

Commonwealth Human Rights Forum

Rockview Hotel, Abuja, Nigeria

3rd- 4th December, 2003

Report of the Proceedings

Introduction

The inaugural Commonwealth Human Rights Forum was held in Abuja, Nigeria from 3-4 December, 2003, immediately prior to the Commonwealth Heads of Government Meeting (CHOGM). It was organised by the Commonwealth Human Rights Initiative, Legal Resources Consortium and National Human Rights Commission (Nigeria). 260 representatives from civil society organisations and National Human Rights Institutions attended the Forum. A communiqué (attached) from the Forum was given to Heads of Government and the media. It is envisaged that this will be the first of a regular Commonwealth Human Rights Forum, to be held in parallel to CHOGM.

Day One (3rd December)

OPENING CEREMONY:

Chair: Sam Okudzeto, Member of Commonwealth Human Rights Initiative Advisory Commission, Ghana

Welcome Address: Olawale Fapohunda, Managing Partner, Legal Resources Consortium, Nigeria

- Outlined the uniqueness of the Forum (first time such a meeting of National Human Rights Institutions (NHRIs) and human rights NGOs has been convened) and objectives of the forum. It seeks to advance the fundamental political values of the Commonwealth, specifically to promote democracy and good governance, human rights, and the rule of law, gender equality and sustainable economic and social development.
- Also to share experiences within the Commonwealth of issues of common concern, while taking into consideration our diversities.
- There are a huge range of human rights struggles across the Commonwealth, in both developed and developing countries, and so it is inappropriate to single out any specific countries for their violations. However it must be noted that over 300 communications have been received regarding human rights, rule of law and independence of the judiciary in Zimbabwe.
- Highlighted the need to muster the necessary political will to deal with issues of concern among peoples of the Commonwealth, and place burning issues, like poverty among developing nations, on the agenda of CHOGM.
- The idea is for the Forum to be as inclusive as possible and reflect wishes of human rights groups across the Commonwealth.

- The Forum must also be sustainable – it is hoped in the future that it will part of the “official” programme and deliberations feed directly into CHOGM

Setting the Scene: Bukhari Bello, Executive Secretary, National Human Rights Commission, Nigeria

- Outlined some of the key issues before the Commonwealth, including:
 - o A recognition that democracy creates an enabling environment for the protection and promotion of human rights.
 - o Due to poverty and lack of access to education, reproductive health, credit, political power and resources, women are more susceptible to human rights violations, and enforcement of girl-child education should be a political priority in the Commonwealth.
 - o A recognition that poverty poses a threat to human rights, and that the effects of globalisation has further worsened the situation in developing nations.
 - o The need to implement relevant declarations on the eradication of poverty.
 - o A call to developed Commonwealth nations to eliminate the proliferation of weapons in developing countries to stem the tide of conflicts and its consequences.
 - o The shifting of emphasis to include socio-economic rights to enhance the well-being of peoples in developing countries, particularly those of women and children.
 - o Giving attention to other emerging trends like child trafficking, slavery and the deadly HIV/AIDS pandemic
 - o Access to information remaining a key to good governance - the Commonwealth should take a stand and make a policy declaration on freedom on information legislation.
 - o Strengthening national human rights institutions for effective performance is crucial.
 - o An office of Commonwealth High Commissioner for Human Rights should be created under the Commonwealth Secretary-General.

Address: representative of Chief Akin Olunjinmi, Honourable Attorney-General and Minister of Justice, Nigeria

- Pledged the commitment of the Federal Government of Nigeria to human rights and its numerous obligations under applicable international instruments, including socio-economic rights, access to justice, legal aid, prison reforms, etc.
- Recognized the need to pursue these objectives with civil society and the National Human Rights Commission of Nigeria.

Opening: Justice Muhammadu Uwais, Chief Justice of Nigeria

- Declared the Forum officially open.

