



# CHRI

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## NEWSLETTER

**Can the Commonwealth Become a Normative Power It Wants to Be? Reflections on Leadership and Closer Links with Civil Society**



[For private circulation only]

Civil Society and the Commonwealth: Reaching for Partnership

Committee of the Whole: Meeting with Accredited Commonwealth Organisations

Will the Commonwealth Finally Step Up in Sri Lanka?

CHRI Intervenes for Human Rights and Good Governance at the 2015 Chogm

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

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# Can the Commonwealth Become a Normative Power It Wants to Be? Reflections on Leadership and Closer Links with Civil Society

By Uladzimir Dzenisevich



In 2009, the Royal Commonwealth Society did a Commonwealth-wide survey to gather views about the association. The results suggest that the Commonwealth is hardly known amongst the inhabitants of its 54 member states and is having trouble maintaining its relevance in global politics. In a multi-polar world, relevance is of the utmost importance to holding together and

being an influential player amongst the community of nations. Earlier, the Commonwealth played a significant role in ending apartheid and so had significant moral capital to overcome being characterised as little more than a remnant of a dicey colonial past. Fast forward twenty years and the Commonwealth finds itself questioned for its inherent usefulness as a grouping

of member states who already have other multiple natural, regional, economic and military affiliations. Any bid to regain the power and influence it once had, raises the question: *Can the notion of normative power illuminate a way forward for an organisation premised on little more than professed values and principles?* Can normative power be the means to strengthen human rights, good

governance and democracy in the Commonwealth countries?

Look at the European Union. Initially envisioned as an economic bloc (and in the dreams of some, a military alliance), the culturally empathetic European Union has evolved into a normative power. Its normative influence and economic and diplomatic strength bolster each other. With this, it shapes global politics through the diffusion of norms and values, rather than gunboats.

The Commonwealth, by contrast, houses 53 member states with strongly differing cultures and ideologies, has no military backing, negligible economic heft, no harmonising legislative architecture, and central institutions (the Commonwealth Secretariat, Foundation and the Commonwealth of Learning) that run on contributions that are apocryphally said to amount to less than the budget of the UN canteen. Yet it gamely aspires for global influence and stature.

The diversity of the Commonwealth is, indeed, stunning. Member states range from tiny Nauru to population-rich India and Nigeria. Besides, a handful most of its membership are developing states. They have arrived at their core values of democracy, rule of law and human rights put down in the 2013 Charter, from varied paths

of political evolution, through military coups, dictatorships and bloody civil strife. Values and standards differ. Still, albeit imperfect, all are democracies now. And all are signed members to the Club.

The Commonwealth likes to say it works through consensus, but there are tensions. The remembrance of past political domination, racial discrimination, economic exploitation and present industrial disparity and exclusion, create continuous rip tides of dissonance. The earlier assured ascendancy of those who foot the bill for its continued functioning is now challenged by pushback from others flexing collective muscle in its councils.

With little else to hold itself together, or to offer its inhabitants or the international community, the Commonwealth must fall back for its legitimacy on what it calls its fundamental political principles.

Though some would argue that the Charter communiqués and declarations amount to little because they are not legally binding they carry mystique and potential precisely because they are voluntarily entered commitments to uphold higher moral and ethical standards arrived at through freedom of choice rather than for reasons of homogenous culture, military compulsions or business

associations centred around profit and loss.

To propel it forward it now has a fine normative frame, a language widely spoken across all its hugely diverse peoples, strongly similar systems of government and a system of law that straddle jurisdictions. The Commonwealth also houses strong civil society groups who have long linked with each other across borders to pursue common interests. The majority of its member states also have strong aspirations to ascend out of poverty.

We can appreciate, that for an association such as the Commonwealth, without conventional enforceable powers, it is heavily reliant on state cooperation.

Without state cooperation and the right leadership it is stalled in this mission. Given that the states are the mandators of the Secretariat and that their tensions and conflicting interests often pull the organisation in different directions, it is of considerable importance that they work in cooperation with the official Commonwealth. It is equally important that the Commonwealth exercises tangible and visible leadership in order that the association achieves its potential as a whole. Put simply, leadership is required to overcome the lack of cooperation.



Photograph by [www.thecommonwealth.org](http://www.thecommonwealth.org)

At the same time, for the Secretary-General to be in service of the member states does not mean to be slippery and apologetic for the lack of consensus, but to lead. The quest for consensus cannot be a survival strategy. The Secretary-General's job is not to seek the lowest common denominator among the member states, but to overcome it – to uplift everyone, to capacitate the stragglers, hold them up and articulate the vision that emerges as an outcome to the international community. As a representative of a value-based organisation the Secretary-General should work tirelessly to transcend the interplay of national politics, competing interests and conflicts to uphold this value system.

With the possibility of disputation so much at hand, the importance of a steady hand at the tiller and leadership becomes vital. And the

Secretary-General, as the elected representative and face of the Commonwealth, is at the levers of its action or inaction.

For this to succeed, the Secretariat should embrace and strengthen its ties with its ideal partner and a natural ally – civil society organisations (CSOs) in member countries. The Commonwealth's civil society groups – organised active citizens in free association with each other – have the potential to further its mandate based on moral rights and turn the Commonwealth into a force for good, even as some of their governments posture in counterpoise to one another. This is only possible if the Commonwealth champions their right to exist and flourish and member states nationally ensure the normative and real basis for them to blossom and engage.

For in every Commonwealth country, civil society are those people, who believe in Commonwealth values and its Charter and who, therefore, should be privileged in consultations and access to Commonwealth resources. Being in the service of governments does not preclude the Secretariat from consulting with people. After all, since we are all democracies now, people are sovereign and their voice must be assured. The Secretariat should monitor where this voice is being tamped down, where the Charter is being disobeyed, and channel its attention and its resources there. As CHRI's report to CHOGM this year argues, the Secretariat has made some hesitations to engage civil society, however CSOs remain a vital and underutilised resource despite being the richest one available.

In a world driven by conflict, when every sceptic and power broker would have us believe that might is right, we need this voice to articulate alternatives based on human rights to the development of the world. The Commonwealth needs to step up and embrace a normative power approach to rethink its vision and place in the world.

