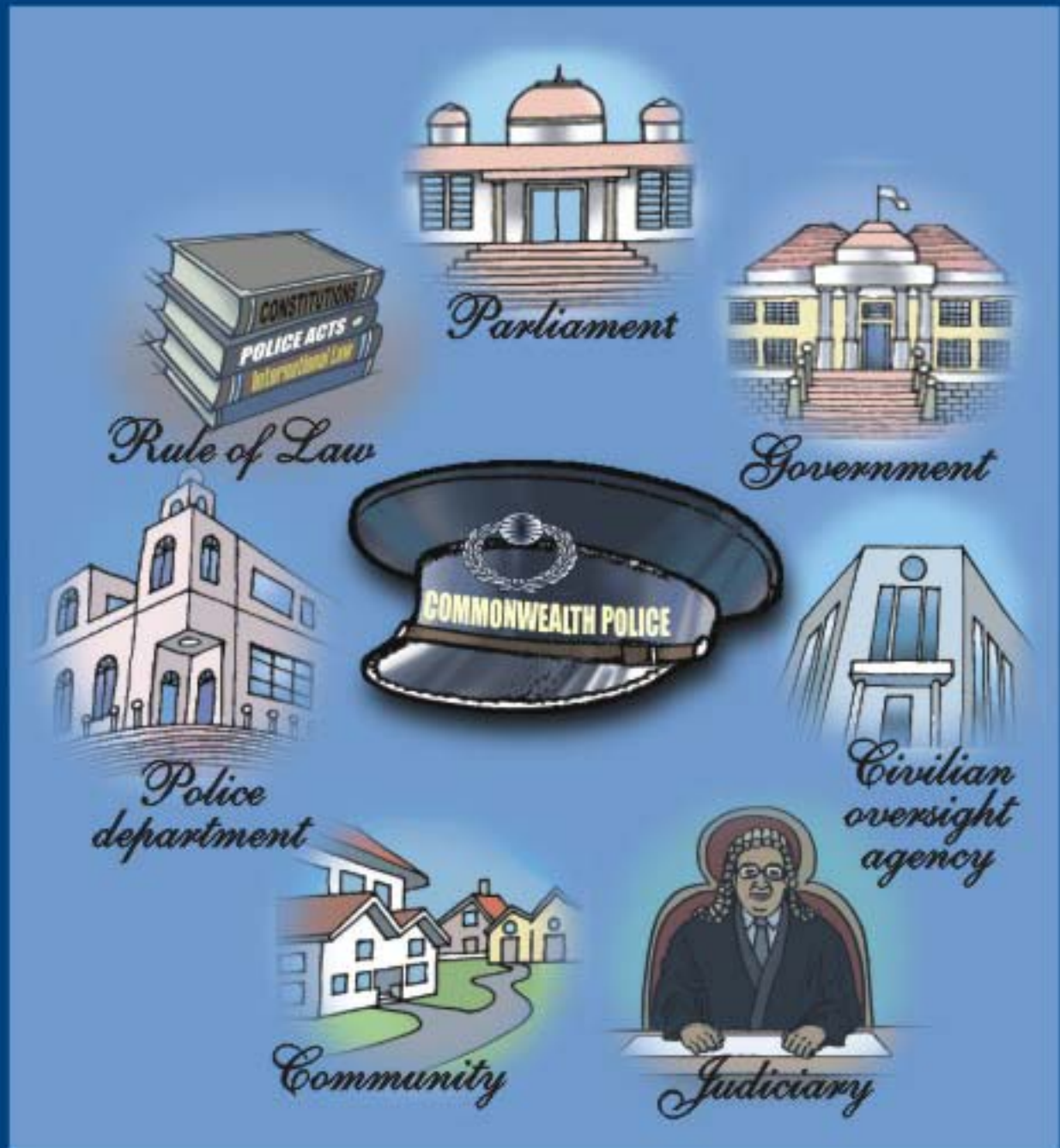


POLICE ACCOUNTABILITY: TOO IMPORTANT TO NEGLECT, TOO URGENT TO DELAY



COMMONWEALTH HUMAN RIGHTS INITIATIVE

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. In 1987 several Commonwealth professional associations founded CHRI. They believed that while the Commonwealth provided member countries a shared set of values and legal principles from which to work, and also provided a forum within which to promote human rights, there was little focus on the issues of human rights within the Commonwealth.

The objectives of CHRI are to promote awareness of and adherence to the Harare Principles, the Universal Declaration of Human Rights, and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth member states.

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, member governments and civil society associations. Through its public education programs, policy dialogues, comparative research, advocacy and networking CHRI's approach throughout is to act as a catalyst around its priority issues.

The nature of CHRI's sponsoring organisations* - journalists, publishers, broadcasters, lawyers, legal educators, health professionals, and parliamentarians - allows for both a national presence in each country and an international network. Notably these professionals are also strategic constituencies, which can effectively steer public policy in favour of human rights by incorporating human rights norms into their own work and acting as a conduit for the dissemination of human rights information, standards and practices. In addition, these groups bring knowledge of local situations, can access policy makers, highlight issues, and act in concert to promote human rights.

