A COMMONWEALTH OF THE PEOPLE

Time for Urgent Reform


Perth, October 2011
Acronyms

ACP  African, Caribbean and Pacific Group of States
ACTA  Anti-Counterfeiting Trade Agreement
ARV  Anti-retroviral drugs
ASEAN  Association of South-East Asian Nations
AU  African Union
CBA  Commonwealth Broadcasting Association
CBC  Commonwealth Business Council
CFTC  Commonwealth Fund for Technical Co-operation
CGF  Commonwealth Games Federation
CHOGM  Commonwealth Heads of Government Meeting
CHRI  Commonwealth Human Rights Initiative
CIO  Chairperson-in-Office
CMAG  Commonwealth Ministerial Action Group
CMG  Commonwealth Media Group
CMGSS  Commonwealth Ministerial Group on Small States
COG  Commonwealth Observer Group
CS-DRMS  Commonwealth Secretariat’s Debt Recording and Management System
CSFP  Commonwealth Scholarship and Fellowship Plan
CSO  Civil Society Organisations
CYC  Commonwealth Youth Corps
CYDF  Commonwealth Youth Development Fund
CYO  Commonwealth Youth Orchestra
CYP  Commonwealth Youth Programme
EPG  Eminent Persons Group
EU  European Union
Gt  Gigatonnes
G20  The Group of 20 major advanced and developing economies.
HIV/AIDS  Human immunodeficiency virus/acquired immunodeficiency syndrome
IDEA  International Institute for Democracy and Electoral Assistance
IEA  International Atomic Energy Agency
IMF  International Monetary Fund
MDGs  Millennium Development Goals
MFN  Most Favoured Nation
SPD  Sport for Peace and Development
TRIPS  Trade-Related Aspects of Intellectual Property Rights
UNDP  United Nations Development Programme
WTO  World Trade Organization
### Table of Contents

**Foreword by Kamalesh Sharma, Commonwealth Secretary-General**  
9

**Letter of Transmittal**  
13

**Executive Summary**  
17

**Introduction**  
27

**Part 1: Championing Values**  
33

- A Proposal for ‘A Charter of the Commonwealth’  
33

- Enhancing Democracy, the Rule of Law and Human Rights  
36
  - Commonwealth Commissioner for Democracy, the Rule of Law and Human Rights  
40
  - Commonwealth Ministerial Action Group  
42
  - Freedom of expression  
43
  - Objective criteria for CMAG  
44
  - National human rights institutions  
45
  - Strengthening democratic culture and practices  
47

- Silence is not an option: The Secretary-General’s mandate  
52

**Part 2: Development and Functional Co-operation**  
57

- Development: Maintaining the Commonwealth’s focus  
57
  - A vision for the Commonwealth’s development work  
59
  - The Commonwealth Fund for Technical Co-operation  
61
  - A new strategic plan  
62

- Migration and development: A major challenge  
64

- Reforming the international financial architecture  
66

- Empowering small states: Strengthening their economic capacity and resilience  
69

- Debt of small states: How to deal with it  
74

- The Commonwealth and trade: Advocating for change  
76
  - Trade follows investment  
78
  - The Doha Round: What to do about it  
79

- 5
Climate change and existential threats: Immediate Commonwealth concerns 81
  - Reinvigorate the Lake Victoria Action Plan 82
  - Recommit to Iwokrama 83
  - Build a Commonwealth disaster management capacity 84
Cultivating the Commonwealth's cultural heritage 87

Part 3: Advocacy and Consensus Building 91
Young people: Involvement now for the future 91
  - Launching a Commonwealth Youth Corps 91
  - Reforming the Commonwealth Youth Programme 93
Women: Confronting the remaining challenges 95

Part 4: Institutions Fit for Purpose 103
The Commonwealth Secretariat: Making it productive and significant 103
  - Improving the Secretariat's performance 104
  - Financing the Secretariat's operations 105
  - The Secretariat's legal personality 106
CHOGM and Ministerial Meetings: How to make them more effective 108
  - Ministerial meetings 112
Chairperson-in-Office and Troika: A review 117
  - Problems of the current arrangement 117
  - The system in other organisations 118

