

CHRI 2015

CIVIL SOCIETY AND THE COMMONWEALTH REACHING FOR PARTNERSHIP



**A Report of the International Advisory Commission of
the Commonwealth Human Rights Initiative
Chaired by Professor Yash Ghai**

THE 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. In 1987, several Commonwealth professional associations founded CHRI. 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.*CHRI's objectives 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.

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CIVIL SOCIETY AND THE COMMONWEALTH REACHING FOR PARTNERSHIP

“We aspire to a Commonwealth that is in harmony with the future: an association that draws on its history; utilises its strengths; pursues the common interests of its members; and seizes the opportunity to help to them and others to shape a better world.” – Eminent Persons Group Report, 2011¹



The 2015 report by the International Advisory Commission of the Commonwealth Human Rights Initiative, Chaired by Professor Yash Ghai

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FOREWORD

“Having history as our sole bond is clearly not enough in today’s world. In order to be relevant, the Commonwealth should be about people rather than diplomats...It should be about the future rather than the past.” – Prime Minister Joseph Muscat of Malta, July 2014

2015 marks the 50th anniversary of the Commonwealth’s rebirth as an intergovernmental association with structure, vision, values and goals. In that time it has established long-standing networks among civil society and has often led the way in promoting and upholding principles of good governance and human rights. However, in recent years and particularly since the last CHOGM in Sri Lanka, the Commonwealth has found itself at a crossroads. It has become clear that substantial steps must be taken to restore the Commonwealth as a principled, value-based association. In our view, the Commonwealth’s best chance of doing this is to work ever more closely with civil society, to commit the Secretariat to deeper engagement and the Foundation to ever more expanded support and assistance to them. We are glad to note that cooperation between the Commonwealth and its people is improving, and would urge the further strengthening of this cooperation.

This report focuses in the main on the relationship between civil society and the Commonwealth Secretariat as the executive body of the 53-nation Association, and is intended to assist all stakeholders to improve civic participation in and engagement with the Commonwealth. With a view to understanding civil society’s perspectives on the Commonwealth, CHRI surveyed accredited organisations and wider civil society groups and also interviewed seasoned practitioners, academics, diplomats and prominent civil society advocates.

Set against the backdrop of the regrettable curtailment of civil society space that seems to be taking place in many countries, this report does not purport to be a comprehensive review of engagement between the Commonwealth and civil society. It is designed to provide an overview and to highlight the fragilities of the relationship with the aim of strengthening it. The recommendations offer a workable approach to an intricate problem. This challenge cannot be adequately addressed by individual actions alone, but requires the cooperation of all partners in this relationship – the Secretariat, member states and civil society.

The Malta CHOGM launches a new era for the Commonwealth. A new Secretary-General will be elected soon and the first ever Women’s Forum will be held (following in the steps of the first Human Rights Forum launched when Malta last hosted). Taken together with the anticipated high turnout of heads of government and the expected attendance of UN Secretary-General Ban Ki Moon, this will significantly raise the Commonwealth’s profile, and reflects the political importance of the organisation. If there was ever a time to manifest a change in policies towards the most diverse and knowledgeable resource the Commonwealth has, namely its people, that time is now. For the revival of a modern, respected and powerful Commonwealth, a strong partnership with its over 2 billion constituents is essential.

Prof. Yash Ghai
Chairman of the International Advisory Commission, CHRI

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CHRI's International Advisory Commission's Report to the 2015 Commonwealth Heads of Government Meeting (CHOGM) was made possible through the support and contributions of a number of people. Although it is impossible to refer to all of them, some deserve special attention, as their contributions have been crucial to our efforts in bringing out this publication.

We thank all the Commonwealth accredited, associated and non-accredited organisations who responded to our survey and graciously offered us their time to discuss the contexts in which they work; the challenges and benefits of collaborations with the official Commonwealth; and the importance of intergovernmental relations with civil society.

Much of the primary research would not have been possible were it not for innumerable conversations with seasoned practitioners, academics and experts from across the Commonwealth, such as Hazel Brown, Richard Bourne, Stuart Mole, Karen Brewer, Helen Jones, Beth Kreling, Kumi Naidoo and Mathew Neuhaus, to name a few. We also extend our appreciation to Mandeep Tiwana and Dominic Perera from Civicus who helped guide our research and survey design through the embryonic stages.

As always, this report is the outcome of the cooperative efforts of all those mentioned. A special thanks goes to the interns of the Strategic Initiatives Programme – Sarah Code, Teresa Gray, Olivia Barlow, Bindu Doddahatti and Anneka Singh – who assisted with reviewing documents, fact checking and researching material. We also thank Sashy Nathan in CHRI's London office, who with the assistance of his interns, Melanie Vasselin and Roni Lee organised and conducted several of the interviews in London.

Most of all, we would like to thank our small and hard-pressed CHOGM team, who despite a number of setbacks, overcame the pressures and challenges of completing this project: Kai Reddy, Senior Programme Officer, who led and coordinated the team; Olivia Green, whose research and analysis on violations against civil society provided the context; Sukrit Kapoor, whose weekly scans informed the background of the report; and our volunteer David Kaner, who analysed the survey and assisted with writing this report.

CHRI is deeply grateful for the support of its institutional donor for this project, the Open Society Foundation.

Maja Daruwala
Director, CHRI

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OBJECTIVES, METHODOLOGY AND COMMONWEALTH VALUES

OBJECTIVES

Closing civil society space across the Commonwealth provides the context for this report, while the driving force is the Commonwealth's own set of core values. This report examines the engagement between the Commonwealth Secretariat, the central institution of the Commonwealth of Nations, and civil society. It puts forward a number of steps aimed at improving the relationship between the Secretariat and civil society with a view to develop the association into a "people-centred Commonwealth".

COMMONWEALTH VALUES

Decades of declarations and communiqués arising from the Commonwealth Heads of Government Meetings (CHOGM), followed by the recommendations of the Eminent Persons Group (EPG) Report, culminated in the Commonwealth Charter in 2013. All 54 member states committed to principles which included:

- Democracy, through free and fair elections and participatory governance at both the national and local levels.
- Human Rights, including civil, political, economic, social and cultural rights, for all citizens on a non-discriminatory basis.
- Tolerance, Respect and Understanding, of religious, cultural and other forms of diversity.
- Freedom of Expression, encompassing individuals, the media and the free flow of information necessary to uphold democratic culture and processes.
- Rule of Law, through sensible limits on government, the separation of powers and the maintenance of independent institutions, especially the judiciary.
- Good Governance, including transparency, accountability and the elimination of corruption.
- Sustainable Development, which ensures the long-term viability of democracy through the elimination of poverty, the provision of adequate health, education and welfare, the protection of ecosystems, the promotion of gender equality and the empowerment of youth.
- Civil Society as Partners in promoting and supporting Commonwealth values and principles including the freedom of association and peaceful assembly, and in achieving developmental goals.

The Commonwealth has repeatedly highlighted the central role of civil society in upholding and promoting Commonwealth values as well as civil society's contribution in assisting the Secretariat and member governments to do the same. The heads of government acknowledge in the Charter that a strong relationship between civil society and the Commonwealth is paramount to ensuring that the Commonwealth is viewed as a values-driven, "effective organisation, responsive to members' needs, and capable of addressing the significant global challenges of the future". The Charter's final principle reemphasises this partnership with civil society. CHRI believes this is the key to realising the fifteen preceding principles.

REPORT METHODOLOGY

This report used qualitative and quantitative data. We conducted interviews in London and from India, used published sources – official documents, articles and books (a list of which can be found in the Bibliography) and conducted an online survey of accredited, associated and non-accredited organisations (See Annex 5 for more information on the survey).

INTRODUCTION

“We recognise the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including the freedom of association and peaceful assembly, and in achieving development goals...We aspire to a Commonwealth that is a strong and respected voice in the world, speaking out on major issues; that strengthens and enlarges its networks; that has a global relevance and profile; and that is devoted to improving the lives of all peoples of the Commonwealth.” – Charter of the Commonwealth, Article XVI, “The Role of Civil Society”

Since the beginning of the decade, the “official Commonwealth”, collectively made up of The Commonwealth Secretariat, the Commonwealth Foundation and the Commonwealth of Learning, has embarked on a journey of reform and renewal. Essential to this process has been a reaffirmation of the Association’s core principles of democracy, good governance and human rights through the 2013 Commonwealth Charter. Both the Charter and the landmark EPG report that preceded it strongly emphasise the centrality of civil society in protecting, promoting and strengthening these values.

Today, the Commonwealth is viewed as much as an association of people as one of governments. From its inception, in statement after statement, the Association at its highest level has recognised the value of civil society and acknowledged the need for closer cooperation.²

In a fast-changing world in which the Commonwealth is struggling to maintain its relevance, differentiate itself from other multilateral organisations and speak to the needs and aspirations of its over 2 billion people, it can have no stronger ally than the diverse networks of civil society organisations working in its member states.