CHRI is based in New Delhi, India, and has offices in London, UK, and Accra, Ghana.

* Commonwealth Journalists Association, Commonwealth Lawyers Association, Commonwealth Legal Education Association, Commonwealth Parliamentary Association, Commonwealth Press Union and Commonwealth Broadcasting Association.

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Police Accountability: Too Important to Neglect, Too Urgent to Delay



The Executive Summary of the 2005 report by the International Advisory Commission of the Commonwealth Human Rights Initiative, Chaired by Sam Okudzeto

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FOREWORD

Every two years, the Commonwealth Human Rights Initiative brings out a report to the Commonwealth Heads of Government Meeting, drawing attention to issues of current human rights concern. CHRI's 2005 report is on police accountability and calls for police reform.


The conduct of the police is an important barometer of the state of governance, and their performance can significantly shape the social health of nations. Police, whether in a democratic or dictatorial regime, perform much the same functions. What distinguishes good from bad policing is the commitment to protect the civil and political freedoms of individuals, while helping to create an environment that will maximise the enjoyment of economic, social and cultural rights as well.

The price that democracies pay for unreformed, unaccountable policing is high. Overall human and national security is compromised in a global environment often prone to terror without and insurgency within. Access to justice, already remote for many, is further distanced from the population at large. The rights of the vulnerable like women, children, minorities, refugees and the vast population of poor that inhabit the Commonwealth go unrealised. Corruption, violence and fear thrive and the rule of law remains an aspiration on paper when it should be the demonstrable assumption on which all people can base their everyday lives.

The elements of reform are many and the Commonwealth is rich in excellent examples of how accountability has been achieved. However, there is also a stubborn reluctance in some jurisdictions to move away from "regime" to "democratic" policing. A deal of the tardiness associated with initiating reform and ensuring accountability comes from the inability of in-country police and political bosses to access knowledge about the nuts and bolts of how it can be accomplished.

In advocating for stronger efforts at police reform, this report showcases good practices in accountability. It provides practical suggestions about how reforms can be undertaken and the values on which policing in the Commonwealth must be premised in order to be effective.

The Commonwealth must explicitly acknowledge that police reform and accountability are crucial to realising democracy and development. It must commit itself to developing Commonwealth Principles on Policing that underpin best practices and provide member countries with assistance in reforming laws and crafting institutional arrangements that will eliminate abuse and corruption, and ensure the highest standards of policing.



Sam Okudzeto
Chair, CHRI's International Advisory Commission

Policing in the Commonwealth

Some of the best policing in the world is found in the Commonwealth, and also some of the worst. But by and large, its 1.8 billion people do not have the policing they deserve. Police reform is now too important to neglect and too urgent to delay.

In too many countries, governments are failing in their primary duty to provide the public with an honest, efficient, effective police service that ensures the rule of law and an environment of safety and security. The only legitimate policing is policing that helps create an environment free from fear and conducive to the realisation of people's human rights, particularly those that promote unfettered political activity, which is the hallmark of a democracy.

Given the weight of evidence it would be easy to paint the police across the Commonwealth in monochromatic black. This would be entirely unfair. In many countries the police are a very trusted and well-respected public service and in many more they do a hard and thankless job in difficult circumstances. Nevertheless, barring a few honourable exceptions, there is too much wrong with policing in the Commonwealth for the association and its member states to persist in closing their eyes to the fact that the continued presence of unreformed policing - powerful, unaccountable, coercive, biased, and corrupt - remains a badge of long gone colonial subservience rather than a mark of confident sovereignty.

What Ails the Police

Repeated citations of police wrongdoing, ranging from individual bad behaviour to institutionalised criminality, are undermining the fundamental principles of the Commonwealth Harare Declaration, to which all Commonwealth members have committed to abide. Abusive policing methods damage democracy, weaken the rule of law and lead to gross violations of human rights. Rising crime, greater perceptions of vulnerability and fear of victimisation in all parts of the Commonwealth demand improved policing. Unprecedented security concerns have created more room for heavy-handed policing methods and tighter internal security regimes. This has generated new problems in police-community relations and torn at the interface of policing, democratic values and human rights.

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Routine disobedience to procedural law is a prevalent feature of abusive policing. This includes: detaining people without reasonable cause and/or for longer than permissible periods without bringing them before a designated authority; carrying out indiscriminate arrests; and even taking innocent family members hostage to coerce those wanted for questioning to turn themselves in. Corruption too, is impeding police functioning in large parts of the Commonwealth. A bribe is often a prerequisite to registering a crime - or for looking away, with payments made to help "steer" investigations.

Equally disturbing is the stifling of legitimate political activity. Too often acting as agents of ruling elites, police marginalise political opponents, assist in toppling governments in some places and help them stay in power in others. Trampling key human rights through police bias against ethnic, religious or linguistic minorities is a major cause of concern as well. Crimes against women abound in Commonwealth countries but are often met with a poor response, with stereotyping of women and patriarchal attitudes prejudicing the way police handle cases.

