

REPORT ON ACTIVITIES BY THE HUMAN RIGHTS UNIT

Paper by the Commonwealth Secretariat

Mandate of the Human Rights Unit (HRU)

1. The Human Rights Unit's activities support the attainment of the Commonwealth's strategic goal of strengthening democracy and respect for human rights in Commonwealth countries.
2. The 1971 Singapore Declaration of Commonwealth Principles confirms members' belief 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 processes in framing the society in which they live". The 1991 Harare Declaration establishes the scope of the mandate of the Secretariat's activities to promote both civil and political rights and economic, social and cultural rights. It specifically enjoins members "to extend the benefits of development within a framework of respect for human rights".
3. In addition to the general thrust of the Latimer House Guidelines and Millbrook Programme of Action, the HRU's mandate derives further recent support from the Aso Rock Declaration (Abuja CHOGM 2003, in particular Article 7), the Coolum Communique (Coolum CHOGM 2002, incorporating the High Level Group Report), and various occasional ministerial-level communiqués, lately the St Vincent & The Grenadines Communique (November 2002 Articles 4-7) and the London meeting of Law Ministers of Small Commonwealth Jurisdictions (Oct. 2004).
4. The HRU's core function under its mandate is to promote awareness of and respect for human rights. HRU was originally set up in 1985 following a decision made at the Melbourne CHOGM in 1981. On establishment it was expressly stated that the mandate of the HRU was to promote human rights within the Commonwealth, and not to be involved in any investigative or enforcement role.
5. The HRU was initially within the Political Affairs Division (PAD), after which it moved to the Legal and Constitutional Affairs Division (LCAD). Upon the recommendation of an "Evaluation Study of the Commonwealth Secretariat's Role in the Promotion of Human Rights 1997 – 2000," the Secretary-General decided to set up the HRU as a free-standing unit reporting directly to a Deputy Secretary-General. This was in order to give more prominence to human rights within the Secretariat's work. The HRU has been short on staff for much of 2005. Appointment of a replacement Head of the Unit is ongoing.

Objectives

6. The mandate upon which the HRU acts is presently as follows:
 - to integrate human rights-based approaches to project and other work within all Divisions of the Secretariat;
 - to develop assistance and other programmes that support, entrench and illustrate the Commonwealth's commitment to the promotion and protection of fundamental human rights, including programmes that emphasise the indivisibility of civil, political, economic and social rights;

- to assist in securing as wide as possible ratification and domestic implementation by member countries of the major international instruments setting out universal human rights standards;
- to develop, publish and distribute for use in member countries educational and training materials in human rights and on specific thematic issues;
- to collaborate and co-operate with other international, regional and Commonwealth government and non-government actors whose work relates to the field of human rights, including the UN system;
- to provide the Secretary-General with advice on the Commonwealth Ministerial Action Group (CMAG) and other human rights issues from time to time.

Strategic Framework

7. The HRU's programme activities support attainment of the Secretariat's strategic goal of strengthening democracy and respect for human rights within the Commonwealth. In order to achieve this, the HRU focuses on the following thematic areas:

- determining and distributing 'best practice' guidelines and standard setting in a common law context of existing international human rights standards. This includes ratification and implementation of international human rights conventions;
- strengthening the capacity of national and regional human rights institutions to fulfil their mandates; facilitating interaction between civil society, media and professions, national human rights institutions, government, and the public;
- increasing knowledge and awareness of, and respect for, human rights throughout the Commonwealth, especially among decision-makers, law enforcement officials, women and young people; and
- mainstreaming human rights across the Secretariat's various programmes.

Activities A: Determining Commonwealth Best Practice on Human Rights Issues

8. *Ratification of human rights instruments* – Promoting awareness of, encouraging and assisting technically in the ratification and domestication of international human rights instruments is one area that HRU is involved in. Under the 'Secretary-General's Human Rights Initiative', it is hoped that 18 Commonwealth countries might be encouraged and/or assisted to ratify two major human rights Conventions (ICCPR and ICSECR), or to implement into national law these and other Conventions (such as the Convention on the Rights of the Child) already ratified. Technical assistance work has already begun with certain countries that have expressed interest in ratifying these Conventions. This sort of work would normally be done together with LCAD, whose drafting expertise is particularly useful in preparing domestic implementing legislation for these Conventions.

