



# CHRI

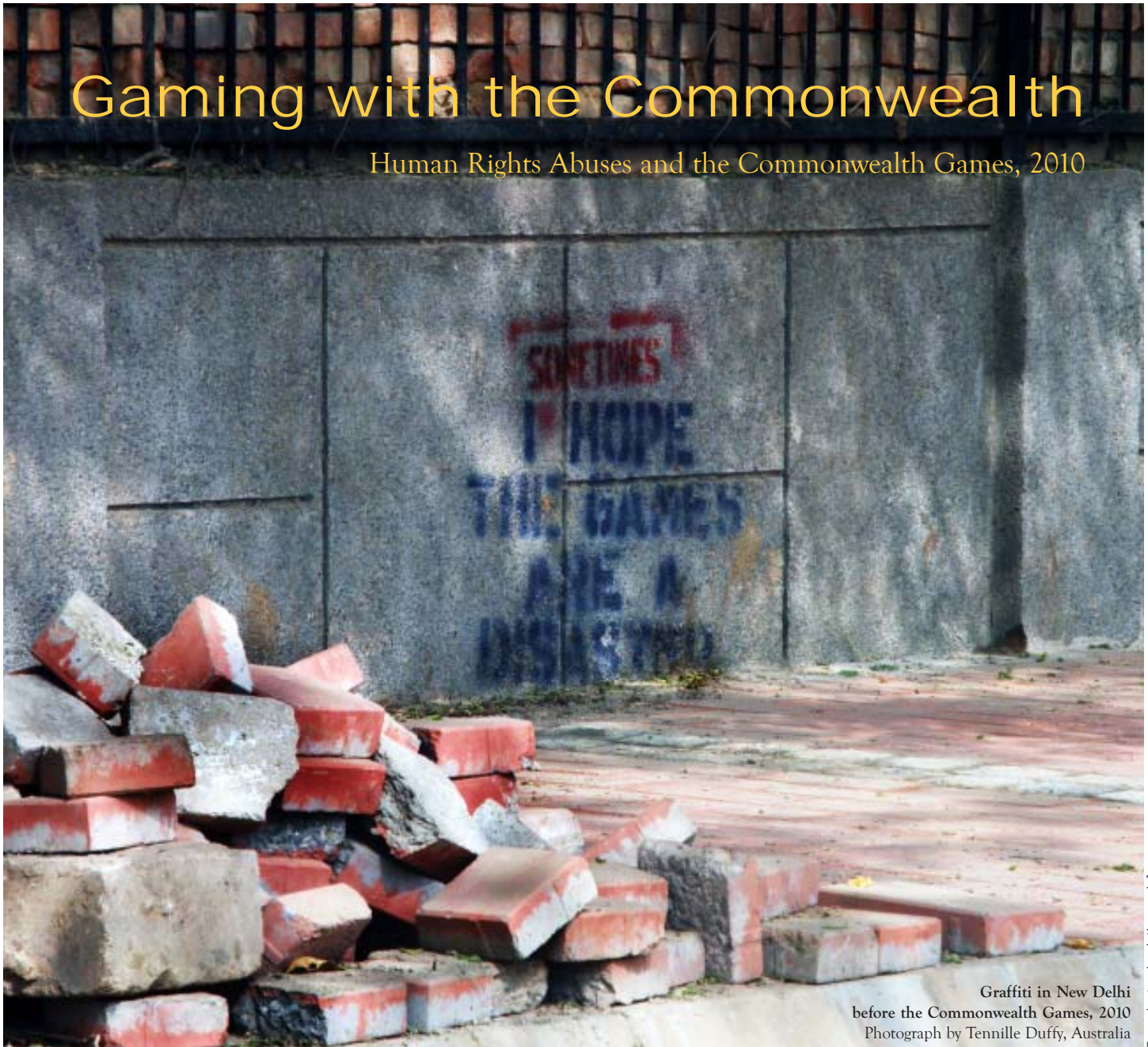
COMMONWEALTH HUMAN RIGHTS INITIATIVE

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## NEWSLETTER

### Gaming with the Commonwealth

Human Rights Abuses and the Commonwealth Games, 2010



Graffiti in New Delhi  
before the Commonwealth Games, 2010  
Photograph by Tennille Duffy, Australia

[For private circulation only]

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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**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 from which to promote human rights. It is from this idea that CHRI was born and continues to work.

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# CONTENTS

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## Editorial

### **Silent Diplomacy is not Enough**

Maja Daruwala, Executive Director, Commonwealth Human Rights Initiative (CHRI)

Page 2

## Cover Story

### **Gaming with the Commonwealth**

Miloon Kothari and Shivani Chaudhry, HLRN

Page 4

## Features

### **International Human Rights News:**

#### **New Special Procedures in the UN Human Rights Council**

Tennille Duffy, Programme Officer, Access to Justice (East Africa), CHRI

Page 6

#### **Commonwealth Eminent Persons Group on Reforms**

Richard Bourne, Senior Research Fellow, Institute of Commonwealth Studies, London

Page 8

#### **Ballot without Bars**

Pujya Pascal, Programme Officer, Access to Justice Programme (Prison Reforms), CHRI

Page 12

#### ***Lok Police* - Accountability from Within: CHRI's Experiment to Reach Out to the Police**

Navaz Kotwal, Programme Coordinator, Access to Justice Programme (Police Reforms), CHRI

