

Human Rights Update



Newsletter of the
Human Rights Unit
of the Commonwealth
Secretariat

Issue 1

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'We believe in the liberty of the individual, in equal rights for all citizens regardless of race, colour, creed or political belief, and in their inalienable right to participate by means of free and democratic political processes in framing the society in which they live'

Declaration of Commonwealth Principles 1971

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Editorial

The Human Rights Update of the Human Rights Unit is being revived. We are committed to the flow of information between the Human Rights Unit and all those that are interested in the promotion of human rights within the Commonwealth and beyond. The commitment of the Commonwealth to human rights resulted in the reorganisation of the Human Rights Unit (HRU), giving it an autonomous status reporting directly to the Deputy Secretary General. The HRU was established in 1985 to promote the understanding of and respect for human rights in the Commonwealth in accordance with the principles enshrined in the various Commonwealth Declarations and in UN human rights instruments. With the reorganization, the Human Rights Unit has been given a new mandate. The HRU is mandated to provide advice to the Secretary General, mainstream human rights within the Secretariat in order to make sure that staff have a clear understanding of human rights issues, make available to member countries human rights information, and to develop human rights programmes for the benefit of member countries. We believe that the revival of this newsletter is one way of achieving the objectives of the Unit. It is our hope that as we start the new year we will reaffirm our collective commitment to the values of equality and respect for the inherent human dignity of all human beings.

We intend to publish three issues a year, including reports on projects in the HRU, conference and workshop reports, developments in international human rights fora, human rights news from member countries as well as book reviews. In order to make the newsletter a useful forum, we will continue to rely on contributions from national and international human rights institutions, human rights NGOs, human rights experts as well as readers. We therefore welcome any contribution in the form of short articles on human rights.

The modern doctrine of the “human rights based approach to development” cannot be over emphasized. It is now widely accepted that development and human rights are inseparable. Development is dependent on the respect and protection of human rights. This view is strongly supported by the office of the United Nations High Commissioner for Human Rights. We have accordingly set out a brief introductory discussion on this topic. It is our belief that the newsletter will contribute towards the promotion and dissemination of human rights information and discussion of human rights issues within the Commonwealth and the wider world. Any comments and contributions may be sent to us, the address on the back page.

Human Rights Day Statement by the Commonwealth Secretary-General

10th December is the world’s Human Rights Day set aside by the United Nations to commemorate the anniversary of the Universal Declaration of Human Rights. To mark the day the Commonwealth Secretary-General Rt Hon. Don McKinnon said that human rights must be taken seriously in order to recognize the equal worth of human lives and the right of all people to fundamental political and civil rights such as freedom of expression, association and assembly. “Respect for fundamental human rights is a core Commonwealth principle, enshrined in the Harare Commonwealth Declaration,” the Secretary-General stated. “We celebrate Human Rights Day today as a reaffirmation of our core commitment to the inherent dignity of all human beings. Any violation of human rights diminishes our own human dignity.” Mr McKinnon emphasised that human rights are also about social and economic development. “It is important to recognise that whilst millions of people do not have access to clean water, food, education and proper health care, they will not have the opportunity to realise their potential and rise above the mire of poverty.”

Recalling the words of Archbishop Desmond Tutu who said, “What dehumanises you inexorably dehumanises me”, the Secretary-General commented that these words ring as loudly today as when they were spoken.

“Human Rights Day is an opportunity to renew our collective commitment to the values of freedom, equality and respect for human dignity, which are the cornerstones of social justice and human development,” the Secretary-General concluded.

The Universal Declaration of Human Rights was adopted and proclaimed by the UN General Assembly on the 10th December 1948 and is available in over 300 different languages on the United Nations High Commission for Human Rights’ website www.unhchr.ch

Message of the UN High Commissioner for Human Rights on Human Rights Day

“The best chance for preventing, limiting, solving and recovering from conflict and violence lies in the restoration and defence of the rule of law”

We commemorate today the creation of one of the most important testaments of our times: the Universal Declaration of Human Rights. This is an occasion to reflect on our human rights achievements as well as to rededicate ourselves to overcoming our shortcomings.

The Declaration is a timeless and powerful document that captures the profound aspirations of humankind to live in dignity, equality and security. It provides minimum standards and has helped turn moral issues into a legally binding framework. Today, human rights, as protected by the rule of law, are now demanded by civil society. They are adopted as pillars of domestic and foreign policy. They are invoked by parliaments, national and international judiciaries, the media, schools, workers, employers and corporations.

Yet, we are living in profoundly challenging times for human rights. On this day, I would like us to think in particular of the countless number of civilians who are living in the midst of war and conflict and who continue to endure atrocities which should outrage the conscience of humanity. Their basic rights, though enshrined in human rights and humanitarian law, are denied. For many, war is distant and the graphic images of human suffering enter their lives only through the media. But for the millions of victims of armed conflict, war represents the daily reality. Men and women are killed, maimed, raped, displaced, detained, tortured, and denied basic humanitarian assistance, and their property destroyed because of war. Children are abducted, forcibly recruited into arms, separated from their families, sexually-exploited, suffer hunger, disease and malnutrition, and are unable to go to school. They are not only denied their present, but also their future.

It is appalling that impunity for gross violations of human rights and grave breaches of humanitarian

law is so rampant. The entry into force of the Rome Statute of the International Criminal Court on 1st July 2002 has given great hope for finally bringing an end to genocide, war crimes and crimes against humanity. Let us work together towards ensuring the success of this much-needed institution.

