



CHRI

COMMONWEALTH HUMAN RIGHTS INITIATIVE

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NEWSLETTER

“WE ARE WORKING IN A COMMONWEALTH WAY”



**Understanding
Australia's Opposition
to the Investigation
by the Human Rights
Council on Sri Lankan
War Crimes**

**The
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and the Role
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**East Africa
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Launch Coverage
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**Reprisals,
intimidation and
the UN: An Update
on Human Rights
Defenders in
Uganda**

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Commonwealth Journalists Association
Commonwealth Lawyers Association
Commonwealth Legal Education Association
Commonwealth Parliamentary Association
Commonwealth Press Union
and
Commonwealth Broadcasting Association

These sponsoring organisations felt that while Commonwealth countries had both a common set of values and legal principles with which to work, they required a forum to promote human rights. It is from this idea that CHRI was born and continues to work.

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Dear Reader,

I present here the summer edition of CHRI's Newsletter.

With 53 countries as members there are always issues of great and small moment occurring around the Commonwealth.

Playing to one of its strengths, the Commonwealth sent missions to observe elections in several Member States, including Maldives, South Africa, Malawi and Antigua and Barbuda. While a strong focus of the Commonwealth, the impact of its observations remains uncertain. For instance, distinguished Commonwealth observers monitoring Swaziland's 2013 elections commented that it "cannot conclude that the entire process was credible" has changed little in that country nor prompted the Commonwealth to consider Swaziland being under watch at the Ministerial Action Group (CMAG).

CMAG concluded its 43rd meeting and removed some bans from Fiji to enable it to participate in the ongoing Commonwealth Games in Glasgow, Scotland. It chose, once again, to continue ignoring calls for bringing Sri Lanka under its scrutiny.

By contrast, the UN Human Rights Council adopted a breakthrough resolution to hold an independent international investigation into allegations of war crimes. Sri Lanka has categorically rejected the resolution and its parliament has voted not to allow a team from the Office of the High Commissioner for Human Rights (OHCHR) to carry out investigations

Meanwhile, Canada has suspended its voluntary funding for the Commonwealth - 10 million Canadian Dollars - in protest over Sri Lanka becoming the Chair of the Commonwealth, despite its questionable human rights

record. Canada now is looking at supporting civil society which can revive the Commonwealth.

In London, several Commonwealth organisations are holding their own consultations to find more ways and spaces for collaboration and consultation with the Secretariat.

Elsewhere, another human rights body - the African Commission on Human and Peoples' Rights (ACHPR) in an unprecedented step took a decisive stand on discriminatory laws against the LGBT community. The ACHPR resolution strongly urges African governments to end impunity for acts of abuse and violence by legislating appropriate laws, which prohibit and punish all forms of violence against LGBT people, and to strengthen their efforts in properly investigating and prosecuting the perpetrators, regardless if they are official or non-state actors.

The resolution comes at a time when several governments in the region have approved or are considering discriminating laws designed against LGBT people. The adoption of the regressive Anti-Homosexuality Act in Uganda in February this year, which prescribes life in prison for any form of same-sex penetration, sexual stimulation, "promotion of homosexuality" and failure to report violations of the Act, has been a serious setback for the LGBT movement. Earlier this year, the Nigerian government adopted a law that broadens the definition of punishable same-sex relationships and makes it illegal for gay people to even hold a meeting! Since then, the Kenyan government is pressing for enforcing the existing laws in Kenya which criminalise homosexuality.

Brunei, by introducing a strict Islamic Penal Code in April, laid the ground work for handing down punishments such as stoning, for offences like adultery, sodomy or

blasphemy. The law prescribing stoning not only violates international law which considers the practice an act of torture but also constitutes a major threat to the LGBT people by violating various rights such as the right to privacy, equality and freedom from arbitrary arrests and detention.

Core Commonwealth values of equality and non-discrimination, enshrined in the recently adopted Charter appear to be getting a go-by as Member States are not held to account for passing regressive laws, holding faulty elections or not submitting to international procedures.

Elsewhere, the trend of suppressing freedom of speech and expression in the name of security continues. In Nigeria, widespread dissatisfaction with the government's response to on-going attacks and killings by Boko Haram and demands of action to secure the release of the kidnapped schoolgirls resulted in the police banning protests for "security reasons". A dozen independent newspapers have also been attacked allegedly by Nigerian authorities, for reporting on links of Nigerian officials to terrorist groups and criticising the insufficient efforts of the Nigerian military to address terrorism.

And finally, the three-yearly meeting of the Commonwealth Law Ministers took place in May under the theme "Consolidating the Rule of Law and Human Rights within the Commonwealth". We sincerely hope that these discussions go some way in returning human rights to front and centre.

Read on for more happenings and do write to us with suggestions, feedback and your own views.



Sincerely,
Maja Daruwala

Understanding Australia's Opposition to the Investigation by the Human Rights Council on Sri Lankan War Crimes*

By Emily Howie



Photograph by 'Lanka Standard' via CreativeCommons.org

In March 2014, the United Nations Human Rights Council (hereafter, the Council) adopted a resolution on Promoting Reconciliation, Accountability and Human Rights in Sri Lanka (hereafter, the resolution), establishing a historic and long-awaited international investigation into war crimes and human rights abuses committed during the final phases of Sri Lanka's civil war. The resolution is widely regarded as an important step towards reconciliation and peace. In addition to establishing

a mechanism for examining past violations, including the deaths of 40,000 to 70,000 civilians, the resolution established critical monitoring of the serious ongoing human rights situation in Sri Lanka.

Whilst the UK Prime Minister, David Cameron, welcomed the resolution as a "victory for the people of Sri Lanka", the Australian government stunned many observers with its vocal opposition to the resolution.

Australia is currently not a member of the Council and so it could not vote on the resolution. Nonetheless, Australia's Foreign Minister, Julie Bishop, said she was "not convinced that the resolution's call for a separate, internationally-led investigation, without the cooperation of the Sri Lankan government, is the best way forward at this time". She said that the resolution did not properly acknowledge the economic growth and progress in Sri Lanka or the brutality of the Liberation Tigers of Tamil Eelam (LTTE).

Bishop's comments put Australia directly at odds with some of its closest allies – the United States, UK and Canada – who supported the resolution. Surprisingly, her comments aligned Australia with countries known for their obstructionist approach to the resolution at the UN Human Rights Council. One could have been forgiven for thinking she was accidentally reading from the notes of her Russian, Chinese or Iranian counterpart.

Australia's opposition to the investigation by the Human Rights

Council, which aims to achieve justice and reconciliation in Sri Lanka, is counterproductive and short-sighted.

Sadly, this position is consistent with Australia's deteriorating benchmarks regarding human rights in its foreign affairs with Sri Lanka. The Australian government claims that "engagement" with Sri Lanka, not "isolation," is the best way forward. Australia is now so closely engaged with, and dependent on, Sri Lanka to conduct border control, that Australia is increasingly unwilling to criticise Sri Lanka on any account, even when it comes to some of the most serious human rights abuses in our region. This intimate partnership puts Australia at risk of violating its international human rights obligation of non-refoulement.

A Dangerously Close Relationship

To understand Australia's unprincipled position on Sri Lankan war crimes, it is necessary to consider domestic Australian immigration policy.

In the last two years, Australia has seen 8,000 unauthorised boat arrivals from Sri Lanka and Sri Lankan authorities claim to have blocked a further 4,500 people attempting to leave its borders. These arrivals were just some of the

record number of boat arrivals to Australia during that time.

The Australian government's obsession with "stopping the boats" and its reliance on Sri Lanka to help block people leaving their country is the root cause of Australia's position on accountability for Sri Lankan war crimes.

This is nothing new. While in September 2013, Australia elected a new Conservative government led by Prime Minister Tony Abbott, Australia's close ties with Sri Lanka were formalised years earlier by the previous Labour government. Since 2009, Australia has forged a dangerously close relationship with the Sri Lankan military and police as part of Australia's measures to prevent asylum seekers from arriving on Australian shores.

In March 2014, the Human Rights Law Centre (HRLC), an independent non-government organisation based in Australia, published a report, "Can't flee, can't stay: Australia's interception and return of Sri Lankan asylum seekers", detailing the way in which Australia encourages, facilitates and resources Sri Lanka to block its people from leaving the country as a part of Australian border control and anti-people smuggling operations.

