

'Human Rights for Human Wrongs: The Continuing Commonwealth Challenge'



Report on CHRI's Twentieth Anniversary Conference



Commonwealth Human Rights Initiative

working for the **practical realisation** of human rights in the countries of the Commonwealth

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. Several Commonwealth professional associations came together to found CHRI in London in 1987. They believed that while the Commonwealth provided member countries a shared set of values and legal principles from which to work and provided a forum within which to promote human rights, there was little focus on the issues of human rights within the Commonwealth.

The objectives of CHRI are to promote awareness of and adherence to the Commonwealth Harare Principles, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth Member States.

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, Member Governments and civil society associations. Through its public education programmes, policy dialogues, comparative research, advocacy and networking, CHRI's approach throughout is to act as a catalyst around its priority issues.

The nature of CHRI's sponsoring organisations allows for a national presence and an international network.* These professionals can also steer public policy by incorporating human rights norms into their own work and act as a conduit to disseminate human rights information, standards and practices. These groups also bring local knowledge, can access policy makers, highlight issues, and act in concert to promote human rights.

CHRI is headquartered in New Delhi, India, and has offices in London, UK, and Accra, Ghana.

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

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**Programme for
the Twentieth
Anniversary
Conference of
the Common-
wealth Human
Rights Initiative**

Programme for the Twentieth Anniversary Conference of the Commonwealth Human Rights Initiative

Human Rights for Human Wrongs: The Continuing Commonwealth Challenge

How to make the Commonwealth more effective for the Rights of Citizens and Non-Governmental Advocacy

Date : Friday, 14 September 2007
Venue : The Commonwealth Club, Northumberland Avenue, London WC2N 5AP

SESSION I : WHERE IS THE COMMONWEALTH GOING?

Time : 9.30 a.m. – 11 a.m.
Chair : **Dr. Neville Linton**
CHRI Executive Committee, London Chairman
Speaker : **HE Don McKinnon – *Progress and Setbacks in the Commonwealth Since 2000***
Commonwealth Secretary-General
Discussant : **Maja Daruwala**
Director, Commonwealth Human Rights Initiative

11 a.m. – 11.30 a.m. Coffee break

SESSION I (CONTINUED)

Time : 11.30 a.m. – 1 p.m.
Chair : **Richard Bourne**
Fellow, Commonwealth Policy Studies Unit; First Director of CHRI
Panel Speakers : **Vijay Krishnarayan**
Deputy Director, Commonwealth Foundation
Jarvis Matiya
Human Rights Adviser, Human Rights Unit, Commonwealth Secretariat

This session, designed to be fully participative, will examine the state of human rights in the Commonwealth and the prospects for effective

change.

1 p.m. – 2 p.m. Lunch

SESSION 2 : THE ROLES OF NATIONAL HUMAN RIGHTS INSTITUTIONS AND OF NGOs IN PROMOTING HUMAN RIGHTS

Time : 2 p.m. – 3 p.m.
Chair : **Dr. Campbell McLachlan QC**
Professor of Law, and Barrister
Panel Speakers : **Ibrahima Kane**
Senior Lawyer for Africa, Interights
Nana Oye Lithur
CHRI Coordinator, Ghana
Tom Porteous
London Director, Human Rights Watch

This session will focus on the performance of NHRIs and on how NHRIs and NGOs see their roles in promoting human rights in Commonwealth countries – interactions with government, media and the private sector.

3 p.m. – 3.30 p.m. Tea break

SESSION 3 : TERRORISM, POLICING AND RIGHTS

Time : 3.30 p.m. – 4.30 p.m.
Chair : **Lindsay Ross**
Vice Chair and Director, Commonwealth Press Union
Speaker : **Sir Geoffrey Bindman**
Bindman & Partners
Discussant : **Tessa Boyd-Caine**
CHRI CHOGM Coordinator

Examining the impacts of recent anti-terrorism laws and policies in the UK and beyond. Also, CHRI's findings on the impact of the war on terror on civil liberties in the Commonwealth; and the ongoing campaign for a Commonwealth expert group on policing.

SESSION 4 : PRIORITIES: WHAT CAN PARLIAMENTARIANS, NGOs AND THE CHRI DO FOR THE COMMONWEALTH OVER THE NEXT TWENTY YEARS?

Time : 4.30 p.m. – 5.30 p.m.
Chair : **Maja Daruwala**
Director, Commonwealth Human Rights Initiative
Speaker : **Dr. William F. Shija**
Secretary-General of the Commonwealth Parliamentary Association

This will be a concluding plenary, exploring the challenges ahead and

possible programme imperatives.

Reception

5.30 p.m. onwards Reception.

Supported by the Round Table, the Commonwealth Journal of International Affairs.

Announcement:

There will be an Announcement by the Commonwealth Foundation of a major new initiative – the Human Rights Capacity Project in the British Overseas Territories of the Caribbean, Pacific and South Atlantic. The project involves the Commonwealth Foundation, the Commonwealth Human Rights Initiative and the Commonwealth Legal Education Association.

This conference is being held in association with the Royal Commonwealth Society, and acknowledges with thanks the support of the Joffe Charitable Trust for its London-based work

**Report on the
Commonwealth
Human Rights
Initiative's
Twentieth
Anniversary
Conference**

Report on the Commonwealth Human Rights Initiative's Twentieth Anniversary Conference

Introduction

On 14 September 2007, CHRI celebrated 20 years of existence by holding a conference at the Royal Commonwealth Society, London. The theme of the conference was 'Human Rights for Human Wrongs: The Continuing Commonwealth Challenge'. The event was designed to:

- ❖ Showcase the work of CHRI over the past 20 years
- ❖ Focus attention on the shortcomings within the Commonwealth in terms of human rights observance
- ❖ Raise the profile of the three CHRI offices.

Dr. Neville Linton, Chair of the Executive Committee of the London Office, chaired the conference.

SESSION 1

WHERE IS THE COMMONWEALTH GOING?

Chair : **Neville Linton**
Speaker : **Don McKinnon**
Discussant : **Maja Daruwala**

Don McKinnon Commonwealth Secretary-General

I am delighted to mark 20 years since the Commonwealth Human Rights Initiative was founded in London by a group of Commonwealth associations and friends. On behalf of the Commonwealth and the Secretariat, I warmly congratulate the organisation and all its members.

I should at the outset today make special mention of the debt the Commonwealth community owes to people like Richard Bourne, who was a founder of CHRI. Then there is the debt our communities and our Commonwealth owe to tireless, inspiring people like Hina Jilani of Pakistan in her work as the Special Representative of the UN Secretary-General on human rights defenders; or the pioneering work of South



Africa's Zackie Achmat on promoting awareness on the right of access to life-saving treatment for HIV/AIDS. Here I think also, of two Commonwealth Secretariat colleagues, Everest Selby and Dr. Victor Pungong, both of whom were tragically robbed of life in May, in the course of their important work for peace, development and the rule of law in Africa.

... to pay tribute to the thousands
of unsung human rights defenders all
over the Commonwealth.