But we need to do a lot more. We must look with renewed urgency to means that will truly promote and protect human rights in areas ravaged by conflict. Let us pursue a comprehensive strategy focusing most importantly on ensuring that conflict is in the first place prevented, while seeking also to protect civilians caught in the cross-fire, helping to achieve peace, and assisting in rebuilding war-torn societies on solid foundations of respect for human rights.

The best chance for preventing, limiting, solving and recovering from conflict and violence lies in the restoration and defence of the rule of law. Armed conflict stands as a bloody monument to the failure of the rule of law. We must break the cycle of violence. Where armed repression strips people of their rights and dignity, let those responsible answer under the rule of law. Where terrorism inflicts misery, let those responsible answer under the rule of law. Let the fundamental rules of human rights and human dignity apply to every state and every armed group, every individual and every collective, every public entity and every private corporation.

Marking Human Rights Day, the UN Secretary-General calls for Vision to bring about New Equilibrium in International Relations

(Issued by Secretary-General Kofi Annan on the occasion of Human Rights Day, 10 December.)

Few periods in history have brought a greater sense of a seismic shift in the workings of international relations than the present one — in the interaction between States and between peoples alike. Globalization, the spectre of international terrorism and the increasing recognition of the universality of human rights are

all part of this shift. To manage it, we need a vision that can help bring about a new equilibrium. That vision must respect human rights, confront the threat of terrorism, and draw as never before upon the resources and legitimacy of multilateral co-operation. That confronts us with a complex challenge, but one in which we must be guided by one clear principle beyond any other: respect for the international rule of law. One of the most outstanding legacies of the last century was the development of a body of international law — humanitarian, refugee, criminal and human rights law — which, taken together, properly understood and effectively implemented, serve to protect the individual from injustice, from arbitrary treatment, and from assaults on fundamental security.

All too often, these laws are not honoured; all too often, domestic laws are subverted to provide a cloak of legitimacy for breaches of fundamental human rights, or infringements on civil liberties.

Yet the strength of the rule of law lies in its universal relevance and application — in its grounding in the fundamental human rights of all people. It applies equally to the strong and the weak. Its application is the duty of States large and small. It is the most effective tool to fight criminality and terrorism, and the best guarantee of safety, security and freedom for us all.

On this Human Rights Day, I appeal to all governments, communities and individuals to recommit themselves to the universal application of the rule of law. Let us ensure that we never take this precious legacy for granted. Let us nurture, develop, strengthen and defend it. On this Day, let us rededicate ourselves to that mission.

Source: UN Press Release (HR/4631)

Did you know . . .

that Sergio Vieira de Mello succeeded Mary Robinson as the UN High Commissioner for Human Rights on 12 September 2002. He comes from Brazil and has worked in the UN system since 1969. His last position was Special Representative of the UN Secretary-General and UN Transitional Administrator in East Timor.

The Human Rights Unit: Now reconstituted as a free standing Unit of the Secretariat

In the recent past there have been changes within the Secretariat involving the Human Rights Unit (HRU). With effect from January 2002, the Unit has been reconstituted as a freestanding unit reporting directly to the Deputy-Secretary General. At its inception, the HRU was located within the Political Affairs Division and subsequently was a unit in the Legal and Constitutional Affairs Division. In view of a decision to give the human rights related work within the Secretariat greater prominence, the mandate of the HRU is now as follows:

- Work within the Commonwealth Secretariat to integrate human rights activities into a wide range of Secretariat work across all Divisions.
- Develop programmes designed to support the Commonwealth's commitment to the promotion and protection of fundamental human rights and in particular, develop educational, legislative and administrative programmes to achieve this aim on the understanding that civil, political, economic, social and cultural rights are indivisible.
- Publish for the use and information of member countries; literature on human rights developments, jurisprudence and such other material as will assist in the promotion, protection and justiciability of human rights, including educational material.
- Collaborate and co-operate with both Commonwealth and non-Commonwealth governmental and non-governmental organisations working in the field of human rights and interact with the UN human rights system (in accordance with the Memorandum of Understanding concluded with the UN Commissioner for Human Rights) and that of other international organisations.
- Provide advice to the Secretary-General (including on CMAG issues from time to time).

Commonwealth Law Ministers Meeting Reaffirm their Commitment to Commonwealth's Fundamental Values on Human Rights and Democracy

Commonwealth Law Ministers reaffirmed the importance of the protection and promotion of the fundamental rights of citizens. At their meeting held in Kingstown in St Vincent & Grenadines (18-21 November 2002), the Ministers emphasised that mere 'paper rights' were not enough; their practical implementation was crucial. This was accomplished in their countries through a range of different mechanisms, including Human Rights Commissions, parliamentary committees and similar national agencies, the involvement of NGOs and the wider civil society, and the opportunities for individual recourse to legal remedies.

The Ministers commended the introduction and continued development of mechanisms appropriate to the resources, culture and system of government of each Commonwealth member country to ensure that government legislative and policy proposals did not derogate from fundamental rights. They asked the Commonwealth Secretariat to assist in the training of national agencies, such as the police, to entrench respect for human rights in all their operations.