Page 14

#### **Right to Information Learning Programme, 2010**

Vrinda Choraria, Senior Project Assistant, Access to Information Programme, CHRI

Page 16

## SILENT DIPLOMACY IS NOT ENOUGH

Editorial

Maja Daruwala, Executive Director, Commonwealth Human Rights Initiative (CHRI)



Commonwealth Secretary-General Kamalesh Sharma's comments published in *The Guardian* on 26 October 2006, seem to suggest that: the Commonwealth will never

renege on the fact that human rights are fundamentally woven into its values; it will quietly pursue such values while avoiding standing up for them or defending them publicly as

it is more important to avoid shaming members than to publicly pressure them to stop abuses. In the same breath, the Secretary-General explains that the Commonwealth has teeth

and that five members have been suspended in the last 15 years. If only five countries among 54, with a third of the world's population were the only gross violators, the last one and a half decades must have seen a great advance towards human rights in the Commonwealth. However, this is not the case. For example, the Commonwealth including the Secretary-General is yet to make any formal remarks on gross human rights violations in Sri Lanka which is amongst the ranks of the worst human rights abusers. Similarly

is surprising for its striking semblance to the defensive stance repeatedly taken by countries from the global South to block scrutiny of human rights abuses within their borders at international fora such as the UN Human Rights Council (UNHRC). This said, the reality within the young states of the Commonwealth is grave - for example in the last few years from Cameroon to Uganda to Sri Lanka heads of governments have skewed their Constitutions to allow themselves power for unlimited

aspiration and at worst a loose promise". This is then used as a justification of the ineffectiveness of Commonwealth declarations. Such a perspective from a high Commonwealth official who is supposed to promote the adherence to human rights, a fundamental value of the Commonwealth, is not only disappointing but also dangerous in terms of the demoralising influence it could have on the long struggle to establish international standards and respect for intergovernmental bodies.

Such a perspective from a high Commonwealth official who is supposed to promote the adherence to human rights...is not only disappointing but also dangerous.

Rwanda, the Commonwealth's newest member, has been subject to several serious allegations of human rights abuses; and the Gambian President who in 2009 threatened on television to kill human rights defenders continues in his repressive regime with no reprimand or reaction to the famous quiet diplomacy.

The Secretary-General emphasises that the majority of member states are under 50 years old and their journey on the democratic path is steep, to justify why all member states may not be adhering to their human rights commitments. Such an argument from the Secretary-General of an intergovernmental organisation that goes beyond the barriers of ideology and political blocs such as the North and South,

terms, while Swaziland, one of the last absolute monarchies in the world has long been a member of the Commonwealth.

The Secretary-General's views on naming and shaming which he also characterises as "crude megaphone diplomacy" seem identical to those voiced by Southern states such as Bangladesh, Egypt, China, Cuba, India, Pakistan, Russia and Sri Lanka amongst others in opposition to UN scrutiny over country situations before the UNHRC. Many have characterised this trend as South-South complicity over human rights violations.

It is further more worrying to note the Secretary-General's characterisation of the UDHR as "at best an

It is curious that the Commonwealth Secretary-General's comment was published on the same day on which the Expert Group on Reforms, established by the Commonwealth Heads of Government Meeting (CHOGM) in 2009, declared that "Silence is not an option" for the Commonwealth. The press release issued by the Expert Group states that it "will be calling for the Commonwealth to speak publicly as required and to act with greater authority on serious or persistent violations of Commonwealth values, including democracy, the rule of law and human rights". The Expert group further says that it "will also be calling on leaders to endorse measures to strengthen the role and functions of the Secretary-General".

*Continued to page no.9*

# GAMING WITH THE COMMONWEALTH

**Miloon Kothari** is former Special Rapporteur of the UN Human Rights Council and currently Executive Director, Housing and Land Rights Network (HLRN). **Shivani Chaudhry** is Associate Director of HLRN.

The colossal financial and governance fiasco surrounding New Delhi's Commonwealth Games (CWG) has raised serious alarm and consternation, both in India and across the world.

While several agencies – the Shunglu Committee, Central Vigilance Commission, Comptroller and Auditor General of India, the Enforcement Directorate, and the Central Bureau of Investigation – are investigating corruption and financial mismanagement related to the 2010 Games, rampant human rights violations behind the Games have not been fully acknowledged and ongoing investigations have not included these violations within their ambit of inquiry. Unless this happens, there is little likelihood of those responsible being held accountable and prosecuted for their actions.

Preparations for Delhi's Commonwealth Games witnessed a range of human rights violations of the city's marginalised, especially: construction workers who were denied minimum wages, overtime, and decent working and living conditions; the homeless, the destitute and “beggars” who were criminalised, arrested, detained and forced out of the city; women and children who were trafficked to meet

the sex needs of visitors; 250,000 street vendors who were denied their livelihoods in order to “clean” Delhi's streets; and around 250,000–300,000 slum dwellers who were evicted from their homes to build parking lots, stadiums and roads for the Games. Of these groups, women and children suffered the most. State impunity and callousness seem to have become chronic, as even orders of the High Court of Delhi were blatantly violated.

State impunity and callousness seem to have become chronic, as even orders of the High Court of Delhi were blatantly violated.