CHRI has repeatedly said that the Commonwealth is about human rights or it is about nothing at all. And it is not human rights that need the Commonwealth; the Commonwealth that need human rights, rule of law and democracy, if it is to survive.. ■

# CHRI Urges the Lifting of the State of Emergency and Restoration of Constitutional Rights and Freedoms in the Maldives



Photograph by [www.boomlive.in](http://www.boomlive.in)

The Maldives President Yameen Abdul Gayoom declared the state of emergency on November 4, 2015, citing national security concerns. The measure was short lived and was revoked on November 10 amid global outcry and condemnation. The state of emergency suspended a number of civil and political rights and freedoms and specifically targeted fair trial rights of the then Vice President, who had been arrested for high treason at the end of October. CHRI issued the following statement regarding the declaration of emergency, questioning the necessity of this extreme measure, as well as its proportionality under the Maldivian Constitution and international law.

The Commonwealth Human

Rights Initiative (CHRI) notes with deep concern the declaration of a state of emergency in the Maldives. We condemn the curbs on freedom from restraint, right to privacy, right to strike, freedom of assembly, freedom of movement, freedom from unlawful arrest, detention and imprisonment; and freedom from search and seizure without unreasonable cause. CHRI joins the Commonwealth and its member states who have questioned the necessity of a state of emergency and called for its immediate lifting.

A state of emergency is an extreme measure resorted to in exceptional circumstances. Article 4 of the International Covenant on Civil and Political Rights lays down the

threshold as a “public emergency which threatens the life of the nation”. CHRI seriously questions whether the current situation meets the international law threshold, and holds that the nationwide declaration is disproportionate to the alleged threats. The Presidential decree justifies the emergency on the ground of a “serious threat to the people and to national security” with references to the recovery of arms and ammunitions from two locations, the explosion on the Presidential speedboat, and “definitive information of plans by some [our emphasis] individuals to use these explosives and weapons”. We note that these threats are specific, limited in nature, and can be addressed without resort to measures that affect the entire population across all islands of the archipelago, and rights and liberties of the entire population.

The circumstances also support reasons for strong doubt. The declaration of emergency came two days before a mass protest rally against “unjust and autocratic rule” was to take place today, 6th November. There have also been demands for the immediate release of all political prisoners including party leader and former president

Mohamed Nasheed, following the UN Working Group on Arbitrary Detention decision that his imprisonment is unlawful.

On November 5, in an abrupt vote, the People’s Majlis impeached the Vice President amidst accusations about lack of due process, deepening the political crisis. Vice President Ahmed Adeb was arrested on suspicion of being behind the presidential speedboat explosion on 24 October. As part of the declaration of the state of emergency, the period given to the Vice President to prepare for a Majlis hearing on his removal was reduced from fourteen to seven days – a move entirely unrelated to threats justifying the state of emergency. His right to a fair trial has been further jeopardised by the Supreme Court suspending his lawyer Hussain Shameem and temporarily revoking his license. This bears unhappy resemblance to former President Nasheed’s controversial trial and imprisonment

Media reports also point that Maldives Broadcasting Corporation has warned private television stations that broadcasting licenses will be suspended if they air content deemed to pose a threat to national security. This not only attacks the freedom of the press, but also is an illegal attempt to limit freedom of expression which specifically is excluded from restriction even in



Photograph by www.nirapadnews.com

times of emergency as per Article 255(b) of the Constitution.

CHRI Director, Ms. Maja Daruwala, states, *“In its totality, the current situation raises grave doubts about the legitimacy of the reasons behind the declaration of a state of emergency. This can easily give rise to long lasting political alienation and widespread social unrest. The circumstances ground no justification for a blanket injunction on the enjoyment of many of civil liberties, rights and freedoms. CHRI fears that state agencies may use sweeping powers of arrest to stifle all legitimate expression and dissent and lead as it has in the past to excess use of force with impunity built in”.*

**CHRI urges:**

- The People’s Majlis and the President to immediately revoke the declaration of the state of emergency and restore all

constitutional protected rights of Maldivians.

- The Maldives Police Service to show utmost restraint and uphold rule of law and rights and freedoms of Maldivians.
- The Commonwealth Secretariat to exclude the Maldives from the Councils of Commonwealth until such time the state of emergency is lifted and constitutional rights are fully restored.
- The UN Human Rights Committee, Office of the High Commissioner for Human Rights and Special Procedures of the Human Rights Council to monitor the situation, review actions taken and take appropriate measures to press the government of the Maldives to restore the constitutionally guaranteed rights of its citizens. ■

# Committee of the Whole: Meeting with Accredited Commonwealth Organisations

By Bert Tollhurst



Photograph by

Leaders of Commonwealth countries will meet later this month in Malta. The agenda – and indeed many of the outcomes – of the biennial gathering are predetermined a month or so in advance by a ‘Committee of the Whole’ comprising all 53 member states, represented by senior civil servants. The ‘CoW’ as it is known met at Marlborough House in London (home of the Commonwealth Secretariat) in October to consider, among

other things, an early draft of the communique – an important document reflecting the priorities of member states which sets the direction and mandate for the Secretariat over the following two years.

The Commonwealth Human Rights Initiative, supported by nine other organisations, presented the following statement to the CoW, calling on leaders to prioritise an enabling environment for civil

society organisations in the context of deteriorating conditions for civil society in many parts of the world. It also suggests a series of practical reforms to make official business of the Commonwealth, including ministerial and other high level meetings, more transparent and accessible to civil society groups.

The undersigned group of accredited Commonwealth organisations welcomes the opportunity to make this statement

to Heads of Government through the Committee of the Whole. The modern Commonwealth is much more than a political grouping of states. In its fullest sense it is a “Commonwealth of the people” – the term used by the Eminent Persons Group in its report for the 2011 CHOGM, recognising that the “wealth of the association lies in the common bonds of the people”. The presence at its heart of a healthy and active civil society is key both to a full understanding of the Commonwealth and to its success.

Civil society in its many guises – NGOs, faith-based organisations, social movements, community groups, academic institutions, voluntary associations, professional societies, sporting and recreational clubs etc. – operates from local grass roots to international level, representing a kaleidoscope of priorities, interests and concerns. Throughout the world and particularly in the Commonwealth, civil society has played a key role alongside governments in addressing societal challenges and in driving progress.

The Commonwealth is strongest when its constituent parts – member countries, the inter-governmental Commonwealth institutions and civil society organisations – work in partnership towards common goals. As the Commonwealth

grapples with the global challenges of today – in particular climate change, extremism, migration, conflict, health security, poverty, inequality and the fallout from the global economic crisis – the role of civil society is as important as ever, in connecting people, forging new thinking and building resilience. A vibrant and enabled civil society is integral to building peaceful, just and economically sustainable societies.