Australian Federal Police officers currently work inside Sri Lanka with their Sri Lankan police counterparts to prevent boat departures. Sri Lankan police had no "illegal migration" surveillance capacity at all, till Australia established it for them in 2009.

Australia gives around \$2 million dollars in material support to the Sri Lankan Navy each year. Recently, Australia provided two patrol boats to the Sri Lankan Navy to assist with on-water surveillance and interception. Australia also shares intelligence with Sri Lankan security forces to aid the interceptions.

Mr Abbott now describes Australia as having "the closest possible cooperation" with Sri Lanka.

Australia's efforts at "stopping boats" are jeopardising the ability of Sri Lankans at risk of persecution to gain access to safety and asylum. The most recent data on Sri Lankan boat arrivals to Australia indicates that between 50 and 90 per cent of those arriving are likely genuine refugees.

Australia's support for the Sri Lankan security forces' interceptions increases the likelihood that Sri Lankan people fleeing persecution are exposed to torture and mistreatment. Australia is well aware of the human rights situation

in Sri Lanka and the seriousness of the allegations it faces. The Sri Lankan Navy is part of the military now being investigated for war crimes and crimes against humanity committed towards the end of Sri Lanka's civil war in 2009. The Sri Lanka Police have a long and well-documented track record of torture and mistreatment in custody, including rape of men and women.

Refolement

Australia's non-refoulement obligations prohibit the removal of anyone from its territory to a country where they are in danger of death, torture or other mistreatment, including arbitrary detention. Since October 2012, Australia has been using a so-called "enhanced screening process" for Sri Lankans that arrive by boat. Enhanced screening is a truncated assessment process in which detainees have no access to a lawyer and no independent review of the decision is available. It is a flimsy short-cut and a grossly inadequate way to handle what are potentially life and death decisions. Sri Lankans have a legal right to have their protection claims heard properly - instead Australia subjects them to a less rigorous process and thereby exposes them to harm on return.

Since putting this process in place,

Australia has forcibly returned over 1,100 Sri Lankans. Australia's Immigration Minister has made it clear that his preference is for Australia to return all Sri Lankans arriving by boat.

Australia claims that no returnees have been harmed upon return to Sri Lanka. However there is no sufficient monitoring of returnees to allow Australia to make that assessment. This means that despite evidence that most of the Sri Lankans arriving by boat are genuine refugees, Australia bases its treatment of Sri Lankans on the politically expedient assumption that they are economic migrants.

The HRLC obtained documents, using freedom of information law, which show one instance where the Australian High Commission in Colombo received a complaint that a returnee had been "severely tortured". In that case the Australian Federal Police officer based in Colombo declined an invitation from the Sri Lankan police to meet with the complainant to assess his well-being.

This kind of response is woeful considering the gravity of the complaints made. It also raises questions about the Australian government's assertions that nobody has been harmed on return.

Other Commonwealth Nations

When the resolution came up at the Council, Australia was not a member but several other Commonwealth countries were.

There was no unitary position among Council members from the Commonwealth: Botswana and UK voted for the resolution; Kenya, Maldives and Pakistan voted against the resolution; and Namibia, South Africa and India abstained from voting. Abstentions were critical in the result as the vote was 23 in favour, 12 opposed and 12 abstained.

It is difficult to know what position Australia would have taken if it had been required to vote. Abstention may have saved Australia's relationship with its border security partner, but the new Australian government would have failed to live up to its own human rights standards. The government's foreign policy, at least on paper, includes taking a robust and principled approach to human rights abuses in the Asia Pacific region. Denying access to justice to victims of some of the region's worst war crimes can hardly be consistent with that. ■

**A version of this article also appeared on 17 June on an online blog space run by John Menadue (<http://johnmenadue.com/blog/>).*

The Commonwealth and the Role of UN Special Procedures

By Ted Piccone*



Photograph by Minutemennews.com via CreativeCommons.org

Considered the “jewel in the crown” of the international human rights system, the United Nations Special Procedures has a strong track record of making a difference through setting norms and monitoring their implementation. These independent experts are unique in the broad scope of human rights issues they address by leveraging their independence and accountability; expertise and standing; flexibility, reach and accessibility; cooperation; implementation and follow-up; and resources and support. Since the first mandate was established in 1967 – an Ad Hoc Working Group of Experts

on South Africa – the UN’s system of independent experts on human rights has grown in an organic and ad-hoc fashion. Mandates on a wide range of rights have multiplied to 14 country mandates and 37 thematic ones, but resources for their work have not grown commensurately. Nevertheless, the body of independent experts known as Special Procedures has demonstrated impact and influence. Commonwealth nations have engaged to varying degrees with this mechanism but have not found a common principled voice.

Within the scope of the mandates they receive from the UN Human Rights Council (UNHRC) and General Assembly, mandate holders have significant independence and enjoy great systemic and operational flexibility. In addition, they are held accountable through a set of professional standards laid out in a State-imposed code of conduct and their own manual of procedures. This combination of State monitoring and self-regulation contributes substantially to both their success and credibility.

The makeup of Special Procedures is also notably diverse, with the appointment process promoting regional balance and approaching gender parity, though more can certainly be done. Most of the current mandate holders are academics as such positions provide the necessary flexibility and research support needed to perform the highly demanding yet unpaid work required of their mandates.

The Commonwealth nations are well represented in both the Special Procedures and the UNHRC. For example, at the most recent

session of the UNHRC in March 2014, 19 mandate holders were appointed, five of who are from Commonwealth countries (Australia, Canada, Tanzania and South Africa). This brings the total number of mandate holders of Commonwealth origin up to 24, a full third of all mandate holders. Likewise, the outgoing High Commissioner for Human Rights, Navi Pillay, is from South Africa and has Indian Tamil heritage.

Special Procedures act as a uniquely accessible focal point for government officials, NGOs, the media and, most importantly, the victims of human rights violations. But the system's success usually depends on a cooperative relationship between mandate holders and governments, which is too often lacking. This cooperation can be strengthened by identifying criteria to measure and leverage State compliance. For example, civil society and the Office of the High Commissioner for Human Rights (OHCHR) could issue regular reports on whether: a State has extended a standing invitation for country visits; States are responding in a timely and favourable manner to visit requests; and they are responding promptly and substantively to requests for information and urgent appeals from Special Procedures.

In an effort to test one of these criteria, the Brookings Institution and the Universal

Rights Group (URG) conducted a qualitative assessment of government responses to Special Procedures communications, drawing from a geographically representative sample of 15 States over a period of two years. Of the 7,901 communications sent by all Special Procedures between 2008 and 2013, only 3,988 responses from governments were received (51 per cent), reflecting varying levels of responses to issues raised. The sample study performed by Brookings and URG reflected a similar response rate of just over 51 per cent. Of those that did reply, 23 per cent provided immaterial responses, 24 per cent rejected the violation allegation without substantiating that rejection, 39 per cent offered a responsive but incomplete reply, while only 8 per cent indicated that steps had been taken to address alleged violations (6 per cent were still in translation and thus not evaluated). The results correspond with earlier Brookings data that examined 8,000-plus communications over five years, showing consistency over time – but little to no improvement in the quality of State responses.

In this earlier study, Commonwealth responses were somewhat lacking. Of the 1,287 communications sent, Commonwealth governments replied 47 per cent of the time and of those replies, 30 per cent were immaterial responses, 38 per cent rejected the violation without substantiation, 28 per cent

were responsive but incomplete, and 9 per cent indicated that steps had been taken to address the alleged violations. In the updated study performed by Brookings and URG, India, the only Commonwealth nation selected for the 15-State sample group, had a substantially higher response rate than the average but the quality of those replies was lacking. Sixty-six per cent of Special Procedures communications received replies, but 58 per cent were immaterial responses and 33 per cent rejected the violations without substantiation. Eight per cent were responsive but incomplete and no responses indicated steps had been taken to address violations. The Indian government therefore has substantial room for improvement in supporting the work of Special Procedures and responding to alleged rights violations, though it is far from alone in this respect.