The situation of homeless and displaced people in Delhi is extremely critical. Demolitions across the city took place without any notice or due process, accompanied by force, violence and destruction of personal property by authorities. A majority of the evicted families have not yet been rehabilitated or compensated and have been rendered homeless, increasing their vulnerability to illnesses, and even death. In the very few instances where resettlement has been provided in distant residential sites such as Bawana and Savda Ghevra, the living conditions are grossly inadequate and

people do not have access to basic services. It is also shocking that Delhi government authorities demolished two schools (one in Gurgaon and one on the banks of the Yamuna) for children from low income families, thereby violating their fundamental right to education.

According to the National Association of Street Vendors of India (NASVI), in the last two and a half months, over 275,000 informal

sector workers, including street vendors and rag-pickers, lost their livelihoods in Delhi due to the CWG. This resulted in people losing their daily wages and being forced into hunger. NASVI estimates that 55,000 vendors were forcibly evicted from their places of work across Delhi, often with violence.

Another shocking violation of human rights is the Delhi government's diversion of Rs. 7.44 billion from the Scheduled Caste Sub-Plan (Special Component Plan – SCP) from 2006-07 to 2010-11 (an affirmative action programme for

downtrodden and/or oppressed castes, also collectively identified as Dalits) to meet CWG-related expenditures. This has resulted in a denial of development funds for Delhi's Dalits. Home Minister Mr. P. Chidambaram admitted this in the Rajya Sabha (the upper house of the Indian Parliament) and mentioned that the diverted funds would be returned. No action against the officials responsible for the diversion has, however, been taken to date.

The Games will result in a severe negative financial and social legacy for Delhi, the effects of which are already visible. The physical landscape of Delhi has been irreversibly mutilated with a complete lack of adherence to planning norms, institutional procedures, environmental safeguards and aesthetics. The damage done to the social and urban fabric of the city will be long lasting – growing homelessness, greater speculation in land and property (making large parts of the city inaccessible for the poor and the middle class), higher taxes for Delhi residents, compromised social sector budgets, irreversible environmental damage, and a long-term debt for the city, as economic returns have not met the outrageous costs. Even projections for tourism revenue, sponsorships and ticket sales fell well below targets. No sustainable legacy plan for the Games has been prepared to indicate how the multi-crore rupee infrastructure and facilities will benefit the common people.

The critical question now is how will the cost of the Games be met and over what period of time. The poor have already paid with their homes, their livelihoods, their health, their lives, and their dignity. The middle class of Delhi has already been hit with increased taxes and higher prices. The cost of living in Delhi is only going to rise, and every sector of society will pay for the government's flagrancy, ineptitude, short-sightedness and mismanagement.

Financial and social debacles in the history of mega sports events were unfortunately not taken into account by the overly optimistic Organising Committee of the Commonwealth Games and the Delhi State Chief Minister. When it took Montreal 30 years to pay off the debt that the 1976 Olympics imposed on the country, and when occupancy for the Beijing Olympics was around only 50 per cent of projected targets, what made the Indian government think it could reverse trends and gain US\$ 4.5 billion from the Games over the course of four years? Even the cautionary advice of the Ministry of Finance (in 2003) and the Comptroller and Auditor General of India (in 2009) went unheeded.

In order to bring about justice and restore faith in Indian democracy, it is essential that the following measures are immediately taken:

1. All investigation agencies must include human rights violations in the ambit of their enquiry.
2. Systematic investigations should be undertaken to determine the sources of Games-related

funding of both the Delhi government and the Central government. Detailed budgetary analyses need to be conducted in order to determine whether funds (in addition to those diverted from the SCP) have been diverted from other social sector budgets such as health, education and housing, at the national and state level.

3. Investigating authorities must be given the mandate to probe all senior government officials, including relevant Union Ministers, the Chief Minister of Delhi, and the Chairperson of the CWG Organising Committee.
4. The National Human Rights Commission should undertake an independent investigation into the human rights violations related to the Games.
5. The perpetrators of Games-related crimes must be identified and suitable action must be taken against the guilty, in accordance with the law.
6. All processes related to the ongoing investigations should be transparent and open, and should also involve civil society and independent experts.
7. The Delhi government must provide adequate rehabilitation and compensation, in accordance with international human rights standards, to all those who lost their homes and livelihoods as a result of the CWG. Living conditions in existing resettlement sites must also be immediately improved.

*Continued to page no.9*

# INTERNATIONAL HUMAN RIGHTS NEWS: Features

## NEW SPECIAL PROCEDURES IN THE UN HUMAN RIGHTS COUNCIL

Tennille Duffy, Programme Officer, Access to Justice (East Africa), CHRI



As the Office of the United Nations High Commissioner for Human Rights (OHCHR) states “[millions] of people around the world expect the United Nations to work towards the improvement of their standard of living and enhance their enjoyment of fundamental rights and freedoms”. (Human Rights Fact Sheet N.27, OHCHR) To assist in this work, the Human Rights Council (previously the Commission on Human Rights) uses independent

human rights experts that are given country or issue-specific mandates. These experts are called, variously, Special Procedures, Special Representatives of the Secretary-General, Independent Experts or perhaps most commonly, Special Rapporteurs. In some cases, the Council establishes a working group of experts. Their role, in directly examining specific situations and issues in person, provides a very real analysis of human rights principles.

