal across the Indian Ocean. People undertake an arduous journey where they are subjected to severe human rights abuse such as starvation, dehydration, rape and brutal beatings by the crew members.

Myanmar, one of the ten members of the Association of Southeast Asian Nations (ASEAN) shares strong economic and political linkages with Malaysia and other Southeast Asian countries. Malaysia, Thailand and Indonesia are its largest trading partners. During 2013, the percentage of Myanmar's trade with Malaysia, Thailand and Indonesia was 3.1 per cent, 25.1 per cent and 2.2 per cent respectively of its total global trade. Malaysia, along with other Southeast Asian countries, should use its strong diplomatic, economic and political linkage, along with the ASEAN Chairmanship, to put consolidated pressure on Myanmar to solve its problem with the Rohingyas.

Bangladesh along with Malaysia is a Commonwealth Member. Recently, Kamallesh Sharma, the Commonwealth Secretary General said, "Trafficking in persons is an abomination and a deep affront to Commonwealth values and coercive threats to the realisation of the goals set out in the Commonwealth Charter of respect for human dignity and freedom." Additionally, the issue of human migration

will form a significant part of the Commonwealth Heads of Government Meeting (CHOGM), 2015. Malaysia should use this opportunity to seek Commonwealth support in implementing anti-trafficking strategies in its relations with Member States such as Bangladesh.

The transit route for irregular maritime movement in Southeast Asia stretches from the Bay of Bengal to the Andaman Sea and goes all the way to the Indian Ocean. Since October 2014, as many as 620 people died in their attempts to reach Malaysia. The plight of these migrants further worsened after the recent crackdown on smuggling rackets by several Southeast Asian countries. Consequently, smugglers and crew members started to abandon the ships, leaving thousands of migrants to fend for themselves. The UN calls these abandoned ships, dangerously overcrowded and with food and water running out, as "floating coffins".

This irregular maritime movement affects almost all the Southeast Asian countries in varying degrees. Regional organisations such as ASEAN can play a vital role in resolving the problem. However, ASEAN remained a mere spectator as the terrible humanitarian crisis unfolded on its doorsteps. Its human rights unit, the Intergovernmental Human Rights Commission, did not take any steps to alleviate the situation. This reaffirms

that ASEAN continues to be an intergovernmental organisation driven by national interests rather than humanitarian causes. Malaysia – the worst affected by the irregular maritime movement – should use its ASEAN Chairmanship to attain a regional consensus on the issue. On 20 May 2015, it hosted talks with Indonesia and Thailand to discuss the issue. Malaysia should take similar initiatives at the level of ASEAN. It should also facilitate effective implementation of the Bali mechanism, of which it is a part, along with other ASEAN members. The Bali mechanism on People Smuggling, Trafficking in Persons and Related Transnational Crime was signed in 2002. It raised regional awareness of the consequences of people smuggling, trafficking in persons and related transnational crime, and developed and implemented strategies and practical cooperation in response. For the Bali process to be a success, States must come together and form a consensus on responses to irregular movements of people and mixed migration.

To conclude, Malaysia is one of the largest recipients of human migrants in Southeast Asia. It can play a lead role in addressing the sudden upsurge of human migrations in the area that has snowballed into one of the worst humanitarian crises of all times, by closely working with the source and transit countries at bilateral, regional and multilateral levels. ■

# Australia's Guantanamo

By Olivia Barlow



Photograph by Lovesmakesaway

Despite Australia's long history of immigration and its reputation as one of the world's greatest multicultural societies, the issue of "boat people" has become one of the

most contentious political debates in the nation today. Over the past 20 years the Australian government has adopted several harsh policies and laws in an attempt to deter

asylum seekers from travelling to Australia by boat.

The fear that Australia will be "flooded" by boat arrivals has become widespread despite the relative non-concern regarding the number of illegal immigrants and asylum seekers arriving by air. In 2011, it was reported that over 58,000 illegal immigrants in Australia at that time had arrived by air. Furthermore, in 2012-2013, statistics by the Australian Department of Immigration and Border Protection showed that over 28,000 illegal immigrants had arrived by air, which was more than the 25,000 reported boat arrivals for the same period. It is worth noting that boat arrivals make up only 2.5 per cent of the total immigration. However, the politicisation of this issue has meant that the mode of arrival for asylum seekers results in a distinct difference in their treatment. Asylum seekers who arrive by plane and are cleared by immigration are permitted to immediately apply for a protection visa and live in the community whilst their refugee status is determined. In stark contrast from plane arrivals, asylum seekers who arrive by boat are mandatorily detained indefinitely and held in offshore facilities while their refugee claims are "processed".