Part 5: A Commonwealth of People 121
The Commonwealth Secretariat and Commonwealth Foundation: What relationship? 121
Commonwealth Associated Institutions: Enhancing the relationship 124
  - Civil Society Organisations 125
  - Partnership between intergovernmental organisations and civil society 126
  - Linking Commonwealth organisations into a collective whole 127
  - Utilising Commonwealth Associated Institutions 127
  - The Commonwealth Business Council 128
  - Spreading the face of the Commonwealth 129
  - Effectively using information technology 130
Engagement between governments and civil society: Making it meaningful

Part 6: Improving the Commonwealth’s Profile

Building strategic partnerships to advance the Commonwealth’s values
- Secretariat should engage private sector and philanthropic organisations within and outside the Commonwealth
- Commonwealth Scholarships and Fellowships

Making the Commonwealth matter: Raising its profile
- Public knowledge of the Commonwealth: Does it matter?
- The Commonwealth ‘brand’
- Governments must be more pro-active
- Overhauling communications machinery: Engaging the media
- Wider utilisation of Commonwealth Regional Centres

Facilitating border crossings: Enhancing a Commonwealth of people

Sport for Peace and Development

Concluding Remarks

Annex 1: Summary of Recommendations

Annex 2: A Draft Charter of the Commonwealth

Annex 3: The Members of the EPG

Annex 4: Affirmation of Commonwealth Values and Principles

Annex 5: List of Organisations and Individuals who made written submissions to the EPG
Foreword
by Kamalesh Sharma, Commonwealth Secretary-General

Since its earliest days the way of the modern Commonwealth has been to find solutions. At its inception in 1949 King George VI, accepted voluntarily as Head of the Commonwealth, said:

*The problem of which you have just offered me your solution is one that has given us all very grave concern. That solution is a striking example of the elasticity of our system.*

The same might almost be said of this report. It makes eye-catching recommendations for the Commonwealth at a critical juncture when reform is required. The goal is to shape a truly contemporary organisation, meeting the aspirations and expectations of the citizens of the Commonwealth, with a Secretariat honed to fulfil its mandate.

Heads of Government entrusted to me the task of convening an Eminent Persons Group to examine options for reform that would bring the Commonwealth’s institutions into a stronger and more effective framework of co-operation and partnership. I convey my gratitude to them for placing their confidence in me as convener of the Group. I look forward to working with colleagues at the Secretariat, and in the wider Commonwealth, with vigour and enthusiasm, to implement the recommendations Heads endorse, continuing the task to which we are committed, of shaping a Commonwealth with institutions and processes fit for purpose in the world of tomorrow.

The Eminent Persons Group is itself an expression of all that is best in the Commonwealth, and of the global wisdom function that is our special gift to all facets of global partnership and discourse. The Group has consulted as widely as possible, carrying out its task with thoroughness, imagination, and a dedication to the cause of the Commonwealth. Members of the Group bring an exceptionally wide range of valuable experience and knowledge. The broad focus of their
shared perspective is unique to the Commonwealth. Their report is a positive object lesson in how a broad range of views can be distilled into shared approaches and actionable outcomes.

A great strength of the Commonwealth is its ability to speak with one voice while not losing the richness of its inherent diversity and geographical reach. Global integration brings us closer together, and such proximity can heighten stresses as well as open up fresh opportunities. In a spirit of solidarity and shared purpose, and of exploiting opportunities for joint action, we need to find imaginative ways of using the potential of Commonwealth meetings and networks to enlarge and enrich our common ground.

Although the Commonwealth was created in the last century it appears to have been designed for the present one. By adopting a pragmatic and responsive approach rather than a prescriptive or rigid one it is able to adapt to the rapidly changing context in which it operates. Such flexibility gives resilience.

The frameworks and partnerships of the Commonwealth, memorably described by The Queen, Head of the Commonwealth, as “the original worldwide web”, help bind us together to achieve our shared ambitions of growth to escape poverty, and advancing the culture of democracy to embed respect for human rights and the rule of law. As roles and relationships are reviewed and refined that Commonwealth network, made up of many members and institutions, will be revitalised.