In addition to partnerships already forged through the Commonwealth Foundation, which exclusively supports civil society, the Commonwealth’s intergovernmental executive body, the Secretariat, has also taken note of the need to work more effectively with civil society. Its current Strategic Plan states: “The Commonwealth family of organisations is a valuable network for the Secretariat...forging stronger partnerships with accredited Commonwealth organisations is vital to strengthen the network and to create greater impact.”³

Accreditation⁴

Accreditation is the gateway to collaboration and engagement with the Commonwealth. Benefits of accreditation include access to information and to the Secretariat’s headquarters, Marlborough House. Crucially, it also includes access to ministerial meetings and CHOGM. Organisations are categorised into two groups who have differing degrees of access.

Accredited Organisations: Civil society organisations that have met the criteria and been granted accreditation by the Accreditation Committee.

Associated Organisations: Organisations with accreditation whose membership and operation have a significant intergovernmental aspect.⁵

In committing itself to deeper engagement, the Commonwealth Secretariat can draw on a proud history of supporting and promoting civil society, particularly in times of crisis. In the 1980s, the Secretariat stood firmly on the side of those fighting to end apartheid in South Africa, even as the issue divided its members. In the 1990s, the Commonwealth Ministerial Action Group (CMAG) delivered one of the swiftest and most notable rebukes to Nigeria’s military government, suspending it from the Association just two days after the execution of Ken Saro-Wiwa and other activists. At the dawn of the present century, despite pressure from some governments, the Association refused to be complicit in political oppression in Zimbabwe, even at the cost of losing a member state.

Today, the need for the Commonwealth to champion civil society’s work and defend the space in which it operates is greater than ever. At the very moment when the international community sees the partnership between civil society and government as paramount to meeting this century’s largest challenges – poverty eradication, justice delivery and

equitable and inclusive governance – the non-governmental sector is everywhere under threat. This trend is evident throughout the Commonwealth. In too many member states civil society space is being systematically curbed and the right to associate freely with others, speak openly and protest peacefully is being unfairly restricted.

Examples are legion. Recently passed legislation in one member state granted the government broad powers of surveillance and contained vaguely-worded sections that could be used to criminalise legitimate free expression and assembly;⁶ several months later, two well-respected human rights organisations had their bank accounts frozen for months after they were declared “terrorist organisations”.⁷ In another, police armed “as if they were coming to fight an army” broke up two separate peaceful trade union meetings; reportedly “beat[ing] union members, forcing several to seek medical treatment thereafter.”⁸ In a third, amendments to the law on sedition were amended to raise sentences to a possible 20 years for dissenting against the government.⁹ Proposed regulations that would tighten government control over non-governmental organisations¹⁰ and moves to stringently regulate access to funding¹¹ could further shrink space for civil society in the Commonwealth over the coming months.

While civil society needs a Commonwealth that champions its values, particularly as they relate to freedom of assembly, conscience, association and expression, the Commonwealth needs the energy, capacity and diversity of its network of organisations to realise those values. This is an essential step if the Commonwealth is to become the germane, influential and principled association it has committed itself to be.

Here, too, the Commonwealth has a rich tradition on which to build. The Latimer House Principles, one of the Commonwealth’s benchmarks of democratic governance, came about as the result of an initiative by four organisations working in the fields of law and governance.¹² The divisions of the Secretariat have relied significantly on accredited and non-accredited organisations for both strategic projects, such as the development of the Commonwealth’s Plan of Action for Gender Equality,¹³ and the delivery of services such as expanded credit access for youth.¹⁴ One analysis of the Commonwealth’s engagement with civil society identified two associated organisations – the Commonwealth Parliamentary Association and the Commonwealth Local Government Forum – as “effectively Commonwealth agencies with an important practical input into Commonwealth programmes.”¹⁵

However, over the past years the prospects of partnership and support have become increasingly uncertain. While some organisations remain steadily involved in the work of the Commonwealth, others who want to contribute their expertise, ideas and networks need clearer avenues for engagement. Individuals and organisations working in the most sensitive sectors, particularly human rights defenders – who stand steadfast in the face of danger while furthering the Commonwealth’s core values – necessitate a more receptive and robust response to their concerns.

It is heartening however, that four years after the EPG warned that the “Commonwealth was in danger of becoming irrelevant,”¹⁶ the official Commonwealth is making clear attempts to strengthen engagement with its “family”, despite the fact that the Secretariat is working with a fraction of the resources of other major intergovernmental organisations (IGOs).

At a time of great challenges for civil society and the Commonwealth alike, the Charter’s insistence that “the potential of and need for the Commonwealth – as a compelling force for good and as an effective network for cooperation and promoting development – has never been greater,”¹⁷ rings true.

The potential of the Commonwealth family working together remains untapped. Building a more robust, dynamic and equitable relationship would yield enormous dividends in terms of influence and impact for all three stakeholders – the Secretariat, member states and civil society. The solution to the concerns facing the Commonwealth, such as importance and standing with its own membership and influence in global affairs lies in “Commonwealth governmental and non-governmental bodies alike [thinking] first and foremost about how they work in partnership with pooled resources and shared capacity. This can be assisted by changes of structures and processes but also requires a change of attitude, perspective and to some extent empathy.”¹⁸

The task is significant. But if this unique association is to exist in the minds of its people and not just its foreign ministries, to meet the enormous challenges and extraordinary opportunities of our era, then attempt it we must.

THE DEMOCRATISATION PROJECT: BUILDING THE “PEOPLE-CENTRED” COMMONWEALTH

In light of the Charter’s mandate and the EPG’s strong recommendations, the official bodies of the Commonwealth must reposition themselves to create a “People-Centred Commonwealth”.¹⁹ This requires the Secretariat and the Foundation to realign their methods and processes to forge a more fruitful engagement strategy with civil society.

From its inception, the Secretariat was conceived primarily as an intergovernmental body reflecting the priorities of governments and serving their needs. It is also the public face of the Commonwealth, tasked with upholding the Association’s values and mission on the international stage. The Foundation, set up a year later as a parallel body, was initially tasked with encouraging the growth of the (largely professional) corps of Commonwealth organisations. Eventually, its remit grew to encompass support for wider civil society and to facilitate the Secretariat’s engagement with a fuller spectrum of civil society, particularly those with a developmental focus.²⁰ The Secretariat and the Foundation view their roles as separate and distinct from each other. Both governing boards consist of officials from member states.

The Secretariat and Foundation also engage with civil society, but in distinctly different ways. The Foundation, beyond supporting civil society’s networking and capacity building, has strived to increase civil society input and participation in the Commonwealth’s periodic ministerial meetings (See Annex 1) and at the biennial meeting of its heads. However, government officials have dictated the depth of interaction, and some meetings have been more open than others.

The Secretariat’s encounters with civil society vary across its divisions and thus far have tended to focus primarily on accredited organisations. Several of the Secretariat’s divisions do have frequent interactions with other organisations, especially those based in London. Other interactions are focused on individuals, tapping their expertise or getting perspective and advice in designing or resourcing programmes.

The picture of engagement between civil society and the Commonwealth is as varied as its participants. Undoubtedly some organisations maintain strong relationships with the Secretariat and have played an impressive role in policy creation. Examples of impacts by survey respondents and interviewees included influencing the Strategic Plan’s section on Law Reform,²¹ consulting on constitutional reform in a member state²² and helping develop the Secretariat’s Commonwealth Plan of Action for Gender Equality.²³

The task of engaging with wider civil society is complex. Civil society organisations across the Commonwealth vary considerably in size, focus, motives, constituents, initiatives and output. Their areas of expertise range from nursing to agriculture and meteorology to human rights. Their scope ranges from international to municipal. The type and depth of engagement they seek and their capacity to collaborate with the Secretariat also differ greatly. While some may want technical or financial assistance, or merely the kitemark that comes from association with the Commonwealth, others require a strong show of public support and protection. Finally, some organisations want to participate in events or help provide services, while others wish to engage in dialogue and significantly impact Commonwealth policy and programming. This report emphasises the latter type of engagement, because it affirms and demonstrates the partnership that is needed to realise the Commonwealth’s vision of inclusive democratic governance. It also chimes with civil society’s “responsibilities in upholding and promoting democratic culture and practices as well as accountability to the public”.²⁴

The geographic scope of the Commonwealth is a particular challenge to engagement. Several surveyed respondents felt their lack of funding to travel to the UK was detrimental to their engagement with the Secretariat. One suggested solution was for the Secretariat to regularly meet with civil society organisations in their own countries. Of 23 statements released by the Secretariat regarding missions undertaken by the Secretary-General and his deputies between July 2012 and June 2015, three explicitly mentioned contact with civil society.²⁵

Expectations of engagement must keep in mind the capacity of the Secretariat itself. As the line of comparison goes,²⁶ its staff and budget are smaller than that of the United Nations cafeteria.²⁷ The resources of the Foundation are even smaller. The Commonwealth's means of "Adding Global Value", as the 2015 Malta CHOGM theme puts it, cannot rely primarily on its own financial or personnel resources. Rather, it must rest on the ability to leverage "its strengths as a convening and influencing body" and its role as "a network of networks, maximising the impact of the Commonwealth's many associations and the potential this offers for exchange and influence."²⁸

The Secretariat's relationship with civil society is also at times in tension with its intergovernmental status and culture. Efforts at greater engagement can be met with objections from member states and pushback from an institutional culture entering its fifth decade. Civil society is perceived as "both a friend and a foe"²⁹ and staff often find themselves trying to strike a balance between the periodically conflicting roles of bridge-builder with civil society and gate-keeper for governments.

