

Human Rights Update



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Human Rights Unit
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Secretariat

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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

Welcome to Issue 3 of the Human Rights Update as we look forward to the 2003 Commonwealth Heads of Government Meeting (CHOGM) which will be held in Abuja, Nigeria from 5 to 8 December 2003. The meeting, which is held every two years, brings together leaders of almost a third of the world population to discuss matters of common interest and plan initiatives to benefit the Commonwealth's diverse membership. It is also the highest decision making forum of the Commonwealth. It is, arguably, also the only international forum where such a diverse group of countries with differing levels of capacity and resources come together as equals to find common positions through consensus, in a relatively informal manner. We are confident that this year's CHOGM will reaffirm Commonwealth values such as respect for human rights and rule of law, democracy, racial equality, conflict resolution, cultural diversity, gender equality, poverty reduction and economic development.

The theme of this year's CHOGM is "Democracy and Development". One only has to re-iterate that all human rights, socio-economic as well as civil and political rights are universal, indivisible, interdependent and interrelated, to appreciate the aptness of this CHOGM's theme, especially if one considers the disparity in levels of development and income amongst Commonwealth citizens.

The human rights community also celebrated the Right to Information Day on 28 September 2003". At its very inception, the United Nations declared that, "*Freedom of Information is a fundamental human right and is the touchstone for all freedoms to which the United Nations is consecrated.*" The right was enshrined in the Universal Declaration on Human Rights. As we reflect on the importance of the right to know for deepening democracy and enhancing people-centred development in the Commonwealth, it is important to remember that everyone has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information and ideas.

We hope that you will enjoy reading the Newsletter.

Tribute to Sergio Vieira de Mello

We pay tribute to one of the eminent international civil servants Sergio Vieira de Mello former UN High Commissioner for Human Rights who was killed in Iraq on 19 August while on duty as the Secretary-General's Special Representative for Iraq. The Commonwealth Secretary-General extended condolences to the bereaved family of the late Sergio de Mello.

"The death of the UN Special Representative Sergio Vieira de Mello is a huge loss for those committed to peace in the world, Commonwealth Secretary-General Don McKinnon said in his eulogy.

Mr McKinnon condemned the bombing of a UN compound in Iraq which claimed the lives of at least 16 people.

"This is an appalling loss of life. Every person working at the UN compound was trying to improve the lives of Iraqi citizens and the victims have paid the ultimate price for their efforts. Whoever is responsible must be held to account."

Mr McKinnon said Mr Vieira de Mello was a highly committed international peacemaker and diplomat.

"During the Fijian coup in 2000 Mr de Mello and I went together to the Fijian Parliament where George Speight and his gang were holding hostages at gunpoint. I could not have had a more steady and supportive partner in such a difficult situation. I mourn his death and will miss him both as a colleague and friend. I extend condolences to his wife and two sons and to the families of all those who have died in this bombing."

Sergio Vieira de Mello was born on March 15, 1948, in Rio de Janeiro and studied in Brazil and France, where he was awarded two doctorates from the University of Paris, becoming fluent in English, French and Spanish, besides his native Portuguese.

He joined the Office of the United Nations High Commissioner for Refugees in Geneva in 1969, becoming assistant High Commissioner in 1996.

He served in Bangladesh as it won independence in 1971 and in Cyprus after the 1974 Turkish invasion.

He spent three years in charge of refugees in Mozambique during the civil war that followed its independence from Portugal in 1975. He was political adviser to the United Nations peacekeepers in Lebanon from 1981 to 1983.

The 1990's found him dealing with refugees and other humanitarian problems in Cambodia, in the former Yugoslavia as it broke apart in a series of wars, and in the Great Lakes region of Africa torn by civil wars. His track record of success was extraordinary, whether it was fashioning a refugee protection and resettlement scheme for Vietnamese refugees, overseeing the repatriation of 300,000 Cambodian refugees from Thailand, setting up a UN civil administration in Kosovo, or managing the political transition in East Timor. Because of his profound dedication to humanitarian principles, the UN Secretary-General found it proper to send him to Iraq to lead the UN effort in Iraq, to which he has given his life. Sergio, as he was popularly called by his colleagues, was a man of extraordinary intelligence and good judgment, graciousness and wit.

Mr. Vieira de Mello is survived by his wife, Annie; and their two sons, Adrien and Laurent. He will be mourned and missed by all those that champion human rights and global peace. Rest in Peace Sergio.

Progress on the UN Treaty on the Protection of Persons with Disabilities on Course

The Committee responsible of drafting a treaty aimed at protecting rights of people with disabilities is optimistic that a draft convention would be finalized in the next two years.

According to the President of the Ad Hoc Working Group Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disability, Luis Gallegos,

the instrument is presently being negotiated to create a 'verifiable and enforceable' regime for the protection and promotion of human rights of disabled persons who are estimated to be well over 600 million in the world. He said that the process constituted a major step in international efforts to legislate on behalf of the disabled community and that the proposed treaty would benefit not only persons with disabilities, but society as a whole, since all were part of a social context in which that vulnerable group required special attention.

Speaking at the recent meeting of the Committee held in New York, Mr Gallegos noted that the efforts by the UN was an important step in the formulation of a holistic and integrated approach in incorporating groups of people which had been discriminated against for a long time. He further said that it is hoped that the instrument would respond to the needs of the disabled communities in all parts of the world and that it would deal with all types of disabilities, not necessarily the causes, but the consequences of being disabled.

The meeting was organised to discuss reports from member states, UN bodies, National Human Rights Institutions (NHRIs) and NGOs and also to consider proposals for a new and comprehensive convention to promote and protect the rights and dignities of persons with disabilities. The proposed convention would be similar to existing human rights instruments on the rights of women, children, and refugees. The movement towards creating an international convention is the next step in a struggle that has already lasted 20 years. Its goal has been to integrate the human rights approach into discussions of disability rights on the international level. Although the process has been a gradual one, the shift in approach has been quite radical—from treating disabled persons as objects of charity to mandating changes in society that will allow disabled persons to participate on an equal level with non-disabled persons. Among other things, the convention is expected to cover issues relating to dignity, self-determination, equality and non-discrimination full participation and personal development and freedom from all forms of violence.

Spotlight

Right to Know Day— Governments need to open up to citizens

(Charmaine Rodrigues of Commonwealth Human Rights Initiative; India)

28 September is World Right to Know Day. It is an opportune time for the Commonwealth to reflect on the importance of the right to know for deepening democracy and enhancing people-centred development for its citizens.

The right to know has been recognised internationally in the form of the “right to information” for more than fifty years. At its very inception, the United Nations declared that, “*Freedom of Information is a fundamental human right and is the touchstone for all freedoms to which the United Nations is consecrated.*”¹ The right was enshrined in the Universal Declaration on Human Rights and became a legally binding treaty obligation through Article 19 of the International Covenant on Civil and Political Rights, which states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and *to seek, receive and impart information and ideas through any media and regardless of frontiers.*”

Over the years, the importance of the right to information has been acknowledged again and again in myriad international agreements, including the African Charter on Human and Peoples Rights, the European Convention on Human Rights and the Inter-American Convention on Human Rights. The UN Special Rapporteur on the Freedom of Expression has also in 1998 stated unequivocally that the right to seek, receive and impart information enshrined in Article 19 of the UDHR “imposes a positive obligation on States to ensure access to information, particularly with regard to information held by the Government in all types of storage and retrieval systems.”² In 1999, the UN Special Rapporteur further recognised that “implicit in the freedom of expression is the

public’s right to open access to information and to know what governments are doing on their behalf, without which truth would languish and people’s participation in government would remain fragmented.”³

Guaranteeing the right to access information lays the foundation upon which to build good governance, transparency, accountability and participation, and to eliminate that scourge upon the poor – corruption. For example, information about government tender processes can be used to assess efficiency and to expose corruption. Information on the background of electoral candidates helps voters make an informed choice. Information on the pros and cons of development projects assists people to make informed decisions about whether they want to proceed. Information about the toxicity of chemicals released by an industrial plant into local water sources can save lives if released to the public and acted upon.

Information is power and, in the spirit of democracy and equality, it needs to be shared freely with all people. As far back as 1980, the Commonwealth has recognised that “public participation in the democratic and governmental process was at its most meaningful when citizens had adequate access to official information.” Collective policy statements since then have encouraged member countries to “regard freedom of information as a legal and enforceable right.” The Commonwealth has also developed “Freedom of Information Principles” as well as a model law which member countries can use as a base from which to develop their own access legislation.

The commitments of the Commonwealth to date are a good first step towards the practical realisation of the right to information in all member states. The Commonwealth has a great opportunity at the Commonwealth Heads of Government Meeting in Abuja in December 2003

¹ Res. 59(1), 14 December 1946, UNGA, 65th Plenary Meeting.

² *Promotion and protection of the right to freedom of opinion and expression*, Report of the Special Rapporteur, UN Doc. E/CN.4/1998/40, 28 January 1998, para. 14.

