



CHRI

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NEWSLETTER



The Commonwealth: What Can It Do for Human Rights?

Read about the Commonwealth Eminent Persons Group's interim report

Commonwealth Secretariat, Marlborough House, London
Photograph by: Linford Andrews

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The Commonwealth Human Rights Initiative (CHRI) is an independent international NGO mandated to ensure the *practical realisation* of human rights in the countries of the Commonwealth

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CHRI was founded in 1987 and is currently constituted by the

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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Commonwealth's Human Rights Journey: Final Destination Sri Lanka?

Maja Daruwala, Director, CHRI



The decision to hold the 2013 Commonwealth Heads of Government Meeting (CHOGM) in Sri Lanka is strongly rumoured to be a done deal. The dice, it is said is cast. The Heads of Government meeting in Perth this October end is expected to cement the decision as a mere formality. To call it to question is a waste of energy and breath – unless the Commonwealth's fundamental principles matter. In

and present – persist. Another not inconsiderable concern is that with the next CHOGM 2013 rotating to Sri Lanka, its President – widely alleged as having presided over war crimes – will automatically hold the pre-eminent position of the Commonwealth's chairperson as well. Can this indulgence be taken lightly?

Till 2009 Sri Lanka was in the midst of a devastating two-decade armed ethnic conflict. By May 2009, it was suddenly all over: after a massive push by the Sri Lankan Army into the Tamil Tiger strongholds in the forests of Vanni. But the government's triumphal rhetoric of a quick return to normalcy after liberating the country from a merciless foe that bedevilled it for a quarter of a century, was short-lived. Continuous allegations of war crimes; bombing of civilian targets; innumerable rapes; systematic culling of young people;

come to host the Commonwealth summit and that the international community must do all it can to assist it on its road to long-term peace and reconciliation. Its small size and developing-country status will position it well to say that it is being victimised.

Last time's postponement was couched in the politesse that extra time would allow Sri Lanka to emerge from the devastation of the war to prepare itself for CHOGM 2013. This time, the Commonwealth with its usual softly-softly approach may lean to the view that international isolation of erring member states is an extreme measure that ends up harming populations more than their regimes and it is better to engage and help wayward governments on to paths of virtue without berating them. But denial of a meeting for a few years is hardly international isolation. Rather it is a mild enough

the question of where the Commonwealth holds its most important meeting goes well beyond Sri Lanka's democratic disrepair to the seminal question of what the association's own real *grundnorms* are.

2009 at the Trinidad CHOGM, deep concern about the country's suitability to play host resulted in pushing back consideration of Sri Lanka as host from 2011 to 2013. But two years on the disquiet about the problematic nature of the regime and its human rights record – past

and unnecessary and unjustified killing, maiming, torture and arson refuse to die down – even if spoken of in hushed and fearful tones within the country.

Despite all this, no doubt Sri Lanka will argue strongly that its time has

warning shot across the bows to signal that things must improve. What really harms the population is the expenditure associated with having to host a cavalcade of 54 Heads of Governments and their entourages to host in such pressing economic times.

Moreover, it has been the Sri Lankan regime that has been quick to thumb its nose at the international community on more than one occasion. After the war, it has spurned desperately needed humanitarian assistance and during the war it severely limited access to conflict zones by UN aid agencies, the media and the resident diplomatic community. It has also frustrated the efforts of the International Group of Eminent Persons that was set up to supervise Sri Lanka's domestic inquiry into killing of aid workers in 2006.

The regime's antagonism towards the damning post-conflict report by the Panel of Experts appointed by the UN Secretary-General that looked into allegations of human rights abuse has been vocal and unabashed. At the UN Human Rights Council and in other international venues, Sri Lanka has also artfully crafted geopolitical smokescreens to blunt allegations of past and continuing human rights violations.

Despite its own isolating rejections of international advice and intervention, Sri Lanka's willingness to expend vast amounts on a single meeting rather than on the restoration of the country, clearly indicates the public relations value it puts on the event.

But the question of where the Commonwealth holds its most important meeting goes well beyond Sri Lanka's democratic disrepair to the seminal question of what the association's own real *grundnorms*

are. Can a summit of 54 leaders really say that their choice of venue for its emblematic meeting is value neutral? It would be too simplistic to end the debate by saying that the tyranny of rotation demands that the Commonwealth hold its next meeting in a country battling to extricate itself from credible allegations of war crimes.

Unconditionally allowing the hosting of Commonwealth events like its 2018 Games, glittering international conferences, and summits like CHOGM 2013, lends an aid of legitimacy to government stances. This comes at the cost of diluting the measure of human rights values and their long-term worth to the Commonwealth.

Commonwealth Human Rights Initiative (CHRI) is urging that values matter. The Commonwealth has largely remained silent throughout the last phase of the Sri Lankan war and the aftermath. The decision on whether Sri Lanka will be the venue of CHOGM 2013 presents another opportunity for the Commonwealth to affirm its commitment to its fundamental political principles by actions that demonstrate its real values.

Any unconditional decision to give Sri Lanka a free pass will only prove that the Commonwealth lacks the resolve to push in this direction or to put the concerns of population over those of the people in power.

CHRI urges that a final decision on Sri Lanka as the next venue

for CHOGM 2013 be made only after a thorough and independent assessment is done of the country's progress toward: ensuring honest accountability for past actions; providing effective redress to affected population; and assuring the future of human rights compliance in that country.

The Heads of Governments at Perth should at minimum set benchmarks and ask the Commonwealth Ministerial Action Group (CMAG) – the Commonwealth's watchdog body, to report back with its recommendations in accordance with a set time line. While the recent lifting of the nearly three-decade long state of emergency in Sri Lanka is a sign that international pressure may work, the continuation of draconian anti-terror laws and sweeping powers available under it are indications that any scrutiny of progress should be wary of cosmetic changes.

The onus is on the Secretary-General to present the considerable body of evidence and concerns of the international community at the Foreign Ministers September meeting in New York and again at the CMAG meeting to be held in Perth just preceding the meeting of the Heads. The Commonwealth should decide on the venue of the CHOGM 2013 only after the fullest consideration of available body of evidence – as this decision will prove to be a litmus test of the Commonwealth's fabric of values.

EPG Seeks Radical Improvement in Human Rights

Richard Bourne, Senior Research Fellow, Institute of Commonwealth Studies



The Commonwealth Eminent Persons Meeting in March 2011

Source: Commonwealth Archives

The Eminent Persons Group (EPG) of 2011, chaired by a former Prime Minister of Malaysia, is unlike its namesake of twenty-five years ago, which sought a negotiated end to South African apartheid. There is no war at present in the Commonwealth with international sanctions against any member country. It is impossible to imagine the Commonwealth organising revenge attacks on neighbouring states, as the South African regime did to abort the peacemaking efforts of that earlier team.

Nonetheless, the present Secretary-General, Kamalesh Sharma, is reported to have told senior colleagues that the current EPG on the future of the Commonwealth is a make-or-break effort for the association.

While existential questions about its future have been asked since the 1960s, the questioning now is potentially deadly. Research for the “Commonwealth Conversation” in 2008-9 demonstrated that few believe the group is serious about its stated values. Earlier this year, the UK’s Department for International Development argued that it is failing to make an effective contribution for development (part of the democracy/development mantra essential to its propaganda) and the UK threatened to cut its subscription to the Commonwealth Foundation, while several developing states are asking what is in it for them.

Hence the current EPG, whose interim report has gone to governments and civil society for

comment, is trying to chart a more useful and better known future for a Commonwealth which has few cheerleaders. What can it do for human rights? Strangely, having stated earlier that many see the Commonwealth “as irrelevant and unconvincing as a values-based organisation”, and that the Secretary-General should speak out on gross violations of these values, it does not use the expression “human rights” once. This, at a time when every other international body has no such anxiety, is a simply unacceptable timidity. Quite rightly, Commonwealth Human Rights Initiative (CHRI) and other bodies around the world have jumped on this lacuna and demanded a specific commitment; after all, it was twenty years ago in Harare that Commonwealth leaders made a pioneering statement in favour of just and accountable government, the rule of law and fundamental human rights – a statement which led to the suspension of governments.