The Secretary-General's office in particular, is seen by civil society actors as a crucial point of contact: 12% of respondents engaged with the office more than five times a year. Among accredited organisations, the figure rises to 23%. No other division of the Secretariat received such a high frequency of engagement. Satisfaction was mixed, with most leaning towards the positive end of the scale. Accredited organisations, in particular, held divergent opinions. 22% described their experience as "Excellent", 30% as "Good", 22% as "Average" and 17% as "Poor".³⁰

There are several areas in which Commonwealth-civil society relationship could improve. Some accredited organisations feel ignored on matters related to their organisational remits. While 46% of accredited respondents reported that they had never been consulted by the Secretariat on issues of concern, several mentioned their keenness to share expertise and be involved in research and other initiatives. Others felt information sharing needed to be more thorough and timely. Some begrudged time spent at meetings and consultations that ended with input "merely featured in documents which [go] nowhere", as a participant at a conference on engagement put it.³¹ Asked if they felt they had a meaningful impact on shaping the Commonwealth's policies, 26% of respondents said "Yes"; 39% were not sure or said "maybe" and 34% said "No".³² Notably, accredited organisations were more pessimistic about their influence over policy. While 25% said they had had an impact, 42% said they did not, with the remainder unsure.

STRATEGIC PLANS

On the road to reform and renewal, both the Secretariat and Foundation have created strategic plans. The Foundation's Strategic Plan for 2012-2016 broadens its focus from professional associations and accredited organisations to support for wider civil society, i.e. non-accredited organisations. In order to increase the effectiveness of civil society's participation in governance in member states, it pledges to empower and engage, build capacity and provide support for an enabling environment in which civil society can function. Its framework is designed to achieve the "ultimate outcome of more effective, responsive and accountable governance in the Commonwealth with civil society participation."³³

Opening up civil society space at ministerial meetings and at the iconic CHOGM has long been a priority for the Foundation, but also a frustration. The new Civil Society Engagement Strategy has therefore opted for "a more selective approach to working with and accessing" spaces for civil society at Commonwealth forums.³⁴ Engagement with the Commonwealth Secretariat and official meetings, while discussed, is clearly seen as only one pathway of many to fulfilling the Foundation's objectives.

This redirection of energy appears justified in light of hard experience. For many years the Foundation's efforts to assist civil society gain space and voice at the councils of the Commonwealth through submissions and speaking slots has been an uphill struggle. Input and access to meetings is uneven. Each ministerial meeting has evolved independently of every other. Some are products of consistent civil society activism, and others are not. Access can expand and shrink with variations in outlook of ministerial representatives who change from meeting to meeting. Sometimes there is also resistance to more inclusion from those organisations who already have a seat at the table. Battling these issues over the years has led to increasing frustration on the part of the Foundation and the civil society it champions. Seasoned participants perceive little success in terms of influence and indeed encounter great resistance.

The Secretariat's Strategic Plan covers the period 2013-2017 and lists "facilitat[ing] the work of the Commonwealth family of organisations" as one of the Secretariat's core responsibilities.³⁵ It has been informed by input from Commonwealth organisations, particularly those in the health and education sectors,³⁶ and influenced by the EPG Report, which itself drew on more than 300 submissions by organisations.³⁷ Attention to this area of work is welcome; however, the plan makes little mention of collaboration with non-accredited organisations, and does not explicitly identify the promotion and protection of civil society space as an institutional goal.

The Strategic Plan drew a range of responses from civil society. While some believe the document was "meaningless; just all the right words thrown in and put into some sort of order...and in terms of engagement with the civil society sector...there's frankly very little,"³⁸ others felt it demonstrated "a genuine interest in the impact of the work of CSOs."³⁹

The plan sets an encouraging tone, but taking its priorities forward requires a greater level of granularity (a development which is occurring, see below). Nearly 73% of respondents said a manual or set of guidelines for engagement, separate from the Strategic Plan, would be helpful.

GREEN SHOOTS: NEW INITIATIVES BY THE SECRETARIAT

Partnerships Officer

During the last two years, improvements to engagement were set in motion. In 2014, the Secretariat put in place a Partnerships Support Officer, tasked with establishing "more meaningful and productive partnerships and to promote the voice of civil society in Commonwealth intergovernmental meetings."⁴⁰

Civil Society generally welcomed the move in the hope that it would facilitate more frequent contact with the Secretariat and help address perennial issues such as lack of sufficient notice for meetings and confusion over navigating the Secretariat's many divisions. So far, the Partnerships Support Officer has been involved in organising meetings between civil society and the Secretariat, implementing some of the initiatives for engagement of the Strategic Plan and holding capacity-building workshops. Regular traffic across the desk indicates its value.⁴¹

Commonwealth Connects

Another promising initiative, limited to accredited organisations, is Commonwealth Connects. The interactive digital platform for collaboration and information sharing provides a space for posting ideas, planning initiatives, co-editing documents and keeping organisations informed of Commonwealth events. Along with practical information about using facilities at Marlborough House, a well laid out library of documents is being assembled. This includes extensive minutes and audio recordings of meetings – a major step towards transparency.

Recent efforts to popularise the site has increased its user base; every active accredited organisation now has a representative with an account.⁴² Making some parts of the site accessible to the public would go towards increasing visibility for the Commonwealth. If it comes to be widely used, Connects has the potential to attract greater engagement with the Secretariat and improve networking among civil society organisations.

Framework for Consultations

A still evolving element of the Strategic Plan that holds potential to improve the relationship between the Secretariat and civil society is its directive for "institutionalised mechanisms of liaison and collaboration" and a "framework of consultations" with accredited Commonwealth organisations.⁴³

In October 2014, the Secretary-General stated that while the exact details had yet to be hammered out, he envisioned: "At least twelve meetings a year between the Secretariat and civil society, business and youth organisations. Accredited organisations would also receive advance background papers and be invited to make submissions, which would be circulated to member states. In future, Commonwealth Secretariat documents would contain references to key civil society recommendations, and a report would be published online on Commonwealth Connects on the ways in which the Secretariat had delivered on its civil society commitments."⁴⁴ Civil society representatives would also be included in the Secretary-General's delegations to intergovernmental meetings.

Consultations

Several of these proposed changes are already in train. In May 2015, a consultation was held between the Secretary-General and accredited organisations. Over 60 attended in person or via Skype. The Secretariat intends to hold two such meetings annually. Meetings have also been held to assist organisations in preparing for the Committee of the Whole (COW – a grouping of senior officials and high commissioners from member states, responsible for finalising the CHOGM Communiqué, to which civil society is permitted to make written and oral representations) and in advance of the Third International Conference on Financing for Development in Addis Ababa. The Commonwealth delegation to the Conference included representatives from associated organisations.

The full framework for consultations has yet to be released. This slate of changes will require the approval of the Secretariat's board. The Secretary-General "saw no reason why member states would disagree."⁴⁵ However, deliberations over the framework have reportedly been slowed by some member states' concerns over expanding the role of civil society in the Secretariat.⁴⁶ The framework will have greater validity and acceptance if details are worked out in close consultation with a wide spectrum of civil society interests, including those pertaining to the circulation of papers, the extent to which civil society recommendations are taken up in Commonwealth documents and the manner in which civil society representatives are chosen for inclusion in delegations. It is also critical that the Secretariat draw into its work the concerns of vulnerable organisations working on sensitive issues, particularly human rights defenders, whose raison d'être is protecting the Commonwealth's core values; none of its initiatives at present highlight this consideration.⁴⁷

Human Rights Unit: An Unfulfilled Mandate

The Human Rights Unit (HRU) at the Commonwealth Secretariat is mandated to the promotion and protection of human rights. This includes the development of programmes emphasising "the indivisibility of civil, political, economic and social rights", the publication of materials for member states and collaboration and cooperation with governments and NGOs.⁴⁸ The unit is also tasked with advising the Secretary-General and CMAG. However, "there is little reporting on the exercise of this power and it is not clear how much its views are filtered, what weight its advice carries or how much it is heeded."⁴⁹ While the HRU's funding and staffing have more than doubled under the present budget,⁵⁰ its still relatively small resources and its status as a unit rather than a full division points to limits on its role at the Secretariat. The HRU lacks a mechanism to proactively and swiftly respond to human rights violations. Both CHRI and the EPG have recommended the creation of a Commonwealth Commissioner for Human Rights to address this gap.⁵¹ CHRI has also long advocated for its status to be upgraded, its remit clearly extended to keep under review and publish human rights violations, and to be available to assist human rights defenders.

GAPS IN ENGAGEMENT

While these new initiatives show the Secretariat attempting to respond to many long-held concerns, the survey findings and interviews pointed to issues yet to be addressed.

Even for organisations experienced in dealing with the Commonwealth, the Secretariat is at times frustratingly opaque. Its structure is sometimes unclear: which points of contact are most appropriate for a given concern or input can be uncertain.

Broadly, while information about the Secretariat and its procedures can be garnered by requesting it, less information is put out as a matter of course. This gap can be seen in the survey. Among those who detailed the manner in which the Secretariat assisted their engagement with the Commonwealth, 53% were provided information only after it was requested, while 42% were proactively provided information.

