CHRI 2011 REPORT

A PARTNERSHIP FOR HUMAN RIGHTS:
CIVIL SOCIETY AND NATIONAL HUMAN RIGHTS INSTITUTIONS

CHRI
Commonwealth Human Rights Initiative
working for the **practical realisation** of *human rights* in the countries of the Commonwealth

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. 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.

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

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

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

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

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The 2011 report by the International Advisory Commission of the Commonwealth Human Rights Initiative, Chaired by Sam Okudzeto

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FOREWORD

Commonwealth Human Rights Initiative (CHRI) works for the *practical* realisation of human rights in the lives of ordinary people in the Commonwealth. This report, CHRI's eleventh to the biennial Commonwealth Heads of Government Meeting (CHOGM), is a natural progression from previous reports which suggested practical means by which many governance and justice challenges in the Commonwealth can be overcome. *A Partnership for Human Rights: Civil Society and National Human Rights Institutions* encourages close cooperation between national human rights institutions and civil society. It has been deliberately designed to be a constructive point of engagement to improve the relationship between NHRIs and civil society. The report makes practical suggestions on how engagement can be used, and has been optimised in the past, to enhance the promotion and protection of human rights in the Commonwealth.

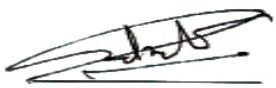
CHRI has always advocated that the Commonwealth is about human rights or it is about nothing at all. Unlike other intergovernmental organisations, the Commonwealth has neither a universal membership, nor a geographic, thematic, military or economic focus to define its central purpose. Instead, the Commonwealth, which emerged in the spirit of post-colonial ideals such as freedom and democracy, only has a set of values around which to organise itself and build its identity.

Despite the many protestations of the Commonwealth and its member states that human rights are central to the organisation's core beliefs – and the oft-repeated assertion that the Commonwealth is as much an association of peoples as it is an intergovernmental organisation – the reality of the majority of people living in the Commonwealth demonstrates a paucity of rights and justice. This, CHRI believes, is due in large part to the failure of Commonwealth governments to create environments where everyone can realise and exercise guaranteed human rights. It is also a result of the Commonwealth's "consensus" approach which has kept the organisation silent on major human rights violations in member states, resulting in several missed opportunities to transform the soaring rhetoric of CHOGM communiqués into action.

To its credit, the Commonwealth has nurtured some non-confrontational approaches to address the human rights of its roughly two billion people. It has done so, for example, through its leadership in debt reduction, by impelling member states to sign the Convention on the Elimination of All Forms of Discrimination Against Women, and through its encouragement and practical assistance in setting up national human rights institutions (NHRIs) in member states.

There are now well over thirty NHRIs in the Commonwealth. It is this report's assertion that, while the establishment of an NHRI should be applauded, the body cannot effectively fulfil its mandate in isolation. NHRIs and civil society must work together, where mutually beneficial, to advance each other's efforts and the ultimate goal of improving human rights.

The Commonwealth needs to do all it can to catalyse support and assist in making this happen. The Commonwealth Heads of Government should encourage and promote engagement by giving the Commonwealth Secretariat a mandate to build cooperation between NHRIs and civil society. This would present an opportunity for Commonwealth realities to lean closer to the Commonwealth's fundamental values of human rights, but also make good on the multiple CHOGM statements urging that civil society engagement be mainstreamed into all of the Commonwealth functions and activities.



Sam Okudzeto
Chair, Commonwealth Human Rights Initiative
New Delhi, 2011

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CHRI's International Advisory Commission's Report to the 2011 Commonwealth Heads of Government Meeting has been made possible through the support and contributions of a number of people, all of whom we would like to thank profusely. Several of them deserve special mention however, as their contributions have been critical to our efforts in bringing out this publication.

We thank all Commonwealth national human rights institutions that responded to our questionnaire and gave us time on the phone to discuss the contexts in which they work and the challenges and benefits of collaboration with civil society organisations. The report also owes much to the invaluable inputs of civil society actors, who relayed their experiences of working with NHRIs. Many have been quoted, but some preferred to retain their confidentiality.

Most of the primary data research would not have been possible were it not for contacts provided by many of our friends from across the Commonwealth. We express our gratitude to Shakti Callikan, Louise Edwards, Robert Fox, Sara Jackson, John Raymond Jones, Maxwell Kadiri, Michelle Kagari, Roosevelt King, Charmaine Rodrigues, Yap Swee Seng, Sean Tait and Mandeep Tiwana for their immense help in bridging gaps and providing unique perspectives. Others who have also provided us with useful information to substantiate our efforts include Bruce Adamson, Saka Azimazi, Kieren Fitzpatrick, Toru Hisada, Carolyn Langley, Themba Mthethwa, Gilbert Sebihogo, Margaret Sekaggya and Francisco Bonilla Soria.

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Maja Daruwala
Director, Commonwealth Human Rights Initiative

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CHAPTER SUMMARIES

Chapter 1: The Commonwealth Context: Rights Unrealised

Twenty years after the Harare Declaration, human rights in the Commonwealth have seen piecemeal improvement in some areas and dramatic deterioration in others. The deterioration is evident despite a surge in the establishment of various types of Commonwealth national human rights institutions (NHRIs) in the 1990s and the ongoing advocacy of a diverse and vibrant civil society community working towards the realisation of human rights. One factor that hampers the realisation of human rights in the Commonwealth is that NHRIs and civil society too rarely work together. Meaningful engagement between civil society and NHRIs is mutually beneficial and can make a significant positive impact on human rights situations.

Chapter 2: International Standards: A Bridge Too Far?

All the pre-eminent international and regional standards on NHRIs urge effective engagement between NHRIs and civil society. Likewise, most international and regional NHRI-coordinating networks have standardised engagement with civil society as an important requirement in their own work. The Commonwealth has done work on NHRIs for over 20 years, including the development of a set of best practices and the establishment of the Commonwealth Forum of NHRIs. Though the Commonwealth best practice guidelines on NHRIs are clear about the importance of engaging with civil society, the Commonwealth Forum routinely operates without civil society involvement.

Chapter 3: The Domestic Environment: Human Rights Begins at Home

International standards encouraging NHRI-civil society engagement set the bar, but domestically it is often an NHRI's founding legislation that gives expression to its engagement with civil society. Entrenching the salient role of civil society actors within an NHRI's mandate can help ensure that interaction is regular, collaborative and meaningful. The road to engagement is not an easy one and can be strained by mutual perceptions, reservations and cautious attitudes. Yet in any national environment, inimical or responsive to human rights, building partnerships between NHRIs and civil society is more effective for the protection and promotion of human rights than working in isolation.

Chapter 4: Developing Partnerships: Practise Makes Perfect

Cooperation between civil society and NHRIs needs to be encouraged from the very inception of the human rights institution. Engaging with civil society in all its core functions can make NHRIs better equipped to tackle human rights concerns and give civil society a legitimate space for furthering the human rights agenda. NHRI-civil society engagement in Commonwealth countries has been manifested both through formal platforms and informal means. Specifically, NHRIs and civil society have partnered while conducting national inquiries on human rights issues, collaborated while visiting and monitoring prisons, used each other's expertise to impart human rights education, advised on legislation through joint consultations, and jointly advocated on a range of human rights issues at both domestic and international platforms.

Chapter 1: The Commonwealth Context: Rights Unrealised

The potential of the Commonwealth to champion human rights exists in stark contrast to the reality lived out by the majority of its people. In this context, when governments falter in the promotion, protection and realisation of human rights, national human rights institutions (NHRIs) and civil society can, when working together, be a formidable force in moving the Commonwealth and its member states towards compliance with the organisation's fundamental political principles, which include human rights and democracy.

The Harare Declaration

The Harare Declaration, frequently referred to as the Commonwealth's "mission statement", was laid down by the Commonwealth Heads of Government at the conclusion of their biennial meeting in 1991.[1] The Declaration defines the core values of the Commonwealth and espouses the protection and promotion of "democracy, democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary, just and honest government; [and] fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief".[2]

As the Commonwealth marks the twentieth anniversary of the Harare Declaration, it is no secret that many Commonwealth governments have been unsuccessful in carrying out its mission. Across the Commonwealth, examples of disregard for human rights can be found at the domestic and international levels.

At the domestic level, in too many places, grinding poverty and endemic corruption, coupled with degraded environments and poor governance, ensure that the possibility of ever enjoying fundamental human rights, let alone living in dignity, remains remote for many Commonwealth people. Torture, rape, illegal detention, appalling prison conditions and death in custody are all too frequent. Widespread impunity means that justice often remains inaccessible and illusive. Furthermore, fear of terror and uncertain threats have allowed easy passage of draconian laws that eat into guarantees of due process. The steady contraction of civil society space in various corners of the Commonwealth on the excuse of national security includes: limits on freedom of speech and access to information; intolerance for dissent; overzealous police reaction to peaceful protests; and disregard for the work of human rights defenders. Basic equality for women and minorities remains unrealised, while discrimination persists. The litany goes on, but is too well documented elsewhere to be rehashed here.

In their role as members of the international community, Commonwealth countries have also underperformed in furthering human rights. For instance, their behaviour at the United Nations Human Rights Council suggests that they place more importance on deflecting attention from their own poor human rights records and those of allies, than actually advancing human rights.[4]

The promotion, protection and realisation of human rights rely on several factors. They range from socio-economic conditions – such as economic inequality, the vibrancy of civil society, and societal awareness of human rights and attitudes towards them – to the ability and resources of the government to govern well – for example, through drafting proper standards, and the implementation of policies and procedures to carry out those standards in practice. Most important, however, is the government's consistent determination to respect human rights and adhere to democratic governance. Political will is manifested at the very least by the presence of an accountable executive, committed legislature, independent judiciary, honest and transparent bureaucracy and a free media.

In practice, these ideal conditions and the institutions that demonstrate their existence do not permeate through all the countries of the Commonwealth. However, the increasing number of new national human rights institutions that have been created and existing ones that have been strengthened are signs that Commonwealth governments see that human rights governance needs improvement and that political will does exist to take action.

Soul Searching

Sensing that the Commonwealth was in danger of losing touch with its *raison d'être*, in 2009 the Commonwealth Heads of Government established an Eminent Person's Group (EPG) to "undertake an examination of options for reform" through which the Commonwealth could transform itself into a global body with renewed relevance for the twenty-first century.[3] Also up for self-review was the Commonwealth Ministerial Action Group (CMAG), a body which has the power to suspend or eject members of the Commonwealth if they seriously or persistently violate the principles of the Harare Declaration. To date, CMAG has chosen to interpret its mandate narrowly, meaning that it has only suspended member states which experienced unconstitutional overthrow of government, and has not taken to task those regimes that consistently violate the human rights of their populations. Hopefully, the culmination of both the reviews at the 2011 Commonwealth Heads of Government Meeting in Perth will lead to a refocusing on the active defence of values to which the Heads of Governments have repeatedly affirmed allegiance – human rights and democracy.

In the survey undertaken for this report, eight civil society organisations responded to a question about their expectations for the Commonwealth by noting their disappointment with the Association on two fronts. First, the Commonwealth had lost its former reputation as a leader on human rights[5] and second, the Commonwealth needed to do more work with civil society, through capacity-building, training and engagement.[6] As one civil society actor put it, "human rights promotion and protection is a partnership issue". [7]

NHRIs are primarily set up to promote and protect human rights. The upholding of international and domestic human rights standards is the state's responsibility and, while the establishment of a well-functioning NHRI is not a sufficient guarantee that human rights norms will be upheld, they can be complementary to the functioning of other democratic institutions. In countries with well-established rights cultures, an NHRI is a welcome addition to ensure that human rights are upheld to the highest standards and implemented through a comprehensive and holistic approach. In other countries, effective NHRIs are a necessity to aid in the prevention of egregious violations.

A Nod from the Human Rights Council

In June 2011, the UN Human Rights Council in Geneva passed a resolution that affirmed the important role of NHRIs in promoting and protecting human rights at the domestic level and at the UN. The resolution encourages member states to establish NHRIs that are compliant with international standards and likewise encourages those with already established NHRIs to strengthen them.[8] This was the Human Rights Council's first resolution to focus specifically on the work of NHRIs, and was co-sponsored by more than 110 states across all regions.[9]

This report examines thirty-four Commonwealth jurisdictions that have created institutions for the express purpose of promoting and protecting human rights, many of which came into being with the Commonwealth Secretariat's encouragement, technical support and expertise. Most were set up after the 1993 World Conference on Human Rights in Vienna, which called for the engagement of the international community to support and facilitate the establishment and strengthening of NHRIs and the adoption of international standards for NHRIs by the UN General Assembly later that year. The Vienna Declaration and Programme of Action recognised that "it is the right of each State to choose the framework which is best suited to its particular needs at the national level."[10]

NHRIs in the Commonwealth[11]

Commonwealth jurisdictions with National Human Rights Commissions:
Australia (1986), Bangladesh (2008), Cameroon (1990), Canada (1977), Cyprus (1991), Fiji (1999), Ghana (1993), Great Britain (2007), India (1993), Kenya (2003), Malawi (1996), Malaysia (2000), Maldives (2003), Mauritius (2001), New Zealand (1977), Nigeria (1996), Northern Ireland (1999), Rwanda (1999), Scotland (2008), Seychelles (2009), Sierra Leone (2006), South Africa (1995), Sri Lanka (1997), Swaziland (2009), Tanzania (2001), Uganda (1997) and Zambia (1997).

Commonwealth jurisdictions with ombudsman institutions that are members of the Commonwealth Forum of NHRIs:
Antigua and Barbuda (1981), Barbados (1980), Belize (1999), Jamaica (1978), Namibia (1990), Papua New Guinea (1976), St Lucia (1981), Trinidad and Tobago (1977).[12]

There are several models of NHRIs among those that have been surveyed in this report. Most are multi-member commissions with mandates that allow them to deal with a broad swathe of human rights issues and violations, as is the case in India, for instance. Others are one-person ombudsman institutions which have evolved from focusing solely on the fairness and transparency of public administration to include a human rights mandate, as in Jamaica, for instance. Still other models are mixed, like the Ghanaian Commission on Human Rights and Administrative Justice, which is a multi-member institution vested with the power to protect and promote human rights and to address the misuse of power by public officials. Elsewhere, institutions concentrate on specific themes, such as equality and discrimination, as in Canada.

An NHRI's mandate and powers may vary according to the model on which it is based. Typically, however, an NHRI will monitor state institutions for compliance with human rights norms; report on patterns of violation; educate officials and the public at large about human rights; urge and advise its government to ratify international human rights treaties; and report to international human rights bodies on the human rights situation in-country. NHRIs with broader mandates will accept and investigate complaints of human rights violations and discrimination; protect human rights defenders; and recommend punishment for perpetrators and compensation for victims of human rights abuse.

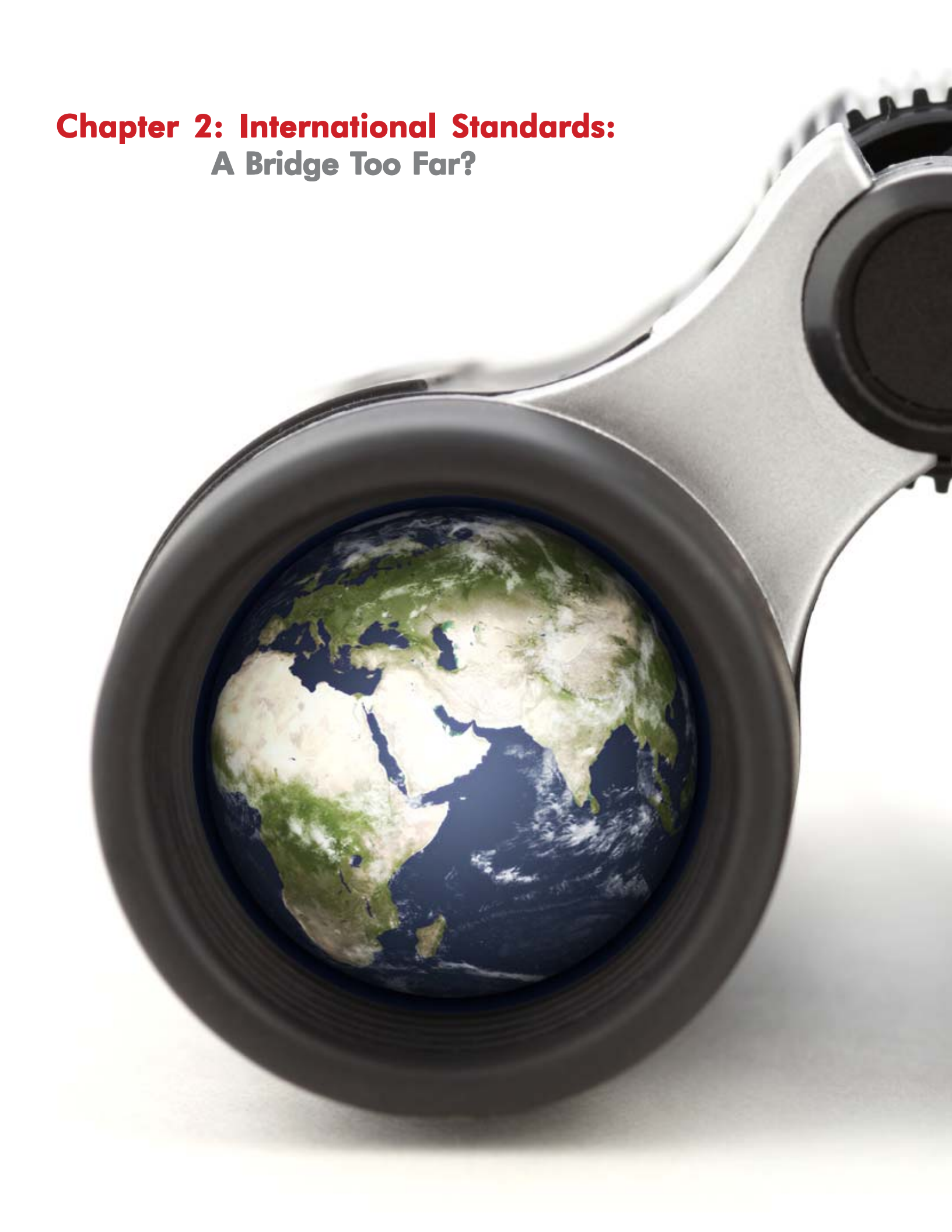
The rapid expansion of NHRIs in the Commonwealth during the 1990s[13] was a welcome development for civil society actors, many of whom campaigned for the promotion and protection of human rights as their most central undertaking and saw themselves as natural allies of the new institutions. While civil society actors in the Commonwealth vary in form – ranging from huge trade unions to tiny community groups – a large segment of them, and those that are the focus of this report, are involved in holding the government to account, fighting impunity, educating the public, training public officials, promoting adherence to international best practices, monitoring and publicising human rights violations, shaping legislation, and campaigning internationally for the creation and ratification of international human rights treaties.

Over time, civil society's early optimism about the potential of NHRIs has, in many cases, turned to disappointment. While some Commonwealth NHRIs are accused of acting as mere window dressing for rights-violating states, others face criticism for operating hesitantly, bowing to government influence, pulling their punches on serious issues and failing to take measurable steps to realise their mandates.[14] On the other hand, NHRIs have questioned the capacity, commitment and politics of civil society organisations (CSOs). Plagued by misguided preconceptions about each other, both sides often shy away from substantial engagement with one another. The result is a loss of opportunity for collaboration to embed a genuine culture of human rights within the member states of the Commonwealth. Both NHRI mandates and civil society goals would be better served if the two would mend fences and work together.

"The Paris Principles require effective cooperation between NHRIs and representatives from civil society organizations. There is a need for open, participatory and pluralistic processes when establishing or strengthening NHRIs in compliance with the Paris Principles."

– UN Secretary-General Report to the UN Human Rights Council, February 2011

Chapter 2: International Standards:
A Bridge Too Far?



Global, regional and Commonwealth standards, guidelines and recommendations on NHRIs recognise that human rights are furthered when civil society and NHRIs work in tandem.

The most important international standards for NHRIs are the Principles relating to the Status of National Human Rights Institutions, commonly known as the Paris Principles. Adopted by the UN General Assembly in 1993, the Principles provide a normative framework to steer the creation and functioning of NHRIs. In laying out minimum standards for the status, role, mandate, composition and functions of NHRIs, the Principles deter governments that are intent on establishing ineffective mechanisms for the sake of international acclaim and emphasise the inherent value of NHRI-civil society engagement.

"In view of the fundamental role played by the non-governmental organisations in expanding the work of the national institutions, [NHRIs shall] develop relations with the non-governmental organisations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialised areas."