Through country visits, the primary method by which Special Procedures generate significant impact, the experts are able to elevate human rights on the national agenda and at the highest levels of government, garner public attention and debate in the media, and evaluate allegations of human rights violations in a credible manner. Standing invitations issued by states and completion of country visits are another good measure of state cooperation and the influence of the Special Procedures. Twenty-four of the 53 Commonwealth countries

Table 1: Commonwealth Country Visits Since 1998

Country	Standing Invitation	Visits Completed	Forthcoming Visits (dates available)	Visits Agreed Upon	Visits Requested
Antigua and Barbuda		0	0	0	0
Australia	Yes	8	0	1	0
Bahamas	Yes	1	0	0	1
Bangladesh		5	0	1	10
Barbados		0	0	0	2
Belize		1	0	0	0
Botswana		2	0	3	2
Brueni Darussalam		0	0	0	0
Cameroon		3	0	3	0
Canada	Yes	10	0	4	4
Cyprus	Yes	1	0	0	0
Dominica	Yes	0	0	0	0
Fiji		2	0	0	7
Ghana	Yes	5	0	1	3
Grenada		0	0	0	0
Guyana		2	0	0	1
India	Yes	9	0	3	7
Jamaica		2	0	0	5
Kenya		10	0	1	8
Kiribati		1	0	0	0
Lesotho		0	0	0	1
Malawi		1	0	1	3
Malaysia		7	0	1	8
Maldives	Yes	6	0	1	2
Malta	Yes	2	0	2	0
Mauritius		1	0	1	0
Mozambique		5	0	2	3
Namibia		3	0	0	2
Nauru	Yes	0	0	1	0
New Zealand	Yes	3	0	0	0
Nigeria	Yes	5	0	4	5
Pakistan		3	0	1	11
Papua New Guinea	Yes	3	0	1	4
Rwanda	Yes	4	0	0	1
Saint Lucia		0	0	0	0
Samoa	Yes	0	0	0	0
Sierra Leone	Yes	2	0	1	4
Singapore		2	0	0	3
Solomon Islands	Yes	2	0	0	0
South Africa	Yes	11	0	1	3
Sri Lanka		9	0	2	9
St. Kitts and Nevis		0	0	0	0
St. Vincent and the Grenadines		1	0	0	0
Swaziland		0	0	0	2
Seychelles	Yes	2	0	0	1
Tanzania		1	0	1	4
Tonga	Yes	0	0	0	0
Trinidad and Tobago		1	0	0	1
Tuvalu	Yes	1	0	0	0
Uganda		6	0	1	2
UK	Yes	15	0	1	0
Vanuatu	Yes	0	0	0	1
Zambia	Yes	2	0	1	5

Data drawn from "Country and other visits by Special Procedures Mandate Holders since 1998"
<http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsA-E.aspx>

have extended standing invitations (45 per cent) and some 40 of them have accepted visits since 1998, though countries exhibit a wide variety in their levels of compliance in accepting visit requests (see Table 1). Already in 2014, seven Commonwealth countries large and small (New Zealand, Nigeria, Papua New Guinea, Rwanda,

to help support the mechanism through delivering regular cross-regional statements, tabling regular resolutions on Special Procedures, and leading by example. Commonwealth nations could step up to lead in this respect.

- Develop new tools to respond to human rights situations, such as

The Special Procedures mechanism is remarkably strong and flexible, which enables its mandate holders to have a significant positive impact on the enjoyment of human rights around the world. However, in the face of rapid expansion of mandates, more focused attention should be paid to improve the efficiency and effectiveness of the mechanism and

...there are 125 outstanding visit requests sitting with Commonwealth governments

Seychelles, Sri Lanka and the UK) have accepted visits from Special Procedures on issues ranging from arbitrary detention to violence against women and freedom of association. Yet there are 125 outstanding visit requests sitting with Commonwealth governments covering a broad range of concerns, some of which are well over a decade old. Improved cooperation with the Special Procedures can start with accepting these outstanding requests, and a strong campaign could be launched to encourage 100 per cent extension of standing invitations.

The experience to date of the Special Procedures suggests several recommendations to strengthen the mechanism and encourage better State cooperation. Some actions that can be taken to accomplish these goals include:

- Establish a Group of Friends of the Special Procedures at the UN

rapid deployment mechanisms with a standing roster of experts to make site visits.

- Provide objective information on state cooperation with Special Procedures.
- Develop regular reporting on follow-up and implementation of Special Procedure recommendations, resources for technical assistance, and agenda time for debate and presentation of best practices.
- Expand regular UN budget support to Special Procedures, reduce earmarking of voluntary contributions and improve transparency of both UN and non-UN financing in direct support of a mandate.
- Deploy new technology to make the Special Procedure communications system relevant, credible and user-friendly to human rights defenders and States.

reform its operations, resources and management. Commonwealth countries have an opportunity to lead the charge in strengthening cooperation between governments and the mechanism, an equally important piece of the puzzle. If the Special Procedures can be modernised to remain sustainable, relevant and effective, its mandate holders can continue to be an effective tool to promote and protect human rights in the twenty-first century. ■

** Findings on the Special Procedures are drawn from a report by Marc Limon and Ted Piccone: "Human Rights Special Procedures: Determinants of Influence – Understanding and Strengthening the Effectiveness of the UN's Independent Human Rights Experts", March 2014, at: <http://www.brookings.edu/research/reports/2014/03/19-un-human-rights-experts-evaluation-piccone>.*

Pursuing Promises at the United Nations Human Rights Council

By Kirsty Welch



Photograph by CHRI

The Commonwealth as a bloc is an under-assessed component of the United Nations Human Rights Council (the Council). During any particular year, about a quarter of the members of the world's premier human rights institution are from the Commonwealth. With the multitude of collective commitments made by the Commonwealth on the importance of human rights, the Commonwealth should be a positive influence on the Council. However, taken as a whole, the Commonwealth countries at the Council cannot be viewed in this light.

The promotion, protection and realisation of human rights still do not regularly factor into the behaviour of the majority of

Commonwealth countries, at the Council or at home. Failure to comply with this fundamental organisational commitment jeopardises the integrity of the Commonwealth as an organisation, and owing to the large Commonwealth membership, also has the potential to severely undermine the work of the Council.

CHRI's position is that the fundamental enabling factor for the lack of progress on human rights in the Commonwealth is owing to an accountability deficit. This is also true at the Council. Currently, there are no official mechanisms to monitor the compliance of a Member's performance at the Council with their pre-election pledges (a human rights-focused

manifesto). Additionally, few countries have an effective communications procedure in place to enable citizens at home to be informed of the positions adopted in their name, by their government at the Council.

A lack of focus on the implementation of human rights promises has allowed countries, unobserved by independent domestic or international watchdogs, to repeatedly thwart attempts to strengthen human rights protections. It is critical to alert the international community and domestic organisations to this tendency in order to prevent the Commonwealth, not only from failing to comply with its values, but also from becoming a force for human rights regression on the global stage. For this reason, CHRI has been monitoring the performance of Commonwealth members at the Council, since the inception of the forum, through its *Easier Said than Done* reports. The *Easier Said than Done* reports present data on a country's record at the Council in a given year: compiling statements, voting patterns and the record of cooperation with various UN human rights bodies in one easily accessible document. The report also details the major domestic human rights achievements and challenges during the reporting period and assesses the country's contribution

to advancing the mandate of the Council, to protect and promote human rights, and their own pre-election pledges. Most importantly, the reports provide concrete recommendations addressed to the Commonwealth Secretariat, the government under review and Commonwealth Members, which if implemented, could significantly increase the Council's ability to protect human rights.

2013 was an unusual year for human rights in the Commonwealth: a Commonwealth Charter that committed all Members to uphold basic standards of human rights was signed. Yet in many Member States, 2013 was a year that will be remembered for large-scale crackdowns on civil society, dissenting voices and minority communities. It was this temporal context that made the launch of the 2013 *Easier Said than Done* reports an interesting and provocative space for discussion. Botswana, India, Kenya, Maldives, Malaysia, Pakistan, Sierra Leone and Uganda are Commonwealth Members that were represented at the Council in 2013, whose performances were reviewed by CHRI in its 2013 *Easier Said than Done* reports.