9. *Promoting the Relationship between Governments and Human Rights NGOs* – In September 2004 the HRU finished a series of regional consultations in Africa, Asia and the Caribbean bringing together government officials, local human rights practitioners and NGO members, and staff members of national human rights institutions. These Workshops took place with different partners including the UN Office of the High Commissioner for Human Rights (UNOHCHR), UN Development Programme (UNDP), Asia-Pacific Forum on Human Rights Institutions, Fiji Human Rights Commission, National Human Rights Commissions and Ministries

of Justice. The purpose of the Workshops was to assist in creating an interface between NGOs and government institutions to ensure respect for human rights, and highlight their mutually complementary roles in achieving this. The outcome (so far) of these interactions is recorded in HRU reports for the regional Workshops, and has already seen commissions and local NGOs information-sharing, joint visits, consultation on human rights reports, and consultation with civil society on appointments to commissions.

10. Following the mandate of the Law Ministers of Small Commonwealth Jurisdictions (October 2004), the HRU is planning a forum for small states and human rights organisations on emerging human rights issues, to create a similar interface.

11. *Thematic Issues - Expert Group Meetings* – Since the last Ministers' meeting, the HRU has convened a number of Expert Groups to determine best practices to promote certain human rights related issues such as Trafficking in Women and Children, Treatment of Victims of Crime, and Freedom of Expression and Assembly.¹

12. The HRU has published and continues to disseminate the resulting Best Practice Guidelines. The HRU is now taking certain of these thematic issues forward. Issues of treatment of victims of crime are partly addressed through various police human rights training programmes by HRU. Trafficking in women and children for commercial and sexual exploitation is one of the fastest growing areas of international criminal activity and of increasing concern to the international community, including the Commonwealth. In 2005/6, HRU will be working with STPD and LCAD (Criminal Law Section) in order to co-ordinate with UN and regional initiatives on trafficking, including awareness programmes for law enforcement officials aimed at reversing the mind-set of trafficked persons as perpetrators, rather than often victims, of crime.

Activities B: Strengthening National and Regional Human Rights Mechanisms

13. *National Human Rights Institutions* – In addition to creating an interface between national human rights institutions and civil society (above), which has resulted in networking and comparative learning between members of national human rights institutions, a core activity of HRU is supporting and strengthening such institutions to enable them carry out their mandates. This is also in response to the Commonwealth High Level Review Group's recommendation on the matter.

14. A Workshop for National Human Rights Institutions for Southern and Eastern African Commonwealth countries has been held in collaboration with the Human Rights Centre of the University of Pretoria. National Human Rights Institutions from Ghana, Kenya, Lesotho, Malawi, Mauritius, Seychelles, Tanzania, Uganda and Zambia participated in this Workshop. Similar workshops will be held in other regions of the Commonwealth as well.

15. The HRU has assisted the Cameroon National Commission on Human Rights and Freedoms in the drafting of new legislation for its establishment, to replace the Presidential Decree that was previously its founding legislation. In collaboration with PAD and with the support of CIDA, a programme of assistance has been developed for the Commission, pending its re-constitution.

16. The Unit has been in contact with the Government of Solomon Islands, as well as the Pacific Islands Forum, in order to explore the creation of a national reconciliation mechanism and

¹ Part of the St Vincent & the Grenadines meeting mandate (Art. 36) was for the Secretariat to examine legal issues concerning freedom of the press. The HRU considers knowledge and awareness of the importance of press freedom as central to achievement of the Commonwealth's strategic goals in relation to democracy and human rights. It is looking at programme work to manifest this.

standing human rights commission, following the Expert Group Report on the Regional Assistance Mission to Solomon Islands.