All too frequently, chilling reports surface of police resorting to extra judicial killings as a 'quick fix' device. Faced with mounting public frustration at their inefficacy in controlling crime or low-level conflicts, police seek to solve deep-rooted security challenges by simply liquidating the problem without the need to go through the "inconvenience" of the legal process. Most alarmingly, regular reports from all regions of the Commonwealth show that torture is a widely prevalent incident of custody.

Perhaps the greatest public resentment and disappointment over bad policing is reserved for impunity - the safety from punishment provided by authorities and supervisors to errant police. This includes a boundless tolerance for poor performance in delivering safety and security and protecting the rule of law. Given that the police are largely governed by the political executive - and in many jurisdictions closely controlled by it - impunity persists not by accident, but by design.

Serious breaches of law and accountability arise out of nurtured relationships of patronage. Undoubtedly, government is entitled to provide police with policy direction and set standards for performance. However, the distinction between appropriate executive direction and inappropriate political interference in operational matters is frequently transgressed to the detriment of the rule of law.

Improving Policing

Democratic nations need democratic policing. This gives practical meaning to the Commonwealth's promise of democracy and good governance and is applicable to any context - rich or poor, large or small, diverse or homogenous.

Commonwealth countries have signed up to many international laws and standards. Although these provide a framework for democratic policing, in practice, national constitutions and police laws are more immediately relevant to the conduct of police officers and organisations. As such, it is vital that legislation reflects these international standards and establishes police that "serve to protect, rather than impede, freedoms. The very purpose of the police is to provide a safe, orderly environment in which these freedoms can be exercised. A democratic police force is not concerned with people's beliefs or associates, their movements or conformity to state ideology. It is not even primarily concerned with the enforcement of regulations or bureaucratic regimens. Instead, the police force of a democracy is concerned strictly with the preservation of safe communities and the application of criminal law equally to all people, without fear or favour" (United Nations International Police Task Force, 1996).

The Commonwealth now has inspiring examples of reform, despite often very deep initial resistance to such change. The end of conflict in Northern Ireland, for instance, provided a moment for redesigning a new kind of police capable of sustaining the confidence of a diverse and divided community. Countries like South Africa, Sierra Leone, Fiji and Nigeria that have undergone dramatic transitions from authoritarianism to democracy have begun to showcase some of the seminal lessons for police reform.

Depending on the context, police reform has entailed wholesale review of legislation and redefinition of role, as well as restructuring aimed at making the organisation less militaristic and hierarchical and more merit-based. Reform has sought to change the internal sub-culture in matters of ethics and discipline to bring about changes in attitude aimed at moving the police away from its frequently fortress-like mentality to becoming inclusive and responsive. Recruitment has been improved to be more representative. Training has gone beyond the military march and baton drill to inculcating knowledge of human rights, nurturing initiative, honing new skills and creating professional specialisations. Reform has addressed the need for improved service conditions of the rank

At the heart of democratic policing lies the need to create multiple layers of accountability to transform police organisations from oppressive engines of a few powerful interests to a service for all.

and file, and given attention to their career advancement based on good performance rather than patronage. It has also harnessed technology, reassessed available financial and human resources, and devised strategies to make optimum use of scarce resources while putting in place rigorous oversight systems that ensure financial integrity. Vital to new systems is their ability to insulate police from illegitimate outside interference, permitting officers functional autonomy coupled with management responsibility for delivering overall good services. This has involved careful demarcation of roles between political authorities and security agencies.

Democratic Policing

Reform requires a shift from "regime" policing to "democratic" policing. This entails an approach founded on principles of equity and equality, accountability, transparency, participation, respect for diversity, the accommodation of dissent, protection of individual and group rights, and encouragement of human potential.

A 'democratic' police organisation is one that:¹

- is accountable to the law, and not a law unto itself. Democratic policing requires that the police act within the boundaries of domestic and international law. Actions of the police are always subject to court scrutiny and those who break the law face consequences both through internal disciplinary systems and the criminal law.
- is accountable to democratic governance structures and the community. To ensure that the police do not become overly controlled by and identified with a single seat of power, democratic police independently answer to all three branches of governance - the executive, the parliament and the judiciary - as well as to the community.
- is transparent in its activities. Most police activity should be open to scrutiny and regularly reported to outside bodies. Information about individual behaviour, as much as operations, must be in the public domain.
- gives top operational priority to protecting the safety and rights of individuals and groups. The police must be responsive to the needs of individuals and groups - especially those who are vulnerable and marginalised. In diverse and fragmented societies, police organisations must be responsive and respectful across social divides and always uphold the law without bias.
- protects human rights. Police must protect the right to life and dignity of all, and in particular the exercise of democratic freedoms - freedom of speech, association, assembly, movement, and freedom from arbitrary arrest, detention and exile.
- provides society with professional services. As an organisation with huge powers in which the public places enormous trust, the police must be governed by a strong code of ethics and professional conduct and be answerable for delivering high quality services.
- is representative of the communities it serves. Police organisations which reflect the populations they serve are more likely to enjoy their confidence and cooperation and earn the trust of vulnerable and marginal groups who most need their protection.