If I am making special mentions of special people, then I want to use this opportunity to pay tribute to the thousands of unsung human rights defenders all over the Commonwealth: the lawyers, journalists, youth leaders, social workers, health workers, officials, and volunteers. All of these are the 'foot soldiers' of human rights, the conscience of their communities. They work alongside governments and in the community, for the national good. They also endeavour to keep governments accountable to the people that they are supposed to serve and protect.

When Nelson Mandela spoke in London at the end of last month, he envisaged, now that he is nearly 90, another generation of people standing up for justice, and standing up to meet the challenges of our times. Prime Minister Brown spoke of Mandela's new statue serving as a 'beacon of hope' to those working to protect individuals and communities, and to improve the lot of others. CHRI is a human rights organisation aiming to meet the same ideals, drawing on the same sources of inspiration. The Commonwealth is also, amongst other things, a human rights organisation. Our founding principles make this clear; and so do our actions – from our stand against apartheid and racial discrimination in the 1970s and 80s, to our constant vigilance against any violation of shared Commonwealth values, freedoms and rights. I hope that is abundantly clear.

I have been asked to speak today on setbacks and progress on human rights in the Commonwealth. I propose, also, to touch on two of the themes covered in your conference programme. But I'd like, first, to say something more about CHRI itself.

There is great value in having an independent, pan-Commonwealth organisation striving to hold institutions, individuals and countries to account on Commonwealth principles on human rights. An example of this is your recent 'Easier Said than Done' report and campaign analysing the performance of Commonwealth countries elected to the UN Human Rights Council. This is the role of an organisation like yours. As the title of the report suggests, it is easy, but simply not enough, for countries to pay lip service in the grand and formal chambers of such institutions.

As I said when I addressed the Council members in March, there is no shortage of declarations, conventions, standards and laws. What is often lacking is the 'doing' of it: implementation, compliance, action. However, it is my belief that organisations such as CHRI need to bear in mind that there is another sense in which things are 'Easier Said than Done'.

So, while CHRI's independence is its strength, there is also a place for strategic, measured and constructive engagement with governments. Even with the best will in the world, some of these issues are not easy. Criticism is always easier 'said', than practical solutions are 'done'. Many governments lack capacity as much as anything else. Advocacy has its place, but so does an approach, which seeks to engage, advise, assist, offer practical solutions, and all this in a manner likely to gain trust and cooperation. After all, governments may be capable of human rights abuses, but they are also expected to be first in the line on protecting human rights, and the most able to do so.

I therefore encourage you to support and complement, as far as is possible and appropriate for you, the work of the Commonwealth Secretariat and Foundation and of our Member Governments to protect and promote human rights, including capacity building for civil society organisations at a local level.

'The Commonwealth Way' has never been about belligerent confrontation and caustic criticism. It is about mutual respect, understanding, dialogue, and consensus on practical ways to advance together.

Progress and Setbacks

There have been a number of setbacks on the human rights front during my time in office. In particular, I think of the situations that have resulted from the unconstitutional overthrow of elected governments, and prolonged rule by emergency decree.

Before I took up office as Secretary-General, I was a Foreign Minister sitting on CMAG, a committee dedicated to reflection and action, which was set up in the wake of the execution of Ken Saro Wiwa by a military regime in Nigeria. Much of our work, from CMAG to capacity building, from good offices to governance, is directed towards bringing influence and expertise to bear, to prevent political crisis situations in which human rights are vulnerable to abuse, and to strengthen parliaments, courts and other institutions of government. This work has a 'human rights' dimension, however you look at it.

There have been specific setbacks – setbacks that I have to see as 'challenges'.

Firstly, because we need to be positive, we need to stand up and engage and confront these issues and problems, with the sense of optimism that will overcome them. Secondly, the reality is that we're often dealing with patterns and structural problems that give rise to particular 'setbacks' or individual violations. Here we are talking about issues such as torture, arbitrary arrest and detention, weak adherence to the rule of law (such as executive interference with the judiciary), and the denial of reasonable political freedoms, like the right to public assembly. Also, we mean:

Governments may be capable of human rights abuses, but they are also expected to be first in the line on protecting human rights, and to be the most able to do so.

Remember that poverty is not just a development issue, a technical challenge for the MDGs. These are urgent human rights issues, which require our full response.

discrimination and exclusion from the process and fruits of development; vulnerability to poverty and disease; or the fact that 70 million Commonwealth children simply do not go to school. Remember that poverty is not just a development issue, a technical challenge for the MDGs. These are urgent human rights issues, which require our full response.

Before I talk about the progress, one subject on which the jury is still out is the new UN Human Rights Council. You will recall that in the Malta CHOGM Statement our governments supported the then reform process towards a new Council. I addressed the Council in Geneva in March. It was the first time a Commonwealth Secretary-General had addressed the apex UN human rights body. I hope that what I have started will become a regular event. I said that the Council and its members will be judged by history, and by millions of people everywhere, on the degree of success they have in working together towards a representative, effective, credible and accountable institution. We hope our Commonwealth members of the Council will lead that process by example.

There is no other way to say this: if the world's primary human rights body is seen as ineffectual and isn't taken seriously – as was the case with its predecessor – it will not bode well for the protection of universal rights.

Progress

It is not always easy to measure 'progress' in human rights. If one measured it only by the number of Commonwealth countries that have ratified the core human rights conventions, one might feel that little progress has been made. Certainly, I find it disappointing that with next year marking the sixtieth anniversary of the Universal Declaration of Human Rights, we still have nearly 20 members who have not yet ratified one or both of the two 1966 UN Covenants. We have offered assistance and encouragement to these countries, to express their commitment to the values we share by ratifying these covenants. Some have taken up our offer.

In 2008, we will continue to work on this, and on the ratification of other core human rights treaties. But I believe that we have made progress as an institution (in the Secretariat), and as an organisation (in the Commonwealth). I shall address both in turn:

Progress: HRU and Its Evolving Role

Let me acknowledge CHRI's role in lobbying for the strengthening of HRU.

First, the institution: One of the first things I did in office, in 2002, was to make the Human Rights Unit (HRU) in the Secretariat a freestanding department. Let me acknowledge CHRI's role in lobbying for the strengthening of HRU. You continue to lobby for its

expansion. The Unit has done sterling work considering its small size and limited resources. It concentrates on running education and training programmes, developing best practice, helping countries to accede to human rights conventions, and assisting national human rights institutions. The Unit has also helped with our election observation missions. It has sought to 'mainstream'; in other words, to make human rights an integral element in our work on conflict prevention, health and HIV/AIDS, gender equality, and education. It has contributed to the CMAG process. The list goes on. In just the last year, it has published:

- ❖ A comprehensive handbook on ratifying the UN covenants
- ❖ A manual on human rights training for the police
- ❖ A model human rights curriculum for Commonwealth universities.

Very soon it will publish a Commonwealth Model National Plan of Action on Human Rights, and a major comparative study on NHRI mandates.