Another distinct difference is that pursuant to legislation passed in December 2014, those who have arrived by boat are only eligible for temporary protection visas lasting three years, while plane arrivals can apply for permanent protection.

### Refugee Convention

This is contrary to Article 31 of the Refugee Convention, to which Australia is a party, and which prohibits penalties from being imposed regardless of an asylum seeker's mode of arrival.

### Offshore Processing

In 2012, under the guise of preventing further deaths at sea, Australia opened offshore processing centres on Nauru and Manus Island, Papua New Guinea (PNG). However, after more than two years since the opening of these facilities, over 850 asylum seekers and 87 refugees continue to be indefinitely detained and the number of people who have died in the Manus Island facility outnumbers those who have been resettled. These statistics support

water shortages and filthy living conditions have been reported.

### Breaches of International Law

With the United Nations (UN) calling these facilities "Australia's Guantanamo Bay", it is unsurprising that the conditions are contrary to several international conventions. The most recent report by the UN condemned Australia for breaching the Convention Against Torture (CAT) by providing inadequate detention conditions, and by allowing arbitrary detention and

**"The Australian government has attempted to oust its obligations under the Refugee Convention by invoking national security and passing domestic legislation which excises the whole of Australia from its "migration zone", so that no asylum seeker arriving by boat can be deemed to have arrived in Australia in order to invoke their right to asylum."**

Furthermore, transferring asylum seekers to third countries is considered to be a breach of Article 32 of the Convention, which prohibits the expulsion of asylum seekers, unless necessary for national security or public order. The Australian government has attempted to oust its obligations under the Refugee Convention by invoking national security and passing domestic legislation which excises the whole of Australia from its "migration zone", so that no asylum seeker arriving by boat can be deemed to have arrived in Australia in order to invoke their right to asylum.

assertions by former migration officer, Elizabeth Thompson, that the processing system is "fake" and the centres are intended by the government to create deplorable conditions in order to deter future arrivals and encourage asylum seekers to return home. Human rights organisations and several health workers have strongly condemned the impacts on mental health owing to detention and reported high rates of mental illness and cases of self-harm even in children. In addition to the mental health impacts, serious incidences of violence, sexual and physical abuse, lack of medical treatment,

refugee determination at sea without access to a lawyer. Furthermore, the encouragement for asylum seekers to return to their country as an alternative to remaining indefinitely detained in the conditions created at offshore facilities has been widely condemned as a breach of the non-refoulement obligation under Article 33 of the Refugee Convention. Non-refoulement prohibits a country from returning a refugee to their country where "his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".



Photograph by John Englart

### Veil of Secrecy

The most recent development in Australia’s approach to asylum seekers is the amendment of the Border Force Act which makes it an offence for an “entrusted person” to disclose information about Nauru and Manus Island detention facilities. Concerns have arisen that this will prevent doctors and other contractors from disclosing incidences of abuse and poor conditions within the facilities and limit the potential for public scrutiny. In stark contrast to Victorian state legislation, which makes reporting cases of abuse mandatory for doctors, the Border Force Act now threatens doctors with a sentence of up to two years for making such disclosures.

This law not only prevents the protection of vulnerable asylum seekers in offshore facilities, it

