

Recommendations of the Commonwealth Human Rights Initiative

This document highlights excerpts from just some of the hundreds of recommendations made by the Commonwealth Human Rights Initiative over the last ten years, beginning with its contribution to the Harare Declaration. The recommendations shown from the first three reports are taken from a summary of CHRI reports made in the 1997 report. This document then covers the recommendations from the 1997 and the 1999, 2003 and 2005 reports to CHOGM.

Put Our World to Rights – Towards a Commonwealth Human Rights Policy (1991)

“The Commonwealth Heads of Government at Harare should adopt a Declaration of Principles on Human Rights as a first step in making a Commonwealth Human Rights Policy” (pp.176-7)

To do:

- “ratification and implementation of the international covenants and conventions”
- “scrutinise new and existing legislation to ensure that it is compatible with provisions for human rights”
- “officials, including police and prison staff, should be educated to observe human rights standards, judges and lawyers should be qualified and independent”
- “education in human rights should begin in primary schools”
- “governments should recognise the legitimate function of human rights NGOs and the major role of a free press”
- “development projects must be carefully assessed to determine their impact on the land rights and economies of indigenous and tribal peoples”
- “governments should incorporate women in decision-making, spotlight adverse sexual discrimination, and exchange views with religious and NGO bodies on religious and cultural obstacles to human rights for women”
- “workers should participate in policies which affect them . . . the right to strike should be provided for in legislation and Commonwealth states should permit independent trade unions”

“there should . . . be machinery for investigation and adjudication on human rights matters, with standing for NGOs the Secretary-General should implement a human rights policy through the “report on the official commonwealth agencies, and mediate in conflicts between or within member states which threaten human rights” (pp.183-4)

“The resources of the Commonwealth Secretariat Human Rights Unit will have to be increased significantly” and more specifically, the Commonwealth should:

- “advise member governments on constitutional and legal provisions guaranteeing freedom of expression and information . . . studies should also be launched on media ownership, newsprint availability, and the licensing and registration of journalists and newspapers”
- “prepare a comprehensive report on the state of refugees in Commonwealth countries”
- “prepare a report on the various approaches to issues involving indigenous and tribal peoples, especially land rights and cultural autonomy . . . it should

- facilitate the participation of such peoples within Commonwealth bodies, states and initiatives”
- ensure that “programmes and reports . . . include an assessment of their impact on women”
 - “assist member governments to carry out their duties under the Convention on the Rights of the Child, and should compile information regularly on the state of children in the Commonwealth”
 - “consider the adoption of a charter regulating the activities of multinational companies in order to eliminate forms of competition which undermine workers human rights”
 - “exchange information in the field of environmental protection”

“NGOs . . . should give special attention to education about human rights; in every country there should be at least one legal resource centre which could provide legal aid to other NGOs and individuals involved in human rights litigation; . . . it would also . . . remind governments of deadlines for submitting reports to international monitoring bodies and help coordinate NGO submissions”

Act Right Now – to Fulfill the Promise of Harare (1993)

Took account of the progress and setbacks since the Harare CHOGM and made further recommendations.

“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 might be the Commonwealth High Commissioner for Human Rights; this office could provide a lead to the world community which was unable to reach consensus on a UN Human Rights Commissioner at Vienna”

“Commonwealth states which had not yet ratified the two key international conventions – the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights – should do so. Commonwealth states which had ratified these and other human rights conventions should improve their record of reporting”

“the Commonwealth should undertake a comprehensive study of the position of its indigenous and tribal minorities” and “should promote a programme of study and exchange with regard to ethnic tolerance”

“the Commonwealth and member states should do more to respect rights which are frequently infringed – personal liberty, freedom of expression and association, the independence and protection of journalists, right to work and employment – if necessary by provision of special machinery”

“violators among state officials and security forces should be promptly brought to justice”

“the Commonwealth should pay more attention to economic and social rights, since relatively little regard is paid to the plight of the poor and disadvantaged, and to their basic needs. Workers and women should be more involved in planning and implementing social and economic programmes . . . Ministries of Finance should accompany their budget proposals with analysis of their effect on socio-economic and labour rights”

“The Commonwealth should seek the active cooperation of human rights activists and NGOs. Their right to promote and protect human rights, through criticism of governments, educational work, distribution of literature, meetings and litigation should be respected”

“The Secretariat should identify and disseminate good human practices within the Commonwealth”

“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 with goals, targets, policies and concrete measures”

Rights Do Matter (1995)

Examined human rights in the context of a political transition from authoritarian to democratic political orders and an economic transition from planned to market economies.