³ In a Joint Declaration with the Organisation of Security and Co-operation in Europe Representative on Freedom of the Media and the Organisation of African States Special Rapporteur on Freedom of Expression: Adopted 26 November 1999, UN Doc. E/CN.4/2000/63, Annex 1.

to make further progress towards the practical realisation of the right in all its member states, as well as within the institutions of the Commonwealth itself. At that meeting the Commonwealth Heads of Government will – not for the first time – be searching for ways to deal with these challenges of deepening democracy and development. Open government is the answer; and entrenching the people’s right to access information is the most practical way of achieving it.

CHRI is an NGO with offices in New Delhi, Accra and London. The Commonwealth Human Rights Initiative’s 2003 Report, “Open Sesame: The Right to Information in the Commonwealth”, examines the value of the right to information for the Commonwealth and its member states and citizens. The Report provides law-makers, advocates and the public with guidance on how the right to information can be practically realised, including best practice examples from the Commonwealth on drafting and implementing freedom of information legislation. The Report will be launched in Abuja in December 2003 and will be available at www.humanrightsinitiative.org. Copies of the Executive Summary of the Report can be requested from CHRI by emailing chriall@nda.vsnl.net.in.

Background Note on the Information Society and Human Rights

(Source United Nations High Commissioner for Human Rights)

Introduction

The Information Society of the twenty-first century is rapidly developing, at such a speed and with such profound changes to society and people’s lives that one can speak of a true revolution. Telecommunication, broadcasting multimedia and information and communication technologies (ICTs) enable the development of new products and services, but also have enormous impact on various aspects of social life,

such as education, health, media, public services and commerce. ICTs have been rapidly changing contemporary society and community life. On the other hand, the majority of the world’s population has no access at all to ICTs or the benefits of the Information Society.

In response to these developments, the United Nations General Assembly mandated in its resolution 56/183 the organizing of the World Summit on the Information Society. In this resolution, it recognized the urgent need to harness the potential of technology for promoting the goals of the United Nations Millennium Declaration and to find effective and innovative ways to put this potential at the service of development for all. It also mentioned the need to build commitment to promote the access of all countries to information, knowledge and communication technologies for development so that they can benefit from the ICT revolution, and to address relevant issues related to the information society.

Role of human rights in the Information Society

Information and communication technologies (ICTs), are critical tools for the attainment of a more peaceful, prosperous and just world. However, because of the neutrality of technology, these ICTs also have the potential to perpetuate inequalities and to adversely affect promotion and protection of human rights. In order to ensure that the Information Society benefits all, it is essential that human rights are firmly placed among its guiding principles.

The human rights standards developed on the basis of the United Nations Charter and the Universal Declaration of Human Rights constitute a set of internationally adopted norms, relevant to all spheres of life, including the Information Society. A number of key human rights treaties set legal standards for States parties for the promotion and protection of human rights: the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination

against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families. All of these treaties contain specific sets of articles which stipulate rights that are directly affected by the dramatic advances in telecommunications, broadcasting and other forms of ICTs.

What is a human rights approach?

A human rights approach to the Information Society places the promotion and protection of human rights among the *raison-d'être* of the Information Society. Thus, a human rights approach views ICTs not only as a means of exchanging and disseminating information, but as a tool to improve the enjoyment of human rights such as the freedom of expression, the right to education, the right to health, the right to food and other rights, seeking universal access by all to information and services. The human rights approach seeks to bring individuals and communities, particularly the disadvantaged, vulnerable and socially excluded, squarely into the Information Society, upholding the principles of non-discrimination, participation and accountability. Finally, a human rights approach protects individuals and communities against the transgressions of the right to privacy, restriction and control of rights and freedoms, and against excesses of the Information Society - in particular by promoting protections against hate and racist messages, child pornography and other abuses of human dignity.

Which human rights in particular?

Development of an equitable, participatory, democratic Information Society which benefits all requires the respect of all internationally recognized human rights and fundamental freedoms. Certain international human rights listed below deserve special attention:

- **Article 19 of the Universal Declaration of Human Rights (UDHR): Freedom of expression and right to seek, receive and impart information:** This right is particularly important in the Information Society since it

forms the necessary condition for the realization of other internationally recognized human rights. The human right mentioned under article 19 of UDHR includes “freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Furthermore, the right to access information would also entail the availability of adequate tools to access information, and has implications for the sharing of knowledge as well. The Special Rapporteur on freedom of opinion and expression wrote in his 1995 report that “freedom will be bereft of all effectiveness if the people have no access to information. Access to information is basic to the democratic way of life.” (E/CN.4/1995/32, par.35).

This right has taken a new meaning and importance with the arrival of new ICTs and Internet capabilities. While under *article 29, paragraph 2 of UDHR*, a State may impose certain limitations by law of rights and freedoms for the sake of morality, public order and the general welfare, these may not put in jeopardy the right itself. Identifying and monitoring permissible limitations to the right to freedom of opinion and expression at the international level helps to protect the exercise of these rights against possible abusive restrictions at the national level.

- **Article 7 UDHR: prohibition of discrimination:** Article 7 of the UDHR prohibits discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property and birth. States have a duty not only to prohibit discrimination in laws and regulations, but also to take positive measures to guarantee to all persons equal and effective protection against discrimination, including through the prohibition of any incitement to discrimination. Two manifestations of discrimination are relevant to the Information Society. The first relates to discrimination in Internet content. In many instances, websites promote racial or religious hatred, as well as gender bias – including highly abusive content relating to women. This is a topic which deserves careful attention. It involves a complex and sensitive question of balance between the responsibility of the State to prohibit

discrimination and the guarantee of the freedom of expression. In this regard, the roles of the State and the private sector need to be carefully examined and clarified. The second issue relates to discrimination in access to ICTs. In this respect, the prohibition on discrimination sometimes requires States to take positive action to reduce or avoid discrimination. In particular, vulnerable and marginalized groups also require particular attention, as public policies may impose effective bars to equal access to the enjoyment of the Information Society. Finally, it is also important to note that the Internet provides a powerful tool to fight discrimination in society.

- **Article 12 UDHR: the right to privacy:** It is crucial that the right to privacy is protected within the Information Society. Measures need to be placed against unauthorized intrusion of privacy through new and powerful systems of surveillance and personal data collection using ICTs.
- **Article 27 UDHR: Intellectual property rights:** the Universal Declaration of Human Rights recognizes that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author. However, this right must be balanced with the right of everyone to participate freely in cultural life and to share scientific advances and its benefits. It will be important to strengthen protection against unfair use of indigenous knowledge over the Internet.
- **Article 25, paragraph 1 UDHR: the right to a standard of living, adequate for the health and well-being of himself and of his family:** The realization of this right in the Information Society will ensure that knowledge and information on improvements in areas such as health care, water, environment, housing, and sanitation reaches people through the use of ICTs. It also implies that no one should be denied benefits the Information Society offers on the basis of the participatory and democratic nature of the Information Society.
- **Article 26 UDHR: the right to education:** ICTs have significant potential for the realization of the right to education, especially with regard to distance learning, within and

beyond national borders, and for people in remote and rural areas, and for the empowerment of disadvantaged groups, girls and women. In realizing this right, ICTs may also facilitate networking among individuals and organizations involved in human rights education; make it easier to share information on successful programmes and practices; and provide access to the many human rights education resources available on the Internet.

Specific policy issues

As indicated, the Information Society will have a dramatic impact on the enjoyment of human rights for all. It is up to officials and civil society to ensure that impact is positive, and is informed by human rights norms. In this respect, there are several issue areas in which this relationship between information and communications technology and human rights is particularly important. They include:

- **Development** Human rights principles are relevant in addressing development issues in the Information Society. It is important to uphold such principles by ensuring that benefits of the Information Society are equitably extended, especially to people in developing countries or countries in economic transition. ICTs can accelerate the attainment of internationally agreed development goals, such as achieving access to health care and education for people living in rural areas.
- **Democracy and rule of law** ICTs have the potential to make government more accessible, to make decision making processes more open and to reduce the distance between authorities and individuals as well as to provide the means for people with similar claims to group together and organize. This helps promote the right to take part in the conduct of public affairs - the basis of a democratic Information Society.
- **Cultural and linguistic diversity** The Information Society is characterized by a "content divide" between developed and developing countries, with an under representation of local languages, local contents, and local cultures. ICTs can advance cultural diversity and multilingualism through the creation and dissemination of local contents and cultures.

- **Vulnerable groups** To promote the human rights objectives of participation, social inclusion and empowerment in the Information Society, particular attention must be paid to the marginalized and vulnerable, including migrants, refugees, unemployed, children (especially to the issues of the sale of children and child pornography), people with disabilities, the elderly, and people living in rural areas.

- **Trade liberalization** While international trade agreements can help promote access to ICTs, this will not happen a matter of course. Much depends on the extent to which trade policies are linked to the promotion and protection of human rights. For example, trade and investment liberalization that increase Internet connections for one section of the population but not for others might increase inequalities within and between societies. A human rights approach to the Information Society promotes fair trade coupled with effective international cooperation and regulation at the national level so that the benefits of access to ICTs may be shared by all, including the marginalized, socially excluded, vulnerable, disadvantaged and the poor.