Of course, HRU has its limitations – both as to its mandate and its capacity. But I am proud of what it has done: we should all be. I salute all my colleagues in the Unit since its foundation – Hanif Valley, Jarvis Matiya, Rabab Fatima and Jo Ford – who have achieved so much in so short a time. It is one of my dearest hopes that what we have started will, after my time is up, be safeguarded, continued, reinforced, and expanded.

Progress: Human Rights Across the Commonwealth

Second, progress in the organisation as a whole – where I am pleased to report a growing culture of human rights, an awareness of the limits and obligations of holding state power, of the importance of the rule of law, of the need to act against impunity, an awareness of the duty to include people in their own development, and of the right to participate in national political life. There is a great deal of work remaining. For one thing, the Secretariat's own capacity requires further commitment if it is to achieve the considerable task asked of it. I am sure that there will be further challenges when we look at the impending recommendations of the Commonwealth Commission on Respect and Understanding, which will be on the table for discussion at CHOGM in Kampala in November.

The message from the Commonwealth is very clear: For the sake of peace and development, non-discrimination and respect for our basic human rights must become part of the way we lead our everyday lives in this global community.

May I now turn briefly to just two of your conference themes:

Conference Theme 1: The Importance of National Human Rights Institutions

The first is the importance of National Human Rights Institutions.

... pleased to report a growing culture of human rights.

We believe that countries need strong, independent institutions to promote awareness about human rights and to monitor and evaluate their protection. And our actions bear this out. For example, we helped Cameroon put its Commission, established by Decree, on a sound legislative basis. We helped to ensure that its processes met with international standards. We encouraged Cameroon to legislate for habeas corpus. And once the Human Rights Commission was standing, we have remained involved – just in June we conducted a workshop in Yaounde for the 30 new commissioners.

We don't just say: 'Here is an NHRI – we want you to plant it in your garden'. No, we work with government and civil society and encourage them to design, build and support their own model.

In the same way we have supported a number of countries refining or proposing NHRIs, from Papua New Guinea to Pakistan, from Swaziland to Maldives. We have been realistic and principled. We bear in mind that the creation of such institutions should only be supported where there exists real political will and resources for an independent institution. We don't just say: 'Here is an NHRI – we want you to plant it in your garden.' No, we work with government and civil society and encourage them to design, build and support their own model.

However, our 2002 'Best Practice' Guidelines are acknowledged as setting the standard in this field – explaining the parameters, presenting the best examples. UNHCR Geneva has even asked to translate this resource into Chinese and Spanish. And in February this year, HRU's meeting of all Commonwealth NHRIs and some ombudsmen, resulted in the formation of the Commonwealth Forum of NHRIs.

Conference Theme 2: Policing and Counterterrorism

The second of your themes on which I would like to comment is human rights and policing, in the context of counterterrorism. I am conscious of the seriousness of the topic, and I know that you are about to present me with a copy of your report on this subject – I will read it! But for now, let me note two things.

First, some context: While it has become a 'hot topic' for lawyers and others, this subject should not be addressed at the expense of advocacy and attention by CHRI and others to the equally pressing, perhaps even more real, human rights issues relating to poverty and underdevelopment.

Second, the primary human rights duty of any government is to protect the safety and security of its population.

So, States have the right and indeed the duty to take firm and positive measures against those suspected of planning, financing or conducting acts of terror. But in counterterrorism you shouldn't be committing a crime to solve a crime. The limits of permissible State conduct have been arrived at by an international legal consensus. And the balance between liberty and security is not new. The Cold War shows one can resist an

ideology without permanently damaging the very freedoms one is trying to protect. The Commonwealth Heads of Government Statement after 9/11 said: 'In cooperating against terrorism... our actions will reflect the fundamental values upon which the Commonwealth is based.' I am proud to say that the Secretariat's multi-country capacity building programme on counterterrorism is conducted with an explicit human rights component. Similarly with policing, the imperative to remain within the law in order to uphold the law is even more acute. If anything, the threat of terrorist acts highlights the need for a trusted police service, working closely with the community and complying with human rights standards so as to maintain that trust and cooperation.

So I am also proud to say that HRU's programme for police training institutions in the Commonwealth has, since 2005, reached trainers from nearly 30 countries in four continents. It's about to spread to the Caribbean. I hope you see three threads in all this work: principles, practice, and cooperation.

We can achieve positive progress on issues as sensitive and finely balanced in human rights as these, with our Member States asking us to do more to help them, rather than pulling down their blinds and closing their shutters.

Looking to the Future

Let me draw these thoughts to an end, by saying that our challenge is to continue to turn principles into practice, and to ensure that our fine words have some meaning to the millions of Commonwealth citizens across the world. It's an evolving process. CHRI has evolved from its London launch in 1987, through its move to Delhi in 1993, and to its establishment in the last few years of an Africa regional office. Long live the CHRI, and its work, and I hope this growth continues. The Commonwealth, too, needs to remain responsive to today's issues. In the last 40 years or so, I believe we have come a long way as an organisation – both in our governments and in the Secretariat. And in the last 20 years, we have done so with CHRI's help.

I encourage you to continue your strong advocacy and research work, but also seek to work more closely and strategically with governments, the Secretariat and the Foundation. Many congratulations to CHRI on its twentieth birthday: good luck to it; and good luck to us all. Human rights will always be one of the cornerstones on which we build our Commonwealth.

Our challenge is to continue to turn principles into practice.



Maja Daruwala Director, Commonwealth Human Rights Initiative

Ladies and gentlemen, I would like to talk to you this morning about CHRI now, human rights now, the Commonwealth Secretariat now, the Commonwealth Foundation now, the HRU, because we need to reiterate, that Commonwealth issues are the issues of the poor, of the downtrodden, of those who live on less than \$2 a day; and that is two-thirds of the Commonwealth. As the Secretary-General reminded us, it is not enough to think about it and put it aside. The emphasis is on one issue: whether we are talking about counterterrorism or policing, does not detract from the issues of poverty, because they are not separate. The causes are totally interconnected. In essence, they all relate back to a lack of human rights obedience by governments, and their refusal to act on their obligations to make a positive effort. These are the obstacles to the realisation of rights. Human rights for me and for my organisation is not a pie-in-the-sky value system of an idealist whose eyes are shut to practicality: our motto encapsulates our approach and our vision: 'We work for the practical realisation of human rights.'

Commonwealth issues are the issues of the poor, of the downtrodden, of those who live on less than \$2 a day.

We work for the practical realisation of human rights.

The practical realisation of human rights means looking at how we can get through on interventions that we are capable of. We do not pretend to be a grass-roots organisation. We do not pretend to be a humanitarian organisation. We are an advocacy research intermediate policy dialogue organisation.



Presentation of CHRI's 2007 report to CHOGM, 'Stamping Out Rights, The Impact of Anti-Terrorism Laws on Policing', to the Secretary-General.

So how can we make what we do translate into a better life for ordinary people? This is our quest. In searching for that answer and after talking to several people, we reckoned that we needed a focus because we, like the Human Rights Unit or the Commonwealth Secretariat, are a limited number of people with very finite resources that must be targeted for best results. We also realised that the presence of so many poor vulnerable and disaffected people in this association of countries was basically due to the sheer disobedience of governments to the obligations they have undertaken. They have perpetuated this by taking measures to actually obstruct the realisation of human rights in the lives of very ordinary, very poor people, who do not have the power that governments have.