There are four elements in the EPG draft which could have significance for human rights: the proposed Charter for the Commonwealth; a proposed Commissioner for Democracy and the Rule of Law; a strengthening of the Commonwealth Ministerial Action Group (CMAG), which would be required to act on objective criteria, pre-emptively, and with the advice of

the Commissioner; and an overhaul of Commonwealth institutions, specifically the Secretariat and Foundation, to make them fitter for purpose by the end of 2012.

The proposed Charter, on which the EPG Chairperson is keen, could occupy considerable time of civil society in lobbying and wordplay, without much impact on the real world. The Commonwealth is much better at hortatory statements than on substantive action or implementation. As far as governments are concerned, it is hard to see why they would want to go much beyond the Trinidad and Tobago affirmation of 2009, which rolled up a number of previous statements on values, and whose impact since then has been negligible. Although some civil society optimists see a Charter negotiation as offering opportunities similar to the Helsinki committees in Eastern Europe in the 1980s, which paved the way for the fall of Soviet-style communism, it would require much work at the national level, as well as international cooperation. It is possible that, in the context of the Arab Spring, there are new opportunities here. But it will be interesting to see whether Commonwealth leaders at the Perth summit buy this idea.

The proposed Commissioner for Democracy and the Rule of Law could, of course, play a significant role to uphold and improve human rights. But that would need to be in the remit and title. Even so, there are several questions to be

resolved here. There are not many persons who are equally qualified in the areas of democracy, law and rights, and a tired politician would not be the right figure to launch an office of this kind. Might it not be better to invite the Commonwealth Parliamentary Association to appoint a Commissioner for Democracy, with Commonwealth leaders responsible for appointing a Commissioner for the Rule of Law and Human Rights?

There are four elements in the EPG draft which could have significance for human rights

If independent of the Commonwealth Secretariat, as it should be, there is an issue of how any such office would be serviced, and financed; it would make more sense if the Human Rights Unit at the Secretariat, required to brief CMAG during the McKinnon era, as well as CHRI and other civil society groups, were to brief the Commissioner. Could the Commissioner take up egregious violations of socio-economic rights? And what would the Secretary-General and CMAG be expected to do with any advice? It is going to take considerable political effort and some thought to turn the Commissioner's proposal into a valuable tool for the rejuvenation of the Commonwealth.

EPG has made many useful suggestions to strengthen CMAG, but it is not yet known what CMAG itself is proposing, or how the Commonwealth Heads will adjudicate if they get conflicting advice. CMAG's own ideas should be published as soon as possible. One of the worries is that CMAG's current membership is probably more liberal and interventionist than Commonwealth governments as a whole. A valuable recommendation from EPG is that the proposed Commissioner should advise on the eligibility of potential new member states, in terms of Commonwealth values. This appears to be a welcome reaction to the premature admission of Rwanda, against which CHRI had publicly warned.

There will be serious political debate at the Perth summit on these EPG proposals, and it is unlikely that all of them will be accepted. The Australian government is keen to see progress, and a consequential reorganisation in the intergovernmental body to make it fit for new purposes. Some ineffectual "best practice" programmes are likely to go; wiser use of information technology may reduce the "flying club" aspect to the Commonwealth; a stronger information division will move beyond the "silent virtue" that has substituted for publicity. But civil society bodies will have to work hard if the Commonwealth is to stop being a marginal, muddle-through affair, especially in the vital field of human rights.

UN Human Rights Council Resolution on Sexual Orientation and Gender Identity

Frederick Cowell, Legal Research Officer, CHRI



Graphics: Ashwanikumar

On Friday 17 June 2011, the UN Human Rights Council passed a resolution which expressed “grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity”. The Resolution was hailed as “an historic moment” by Eileen Chamberlain Donahoe, the US Ambassador to the UN Human Rights Council. The commitment to the protection of gender identity was however inserted in the Preamble to the Resolution. Further, the substance

of the Resolution contained only limited provisions requiring the UN High Commissioner for Human Rights to commission a study documenting “discriminatory laws and practices and acts of violence against individuals based on their sexual orientation” and to convene a panel discussion informed by this study in December 2011.

The commissioning of a study by the High Commissioner however, does not mitigate the set back to Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning (LGBTIQ)

rights when the UN General Assembly voted to remove “sexual orientation” from the Resolution on extrajudicial, summary or arbitrary executions in November 2010. This Resolution concerned the operation of the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and his/her capacity to mount investigations in response to killings targeting the LGBTIQ community. For the past ten years, UN regulations on extrajudicial killings included sexual orientation

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Sri Lanka and Fiji: Ghost Human Rights Commissions

Vanessa Spencer, Strategic Initiatives Programme, CHRI



Graphics: Ashwanikumar

A National Human Rights Institution (NHRI) is a body created and funded by the state with a mandate to protect and promote human rights. In order for an NHRI to provide human rights education to the public, advise the government on human rights issues and monitor state actors – who may be perpetrators of human rights violations – it must be independent and impartial. Indeed, independence from the state, together with active engagement with non-government organisations and other civil society actors, are key components of an effective NHRI. The Human Rights Commissions (HRC) of Sri Lanka and Fiji, countries marred

however, both the Sri Lankan Human Rights Commission and the Fijian Human Rights Commission have come under strong criticism for their lack of credibility and

...both the Sri Lankan Human Rights Commission and the Fijian Human Rights Commission have come under strong criticism for their lack of credibility and cooperation with civil society.

for an NHRI to provide human rights education to the public, advise the government on human rights issues and monitor state actors – who may be perpetrators of human rights violations – it must be independent and impartial. Indeed, independence from the state, together with active engagement with non-government

by civil conflict, lack both.

The history of socio-political instability in Sri Lanka and Fiji combined with the absence of a regional human rights institution or treaty in the Asia Pacific region enhance the urgency for effective and legitimate NHRIs in these countries. For the past few years,

cooperation with civil society. These factors have made them anachronisms and have prevented the establishment of a solid culture of human rights in two countries that are in desperate need of immediate redress and prevention of human rights violations.

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Commonwealth Human Rights Performance at the 65th UN General Assembly

Anna Kiebertz, Director's Office, CHRI



The Closing of 65th UN General Assembly
Source: UN Archives

Countries often tend to pay mere lip service to human rights, and Commonwealth countries do no less. The Harare Declaration pledged renewed Commonwealth commitment to “the protections and promotion of fundamental political values of the Commonwealth”, such as democracy and fundamental human rights. However, the proof of the pudding is in the eating.

Reporting on voting patterns at the 65th Session of the UN General Assembly, the Washington-based Democracy Coalition Project’s (DCP) recently released report found much to cheer but also lots to bemoan. The 65th Session of the UN General Assembly ended in December 2010 and 192 member countries had occasion to vote yes, no, or abstain on 273 resolutions. DCP examined six key human rights resolutions. The report recorded a change from an unfavourable vote to an abstention or favourable one as an improvement trend and a change from a favourable vote to an abstention or unfavourable one as a worsening trend. The report’s main findings show increased cross-regional support for human rights resolutions among groups such as the Non-Aligned Movement, slight improvements in the voting records of emerging democracies in the South, and increased support for the Country Resolution on Iran.

DCP sees a positive trend in the General Assembly on human rights issues, but how does the Commonwealth fit into this? At the 65th Session, the Commonwealth had its share of good performers; Australia, Canada, Cyprus, Malta,

New Zealand and the UK all voted favourably on the human rights resolutions examined by DCP. There were also notable poor Commonwealth performers including Malaysia that voted non-favourably on all DCP-examined resolutions, and Brunei which actively voted non-favourably with one exception.

The fifty-four Commonwealth countries in the UN have never used their affiliation at the UN to develop a distinct identity, pressure group or voting bloc. Their primary allegiances line up along the North-South divide, which roughly equates with the developed country and developing country divide. Commonwealth countries did not vote together on some of the key human rights resolutions including votes on recurring country resolutions on The Islamic Republic of Iran, the Democratic People's Republic of Korea (DPRK) and Malaysia. The country-specific resolutions centred around governments failing to address continuing human rights violations including: torture in Iran; targeting of ethnic groups and recruiting of child soldiers in Myanmar; and systemic violations of civil and social rights in the DPRK.