Closing Remarks: Maja Daruwala, Director, Commonwealth Human Rights Initiative

- Outlined the history of this meeting and the aims and objectives of bringing people together to discuss human rights in the Commonwealth, how these can be realized and how we can work together to ensure this happens.
- Discussed the climate in which we are now working: that the rule of law is being violated by powerful countries and that restrictive legislation such as anti-terror laws is being used discriminately to destroy dissent and due process, and limit civil liberties.
- Equal rights of all citizens regardless of gender, race, colour, political belief etc, is key to human rights and to the Commonwealth, and to individuals' right to participate etc. However discrimination is occurring – such as immigration policies of some countries. Colour is also inhibiting the response to human rights in Zimbabwe as so many continue to filter their response through affiliation to race.
- The key problem is the lack of political will and this is what we need to change.
- The Commonwealth is not only an association of states but also of people. And we are those people.
- Urged participants to reflect seriously on the contents of the Commonwealth Declarations on human rights, with a view to articulating strategies to ensure practical realization of these rights.
- Hopes this Forum will be ongoing – sustained by all – and will develop into a network that provides solidarity in geographical areas such as Zimbabwe and thematic areas such as poverty eradication.

1st WORKING SESSION:

Theme: Introduction to the Commonwealth

Topic 1: The Commonwealth, Basic Structures and Functions. Achieving the Human Rights Mandate of the Commonwealth.

Chair: Hon. Justice Uche Omo, Chairman, NHRC, Nigeria

Hanif Vally, Head of the Human Rights Unit, Commonwealth Secretariat, UK

- o Outlined the origin and structures of the Commonwealth, particularly its political organs
- o Identified the core values of the Commonwealth, which have been adopted through CHOGM and Ministerial Meetings
- o Highlighted the Singapore Declaration of 1971, which represents the first concrete attempt by the Commonwealth to adopt principles of human rights; and then the Harare Declaration of 1991.
- o Identified the core values of these declarations (such as democracy, rule of law, independence of the judiciary) which member states have voluntarily accepted to uphold and respect.
- o Violations of the Harare Declaration can lead to suspension as was the case with Nigeria in the past and Zimbabwe presently, or even expulsion.

- Some of the outreach efforts by the Human Rights Units include collaboration with National Institutions, young people and promoting the U.N. Declaration on Rights.
- Partnerships with NGOs aims at promoting national development through a rights based approach.
- Explained the PANEL description of the rights based approach to development:
 - Participation
 - Accountability
 - Non-discrimination
 - Empowerment
 - Linkage to human rights standards

Richard Bourne, Director, Commonwealth Policy Studies Unit, UK

- Traced the history of what governments wanted / didn't want; what NGOs wanted; and actual events – feels that civil society is a driving force.
- Some key events which have given human rights prominence include: related to Idi Amin in Uganda; proposal by The Gambia related to a human rights commission; the HRU; anti-apartheid struggle; CHRI being established; Harare Declaration; suspension of Nigeria; establishment of CMAG.
- Acknowledged the increasing number of national human rights institutions in Commonwealth countries, although highlighted that some were affected by poor legal mechanisms, lack of resources and insufficient independence. There is a strong case for these to be strengthened – this is a key role for the HRU.
- Acknowledged increasing recognition by NGOs (such as Amnesty) of the importance of the Commonwealth for their advocacy.
- Explained a study he has just completed, looking into how to enhance the human rights work of the Commonwealth, either through a Human Rights Commissioner or a Human Rights Adviser to CMAG.
- Concluded that governments not ready for a Commissioner with investigative role (and NGOs can take on this role), but that there is a strong case for an Adviser to CMAG to provide advice, link to NHRIs, HRU and so on.
- Highlighted the importance of biennial reports on human rights conditions in member countries – this could be prepared to a common format by the new network.

Sam Egwu, AFRIGOV, Nigeria

- Identified the State as a key culprit in the violation of human rights and pointed out that therefore mere pledges of commitment to democracy are insufficient
- Democracy must be viewed from the point of view of content and not from one-sided perspective of developed nations.
- Demanded commitment to acceptable standards in the measurement of human rights among member nations.
- Argued that the Commonwealth should take active responsibility for constitutional reforms like minorities rights, gender equality etc., in member countries to eliminate rights violations.