- Principles Relating to the Status of National Institutions (The Paris Principles)[15]

Several other complementary standards, guidelines and best practices on substantive NHRI-civil society engagement have emerged out of the UN and global and regional coordinating networks of NHRIs. The United Nations Centre for Human Rights developed a handbook for NHRIs in 1995 which maintained that NHRIs "should establish and maintain contact with non-governmental organisations (NGOs) and community groups which are directly or indirectly involved in the promotion and protection of human rights".[16] The publication suggests that partnership with civil society is beneficial to furthering human rights because civil society can enhance the NHRI's visibility in the general population, act as an intermediary between the NHRI and victims of human rights abuse who are reluctant to come forward, and serve as a pool of expertise and information to which the NHRI is not a party. More recently, the United Nations Development Programme (UNDP) and the United Nations High Commissioner on Human Rights developed a Toolkit on NHRIs to be used by civil society, NHRIs and staff from United Nations Country Teams that work with NHRIs. The Toolkit focuses, among others, on "effective strategies to harness stronger collaboration between NHRIs, government, Parliament, judiciary and civil society".[17] It strongly advocates active and continuous engagement with civil society in the creation and functions of NHRIs.

The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), which is a Geneva-based organisation with a global membership of NHRIs, also has its own standards for civil society engagement which are based on the Paris Principles. The ICC comprises four regional groupings: Africa, the Americas, Europe and the Asia Pacific. It uses NHRI-civil society engagement as an important factor in assessing the extent to which an NHRI complies with the basic standards set out in the Paris Principles and to determine the level of accreditation that an NHRI merits. The Asia Pacific Forum of National Human Rights Institutions (APF), which is the ICC's regional grouping in the Asia Pacific region, has developed best practices on including civil society in the creation and functioning of NHRIs. In addition to setting and promoting high standards of engagement, the ICC and APF both involve civil society in their own activities and, in doing so, practise what they preach.

In contrast, the relatively young Commonwealth Forum of National Human Rights Institutions (Commonwealth Forum), established in 2007, has consistently excluded civil society groups from its operations and so denied them the opportunity to participate in the exchange of ideas at the Forum and build in-country relationships with its membership. This neglect persists despite the fact that the Commonwealth has published its own best practice guide for NHRIs,[18] which reflects the need to work in close cooperation with civil society. The Commonwealth Forum's aloofness from civil society is especially surprising given that every recent statement from the biennial Commonwealth Heads of Government Meetings (CHOGMs) lauds the work and value of civil society and human rights defenders, while exhorting governments and agencies to work closely with them.

The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights

The ICC, which has its Secretariat at the UN Office in Geneva (UNOG) and includes twenty-four Commonwealth institutions as members,[19] "promotes and strengthens NHRIs to be in accordance with the Paris Principles".[20] The ICC assists countries to establish NHRIs; helps members to liaise with the UN, other international agencies and governments; offers opportunities to cooperate and share information; builds capacity in collaboration with the Office of the High Commissioner for Human Rights (OHCHR) and assists members under threat from their governments.[21] Most importantly, however, the ICC's Sub-Committee on Accreditation assesses compliance of NHRIs against the criteria for conformity established by the Paris Principles.

NHRIs that are in compliance with the Paris Principles are granted full membership, or "A" status. This allows them full voting rights within ICC and participation rights at the UN Human Rights Council.[22] Institutions that are accorded "B" status do not comply fully with the Principles or have not submitted adequate documentation to determine whether they are in fact compliant. These bodies are only granted observer status within ICC. "C" status institutions are not compliant with the Principles and likewise can only be observers.[23]

New Privileges for NHRIs at the UN Human Rights Council

On completion of its self-review in 2011, the UN Human Rights Council granted more privileges to NHRIs. Now, NHRIs with "A" status will have greater opportunities to speak at Council sessions and, like accredited CSOs, will be able to formally participate in the nominating process when the Council appoints experts on country situations and thematic issues, such as torture.[24]

An important factor in determining whether an NHRI is to be accredited or re-accredited as "A" status lies in the quality and consistency of its engagement with civil society. The ICC Sub-Committee, which accredits incoming NHRIs and re-accredits members every five years, noted in its General Observation 1.5, entitled *Cooperation with other human rights institutions,* that: "NHRIs should closely cooperate and share information with [...] other organisations, such as NGOs, working in the field of human rights and should demonstrate that this occurs in their application to the ICC Sub-Committee".[25]

The Sub-Committee requests certain information to assess whether an NHRI is compliant with the stipulation in the Paris Principles that NHRIs develop relations with civil society:

1. Whether the provisions in the NHRI's founding law formalises relationships between it and civil society;
2. How the NHRI has developed relationships with NGOs in practice;
3. Which civil society groups the NHRI cooperates with (i.e. NGOs, trade unions, professional organisations, individuals or organisations espousing trends in philosophical or religious thought, universities and qualified experts, parliament and government departments); and,
4. How frequent and what type of interaction the NHRI has with NGOs (e.g. workshops, meetings, joint projects, through complaints handling).[26]

Civil Society and the ICC Accreditation Process

During the accreditation process, the Sub-Committee invites civil society groups to make submissions about the functioning of their NHRI and their relationships with it on the ground. In 2011, Indian civil society presented detailed concerns to the ICC about the Indian National Human Rights Commission's (INHRC) diminishing stature, ambivalent responses to rights violations and restricted and superficial engagement with civil society.[27] These allegations found reflection in a letter from the ICC Sub-Committee on Accreditation to INHRC at the end of its latest review in May 2011, which made caveats about INHRC's "A" status re-accreditation. One caveat specifically noted that information received from civil society organisations showed that existing mechanisms through which INHRC engaged with civil society were not functioning properly. As a result, instead of being reviewed for re-accreditation in 2016 according to the normal cycle, INHRC's relationship with civil society – as well as its appointment process and composition – will be re-examined by the ICC in early 2013.[28]

Beyond setting minimum benchmarks for civil society engagement among its members, the ICC sets a good example by involving civil society in its processes. The ICC's statute notes, in Article 9, that NGOs or "any other person or institution" may be invited as observers without voting rights to its annual general meetings in Geneva and its larger thematic biennial conferences.[29] Civil society representatives have also been invited as panellists during the thematic sessions of the ICC's annual meeting.[30] At the most recent 10th Biennial Conference on Human Rights and Business and the Role of NHRIs, held in October 2010 in Edinburgh, the results of the NGO Forum informed the Conference deliberations and was welcomed in the final Declaration.[31] Furthermore, the organisation's most recent "Strategic Plan identifies developing outreach to and cooperation with civil society among the ICC's strategic priorities for the coming years."[32]

Civil society presence in the ICC's processes has ensured that the value of civil society engagement is repeatedly affirmed in the ICC's declarations. For example, the recent 2010 Edinburgh Declaration acknowledged the "highly constructive statement [of the NGO Forum] to the Conference which enriched the debate, participants' collective thinking and deliberations". It called on NHRIs to "engage with organisations and stakeholders at national, regional and international levels" and to "renew efforts to work collaboratively with NGOs and civil society in implementing [their] mandates".[33]

The Asia Pacific Forum of National Human Rights Institutions[34]

The Asia Pacific Forum (APF), which is the ICC regional grouping for Asia Pacific, is a member organisation representing NHRIs in the region. It invites civil society to its annual meetings and biennial conferences, which are the largest regular human rights events in the region.[35] Civil society is also involved in the design and delivery of a wide range of APF activities, including training programmes, capacity assessments of NHRIs[36] and consultations on the creation of NHRIs. The APF's Advisory Council of Jurists, which comprises legal experts from the region, advises the APF on "the interpretation and application of international human rights standards" and makes practical recommendations to member NHRIs on a wide variety of human rights issues.[37]

The APF and the Association for the Prevention of Torture

The APF's openness to engagement and collaboration with civil society is evidenced in a variety of relationships. One significant partnership involves the APF and the Association for the Prevention of Torture (APT), an international non-governmental organisation which works towards a world in which no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment. In 2005, the APF and the APT collaborated on the development of Minimum Interrogation Standards. Subsequently, the two organisations built an ongoing partnership to provide expert advice and training to support NHRIs in preventing torture and ill-treatment. The collaboration led to the creation of detailed resources including a two-stage training programme on torture prevention and a comprehensive manual, *Preventing Torture: An Operational Guide for National Human Rights Institutions*. The partnership also facilitates discussions with NHRIs and governments in the region on implementing the Optional Protocol to the Convention against Torture in different national settings.

The APF has produced some excellent best practices on NHRI-civil society engagement. The Larrakia Declaration, which is the APF's founding document, was developed in conjunction with all relevant stakeholders, including civil society. It explicitly states that close cooperation between NHRIs and NGOs is essential "to ensure that human rights principles are fully implemented in effective and material ways."[38] Despite these strong foundations, some civil society representatives feel that the road to inclusion remains bumpy and tensions persist, specifically over the varying degrees of openness of the APF's meetings during the last six years.[39]

The Asian NGO Network on NHRIs

The APF has a civil society counterpart – the Asian NGO Network on NHRIs (ANNI).[40] ANNI is a unique regional civil society network that aims at the establishment and development of "accountable, independent, effective, and transparent" NHRIs in Asia.[41] It organises a parallel NGO event in the shadows of the APF's annual meetings and biennial conferences, to which representatives of the APF and its member institutions are invited to speak and observe. The outcomes of ANNI's shadow event are published online by the APF. Further, because civil society organisations, like governments, are accorded observer status and speaking rights, the outcomes are presented during APF's meeting.[42] This regular and synergistic pattern of working is respectful of the individual processes of both civil society and NHRIs and is valuable in enriching each, because points of convergence, rather than parallel tracks, are built into it.

The APF's Kandy Programme of Action (1999) lays out practical methods through which NHRIs can improve cooperation with civil society. To date, its recommendations remain the most comprehensive best practice guidelines specifically on mutual engagement between the two actors. The recommendations detail multiple entry points for an NHRI to formally engage with civil society beginning with its establishment to nearly every one of its core operations, including human rights education, complaints and investigation, public inquiries, relations with legislatures and advising on proposed legislation.[43]

Separate APF guidelines developed specifically for the creation of a new NHRI urge that representatives of civil society be present on the steering committee, which "oversees the process leading towards the establishment of the national institution". Further, broad-based consultations should address cooperation between the proposed NHRI and non-governmental organisations.[44]

The APF's Secretariat is also deeply involved in urging governments to establish Paris Principles-compliant NHRIs and assisting with the establishment process by holding consultations with government and civil society throughout.[45] The APF undertakes extensive critiques of draft legislation on new NHRIs to ensure compliance with the Paris Principles. For example, it critiqued Pakistan's National Commission on Human Rights Bill against the standard of the Paris Principles and the ICC's accreditation criteria, and, inter alia, called for amendments

Other Regional and International NHRI Networks and Coordinating Committees

Though other networks of NHRIs and ombudsmen have not developed international standards or best practices to guide their members in engaging with civil society (as have the ICC and the APF), some best practices have emerged from their operations.

For example, a significant landmark in the growing relationship between NHRIs and civil society occurred early in 2010 when the Network of African National Human Rights Institutions[46] entered into a formal agreement with the Association for the Prevention of Torture (APT) to strengthen the capacity of NHRIs in Africa to prevent torture. The agreement would see NHRI-NGO collaboration on sharing and supporting best practices and the adoption of a public declaration from African NHRIs on the prevention of torture.[47] In another potential example of good practice, the current Secretariat of the Network of Institutions for the Promotion of Human Rights of the American Continent plans to strengthen its relationship with civil society by establishing a social network-based communication mechanism on its website.[48]

Ombudsmen networks have generally not gone as far as ICC-affiliated NHRI networks to promote civil society engagement among members. However, the African Ombudsman Association has an objective "to foster affiliation and maintain liaison with [...] organisations interested in the progress of Ombudsman activities and Human Rights".[49]

to ensure a transparent and participatory process for the selection of members, including the involvement of all stakeholders.

The Commonwealth Forum of National Human Rights Institutions

The Commonwealth has its own set of suggestions for NHRIs on civil society engagement in the form of the Commonwealth Secretariat's 2001 publication, *National Human Rights Institutions: Best Practice*.

The publication is clear that civil society must be a partner throughout the life cycle of an NHRI: "The establishment process, whether initiated by government or by civil society, must be transparent and include all relevant actors. It is essential that all stakeholders 'buy-in' to the establishment process if the NHRI is to have the trust and confidence of both government and the people."[50]

A steering committee, which includes representatives from all types of civil society, is recommended by the *Best Practice* publication to make the establishment process inclusive.

"It is likely that including civil society will make the establishment process more lengthy, but consultations and input from members of the public are essential for attaining public legitimacy. It will be hard to build trust if government creates an NHRI in a climate of secrecy."[51]

- National Human Rights Institutions: Best Practice

After an NHRI is established, the publication notes that one of its "most important contributions [to the development of pluralistic and healthy democracies] arise[s] from the exercise of powers to: […] build bridges between government and civil society and between groups within civil society."[52] It goes on to recommend that: an NHRI's legal mandate should enable it to work with civil society;[53] the process by which commissioners are appointed to an NHRI include civil society;[54] it should build alliances with civil society to increase its own accessibility and effectiveness;[55] it should work in cooperation with civil society to protect human rights during conflict situations[56] and mitigate the "human rights consequences of environmental degradation".[57]

Beyond these NHRI-specific guidelines, the Commonwealth Heads of Government have affirmed and re-affirmed on paper that civil society should be a valuable partner in the quest to realise the Commonwealth's fundamental values and to pursue its programme of work. Since 1999, every CHOGM statement, from Durban to Port of Spain, has highlighted the importance of civil society engagement to development, good governance and the promotion and protection of human rights.[58] Among the most affirmative statements on civil society engagement, the Malta Communiqué calls for civil society to be increasingly mainstreamed into all Commonwealth activities and those of its institutions.[59] In this spirit, civil society is invited to make submissions to several Commonwealth meetings, such as the Commonwealth Ministerial Action Group, the Commonwealth Law Ministers Meeting and CHOGM.

Surprisingly, the Commonwealth's pledge to engage with civil society – expressed in best practice guidelines for NHRIs and in commitments by past CHOGMs – has not found

replication in the creation of the Commonwealth Forum of NHRIs, nor has it been reflected in its continuing operation.

The creation of the Commonwealth Forum in 2007 was proposed at a Commonwealth NHRI meeting organised by the Commonwealth Secretariat in London. The meeting was attended by representatives from twenty-three Commonwealth NHRIs, in addition to representatives from the UN, regional organisations such as ECOWAS and the APF, and civil society, including CHRI. At the meeting, the head of the Commonwealth Secretariat's Human Rights Unit (HRU) at the time, presented a scoping paper which proposed the creation of the Commonwealth Forum. The presentation highlighted the potential for a network to "institutionalise a framework allowing interaction with Commonwealth Heads of Government and with members of the civil society".[60] The proposal was accepted by NHRI representatives, who saw potential in a forum that would allow further NHRI access to CHOGM; create a lobby of Commonwealth NHRIs to act in defence and support of fellow NHRIs; and increase linkages among individual NHRIs, regional organisations, the UN and civil society.[61]

Open Invitation

Membership of the Commonwealth Forum is open to all Commonwealth NHRIs and Ombudsmen and, unlike other NHRI networks, it is not based on accreditation status at ICC. According to a representative of the Commonwealth Forum, "[t]his allows NHRIs accredited with "A" status to share good practice experiences with other NHRIs. It also encourages the latter NHRIs to move towards full compliance with the Paris Principles."[64]

A steering committee of representatives from the NHRIs of New Zealand, Canada, Uganda and India met in May 2007 to hammer out the modus operandi of the Forum. It was decided that the Commonwealth Forum would be created to "support the broad objectives of promoting networking, sharing of information, experiences and best practices, encouraging countries to establish Paris Principles-compliant NHRIs, and assisting national institutions to fulfil their mandated activities".[62] The HRU was to become the new network's secretariat. Though no civil society representatives were present at the meeting, the steering committee suggested the Commonwealth Forum could invite civil society members to other meetings as observers.[63]

The Commonwealth Forum's next meeting was held over two days just prior to the 2007 CHOGM in Kampala. The first day of the meeting was used to finalise agreements between the Commonwealth NHRIs, vote on the report of the steering committee and establish the

Commonwealth Forum of NHRIs as an informal body. Despite the initial proposal in the HRU scoping paper that the Forum institutionalise a framework to allow interaction between NHRIs and civil society, the latter was not invited to the first day of the meeting and was consequently not in attendance during deliberations on the creation of the Forum.[65] In spite of the absence of civil society, the meeting's final communiqué reiterated the main objectives of the Commonwealth Forum, one of which was to promote dialogue and interaction between NHRIs and civil society.[66] On the second day of the meeting, civil society was invited to discuss possible thematic issues with the delegates.[67]

In these circumstances, it is difficult to assert that the Commonwealth Forum was created with adequate civil society engagement. The most important meetings in its creation – the steering committee meeting and the closed-door meeting in Kampala at which the Forum's establishment was finalised – were ultimately devoid of civil society participation.

The lack of initial civil society engagement during the creation of the Commonwealth Forum has ensured that subsequent engagement has also been inadequate. This was illustrated by events in the days immediately before the 2009 Trinidad and Tobago CHOGM. Before every CHOGM there is a meeting of Commonwealth civil society sponsored by the Commonwealth Foundation and known as the Commonwealth People's Forum (CPF). In 2009, the People's Forum included a two-day human rights assembly as well as other assemblies that addressed civil society concerns, such as democracy, governance, health and climate change. The meeting of the Commonwealth Forum of NHRIs, which was on climate change and its effects on human rights, was held on the same days, effectively excluding several human rights and environmental groups that took part in the human rights assembly. A single thematic NGO was present at the meeting, and while other CSOs were invited to a dinner to interact with members of the Commonwealth Forum, there was no way for civil society to provide proper input into the meeting's deliberations. An opportunity to take the best advantage of an expensive international meeting and to effectuate a broader and more inclusive platform to promote human rights was lost. Indeed, the concluding statement of the meeting did not make a single mention of civil society or the need or means to engage with it.

Besides the two CHOGMs that have taken place since its inception, the Commonwealth Forum has primarily met in the wings of the ICC's meetings and conferences. There is no formalised mechanism for observation or participation by civil society at these Forum meetings. Between meetings, information about dates and agendas is not easily available. Unlike the APF's informative website, the Commonwealth Forum's often lacks vital information

NHRIs and the Commonwealth Secretariat's Human Rights Unit

The Commonwealth Secretariat's Human Rights Unit (HRU), which now acts as the Secretariat to the Commonwealth Forum, has done valuable work on the promotion and development of NHRIs for over twenty years.

Early in its existence, the HRU commissioned several reports on the situation of NHRIs in the Commonwealth and organised the first meetings of Commonwealth NHRIs in Ottawa in 1992 and Cambridge in 2000. It also worked to encourage and assist governments to establish NHRIs, including, most recently, in Swaziland and Bangladesh. Taking a welcome participatory approach in Swaziland, HRU organised national consultations which included government, civil society and leaders of local communities.[70] In 2011, HRU partnered with OHCHR to organise a workshop which called on "English-speaking Caribbean countries to establish NHRIs which are compliant with the Paris Principles".[71]

The HRU also works to develop the capacity of NHRIs and civil society to participate in the Universal Periodic Review (UPR) of the Human Rights Council, which provides a forum for peer scrutiny of the human rights record of every UN member country every four and a half years. The HRU provides training on the implementation and follow-up of recommendations made during the UPR. Most recently, in 2011, the HRU organised regional seminars on that topic for representatives of government, NHRIs and civil society in Bangladesh, Barbados, Mauritius and New Zealand.

about meeting particulars and contains no information about when and how submissions can be made and, indeed, about whether they can be made at all or would be given consideration. This is surprising, given the concluding statement of the 2009 pre-CHOGM meeting of the Commonwealth Forum of NHRIs, which urged "Forum members, governments, NGOs and the general public to use the site as a resource for the promotion and protection of human rights in the Commonwealth".[68] [69]

Given that most members of the Commonwealth Forum are also members of the ICC and regional networks, where civil society routinely works side by side with NHRIs, there are few obstacles keeping the good practices in these networks, and in the Commonwealth's own best practice guide, from being transferred into the Commonwealth's own NHRI network. Their absence makes the Forum look regressive and unwilling to be inclusive when, in fact, the reasons may be based in practical limitations.

From its inception in 2007, the Forum has suffered from financial constraints and cannot with ease bring its own members to periodic meetings let alone think of supporting civil society groups to attend. Nevertheless, as it often holds its meetings in the shadow of the ICC meetings or at CHOGM it could, by publicising meeting dates, locations and agendas in advance, use the presence of ICC or CHOGM-attending civil society organisations to engage with them. Furthermore, the tiny size and slender resources of the Forum's secretariat which is located in the Human Rights Unit of the Commonwealth Secretariat – and tasked with many other responsibilities – also creates limitations on the Forum's ability to create layers of engagement outside servicing its own immediate membership. For the Commonwealth Forum to properly engage with civil society, it needs a secretariat that is provisioned to be effective. Finally, the busy domestic schedules and competing international commitments have also meant that attendance at the Forum is not always a priority with its own membership. For the Commonwealth Forum to develop a lasting and meaningful engagement with civil society, it needs the funds and assistance certainly, but more than these it needs its membership to value the Forum sufficiently to prioritise it at the same level as the ICC and the regional networks to which they belong.