They also affirmed their commitment to the promotion of the fundamental Commonwealth values of freedom of assembly, association and expression, and welcomed the contribution made by the Commonwealth Expert Group that has developed guidelines on best practice in this field. Ministers recognised that there was always a need to balance individual rights with the responsibility of governments to guarantee the right of their citizens to security and public order. The Meeting acknowledged that the advancement of human rights had to be pursued hand in hand with development; economic and social rights were important considerations in that context.

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power seeks to ensure that the victims of crime receive proper consideration in national legal systems and proper support from law enforcement and other services. The Law Ministers, therefore, mandated Senior Officials to finalise their work on a Commonwealth Statement of Basic Principles of Justice for Victims of Crime and present a draft to Ministers for consideration at their next meeting which is scheduled to be held in 2005 in Ghana.

Report of Commonwealth Expert Groups Meetings on Human Rights

The Human Rights Unit in June 2002 set up and convened Expert Groups meetings in order to tackle a wide range of human rights issues. These experts were drawn from Commonwealth countries across the regions and consisted of public officials, practitioners and academicians.

(a) Expert Group Meeting on the Development of Mechanisms to Combat Trafficking of Women and Children

The purpose of this expert group meeting was to develop strategies for combating trafficking of women and children in line with the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). Trafficking in people, especially women and children, for prostitution and forced labour is one of the fastest growing areas of international criminal activity and one that is of increasing concern to the international community. It is now being considered the third largest source of profits for organized crime, behind drugs and guns. The reasons for the increase are many. The globalisation of the world economy has increased the movement of people across borders legally and illegally, especially from poorer to wealthier nations. Also the fact that criminal business feeds on poverty, despair, war, crises and ignorance means that trafficking business must increase.

The Law Ministers Meeting of 1999 mandated the Human Rights Unit to commission the preparation of measures on administrative and other measures to address the problem. The Experts came up with a set of steps proposed for the Commonwealth countries to tackle the problem of trafficking in women and children. It is expected that the report, currently being published, may be used for education, training, advocacy and advisory purposes in member countries.

(b) Expert Group Meeting on the Best Practice Guidelines on Freedom of Expression, Assembly and Freedom of Association

This Expert Group meeting was convened to examine the fundamental human rights of Freedom of Expression, Assembly and Association as set out in international and regional human rights instruments, which entrench these rights. Many Commonwealth jurisdictions have entrenched these fundamental rights in their constitutions or incorporated them into national legislation. Freedom of association encompasses the essential rights in a democratic society to establish and participate in political parties, trade unions and non-governmental organisations. The Group considered factors, which hinder the enjoyment of these rights by citizens, and proposed guidelines to overcome these hindrances.

The right to demonstrate and protest forms part of the rights of assembly and association and is part of the democratic landscape of countries. Clearly, these rights only apply to peaceful protests. However, even in the case of peaceful protests, these rights are subject to limitations imposed by local jurisdictions with a view to safeguarding the rights of other citizens not engaged in such activity. The issue, which needs to be examined, is how to achieve a balance between ensuring that these rights are respected, whilst ensuring that other fundamental rights are not infringed. The Group came up with best practice guidelines on the subject for use by member countries. The Best Practice Guidelines will be published in the first quarter of 2003.

(c) Expert Group Meeting on Best Practice Guidelines for Treatment of Victims of Crime

Victims are sometimes overlooked when consideration is given to reforming the criminal justice system of Commonwealth countries. This leads to the incorrect perception that ‘criminals have more rights than victims’. It detrimentally affects the public perception and support for fundamental human rights provisions in the law, especially those dealing with the right to a fair trial.

The United Nations “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power” defines victims as persons who have suffered harm including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights through acts or omissions in violation of criminal laws operative in domestic legislation.

An Expert Group Meeting has drafted Best Practice Guidelines for the Treatment of Victims of Crime which will be published in the first quarter of 2003.

Understanding the Rights Based Approach to Development

(With acknowledgement to the office of the UNHCHR)

The Right to development

The right to development is one of the fundamental rights that all human beings are entitled to in order to sustain life. The United Nations General Assembly adopted the Declaration of the Right to Development in 1986, which defines development as:

‘a comprehensive economic, social, cultural and political process, which aims at constant improvement of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in their fair distribution of benefits resulting there from. The human person is the central subject of the development process and development should therefore make the human being the main participant and beneficiary of development’

The right to development is an inalienable human right and every human being is entitled to participate and contribute to social, political and economic development based upon:

- *Permanent sovereignty over natural resources*
- *Self-determination*
- *Popular participation*
- *Equality of opportunity*
- *Adequate conditions for the enjoyment of all other rights.*

A Rights Based Approach to Development

At the World Conference on Human Rights held in Vienna in 1993, the connection between human rights and development was reaffirmed. It was emphasised that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. It was noted that there can never be development without respect for human rights. Eradication of poverty can only be achieved based on sustained economic growth, social development and social justice. This requires the full involvement and participation of both men and women as agents and beneficiaries of development.

The rights based approach to development, therefore, is a conceptual framework for the process of human development and is based on international human rights standards directed at promoting and protecting human rights. It aims at integrating norms, standards and principles of international human rights system into plans, policies and processes of development.