Democratic policing not only protects democratic institutions and supports an environment where activities essential to democracy can flourish but also demonstrates democratic values in its own institutional structures and processes.

Accountability Mechanisms

In line with the doctrine of checks and balances that characterise democratic systems of governance, at the heart of democratic policing lies the need to create multiple layers of accountability to transform police organisations from oppressive engines of a few powerful interests to a service for all. Internally these deal with discipline, ethics and performance, while external oversight extends across parliament, the judiciary and the executive, to the community and widens to giving account to newer independent civilian oversight mechanisms (including human rights commissions and ombudsmen). Working in tandem, the strength and impartiality of each of these mechanisms creates strength and credibility for the police.

A Model for Police Accountability: 3 + 1

There is no hard and fast rule about the form that good police accountability must take. Much depends on the circumstances of each country and the nature of the existing relationship between the police and the community. CHRI advocates that the basics of sound accountability required in most circumstances are vigilant internal processes and procedures coupled with external oversight by the three wings of the state plus one independent body:

- democratically elected representatives (in national parliaments if police are structured at the national level, in state legislatures if police are organised at the state level, and in local councils if policing is organised at the local level);
- an independent judiciary;
- a responsible executive (through direct or indirect policy control over the police, financial control, and horizontal oversight by other government agencies such as Auditors-General, Service Commissions and Treasuries); and
- at least one independent civilian statutory institution, such as an Ombudsman or a Human Rights Commission or, ideally, a dedicated body that deals with public complaints.

Accountability to the Three Pillars of State

Ensuring human security is the high duty of the state and every country is obligated to provide an honest, effective and efficient police service. All three pillars of governance - the executive, parliament and the judiciary - each have a specific and defined role to play in ensuring good policing.

Government is entitled to provide clear policy direction, prepare policing plans, set standards or performance indicators, and establish strong accountability mechanisms. However, the distinction between appropriate political direction from a government to a police force and inappropriate political interference in operational policing matters is significant, in law, policy, and practice. Clear delineation of roles, responsibilities and relationships between the police and the executive laid down in law helps to pinpoint accountability. It also minimises the possibility of unfettered interference seeping into policing matters and influencing their functioning. Countries across the Commonwealth have experimented with various institutions to check illegitimate political interference.

Service commissions are autonomous government bodies that oversee disciplinary and management matters in police agencies and were established precisely to limit potential political interference in selection, promotion, transfer, and removal of police officers. In practice, however, the dominant role of the head of state in many small states in the Caribbean and Pacific allows them to wield their power in appointing commission members, providing space for potential political patronage. Newer models of service commissions have been granted huge powers. Nigeria's Police Service Commission, for instance, is potentially one of the most powerful new commissions in the world. Established in 2001, its membership includes human rights advocates, women, businesspeople and media persons as well as a retired Justice of the Superior Court. Coupled with the statutory obligation to establish a complaints investigation department, as an independent Constitutional body it has the power to discipline, dismiss, and refer cases for criminal prosecution. The Commission can also formulate and implement policy. During the 2003 general elections, the Commission collaborated with the Centre for Law Enforcement Education Nigeria and the Open Society Justice Initiative to develop guidelines on police conduct and monitored police behaviour.²

Several countries have also established police boards and authorities to minimise executive interference in policing and develop policy. Created in response to a long history of conflict, Northern Ireland's Policing Board is one of the most powerful bodies of this kind. It is not only responsible for delivering an efficient police service, but is also mandated to help the police fulfil the statutory obligations in the Human Rights Act 1998. The Board can launch its own inquiries into any aspect of police work even without the agreement of the Chief Constable, giving it a more active management and oversight role than most other boards.

Serious breaches of law and accountability arise out of inappropriate relationships of patronage that develop where there are biddable service commissions, no objective procedures and criteria for the appointment and removal of police chiefs, and inadequate oversight processes. In countries that practice democratic policing, the appointment process for instance is more collaborative and requires input from civilian oversight bodies. In the Australian state of Queensland, the Commissioner is appointed by the Governor "on a recommendation agreed to by the chairperson of the Crime and Misconduct Commission"³ with the approval of the Minister for Police.

Courts also ensure that acts of the executive and laws made by parliament comply with and promote international human rights standards.⁴ They also protect citizens from the excesses of the state and its agents by bringing to book perpetrators of human rights violations and breaches of law, and by ensuring that victims obtain sufficient redress. Accountability for policing may require the judiciary to enunciate and lay down standards of acceptable behaviour, punish infractions and, at times, reign in the executive. Judges help maintain high standards of policing when they throw out cases and refuse convictions because of procedural aberrations - including arrests without proper cause or warrant, force used to extract confessions, illegal searches and wrongful recovery of goods. To protect due process where there is persistent misbehaviour, judges may produce their own guidelines and procedures for police.