Contributions from the floor:

- The need to tackle corruption, poverty and accountability in order to achieve sustainable development
- CHOGM should adopt strategies to deal with erring member states who fall below the threshold.
- Commitment of the CHOGM to common standards on human rights and good governance
- The need to encourage constitutional reforms to be gender sensitive
- Resuscitation of Commonwealth Students Association to help networking and tackling of human rights issues.
- The introduction of a mechanism to deal with human rights issues arising from conflicts

Topic 2: Promoting Democracy and Development in the Commonwealth

Chair: Paschaline Fonuy Tar, Cameroon Women in Leadership and Development (CAWOLED), Cameroon

Kayode Fayemi, Director, Centre for Democracy and Development, Nigeria

- Acknowledged the diversity among members of Commonwealth and the different modes of democratization, which typifies our development: some states are consolidating their democracy; others are in transition with largely unstable institutions; others are relapsing, while some are emerging from conflicts
- Queried the framework of human rights application within members states in the context of universality – this is both a weakness and strength.
- A challenge is how to bridge the gap between the “pro-forms” approach and the real yearnings of the vast majority of the peoples of the Commonwealth.
- Advocated the use of tracking methods to measure performance of member states.

Maja Daruwala, Director, Commonwealth Human Rights Initiative, India

- Acknowledged the existence of human rights norms in the Commonwealth, the presence of human rights institutions, as well as processes, mechanisms and evaluation procedures.
- Human rights provides a language of obligations and responsibilities, rather than unbridled supplication.
- The rights based approach which sees the human being as having a bundle of rights is the essence of development in any society.
- Called for prompt preventive measures against member states who manifest early signs of human rights – engage before the situation deteriorates.
- Also must develop responses beyond suspension and expulsion – such as the use of smart sanctions; quiet dialogue; and support for civil society and particularly human rights defenders.
- The appropriate slogan should be, to quote Gandhi, “Engage when you can, confront when you must.”

Contributions from the floor:

- The plan of CHOGM to deal with poverty in member nations
- Appropriate strategies for the measurement of democracy and development within the Commonwealth
- How to fund the activities related to issues of democracy and development and the need for CHOGM intervention
- The media should concentrate on issues of democracy and development rather than the activities of politicians which are not beneficial
- Active civil society participation and dialogue with CHOGM is needed to bridge the wide gulf that presently exists.
- The need to reinforce human rights mechanisms and the adoption of uniform economic prescriptions within the Commonwealth.

2nd WORKING SESSION

Theme: Obtaining consensus around human rights issues in the Commonwealth: the role of NGOs and NHRIs.

Chair: Tony Ojukwu, National Human Rights Commission

Nokuthula Moyo, Zimbabwe Human Rights NGO Forum, Zimbabwe

- Outlined the events that led to the suspension of Zimbabwe from the Commonwealth.
- Explained that reports on the human rights situation in Zimbabwe have been prepared.
- Human rights organizations and NGOs have 2 particular difficulties:
 - One is how to fulfill their mandate with a high degree of non-cooperation by law enforcement officials.
 - The second is that human rights defenders are targeted by government security agents, and the ban on demonstrations etc – people are often harassed and prevented from carrying out their duties
- The press is also under serious censure
- How do NGOs and other organizations within the Commonwealth assist? Relationships, support and free exchange of information will assist a lot.
- Hopes that the Forum will develop mechanisms for assisting one another, rather than merely rhetoric.

Chief Segun Olusola, African Refugee Foundation, Nigeria

- Used the example of Rwanda to show how inaction can create crisis and produce refugees
- The African Refugee Foundation aims are promoting peace, democracy and good governance
- Concerns for human rights need to extend beyond local situations to spread wealth to other members
- Called for the exclusion of Zimbabwe, but not expulsion.
- Called on the Commonwealth to ban the proliferation of weapons.