However the rights based approach to development DOES NOT mean:

- *Imposing aid conditionality*
- *transforming development agencies into human rights monitoring mechanisms*
- *undertaking “case-work”*
- *ignoring economic and social needs*
- *eliminating priorities*
- *opposing economic growth*

There are 5 elements of the rights based approach to development, according to the office of the UNHCHR. These are also known as the “PANEL” analysis:

- *Participation*
- *Accountability*
- *Non-discrimination*

- *Empowerment*
- *Linkage to human rights standards*

For the rights approach to be effective communities, civil society, women, youth and all sectors of the society must have an active and meaningful participation in the planning and implementation of development projects. It is not effective to have a mere formal or contractual participation. Those in power or authority are accountable to the people they serve. They have obligations to give effect to the enjoyment of rights through the promotion and protection of those rights.

In the next issue of the Human Rights Update we shall examine these elements in detail.

The Right to Water—the Legal Basis

The right to water is indispensable for human survival and a pre-requisite for enjoyment of other human rights. According to the General Comment No 15 of 2002 of the UN Committee on Economic, Social and Cultural Rights, there is continuous denial of the right to water for over one billion people in both the developed and developing countries. Several billions of people do not have access to clean and uncontaminated water due to poverty.

According to Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, every person has the right to water. The human right to water entitles everyone to sufficient, safe, acceptable and affordable water for personal and domestic use. Article 11 also provides for specific rights emanating from the realization of the right to adequate standard of living including food, clothing and housing. The right is a guarantee to a good standard of living since it is one of the most fundamental conditions for survival. The Committee, therefore, recognise the right as an essential human right and calls upon State Parties to adopt effective measures to ensure the realisation of the right to water for all without any discrimination. The measures for the realisation of the right must be feasible as well as practicable.

The right should also be construed in relation to other rights enshrined in the International Bill of

Human Rights such as the right to life and human dignity. The right to water has also been recognized in a wide range of international documents, including treaties, declarations and other standards. For instance, Article 14, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates that States parties shall ensure to women the right to “enjoy adequate living conditions, particularly in relation to [...] water supply”. Article 24, paragraph 2, of the Convention on the Rights of the Child requires States parties to combat disease and malnutrition “through the provision of adequate nutritious foods and clean drinking-water”.

It is common knowledge that water is required for a range of different purposes apart from personal and domestic uses. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life). Nevertheless, priority in the allocation of water must be given to the right to water for personal and domestic uses. The World Summit on Sustainable Development, Plan of Implementation (2002) calls for giving priority to the water resources required to prevent starvation and disease, as well as water required to meet the core obligations of each of the Covenant rights.

State Parties are under an obligation to refrain from interfering with the enjoyment of the right to water. This means that State Parties must not engage in activities that limit or deny the accessibility and use of water. Activities such as pollution from industrial and other sources must be avoided at all cost. The importance of water as a human right cannot, therefore, be over-emphasised.

Did you know . . .

that the **Commonwealth Human Rights Law Digest**, which is published by Interights with the support of the Human Rights Unit of the Commonwealth Secretariat, has now three complete volumes with a fourth due this month. Each volume consists of three issues each containing 50 summaries of human rights decisions from domestic courts of the Commonwealth, many of which are unreported elsewhere. Interights may be contacted at www.interights.org

About the Optional Protocol to the Convention against Torture

The Optional Protocol to the Convention against Torture seeks to assist State Parties to implement their existing obligations to prevent torture under the Convention against Torture. It is an ‘Optional’ Protocol, meaning that the provisions of which will only apply to State Parties that eventually choose to accede or ratify the Protocol. It aims at establishing proactive international and national mechanisms of monitoring places of detention through regular visits that are directed at preventing torture. The present position is that such visits to places of detention are allowable only where there are well founded indications of systematic torture having been committed and upon acceptance of the concerned state. The Optional Protocol will also establish an International Committee of ten independent and multi disciplinary experts enabled to visit any place of detention under the jurisdiction of a State Party to the Protocol in order to monitor the treatment and conditions of detention of the persons deprived of their liberty and to make recommendations to the state concerned to assist it in effectively fulfilling its obligations to combat and prevent torture and ill treatment.

The UN General Assembly says YES to the Draft Optional Protocol to the UN Convention Against Torture

The UN General Assembly on 18th December 2002 approved the Anti Torture Protocol by 127 votes in favour, 4 against, and 42 abstentions. The approval comes after 10 years of inter-governmental negotiations. The protocol has been supported by a cross majority of states led by Costa Rica and Switzerland. Following the adoption the Protocol is now open for signature from 1st January 2003 and will enter into force upon the 20th ratification.

Prior to the General Assembly the Protocol was adopted by the UN Economic and Social Council on 24th July 2002. The Protocol provides for one of the most effective ways of preventing torture through inspection and scrutiny by independent international experts who will make specific recommendations to the concerned countries for improvements.

The Adoption of the Guidelines and Measures for the Prevention of Torture, Cruel, Inhuman and Degrading Treatment and Punishment by the African Commission on Human and Peoples Rights

The 32nd session of the African Commission on Human and Peoples' Rights was convened in Banjul, The Gambia from 17th to 23rd October 2002. The Commission adopted the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman and Degrading Treatment and Punishment in Africa, otherwise known as the "Robben Island Guidelines". These guidelines were formulated under the auspices of the Association for the Prevention against Torture (APT) at a workshop, which was held in February 2002 in South Africa. Symbolically the Workshop took place on Robben Island where the former South African President Nelson Mandela, then an anti apartheid fighter, had been detained for a large part of his 27 years in prison hence the name "Robben Island Guidelines". The Guidelines are a commitment by the African Commission that African states will implement the provisions under the Convention in order to prevent and stop torture in the various criminal justice systems in Africa.