Collaboration and partnership between the intergovernmental structures of the Commonwealth and civil society has long been recognised as intrinsic to its wellbeing. That is why, so imaginatively, the Commonwealth Foundation was established 50 years ago alongside the Commonwealth Secretariat. Today, within the broader spectrum of Commonwealth civil society, the 80+ Accredited Organisations of the Commonwealth play a distinctive role, bringing to bear their specialist knowledge of Commonwealth capacities and procedures and their public commitment to strengthening the association and its values, fostering Commonwealth identity and promoting cooperation for development.

### Adding Value

The theme of this year’s CHOGM

is “adding global value”. The Commonwealth is undeniably a richer, fairer and more vibrant space when civil society is empowered, adding value in multiple fundamental ways:

- **Agility:** adapting and responding quickly to changing events;
- **Commonwealth values:** working alongside governments and all stakeholders to realise the common values set out in the Commonwealth Charter.
- **Democracy:** a champion of democracy, increasing civic interest and participation in democratic processes;
- **Empowerment:** unlocking and enhancing human potential;
- **Expertise:** bringing specialist knowledge and skills from every field to improve decision making and shape policy;
- **Good governance:** a watchdog on power, holding institutions to account and demanding transparency and accountability;
- **Human rights:** a promoter and multiplier of rights and freedoms;
- **Innovation:** an engine room for ideas, generating new thinking and creative solutions to problems;
- **Local reach:** sounding-boards for government, improving

understanding of policy impact on different groups and communities;

- Representation: giving voice to diverse and marginalised groups and broadening public debate;
- Service provision: meeting diverse needs and interests, including education, health, culture, sport, food and shelter, for mainstream society and those at its furthest reaches;
- Social cohesion: binding societies together by creating connections and understanding across social boundaries and between government and citizens.

## The Commonwealth and Civil Society

Commonwealth leaders have repeatedly emphasised the contribution of civil society, most notably in the Commonwealth Charter. Chapter 16 recognises: the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including the freedom of association and peaceful assembly, and in achieving development goals.

Similar sentiments are expressed in the Latimer House Principles (2003); Aberdeen Agenda: Commonwealth principles on good practice for local

democracy and good governance (2005); Trinidad and Tobago Affirmation of Commonwealth Values and Principles (2009); and the Perth Declaration on Food Security Principles (2011).

The Commonwealth Charter also places a specific emphasis on freedom of expression (chapter v.), and on human rights more broadly (chapter ii.), as core values of the association. The freedoms of expression, association and assembly are rights central to civic activity, enabling people to mobilise for change. Most core international human rights treaties include provisions directly relevant to the protection of public freedoms, and all refer to the principle of non-discrimination.

## Civil Society under Threat

Civil society is recognised as a powerful catalyst for progress. Where civic activity thrives, so do economies and societies. But hard won progress is being undermined by threats to civic space and new cultural norms that strike at the roots of community and togetherness. Despite the broad recognition of the value of civil society by the Commonwealth, in its Charter and through the various statements of its leaders, the conditions for civil society are deteriorating in many parts of the world.

This deeply worrying trend is manifested in the introduction of laws that restrict the freedoms of assembly, association and expression, including aspects of antiterrorism legislation; in onerous new requirements for the registration and regulation of civil society organisations, consuming their resources and limiting their effectiveness; in the banning of organisations or activities; in controls imposed on the receipt of funding support from Commonwealth and other overseas partners; in hostile rhetoric and other forms of harassment and intimidation; and in physical attacks on individuals and organisations, in some cases resulting in imprisonment or death.

## Recommendations

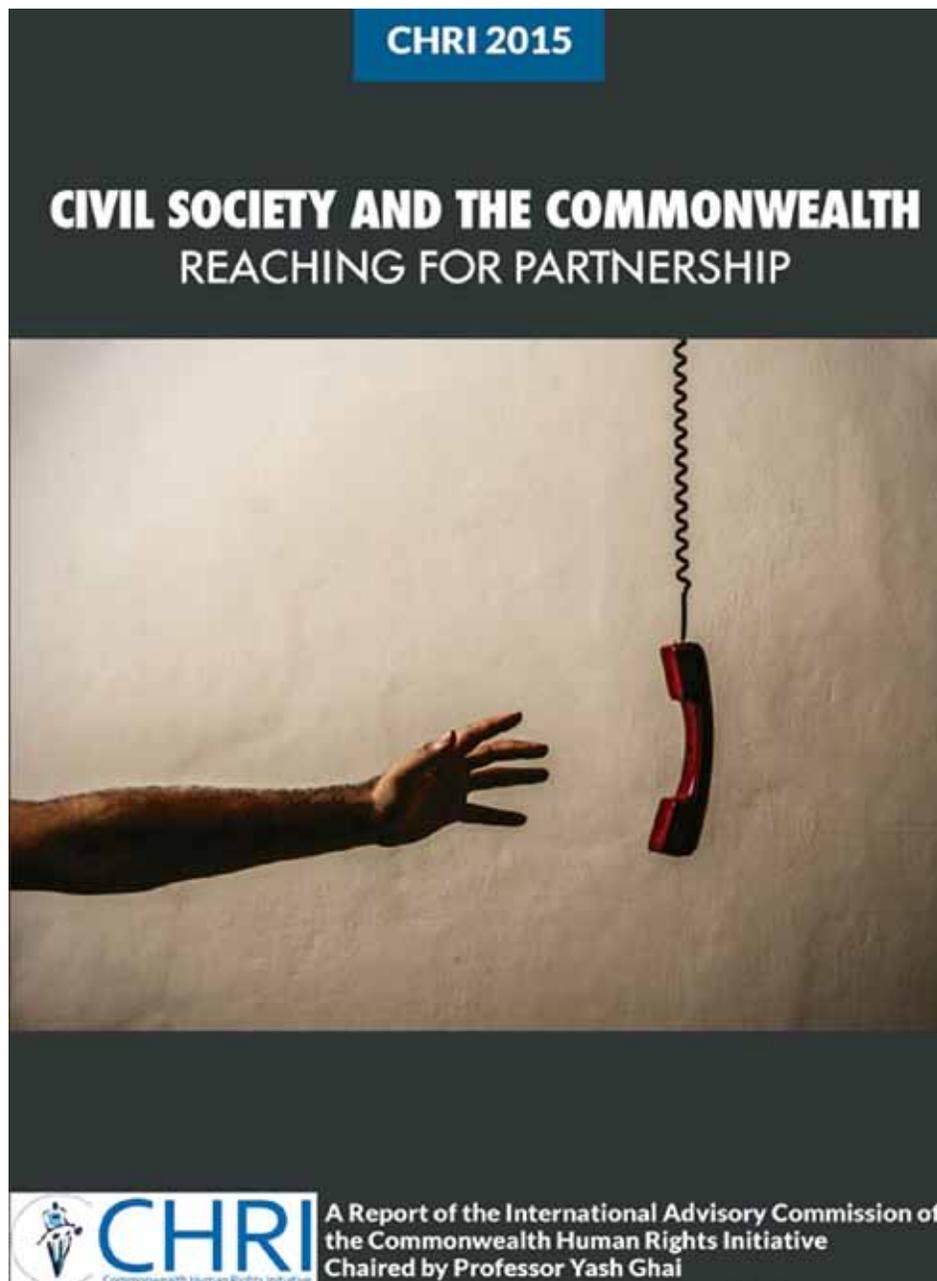
1. *An enabling environment for civil society:* We urge you as representatives of Commonwealth governments to prioritise an enabling environment for civil society, by taking the following actions:

- Establish an enabling legal and regulatory environment for civil society organisations, which recognises their independence and right to carry out their peaceful work, within the confines of established law, without fear of harassment, reprisal, intimidation or discrimination.

