

Endnotes

Chapter 1

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Chapter 2

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87. Art. 21(1)(f), Constitution of Ghana; Art. 37, Constitution of Malawi; Art.74(1), Constitution of Mozambique; Art. 51, Constitution of Papua New Guinea; Art.32, Constitution of South Africa; Art.18(2), Constitution of United Republic of Tanzania; Art.41, Constitution of Uganda.
88. See Country Chart at page 14 or page 78.
89. Section 174 of the Fiji Constitution requires Parliament to enact a law to give members of the public rights of access to official documents as soon as practicable after the commencement of the Constitution; Section 32 of the South African Constitution required the Parliament to make the law within five years of the Constitution coming into force; Article 41(2) of the Ugandan Constitution requires Parliament to make laws prescribing the classes of accessible information and the procedure for obtaining access to that information.
90. Preamble of the *Promotion of Access to Information Act 2000* (South Africa). Similar provisions can be found in the *Access to Information Act 2002* (Jamaica) (s.2) and the *Freedom of Information Act 2002* (India) (Preamble).
91. Section 3.
92. Section 3(2).
93. Section 2(1).
94. For example, *Freedom of Information Act 1994* (Belize) excludes the Governor General (s.5); *Access to Information Act 2002* (Jamaica), excludes the Governor-General (s.5(a)); *Freedom of Information Act 1999* (Trinidad & Tobago) excludes the national President (s.5(1)(a)) and allows the President by decree to exempt other government agencies from being covered by the Act (s.5(1)(c)).
95. Section 2. The *Freedom of Information Act 1999* (Trinidad & Tobago) contains similar provision (s.4).
96. Sections 1 and 12. The *Official Information Act 1982* (NZ) specifically excludes a court and a tribunal in relation to judicial functions, as well as a royal commission and a commission of inquiry (s.2(6)).
97. Section 50.
98. Section 4. See also *Official Information Act 1982* (NZ), s.2(5).
99. Section 3(2).
100. *Access to Information Act 2002* (Jamaica), s. 5(3)
101. For example, *Freedom of Information Act 2000* (UK), s.1.
102. For example, *Freedom of Information Act 2000* (India), s.3.
103. For example, *Access to Information Act 1983* (Canada), s.4(1)(b). The Act also gives the Governor-General the discretion to extend the right of access to persons other than citizens and permanent residents (s.4(1), (2)).
104. For example, *Freedom of Information Act 1982* (Aust), s.15(1)(c).
105. Section 12(1)(d) and (e).
106. For example, *Official Information Act 1982* (NZ), s.12(3).
107. For example, the rules attached to the *Karnataka Right to Information Act 2000* and *Delhi Right to Information Act 2000*.