Through their reports, recommendations, and contact with the media and national governments, they provide evidence and expertise that informs debate and offers real solutions.

Since the creation of the first group of experts in 1967, who were sent to investigate the situation in Southern Africa, Special Procedures have allowed the Commission, and then the Council, to respond more



directly and rapidly to the need for examination of pressing human rights concerns. Currently, the Council has the powers to establish new Special Procedures as and when it sees the need arise.

Human Rights Council, Resolution 15, A/HRC/15/1.23, establishes a new Special Rapporteur on the Right to Freedom of Peaceful Assembly and Association. As can be garnered from the Resolution of the Council, this is a right that is under threat in some places and at

Torture, and a new Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.

#### **Mr Juan Méndez: UN Special Rapporteur on Torture**

From Argentina, Mr Mendez is the first Latin American citizen to occupy this position. He is currently a Professor of Law at the Washington College of Law and, until May 2009 he was President of the International Center for Transnational Justice. Whilst at the Center, he was named

Director of the Centre for Human Rights. From South Africa, he also teaches on a regular basis in the human rights programmes at Oxford and the American University, Washington College of Law. He has served as a consultant of the UN Office of the High Commissioner for Human Rights, Organization of African Unity/African Union and the South African Human Rights Commission. He is founding editor of the African Human Rights Law Reports and founding co-editor of the African Human Rights Law Journal.

**Their role, in directly examining specific situations and issues in person, provides a very real analysis of human rights principles.**

certain times, such as during elections. Indeed, there are all too many individual examples of governments and other ruling regimes that try to stamp out political and other forms of dissent by constraining or denying the right of their citizens to assemble, protest and associate freely and peacefully. Whilst the holder of this post will not be appointed until March 2011, the mandate of the Rapporteur is clear. It includes considering and reporting on best practices that promote and protect rights, reporting on violations, seeking and receiving information from all stakeholders, and recommending on ways and means to promote and protect rights.

Recent months have also seen the appointment of new experts to existing mandates. There is now a new UN Special Rapporteur on

as the Special Advisor on the Prevention of Genocide to the former UN Secretary-General, Mr Kofi Annan, from 2004 to 2007. Mr Méndez has also chaired the Inter-American Commission for Human Rights.

Throughout his career as a lawyer, he sought redress for victims of torture and other serious human rights violations during Argentina's last military dictatorship. His appointment to this role was advocated for, and supported by, civil society, particularly in Latin America and other Southern countries.

#### **Mr Christof Heyns: UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions**

Mr Heyns is Dean of Faculty of Law, University of Pretoria and the former

In his career, Mr Heyns has specialised in international human rights law and human rights law in Africa. He takes over this mandate from Mr Philip Alston, and has already established his presence, such as in his comments to the media on issues identified by his predecessor.

As with all Special Procedures and Rapporteurs, nations are encouraged to support their mandate and assist them in every way possible. This means, practically, inviting experts into the country or abiding by requests by the experts to visit. Once in-country, the government should do all things necessary to assist – this might be as simple as facilitating meetings with appropriate officials, to providing security. Experts will often – especially after visiting a country – make certain

*Continued to page no.9*

# COMMONWEALTH EMINENT PERSONS GROUP ON REFORMS

Richard Bourne was the first Director of the Commonwealth Human Rights Initiative

Richard Bourne, Senior Research Fellow, Institute of Commonwealth Studies, London

The Commonwealth has set up an Eminent Persons Group (EPG) to look at its future, and it will report in the first half of next year. Will the group make any difference, and will it give a stronger push for human rights?

The group is chaired by Abdullah Badawi, former Prime Minister of Malaysia and it includes people with serious human rights reputations, notably Asma Jahangir from Pakistan, Graca Machel from Mozambique and Judge Michael Kirby from Australia. But those with long memories are not particularly optimistic. This will be the third end-of-decade review of the Commonwealth's future, and not much has changed after the last two. Prime Minister Mahathir of Malaysia chaired an inquiry from 1989 to 1991, and President Thabo Mbeki chaired a second from 1999-2002.

Both in 1999 and again now the inquiries were stimulated by the British government, following pioneering reports from the Royal Commonwealth Society (RCS). A large-scale consultation by the RCS, covering 10,000 people round the world in 2009, disclosed an ignorance and cynicism about the association that worried the government which is its largest funder. At the Port of Spain Summit, in November 2009, the British

bounced fellow leaders into the third inquiry. This time it is independent of governments, though serviced by the Commonwealth Secretariat, and it has been given the same title as the famous group in 1985-6 which sought to negotiate an end to South African apartheid.

The Badawi review has rather loose terms of reference, and it may go beyond them. It is looking at

human rights one of the signature issues for the Commonwealth over the last two decades, was not a direct product of Prime Minister Mahathir's high level review and it is likely that political developments over the next year will also affect the way the Badawi report is treated. It will be formally considered by leaders at their meeting in Perth, Australia in October 2011, and it is known that Australia would like to put a

*"The EPG's remit, to look at the implementation of Commonwealth values – recently reiterated at Port of Spain – should encourage it to make recommendations affecting human rights."*

Commonwealth ministerial meetings, cooperation between official and unofficial organisations in the Commonwealth, and enhancing the impact that the Commonwealth can make in the world. It was not supposed to comment on the Commonwealth Ministerial Action Group (CMAG), the rules committee for the 54 states which has suspended governments after coups and human rights abuse, because CMAG itself was asked to review its purposes and processes. But it will probably comment on CMAG nonetheless.