- Pursue policies, with appropriate legal and financial provisions, to support the creation and operation of civil society organisations of different kinds, using them where feasible as vehicles of delivery for public services.
  - Respect, protect and fulfil the rights to freedoms of association and assembly, as well as the freedom of expression, including the right to information, in accordance with Commonwealth values and international human rights standards.
  - Take all necessary measures to ensure that all sectors of society – including women, youth and vulnerable groups – are able to exercise their right to impart and access information without discrimination, including through the media and information and communication technologies (ICTs).
  - Take proactive measures to promote the effective participation of civil society, including the marginalised and discriminated, in the design and execution of development strategies.
  - Institute and implement measures to distribute economic and political power more widely.
2. *Civil society engagement in Commonwealth official business:* All ministerial and other high-level meetings of the Commonwealth, including CHOGM, should make appropriate arrangements for access of Commonwealth Accredited Organisations, in recognition of their accredited status and specialist expertise. Specifically, Commonwealth Accredited Organisations should be:
- Eligible to attend meetings (apart from closed sessions), as observers.
  - Given sufficient advance notice of meetings, access to (non-confidential) background papers and agenda, and relevant details for participating.
  - Invited to make technical contributions in the form of written or oral submissions, according to particular areas of expertise, with mechanisms to submit papers in advance via the Secretariat.
  - Able to participate fully in any official fora held in parallel with the main meeting, with opportunities created for any such fora to report formally to the main meeting.
  - Advised of meeting outcomes, particularly the decisions of CMAG, by which they are expected to abide.
  - Provided with appropriate arrangements for gaining access to member state delegations at CHOGM and other high-level Commonwealth meetings.
- Invited to participate in official follow-up meetings and consultations with member governments after such events – particularly CHOGM – facilitated by the Secretariat.
3. *Ongoing dialogue with Commonwealth Secretariat:* The creation of a partnerships team within the Secretariat is a welcome step. Recognising the importance of regular and meaningful engagement between the Commonwealth Secretariat and Accredited Organisations, the Secretariat should:
- Continue to facilitate regular meetings and consultations with Accredited Organisations, affording all an equal status, and making special arrangements to facilitate the engagement of those not based in London.
  - Publish a partnership strategy with a statement of principles for cooperation.
  - Deepen its knowledge of the capacity of Accredited Organisations to contribute to its work, identifying and making known opportunities for them to act as consultants and executing agencies in Secretariat programmes. ■

# Civil Society and the Commonwealth: Reaching for Partnership

By Strategic Initiative Programme, CHRI



Set against the backdrop of closing civil society space across the globe, CHRI's 2015 report

looks at the challenges facing the Commonwealth as an association of 54 member states and focuses

on the Commonwealth Secretariat as the central intergovernmental agency with primary responsibility for civil society (according to the Eminent Persons Group report)

In several declarations and documents culminating in the Commonwealth Charter of 2013, the Commonwealth Heads of Government have noted the importance of civil society and its role in upholding the values of the Commonwealth - democracy, human rights, equitable development and the rule of law. The Commonwealth Secretariat as the central executive body of the Commonwealth association took several steps, particularly recently, to improve engagement with civil society: setting up a Partnerships officer; preparing a paper on a framework for collaboration and consultations (still awaiting approval from the Heads but implementation has begun); carrying out consultations with civil society; and reviving the digital information sharing platform, Commonwealth Connects. However, our survey (see below for further information) and the interviews we conducted demonstrate that civil society is still an under-used and rich resource.

Civil society perspectives on the Commonwealth Secretariat are mixed. Of those who rated it, 24% described their engagement as excellent, 34% as good, 18% as average and 21% as poor. Civil society is diverse and the type of engagement desired is also different – some may require technical assistance, some support and some are happy with the kite mark that the association with the Commonwealth brings. Others

well as the enduring problems in the relationship. Bringing new significance to the Commonwealth must be a collective effort; this report offers recommendations to all three groups of stakeholders (member states, the Commonwealth Secretariat and civil society) in the partnership with a view to building a more robust and productive relationship between the Secretariat and civil society.

regional associations to major international CSOs such as the International Service for Human Rights and Privacy. In addition to the high number of London-based organisations, responses were registered from CSOs based in the largest Commonwealth countries, such as Nigeria and India, as well as some of the smallest, including Malta, Rwanda, Fiji and Belize. Of these respondents, 37% work in human rights, 18% in governance,

are interested in having an impact on policy and this is the type of engagement we concentrate on. Our survey found that only 26% of organisations felt they had an impact; 34% said they did not and 39% were unsure. Of the accredited (recognised) organisations, 42% said they had not affected policy.

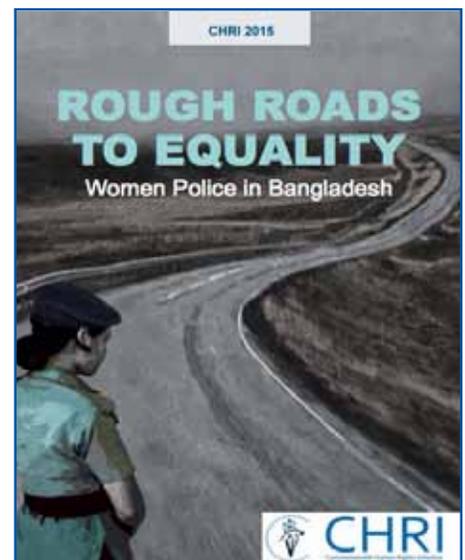
This report offers a framework for revitalising the still not fully developed relationship between the Commonwealth and civil society. It examines the engagement, highlights the gaps in engagement and presents an overview of the landscape of engagement as it stands. It identifies key new initiatives by the Secretariat as

## SURVEY

As part of this report, CHRI conducted a survey of civil society organisations working in Commonwealth countries between February and June 2015. More than 300 civil society organisations (CSOs) were contacted, and 92 valid responses were received. Of these, 34 are accredited organisations and represent 44% of all organisations accredited to the Commonwealth.