The 65th Session also voted on recurring thematic human rights resolutions including Resolution 224 addressing defamation of religions. Resolution 224 on combating defamation of religion faced criticism for violating human rights standards. It was passed again in 2010 but with much less support than in 2009. The loss of

favour, including five improved Commonwealth votes, indicated a growing concern with the language of the Resolution that undermines rights such as freedom of expression and freedom of religion.

On another positive note, recurring Resolution 206, which calls for the abolition of the death penalty, was passed again despite efforts to weaken the text by member nations including Commonwealth countries. Proposed amendments from Singapore and Botswana attempted to weaken the Resolution by appealing to the sovereignty of a state's legal system and the maintenance of the death penalty for the most serious crimes. Both amendments were defeated easily within the General Assembly but don't reflect well on the Commonwealth's human rights record.

A regional analysis finds some areas much stronger than others within the Commonwealth. Pacific Island Commonwealth countries gave the best performance as a group, with six out of eight voting against Resolution 224 on Defamation of Religion while five out of 8 voted for Resolution 206 on Abolishing the Death Penalty.

The African and the Caribbean Commonwealth countries had a few notable performers in each region. However, both regions had consistent low numbers of favourable votes on most resolutions. Notably though, in the Caribbean, the Bahamas, Belize and Saint Lucia fell on the side of human rights on several

resolutions. In Africa, Malawi and Rwanda displayed more consistent voting in favour of human rights. Many African countries that voted favourably did so only once. African Commonwealth countries represented only five out of thirty favourable African votes on the Defamation of Religion Resolution and five out of eighteen on the moratorium on the Death Penalty Resolution.

Commonwealth Asia performed poorly on all resolutions. Maldives is the notable outlier, voting favourably on all three country resolutions and on the death penalty moratorium. Sri Lanka was the only other Asian country to vote favourably on the death penalty moratorium and no Asian countries voted favourably on the Defamation of Religion Resolution. India, the largest country by far in the region, maintained the poor Asian trend, not casting a single favourable vote. India voted against the moratorium on the death penalty and against the Myanmar Country Resolution.

Despite the lack of regional cohesion more Commonwealth countries were on the right side of the six significant human rights resolutions that were put before the Assembly and examined by DCP, compared to the previous session. This may be an indicator that the Commonwealth may have an opportunity to capitalise on this momentum and actualise the Harare commitment to human rights and democracy. Such opportunities are rare and the Commonwealth needs to urgently wake up to such possibilities and make the best of them.

Strengthening Nigeria's National Human Rights Commission

Natalie Kone, Strategic Initiatives Programme, CHRI



In February 2011, Nigerian President Goodluck Jonathan signed into law the National Human Rights Commission Amendment Act, an important human rights measure that strengthens the Commission's autonomy and enforcement powers. The new legislation shields the Commission from significant political interference and empowers it to deliver binding decisions in human rights investigations.

Although conceived in 2004, the bill languished in the National Assembly for six years, during which time government actions raised questions about the Commission's independence. In 2007, the government dissolved the Commission's Governing Council before its mandate ended. Two years later, Executive Secretary, Kehinde


Ajoni, like her predecessor, Bukhari Bello, was prematurely dismissed. Concerned by the Commission's susceptibility to government intervention, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, which accredits national human rights institutions, downgraded the Commission to "B" status and revoked its voting privileges.

The Paris Principles, which were adopted by the United Nations Commission on Human Rights in 1991, establish guidelines for national human rights institutions and highlight the importance of an institution's independence. Under Nigeria's former law, the President appointed the Chairperson and Governing

Council of the Commission on the recommendation of the Attorney General. The new legislation dilutes political influence by requiring Senate confirmation of Council appointments by the President. Similarly, the amendment mandates Senate confirmation for the removal of a member of the Council by the President.

In addition to improvements in appointment and dismissal procedures, the amended Act allows for the Commission's budget to be a direct charge on the Consolidated Revenue Fund and establishes a new Human Rights Fund. The latter is devoted solely to funding the Commission's research activities and collaborative efforts with civil society. This recognition of the importance of engagement with civil society brings the Commission into closer alignment with the Paris Principles, whose standards include cooperation with non-governmental organisations. While under-funding will likely continue to plague the Commission, these new financial provisions mark an important step towards the achievement of political independence.

To complement its emphasis on institutional autonomy, the new law grants the Commission greater powers to conduct investigations into human rights violations. The amended Act authorises the Commission to obtain a court



order to summon and interrogate witnesses, compel document production, and enter and inspect premises to obtain evidence. While these investigative provisions vest the Commission with significantly greater power than it formerly had, the necessity of a court order establishes a procedural step not required of some countries' national institutions, including, for example, those of Ghana and Tanzania. Importantly however, the new law creates a criminal offence for failure to comply with the Commission's request to produce evidence and for obstructing the Commission's investigations.

Among the amended Act's additional provisions, the most striking feature is the Commission's new enforcement mechanism. Like Ghana's Commission on Human Rights and Administrative Justice, Nigeria's Commission can now issue binding decisions that are enforceable in court. Such an unusual capability renders it a national human rights institution with one of the most powerful enabling legislations in the Commonwealth.

Nigeria's Commission can now issue binding decisions that are enforceable in court.

Indeed, the Commission's new enforcement provision appears even more strongly worded than its Ghanaian counterpart. Ghana's Commission can "bring an action before any court and seek such remedy as may be

appropriate for the enforcement of the recommendations of the Commission" if the offending party does not comply with the recommendations within three months. While there has been some debate on whether a Ghanaian court is obliged to re-examine the merits of a case or merely enforce a decision by Ghana's Commission, courts have largely taken the latter route. Unlike the Ghanaian legislation, the Nigerian Commission's new mandate does not require a waiting period and explicitly states the binding nature of the Commission's recommendations: "An award or recommendation made by the Commission shall be recognised as binding and subject to this section and, this Act, shall, upon application in writing to the court, be enforced by the court." This new enforcement provision legally empowers the Commission to become a formidable opponent of human rights offenders.

The amended Act also contains several other significant additions that were notably missing in the original law. The amendment authorises the Commission

and dismissals, ensures political insularity. Other important provisions in the new law include the powers to institute civil actions and to intervene in legal proceedings.

Since the signing of the amendment, the Commission has voiced public concern with the events surrounding the recent National Assembly and Presidential Elections. In April, the Commission deployed human rights observers to polling stations across the country during the elections, which were largely regarded as among the fairest in Nigerian history. However, riots in northern Nigeria followed President Jonathan's re-election, and the Commission publicly condemned the violence. The International Criminal Court and President Jonathan have announced investigations of the post-election riots, and the Commission has recommended timely prosecution of the "masterminds" by Nigerian officials.

In light of the passage of the amended Act, however, the Commission can take stronger action. If individual complainants come forward, the Commission is empowered to investigate potential human rights abuses and issue binding decisions based on its findings. Armed with its new legal tools, the Commission has the ability to transform itself into an ambitious investigatory institution capable of redressing the grievances of its citizens and effecting lasting change in Nigeria.

South Asia: Bangladesh Takes the Lead in Women's Protection

A Profile of the One-Stop Crisis Centre and the Victim Support Centre

Sumant Balakrishnan, Consultant, Police Reforms (South Asia), CHRI

Bangladesh is implementing a multi-sectoral project, with Denmark's support, to address violence against women (VAW) which is rampant in the country. The project is carried out in collaboration with eight ministries including: law, justice and parliamentary affairs; home affairs; women and child affairs; social welfare, health and family welfare; information; education; and religious affairs. Although the project is led by the Ministry of Women and Child Affairs, its multi-sectoral approach and coordination is notable. The pilot phase of the project took place from May 2000 to December 2003 and the first phase from January 2004 to June 2008. The programme is now in its second phase, which was to continue through June 2011.