The famous Harare Commonwealth Declaration of 1991, which made

metaphorical bomb under the Commonwealth Secretariat, to promote greater efficiency. Along with the UK, Australia would prefer to see the Secretariat putting more effort into promoting democracy, recognising that it is too small to do much for development; but this is not a view accepted by many developing countries.

It is quite possible that the EPG, along with CMAG itself, may propose ways of strengthening CMAG - CMAG could get involved earlier in crises; widen its repertoire of actions (now largely restricted to the suspension or non-suspension of governments from

the Commonwealth); acquire a qualified and independent Human Rights Adviser to work with the support of the Secretariat's Human Rights Unit; and, at the least, adopt Chief Anayoku's proposals of 1999 which foresaw CMAG involvement where an election is delayed, the judiciary interfered with, and the media muzzled.

The EPG's remit, to look at the implementation of Commonwealth values – recently reiterated at Port of Spain – should encourage it to make recommendations affecting human rights, for the days of hortatory declarations without implementation should be left behind. Many organisations and individuals have provided evidence to the EPG, answering its questionnaire. The key issue is likely to be *how* its report is considered by Presidents and Prime Ministers when they meet in Perth, Australia, at the next Commonwealth Heads of Government Meeting.

Many feel that, underlying the EPG initiative, are important questions about the degree to which the Secretary-General, now Kamallesh Sharma, will be trusted to take action himself, or how much he would want to; how far the Commonwealth will be a truly multilateral organisation, or whether it is still dominated by British concerns; and whether, at a difficult time for the global economy, this is an organisation that will be given the funds to do half the things it claims to want to do. ■

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*Continued from page no.2*

Several processes such as the Expert Group and the Commonwealth Ministerial Action Group's internal self review were mandated by CHOGM 2009 following widespread calls for the Commonwealth to reform itself. Many of these processes look at how the Commonwealth could strengthen its human rights role. The drastic difference in perspective/of approach in the interim statement by the Expert Group indicates that there may still be some hope for the Commonwealth. ■

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*Continued from page no.5*

8. Mechanisms for grievance redressal and free access to legal remedy must be provided to all those who faced human rights violations in the run up to and the aftermath of the CWG.
9. Given the gross human rights violations related to the 2010 Commonwealth Games and the glaring lack of accountability, participation, transparency and due process, the Indian government, should under no circumstances consider bidding for any other mega sports event such as the Olympics or Asian Games in the future.

When one in three Indians lives below the poverty line and the world's largest number of malnourished children live in India, when 50 per cent of Delhi lives in informal settlements and slums and the majority do not have access to basic services, how can expenditure of

Rs. 400–700 billion on a one-time sporting event in Delhi be condoned?

It is imperative that the Government of India learns from the egregious failures of the 2010 Commonwealth Games and instead focuses on restoring the constitutional principles of democracy, equality and social welfare, and on building true “national prestige,” which would come from ensuring the realisation of the human rights of all Indians.

*HLRN's report: “The 2010 Commonwealth Games: Whose Wealth? Whose Commons?” and press releases on different dimensions of the Commonwealth Games are available at: [www.hic-sarp.org](http://www.hic-sarp.org). ■*

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*Continued from page no.7*

recommendations or communicate directly with a government. In such cases, the onus is then on the government heed and respond to the expert, as well as to take those recommendations on board.

Of course, countries are not obliged to do these things – and some certainly do not. In those, and in fact all cases of human rights abuses, civil society and individuals can petition the appropriate expert. As their mandate describes, they are to seek and receive information from any party who has knowledge of the matters they are concerned with, so that as the expert they can draw attention to the issues. As the UN and, in particular, the UN Human Rights Council acknowledges, these experts are the public face of the Council and civil society should continue to use them as such. ■

## Will CHOGM 2011 Leave a Landmark?

The 2009 CHOGM in Trinidad saw landmark moves to reform the Commonwealth.

To this end CHOGM 2009 mandated the establishment of a Commonwealth Eminent Persons Group on reforms. Improving the Commonwealth's human rights performance is one of the important things that the Group will consider.

CHOGM 2011 in Perth is expected to examine and act on recommendations that the Group is scheduled to make.

In this context, CHOGM 2009 also requested the Commonwealth Ministerial Action Group (CMAG) to take into account the full range of serious or persistent violations of the Harare Principles. CMAG is a Commonwealth body that is mandated to suspend or expel Commonwealth member states that seriously or persistently violate the fundamental values of the Commonwealth, which include human rights. Unfortunately, for a long time CMAG has narrowly interpreted its mandate by acting only in instances where there is an unconstitutional overthrow of government. CHOGM 2011 in Perth will also examine the role of CMAG and act on reports it receives from a self-review undertaken by CMAG.