17. The UNOHCHR section on national institutions now consults regularly with the HRU, after the relationship was re-vitalised in June 2005. In all activities in establishing and strengthening human rights commission, the Unit refers to both the Paris Principles and the Commonwealth Best Practice Guidelines on the Establishment of National Human Rights Institutions developed by HRU a few years ago. The UNOHCHR has expressed interest in working with HRU to adapt these guidelines for wider use.

18. **Other Collaborations** – The HRU has been actively seeking to co-operate and collaborate, where appropriate, with international and regional bodies and mechanisms. In recognition of the potential for more efficient and effective programme delivery, HRU has begun to work more closely with the UNOHCHR where there is proper scope for this. It also, for example, maintains strong contacts with the Organisation of American States (OAS) in relation to ratification issues and general issues relating to human rights promotion, and with the Pacific Islands Forum Secretariat in relation to regional human rights programmes.

19. The HRU has maintained contact amongst Commonwealth countries in Africa in relation to furthering the realisation of the African Court of Human Rights. Since such a court would be a significant new feature of the politico-legal geography of Africa, the Unit organised a meeting of experts, government officials, and human rights activists to look at the establishment of the court, particularly in view of the decision of the Assembly of the African Union to merge the court with the African Court of Justice.

Activities C: Human Rights Awareness and Education

20. **Young People** - In its last report to Law Ministers, the HRU detailed human rights training for tutors of the Commonwealth Youth Programme (CYP) Youth In Development programme in collaboration with CYP Asia Centre. The CYP programme covers some 25 institutions and 2,000 students across the Commonwealth. A similar training programme was carried out by HRU in Zambia in collaboration with the CYP Africa Centre, where representative CYP tutors from some 17 Commonwealth African countries were present. The HRU considers educating youth in human rights, in collaboration with the Youth Affairs Unit, an important part of its work. It has reworked the human rights content component of the programme. The HRU and CYP met in June 2005 to plan further joint initiatives.

21. **Police and Law Enforcement Officers** - A central HRU concern has been to contribute to more peaceful, stable communities by helping to build a human rights and community-based approach to policing into police training at all stages. This also responds to the request in the 2002 Law Ministers Meeting Communiqué. In April 2005 the Unit finalised its Human Rights Training Manual for Police Training Schools and Academies in West Africa. This followed consultations with senior West African law enforcement officials and trainers in The Gambia in 2004, and in Ghana in April 2005 when the draft training resource was tested and completed. In July 2005 over 35 police trainers from five West African countries (Cameroon, The Gambia, Ghana, Nigeria and Sierra Leone) met in Abuja for a training workshop on how to use the manual to build human rights training into existing police training programmes. The HRU will be evaluating police training curricula in the region after a suitable period. The Manual is easily adaptable to other regions, and HRU is looking at taking the Manual to other places and for this reason is now consulting with the Pacific Islands Police Chiefs forum, the Royal Solomon Islands police, and other Commonwealth police services.

22. **Commonwealth Model Human Rights Curricula** - In collaboration with the Commonwealth Legal Education Association (CLEA), the HRU has developed model human rights curricula as a resource for universities and other tertiary education institutions wishing to establish or develop courses in human rights, or build human rights elements into existing courses. The courses (Orientation, Certificate, Diploma, and Degree-Component courses) include India-specific content, but are adaptable with suitable modification to any part of the Commonwealth. The courses are designed to be offered by universities, but are not law courses as such, and not aimed only at students. The HRU is particularly interested in entering into arrangements with distance learning institutions. The institutions can hold out their courses as based on the Commonwealth model by arrangement with HRU after a quality control process.

23. As a pilot, the HRU and CLEA worked with Indian educators and in May 2005 in Mumbai launched the model courses with four major Indian universities, who undertook to establish and run such courses. A diploma course in 'Women's Rights as Human Rights' was also developed with the SNDT Women's University, Mumbai. The women's rights course is likewise adaptable. CLEA and the HRU have also produced a teachers manual accompanying the models (with effective human rights teaching methodologies set out), and a very comprehensive, fully web-linked model human rights law curricula for Commonwealth law schools.

24. The first fruit of this project came in July–August 2005 when a first batch of 160 police officers in the State of Maharashtra in India completed an Orientation course in human rights based on the Commonwealth model, through the YCM Open University in Nashik.