None of these obstacles are insurmountable. However, they require clear signals from the Commonwealth Secretariat that it has the political will to support the Commonwealth Forum in the future. This is the key ingredient to turning the Forum into an invaluable resource for its member NHRIs and, consequently, for the nearly two billion people whose human rights are affected by its performance.

Chapter 3: The Domestic Environment:
Human Rights Begins at Home

International standards exhorting NHRIs and civil society to work together come from the recognition that collaboration and not isolation will bring the realisation of human rights closer to fruition.

The founding laws of NHRIs in the Commonwealth reflect these standards in several ways. While some laws make clear mention of civil society engagement, others are vague. Whether or not NHRIs are mandated to engage with civil society, the national environments in which both actors work make a strong case for meaningful NHRI-civil society engagement in the Commonwealth.

NHRI Mandates

The mandates of NHRIs in Australia, Bangladesh, Cameroon, Fiji, India, Kenya, Malawi, Maldives, New Zealand, Nigeria, Sierra Leone and the United Kingdom contain specific reference to engagement with civil society. However, in these countries mandates cast civil society engagement in different shades and every mandate is worded differently. South Asia's laws mirror each other in phrasing the requirement to engage with civil society in broad and unspecific terms. India's Protection of Human Rights Act, 1993 instructs the Indian commission to "encourage efforts of non-governmental organisations and institutions working in human rights".[72] The Human Rights Commission of the Maldives is similarly directed by its founding legislation to "assist and support non-governmental organisations involved in the protection of human rights",[73] but does not elucidate further. The Bangladesh National Human Rights Commission Act, which is more recent, calls on the Human Rights Commission "to encourage and coordinate the efforts of Non-Governmental Organisations and institutions working in the field of human rights",[74] as well as "to assist and advice (sic) the organisations, institutions and generally the civil society for effective application of human rights".[75]

The Australian Human Rights Commission's mandate merely states that "the Commission may work with and consult appropriate persons, governmental organisations and non-governmental organisations".[76] Similarly, the National Commission of Human Rights and Freedoms in Cameroon is mandated to "liaise, where necessary, with non-governmental organisations working for the promotion and protection of human rights and freedoms".[77] These mandates leave it to the discretion of the NHRI to decide whether it will engage or not. By contrast, the mandates of other NHRIs oblige them to interact with civil society to perform their functions.

While many mandates only go as far as to instruct NHRIs to provide "encouragement" to civil society, and several mention "cooperation" as important, others speak of the need to both

"cooperate" *and* "consult" with civil society. For example, the mandate of the Kenya National Commission on Human Rights[78] requires it to "encourage the efforts of other institutions working in the field of human rights and cooperate with such other institutions for the purpose of promoting and protecting human rights in Kenya".[79] The New Zealand National Human Rights Commission is mandated to "consult and cooperate with other persons and bodies concerned with the protection of human rights."[80] This latter responsibility is identical to the Fiji Human Rights Commission's mandate.[81] In a slightly different characterisation, the National Commission of Human Rights in Sierra Leone is required to achieve "effective cooperation".[82] These mandates do not explicitly compel NHRIs to set up structures and take specific actions to institutionalise relationships with civil society. However, the duty to consult does suggest the necessity of putting in place mechanisms to establish cooperative relationships.

The mandate of the Equality and Human Rights Commission (EHRC) in Britain, for instance, contains several provisions that instruct it to "consult" with civil society.[83] With regard to the formulation of its strategic plan, the EHRC has a three-fold duty to: consult with civil society, allow civil society to make representations and take those representations into account.[84] To fulfil its statutory obligations, it has a process in place that allows civil society to input into its strategic plan for 2009-2012, which includes online submissions, focus groups and meetings.[85]

Mandated Improvement

Following years of political interference and wavering legitimacy, Nigeria's government adopted an Act in February 2011 to amend the Nigerian Human Rights Commission's mandate. This new and improved mandate safeguards the Commission's autonomy, strengthens its enforcement powers, including powers to award effective remedies for human rights violations, and affirms the importance of civil society engagement.

Adopting an almost identical provision as its predecessor, the amended Act states that the Commission shall "liaise and cooperate, in such manner as it considers appropriate, with local and international organisations on human rights with the purpose of advancing the promotion and protection of human rights".[86] A new provision also calls on the Commission, when exercising its powers, to "cooperate with and consult with other agencies and organisations, governmental and non-governmental, as it may deem appropriate".[87] These two provisions make engagement with civil society obligatory but give the Commission some leeway over the nature of its relationship with civil society.

A novel and significant addition to the Commission's mandate is a provision for the establishment of a new Human Rights Fund, which is devoted to research, as well as "the facilitation of human rights activities of the Commission in collaboration with other human rights non-governmental organisations, civil society organisations and other stakeholders".[88]

Mirroring the Paris Principles, the Malawi National Human Rights Commission's mandate requires it to specifically "develop work relationships with non-governmental organisations devoted to protecting and promoting human rights".[89] To satisfy this statutory requirement, the Commission is obliged to create structures and specific opportunities that indicate that it is taking active steps to create and maintain a relationship with civil society actors.

While some laws, like Malawi's, speak of engagement with "non-governmental organisations", others like New Zealand's, include individuals by using the terminology: "persons and bodies concerned with the protection of human rights". However, most mandates refer to non-governmental organisations and institutions.

In Aid of the Defender

While no legislation on NHRIs expressly refers to human rights defenders (HRDs), policy and practice have evolved to place a duty on an NHRI to protect HRDs.[90] The UN Declaration on Human Rights Defenders (1998) defines a human rights defender as a person who "individually and in association with others" promotes and strives "for the protection and realisation of human rights and fundamental freedoms at the national and international levels".[91] The Declaration recognises the special status of HRDs and implores states to establish NHRIs as mechanisms to protect human rights and those using legitimate means to further them. This framework was endorsed by all Commonwealth governments, making it imperative for their NHRIs to take on this assigned role. Owing to the nature of their work, HRDs are often under grave threat. They regularly function in hostile environments that stigmatise their work, in which they face threats to life and liberty through arbitrary arrests and detention, harassment and violence – environments that are common in many Commonwealth countries.

Violence, intimidation and threats often increase when human rights defenders take on politically sensitive and controversial issues. For

instance in Uganda, lesbian, gay, bisexual, transgender and intersex (LGBTI) activists face egregious abuse[92] and, as in the case of David Kato, have even been killed.[93] Restrictive legislation such as the Ugandan NGO Act has also brought new concerns about the future of human rights defenders in the country.[94] In Malaysia, a campaign in July 2011 for electoral and political reform prompted systematic harassment by government authorities and culminated in mass arrests.[95] So too in Bangladesh, human rights defenders continue to face intimidation and harassment.[96] In Kenya, two human rights defenders were murdered soon after collaborating with the UN Special Rapporteur on extrajudicial killings.[97] Women human rights defenders face the threat and risk of gender-based violence by government agents in certain African states.[98]

To maintain legitimacy, an NHRI must be vocal, proactive and prepared to advocate in defence of HRDs. A repressive climate should prompt an NHRI to provide special assistance to defenders. The Northern Ireland Human Rights Commission, for example, monitored the Rosemary Nelson inquiry that investigated the murder of prominent human rights lawyer, Rosemary Nelson.[99] In another example, following the subsequent arrests and harassment by state authorities of protestors in July 2011, SUHAKAM, the Malaysian National Human Rights Commission, plans to carry out an inquiry to investigate allegations of police brutality while dealing with activists.[100]

NHRIs can also be a rich resource for HRDs to receive information on international human rights norms and domestic, regional and international human rights protection mechanisms. Additionally, in their role as advisors to governments, NHRIs can also review legislation to ensure that it facilitates an enabling environment for HRDs' work. Another way for an NHRI to aid HRDs is through the creation of a "focal point person" – a recognised best practice[101] – to adhere to the urgent and specific needs of human rights defenders. Commonwealth NHRIs, including those in India, Sri Lanka, Kenya and Uganda, have appointed focal point persons on human rights defenders.

Yet the mere appointment of a focal point person is inadequate. For example, the UN Special Rapporteur on human rights defenders observed during a visit to India in 2011, that despite the creation of a focal point person within the INHRC, it lacks "sufficient prominence within the Commission."[102] An Indian human rights defender has also noted that the focal point person in the INHRC fails to respond with urgency to complaints of alleged abuse against human rights defenders.[103]

Ideally a focal point person must go beyond acting as a separate complaints-handling cell. The focal point person should monitor and report on concerns relating to HRDs, prompt investigations, and where possible, even initiate legal procedures on behalf of HRDs.

Put it on Paper

The level of enthusiasm with which civil society approaches its NHRI in the Commonwealth often depends on the personalities at its helm. Strong infirmities in the design of succession impact engagement patterns, as in the case of India, where only Chief Justices can lead the Commission, and in single-member ombudsman offices, where the individual *is* the office. In Jamaica, civil society generally perceives the present Ombudsman as more proactive and open to engagement than his predecessor. The present Ombudsman in Namibia is seen as more open and accessible to civil society, while his predecessor was viewed as inclined to the formal and official and therefore averse to lobbying for specific civil society concerns. In the long run, a rise and fall in engagement with civil society can be extremely detrimental to public ownership of a national human rights body. NHRIs must therefore espouse civil society partnerships from the very start in the mandate itself, to counter depredations that mar the office of an NHRI.

Most mandates of Commonwealth NHRIs make no mention of civil society at all, as in the mandates of NHRIs in Antigua and Barbuda, Barbados, Belize, Canada, Cyprus, Ghana, Jamaica, Malaysia, Mauritius, Namibia, Northern Ireland, Rwanda, Papua New Guinea, St. Lucia, Seychelles, South Africa, Sri Lanka, Swaziland, Tanzania, Trinidad and Tobago, Uganda and Zambia. However, there are instances where, though no mention of civil society

engagement is made within the mandate, NHRIs have worked with civil society on their own initiative to further mutual agendas. For example, the mandate governing the Commission of Human Rights and Administrative Justice (CHRAJ) in Ghana is silent on civil society engagement. Nevertheless, CHRAJ takes interaction with civil society seriously and has established an NGO forum that meets quarterly, which registered NGOs can join.[104]

Notably, none of the mandates of Commonwealth ombudsmen, who have responsibilities to promote and protect human rights, make reference to civil society engagement and, in practice, few seem to view it as a priority. An exception is the Ombudsman in Namibia. In fact, despite the absence of instruction from domestic legislation, the Namibian Ombudsman set up the Ombudsman Human Rights Advisory Committee, which comprises civil society actors, including NGOs and faith-based organisations. The Committee meets monthly to discuss and strategise on emerging human rights concerns.[106]

The Northern Ireland Human Rights Commission created a Human Rights Practitioners Group comprised of advice workers, equality officers, solicitors and academics. This informal group holds quarterly meetings to deliberate on human rights concerns.[105]

Whether mandates do or do not explicitly require NHRIs to engage with civil society, challenges can obstruct the actualisation of this desirable practice. These include differences in the nature and organisational structures of both civil society organisations and NHRIs, their perceptions about each other and the environments in which they function.

NHRIs and Civil Society: Mutual Perceptions and Inhibitions

While created by the state and supported by it, an NHRI is a *sui generis* body that is required to be independent of political interference. Its statutory origins provide it with formal authorisation and powers to hold the state to account as well as to act as a public advocate that furthers the human rights agenda. On the other hand, civil society, by its very nature, is self-defining, self-mandated, voluntary and self-propelled. Its strengths come from its ubiquitous formal and informal presences at different levels of society and sometimes fluid and adaptable structure.

Situations and circumstances surrounding both NHRIs and civil society can inhibit engagement between the two parties. Civil society actors frequently cite their reservations about working with NHRIs because, inter alia, they sometimes perceive them as negatively motivated entities propped up by the state or guarded by its agents; lacking in ability, commitment and/or resources; and overcautious in responses to human rights violations.

On the other hand, the large number and variety of civil society actors sometimes causes NHRIs to be reasonably cautious about which actors they want to engage with. NHRIs can be aloof about their involvement with civil society groups because they sometimes perceive them to be politically partisan, prone to inaccurate or exaggerated reporting of violations, too confrontational, lacking in adequate expertise themselves, unrepresentative or driven by external/donor agendas.

Looking for Legitimacy

Sometimes civil society will isolate itself from an NHRI because it does not view the NHRI as legitimate. In 2006, the President of Sri Lanka directly appointed the Commissioners of the Human Rights Commission of Sri Lanka, in clear contravention of the national Constitution and the Paris Principles. The Commission's consequent lack of political independence severely inhibited its engagement with civil society and impacted its image in the international arena. In 2011, the report of the UN Secretary-General's Panel of Experts on Sri Lanka noted that while the Commission "could potentially contribute to advancing certain aspects of accountability," it had "serious reservations and believes that the Commission will need to demonstrate political will and resourcefulness in following up on cases of missing persons and in monitoring the welfare of detained persons."[107] Most Sri Lankan civil society actors chose to disengage themselves completely from the Commission, as they perceived it to be an unconstitutional and illegitimate body. In 2007, the ICC declared the Commission non-compliant with the Paris Principles and as a result, downgraded it to "B" status.

In the same year, following the military coup in Fiji, the ICC suspended the Fiji Human Rights Commission's "A" status, *inter alia*, owing to its open support of the coup and its justification of human rights violations on account of the State of Emergency.[108] The Commission consequently resigned from the ICC. Additionally, the Commission has been admonished for its criticism of Fijian human rights NGOs, its request for increased governmental scrutiny of NGO activities and funding, and for publishing confidential email exchanges about the country's political situation between Fijian NGOs and newspaper publishers.[109] Having lost its credibility, independence, public support, and capacity and will to engage with civil society, the NHRI has been virtually rendered ineffective.

Even under the very best of circumstances, concerns about co-option, retention of functional autonomy and independence of action mean that both civil society and NHRIs too often approach each other gingerly for fear that engagement may verge on encroachment.

Perceptions aside, inevitably the effectiveness of both an NHRI and civil society actors to further human rights depends greatly on the environment in which they exist. For every jurisdiction that is progressive, accommodating and responsive to human rights, NHRIs and civil society, there are several others, where governments are unenthusiastic about human rights work, whether it is undertaken by civil society or the NHRI.

The Creation of NHRIs

Motives to create NHRIs vary. Some developed Commonwealth member states have set up their NHRIs by consolidating several offices with similar roles into one. Frequently, these NHRIs take on the form of equality commissions, which deal with problems of discrimination and inequality. For instance, the creation of the Equality and Human Rights Commission in Great Britain consolidated three previously existing bodies dealing with race relations, gender equality and disabilities.[110]

Several other NHRIs have come into being as part of large national transitions. The South African Human Rights Commission was established following its post-apartheid "constitutional moment". The Malawi Human Rights Commission was likewise created during its transition to democracy following thirty years of authoritarian rule. Sierra Leone and Northern Ireland established their NHRIs as a result of peace agreements after long periods of internal conflict.

In certain Commonwealth countries, pressure from the international community – including governments, donors, international human rights groups, international and regional human rights monitoring and enforcement mechanisms – has pushed reluctant governments to create NHRIs in order to temper disapproval and condemnation. India was spurred into creating its National Human Rights Commission after a damning report on torture, rape and death in custody pointed out endemic violations across the country.[111] Malaysia felt compelled to set up SUHAKAM only after it became a member of the erstwhile UN Commission on Human Rights, despite the fact that civil society had agitated for a national human rights mechanism for years.[112]

Once in place, the NHRI – as a unique body created by the state but charged with taking state actors to task – occupies a precarious space.[113] While the creation of an NHRI suggests that a state consents to scrutiny, in reality governments are reluctant to submit to this level of accountability. Defensive governments can and do use their control over an NHRI's design and appointments to weaken them from the very beginning or frustrate them if they become too outspoken. For example, in 2006, the Executive Secretary of the Nigerian National Human Rights Commission, Bukari Bello, was sacked for voicing his opposition to government policies and actions, including the arrest and detention of a journalist by state authorities. Finances are a perennial problem for most states, but tightened purse strings that have little to do with national financial constraints also signal a sharp response to growing displeasure with an institution. An NHRI's realisation that it is ultimately dependent on the government can likewise act as a continuing rein on its willingness to take it on with even mild admonishments.

"[Government] has a tendency to exercise authoritarian power and does not still fully appreciate the significance, meaning and essence of an NHRI. It often confuses the NHRI with the various other institutions that exist and forgets the body's unique role and position and international significance."[114]

While NHRIs are often under scrutiny from governments for daring to perform, this pressure is also channelled against civil society actors whom they perceive to be too vociferous in furthering human rights. Governments challenged by dissent, embarrassed by criticism or defensive about violations, frequently restrict civil society functioning through unreasonable registration regimes; limited access to funding; arbitrary arrests and detention; and draconian laws that hinder the rights to expression, assembly and association.[115]

Nevertheless, engagement is perhaps all the more valuable and rewarding when done in the face of constraining environments. Nigeria's Human Rights Commission (NHRC) was created to assuage international criticism of Nigeria's military government and, in its formative years, had little legitimacy with civil society. At the same time, human rights defenders were under persistent threat from the government, and arbitrary detention and harassment executed by government agents became rampant. In a bid to overcome state intimidation, human rights actors chose to engage with NHRC, however illegitimate they perceived it to be. Working with NHRC, which had access to the African Commission for Human and Peoples' Rights – a regional human rights mechanism – became a means to profile the human rights situation in Nigeria. Most importantly, however, the government found it difficult to inhibit the work of civil society actors who engaged with NHRC.

Even in more secure environments with established democratic space, a symbiotic relationship is more effective than working in isolation. In Australia in 2006, a nationwide campaign to improve healthcare for indigenous people was triggered by collaborative action between the NHRI and civil society.[116] Earlier in the year, the Australian Human Rights Commission (AHRC) had published a report that revealed gross inequalities in healthcare for Aboriginals and Torres Strait Islanders compared to the rest of Australians.[117] To compel the government to respond, the AHRC formed the "Close the Gap Coalition", an umbrella group of over forty organisations, including Australians for Native Title and Reconciliation (ANTAR), the National Aboriginal Communities Controlled Health Organisation (NACCHO) and Oxfam Australia.[118] The joint movement successfully prompted the government to make a series of commitments, including a boost in funding, to remedy indigenous health inequities.[119] The Close the Gap Coalition continues to monitor and report on the progress of this initiative.

Chapter 4: Developing Partnerships:
Practise Makes Perfect

Engaging from the Beginning

The relationship between NHRIs and civil society is most effective when civil society plays a role in the creation of an NHRI. Pluralism and participation of the largest numbers of stakeholders throughout an NHRI's establishment and continued existence, can strengthen it and minimise the possibilities of interference by vested interests of the state. Furthermore, adequate and meaningful engagement also demonstrates and satisfies the fundamental democratic value of participation that is central to the Commonwealth.

The larger the number of stakeholders connected with the creation and operation of an NHRI, the easier it is for the NHRI to modulate the negative reactions of the political executive. Such reactions are often present in a process where the government of the day creates an agency whose primary function is to monitor its performance in a subject matter that goes to the very heart of the state's legitimacy.

Broad-based consultation processes facilitate the spread of knowledge about the institution into the public at large. Wide consultations at the outset help shape the new institution, refine debates around contentious issues, and transfer ownership of the institution from the government's hands to the communities it is to serve. When the need arose to form a statutory body to advocate human rights concerns, expand the democratic space and advocate freedom of fundamental rights, the Kenyan National Commission on Human Rights (KNCHR) was created in 2003, following immense pressure from civil society actors in Kenya and a large dose of assistance from the United Nations, specifically the Office of the High Commissioner on Human Rights. The participation of civil society actors in the creation of KNCHR was the key in establishing the strong engagement that the body has maintained subsequently with civil society. Several of the commissioners eventually appointed to KNCHR came from civil society. Such engagement with civil society was also critical in establishing a sense of public ownership over KNCHR and furthering its legitimacy. KNCHR sees engagement with civil society as a crucial accountability mechanism. Furthermore, civil society actors in Kenya themselves view their NHRI as a strategic partner in all their initiatives.[120]

Such a consultation at the inception of an NHRI allows for public concerns to feed into the role and functions of the institution. However, consultations alone may not always mean that every battle is won. In India, consultations with civil society groups were not successful in including the armed forces under the purview of the Commission's final enabling legislation, despite strong evidence that it was responsible for human rights violations. [121]

The People Behind an NHRI

Every major change in the Members of an NHRI can change the dynamics of civil society engagement. For this reason, the involvement of civil society must extend well beyond the creation of an NHRI, into the appointment of its Members.