Commonwealth Ministerial Action Group: Opportunity for Engagement?

The Commonwealth Ministerial Action Group (CMAG) is a unique feature of the official Commonwealth. Established in 1995, it is mandated to uphold, realise, and secure the Commonwealth's fundamental political values as outlined in the Harare Declaration. This includes examining serious and persistent violations of Commonwealth values and principles that include human rights at front and centre. It is the sole authority that can suspend or expel member states from the Association. CMAG can bring a member state under scrutiny on its own assessment, at the behest of the Secretary-General or through another member state. It follows a well-defined assessment process that was laid out in the 1995 Millbrook Declaration⁵² and further elaborated in the report of the High Level Review Group adopted at the 2011 CHOGM at Perth. Comprising nine foreign ministers, CMAG meets thrice during CHOGM years and twice otherwise. There is generally one meeting held around March/April and another in September, in addition to ad hoc meetings or teleconferences.

Though CMAG's role was ostensibly strengthened, the manner in which these changes were applied eroded its ability to take assertive action. The present process appears to have reduced discussions about whether a country should be under CMAG's purview to a procedural debate rather than one that examines the substantive issues involved. As a result, neither Sri Lanka nor Maldives was placed on the formal agenda despite international opprobrium. With the removal of Fiji from its scrutiny, the last meeting actually had no items on its formal agenda.⁵³

Information regarding ministerial meetings has also, till recently with the development of Commonwealth Connects, been insufficiently forthcoming. It remains a significant issue with the CMAG meetings. Dates are not proactively disclosed and too often there is insufficient notice for civil society to be able to make meaningful, well-researched submissions. Further, the agenda is not made public in advance, making submissions pure guesswork.

Unfortunately for those seeking to address egregious violations of Commonwealth values, the most politically sensitive areas of the Secretariat's work are also the most difficult on which to find information. Notably, there is little information in the public domain about the utilisation of the Good Offices, the Secretary-General's discrete diplomatic interventions in member states. There is no consistent disclosure about where they are being deployed, what activities the Secretariat is engaged in or if they have been effective.⁵⁴ Granted, private diplomacy allows candid discussion without causing embarrassment to a member state government, which makes it a potentially useful tool. However, the lack of any post-hoc, broad-brush public updates on progress makes it impossible to gauge the effectiveness of interventions. Excessive secrecy contributes to the appearance that the Commonwealth is ineffective and does not act on its values, weakening its position on the world stage.⁵⁵

The transparency issue is particularly worrisome when one considers how out of line the Commonwealth is with other IGOs. The Secretariat does not currently employ a formalised, public disclosure policy, which has now become common practice at many organisations. The best of these policies balance the need for transparency with that for confidentiality on the most sensitive matters, but with a presumption in favour of the former. They clearly differentiate between what documents will and will not be released, set limited criteria for non-disclosure, and ensure information is not merely available but also well-organised and easily accessible to all stakeholders (including those with language and other barriers). They also offer the option of appeal in cases where those requesting information consider the information to be inappropriately withheld.⁵⁶ A clear and progressive disclosure policy would enhance engagement and add to the Secretariat's good reputation.

While there is a need for more information to flow out of the Secretariat, a related issue is the lack of clarity about what happens to information that goes in. Multiple survey respondents and interviewees struggled with simply not knowing what happens to their submissions and inputs. This lack of certainty over whether the Secretariat is considering civil society's opinions is a contributing factor to pessimism over policy impact.

This is also an issue with submissions to CMAG. Its brief concluding statements typically do not reference civil society inputs. The impossibility of knowing whether they are given any consideration at all might help explain why just 9% of total survey respondents reported engaging with CMAG infrequently, while only two organisations engaged with it "often" or "at every meeting". This is particularly unfortunate because it discourages the participation of civil society organisations that are concerned with upholding Commonwealth core values.

Other periodic meetings are also important because they offer the opportunity for civil society to engage with senior policymakers. In addition to CHOGM, eleven ministerial meetings, ranging from foreign affairs ministers to sport ministers, are held at intervals ranging from six months to three years. These events are an invaluable opportunity for civil society actors to advise ministers based on their topical expertise, share their concerns and the issues on the ground, and have the influence over policy outcomes that makes civil society's participation worthwhile. These meetings are organised by the respective Secretariat divisions, but the decision on what space is available for civil society rests to a large extent with ministers themselves.

A primary concern for civil society in terms of ministerial meetings is the lack of standardisation. The space for civil society varies from meeting to meeting as do practices. For example, the Education Ministers Meeting allows for submissions, presentations and observation. On the other hand, no forums for civil society participation exist at the Commonwealth Public Service Ministers meeting. Although civil society organisations are not officially excluded it is not considered normal practice to attend the intergovernmental sessions.⁵⁷

The Women's Affairs Ministers Meetings (WAMMs) have stood out in encouraging civil society engagement. Civil society also played a crucial role in developing the Commonwealth's Plan of Action for Gender Equality.⁵⁸ During the 7th and 8th WAMM, every 6th speaker was a civil society representative. This was an informal arrangement and was usually exercised at the discretion of the Chair.⁵⁹ However, this practice was subsequently discontinued. Despite this, civil society organisations involved at the meetings are comfortable with the level of direct access to ministers as well as Secretariat staff. They feel that, over time, they have been successful in achieving an "improved status for women" within the Secretariat.⁶⁰

The biennial CHOGM is the most important policy-setting moment for the Secretariat. Preparations for CHOGM begin months before the summit. In the summer before CHOGM, the Secretary-General starts consulting leaders, particularly the host country's (who will chair the meeting and act as Chair of the Commonwealth for the following two years), about agenda topics. These are also discussed at the September Foreign Affairs Ministers' Meeting in New York when the UN General Assembly meets. Although civil society can make submissions to this meeting through their Foreign Affairs Ministries or the Secretariat, few do. At the same time, preparations begin at the Secretariat for the mid-autumn meeting of the Committee of the Whole.

The pre-CHOGM process provides multiple opportunities for engagement, but they are not always easily apparent or accessible. They frequently require intervention with several officials and High Commissions. In the absence of assistance and timely information from the Secretariat, these opportunities are often lost. In the lead-up to the Malta CHOGM, the Secretariat has been proactive in bringing civil society organisations together and encouraging them to make collective submissions on the major thematic issues to the COW. While encouraging, this should not preclude individual organisations routing their submissions into the official reading material through Secretariat channels.

At the CHOGMs themselves, civil society is largely kept at a distance from officials and, when they are afforded access, the arrangements tend to be tightly controlled. Of course, the organisation of meetings is not exclusively in the hands of the Secretariat or the Foundation; the host government often determines levels of engagement. The ability of the country to accommodate so many people, the availability of venues and time coordination with official events and parallel forums also decides the degree of direct contact. After 9/11, security concerns have added to the tendency to keep state and citizens apart.

The relatively relaxed arrangements at the 2009 Trinidad and Tobago CHOGM made moving in and out of "Officials Only" lounges, and interacting with government members, easy. By contrast, there was an intimidating security presence at the 2013 Sri Lanka CHOGM. The separation between civil society and leaders was emphasised by the site of the People's Forum, which was nearly 100 kilometres away from the location of the CHOGM itself. High registration fees and pre-registration security checks added to an atmosphere of isolation and exclusivity.⁶¹

These restrictions contrast poorly with the degree of contact afforded to other interests. The Director of the Commonwealth Foundation, for example, has noted “the fact that separately representatives from the youth sector had been granted direct access to heads of government at CHOGMs was not lost on civil society. That civil society is not given an opportunity to engage face to face with Heads still smarts.”⁶²

Finding solutions to these gaps in engagement is of existential importance to the Commonwealth. As the Maltese Prime Minister noted, the Association is afflicted with: “All the symptoms of division and dysfunction in an organisation that depends on unity and cooperation. While we should not prepare funeral rites, we need to admit that the patient is sick.”⁶³ As it struggles to find its niche, the Secretariat’s role becomes all the more vital and needs repair and rethinking. Essential to this is recalibrating its relationship to civil society. Driven by competing state agendas, the Secretariat treads a cautious and sometimes overly deferential path when responding to threats to core values. In this quest to please everyone, it pleases few, compromising its moral authority and leaving the defenders of its principles vulnerable.

The Malta CHOGM offers a chance to seize the opportunity to revive the Secretariat’s profile. The changes that have already been made to engagement are a good start; with a new Secretary-General due to be elected and a Chair who supports creative reform taking office, now is the moment to take even bolder steps. This can be the year the Secretariat, the Foundation, member states and civil society begin building together the foundations of a truly people-centred Commonwealth.

RECOMMENDATIONS

With the new opportunities available for the Commonwealth to springboard into the type of association it hopes to be, it is imperative that the Association enables itself to maximise opportunities for access, equal partnership and effective response to civil society. Programmes of engagement must make every effort to embrace groups from across the Commonwealth. Civil society will also benefit greatly from unequivocal support when advocating for Commonwealth values.

With this in mind, CHRI makes the following recommendations:

1. TO THE COMMONWEALTH HEADS OF GOVERNMENT

Regarding the Secretariat

Mandate the Secretariat's Human Rights Unit to provide regular reports to the Heads on:

- The deterioration and advancement of civil society space across the Commonwealth and
- Actions taken by the Secretariat to promote, uphold and defend civil society space with particular regard to the protection of human rights defenders.

