

THE WORK OF THE COMMONWEALTH SECRETARIAT'S HUMAN RIGHTS UNIT

A Memorandum by the Commonwealth Secretariat

Following endorsement in principle by Heads of Government of the recommendations in the Report of the Commonwealth Working Group on Human Rights, Commonwealth Law Ministers at their meeting in Sri Lanka in 1983 considered a Secretariat memorandum on the subject (LMM(83)16). The conclusions of their discussion were expressed in paragraphs 6-8 of the Communique:

"Ministers congratulated The Gambia for taking and sustaining a Commonwealth initiative in the Human Rights area. This provided them with an opportunity to reaffirm their commitment to respect for, and realisation of, fundamental human rights in all their aspects. Each of them was deeply conscious of the special responsibilities that repose in law officers in this regard.

Welcoming the fact that Commonwealth Heads of Government agreed in principle at Melbourne in 1981 to the establishment of a Special Unit within the Commonwealth Secretariat for the promotion of human rights, Ministers urged that it be established as early as possible. They recognised the potential of the Unit for the advancement of human rights, and considered that it should take as its initial frame of reference the Commonwealth Declarations by Heads of Government at Singapore (1971), Lusaka (1979) and Melbourne (1981), and the relevant international instruments which Commonwealth countries had accepted. It could also include customary international law.

The Meeting believed that the proposal for a Commonwealth Advisory Committee on Human Rights with a good offices function was an important one which should be kept on their Agenda but considered it was not appropriate for immediate implementation."

2. With the approval of the Finance Committee for funding, the Human Rights Unit was set up in January 1985 within the International Affairs Division of the Secretariat.

3. At the Commonwealth Heads of Government Meeting last year in Nassau:

"Heads of Government reaffirmed the importance which all Commonwealth Governments attach to the observance of human rights. They welcomed the recent establishment of a Human Rights Unit in the Secretariat and looked forward to its assistance in promoting understanding and respect for human rights within the Commonwealth, in accordance with the principles enshrined in Commonwealth Declarations and the main international human rights instruments."

(Paragraph 68 of the Nassau Communique)

Mandate of the Human Rights Unit

4. The mandate of the Human Rights Unit is:

- (a) to promote human rights within the Commonwealth; it is understood that the functions of the Unit will not involve any investigative or enforcement role;
- (b) to ensure that in the Secretariat itself due account is taken of human rights considerations in the work of all its Divisions.

5. The definition of "human rights" from the Commonwealth perspective derives from the various Commonwealth Declarations and the relevant principal international instruments. Successive Commonwealth Declarations indicate the collective commitment of member States to:

- the liberty of the individual
- equal rights for all citizens regardless of race, colour, sex, creed or religious beliefs;
- the inalienable right of all individuals to participate by means of free and democratic political processes in the framing of the society in which they live;
- the right of all men and women to live in ways which sustain and nourish human dignity.

6. In addition, the rights of children have been recognised, as well as the need for special attention to be given to the problems of indigenous minorities, immigrants, migrant workers and refugees, and for measures to break the circle of poverty in which the lives of millions of people in developing countries are confined.

Activities of the Human Rights Unit

7. The Secretary-General has invited governments to nominate a point of contact to whom requests for information about the domestic procedures for promoting human rights may be sent. To date 28 States have nominated a point of contact; (See Annex I). The Human Rights Unit looks forward to receiving further nominations and is available to advise points of contact on matters relevant to the mandate of the Unit and its work programme, specifically in respect of the following:

(i) Assistance to Commonwealth Governments to Promote Human Rights

8. The Human Rights Unit serves to facilitate practical ways of assisting Commonwealth governments to promote respect for and understanding of fundamental human rights in all their aspects. Member Governments are invited to inform the Secretariat as to the particular fields in which they would envisage the Human Rights Unit providing assistance to them.

9. Throughout the Commonwealth, various national institutions and domestic procedures are evolving in recognition of the developmental significance of measures to promote equality and justice. Given the extent of comparable legal and administrative practices, those directly responsible for promoting respect for human rights can derive obvious benefits from regular exchanges of information and experiences at the pan-Commonwealth, regional and national levels. The Human Rights Unit is seeking to ascertain the possibility of advancing this process through Commonwealth mechanisms by, in the first instance, undertaking a study on the existing and prospective functions of relevant national institutions and domestic procedures within the Commonwealth.

(ii) Human Rights Clearing House

10. Commonwealth governments have expressed an interest in the Human Rights Unit serving as a "Clearing House" for information. The Human Rights Unit is accordingly establishing such a facility as part of its functions.

11. Over the years the Commonwealth Law Bulletin has regularly published details of Commonwealth human rights legislation. The Unit has been contributing further items of relevance to human rights issues, including details of human rights and international humanitarian law courses and conferences, articles on noteworthy developments in respect of Commonwealth measures to promote humanitarian concerns, and reviews of articles and books relating to Commonwealth countries.

12. Member governments are invited to indicate further kinds of information and activities which would be of interest to them and to direct specific requests for data to the Unit.