Reports on Kenya, Maldives, Malaysia and Uganda were released at a launch event held on the premises of the Council on 25 June 2014, while the Council was in session. CIVICUS: World Alliance for Citizen Participation, Conectas Human Rights and the Asian Forum for Human Rights and

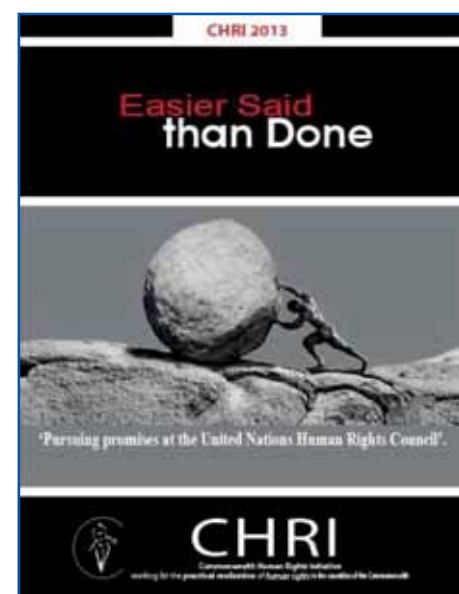
Development (FORUM-ASIA) co-sponsored the event which was led by an esteemed panel: Raisa Cetra, Bala Chelliah, R. Iniyar Ilango, Mandeep Tiwana and Kirsty Welch.

The event, Pursuing Promises, addressed the challenges and way forward to implement the recommendations included in the reports. Domestic human rights challenges featured most prominently, provoked by stimulating panellists who discussed the domestic situations in Malaysia and Commonwealth Africa. A prominent human rights defender from Brazil, who has been working to democratise Brazil's foreign policy, spoke about engaging with the government on its human rights positions abroad. In some of the countries reviewed in the reports, it is difficult for civil society to even initiate conversations with their governments on human rights issues. One Malaysian human rights defender expressed the hope that the *Easier Said than Done* reports would be a catalyst to open a space for dialogue between their government on Malaysia's role at the Council and human rights advances at home.

One of the purposes of the *Easier Said than Done* reports is to engage and inform organisations at home about their country's performance at the Council and to encourage questions to be asked about that performance. CHRI hopes that its reports lead to an increase in dialogue between States and civil society. Representatives of the

Malaysian delegation in Geneva were present at the launch and it is hoped that they continue to be pressed on enhanced dialogue with civil society.

We also believe that the Commonwealth Secretariat can play an influential role in improving the performance of its members at the Council. The Secretariat has staff dedicated to assisting States to engage with the Council but CHRI believes it can do more, and consequently recommendations to this effect were included in the 2013 reports. It was encouraging that a member of the Secretariat was present at the launch and that discussions on the reports continued after the event. Watch this space for further *Easier Said than Done* developments, which you will be able to follow online at CHRI's website, and where you will also be able to access the full catalogue of *Easier Said than Done* reports. ■



“We are Working in a Commonwealth Way”

By Anete Jekabsone



“Flags of the Commonwealth flying in Parliament Square, London” Photograph by Foreign and Commonwealth Office from Flickr.com via Wikimedia Commons

Mr Kamallesh Sharma, the Secretary-General of the Commonwealth, uttered these words in response to a journalist’s question following the 14 March 2014 meeting of the Commonwealth Ministerial Action Group (CMAG). The journalist was inquiring why CMAG had not discussed the alleged serious and persistent human rights violations in Sri Lanka during its meeting. Mr Kamallesh Sharma could not have been closer to the truth, when he said, “We are working in

a Commonwealth way.” After all, that’s how the Commonwealth has responded in so many other cases.

The main aim of CMAG meetings is to “discuss serious or persistent violations of the Commonwealth’s fundamental political values” in the Commonwealth. In the report on “Strengthening the Role of CMAG”, adopted by the Commonwealth Heads of Government Meeting in 2011, these violations can include: abrogation of rule of law or

undermining of the independence of the judiciary; systematic violations of human rights of the population by a Member State; and significant restrictions on the media and civil society that prevent them from playing their original role. Despite such a wide interpretation, CMAG continues to focus only on cases where democratically elected governments are unconstitutionally overthrown.

In its latest meeting, CMAG once

again failed to fully profit from its recently expanded mandate and to apply the appropriate steps provided in the updated mandate to intervene in situations of serious breaches of the Commonwealth's fundamental political values. Instead, CMAG chose to voluntarily limit its scope of responsibilities and operate within previous, self-imposed borders, focusing on intervening in cases of unconstitutional overthrow of democratically elected governments in Commonwealth Member countries.

The gap between CMAG's agenda and urgent and ongoing human rights violations in the Commonwealth was most recently notable during the CMAG press conference where it issued a statement on the parliamentary elections in Fiji. It was unable to address journalists' questions on allegations of human rights violations in Sri Lanka, suppression of rights of homosexuals in Uganda, on the Commonwealth's lack of cooperation with the UN High Commissioner for Human Rights in relation to her report on Sri Lanka, etc. This considerable divide between the expectations of civil society and the response by CMAG, demonstrates that either CMAG does not have a grasp over reality or is incapable or unwilling to address violations of Commonwealth values. Moreover, questions regarding accountability of initiatives undertaken by the Secretary-General, and the automatic membership of Sri

Lanka to CMAG by the virtue of being the host of the last CHOGM and consequently the Chair of the Commonwealth show existing procedural shortcomings in the Commonwealth structure.

The forty-third CMAG meeting took place at Marlborough House in London, on 14 March. The meeting was chaired by the Mr Bernard K. Membe, Minister of Foreign Affairs and International Cooperation, Tanzania, and attended by eight foreign ministers from other Commonwealth countries - Cyprus, India, Guyana, New Zealand, Pakistan, Sierra Leone, Solomon Islands and Sri Lanka.

The meeting focused on upcoming national elections in Fiji, the first, since the military overthrow of the elected national government in 2006. In its concluding statement, CMAG welcomed Fiji's steps towards constitutional rule, including the promulgation of a new Constitution, the enrolment of more than 540,000 voters, the establishment of an independent Electoral Commission, and the commencement of a dialogue between the Commission and political stakeholders. In recognition of Fiji's efforts, CMAG decided that Fiji's current full suspension should be changed to suspension from the councils of the Commonwealth, thus, permitting Fiji to participate in Commonwealth sporting events, receive Commonwealth technical assistance aimed at the restitution

of democracy, and restore all emblematic representation of Fiji at the Commonwealth Secretariat, at its meetings and all other official events. To symbolically welcome Fiji back to the Commonwealth community, the flag of the Republic of Fiji was raised again at the Commonwealth Secretariat gardens in London, a few days after the CMAG meeting.

Unfortunately, yet unsurprisingly, CMAG's concluding statement did not refer to any current human rights abuses in Commonwealth countries. CHRI, in its joint submissions with the Centre for Policy Alternatives and CIVICUS, sought to draw CMAG's attention to situations in Sri Lanka and in Swaziland. In both cases, providing in-depth information and highlighting serious and persistent violations of Commonwealth values, CHRI called for CMAG's scrutiny into human rights abuses and for continuous performance reviews of Sri Lanka and Swaziland against the benchmark of Commonwealth values.

In Swaziland, the last absolute monarchy in Commonwealth Africa, CHRI emphasised a range of ongoing human rights abuses: reports of extrajudicial killings, torture and ill treatment, stemming from a lack of accountability and widespread impunity; the prevalence of draconian laws such as the Sedition and Subversive Activities Act, which are used to limit freedom of expression,

association and assembly; and the lack of any political freedoms, including limitations on political participation and organisation, such as the ban on forming political parties and the consequent dubious parliamentary elections in 2013.

As for Sri Lanka, CHRI highlighted the failure of the Sri Lankan government to address the issue of accountability – not only regarding the past, in particular, alleged violations of international human rights and humanitarian law during its protracted internal armed conflict, but also current and

accountability, transparency and accessibility. Procedural restrictions and the lack of guiding documents regarding engagement mechanisms with civil society continue to have a negative impact on the credibility of CMAG and the Commonwealth. Material that would facilitate engagement is available on an ad hoc basis. For example, the CMAG meeting agenda isn't clear or available to the general public; neither are CMAG meeting dates proactively made known in advance, making it difficult for civil society to plan and coordinate their advocacy. While the schedule for

protection and promotion of human rights through the Commonwealth Charter, CHRI believes that these commitments can only be followed through by fully asserting CMAG's revised role to tackle "serious and persistent violations" of Commonwealth values, and by greatly enhancing Commonwealth engagement with civil society actors. Once again, CMAG failed to use its recently expanded mandate to address the prevailing human rights violations in the Commonwealth, so often highlighted by the civil society organisations. As sharply stated

CMAG failed to use its recently expanded mandate to address the prevailing human rights violations...