Regarding Civil Society

Reaffirm the value of effective civil society participation in all Commonwealth activities.

Consistently expand opportunities for meaningful dialogue with civil society at all its meetings including at CHOGM and extend the most inclusive features of present practice to all its meetings with immediate effect.

Take stock at every CHOGM of the numerous restrictions on and issues affecting civil society space across the Commonwealth as these restrictions are diametrically opposed to the Commonwealth's fundamental values and have the effect of hampering the necessary reform and renewal of the Association. CHRI urges the Heads to commit themselves to working for the abolition of these unjustified restrictions.

Regarding Human Rights Defenders

Recognise that civil society actors across the Commonwealth who advocate for the promotion and protection of rights in line with Commonwealth values are especially vulnerable and emphasise in particular the importance of supporting and encouraging the activities of human rights defenders and ensuring their space and safety.

2. TO THE COMMONWEALTH MINISTERIAL ACTION GROUP

Activate CMAG's mandate to ensure that member states in serious and persistent violation of the Harare Declaration and especially human rights violations are taken under consideration.

Routinely accept written submissions and invite oral presentations from civil society.

Provide feedback on its deliberations via statements at the end of meetings.

Disclose meeting dates and agendas well in advance.

3. TO THE COMMONWEALTH SECRETARIAT

Regarding Ministerial Meetings

Assist and encourage all ministerial meetings to adopt the most inclusive practices such that they maximise civil society input.

Facilitate even-handed inclusion of accredited and associated organisations as well as wider civil society who share and uphold Commonwealth values.

Enable optimum civil society participation in furthering Commonwealth values by allowing accredited organisations that wish to make individual submissions outside of the collective processes to use the Secretariat's procedures to put forward the issues and concerns at ministerial meetings and at pre-CHOGM meetings.

Regarding Civil Society

Create in consultation with civil society a specific policy for engagement that is modern, inclusive and holistic and which includes a time-bound action plan with internal goals and standards.

Appoint a senior official within the Secretariat with a specific mandate to advance civil society engagement across divisions and provide the Secretary-General periodic status reports, beginning immediately, which illustrate the challenges and outcomes.

Consult other intergovernmental associations, such as the Community of Democracies and the Open Government Partnership to share and develop best practices (see box).

The Community of Democracies: A Commitment to Civil Society Space

The Community of Democracies is an intergovernmental association dedicated to promoting democratic governance. Although its members are states, it formally includes civil society in its operations. The International Steering Committee, an autonomous group of civil society representatives, is tasked with organising civil society and integrating it into the work of the organisation. Civil society can participate in all sessions of the Community of Democracies' Ministerial Conferences, its headline biennial meetings, and is represented on all working groups established by the organisation.⁶⁴

The Working Group on Enabling and Protecting Civil Society is tasked with coordinating efforts to combat threats to civil society. The Working Group comprises thirteen governments (three, including the Chair, are Commonwealth members), four legal-focused civil society organisations and three advisory organisations.⁶⁵

Its main diplomatic tool are "Calls to Action", which serve "as an early warning mechanism to promote international information sharing, engagement and coordination in stimulating a diplomatic response by the international community when draft legislation arises that has the potential to significantly reduce the space in which civil society can operate". These are distributed to governments and key contacts in foreign ministries, aid agencies and regional and multilateral organisations.⁶⁶ It also assists governments with drafting pro-civil society legislation, raises issues of civic space in international forums and conducts workshops on the enabling environment for civil society globally. The Governments of the United States⁶⁷ and Canada⁶⁸ have both referenced their involvement in the Working Group as part of a campaign of coordinated multilateral pressure, which they believe is a key component of effectively combating civil society restrictions.

The Open Government Partnership: Inclusive Governance

The Open Government Partnership (OGP) has 66 participating member states. Its Steering Committee comprises 11 representatives each from member governments and civil society. Its task is to protect the Partnership's values, coordinate open governance efforts and provide outreach to governments and organisations. Decisions are made by consensus or, failing that, a simple majority vote. The committee's management team consists of a lead government chair, a support (or incoming) government chair and two civil society chairs.

Any participant in the Partnership, including a civil society member, can alert the Steering Committee to violations of OGP values by member governments – including attempts to limit civil society space and freedom of expression and assembly. Any member of the Steering Committee can offer diplomatic and technical assistance to help resolve the issue. If the situation does not improve, the Steering Committee has the power to list the member state as inactive within the Partnership until the situation is resolved.⁶⁹ The OGP also has a Civil Society Engagement Team that works to support civil society's engagement with the organisation through capacity building, knowledge sharing and networking. This includes the development of advocacy tools to help civil society engage more effectively with governments.⁷⁰ It also works as an independent advocate for civil society within the Partnership, ensuring its "key interests are reflected in international OGP governance, positions and events".

Share Commonwealth Connects with non-accredited organisations to facilitate interaction and networking amongst the organisations.

Adopt and implement a disclosure policy that maximises proactive disclosure, minimises exceptions and has a forum for appeal against inappropriate withholding of information.

Publish regularly a broad-brush assessment of the meetings with civil society held as part of the Secretary-General's Good Offices work.

Establish a policy of providing feedback on submissions made and concerns raised by civil society – perhaps through the medium of Commonwealth Connects.

Ensure that the benefits of accreditation and the procedures are widely publicised.

4. TO THE COMMONWEALTH FOUNDATION

Support the building of strong civil society networks whose work aligns with the Foundation's strategy of achieving a more responsive and accountable governance with civil society participation.

Prioritise support for civil society groups and human rights defenders at risk on account of their work in challenging environments.

5. TO CIVIL SOCIETY

Actively engage in the work of all divisions and institutions of the Commonwealth with the aim of constructing effective partnerships with them.

Maintain clear direction and focus in advocacy work.

Ensure advocacy is underpinned by rigorous research and is factually correct. In addition, wherever possible, take collective action and put forward joint statements and submissions.

Work in solidarity with each other and wider civil society to maximise the promotion of the fundamental values and principles of the Commonwealth.

Assist the official Commonwealth in improving the Association's visibility and profile.

Forge strong links with civil society organisations around the Commonwealth (particularly in smaller states) to assist those who are unable to have a physical presence at Commonwealth meetings or the Secretariat.

ANNEX 1

MINISTERIAL MEETINGS

Meeting and Composition	Frequency	Who Can Engage	Requirements to Engage
Foreign Ministers Meeting	Annually	Accredited organisations	Accreditation and invitation
Conference of Education Ministers [CEEM]	Every three years	Accredited organisations Partner organisations of the education section	Accreditation to meeting Vital working relationship with the Secretariat's Education Section or Ministry of Education in the member country
Health Ministers Meeting	Annually	Accredited organisations Invited guests/ observers (who are non-Commonwealth organisations)	Accreditation to meeting Organisations must fulfil an important role
Finance Ministers Meeting	Annually	Accredited organisations	By invitation, which usually goes to those organisations who have been in "substantive consultations with the Commonwealth Foundation on the theme that the meeting is on"
Women's Affairs Ministerial Meeting	Every three years	Accredited organisations Other international organisations working on women's affairs may be invited	Relationship with the Secretariat's Gender Section and/or the Foundation Must be involved in activities leading up to the meetings
Youth Ministers Meeting	Every four years	Accredited organisations National Commonwealth organisations from Youth Councils	Accredited organisations subject to having a working relationship with the Youth Affairs Division and the Foundation

Sports Ministers Meetings	Every two years	Commonwealth organisations and especially those in the Commonwealth Games Federation and the Commonwealth Advisory Body on Sports	Accreditation, to be approved by the Secretary-General Working relationship with the Commonwealth sports ministers Organisations attend by invitation only
Consultative Group on the Environment (CCGE)	Annually	Professional and Commonwealth organisations with a focus on environmental issues	Accreditation, subject to having a working relationship with the Economic Affairs Division
Consultative Group on Human Settlements (CCGHS)	Every two years	Commonwealth organisations and ComHabitat organisations	Must be members of ComHabitat ⁷¹
Law Ministers Meeting	Every three years	Law ministers and attorneys general from Commonwealth countries Senior officials	Status as minister or attorney general Partner organisations of the Secretariat can provide input and can submit papers – partner organisations to be accredited as observers Accredited organisations can apply to the Secretariat for permission to attend

ANNEX 2

CIVIL SOCIETY IN THE COMMONWEALTH CHARTER AND MAJOR DECLARATIONS

The Commonwealth has issued several declarations over the years. These have come about through agreements by the Heads and many documents include civil society as an essential part of the Commonwealth. The Charter, the most recent distillation of core Commonwealth values, recognises the important role civil society plays in member states both directly, in paragraphs 1 and 16, and indirectly in its commitment to human rights and freedom of expression. Together, the documents excerpted below make a compelling case that civil society is crucial for the implementation of Commonwealth values and its agenda of social and economic development, and for strengthening and sustaining inclusive democratic governance.

THE COMMONWEALTH CHARTER, 2013

Preamble

“We the people of the Commonwealth... Welcoming the valuable contribution of the network of the many intergovernmental, parliamentary, professional and civil society bodies which support the Commonwealth and which subscribe and adhere to its values and principles...”