Justice Emile Short, Commission on Human Rights and Administrative Justice (CHRAJ), Ghana

- The last decade has seen the establishment of human rights institutions in the Commonwealth. The quality of some of these institutions is in doubt – some reports have been largely critical of the modus operandi of these institutions.
- The State has the opportunity to strengthen these institutions, but some Commissions have shown a desire to be truly independent.
- NHRIs vary within different regions of the Commonwealth
- Some factors are necessary to maintain credible NHRIs such as:
 - Legal foundation – constitutional independence
 - Broad mandate – cover whole spectrum of human rights including security forces
 - Complaints mechanism – expeditious handling of complaints
 - Power of enforcement – mere naming and shaming is usually inadequate
 - Power to compel - attendance of witnesses and production of documents
 - Independence
 - Appointment process – not exclusive preserve of the executive parliamentary and possibly participation of civil society.
 - Financial independence – direct submission of budget to parliament and should be charged on the consolidated fund.
 - Accessibility – to the widest possible audience. This could include alliance with NGOs for greater access.
- Other contributing factors include:
 - Presence of Democracy
 - Trained personnel
 - Raising awareness
 - The use of inquiries to deal with systematic violations
 - Having a communication strategy
 - Working with NGOs and CBOs
 - Self evaluation

Two interventions from the floor accepted by the Chair:

Human rights violations against the Falun Gong: Nancy Chen and Ted L'Estrange (Australia) highlighted the serious violations committed in China against those who practice Falun Gong. This includes torture and persecution of women and children and security officials using extreme torture to extract renunciation of their beliefs. Called for help for victims of violations of rights in China.

Daily News of Zimbabwe: The restrictions on the media were highlighted, in particular the requirement for registration (which then enables the Media Commission to not register and therefore ban). As well as this, newspapers and radio stations have been attacked, burned, bombed etc and journalists targeted. The Daily News of Zimbabwe, as the only privately-owned paper has been seriously targeted.

This crackdown on the media is part of a broader context of repression – against human rights defenders, judiciary and so on, as well as other violations of human rights in the formal democracy and also in wide-spread levels of poverty.

Contributions from the floor:

- ❑ The need to critically assess the situation in Zimbabwe to get a balanced perspective.
- ❑ African countries should stop shielding corrupt leaders and those responsible for human rights violations.
- ❑ The Commonwealth should focus attention on issues of poverty, slavery, child trafficking, terrorism, etc. Cooperation in the area of loot recovery should be intensified to assist fellow Commonwealth members.
- ❑ There is a need to get accurate information on situation of violations to properly document history and the need to engage our leaders at every available forum.

Day Two (4th December).

Recap of the events of Day One: Maja Daruwala, Director, CHRI

3rd WORKING SESSION:

Theme: Setting and sustaining a human rights agenda for CHOGM: strategies for taking forward the CHRF

Chair: Bukhari Bello, Executive Secretary, NHRC, Nigeria

Rudo Chitiga, Deputy Director, Commonwealth Foundation, UK

- ❑ Commended the holding of the Forum and its slogan
- ❑ Suggested that to set a human rights agenda in the Commonwealth we need clarity on the stakeholders and who to target; and to make clear messages (and not too many) and maintain relationships among stakeholders on current themes in human rights.
- ❑ To sustain a human rights agenda we must also read between the lines – read everything and build on Heads of Governments’ discourse and their words.
- ❑ Highlighted that many NHRIs and Ombudsmen have been set up around the Commonwealth and we need to make links between these and NGOs. The NHRIs also need Commonwealth support as many are under-resourced and are at risk of remaining marginalized.
- ❑ Civil society organizations must “have their house in order” - need to be credible in order not to allow governments to trivialize the organisations’ human rights work.

- The rights-based approach requires that human rights be a multi-sectoral agenda. CHRI's two-pronged approach (campaigns and reports) strengthens the agenda. The Talisman report on the rights-based approach made the development community rights workers and increased the community that could engage with government in that discourse.
- Highlighted importance of preparing governments well before CHOGM.
- Celebrate small victories, for selves but also for government – governments feel defensive and bashed so congratulate them about the good things they have done.