Diversity, pluralism and the regular and accepted involvement of civil society bring the richness of varied perspectives and expertise into an NHRI. Involving civil society early in the selection process and appointing people from a large variety of groups as Members of an NHRI is in itself a way of habituating continuous engagement. Pluralism and diversity among the Members are promoted by the Paris Principles as well as the ICC Sub-Committee's Guidelines.[122] The Commonwealth Best Practice for NHRIs states: "In addition to the strong personal and professional qualifications of the individual members, successful NHRIs are characterised by the plurality of their composition."[123] Drawing Members from civil society adds to the diversity and richness of expertise of an NHRI, however, drawing extensively from civil society can also result in too close a relationship with it, which can sometimes obscure the boundaries that need to be maintained by an NHRI for it to work effectively with the public service.

Sierra Leone's statutory selection panel comprises a representative of the government and a representative of each of the following umbrella organisations: the Inter-religious Council, the National Forum for Human Rights, the Civil Society Movement, the Council of Paramount Chiefs, the Sierra Leone Women's Forum and the Sierra Leone Labour Congress.[124]

The Malawian Human Rights Commission Act invites civil society actors to nominate independent, non-partisan persons of high integrity for appointment as Members of the NHRI. The Malawi Law Commissioner and the Ombudsman jointly assess these nominations and use them as a basis to make recommendations to the President for appointments.[125] In Kenya, anyone in the country can nominate any qualified person to be appointed to the National Human Rights Commission. The call for nominations is widely advertised in the print media to make it a participatory process.[126] This has resulted in a diverse composition of commissioners, richer by the range of experiences they bring to the job.

Inclusion of multiple interest groups helps ensure that the marginalised, the vulnerable and even the unpopular are represented and are knowledgeable about their concerns.

Expanding the Pool

The staff composition of an NHRI defines its relationship with civil society in carrying out its functions. Many NHRIs, however, tend to take regular staff from only a limited segment of society. Heavy reliance on staff deputed from various departments of the government has, in some countries, created concern about overly government-oriented outlooks, and a lack of expertise and sympathy for the human rights regime they are expected to serve. Similarly, concerns abound about loyalties where staff members are required to eventually return to government entities at the end of their deputations at an NHRI. These concerns can be significant where staff deputed from state security forces conduct an NHRI's human rights investigations. The investigative staff of the National Human Rights Commission of India, for instance, is mandated to comprise primarily of existing police personnel and officers from the Intelligence Bureau.[127] Other staff members are also recruited from various government agencies, to which they then return after their deputation period is over.[128] This has had significant repercussions on the NHRI's engagement with civil society.

Mutual Engagement for Mutual Benefit

Challenges faced by NHRIs and civil society, in the varied and sometimes difficult environments within which they function, can deter regular engagement. Yet in good or poor circumstances, both actors can accomplish their goals better by working together, because the limitations of one actor can be overcome by the strengths of the other.

Civil society may, in some circumstances, have better human rights expertise, skill sets, networks and outreach. Unburdened by bureaucratic fetters, it can sometimes move faster and more effectively. Therefore, in certain circumstances, NHRIs can seek support from civil society partnerships to extend their community outreach and advocacy measures, which may otherwise be limited by financial and human resource constraints. Civil society brings with it networks, often at the grass-roots level, that give access to rural areas and marginalised sections of society where the outreach of an NHRI may be limited. This can grant an NHRI crucial access to populations, regions, information and human rights expertise to which it would never otherwise be privy. Civil society actors who are in touch with the concerns and perceptions of different cross sections of society can act as bridges between NHRIs and different communities and social echelons.

KNCHR views civil society partnerships as invaluable. In 2010, the African Commission on Human and Peoples Rights found that the Kenyan government had violated the rights of the Endorois, an indigenous group, by forcibly removing them from their land without prior consultation or compensation. In a campaign to promote the rights of indigenous peoples and, in particular, to monitor the implementation of a ruling by the African Commission, KNCHR collaborated with several NGOs, including the Centre for Minority Rights Development (CEMIRIDE) and the Kenya Land Alliance (KLA), to urge the government to implement the ruling of the African Commission.[129]

Making the Most of It

Several NGOs in Bangladesh have an established profile with the public. They have many years of experience in delivering development and bettering governance at the grass roots, large financial and manpower resources and expansive networks. In contrast, the Bangladesh Human Rights Commission is nascent. It is still in the process of setting up and mapping its role in the human rights arena, while challenged by a dearth of resources. The Commission has therefore used the expertise of established, credible NGOs in furthering its outreach to all sections of the country. In many cases of human rights violations in Bangladesh, NGOs are the first to intervene, investigate and report preliminary findings, which the Bangladesh Commission uses as a basis to take necessary action.[130]

Even some single-member institutions, such as the Office of the Ombudsman in Namibia, welcome engagement with civil society. The Namibian Ombudsman is especially interested in "collaborating with civil society organisations which are closer to the ground" because they are a "source of knowledge and expertise".[131] Putting this into practice, the Office of the Ombudsman has conducted outreach programmes specific to human rights in collaboration with NGOs, community leaders and local authorities.[132]

Working with an NHRI also confers many benefits on civil society. NHRIs have the voice and authority of a statutory institution, with mandated access to the government. Association with an NHRI can give civil society crucial access to the decision-making bodies of the state, offer a powerful platform to analyse and advise on legislation, and negotiate compliance with human rights norms. A civil society organisation (CSO) based in Namibia acknowledged that its partnership with the Ombudsman provided greater weight to its human rights concerns, "legitimising certain controversial issues"[133] and precipitating a positive government response.

Civil society can also benefit from the resources and platform that an NHRI provides as a state institution. Those NHRIs that have substantial geographic reach through regional and district level offices can benefit civil society advocacy efforts. The Ghanaian Commission on Human Rights and Administrative Justice, for instance, has offices in over 100 districts of the country. As a result, Ghana's civil society finds the Commission to be a strategic partner to enhance its advocacy and awareness efforts.[134]

Formal Platforms

Unfortunately, much of the engagement between NHRIs and civil society is ad hoc. It is usually limited to workshops, training programmes, seminars and human rights advocacy initiatives. In the absence of formal platforms and processes for long-term engagement, these initiatives may be seen as temporary or implying tokenism. Malaysian civil society cites its consistent unmet demand for regular meetings as a challenge for further engagement with SUHAKAM.[135] The nature of the engagement remains ad hoc and issue-based in Malaysia, making the implementation of outcomes difficult.

There is a strong need to establish formal platforms for engagement with civil society to ensure that it is regular and meaningful. This may mean a clearly defined framework with mutually agreeable parameters for both actors.

None of the mandates of Commonwealth NHRIs lay down a formal mechanism through which engagement can be realised. However, mechanisms were subsequently established to formalise engagement. Tanzania's Commission for Human Rights and Good Governance, for instance, has established formal engagement through a Memorandum of Understanding (MoU) with certain CSOs. In 2007, it signed an MoU with ten NGOs (eight from mainland Tanzania and two from Zanzibar) with the aim of enabling effective participation by CSOs to monitor and report human rights violations in the country as well as to promote public awareness on human rights issues through training and other outreach programmes. The MoU requires parties to combine efforts to work towards observation, protection and promotion of all human rights norms. It makes the roles of each stakeholder clear, thereby avoiding duplication of effort.[136]

NHRIs in India and Maldives have established core groups focusing on thematic human rights issues.[137] Individuals and experts from various CSOs have been taken onboard to ensure that these platforms are used most effectively.

The establishment of formal platforms is merely the first step towards substantial and consistent engagement. Creating platforms can often become a box-ticking exercise for NHRIs, sometimes adding to the atmosphere of non-transparency and co-opted exclusiveness. For instance, a consultative forum for NGOs, an initiative of the Rwandan Human Rights Commission,[138] was set up to strengthen capacity for sustained partnerships with civil society actors. The Forum convenes twice a year and has been able to encourage engagement between the NHRI and civil society actors at a very superficial level. Civil society actors may be invited to participate in the advocacy campaigns, public outreach activities and trainings of the NHRI, but are excluded from the planning stages of these programmes. While engaging through a consultative forum may be a step towards strengthening NHRI-civil society partnerships, according to civil society actors in Rwanda, a more substantial approach would bolster efforts that are initiated by civil society itself with the facilitation of the NHRI.[139]

Occasionally, the establishment of formal platforms may prioritise engagement with certain civil society actors over others. One remedy may lie with the selected civil society actors, who could hold further open and transparent consultations with other sections of civil society and gain their feedback. In this way, more comprehensive views from a larger section of civil society may be presented in these NHRI-civil society platforms.

A Partnership to Advance the Human Rights Agenda

In the Commonwealth, certain NHRIs have set a high bar in engaging with civil society in their day-to-day functions, while others have lagged behind. The following examples draw from this broad spectrum and illustrate specific ways in which NHRIs and civil society engage successfully.

Filing Complaints Made Easy

Undoubtedly, civil society plays a salient role in filing complaints – their own or those of others. However, some NHRIs in the Commonwealth have also made efforts to ease the filing process. Though most NHRIs allow the lodging of complaints in person at the NHRI, or through telephone, email or fax, for many complainants who have special needs or challenges, these methods can still pose difficulties. For this reason, some NHRIs have gone a step further to assist in this process. The Bangladesh Human Rights Commission, for instance, offers the assistance of its staff to people who cannot read or write.[140] [141] The Australian Human Rights Commission extends its reach to complainants by making all important information on how to register complaints available on its website[142] and translating the Commission's complaints-handling role into several languages. The Mauritian Human Rights Commission has officers to assist with the filing process, including those made in the Creole language.[143]

Handling Complaints

Handling complaints is a primary function of many NHRIs. One of the main ways in which civil society can add value to an NHRI's work is to bring complaints from people who cannot do it on their own. For the victim of a human rights abuse, filing a complaint can be a daunting affair, especially in places where state agencies are disproportionately powerful and populations are often poor, sometimes illiterate and liable to reprisals. Language barriers, physical distance, an overwhelming amount of paperwork, and at times, even the misconception that an NHRI is an arm of the state, can inhibit a victim from filing a complaint. Civil liberties groups, human rights defenders, health workers, environmentalists, lawyers, media persons and others who operate in remote areas of a country and are in constant touch with ground realities, play a predominant role in supporting victims and bringing their complaints to the NHRI.

Civilian Oversight in Prison Visits and Monitoring

Many NHRIs oversee and have access to places of custody. These are sites prone to police torture, extrajudicial deaths and other human rights violations. Regulated and controlled access does not allow easy entry for civil society actors who work for prisoners' rights or prison reform in general. Partnerships with NHRIs that have such access can open prisons to locally available community services, and significantly improve the situation in these traditionally closed institutions through more regular scrutiny.

As part of its civilian oversight duties, the Foundation for Human Rights Initiative collaborates with the Ugandan Human Rights Commission on joint missions to visit prisons and host workshops.[144] While conducting an inquiry on the state of police and prison reforms, the

Zambian Human Rights Commission has even taken the press into prisons. In Nigeria, civil society actors participate in the prison audit of the Nigerian Human Rights Commission.[145] In Kenya, the Commission developed a monitoring mechanism for human rights violations in prisons through consultation with civil society actors. It has also collaborated with the Institute of Education in Democracy in its civil education programme for prisoners.[146]

The mandates of NHRIs in Bangladesh,[147] Cameroon,[148] India,[149] Kenya,[150] Malawi,[151] Malaysia,[152] Mauritius,[153] Northern Ireland,[154] Nigeria,[155] Seychelles,[156] Sierra Leone,[157] Sri Lanka,[158] Tanzania,[159] Uganda[160] and Zambia[161] specifically mention the power to monitor prisons. Similar powers can be implied in Antigua,[162] Barbados,[163] Belize,[164] Canada,[165] Ghana,[166] Jamaica,[167] Maldives,[168] Papua New Guinea,[169] Namibia,[170] St. Lucia,[171] South Africa[172] and Trinidad and Tobago.[173] NHRIs in the countries mentioned above, enjoy unconditional powers to visit prisons, except in Northern Ireland and Malaysia, where visits must be scheduled or prior permission sought from relevant authorities. Such restrictions severely weaken an NHRI's oversight role and its ability to hold prisons accountable to human rights norms. The Northern Ireland Commission, for instance, has limited investigation powers since it has to give a period of notice and agree to the terms of reference with any public body it wishes to investigate. A representative said: "We don't have unrestricted powers to visit places of detention...we can only formally conduct an investigation after giving [a place of detention] a couple of weeks to see our terms of reference, and they have the option to challenge it through the courts."[174]

Advising on Legislation

Mandates of many Commonwealth NHRIs grant them the ability to review and advise governments on proposed legislation, so as to ensure its compliance with human rights norms. Consultations with civil society during this process can bring in subject expertise and provide a good picture of the impact on the ground.

One of the tasks given to the Northern Ireland Human Rights Commission (NIHRC) by its enabling legislation was the preparation of advice for the British Government on what rights could be added to the Human Rights Act passed by Westminster Parliament in 1998. These rights are to be supplementary to the European Convention on Human Rights (ECHR)

and together with the ECHR would form a Bill of Rights for Northern Ireland.[175] The particular circumstances of Northern Ireland, after a period of protracted conflict culminating in a peace agreement, led to the need for additional rights, reflecting the principles of mutual respect for the identity and ethos of both communities. These, together with the ECHR, were to be included in a Bill of Rights for Northern Ireland.[176] This Bill of Rights was to help address the contemporary human rights concerns of Northern Ireland within the European Convention. NIHRC has consulted civil society extensively in these endeavours, and has lobbied for the creation of a Bill of Rights through the Human Rights Consortium, an umbrella group of civil society actors.[177]

Despite its accession to the Convention against Torture, the Ugandan government failed to make the rights espoused in the Convention justiciable to Ugandan citizens. In response to this failure, the Uganda Human Rights Commission, in conjunction with CSOs, proposed a draft bill that prohibited torture and ill-treatment, in order to pressure the government. Though the Ugandan parliament is yet to pass the anti-torture bill, the joint approach taken by civil society and the Ugandan NHRI has lent serious domestic weight to an issue that might have otherwise been shrugged off.[178]

The Government of Australia recently announced its review of federal anti-discrimination legislation, which presently exists in four separate acts – the Racial Discrimination Act, 1975, the Sex Discrimination Act, 1984, the Disability Discrimination Act, 1992, and the Age Discrimination Act, 2004. The aim of the review is to consolidate all the acts into a single comprehensive one to provide a clearer understanding of rights and obligations; remove overlaps; and mitigate inconsistencies in the acts.[179] The Australian Human Rights Commission, whose functions and role stem from all four acts, has actively engaged with CSOs in this review process, through which it encourages public input. For instance, in July 2011, the Human Rights Law Centre, an Australian human rights NGO, conducted a conference with active participation from the Australian Human Rights Commission on best practice models and frameworks to promote equality, and to encourage informed debate on the subject.[180]

National Human Rights Action Plans

National Human Rights Action Plans (national plans) are a set of practical goals designed to guide the national human rights policies of a country. Governments are encouraged to develop national plans with the participation of all relevant stakeholders, including NHRIs and CSOs. The central role of these two actors in the creation, implementation and

monitoring of a national plan is strongly advocated by the Commonwealth[181] and the UN[182] as a means to ensure its comprehensiveness, effectiveness and credibility.

At present, most Commonwealth countries are in the process of adopting national plans. However, very few national plans to date sufficiently or effectively incorporate civil society participation. The failure of the governments of Malawi[183] and Australia[184] – the first countries in the world to adopt national plans – to engage with civil society during the development of their plans is held to be one of the main contributors to their disappointing results. New Zealand's national plan, on the other hand, stands as an example of worldwide best practice.[185] It was developed, partially implemented, monitored and reviewed with continuous cooperation between the New Zealand Human Rights Commission and civil society. Kenya appears to have taken notice of this success and is on the verge of adopting a valuable national plan. Led by the government and the NHRI, it will be the result of two years of nationwide consultations and intensive civil society participation, including a civil society working group. Additionally, a National Steering Committee composed of government and NGO representatives is coordinating and managing the process.[186]

Human Rights Education

In its role as a promoter of human rights, an NHRI is responsible to spread awareness through advocacy, research and human rights education. Human rights education can inculcate a culture of human rights and empower people to bring about social change. Additionally, when one lacks awareness of one's rights – and of mechanisms available to enforce them – the ability to claim or defend these rights is weakened. For these reasons, the Paris Principles see human rights education as one of an NHRI's core functions and most domestic mandates include an educational role as part of the institution's promotional capacity.

From conducting research studies, mainstreaming human rights into school curricula, developing toolkits, training and sensitising the public and government officials, to awareness and advocacy campaigns, there are several ways in which NHRIs execute this role. Civil society collaborations are useful in implementing and operating these programmes as they further an NHRI's outreach, and sustain programmes in the long run while providing

resources and expertise for this work. Collaboration is especially important when an NHRI is faced with a scarcity of funds to run these programmes.

Civil society actors are usually prominent players in the spread of human rights education and public awareness. Their approach, however, may be fragmented, stemming from their varied interests and specialisations. Collaborating with the NHRI adds strategic value to their programmes, since the NHRI may provide a more comprehensive approach to human rights initiatives.

Following decades of sectarian turbulence, the Northern Ireland Human Rights Commission, in collaboration with Amnesty International (Northern Ireland), co-developed an educational resource on citizenship for Northern Ireland's school curriculum. The material includes information on human rights, social responsibility, democracy, the proposed Bill of Rights and the UN Convention on the Rights of the Child. The curriculum guide, *Making Rights Real,* was successfully piloted through several local schools by the statutory bodies that oversee the education system and is now part of the secondary school curriculum.[187]

Similarly, the Ugandan Human Rights Commission (UHRC) piloted and actively initiated its National Civic Education Programme (NCEP). The programme is targeted at educating citizens of their rights and providing knowledge on how to fully participate in the decision-making of the country's policies. Using the wide civic networks that may be accessed through collaborations with civil society, UHRC partnered with five CSOs during the implementation of NCEP – the Uganda Project Implementation and Management Centre (UPIMAC), the International Federation for Women Lawyers (FIDA), the National Association of Women Organizations in Uganda (NAWOU), the Uganda Joint Christian Council (UJCC) and MS Uganda.[188]

Joint Advocacy

One of the major challenges faced by Commonwealth NHRIs is the limitations in their ability to ensure that their recommendations are implemented. Recommendations made by most NHRIs are not binding and are made in an advisory capacity. Even though they cannot make binding decisions, NHRIs can put pressure on their governments to accept and implement their recommendations through collaborations and joint lobbying efforts with civil society actors. In its recommendations to the Human Rights Commission of Maldives, ANNI, a NGO, flagged collaboration with civil society as a key strategy to strengthen the NHRI and add force to the recommendations it makes to the government.[189]

Joint action can make it tougher for a government to ignore or window-dress human rights deficiencies.

The Human Rights Commission of Sierra Leone signed an MoU with the Sowei[190] Council of Sierra Leone, the Council of Tribal Heads, the District Councils and the Advocacy Movement Network (AMNET), a human rights NGO, to abolish the practice of female genital mutilation (FGM), which has contributed to the rise in early marriage, HIV/AIDS and other negative social factors.[191] In this regard, the Sierra Leone Commission and civil society worked together with local communities to successfully counter this practice in two districts in the northern region of the country.

Joint advocacy efforts may extend to raising awareness on the implementation and usage of ratified treaties. In December 2008, the Australian government ratified the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). The treaty created a communication and inquiry procedure through which the government can be held to account when failing to promote and protect rights that safeguard against gender discrimination and equality. In the following year, the Australian Human Rights Commission along with the Public Interest Law Clearing House (PILCH), a leading human rights CSO, held a joint advocacy seminar promoting the usage of the Protocol to ensure access to justice.[192] Through this effort, they provided detailed information on key jurisprudence under the Protocol and explained its potential uses to promote and protect women's rights.

Facilitated by the New Zealand Human Rights Commission, the New Zealand Diversity Action Programme (NZDAP) was set up to encourage community action on race relations. Its objectives are to celebrate diversity; promote equal enjoyment of civil, political, social, economic and cultural rights; foster harmonious relationships between diverse sections of society; and give effect to the Treaty of Waitangi – to preserve the culture of the Maori community. In the last six years, NZDAP has grown to include around 250 CSOs, taking practical initiatives to recognise and celebrate the cultural diversity of New Zealand.