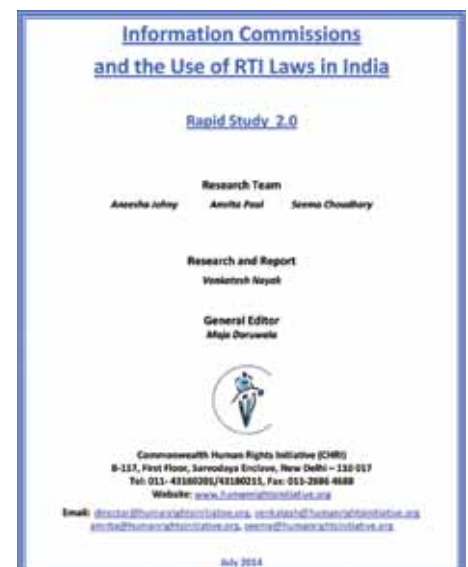
ongoing human rights violations. Five years since the end of the war, intimidation and harassment of civil society and human rights defenders, attacks on journalists, the continuing presence of the military in the North and East regions, rising religious extremism, and impunity, remain a challenge. The government on its part has back-tracked on its commitments to investigate accountability, including setting up the Inquiry on Torture. CHRI particularly underlined the government's inadequate response to various international human rights appeals and offers of technical assistance.

Apart from not delivering on its mandate, CMAG suffers from several procedural shortcomings –

the Commonwealth Law Ministers meeting is available, ways to make submissions to the meeting are not clear. After the meeting, CMAG does not expand on the issues discussed; it merely provides an insipid concluding statement, comprising only the final decisions on the existing agenda items. Finally, the lack of any feedback on, if and how, civil society contributions influenced CMAG policies and decision-making, further contributes to the perception of alienation and disengagement with civil society, by CMAG, which is the one key Commonwealth instrument equipped to address human rights issues.

While welcoming the commitments of the Member States to the

by the Eminent Persons Group, the Commonwealth is not just a Commonwealth of nations but a Commonwealth of peoples. ■



East Africa Police Reforms Programme: Report Launch and Interview



Photograph by CHRI

In April-May 2014, the Commonwealth Human Rights Initiative's East Africa Programme Officers (Sarah Mount and Rikky Minocha) and Director, Maja Daruwala travelled to Nairobi and Kampala for the release of a report titled *A Force for Good? Improving the Police in Kenya, Tanzania and Uganda*.

The report analyses the status of police reforms in Kenya, Tanzania and Uganda, compares the developments within the three countries and concludes with recommendations for each.

Yash Ghai, Chair of the CHRI International Advisory Commission, speaking at the launch in Nairobi stated: "The police reform process in Kenya is critical to ensuring a safe and fair Kenya for everyone. CHRI's report highlights that real security cannot be secured through strong-arm policing that we are so used to here in Kenya – rather it can only be secured through the development of trust between the community and police through full commitment to the police reform process: establishing an accountable, transparent and responsive, and human rights-compliant policing, required under the Constitution." Emphasising the role of the Inspector General and the leadership of the police, CHRI called for the police leadership to commit to working together with oversight bodies – both the National Police Service Commission and Independent Policing Oversight Authority. "It is through working with these critical oversight bodies that the police has the best chance of reforming and improving security in Kenya," said Ghai.

In Kenya, there have been several improvements as part of the systemic police reform process: the coordination of the two police services – the Kenyan Police Service and the Administration Police Forces – under one Inspector General of Police; the establishment

of an independent authority whose primary mandate is to oversee the police; the establishment of the National Police Service Commission (NPSC); the creation of a more sophisticated internal police oversight body – the Internal Affairs Unit; the entrenchment of independence of the police; and the improved regulation of the use of firearms in accordance with international standards.

In Tanzania, the Tanzania Police Force undertook a review of its operations and took note of the experience of the public with policing. This resulted in the comprehensive Tanzania Police Force Reform Programme. Under this programme, various good initiatives were implemented, including instituting Gender and Children's Desks at police stations throughout the country and reform of the "Police General Orders", directives outlining the administration and control of the Police Force.

In Uganda, civil society worked with the Ugandan Police Force to establish an improved internal oversight unit, the Professional Standards Unit, and also developed a standard complaint form that includes a receipt for the complainant. Additionally, a review of policing, coordinated by the Uganda Police Force, was

undertaken, although the findings have not yet been published. Uganda has also enacted an anti-torture law, complete with a road map for implementation. In a commendable initiative, the Uganda Police Force put together guidelines to improve prevention and response to incidents of torture and cruel treatment by the police.

Here we interview Maja Daruwala (MD) and Rikky Minocha (RM) on their ideas for the East Africa Police Reforms Programme:

1. What is the model of policing advocated by CHRI in East Africa?

MD: CHRI argues that the way forward is to institute and be committed to democratic policing. This requires a transition from the “colonial-style” of policing to an impartial and professional police. The police must be free to exercise independent professional judgement to discern the best course of action in accordance with the law, regulations and the public interest, and not be influenced to act arbitrarily by politicians or members of the public.

2. How do you characterise democratic policing?

RM: Democratic policing is characterised by features such as civilian oversight, sufficient autonomy to exercise powers in accordance with the law, independence from political influence, professionalism and discipline in the police service, higher responsiveness seated in public consent and trust. None of these can be fulfilled without adherence to human rights and fundamental freedoms.

MD: There needs to be an agreement on the principles of policing in a democracy – a shift from control by the regime of the day to providing the public with a service; a service that responds to public needs, that the public trusts and sees as one of its own. The police has to be made operationally independent so that it can also be responsible for its performance. One thing I would like to stress is that the conversation about accountability is always around impunity for wrong doing. This is perfectly right. However what gets hidden in the glare is that the

police must be made accountable for everyday performance and discussions must centre on what is their purpose and have they been equipped to serve that purpose. The central premise of policing must be based in the norms of human rights; that it is a law upholder not a law enforcer alone; it is in the service of the public but accountable only to the law.

3. What are some of the challenges unique to East Africa in terms of policing?

MD: Transforming the police has historically proved extremely difficult, even with constitutional change and strong legislation and regulations. The broader struggle is to change the traditional mindset of governments and politicians from a police that *controls* the public to a democratic police *for* the people.

RM: In Kenya, the challenge of security is the number one public policy issue going into election year. The Independent Police Oversight Authority has to be seen to be more proactive in its oversight role and CHRI is working with the Kenya National Human Rights Commission to ensure greater reporting of oversight.

In Uganda, terror and security threats also dominate the front page news. But scratching the surface to see where the real problems lie reveals a lot. For example, the Shadow Interior Minister of Uganda who was a guest at our Kampala launch pointed out that budget allocations reveal the priorities and directions the government has for the police. Present budgets indicate



Photograph by CHRI

considerable more expenditure on security equipment and heavy public order management machinery, which gives effect to a very restrictive piece of legislation rather than one designed to give the public “civilian policing”. A significant part of the budget is discretionary. This is what must be targeted to improve soft skills, for training and increase manpower.

4. How have governments and other key agencies responded to our critique of policing in East Africa?

MD: On the whole it has been quite positive. CHRI has worked in East Africa since 2001. We had input into Kenya’s constitutional moment prior to the 2010 Constitution, helped initiate and catalyse more specialists in the area, were delighted to be a founder member of the Usalama Reforms Forum, and also happy to be working with the East Africa Chiefs of Police who had in principle adopted some common standards of policing and now were working through sops. The Kenyan Constitution has some really progressive and detailed provisions that can change the police from a regime police to a police that is fit for a democracy. As CSOs we have to keep at it and the report is deliberately on all three countries as there is a need for common knowledge and CSO solidarity.

5. Is there change forthcoming?

RM: Yes change is forthcoming but we are worried about the direction. There is immense pressure on the government to get a grip on the security situation. Hence the expectation is that the process

of securing independence of the police from the executive is likely to stagnate and there is a danger of reforms being rolled back. Yash Ghai, the chief architect of the Kenyan Constitution, called it a “battering of the Constitution”.