It was on this analysis of the situation that we came to the notion on what we would like to work and this is what we work on today. We work on access to justice because though there are rights that are written down, there are no easily available remedies. Even when remedies are written down, there are often no practical systems at law where you can go to for recourse; and therefore you have huge regressions and catalysis towards social conflict. If the Secretary-General were to look at the seven years that he has been in office, he would see that social conflicts have moved from being large and across borders, to being small and concentrated in countries. There are many more conflicts

in many more countries; their presence is vitiating and changing the environment within which human rights can be realised. These are all symptoms of the absence of good governance.

What is good governance? Good governance rests on the pillars of human rights. Yet it is very interesting that my interlocutor governments will listen to me far more when I talk about good governance than when I mention human rights compliance. They are threatened by this notion of human rights, because it is a universal value and an international legal obligation which they know they are not fulfilling, while the values of good governance, though really the same as those of human rights, remain just principles to be incrementally realised at the pace and will of the political executive. But in the end it is the values of human rights that can inform good governance and it is the good governance system that will translate down into actual benefits at the grass roots within the community.

So, access to justice was one of the themes that we focused on when we examined why people continue to live on \$2 a day. The justice systems are designed for people who earn millions, not \$2 a day, and the gatekeepers of this justice system, where people intersect with State power is the police. Therefore, for the past ten years we sought police reforms in the States. My open request to the Commonwealth Secretariat as it goes into CHOGM is please go beyond training, please go beyond dialogue. I appreciate that we must have dialogue. I appreciate we must have engagement and indeed, we are very often criticised in our own community as being far too gentle and far too civilised an organisation. We are told that there should be much more government bashing and so on. But we do believe in dialogue and engagement, and for ten years, I have sought the engagement of Member States, the Commonwealth Secretariat, and the Human Rights Unit to please go beyond training. Set down principles of democratic policing, which can be the matrix on which the Commonwealth, which has a common legal basis, can begin to look at policing that is fantastically good rather than generally bad.

Bad policing is holding up development, the deepening of democracy and the realisation of human rights. The excuses constantly pointed out by governments are to look backwards and complain about being lumbered with a police from the colonial system. That was 60 years ago. The colonists may have had an agenda that required oppressive policing, but what excuse can we have, as independent democratic States to continue with that? It signals non-engagement with the people. It is a willingness to repress. It is disobedience to every fundamental principle and that is why I say to the Secretary-General that I look for the leadership of the Commonwealth Secretariat to at least set up the instrumentalities by which we can talk about these things in the Commonwealth. We cannot wait another two

Good governance rests on the pillars of human rights.

... threatened by this notion of human rights.

Please go beyond training, please go beyond dialogue...

Bad policing is holding up development, the deepening of democracy and the realisation of human rights.

years. We cannot wait for human tragedy, trafficking, the abuse of children, the beating and killing of women, the non-responsiveness of the police. These are issues of poverty and they begin and end with the police.

When I talk about terrorism, anti-terrorism, and human rights, again it is not 'pie in the sky'. An approach that protects human rights and fundamental freedoms is the only effective way in which you will get counterterrorism, safety and security for the community. States cannot hope to get it otherwise. Can we really get safety and security through an abusive police force? A police that is used to impunity and is given impunity in legislation? It will never happen. What we will get is increasing resentment, increasing conflict, and increasing terror, whichever way you define it. Because the roots of terrorism – now the 'copycatism' of conflict – lie in so many different motivations – it is no longer a single type of motivation. So, my pleading is that this should be done.

The other area that we work on is access to information. In the West this right is often seen as a measure to improve administration, or a privilege given to the media. It seemed to have little to do with curing poverty. But we believed, along with Amartya Sen and Yash Ghai who wrote our 2001 CHOGM report on poverty, that income poverty is but a symptom. The real causes of poverty lie in the lack of power and inclusion, including the inability to get information. This creates unequal power relations between States and people and puts to the lie all the promises of participation and consultation that ground democratic governance. We felt that having a legislated guarantee of access to information would move our nations from democracies that are merely electoral or representative democracies to strongly participative democracies. Again, we found some fantastic good practice within the Commonwealth itself, but little emulation. Because governments refuse to put in place the instruments that will create consultation and participation we remain poor. For ten years the Commonwealth Foundation has studied the voices of vulnerable people in the Commonwealth and asked them how they feel about their governance and they have replied that they feel hopeless. They feel hapless. Yet, there are only 13 countries in the Commonwealth that have promoted the right to information when there are 53 countries that have committed to participatory governance as democracy.

Now what can we do about that in the Secretariat? I am sure that you are as frustrated as I, but I think the difference between civil society actors and actors within a bureaucracy is that the bureaucracy sees the steps of the process as being dictated solely by governments, and that it is what governments say that will make the running. But progress is so slow and this slowness is, to repeat myself, killing people. We have to recognise this.

... progress is so slow, and this
slowness is killing people.

The other justification for listening much more to people rather than solely to governments, I would put forward before the Secretary-General and the bureaucrats, who are so powerful and are sitting in this audience, is that, governments today represent the mandate given by their people and when a regime momentarily in power refuses to further people's mandate for selfish reasons, it is for the Secretary-General, it is for CMAG,

it is for the Human Rights Unit, it is for the Women's Unit to turn around and tell them, 'This won't do.'

We need to rethink what inter-governmental agencies really are, because indirectly you represent the interests of Commonwealth people. It is that '\$2-a-day' sign above your desk that must make the moving and not the picture of the great leader. The great leader is often turning out to be the great obstacle, and his bureaucracy is turning out to be even worse. We have to recognise these things otherwise it is going to be business as usual.

For CHRI, business as usual will be that we go to CHOGM and hope to change things through the words we get into a communiqué. But business as usual, if we don't change things on the ground and very quickly, for Commonwealth people is going to be: dying of AIDS; getting trafficked for slave labour; having to arrive half-dead or dead on the shores of the UK in a container.

To turn to the oversight bodies that keep human rights compliance under review at the UN and in the Commonwealth – the Human Rights Council and CMAG, I believe there are great possibilities for these to be much more than they are; particularly CMAG. It must take up huge violations that are in your States. My colleague from Ghana has been agonising over the deaths, the killings at State behest – 58 West Africans in the Gambia recently. What was the reaction? What would we say? What would we do? Are they ashamed?

As for the Human Rights Council, I think it is an excellent demonstration of the Commonwealth's formal compliance with human rights obligations. There are 13 Commonwealth members on the Human Rights Council. They are supposed to act together. They are supposed to act in relation to the mandate that they have from the Commonwealth to promote the fundamental values and to act within them, and they are also bound by the international human obligations they have signed. Now, what did they do? Some were very active and some very quiet. Did they act together as a common group? No, they didn't. They acted on international realpolitik; adhering to the regional and political blocs and voting banks they belong to at the UN. Did they promote civil society participation? No, they didn't. Did they seek to promote the special procedures which safeguard? Were they willing to be international monitors of things that happen in countries? No, they didn't. They also undermined the independence of the special procedures. In addition they wanted to make the universal review procedure – something CHRI has strongly and repeatedly recommended should happen at CMAG as well – from a compulsory procedure into a voluntary action.