ONE-STOP CRISIS CENTRE

A significant component of the project is the One-Stop Crisis Centre (OCC) established in the District Medical College (DMC) Hospital, Dhaka and other urban centres. OCCs serve as centres that provide all required services for women victims of violence such as health care, police assistance, counselling, social services, legal assistance and shelter services. At present, six twenty-four-hour OCCs have been set up in Dhaka, Rajshahi, Chittagong, Sylhet, Barisal

and Khulna districts. Two others are under construction in other DMC hospitals. Adapted from a similar model in Malaysia, OCCs are a good example of partnership between the government and the non-government sector in the country.

At Dhaka, the coordinator of OCC is Dr Bilkis Begum. Apart from heading the Centre, Dr Begum is also a qualified gynaecologist, and one of the medical experts at the clinic. The other staff include two police officers, one full-time counsellor, two lawyers, one on-duty doctor and other support staff such as nurses and cleaners. The counsellor and the lawyers are appointed as full-time workers through the concerned nodal ministries. The police officers (usually one Sub-Inspector) are both women and posted at the Centre by the Ministry of Home Affairs.

OCC RECEIVES VICTIMS TYPICALLY IN THREE WAYS:

- Referral from the emergency/burn/OPD wings of the DMC;
- Referral from police stations in and around Dhaka;
- Persons coming directly to the Centre.

The emergency and OPD wards of the DMC usually forwards most cases to OCC, whereas many women

also approach the Centre directly. Referrals from police stations are the lowest of these figures.

The senior management at the DMC is also part of the working group of OCC, which steers the functioning of the Centre, along with the Director (the Secretary of the Health Ministry) and the coordinator of OCC. This working group meets every quarter to review their processes, and make changes after taking into consideration reports from staff.

PROCEDURE AT OCC

The first contact point for victims is the on-duty nurse and doctor. Keeping the rules of evidence in mind, a thorough medical investigation is performed according to the staff at the Centre. In case of grievous injuries, the DMC usually treats them for injuries/minor burns before sending them to OCC. Thereafter, the victim is provided clean clothes, and then immediately undergoes a thirty to forty minute session of counselling administered by the resident counsellor. The sessions are conducted two to three times a day over five to seven days, or according to the needs of the victim, as decided by the staff counsellor appointed by the Ministry of Women and Child Affairs. Between these sessions, the

victim's statement is taken by the lawyers and the police present.

OCC has eight beds which serve as a shelter for abused women or attack victims where they can spend their time while their counselling sessions are underway. At the end of this period, they can either initiate proceedings against the abuser/attacker or return home, as the victim desires.

PERFORMANCE OF OCC FROM 2001 TO THE PRESENT

Most of the cases dealt with by OCC are those of physical assault, followed by sexual assault. Women

Besides this, every transaction in OCC is archived in their computer database. Eighty per cent of the funding for this Centre is provided by the Government of Bangladesh with the Danish International Development Assistance (DANIDA) providing the rest. An OCC has been set up in all seven divisions across the country at the Medical Colleges in these divisions. Along with these activities, OCC also conducts training, particularly for staff of other OCCs, sensitisation trainings for police officers, doctors, nurses and other medical staff. Advertisements for the Centre are regularly made through mass media, including

despite OCC's recommendations. Further, postings to international missions often take away police who have been trained in their roles at the centres. In fact, when CHRI visited the facility in Dhaka, the Sub-Inspector level officer had just left that month, and one of the on-duty constables had been earmarked for a UN mission in Haiti. The fact that the Centre cannot initiate its own investigations into domestic violence hampers their true independent functioning.

Moreover, many women are afraid to initiate legal proceedings against their attackers for fear of divorce and/or social ostracism. Owing to this, women might make several visits to OCC, returning to their homes with their attacker only to return to the Centre within a short period of time. Lawyers at the Centre spoke of the stigma attached to cases as far as the police and judiciary are concerned. They suggested that mediation appeared to be the most successful solution and best suited to the victims' needs.

Performance of OCC from 2001 to the Present	
Total number of cases dealt with:	3023
Identified sexual assault victims	1152
FIRs registered through OCC police desk	1373
Total cases filed through lawyer's desk	1279
Judgements pending at Sessions Court	740
Total number of punishment sentences in cases through the OCC (success rate)	35
Number of cases where attackers acquitted	172

between the ages of fourteen to twenty-one, mostly from the lower middle class, were found to be most vulnerable. First class DNA testing facilities are available from the DMC's state-of-the-art Forensic Sciences Laboratory to determine the identity of the attackers or for paternity issues. Follow-up meetings are conducted with victims every month to provide counselling or further assistance.

public service announcements on Bangladesh TV.

Over the years, the Centre has had its share of opposition. Dr Begum stated that she often received threatening phone calls from attackers or abusers. The Centre also has a strong social stigma attached to it by virtue of its work. Moreover, the police are sometimes reluctant to conduct investigations

VICTIM SUPPORT CENTRE

The Victim Support Centre (VSC) is a groundbreaking initiative by the Bangladesh Police undertaken with support from the United Nations Development Programme (UNDP) and partner NGOs to address crimes such as domestic violence, rape, acid burn, trafficking and sexual harassment that often have long-term impact on the physical and mental health of women. The Centre aims to provide integrated

services such as counselling, medical help, legal assistance and guidance on access to justice. Located within the compound of the Tejgaon Police Thana in central Dhaka, the Centre provides a warm and friendly environment

including two partner organisations of CHRI-run Network for Improved Policing in South Asia (NIPSA): Bangladesh Legal Aid Services Trust (BLAST) and Ain-o-Sailash Kendra (ASK). Another Centre was recently opened in Barisal, with six

1. Referrals from NGOs: The NGOs involved with the programme often have their own mechanisms of providing assistance to victims of crime including provision of shelter for vulnerable women. However, in more complex cases,



A team from CHRI visited the VSC and OCC on 24 April 2011 as part of their work on police reform in Bangladesh.

and includes facilities such as a playground, dinning hall and TV room. It is a unique partnership between the Bangladesh Police and non-governmental organisations

others scheduled to open by the end of the year. Most of the victims sent to VSC are those of domestic violence. There are three ways in which the Centre receives victims:

- they forward the victim to VSC for further care.
2. From Police Stations: Several times, police stations direct

3. Victims to VSC. According to the Additional Superintendent of Police (ASP) posted at the Centre, most cases are of missing children. People are also rescued from enforced slavery or enforced confinement by the police and forwarded to the Centre. victims such as doctors, lawyers, social workers are provided by NGOs in the partnerships. Usually a person from each NGO has a fixed day of the week to visit the Centre and render her services. Since its inception, the Centre has the already overburdened detective branches of DMP to resolve cases. They also undertake the protection of key witnesses as part of the ambit of the Centre's work. These two Centres have been in existence for quite some time now

The Victim Support Centre needs a more sensitive approach from police officers, in order to make the victim first feel comfortable before carrying out any substantive investigation of the alleged crime.

4. Directly to the Victim Support Centre: Gradually, victims of rape, domestic violence or forced abductions have started to report directly to the Centre for protection and/or to seek shelter. received 997 cases. Most of these have been settled via mediation by the police, which is a slight departure from their traditional role. But as the ASP contends, it has had good results for VSC. The ASP stressed on the difference in dealing with victims from normal policing. The Centre needs a more sensitive approach from police officers, in order to make the victim first feel comfortable before carrying out any substantive investigation of the alleged crime. (OCC since 2001, and VSC since 2009), and both have their share of encumbrances. The patriarchal setup of Bangladeshi society, the accompanying social stigmas, crippling poverty and a wavering criminal justice system are just some of the difficulties that these Centres must negotiate in their day-to-day operations. Added to this is the problem of retaining trained and sensitised police officers within the Centres.

The Centre is equipped to retain a victim for a maximum of five days before they send the person to the concerned NGO for necessary assistance. In some exceptional cases though, it has relaxed this policy and let people stay longer.

The VSC building is staffed by female police officers. Twenty-three female officers staff the building at all times. They work in two shifts of eleven hours each (9 a.m. to 8 p.m. and 8 p.m. to 9 a.m.). At night, only police officers are available, but in an emergency, help from all quarters (doctors, counsellors and lawyers) are provided.