In Uganda there are incremental changes being made prior to the 100-year anniversary of the Uganda Police Force later this year. It is being marked by rechristening the Uganda Police Force to the Uganda Police Service. It is important that this change is substantive. Though, with elections around the corner, there are fears of regressive changes being brought in to ensure incident-free elections.

Tanzania is, as mentioned by Maja, in the process of Constitutional reform. Every moment is crucial in terms of guaranteeing institutional frameworks for the police and security by ensuring their inclusion in the Constitution at this stage itself.

6. How does CHRI plan to engage on the subject of police reforms in the future?

RM: CHRI has worked on Police Reform for the last 15 years. We are one of the few international NGOs working on police reforms across the global South. Our local civil society partners are our greatest asset which aids our ability to engage with governments to affect changes in governance, reform and accountability.

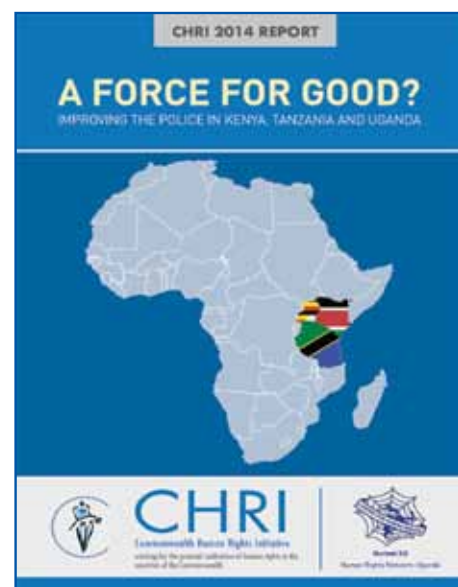
We will continue to engage with partners in Kenya, Tanzania and Uganda, and participate and facilitate knowledge-sharing and influence

situations in policing and reforms.

Note: After the launch of the Report in Uganda, the very next day, the office of HURINET.U, which hosted the Report’s launch in Uganda, was broken into and their materials, computers, hard drives, money, books, files... everything was “stolen”. [This incident is separately covered in this Newsletter under the article titled - “Reprisals, intimidation and the UN: An Update on Human Rights Defenders in Uganda”, on page 20]. ■

A soft copy of the report can be found at: http://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf.

For further reading on policing in the Commonwealth, please see CHRI’s 2005 report *Police Accountability: Too Important To Neglect, Too Urgent To Delay*, available at: http://www.humanrightsinitiative.org/publications/chogm/chogm_2005/chogm_2005_full_report.pdf.



Reprisals, Intimidation and the UN: An Update on Human Rights Defenders in Uganda

By Hannah Hannaford Gunn



“Broken Window Glass” Photograph from Pixabay

Two-and-a-half decades have passed since the United Nations General Assembly adopted the “Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”, otherwise known as the Declaration on Human Rights Defenders, in 1998. This was the first international instrument to recognise the right to promote and protect human rights and fundamental freedoms and the

language of the final text took 13 years to negotiate. In 2009, CHRI wrote on the many risks faced by human rights defenders (HRDs) in their 2009 report to the Commonwealth Heads of Government - *Silencing the Defenders: Human Right Defenders in the Commonwealth*. Since then, reprisals and attacks against HRDs are becoming increasingly common and are one of the more troubling facets of the global trend on restricting the activities of civil society organisations (CSOs).

On 5 May 2014 the offices of the Human Rights Network-Uganda (HURINET-U), CHRI’s long-time partner, were broken into and equipment, sensitive files and reports stolen. The break-in follows a trend of similar incidents in Uganda. According to the NGO Forum, an independent national platform for non-governmental organisations (NGOs) in Uganda, offices of over 15 civil society organisations were broken into under similar circumstances, including that of the Anti-Corruption Coalition,

Uganda, Foundation for Human Rights Initiative, East and Horn of Africa Human Rights Defenders Project, Action Group for Health, Human Rights and HIV/Aid and Lira NGO Forum. The prevalence of such harassment is alarming, with two more incidents occurring in the latter part of May 2014. One involved a break-in and robbery at the Uganda Land Alliance, a land rights organisation, and the other was an incident in which two gunmen held up the staff at Soroti Development Association, an NGO network, and demanded their boss. Not finding the boss the gunmen fled and have not yet been apprehended.

The break-in at HURINET-U occurred as the organisation was in the process of releasing a report on the militarisation of the Uganda Police Force. On 5 May, responding to questions regarding the HURINET-U break-in, Kampala Metropolitan Police (KMP) spokesperson, Mr Patrick Onyango, said that investigations into the break-ins at the offices of other human rights organisations had led the police to suspect that these were inside jobs. While private security firms engaged by CSOs were implicated in more than one of the break-ins, Mr Alfred Nuamanya, the Deputy Executive Director of the NGO Forum, rightly pointed out that even if it is an inside job the police have an obligation to treat the break-ins as serious and expose the culprits. Mr Patrick

Onyango has since said that he was quoted out of context; however the claim of misrepresentation came only after HURINET-U issued a statement on 8 May questioning why the police were making pre-emptive pronouncements of culpability before the investigations had been conducted. Targeting an organisation working on governance and human rights issues, the break-in, theft of information storage devices and the myopic focus of the police investigations on the organisation's staff, echoes the 2013 events at Anti-Corruption Coalition Uganda (ACCU) offices. The attitude of the KMP, as represented by Mr Onyango, demonstrates a lack of resolve and a shirking of the responsibility to investigate, which accounts for the impunity that so often accompanies attacks against HRDs.

On 9 May, leaders from CSOs in Uganda met the Internal Affairs Minister, Aronda Nyakairima, to voice their concerns regarding the operating environment for CSOs in Uganda, as well as the recent spate of break-ins. According to the Executive Director of the NGO Forum, Richard Sewakiryanga, as a result of the meeting, the Minister has promised to set up a probe into the break-ins of NGO offices. The space for CSOs to operate in Uganda is dwindling. The Non-Governmental Organisations Act, 2006, which imposes mandatory registration and prohibitively bureaucratic registration requirements, while

also empowering the government to monitor and interfere with NGO activities, is currently going through an amendment process which is likely to result in more limitations being added to the already restrictive legalisation.

While the international community may be unable to prevent draconian legislations from being passed at the national level, it can extend solidarity to people dealing with such practices. In a welcome move, the United Nations General Assembly has for the first time acknowledged that women human rights defenders (WHRDs) face particular threats in their work of promoting human rights. Resolution 68/181 passed in December 2013 noted that human rights defenders around the world frequently face threats and harassment, and WHRDs particularly experience gender-based violence, rape and other forms of sexual violence, harassment, verbal abuse and attacks on reputation. The resolution was finally adopted without a vote. However, recognition that WHRDs who work on sexual health, reproductive rights and challenge gender stereotypes are at risk because of the nature of their work was fiercely debated and ultimately left out of the final text. Disappointingly, several Commonwealth countries were involved in lobbying for that paragraph to be removed. The Commonwealth countries which actively opposed the initial draft resolution were Singapore,

and through the African Group, Botswana, Cameroon, Ghana, Kenya, Lesotho, Mozambique, Namibia, Nigeria, Rwanda, Seychelles, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda and Zambia.

States' Obligations Regarding Human Rights Defenders

The UN Declaration on Human Rights Defenders is not a legally binding instrument. However, it was passed by consensus at the UN General Assembly and reflects rights and principles enshrined in other international instruments that are legally binding and therefore it potentially represents customary international law. Article 7 expressly states: "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles, and to advocate their acceptance." Article 12 of the Declaration states a specific obligation to "take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration."

Maja Daruwala, Director, CHRI, commented, "Even as we welcome these resolutions and can see there

is an acknowledgement of the particularities of risk that women face, it will take years before the effect of this resolution can be seen on the ground."

In presenting her final report to the UN Human Rights Council (UNHRC) the outgoing UN Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, called on States to protect civil society. Relevantly she added that "States should ensure that all acts of intimidation and reprisals against defenders are condemned, that the acts are promptly investigated and that perpetrators are brought to justice".

In addition to being targeted because of the nature of their work HRDs also face reprisals for cooperating with the UN and its mechanisms. A safe operating environment for HRDs is essential if they are to work on safeguarding democracy and ensuring that societies work toward being open, pluralistic and participatory. Consensus on the need to ensure CSOs can operate without coercion was demonstrated on Human Rights Day 2013, when 72 Special Procedures experts urged governments around the world to cooperate with them and allow human rights organisations and individuals to engage with the UN "without fear of intimidation or reprisals".