- **Role of private sector** Private sector involvement and activities in developing the Information Society can take place in the framework of the UN Global Compact. A socially responsible private sector can help realize an Information Society that respects human rights.

Human Rights and Trade

(an extract from a submission by the Office of the UN High Commissioner for Human Rights to Cancùn)

Why talk about human rights and trade?

First, it is a question of **law**. All WTO Members have undertaken obligations under international human rights law. This means that WTO Members should promote and protect human rights in the processes of negotiating and implementing trade law and policy. For example, of 146 members of the WTO, all have ratified at least one human rights instrument. 113 WTO

Members have ratified the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* and all but one have ratified the *Convention on the Rights of the Child*. Further, those areas of human rights law recognized as customary international law take on universal application, which means that trade rules should be interpreted as consistent with those norms and standards whatever the treaty commitments of States in trade matters.

Second, it makes **sense**. Increasingly, promoting respect for human rights, democracy and the rule of law – both nationally and through international cooperation – are not only ends in themselves, they can help make the economic growth and prosperity promised by trade a reality. In particular, respect for the human rights principle of non-discrimination should promote greater equality and equality of opportunity which in turn can influence positively the dynamics of growth and poverty reduction.⁴

What do we mean by a human rights approach to trade?

A rights-based approach to trade is a conceptual framework for the processes of trade reform that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.

Human rights law is **neutral** with regard to trade liberalization or trade protectionism. Instead, a human rights approach to trade focuses on processes and outcomes – how trade affects the enjoyment of human rights – and places the promotion and protection of human rights among the objectives of trade reform.

In short, adopting a human rights approach to trade brings individuals and communities squarely into the processes of negotiating and implementing trade law. This means:

- **Respecting the principle of non-discrimination** by avoiding any distinction, exclusion, restriction or preference made on the basis of sex, race, colour, language, religion, political or other opinion, national or social origin, economic

⁴ World Bank, *World Development Report 2000/2001: Attacking Poverty*, Oxford University Press, Oxford, 2001, p.56. The World Bank stated for example that “lower inequality can increase efficiency and economic growth through a variety of channels”

status, property, birth or other status and which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by someone of his or her human rights and fundamental freedoms. Not only does this mean protecting individuals and groups against overt discrimination, but *also* not leaving certain individuals and groups out of the trade picture.

- **Promoting popular participation** in the development of trade rules and policies. In particular, trade policies are more likely to take into account the needs of individuals and communities if there is consultation in the process of policy development.
- Monitoring the potential and real impacts of trade rules and policies on the enjoyment of human rights by individuals and groups – in particular the vulnerable, marginalized and socially excluded – through the use of **human rights impact assessments**.
- Using human rights impact assessments and consultations with individuals and communities to guide trade rule and policy making so that the **progressive liberalization of trade promotes the progressive realization of human rights**. As with any reform process, trade liberalization can result in “losers” if the right form, pace and sequencing of trade reform is not chosen. Consequently, a human rights approach seeks the progressive introduction of trade policies that take into account the needs and rights of individuals and communities, particularly those who could lose out as a result of the reform process – for example, people working in non-competitive industries, or living in outlying areas.
- **Promoting accountability** in the processes of trade liberalization. As investors increasingly have recourse to international arbitration and States can resolve trade disputes through the WTO’s Dispute Settlement Body, it is important that individuals also have recourse to judicial and administrative accountability mechanisms. Recognizing the justiciability of economic, social and cultural rights is an integral part in this process.

- Ensuring the promotion of **corporate social responsibility** initiatives as an integral part of trade and investment liberalization. As traders and investors benefit from freer trade, it is important to ensure that free trade is also fair and that business enterprises respect human rights, labour standards and environmental standards when trading and investing.
- Encouraging **international cooperation and assistance** so that poorer countries can adjust to – and therefore benefit from - the trade reform process. While ODA is important, the transfer of the know-how and technology concentrated in wealthier countries is equally important so that the people living in poorer countries can be empowered to reap the potential offered by trade. Similarly, ensuring good governance, not only at the national level, but also at the international level, is an important element of international cooperation and assistance to promote human rights.

What the General Assembly says ...

Reaffirms also the commitment to creating an environment at both the national and the global level that is conducive to development and to the elimination of poverty through, inter alia, good governance within each country and at the international level, transparency in the financial, monetary and trading systems and commitment to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system.

General Assembly resolution “*Globalization and its impact on the full enjoyment of all human rights*” (A/RES/57/205).

National Human Rights Institutions and the Administration of Justice

The following are the main conclusions of the discussions held by representatives of twenty-two national human rights institutions from around the world hosted by the Danish Institute for Human Rights and the Office of the United Nations High Commissioner for Human Rights. Topics discussed included the relationship between national human rights institutions and the judiciary, judicial enforcement mechanisms and national institutions, direct powers of intervention and national institutions, the complaints handling powers of national institutions including civil cases and military and security force cases, and case handling systems.

Main Points regarding the administration of justice

- It is important to take into consideration the political and social context within which a national institution exists in the determination and exercise of its powers and the most appropriate approach which it must decide to adopt. But sharing of good practices among national institutions enables them to explore possibilities of strengthening their effectiveness in the promotion and protection of human rights.
- It is important to understand the independence and respective roles and responsibilities of the national institution and judiciary. This would include a respect for the separation of powers and a clear demarcation of roles and responsibilities of these institutions.
- Public awareness of the mandate and jurisdiction of the national institution is critical. National institutions should use the media to assist in such awareness raising.
- National institutions can facilitate a greater understanding within the judiciary of international human rights norms to ensure their application in national jurisprudence through awareness raising.
- The use of judgements of the courts in the daily work in the protection of human rights by national institutions has proven to be of benefit to the national institution and a strengthening of human rights jurisprudence.
- It is important for a national institution to work with the various judicial enforcement mechanisms, taking into consideration domestic laws, to enforce determinations of the national institutions.
- National institutions should work to ensure transparent, non-discriminatory treatment in prosecutorial procedures to ensure the effective discharge of justice and the avoidance of impunity as per the relevant United Nations principles.
- Powers of judicial intervention have proven particularly useful in jurisdictions where the courts are not easily accessible to a vast majority of victims of human rights violations.
- Access to the courts by national human rights institutions may be achieved, as appropriate, inter alia by;
 - Empowering the national institution to initiate contempt proceedings in court for failure or refusal to comply with a subpoena issued by the institution.
 - According *locus standi* to the national institution as a complainant in its own right.
 - Empowering the national institution to have an *amicus curiae* role. National institutions are well placed to gather information and be at the fore of human rights jurisprudence and hence their powers of intervention as *amicus curiae* can be of help to the courts.
 - Empowering the national institution to provide assistance (in a manner which it chooses as appropriate) to individuals seeking redress for grievances through the courts and to refer matters for prosecution or action by other public agencies.
- National institutions have been able to draw attention to legal systemic issues such as

delays in the administration of justice, access to justice including cost factors, and the effective provision of legal aid.

- In those countries coming out of conflict national institutions are well placed to assist in the establishment of a system for the administration of justice.
- National institutions should avail themselves of the various possibilities to seek and provide remedies through the international and regional level human rights protection systems.
- National institutions should reflect on ways of addressing human rights issues relating to the military, law enforcement and other security forces, including those of the private sector.
- National institutions can facilitate the development of rights based codes of conduct and standing orders for law enforcement and military officials.
- National institutions should explore the necessity and appropriate ways of intervention in relation to military courts and military tribunals.
- National institutions should review the possibility of providing advice concerning witness protection programmes.

Main points regarding complaints handling

- National institutions should draft their own internal procedures to deal with complaints. They should be clear, consistent and transparent.
- Criteria concerning admissibility and assessing applications should be developed by national institutions. It is important that the public understand the mandate of the national institution.
- The national institution should ensure that its offices and complaints handling officers are accessible and the public. This information needs to be regularly communicated to the public.

- Concerning human rights issues of citizens outside the territory of their state it is important for national institutions to work with, *inter alia*, consular offices and partner institutions in the host state.
- National institutions should explore appropriate ways of intervention in matters concerning the private sector which are public interest.
- The receipt and handling of complaints should be seen as part of a process and the national institution should ensure to see the complaint through to resolution or dismissal, whichever is appropriate, and effective follow up.
- Mediation and conciliation and other alternative dispute resolution mechanisms should be used wherever possible prior to undertaking other possible remedial action.
- National institutions should consider the holding of public inquiries where there arises evidence of systemic issues through the complaints handling process or other sources of information.
- An effective complaints handling data base, which is user friendly, cost effective and secure, can be of use to disaggregate data for effective analysis and assist the national institution to determine systemic trends.
- Criteria to assess indicators of success and results in relation to the role of national institutions regarding complaints handling should be developed.
- It is important for national institutions to publicize the important decisions made by them and seek the cooperation of the media in this regard.

Where there exist other competent bodies to receive and handle complaints the national institution should encourage, and even strengthen them, to deal with such complaints through a rights based approach.