“recommendation . . . for a Charter of the Rights of Prisoners to be drawn up. It should set an example by making a concerted effort to reform and, where necessary, re-educate police forces to respect human rights”

CHRI Recommends:

- “Adequate budgetary resources to ensure the independence of the judiciary from the executive”
- “A colloquia of judges should be convened to exchange ideas on judicial and law reform”
- “The impact on human rights of development programmes should be appraised”
- “Human rights commissions and economic and social commissions should be set up”

The Right to a Culture of Tolerance (1997)

This report considered the issue of trade and development that was to be a central focus in the Edinburgh CHOGM, and examined it could support a human rights centred sustainable development. It also took ethnic and religious intolerance and freedom of expression and information to be matters of urgent importance. The following are taken directly from the recommendations made in the 1997 report.

As regards trade and development:

- “Enhance international co-operation and co-operation within the Commonwealth on trade and investment in pursuit of human rights goals for sustainable development”
- “Adopt policies and practices in trade and investment which ensure that goals of equity and distributive justice are met and furthered”
- “Promote the accountability and social responsibility of national and multinational businesses through domestic policies, laws and practices as well as through international co-operation”
- “Adopt policies and practices which ensure transparency”
- “Promote the awareness of economic and social rights through programmes of human rights education at all levels of the state, in the business community and in civil society”
- “Undertake and encourage independent evaluations, socio-economic audits and assessments to be made of the human rights, social and environmental impact of development programmes and market operations”

As regards ethnic and religious tolerance:

- “The Commonwealth should begin work on the production of a charter on the rights of ethnic communities to be called the Commonwealth Charter on Religious and Ethnic Peace and Harmony”
- “The Commonwealth should set up a roster of experts and mediators to deal with ethnic disputes”
- “The Commonwealth should promote studies of ethnic conflicts and ways to overcome them”
- “Education ministries should develop educational programmes emphasising amity and condemning bigotry and violence”
- “States should prohibit political parties which advocate the superiority or a dominant status of some ethnic groups over others”
- “States should legislate against any advocacy of national, racial or religious hatred”
- “States should review their educational policies to ensure their appropriateness for multi-cultural societies”
- “A common language policy should not be pursued at the expense of minority languages”
- “No attempt should be made to impose the norms and values of one religion over a whole country”
- “States with serious ethnic conflicts should accept offers of mediation by the Commonwealth Secretariat or individual member states”

As regards freedom of expression:

- “The Commonwealth should match the Harare Declaration with an unequivocal statement on freedom of expression echoing the wording of Article 19 of the ICCPR”
- “At election time the media must be allowed to report freely at every stage of the polling process”
- “Governments should recognise that a healthy democracy is possible only with the help of a free and varied media and should put an end to all harassment of journalists”

Over a Barrel (1999)