Now, are these actions the robust responses of governments that are responsible to human rights?

Countries do not want to be accountable to the international community. They complain that the playing field here is not even. They assert that national sovereignty must not be impinged upon and that international scrutiny does this. They even argue sotto voce that these

values are not any part of a universal consensus. But in the Commonwealth every constitution contains averments of these very values and every constitution is being disobeyed at home.

Extend and expand the Human Rights Unit; with capacity and people to give it strength, it could be the jewel in the crown of the Secretariat.

When there is so much disobedience from power, how do we want civil society to react? People like the Maja Daruwalas and CHRIs of the world will always react by engagement, by dialogue. I stated to my colleague yesterday at a meeting that we will engage where we can and we will confront where we must, but we cannot do it with guns.

We will do it with words and reports and similar things.

But there are other people out there who are not so constrained and we are giving fuel to these people every day by not obeying our own laws and by showing that as governments we will refuse to do so repeatedly. It is very worrying, and I hope that this 2007 CHOGM will not end with the same dead words. I hope it will not end with myths of human rights commitment and two sentences in the communiqué that say something about it. I hope that human rights will infuse everything that is said and it will extend and expand the mandate of the Human Rights Unit. I hope there will be a mandate that strengthens it further, makes it stronger and larger, and gives it money. With capacity and people to give it strength, it could be the jewel in the crown of the Secretariat.

Discussion Session

SESSION 1 (Continued)

THE STATE OF HUMAN RIGHTS IN THE COMMONWEALTH AND THE PROSPECTS FOR EFFECTIVE CHANGE

Chair : **Richard Bourne**

Speakers : **Vijay Krishnarayan**
Jarvis Matiya

Richard Bourne Fellow, Commonwealth Policy Studies Unit; First Director of CHRI

Richard Bourne opened the session by speaking briefly about CHRI's history. He described CHRI's beginnings as a voluntary network and its process of transformation into the organisation it is today. It was dissatisfaction that led to the formation of CHRI and dissatisfaction drives it, as there is still much to be done for human rights in the Commonwealth. CHRI would continue to be concerned about the distance between human rights declarations and people's experience on the ground, and it would continue to campaign for systemic reform. Mr. Bourne ended by mentioning CHRI's ongoing campaign for an expert group on policing, pointing out that the idea for such an expert group had been endorsed at the Valletta CHOGM.

Vijay Krishnarayan Deputy Director, Commonwealth Foundation

Vijay Krishnarayan discussed the role of the Commonwealth Foundation and its function as a body that liaised with both Commonwealth governments and civil society organisations. He said that the Foundation was pleased to support CHRI in its work. He spoke of the consultations the Foundation held with civil society organisations in the run up to CHOGM in Kampala, of the different Commonwealth countries and the concerns of civil society organisations relating to good governance and human rights. There was a very clear call for broadening the human rights agenda. While the need for monitoring, reporting and raising awareness on rights still existed, there was also an emphasis on collective rights, built on a vision of social cohesion. This requires deliberate effort by Member States, acting in concert and individually, as well as the participation and buy-in of all social groups.

Jarvis Matiya Human Rights Adviser, Human Rights Unit, Commonwealth Secretariat

Jarvis Matiya spoke of the history behind the creation of the Human Rights Unit at the Commonwealth Secretariat, and governments' discussions as to what kind of human rights work the Secretariat should engage in. There were governments who wanted the Secretariat to concentrate on development, while others supported the idea of the



Secretariat doing human rights work. It was made clear from the start that HRU would not be involved in monitoring human rights and the focus would be on developing capacity and promoting awareness.

Mr. Matiya talked of the 2001 report commissioned to study the human rights work of the Secretariat, and the recommendations that this report made. He acknowledged the role that CHRI played in that process, in particular its role in advising the Secretary-General. The information provided by CHRI has enabled the Secretariat to work with governments in order to deal with any deficiencies or human rights problems. He encouraged CHRI to continue to work and lobby for changes. Some of the challenges facing the Secretariat are to see how best international standards can be implemented at the national level and to convince governments to review their mandates.

SESSION 2

**THE ROLES OF NATIONAL HUMAN RIGHTS
INSTITUTIONS AND OF NGOs IN
PROMOTING HUMAN RIGHTS**

Chair : **Campbell McLachlan QC**

Speakers : **Ibrahima Kane**
Nana Oye Lithur
Tom Porteous

Ibrahima Kane Senior Lawyer for Africa, Interights

Ibrahima Kane stated that the human rights system in Africa is still in its infancy. It was created in 1981 when African countries decided to adopt an African Charter on Human and Peoples' Rights. As a result, there is now a protocol on women, a charter on the rights and welfare of the child and other provisions protecting human rights; the last of which is the adoption of a charter on democracy and good governance. Within the continent there are bodies that protect human rights and he provided a brief history surrounding the creation of the human rights system in Africa. One of the key actors working with those institutions are NGOs, and they play an important role in Africa. It is for this reason that the African Commission decided to grant NGOs observer status. Mr. Kane briefly discussed the work of the National Human Rights Institutions. In order to promote and to protect human rights in Africa there were a number of criteria that NGOs and other organisations needed to meet.

In addition to this, he spoke about the Paris Principles, which urge NGOs and National Human Rights Institutions to work closely with other bodies such as CSOs, parliaments and other institutions within a country. This was a key criterion if organisations want to play a leading role in Africa. However, whilst these criteria existed, only a few National Human Rights Institutions and NGOs in Africa met them.

Nana Oye Lithur CHRI Coordinator, Ghana

Nana Oye Lithur opened with a discussion of the varying socio-political contexts within which developmental objectives are trying to be achieved in Africa. In light of this, it has been difficult to nurture a culture of human rights.

She went on to describe the positive progress that has taken place and what African governments are trying to accomplish, but there are limited resources, including human resources and a lack of education about human rights. In many African States National Human Rights Institutions do not have the constitutional power to enforce their findings or decisions.



In such circumstances, one of the most effective ways to achieve objectives was to use the media.

Several people and organisations saw their roles as being complementary to the work of the Commission on Human Rights and Administrative Justice. NGOs are able to do much more than the National Human Rights Institutions as they can focus on the gaps. For example there is a research gap as far as human rights are concerned in Africa as a whole. CHRI's focus was at the governmental but also regional level and to that end, CAHRA tried to maintain the relationship with the African Commission on Human and Peoples' Rights.

Tom Porteous London Director, Human Rights Watch

Tom Porteous discussed three main points regarding current international political contexts.

Firstly, many of the gains made in setting human rights norms and standards since 1945 were now under threat. The most serious threat comes from the increasingly resonant argument that human rights norms need to be adjusted and even voted down in the face of the menace of international terrorism. There is an even greater danger of governments in countries which do not benefit from strong parliamentary and judicial institutions of oversight. They use the international fear of terrorism as a cover for continuing or extending their own abuses.