Focus on the UN Declaration on Human Rights Defenders

Report of the Special Representative of the UN Secretary-General on Human Rights Defenders at the 58th Session of the UN General Assembly

Source: A/58 UN General Assembly

During the 58th Session of the UN General Assembly held from September 23 to October 3, 2003, the Special Representative of the UN Secretary-General Hina Jilani presented her third report. In the report she addresses two major concerns, namely the use of legislation against human rights defenders and the role and situation of human rights defenders in emergencies.

The report is in four parts. Part 1 provides a brief profile of 'security legislation', indicating that while the Special Representative's primary focus is on national security legislation she also considers it important to examine related United Nations resolutions. She goes on to describe general trends indicating a significant increase in the use of security legislation, including in counter terrorism policies and actions. In the light of the rights provided for in the Declaration on human rights defenders, the report then describes how security legislation has been used to limit the possibilities for defenders to conduct their human rights work and how such legislation has sometimes been used to directly against defenders themselves. The Special Representative draws attention to, among others violations of defenders' rights to freedom of association, freedom of expression and access to information, and gives examples of the arbitrary arrest and detention, prosecution and sentencing of offenders, all under security legislation provisions. The Special Representative notes that these restrictions on defenders have just been justified as measures to improve security and

support counter-terrorism, while in many cases the actual objective has clearly been to conceal human rights abuses that defenders would otherwise have investigated and revealed, or to punish defenders for their human rights work and to discourage others from continuing it.

Part 2 of the report describes the essential role of human rights defenders in the context of emergency situations, including armed conflicts. The Special Representative describes how, at a time when human rights are violated and at risk on a massive scale, times during which work to monitor and protect human rights is most urgent, defenders are often prevented by some State and non state actors from accessing the victims of violations or places where violations are occurring. She notes with deep concern that in these emergencies defenders are themselves targeted and are increasingly the victims of killings, torture, arrest, detention and other acts as a direct response to their human rights at work. Part 2 concludes by emphasising the importance for the international community, and the United Nations in particular, of the work conducted by human rights defenders in emergencies: helping to prevent emergencies and to limit their adverse impact upon human rights; informing the Security Council and the international human rights mechanisms of developing situations; and supporting international action to find an early solution to the negative human rights consequences of emergencies.

Part 3 of the report examines the Declaration on Human Rights Defenders in the context of both security legislation and emergencies and interprets the Declaration in the light of the wider international human rights framework. The Special Representative indicates firmly that derogation from the Declaration's provisions, preventing defenders from conducting their human rights work at precisely the times when monitoring for the respect of human rights standards is most needed (during the application of broad security legislation and during emergencies), is contrary to the spirit of both the Declaration and other international human rights instruments.

Part 4 of the Report provides a brief conclusion and defines priority recommendations addressed

to states, the United Nations, regional bodies, the media and defenders themselves. While recognising and supporting the imperative of states to assure security and to end terrorism, including in the contexts of emergencies, throughout his report the Special Representative expresses deep concern those actions against weaken accountability for human rights violations, contribute to impunity, and can lead to worsening of emergencies and perpetuation of human rights abuse. She notes that some actions currently being taken against defenders through the use of security legislation and in emergency situations constitute deplorable violations of international human rights law, are extremely damaging to international peace and security, and in fact harmful to counter terrorism efforts. The Special Representative calls upon states and the United Nations to urgently adopt policies to implement the Secretary-General's commitment declaring the protection of human rights not only as an objective of national security and counter terrorism actions but also as a means to attain these goals. Human rights defenders are, by definition, key partners in such commitment.

The UN Declaration on Human Rights Defenders: A Critical Analysis

Introduction

The Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms was adopted by the UN General Assembly on the 50th anniversary of the Universal Declaration of Human Rights, and was heralded at the time as constituting a "clear commitment on the part of the all UN member states to respect the rights of human rights defenders at the national and international levels"

Five years after the adoption of the UN Declaration on Human Rights Defenders and three years after the establishment of the office of a Special Representative for Human Rights

Defenders⁵, many questions arise as to the purpose, function and performance of both the Declaration and its monitoring body. Amongst the most pressing issues are: to what degree, if any, does the Declaration improve upon existing human rights protections that are afforded to all persons and prescribed by international law? And what real protections do the Declaration and the work of the Special Representative offer to those human rights defenders who find themselves in immediate danger? Can its provisions realistically be applied or is it no more than a rhetorical expression of goodwill, to be filed away amongst the growing pile of other non-binding international instruments.

Background to the UN Declaration on Human Rights Defenders

It is difficult to justify the fact that it took 13 years its eventual completion. This was, after all, a declaration aimed only "at clarifying and reinforcing rights already recognised in existing instruments."⁶ The explanation for this is not surprising. Certain recalcitrant States with the most to lose from an effective declaration, took positions that "strongly suggested motives of pure obstructionism."⁷ Amongst the most fiercely contested issues were: the right for NGOs to receive funding, both nationally and internationally; the importance of national legislation in ensuring "internal immunity" for human rights defenders⁸ (despite the protestations of certain representatives that national legislation often contradicts international standards); the duties and responsibilities of human rights defenders; and the rights of human rights defenders to observe trials and act on behalf of victims. Its arrival signalled a cause of celebration for some; for others it signified a series of compromises that dilute its value to the point of irrelevance.

⁵ U.N Doc. E/CN.4/RES/2000/61, 26 April 2000.

⁶ Petter Wille, 'Status of the Draft Declaration on Human Rights Defenders', in Gudmunder Alfredsson & Susanne Malmstrom (eds.), *Human Rights Defenders: International Partnership 6* (Raoul Wallenberg Institute, 1997).

⁷ ISHR, *The United Nations Draft Declaration on Human Rights Defenders: Analysis and Prospects 5* (1998).

⁸ U.N. Doc. E/CN.4/1991/WG.6/CRP.17.Rev.1

The Substantive Provisions of the Declaration

This section seeks to detail the protections afforded by the Declaration and to highlight what added protection beyond the existing provisions of international human rights law. Unlike a treaty, a declaration is not a legally binding instrument, but rather an acceptance, and occasionally an evolution, of widely-recognised principles. Such declarations may be referred to in a court of law, but only in support of customary law. Treaties or Conventions, on the other hand, are legally binding on States Parties upon ratification, and therefore the observance of treaty provisions carries a legal imperative on States in international law. Thus, in the case where a particular Declaration provision is mirrored in a Convention, the protection afforded by the Convention is superior.

It is on this basis that the Declaration on Human Rights Defenders is most compromised.

Excepting Article 13 on the right to receive funding (which shall be discussed separately below), all of its provisions are mirrored in other international human rights Conventions, and apply equally to human rights defenders as to all individuals. They are as follows:

- Article 1 and Article 5(a) & (b):

Art. 1 - Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Art.5 - [E]veryone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;*
- (b) To form, join and participate in non-governmental organizations, associations or groups;*
- (c) To communicate with non-governmental or intergovernmental organizations.*

This is a re-affirmation of the right to association and assembly, as provided for by Article 21 and 22 of ICCPR⁹, Article 5(d)(ix) of ICERD¹⁰, and Articles 2,3,5 and 11 of ILO Convention No.87 Concerning Freedom of Association and

Protection of the Right to Organise¹¹. Articles 1 and 5 do not advance any emerging right and are therefore secondary to the protection of the latter Conventions.

- Articles 2 and 4 concern the responsibility and duty of States to promote and protect human rights, including the rights of human rights defenders. Such responsibilities are fundamental to the purposes and principles of the UN, and any State that is party to the Declaration is also obligated under the UN Charter to promote universal respect for, and observance of, human rights and fundamental freedoms without distinction as to race, sex, language, or religion.¹² The Universal Declaration of Human Rights, which also contains this duty and responsibility, and subsequently it is repeated in all human rights Conventions that derive from the Universal Declaration. Thus the insertion of this provision in any human rights treaty or Declaration is mandatory and otherwise uncontroversial.

- Article 5(c), Article 6 and Article 7: Article 5(c) provides the right to “communicate with non-governmental or intergovernmental organisations”. Article 6(a) expresses the right of everyone to “know, seek, obtain, receive and hold information about all fundamental freedoms...” Article 6(b) provides for the right to “publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms” in accordance with other international instruments. Article 6(c) provides for the right to “study, discuss, form and hold opinions on the observance (of such rights)” and “to draw public attention to those matters.” Finally, Article 7 provides that “everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.”

⁹ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

¹⁰ International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, entered into force Jan. 4, 1969.

¹¹ Freedom of Association and Protection of the Right to Organise Convention (ILO No. 87), 68 U.N.T.S. 17, entered into force July 4, 1950.

¹² Charter of the United Nations, June 26, 1945, 59 Stat. 1031, T.S. 993, 3 Bevans 1153, entered into force Oct. 24, 1945. Article 1(3), 55(c), 56.

It is worth quoting Article 19 of the ICCPR in full to illustrate how these rights are already covered in international law:

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
 - (a) *For respect of the rights or reputations of others;*
 - (b) *For the protection of national security or of public order (ordre public), or of public health or morals.*

All of the rights mentioned in the Declaration are covered here with respect to all people, including of course human rights defenders. In effect, the Declaration offers nothing new. The limitation provision of ICCPR Article 19(3) is applied to the relevant Articles of the Declaration by way of Article 17, which shall be discussed below.