Ced Simpson, Association of Commonwealth Amnesty International Sections (ACAIS), New Zealand

- Quoted past Commonwealth declarations, such as Coolum Declaration and Millbrook Plan of Action, to highlight the articulation of human rights
- Idea of Commonwealth family and partnership between Heads of Government and people's Commonwealth has been there for some time but now needs to be seen in action.
- CHOGM itself should be a Human Rights Forum, rather than it being an under-resourced, detached meeting. The official and people's Commonwealth should be together, ideally as an assembly of all the Commonwealth, or at least discussion together.
- The business of the Commonwealth is the realisation of all human rights for all people – that is our common wealth.
- Work of the Forum must transcend immediate concerns – while these must of course be included, it is more about our collective work. The value of the Forum is that it represents a microcosm of the Commonwealth.
- Regarding last CHOGM's theme of "Continuity and Renewal" – the fear was that it would be a continuation of rhetoric and a renewal of hypocrisy. We must persuade our colleagues that the Commonwealth is a great idea. We must work it together.
- Cannot come together every two years to share frustrations – we have to work together in between to create a working network of human rights groups.

Dr. Chemuta Divine Banda, Cameroon Commission on Human Rights and Freedoms, Cameroon

- Traces the evolution of the Commonwealth including the many declaration on the core principles and the groups such as CHRI doing useful work.
- Setting an agenda on the Human Rights for CHOGM is predicated on the belief that human rights is the pillar of sustainable development
- There is need to dialogue, educate sensitive network and advocate at national and international levels
- At national levels, we need to sustain a partnership between national institutions and civil society. The concept of shareholding would provide an avenue for self-evaluation among shareholders in human rights.
- The need to work modalities for sustaining and managing the Commonwealth Human Rights Forum – this should be regular in the future.
- A select committee should be appointed to facilitate future meetings of the Forum.

Contributions from the floor:

- ❑ The need to bring to the forefront the problems of indigenous peoples (1/3 of all indigenous people are in the Commonwealth) – this has been neglected. The Forum should keep issues about indigenous peoples constantly on their agenda.
- ❑ Human rights issues should be received for national and cultural perspective.
- ❑ Why are human groups always demonized?
- ❑ Stakeholders should organize themselves to hold CHOGM to the core principles of the Commonwealth.
- ❑ Call for member states to ratify existing human rights treaties and for stakeholders to continue to hold their governments accountable to the principles of good governance.

WORKING GROUP SESSIONS:

Two groups worked independently to brainstorm two areas of discussion and then reported back to the plenary with their suggestions.

Group 1: presented by Mr Tom Orage

Topic: What do we want to say to Commonwealth member states and to the Heads of Government as a group about the practical ways in which to realize human rights?

Short Term:

- Call on member states of the Commonwealth to review privatization processes in their countries to ensure that the rights of the poor and less privileged to access essential services are not diminished
- Call on the Commonwealth to implement its declarations and programmes of action, particularly as it relates to youths, disabled children, indigenous people, minorities and paying particular attention to the smallest minorities, and to involve the civil society in the process.
- Call on African member states of Commonwealth to ratify the protocol of the African Charter on Human and Peoples Rights on women
- Call on the Commonwealth member states to reiterate the need for prison reforms and compliance to the Minimum Standard Rules for the treatment of prisoners, and for member States to prioritise the promotion of human rights values within their domestic jurisdictions.
- Call on Commonwealth member states to establish and strengthen functional National Human Rights Institutions in line with the Paris Principles.

Long Term:

- Call on Commonwealth states to review their constitutions to eliminate loopholes for abuses, and that social and economic rights should be justiciable.
- Call on the Commonwealth to reaffirm the need for respect to the right to health, and to call on member states to make available drugs for the treatment of HIV and AIDS patients.

- Call on the Commonwealth to react more rapidly to the issue of armed conflicts, particularly as it affects member states.
- Call for the institution of reporting mechanisms on human rights situations in member states by both government and civil society during CHOGM.
- Call for increase in the resources allocated to the Human Rights Unit at the Commonwealth Secretariat.
- Call on governments and peoples of the Commonwealth to evolve ways to deepen the democratic process beyond elections.
- Call on Commonwealth to review its environmental protection in member states, and should take into account the roles of government, the private sector and other actors.
- Call on the Commonwealth to review its sanction mechanisms and resort to the imposition of Smart Sanctions on the erring leaders rather than the people.