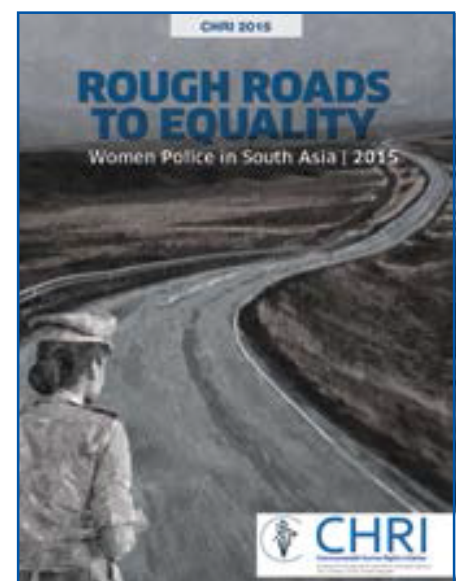
infringes on the freedom of the press and impairs the ability of civil society to hold the Australian government accountable for the deplorable conditions of offshore detention facilities. This amendment has prompted medical and humanitarian workers to write an open letter daring the government to prosecute them under the new laws. However, the extent of the law is still unclear as Immigration Minister, Peter Dutton, has claimed that it will not cover the disclosure of general conditions in the facilities, while another government spokesperson claimed that public interest disclosures could still be made in accordance with the Public Interest Disclosures (PID) Act.

Regardless of which disclosures or professionals are exempt, the new law makes it considerably more difficult to make a disclosure.

All internal complaints processes have to be exhausted and a disclosure must be deemed in the “public interest” before it is exempt under the PID Act. Furthermore, disclosures cannot be made to the Australian Human Rights Commission or the Commonwealth Ombudsman as they have not been specified as exemptions. These amendments are a clear attempt by the Australian government to further cloak asylum seeker policies with a veil of secrecy in the name of national security.

### Keeping Australia in Check

In light of Australia’s lack of concern over condemnation by the UN and the contempt shown for international law, it is essential that measures for accountability and transparency are kept intact in the face of such widespread violations of fundamental human rights. ■



# From Presidential to Parliamentary Elections: Sri Lanka on the Cusp of Change

By Trinanjan Radhakrishnan



Photograph by Climatealk

The year 2015 started with vigour as Sri Lanka inched closer to the presidential election that was scheduled for 8 January. The election had garnered more than usual interest across the world as Mahinda Rajapaksa's third presidential bid came under heavy attack and was eventually toppled at the polls. Although, a new President has occupied the post, the past eight months have been characterised by log-jams in Parliament - shifting political alliances and the failure

to fulfil promised reforms in their original undiluted forms. In the aftermath of the parliamentary elections of August 2015 and the people's affirmation of the reform programme which began earlier, Sri Lanka has another shot at delivering on its democratic pledge and most importantly, finding a lasting and peaceful solution to the issue that started the three decades of civil war.

During the 2015 presidential election, the opposition built

its case around Sri Lanka's democratic decline, the onset of a constitutional crisis and charges of corruption and nepotism against Rajapaksa's political machinery. His call for snap elections, based on his astrologer's prophecies, more than 18 months before the end of his presidential term, was responded by a common opposition candidate, Maithripala Sirisena. Sirisena is an experienced hand and was the General Secretary of the Sri Lanka Freedom Party (SLFP) when he



defected. This is the same party to which Rajapaksa belongs. After months of back-channelling and covert meetings in different parts of the world, the National Democratic Front (NDF) coalition was cobbled together, with the United National Party (UNP) at its helm. It was further backed by dissidents from within the SLFP, the Sri Lanka Muslim Conference (SLMC) and sections of the Buddhist spiritual leadership, which eventually led to Sirisena's victory.

One can argue that the greatest achievement, even before ballots were cast and the poll results were announced, was the tenor of the opposition's campaign.

majority community's fear and ambitions."

The issue of good governance allowed the political discourse to be more inclusive, cutting across geographic and cultural affiliations. After decades of electoral politics being determined by the assumption of the Sinhala-Buddhist mantle, usually at the cost of the country's significant cultural minority groups, the common opposition addressed issues which affected cross-cutting social groups in the island state. In its attempt to cast a wide net and include the Tamil and Muslim communities from the north and south, which were blatantly antagonistic to Rajapaksa's re-

cultural and political rights. The common opposition tried to assuage the fears of the majority population by flatly rejecting any international probe into the allegations of human rights violations and war crimes. Sarath Fonseka, who led the armed forces on the ground against the LTTE, and the ultra-nationalist Buddhist monks of the National Bhikku Front also supported the common candidate, thereby cutting down Rajapaksa's Sinhala Buddhist rhetoric, especially in the southern and western Sinhalese strongholds.