Besides the police, all nurses, counsellors and other NGO support staff are women, and the ASP claims this is the biggest success factor for the Centre. External support for

The Centre unfortunately, like OCC, is hampered by problems of staff leaving on UN missions after undergoing training and sensitisation. All postings are handled by the Dhaka Metropolitan Police (DMP). Another problem is the lack of investigative powers. Every investigation must be carried out by the Investigating Officer of the concerned area, or the Women's Support Investigation Unit (WSUI) which is headed by a female officer of the rank of Superintendent of Police. This means, VSC has to depend on

All considered, this initiative is indeed one of a kind in South Asia, and is a good example of how to tackle an age-old problem that in recent times appears to be spreading like an epidemic. Even though the main mode of recourse seems to be mediation rather than litigation, it is a step in the right direction. With the passing of the new Domestic Violence (Prevention and Protection) Act, 2010, one would hope other institutions will build their capacity to play their role in women's protection.

Our Rights and the Role of Police in a Democratic Society

Devyani Srivastava, Consultant, Police Reforms (South Asia), CHRI

The Commonwealth Human Rights Initiative successfully held the second in a series of workshops on “Our Rights and the Role of Police in a Democratic Society” in Bangladesh (Barisal district) on 22 and 23 April 2011. The workshop was held in collaboration with two Bangladeshi NGOs: Bangladesh Legal Aid and Service Trust (BLAST) and Nagorik Uddyog – with support from the Friedrich Naumann Stiftung, a German non-profit organisation working towards promoting liberal democracy and rule of law. The first workshop was held in Dhaka last August while the next one is scheduled for Khulna district later this year.

The main objective of these workshops is to popularise and widen the debate on police reform in the country. The need for police reform is evident from consistent reports of wide-scale human rights violations by Bangladeshi police. In fact, the Bangladesh Police till recently was notorious as being the most corrupt public department in the country (Transparency International surveys). Recognising the need for radical police reform, the earlier Caretaker Government (CTG), 2006-08, (formed on 13 January 2007 to oversee national elections but overstayed its scheduled 120-day tenure till December 2008 when the elections were finally held) had drafted a

Police Ordinance in 2007 to replace the 1861 Police Act currently in place, but neither the CTG, nor the Awami-led government currently in power has focused on passing the Ordinance into law. As a result, a legislation that would significantly improve policing in the country is languishing in the corridors of power, and it will continue to do so till the people are made aware of its existence, and the benefits to them. In any public reform agenda, it is critical to include people in policymaking. In this context, the workshops put forward police-related debates before the people in the hope of catalysing interest in, and demand for, police reform.

The programme in Barisal began with a plenary session on the role of the police in Bangladesh. Prominent figures such as the Mayor of Barisal city, the Deputy Inspector-General (Barisal), Deputy Commissioner (Barisal Metropolitan Police), and several noted advocates addressed the people. A recurring theme in each of the presentations was how the role of the police has changed since Bangladesh’s Independence (1971). During the freedom struggle, the force played a crucial role in fighting and upholding the rights of the people. But today, the same force is seen as anti-people and repressive, and is often found violating the rule of law – for example: harassing people when they register complaints; failing to

complete investigations on time; and torturing people in police remand. Instead of working as a service to the people and addressing their grievances, the mindset of the officers is to underplay crime in their areas of jurisdiction. The problem is compounded by the unsatisfactory performance of the judiciary that often exercises its discretionary powers without proper investigation. The performance of the Rapid Action Battalion (RAB)¹ force in particular was criticised for its blatant human rights violations.

In any public reform agenda, it is critical to include people in policymaking.

Notably, even the police officers present at the workshop recognised these problems, but also pointed out that the situation is much better today, compared to the past five years. The police chief himself has called on the force to reach out to the people. Through initiatives like the monthly Open House, where people can come and voice their problems at the police station and regular visits to schools and colleges, the police is working to bridge the trust deficit. Particularly noteworthy is the Victim Support Centre established in Tajgaon police station in Dhaka, by the Bangladesh

Police with support from the UNDP Police Reforms Programme. The Centre provides complete support to victims of violence including medical support, legal help and social services such as shelter homes, etc. It is a remarkable model of partnership between government and non-government bodies in addressing violence against women and children that has emerged as “a social disease”. Apart from these initiatives, the police expressed discomfort at being equated with RAB. Although the force falls under the ultimate jurisdiction of the Inspector-General of Police (IGP), it is governed by a separate legislation, namely the Armed Police Battalions (Amendment) Act.

Given the public disillusionment with the police, CHRI made a presentation on two key principles

necessary to overcome the arbitrary and repressive nature of policing that are enshrined in the 2007 Police Ordinance: An external oversight body monitoring the functioning of the police and an independent complaints body to address public grievances against the police. It was pointed out that the proposed National Police Commission will bring about greater transparency in the functioning of the department by overseeing transfers, postings and appointments, while the Police Complaints Commission will help increase police accountability and building the people’s trust. (For a detailed analysis of the Police Ordinance, 2007, please refer to CHRI’s latest publication on South Asia police reforms entitled *Feudal Forces: Reform Delayed 2010*.)

The second day of the workshop

focused on two themes: the role of police in investigating violence against women (VAW) and the exercise of police powers, particularly registration of first information reports (FIR), arrest, detention and legal aid. The participants were divided into three groups. Each was assigned a case study around one of the above themes. Through role play, each group fleshed out the procedures as laid down by law and the police’s duty in protecting citizens’ rights. For instance, the role play on FIR highlighted how the police have a statutory duty to register complaints in the case of the commission of cognisable offences and cannot turn away anyone who wishes to report such an offence. The role play also listed the information that needs to be provided in an FIR. The session on arrest underscored the

principle of innocent till proven guilty and strongly criticised practices such as public labelling of an arrestee as a criminal.

Apart from the role play, a “talk show” (similar to a TV talk show) was conducted by Sara Hossain, Honorary Director, BLAST, with a veteran lawyer and police officer (non-commissioned) as panel members. The theme of the talk show was the role of the police and people’s



Bangladesh Police Badge
Photograph by: VIPEZ

rights. The legality and practices in issues such as police remand, safe custody, detention, nature of FIRs, rights of arrest, rights of arrestees, dealing with domestic violence cases, custodial treatment and so on were discussed. It was underscored once again that the police department is a public department and is equally accountable to the law as the citizens. Taking note of people's high expectations from the police, the officer flagged the issue of resource shortage often interfering with better service delivery. This is corroborated by the latest statistics on police strength, according to which one police officer serves over 1,200 people, an obvious deficiency in manpower that results in inefficient service.

Overall, the workshop facilitated a dialogue between NGOs and police officers and highlighted the working circumstances and challenges confronted by both sides. It is hoped that this will result in a holistic understanding of policing as also a greater involvement in reform debates.

¹ RAB is a specialised unit of the Bangladesh Police established in March 2004 and comprises members of the Bangladesh police, army, navy, air force and the border guards. The special force was established to improve the law and order situation in the country. Governed by the Armed Police Battalions (Amendment) Act, 2003, the force is entrusted with undertaking intelligence work related to crime and carrying out any investigation on the direction of the government.

Living a Nightmare: The Court Lock-Up in Alwar as Witnessed Firsthand

Pujya Pascal, Programme Officer, Prison Reforms, CHRI

Endure just five minutes under the scorching 46°C heat in Rajasthan, and you will quickly gather how insufferable an indefinite prison sentence is in the area. I am at the District Court shuffling my way through its crowded and stuffy corridors when I suddenly stop, caught in the desperate and fierce gaze of a dozen men staring at me from a distance behind a door and thick iron bars. My instinct was to look away, but I found it impossible to turn my eyes. I walked to the door wondering who these people huddled in the tiny room were. I approached the agonising scene to find thirteen men stacked in a cell like a haphazardly packed suitcase.

The day outside was blinding bright but this tiny room contained the gloom of dusk. There were no windows, fans or lights in the room. The walls were peeling and stained, and the corners were laced with cobwebs and dirt. As I approached the iron bars the stench of urine and sweat was unbearable.