Secondly, the sheer extent of human rights related problems that human rights organisations face is tremendous. Notable amongst them are the interrelated problems of sustainability, conflict, counterterrorism, resource exploitation and other factors, all of which have very important human rights dimensions in the complex interdependent world we live in.

Thirdly, civil society is extremely important in increasing capability to take advantage of new technologies to increase its influence in building global coalitions, to transmit and share information and to alert the public directly or through the media.

Organisations need to be more strategic in the way they use advocacy. Local advocacy is of vital importance in bringing about change and there was a need to engage much more with local NGOs. The failure of powerful countries to uphold human rights in pursuit of counterterrorism was leading to a corrosion of human rights standards. As a result, NGOs and other organisations need to put sustained pressure on the Commonwealth countries to display a deeper degree of interest. In conclusion, there is a serious global crisis regarding human rights and it is up to civil society to change that.

SESSION 3

TERRORISM, POLICING AND RIGHTS

Chair : **Lindsay Ross**
Speaker : **Geoffrey Bindman**
Discussant : **Tessa Boyd-Caine**

Sir Geoffrey Bindman Bindman & Partners

The issue of terrorism affects all of us throughout the world, and therefore, what we do in Britain in terms of legislation and practice in confronting terrorism, is of interest everywhere. This is perhaps more so in the Commonwealth than other places because there are so many common features in its system of laws.

Terrorism is a difficult subject to talk about because it is so overlaid with what one can only call hype. This makes it difficult to present a rational framework and scheme for dealing with terrorism. At one level, terrorism can be regarded as no more than criminality. Terrorists are criminals and, by and large, one would expect that the criminal law would be sufficient to deal with terrorism. This is because it deals with other forms of violence without huge amendments, without vast changes in structure, without even confronting dilemmas arising from possible conflicts – as some people claim there are – between fundamental legal principles, human rights, rights to principles, and the need to secure the safety of the public. After all, securing the safety of the public is a government obligation that did not suddenly come to life as a result of 9/11 or other terrorist threats.

On the other hand, one has to recognise that terrorism does present new challenges. Not least is the amorphous quality of terrorist organisations, their lack of any identifiable army or state organisation, their apparent and arbitrary attitude towards human life, their willingness to attack civilians and to commit criminal acts of violence. This is compounded by the randomness of potential terrorist attacks. All these make terrorism very difficult to penetrate or foresee.

After the July 2005 bombings in London, the then Prime Minister, Tony Blair, said, 'Let no one be in any doubt that the rules of the game are changing.' This was a rather menacing comment and we know from other statements made by government ministers around that time, and by the actions of the government in introducing new legislation, that there was very much an attitude in government that terrorism did require new kinds of measures, new approaches to the criminal law, and no doubt new approaches to policing as well. At the same time, Tony Blair



Terrorists are criminals and, by and large, one would expect that the criminal law would be sufficient to deal with terrorism.

and other ministers were talking about modifying or even repealing the Human Rights Act, so the issue of human rights was raised very sharply.

It is possible to fight terrorism adequately within the existing structure of human rights legislation.

However, it is possible to fight terrorism adequately within the existing structure of human rights legislation, for example the Human Rights Act. This can also be done by incorporating the ECHR, setting terrorism within the context of international human rights law and established principles of human rights and civil liberties that date back to the Magna Carta, or even beyond, that are very well established in our history. The proposition that one needs to change fundamental principles or adapt fundamental principles to deal with terrorism is therefore a domestic one. It is a proposition that seems to suggest that terrorism today is something very different in character, very much more threatening, very much more potentially damaging than anything that could have occurred in previous centuries, that it has to be dealt with in a new way and that the protections well established as fundamental human rights are no longer applicable.

There exists a concept of balance, whereby the greater the threat to the security of the State, the less we heed to fundamental principles of human rights.

I don't take that view at all. I take the view, as I suspect do most people here who have a particular commitment to and interest in human rights, that while human rights may be absolute in some senses, they are not unqualified. The concept of human rights does not, as has been suggested by governments – ours in particular – prevent appropriate action being taken to deal with threats to the State and to the security of individuals. There seems to exist a concept of balance, whereby the greater the danger, the greater the threat to the security of the State, the less we heed to fundamental principles of human rights.

Professor Dworkin has rather neatly responded to this argument of balance by pointing out that when a plea is made to sacrifice our safeguards for the sake of security, the very people whose safeguards are being sacrificed are, by and large, not the people whose safety is being protected. The idea that you have to curtail human rights by allowing people to be detained without charge or without trial, for example, is to sacrifice the safeguards of those who are most vulnerable to be detained rather than those whose safety is actually being protected. It is therefore not really a balance like the kind of see-saw balance where you have protections going down, security going up, and vice versa. The enhanced security of one group is not balanced by the curtailed protections of another. This is where the balance argument doesn't really stand up. But that of course does not necessarily answer the claim that in some respects human rights protections may need to be modified in order to improve or guarantee security.

The other challenge to human rights comes with the perceived need to surrender the fundamental principles, which used to be called the principles of natural justice. This issue has been raised in a number of court battles as well as in parliament. The principles of natural justice, which grant someone accused of a crime the right to a fair trial, can be

divided into three main areas.

- ❖ Firstly, an individual accused of a crime is entitled to be told what the case is against them
- ❖ Secondly, that person has the right to a hearing or to have some opportunity of challenging evidence against them
- ❖ And thirdly, the issue has to be adjudicated independently and impartially.

In Britain, we have had a long running battle in the courts and parliament over the claim by the government that it is necessary, in some circumstances, to detain people without disclosing to them exactly why they have been detained. Following the Terrorism Act of 2000, a process was introduced whereby a tribunal on the right of a non-citizen to remain in the United Kingdom decided that the rules and principles of natural justice do not need to be applied. Similar legislation was passed in the United States in the form of the Patriot Act. This allowed for the indefinite detention of non-citizens without any kind of appeal to the ordinary courts and without any tribunal being required to allow any sort of fair hearing in accordance with the principles of natural justice.

While the UK courts do not have the same powers of the American Supreme Court to declare legislation unconstitutional and overrule it, they do have the power to declare that legislation is incompatible with the Human Rights Act. When this happens, the government is expected to take steps to change it. We have been fortunate enough to have strong judges willing to use this process to override government policy on indefinite detention of non-citizens. The Lords said that the legislation violated the Human Right Act because it was discriminatory in the sense that it applied only to non-citizens and didn't apply to British subjects. Moreover, they said that it was disproportionate as a means of dealing with the threat to security, which the government claimed made it necessary to detain.

My view, which I think is one being increasingly shared, is that the way forward is to deal with people suspected of terrorism through the criminal law by treating them as suspected criminals. There seems to be no good reason why it should not be possible to prosecute those suspected of criminal offences, especially since the range of criminal offences related to terrorism has been vastly increased since 2001 and acts preparatory to terrorism have now been made criminal. I see no reason why someone deemed to be a threat to the security of the State, should not be put on trial.