108. *Freedom of Information Act 1982* (Aust), s.4(1); *Access to Information Act 2002* (Jamaica), s.6; *Promotion of Access to Information Act 2000* (South Africa) Act, s. 3. In the South African Act, “record” has been defined very widely to include any information regardless of the form or medium in which it is presented, regardless of whether it was created by a public or private body, and regardless of when it was created.
109. Section 2(d).
110. Section 1.
111. *Freedom of Information Act 1994* (Belize), s.6; *Freedom of Information Act 2002* (India), s.4(b); *Promotion of Access to Information Act 2000* (South Africa), s.14.
112. *Promotion of Access to Information Act 2000* (South Africa), s.16.
113. Section 6. See also *Freedom of Information Act 1982* (Aust), s.10.
114. Section 4(c) and (e)
115. Above, n.24.
116. Based on: Above, n.8.
117. For example, section 16 of the *Freedom of Information Act 2002* (India) provides a blanket exemption to “intelligence and security organisations” which are specified in a schedule to the Act. This schedule includes such bodies as the Narcotics Control Bureau and the Aviation Research Centre. Section 7 of the *Freedom of Information Act 1982* (Aust) adopts a two-tiered to exemptions, listing: (i) agencies which are fully exempt from its purview (eg. the Auditor-General, the Australian Security Intelligence Organisation, the Australian Shipping Commission); and (ii) agencies which are exempt in respect of particular documents (eg. Reserve Bank of Australia, in relation to its banking operations and exchange control matters).
118. *Freedom of Information Act 1989* (NSW) Schedule 1, Clause 22.
119. *Australian Grand Prix Act 1994* (Vic), s.49
120. *Freedom of Information Act 2000* (UK), ss. 24, 26, 27.
121. Reported (1994) “Minutes of Interest”, *The Times*, April 14.
122. For example, *Freedom of Information Act 1982* (Aust), s.58(3); *Freedom of Information Act 1994* (Belize), 35(4); *Access to Information Act 2002* (Jamaica), s.32(6)(b).
123. Section 60.
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128. For example, security and national defence interests (s.6(a)).
129. For example, where the national economy is concerned (s.6(d)).
130. *Access to Information Act 1983* (Canada), s.20(6).
131. Section 53.
132. For example, *Freedom of Information Act 1982* (Aust), s. 17; *Freedom of Information Act 1994* (Belize), s.19; *Official Information Act 1982* (NZ), s. 17; *Freedom of Information Act 2002* (India), s.10; *Promotion of Access to Information Act 2000* (South Africa), s.28.
133. Section 7(2)(a).
134. *Freedom of Information Act 2002* (India), s.6; *Promotion of Access to Information Act 2000* (South Africa), s.18(3)(a).
135. For example, *Freedom of Information Act 2002* (India), s. 5(2); *Promotion of Access to Information Act 2000* (South Africa), ss.19, 20; *Freedom of Information Act 1994* (Belize), ss.12(5), 13; *Freedom of Information Act 1999* (Trinidad & Tobago), s.14; *Freedom of Information Act 1982* (Aust), s.15; *Access to Information Act 2002* (Jamaica), s.8.
136. For example, the *Official Information Act 1982* (NZ) s.12(2) requires the requester to specify the information sought “with due particularity”. Section 6 of the *Access to Information Act 1983* (Canada) requires requesters to “provide sufficient detail to enable an experienced employee of the institution with a reasonable effort to identify the record.” Similar phraseology is used in the *Freedom of Information Act 1982* (Aust) (s.15(2)(b)) and *Freedom of Information Act 1999* (Trinidad & Tobago) (s.13(2)).

137. For example, *Freedom of Information Act 1982* (Aust), s.16; *Official Information Act 1982* (NZ), s.18; *Freedom of Information Act 1999* (Trinidad & Tobago), s.4.
138. Section 16(1)(f).
139. Section 29(5). Section 12(3) of the *Access to Information Act 1983* (Canada) also contains a provision which permits special access for requesters with “sensory” disabilities.
140. *Freedom of Information Act 2002* (India), s. 7(4); *Freedom of Information Act 2000* (UK), s. 11(4).
141. *Access to Information Act 1983* (Canada), s.12(2)(b).
142. Section 31.
143. Constitution of India, Sch. VIII, read with Arts. 344(1) and 351. As well as the 15 languages listed, English is also an officially recognised language in India.
144. Above, n.42.
145. For example, *Access to Information Act 1983* (Canada), s. 11(2), which charges for any search time incurred beyond an additional free first five hours; *Promotion of Access to Information Act 2000* (South Africa), ss.22(2) and(6).
146. For example, *Access to Information Act 2002* (Jamaica), s.12(1); *Promotion of Access to Information Act 2000* (South Africa), s.22(7).
147. For example, *Access to Information Act 1983* (Canada), s.11(6); *Access to Information Act 2002* (Jamaica), s.12(2).
148. For example, *Freedom of Information Act 1982* (Aust), s.29(5).
149. For example, *Freedom of Information Act 2002* (India), s.7(1); *Official Information Act 1982* (NZ), s.15(1); *Promotion of Access to Information Act 2000* (South Africa), s.25(1) .
150. Section 7(1).
151. *Access to Information Act 1983* (Canada), s. 10(3); *Promotion of Access to Information Act 2000* (South Africa), s.27
152. For example, *Freedom of Information Act 1982* (Aust), s. 26(1); *Freedom of Information Act 1994* (Belize), s.21; *Freedom of Information Act 2002* (India), s.7(3); *Official Information Act 1982* (NZ), s. 19.
153. Part V.
154. Part IV, in particular ss.55-57.
155. *Freedom of Information Act 1994* (Belize), Part V; *Official Information Act 1982* (NZ), Part V; *Freedom of Information Act 1999* (Trinidad & Tobago), ss.38A and 39.
156. Sections 30-37.
157. Parts IV and V.
158. *Access to Information Act 1983* (Canada), s. 36; *Freedom of Information Act 2000* (UK), s. 55.
159. Section 15.
160. For example, *Access to Information Act 1983* (Canada), s.67.1; *Access to Information Act 2002* (Jamaica), s.34; *Promotion of Access to Information Act 2000* (South Africa), s.90; *Freedom of Information Act 2000* (UK), s.77
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165. Section 56.
166. For example, *Freedom of Information Act 1982* (Aust), s.92; *Freedom of Information Act 2002* (India), s.13; *Freedom of Information Act 1999* (Trinidad & Tobago), s.36.
167. Section 6.
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169. Part V.
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Chapter 3