- “The CHRI recommends the development of a Commonwealth Consensus on Light Weapons”. Three main elements: “regulate legal transfers, control illicit flows and create conditions for cultures of peace”.
- “appoint a Commonwealth Working Group to urgently formulate a Commonwealth Consensus on Light Weapons, which would prohibit the transfer of military, security and police weapons, personnel and training UNLESS such transfers promote human rights, and do not divert resources from human development.”
- “CHOGM should urge all member states to adopt the International Code of Conduct on Arms Transfers”.
- “CHOGM should urge all member states to participate fully in the UN Register of Conventional Arms Transfers”.
- “The Commonwealth should broaden the concept of illicit or illegal trafficking to include transfers of arms to any entity guilty of abusing human rights or of funneling arms to human rights abusers.”
- “CHOGM should strongly condemn the lack of legislation in the Commonwealth aimed at tackling ‘third-country weapons brokering’.
- “CHOGM should declare its support for bilateral and regional frameworks for light weapons trafficking control.”
- “CHOGM should embrace the ‘proportional and integrated approach to disarmament and development’, which recognises that the security of the individual and freedom from fear, must be crucial guarantees in the development process”.
- “The Commonwealth must engage states and civil society to implement sustainable, people-centred development policies in post-conflict environments to consolidate disarmament and demilitarization programmes.”
- “Commonwealth states should review existing legislation on civilian possession of firearms, following progressive models such as those of the UK, Australia and New Zealand.”
- “Commonwealth states should raise the level of professional behaviour of the military, police and custom officials, by ensuring that human rights training programmes are an equal part of initiatives to increase the capacity of the security sector.”
- “The Commonwealth should support programmes aimed at improving the registration and recording of firearms in civilian possession.”

Regarding CMAG

- “CMAG must take the operational responsibility for implementing the human rights agenda of the Commonwealth.”
- “CMAG is strongly urged to undertake a thorough review of the impact of the Harare Declaration prior to its tenth anniversary at the Canberra CHOGM in 2001.”

Regarding the Commonwealth High Commissioner for Human Rights

- “A Commonwealth High Commissioner for Human Rights should be established to thoroughly investigate serious violations of human rights, recommend

appropriate redress and provide advice on the protection and promotion of human rights.”

Millennium Poverty Report (2001)

CHOGM must at the very least:

- establish a clear procedure for systematically monitoring the implementation of pledges made by Heads of Government and the mandates given to the Commonwealth’s official bodies. It should without doubt evaluate and publicise the progress made by the Commonwealth and its member states towards achieving the target set for halving the proportion of people living in poverty by 2015;
- urge, more vehemently than ever before, and with the explicit intention of evaluating compliance at the next CHOGM, the ratification and incorporation into domestic law of the ICESCR, ICCPR, CEDAW, CRC, as well as their optional protocols and the ILO fundamental conventions;
- create the post of Commonwealth High Commissioner for Human Rights, as repeatedly recommended by CHRI;
- expand the working role of CMAG so as to fulfill its true mandate and to serve as a custodian and spokesperson for all the rights of the people of the Commonwealth and acknowledge that serious and persistent violations of social, economic and cultural rights come within its remit;
- strengthen the capacity of the Human Rights Unit, by increasing its resources and raising both its stature and autonomy within the Secretariat;
- set an example by adopting a stated policy on open governance within the Commonwealth Secretariat and other organs of the Official Commonwealth that not only makes information readily available but actively disseminates it in the interests of democratic functioning; and
- go beyond mere formal consultation with, to participation by, associations and NGOs at all levels of Commonwealth functioning. In order to underpin this the Secretary-General must signal his clear and unequivocal support for the unofficial Commonwealth and the importance of these networks for the longevity of the Commonwealth itself.

Open Sesame (2003)

The Commonwealth must:

Call on member countries to introduce liberal access to information legislation.

CHOGM 2003 should declare that the right to access information is *central* to democracy and development and should obligate themselves to adopting laws that are in conformity with international best practice by the next CHOGM at the latest. The minimum standards for such laws are listed on page 77.

Assist member countries to put in place effective access to information regimes.

Containing vibrant civil society organisations and some states with exemplary laws, the Commonwealth is well placed to assist members to design and implement

effective regimes. For example, the Commonwealth Secretariat can facilitate cooperation with other member states and provide financial and intellectual resources to support the development of access regimes; its Human Rights Unit can provide training to government officials; and the Commonwealth Foundation can encourage public participation in the law-making process and build civil society capacity.