The Swan Bells, a landmark in Perth, Western Australia  
© iStockphoto.com/ Paula Jones, Canada

## BALLOTS WITHOUT BARS

Pujya Pascal, Programme Officer, Access to Justice Programme (Prison Reforms), CHRI



The recent proposal put forward as part of a government consultation on granting voting rights to prisoners in the United Kingdom has stirred a wave of reactions and responses from law makers and human rights defenders. While some continue to support a blanket ban on voting rights to prisoners, others believe that “each country can decide which offences or category of prisoners should carry restrictions on voting right”. The 140-year ban upheld by the Representation of the People Act,

1983 on voting rights to sentenced prisoners in the UK came under strict scrutiny by the European Court of Human Rights that ruled the law was incompatible with Article 3 of the European Convention on Human Rights, which guarantees the right to free elections. While prisoners awaiting trial and those jailed for contempt of court can vote, convicted prisoners under the Forfeiture Act, 1870 are denied voting rights. This shall soon change and the idea, that politicians and

administrators will take greater interest in their constituency prisons because prisoners have rights and responsibilities, will proliferate.

In India, the right to vote is a constitutional right given to every adult citizen above 18 years, with the vision of maximum participation in governance. However, the Constitution lays down disqualifications – only on grounds of non-residence, unsoundness of mind, crime or corrupt or illegal

practice. In addition, the Supreme Court of India has endorsed the existing restriction under Section 62(5) of The Representation of the People Act, 1951 which disallows persons to exercise their right to vote if they are in prison.<sup>1</sup> The rule clearly states that “no person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police”. However, this disenfranchisement does not apply to those “subjected to preventive detention under any law for the time being in force”.

The guarantee of voting rights to prisoners differs from country to country. India has strict restrictions on voting by both category of prisoners – pre-trial detainees and convicts. In the United States, the electoral prowess of low-income and minority populations suffers because of state laws which disenfranchise felons and ex-felons for life. As of July 2007, 14 American states had banned citizens charged with felonies from ever voting again. Only two states in the United States allow ex-felons to recover their voting rights after

the loss of identity or citizenship. However, in most cases, once a person walks in to prison s/he is practically lost to the world outside. Arbitrary arrests and confinement often lead to large scale denial of civic rights, but one has to bear in mind that pre-trial detainees or under-trial prisoners have a right to be presumed innocent until their guilt is proved. With a huge chunk of the prison population in India awaiting trial, it is about time restriction on voting rights of such prisoners is eased. The right to vote is a well established human right recognised and upheld by the

It is interesting to note that in the 2007 Uttar Pradesh Assembly Elections, out of 785 candidates contesting, 130 had criminal cases pending against them, 18 of which were charged with murder.

This restriction appears flimsy and discriminatory. While there is no restriction on the right to contest elections, there are strict reservations on voting. It is interesting to note that in the 2007 Uttar Pradesh Assembly Elections, out of 785 candidates contesting, 130 had criminal cases pending against them, 18 of which were charged with murder.<sup>2</sup> Nearly 33,316 citizens in Bihar cannot cast their vote and elect their representatives in the recent 2010 Bihar State Assembly elections because they are people in detention awaiting trial. With so much talk about issuing Electoral Photo ID cards to more than 82 per cent of the registered voters;<sup>3</sup> take a moment to think that more than 30,000 adults have been barred from participating in the state’s electoral process this year.

completing their sentence, an idea implemented by more liberal governments in the European Union and Canada. Under America’s federal guidelines, a felony is a crime punishable with a prison sentence in excess of one year. Any crime carrying a penalty of less than one year is defined as a misdemeanor. In eight states and the District of Columbia, those serving misdemeanor sentences may not vote while incarcerated. In Iowa, persons convicted of “aggravated” misdemeanors are prevented from casting an absentee ballot. In the remaining 40 states, individuals may vote absentee.<sup>4</sup>

While confinement in prison effectively means loss of liberty, it does not, in any manner, allude to

Universal Declaration of Human Rights. The will of the people is the basis of the authority of government and is expressed in periodic and genuine elections. Perhaps a rights-based legislation akin to the UK announcement can empower citizens to elect a true representative government that guarantees good governance and upholds the idea of universal adult suffrage. ■

<sup>1</sup> Rule 62(5) of The Representation of the People Act, 1951 under Chapter III: General Procedure at Elections. See: <http://lawmin.nic.in/legislative/election/volume%201/representation%20of%20the%20people%20act,%201951.pdf>.