1. Democracy

“We recognise the inalienable right of individuals to participate in democratic processes, in particular through free and fair elections in shaping the society in which they live. Governments, political parties and civil society are responsible for upholding and promoting democratic culture and practices and are accountable to the public in this regard.”

2. Human Rights

“We are committed to the Universal Declaration of Human Rights and other relevant human rights covenants and international instruments. We are committed to equality and respect for the protection and promotion of civil, political, economic, social and cultural rights, including the right to development, for all without discrimination on any grounds as the foundations of peaceful, just and stable societies. We note that these rights are universal, indivisible, interdependent and interrelated and cannot be implemented selectively.”

5. Freedom of Expression

“We are committed to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes.”

16. The Role of Civil Society

“We recognise the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including the freedom of association and peaceful assembly, and in achieving development goals.”

THE PERTH DECLARATION OF FOOD SECURITY PRINCIPLES, 2011

4. “Commonwealth member states affirm the important role that women, youth, farming and fishing communities, civil society, and the private sector play in sustainable development and the need for their effective involvement in driving climate-smart agriculture and the food security agenda.”

AFFIRMATION OF COMMONWEALTH VALUES AND PRINCIPLES, 2009

5. Our Values and Principles

“Democracy: reaffirming our belief in the inalienable right of the individual to participate by means of free and democratic political processes in shaping the society in which they live; underlining that not only governments but all political parties and civil society also have responsibilities in upholding and promoting democratic culture and practices as well as accountability to the public in this regard;

“Freedom of Expression: emphasising that peaceful, open dialogue and the free flow of information, including through a free, vibrant and professional media, enhance democratic traditions and strengthen democratic processes;

“Civil Society: acknowledging the important role that civil society plays in our communities and nations as partners in promoting and supporting Commonwealth values and the interests of the people.”

9. “We also express our continuing support for the Commonwealth Secretariat’s work on strengthening democratic institutions, processes and culture. In this context, we welcome the Secretariat’s collaboration with the Commonwealth Parliamentary Association (CPA), the Commonwealth Local Government Forum (CLGF) and other relevant organisations to promote best practice and democratic culture.”

13. “We are committed to securing a greater level of coordination and collaboration between all Commonwealth contributors and stake-holders, particularly including governments, civil society, business, the diversity of Commonwealth professional and other associations that bring together our citizens, academia and others.”

THE COMMONWEALTH DECLARATION ON INVESTING IN YOUNG PEOPLE, 2009

“We recommend that greater partnerships with national and international actors, including inter-generational alliances, be engendered towards the fulfilment of the youth development vision of the Commonwealth.”

THE LAKE VICTORIA COMMONWEALTH CLIMATE ACTION PLAN, 2007

10. “Effective action will only be possible with the willing support of the Commonwealth population as a whole, including women and young people. We invite the family of Commonwealth organisations to play a full part in promoting a better understanding of climate change and its impacts, and in addressing adaptation and mitigation challenges.”

12. “We are also resolved, individually and collectively, to pursue the following actions, which should also inform our positions at Bali:

(ii) Promotion of Commonwealth work, drawing on our networks of professional associations and other resources, to strengthen consideration of the human and economic aspects of climate change.”

THE MUNYONYO STATEMENT ON RESPECT AND UNDERSTANDING, 2007

5. “They directed that future Commonwealth action to promote respect and understanding should build on and extend existing Commonwealth programmes, at both national and international levels. In this context, they identified activities in relation to young people, women, education and the media, as the priority fields of action. These programmes should also engage partners from civil society and other sectors.”

ABERDEEN AGENDA, 2005

Opportunity to Participate in Local Decision-Making:

“Effective consultation is central to the engagement of the community in the local policymaking process. However, critical to this is a vibrant civil society and a clearly defined relationship between it and local government. It is important for local government to be proactive, and reach out to its communities to ensure that public participation is maximised. The political will to develop that relationship with its electorate must be nurtured within the local council itself. The building of a robust relationship between local government and civil society is central to local democracy and to the development of sustainable communities.”

Open Local Government Accountability:

“Robust, independent regulatory bodies need to be in place to safeguard against corruption, mismanagement and the inappropriate use of resources by local government, politicians and officials. Civil society needs to be strengthened as a counterpart in this process. Participatory budgeting is a tool for enhancing accountability which is also effective at training local civil society in holding their local councils to account.”

Openness to Scrutiny:

“Policy determined by the executive/local authority should be open to scrutiny by other elected members and appropriate civil society organisations/community individuals. Effective leadership should welcome scrutiny both from within the local council and by the wider community. This requires skilled councillors and individuals in civil society able to effectively scrutinise policy and processes intelligently and constructively.”

Building Strong Local Democracy and Good Governance:

“There is also a need to promote civic education and build the capacity of civil society organisations to enable them to engage in and participate effectively in the local democratic process.”

THE LATIMER HOUSE PRINCIPLES, 2003

X. Civil Society:

“Parliaments and governments should recognise the role that civil society plays in the implementation of the Commonwealth’s fundamental values and should strive for a constructive relationship with civil society to ensure that there is broader opportunity for lawful participation in the democratic process.”

THE MILLBROOK COMMONWEALTH ACTION PLAN ON THE HARARE DECLARATION, 1995

II. Promoting Sustainable Development:

6. “[We] support the Secretariat in facilitating the adoption by more Commonwealth countries of successful self-help schemes, with non-governmental agencies and others acting as catalytic agents, for mobilising the energies of people in alleviating poverty.”

THE HARARE DECLARATION, 1991

12. “We invite the Commonwealth Parliamentary Association and non-governmental Commonwealth organisations to play their full part in promoting these objectives [of social, economic and political development], in a spirit of cooperation and mutual support.”

THE SINGAPORE DECLARATION, 1971

6. “We believe in the liberty of the individual, in equal rights for all citizens regardless of race, colour, creed or political belief, and in their inalienable right to participate by means of free and democratic political processes in framing the society in which they live.”

ANNEX 3

CIVIL SOCIETY IN COMMONWEALTH HEADS OF GOVERNMENT MEETING COMMUNIQUÉS

THE DURBAN, SOUTH AFRICA COMMUNIQUÉ, 1999

Fundamental Political Values:

“Heads of government renewed their commitment to the Commonwealth’s fundamental political values of democracy, human rights, the rule of law, independence of the judiciary and good governance. They reiterated that fundamental political values and sustainable development were interdependent and mutually reinforcing, and that economic and social progress worked to enhance the sustainability of democracy. They called for increased international cooperation to support democracies in achieving benefits for the poor.”

“Heads of government noted that the Commonwealth had made commendable progress in making democracy a way of life in the Association and believed that it needed to be deepened. They felt that not only governments but all political parties, other organs of civil society and the public at large also had equal responsibility for upholding and promoting the democratic ethic.”

Civil Society:

“Heads of government declared that people-centred development implied that people must be directly involved in the decision-making process and in the implementation of development plans and programmes through their own organisations. They noted the significance of civil society in empowering people to benefit from globalisation, in contributing towards the goals of poverty elimination, equal opportunity and fair distribution of resources and in helping to deal more effectively with ethnic, racial and religious conflicts. They acknowledged the need to enable capacity-building efforts of local and regional non-governmental organisations. They noted the report of the Commonwealth Foundation on Citizens and Governance and the Communiqué of the Third Commonwealth NGO Forum and asked senior officials at their next meeting to study the issue of the Forum presenting its views to the next CHOGM.”

THE COOLUM, AUSTRALIA COMMUNIQUÉ, 2002

Fundamental Political Values:

8: “Heads of government reaffirmed their commitment to the fundamental political values of the Commonwealth as set out in the Harare Commonwealth Declaration and reinforced by the Millbrook Action Programme. They reiterated in particular their commitment to international peace and order, democracy, good governance, human rights, freedom of expression and the rule of law.”

THE ABUJA, NIGERIA COMMUNIQUÉ, 2003

The Commonwealth Foundation:

68: “Heads of government received the Report of the Commonwealth Foundation and commended its work in developing civil society’s engagement and partnerships with governments in the Commonwealth. They expressed appreciation for the positive contribution of civil society in advocacy and capacity building for democracy and sustainable development in member countries. They noted the Foundation’s request to review the level of assessed contributions to finance the increasing programme of activities undertaken by the Foundation.”

THE VALLETTA, MALTA COMMUNIQUÉ, 2005

Civil Society:

91: “Heads of government acknowledged the contribution of civil society, including in supporting democracy, human rights, peace and development. They also acknowledged that governments and civil society share a common objective in addressing development and governance challenges and acknowledged the importance of partnership underpinned by sound institutional, legal and policy frameworks. They urged civil society to be proactive in the local and national environment with well-defined priorities and governance arrangements.”

92: “Heads of government noted the steps being taken by the Commonwealth and its institutions to mainstream civil society in all activities and called for these efforts to be increased. They noted civil society’s call for the Commonwealth to use its international standing to advocate for policy coherence at the global level.”