Be a role model of open governance. Each of the agencies of the Official Commonwealth must put in place a clear policy on disclosure, have mechanisms that facilitate openness and must proactively disseminate information about their governance structure, norms and functioning. To implement previous commitments to partnerships between the official and unofficial Commonwealth, the Commonwealth must open up its ministerial meetings and CHOGMs, which currently remain so stubbornly inaccessible.

Introduce a reporting mechanism to monitor Commonwealth commitments. Declarations of support and intent are not enough and a clear procedure for systematically monitoring the implementation of pledges is essential for accountability. The Commonwealth should require its member countries to report to each CHOGM on their implementation of Commonwealth commitments, including those on access to information regimes.

Member countries must:

Introduce liberal access to information laws by no later than CHOGM 2005. These must include the minimum requirements listed below. As with all legislation, the law-making process must be open and individuals and civil society groups must be encouraged to participate to the fullest.

Ensure that access to information is effectively implemented. This requires recognition of the fact that structural and attitudinal obstacles exist, and the will to overcome them.

Report to each CHOGM on implementation of past Commonwealth commitments. This includes reporting on progress towards realising the right to access information, as well as other key commitments.

Cooperate with the Commonwealth's efforts to assist members to operationalise open governance.

Demonstrate their commitment to open governance by disseminating information about the structure, norms and functioning of public bodies. This requires proactive publication of information about, for example, the basic activities of government departments, their rules of operation and procedure, their decision-making criteria, performance indicators, points of public access and financial information including expenditure.

Civil society must:

Create public awareness of the value of a guaranteed right to information; act as a bridge between marginalised people and governments to ensure people's information needs are known; and engage with government towards creating the legal regime that best serves the people's interests.

Monitor the use and implementation of access to information laws. This includes testing and extending the limits of accessibility; reporting upon the extent of secrecy, the availability of information and the need for further reform; and reminding governments of their obligation to ensure access to information.

Minimum Standard for Maximum Disclosure

Access to information legislation must:

- Begin with a clear statement that establishes the rule of maximum disclosure and a strong presumption in favour of access;
- Contain definitions of information and bodies covered that are wide and inclusive, and include private corporations and non-government organisations where their activities affect people's rights;
- Strictly limit and narrowly define any restrictions on access to information. Any body denying access must provide reasons and prove that disclosure would cause serious harm and that denial is in the overall public interest;
- Override inconsistent and restrictive provisions in existing laws;
- Require governments to create and maintain records management systems that meet public needs;
- Include clear and uncomplicated procedures that ensure quick responses at affordable fees;
- Create powerful independent bodies that are mandated to review any refusal to disclose information, compel release, and monitor and promote implementation;
- Impose penalties and sanctions on those who wilfully obstruct access to information;
- Provide protection for individuals who, in good faith, provide information that reveals wrongdoing or mismanagement;
- Contain an obligation to routinely and proactively disseminate updates about structure, norms and functioning of public bodies including the documents they hold, their finances, activities and any opportunities for consultation;
- Contain provisions obligating the government to actively undertake training for government officials.

Police Accountability (2005)

CHRI makes a series of priority recommendations to different target groups:

Commonwealth Heads of Government must:

In their CHOGM communiqué:

- recognise that the Commonwealth principles of accountability, transparency, participation, adherence to the rule of law, respect for diversity and democratic functioning apply to the security and justice sectors, including police organisations;
- explicitly acknowledge that democratic policing is crucial to realising democracy and development;
- commit the Commonwealth to developing Commonwealth Principles on Policing drawn from its core principles and international standards; and
- undertake to apply these principles to policing in their own countries.

Mandate the Commonwealth Secretariat to further better policing through:

- providing member countries with technical assistance to reform laws, craft institutional arrangements and adopt practices that will eliminate abuse, corruption and ensure better accountability;
- providing the Human Rights Unit with adequate resources to engage with police organisations, focusing on adherence to human rights standards;
- undertaking a series of Commonwealth-wide exchanges for police ministers, police personnel, experts and civil society designed to encourage the spread of good practice in democratic policing; and
- catalysing the formation of a Commonwealth Association of Police Officers that can mutually assist and share ideas.