Joint advocacy can lead to significant results, ranging from compensatory redress, addressing immediate concerns of victims of human rights violations, to high-level policy changes. In an effort to lobby and advocate for the rights of refugees and asylum seekers to education, the Coordinating Body of Refugee Communities in South Africa partnered with the South African Human Rights Commission to urge the Department of Education to accept refugee

children into public schools. Access to the schools was previously denied as the refugee documents of these children were not accepted. The success of this endeavour led to several refugee children entering schools, with some even being provided financial assistance. Following this joint intervention, refugee documents are no longer a determining factor in school admission processes.[193]

In New Zealand, the Human Rights Commission has developed a human rights community development programme called *Taku Manawa*. The programme was started in four regions of New Zealand with plans to extend to the fifth one. Community members are selected and trained in a human rights facilitator training programme. The programme is aimed at building human rights knowledge and expertise in local communities and training them to share knowledge and best practice.[198]

As a part of its mandate to promote human rights awareness, an NHRI may often need to advocate and raise awareness on sensitive issues where collaborations with civil society actors may be constructive and invaluable in creating inroads. The South African Human Rights Commission (SAHRC), in collaboration with the National Council on Refugee Affairs, the Office of the United Nations High Commissioner for Refugees and other organisations, initiated the "Roll Back Xenophobia Campaign" to underline the dignity and rights of migrants, asylum seekers and refugees in post-apartheid South Africa.[194] These efforts were recognised by the Committee for the Elimination of Racial Discrimination (CERD), who commended the Commission on its "active role in eliminating the residual effects of racial discrimination".[195] Interacting with civil society organisations helped SAHRC advocate to the government to deal with this matter, and most especially, sensitised the public on these issues.[196]

Likewise, *trokosi,* a ritual and customary practice of forced labour and servitude that is prevalent in Ghana, came under the scrutiny of the Commission on Human Rights and Administrative Justice (CHRAJ). The practice entails atoning for sins by making women or children in the family engage in servitude under priests who follow fetishist beliefs. In a joint partnership with a local NGO, International Needs-Ghana, the Commission successfully released some of these victims.[197]

Taking the Office to the People

A national inquiry is considered one of the most cost-effective and efficient strategies to proactively address systemic and endemic human rights concerns.[199] A national inquiry will collect evidence on a large scale and scope the situation on the ground before coming to conclusions and giving recommendations to government or the parliament that will have weight and influence enough to bring about systemic change. The process may involve setting up public hearings across the country, researching secondary data and taking testimonies of victims and witnesses on the ground.

Since national inquiries are wide-ranging and visible, they educate the population about the issues and the functions and powers of the NHRI, and, in turn, can build up pressure from the public to change the system responsible for the abuse. They go beyond just looking at individual violations, and attempt to establish patterns and tackle underlying causes for repeated violations of rights.

NHRIs in Australia, India, Kenya, Nigeria, and several other Commonwealth countries, have included civil society as a key actor in very successful large-scale inquiries. The 2010 Public Tribunals on Police Abuses held by the Nigerian Human Rights Commission in collaboration with the National Committee on Torture (NCOT) and the Network on Police Reforms (NOPRIN) – a network comprising forty-six CSOs dedicated to promoting police reforms – has been viewed as "an effective and popular strategy of public advocacy against police violations and of naming and shaming of perpetrators".[200] The tribunals were intended to give a voice to survivors and relatives of victims of police abuses – extrajudicial killings, torture, rape, sexual abuse and other inhumane and degrading treatment. They led to dismissals and prosecutions of the perpetrators; reopened investigations into cases of extrajudicial killings and crimes; recovered bribes extorted by police personnel from victims during investigations; and inspired law enforcement policy changes.[201]

The expertise of civil society actors has been a feature in many national inquiries, as independent experts drawn from civil society frequently constitute the panel of inquiry. As this report went to press, SUHAKAM, the Malaysian human rights commission, was conducting an inquiry into the land rights of indigenous peoples in Malaysia. The inquiry sought to comprehensively examine the root of the problems relating to native customary rights to land, and recommend appropriate actions to address this issue. It was due to have held both public consultations and public hearings as part of the inquiry in Sabah, Sarawak, and peninsular Malaysia. SUHAKAM intended to bring out an in-depth report, making recommendations to the Government on short- and long-term practical solutions. The panel of inquiry was to consist of SUHAKAM Members and independent experts in the field of indigenous rights. Following the consultations, a public hearing was to be held where invitations to appear before the panel were to be extended to key witnesses, including indigenous people, government officials, community-based organisations, corporate personnel, and the media.[202]

Engagement at the International Level

Engagement with civil society actors often goes beyond the domestic sphere. At the international level, NHRIs have a role to play in ensuring that states meet their international human rights obligations, such as ratifying treaties and reporting on human rights compliance. In this regard, apart from producing their own independent reports, NHRIs often work with civil society to create shadow reports. Both actors occasionally contribute to each other's submissions at international fora. They have collaborated regionally and at the UN to pursue campaigns and publicise their human rights situations.

The Universal Periodic Review has been an important catalyst for NHRI-NGO consultations and for the creation of standing or regular consultation platforms. For instance, Kenyan civil society organisations, such as the Kenyan Chapter of Article 19, recently partnered with the Kenyan National Human Rights Commission during the country's first UPR and pushed for the implementation of recommendations made during the process.[203] The Australian Human Rights Commission also partnered with various Australian CSOs during the country's treaty body reviews. Such partnerships maximised lobbying efforts and minimised duplication.[204]

Apart from making submissions, NHRIs may make the concluding observations and recommendations from treaty bodies available to CSOs as a means to promote accountability. The Mauritius Human Rights Commission proactively disseminates these recommendations and observations through its annual reports; making this information accessible to civil society, so that it can lobby for their implementation.[205] Similarly, the New Zealand Human Rights Commission, in its follow up work to the 2007 CERD examination of the country, regularly engaged and coordinated with communities and civil society, and, based on their input, provided annual updates on CERD implementation and follow up to CERD's 2007 recommendations. The Commission's engagement with communities and civil society ensured that their voices were heard and adequately reflected in monitoring the State's compliance with CERD.

In 2009, after two human rights defenders were killed in Nairobi for daring to work with the UN Special Rapporteur on extrajudicial killings,[206] the Kenya National Commission on Human Rights worked jointly with several civil society actors to draw the attention of the UN Human Rights Council to violence and threats faced by human rights defenders at home. The fact that the Commission lent its support to civil society, provided further authority to the recommendations made by the Special Rapporteur, gave greater credibility to civil society advocacy, and a sense of safety to Kenyan defenders who advocated at the Council. It also kept the matter of accountability alive in the eyes of the international community, potentially preventing repeat reprisal killings.

Chapter 5: Recommendations

Many people of the contemporary Commonwealth live in environments that do not reflect the Association's most fundamental values. Twenty years after the Harare Declaration put human rights promotion and protection at the centre of the Commonwealth agenda, its vision is actively pursued in some corners of the Commonwealth and actively ignored in others.

Well-functioning national human rights institutions (NHRIs) are essential for the promotion and protection of human rights within the Commonwealth. However, the potential of an NHRI to implement its mandate to the fullest is underpinned by meaningful civil society engagement. International and Commonwealth standards demand such engagement and, beyond the domestic and international legitimacy that comes with meeting these standards, NHRIs have much to gain from their realisation. Despite the obvious benefits of cooperation, the sometimes inimical environments in which both these actors work – not to mention misconceptions each harbours about the other's role and nature – can keep engagement superficial or stifle it completely. With potentially thousands of civil society groups, engagement can be a complex and time consuming process, and while NHRIs may be judicious in deciding with which organisations to engage, many are bound to feel excluded. Overcoming these challenges is a vitally important endeavour as human rights are protected more effectively when NHRIs and civil society work together.

There are now over thirty NHRIs in the Commonwealth and innumerable civil society organisations and actors. Both NHRIs and civil society have their own separate operations which must be respected, but too often they work along parallel tracks or at cross purposes. While there will always be points of divergence, it is increasing the points of intersection that CHRI extols. With the recommendations given below, CHRI offers means through which that end can be achieved.

Commonwealth Heads of Government

For over a decade, statements by the Commonwealth Heads of Government Meetings (CHOGM) have repeatedly recognised that civil society is a valuable partner in the Commonwealth's work. In continuation of this trend, CHOGM should:

- Reaffirm the value of civil society participation in all Commonwealth activities and specifically urge Commonwealth NHRIs to engage meaningfully with civil society.

- Mandate the Human Rights Unit of the Commonwealth Secretariat (HRU) to work with the Commonwealth Forum of National Human Rights Institutions (Commonwealth Forum) towards:
  - The development of a formal platform to engage with civil society at Commonwealth Forum meetings.
  - Creating a formal platform for the "A" status members of the Commonwealth Forum to engage meaningfully with Commonwealth Heads of Government.

- Provide additional funding to bolster the capacity of the Commonwealth Secretariat's Human Rights Unit to involve civil society in its work on NHRIs (including its work as the Secretariat of the Commonwealth Forum and in facilitating and advising governments on the creation of new Commonwealth NHRIs).

- Urge all member states to establish NHRIs which are compliant with the Paris Principles and follow best practice guidelines such as those in the Asia Pacific Forum's (APF) Kandy Programme of Action and the Commonwealth's *National Human Rights Institutions: Best Practice*.

Commonwealth Forum of National Human Rights Institutions

As a Commonwealth body, however informal, the Commonwealth Forum must operate in the spirit of past CHOGM declarations which proclaim civil society as a key partner in the Commonwealth's activities. As a Commonwealth network, the Commonwealth Forum should:

- Undertake a substantial review of its operations to pinpoint new avenues for engagement with civil society in all its work. Including by:
  - Widely publicising and advertising the dates, locations and agendas of its meetings.
  - Making it a priority to update its websites more frequently and improve documentation.
  - Inviting civil society to make submissions to its meetings, ensuring that this opportunity is widely advertised and the submissions are duly shared and debated among members.
  - Inviting civil society representatives to attend meetings and allowing them opportunities for meaningful oral interventions.

- Encourage increased adherence among members to the Commonwealth publication, *National Human Rights Institutions: Best Practice*, in addition to the standards in the

Paris Principles. Additionally, the Commonwealth Forum should explore ways of using the publication to conduct a peer review among members.

- Establish a specific programme to share best practices on civil society engagement within the Commonwealth and assist members to carry out activities stemming from such best practices.

International and regional networks of NHRIs

Global and regional networks of NHRIs should:

- Facilitate the sharing of best practices as regards civil society engagement among members and assist them to carry out activities stemming from those best practices.

- Create and nurture multiple avenues through which civil society can input into the network's own operations and functions.

The Commonwealth Secretariat and its Human Rights Unit

For the past 20 years, the Commonwealth Secretariat and its Human Rights Unit (HRU) have shown leadership in assisting Commonwealth governments to set up Paris Principle-compliant NHRIs. Keeping this trend alive, the Commonwealth Secretariat and the Human Rights Unit should:

- Continue to encourage and assist Commonwealth governments to create Paris Principle-compliant NHRIs in partnership with civil society.

- Provide political will and practical resources and channel energy into transforming the Commonwealth Forum into a stronger network that can become a leader on civil society engagement.

- Initiate a programme to identify and nurture Commonwealth best practices in NHRI-civil society engagement and encourage their use in all parts of the Commonwealth.

Commonwealth Governments

Governments are responsible for the formulation of an NHRI's mandate and can positively or negatively affect the environment within which NHRIs and civil society function. In the spirit of the Harare Declaration, governments have a responsibility to respect and protect

human rights. In addition to this basic tenet, and in aid of advancing NHRI-civil society engagement, Commonwealth governments should:

- Ensure that civil society is fully involved in the creation of an NHRI through meaningful and substantial consultations that are broad-based, with a diverse range of civil society groups and other stakeholders from across the country. Governments should also ensure that the outcomes of such consultations are duly considered and incorporated into the design of an NHRI.

- Ensure that the mandate of an NHRI includes specific and substantial avenues for effective civil society engagement.

- Make the process through which Members of an NHRI are appointed transparent and participatory and advertise vacancies widely.

- Allow civil society to nominate Members of an NHRI and include representatives of a broad cross section of civil society groups on the panel which makes the final selection.

- Ensure that the Members of an NHRI reflect the country's civil society community adequately.

- Encourage, initiate and work with multiple stakeholders, including the NHRI and civil society, to create time-bound, benchmarked National Human Rights Action Plans.

Commonwealth National Human Rights Institutions

The openness of an NHRI to civil society determines whether its engagement with civil society is substantial and substantive. In this regard, Commonwealth NHRIs should:

- Whether mandated to do so by its founding legislation or not, engage with civil society in a substantial and substantive way.

- Ensure that it meets the standards of civil society engagement as laid out in the Paris Principles, the higher Commonwealth standards set out in the publication *National Human Rights Institutions: Best Practice* and the Kandy Programme of Action.

- Aspire to "A" status at the ICC and not be content with "B" or "C" status. This would necessarily require ensuring that civil society engagement is not cosmetic.

- Go beyond informal contact to create formal platforms for civil society engagement that ensure regular, substantial, inclusive and consultative interaction with a diverse range of civil society actors.

- Consult and collaborate with civil society actors in fulfilling their mandates, including in the review of legislation, expanding outreach, educating the public on human rights, reporting to UN and regional bodies, responding to human right emergencies and undertaking national inquiries.

- Appoint a Focal Point Person for Human Rights Defenders and, in doing so, recognise HRDs as a special and vulnerable category of civil society that has specific needs.

- Encourage and work with their governments and multiple stakeholders, including civil society, to create time-bound, benchmarked National Human Rights Action Plans.

Commonwealth Civil Society

Civil society must actively pursue and take advantage of every opportunity to work with NHRIs. In this regard, civil society should:

- Advocate for a participatory, inclusive and transparent process in the establishment of Paris Principle-compliant NHRIs in jurisdictions without them.

- Proactively engage with their NHRI to improve access to the policy-making processes of the government.

- Assist victims of human rights violations in accessing the NHRI and support them through the process of filing a complaint.

- Facilitate their NHRI's outreach by providing networks to spread awareness of its role as a mechanism for redress.

- Work with their NHRI in its role as a civilian oversight mechanism for place of detention where human rights violations are rife.

- Lobby and work with their NHRI, government and other stakeholders to develop time-bound, benchmarked National Human Rights Action Plans.

- Submit reports on the performance of their NHRI to the International Coordinating Committee of National Institutions for Promotion and Protection of Human Rights.

- Work closely with their NHRI in, *inter alia*, reporting to international and regional human rights mechanisms and implementing education programmes.

Donors

Some NHRIs can receive, and are partially dependent on, funding that comes from sources besides their governments. Nearly all civil society organisations are dependent on similar funds. Donors should:

- When supporting the establishment of an NHRI, ensure that the process is inclusive, transparent and implemented in consultation with a wide range of stakeholders, including civil society actors.

- Support the work of civil society actors who seek to catalyse greater engagement with NHRIs in promoting and protecting human rights.

METHODOLOGY

This report is based on both primary and secondary research. Its main source of data was a series of in-depth telephone/email interviews with Members of NHRIs from 28 Commonwealth countries,[207] and civil society actors from 27 countries. Secondary research was conducted to substantiate information where needed and to authenticate primary data.

Selection of National Human Rights Institutions

This report is based on a study of all members of the Commonwealth Forum of NHRIs (Commonwealth Forum) and every accredited Commonwealth member of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). The only exception to this is the Scottish Human Rights Commission.

As a rule, the report only examines one institution per country. The United Kingdom presented a special case as it has three NHRIs within its borders: the Great Britain Equality and Human Rights Commission, which includes Wales and Scotland within its jurisdiction; the Northern Ireland Human Rights Commission; and the Scottish Human Rights Commission. As a special case, the Northern Ireland Commission was included as a second NHRI within the UK, since Northern Ireland is not part of the jurisdiction of the Great Britain Commission. Scotland's NHRI, however, was not included since Scotland is already under the Great Britain Commission's jurisdiction.

NHRIs in Bangladesh, Seychelles and Swaziland, though not accredited by ICC, are a part of the Commonwealth Forum and were included as subjects of this report. In addition, Fiji which is not a member of either network was also included. The Fiji Human Rights Commission was suspended, and subsequently withdrew from the ICC in 2007. Fiji has been fully suspended from the Commonwealth since 2009, yet has been included as an example of an NHRI that has lost public legitimacy.

There are, however, numerous coordinating networks for national human rights commissions, especially and ombudsmen, that are not discussed at length or at all in this report. Only selected networks that made significant efforts to engage with civil society or produced standards or best practices in that regard were included.

Selection of Civil Society Organisations

The civil society organisations selected for the report were those that engaged with their NHRI and had the experience and capacity to critique it. CHRI's existing network of contacts was used to select civil society actors. In countries where CHRI had no suitable contact, research and advice from contacts in the region were used to find suitable interviewees. In order to give appropriate weightage to both small and large countries in the Commonwealth, an average of two CSOs was taken for each country.

Data Collection and Analysis

Interviews were conducted on the basis of a set of separate but similar questionnaires for NHRIs and civil society. The questionnaires sought to examine the scope of NHRI-civil society engagement in the domestic and international arenas. The data was transcribed and analysed by the research team for unique practices, commonalities and challenges in making NHRI-civil society engagement a reality. The data was further supplemented with secondary data collected from a range of sources: local and international civil society reports; NHRI annual reports; NHRI mandates; communiqués from international fora; media reports and articles; and additional website research.

Limitations in Scope of Study

This report is a qualitative study of NHRI-civil society engagement in the Commonwealth. One of the major challenges while preparing it was to identify civil society actors who could comprehensively comment on their NHRIs. Due to the varying geographic and socio-political spectrum of the countries in the Commonwealth, the study acknowledges that an average of two civil society organisations per country may not give a realistic picture of countries that have a broad and diverse civil society presence. Bearing this in mind, the study only attempts to map best practices and trends in the Commonwealth where NHRI-civil society engagement has occurred, many of which can be replicated or serve as caution for others.

Appendix I:

THE PARIS PRINCIPLES

Defined at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris on 7-9 October 1991, adopted by Human Rights Commission Resolution 1992/54, 1992 and General Assembly Resolution 48/134, 1993.

PRINCIPLES RELATING TO THE STATUS OF NATIONAL INSTITUTIONS COMPETENCE AND RESPONSIBILITIES

1. A national institution shall be vested with competence to promote and protect human rights.

2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

(i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

(ii) Any situation of violation of human rights which it decides to take up;

(iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

(c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;

(e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

Appendix II:

CIVIL SOCIETY ENGAGEMENT IN THE MANDATE OF A NATIONAL HUMAN RIGHTS INSTITUTION

Country	Reference to Civil Society Engagement in NHRI Mandate
Antigua and Barbuda	No reference in the Ombudsman Act, 1994
Australia	**Human Rights and Equal Opportunities Act, 1986** 15. Commission may engage in consultations. For the purposes of the performance of its functions, the Commission may work with and consult appropriate persons, governmental organisations and non-governmental organisations.
Bangladesh	**Human Rights Commission Act, 2009** 12. Function of the Commission: (1) The Commission shall perform all or any of the following functions, namely:- (k) to encourage and coordinate the efforts of Non-Governmental Organizations and institutions working in the field of human rights; (o) to assist and advice the organizations, institutions and generally the civil society for effective application of human rights.
Barbados	No reference in the Ombudsman Act, 1980
Belize	No reference in the Ombudsman Act, 2000
Cameroon	**Human Rights Commission Law, 2004** 2: The Commission shall be responsible for the promotion and protection of human rights and freedoms. To that end, it shall: - liaise, where necessary, with non-governmental organisations working for the promotion and protection of human rights and freedoms.
Canada	No reference in the Human Rights Act, 1977
Cyprus	No reference in The Commissioner for Administration Laws, 1991
Fiji	**Human Rights Commission Act, 1999** 7. Powers and duties of the Commission (1) The Commission has the following powers and duties— (c) to consult and co-operate with other persons and bodies concerned with the promotion and protection of human rights. **Human Rights Commission Decree, 2009** 12(1)Powers and Duties of the Commission- (c) to consult and co-operate with other persons and bodies concerned with the promotion and protection of human rights.

Country	Reference to Civil Society Engagement in NHRI Mandate
Ghana	No reference in the Commission on Human Rights and Administrative Justice Act, 1993
India	**Protection of Human Rights Act, 1993** 12. Functions of the Commission (i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights.
Jamaica	No reference the Public Defender Act, 2000
Kenya	**Kenya National Commission on Human Rights Act, 2002** 16. (1) The functions of the Commission shall be- (g) to encourage the efforts of other institutions working in the field of human rights and cooperate with such other institutions for the purpose of promoting and protecting human rights in Kenya.
Malawi	**Human Rights Commission Act, 1998** 16. The Commission shall – *(e)* develop work relationships with non-governmental organizations devoted to protecting and promoting human rights, including those organizations which promote economic and social development or which protect and promote the interest of vulnerable groups such as children, illiterate persons, persons 'with disabilities and the elderly.
Malaysia	No reference in the Human Rights Commission of Malaysia Act, 1999
Maldives	**Human Right Commission Act, 2006** Objectives of the Commission 2. The main objectives of the Commission are: c. To assist and support Non-Governmental Organisations involved in the protection of human rights.
Mauritius	No reference in the Protection of Human Rights Act, 1998
Namibia	No reference in the Namibia Ombudsman Act, 1990
New Zealand	**Human Rights Act, 1993** Functions of Commission (g) to consult and co-operate with other persons and bodies concerned with the protection of human rights: (h) to inquire generally into any matter, including any enactment or law, or any practice, or any procedure, whether governmental or non-governmental, if it appears to the Commission that the matter involves, or may involve, the infringement of human rights.