The Commonwealth Foundation:

93: “Heads of government received the Report of the Commonwealth Foundation and commended its work in enhancing civil society’s engagement and dialogue with ministerial meetings, Commonwealth Secretariat programmes and activities, and COW. They recognised the resulting opportunities for governments and civil society to address development and governance challenges and Commonwealth priorities through joint partnerships. They expressed support for the Foundation’s work in building such cooperation, as well as its programmes to strengthen the work of civil society in achieving democracy, sustainable development and cultural understanding in member countries. They also welcomed the Foundation’s plans to expand its work through a combination of increased membership, partnerships and voluntary contributions.”

THE KAMPALA, UGANDA COMMUNIQUÉ, 2007

Civil Society:

77: “Heads of government welcomed progress involving civil society in all aspects of the Commonwealth’s work. They noted that several ministerial meetings now included provision for dialogue with civil society and called for this to be extended where possible.”

78: “They took note of the outcome of the Peoples Forum and agreed with civil society that political, economic and human transformation should recognise and respect the right to freedom of association and assembly, as well as freedom of expression and the media, and access to information. They reaffirmed that it requires the active participation of all social groups in making decisions that shape their destiny in accordance with international and domestic law. They noted civil society concerns that poverty, climate change, HIV/AIDS and rapid urbanisation as well as risk of failure to meet the Millennium Development Goals by 2015, pose serious threats to transformation.”

79: “The Heads acknowledged that the Commonwealth’s vision of development and democracy cannot be achieved without realising people’s full potential, requiring significant investments in good governance and social capital. This includes gender equality and empowerment, youth opportunity and decent work, along with support for innovation in ICTs, science and technology. The Heads urged civil society to support partnerships and links for progress in health systems, education for all and sustaining the environmental resource base. They also recognised the role of civil society in achieving Commonwealth objectives, including democracy, good governance, development and respect for cultural diversity.”

Commonwealth Foundation:

80: “Heads of government received the report of the Commonwealth Foundation and commended its work on culture, governance and democracy and sustainable development. They recognised the work of the Foundation in providing leadership on the Commonwealth’s engagement with civil society at ministerial meetings and through regular consultations. They welcomed Antigua and Barbuda and South Africa into membership of the Foundation.”

THE TRINIDAD AND TOBAGO COMMUNIQUÉ, 2009

Civil Society:

112: “Heads of government affirmed the centrality of civil society, including professional networks, in supporting the values and principles of the Commonwealth. They recognised the importance of a vibrant and active civil society as a key partner in delivering a sustainable and equitable future for all, and valued the contribution that civil society continues to make through its engagement with Commonwealth intergovernmental institutions and processes. They noted the statement from the Commonwealth People’s Forum and its assessment of the interconnected challenges facing Commonwealth citizens and the particular impacts on women and young people.”

Commonwealth Foundation:

113: “Heads of government received the Report of the Commonwealth Foundation and its four year Strategic Plan 2008-12: Civil Society: A Force for Transformation. They valued the unique role of the Foundation in working with governments and civil society to forge partnerships. They welcomed the commitment of the Foundation to expand its grants programme and the consequent 25% increase in support allocated to civil society over the period 2006-08. They recognised the value of dialogue between civil society and governments, both nationally and in Commonwealth processes, and the contribution made by the Foundation in providing civil society a voice at ministerial meetings, particularly at 17CCEM.⁷² They noted the additional resources secured by the Foundation in support of its mission and commended its initiatives on culture and development, sustainable economic recovery and fisheries and food security. They welcomed Maldives into the membership of the Foundation.”

THE PERTH, AUSTRALIA COMMUNIQUÉ, 2011

9: “[The Heads agreed] to promote the future of the Commonwealth through the strong and important voice of its people by:

- a) Welcoming the contribution made by inter-governmental, associated and other Commonwealth organisations, including the Commonwealth Foundation, Commonwealth of Learning, Commonwealth Parliamentary Association, Commonwealth Business Council, Commonwealth Local Government Forum and Commonwealth Association of Public Administration and Management;
- b) Urging Commonwealth organisations and civil society to enhance Commonwealth networks and partnerships with a view to achieving the fundamental values and aspirations of the Commonwealth;
- c) Re-launching the Commonwealth Foundation in 2012, while retaining its fundamental intergovernmental nature and maintaining its accountability to member states, with a revised mandate and memorandum of understanding so that it can more effectively deliver the objectives of strengthening and mobilising civil society in support of Commonwealth principles and priorities; and
- d) Welcoming the outcomes of the Commonwealth People’s Forum, Business Forum and Youth Forum.”

THE COLOMBO, SRI LANKA COMMUNIQUÉ, 2013

Core Values of the Commonwealth:

6: “[In the context of the adoption of the Commonwealth Charter], they noted that the people of the Commonwealth, through the Commonwealth Charter, had emphasised the importance of democracy; human rights; international peace and security; tolerance, respect and understanding; freedom of expression; separation of powers; rule of law; good governance; sustainable development; protection of the environment; access to health, education, food and shelter; gender equality; young people; the needs of small and vulnerable states; and the role of civil society. The Heads emphasised that these values were interlinked and mutually reinforcing.”

Political Values:

33: “The heads of government noted the fundamental and abiding requirement for all Commonwealth citizens to be able to participate in democratic processes and to hold their governments to account, in order to shape the communities in which they live. The Heads affirmed their conviction that it is the role not only of governments but also of political parties and civil society to promote and uphold democratic culture and practices.”

ANNEX 4

CIVIL SOCIETY IN THE RECOMENDATIONS OF THE 2011 EMINENT PERSONS GROUP REPORT

At the 2009 CHOGM, the heads of government created an Eminent Persons Group (EPG), to report on how to reform the Commonwealth. The report, “A Time for Urgent Reform”, was delivered at the 2011 CHOGM and included 106 recommendations, many of them pertaining to the Association’s engagement with civil society. The Heads accepted 84 recommendations wholly or in part; 16 recommendations were rejected and 9 were overtaken by events. A significant proportion of the recommendations relating to civil society were rejected; *these are shown in italics below.*

A Commonwealth Charter:

R1. A “Charter of the Commonwealth” should be established after the widest possible consultation in every Commonwealth country. Civil society organisations should be fully involved with national governments in the process of pan-Commonwealth consultations, including in the organisation of the process and assessment of its results. A task force should be appointed to analyse the findings of the national consultations and to make recommendations on that basis to Heads of Government. If the findings favour a Charter, the task force should be authorised to draft the final text.

Democracy, the Rule of Law and Human Rights:

R2. *A Commonwealth Commissioner for Democracy, the Rule of Law and Human Rights should be appointed to provide well-researched and reliable information simultaneously to the Secretary-General and the Chairperson of CMAG on serious or persistent violations of democracy, the rule of law and human rights in member states, and to indicate approaches for remedial action.*

Strengthening Democratic Culture and Practices:

R11. The Commonwealth should broaden its election observation mandate beyond the existing period (which is now ordinarily two weeks before the date on which elections are held). The Secretariat should provide Commonwealth Democracy Observer Teams that arrive in some strength, optimally two months in advance of a planned election day (where this is possible), or where the election is called suddenly, as close as possible to the date on which the election is called to meet electoral officials, political parties and civil society to ensure, through promotion and engagement, an open and democratic electoral process leading up to, including, and following, election day.

Advocating Reform of the International Financial Architecture:

R26. Commonwealth governments should strengthen their advocacy by involving in a systemic way the full gamut of Commonwealth networks, including civil society and professional associations.

Action on Climate Change and Existential Threats:

R43. The Secretariat should establish a working relationship with organisations concerned with disasters occurring in Commonwealth countries and should maintain a roster of professionals upon whom it could call on to provide: (i) a rapid response to a member state that requests the help of experienced personnel after a disaster; and (ii) training and guidance in disaster preparation and mitigation. Additionally, the Secretariat should develop with governments an automatic standard for the entry of experts and equipment into affected countries.

Focusing CHOGMs on Leaders’ Discussions:

Access and Engagement:

R70. *We are aware that there are ambiguities in the pre-CHOGM process surrounding civil society engagement. Many of those with whom we consulted suggested that the level and degree of access to Heads for civil society should be enhanced, and that such*

access should be more democratic, ensuring that all stakeholders are represented. We are conscious of the need to balance access and engagement with the ultimate value of Heads meeting to talk amongst themselves in a very limited time frame. With this in mind, we propose a strengthened engagement between civil society organisations and Foreign Ministers at a pre-CHOGM meeting during the year between CHOGMs with a report of the engagement presented to the Heads for action.

Ministerial Meetings:

R77. Ministerial meetings should provide space for unstructured dialogue with representatives of civil society on matters of particular relevance and urgency, but should also receive, through the Secretariat, written submissions from CSOs for consideration and action.

The Relationship between the Secretariat and the Foundation:

R80. *The Secretary-General should continue to have primary responsibility to manage the interface between civil society and governments, and the Commonwealth Foundation should bolster its efforts in grant-making to, and capacity-building of, civil society, based on an early review of productive outcomes.*

R83. Member governments, facilitated by the Secretariat, should strengthen the current system of accreditation, which should have at the centre of its criteria that an organisation, in its everyday activities, is living up to the values of the Commonwealth. This will ensure that there is recognised and demonstrable value in being accredited to the Commonwealth as well as setting out the associated expectations and responsibilities that apply by virtue of the privilege of that accreditation.