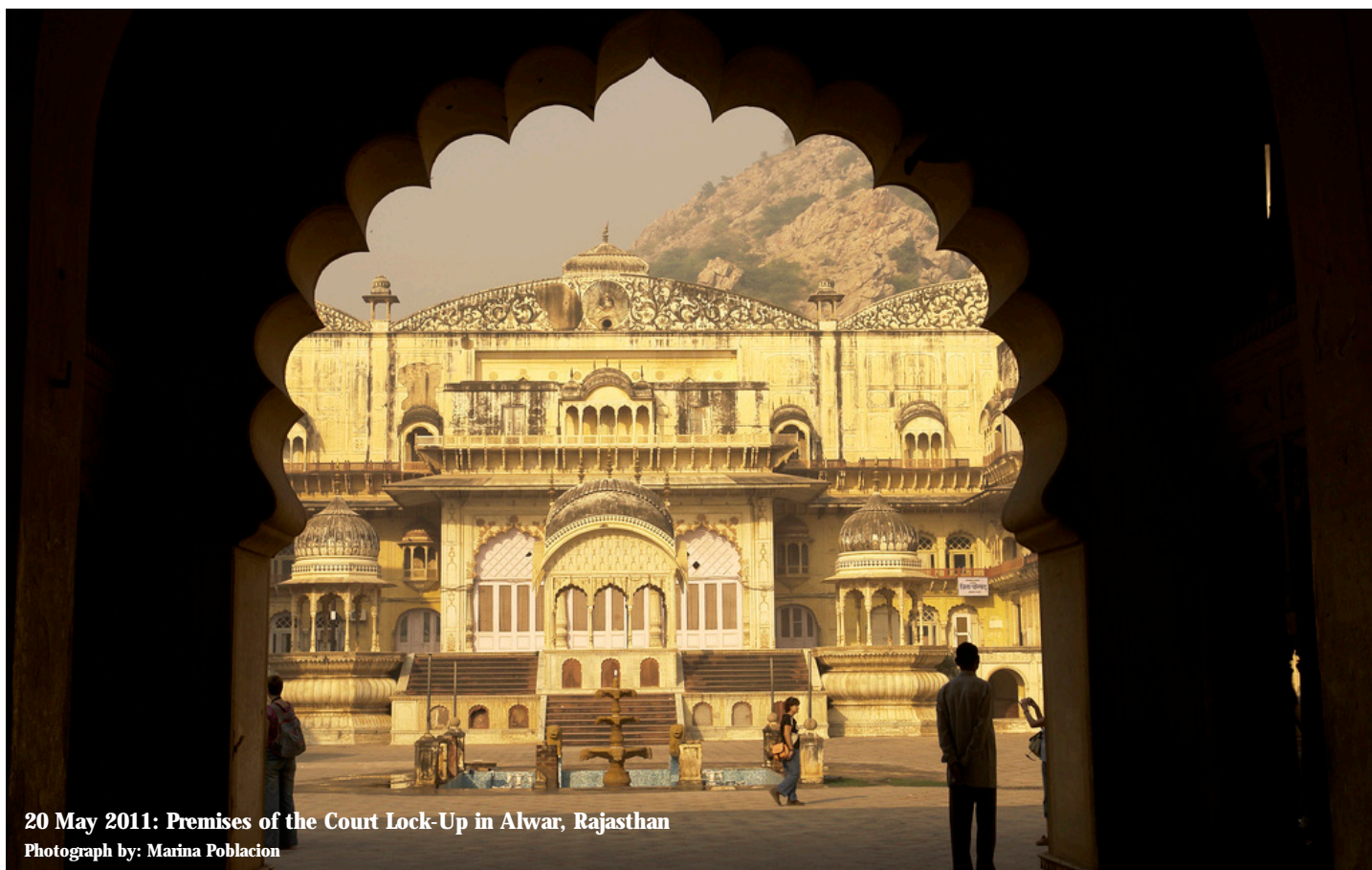
A police constable standing near by told me that these men were pre-trial prisoners who were brought from the jail at 7 a.m. for their court appearances. It was 11 a.m. at that time and they were trying to take turns to sit close to the only air that came through the door. They were poorly clad and used a part of

their clothing to wipe the sweat off their faces or fan themselves.

I inquired as to why there were no fans or lights in the room. The reply was that the prisoners would try to commit suicide by electrocution or by hanging themselves from such electrical fixtures! I wonder if anyone would blame them for trying to escape this living hell. Two filthy exhaust fans hung uselessly outside the room in a bid to mock the inmates' misery. Needless to say, they were not working and there was no sign of any effort at repairing them, just as there was no attempt to maintain cleanliness or sanitation in the cell.

The Alwar District Court complex is part of an ancient fort-palace and the lock-up is at the end of an old battered wing. The chief guard complained that there was no clean drinking water. "There is never enough water, let alone cold water, and food can only be imagined at this point in time." Water supply is erratic so there is no point talking about cleaning the urinal inside the lock-up. I wondered if the magistrate in whose custody these people were, had ever come there to check on things. It was probably too hot for him to step outside his quarters.

I asked a man who was sitting at the foot of the door trying to breathe,



20 May 2011: Premises of the Court Lock-Up in Alwar, Rajasthan
 Photograph by: Marina Poblacion

if he had anything to eat or drink since the morning. “I haven’t had anything except a cup of tea before I left this morning, madam” he said. “We will not get any food till we return to the jail at 3 p.m.” said another. “The constable offers water only when asked,” added another prisoner. Section XXIII, Part 9, Rule 42(2) of the Rajasthan Jail Manual, clearly states: “Prisoners on transfer or about to be sent to court shall receive a meal of cooked rations before starting.” However, it appears that most prisoners go without food and sufficient water for over six to seven hours while waiting in the lock-up.

If you think of a court you imagine lawyers buzzing around, talking to

their clients, getting their briefs, making their defence, providing a decent representation. But I saw no lawyers there. Some prisoners complained they hadn’t met their lawyers in days and there was no sign of any since they had arrived. One prisoner explained the procedure: “We are lucky if we are actually brought before the magistrate as is mandated by the law. Most of us ‘appear’ in court only on paper and are not physically produced before a judge if the lawyer is not around.”

“So what happens then?” I asked, feeling ashamed to be a part of this charade. The answer was as simple as it is true: “Nothing; we spend the day dying in this lock-up and then go back to rot in jail,” said an old

man from behind the crowd, his voice devoid of emotion.

I realised that the fierce stares facing me had surpassed frustration and anger and were a silent scream for help, for some relief, for some hearing, for some justice. It was laced with a glimmer of hope that a human being must force himself/herself to believe that something good will happen to change his/her situation.

I turned away. My mind flashed back to the glorious and lush facade of the High Court in Jaipur. I knew hope would not be answered. Not in these courts. Not by this justice system.

Justice Centres: A Tool for Improving Justice Delivery to the Poor Within the Criminal Justice System

Mina Mensah, CHRI Africa Office



Pro Bono Legal Adviser with CHRI Team, Ghana

On 23 February 2003, Kwame, a twenty-seven-year man was riding his motorbike at about 10.30 p.m. in Nima, a suburb of Accra, and was knocked down by a police patrol car. He was taken to the Police Hospital and when he was discharged the police charged him with robbery, sent him to court and he was remanded to custody for two weeks before reappearing. There

were no complainants or witnesses, yet Kwame spent seven years on remand before his case was brought to the attention of the authorities by a CHRI paralegal. Today, Kwame is a free man but the years he lost because he was ignorant of his rights and had no legal representation is an indictment of Ghana's democratic credentials. In fact, Kwame has no job and cannot

easily integrate into society because of the stigma attached to being an "ex-convict" although no court ever convicted or sentenced him.

This is the story of an indigent arrested person who benefited from the Justice Centres Project run out of CHRI's Africa Office in Accra. Unfortunately, Kwame's story is not the exception but rather the

norm in many African countries. It is in light of such situations and the serious challenges faced in access to justice delivery that CHRI, with support from Ford Foundation, began implementing a project dubbed “Justice Centres” in 2008. The project’s main goal is to ensure increased access to justice and the protection of the human rights of the poor and indigent within the criminal justice system in West Africa. The project’s objectives are: to increase availability and accessibility of lawyers to indigent persons accused of crime; increase awareness of fundamental human rights, especially fair trial rights; and reduce the number of pre-trial detainees and consequently avoid overcrowding in police cells.