Country	Reference to Civil Society Engagement in NHRI Mandate
Nigeria	**National Human Rights Commission (Amendment) Act, 2010** 6. Section 5 of the Principal Act is amended by- (g) liaise and cooperate in such manner as it considers appropriate with local and international organisations on human rights with the purpose of advancing the promotion and protection of human rights. 7. Section 6 of the Principal Act is substituted for a new section 6: (f) cooperate with and consult with other agencies and organisations, governmental and non-governmental as it may deem appropriate. 12. Insert immediately after section 14 of the Principal Act a new section 15 (1)There is established the Human Rights Fund in this Act (in this Act referred to as 'the Fund') which shall be applied by the Commission towards (b) the facilitation of human rights activities of the Commission in collaboration with other human rights non-governmental organisations, civil society organisations and other stakeholders.
Northern Ireland	No reference in the Northern Ireland Act, 1998
Papua New Guinea	No reference in the Constitution, 1975
Rwanda	No reference in the Rwanda Act, 1999
Saint Lucia	No reference in the Constitution, 1978
Seychelles	No reference in the Ombudsman Protection of Human Rights Act, 2009
Sierra Leone	**Human Rights Commission Act, 2004** (2) Without prejudice to the generality of subsection (1), it shall be the function of the Commission to– (iv) effective co-operation with nongovernmental organisations and other public - interest bodies engaged in the field of human rights.
South Africa	No reference in the Human Rights Commission Act No 54 of 1994
Sri Lanka	No reference in the Human Rights Commission Act, 1996
Swaziland	No reference in the Constitution, 2010
Tanzania	No reference in the Human Rights Commission Act, 2001

Country	Reference to Civil Society Engagement in NHRI Mandate
Trinidad and Tobago	No reference in the Ombudsman Act, 1976
Uganda	No reference in the Human Rights Commission Act, 1997
United Kingdom	**Equality Act, 2006** 5 Strategic plan: consultation Before preparing or reviewing a plan in accordance with section 4 the Commission shall— (a) consult such persons having knowledge or experience relevant to the Commission's functions as the Commission thinks appropriate, (b) consult such other persons as the Commission thinks appropriate, (c) issue a general invitation to make representations, in a manner likely in the Commission's opinion to bring the invitation to the attention of as large a classof persons who may wish to make representations as is reasonably practicable, and (d) take account of any representations made. 12 Monitoring progress (2) In identifying outcomes and indicators the Commission shall— (a) consult such persons having knowledge or experience relevant to the Commission's functions as the Commission thinks appropriate, (b) consult such other persons as the Commission thinks appropriate, (c) issue a general invitation to make representations, in a manner likely in theCommission's opinion to bring the invitation to the attention of as large a class of persons who may wish to make representations as is reasonably practicable, and (d) take account of any representations made. 13 Information, advice, & c. (1) In pursuance of its duties under sections 8 to 10 the Commission may— (f) act jointly with, co-operate with or assist a person doing anything within paragraphs (a) to (d). 18 Human rights In pursuance of its duties under section 9 the Commission may (without prejudice to the generality of section 13) co-operate with persons interested in human rights within the United Kingdom or elsewhere.
Zambia	No reference in the Human Rights Commission Act, 1996

Appendix III:

COMMONWEALTH NHRIs ACCREDITED BY THE ICC[1]

Regional Network-NHRI	Status (as of December 2010)	Year of last review (as of December 2010)
Asia Pacific Forum of NHRIs		
Australia: Australian Human Rights and Equal Opportunity Commission	A	October 2006
India: National Human Rights Commission	A	October 2006
Malaysia: Human Rights Commission of Malaysia (SUHAKAM)	A	October 2010
Maldives: Human Rights Commission	B	March 2010
New Zealand: Human Rights Commission	A	October 2006
Sri Lanka: Human Rights Commission of Sri Lanka	B	March 2009
European Group of NHRIs		
Great Britain: Equality and Human Rights Commission	A	October 2010
Northern Ireland (United Kingdom of Great Britain and Northern Ireland): Northern Ireland Human Rights Commission	A	October 2006
Scotland: Scottish Human Rights Commission	A	March 2010
Network of Institutions for the Promotion of Human Rights in the American Continent		
Canada: Canadian Human Rights Commission	A	October 2006
Network of African Human Rights Institutions		
Ghana: Commission on Human Rights and Administrative Justice	A	November 2008
Kenya: Kenya National Commission on Human Rights	A	November 2008
Malawi: Malawi Human Rights Commission	A	March 2007
Mauritius: Commission Nationaledes Droits de l'Homme	A	April 2008

Regional Network-NHRI	Status (as of December 2010)	Year of last review (as of December 2010)
Namibia: Office of the Ombudsman	A	April 2006
Nigeria: Nigerian Human Rights Commission	B	October 2010: deferral to May 2011
Rwanda: National Commission for Human Rights	A	October 2007
South Africa: South African Human Rights Commission	A	October 2007
Uganda: Uganda Human Rights Commission	A	April 2008
Zambia: Zambian Human Rights Commission	A	October 2006

[1] Source: *Chart of the status of national institutions accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights* – Accreditation status as of December 2010

Appendix IV:

TABLE OF TREATY BODY RECOMMENDATIONS RELATING TO NATIONAL HUMAN RIGHTS INSTITUTIONS

(January 2000 – November 2007)

Source: http://nhri.net/default.asp?PID=281&AFD=0

KEY:

Human rights treaty bodies–committees made up of independent experts–monitor a State's compliance with its treaty obligations.

CCPR - Human Rights Committee responsible for the International Covenant on Civil and Political Rights (1966)
CESCR - Committee on Economic, Social and Cultural Rights responsible for the International Covenant on Economic, Social and Cultural Rights (1966)
CERD - Committee on the Elimination of Racial Discrimination responsible for the Convention on the Elimination of All Forms of Racial Discrimination (1965)
CEDAW - Committee on the Elimination of Discrimination against Women responsible for the Convention for the Elimination of All Forms of Discrimination against Women (1979)
CRC - Committee on the Rights of the Child responsible for the Convention on the Rights of the Child (1989)
CAT - Committee against Torture responsible for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

Region - Africa

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
Botswana	CRC/C/15/Add.242 1 October 2004	37th	17. With reference to General Comment No. 2 on the Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child (CRC/GC/2002/2), the Committee recommends the State Party to provide the Office of the Ombudsman with necessary human and financial resources for an adequate performance of its function, to strengthen in particular its capacity to deal with and adequately address complaints from children or others concerning the violation of children's rights and to improve accessibility of the Office for children, including via systematic information campaigns and a free telephone hotline.
Botswana	CERD/C/BWA/CO/16 21 March 2006	68th	21. The Committee notes that the State party has not yet established an independent institution with the mandate to monitor and promote human rights, including on issues relating to the prohibition of racial discrimination and the promotion of tolerance amongst ethnic groups. (Articles 2, 6 and 7) The Committee invites the State party to consider establishing an independent national human rights institution, in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (General Assembly resolution 48/134).
Cameroon	CRC/C/15/Add.164 6 November 2001	28th	14. The Committee recommends that the State party: (a) Consider establishing an independent national human rights institution in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134,

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
			annex), to monitor and evaluate progress in the implementation of the Convention at the national and local levels. This institution should be accessible to children and be empowered to receive complaints of violations of child rights in a child-sensitive manner and to address them effectively;
Gambia	CRC/C/15/Add.165 6 November 2001	28th	18. The Committee encourages the State Party to expand the office of the Ombudsman or establish a separate monitoring mechanism to deal with complaints of violations of the rights of children and to provide remedies for such violations. This monitoring mechanism should be set up, in accordance with the Paris Principles (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, at the local level, should be accessible to children, and be empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively. The Committee further suggests that the State party introduce an awareness-raising campaign to facilitate the effective use by children of such a mechanism. The Committee recommends that the State party seek technical assistance from amongst others OHCHR and UNICEF.
Ghana	CERD/C/62/CO/4 2 June 2003	62nd	16. The Committee notes that, out of a total of 9,265 complaints heard by the Commission in 2000, the CHRAJ only dealt with fewer than five complaints directly relating to alleged racial discrimination. According to the State party, the majority of the complaints received by the Commission were cases of religious discrimination which, because religion in Ghana is often related to ethnicity, could be classified, in some cases, as indirect racial discrimination. The Committee would like to receive more detailed information on the matter, as well as statistical information relating to the number of complaints having a bearing on racial discrimination, and the action taken by the Commission.
Kenya	Supplement No. 38 (A/58/38) 13 - 31 January 2003	28th	225. The Committee is concerned that the National Commission on Gender and Development is lacking the means to effectively coordinate among the different mechanisms related to gender; and that the lack of a clear division of responsibilities and insufficient budget allocations may have a negative bearing on the effective implementation of the Convention. 226. The Committee recommends that the State party clearly define the mandate and responsibilities of the different mechanisms related to the advancement of women and gender equality and allocate sufficient budgetary resources to them.
Kenya	CRC/C/15/Add.160 7 November 2001	28th	17. The Committee encourages the State party to allocate adequate financial and human resources to the Standing Committee on Human Rights (SCHR) to ensure its effective functioning. The Committee further suggests that the State party should consider reviewing the status of the Committee and establishing an independent national human rights institution in accordance with the Paris Principles

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			(General Assembly resolution 48/134) which would be competent to monitor and evaluate progress in the implementation of the Convention at the local level and to receive and investigate complaints of violations of child rights in a child-friendly manner, and to address them effectively. Meanwhile, the State party should take effective measures to ensure that the SCHR is easily accessible and child-sensitive in dealing with complaints of violations of the rights of children and in providing remedies for such violations in all regions of the country. The Committee further suggests that the State Party initiate an awareness raising campaign about the SCHR and to facilitate its effective use by children. The Committee encourages the establishment of a focal point on children to monitor child rights. Finally, the Committee suggests that the State party consult further with OHCHR and seek technical assistance from UNICEF amongst others.
Kenya	CCPR/CO/83/KEN 29 April 2005	83rd	18.... While welcoming the power given to the Kenya Human Rights Commission of unrestricted access to places of detention, it is concerned that such access is sometimes wrongfully denied by the police (articles 2, 6, 7 and 9 of the Covenant).The State should take more effective measures to prevent abuses of police custody, torture and ill treatment, and should strengthen training provided to law enforcement personnel in this area. It should ensure that allegations of torture and similar ill treatment, as well as of deaths in custody, are promptly and thoroughly investigated by an independent body so that perpetrators are brought to justice, and that complaint forms are available from a public body other than the police. In particular, High Court judgements in such cases should be enforced without delay. The Committee recommends that the State Party provide it with detailed information on complaints filed in connection with such acts and on the disciplinary and criminal sanctions imposed during the past five years. The State Party should enforce the law requiring that access to places of detention be given to the Kenya Human Rights Commission.
Kenya	CEDAW/C/KEN/CO/6 10 August 2007	39th	19. While the Committee notes the State party's recognition of the need for effective national mechanisms by setting up the National Commission on Gender Equality and the Ministry of Gender, Sports, Culture and Social Services, the Committee is concerned about the possible fragmentation of efforts of these two institutions as well as their lack of resources. The Committee is also concerned that the Ministry of Gender, Sports, Culture and Social Services lacks the institutional authority, capacity and resources to effectively promote implementation of the Convention and coordinate the use of the gender mainstreaming strategy across all sectors and levels of government including in rural areas. The Committee is furthermore concerned that the institutional status of the Gender department within the Ministry of Gender, Sports, Culture and Social Services may not be sufficient to exert adequate influence within the Government structure and act as an effective catalyst and advocate for gender equality.

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Lesotho	CRC/C/15/Add.147 21 February 2001	26th	20. The Committee recommends that the State Party expeditiously strengthen the national machinery, namely the National Commission on Gender and Development and the Ministry of Gender, Sports, Culture and Social Services in order to ensure a strong institutional mechanism for the promotion of gender equality. In particular, the Committee urges the State Party to provide the national machinery with the necessary authority and adequate human and financial resources to coordinate implementation of the Convention and work effectively for the promotion of gender equality.
Malawi	CERD/C/63/CO/12 10 December 2003	63rd	14. The Committee recommends that the State party proceed rapidly with the establishment of the Human Rights Commission. The Committee recommends, further, the establishment of an independent monitoring body with responsibility for monitoring implementation of the Convention, in accordance with the Paris principles, either as part of the Human Rights Commission or as a separate body, such as a children's ombudsperson. The Committee recommends that consideration also be given to providing a mechanism through which children can make complaints of abuses of their rights.
Malawi	CRC/C/15/Add.174 2 April 2002	29th	12. The Committee is concerned that the budgetary constraints facing the Malawi Human Rights Commission may limit its effectiveness.The Committee recommends that the State party include information on this issue in its next periodic report. It also recommends that information on the function and activities of the Malawi Human Rights Commission be disseminated both in English and in Chichewa.
Mauritius	CERD/C/304/Add.106 1 May 2001	57th	13. The Committee suggests that the State party review the status, roles and functions of the Human Rights Commission and its Child Rights Unit in order to establish an independent national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134), which should be competent to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, at the local levels and to receive and investigate complaints of violations of child rights in a child sensitive manner, and address them effectively. The Committee also recommends that the State party allocate adequate financial and human resources to the Human Rights Commission and its Child Rights Unit to ensure its effective functioning. The Committee further suggests that the State party conduct an awareness raising campaign about the Human Rights Commission and its Child Rights Unit to facilitate its effective use by children. Finally the Committee suggests that the State party seek technical assistance from OHCHR and UNICEF, amongst others.
Mauritius	CCPR/CO/83/MUS 27 April 2005	83rd	10. Since the National Human Rights Commission and the Committee on Poverty are very recent institutions, the State party is also invited, in its next report, to provide further information on their functioning and the results of their activities, with particular reference to problems of racial discrimination.

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Mozambique	CRC/C/15/Add.172 3 April 2002	29th	7. While the Committee welcomes the establishment in April 2001 of the National Human Rights Commission, it notes the Commission's shortcomings in terms of guarantees of independence in appointing and dismissing its members. Furthermore, the Commission does not have its own budget and its investigative powers are restricted. Moreover, it often requests the police to investigate the complaints submitted to it. (Covenant art 2). The State party should ensure that the Human Rights Protection Act 1998 establishing this Commission and its practice are in line with the Paris Principles.
Mozambique	CERD/C/MOZ/CO/12 17 August 2007	71st	16. The Committee recommends that the State party: (a) Establish an independent body with responsibility for monitoring implementation of the Convention, in accordance with the Paris principles; (b) Ensure that any monitoring mechanism include child sensitive procedures through which children can make complaints of abuses of their rights.
Namibia	CCPR/CO/81/NAM 5-30 July 2004	81st	20. While acknowledging the Law 7/2006 on the "Provedor de Justiça" (Ombudsman), and that the election of the "Provedor" is scheduled for the coming session of Parliament, the Committee is concerned about the resources, independence, competencies and effectiveness of this institution as well as the lack of information regarding the future National Commission on Human Rights (article 6). The Committee recommends that the State party provide detailed information on the resources, independence, competencies and results of the activities of the "Provedor de Justica." Furthermore, the Committee recommends the State party to establish the future National Commission on Human Rights in line with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134) and provide it with adequate resources. It also recommends that the State party avoid creating conflict in the mandates of both these institutions. 32. The Committee recommends that the State Party consult with organisations of civil society combating racial discrimination , as well as with the future Commission on Human Rights , as and when it comes into being, in connection with preparation of the next periodic report.
Nigeria	CRC/C/15/Add.257 13 April 2005	38th	7. The Committee welcomes the establishment of the institution of the Ombudsman. It notes that the legislation concerning the Ombudsman requires further strengthening (art. 2). The State party should strengthen the legislative mandate of the institution of the Ombudsman and provide further resources to it, so that it may be in a position to fulfil mandate efficiently.
Rwanda	CERD/C/304/Add.97 19 April 2001	56th	20. The Committee recommends the State party to further strengthen the activities of the NHRC and the Special Rapporteur on Child Rights in accordance with the Committee's general comment No. 2 on national human rights institutions and the Paris Principles

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			(General Assembly resolution 48/134), by inter alia, providing it with adequate human and financial resources and by enhancing the Special Rapporteur's capacity to deal with complaints from children in a child-sensitive and expeditious manner, as well as ensuring his/her accessibility, e.g. through establishment of a special toll-free hotline for children.
Rwanda	CRC/C/15/Add.234 1 July 2004	36th	20. The State party is invited, in its next report to provide further information on the following issues: (a) actions taken in respect of human rights to improve the mutual understanding of all members of the population; (b) further actions taken to address human rights violations stemming from discriminatory treatment; and (c) actions taken, and results achieved, by the National Human Rights Commission.
Seychelles	CRC/C/15/Add.189 9 October 2002	31st	11. The Committee welcomes the establishment of the National Human Rights Commission in 1999, which also accepts and investigates complaints regarding the violation of children's rights. However, the Committee is concerned that the Commission has insufficient human and financial resources to deal effectively with its volume of work at the national and local levels. 12. The Committee recommends that the State party, in accordance with the Committee's General Comment No. 2 on national human rights institutions: (a) Ensure that the National Human Rights Commission is provided with sufficient resources to carry out its responsibilities effectively; (b) Consider establishing a bureau for children's rights within the Commission in order to centralize its work on children's rights; (c) Ensure its accessibility to children, in particular by raising awareness of its ability to receive, investigate and address complaints by children, in particular those affected by conflict; and (d) Seek technical assistance from, among others, OHCHR.
Sierra Leone	CRC/C/15/Add.116 24 February 2000	23rd	12. The Committee encourages the State party to pursue its efforts to develop and establish an independent and effective mechanism, provided with adequate human and financial resources in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134), that would: (a)monitor the implementation of the Convention; (b) Deal with complaints from children in a child-sensitive and expeditious manner; (c) Provide remedies for violations of their rights under the Convention.
South Africa	CERD/C/ZAF/CO/3 31 July-18 August 2006	69th	11. The Committee further recommends that the State party consider the establishment of an independent body to monitor the Convention's implementation, and that the conclusions of such monitoring be used to improve the development and implementation of policies affecting children.
South Africa	CAT/C/ZAF/CO/1 23 November 2006	37th	8. The Committee welcomes the establishment of the South African Human Rights Commission (SAHRC) with competence, inter alia, to

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			promote respect for human rights, monitor and investigate their observance and seek effective redress for human rights violations, notes its very active role in eliminating the residual effects of racial discrimination and appreciates its contribution during the dialogue with the State party. 30. The Committee recommends that the State party consult with organizations of civil society working in the area of combating racial discrimination, as well as with SAHRC, in connection with preparation of the next periodic report.
Swaziland	CRC/C/SWZ/CO/1 Unedited version 29 September 2006	43rd	8. The Committee also welcomes the establishment of the Law Reform Commission, the South African Human Rights Commission, the Independent Complaints Directorate, with specific investigation powers regarding allegations of torture and the appointment, under the Correctional Services Act, of Independent Prisons Visitors who reports to the Judicial Inspectorate of Prisons.
Uganda	CAT/CO/34/UGA 12 May 2005	34th	Independent monitoring 13. The Committee expresses its concern at the lack of an independent mechanism with a specific mandate to regularly monitor and evaluate progress in the implementation of the Convention on the Rights of the Child, and which is empowered to receive and address individual complaints on behalf of, or from, children. 14. The Committee recommends that the State party establish an independent body for monitoring the implementation of the Convention of the Rights of the Child in accordance with the Paris Principles (General Assembly resolution 48/134) and the Committee's general comment No.2 on national human rights institutions. (CRC/C/2002/2) Such a body should be provided with adequate human and financial resources, easily accessible to children, deal with complaints from children in a child sensitive manner. In this regard, the Committee recommends that the State party seek technical assistance from, inter alia, UNICEF and OHCHR.
Uganda	CERD/C/62/CO/11 2 June 2003	62nd	8. While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about the frequent lack of implementation by the State party of the Commission's decisions concerning both awards of compensation to victims of torture and the prosecution of human rights offenders in the limited cases in which the Commission had recommended such prosecution. 10. The Committee recommends that the State party should take all necessary legislative, administrative and judicial measures to prevent acts of torture and ill-treatment in its territory, and in particular that it should: .... (j) allow independent human rights monitors, including the Uganda Human Rights Commission full access to all places of detention, official and non-official, without notice; (k) strengthen the Uganda Human Rights Commission and ensure that its decisions are fully implemented, in particular concerning

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			awards of compensation to victims of torture and prosecution of perpetrators;
Uganda	CCPR/CO/80/UGA 4 May 2004	80th	17. The Committee encourages the State party to provide support to the Uganda Human Rights Commission and to take into consideration the recommendations that the Commission submits to Parliament. The Committee requests that in its next periodic report, the State party provide additional information on the specific activities and achievements of the Commission, particularly with regard to the implementation of the Convention. 7. While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about recent attempts to undermine the independence of the Commission. It is also concerned about the frequent lack of implementation by the State party of the Commission's decisions concerning both awards of compensation to victims of human rights violations and the prosecution of human rights offenders in the limited number of cases in which the Commission had recommended such prosecution (art. 2). The State party should ensure that decisions of the Uganda Human Rights Commission are fully implemented, in particular concerning awards of compensation to victims of human rights violations and prosecution of human rights offenders. It should ensure the full independence of the Commission.
Uganda	CRC/C/15/Add.270 30 September 2005	40th	18. While noting the remarkable work carried out by the Uganda Human Rights Commission in the field of monitoring human violations, the Committee expresses its concern at the lack of a specific department dealing with children's rights. It is further concerned that the institution lacks adequate human resources and budget allocation. 19. The Committee recommends that the State party establish within the Uganda Human Rights Commission a separate department or mechanism with the necessary expertise to independently monitor the implementation of the Convention on the Rights of the Child. It should also be provided with the necessary human and financial resources to receive and investigate complaints from or on behalf of children on violations of their rights. In this regard, the Committee draws the attention of the State party to its General Comment No. 2 on national human rights institution (CRC/GC/2002/2).
Tanzania	CRC/C/15/Add.156 9 July 200	27th	17. The Committee suggests that the State party take all effective measures to ensure that the Commission for Human Rights and Good Governance is easily accessible and child sensitive and that it can deal effectively with complaints of violations of the rights of children and provide remedies for such violations, in all regions of the country. The Committee further suggests that the State party conduct an awareness raising campaign about the Commission and to facilitate its effective use by children. The Committee encourages the establishment of a focal point on children within the Commission for Human Rights and Good Governance to monitor children's rights.