Integrating Commonwealth Organisations and Spreading the Face of the Commonwealth:

R84. *To spread the face of the Commonwealth across all regions, governments should offer incentives for existing and new Commonwealth civil society organisations to locate themselves in their countries. Such incentives could include start-up grants to cover the cost of office space and a small number of staff and/or project funds.*

R86. The Commonwealth Foundation should be given an explicit mandate to mobilise Commonwealth civil society around global issues. This would be another expression of the Foundation's existing mandate to be a focal point for drawing together the strands of Secretariat-accredited Commonwealth civil society organisations including non-governmental bodies and professional associations.

R87. The Commonwealth Secretariat should coordinate its work with associated Commonwealth institutions, at annual meetings convened by the Secretary-General, to draw on their technical and other expertise so as to avoid utilising expensive external consultants, where possible, and reduce in-house costs. The Secretariat should allocate funds for which these organisations can apply to implement programmes for which they are better suited than the Secretariat.

R89. The Secretary-General should refocus the work of the Civil Society Liaison Unit, whose task would be to develop better linkages and functional cooperation between Commonwealth agencies in the field so as to unify and integrate their work more effectively with the Secretariat's programmes.

R90. Commonwealth governments should continue to support the "Commonwealth Connects" portal as a cornerstone of twenty-first century networking and partnership, and to support expansion of professional "communities of practice" such as CommonLII.

Making Engagement between Governments and Civil Society Meaningful:

R91. *Foreign ministers should hold dedicated and pre-planned meetings with representatives of CSOs and professional organisations during the years between CHOGMs to agree on recommendations for joint programmes and projects which would be submitted to the next CHOGM for endorsement and implementation.*

ANNEX 5

SURVEY METHODOLOGY

CHRI conducted a survey of civil society organisations working in Commonwealth countries between February and June 2015. CHRI contacted 290 organisations, including every accredited organisation, and received 92 valid responses. Of these, 34 respondents are accredited organisations (which for this purpose also refers to associated organisations), representing 44% of the total number of organisations accredited to the Commonwealth.

The respondents reflect the diversity of civil society in the Commonwealth, running the spectrum from professional associations to activist groups. They range in size from local and regional associations to major international CSOs. In addition to the large number of London-based organisations, responses were registered from CSOs based in the biggest Commonwealth countries, such as Nigeria and India, and some of the smallest, including Malta, Rwanda, Fiji and Belize. Of these, 37% work in human rights, 18% in governance, 18% in development and 15% in the educational and cultural field. In terms of organisational activities, 62% of respondents work in advocacy, 47% in training, 36% in research and 36% in policy.

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CHRI'S PREVIOUS REPORTS TO CHOGM

The Missing Link: A Commonwealth Commissioner for Human Rights (2013)

The Missing Link calls for the establishment of a Commonwealth Commissioner for Human Rights – the missing link in the Commonwealth reforms process. Experience shows that in the absence of an independent entity to keep human rights under review the promise of a renewed organisation will not be fulfilled. Now, more than ever before, there is value in the appointment of a Commonwealth Commissioner for Human Rights to rebuild the confidence of its people in the values of the Commonwealth and to fill the gap between promise and practice.

A Partnership for Human Rights: Civil Society and National Human Rights Institutions (2011)

A Partnership for Human Rights focuses on the relationship between national human rights institutions (NHRIs) and civil society actors and makes the assertion that obstacles to developing good working relationships must be overcome. The report explores successful partnerships in the Commonwealth, showcases examples where close collaboration and consultation have proven to be mutually enhancing and calls on the Commonwealth to become a champion of NHRI and civil society engagement.

Silencing the Defenders: Human Rights Defenders in the Commonwealth (2009)

Silencing the Defenders investigates the risks faced by human rights defenders in the Commonwealth, and explores how different contexts serve to magnify their vulnerability to state-sanctioned oppression. The report advocates that international, regional and national mechanisms be used to expand and safeguard the space of those using legitimate means to further human rights.

Stamping Out Rights: The Impact of Anti-Terrorism Laws on Policing (2007)

Stamping Out Rights examines the impact of anti-terrorism legislation on civilian policing, looking at how anti-terror laws that relate specifically to police powers have affected policing on the ground. It provides practical suggestions for the state, police and communities to work together to improve security for all in the effort to counter terrorism.

Police Accountability: Too Important to Neglect, Too Urgent to Delay (2005)

The Police Accountability report explores the critical relationship between accountability of the police in the Commonwealth and the protection and promotion of basic rights in communities. The report considers the defining elements of good and bad policing and puts forward a road map for police reform based on accountability to the law, accountability to democratic government and accountability to the community.

Open Sesame: Looking for the Right to Information in the Commonwealth (2003)

Open Sesame demonstrates the value to democracy and development of ensuring that people have a guaranteed right to access information held by government and other powerful institutions as well as the urgency of enabling that right. The international standards, practice and lessons expounded in this report offer a practical solution to the all too evident systemic governance problems that beset most Commonwealth countries today through the neglect of this fundamental right.

Human Rights and Poverty Eradication: A Talisman for the Commonwealth (2001)

The Talisman describes poverty as an abuse of human rights. It advocates the adoption of a rights-based approach to eradicating the large-scale poverty that continues to exist in the Commonwealth. It points to the gap between the rhetoric the Commonwealth espouses and the reality of people's lives. The report urges member governments to cooperate to fulfil the many solemn commitments made at successive CHOGMs.

Over a Barrel – Light Weapons and Human Rights in the Commonwealth (1999)

Over a Barrel exposed a tragic contradiction in the modern Commonwealth in that although human rights are recognised as central to the Commonwealth, millions of light weapons flow freely, jeopardising safety, development and democracy.

The report outlines urgent recommendations to the Commonwealth to curb the reach of light weapons in member countries.

The Right to a Culture of Tolerance (1997)

This report focused on two themes: ethnic and religious intolerance as an urgent problem throughout the Commonwealth; and freedom of expression/information as a crucial element of a democracy. The report noted that the norms and political values of the Commonwealth compel the Association to act to promote tolerance in member countries and the report made recommendations to achieve this goal.

Rights Do Matter (1995)

Rights Do Matter explores two themes: freedom of expression and the need for major reform in prisons. The report placed this discussion in the context of the transition from authoritarian to democratic political orders and the economic transition from planned to market economies.

Act Right Now (1993)

Act Right Now was an assessment of the progress of human rights in Commonwealth countries since the Harare Declaration and was made, with reference to the United Nations World Conference on Human Rights in Vienna in June 1993. It called for the Commonwealth to play a lead role in supporting the long, complex process of moving towards real democracy in transitional countries.

Put Our World to Rights (1991)

Put Our World to Rights was the first independent overview of the status of human rights in the Commonwealth. It provides practical guidance on how to use international machinery for redress.

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2007 (Kampala): Acknowledged that the Commonwealth's vision of development and democracy cannot be achieved without realising its people's full potential. Also noted that a number of ministerial meetings now included provision for dialogue with civil society and called for this to be extended where possible.
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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. CHRI furthers this belief by advocating for the protection of human rights, access to information and access to justice.

STRATEGIC INITIATIVES PROGRAMME

CHRI monitors member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. It engages strategically with regional and international bodies including the United Nations, the African Commission for Human and Peoples' Rights and the Commonwealth. Ongoing strategic initiatives include: Advocating for and monitoring the Commonwealth's reform process; Reviewing Commonwealth countries' human rights promises at the United Nations Human Rights Council; Engaging with the United Nations Universal Periodic Review process; Advocating for the protection of human rights defenders and civil society space; and Monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening. It is also involved in monitoring the work of the India, Brazil and South Africa (IBSA) Dialogue Forum, through a human rights lens. CHRI promotes civil society engagement with government on foreign policy issues with the aim of democratising this niche policymaking area.

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 in relation to freedom of information. In relation to freedom of information CHRI works collaboratively with local groups and officials, building government and civil society capacity, as well as advocating with policymakers. CHRI is active in South Asia, most recently advocating for a national law in Maldives and Pakistan; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to encourage interest in access to information 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: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractice. A major focus area is highlighting and intervening in the failures of the legal system that result in systemic overcrowding, intolerably long pretrial detention periods and prison overstay. Another area of concentration is reviving failed prison oversight systems. CHRI aims to improve the administration of prisons and is of the view that this will have a positive knock-on effect on the administration of justice overall.

In countless declarations, most notably the 2013 Commonwealth Charter, the heads of government of the Commonwealth have underlined that civil society is essential to upholding the core values of the Association—democracy, human rights, equitable development and rule of law—and carrying out its work. In response, the Commonwealth Secretariat has taken significant steps to improve engagement with civil society groups. Yet they remain an underutilised resource, limited in their access to decision-makers and frustrated with the lack of opportunities to substantively influence policy. With civic space closing around the world, many also find themselves increasingly vulnerable to attack.

This report offers a framework to revitalise the previously close cooperation between the Commonwealth and civil society. Drawing on sources in both the non-governmental sector and the Secretariat, it presents an overview of the landscape of engagement today. It identifies key new initiatives of the Secretariat as well as persistent problems in the relationship. It concludes with recommendations for forging a more robust and productive relationship between the Secretariat and civil society.



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