(iii) International Human Rights Instruments

13. The Unit monitors the status of the principal international human rights instruments with regard to Commonwealth governments. Priority is being given to developing appropriate explanatory documentation for Commonwealth jurisdictions on the principal instruments. To this end an "accession kit" was produced on the Convention on the Elimination of All Forms of Discrimination Against Women for the Nairobi World Conference for the UN Decade for Women.

14. A further project is underway to produce documentation on the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It will examine the inter-relationship between the two instruments in light of the importance attached by the Commonwealth to the principle of non-discrimination, whether on the basis of race, colour, sex, creed or religious belief.

15. In addition, the Human Rights Unit serves to facilitate exchanges of information on various subjects relevant to the implementation of the principal international human rights instruments, including measures which States Parties have taken to fulfil their obligations, whether problems have arisen in interpreting specific articles and how States Parties meet their reporting obligations.

16. Member governments are invited to consider the value and possibilities of technical assistance to them in reviewing legislation and administrative procedures with respect to the practical implementation of international human rights instruments and the role that the Commonwealth might play in the delivery of such assistance.

Integrating Human Rights considerations into the work of the Commonwealth Secretariat

17. Importance is placed on ensuring that all Commonwealth programmes take into account the human rights dimension. There are in-house consultations taking place on ways of integrating human rights considerations into all aspects of the Secretariat's work. It is already apparent that many of the programmes being implemented serve to promote the realisation of human rights in a general sense. The Human Rights Unit co-operates closely with the Legal Division, and much can be done through the Commonwealth network of legal contacts to promote human rights.

Liaison with International Organisations

18. The Human Rights Unit monitors trends in the United Nations debates on human rights and maintains contact with the UN Centre for Human Rights. The Unit is exploring ways of liaising with other international and regional mechanisms concerned with human rights.

19. The Human Rights Unit is examining Commonwealth interest in the principal issues before the XXVth International Conference of the Red Cross to be held in Geneva in October 1986.

Concluding Comment

20. The programme of work for the Unit is designed to promote greater awareness and understanding of Commonwealth human rights ideals. These are, however, not static abstractions divorced from reality. To promote human rights is to go beyond rhetoric to practical ways by which political and economic processes can promote equality, justice and human dignity. In the long term, the programme of work for the Human Rights Unit may contribute to an exploration of how shared humanitarian concerns can be further integrated into the well-established traditions of consensus and co-operation intrinsic to Commonwealth consultations and problem solving.

Commonwealth "Points of Contact" on Human Rights

Mr Clare Roberts Solicitor-General Ministry of Legal Affairs St John's Antigua & Barbuda	The Solicitor-General Crown Law Office Government Buildings Suva Fiji
Human Rights Section International Organisations and Humanitarian Affairs Branch Department of Foreign Affairs Canberra Australia	Grenada Civil Awareness Organisation Knox House Grand Etang Road St George's Grenada
Mr Basil O'Brien Permanent Secretary Ministry of Foreign Affairs P O Box N-3746 Nassau The Bahamas	Joint Secretary (UN) Ministry of External Affairs New Delhi India
Mr Justice M A Quddus Chowdhury Secretary Ministry of Law and Justice Bangladesh Secretariat Dhaka Bangladesh	Permanent Secretary Ministry of Justice 12 Ocean Boulevard Kingston Mall Jamaica
The Permanent Secretary Ministry of Legal Affairs Marine House Hastings Christ Church Barbados	Permanent Secretary Ministry of Foreign Affairs P O Box 30551 Nairobi Kenya
The Permanent Secretary Ministry of Home Affairs Belmopan Belize	Secretary for Home Affairs and Decentralisation P O Box 75 Bairiki Tarawa Republic of Kiribati
The Director UN Affairs Division Department of External Affairs Ottawa Canada	Secretary to the President and Cabinet Private Bag 301 Lilongwe 3 Malawi
Ministry of Foreign Affairs Nicosia Cyprus	Mr Ahmed Saleem Under Secretary Ministry of Foreign Affairs Male Republic of Maldives
	Office of the Attorney General The Palace Valletta Malta

Human Rights Commission (New Zealand)
c/o New Zealand High Commission
New Zealand House
Haymarket
London SW1Y 4TQ

Federal Ministry of Justice
(International and Comparative Law Division)
Lagos
Nigeria

Principal Secretary (Planning)
Ministry of Planning and External Relations
Department of Planning
P O Box 656
National House
Victoria
Republic of Seychelles

Human Rights Centre
Sri Lanka Foundation Institute
7 Independence Avenue
Colombo 7
Sri Lanka

Crown Law Department
P O Box 85
Nuku'alofa
Kingdom of Tonga

Dr Vincent Lasse
Counsellor
High Commission of the Republic of
Trinidad and Tobago
42 Belgrave Square
London SW1X 8NT

Mr R C B Jones
United Nations Department
Room K154
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

Ministry of Foreign Affairs & External Trade
P O Box 124
Port Vila
Republic of Vanuatu

Secretary for Foreign Affairs
Prime Minister's Department
Apia
Western Samoa

Ministry of Foreign Affairs
Lusaka
Zambia

Mr D M Zamchiya
Permanent Secretary
Legal and Parliament Affairs
Ministry of Justice, Legal and Parliamentary Affairs
Private Bag 7751
Causeway
Zimbabwe