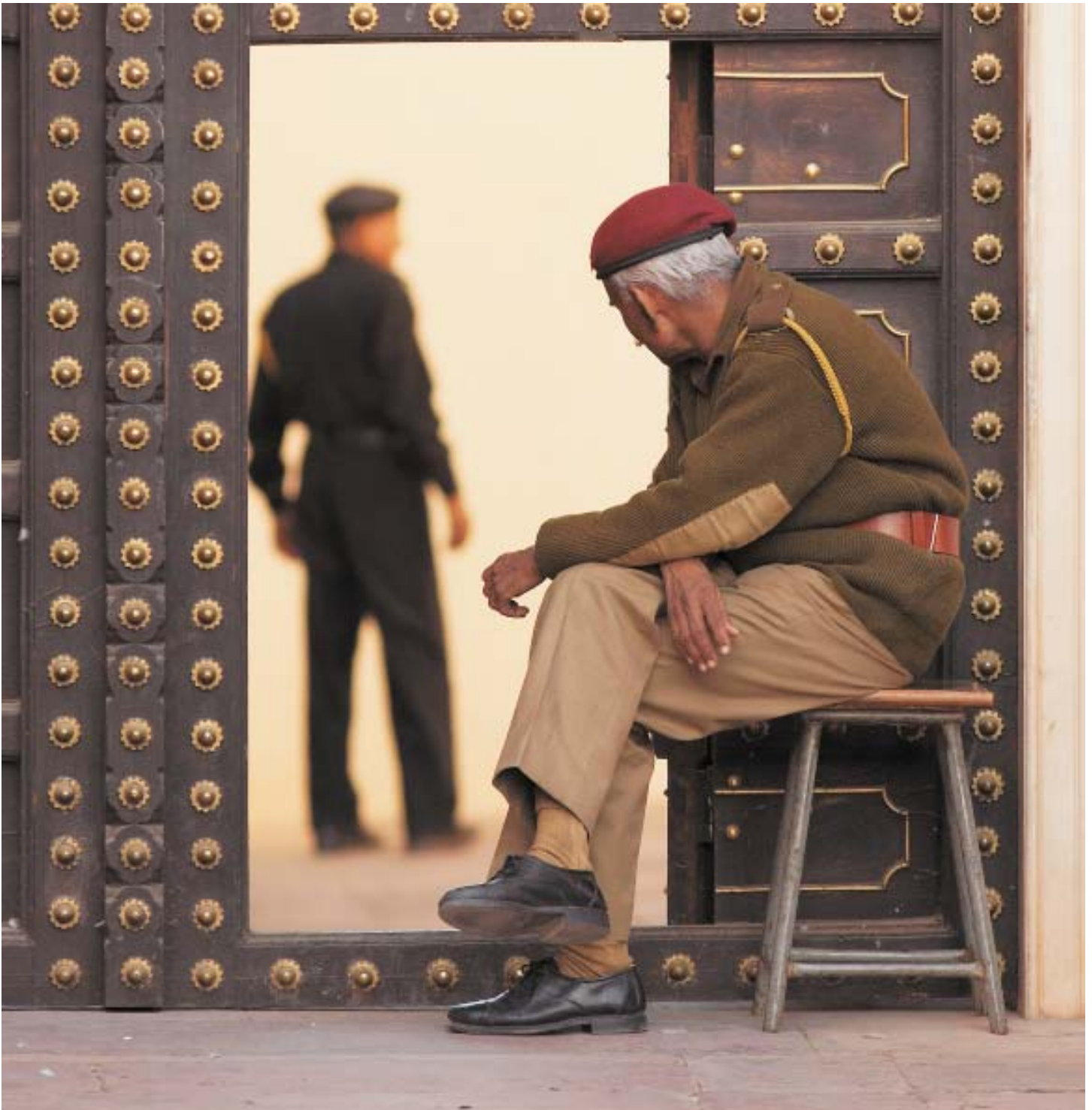
<sup>2</sup> 30 March 2007. “130 criminals, 18 facing murder cases, ready to contest 1st phase of assembly poll in UP”. See: <http://www.indiadaily.org/entry/130-criminals-18-facing-murder-cases-ready-to-contest-1st-phase-of-assembly-poll-in-up/>.

<sup>3</sup> Bihar Assemble Elections. <http://www.thisismyindia.com/bihar/bihar-elections.html>.

<sup>4</sup> <http://felonvoting.procon.org/view.resource.php?resourceID=000286>.

# *LOK POLICE - ACCOUNTABILITY FROM WITHIN: CHRI'S EXPERIMENT TO REACH OUT TO THE POLICE*

Navaz Kotwal, Programme Coordinator, Access to Justice Programme (Police Reforms), CHRI





Protection of human rights is the first and foremost function and duty of any state agency. In fact, it lies at the core of state functioning and is indeed its rationale. While state interface with human rights has several positive attributes it also has negative consequences that have to be guarded against. Among such consequences are: refusal and neglect by/or incapacity of the state to protect human rights and check violation of human rights by its own agencies. In such situations, the police as an arm of the state are both at the cutting edge and at the right vantage point, for preventing rights abuses.

edge of policing across India. The idea was to connect police through the newsletter across states engaged in a variety of tasks, within difficult conditions.

The tabloid encourages exchange of experiences and opinions on policing challenges and practices in order to promote a culture of excellence and enhance capacity and performance. Through this initiative, CHRI hopes to be able to gauge the problems of the constabulary, and of policing in general, and get feedback on the kind of police force they want to be.

Slowly, feedback is coming in. Police are writing to us saying that the initiative is welcome and that they look forward to receiving and reading the newsletter. They say that they want to follow the law at all times but there are difficulties—difficulties of infrastructure and “pathetic” working conditions. They tell us that seniors or supervisors are not always helpful, that there are pressures from above, but that they are getting to know the law and procedures through this medium. Importantly, they appreciate it because it makes them feel that there is someone who cares about them.

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However, being a police officer is not an enviable position. Expectations are always high. High Courts and the Supreme Court in India have passed several judgements in relation to policing and the protection of human rights. The demands are high but the infrastructure provided to meet them is poor. The teaching and training of police have always lacked a context that helps locate rights within the everyday functioning and structure of the force.