In the aftermath of the elections, several conciliatory gestures were made towards the minority communities: the appointment of

**"Indeed, since the beginning of electoral politics in Sri Lanka, political parties vying for the country's majority Sinhalese Buddhist population engaged in ethnic outbidding. As Neil DeVotta writes, it is: "The auction-like process whereby Sinhalese politicians strive to outdo one another by playing on their majority community's fear and ambitions."**

It built its electoral platform on good governance and refrained from fighting Rajapaksa's Sinhala-Buddhist chauvinistic rhetoric with its own one-upmanship. Indeed, since the beginning of electoral politics in Sri Lanka, political parties vying for the country's majority Sinhalese Buddhist population engaged in ethnic outbidding. As Neil DeVotta writes, it is: "The auction-like process whereby Sinhalese politicians strive to outdo one another by playing on their

election, the common opposition was also acutely aware not to alienate the majority Sinhalese Buddhist constituency.

To strike a balance between inducting the northern and eastern populations while at the same time co-opting traditional Sinhalese vote banks, the opposition steered clear of the most vexing question of devolution. It was a tactical decision not to invoke the "national question", the issue of minority

a Tamil Chief Justice; renaming 19 May as "Remembrance Day", as opposed to "Victory Day"; pledging to enumerate all political prisoners, return land seized by the military and de-militarise the north and east of the country.

After assuming power, the new government's Hundred Day programme laid emphasis on ameliorating the democratic deficit and constitutional decline under the previous government.

Notwithstanding the tactical ploy to keep the Tamil question outside electoral propaganda, the issue needed to be addressed after the elections. Indeed, it is the core issue over which hundreds of thousands of lives were lost during the three decades of conflict in Sri Lanka. Apart from instituting yet another task force under the charge of former President Chandrika Kumaratunga to look into the affairs of the minorities, not much else was initiated.

Despite winning the presidential election, the Sirisena-led coalition inherited a Parliament that was formed five years earlier under the leadership of Mahinda Rajapaksa. A situation prevailed whereby the government in power was in fact in the minority and the opposition, still led by Rajapaksa, was numerically the majority. The power struggle between the two became apparent during the Hundred Day programme as the Sirisena government initiated bills in Parliament. Thus, as it entered Parliament, the euphoric tide of the presidential election started to ebb, revealing the rather hollow victory of the Sirisena coalition. One can argue that the new government's failure to deliver was partly a result of the skewed parliamentary arithmetic and partly over ambitious plans of reforming the polity within hundred days.

It is naïve to expect that more than

half a century of discriminatory policies and an ingrained sense of continued injustice can be reversed in the short term. The final phase of the war with the LTTE was brutal with gross violations of human rights of combatants and civilians, especially in the north and east of the country. However, the end of conflict as it was brought about six years earlier has not ushered in an era of peace. At best, it can be described as the cessation of armed conflict compounded by the feeling of injustice, victimisation and a sheer lack of trust in the State and its institutions. Sri Lanka's new Foreign Minister Mangala Samarawera's international diplomacy allowed some room to manoeuvre in the face of mounting pressure from the international community to address these violations. In fact, as an outcome of the electoral result and on the insistence of the Sri Lankan government, the 28th Session of the UN Human Rights Council (UNHRC) agreed to a one-time delay in tabling its report on Sri Lanka. This was ostensibly done for the new government to achieve stability in the interim and design its own accountability mechanism. The report of the Office of the High Commissioner for Human Rights Investigation on Sri Lanka (OISL) is due for presentation at the upcoming 30th Session of the UNHRC in September 2015.

A more reasonable and prudent approach would be to set up

institutions and mechanisms that together form the core of transitional justice. During an official visit, on the invitation by the Government of Sri Lanka, Special Rapporteur on transitional justice, Mr Pablo de Greiff, highlighted the opportunities and constraints in addressing and overcoming the legacies of the past, including the three decades of armed conflict in Sri Lanka. He noted that bringing about reconciliation would entail the "creation of initiatives that satisfy legally binding rights to truth, justice, reparation, and guarantees of non-recurrence", collectively referred to as pillars of transitional justice. An accountability mechanism, such as advised by the Special Rapporteur, would strike hard at the notion of impunity which is now all-pervasive in Sri Lankan society, thereby instilling faith and confidence in the state machinery.