There are two reasons that have been advanced by the government on behalf of the police as to why it is not possible to use ordinary criminal process. The first is when there is information, which indicates the guilt of the individual but, if disclosed to that person, could cause potential danger. As for this reason, it strikes me that you simply cannot have a situation in which you decline to put someone on trial but lock him up anyway because you can't tell him what you think he has done wrong.

We have been fortunate enough to have had strong judges willing to override the government policy on indefinite detention of non-citizens.

A person has to be told what they are accused of having done in order to be able to answer to it.

A person has to be told what they are accused of having done in order to be able to answer it. The second reason is the admissibility of evidence. For example, the inadmissibility of evidence obtained from telephone tapping might make it impossible to prove something in court, which the prosecution is well aware of. I believe that there is room for the law to be changed to allow telephone-tapping evidence to be given and that matter is already being looked at.

Another problem that police claim is a reason for not putting somebody on trial, is that once somebody has been charged with an offence, all questioning of the suspect has to stop, thus potentially restricting further enquiries. Police therefore want to postpone charging for as long as possible in order to allow them to continue questioning both suspects and witnesses. The issue of lengthening the period of detention before charge has led to much debate.

Again there may be room for changing the procedure to allow questioning. But I would submit that we should not have a system any longer in which it is possible to lock people up indefinitely for long periods without letting them know why. Instead we need to put suspects on trial properly for the crime they are suspected of committing.

Tessa Boyd-Caine CHRI CHOGM Coordinator

Tessa Boyd-Caine responded to Sir Geoffrey by focussing on the crisis to civil liberties that is posed by the contemporary anti-terrorism agenda. In particular, that people engaged in ordinary legitimate activities including but not limited to those relating to the expression of democratic human rights are increasingly being prevented from doing so under the guise of countering terrorism. The CHRI 2007 report focussed on the impact of anti-terrorism laws on civilian policing throughout the Commonwealth. Whilst only a third of Commonwealth countries have introduced anti-terrorism laws that affect police powers, in those countries, governments have introduced laws that increased police powers; enhanced discretion to arrest and detain, sometimes without charge or trial; reduced access to the due process of natural justice, including legal representation; and diminished police accountability.

There was a failure to adopt an agreed definition of terrorism in international law, when UN resolutions required States to enact measures to counter terrorism. This has been a major stumbling block to ensuring countries legislate against terrorism in accordance with international security and human rights. International human rights are the very framework that is most likely to provide security.

The contemporary anti-terrorism agenda has come to affect people's daily lives and interaction between civilians and police. The police are moving from agents whose role is to respond to crime and maintain law and order, to ones where use of force is permitted, to suppress democratic rights and freedoms, control communities and prevent legitimate action. An additional problem is the reduced accountability of the use of police



powers in the context of counterterrorism. The police have increasingly turned to these powers in their day-to-day operation, not just in response to prevention or security threats. These increased powers are now becoming the norm to help police do their job and this impacts directly on the elements of proportionality and appropriateness in law.

Again, under the guise of security, human rights standards that were once non-negotiable are now, increasingly being eroded. Part of the problem is that public opinion is turning against the human rights message because of the fear that terrorism is perpetuated within such a framework.

Far from being oppositional, human rights could provide for both States and people. It was the job of human rights defenders to ensure that in the process of policing, countering terrorism did not intimidate or terrorize the very people they are trying to protect. When policing alienates and isolates communities, it shuts down the very relationship that provides police with their legitimacy. It also shuts down channels of communication that are vital for counterterrorism intelligence. Such policing can only be counterproductive. Not only does it fail to protect people from the fear and insecurity of terrorism, but it undermines the objective of policing in regards to counterterrorism in the first place.

In conclusion, the most significant challenge facing human rights organisations is possibly, how to reassert human rights as the fundamental framework for countering terrorism.

Discussion Session

SESSION 4

PRIORITIES: WHAT CAN PARLIAMENTARIANS, NGOs AND CHRI DO FOR THE COMMONWEALTH OVER THE NEXT TWENTY YEARS?

Chair : **Maja Daruwala**

Speaker : **Dr. William Shija**



Dr. William F. Shija Secretary-General of the Commonwealth Parliamentary Association

Dr. Shija began by explaining the role and remit of the CPA and its relationship with CHRI in a historical context.

Greater cooperation amongst people, parliamentarians and organisations was needed to foster an environment in which good legislation can be created and there is better access to information.

The challenge before parliamentarians is to firmly commit to being aware of, and observing, human rights norms and practices. In terms of the relationship between CPA and CHRI there should be the development of more programmes, which enable parliamentarians to ensure that human rights are observed within each country of the Commonwealth and at the international level at large.

The Next 20 Years: Much more work needs to be done to ensure that parliamentary mechanisms in place to promote and protect human rights, actually work.

CPA in collaboration with human rights NGOs and CHRI must play a crucial role in making members aware of the particular duty of parliaments and their members, as guardians of human rights, to defend and promote human rights, and so contribute to building a situation where everyone has civil, economic, social and political rights.

The Future: Members of parliament can uphold and promote human rights in various areas, such as strengthening national structures, institutions and organisations of society, which play a role in promoting and safeguarding human rights; the protection of minorities as a global issue and a prerequisite for stability, security and peace; and promoting greater respect and protection of human rights in general, and for women and children in particular.

Introduction and Strengthening Parliamentary Committees: Establishing a dedicated human rights committee sends a strong message to the public that parliament is serious about this critical issue and can

focus public and parliamentary attention on human rights issues, in addition to providing a key mechanism for facilitating civil society engagement.

United Kingdom Joint Committee on Human Rights: The organisation has used its power to prepare reports on key issues such as how gaps in the enforcement of economic, social and cultural rights can be filled by domestic protective legislation and the value of a rights-based approach to poverty.

Benchmarks for Democratic Legislatures and Good Governance: International norms or standards to which there can be agreed standards, including human rights, to be in place in all Commonwealth countries.

Good Governance: The value of human rights as a practical tool of governance and politics is often obscured. However, over the years, the human rights framework – of unqualified adherence to the tenets of peace and justice, universal respect for the dignity of the human being, inclusiveness and non-discrimination – has become an indicator for political performance at home and abroad.

Suggestion: CPA in collaboration with CHRI and human rights NGOs could develop research information on model legislation, and human rights committees, that can be shared and disseminated among those countries developing infrastructures and mechanisms.

International Developments in the Field of Human Rights: Parliamentarians in their role as human rights protectors therefore need to keep abreast of international developments in the field of human rights. A country's adherence to the international human rights regime not only fulfils the greater aspirations of its people but also significantly enhances its status as a conscientious and responsible member of the international community. As trustees of people's combined aspirations, parliaments have a responsibility to forge new tools.

Education and the Mandate for Promoting, Protecting and Realising Human Rights: There is much that parliamentarians can do to make human rights a practical reality. They must however take account of the fact that the active protection, promotion and realisation of human rights are a multifaceted and dynamic procedure. Passing a law or ratifying a treaty, for example, will not lead to greater respect of human rights. The laws that are passed have to be accompanied by support to ensure that those who are given the responsibility of upholding the law are fully trained.