Even today, police personnel at the station level remain the most neglected within the force. CHRI tries through several means to reach out to this section. A few months ago CHRI introduced a monthly tabloid called *Lok Police* (People’s Police), specially meant for the constabulary and personnel at the police station level—those who make up the cutting

The project started modestly but now the tabloid goes to police stations across 11 states. The *Lok Police* includes guidelines of the Supreme Court that the police need to follow in theory but have little access to in practice. It carries interviews of police officers, both serving and retired, who have tried different ways to improve policing or reach out to the public. It contains the latest news on what is happening across the country in terms of good and bad practice along with suggestions for reform. Through the articles CHRI gets across the message that policing needs change and introduces ideas of democratic and accountable policing. CHRI does not, however, undermine or make light of the difficulties. CHRI knows that there are problems that need to be discussed, and it is only when these are debated that solutions will be found.

Police leadership in a few states have also welcomed the tabloid. They have offered to disseminate it to all their police stations through their academies. They inform us that if it is distributed from headquarters it will be more likely to be read. Some police chiefs have gone further and requested that extracts of their police manuals be included in the publication, along with an analysis, and CHRI has started doing so.

In a democratic society, it is essential to have a professional police service which is efficient, effective and responsive to the needs of the people, while being accountable to the rule of law. It is imperative to have police that will be governed by principles of impartiality and human rights. Whilst there is not just one path to reach this goal, *Lok Police* is one of those many attempts. ■

# RIGHT TO INFORMATION LEARNING PROGRAMME, 2010

Vrinda Choraria, Senior Project Assistant, Access to Information Programme, CHRI



The Access to Information programme of CHRI hosted their 3<sup>rd</sup> annual Right to Information (RTI) Learning Programme from the 7-16 November 2010. This programme builds on the Indian experience of RTI and attempts to exchange experience and enhance knowledge of RTI among CHRI's network partners from other South Asian countries.

As in other years, nominations were called for from organisations that work on issues of transparency and governance, specifically on right to information. This

year's participants included representatives from Transparency International, Maldives and Sri Lanka, Maldivian Democracy Network, Nagorik Uddyog, Bangladesh, Research Initiative Bangladesh, Inter Cooperation, Bangladesh and Friedrich Naumann Stiftung, Delhi.

**The learning programme is designed to provide exposure on: Principles behind RTI; and Struggle for and implementation of RTI at various levels of governance.**

Initially, participants were introduced to the principles of right to information by way of presentations, brain-storming sessions and discussions with CHRI staff and other resource persons. Following this, more advanced insights were offered on different components listed below:

**Successful civil society advocacy and campaigning for RTI laws:** Exposure in this area was organised through meetings with advocates for RTI who

have been instrumental in campaigning for the Act in India. This exposed partners from Maldives and Sri Lanka, who do not have an access to information law at present and are looking for effective campaign strategies to help get a strong Act passed by their parliaments.

**Orienting bureaucracy to RTI after laws are adopted:** The group met representatives of the Department of Personnel and Training – the Indian central government agency responsible for implementing RTI – and also with senior faculty

to the interiors of the country, where participants could witness the implementation of India's RTI law in remote areas.

The field visits were mainly conducted in the Indian State of Gujarat. Under the Indian RTI Act, the duty of implementation lies on the central government in areas falling under its jurisdiction, while state governments are responsible for implementing the Act in their respective states. While the central government has greater funds at its disposal and can afford better

governmental organisations (NGOs) in Gujarat. Interactions took place on site, at offices in the field, enabling participants to observe how offices with extremely limited resources were carrying out their obligations under this Act. Innovative yet simple information dissemination methods like painting information on the exterior of office walls in an easy-to-understand form, in the local language greatly interested the participants. The group also met higher state-level officials such as State Chief Information Commissioners (present and former) and other Information

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members from the Institute of Secretariat Training and Management – one of the agencies responsible for training Indian central government officers on RTI. The meetings familiarised the group with the technical aspects of implementing the RTI Act – such as formulation of rules to operationalise the Act and training modules for acquainting government officials with RTI. Participants from Bangladesh, which is now at the initial stages of implementing its RTI Act, benefited from these meetings. The participants now intend to use publications by these government training organisations as resource material for their advocacy and training work back home.

**Broad implementation of RTI laws:** The group travelled from New Delhi

infrastructure facilities to execute the Act, state governments often lack proper resources and means. As a result, implementation sometimes suffers. This exposed participants who had witnessed the Indian central government's efforts in New Delhi, to implementation in difficult conditions in the states by state governments. CHRI works in the State of Gujarat, closely monitoring implementation there, and has developed partnerships with many local organisations. These provided the participants with civil society perspectives on state-level implementation.

Between 11 and 14 November, the group met with various government functionaries and elected representatives as well as local non

Commissioners to discuss the role of Information Commissions in the implementation process and learn about speedy disposal of cases before the Commissions.

The programme ended with a debriefing session on the final day. Feedback from participants indicated that the programme was an enriching experience for all. While it exposed participants to the successes and difficulties of RTI in India, it provided an opportunity for CHRI to update its knowledge on RTI in South Asia and enhance its programme in the region to suit the specific needs of its partners.

CHRI looks forward to hosting this programme again next year and hopes that more countries in the region realise the right to information. ■

# 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 54 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.

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](mailto:info@humanrightsinitiative.org). To know more about us visit us at [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org).

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