Special Procedures Experts

are independent human rights experts mandated to report and advise the UN Human Rights Council on thematic or country-specific human rights issues. They engage in country visits, convene expert consultations and report annually to the UNHRC. **Special Procedures experts** are either individuals - called **Special Rapporteurs** or **Independent Experts** - or **Working Groups** composed of five members, one from each of the five United Nations regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and the Western group. Similar to the Special Procedures experts there are also **Special Representative's of the Secretary-General**, who are personally appointed by the UN Secretary-General, and undertake country visits to investigate allegations of human rights abuses. **Rapporteur** is a French word meaning an investigator who reports to a deliberative body.

As demonstrated by the adoption of the resolution on WHRDs, the protection of HRDs is an evolving area. The international community's increased willingness to address the issue of protecting HRDs is encouraging but, as the incidents in Uganda underscore, national governments have a long way to go in empowering HRDs with the freedom and safety that is necessary for them to function. ■

Commonwealth Games: Unity in Diversity

By **Scott Cuthbertson**, The Equality Network



“Rainbow and blue skies” Photograph by Ludovic Bertron from New York City, USA - <http://www.flickr.com/photos/70313016@N08/6381004581/lightbox/>

This July, the city of Glasgow in Scotland will host the 20th Commonwealth Games. The Games are one of the world’s largest multi-sport events with an estimated audience of 1.5 billion people. Glasgow 2014 will bring together athletes from the 71 Commonwealth nations and territories to compete across 17 different sports. As the eyes of the world are on the “friendly games” and the Commonwealth, we also have an opportunity to focus on some of the Commonwealth’s continuing human rights issues.

The record of much of the Commonwealth on issues of sexual orientation, gender identity and sex, is not one to celebrate. Of the 53 member nations of the Commonwealth, 42 criminalise many of their own lesbian, gay, bisexual, transgender and intersex (LGBTI) citizens. Around the world, people are denied access to healthcare, education and justice because of their real or perceived sexual orientation and gender identity. In too many countries, LGBTI people can also be denied their liberty, and in the most extreme

cases could be executed, all because of who they are.

Recent years have been a mixed time for LGBTI rights in the Commonwealth, with some disappointing and challenging setbacks. In December 2013, the Indian Supreme Court issued a ruling that effectively reinstated a law criminalising sodomy in the world’s largest democracy. The Presidents of Nigeria and Uganda signed new laws in early 2014, increasing the penalties for homosexual activity and potentially criminalising citizens for involvement with organisations working on LGBTI issues. Brunei approved a new Penal Code which would enhance the punishment for same-sex sexual activity to death by stoning.

There have however also been positive human rights developments, including the formal adoption in 2013 of the Commonwealth Charter, which states that the Commonwealth is “implacably opposed to all forms of discrimination, whether rooted in gender, race, colour, creed, political belief or other grounds”. While many would like to see the explicit inclusion of sexual orientation and gender identity, “other grounds” is a start.



The Equality Network, a national Scottish LGBTI charity, is working with several human rights partners in Scotland, the United Kingdom, and around the Commonwealth, on a programme of activities and events highlighting LGBTI issues in the lead up to, during and after the Games in Glasgow. The aim is to promote the voices of LGBTI people from around the Commonwealth, and to provide a space for them to build support for their priorities.

With the Commonwealth coming together in Glasgow, we have an opportunity to jointly look at these issues. We can highlight the status of human rights of LGBTI people, successes and challenges around the Commonwealth, and seek ways to work together to help make the Commonwealth a better place for all, exploring means by which people and communities can be a part of wider campaigns for equality and human rights.

On 18 July 2014, Equality Network, in partnership with Pride Glasgow, the Kaleidoscope Trust and the Glasgow Human Rights Network will host an international conference entitled “LGBTI Human Rights in the Commonwealth” at Glasgow University. The conference will include key experts from LGBTI communities across the Commonwealth.

As well as engaging people from Scotland and elsewhere on global

LGBTI human rights issues, the conference will be an opportunity to create partnerships between organisations from different parts of the Commonwealth, providing a platform for planning future human rights advocacy, looking forward to both, Commonwealth Heads of Government Meeting (CHOGM), 2015 and the Gold Coast Commonwealth Games, 2018.

The conference will be followed by an exhibition entitled “LGBTI People of the Commonwealth”, produced by Equality Network and funded by the UK National Lottery, at Pride House Glasgow during the Games. The exhibition will describe and celebrate the work of LGBTI groups and organisations from the 53 countries that make up the Commonwealth, and will help ensure the visibility of LGBTI people and their lives during the Commonwealth Games in Glasgow, and beyond. It will

showcase the issues faced by LGBTI people in different countries through content provided by a large number of LGBTI groups and individuals from around the Commonwealth. After the conclusion of the Games, the exhibition will travel to different parts of Scotland, and to other countries.

Working together, we hope we can take inspiration from Article 7 of the Commonwealth Games Constitution, which states: “There shall be no discrimination against any country or person on any grounds whatsoever,” and make equality for all a reality across the nations of the Commonwealth. ■

**Interested in
contributing to
this newsletter?**

Get in touch:

info@humanrightsinitiative.org



Updates from CHRI this Quarter

CHRI Delhi Office

- Mr Wajahat Habibullah, the first Chief Information Commissioner of India, and former Chairperson of the National Commission for Minorities, took over as the Chair of CHRI's Executive Committee in India (EC India). He takes over from Mr B. G. Verghese, well-known journalist, whose immense contributions to CHRI as EC India Chair were deeply appreciated by all members. Mr Verghese will continue to serve on the EC as member. Mr Wajahat Habibullah as the new EC India Chair will now represent Headquarters on CHRI's International Advisory Commission and the Ghana EC.
- Mr Harivansh, EC India member, Editor-in-Chief of the Hindi daily, *Prabhat Khabar*, has resigned from the Committee following his appointment as Member of the Rajya Sabha (Upper House of the Indian Parliament). Mr Harivansh will continue to be a source of support and strength to CHRI. CHRI wishes him well in his new role in the service of the country.

CHRI London Office

- We are excited to announce and welcome three new members to our London Board. Clare Doube, Francis Harrison and Purna Sen joined CHRI's London board in July.

- Clare Doube is Director of Strategy at Amnesty International. She has worked for human rights for 15 years in Asia, Africa and Australia, including four years at CHRI in Delhi.
- Frances Harrison is a journalist and writer who worked for the BBC based out of Pakistan, Bangladesh, Sri Lanka, Malaysia and Iran. She is the author of *Still Counting the Dead: Survivors of Sri Lanka's Hidden War*.
- Purna Sen is Deputy Director of the Institute of Public Affairs, Chair of the board of the Kaleidoscope Trust, a member of the Board of RISE (a domestic violence service provider) and an Advisor to Justice for Gay Africans. She has served as Head of Human Rights for the Commonwealth Secretariat and as Director for the Asia-Pacific Programme at Amnesty International. She has consulted with organisations including Article 19 and the British Council, and been on the management and advisory groups of NGOs such as the Refugee Women's Resource Project and Southall Black Sisters.

CHRI Ghana Office

- The paralegals in Accra, trained by CHRI Ghana, handled a total of eight cases in February. Seven of these were closed and one is pending before court. In March, 12 new cases were taken up. In ten cases suspects were granted police enquiry bail and later had

their cases closed, while two cases are pending before court.

- In March, the Office issued a press statement applauding the Ghana Police Service in joining the advocacy to establish an Independent Police Complaint Commission (IPCC). It recommended that the IPCC, being a civilian oversight body, be a separate entity from the Ministry of Interior, contrary to the police's position.
- The Office in collaboration with the Royal Commonwealth Society organised activities to commemorate Commonwealth Day under the theme "Team Commonwealth" on 8 and 10 March 2014. On 10 March, an official launch of Commonwealth Day was held at the British Council Hall. The launch was chaired by Mr Sam Okudzeto and was formally inaugurated by the Hon. Minister of Foreign Affairs and Regional Integration, Ghana. The Australian High Commissioner to Ghana, a representative from the Canadian High Commission and Chiefs from the Ga Traditional Council were the other dignitaries present at the event which saw participation from civil society organisations, high school and university students, members of youth groups and the general public. Activities such as inter-school debates, mock ministerial meetings, drama and reading of

the Queen's speech were held during the launch.