CPA, CHRI and human rights NGOs must work together to ensure that parliamentarians are fully aware of human rights instruments and their application.

Finally, there should be a general agreement on the benchmarks of the legislative approach in relation to human rights. Moreover, citizens actually play a part in not only governance but also in their own development and the public is informed by their own parliamentarians about what is happening.

PLENARY SESSION

Some of the Issues Raised

There is a need to create a culture of human rights.

Human Rights should be basic human rights for all human beings.

- ❖ The question of the Commonwealth having its own convention on human rights was raised. In response it was pointed out that there is already a multiplicity of human rights obligations that Commonwealth States are subject to, and an extra obligation is highly unlikely to make a difference.
- ❖ A comment was made that the time has come to rethink CHRI's approach so that human rights is not purely thought of in legalistic terms. There is a need to create a culture of human rights. But CHRI stated that their approach was hardly in fact legal; it was always within a socio-political framework.
- ❖ It was observed that when there is talk of human rights it tends to be mainly in relation to torture, for example, brutality, false imprisonment or detention. However, human rights must also be spoken of in relation to a human being's right to have housing, employment, and so on. These are basic human rights. Human rights should be basic human rights for all human beings. In response, it was said the Commonwealth Human Rights Initiative, has been concerned about poverty and the future of human rights and this was the subject of a major report to CHOGM about five or six years ago (2001 – Human Rights and Poverty Eradication: A Talisman for the Commonwealth). It was however accepted that more needs to be done on this issue.
- ❖ The issue of a lack of consensus within nations about human rights issues was raised. The speaker commented that half the population tends to be happy with the situation and the other half is not. The question of how to overcome this was posed. In response, it was said that this is an important and growing dilemma not only in Africa and Asia, but also within the UK, with the increasingly draconian counterterrorism measures. People need to be won by the deployment of a good practical and moral argument and this is sometimes very difficult to do.
- ❖ There was a comment that CHRI has a long way to go and a lot of work to do in terms of ensuring Right To Information.
- ❖ Regarding counterterrorism, it was stated that it is the duty of CHRI to try and dispel the paranoia related to counterterrorism and to demonstrate that human rights is the best avenue by which to deal with the matter.

LAUNCH OF THE HUMAN RIGHTS CAPACITY PROJECT IN THE BRITISH OVERSEAS TERRITORIES OF THE CARIBBEAN, PACIFIC AND SOUTH ATLANTIC

The conference was followed by an evening reception where Vijay Krishnarayan, Deputy Director of the Commonwealth Foundation (CF), and Maja Daruwala, Director of CHRI, launched a project in the British Overseas Territories. The aim is to observe human rights obligations in a way that is consistent with international standards and will in turn be of benefit to both governments and civil societies within the Overseas Territories. The project will provide multi-sectoral human rights support and overall, the programme aims to build capacity, not only of governments but also of civil society towards maintaining the delivery of human rights standards in the Overseas Territories in to the future. This joint human rights capacity building project is to be carried out by CF, the Commonwealth Legal Education Association (CLEA) and CHRI in conjunction with the UK government and the British Overseas Territories' administrations.

Acronyms and Abbreviations:

CHRI	Commonwealth Human Rights Initiative
CF	Commonwealth Foundation
CLEA	Commonwealth Legal Education Association
NGO	Non-Governmental Organisation
CHOGM	Commonwealth Heads Of Government Meeting
CAHRA	Citizens Against Human Rights Abuse (now Mind Justice)
NHRI	National Human Rights Institutions
CMAG	Commonwealth Ministerial Action Group
MDG	Millennium Development Goals
HRU	Human Rights Unit

CHRI PROGRAMMES

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its Member Countries. Accordingly, in addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

HUMAN RIGHTS ADVOCACY

CHRI makes regular submissions to official Commonwealth bodies and member governments. From time to time CHRI conducts fact finding missions and since 1995, has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit also ensures that human rights issues are in the public consciousness.

ACCESS TO INFORMATION

CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. CHRI works collaboratively with local groups and officials, building government and civil society capacity as well as advocating with policy makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

ACCESS TO JUSTICE

Police Reforms

In too many countries the police are seen as oppressive instruments of State rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms

The closed nature of prisons makes them prime centres of violations. CHRI aims to open up prisons to public scrutiny by ensuring that the near defunct lay visiting system is revived.

Judicial Education

CHRI facilitates judicial exchanges focusing on access to justice for the most vulnerable. Participating judges get a rare opportunity to hear from activists and experts, focus on pressing issues specific to their region and familiarise themselves with recent legal and procedural, as well as social and scientific developments relevant to their judicial work. The work was begun with INTERIGHTS some years ago. CHRI now works independently to orient lower court judges on human rights in the administration of justice.

"Commonwealth issues are the issues of the poor, of the downtrodden, of those who live on less than \$2 a day; and that is two-thirds of the Commonwealth... The real causes of poverty lie in the lack of power and inclusion, including the inability to get information. Out of the 53 Commonwealth Countries that have committed to participatory governance as democracy, only 13 have promoted the right to information... Progress is slow and this slowness is killing people."

-Maja Daruwala, CHRI Director, on 'Where is the Commonwealth going?'

"After the July 2005 bombings in London Tony Blair and other Ministers were talking about modifying or even repealing the Human Rights Act. However, it is possible to fight terrorism adequately within the existing structure of human rights legislation."

-Sir Geoffrey Bindman, Bindman and Partners, on 'Terrorism, Policing and Rights'

"The failure of powerful countries to uphold human rights in the pursuit of counterterrorism is leading to a corrosion of human rights standards. Many of the gains made in setting human rights norms and standards since 1945 are now under threat. NGOs and civil society must continue to apply pressure to the Member governments."

-Tom Porteous London Director, Human Rights Watch, on 'The Roles of National Human Rights Institutions and of NGOs in Promoting Human Rights'

"Parliamentarians in their role as human rights protectors need to keep abreast of international developments in the field of human rights. A country's adherence to the international human rights regime not only fulfils the greater aspirations of its people but also significantly enhances its status as a conscientious and responsible member of the international community."

-Dr William F. Shija, Secretary-General of the Commonwealth Parliamentary Association, on 'What Can Parliamentarians, NGOs and CHRI do for the Commonwealth over the Next Twenty Years?'

"The Commonwealth needs to remain responsive to today's issues. In the last 40 years or so, I believe we have come a long way as an organisation – both in our governments and in the Secretariat. Over the last 20 years we have done so with the help of CHRI... Our challenge is to continue to turn principles into practice."

-Don McKinnon, Commonwealth Secretary-General, on 'Progress and Setbacks in the Commonwealth'

CHRI is an independent, international and non-partisan NGO that operates from three offices each with its own regional focus. The New Delhi (India) office and HQ is pan-Commonwealth but with a particular regional focus on Asia and the Pacific. The Accra (Ghana) office focuses on Member States in Africa and the London (UK) office on those in the Western Hemisphere.



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