Activities D: Mainstreaming of Human Rights across the Secretariat

25. **The Mainstreaming Project** - The Mainstreaming project involves ensuring Secretariat activities are founded in and draw their focus and principles from international human rights standards, and are designed with the explicit goal of fulfilling civil and political, social and economic rights. After two consultants met with individual Commonwealth Secretariat Divisions to consider the applicability of human rights standards in the project activities being carried out by the various Divisions, and linking human rights to development, Richard Longhurst, our consultant on the second phase of the project, has met with and discussed the initial report with all Divisions, identified Divisional pilot projects to be tested, and formulated a final report on how each Division can bring their programmes more explicitly onto a human-rights based footing. HRU intends to conduct internal seminars for staff on international human rights standards.

26. Related to and a product of mainstreaming are the ongoing collaborations between HRU and other divisions, for example with the Health Section of the Social Transformation Programmes Division (STPD) in relation to a rights-based approach to treatment for HIV/AIDS as a life-threatening illness, with LCAD in ensuring training materials on counter-terrorism refer to the human rights imperatives inherent in long-term legal counter-measures, etc.

27. **Advice to the Secretary-General** – The HRU is now included in meetings relating to the political affairs of the Commonwealth. The HRU makes an input on human rights issues at these meetings and also independently raises any issues relating to human rights with the Office of the Secretary-General and PAD and other Divisions on a day-to-day basis.

Activities E: Publication and Dissemination of Information

28. The HRU has, amongst others, published and disseminated the following:

1. Unconstitutional Overthrow of Governments: Emerging Trends in the Commonwealth;
2. Introduction to Law and Human Rights for Young Persons;

3. Report on the Expert Group Meeting on Trafficking of Women and Children;
4. Best Practice for Commonwealth Countries in respect of Freedom of Association, Assembly and Expression;
5. Best Practice Commonwealth Guidelines on the Treatment of Victims of Crime;
6. 'Compilation of International and Regional Instruments for the Protection of Human Rights Defenders' in collaboration with International Services for Human Rights;
7. Report of the Expert Group Meeting on Internal Displacement in the Commonwealth: Common Themes and Best Practice Guidelines;
8. Human Rights Implications of Rising Sea Levels; (occasional paper)
9. Introduction to Citizenship for Young Persons in the Commonwealth.

29. In collaboration with Interights in the United Kingdom, the "Commonwealth Human Rights Law Digest" setting out human rights cases from across the Commonwealth is published on a bi-annual basis. The HRU has also published the "African Human Rights Law Reports" (in collaboration with the Centre for Human Rights Studies for Africa) which collates cases applying international and regional human rights instruments at national level in Africa. This is the first collection of the judgements from courts in Africa on human rights as well as the decisions of the African Commission on Human and Peoples Rights. The HRU newsletter, "Human Rights Update" has been revived and five issues have been printed to date.

Activities F: Collaboration with Other Organisations

30. The Commonwealth Secretariat has a Memorandum of Understanding (MOU) with the United Nations High Commissioner for Human Rights (UNHCHR) which was signed in 1998. Regular meetings are held with various officials from UNHCHR and there is a regular exchange of information. The Secretariat has invited them to participate in its activities and similarly, the UNHCHR keeps the HRU abreast of the latest developments in international human rights. The Unit has also collaborated on workshops with the UNHCHR, UNDP and national human rights institutions. The Secretariat has observer status with the Commission on Human Rights which meets in Geneva annually. The HRU also relates with the Inter- American Commission on Human Rights and the African Commission on Human and Peoples Rights and other regional bodies.

31. The HRU also has regular and fruitful meetings with international non-governmental organisations such as Amnesty International, Human Rights Watch and Association for the Prevention of Torture. The Unit has planned and executed joint activities with the Centre for Human Rights in South Africa, International Services for Human Rights in Geneva and South Asia Human Rights Documentation Centre in India, Asia-Pacific Forum for National Human Rights Institutions, CLEA and the Commonwealth Human Rights Initiative.