Parliaments equally have many powers to question police wrongdoing, to correct systemic faults by passing new laws, to seek accounts of police performance, and to keep policing under constant review. Opportunities for oversight of police affairs include question time, debates, drawing attention motions, and private members bills, which, though very often defeated, spur debate and introduce innovations. Special commissions of inquiry may also be established to pursue particularly serious concerns. While these devices draw occasional attention to the more dramatic aspects of policing, it is the more mundane, regular features such as departmental reviews, budget sessions and accounts audits that provide opportunities for thorough examination of police functioning; and the detailed work in

committees that seriously impact on creating a better service. In South Africa, the significance of committees as vehicles of democratic governance is well recognised. Committees are empowered to summon any person to give evidence under oath or produce a document, receive petitions or submissions from any interested parties, and conduct public hearings.

Internal Accountability

Governments are of course duty-bound to hold the police to account. But it is also the responsibility of the police themselves to ensure that internal systems guarantee discipline, performance and all round good policing. Two mechanisms define internal accountability. The first is the disciplinary environment, which is made up of both the formal apparatus for censuring misconduct and the informal culture that pervades the establishment. The second is the comparatively new technique of performance management that aims to assess police efficiency through target setting.

In their design, internal disciplinary systems are usually comprehensive in structure and scope. If they were implemented as set out in law and in adherence with the principles of natural justice, there would be far fewer problems. However, in too many jurisdictions internal accountability mechanisms do not enjoy the confidence of either the rank and file or the public. The frequency of bad behaviour and poor performance indicates that internal standard setting and compliance systems are either badly implemented or deliberately disregarded.

Extending transparency bolsters credibility. In many Commonwealth jurisdictions, figures for the number of complaints against police officers received and resolved each year are released. Going beyond figures and telling the stories behind acts of misconduct reinforces the notion that leaderships will not protect or tolerate misbehaviour. In the long run, laying bare the anatomy of internal mechanisms and outcome builds faith both in the public and within the police.

Internal accountability mechanisms come into play after an act of misconduct. Changing the way police organisations function - from forces into services where the citizen "customer" is king - requires regular attention to the whole system rather than being addressed in a piecemeal fashion.

Modern policing systems require modern management structures. Good management is grounded in principles of good governance and accountability, both individual and organisational. As modern systems of accountability are based on objective criteria, they reward merit and professionalism, constantly review performance and quickly repair weaknesses so that little room is left for misconduct.

"Performance management" uses statistics to look at the police in terms of the results they deliver. The outcomes most often measured are those that address the issue of police effectiveness, particularly the contribution the

Five Values for a Police Organisation

- Clarity - every police officer knows what the organisation is trying to achieve and the role each plays in delivering this;
- Transparency - senior managers' decisions are made openly, after consulting with staff and the community as appropriate and enabling outside scrutiny if necessary;
- Visibility - within operational limits, the activities of police staff are perceptible both to colleagues, superiors and the community;
- Responsibility - every member of the organisation is held personally accountable for his or her actions. This includes fairly judged rewards for good behaviour and results achieved, as well as sanctions for bad behaviour or poor performance;
- Empowerment - responsibility is devolved to the lowest level possible to enable decisions to be taken as close to the front line as practicable.

police make both to tackling criminality and creating a safe environment for the public. Typical measures include crime figures or opinion poll data regarding public confidence in the police. Such data is then used for two purposes: internally as "management information" to help police leaders focus on improving areas where performance is poor; and externally as a means of explaining police performance to the public. Both can be powerful accountability tools: the former as a way of highlighting problems inside the organisation (by comparing individuals or units and by identifying trends, say in complaints against the police); the latter as a way of expressing the results the police achieve in objective terms, which can then act as the basis for discussion about how to improve.

Independent Civilian Accountability Agencies

As governments increasingly embrace the philosophy of democratic policing, attempts are on to make policing more transparent, involve outsiders, build public confidence, allay fears of bias, assure impartiality of investigation, make the receipt of complaints easier, reduce abuse of power and misconduct, change the internal culture and ensure ever better performance. Countries across the Commonwealth have therefore sought to augment government and internal accountability systems with other external or civilian - meaning non-police - oversight mechanisms. It is hoped that these systems will complement existing external mechanisms and together create a web of accountability from which it is increasingly difficult for police misconduct to escape without consequences.

Various named⁵ and designed, such bodies fall into two broad categories: organisations exclusively dedicated to investigating, reviewing and monitoring police related complaints; and agencies such as ombudsmen and national human rights institutions (which are usually called commissions) that have broader mandates. Where multiple oversight agencies contribute to police accountability, a system of coordination and referrals carves out jurisdictions and protects against overlapping, duplication and contradictory recommendations. In South Africa, which has both a Human Rights Commission and an independent police complaints agency, the Commission refers all police-related complaints to the latter.