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Status of Ratifications of Principal Human Rights Treaties*

COUNTRY	ICESCR	ICCPR	ICCPR -OP1	ICCPR -OP2	CERD	CEDAW -OP	CEDAW	CRC	CRC -OP1	CRC -OP2	CAT
Antigua and Barbuda	✕	✕	✕	✕	✓	✓	✕	✓	✕	✕	✓
Australia	✓	✓	✓	✓	✓	✓	✕	✓	✕	✓	✓
Bahamas	✕	✕	✕	✕	✓	✓	✕	✓	✕	✕	✕
Bangladesh	✓	✓	✕	✕	✓	✓	✓	✓	✓	✓	✓
Barbados	✓	✓	✓	✕	✓	✓	✕	✓	✕	✕	✕
Belize	●	✓	✕	✕	✓	✓	✕	✓	●	●	✓
Botswana	✕	✓	✕	✕	✓	✓	✕	✓	✕	✕	✓
Brunei Darussalam	✕	✕	✕	✕	✕	✕	✕	✓	✕	✕	✕
Cameroon	✓	✓	✓	✕	✓	✓	✕	✓	●	●	✓
Canada	✓	✓	✓	✕	✓	✓	✕	✓	✓	●	✓
Cyprus	✓	✓	✓	✓	✓	✓	✓	✓	✕	●	✓
Dominica	✓	✓	✕	✕	✕	✓	✕	✓	✕	✕	✕
Fiji Islands	✕	✕	✕	✕	✓	✓	✕	✓	✕	✕	✕
The Gambia	✓	✓	✓	✕	✓	✓	✕	✓	●	●	●
Ghana	✓	✓	✓	✕	✓	✓	●	✓	✕	✕	✓
Grenada	✓	✓	✕	✕	●	✓	✕	✓	✕	✕	✕
Guyana	✓	✓	✓	✕	✓	✓	✕	✓	✕	✕	✓
India	✓	✓	✕	✕	✓	✓	✕	✓	✕	✕	●
Jamaica	✓	✓	✕	✕	✓	✓	✕	✓	✓	●	✕
Kenya	✓	✓	✕	✕	✓	✓	✕	✓	✓	●	✓
Kiribati	✕	✕	✕	✕	✕	✕	✕	✓	✕	✕	✕
Lesotho	✓	✓	✓	✕	✓	✓	●	✓	●	●	✓
Malawi	✓	✓	✓	✕	✓	✓	●	✓	●	●	✓
Malaysia	✕	✕	✕	✕	✕	✓	✕	✓	✕	✕	✕
Maldives	✕	✕	✕	✕	✓	✓	✕	✓	✕	✓	✕
Malta	✓	✓	✓	✓	✓	✓	✕	✓	✓	✓	✕
Mauritius	✓	✓	✓	✕	✓	✓	●	✓	●	●	✓
Mozambique	✕	✓	✕	✓	✓	✓	✕	✓	✕	✕	✓
Namibia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nauru	✕	●	●	✕	●	✕	✕	✓	●	●	●
New Zealand	✓	✓	✓	✓	✓	✓	✓	✓	✓	●	✓

