

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.

ANNEXURE A

Which International Laws and Standards Affect Policing?

Universal Declaration of Human Rights (UDHR)

The 1948 UDHR is a fundamental source for legislative and judicial practice across the world, and a basis for all other international treaties and conventions discussed below. The UDHR defines the duty of governments to protect people's human rights, and lays down principles or standards for all nations to follow.

Standard Minimum Rules for the Treatment of Prisoners

Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955, and approved by the Economic and Social Council in 1957, these rules set out principles and good practice in the treatment of prisoners and the management of institutions. The Rules were among the first international instruments for the protection of the rights of those accused of committing a criminal offence.

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

Adopted in 1965, ICERD reaffirms that all human beings are born free and equal in dignity, and should be entitled to equal protection of the law against any discrimination. Signatory states take responsibility for prohibiting and eliminating racial discrimination in all its forms. The UN Committee on the Elimination of Racial Discrimination was established under this Convention to monitor how the states have fulfilled their undertakings. The Committee also accepts complaints from one state about racial discrimination by another state.

International Covenant on Civil and Political Rights (ICCPR)

The 1966 ICCPR widened the range of rights established by the UDHR and established the UN Human Rights Committee to monitor implementation.

Optional Protocol to the International Covenant on Civil and Political Rights

Also adopted in 1966, this optional protocol sets up systems for the Human Rights Committee to receive and consider communications from individuals who claim to be victims of human rights violations by any signatory states.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Adopted in 1979, CEDAW defines discrimination against women and provides the basis for the realisation of equality between women and men. States which ratify CEDAW are legally bound to put its provisions into practice. It establishes the Committee on the Elimination of Discrimination against Women, which can receive and consider communications or complaints about gender discrimination from individuals or groups.

UN Code of Conduct for Law Enforcement Officials

Adopted in 1979, this code sets out basic standards for policing agencies across the world. It requires police officials in signatory states to recognise the rights set out in the UDHR and other international conventions.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Adopted in 1984, the CAT prohibits the use of torture or any other inhuman or degrading treatment in attempting to obtain information from a suspect. It is one of the most important declarations to be observed by police officials in the exercise of their duty. The CAT establishes the Committee against Torture, which can consider individual complaints and complaints about torture from one state about another.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")

Adopted in 1985, the Rules are intended to be universally applicable across different legal systems, setting minimum standards to be observed in the handling of juvenile offenders. These rules require that law enforcement agencies respect the legal status of juveniles, promote their well-being, and avoid any harm to young suspects or offenders.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

Adopted in 1985, this Declaration defines victims and their rights, and aims to ensure that police, justice, health, social services and other personnel dealing with victims are able to provide proper and prompt aid.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

Adopted in 1988, the Body of Principles reaffirms that no one in any sort of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, or to any form of violence or threats.

Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions

Recommended by the Economic and Social Council in 1989, this document defines principles concerning the arbitrary deprivation of life, and sets up measures to be taken by governments to prevent, investigate and take legal proceedings in relation to extra-legal, arbitrary and summary executions. The Principles should be taken into account and respected by governments within the framework of their national legislation and practices.

Convention on the Rights of the Child (CRC)

Adopted in 1989, the CRC recognises the rights of children, including child suspects, and requires that every child alleged to have infringed the penal law should be treated in a manner consistent with the promotion of the child's sense of dignity and worth. A Committee on the Rights of the Child was established, but it does not accept individual cases.

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Adopted in 1990, during the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, these principles set up a series of human rights standards regarding the use of force and firearms by law enforcement officials. They function as the global standards for police agencies worldwide, although they are not enforceable in law.

United Nations Standard Minimum Rules for Non-Custodial Measures ("The Tokyo Rules")

Adopted in 1990, the Tokyo Rules are basic principles set up by the United Nations in order to promote the use of non-custodial measures in punishment, as well as minimum safeguards for persons subject to alternatives to imprisonment.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

Adopted in 1990, these rules are intended to establish minimum standards for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

Declaration on the Protection of All Persons from Enforced Disappearance

Adopted in 1992, this body of principles arose from deep concern in the United Nations that in many countries there were persistent reports of enforced disappearance caused by officials of different levels of the government, often police officials.

Declaration on the Elimination of Violence against Women

Adopted in 1993, this Declaration requires governments to develop policies that will eliminate violence against women; and sets standards for governments and law enforcement agencies to combat such violence, particularly sexual violence.

Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights ("Paris Principles")

Set of internationally recognised standards created to guide states in the setting up of effective human rights commissions. The Paris Principles were endorsed by the United Nations General Assembly in December 1993.

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms

Adopted in 1998, this Declaration sets down principles to ensure that states support the efforts of human rights defenders and ensure that they are free to conduct their legitimate activities without fear of reprisals.

United Nations Convention against Corruption (CAC)

Adopted in 2003 but not yet in force, the CAC calls for international cooperation to prevent and control corruption, and to promote integrity, accountability and proper management of public affairs and property.