At international fora, Foreign Minister Samaraweera had iterated the government's intention of instituting a domestic, credible and independent mechanism for accountability that may draw upon foreign expertise and experience. In the context of Sri Lanka, such a hybridisation appears to be most viable. The international component would allow for the inclusion of judges and lawyers well versed in international criminal jurisprudence, which may not be the strength of the majority of the

judges in the Sri Lankan judicial system. Yet the proceedings would remain domestic because the courts would function within Sri Lanka's existing legal system. Moreover, it is known that compliance and implementation are better adhered to when enforced within the domestic legal framework, rather than through international courts; ownership of the process is causally related to greater acceptability of the verdict.

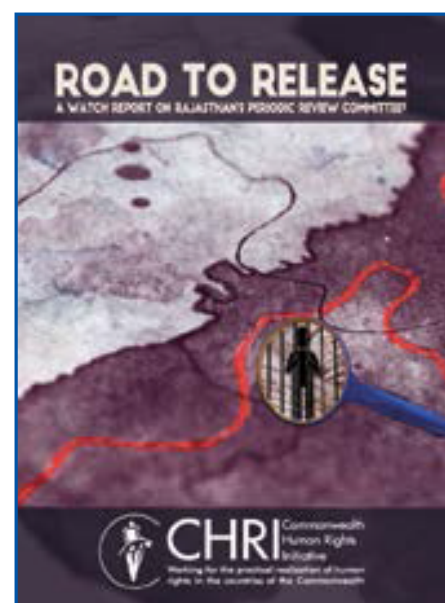
In a monograph published by the South Asian Centre for Legal Studies, authors Alwis and Anketell illustrate some of these aspects of the hybrid court mechanism and its applicability in the current Sri Lankan context. The authors argue that the creation of an effective and independent hybrid court can be made possible through a "comprehensive legislative package" and "would not entail any inconsistency with the existing provisions of the Constitution". The Constitution provides for Parliament to establish courts of first instance, tribunals and other institutions, and thus it is within the purview of the legislature. The existing constitutional provision means that such legislation would require only a simple majority as opposed to a two-third majority. At present, war crimes and crimes against humanity are not recognised within the Sri Lankan law. However, as Alwis and Anketell astutely point out,

Article 13 (6) of the Constitution provides that "nothing in this Article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by the community of nations." Thus, international crimes recognised within customary international law may be applied retrospectively in Sri Lanka for the purposes of bringing accountability to the process of transitional justice.

Whatever may be the various permutations and combinations employed in setting up such an accountability mechanism, its functioning and outcome must be credible and independent. Far too many commissions of inquiry have been established in the past with little effect. Some of these reports have never been made public; of the others, failed, inadequate or uneven implementation of their recommendations has been the common feature. Not only have they not contributed to bridging the gap between communities and securing the rights of the victims, the accumulated results of these commissions have in fact added to mistrust in the government's determination to genuinely redress those violations. At this point, the country can no longer afford another perfunctory commission with unrelated and inconsequential ad

hoc initiatives.

Despite the government's Hundred Day programme falling short of its expectations, the verdict of the parliamentary elections is an important reaffirmation of the reform agenda initiated after the presidential election in January. The double-whammy defeat of Rajapaksa in this year's elections have paved the way for the establishment of a national government in Sri Lanka with a mandate to reverse the chauvinistic and authoritarian trajectory of the past decade. With the parliamentary arithmetic in favour of the newly established national government, the political establishment has a genuine opportunity to address the long-festering issue of minority rights in Sri Lanka and lead the country towards a more stable, inclusive and just society. ■



## Updates from CHRI this Quarter

### CHRI, Delhi Office

#### Access to Information Programme

- Using Right to Information (RTI) as a tool, the Access to Information (ATI) team found that the present Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has stalled only 8 per cent of the development projects as opposed to the claims of the government to push for the controversial amendment to the Act. The team hence advocated against the passage of the bill. In addition, Programme Coordinator, ATI Venkatesh Nayak, attended a workshop for RTI activists in Vijayawada organised by the United RTI Forum and others, on the issue of transparency about the manner in which prime agricultural land is being requisitioned to build the new state capital. The research which began in January 2015 came to prominence in April 2015.
- ATI Programme Coordinator, ATI Venkatesh Nayak, was invited to participate at the “Expert Consultation on the Protection of Sources and Whistleblowers” organised by the Office of the UN High Commissioner for Human Rights and the International

Press Institute in Vienna on 10 June 2015.