The respondents reflect the diversity of civil society in the Commonwealth, running the spectrum from professional associations to activist groups. They range in size from local and

18% in development and 15% in the educational and cultural field. In terms of organisational activities, 62% of respondents work in advocacy, 47% in training, 36% in research and 36% in policy. ■



# Will the Commonwealth Finally Step Up in Sri Lanka?

By **Trinanjan Radhakrishnan**



Photograph by [www.dailynews.lk](http://www.dailynews.lk)

The 2015 edition of the Commonwealth Heads of Government Meeting (CHOGM), which was held in Malta from November 27 to 29, marked the 50th anniversary of the Commonwealth's reincarnation as an intergovernmental association. In the five decades since the modern Commonwealth, the association has displayed its fortitude in times of crises; its firm opposition to apartheid in South Africa and the refusal to be complicit in the political oppression in Zimbabwe are some shining examples of its moral courage. However, in recent years the Commonwealth's credibility has been bruised and its influence has diminished.

One of the recent issues damaging Commonwealth credibility was the humanitarian crisis in Sri Lanka after the cessation of armed conflict in 2009. In the following years, deafening silence in the wake of the country's sharp turn towards authoritarianism, and its disregard for rule of law, further eroded confidence in the Commonwealth. Against the backdrop of mounting international criticism for gross violations of human rights, CHOGM 2013 was held in Colombo amid protests, non-attendance and even boycott by some member states. While then President Mahinda Rajapaksa tried to paint a picture of paradise in Sri Lanka, his government had already

placed severe restrictions on the media, including on foreign news agencies, and had banned all forms of protests in the country for the duration of the CHOGM.

Fast-forward to 2015 and the political landscape is markedly different. Rajapaksa has been soundly defeated, first in the presidential election in January, and then during his bid for Prime Minister in the August parliamentary elections. The most significant factor defeating Rajapaksa in the presidential election was the en masse Tamil and Muslim voters who cast their ballots for Maithripala Sirisena. The newly formed government, led by President Sirisena and Prime Minister Wickramasinghe, has made conciliatory public pronouncements on the need for national reconciliation. In comparison to the previous decade under Rajapaksa, the current administration's admittedly symbolic gestures have rekindled hope and optimism, especially within the minority communities, the Tamils and Muslims of the North and East.

Another issue that has occupied the public and political discourse

since the inception of the national government is the Office of the High Commissioner for Human Rights' Investigation of Sri Lanka (OISL). The OISL was established in March 2014, in pursuance of Human Rights Council (HRC) resolution 25/1, to undertake a comprehensive investigation into allegations of gross violations of human rights by the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE). Rajapaksa and his administration had repeatedly attempted to scuttle UN efforts, including the intimidation of witnesses, visa denial to UN investigators, and lashing out at the OHCHR. In

The OISL report was released during the recently concluded 30th session of the UN HRC and brought to the fore horrific levels of violations and abuses that have occurred in Sri Lanka, including "indiscriminate shelling, extrajudicial killings, enforced disappearances, harrowing accounts of torture and sexual violence, recruitment of children and other grave crimes." But the crux of the report lay in the recommendations set out for the Government of Sri Lanka, in order to establish accountability, justice and non-recurrence. Foremost amongst the recommendations was the establishment of a hybrid court, integrating international

terms of impartial and independent investigations. Indeed, most if not all of the previously commissioned inquiries since the end of the war have either not been made public or have completely ignored or acquitted crimes committed by government forces.

What emerged in the aftermath of the report was a draft resolution co-sponsored by Sri Lanka which, albeit milder in language than desired, did manage to incorporate much of the OISL recommendations. By and large, the Sinhalese south has perceived the proposal for the establishment of a "Sri Lankan judicial mechanism" as a victory

**"Sri Lanka's domestic legal framework is inadequate to deal with international crimes of this magnitude—in the past, conflict-related crimes were prosecuted under regular criminal law, and past governments' have had appalling track records in terms of impartial and independent investigations."**

stark contrast, Sirisena's presidency has been accommodating—or at the very least engaged—with the UN HRC. As a result of the government's assurances to the world human rights body and Foreign Minister Samaraweera's frenetic international diplomacy, the release of the report was deferred by six months in order to give the new administration time to politically secure itself.

judges, prosecutors, lawyers and investigators to account for war crimes and crimes against humanity committed since the end of the ceasefire in 2002. Sri Lanka's domestic legal framework is inadequate to deal with international crimes of this magnitude—in the past, conflict-related crimes were prosecuted under regular criminal law, and past governments' have had appalling track records in

of the country's sovereignty. The ambitious agenda for Transitional Justice has found resonance amongst moderate Tamils and human rights defenders in Sri Lanka. With all vectors pointing towards the genuine possibility for bringing about accountability, justice and reconciliation, the Government of Sri Lanka must seize this opportunity and redress victims of human rights abuses, roll



Photograph by [www.justiceinconflict.org](http://www.justiceinconflict.org)

back decades of impunity and work towards a political settlement to ensure non-recurrence. During the CHOGM in Malta,

the Commonwealth seems more acceptable to the populace. Yet in the final communique of the CHOGM 2015, under “country

and good practices of Transitional Justice, the Commonwealth and its Human Rights Unit could contribute by addressing Sri Lanka’s past, including truth, justice, reparations and guarantees of non-recurrence.

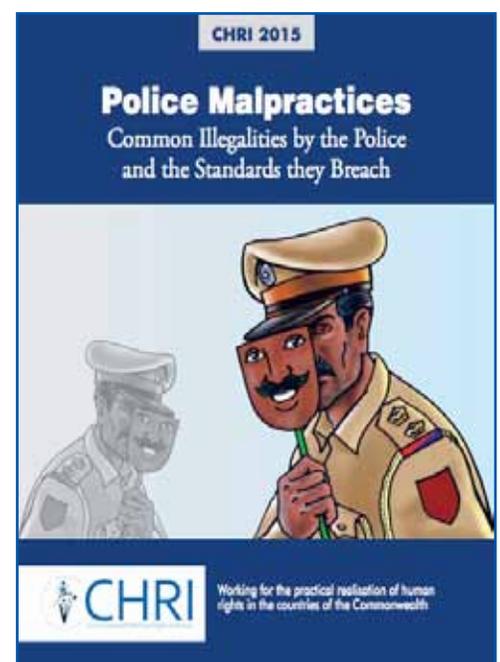
The opportunity to assist Sri Lanka could revitalise the Commonwealth from its slumber of earlier years. With the appointment of the first woman Secretary-General and Malta as the Chair-in-Office for the next two years, the Commonwealth now has a unique opening to restore its place on the global stage.