The office hoped to achieve these objectives by setting up four Centres with an initial pilot project in Ghana (one in Accra and one in Kumasi). The aim was to train interested lawyers and law students to offer pro bono legal services to indigent arrestees immediately on arrest and educate them on their rights. Such lawyers and law students, while operating from the Justice Centres, visit designated police stations to offer their services and also monitor violations of rights by the police.

However midway through the implementation, a myriad challenges meant that the project needed to be re-evaluated and modified to benefit target groups and achieve necessary results. The unwillingness of the General Legal Council, which trains lawyers and supervises

the Bar, to allow the Justice Centre to operate from the Ghana Bar Association’s (GBA) office, as was originally intended, was an initial setback. Another setback has been the paucity of lawyers. The records of the General Legal Council reveal that there are less than 4,000 lawyers nationwide for a population of over 20 million. This number includes those in corporate organisations, those called to the Bench and non-practising lawyers. GBA over the years shows an active membership of between 1,500 and 1,800, some of whom are actually not practising. Thus in reality, the number of practising lawyers is far less than on GBA’s membership list.

Law students presented further challenges. While law schools, law students and lecturers inclusive, were keen on the idea, and some of the schools were willing to give credits to students who participated, there were many practical problems. Law courses are packed and thus students could only participate during holidays. This meant that for long periods when schools were in session, the project would be on hold.

CHRI also had to contend with the fact that in Liberia and Sierra Leone, the Bar Associations either did not exist or were rebuilding. The terrain was also crowded with local actors who were performing some form of legal aid and were not enthusiastic about working with people from outside. Along with this, funds were woefully inadequate to operate effectively

and efficiently in three countries. Despite these limitations, the project has been successful in several ways. Within the past year the office has set up two Justice Centres, one in Accra and the other in Kumasi. The Centre has trained four lawyers, ten law students and twenty paralegals who visit selected police stations and offer legal advice to arrested persons and their families. Although law students have returned to school since September 2010, paralegals have successfully filled the vacuum. At police stations, paralegals use mediation, education, advocacy and litigation to meet the needs of arrested persons. They also monitor police procedures to ensure that officers act in accordance with the law.

Police officers themselves testify that the presence of paralegals at the stations keep them on their toes. Some have gone further to state that it has motivated them to update their knowledge on the law, since they do not want to be put on the spot. According to a District Police Commander in Kumasi, the project has made his men more efficient in the performance of their duties during arrests and detentions.

CHRI paralegals have interviewed 477 suspects in the ten months (from May 2010 to March 2011) the Centres have been operating. Of these, 153 were settled out of court through mediation by paralegals and 270 were granted police enquiry bail through their interventions. Pro bono legal services were provided to seven people and five of them

including Kwame were discharged. Three of the five who were on remand for three years each before being granted bail through CHRI's efforts were later discharged and another was discharged after spending fourteen years on remand. Currently, although the project is over, two people for whom CHRI filed a writ of habeas corpus are still waiting for their cases to be heard at the Human Rights Court.

Although the project could not be extended eventually to Liberia and Sierra Leone as originally envisaged, the idea of building strong networks locally and regionally has already been initiated. In this regard, on 21 and 22 March 2011, the office organised a sub-regional conference on access to justice for indigent arrested persons. The two-day conference under the theme "Experience Sharing through Knowledge Building" hosted forty-eight participants from twenty organisations of Ghana, Liberia, Nigeria, Sierra Leone and The Gambia. The main objective of the conference was to share the experience of legal assistance services for indigent arrested persons, particularly in the area of legal representation.

The conference also aimed at building a network of organisations engaged in enhancing access to justice through legal aid services, thus building an understanding of good practices for the sub-region. At the end of the conference, participants issued a communiqué as follows:

The Commonwealth Human Rights Initiative Africa Office held a Conference on Access to Justice for Indigent Arrested Persons in West Africa in Accra, Ghana on the 21-22 March 2011.

With participation from the under-mentioned agencies and non-governmental organisations (NGOs) in Ghana, Liberia, Nigeria, The Gambia and Sierra Leone:

- Open Society Justice Initiative, Nigeria;
- Legal Aid Council, Nigeria;
- Catholic Justice and Peace Commission, Liberia;
- Association of Female Lawyers of Liberia (AFELL);
- Institute for Human Rights and Development in Africa, The Gambia;
- Timap for Justice, Sierra Leone;
- The Judicial Service, Ghana;
- Ghana Bar Association (GBA);
- Attorney General's Department, Ghana;
- Ghana Police Service;
- Commission on Human Rights and Administrative Justice, Ghana (CHRAJ);
- Legal Aid Scheme, Ghana;
- Legal Resource Centre, Ghana;
- Centre for Human Rights and Civil Liberties (CHURCIL), Ghana;
- Ghana School of Law;
- Help Law, Ghana;
- Centre for Advocacy and

Law Enforcement Research (CALER), Ghana;

- Human Rights Advocacy Centre, Ghana;
- Law Reform Commission, Ghana;
- POS Foundation, Ghana;
- Centre for Human Rights and Advanced Legal Research (CHRALER), Ghana;
- Prison Services, Ghana;
- Commonwealth Human Rights Initiative, Africa Office (CHRI).

Inspired by the theme: "Knowledge Building Through Experience Sharing", with the keynote address delivered by the Chief Justice of Ghana, Her Ladyship Georgina Theodora Wood, represented by His Lordship Justice Atuguba, Supreme Court Judge.

Lessons and perspectives were shared, discussed and deliberated at the end of which the following recommendations were made:

- Creation of a network of agencies and NGOs working in the criminal justice sector to provide a platform in and among countries for furthering the access to justice agenda was strongly advocated.
- Need for the establishment of a court users coalition in each country to periodically discuss issues relating to the administration of justice.
- Underscore the importance of paralegals and university law

clinics in the provision of justice services and recommend the creation of the necessary legal framework and awareness.

- Recognise the importance of, and link community-based paralegals to agencies such as the legal aid scheme, law firms, NGOs, local governments.
- Strengthen existing traditional modes of dispute resolution and regularly train traditional leaders and practitioners on ADR and other existing traditional methods.
- We understand the need to empower indigents through advocacy, civic education, and other legal empowerment initiatives and participants and encourage legal activism by lawyers.
- Participants strongly urge the dedication of a week long recognition of legal aid to be known as Legal Aid Week in October every year.
- CHRI will be responsible to coordinate the realisation of these aspirations.

It is obvious that there have been some achievements under this project, but there is a need to move forward. The shortage of lawyers is not a problem that will disappear soon, neither is the system going to suddenly change to make special efforts to accommodate the rights of the poor who come into conflict with the law. However, the justice centres project, although

a tiny initiative in a small African country, is one step in the right direction. There is a need to take up the challenge of fine-tuning it

to respond to the specificities of various communities and run with it. After, all “little drops of water make a mighty ocean”.

...continued from page 8

in the list of discriminatory grounds which would trigger the investigations by the Special Rapporteur.

Unfortunately, the General Assembly Resolution replaced the provision with a general one which stated that killings motivated by “discriminatory reasons on any basis” warranted investigation.

Whilst this appears to be a more expansive definition it ignores the discriminatory treatment experienced by the LGBTIQ community and its part in instigating extrajudicial killings. The proponents of the General Assembly Resolution, the delegates from Mali and Morocco, argued that “sexual orientation” as a term was not recognised in international law and that states should not create “new rights for certain groups”. The Resolution was eventually carried with seventy-nine votes in favour, seventy against and seventeen abstentions. Although similar arguments were advanced by states opposed to the June Resolution at the Human Rights Council, the Resolution was passed with twenty-three nations voting in favour, nineteen against, and three abstaining. The rhetoric about “new rights” implicitly supports arguments made by states in response to previous initiatives to protect the LGBTIQ community, that LGBTIQ rights are a “Western concern” or that the protection of the LGBTIQ community is not a “human rights issue”.