ANNEXURE B

Ratification of International Conventions²⁶³

COUNTRY	ICCPR	ICCPR	ICCPR	CRC	ICERD	CAT	CAT	CEDAW	CEDAW	CAC ²⁶⁴
		-OP 1	-OP 2				-OP		-OP	
Antigua & Barbuda	N	N	N	Y	(d)	(a)	N	(a)	N	
Australia	Y	(a)	(a)	Y	Y	Y	N	Y	N	(s)
The Bahamas	N	N	N	Y	(d)	N	N	(a)	N	
Bangladesh	(a)	N	N	Y	(a)	(a)	N	(a)	Y	
Barbados	(a)	(a)	N	Y	(a)	N	N	Y	N	(s)
Belize	(a)	N	N	Y	Y	(a)	N	Y	(a)	
Botswana	Y	N	N	(a)	(a)	Y	N	(a)	N	
Brunei Darussalam	N	N	N	(a)	N	N	N	N	N	(s)
Cameroon	(a)	(a)	N	Y	Y	(a)	N	Y	Y	(s)
Canada	(a)	(a)	N	Y	Y	Y	N	Y	(a)	(s)
Cyprus	Y	Y	(a)	Y	Y	Y	(s)	(a)	Y	(s)
Dominica	(a)	N	N	Y	N	N	N	Y	N	
Fiji Islands	N	N	N	Y	(d)	N	N	Y	N	
The Gambia	(a)	(a)	N	Y	(a)	(s)	N	Y	N	
Ghana	Y	Y	N	Y	Y	Y	N	Y	(s)	(s)
Grenada	(a)	N	N	Y	(s)	N	N	Y	N	
Guyana	Y	(a)	N	Y	Y	Y	N	Y	N	
India	(a)	N	N	(a)	Y	(s)	N	Y	N	
Jamaica	Y	*	N	Y	Y	N	N	Y	N	
Kenya	(a)	N	N	Y	(a)	(a)	N	(a)	N	(r)
Kiribati	N	N	N	(a)	N	N	N	(a)	N	
Lesotho	(a)	(a)	N	Y	(a)	Y	N	(a)	Y	
Malawi	(a)	Y	N	(a)	(a)	(a)	N	(a)	(s)	(s)
Malaysia	N	N	N	(a)	N	N	N	Y	N	(s)
Maldives	N	N	N	Y	(a)	(a)	N	(a)	N	
Malta	(a)	(a)	(a)	Y	Y	(a)	Y	(a)	N	(s)
Mauritius	(a)	(a)	N	(a)	(a)	(a)	N	Y	(s)	(r)
Mozambique	(a)	N	(a)	Y	(a)	(a)	N	(a)	N	(s)
Namibia	(a)	(a)	(a)	Y	(a)	(a)	N	(a)	Y	(r)
Nauru	(s)	(s)	N	(a)	(s)	(s)	N	N	N	
New Zealand	Y	(a)	Y	Y	Y	Y	(s)	Y	Y	(s)
Nigeria	(a)	N	N	Y	(a)	Y	N	Y	Y	(r)

COUNTRY	ICCPR	ICCPR -OP 1	ICCPR -OP 2	CRC	ICERD	CAT	CAT -OP	CEDAW	CEDAW -OP	CAC ²⁶⁴
Pakistan	N	N	N	Y	Y	N	N	(a)	N	(s)
Papua New Guinea	N	N	N	Y	(a)	N	N	(a)	N	(s)
Samoa	N	N	N	Y	N	N	N	(a)	N	
Seychelles	(a)	(a)	(a)	(a)	(a)	(a)	N	Y	(s)	(s)
Sierra Leone	(a)	(a)	N	Y	Y	Y	(s)	Y	(s)	(r)
Singapore	N	N	N	(a)	N	N	N	(a)	N	
Solomon Islands	N	N	N	(a)	(d)	N	N	(a)	(a)	
South Africa	Y	(a)	(a)	Y	Y	Y	N	Y	N	(r)
Sri Lanka	(a)	(a)	N	Y	(a)	(a)	N	Y	(a)	(r)
St. Kitts & Nevis	N	N	N	Y	N	N	N	(a)	N	
St. Lucia	N	N	N	Y	(d)	N	N	(a)	N	
St. Vincent & The Grenadines	(a)	(a)	N	Y	(a)	(a)	N	(a)	N	
Swaziland	(a)	N	N	Y	(a)	(a)	N	(a)	N	
Tanzania	(a)	N	N	Y	(a)	N	N	Y	N	(s)
Tonga	N	N	N	(a)	(a)	N	N	N	N	
Trinidad & Tobago	(a)	*	N	Y	Y	N	N	Y	N	(s)
Tuvalu	N	N	N	(a)	N	N	N	(a)	N	
Uganda	(a)	Y	N	Y	(a)	(a)	N	Y	N	(r)
United Kingdom	Y	N	Y	Y	Y	Y	Y	Y	Y	(s)
Vanuatu	N	N	N	Y	N	N	N	Y	N	
Zambia	(a)	(a)	N	Y	Y	(a)	N	Y	N	(s)