- Article 8 is a worthwhile contribution, if only for asserting the relationship between human rights defenders and the State. While it does not offer any new rights or protections, it does clarify the position of human rights defenders in the context of Article 25 of the ICCPR. Article 8 reaffirms that everyone has the right to effective access to participation in the government of his or her country and in the conduct of public affairs, “on a non-discriminatory basis”. It elaborates on the common understanding of political participation by “specifically including the right to submit criticism and proposals to governmental bodies on how their functioning can be improved, and on what obstacles exist to the implementation of human rights”¹³.
- Article 9 concerns the assurance of effective remedy and redress for violations of human rights, before an independent, impartial and competent

judicial or other authority, and without undue delay. These provisions are mirrored in Articles 2(3), 9(5) and 14 of the ICCPR, and Article 13 of CAT¹⁴. However, Article 9 adds that individuals and groups are entitled to observe all public trials to “form an opinion on their compliance with national law and international obligations and commitments” without being arbitrarily excluded. The Declaration also reiterates that everyone is entitled to offer “professionally qualified legal assistance or other advice and assistance in defending human rights and fundamental freedoms.” According to the Lawyers Committee for Human Rights: “this is an important provision as it would allow anyone, individually and in association with others, to assist victims of human rights abuses in all possible ways.” This, however, is entirely dependent on the proper implementation of its provision, which, in view of its multitudinous violations, is presently inadequate.

- Articles 14 to 16: Articles 14 to 16 address the responsibility of States “to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights” (Article 14); and both the responsibility of States and the important role of NGOs in the promotion and facilitation of human rights and fundamental freedoms at all levels of education. This is a common feature of all human rights treaties and declarations, including Article 13(1) of the ICESCR¹⁵, and most notably perhaps Article 7 of CERD¹⁶. Article 7 requires that States propagate:

“[t]he purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.”

¹³ LCHR, Protecting Human Rights Defenders: Analysis of the Newly Adopted Declaration on Human Rights Defenders, available at http://www.lchr.org/defenders/hrd_un_declare/hrd_declare_1.htm.

¹⁴ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], entered into force June 26, 1987.

¹⁵ International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976.

¹⁶ *Supra* note 9.

Considering that CERD, a legally binding Convention, is the second most widely ratified human rights Convention following the Convention on the Rights of the Child, and requires periodic State Reports detailing compliance with provisions, this constitutes a considerably more enforceable provision than Articles 14-16 of the Declaration.

Limitations of Rights, Concession to Domestic Law and Its Negative Impact on Funding

- Article 17 posits the rights and freedoms referred to in the Declaration as limited rights. This is a standard feature of international conventions and declarations, whereby certain rights are prescribed as non-derogable¹⁷ and may never be suspended, others derogable, meaning they may be temporarily suspended in a state of national emergency, and others limited or restricted when provided for by domestic law “for the protection of national security or of public order, or of public health or morals.”¹⁸ Article 17 allows for limitations of *all* of the rights of the Declaration:

determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of the meeting the just requirements of morality, public order and the general welfare in democratic society.

This is in accordance with general human rights treaties, although it may be questioned as to whether, for example, the right to receive funding should be a limited right. A minor observation that may also be made is that the allowance of limiting any or all rights of the Declaration on the grounds of the “general welfare of society” is a new limitation and a potentially lower threshold than previously given to States. Taken in the context of Article 3, below, this gives considerable leverage to oppressive States to determine what they consider to be in the interests of the “general welfare of society.” Surprisingly, this issue does not appear to have been raised at the Working Group sessions.¹⁹

- Article 3: If one appreciates the potential of Article 17 for interference by States in the activities of human rights defenders, then Article 3

compounds this problem. This is perhaps the most controversial provision of the Declaration. It positions domestic law as the “judicial framework within which human rights and fundamental freedoms should be enjoyed’. This may appear, as a reasonable condition, in that as was suggested by certain participants of the Working Group who asserted that such a position aligned domestic legislation with States’ international treaty obligations and other norms of customary law. However, these international obligations are not explicitly stated in Article 3. Moreover, there are certain aspects of States’ treatment of NGOs that fall outside the parameters of international law. This includes the cessation of international funding and the categorisation of NGOs as “organisation[s] of a political nature, not being a political party”²⁰, to give but two examples. The concession to domestic law thus seriously curtails the possibility of the Declaration introducing any *new* protections outside the scope of existent human rights law instruments.

- The adverse impact of Article 3 is best illustrated in Article 13, which happens to constitute the only unique contribution of the Declaration towards the specific rights of human rights defenders. Article 13 states that:

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms, through peaceful means, in accordance with article 3 of this Declaration.

However, this is subject to the limitations of Article 3 and domestic law, which, in those countries where human rights defenders are most active, and in most need of funding, is rarely in conformity with international standards. All that is required to contravene the rights of human rights defenders from receiving international funding is to brand them ‘politically motivated’ organisations or allege that they constitute a threat to national

¹⁷ Such as the right to life, protection from slavery, and torture.

¹⁸ See ICCPR, *supra* note 8, Article 19(3)(b).

¹⁹ ISHR, Draft Declaration on Human Rights Defenders: An Updated Analytical Study 98, 106 (1997).

²⁰ See for example the Indian Government’s utilisation of the Foreign Contribution (Regulations) Act of 1976, Section 5(1) against NGO’s; *The Purse Strings as the Noose: Indian NGO’s Face New Challenges*, Human Rights Features, 29 Oct. 1999.

security or public order. This is not an exceptional occurrence but is systematic in certain parts²¹. Therefore, governments' actual means of subverting this well-intentioned clause are so powerful as to effectively render redundant its protection.

Conclusion

In conclusion, the significance of the Declaration cannot be overemphasised. Despite some shortfalls, the Declaration sets down a series of principles and standards aimed at ensuring that states fully support the efforts of human rights defenders and ensure that they are free to conduct their legitimate activities without hindrance or fear of reprisals. Human rights defenders contribute to the protection and promotion of human rights in different parts of the world including the Commonwealth.

Recent Project News

Promoting Human Rights in Asia (Workshop on the UN Declaration on Human Rights Defenders)

Identifying how civil society organisations (CSOs) can assist Commonwealth countries in promoting human rights and the rule of law was the objective of a regional workshop for human rights advocates in the Asia region which took place from 22 to 23 October 2003 in Colombo, Sri Lanka.

The workshop was organised by the Human Rights Unit of the Commonwealth Secretariat in collaboration with the South Asian Human Rights Documentation Centre based in India and the Lawyers for Human Rights and Development Organisation in Sri Lanka. It is the first of its kind and others are being planned for the Caribbean and other regions of the Commonwealth.

In her opening address to the workshop, Dr Rhadika Coomaraswamy, Chairperson of the Sri Lanka Human Rights Commission, said that

successful implementation of international human rights initiatives at the national level depends largely on the recognition of the role that human rights institutions should play in monitoring such implementation. She reaffirmed that human rights are indivisible, interdependent, universal and not inconsistent with any cultural values of any societies, as some would like to believe. "This belief hinders the development of human rights for the enjoyment of all people. States have a duty to provide a democratic space for vibrant and active civil societies and national human rights institutions. Consultation with these bodies in policy formulation is essential," she said.

Jarvis Matiya of the Human Rights Unit emphasised the Commonwealth's commitment to promoting human rights and sustainable development. "The Commonwealth recognises the role that human rights defenders play in assisting member governments in protecting and promoting human rights. It is our hope that the workshop will help in creating the interface between human rights NGOs on the one hand and governments and national human rights institutions on the other. The rights-based approach to development is important in that meaningful development may be stunted if human rights are not incorporated in developmental activities."

At the conclusion of the workshop, participants agreed to develop programmes nationally and regionally. They also called for active participation at the annual meetings of the UN Commission on Human Rights and to this end, the CSOs pledged to submit substantial and credible reports. Additionally, participants recognised the need for networking between national and regional CSOs and pledged to work together through the Asia Pacific Forum for National Human Rights Institutions. They also called on governments to create environments that are conducive to civil society working properly in supporting governments' developmental goals which incorporate respect for human rights.

The two-day workshop was centred around the UN Declaration on Human Rights Defenders, which was adopted by the UN General Assembly on the 50th anniversary of the Universal Declaration of Human Rights in 1998. It was

²¹ See *ibid*.

heralded at the time as constituting a clear commitment on the part of all UN members to respect the rights of human rights defenders at national and international level.

The workshop was attended by officials from the Government of Sri Lanka, national human rights commissions and CSO representatives from Bangladesh, India, Malaysia, Singapore and Sri Lanka. International organisations such as the World Organisation Against Torture, International Service for Human Rights and International Federation of Human Rights were also represented.