(This article first appeared in openGlobalRights on 14 December 2015) ■

## “The opportunity to assist Sri Lanka could revitalise the Commonwealth from its slumber of earlier years.”

the Commonwealth had a golden opportunity to start meaningfully contributing to the process and mechanism of Transitional Justice in Sri Lanka. This is especially true after the Government of Sri Lanka played hard-ball at the negotiating table in Geneva to change the language of “international” judges, prosecutors and investigators to “Commonwealth and other foreign judges”. Since the majoritarian Sinhalese public discourse viewed the notion of an “international court” as an affront to the nation’s sovereignty, the idea of

situations”, Sri Lanka was not mentioned at all. At best, the Heads made broad statements on the need to implement the recommendations of the Commonwealth’s report of 2007, *Civil Paths to Peace*, without any articulation of its specificities or the roadmap. Yet the Commonwealth’s member states have dealt with transitions from armed conflict and political violence into peaceful and democratic societies. By rekindling efforts such as the 2013 Commonwealth Roundtable on Reconciliation and bringing together the experiences



## CHRI Intervenes for Human Rights and Good Governance at the 2015 CHOGM



CHRI's representatives participated in several meetings in the lead-up to November's Commonwealth Heads of Government Meeting in Malta, including the People's Forum, the new Women's Forum and the Commonwealth Forum of National Human Rights Institutions. CHRI also successfully co-hosted a side event, "Justice and the SDGs: Promoting an Inclusive Approach to Participatory Policy Making." The event was co-hosted by CIVICUS and several Malta-based organisations (Aduitus Foundation, Integra Foundation, Jesuit Refugee Service Malta, Malta Gay Rights Movement and the Platform of

Human Rights Organisations), with financial support from the Open Society Justice Initiative.

Participants in the side event identified a number of challenges stemming from the Sustainable Development Goals (SDGs), which were adopted in September. These include the sheer scope and ambition of the agenda, which covers areas including poverty, health, education, environmental sustainability and human rights and justice; the challenge of finding adequate metrics to measure progress towards the goals and collecting data towards that end;

and the difficulty of holding governments accountable and making them work actively to achieve the goals.

At the same time, many expressed a commitment to work with other civil society groups, the public and governments to achieve the SDGs—particularly Goal 16, which calls on states to “promote peaceful & inclusive societies for sustainable development, provide access to justice for all & build effective, accountable & inclusive institutions at all levels.” In some countries, such as Kenya and South Africa, civil society is already working with governments to formulate national action plans for human rights and access to justice in line with Goal 16. Other civil society representatives present expressed scepticism over the willingness of governments to actually take on the SDGs.

The participants also looked inwards, towards the civil society sector itself. They noted that far greater support from the grassroots had to be generated to help realise the goals. This engagement with society was also identified by some as important to the legitimacy of civil society; one of the common government criticisms of the sector is that it is an illegitimate,

elite project. The need for greater solidarity and communication among civil society groups was identified as a priority.

CHRI's representatives also successfully participated in a number of official events in the lead-up to the Heads of Government Meeting. CHRI was the only civil society organisation in attendance at the Commonwealth Forum of National Human Rights Institutions and made several important interventions at the meeting. CHRI's points regarding strengthened collaboration with civil society were incorporated into the St. Julian Declaration on Climate Change issued by the Forum. Our concerns regarding human rights defenders and civil society were incorporated into the CFNHRI Outcome Statement, which noted the trend of closing space for civil society, reaffirmed the importance of rights of expression and association and committed to "strengthening the role of NHRI's in safeguarding these rights and freedoms and supporting civil society". Member institutions also pledged to "contribute to, advocate for and ensure the protection of human rights defenders and civil society in their respective countries" (as we had requested in our submission to the meeting).

CHRI welcomed the holding of the first Women's Forum this year, and offered a number of suggestions to the forum on giving women's

issues more prominence in the Commonwealth. CHRI's Director Maja Daruwala recommended a call for the next CHOGM to be focused on the status of women in the Commonwealth, and the issues affecting them—ranging from discrimination and inequality to topics like terrorism, which have a gender dimension that is often left unexplored. CHRI also suggested that biennial reports on the status of women in member states would drive a focus on the issue. While these recommendations were not taken up, the outcome statement did call for an "Independent Technical Working Group on gender equality and women's empowerment in alignment with the targets for the Sustainable Development Goals". CHRI hopes the continuation of this new Forum will give greater prominence to gender issues in the Commonwealth.

CHRI also contributed to several sessions of the Commonwealth People's Forum. Together with Transparency International (TI) and other organisations, CHRI participated in a session on corruption. CHRI discussed its work on advocating for and implementing right to information laws and the need to take context-specific approaches to battling corruption in individual states. During the CHOGM, TI issued a joint statement with Maltese Prime Minister, Joseph Muscat, pledging to make anti-corruption efforts a focus for the Commonwealth.

This People's Forum also saw unprecedented attention paid to LGBT issues. CHRI attended a well-attended session on the topic, during which there was much discussion of the need to end the continuing criminalisation of homosexuality in 43 of the 53 Commonwealth states. The CPF outcome statement included a section calling on the Commonwealth to facilitate dialogue on LGBT rights issues and work to prevent violence and discrimination in member states.

Near the close of the CPF, CHRI attended the first-ever civil society dialogue with Secretary-General candidates. While a welcome initiative, in practice insufficient time for questions was allowed, and CHRI did not have the opportunity to question the candidates directly.