- The ATI team, along with CHRI’s Prison Reforms team, organised a workshop on crime and prison data. It involved experts on data analysis and open data, as well as retired senior police officials. The discussions centred around the best ways to analyse available crime data and an action plan for better analysis and advocacy to bring greater transparency and accountability into the criminal justice system.
- The team published its annual report on the working of the Information Commissions across the country. It analysed the state of the Information Commissions and the use of the Right to Information laws of India were assessed on 22 parameters.
- The National Crime Records Bureau (NCRB) has recently made changes to its template in collecting data from police stations. It has added a separate category for collection of data regarding attacks on RTI activists. While welcoming the decision, ATI Programme Coordinator, Venkatesh Nayak pointed out the technical problems with such a move. His inputs received wide media coverage.
- In the wake of consultation by the Law Commission on the death penalty, the ATI team

prepared a report on the trends relating to the award of the death sentence and commutation of such sentences to life imprisonment across India during the period 1998-2013. The report analysed the NCRB data and presented its findings year-wise and state-wise.

#### Police Reforms Programme

- Using the two city concentration to complement its argument for better policing, CHRI conducted a survey to examine “Crime Victimisation and Safety Perception in Delhi and Mumbai”. CHRI first organised a training course for the team administering the survey in Delhi and Mumbai. The training was conducted with technical experts involved in the research and included information on the Delhi Police, latest developments in criminal law vis-à-vis sexual offences against women and criminal procedure on reporting crimes. The report is slated for publishing in November 2015.
- A representative from the Police Reforms team attended the “Muslim Social Leadership Summit” organised by HEAL Foundation India and MOEMIN to speak on “Police Reforms” in the session “Defending the Innocent”. The summit was attended by

speakers from across the country while the core audience was from Uttar Pradesh. Attendees spoke on various topics such as entrepreneurship and skill development, women's empowerment and energising the youth, among other issues.

- A member of the Police Reforms team met with Tripura Police Accountability Commission (PAC) Chairperson, Justice A.B. Pal, to receive updates on the activities of the PAC. Moreover, CHRI's initiative for a PAC Platform Meeting found favourable response from the Chairperson who is agreeable to partnering with CHRI on the same.
- Owing to the demand and popularity of *101 Things You Wanted To Know About The Police But Were Too Afraid To Ask*, CHRI is working on translating the booklet into several vernacular languages across India, including in Bengali, Malayalam and Urdu.
- Three members from CHRI, including the Director and the coordinator of the Police Reforms team, visited Kenya and Tanzania during the second fortnight of April 2015. The delegation held several meetings and consultations with members of civil society and with foreign missions in the two African countries. In Tanzania, CHRI has started work on building a coalition with local partners

to advocate for police reforms. In Kenya, CHRI partners Human Rights Watch with police accountability structures in the latter's upcoming report on the struggles of the LGBTIQ population.

- CHRI Police Reforms team's report titled, *Rough Roads to Equality: Women Police in South Asia* was launched on 19 August 2015. Based on extensive interviews and focus group discussions, the report looks at the current status and the challenges facing women in the police services of Bangladesh, India, the Maldives and Pakistan. It aims at improving conditions for women in policing.

#### Prison Reforms Programme

- The Prison Reforms team published its report, *Road to Release: Watch Report on the Working of Undertrial Review Mechanisms*. It tracks the impact of the consultations held in collaboration with the Rajasthan High Court in October 2013 for the Chief Judicial Magistrates who are the convening officers of the Periodic Review Committee (PRC). CHRI filed right to information (RTI) applications in May 2014 to assess the regularity of these meetings, the cases reviewed, recommendations given and the actual releases carried out. The report, second in the series, shows a clear improvement in the functioning of the PRCs

in some districts and an expansion in the scope of the mandate of the PRCs following the consultations.