Under Article 5 of the African Charter on Human and Peoples' Rights all forms of human degradation particularly torture, inhuman and ill treatment are prohibited in line with the UN Convention against Torture, States Parties have to take effective measures to forbid acts of torture.

Follow up to the World Conference against Racism, Racial Discrimination, Xenophobia and Intolerance: Seminar of Experts for the African Region

The office of the High Commissioner for Human Rights in co-operation with the UN Office in Nairobi, recently convened a meeting of experts, governments, non-governmental organizations, intergovernmental organizations and UN Agencies to exchange ideas on the implementation of the Durban Declaration and Programme of Action (DDPOA). Among other things, the meeting recommended that:

- (a) As a way of demonstrating a strong political will, States should develop national plans of action and facilitate their implementation within a reasonable period of time with measurable indicators. Effective participation of NGOs, community based organizations and other civil society in the planning and implementation of the national plan of actions should be encouraged.
- (b) States must recognize racism and other forms of inequalities based on status including HIV/AIDS status and take steps to address them by provision of essential services to all. Further, States should develop and adopt legislative and policy framework, in consultation with all relevant stake holders, to protect and fulfill the fundamental human right of all persons to the highest attainable standard of health such as widespread HIV information on prevention and care, safe and effective and affordable medication.
- (c) States should ensure the independence of the judiciary and promote the delivery of justice and the rule of law at all levels in order to address human rights violation of inequality and others. In this regard there must be training of judges and other law enforcement officials through available technical co-operation programmes.

- (d) States should endeavour to strengthen existing national human rights institutions for the promotion and protection of human rights. Further, the African Commission on Human and Peoples Rights should consider establishing an anti discrimination unit to effectively monitor the implementation of the Declaration. The Seminar also recommended the setting up of regional NGO network on the issue
- (e) States should develop and implement educational and public information programmes to support other measures and promote a policy of multiculturalism as a national framework for promoting cross cultural understanding and respect for diversity. The policy must be backed by statutory authority to ensure sustainability of the programmes.
- (f) States should strive to achieve full and effective equality through the New Partnership for Africa's Development and development policies. To this end there must be close collaboration between NEPAD processes and the UN human rights machinery with a view to realizing the commitments made in Durban especially in the areas of economic, social and cultural rights.
- (g) States should study and understand the root causes of racism and racial discrimination, intolerance and xenophobia in the context of value systems, culture, history, politics, social and economic systems. Policies should be put in place that respect and promote rights of the marginalized such as women, refugees, migrants and children.
- (h) States should develop and implement policies that are consistent with the needs of the ecosystems in order to achieve consistency between international environmental agreements and human rights commitments. Effective public participation in matters of the environment is also important and must be encouraged.

The Strengthening of National Human Rights Institutions

The United Nations Secretary General Mr. Kofi Annan recently indicated that he places priority on the development of national human rights institutions in order to strengthen the capacity of national institutions.

In his recent report, Mr. Annan noted that "building strong human rights institutions at the country level is what in the long run will ensure that human rights are protected and advanced in a sustained manner"

The UN Secretary General further said that emplacement of enhancement of a national protection system in each country, reflecting international human rights standards, should be a principle objective of the UN in carrying out this project.

The Human Rights Unit of the Commonwealth Secretariat has a project on the Strengthening of National Human Rights Institutions in the Commonwealth. This is a continuation of previous work by the HRU which resulted in the publication of Best Practice of National Human Rights Institutions in 2001. The UN, through the office of the High Commissioner for Human Rights has used the publication in assisting countries set up national human rights institutions. This publication is available on our website, www.thecommonwealth.org

Did you know . . .

that some 120 million children (60% of which are girls) do not have access to education. Resolution 2002/23 of the UN Commission on Human Rights affirms the realisation of the right as being important in the eradication of poverty; and call upon states to give full effect to the right to education and to guarantee its exercise without discrimination.

Current Activities in the Human Rights Unit

1. Rule of Law in the 21st Century

Developing consensus on human rights standards applicable to the concept “Rule of Law in the 21st Century” amongst Commonwealth members.

2. Mainstreaming Human Rights

Protection, respect and fulfillment of human rights in the carrying out of development projects by Commonwealth Secretariat Divisions; Understanding and internalising human rights components of Commonwealth values by Commonwealth Secretariat Divisions (e.g. Harare Declaration and international human rights instruments).

3. Pan-Commonwealth Workshop on Internally Displaced Persons

Development of Best Practice Guidelines on Treatment of Internally Displaced Persons by member countries through convening a Pan-Commonwealth workshop in collaboration with the Special Representative of the UN Secretary-General on Internally Displaced Persons and the Brookings Institution.

4. Strengthening National Human Rights Institutions (NHRIs)

5. Promoting Convention Against Torture

Increase number of ratifications by Commonwealth countries of Convention and its optional protocols.

6. Publication of Human Rights Material

Promotion of human rights and Commonwealth values through publications; Joint periodical publication of Commonwealth human rights cases.

7. Collaboration with international human rights agencies

Meetings with international organisations and attendance at international human rights conferences to network and raise the Commonwealth’s profile.