All told, CHRI found the 2015 CHOGM to be among the most fruitful in recent years. With a new Secretary-General Designate and a new Chair of the Commonwealth open to dialogue with civil society, the next two years will present many new opportunities to advocate for human rights at the organisation and within member states. CHRI hopes the next CHOGM will be held by a Commonwealth that has made substantial progress on human rights, civil and political liberties and engagement with civil society. ■

## Updates from CHRI this Quarter

### CHRI, Delhi Office

#### Access to Information Programme

- **Vietnamese learning programme:** As Vietnam does not have a transparency law at present, the Access to Information Team organised an RTI Learning Programme about India's experience of implementing the RTI Act 2005, for a delegation of 15 persons who are campaigning for the Right to Information in Vietnam. The Learning Programme took place for a period of five days starting from 17th August.
- **Legislating and Implementing the RTI in Sri Lanka, A Consultation:** On 2nd December, 2015 the Sri Lankan Cabinet approved a draft Right to Information Bill for tabling it in the Parliament. CHRI took this opportunity to collaborate with their local partner in Colombo- ICES to organise a consultation on the legislation and implementation of the Right to Information in Sri Lanka. The consultation was organised on the 3rd and 4th of December 2015. The programme coordinator submitted and disseminated a critical analysis of the Draft Bill.
- **RTI Knowledge Meet and People's Assembly, Kochi-2015** The day long programme was organised by CHRI in

collaboration with National Constitution Club, Thalasseri, Kerala on the 4th of October 2015.

- **Kargil workshop:** The two-day capacity building workshop for Kargil and Zaskar region was organised by Commonwealth Human Rights Initiative (CHRI) in collaboration with the J&K RTI Movement (J&KRTIM) on 19-20 September, 2015. More than 65 residents of this region-many of whom are members of the Student Education Movement of Kargil (SEMOK) and the Youth Action Committee, Kargil also discussed problems related to the poor implementation of the six-year old J&K Right to Information Act, 2009 (J&K RTI Act) in the region. Participants drafted several RTI applications demanding information about burning issues in the transport, power, education and telecommunications sectors in Kargil.
- **Kulgam workshop:** District level RTI Workshop jointly organised by Commonwealth Human Rights Initiative (CHRI), in collaboration with J&K RTI Movement (JKRTIM) in the district of Kulgam on 11- Oct-2015.
- **Bandipora workshop:** Dedicated to empowering people through the use of RTI Act, J&K RTI Movement (JKRTIM) and

Commonwealth Human Rights Initiative (CHRI) - India jointly hosted a day long training workshop on RTI Act-2009 at Town hall Bandipora on September, 05, 2015.

- **Rapid analysis on the return of the appeals by the Central Information Commission:** An analysis was conducted by Venkatesh Nayak, Manisha Chachra and Lakshay Thukral on the return of the appeals by the CIC in the year 2015, from the month of January to November. The analysis was covered in the mainstream media like The Hindu, Economic Times and The Times of India. The data suggested that the Central Information Commission returned 12% of appeals with little explanation.
- **Police Transparency Project:** This project was undertaken to promote police transparency, improved communication between the police and the communities they serve and over time improved police outcomes. With regard to the following project CHRI's filed RTIS in four police jurisdictions in India namely Chennai, Kolkata, Jaipur and Delhi and submitted a preliminary report on the interventions. (November)
- On the occasion of the

10th anniversary Programme Coordinator of ATI team was invited by BCAS and PCGT .He delivered lecture at the Indian Merchants Chamber on “Decade of RTI”(October)

- Programme Coordinator of the ATI team delivered a power point presentation on the “Right to Privacy” at the Central Information Commission Convention, Delhi (October)
- The **Jammu and Kashmir RTI Act 2009** user guide is being edited to oversee the syntax, grammar punctuation, footnotes and addition of a few more pages which include the formats for the first and second appeals. Furthermore, a few stories have also been added to understand and assess the impact of utilization of Right to Information in ensuring accountability and transparency.( January 2016)
- **Malayalam Translation RTI user guide-** CHRI’s RTI User Guide has been translated into Malayalam for dissemination in Kerala. . This will be a valuable addition to the corpus of public education materials on the use of RTI in that State. NO such User Guide in simple and user friendly language exists currently.( December)
- Programme Coordinator participated in the first meeting of the Task Force of the National Informatics Centre

on implementing the National Data Sharing and Accessibility Policy

- Programme Coordinator participated in Select Committee meetings of the Department of Personnel and Training for awarding Right to Information fellowships to youth applicants.
- The team commented on Department of Personnel and Training’s guidelines of implementing Section 4 of the RTI Act.
- CHRI lodged a complaint with National Human Rights Commission about the murder of a RTI activist Ratansinh Chaudhary from Banaskantha District, Gujarat. NHRC has sought action taken report from the Superintendent of Police Banaskantha.

### Police Reforms Programme

- **Launch of Rough Roads to Equality-Women Police in South Asia**, a first-of-its-kind study conducted by the Commonwealth Human Rights Initiative (CHRI), was launched jointly by Commonwealth Human Rights Initiative and Friedrich Naumann Foundation. The report provides in-depth information on strength across ranks and examines legal and policy frameworks and champions the inclusion of women in policing.

- **Launch of VPS(Virtual Police Station) on 17 November 2015-** The VPS is a first of its kind training tool developed with the cooperation of the Rajasthan Police that allows cadets and trainers to enter a police station virtually to explore every room in 360 degrees and learn the many processes and procedures they is performed every day in a police station. This multi-language program works both online and offline.
- **National Seminar on Police Reforms and Policing in Agartala on 14 & 15 November 2015:** The meeting brought together the Chairs and members of State Police Complaint Authorities (PCA)/ State Police Accountability Commission (PACs) on a common platform so that there could be interactions among them and they could benefit from knowledge and experience sharing among them. Representative for the PCAs of Assam, Gujarat, Karnataka, Kerala, Maharashtra and Tripura were present in the meeting.
- **Maldives Fact Finding Mission:** The trip was a central element of CHRI’s fact-finding mission on democracy, human rights and the rule of law in the Maldives. Members of the mission included Mr.

Uladzimir Dzenisevich, Mr. Asad Jamal, Mr. Satyabrata Pal and Ms. Kishali Pinto-Jayawardena.

- **Launch of two reports in Bangladesh:** Regional Report in Bangladesh - Rough Roads to Equality: Women Police in Bangladesh” and “Rough Roads to Equality: Women Police in south Asia” was jointly launched by Commonwealth Human Rights Initiative and Bangladesh Police Women’s Network on 12 Dec 2015. The launch was attended by more than 140 people from across all ranks.
- **NHRC- Bangladesh-CHRI Consultation on Guidelines on Procedure following Deaths in the Custody of Law Enforcement Agencies- 11 December 2015:** The consultation by NHRC Bangladesh and Commonwealth Human Rights Initiative brought together advocates, civil society and law enforcement agencies. The idea of the consultation was to discuss why the guidelines were relevant and the need for their adoption by talking to all stakeholders. NHRC and CHRI together presented the guidelines, ending with a short summary of what implementation of these guidelines will entail and from which authorities and

institutions.