Key:

Y = signed and ratified

* = signed but later denounced

N = not signed, not ratified, not acceded

(a) = acceded

(s) = signatory only

(d) = succession

(r) = ratified

ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	First Optional Protocol to the ICCPR on the right of individual petition
ICCPR-OP 2	Second Optional Protocol to the ICCPR on the abolition of the death penalty
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
CEDAW	International Convention on the Elimination of All Forms of Discrimination Against Women
CEDAW-OP	Optional Protocol to CEDAW on the right of individual petition
CRC	Convention on the Rights of the Child
CRC-OP 1	Optional Protocol to the CRC on the involvement of children in armed conflict
CRC-OP 2	Optional Protocol to the CRC on the sale of children, child prostitution and child pornography
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAC	Convention Against Corruption

ANNEXURE C

Quiz Is Your Police Democratic?

QUESTIONS TO ASK	INDICATORS / EVIDENCE
<p>How are human rights made relevant to police work?</p> <p>To what extent are you and your officers aware of basic human rights?</p>	<ul style="list-style-type: none"> ● Human rights mentioned in: <ul style="list-style-type: none"> ● national legislation ● official policy statements ● mission statements ● codes of conduct of behaviour ● operational documents ● Human rights given profile in all training ● Line managers provide oral and effective commitment to human rights ● Human rights awareness is a performance criterion for promotion
<p>What guarantees does your police service have against abuses of authority such as arbitrary or excessive use of force?</p>	<ul style="list-style-type: none"> ● Instruction, training, and supervision in place ● Internal and external investigations ● Judicial review in place ● Recording of police use of force ● Automatic and independent review in cases of (deadly) force ● Preventive measures in place to combat ill-treatment and torture
<p>To what extent are human rights effectively respected and supported?</p>	<ul style="list-style-type: none"> ● Number and types of complaints of abuse of power and other human rights violations ● Number and types of sanctions imposed, both disciplinary and judicial ● Adverse press reports ● Criticisms by NGOs ● Percentage of defendants released due to inefficient police work or "mistakes" by the police
<p>What measures are taken to ensure that all citizens are treated equally, irrespective of race, gender, religion, language, colour or political opinion?</p>	<ul style="list-style-type: none"> ● Recruitment of officers to represent all sections of society ● Instruction and training in the principles of non-discriminatory practices

QUESTIONS TO ASK	INDICATORS / EVIDENCE
<p>Does the police service respect and promote the rule of law? What legal basis do policing objectives and actions have?</p>	<ul style="list-style-type: none"> ● Numbers of cases filed against police ● Numbers of findings, or judicial orders that indicate excessive use of force has been used ● Percentage of unauthorized searches and unlawful arrest cases brought against police
<p>In what way is your police service transparent, open and accountable?</p>	<ul style="list-style-type: none"> ● Performance figures are publicly available ● Costs and expenditure are publicly available ● Public access to senior officers
<p>How do recruitment practices take into consideration the various groups represented in society? What measures are in place to avoid discrimination?</p>	<ul style="list-style-type: none"> ● Population/ethnic/gender representation ● Recruitment opportunities for various minority groups ● Percentage of diverse groups represented in the force ● Proactive recruitment and existence of outreach policies
<p>What importance is given to human rights during training?</p>	<ul style="list-style-type: none"> ● Number of hours spent on national law and human rights during training ● Delivery of human rights modules in training, and included in wider training
<p>What kind of human rights law is included in the curriculum?</p>	<ul style="list-style-type: none"> ● International human rights instruments included ● Regional human rights instruments included
<p>Which bodies are there to evaluate the quality of the delivery of policing (internal and external)?</p>	<ul style="list-style-type: none"> ● Active internal affairs, investigations, management reviews ● Parliamentary committees on police practice and use of budget ● Fora for internal communication with groups and in-house publications ● Public reports of intent
<p>How is each individual police officer made accountable for the consequences of their own actions or lack thereof? How is this assessed with regard to its impact on the whole force?</p>	<ul style="list-style-type: none"> ● Precise and timely performance feed-back from management on performance at incidents ● Official complaints against individual police officers ● Use of internal anonymous hotlines ● Name and blame by supervisors
<p>How can the public make informal and/or formal complaints? What opportunities exist? How accessible and responsive is the system?</p>	<ul style="list-style-type: none"> ● Availability of authorised people and institutions to record a complaint ● Accessibility of the points and people receiving the complaints ● Formalities required to make a complaint: informal or formal, direct action for individual victims and vulnerable groups

QUESTIONS TO ASK	INDICATORS / EVIDENCE
<p>How effective and relevant are internal investigation procedures?</p> <p>Are the internal disciplinary procedures accessible, impartial, prompt and rigorous?</p>	<ul style="list-style-type: none"> ● Time-span between act and appointment of an investigator ● Time-span between appointment and end of investigation ● Ratio of investigators and resources compared to police force departments ● Number of cases investigated automatically or at discretion of managers ● Availability of range of punishments ● Percentage of misconduct cases where action is subsequently taken

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