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Tanzania	CRC/C/TZA/CO/2 21 June 2006	42nd	Independent monitoring: 14. The Committee welcomes the establishment of the Special Desk for Children's Affairs within the Commission for Human Rights and Good Governance. It notes, in particular, the activities undertaken by the Commission to, inter alia, conduct inspection visits to prisons and to investigate complaints relating to children and youth. However, the Committee is concerned about the accessibility and availability of the Commission to all children in the country and about the human and financial resources allocated to it. 15. The Committee recommends that the State party, taking into account its general comment No. 2 of 2002 (see CRC/GC/2002/2) on the role of independent national human rights institutions, undertake all effective measures to ensure that the Commission for Human Rights and Good Governance be easily accessible to, and user friendly for, all children. In particular, the Committee recommends that the State party conduct awareness raising campaigns about the work of the Commission, including the work of the Special Desk for Children's Affairs and its procedures, in order to facilitate children's access to its complaints mechanisms. Adequate financial and human resources should be allocated for its effective functioning. 40. The Committee recommends that the State party: (a) Strengthen its existing measures to prevent child abuse and neglect; (b) Strengthen the capacity of the Children's Desk within the Commission for Human Rights and Good Governance to investigate, review and respond to child rights complaints; (c) Follow-up on recommendations of the Commission for Human Rights and Good Governance, which resulted from its public inquiry into violence against children;
Zambia	E/C.12/1/Add.106 13 May 2005 (CESCR)	34th	The Committee notes with concern that the Permanent Human Rights Commission lacks adequate human resources and budget allocation. The Committee recommends that the State party ensures that adequate human and financial resources be allocated to the Permanent Human Rights Commission in line with the Paris Principles (General Assembly resolution 48/134, annex).
Zambia	CERD/C/ZMB/CO/162 19 August 2005	67th	15.The Committee notes with concern that de facto racial discrimination by non-State actors poses daily challenges to the State party. (arts 4 and 5) The Committee urges the State party to develop strategies to tackle this issue, in cooperation with the Zambian Human Rights Commission and other stakeholders. 17. The Committee regrets the lack of statistical data on cases of racial discrimination lodged before relevant Zambian institutions (arts. 4 and 6). The State party should include in its next periodic report statistical information on complaints of racial discrimination lodged before national courts and the Zambian Human Rights Commission, as well as on the outcome of these cases. Information on specific cases should also be provided.

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			18. The Committee notes that complaints of racial discrimination have failed before institutions such as the Zambian Human Rights Commission and the Industrial Relations Court, because of the impossibility of proving racial discrimination (art. 6) The Committee recommends that complaints of racial discrimination be fully dealt with, including when they are coupled with complaints of violation of other rights, such as labour rights. It also recommends that full attention be paid to the possible existence of indirect discrimination, which is prohibited under the Convention. Further, it encourages the State to envisage regulating the burden of proof in civil proceedings involving racial discrimination so that once a person has established a prima facie case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for the differential treatment. 20. The Committee notes with concern the difficulties encountered by the Zambian Human Rights Commission as described in the report, in particular inadequate staffing, inadequate means of transportation, centralization, and slow response from concerned State authorities to the Commission's requests for action. It notes with interest, however, the State party's plan to decentralize the Commission's offices and the information that the new draft constitution contains provisions enhancing the effectiveness of the Commission (art. 6). The Committee recommends that the State party increase its efforts to enhance the effectiveness of the Human Rights Commission, in particular through adequate budget allocations. The Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134) should be taken into consideration in the elaboration of the constitutional reform relating to the Human Rights Commission. The Committee wishes to receive detailed information about the follow-up by the State authorities to the Commission's recommendations as well as on relationships established between the Commission and civil society.
Zambia	CCPR/C/ZMB/CO/3/CRP.1 23 July 2007	90th	The Committee notes with concern that the Zambian Human Rights Commission lacks funds to carry out its activities in an appropriate manner and that it cannot receive financial support from international institutions or any other source unless expressly approved by the President. The Committee also regrets that it did not receive sufficient information on whether the Commission can make public and disseminate its reports and recommendations (article 2). The State party should make all possible efforts to increase the budgetary resources of the Zambian Human Rights Commission to permit it to discharge its functions effectively. It should ensure that the Commission is able to seek and receive funds from international institutions or any other source as it deems appropriate. The State party is encouraged to enhance and status of the Commission. It should that the rules governing the Commission are in full compliance with the Principles relating to the status of national institutions (The Paris Principles, adopted by the General Assembly resolution 48/134 of 20 December)

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Bangladesh	CERD/C/304/Add.118 27 April 2001	58th	16. The State party is also invited to provide in its next report further information on the steps towards establishing an independent National Human Rights Commission and an Office of the Ombudsman.
Bangladesh	CRC/C/15/Add.221 27 October 2003	34th	16. The Committee welcomes the information from the delegation concerning the intention to establish a National Human Rights Commission and an Ombudsperson; however, it remains concerned at the absence of an independent mechanism with a mandate to monitor regularly and evaluate progress in the implementation of the Convention and which is empowered to receive and address complaints, including from children. 17. The Committee recommends that the State party: (a) Expedite the process to establish an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and the Committee's general comment No. 2 on the role of independent human rights institutions; (b) Ensure that it is provided with adequate human and financial resources and is easily accessible to children with a mandate: (i) To monitor the implementation of the Convention; (ii) To deal with complaints from children in a child-sensitive and expeditious manner; (iii) To provide remedies for violations of children's rights under the Convention; (c) Consider seeking further technical assistance in this regard from, among others, the United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Human Rights (OHCHR).
Brunei Darussalam	CRC/C/15/Add.219 27 October 2003	34th	17. The Committee recommends that the State party: (a) Establish a national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and in light of the Committee's general comment No. 2 on national human rights institutions, to enable it to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, the local level. In addition, the institution should be empowered to receive and investigate complaints of violations of child rights in a childsensitive manner, and address them effectively; (b) Review the role of existing institutions in order to avoid any overlap in their functions; (c) Allocate sufficient financial and human resources to the national human rights institutions; (d) Seek technical assistance from, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR).

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India	CRC/C/15/Add.115 23 February 2000	23rd	13. The Committee recommends that the State party take all necessary measures, including the allocation of the required resources (i.e. human and financial) to ensure and strengthen the effective implementation of existing legislation. The Committee further recommends the State party to provide adequate resources and to take all other necessary steps to strengthen the capacity and effectiveness of national human rights institutions, including the National Human Rights Commission, the National Commission for Women, and the Scheduled Castes and Scheduled Tribes Commission.
India	CRC/C/15/Add.228 26 February 2004	35th	17. The Committee notes the existence of the National Human Rights Commission and welcomes the introduction of the National Commission for Children Bill, 2003 in Parliament on 10 December 2003. 18. In light of its previous recommendations (ibid., para. 19), the Committee recommendsthat the State party expedite, as much as possible, the establishment of an independent national commission for children in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134) and the Committee's general comment No. 2 on national human rights institutions, to monitor and evaluate progress in the implementation of the Convention at the federal and at the state levels.
India	CEDAW/C/IND/CO/3 2 February 2007	37th	17. The Committee recommends that the State party promote and guarantee the consistent implementation of the Convention throughout the country, including through increased attention in consultative forums and other mechanisms of control and partnership between the central Government and state and union territory governments. In this respect, the Committee recommends that the State party create formal links between the National Commission for Women and the various State Commissions for Women. It calls upon the State party to consider using the powers under article 253 of the Constitution to establish without delay standards and coordination and monitoring mechanisms to ensure the effective harmonization and implementation of gender equality programmes and policies, as well as enforcement of legislation on women's rights, at the central, state and union territory levels.58. While appreciating that some states have enacted laws to make the registration of marriages compulsory and that the National Commission of Women is in the process of drafting national legislation to this effect, the Committee is concerned that the State party has not established a timeline for enactment of such legislation.
Pakistan	CRC/C/15/Add.217 27 October 2003	34th	16. The Committee recommends that the State party: (a) Establish an independent and effective monitoring mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and taking into account the Committee's general comment No. 2 on the role of independent human rights institutions, ensuring that it is

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			provided with adequate human and financial resources and easily accessible to children. It should have a mandate to monitor the implementation of the Convention as well as to receive and address complaints from children, and do so in a child-sensitive and expeditious manner; (b) Seek technical assistance in this regard from, among others, the Office of the High Commissioner for Human Rights.
Singapore	CRC/C/15/Add.220 27 October 2003	34th	13. The Committee encourages the State party to establish an independent and effective mechanism, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex) and the Committee's general comment No. 2 on national human rights institutions, which is provided with adequate human and financial resources and easily accessible to children and which monitors the implementation of the Convention, deals with complaints from children in a child-sensitive and expeditious manner, and provides remedies for violations of their rights under the Convention.
Sri Lanka	CCPR/CO/79/LKA 1 December 2003	79th	7. While taking note of the proposed constitutional reform and the legislative review project currently being undertaken by the National Human Rights Commission, the Committee remains concerned that Sri Lanka's legal system still does not contain provisions which cover all of the substantive rights set forth in the Covenant, or all the necessary safeguards required to prevent the restriction of Covenant rights beyond the limits permissible under the Covenant. It regrets in particular that the right to life is not expressly mentioned as a fundamental right in chapter III of the Constitution of Sri Lanka, even though the Supreme Court has, through judicial interpretation, derived protection of the right to life from other provisions of the Constitution. It is also concerned that contrary to the principles enshrined in the Covenant (e.g. the principle of non-discrimination), some Covenant rights are denied to non-citizens without any justification. It remains concerned about the provisions of article16, paragraph 1. of the Constitution, which permits existing laws to remain valid and operative notwithstanding their incompatibility with the Constitution's provisions relating to fundamental rights. There is no mechanism to challenge legislation incompatible with the provisions of the Covenant (arts. 2 and 26). It considers that a limitation of one month to any challenges to the validity or legality of any "administrative or executive action" jeopardizes the enforcement of human rights, even though the Supreme Court has found that the one-month rule does not apply if sufficiently compelling circumstances exist.The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that domestic law is harmonized with the obligations undertaken under the Covenant. 9. The Committee remains concerned about persistent reports of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and members of the armed

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			forces, and that the restrictive definition of torture in the 1994 Convention against Torture Act continues to raise problems in the light of article 7 of the Covenant. It regrets that the majority of prosecutions initiated against police officers or members of the armed forces on charges of abduction and unlawful confinement, as well as on charges of torture, have been inconclusive due to lack of satisfactory evidence and unavailability of witnesses, despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture, and only very few police or army officers have been found guilty and punished. The Committee also notes with concern reports that victims of human rights violations feel intimidated from bringing complaints or have been subjected to intimidation and/or threats, thereby discouraging them from pursuing appropriate avenues to obtain an effective remedy (art. 2 of the Covenant). The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 7 and 9 of the Covenant, and ensure effective enforcement of the legislation. It should ensure in particular that allegations of crimes committed by State security forces, especially allegations of torture, abduction and illegal confinement, are investigated promptly and effectively with a view to prosecuting perpetrators. The National Police Commission complaints procedure should be implemented as soon as possible. The authorities should diligently enquire into all cases of suspected intimidation of witnesses and establish a witness protection program in order to put an end to the climate of fear that plagues the investigation and prosecution of such cases The capacity of the National Human Rights Commission to investigate and prosecute alleged human rights violations should be strengthened. 10. The Committee is concerned about the large number of enforced or involuntary disappearances of persons during the time of the armed conflict, and particularly about the State party's inability to identify, or inaction in identifying those responsible and to bring them to justice. This situation, taken together with the reluctance of victims to file or pursue complaints (see para. 9 above), creates an environment that is conducive to a culture of impunity. The State party is urged to implement fully the right to life and physical integrity of all persons (arts. 6, 7, 9 and 10, in particular) and give effect to the relevant recommendations made by the United Nations Commission on Human Rights' Working Group on Enforced or Involuntary Disappearances and by the Presidential Commissions for Investigation into Enforced or Involuntary Disappearances. The National Human Rights Commission should be allocated sufficient resources to monitor the investigation and prosecution of all cases of disappearances. 15. The Committee notes with concern that overcrowding remains a serious problem in many penitentiary institutions, with the inevitable adverse impact on conditions of detention in these facilities (art. 10). The State party should pursue appropriate steps to reduce overcrowding in prisons, including through resorting to alternative forms of punishment. The National Human Rights Commission should be granted sufficient resources to allow it to monitor prison conditions effectively.

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
Sri Lanka	CAT/C/LKA/CO/2 7-25 November 2005	35th	3. The Committee notes with satisfaction the following positive developments: (b) The strengthening of the Human Rights Commission of Sri Lanka, which enables it to deal more effectively with violations of human rights in general and cases of torture in particular; Human Rights Commission of Sri Lanka 6. Acknowledging the important role of the Human Rights Commission of Sri Lanka in the promotion and protection of human rights in Sri Lanka and its adoption of a zero-tolerance policy against torture, the Committee is concerned about the frequent lack of implementation by the State party of the Commission's recommendations.The State party should strengthen the Human Rights Commission of Sri Lanka so as to allow it to function effectively and ensure that its recommendations are fully implemented.The Commission should be provided with adequate resources, notification of arrests, and full cooperation in implementing its 24-hour torture hotline and improving the system of inspection visits. Furthermore, the State party should ensure that new commissioners are appointed promptly when the three-year term of office of the present commissioners ends in March 2006. Systematic review of all places of detention 11. The Committee is concerned about the lack of an effective systematic review of all places of detention, including regular and unannounced visits to such places (art. 11), by the Human Rights Commission of Sri Lanka and other monitoring mechanisms. The State party should allow independent human rights monitors, including the Human Rights Commission of Sri Lanka, full access to all places of detention, including police barracks, without prior notice, and set up a national system to review and react to findings of the systematic review.

Region - Europe and Other

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
Australia	CRC/C/15/Add.268 30 September 2005	40th	15. The Committee welcomes the establishment of specific Commissioners for Children in three States: New South Wales, Queensland and Tasmania as well as the existence – at federal level – of the Human Rights and Equality Opportunity Commission (HREOC). While acknowledging the very valuable work of the HREOC in the area of children's rights, the Committee is concerned that there is no specific Commissioner within HREOC devoted to child rights and that substantial cuts to its funding over the past 10 years have severely affected its work-force and its ability to effectively handle individual complaints, public inquiry and policy work. 16. The Committee recommends that the State party ensure, within the HREOC, the independent and effective monitoring of the implementation of children's rights, in accordance with the Committee's General Comment No. 2 on the role of independent national human rights institutions (2002), by providing adequate

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
			human and financial resources to this end. In addition, the State party could create specialized sections within the various State and Territory Ombudsman offices to deal with children issues.
Canada	CRC/C/15/Add.215 27 October 2003	34th	14. The Committee notes that eight Canadian provinces have an Ombudsman for Children but is concerned that not all of them are adequately empowered to exercise their tasks as fully independent national human rights institutions in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134 of 20 December 1993, annex). Furthermore, the Committee regrets that such an institution at the federal level has not been established. 15. The Committee recommends that the State party establish at the federal level an ombudsman's office responsible for children's rights and ensure appropriate funding for its effective functioning. It recommends that such offices be established in the provinces that have not done so, as well as in the three territories where a high proportion of vulnerable children live. In this respect, the Committee recommends that the State party take fully into account the Paris Principles and the Committee's general comment No. 2 on the role of national human rights institutions.
Cyprus	CEDAW/C/CYP/CO/5 15 May-2 June 2006	35th	9. The Committee welcomes the establishment of new institutions relevant to the promotion of gender equality, including [...] those of a more general nature that also deal with gender equality issues, such as the Commissioner for Administration (Ombudswoman) and the National Institution for the Protection of Human Rights. 32. [...] The Committee also urges the State party to eliminate the legal discrimination against children born to displaced mothers in acquiring the status of displaced person, particularly in light of the Ombudswoman's view that the existing legislation constitutes discrimination.
Malta	E/C.12/1/Add.101 14 December 2004(CESCR)	33rd	28. The Committee encourages the State party to establish an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134, annex), mandated with the protection and promotion of all human rights, including economic, social and cultural rights.
Malta	CERD/C/304/Add.94 19 April 2000	56th	11. The State party is encouraged to increase its efforts in disseminating information about the duties and responsibilities of the Ombudsman, as well as about the procedure for launching complaints concerning racial discrimination.
Malta	CRC/C/15/Add.129 28 June 2000	24th	12. The Committee encourages the State party to establish an independent mechanism (e.g. an Ombudsperson for Children) to strengthen the monitoring of the implementation of the Convention. The Committee suggests that this mechanism be made easily accessible to children and that it deal with complaints of violations of their rights in a child-friendly manner and provide effective remedies

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
			for such violations. The Committee further suggests that the State party conduct awareness-raising campaigns to facilitate the effective use by children of the mechanism.
New Zealand	E/C.12/1/Add.88 23 May 2003(CESCR)	30th	23. The Committee recommends that the national Human Rights Commission take up economic, social and cultural rights as a comprehensive topic and ensure that those rights are duly reflected in the National Plan of Action for Human Rights
New Zealand	CRC/C/15/Add.216 27 October 2003	34th	12. The Committee notes the efforts to strengthen the Office of the Commissioner for Children and welcomes the Office's activities for children, as well as the activities of the National Human Rights Commission. However, the Committee is concerned about the possibility of duplication of activities between the National Human Rights Commission and the Office of the Commissioner for Children, and that the latter does not have sufficient resources to carry out its activities effectively. 13. In light of its general comment No. 2 on national human rights institutions, the Committee recommends that the State party use the discussion of the Commissioner for Children's Act, which is currently before Parliament, to ensure that the Office of the Commissioner for Children and the National Human Rights Commission are equally independent and that they report to the same political body, and to define the relationship between the two institutions, including a clear division of their respective activities. In addition, the Committee urges the State party to ensure that the Office of the Commissioner for Children receives sufficient human, material and financial resources to carry out its mandate.
New Zealand	CERD/C/NZL/CO/17 15 August 2007	71st	3. The Committee appreciates that the New Zealand Human Rights Commission took the floor before the Committee on an independent basis, which further demonstrates the willingness of the State party's authorities to pursue a frank and constructive dialogue with the Committee. 10. The Committee notes with satisfaction that the State party has increased the budget provided to the New Zealand Human Rights Commission by 20 % per annum for the next four years. 11. The Committee notes that the Government of the State party has not formally endorsed the Human Rights Commission's New Zealand Action Plan for Human Rights, which also refers to race relations issues. (art.2) The Committee recommends that the State party provide more detailed informationon measures adopted to follow-up on the Human Rights Commission's New Zealand Action Plan for Human Rights, regarding race relations issues. It encourages the State party to adopt, on the basis of the proposals made by the Human Rights Commission, its own Action Plan for Human Rights. 26. The Committee is concerned that the effectiveness of procedures to address racial discrimination may be compromised by a lack of public knowledge of the most appropriate avenues for particular complaints, inadequate accessibility by vulnerable groups and a lack of confidence by such groups in their effectiveness, as