Much of how effectively complaints authorities, ombudsman's offices and human rights commissions perform their functions once again depends on how truly separate from police and executive influence they are and how autonomous and well embedded their status is in the country's legal architecture. Their effectiveness also depends upon the width and clarity of their mandate; the scope of their investigative powers; the composition and competence of their leadership and staff; and the adequacy and sources of financing. A particularly crucial factor is their ability to compel obedience to recommendations and the attention and clear support their reports and findings receive at the hands of the government and the police. These minimum requirements have been internationally recognised and summed up in the Paris Principles⁶ for National Human Rights Institutions, but they also apply equally to any oversight agency. The Commonwealth has also compiled National Human Rights Institutions Best Practice guidelines. Unfortunately though, not all civilian oversight agencies in the Commonwealth abide by even these basic guidelines.

Commonwealth countries are increasingly aware that the presence of at least one external, independent civilian agency sends the message that the police will be held accountable. Civilian agencies that are solely dedicated to dealing with

Internal accountability systems complement existing external mechanisms and together create a web of accountability from which it is increasingly difficult for police misconduct to escape without consequences.

complaints against the police have been the most successful in holding the police to account. Single focus agencies build up expertise, investigative techniques and the capacity to analyse patterns of police conduct and evaluate performance. In any case, however independent oversight is structured, political will and strong leadership of both the police and the independent bodies are essential for building a truly accountable and responsive policing system.

Accountability to the Community

Finally, democratic policing requires accountability to the community that it serves - in other words, it requires the consent and cooperation of the community being policed - not least because close connectivity makes policing more effective. People need to feel they can trust the police and that the police prioritise their concerns and will not subject them to abuse or corruption.

In seeking greater accountability, some civil society representatives engage and some confront, and some do both depending on the circumstance. Experience has shown that it is essential to confront those in power with hard evidence of policing problems, rather than unsubstantiated statistics and easily dismissed anecdotal stories. Civil society groups traditionally seek accountability by documenting patterns of police abuse. They are also increasingly using international forums for naming and shaming which creates deep embarrassment at home.

Sustained support for reform and accountability comes only when there is a broad domestic constituency that understands and supports the concept of responsive and accountable policing. Many groups therefore sensitise the police and educate the public, including providing legal awareness about constitutionally guaranteed freedoms, rights on arrest, rights of special groups like indigenous people, the disabled, gays and lesbians, and the steps to take when police overreach their powers. Victims groups give a human face to the problem of unaccountable policing and have been important catalysts in shaping public opinion. The media's enormous influence in developing public opinion has prompted many groups to train media personnel on the intricacies of policing. Without analysis of how police accountability can be brought about, the public is deprived of a platform for informed progressive debate and advocacy.

Creating political will requires constant engagement. Timing is vital. Opportunities abound: from getting police reform into political manifestos at election time; holding winners to their promises; providing submissions to parliamentary committees; to intervening at all levels of the law making and scrutiny processes where police functioning and performance are up for discussion. Advocates have sought ratification of treaties, the creation of oversight bodies, and enactment of laws that enhance accountability and transparency such as right to information, whistle-blower protection, and anti-corruption. At the very least, civil society groups demand the right to participate in policy processes and community safety.

Minimum Requirements for a Successful Oversight Body

- **Independence:** should be independent of the executive and the police and empowered to report directly to parliament.
- **Sufficient powers:** should have the authority to independently investigate complaints and issue findings. This requires concomitant powers to conduct hearings and subpoena documents and compel the presence of witnesses including the police. It should also be able to identify organisational problems in the police and suggest systemic reforms.
- **Adequate resources:** should have sufficient funds to investigate at least the more serious complaints referred to it. Skilled human resources to investigate and otherwise deal with complaints should also be available.
- **Power to follow up on recommendations:** should be empowered to report its findings and recommendations to the public, and to follow up on actions taken by the police chief in response. It should also be able to draw parliament's attention to instances where police take no action.



Concerns about safety and security have pushed governments to relocate policing more firmly within local communities. More and more countries are experimenting with "community policing". While some, like South Africa, UK and Canada, have institutionalised this through law or entrenched practice, most are still testing its use. Community policing essentially "signifies a collaboration between the police and the community, which identifies and solves community problems".⁷ Several factors determine success: traditionally-centralised police organisations are required to shift decision-making and responsibility downward and recognise that it is front-line officers who have to make the new community policing approach work. Police and public have to interact as equals and with a sense of shared values. In societies where power relationships are extremely uneven, community policing has to consider diversity and not be hijacked by dominant groups, otherwise there is a danger that already marginalised groups will be further victimised by the alliance between police and local privilege.

Despite the mixed reception for police reform initiatives across the Commonwealth, there is room for optimism. Growing global concern with crime and security has created fertile ground for new dialogues about police performance and accountability. As more people feel insecure and unsafe, they become interested in knowing how the government and the police plan to protect life and property and the need for deeper engagement between the government, police and the community becomes more urgent.