Additional suggestions

- Deepening democracy in Commonwealth countries should contain some explanation about the way and means of deepening democracy.
- Importance of the role of civil society in the democratic process. Practical steps needed to enable civil society and NHRIs in carrying out their responsibilities pre and post elections.
- Discussions also highlighted the issue of impunity, particularly in light of the recent case of Charles Taylor. Some felt that getting him out of Liberia put an end to loss of life, while others argued that his crimes were so serious that the Nigerian Government should not have given him asylum.

Group 2 – presented by Mr Tony Ojukwu

Topic: How do we go about working together and building a Commonwealth Human Rights Network that is powerful and productive? What specific things do you want to do to a) be effective partners, and b) influence the Commonwealth agenda on human rights?

- The Secretariat should circulate addresses of all participants to help participants networking.
- We should encourage coalition on various issues within or across countries in the Commonwealth.
- Establishment of coordination bodies across the Commonwealth and within the participating countries.
- Hosting country of the CHOGM needs to be very involved – both NHRI and civil society – and liaise with Secretariat. If there is a NHRI in that country, it could coordinate civil society groups; if there isn't one, civil society groups could agree on a coordinating organization as main point of contact with Secretariat.
- Should have a good relationship between the coordinating bodies of the Forum / Network (particularly the Secretariat) with the Human Rights Unit of the Commonwealth Secretariat.

- There should be a mechanism to reach out to the countries that did not attend this forum. Efforts should be made by the Secretariat to get them more involved in the Forum between now and the next CHOGM.
- The human rights issues in the Commonwealth should be the same as contained in international treaties and conventions since human rights are universal. However, considering differences in traditions and cultures of different countries in the Commonwealth, there is need to treat human rights issues within the context of the countries where any violations occur.
- National coordinating bodies should reach out and make sure that the coalitions formed are as inclusive as possible.
- There is need to agree on human rights concerns and issues arising from every Forum. The communities within the Commonwealth should also be informed at least 6 months in advance before the next forum of these concerns and what will be taken up at that Forum.
- Resolutions of the Forum should also be brought to the attention of the UN to give teeth to resolutions of the Forum.
- The Forum should set up a website to which all members should be able to access. Adequate information on happenings in the Commonwealth human rights community should be posted on the website.
- There should be regular meetings of National Coordinators to aggregate common rights issues in member countries and these can form materials that can be posted on the website. The said website should also have a list where the email of all participating members can be accessed and a list-serv.
- There should be national reports on human rights situations in each country which should be forwarded and discussed at the Commonwealth level before each Forum.
- Considering the various issues of concern on human rights and the need to monitor the implementation of various Commonwealth declarations on human rights, the CHOGM should recognize CHRF and make it part of CHOGM agenda.

Additional suggestions

- Since Nigeria is going to take over the leadership of CHOGM, efforts should be made to take the initiative from Nigeria.
- If member states fail to respond to issues of accountability, then civil society groups could provide the report.
- Focus attention on the next possible host countries, i.e. Uganda and Malta.
- Need to create a culture of human rights in Commonwealth.
- International human rights instruments must be ratified within the Commonwealth, and a mechanism for domestic application in member states.
- Expression of support for the International Criminal Court and to deploy America's pressure on Commonwealth states to not prosecute U.S. nationals for war crimes.

COMMUNIQUE DISCUSSION:

Led by Maja Daruwala (CHRI), Ced Simpson (ACAIS) and Olawale Fapohunda (LRC).

A draft communiqué was presented to the plenary and discussed by all. Following discussion, the final communiqué (attached) was agreed to be participants.

Vote of Thanks: Bernice Sam, Programme Coordinator, CHRI, Ghana.

- Thanked the funders of the CHRF for the support and for making the event possible – CIDA, Commonwealth Foundation and the British Council.
- Thanked all speakers and resource people for coming to the CHRF (many from far away) and for their informative presentations which provoked thought and discussion.
- Thanked all participants for their attendance, participation in discussion and hoped they would maintain their enthusiasm to keep the Network alive.
- Thanked the organizers of the CHRF for all their hard work, particularly all those working behind the scenes. In particular, appreciation goes to Bukhari Bello and Saka Azimazi at the National Human Rights Commission; Olawale Fapohunda at the Legal Resources Consortium; and Maja Daruwala, Bernice Sam and Clare Doube at the Commonwealth Human Rights Initiative.