8. Introductory study on legal status of Small States threatened with rising sea levels

Focusing countries attention on the impending natural disaster and the legal consequences thereof as a result of the discussion paper

The International Criminal Court

The establishment of the International Criminal Court last year by the United Nations was a welcome development in the prevention of violations of human rights. The Commonwealth Secretary General hailed it as a “historic step on which we hope will herald a new era in dealing with war crimes and crimes against humanity”. The Court’s establishment followed the ratification of the Rome Statute of the International Criminal Court by well over 60 countries in April last year.

The objectives of the Court are to prosecute individuals who commit grave human rights abuses under international criminal law, deter future war criminals, end impunity and remedy the deficiencies of *ad hoc* tribunals for international war crimes. Its jurisdiction shall be limited to most serious crimes of concern to the international community such as genocide, crimes against humanity and crimes of aggression.

It is important, however, to note that the establishment of the Court does not detract from States responsibility to prosecute crimes against humanity and war crimes. The practice and procedures of the Court will develop international standards dealing with genocide, crimes against humanity and crimes of aggression.

It is expected that the Court shall be fully operational by July this year. So far 35 out of 54 Commonwealth countries have signed the Rome Statute while 28 have ratified it.

The Legal and Constitutional Affairs Division of the Commonwealth Secretariat have been conducting regional workshops across the Commonwealth on the Rome Statute of the International Criminal Court.

The **Commonwealth Law Bulletin** contains news of legislation, judicial decisions, law reform proposals, international developments, case law and developments relating to the legal profession and ombudsmen, and other legal news from around the Commonwealth. It also contains articles on various subjects including human rights. It is published bi-annually by the Legal and Constitutional Affairs Division of the Commonwealth Secretariat. For subscription and other details contact the Publications Manager or e-mail r.jones-parry@commonwealth.int

STATUS OF RATIFICATIONS OF THE PRINCIPAL INTERNATIONAL HUMAN RIGHTS TREATIES IN THE COMMONWEALTH

As of 21 August 2002

The international human rights treaties of the United Nations that establish committees of experts (often referred to as “treaty bodies”) to monitor their implementation are the following:

- (1) **the International Covenant on Economic, Social and Cultural Rights (CESCR)**, which is monitored by the Committee on Economic, Social and Cultural Rights;
- (2) **the International Covenant on Civil and Political Rights (CCPR)**, which is monitored by the Human Rights Committee;
- (3) **the Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP1)**, which is administered by the Human Rights Committee; and
- (4) **the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty (CCPR-OP2-DP)**.
- (5) **the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)**, which is monitored by the Committee on the Elimination of Racial Discrimination;
- (6) **the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**, which is monitored by the Committee on the Elimination of Discrimination against Women;
- (7) **the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP)**;
- (8) **the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**, which is monitored by the Committee against Torture;
- (9) **the Convention on the Rights of the Child (CRC)**, which is monitored by the Committee on the Rights of the Child;
- (10) **the Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict**;
- (11) **the Optional Protocol to the Convention on the Rights of the Child (CRC-OP-SC) on the sale of children, child prostitution and child pornography**;
- (12) **the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC)**, which was adopted by the General Assembly in 1990 and will enter into force when 20 States have accepted it.

The following chart of States shows Commonwealth countries which are a party (indicated by the date of adherence: ratification, accession or succession) or signatory (indicated by an “s” and the date of signature) to the United Nations human rights treaties listed above. Self-governing territories that have ratified any of the treaties are also included in the chart. As at 21 August 2002, all 189 Member States of the United Nations and 4 non-Member States were a party to one or more of these treaties.