CONCLUDING RECOMMENDATIONS

CHRI is committed to promoting a model of democratic policing in which the police are:

- subject to the rule of law and responsible to protect human rights;
- accountable to a variety of institutions;
- transparent about policies, decisions and actions taken in most spheres of their work;
- responsive to the people they serve; and
- representative of the people they serve.

This is the model of policing that democracy demands and governments are duty bound to provide. Reforming policing across the Commonwealth requires changing and refining laws, putting in place innovative institutional arrangements, and altering the culture within police organisations. With the requisite political will and concerted efforts and cooperation of governments, police officials, and civil society it is entirely achievable.

CHRI makes a series of priority recommendations to different target groups:

Commonwealth Heads of Government must:

In their CHOGM communiqué:

- recognise that the Commonwealth principles of accountability, transparency, participation, adherence to the rule of law, respect for diversity and democratic functioning apply to the security and justice sectors, including police organisations;
- explicitly acknowledge that democratic policing is crucial to realising democracy and development;
- commit the Commonwealth to developing Commonwealth Principles on Policing drawn from its core principles and international standards; and
- undertake to apply these principles to policing in their own countries.

Mandate the Commonwealth Secretariat to further better policing through:

- providing member countries with technical assistance to reform laws, craft institutional arrangements and adopt practices that will eliminate abuse, corruption and ensure better accountability;
- providing the Human Rights Unit with adequate resources to engage with police organisations, focusing on adherence to human rights standards;
- undertaking a series of Commonwealth-wide exchanges for police ministers, police personnel, experts and civil society designed to encourage the spread of good practice in democratic policing; and
- catalysing the formation of a Commonwealth Association of Police Officers that can mutually assist and share ideas.

In addition, Heads of Government must:

Solemnly agree to ratify international human rights treaties within a finite time frame and develop a mechanism at CHOGMs to report on and monitor implementation of past commitments.

Affirm compliance with the standards of policing required by the International Bill of Rights, the UN Code of Conduct for Law Enforcement Officials, and the UN Basic Principles on the Use of Force and Firearms.

Member countries must:

Acknowledge that it is the foremost duty of a state to ensure people's right to safety and security and thereby to provide a police organisation that is efficient, effective and adheres to the rule of law.

Review and recast police laws, rules and regulations, especially those that pre-date the 1948 Universal Declaration of Human Rights, so as to incorporate and further the principles of democratic policing.

Re-examine internal security laws to minimise the possibility of impunity and remove obstacles to prosecution or victim compensation and civil suits for police wrongdoing.

Protect whistleblowers from harm and victimisation through legislation and supportive systems.

Strengthen traditional executive, legislative, and judicial oversight of police; and put in place and support multiple additional independent civilian oversight mechanisms, such as an ombudsman, human rights commission, anti-corruption body or dedicated police complaints agency as appropriate.

Ensure - through institutional arrangements such as strong, autonomous police service boards, commissions and authorities - that executive oversight does not illegitimately interfere with operational independence of the police.

Publish annual performance targets and evaluation measurements against which adherence to human rights, value for money, performance and community satisfaction can be publicly judged.

Design transparent and merit-based procedures that can be measured against objective publicly-known criteria for representative and non-discriminatory recruitment, selection, and appointment of leadership and rank and file.

Ensure good service conditions for police and fair accountability procedures applicable to all.

Initiate, in collaboration with police organisations, procedures and mechanisms designed to involve civil society groups and the community at large in creating policy, determining priorities, setting targets and evaluating performance.

Re-examine, in collaboration with police organisations, training content, methodology and frequency to emphasise human rights awareness.

Police leaders and police organisations must:

Ensure that upholding the rule of law and protecting human rights and democratic values are core values of policing integrated into its vision, policies and procedures, reinforced through training, and demonstrated in its work.

Send a strong signal to all within and outside that as an organisation of high professional standards, the police will perform well, be open and approachable, and not tolerate abuse of power, corruption, neglect of duty, suborning the law, or any misconduct, nor will it protect wrongdoing.

Ensure that internal accountability mechanisms are well resourced and are fair and firm, enjoying the support and confidence of the public as well as police personnel.

Cooperate with external oversight mechanisms.

Ensure that the police organisation is representative of the population it serves; in particular by improving the representation and retention of minority groups and women, ensuring the work environment is suitable to their particular needs and providing equal career opportunities to all.

Ensure maximum possible transparency to build public confidence in the police and trust in police-community relationships.

Civil society must:

Equip itself to campaign for police reform and accountability by understanding the police, its environment, relevant laws, its resources, responsibilities and that of the government and oversight bodies.

Assess police functioning in accordance with national and international standards and continuously challenge and draw attention to police wrongdoing.

Demand and publicly disseminate information about policing to create a democratic discourse, participate actively in policy processes and public debates on policing issues to challenge the perception that policing is a technical issue only to be discussed by those in uniform.

Engage in partnerships with the police to bring about community involvement and improve community safety.

Donors must:

Require that accountability and human rights issues be integrated into all donor-supported police reform programmes.