- The team published a report titled, *Missing Guards; Study on Rajasthan's Court Production System*. The study examines the chronic shortage of police escorts that leads to the inability of undertrials being produced in court on their hearing dates. The study, based on an analysis of the information received from an RTI request as well as jail registers across all central and district prisons of Rajasthan, reveals that daily, approximately a third of the prisoners who are to be produced in court for their hearings are not taken to court. The primary reason for this is the chronic shortage of police escorts force which has increased by a meagre 4 per cent in the last 20 years compared to an increase of 150 per cent in the prison population during the same period. The study advocates for a separate police force for escorting, with the sanctioned strength based on the production requirements of each district and a monitoring committee to overlook the functioning.
- CHRI's Prison Reforms team developed a booklet on *Legal Aid Clinics in Prisons* which, based on our experience, illustrates the aims and objectives that

legal aid clinics seek to achieve in the long term and short term. The steps that need to be taken to set up legal aid clinics are shared along with the type of documentation required to make the clinics successful. We sincerely hope that this booklet which discusses the need for legal aid clinics in prisons and the stakeholders required in the system, is helpful in future endeavours taken up by students/universities/legal services authorities across India.

- CHRI interviewed 78 Rohingya Muslims lodged in Balurghat, Dum Dum and Berhampore Correctional Homes in West Bengal to obtain formal applications to seek asylum in India from UNHCR. These applications were handed over to UNHCR for further advocacy with the Ministry of Home Affairs, Government of India. The aim is to collectively advocate with the Government to allow UNHCR to conduct interviews of the Rohingyas to determine their status and eventually secure their release.
- To assist correctional home staff and the legal services authority to evaluate cases of undertrials, CHRI prepared a basic software, *Evaluation of Prisoner Information and Cases*, in the form of an Excel sheet which evaluates the data on undertrials and analyses them under various heads: eligibility

for bail u/s 167, 436, 436A; eligibility for plea bargaining; petty offences; and total period of detention. The software was applied in the implementation of the Supreme Court's judgement, dated 24 April 2015, regarding the inhuman conditions in 1,382 prisons.

- The Department of Correctional Administration, West Bengal sought CHRI's recommendations on their evolving web-based proactive disclosure policy in view of CHRI's expertise in research and advocacy in the field of access to information.
- CHRI's work on facilitating timely repatriation of foreign prisoners languishing in Indian jails was identified by the Regional Institute of Correctional Administration (RICA), Punjab. It sought CHRI's recommendations in drafting provisions related to "Treatment of Foreign Prisoners" in the new Punjab Prisons and Correctional Services Act. It also sought recommendations on the provisions for monitoring mechanisms inside prisons especially the "Prison Visiting System". The recommendations were incorporated and the draft Act is currently uploaded on RICA's website for comments.
- Representatives from CHRI's Prison Reform team participated in the National Consultation

on The Juvenile Justice (Amendment) Bill, 2014 organised by the Indian Law Institute, Centre for Child and the Law (National Law School of India University) and SGT University on 15 May 2015. The consultation aimed to mobilise civil society to be more vocal about the recent amendment introduced to the law, which is considered to be causally ineffective towards women's safety and detrimental to the fate of juvenile offenders.

- CHRI conducted a consultation with court appointed legal aid lawyers for Jodhpur District on the implementation of the Remand & Bail Scheme. The team oriented the fifth batch of Remand and Bail Lawyers within a month of their appointment, in February 2015. In order to understand the practical application of their learning from the orientation and check the implementation of the scheme, the team organised the consultation with the help of its retainer lawyers on 30 April 2015. Out of the 25 legal aid lawyers, 12 participated in the consultation.

#### Strategic Initiatives Programme

- The Strategic Initiative Programme (SIP) team has conducted extensive research for their flagship report for

the upcoming Commonwealth Heads of Government Meeting (CHOGM) in Malta. The event is scheduled for 27-29 November 2015. This report aims to: document civil society engagement with the official Commonwealth; demonstrate the importance of civil society to the Commonwealth; and articulate the necessity of enhancing the Secretariat's engagement with civil society groups to develop a more meaningful and constructive relationship with those at the policymaking level.