COUNTRY	ICESCR	ICCPR	ICCPR-OP1	ICCPR-OP2	CERD	CEDAW-OP	CEDAW	CRC	CRC-OP1	CRC-OP2	CAT
Nigeria	✓	✓	✗	✗	✓	✓	●	✓	●	●	✓
Pakistan	✗	✗	✗	✗	✓	✓	✗	✓	●	●	✓
Papua New Guinea	✗	✗	✗	✗	✓	✓	✗	✓	✗	✗	✗
Samoa	✗	✗	✗	✗	✗	✓	✗	✓	✗	✗	✗
Seychelles	✓	✓	✓	✓	✓	✓	✗	✓	●	●	✓
Sierra Leone	✓	✓	✓	✗	✓	✓	●	✓	✓	✓	✓
Singapore	✗	✗	✗	✗	✗	✓	✗	✓	●	✗	✗
Solomon Islands	✓	✗	✗	✗	✓	✓	✓	✓	✗	✗	✗
South Africa	●	✓	✗	✗	✓	✓	✗	✓	●	✗	✓
Sri Lanka	✓	✓	✓	✗	✓	✓	✗	✓	✓	✗	✓
St Kitts and St Nevis	✗	✗	✗	✗	✗	✓	✗	✓	✗	✗	✗
St Lucia	✗	✗	✗	✗	✓	✓	✗	✓	✗	✗	✗
St Vincent and the Grenadines	✓	✓	✓	✗	✓	✓	✗	✓	✗	✗	✓
Swaziland	✗	✗	✗	✗	✓	✗	✗	✓	✗	✗	✗
Tonga	✗	✗	✗	✗	✓	✗	✗	✓	✗	✗	✗
Trinidad and Tobago	✓	✓	✗	✗	✓	✓	✗	✓	✗	✗	✗
Tuvalu	✗	✗	✗	✗	✗	✓	✗	✓	✗	✗	✗
Uganda	✓	✓	✓	✗	✓	✓	✗	✓	✓	✓	✓
United Kingdom	✓	✓	✗	✓	✓	✓	✗	✓	●	●	✓
United Republic of Tanzania	✓	✓	✗	✗	✓	✓	✗	✓	✗	✗	✗
Vanuatu	✗	✗	✗	✗	✗	✓	✗	✓	✗	✗	✗
Zambia	✓	✓	✓	✗	✓	✓	✗	✓	✗	✗	✓
Zimbabwe	✓	✓	✗	✗	✓	✓	✗	✓	✗	✗	✗

Key:

✗ Not a signatory

● Signed

✓ Ratified

ICESCR

International Covenant on Economic, Social and Cultural Rights

ICCPR

International Covenant on Civil and Political Rights

ICCPR-OP1

First Optional Protocol to the ICCPR on the right of individual petition

ICCPR-OP2

Second Optional Protocol to the ICCPR on the abolition of death penalty

CERD

International Convention on the Elimination of All Forms of Racial Discrimination

CEDAW

International Convention on the Elimination of All Forms of Racism Against Women

CEDAW-OP

Optional Protocol to CEDAW on the right of individual petition

CRC

Convention on the Rights of the Child

CRC-OP1

Optional Protocol to CRC on the involvement of children in armed conflict

CRC-OP2

Protocol to CRC on the sale of children, child prostitution and child pornography

CAT

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

* The information provided is from the Office of the United Nations High Commissioner for Human Rights as on 7 July 2003.
See <http://www.unhchr.ch/pdf/report/pdf> for current status.

CHRI's Previous Reports to CHOGM

Human Rights and Poverty Eradication: A Talisman for the Commonwealth (2001)

The *Talisman* report shows how poverty is an abuse of human rights. It advocates the adoption of a rights-based approach to eradicating the large-scale poverty that continues to exist in the Commonwealth. It points to the gap between the rhetoric the Commonwealth espouses and the reality of people's lives. The report urges member governments to cooperate to fulfil the many solemn commitments made at successive CHOGMs or risk the Commonwealth losing its relevance.

Over a Barrel – Light Weapons and Human Rights in the Commonwealth (1999)

Over a Barrel exposed a tragic contradiction in the modern Commonwealth in that although human rights are recognised as central to the Commonwealth, millions of light weapons flow freely, jeopardising development and democracy. The report outlines urgent recommendations for curbing the reach of light weapons across the Commonwealth.

The Right to a Culture of Tolerance (1997)

The *Right to a Culture of Tolerance Report* focused on two themes. Firstly on ethnic and religious intolerance as an urgent problem throughout the Commonwealth and secondly it explored the freedom of expression/information as a crucial element of a democracy. The report noted that the norms and political values of the Commonwealth compel the organisation to act to promote tolerance in member countries and the report made recommendations for achieving this goal.

Rights Do Matter (1995)

Rights Do Matter, explored two themes: freedom of expression and the need for major reform in prisons. The report placed this discussion in the context of the transition from authoritarian to democratic political orders and second, the economic transition from planned to market economies.

Act Right Now (1993)

Act Right Now was an assessment of the progress of human rights in Commonwealth countries since the Harare Declaration and was made with reference to the United Nations World Conference on Human Rights in Vienna in June 1993. It called for the Commonwealth to play a lead role in supporting the long, complex process of moving towards real democracy in transitional countries.

Put Our World to Rights (1991)

Put Our World to Rights was the first independent overview of the status of human rights in the Commonwealth. It provides practical guidance on how to use international machinery for redress.