Human Rights Norms for Transnational Corporations and Other Business Enterprises

(Source: UN)

The UN Sub-Commission on Human Rights, in a resolution, recently unanimously approved the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. The norms will go before the 2004 session of the Commission on Human Rights for consideration. These are the first comprehensive standards on the human rights responsibilities of businesses adopted in the UN system. Below are the norms:

A. General obligations

1. States have the primary responsibility to promote, secure the fulfillment of, respect, ensure respect of and protect human rights recognized in international as well as national law, including ensuring that transnational corporations and other business enterprises respect human rights. Within their respective spheres of activity and influence, transnational corporations and other business enterprises have the obligation to promote, secure the fulfillment of, respect, ensure respect of and protect human rights recognized in international as well as national law, including the rights and interests of indigenous peoples and other vulnerable groups.

B. Right to equal opportunity and non-discriminatory treatment

2. Transnational corporations and other business enterprises shall ensure equality of opportunity and treatment, as provided in the relevant international instruments and national legislation as well as international human rights law, for the purpose of eliminating discrimination based on race, colour, sex, language, religion, political opinion, national or social origin, social status, indigenous status, disability, age - except for children, who may be given greater protection - or other status of the individual unrelated to the inherent requirements to perform the job, or of complying with special measures designed to overcome past discrimination against certain groups.

C. Right to security of persons

3. Transnational corporations and other business enterprises shall not engage in nor benefit from war crimes, crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage-taking, extrajudicial, summary or arbitrary executions, other violations of humanitarian law and other international crimes against the human person as defined by international law, in particular human rights and humanitarian law.

4. Security arrangements for transnational corporations and other business enterprises shall observe international human rights norms as well as the laws and professional standards of the country or countries in which they operate.

D. Rights of workers

5. Transnational corporations and other business enterprises shall not use forced or compulsory labour as forbidden by the relevant international instruments and national legislation as well as international human rights and humanitarian law.

6. Transnational corporations and other business enterprises shall respect the rights of children to be protected from economic exploitation as forbidden by the relevant international instruments and national legislation as well as international human rights and humanitarian law.

7. Transnational corporations and other business enterprises shall provide a safe and healthy working environment as set forth in relevant international instruments and national legislation as well as international human rights and humanitarian law.

8. Transnational corporations and other business enterprises shall provide workers with remuneration that ensures an adequate standard of living for them and their families. Such remuneration shall take due account of their needs for adequate living conditions with a view towards progressive improvement.

9. Transnational corporations and other business enterprises shall ensure freedom of association and effective recognition of the right to collective bargaining by protecting the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without distinction, previous authorization, or interference, for the protection of their employment interests and for other collective bargaining purposes as provided in national legislation and the relevant conventions of the International Labour Organization.

E. Respect for national sovereignty and human rights

10. Transnational corporations and other business enterprises shall recognize and respect applicable norms of international law, national laws and regulations, as well as administrative practices, the rule of law, the public interest, development objectives, social, economic and cultural policies including transparency, accountability and prohibition of corruption, and authority of the countries in which the enterprises operate.

11. Transnational corporations and other business enterprises shall not offer, promise, give, accept, condone, knowingly benefit from, or demand a bribe or other improper advantage, nor shall they be solicited or expected to give a bribe or other improper advantage to any Government, public official, candidate for elective post, any member of the armed forces or security forces, or any other individual or organization. Transnational corporations and other business

enterprises shall refrain from any activity which supports, solicits, or encourages States or any other entities to abuse human rights. They shall further seek to ensure that the goods and services they provide will not be used to abuse human rights.

12. Transnational corporations and other business enterprises shall respect economic, social and cultural rights as well as civil and political rights and contribute to their realization, in particular the rights to development, adequate food and drinking water, the highest attainable standard of physical and mental health, adequate housing, privacy, education, freedom of thought, conscience, and religion and freedom of opinion and expression, and shall refrain from actions which obstruct or impede the realization of those rights.

F. Obligations with regard to consumer protection

13. Transnational corporations and other business enterprises shall act in accordance with fair business, marketing and advertising practices and shall take all necessary steps to ensure the safety and quality of the goods and services they provide, including observance of the precautionary principle. Nor shall they produce, distribute, market, or advertise harmful or potentially harmful products for use by consumers.

G. Obligations with regard to environmental protection

14. Transnational corporations and other business enterprises shall carry out their activities in accordance with national laws, regulations, administrative practices and policies relating to the preservation of the environment of the countries in which they operate, as well as in accordance with relevant international agreements, principles, objectives, responsibilities and standards with regard to the environment as well as human rights, public health and safety, bioethics and the precautionary principle, and shall generally conduct their activities in a manner contributing to the wider goal of sustainable development.

H. General provisions of implementation

15. As an initial step towards implementing these Norms, each transnational corporation or other business enterprise shall adopt, disseminate and implement internal rules of operation in compliance with the Norms. Further, they shall periodically report on and take other measures fully to implement the Norms and to provide at least for the prompt implementation of the protections set forth in the Norms. Each transnational corporation or other business enterprise shall apply and incorporate these Norms in their contracts or other arrangements and dealings with contractors, subcontractors, suppliers, licensees, distributors, or natural or other legal persons that enter into any agreement with the transnational corporation or business enterprise in order to ensure respect for and implementation of the Norms.

16. Transnational corporations and other business enterprises shall be subject to periodic monitoring and verification by United Nations, other international and national mechanisms already in existence or yet to be created, regarding application of the Norms. This monitoring shall be transparent and independent and take into account input from stakeholders (including non-governmental organizations) and as a result of complaints of violations of these Norms. Further, transnational corporations and other business enterprises shall conduct periodic evaluations concerning the impact of their own activities on human rights under these Norms.

17. States should establish and reinforce the necessary legal and administrative framework for ensuring that the Norms and other relevant national and international laws are implemented by transnational corporations and other business enterprises.

18. Transnational corporations and other business enterprises shall provide prompt, effective and adequate reparation to those persons, entities and communities that have been adversely affected by failures to comply with these Norms through, inter alia, reparations, restitution, compensation and rehabilitation for any damage done or property taken. In connection with determining damages, in regard to criminal

sanctions, and in all other respects, these Norms shall be applied by national courts and/or international tribunals, pursuant to national and international law.

19. Nothing in these Norms shall be construed as diminishing, restricting, or adversely affecting the human rights obligations of States under national and international law, nor shall they be construed as diminishing, restricting, or adversely affecting more protective human rights norms, nor shall they be construed as diminishing, restricting, or adversely affecting other obligations or responsibilities of transnational corporations and other business enterprises in fields other than human rights.

Reports

The 13th Triennial Conference of the Commonwealth Magistrates and Judges Association— Human Rights, Human Needs, Seeking a Judicial Talisman

The theme of the conference was 'Human Rights, Human Needs, Seeking a Judicial Talisman' and its objective was to consider the role of the independent judicial officer in the application of human rights principles to economic and cultural issues, in the promotion of economic development and social stability and in the promotion of parliamentary democracy and judicial independence.

Hosted by the Magistrates and Judges Association of Malawi in August 2003, the conference drew over 300 magistrates and judges from across the Commonwealth. Lawyers and human rights practitioners from different jurisdictions in the Commonwealth also attended the conference which included more than 10 specialised sessions complimenting six plenary sessions.

Among the issues covered during the conference were the role of an independent judiciary in the

promotion of economic development and in the attainment of social expectations, the responsibility of the judiciary for delivering justice, judicial activism in promoting human rights especially socio-economic rights, judicial ethics and combating of corruption within the judiciary, judicial decision making and economic development in the context of the rights of the child, and judicial protection of the environment. There were also keynote addresses by eminent speakers such as Justice Arthur Chaskalson (Chief Justice of South Africa), Lord Woolf of Barnes (the Lord Chief Justice of England and Wales) and Dr Garton Kamchedzera (Dean of Law Faculty, University of Malawi). The Human Rights Unit also made a presentation on the role of the Commonwealth in promoting human rights and sustainable development as well as on the importance of close collaboration with and among the professional organizations such as CMJA. The conference was an opportunity for magistrates and judges from the Commonwealth to discuss a wide range of issues affecting the delivery of justice in the Commonwealth countries such as access to justice, HIV/AIDS, terrorism, human rights and individual liberty, and trade and globalization.

Chief Justices convened a special session to strengthen their ongoing networks, pivotal to the continuation of Commonwealth professional co-operation and delivery of justice for all. They issued a statement which was adopted by the General Assembly at the end of the conference.

An appreciation of the perception by the judicial fraternity of the role of the Commonwealth in promoting human rights and sustainable development was achieved. The conference discussed important issues affecting the Commonwealth judiciaries and made a number of recommendations in the areas of human rights and rule of law, legal reform and education. It was expected that these recommendations would be taken up by the concerned Pan Commonwealth organisations such as the Commonwealth Lawyers Association, Judges and Magistrate Association, as well as the national legal and human rights institutions present at the conference and the Commonwealth Secretariat.