STATUS OF RATIFICATION OF HUMAN RIGHTS INSTRUMENTS BY COMMONWEALTH COUNTRIES

| STATE | CESCR | CCPR | CCPROP1 | CCPROP2 | CERD | CEDAW | CEDAWOP | CAT | CRC | CRCOPAC | CRCOPSC | MWC |
|-------------------|-------------|------------|------------|------------|-------------|------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Antigua & Barbuda | | | | | 25 Oct 88d | 01 Aug 89a | | 19 Jul 93a | 06 Oct 93 | | | |
| Australia | 10 Dec 75 | 13 Aug 80 | 25 Sep 91a | 02 Oct 90a | 30 Sep 75* | 28 Jul 83 | | 08 Aug 89* | 17 Dec 90 | | s:18 Dec 01 | |
| The Bahamas | | | | | 05 Aug 75d | 06 Oct 93a | | | 20 Feb 91 | | | |
| Bangladesh | 05 Oct 98a | 07 Sep 00a | | | 11 Jun 79a | 06 Nov 84a | 07 Sep 00 | 05 Oct 98a | 03 Aug 90 | 07 Sep 00 | 07 Sep 00 | s:07 Oct 98 |
| Barbados | 05 Jan 73a | 05 Jan 73 | 05 Jan 73a | | 08 Nov 72a | 16 Oct 80 | | | 09 Oct 90 | | | |
| Belize | s:06 Sep 00 | 10 Jun 96 | | | 14 Nov 01 | 16 May 90 | | 17 Mar 86a | 02 May 90 | s:06 Sep 00 | s:06 Sep 00 | 14 Nov 01a |
| Botswana | | 08 Sep 00 | | | 20 Feb 74a | 13 Aug 96a | | 08 Sep 00 | 14 Mar 95 a | | | |
| Brunei Darussalam | | | | | | | | | 27 Dec 95 a | | | |
| Cameroon | 27 Jun 84a | 27 Jun 84a | 27 Jun 84a | | 24 Jun 71 | 23 Aug 94 | | 19 Dec 86a | 11 Jan 93 | s:05 Oct 01 | s:05 Oct 01 | |
| Canada | 19 May 76a | 19 May 76a | 19 May 76a | | 14 Oct 70 | 10 Dec 81 | | 24 Jun 87* | 13 Dec 91 | 07 Jul 00 | s:10 Nov 01 | |
| Cook Islands | | | | | | | | | 06 Jun 97 | | | |
| Cyprus | 02 Apr 69 | 02 Apr 69 | 15 Apr 92 | 10 Sep 99a | 21 Apr 67* | 23 Jul 85a | 26 Apr 02 | 18 Jul 91* | 07 Feb 02 | | s:08 Feb 01 | |
| Dominica | 17 Jun 93a | 17 Jun 93a | | | | 15 Sep 80 | | | 13 Mar 91 | | | |
| Fiji Islands | | | | | 11 Jan 73d | 28 Aug 95 | | | 13 Aug 93 | | | |
| The Gambia | 29 Dec 78a | 22 Mar 79a | 09 Jun 88a | | 29 Dec 78a | 16 Apr 93 | | s:23 Oct 85 | 08 Aug 90 | s:21 Dec 00 | s:21 Dec 00 | |
| Ghana | 08 Sep 00 | 08 Sep 00 | 08 Sep 00 | | 08 Sep 66 | 02 Jan 86 | s:24 Feb 00 | 05 Feb 90 | 05 Feb 90 | | | 08 Sep 00 |
| Grenada | 06 Sep 91a | 06 Sep 91 | | | S:17 Dec 81 | 31 Aug 90 | | | 05 Nov 90 | | | |
| Guyana | 15 Feb 77 | 15 Feb 77 | 10 May 93a | | 15 Feb 77 | 17 Jul 80 | | 19 May 88 | 14 Jan 91 | | | |
| India | 10 Apr 79a | 10 Apr 79a | | | 03 Dec 68 | 09 Jul 93 | | s:14 Oct 97 | 11 Dec 92a | | | |
| Jamaica | 03 Oct 75 | 03 Oct 75 | | | 04 Jun 71 | 19 Oct 84 | | | 14 May 91 | 10 May 02 | s:08 Sep 00 | |
| Kenya | 01 May 72a | 01 May 72a | | | 13 Sep 01a | 09 Mar 84a | | 21 Feb 97 a | 31 Jul 90 | 28 Jan 02 | s:08 Sep 00 | |
| Kiribati | | | | | | | | | 11 Dec 95 a | | | |

| STATE | CESCR | CCPR | CCPROP1 | CCPROP2 | CERD | CEDAW | CEDAWOP | CAT | CRC | CRCOPAC | CRCOPSC | MWC |
|--------------------------------|------------|-------------|-------------|------------|-------------|------------|--------------|-------------|-------------|-------------|-------------|-------------|
| Lesotho | 09 Sep 92a | 09 Sep 92a | 07 Sep 00a | | 04 Nov 71a | 22 Aug 95a | s: 06 Sep 00 | 13 Nov 01a | 10 Mar 92 | s:06 Sep 00 | s:06 Sep 00 | |
| Malawi | 22 Dec 93a | 22 Dec 93a | 11 Jun 96 | | 11 Jun 96a | 12 Mar 87a | s:07 Sep 00 | 11 Jun 96a | 03 Jan 91a | s:07 Sep 00 | s:07 Sep 00 | |
| Malaysia | | | | | | 05 Jul 95 | | | 17 Feb 95a | | | |
| Maldives | | | | | 24 Apr 84a | 01 Jul 93a | | | 11 Feb 91 | s:10 May 02 | 10 May 02 | |
| Malta | 13 Sep 90 | 13 Sep 90a | 13 Sep 90a | 29 Dec 94a | 27 May 71* | 08 Mar 91a | | | 13 Sep 90a | 30 Sep 90 | 10 May 02 | s:07 Sep 00 |
| Mauritius | 12 Dec 73a | 12 Dec 73a | 12 Dec 73a | | 30 May 72a | 09 Jul 84a | s:11 Nov 01 | 09 Dec 92a | 26 Jul 90a | s:11 Nov 01 | s:11 Nov 01 | |
| Mozambique | | | | | 18 Apr 83a | 16 Apr 97a | | 14 Sep 99a | 26 Apr 94 | | | |
| Namibia | 28 Nov 94a | 28 Nov 94a | 28 Nov 94a | 28 Nov 94a | 11 Nov 82a | 23 Nov 92a | 26 May 00 | 28 Nov 94a | 01 Oct 90 | 16 Apr 02 | 16 Apr 02 | |
| Nauru | | s:12 Nov 01 | s:12 Nov 01 | | S:12 Nov 01 | | | s:12 Nov 01 | 27 Jul 94a | s:08 Sep 00 | s:08 Sep 00 | |
| New Zealand | 28 Dec 78 | 28 Dec 78 | 26 May 89a | 22 Feb 90 | 22 Nov 72 | 10 Jan 85 | 08 Sep 00 | 10 Dec 89a | 06 Apr 93 | 12 Nov 01 | s:07 Sep 00 | |
| Nigeria | 29 Jul 93a | 29 Jul 93a | | | 16 Oct 67a | 13 Jun 85 | s:08 Sep 00 | 28 Jun 01 | 19 Apr 91 | s:08 Sep 00 | s:08 Sep 00 | |
| Niue | | | | | | | | | 20 Dec 95a | | | |
| Pakistan | | | | | 21 Sep 66 | 12 Mar 96a | | 12 Nov 90 | s:26 Sep 01 | s:26 Sep 01 | | |
| Papua New Guinea | | | | | 27 Jan 82a | 12 Jan 95a | | | 02 Mar 93 | | | |
| Saint Kitts & Nevis | | | | | | 25 Apr 85a | | | 24 Jul 90 | | | |
| Saint Lucia | | | | | 14 Feb 90d | 08 Oct 82a | | | 16 Jun 93 | | | |
| Saint Vincent & the Grenadines | 09 Nov 81a | 09 Nov 81a | 09 Nov 81a | | 09 Nov 81a | 04 Aug 81a | | 01 Aug 01a | 26 Oct 93 | | | |
| Samoa | | | | | | 25 Sep 92a | | | 29 Nov 94 | | | |
| Seychelles | 05 May 92a | 05 May 92a | 05 May 92a | 15 Dec 94a | 07 Mar 78a | 06 May 92a | | 05 May 92a | 07 Sep 90a | s:23 Jan 01 | s:23 Jan 01 | 15 Dec 94a |
| Sierra Leone | 23 Aug 96a | 23 Aug 96a | 23 Aug 96a | | 02 Aug 67 | 11 Nov 88 | s:08 Sep 00 | 25 Apr 01 | 18 Jun 90 | 16 May 02 | 17 Sep 01 | s:15 Sep 00 |
| Singapore | | | | | | 05 Oct 95a | | | 05 Oct 95 a | s:07 Sep 00 | | |
| Solomon Islands | 17 Mar 82d | | | | 17 Mar 82d | 06 May 02a | 06 May 02 | | 10 Apr 95a | | | |