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
			acknowledged by the Human Rights Commission. (art. 6) The Committee recommends that the State party adopt pro-active measures aimed at addressing these difficulties.
New Zealand	CEDAW/C/NZL/CO/6 10 August 2007	39th	14. While the Committee welcomes the Human Rights Commission's appointment of an Equal Opportunity Commissioner to focus on gender equality concerns, the Committee is concerned that the Human Rights Commission, which plays a central role in the promotionand protection of human rights in New Zealand, has not fully integrated and mainstreamed gender perspectives and women's human rights into its action plans and activities. The Committee is further concerned that existing human rights monitoring and implementation mechanisms do not adequately or regularly integrate gender equality analyses. The Committee is also concerned that while all policy papers submitted to the Cabinet and Cabinet committees must include a statement regarding compliance with the Human Rights Act and the New Zealand Bill of Rights, gender impact statements are only required for papers submitted to the Cabinet Social Development Committee.
UnitedKingdom of Great Britain and Northern Ireland and Overseas Territories of the United Kingdom of Great Britain and Northern Ireland	CCPR/CO/73/ UK; CCPR/CO/73/UKOT 6 December 2001	73rd	9. Although the Committee appreciates the establishment of specialist bodies to deal with various specific areas of discrimination, such as the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission, the Committee considers that the establishment of a national human rights commission with comprehensive jurisdiction to receive complaints of human rights violations would be a valuable addition to the remedies available to persons complaining of such violations, particularly persons for whom recourse to the courts is, as a practical matter, too costly, difficult or impossible.The State party should consider the establishment of a national human rights commission to provide and secure effective remedies for alleged violations of all human rights under the Covenant.
UnitedKingdom of Great Britain and Northern Ireland and Overseas Territories of the United Kingdom of Great Britain and Northern Ireland	E/C.12/1/Add.79 5 June 2002(CESCR)	28th	28. The Committee strongly recommends that the State party establish a national human rights commission for England, Wales and Scotland, with a mandate to promote and protect all human rights, including economic, social and cultural rights.
United Kingdom of Great Britain and Northern Ireland and Overseas Territories of the	CERD/C/63/CO/11 10 December 2003	63rd	22. While reiterating its satisfaction in connection with the enactment of the Human Rights Act of 1998, the Committee notes that no central body has been established to implement the Act. The Committee considers that the absence of such a body may undermine the effectiveness of the Act. The Committee refers to the earlier commitment of the State party to consider establishing a Human

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
United Kingdom of Great Britain and Northern Ireland			Rights Commission in order to enforce the Act and the possibility of granting such a commission comprehensive competence to review complaints of human rights violations, and recommends an early decision in this regard.
United Kingdom of Great Britain and Northern Ireland and Overseas Territories of the United Kingdom of Great Britain and Northern Ireland	CRC/C/15/Add.134 16 October 2000	25th	15. The Committee recommends the establishment of a child rights focal point within the Police Complaints Commission. It also recommends that the Isle of Man consider introducing measures to facilitate children who wish to do so making complaints to the Commission in the absence of an adult. It further recommends that the Isle of Man reconsider establishing an independent, child-friendly, accessible mechanism, separate from the Police Complaints Commission, to address complaints from children concerning violations of their rights and to provide remedies for such violations, in keeping with the Paris Principles (United Nations General Assembly resolution 48/134). In this context, the introduction of awareness-raising campaigns is encouraged in order to facilitate the effective use of these mechanisms by children.
United Kingdom of Great Britain and Northern Ireland and Overseas Territories of the United Kingdom of Great Britain and Northern Ireland	CRC/C/15/Add.135 16 October 2000	25th	16. The Committee recommends the establishment of child rights focal points within the human rights monitoring mechanisms in Bermuda, the British Virgin Islands, St. Helena and the Turks and Caicos Islands. Additionally, the Committee recommends that all appropriate measures be taken to ensure that these mechanisms are independent, child friendly and accessible to children. The Committee also encourages the establishment of independent, child-friendly monitoring mechanisms in the other Overseas Territories to deal with complaints of violations of the rights of children and to provide remedies for such violations. Such mechanisms should also include focal points for children. The Committee further suggests that awareness-raising campaigns should be undertaken to facilitate the effective use of monitoring mechanisms by children.

Region - Pacific Islands

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
Fiji	A/57/38 (Part I) 14 Jan - 1 Feb 2002	26th	46. The Committee expresses concern that the Constitution of 1997 does not contain a definition of discrimination against women. The Committee notes the absence of effective mechanisms to challenge discriminatory practices and enforce the right to gender equality guaranteed by the Constitution in respect of the actions of public officials and non-State actors. The Committee is concerned that the Convention is not specified in the mandate of the Human Rights Commission, and that it is not assured funds to continue its work. 47. The Committee recommends that proposed constitutional reform should address the need to incorporate a definition of discrimination. The Committee urges the State party to include a clear procedure for

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
			enforcement of fundamental rights and enact an equal opportunities law to cover the actions of non-State actors. The Committee also recommends that the mandate of the Human Rights Commission be expanded to include the Convention, and that the Commission be provided with adequate resources from State funds.
Fiji	CERD/C/FJI/CO/17	72nd	11. The Committee, while noting the delegation's assurances regarding the independence of the Fiji Human Rights Commission, is concerned that the Commission may no longer fully meet the criteria set out in the Paris Principles relating to the status of national institutions for the promotion and protection of human rights.The Committee encourages the State party to take all necessary steps to ensure the independence of its national human rights institution, in accordance with the Paris Principles of 1993 (United Nations General Assembly resolution A/RES/48/134, annex, of 20 December 1993).
Kiribati	CRC/C/KIR/CO/1 Unedited version 29 September 2006	43rd	Independent monitoring mechanism 11. The Committee is concerned that no independent monitoring mechanism exists to monitor, regularly evaluate or report on implementation of the Convention. 12. The Committee recommends that the State party consider the establishment of a national human rights institution, including a post of Ombudsperson for Children ensuring the provision of adequate human and financial resources to promote and strengthen accessibility for children, and enabling children to submit complaints. The Committee refers the State party to its General Comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child. The State party is encouraged to seek technical assistance from, among others, UNICEF and the Office of the United Nations High Commissioner for Human Rights Regional Office in Suva, Fiji. The Committee encourages the State party to involve NGOs in its ongoing efforts to monitor implementation of the Convention.
Samoa	CRC/C/WSM/CO/1 Unedited version 29 September 2006	43rd	Independent monitoring 16. The Committee is concerned that there is no independent body to promote and monitor the implementation of children's rights with the power to receive and address individual complaints concerning violations of all children's rights. 17. The Committee recommends that the State party establish an independent body for the promotion and monitoring of the Convention on the Rights of the Child, either as part of an independent national human rights institution or as a separate body in accordance with the Paris principles (General Assembly resolution 48/134, annex) and the Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions (CRC/GC/2002/2). It also recommends that such an independent body should have a mandate to receive, investigate and address complaints, including from children and that adequate human and financial resources be allocated. The Committee further recommends that the State party consider seeking technical assistance from, *inter alia*, UNICEF and OHCHR.

Region - Caribbean

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
Antigua and Barbuda	CRC/C/15/Add.247 3 November 2004	37th	17. In light of its General Comment No. 2 on national human rights institutions, the Committee encourages the State party to establish an independent and effective mechanism in accordance with the Paris Principles (General Assembly resolution 48/134, annex) that monitors the implementation of the Convention, deals with complaints from children or their representatives in a child-sensitive and expeditious manner, and provides remedies for violations of their rights under the Convention. Such a body should be provided with adequate human and financial resources and made easily accessible to children. The Committee also recommends that the State party consider seeking technical assistance from UNICEF and OHCHR in this regard.
(The) Bahamas	CRC/C/15/Add.253 31 March 2005	38th	16. The Committee is concerned at the absence of an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address individual complaints. 17. In view of the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2), the Committee encourages the State party to develop and establish an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134 of 20 December 1993, annex). This institution should be provided with adequate human and financial resources, easily accessible to children; deal with complaints from children in a child-sensitive and expeditious manner; and provide remedies for violations of their rights under the Convention.
Belize	CRC/C/15/Add.252 28 January 2005	38th	13. The Committee welcomes the establishment of an independent ombudsman in 1999 but notes that this body is not properly equipped both in terms of its mandate and its human and financial resources to deal with complaints filed by or on behalf of children. The Committee also welcomes the information that the new National Plan of Action for Children and Adolescents in Belize 2004-2015 calls for the exploration of the establishment of an ombudsperson for children. 14. The Committee recommends the State party to make the exploration mentioned in previous paragraph a matter of priority in order to establish as soon as possible the independent monitoring body as just described and line with the Committee's General Comment No. 2 either as a separate entity or as a division within the existing ombudsman office. It also recommends the State party to ensure that this monitoring body is provided with sufficient human and financial resources to perform its mandate.
Belize	CEDAW/C/BLZ/CO/4 10 August 2007	39th	5. The Committee commends the State party for the institutional arrangements and framework it has put in place for improved

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
			implementation of the Convention, including the National Gender Policy, the Women's Agenda 2003-2008 and the appointment of Women Development Officers in each district.
Dominica	CRC/C/15/Add.238 30 June 2004	36th	12. Taking fully into account the Committee's General Comment No. 2 (2002) on national human rights institutions, the Committee encourages the State party to pursue its efforts to develop and establish an independent and effective mechanism, provided with adequate human and financial resources and easily accessible to children, that will monitor the implementation of the Convention, deal with complaints from children in a child-sensitive and expeditious manner, and provide remedies for violations of their rights under the Convention.
Guyana	CRC/C/15/Add.224 26 February 2004	35th	12. The Committee is concerned at the absence of an independent mechanism with a mandate regularly to monitor and evaluate progress in the implementation of the Convention. 13. In the view of the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the protection and promotion of the rights of the child, the Committee encourages the State party to pursue its efforts with a view to developing and establishing an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex). This institution should be provided with adequate human and financial resources, easily accessible to children; deal with complaints from children in a child-sensitive and expeditious manner; and provide remedies for violations of their rights under the Convention.
Guyana	CERD/C/GUY/CO/14 21 March 2006	68th	14. While noting that the Constitutional Amendment Act of 2000 establishing the Ethnic Relations Commission does not require the representation of any particular ethnic group on the Commission, the Committee is nevertheless concerned about the absence of any indigenous representatives on that Commission. (Art. 5 (c). The Committee recommends that the State party ensure that the ethnic composition of the Ethnic Relations Commission be as inclusive as possible, and that the representatives of indigenous communities be consulted, and their informed consent sought, in any decision-making processes directly affecting their rights and interests, in accordance with the Committee's General Recommendation No. 23.2 21. The Committee notes that only few complaints about acts of racial discrimination have been brought before the Ethnic Relations Commission and none before the courts which, according to the State party, can partly be attributed to the high standard of proof required in judicial proceedings and to the difficulties to secure witnesses in a small society such as the Guyanese society. (Art. 6) The Committee recommends that the State party consider sharing the burden of proof in civil and administrative proceedings once the commission of an act of racial discrimination has been sufficiently substantiated by the complainant, and that it allocate sufficient funds

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
			to witness protection programmes in cases concerning acts of racial discrimination. 22.The Committee expresses its concern about the existing ethnic tensions in Guyana which constitute an impediment to inter-cultural recognition and the construction of an inclusive and politically pluralistic society. (Art. 7)The Committee encourages the State party toprovide education and to actively support programmes that foster inter-cultural dialogue, tolerance and understanding with respect to the culture and history of different ethnic groups within Guyana. The Committee further endorses the recommendation of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to establish a constitutional commission on inter-cultural dialogue.
Guyana	CAT/C/GUY/CO/1 22 November 2006	37th	21. Whilst the Committee expresses satisfaction for the creation of institutions for the promotion and protection of human rights, such as the Human Rights Commission, Women and Gender Commission, Indigenous Peoples Commission, Rights of the Child Commission, it regrets the fact that the necessary appointments to enable these institutions to begin work have not as yet been made by Parliament apparently due to political reasons..(*article 13*) The State party is strongly encouraged to take effective steps to expedite appointments to these institutions for the promotion and protection of human rights. 22. The Committee expresses its concern about the inability of the Office of the Ombudsman to continue functioning as a result of the non-appointment, since January 2005, of an Ombudsman by Parliament apparently due to political reasons. (*article 13)*The State party is urged to take the necessary measures to ensure the resumption of the activities of the Office of the Ombudsman and provide it with the human and financial resources in order to allow it to carry out its mandate.
Saint Lucia	CRC/C/15/Add.257 3 June 2005	39th	15. The Committee notes with appreciation the existence of a Parliamentary Commissioner or Ombudsperson. But this Commissioner does not have a specific mandate for the independent monitoring and promotion of children's rights nor does it have a child-specific and sensitive procedure for filing individual complaints. 16. The Committee recommends that the State party establish an independent body for monitoring the implementation of the Convention of the Rights of the Child in the light of the Committee's General Comment No. 2 on national human rights institution and in accordance with the Paris Principles (General Assembly resolution 48/134). Such body should be provided with adequate human and financial resources, easily accessible to children; deal with complaints from children in a friendly and child-sensitive manner. In this regard, the Committee recommends that the State party consider seeking technical assistance from; inter alia,UNICEF and OHCHR
St. Vincent and the Grenadines	CRC/C/15/Add.184 13 June 2002	30th	(c) Establish an independent structure to receive complaints of violations of children's rights which has the authority and capacity

Country	Treaty Body Reference	Session	Concluding Observations (para and text)
			to receive and investigate individual complaints in a child-sensitive manner and address them effectively, such as through empowerment of the National Human Rights Association;
Trinidad and Tobago	E/C.12/1/Add.80 29 April-17 May 2002 (CESCR)	28th	11. The Committee is concerned that economic, social and cultural rights are not part of the mandate of the Ombudsman. 34. The Committee recommends that the State party provide the Ombudsman with powers to deal with all human rights issues, including economic, social and cultural rights.

Appendix V:

RATIFICATION OF HUMAN RIGHTS INSTRUMENTS BY COMMONWEALTH COUNTRIES

COUNTRY	IC CPR	OP I ICCPR	OP II ICCPR	ICE SCR	OP ICE SCR	ICE RD	IC RMW	CE DAW	OP CE DAW	CAT	OP CAT	CRC	OP CRC AC	OP CRC SC
Antigua and Barbuda	x	x	x	x	x	R	x	R	R	R	x	R	x	R
Australia	R	R	R	R	x	R	x	R®	R	R	S	R	R	R
Bahamas	R	x	x	R	x	R	x	R	x	S	x	R	x	x
Bangladesh	R	x	x	R	x	R	R	R®	R	R	x	R	R	R
Barbados	R	R	x	R	x	R	x	R	x	x	x	R	x	x
Belize	R	x	x	S	x	R	R	R	R	R	x	R	R	R
Botswana	R	x	x	x	x	R	x	R	R	R	x	R	R	R
Brunei	x	x	x	x	x	x	x	R	x	x	x	R	x	R
Cameroon	R	R	x	R	x	R	S	R	R	R	S	R	S	S
Canada	R	R	R	R	x	R	x	R	R	R	x	R	R	R
Cyprus	R	R	R	R	x	R	x	R®	R	R	R	R	R	R
Dominica	R	x	x	R	x	x	x	R	x	x	x	R	R	R
Fiji Islands	x	x	x	x	x	R	x	R®	x	x	x	R	S	S
Gambia	R	R	x	R	x	R	x	R	x	S	x	R	S	R
Ghana	R	R	x	R	S	R	R	R	R	R	S	R	S	S
Grenada	R	x	x	R	x	S	x	R	x	x	x	R	x	x
Guyana	R	R®	x	R	x	R	R	R	x	R	x	R	R	R
India	R	x	x	R ®	x	R	x	R®	x	S	x	R	R	R
Jamaica	R	D	x	R	x	R	R	R®	x	x	x	R	R	R
Kenya	R	x	x	R	x	R	x	R	x	R	x	R	R	S
Kiribati	x	x	x	x	x	x	x	R	x	x	x	R	x	x
Lesotho	R	R	x	R	x	R	R	R®	R	R	x	R	R	R
Malawi	R	R	x	R	x	R	x	R	S	R	x	R	R	R
Malaysia	x	x	x	x	x	R	x	R®	x	x	x	R	x	x
Maldives	R	R	x	R	x	R	x	R®	R	R	R	R	R	R
Malta	R	R®	R	R	x	R	x	R®	x	R	R	R	R	R
Mauritius	R	R	x	R	x	R	x	R®	R	R	R	R	R	R
Mozambique	R	x	R	x	x	R	x	R	R	R	x	R	R	R
Namibia	R	R	R	R	x	R	x	R	R	R	x	R	R	R
Nauru	S	S	x	x	x	S	x	R	x	S	x	R	S	S
New Zealand	R®	R®	R	R	x	R	x	R	R®	R	R®	R®	R®	S®
Nigeria	R	x	x	R	x	R	R	R	R	R	R	R	S	R
Pakistan	R	x	x	R	x	R	x	R	x	R	x	R	S	R

COUNTRY	IC CPR	OP I ICCPR	OP II ICCPR	ICE SCR	OP ICE SCR	ICE RD	IC RMW	CE DAW	OP CE DAW	CAT	OP CAT	CRC	OP CRC AC	OP CRC SC
Papua New Guinea	R	x	x	R	x	R	x	R	x	x	x	R	x	x
Rwanda	R	x	R	R	x	R	R	R	R	R	x	R	R	R
Samoa	R®	x	x	x	x	x	x	R	x	x	x	R	x	x
Seychelles	R	R	R	R	x	R	R	R	R	R	x	R	R	S
Sierra Leone	R	R	x	R	x	R	S	R	S	R	S	R	R	R
Singapore	x	x	x	x	x	x	x	R®	x	x	x	R	R	x
Solomon Islands	x	x	x	R®	S	R	x	R	R	x	x	R	S	S
South Africa	R	R	R	S	x	R	x	R	R	R	S	R	R	R
Sri Lanka	R	R®	x	R	x	R	R	R	R	R	x	R	R	R
St. Kitts and Nevis	x	x	x	x	x	R	x	R	R	x	x	R	x	x
St. Lucia	x	x	x	x	x	R	x	R	x	x	x	R	x	x
St. Vincent and Grenadines	R	R	x	R	x	R	R	R	x	R	x	R	R	R
Swaziland	R	x	x	R	x	R	x	R	x	R	x	R	x	x
Tanzania	R	x	x	R	x	R	x	R	R	x	x	R	R	R
Tonga	x	x	x	x	x	R	x	x	x	x	x	R	x	x
Trinidad and Tobago	R	D	x	R	x	R	x	R®	x	x	x	R	x	x
Tuvalu	x	x	x	x	x	x	x	R	x	x	x	R	x	x
Uganda	R	R	x	R	x	R	R	R	x	R	x	R	R	R
United Kingdom	R®	x	R	R®	x	R®	x	R®	R	R®	R	R®	R	R
Vanuatu	R	x	x	x	x	x	x	R	R	R	x	R	R	R
Zambia	R	R	x	R	x	R	x	R	S	R	S	R	S	S

CHART

R: Ratification; Succession; Accession
S: Signature
D: Denunciation
®: Reservations or Declarations

ICCPR : International Covenant on Civil and Political Rights
OP I ICCPR : Optional Protocol to the International Covenant on Civil and Political Rights
OP II ICCPR : Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty
ICESCR : International Covenant on Economic, Social and Cultural Rights
OP ICESCR : International Covenant on Economic, Social and Cultural Rights
ICERD : International Covention on the Elimination of all forms of Racial Discrimination
ICRMW : International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CEDAW : Convention on the Elimination of All Forms of Discrimination against Women
OP CEDAW : Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
CAT : Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP CAT : Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRC : Convention on the Rights of the Child
OP CRC AC : Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict
OP CRC SC : Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

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CHRI'S PREVIOUS REPORTS TO CHOGM

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 examined 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 how the state, police and communities can work together to improve the 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 report shows how poverty is 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 fulfill the many solemn commitments made at successive CHOGMs or risk the Commonwealth losing its relevance.

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 recognized as central to the Commonwealth, millions of light weapons flow freely, jeopardising safety, development and democracy. The report outlines urgent recommendations to the Commonwealth for curbing 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 for achieving this goal.

Rights Do Matter (1995)
Rights Do Matter explored 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.

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 through strategic initiatives and advocacy on human rights, access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

STRATEGIC INITIATIVES:

CHRI monitors member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN, and the African Commission for Human and Peoples' Rights. Ongoing strategic initiatives include: Advocating for and monitoring the Commonwealth's reform; Reviewing Commonwealth countries' human rights promises at the UN Human Rights Council and engaging with its Universal Periodic Review; 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.

ACCESS TO INFORMATION:

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

ACCESS TO JUSTICE:

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

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractice. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstays, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock on effect on the administration of justice overall.

The Commonwealth is now home to over 30 national human rights institutions (NHRIs) and innumerable civil society actors working to further human rights. All share the same goal – to promote and protect human rights – yet, for myriad reasons, they often refrain from working together.

Commonwealth Human Rights Initiative's report to the 2011 Commonwealth Heads of Government Meeting makes the assertion that obstacles to developing good working relationships between Commonwealth NHRIs and civil society must be overcome. A strong partnership between NHRIs and civil society – particularly when they function in menacing and obstructive environments – is a keystone to the effective protection and promotion of human rights, and is heralded by international standards and best practice.

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-civil society engagement.

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