Of special interest to the Secretariat is the Statement of Chief Justices and Heads of

Judiciaries which called upon the Secretariat to implement as early as possible the Recommendation contained in paragraph 11 of the Conclusions which is as follows: “ In order to strengthen judicial independence and integrity the Colloquium requests the judicial independence and integrity the Colloquium requests the Commonwealth Secretariat to facilitate the carrying out of a comprehensive survey for the methods of determining conditions of service of judicial officers throughout the Commonwealth so as to provide guidelines on prevailing best practices. The Colloquium notes the practice adopted in some jurisdictions of determination of judicial salaries and terms and conditions by an independent commission”.

The Conference also asked governments to improve conditions of service for members of judiciaries and to establish independent commissions that regulate such conditions. The conference also called upon all the jurisdictions to adopt codes of conduct for members of judiciaries and that such codes should include complaints mechanisms.

The General Assembly also adopted the resolution which welcomed the Johannesburg Principles on the Rule of Law and Sustainable Development (adopted by the UNEP Global Judges Symposium on 18-20th August 2002) and the capacity building programme approved by the UNEP Governing Council at its 22nd Session in February 2003 (Decision 22/17/11A); and reiterated CMJA’s commitment to co-operate fully with UNEP in the future implementation of capacity building programme for judges and magistrates on environmental law.

The meeting also called for continued collaboration between the Secretariat especially through HRU and LCAD, and the legal profession in the Commonwealth as a whole. Lord Hope of Craighead in Scotland was elected President of CMJA succeeding Justice Richard Banda former Chief Justice of Malawi.

Letters to the Editor

5 November 2003

Re: Tackling Unconstitutional Overthrow of Democracies—Emerging Trends in the Commonwealth

Thank you for your letter dated 23 October 2003 forwarding me a copy of the above book.

I am grateful for the book which I found to be very interesting especially the theory that Judges enter into an implicit bargain with usurpers to validate their regimes in exchange for the usurpers leaving the Judges to retain their offices and privileges.

As you may be aware the 1995 Constitution of Uganda outlaws extra Constitutional governments. Article 3(1) of the Constitution provides that **“It is prohibited for any person or a group of persons to take or retain control of the Government of Uganda except in accordance with the provisions of this Constitution.”**

It is further provided that any person who overthrows the Constitution by violent or other unlawful means is guilty of treason. All citizens of Uganda have the right and duty to defend the Constitution and to resist any attempt seeking to overthrow the established Constitutional order, or to restore the Constitution when it has been overthrown or abrogated.

I hope this timely book will provide some guidance in interpreting the above provisions.

Signed
BJ Odoki

Chief Justice

Chief Justice Chambers
Supreme Court
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Editor’s Note: We welcome any letters which must be short and to the point. We reserve the right to edit any letter for publication. Thanks

The Vienna Declaration on the Role of Judges in the Promotion and Protection of Human Rights and Fundamental Freedoms

A high level international symposium entitled “The role of judges in the promotion and protection of human rights – strengthening interagency cooperation” held recently in Vienna came up with a Declaration on the Role of Judges in the Promotion and Protection of Human Rights and Fundamental Freedoms. The symposium was held on the occasion of the tenth anniversary of the United Nations World Conference on Human Rights.

The Acting High Commissioner on Human Rights, Mr. Bertrand Ramcharan, who chaired the symposium, reminded that criminal violations are widespread in different parts of the world and tyrants still hold sway over many countries. He also stated that, although there now is nominal universality, in practice the actual realization of human rights remains illusory for large parts of the world’s population.

The symposium was attended by eminent judges, regional and international intergovernmental and non-governmental organizations. The Commonwealth Secretariat was represented by the Head of the Human Rights Unit, Mr Hanif Vally.

The Declaration, which will be presented as a first step to the General Assembly in New York, on the occasion of International Human Rights Day (10 December), includes specific recommendations to States, intergovernmental and non-governmental organizations and also contains a set of actions in connection with post-conflict situations. Among other things the Declaration recognises the role of judges in safeguarding human rights and fundamental freedoms in that;

1. Judges are front-line actors in the protection of human rights. Their role is pivotal in the process of enabling people to assert their rights and in enforcing their claims to those rights. Independence and impartiality as well as

competence and integrity of the judiciary are key to the protection of human rights, given that the implementation of all rights ultimately depend upon the proper administration of justice.

2. The domestic justice system is one of the pillars of the State and as such has an obligation to ensure the observance of the State's international legal obligations. An independent and impartial judiciary that is familiar with international norms and standards, including relevant case law, can best articulate and activate the normative framework for the protection of human rights. In doing so judges also act as catalysts for law reform and social change, defending the constitution, establishing norms and contributing to the progress towards the full enjoyment of human rights and sustainable human development. Judges also have a crucial role in balancing the requirements of defending society against invidious types of crime - such as terrorism, organized crime and corruption - and preserving fundamental rights and freedoms. The rule of law and a fair judicial system can also reduce injustices in society and deter the resort to force for settling disputes.

3. Empowering the judiciary, ensuring their independence and equipping them with a comprehensive awareness of international standards is therefore vital for the protection of human rights, and regional initiatives in this regard are welcomed and encouraged. In this context reference is made to the "Bangalore Principles of Judicial Conduct" and the "Basic Principles on the Independence of the Judiciary" (General Assembly Resolution 40/146), with the proviso that it might be timely to revisit the latter in the light of recent developments.

4. Whilst judges have a primary role in the promotion and protection of human rights at the national level, they are also key in facilitating international cooperation in combating trans-national crimes and crimes under international law. Moreover, international tribunals and courts, in particular the ICC and regional human rights courts such as the European Court of Human Rights and the Inter-American Court of Human Rights, are an important instrument to complement and supplement the national mechanisms to ensure effective redress for

violations of international human rights and humanitarian law. In this context, the importance of the establishment of the African Court on Human and Peoples' Rights is also to be welcomed. By fighting impunity, those courts strengthen the rule of law, thus making a fundamental contribution to peace, security and the respect of human rights.

5. Human rights violations and public perceptions of failure to secure justice are at the root of many conflicts. In such situations ensuring and sustaining the legitimacy of those institutions which safeguard human rights is a priority, recognizing that legitimacy depends on responsiveness to the rights of the human being and positive action taken to guarantee those rights.

6. In conflict situations it is through respect for international humanitarian, human rights and refugee law that the fundamental rights of the human being must be protected. In such situations members of the judiciary and of other law enforcement bodies have an obligation to observe those norms.

7. In post-conflict situations the re-establishment of the rule of law in a manner that protects and respects the human rights of all persons is key to an enduring peace and should therefore be a crucial element of peacekeeping. SC-Res. 1325 (2000) op11 emphasizes the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes including those relating to sexual and other violence against women and girls. Such crimes should also be excluded from any amnesty provisions.

8. All efforts to promote peace, justice and national reconciliation have to go hand-in-hand with those to foster accountability and respect for human rights. Particularly in post-conflict situations, problems undermining the smooth and responsive functioning of the administration of the judicial branch, such as lack of resources, non-payment of salaries, damage to physical infrastructure, inappropriate executive branch influence, judicial corruption, lack of training for judges and court staff and lack of legal reference materials as well as the need for reform of the legal framework have to be addressed

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

Source: Office of the United Nations High Commissioner for Human Rights

As of 2 November 2003

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 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	GESCR	CCPR	CCPROPI	CCPROP2	CERD	CEDAW	CEDAWOP	CAT	CRC	CRCOPAC	CRCOPSC	MWC
Antigua & Barbuda					25 Oct 88 ^u	31 Aug 89 ^a		18 Aug 93 ^a	04 Nov 93			
Australia	10 Nov 03	13 Nov 80	25 Dec 91 ^a	11 Jul 91 ^a	30 Oct 75 ^r	27 Aug 83		7 Sept 89 ^r	16 Jan 91	s:21 Oct 02	s:18 Dec 01	
The Bahamas					05 Aug 75 ^d	5 Nov 93 ^a			22 May 91			
Bangladesh	05 Jan 99 ^a	06 Dec 00 ^a			11 July 79 ^a	06 Dec 84 ^a	22 Dec 00	04 Nov 98 ^a	02 Sept 90	12 Feb 02	18 Jan 02	s:07 Oct 98
Barbados	03 Jan 76 ^r	23 Mar 76	23 Mar 73 ^a		08 Dec 72 ^a	3 Sept 81			09 Oct 90			
Belize	s:06 Sep 00	10 Sept 96			14 Dec 01	15 Jun 90	19 Mar 03	26 Jun 87 ^a	02 Sept 90	s:06 Sep 00	s:06 Sep 00	01 Jul 03/4 Nov 01 ^a
Botswana		08 Dec 00			22 Mar 74 ^a	12 Sept 96 ^a		08 Sep 00	13 April 95 ^a	s: 24 Sept 03	24 Oct 03	
Brunei Darussalam									26 Jan 95 ^a			
Cameroon	27 Sept 84 ^a	27 Sept 84 ^a	27 Sept 84 ^a		24 Jun 71	22 Sept Aug 94		26 Jun 87 ^a	10 Feb 93	s:05 Oct 01	s:05 Oct 01	
Canada	19 Aug 76 ^a	19 Aug 76 ^a	19 Aug 76 ^a		15 Nov 70	09 Jan 82	18 Jan 03	24 Jul 87 ^r	12 Jan 92	12 Feb 02	s:10 Nov 01	
Cook Islands									06 July 97 ^a			
Cyprus	03 Jan 76	23 Mar 76	15 July 92	10 Sep 99 ^a	4 Jan 69 ^r	22 Aug 85 ^a	26 Jul 02	17 Aug 91 ^r	09 Mar 91		s:08 Feb 01	
Dominica	17 Sept 93 ^a	17 Sept 93 ^a			3 Sep 81			12 April 91	20 Oct 02	20 Oct 02a		
Fiji Islands					11 Jan 73 ^d	27 Sept 95			12 Sept 93			
The Gambia	29 Mar 79 ^a	22 Jun 79 ^a	09 Sept 88 ^a		28 Jan 79 ^a	16 May 93		s:23 Oct 85	07 Sept 90	s:21 Dec 00	s:21 Dec 00	
Ghana	07 Dec 00	07 Dec 00	07 Dec 00		04 Jan 69	01 Feb 86	s:24 Feb 00	07 Oct 00	02 Sept 90		S:24 Sept 00	01 Jul 03
Grenada	06 Dec 91 ^a	06 Dec 91			S:17 Dec 81	29 Sep 90			05 Dec 90			
Guyana	15 May 77	15 May 77	10 Aug 93 ^a		17 Mar 77	03 Sep 80		18 Jun 88	13 Feb 91			
India	10 Jul 79 ^a	10 Jul 79 ^a			04 Jan 69	08 Aug 93		s:14 Oct 97	11 Jan 93 ^a			
Jamaica	03 Oct 76	23 Mar 76			04 Jul 71	18 Nov 84			13 Jul 91	09 Jun 02	s:08 Sep 00	
Kenya	03 Jan 76	23 Mar 76			13 Oct 01 ^a	08 Apr 84 ^a		23 Mar 97 ^a	02 Sept 90	12 Feb 02	s:08 Sep 00	
Kiribati									10 Jan 96 ^a			<i>Continued on page 26</i>