Continued on page 14

| STATE | CESCR | CCPR | CCPROP1 | CCPROP2 | CERD | CEDAW | CEDAWOP | CAT | CRC | CRCOPAC | CRCOPSC | MWC |
|-----------------------------|-------------|------------|------------|-----------|------------|------------|---------|------------|------------|-------------|-------------|------------|
| South Africa | s:03 Oct 94 | 10 Dec 98 | | | 10 Dec 98* | 15 Dec 95 | | 10 Dec 98* | 16 Jun 95 | s:08 Feb 02 | | |
| Sri Lanka | 11 Jun 80a | 11 Jun 80a | 03 Oct 97a | | 18 Feb 82a | 05 Oct 81 | | 03 Jan 94a | 12 Jul 91 | 08 Sep 00 | | 11 Mar 96a |
| Swaziland | | | | | 07 Apr 69a | | | | 08 Sep 95 | | | |
| Tonga | | | | | 16 Feb 72a | | | | 06 Nov 95a | | | |
| Trinidad & Tobago | 08 Dec 78a | 21 Dec 78a | | | 04 Oct 73 | 12 Jan 90 | | | 06 Dec 91 | | | |
| Tuvalu | | | | | | 06 Oct 99a | | | 22 Sep 95a | | | |
| Uganda | 21 Jan 87a | 21 Jun 95a | 14 Nov 95 | | 21 Nov 80a | 23 Jul 85 | | 03 Nov 86a | 17 Aug 90 | 06 May 02a | 30 Nov 01a | 14 Nov 95a |
| United Kingdom | 20 May 76 | 20 May 76 | | 10 Dec 99 | 07 Mar 69 | 07 Apr 86 | | 08 Dec 88* | 16 Dec 91 | s:07 Sep 00 | s:07 Sep 00 | |
| United Republic of Tanzania | 11 Jun 76a | 11 Jun 76a | | | 27 Oct 72a | 20 Aug 85 | | | 11 Jun 91 | | | |
| Vanuatu | | | | | | 08 Sep 95 | | | 07 Jul 93 | | | |
| Zambia | 10 Apr 84a | 10 Apr 84a | 10 Apr 84a | | 04 Feb 72 | 21 Jun 85 | | 07 Oct 98a | 06 Dec 91 | | | |
| Zimbabwe | 13 May 91a | 13 May 91a | | | 13 May 91a | 14 May 91a | | | 11 Sep 90 | | | - |

NOTES

The dates listed refer to the date of ratification, unless followed by:

An “a” which signifies accession,

“d”, which signifies succession, or

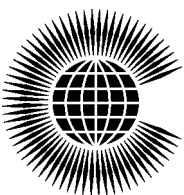
“s”, which signifies signature only.

* indicates that the state party has recognised the competence to receive and process individual communications of the Committee on the Elimination of Racial Discrimination under article 14 of the CERD or of the committee against Torture under article 22 of CAT.

Source: **The UN High Commission for Human Rights** (Edited by the Human Rights Unit, Commonwealth Secretariat, London).

“We recognise racial prejudice as a dangerous sickness threatening the healthy development of the human race and racial discrimination as an unmitigated evil of society. Each of us will vigorously combat this evil within our own nation.”

*Commonwealth Heads of Government Meeting; 1971;
Declaration of Commonwealth Principles.*



The views expressed in this newsletter are not necessarily those of the Commonwealth Secretariat

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