In addition, Heads of Government must:

Solemnly agree to ratify international human rights treaties within a finite time frame and develop a mechanism at CHOGMs to report on and monitor implementation of past commitments.

CHRI is committed to promoting a model of democratic policing in which the police are:

subject to the rule of law and responsible to protect human rights; accountable to a variety of institutions; transparent about policies, decisions and actions taken in most spheres of their work; responsive to the people they serve; and representative of the people they serve.

This is the model of policing that democracy demands and governments are duty bound to provide. Reforming policing across the Commonwealth requires changing and refining laws, putting in place innovative institutional arrangements, and altering the culture within police organisations. With the requisite political will and concerted efforts and cooperation of governments, police officials, and civil society it is entirely achievable.

Affirm compliance with the standards of policing required by the International Bill of Rights, the UN Code of Conduct for Law Enforcement Officials, and the UN Basic Principles on the Use of Force and Firearms.

Member countries must:

Acknowledge that it is the foremost duty of a state to ensure people's right to safety and security and thereby to provide a police organisation that is efficient, effective and adheres to the rule of law.

Review and recast police laws, rules and regulations, especially those that pre-date the 1948 Universal Declaration of Human Rights, so as to incorporate and further the principles of democratic policing.

Re-examine internal security laws to minimise the possibility of impunity and remove obstacles to prosecution or victim compensation and civil suits for police wrongdoing. Protect whistleblowers from harm and victimisation through legislation and supportive systems.

Strengthen traditional executive, legislative, and judicial oversight of police; and put in place and support multiple additional independent civilian oversight mechanisms, such as an ombudsman, human rights commission, anti-corruption body or dedicated police complaints agency as appropriate.

Ensure - through institutional arrangements such as strong, autonomous police service boards, commissions and authorities - that executive oversight does not illegitimately interfere with operational independence of the police.

Publish annual performance targets and evaluation measurements against which adherence to human rights, value for money, performance and community satisfaction can be publicly judged.

Design transparent and merit based procedures that can be measured against objective publicly-known criteria for representative and non-discriminatory recruitment, selection, and appointment of leadership and rank and file. Ensure good service conditions for police and fair accountability procedures applicable to all.

Initiate, *in collaboration with police organisations*, procedures and mechanisms designed to involve civil society groups and the community at large in creating policy, determining priorities, setting targets and evaluating performance. Re-examine, *in collaboration with police organisations*, training content, methodology and frequency to emphasise human rights awareness.

Police leaders and police organisations must:

Ensure that upholding the rule of law and protecting human rights and democratic values are core values of policing integrated into its vision, policies and procedures, reinforced through training, and demonstrated in its work.

Send a strong signal to all within and outside that as an organisation of high professional standards, the police will perform well, be open and approachable, and not tolerate abuse of power, corruption, neglect of duty, suborning the law, or any misconduct, nor will it protect wrongdoing.

Ensure that internal accountability mechanisms are well resourced and are fair and firm, enjoying the support and confidence of the public as well as police personnel. Cooperate with external oversight mechanisms.

Ensure that the police organisation is representative of the population it serves; in particular by improving the representation and retention of minority groups and

women, ensuring the work environment is suitable to their particular needs and providing equal career opportunities to all.

Ensure maximum possible transparency to build public confidence in the police and trust in police-community relationships.

Civil society must:

Equip itself to campaign for police reform and accountability by understanding the police, its environment, relevant laws, its resources, responsibilities and that of the government and oversight bodies.

Assess police functioning in accordance with national and international standards and continuously challenge and draw attention to police wrongdoing.

Demand and publicly disseminate information about policing to create a democratic discourse, participate actively in policy processes and public debates on policing issues to challenge the perception that policing is a technical issue only to be discussed by those in uniform.

Engage in partnerships with the police to bring about community involvement and improve community safety.

Donors must:

Require that accountability and human rights issues be integrated into all donor-supported police reform programmes.

Take firm measures against recipient governments that use police to curb civil liberties and consistently do not adhere to international human rights standards in practice.