- In March, the Office organised a capacity-building workshop on record-keeping for senior officials of selected ministries, departments and agencies, as part of the RTI Coalition's activities to increase support for the passage of an effective RTI legislation in the country. Later, the workshop was replicated in Kumasi for senior officials of selected institutions, departments and agencies.
- On 20 March, the Office organised a capacity-building workshop on RTI for media personnel in Accra. The workshop aimed at providing a platform for the participants to share their experiences on accessing information and building interest and support for the Bill. It also intended to equip participants with the necessary knowledge to enable them to moderate discussions and write and publish articles on RTI to enhance public education and understanding of the need to amend the Bill and pass it into law.
- Throughout March, interns from Emashie Radio, trained by CHRI, conducted regular radio discussions to promote awareness on access to information in their communities.
- On 23 April, the Team met the Police Management Board (POMAB) to update the Police Administration on the current status of the Justice Centre

and to seek the support of the administration to extend activities to other police stations in Accra and Kumasi. POMAB indicated its support and commitment to the project.

- On 5 and 6 May, the Team, as part of the RTI Coalition, participated in a two-day meeting organised by the Parliamentary Committee on Constitutional, Legal and Parliamentary Affairs to discuss inputs from various organisations received by the Committee, on the RTI Bill, that was being considered by the Committee. The Chair of the Committee, Hon. Alban Bagbin, on behalf of the Committee, expressed support for most of the Coalition's proposals especially the need to have an independent oversight mechanism to oversee the implementation of the law. The Chair assured that the Committee will share its report on the Bill with the Coalition for further comments before submitting it to Parliament.
- On 16 and 17 May, the Team held a two-day training programme for law students from Kwame Nkrumah University of Science and Technology (K.N.U.S.T). The programme helped in reviving the University's Law Clinic and students have already put in requests to be allowed to perform paralegal work at police stations as their project work during their final year.
- In May, the Regional Coordinator of CHRI Ghana, participated as a speaker in the 25th Commonwealth Parliamentary

Seminar at Dar es Salaam, Tanzania and presented a paper on "Parliament, Gender and Human Rights". The Seminar also included discussions on: Professional Development of MPs; Parliamentary Ethics; Transparency and Accountability; and Parliament and Gender. The event helped expand CHRI's network with other CSOs working on human rights issues.

Police Reforms Programmes

- In March, CHRI attended a conference entitled "Policing by Consent" organised by the International Police Executive Symposium (IPES). Small delegations of CHRI'S partners from India and Maldives also attended. The Team made several presentations and interventions around themes related to democratic policing and police accountability.
- In April and May, CHRI launched a regional report on policing in East Africa, entitled *A Force for Good? Improving the Police in Kenya, Tanzania and Uganda*. The report analyses the current status of policing, challenges being faced, and the initiatives undertaken to improve the police in Kenya, Tanzania and Uganda, since our last report in 2006. The report was formally launched and well-received by stakeholders in Kenya and Uganda.
- In late May, CHRI and the Bangladesh National Human

Rights Commission held a joint conference entitled “Strengthening Police Accountability in Bangladesh: Challenges and Strategies”. It was attended by civil society members, lawyers, police officers and judges in Dhaka, and examined crucial aspects of police accountability in Bangladesh.

- In June, CHRI along with its partners - Public Concern for Governance Trust (PCGT), Mumbai First, and Police Reforms Watch Mumbai - held an interactive seminar on the need for police reform in the State of Maharashtra. Held under the banner “Better policing for a safer Mumbai”, several prominent speakers headlined the seminar which drew a crowd of more than 200 participants, including many of Mumbai’s prominent civil society groups.

Access to Information Programme

- In February, India’s Central Information Commission (CIC) issued a decision on an RTI request filed by the Team seeking disclosure of information relating to extrajudicial killings in the State of Chhattisgarh in June 2012. The CIC, in its decision, agreed with the contention that information pertaining to extrajudicial killings amounted to allegations of human rights violation, which is the only basis under the Indian RTI Act on which information on security matters can be revealed. However, access to almost all

information except one was denied citing various exemption clauses of the RTI Act.

- In March, the Team hosted a ten-day “Learning Programme on Right to Information” for representatives of civil society, media and academia from the East African Commonwealth Member States, Kenya, Tanzania and Uganda. The broader purpose of the programme was to showcase the Indian model of campaigning for a strong RTI law and the manner in which civil society and media organisations use the law to demand greater transparency and accountability in the working of government and public authorities.
- In April, the Team published a study by mining publicly available information for the years 2001-2012 to map cases registered under The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC/ST POA Act). This study received publicity and wide attention in the national media.
- In May, the Whistleblower’s Protection Act, 2011 was officially notified by the Government of India. The Rajya Sabha approved the Whistleblowers Bill without any change to the version approved by the Lok Sabha on 21 February. CHRI advocated with Members of Parliament closely when the Bill was first tabled in Parliament to improve its contents. CHRI also circulated a cross-country study of whistleblower laws to enable civil society to better appreciate

the need for an effective law to protect whistleblowers. CHRI worked with the National Coalition for People’s Right to Information to highlight cases where RTI activists were murdered or attacked for exposing corruption and mal-governance.

- In May, Wajahat Habibullah, Chair of CHRI’s Executive Committee in India, presented a paper on “Transparent and Accountable Policing for Safer Community” at the Open Government Partnership Asia-Pacific Regional Consultation.

Prison Reforms Programme

- As part of its Legal Refresher Course on Pre-Trial Justice, in Jodhpur, Rajasthan, the Team organised several talks, workshops and exposure visits to various police stations, for legal aid lawyers.
- The Team ensured the successful repatriation of Mehmuda Sheikh, an Indian national, who had been unnecessarily detained in Kushtia Jail, Bangladesh.
- An article entitled “Undertrial and Error” on Rajasthan’s Periodic Review Committees, was written by the Team and published in *Governance Now and Millennium Post*.
- As part of trainings provided by the Regional Institute of Correctional Administration (RICA), West Bengal, the Team resourced sessions on “Ill-Treatment of Mentally Ill Prisoners”, “Right to Legal Aid”

and “2013 Amendments in the Code of Criminal Procedure Code”.

- A representative of the Team spoke at a conference on “Concern for Women in Correctional Homes and in Detention Centres” organised by the International Federation of University Women (IFUW) and the University Women’s Association of Calcutta.
- A representative of the Team spoke at a training programme for legal aid lawyers, organised by the National Law School University, Bangalore, as an expert speaker on “Prison Reform”.

Strategic Initiatives Programme (SIP)

- CHRI made submissions to the March 2014 Commonwealth Ministerial Action Group (CMAG) Meeting. The

joint submission, with other international civil society groups, drew attention to the deteriorating human rights situation in Sri Lanka and Swaziland and urged CMAG to investigate the serious and persistent human rights violations in these countries.

- In March, SIP participated in a conference in the United Kingdom on reviving the Commonwealth. It presented a paper on the Commonwealth’s current approach to protecting its values and the need for a Commonwealth Commissioner for Human Rights.
- In April, CHRI made a submission to Commonwealth Organisations Consultation on CHRI’s experience of engagement with the Commonwealth and recommendations for improvement.
- In May, CHRI made a submission on developments on the rights of lesbians, gays, bisexuals and

transgender people in India, for display at an LGBTI exhibition organised by Equality Network in Scotland. The exhibition, in conjunction with the Commonwealth Games, aims to showcase the struggles of LGBTI people across the Commonwealth.

- In June, the Team made written stakeholder submissions for the Universal Periodic Review of Kenya, Guyana, Lesotho, Kiribati and Grenada.
- On 25 June, CHRI with its partners, CIVICUS, Conectas and Forum Asia, organised a panel discussion on “Pursuing Promises at the HRC”, a side event during the Human Rights Council Session in Geneva, to launch the 2013 series of its flagship *Easier Said than Done* publications.

Opportunities with CHRI

Internship and Stipendary Positions in Research and Advocacy

Please inquire about specific current vacancies or send job applications with a CV, statement of purpose, references and a short original writing sample to info@humanrightsinitiative.org. To know more about us visit us at

www.humanrightsinitiative.org.

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