- The SIP team is also researching and drafting a complementary paper to the CHOGM report on the worrying shift towards curbing civil society space within the Commonwealth. The complementary paper will be used as a document for CHRI's advocacy at the Commonwealth for greater civil society engagement and also serve as an addendum to its CHOGM report.
- Tapping into the Police Reforms team's East Africa expertise, the SIP team submitted Universal Periodic Reviews (UPR) for Kenya and Guyana at the upcoming 29th Session of the UNHRC. Some of the key issues that the UPR on Kenya focussed on include: cooperation with international human rights mechanisms and their monitoring bodies; civil society space and freedom of

expression; extrajudicial killings, enforced disappearances and torture; fair trial; and the counter-terrorism strategies of the country. With regard to Guyana, CHRI's submission looked into the events leading to the latest election, including reports of civil society being targeted by repressive policies, cases of human rights violation and media censorship.

- CHRI was invited to the Civil Society Innovation Initiative (CSII) workshop in Istanbul, Turkey from 13-15 June 2015 and a representative from the SIP team attended it. The purpose of the workshop was to capture regional input, additional ideas and existing resources using the CSII concept note, *Strengthening Civil Society through Regional Hubs*, as a springboard for specific planning of each regional hub. The workshop was organised and coordinated by CIVICUS and Counterpart International.

### CHRI, London Office

- We welcome our new London Liaison officer, Bert Tolhurst. With several years' experience in Human rights issues in the pacific region including working for the UK foreign and Commonwealth Office, Bert is a highly valuable addition to our office.
- Sashy Nathan, former Liaison Officer of CHRI's London office has now joined the Executive

Committee as Treasurer.

- CHRI welcomes Sadakat Kadri to CHRI London's Executive Committee. Mr. Kadri is a lawyer, author and journalist. One of his foremost roles as a barrister was to assist in the prosecution of former Malawian President, Hastings Banda. He also specialises in freedom of information issues.
- CHRI also welcomes Joanna Ewart-James to London's Executive Committee. Ms Ewart-James leads the Walk Free Movement in the fight against slavery. In the past, she has worked with Anti-Slavery International, UK Foreign Office, academia and philanthropy to support human rights organisations globally.
- The London office delivered the fourth in the series of human rights discussions in July. A talk was presented by CHRI International Advisory Chair, Professor Yash Ghai, on the topic: "If the UK were to withdraw from the European Convention on Human Rights, would it matter for the Commonwealth?" It was an engaging talk, attracting an audience representing a wide range of organisations including Commonwealth Secretariat, Royal Commonwealth Society, UK Foreign and Commonwealth Office, several Commonwealth Member High

Commissions and a number of NGOs. It provoked a spirited Q&A afterwards.

- To coincide with Professor Ghai's talk CHRI London, supported by 13 southern-based NGOs, wrote to UK Prime Minister David Cameron, expressing concern at the UK's planned repeal of the Human Rights Act.
- CHRI London has also written to all four candidates for the position of Commonwealth Secretary General, asking specifically what they intend to do to uphold values in the Commonwealth Charter

relating specifically to human rights (Chapter 2) and civil society (Chapter 16). We will publish the responses shortly.

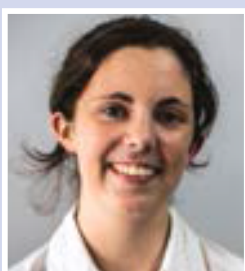
- The team at CHRI's London office continued to provide support for the CHOGM civil society report, carrying out a number of interviews with stakeholders in London.

#### CHRI, Accra Office

- CHRI Accra has undertaken activities in the areas of access to justice and access to information. The Access to Justice team has conducted police station visits,

done court monitoring and has provided legal services for those suspected of committing criminal offences. The team has constructively engaged with the national media in Ghana in the form of interviews in areas of its expertise.

- The Access to Information team has engaged with various stakeholders as well as the national Parliament. It has also participated in the meeting of the Right To Information Coalition Steering Committee and has campaigned in the national media on issues concerning access to information. ■



## Opportunities with CHRI

### Internship and Stipendary Positions in Research and Advocacy

Please inquire about specific current vacancies or send job applications with a CV, statement of purpose, references and a short original writing sample to [info@humanrightsinitiative.org](mailto:info@humanrightsinitiative.org). To know more about us visit us at [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org).

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