The widespread consultation conducted in preparation for this report, and the recommendations of the Eminent Persons Group, will give a tremendous boost to the reforms and development of our work that are already underway. They demonstrate that while the Commonwealth is defined by its twin aspirations, development and democracy, it is measured by the success of its delivery to its citizens, and the difference it makes to their lives.
Recognising the urgency of their task members of the Group have generously found time, amid their many professional and personal preoccupations, to assimilate background material, scrutinise detailed submissions, and share their wisdom in order to serve the Commonwealth. My deep appreciation and gratitude goes out to them for rendering this great service. The report produced through their efforts, and the actions it engenders, will stand as a landmark in the evolution of a people-centred Commonwealth. In particular I thank Tun Abdullah Badawi for his sure hand in directing the work of this Group to its successful conclusion, including hosting a meeting in Kuala Lumpur. Under his guidance the Group has shown the benefit to be derived from co-operation and shared thinking by all members.

Heads of Government will consider this report and discuss its recommendations at their meeting in Perth, within sight of the Swan River. Indeed, Western Australia was formerly known as Swan River Colony and the swan is still its state emblem, the black swan. Writing in the first century, Juvenal famously considered the black swan to be an impossibility. In the first decade of the twenty-first century, another thinker said it is actually what one needs to watch out for and used it as a symbol for the vast alterations brought about by the unexpected.

In a world where the unexpected and surprising will continue to occur the Commonwealth needs, more than ever, to bring its global wisdom to bear. It will stand us in good stead to keep the black swan in our mind’s eye as we shape the Commonwealth of the future. I strongly commend the Report of the Eminent Persons Group to Heads for consideration.
11 August 2011

H.E. Mr Kamalesh Sharma
Secretary-General
Commonwealth Secretariat
Marlborough House
Pall Mall
London SW1Y 5HX

Dear Secretary-General

Each of us came to this Group as a supporter of the Commonwealth association; at the end of our work we are even more convinced of the Commonwealth’s potential as an influence for human advancement within its member states and in the wider global society. We are, therefore, pleased to send you our report entitled, "A Commonwealth of the People: Time for Urgent Reform", and we would be grateful if you would transmit it to Commonwealth Heads of Government.

We have included in the title of our report the phrase "A Commonwealth of the People" because we are convinced that the wealth of our association lies in the common bonds of the people. No other multilateral organisation can claim the 90 civil society and professional organisations who gather across the borders of the Commonwealth’s 54 member states to work together and to advance goals, aspirations and values derived from their common experience. The Commonwealth is truly a ‘Commonwealth of people’ committed to common ideals and principles despite diverse cultures, religions, and
ethnicities. We believe that this unique Commonwealth attribute must be better utilised by Commonwealth governments in their efforts to address new tensions and challenges in the modern era.

To do so, the Commonwealth must speak with greater unity in the international community in these areas of common values. Such commonality will only be attained through a strong Commonwealth – one that is supported and enhanced by the policies and actions of each of its governments, and in which governments work more effectively to reach consensus on global issues. We do not pretend that consensus is possible on every issue. However, we are certain that it is possible on many of them allowing the Commonwealth to exercise an influence for individual social and economic betterment, for peace and for security within its member states and in the global community.

The title of our report also reflects the timeliness for the Commonwealth to implement "urgent reform". Reform is necessary and we were mandated to advise on how to achieve it. There is a growing perception that the Commonwealth has become indifferent because it fails to stand up for the values that it has declared as fundamental to its existence. These values have been violated by some member countries without an appropriate Commonwealth response except in the event of the unconstitutional overthrow of a government. The Commonwealth has to focus fresh attention on violations of human, political and civil rights if it is to continue to command attention on behalf of its member states and retain the respect of its own people.

On issues such as development, trade and investment, climate change and global pandemics, the Commonwealth is in danger of becoming immaterial as beleaguered nations look elsewhere for the help they need. The work programme assigned to the Commonwealth Secretariat requires critical review with the objective of concentrating on priority matters that will bring the greatest benefit to the people of the Commonwealth. In this regard, some existing activities will need to be retired and new priorities set that are in accordance with Commonwealth values of democracy and development, and with Commonwealth strengths. Moreover, a commitment has to be made by
all Commonwealth governments to reverse the decline of the last 15 years or so by providing the resources and support that will allow the Secretariat to serve them and their peoples with better results.