The June Human Rights Council Resolution does not propose or implement any framework for investigation or action of future discriminatory treatment and this may also explain why China and Zambia, who had voted in favour of the November General Assembly Resolution, abstained in the vote at the Human Rights Council, thus allowing the Resolution to pass. The main achievement of the June Resolution has been the recognition of the “interdependence” and “indivisibility” of human rights and the need to apply them “without distinction of any kind” in relation to sexual orientation. Such a strong statement reaffirms the “open list” nature of the categories of discrimination under the Vienna Declaration and Programme of Action and will hopefully make it harder for states to claim that rights protecting the LGBTIQ community are “new rights”. At the December meeting of the 19th Session of the Human Rights Council there is a need to adopt a clear programme, mandating action in response to violence directed against the LGBTIQ community in order to address the gap created by the General Assembly Resolution.

...continued from page 9

SRI LANKA HRC: THE HOPE FOR A SOLUTION, A PART OF THE PROBLEM

The people of Sri Lanka witnessed the systematic perpetration of human rights violations by both sides of a civil conflict that lasted

political impartiality and regular rapport with civil society.

Regretfully, the Commission's support of and engagement with civil society actors has not seen improvements. Since the civil society protests in 2006 against the unconstitutional appointments of SLHRC's commissioners, what should be a mutually beneficial

on Extrajudicial Killings. In June 2011, Channel 4, a British TV channel, screened a documentary on Sri Lanka containing terrifying video footage that was presented as evidence of war crimes and crimes against humanity in the last phase of Sri Lanka's civil war. Despite widespread condemnation and demands for credible independent investigations, SLHRC has been

SLHRC has been persistently crippled by strong political interferences. As a consequence, it is notorious for ignoring attacks, enforced disappearances and killings of human rights defenders.

over a quarter of a century. With one of the worst human rights records in the world, the government is yet to address impunity for past human rights abuses and is accused of numerous cases of enforced disappearances, torture, illegal detentions and unlawful killings.

The Sri Lanka Human Rights Commission (SLHRC) was established in 1996 to investigate human rights abuses, advise the government and provide human rights education. It aims to do so "with the coordination and cooperation of all stakeholders that work towards protecting and promoting human rights for all".

SLHRC is considered to be one of the worst in South Asia. In 2007, the International Coordinating Committee of National Human Rights Institutions (ICC) downgraded the Commission to 'B' status due to, among other reasons, its lack of independence,

relationship has been marked by deep distrust, a boycott by civil society and open hostility by the Commission.

SLHRC has been persistently crippled by strong political interferences. As a consequence, it is notorious for ignoring attacks, enforced disappearances and killings of human rights defenders. In 2009, three civil society consultations resulted in the creation of what later proved to be a disappointingly ineffective human rights defenders' focal point in the Commission. After the end of the Sri Lankan civil war in 2009, several serious allegations of war crimes and crimes against humanity were made by reputed civil society groups. Recently, a Panel of Experts appointed by the UN Secretary-General found several such allegations to be credible. Evidence that support such allegations has also been authenticated by two successive UN Special Rapporteurs

unable to take any meaningful positions on the issue.

FIJI HRC: A STATE OF INADEQUACY

With a long history of coups d'état and constitutional crises, Fiji's human rights situation has been severely undermined in the past few years.

The Fiji Human Rights Commission (FHRC) was established in 1997 to, inter alia, provide human rights education and make recommendations to the government on human rights issues.

FHRC's lack of independence has been a matter of concern after the 2006 military coup, when its Chairperson, Shaista Shameem, was unconstitutionally appointed. In 2007, Shameem publicly supported both the coup and the limitation of human rights by the

military forces on account of the State of Emergency. The Commission eventually resigned from the Asia Pacific Forum (the network of Asia Pacific NHRIs) and from the ICC, which had criticised its lack of “both credibility and independence”.

The promulgation of the 2009 Human Rights Commission

torture, detention and the killing of human rights defenders and other government critics by the military continues to this day. In January and February 2011, trade unionists Pramod Rae and Attar Singh were threatened and intimidated by army officers. In February, the Prime Minister threatened two human rights defenders with

best position to document past and present human rights violations.

In principle, their mandates guarantee that they will effectively protect and promote human rights. In practice, their role has been virtually reduced to that of superficial human rights education.

...lack of trust in the Commission and fear of repercussions effectively silence victims of human rights abuses.

Decree further hindered FHRC’s independence by determining that “the functions, powers and duties of the Commission do not extend to receiving complaints against, or investigating, questioning or challenging, the legality or validity of the Fiji Constitution Amendment Act, 1997, Revocation Decree, 2009, or such other Decrees”.

The blatant disregard of FHRC’s legislative duty to consult and cooperate with human rights organisations has been particularly patent in its criticism of human rights NGOs’ role in Fiji. In 2008, it published confidential e-mails between NGOs and newspaper publishers on the country’s political situation and supported the expulsion of the latter due to “national security” concerns. It further recommended the enhancement of governmental scrutiny of the media and NGOs.

The Commission’s unwillingness to investigate numerous cases of

detention following their critics of the country’s judiciary system at Fiji’s Universal Periodic Review. The occurrence of similar cases rose in the weeks leading to a plan for a peaceful demonstration against the government in the Fijian capital last March, which was cancelled due to high police and military presence. Nevertheless, FHRC states that no recent complaints of abuse, detainment or intimidation by the security forces have been made, which suggests that a lack of trust in the Commission and fear of repercussions effectively silence victims of human rights abuses.

GHOSH NHRIS OR NO NHRIS AT ALL?

The Sri Lanka and Fiji Human Rights Commissions are excellent examples of NHRIs that, owing to their lack of independence, see their engagement with civil society deeply hampered. More shamefully, they fail to protect those who are in the

Civil society actors who work towards the improvement of a country’s human rights situation can be invaluable sources of independent and comprehensive information – an essential ingredient to understanding the human rights issues at stake and the consequences of not addressing them appropriately. This is especially important when public awareness of and access to NHRIs is limited, and when these institutions lack resources and staff.

NHRIs that are preserved with the only purpose of convincing citizens and the international community that the government is dedicated to the promotion and protection of human rights not only fail in their rationale but are also detrimental to the idea behind institutions such as NHRIs.

Opportunities with CHRI



Interns and Stipendary Positions in Research and Advocacy

There are frequent opportunities at CHRI to work with us at our headquarters in Delhi, our Africa office in Accra, Ghana and liaison office in London.

- Students reading law or social sciences may intern with us at any of our three offices for short-term or long-term internships of up to a year.
- Graduates in law, social sciences or other relevant disciplines are welcomed on a volunteer basis to intern with us for periods ranging from three months to a year.
- Graduates in law, social sciences or other relevant disciplines, willing to commit for up to one year at headquarters may apply for a stipendiary position as programme assistants and researchers.
- Graduates with a minimum of two years work experience may apply for programme officer positions, if willing to commit for two years or more. Salaries are local and shared accommodation (at headquarters only) may be provided to candidates from abroad, if available.
- Mid-career or senior professionals wishing to take time off from their mainstream work to do meaningful work in a new setting are also welcome to explore working on issues of accountability and transparency, as well as assisting with fund-raising as associates or consultants on mutually agreeable terms.

We are an independent, non-partisan, international non-governmental organisation, working for the practical realisation of human rights of ordinary people in the Commonwealth. CHRI promotes awareness of, and adherence to, the Harare Principles, the Universal Declaration of Human Rights and

other internationally recognised human rights instruments and declarations made by Commonwealth Heads of Governments, as well as other instruments supporting human rights in the Commonwealth. CHRI believes that the promotion and protection of human rights is the responsibility of governments, but that the active informed participation of civil society is also vital to ensuring rule of law and the realisation of human rights.

There are four programme areas at CHRI – Access to Justice, Access to Information, Human Rights Advocacy and Prison Reforms Programmes. As such, our present work focuses on police reforms, prison reforms and promoting access to information. We also overview the human rights situation in all fifty-four countries of the Commonwealth, looking especially at the situation of human rights defenders, compliance with international treaty obligations and monitoring the performance of Commonwealth members of the United Nations Human Rights Council.

CHRI's work is based on relevant legal knowledge, strong research and dissemination of information to both civil society and governments. Policy-level dialogue, capacity building of stakeholders and broad public education are standard activities.

As an organisation, our endeavour is to be one of the best South-based resources on policing and access to information.

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