- **Press Launch Of Crime white Paper on 15th Dec 2015:** Praja Foundation and Commonwealth Human Rights Initiative (CHRI) released their first report on state of policing and Law & order in Delhi with the aim to provide a holistic view, in very objective terms relying solely on official data, of the state of crime and policing in Delhi for the year 2014, including the record of oversight by Members of Parliament and the State Security Commission.
- **Regional Conference: “Civil Society and Police Reforms in South Asia” (Bangladesh, India, Maldives and Pakistan)** - This is a meeting that brings together all partners in South Asia to discuss the and review the EU project that is ending December 31, 2015. The meeting that is being held on 17-18 December 2015, Colombo will share advances made in research, advocacy and networking in the four project areas as well as to assess scope and value of NIPSA; encourage collective thinking and sharing; provide a platform for synergising efforts and pushing the reform agenda forwards.

#### Prison Reforms Programme

- One Day Programme For Consultation with Police Inspectors on Arrest And First

Production - Procedures And Practice in collaboration with Rajasthan Police Academy on 8<sup>th</sup> October 2015

- Issued press statement on The Missing Guards: Rajasthan government must act now to repair its broken court production system on 1st October 2015
- Filed RTI on Legal Aid Schemes sent to all States Legal Services Authorities
- Attended in series of talk shows ‘Art Episodes’ in collaboration with Oxford Bookstore, C. P. It is an initiative to dig deeper into art/culture and social issues with insightful discussion organised by Delhi Diary on 30th October
- Attended Discussion/ Brainstorming session on Prison Conditions, Problems & Solutions in Rajasthan on 3rd November 2015 in Jaipur
- Disseminated districts reports of Maharashtra sub jail study to 33 districts
- Disseminated “The Missing Guards: A study on Rajasthan’s Court Production System” to Delhi Chief Justice, all India SHRCs, Rajasthan Prison departments, all India SLSAs and judges in Rajasthan
- Launched e-newsletter ‘Jail Mail’ and circulated issues on Remembering Prisoners - Legal Services Day & Abolish Solitary Confinement

- CHRI prepared a report on Snapshot of Rajasthan Legal Aid Watch Report on implementation of Four Legal Aid Schemes in Rajasthan
- Organised a consultation on Role of Magistrates At First Production held on 15th December 2015 in Jodhpur, Rajasthan
- One day workshop on 23rd December at Delhi on ‘Civil Society Participation in Monitoring of Prisons’. The workshop is planned as a Regional Workshop with participants from Rajasthan, Maharashtra, Gujarat, Madhya Pradesh and Delhi.

### Strategic Initiatives Programme

- The Strategic Initiatives Programme (SIP) team launched its flagship report in London prior to the 2015 Commonwealth Heads of Government Meeting (CHOGM). The report aimed at documenting civil society engagement with the official Commonwealth, to demonstrate the importance of civil society to the Commonwealth, and to articulate the necessity of enhancing the Secretariat’s engagement with civil society groups to develop a more meaningful and constructive relationship with those at the policy making level.
- Representatives from the

SIP team attended the 2015 CHOGM which was held in Malta during November 27-29. Furthermore, the team also attended the pre-CHOGM fora, such as the Commonwealth Women’s Forum, Commonwealth People’s Forum and the Commonwealth Forum of National Human Rights Institutions.

- CHRI, in partnership with CIVICUS, Aditus Foundation and other Maltese NGOs, and with the support of Open Society Justice Initiative, organised a day-long side-event on the Sustainable Development Goal 16, the justice goal, titled “Justice and the SDGs: Promoting an Inclusive Approach to Participatory Policy Making.” Participants in the side event identified a number of challenges stemming from the Sustainable Development Goals (SDGs), which were adopted in September. These include the sheer scope and ambition of the agenda, which covers areas including poverty, health, education, environmental sustainability and human rights and justice; the challenge of finding adequate metrics to measure progress towards the goals and collecting data towards that end; and the difficulty of holding governments accountable and making them work actively to achieve the goals.

### CHRI, London Office

- We welcome our new London Liaison officer, Bert Tolhurst. With several years’ experience in Human rights issues in the pacific region including working for the UK foreign and Commonwealth Office, Bert is a highly valuable addition to our office.
- Sashy Nathan, former Liaison Officer of CHRI’s London office has now joined the Executive Committee as Treasurer.
- CHRI welcomes Sadakat Kadri to CHRI London’s Executive Committee. Mr. Kadri is a lawyer, author and journalist. One of his foremost roles as a barrister was to assist in the prosecution of former Malawian President, Hastings Banda. He also specialises in freedom of information issues.
- CHRI also welcomes Joanna Ewart-James to London’s Executive Committee. Ms Ewart-James leads the Walk Free Movement in the fight against slavery. In the past, she has worked with Anti-Slavery International, UK Foreign Office, academia and philanthropy to support human rights organisations globally.
- The London office delivered the fourth in the series of human rights discussions in July. A talk was presented by

CHRI International Advisory Chair, Professor Yash Ghai, on the topic: “If the UK were to withdraw from the European Convention on Human Rights, would it matter for the Commonwealth?” It was an engaging talk, attracting an audience representing a wide range of organisations including Commonwealth Secretariat, Royal Commonwealth Society, UK Foreign and Commonwealth Office, several Commonwealth Member High Commissions and a number of NGOs. It provoked a spirited Q&A afterwards.

- To coincide with Professor Ghai’s talk CHRI London, supported by 13 southern-based NGOs, wrote to UK Prime Minister David Cameron, expressing concern

at the UK’s planned repeal of the Human Rights Act.

- CHRI London has also written to all four candidates for the position of Commonwealth Secretary General, asking specifically what they intend to do to uphold values in the Commonwealth Charter relating specifically to human rights (Chapter 2) and civil society (Chapter 16). We will publish the responses shortly.
- The team at CHRI’s London office continued to provide support for the CHOGM civil society report, carrying out a number of interviews with stakeholders in London.

#### CHRI, Accra Office

- CHRI Accra has undertaken activities in the areas of access

to justice and access to information. The Access to Justice team has conducted police station visits, done court monitoring and has provided legal services for those suspected of committing criminal offences. The team has constructively engaged with the national media in Ghana in the form of interviews in areas of its expertise.

- The Access to Information team has engaged with various stakeholders as well as the national Parliament. It has also participated in the meeting of the Right To Information Coalition Steering Committee and has campaigned in the national media on issues concerning access to information. ■

## Opportunities with CHRI

### Internship and Stipendary Positions in Research and Advocacy

Please inquire about specific current vacancies or send job applications with a CV, statement of purpose, references and a short original writing sample to [info@humanrightsinitiative.org](mailto:info@humanrightsinitiative.org). To know more about us visit us at [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org).

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