Take firm measures against recipient governments that use police to curb civil liberties and consistently do not adhere to international human rights standards in practice.

ENDNOTES

- 1 This section is adapted from Bayley, D. (2001) *Democratising the Police Abroad: What to Do and How to Do It*, National Institute of Justice, US Department of Justice, Washington, pp 11-15; Bruce D. and Neild R. (2004) *The police that we want: a handbook for oversight of police in South Africa*, Center for Study of Violence and Reconciliation, Johannesburg, and Open Society Justice Initiative, New York; and Stone, C. E. and Ward H. H.(2000) *Democratic policing: a framework for action*, *Policing and Society*, Vol. 10, number 1, p 36.
- 2 Chukwuma, I. (2005) "The Future of Police Reform in Nigeria", *Justice Initiatives*, OSJI, New York, 1 February 2005, p. 12: http://www.justiceinitiative.org/db/resource2?res_id=102523 as on 25 May 2005
- 3 Section 4.2(1), *Police Service Administration Act 1990* (Queensland, Australia)
- 4 Zeitune, J. (2004) *International Principles on The Independence and Accountability of Judges, Lawyers and Prosecutors: A Practitioner's Guide*, International Commission of Jurists, p. 1
- 5 Independent Police Complaints Commission, England and Wales (UK); Police Integrity Commission, New South Wales (Australia); National Police Commission, Sri Lanka; Independent Complaints Directorate, South Africa; Police Ombudsman of Northern Ireland; Commission on Human Rights and Administrative Justice, Ghana; and National Commission on Human Rights and Freedoms, Cameroon are some of the different names for civilian oversight mechanisms in the Commonwealth.
- 6 See United Nations et. al, (1993) *Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights (Paris Principles)*: <http://www.ohchr.org/english/about/publications/docs/fs19.htm#annex>. The Principles state that institutions must be independent and that this is guaranteed by statute or constitution; autonomous from government; plural and diverse, including in membership; have a broad mandate which is based on universal human rights standards; have adequate powers of investigation; and have sufficient resources to carry out their functions.
- 7 Bureau of Justice Assistance (1994) *Understanding Community Policing: A framework for action*, <http://www.communitypolicing.org/eleclib/pdf/commp.pdf> as on 5 January 2005

CHRI PROGRAMMES

CHRI's work is based on the assumption that for the realisation of human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. Accordingly, as well as a broad human rights advocacy programme, CHRI advocates access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

Human Rights Advocacy:

CHRI makes regular submissions to official Commonwealth bodies including the Commonwealth Ministerial Action Group and Commonwealth member governments. From time to time CHRI conducts fact finding missions to investigate human rights concerns in member countries and since 1995, has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their capacity and collective power to advocate human rights issues in the Commonwealth. CHRI's Media Unit also ensures that crucial human rights issues are in the public consciousness.

ACCESS TO INFORMATION

Right to Information:

In promoting the right to information, CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. CHRI works collaboratively with local organisations and officials throughout the Commonwealth, building government and civil society capacity as well as advocating with policy makers to ensure that laws reflect the real information needs of the community. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

Constitutionalism:

CHRI believes that constitutions must be made and owned by the people. Towards this end, it has developed guidelines to inform the making and review of constitutions through a consultative process. In addition, CHRI promotes knowledge of constitutional rights and values through public education programmes. It has developed web-based learning modules for the Commonwealth Parliamentary Association aimed at informing legislators of the value of human rights to their work. In the run up to elections, CHRI has created networks of citizen's groups that monitor elections, protest the fielding of criminal candidates, conduct voter education and monitor the performance of local representatives.

ACCESS TO JUSTICE

Police Reforms:

In too many Commonwealth countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread human rights violations and denial of justice. CHRI promotes systemic reforms of police organisations so that they may act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms:

The closed nature of prisons makes them prime centres of human rights violations. CHRI aims to open up prison working to public scrutiny. This programme is sharply focused on ensuring that the near defunct lay visiting system is revived. CHRI examines prison visiting and undertakes capacity building programmes for visitors.

Judicial Colloquia:

In collaboration with INTERIGHTS, CHRI has held a series of colloquia for judges in South Asia on issues related to access to justice, particularly for the most marginalised sections of the community.

In too many countries, governments are failing in their primary duty to provide the public with an honest, efficient, effective police service that ensures the rule of law and an environment of safety and security. Membership of the Commonwealth is premised on countries being democratic – and this requires democratic policing. The only legitimate policing is policing that helps create an environment free from fear and conducive to the realisation of people's human rights, particularly those that promote unfettered political activity, which is the hallmark of a democracy. As CHRI advocates in its report to the Commonwealth Heads of Government, police reform is now too important to neglect and too urgent to delay. The report calls on the Commonwealth to explicitly acknowledge that police reform is needed in many countries of the Commonwealth and to lead the move toward better policing. CHRI urges the Commonwealth to develop Commonwealth Principles of Policing based on its core principles and international standards.



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