STATE	CESCR	CCPR	CCPROP1	CCPROP2	CERD	CEDAW	CEDAWOP	CAT	CRC	CRCOPAC	CRCOPSC	MWC
Lesotho	09 Dec 92 ^a	09 Dec 92 ^a	06 Dec 00 ^b		04 Dec 71 ^a	21 Sep 95 ^a	s: 06 Sep 00	12 Dec 01 ^a	09 Apr 92	s:06 Sep 00	24 Oct 03	
Malawi	22 Mar 94 ^a	22 Mar 94 ^a	11 Sep 96		11 Jul 96 ^a	11 Apr 87 ^a	s:07 Sep 00	11 Jul 97 ^a	01 Feb 91 ^a	s:07 Sep 00	s:07 Sep 00	
Malaysia						05 Aug 95			19 Mar 95 ^a			
Maldives					24 May 84 ^a	31 Jul 93 ^a			13 Mar 91	s:10 May 02	10 Jun 02	
Malta	13 Dec 90 ^a	13 Dec 90 ^a	13 Dec 90 ^a	29 Mar 95 ^a	26 Jun 71 ^a	07 Apr 91 ^a		13 Oct 90 ^a	30 Oct 90	09 Jun 02	s:07 Sep 00	
Mauritius	03 Jan 76 ^a	23 Mar 76 ^a	23 Mar 76 ^a		29 Jun 72 ^a	08 Aug 84 ^a	s:11 Nov 01	08 Jan 93 ^a	02 Sep 90 ^a	s:11 Nov 01	s:11 Nov 01	
Mozambique		21 Oct 93 ^a		21 Oct 93 ^a	18 May 83 ^a	16 May 97 ^a		14 Oct 99 ^a	26 May 94		06 Apr 03 ^a	
Namibia	28 Feb 95 ^a	28 Feb 95 ^a	28 Feb 95 ^a	28 Feb 95 ^a	11 Dec 82 ^a	23 Dec 92 ^a	22 Dec 00	28 Dec 94 ^a	30 Oct 90	16 May 02	16 May 02	
Nauru		s:12 Nov 01	s:12 Nov 01		S:12 Nov 01			s:12 Nov 01	26 Aug 94 ^a	s:08 Sep 00	s:08 Sep 00	
New Zealand	28 Mar 79	28 Mar 79	26 Aug 89 ^a	11 Jul 91	22 Dec 72	09 Feb 85	22 Dec 00	09 Jan 90 ^a	06 May 93	12 Feb 02	s:07 Sep 00	
Nigeria	29 Oct 93 ^a	29 Oct 93 ^a			04 Jan 69 ^a	13 Jul 85	s:08 Sep 00	28 Jun 01	19 Apr 91	s:08 Sep 00	s:08 Sep 00	
Niue									19 Jan 96 ^a			
Pakistan					04 Jan 69	11 Feb 95 ^a			12 Dec 90	s:26 Sep 01	s:26 Sep 01	
Papua New Guinea					26 Feb 82 ^a	11 Feb 95 ^a			31 Mar 93			
Saint Kitts & Nevis						25 May 85 ^a			02 Sep 90			
Saint Lucia					14 Feb 90 ^d	07 Nov 82 ^a			16 Jul 93			
Saint Vincent & the Grenadines	09 Feb 82 ^a	09 Feb 82 ^a	09 Feb 82 ^a		09 Dec 81 ^a	03 Sep 81 ^a		31 Aug 01 ^a	25 Nov 93			
Samoa						25 Oct 92 ^a			29 Dec 94			
Seychelles	05 Aug 92 ^a	05 Aug 92 ^a	05 Aug 92 ^a	15 Mar 95 ^a	06 Apr 78 ^a	04 Jun 92 ^a		04 Jun 92 ^a	07 Oct 90 ^a	s:23 Jan 01	s:23 Jan 01	01 Jul 03 ^a
Sierra Leone	23 Nov 96 ^a	23 Nov 96 ^a	23 Aug 96 ^a		04 Jan 69	11 Dec 88	s:08 Sep 00	25 May 01	02 Sep 90	15 Jun 02	18 Jan 02	s:15 Sep 00
Singapore						04 Nov 95 ^a			04 Nov 95 ^a	s:07 Sep 00		
Solomon Islands	17 Mar 82 ^d				17 Mar 82 ^d	06 Jun 02 ^a	06 Aug 02		10 May 95 ^a			

STATE	CESCR	CCPR	CCPROPI	CCPROP2	CERD	CEDAW	CEDAWOP	CAT	GRC	CRCOPAC	CRCOPSC	MWC
South Africa	s:03 Oct 94	10 Mar 99	28 Nov 02 ^a	28 Nov 02 ^a	09 Jan 99 [*]	14 Jan 96		09 Jan 99 [*]	16 Jul 95	s:08 Feb 02	30 Jul 03	
Sri Lanka	11 Sep 80 [*]	11 Jun 80 ^a	03 Jan 98 ^a		20 Mar 82 ^a	04 Nov 81	15 Jan 03 ^a	02 Feb 94 ^a	11 Aug 91	12 Feb 02		01 Jul 03 ^a
Swaziland					07 May 69 ^a				06 Oct 95			
Tonga					17 Mar 72 ^a				06 Dec 95 ^a			
Trinidad & Tobago	08 Mar 79 ^a	21 Mar 79 ^a			03 Nov 73	11 Feb 90			04 Jan 92			
Tuvalu						05 Nov 99 ^a			22 Oct 95			
Uganda	21 Apr 87 ^a	21 Sep 95 ^a	14 Feb 96		21 Dec 80 ^a	21 Aug 85		26 Jun 87 ^a	16 Sep 90	06 Jun 02 ^a	18 Jan 02 ^a	01 Jul 03 ^a
United Kingdom	20 Aug 76	20 Aug 76		10 Dec 99	06 Apr 69	07 May 86		07 Jan 89	15 Jan 92	24 Jul 03	s:07 Sep 00	
United Republic of Tanzania	11 Sep 76 ^a	11 Sep 76 ^a			27 Nov 72 ^a	19 Sep 85			11 Jul 91		24 May 03 ^a	
Vanuatu						08 Oct 95			06 Aug 93			
Zambia	10 Jul 84 ^a	10 Jul 84 ^a	10 Jul 84 ^a		05 Mar 72	21 Jul 85		06 Nov 98 ^a	05 Jan 92			
Zimbabwe	13 Aug 91 ^a	13 Aug 91 ^a			12 Jun 91 ^a	12 Jun 91 ^a			11 Oct 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.

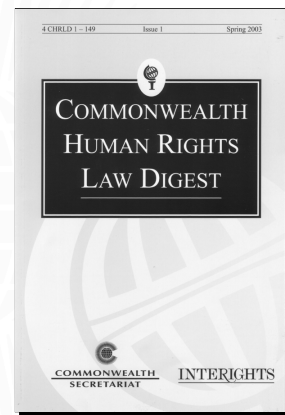
* indicates that the state party has recognised the competence to receive and process individual communications of the Committee on the Elimination of Racial Discrimination under article 14 of the CERD or of the committee against Torture under article 22 of CAT.

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This is the second of three issues in 2003.

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