We received over 300 submissions from Commonwealth organisations and numerous other individual presentations. We acknowledge the worth of these contributions. In this connection, we request that you seek the agreement of Commonwealth Heads of Government to release our report publicly prior to the Perth CHOGM so that these organisations and individuals, and others, can give the Commonwealth’s political directorate the benefit of their views.

We all regard it as a privilege to have been invited to serve on this Group. We hope that our report may contribute to the vitalisation of the Commonwealth for the benefit of its people and the wider global society, which needs it to be strong and effective.

Yours sincerely
Executive Summary

In this report, we speak directly to Commonwealth Heads of Government who, at their meeting in Port-of-Spain in 2009, decided to create us as an Eminent Persons Group (EPG) to advise them on reform of the association.

This decision by Heads of Government was taken at a time when the world was – as it now still is – in the midst of an economic crisis. The old order of economic power was changing. Climate change showed signs of endangering global economic activity and the safety and livelihood of millions of people. It posed threats to the very existence of a number of countries. Terrorism, too, threatened the security of states and presented a serious challenge to international peace.

Heads of Government decided that in such a world, it was important to build a stronger, more resilient and progressive Commonwealth and to make it more relevant to its times and to its people in the future. They made it clear that they wanted the Commonwealth to continue to be an important player in the world, drawing on its rich diversity to help build global consensus around the Commonwealth’s core values including peace, democracy, the rule of law, human rights, gender equality, economic development, and freedom of expression.

This was a timely decision because, prior to the Port-of-Spain meeting, the sentiment had grown in civil society organisations, media and some member governments that the Commonwealth was in danger of becoming irrelevant. Many doubted its ability to continue to be a significant organisation amongst its own member states, let alone to be influential in the wider global community.

In pursuance of our mandate, we held five meetings between July 2010 and July 2011 in London and Kuala Lumpur. During the course of our work we received numerous oral presentations and more than 300 written submissions from Commonwealth organisations, government representatives and individuals from all regions of the Commonwealth.
We have made 106 recommendations in our report, covering the full range of our remit. In May 2011, we issued a public statement indicating the areas that we were tackling and the direction in which we were going with regard to the majority of them. We were very pleased to find that the vast majority of responses to our statement were highly enthusiastic.

The criteria we employed in making these and all our other proposals include:

- Safeguarding and upholding the declared values of the Commonwealth;
- Renewing effective measures to protect and advance the values of human rights, democracy and the rule of law;
- Ensuring that democratic practices, including electoral integrity, are maintained and respected;
- Expanding and improving the work of the Commonwealth in advancing the economic development aspirations and requirements of its developing member states;
- Providing determined advocacy in the international community to advance the interests and concerns of small and vulnerable states;
- Reforming the Commonwealth Secretariat and making it fit to carry out the purposes assigned to it by member governments;
- Creating partnerships with public-spirited foundations and the private sector; and
- Developing an integrated and stronger network of all Commonwealth intergovernmental and civil society organisations.

In this summary, we have identified 14 very important recommendations that encapsulate the central arguments and findings of our report, although we emphasise that the report as a whole reflects the conclusions of our broad consultations and our extensive deliberations. The 14 core recommendations, all of which have received overwhelming support from Commonwealth organisations and others who have given evidence to us, are as follows:
1 A “Charter of the Commonwealth” should be established after the widest possible consultation in every Commonwealth country. Civil society organisations should be fully involved with national governments in the process of pan-Commonwealth consultation, including in the organisation of the process and assessment of its results. A task force should be appointed to analyse the findings of the national consultations and to make recommendations, on that basis, to Heads of Government. If the findings favour a Charter, the task force should be authorised to draft the final text.

2 A Commonwealth Commissioner for Democracy, the Rule of Law and Human Rights should be appointed to provide well researched and reliable information simultaneously to the Secretary-General and the Chairperson of the Commonwealth Ministerial Action Group (CMAG) on serious or persistent violations of democracy, the rule of law and human rights in member states, and to indicate approaches for remedial action.

3 CMAG should develop objective criteria (such as we have set out in this report) for determining serious or persistent violations of the Commonwealth’s core values, including human rights, that would trigger its engagement with a member state to put remedial measures in place.

4 The core values of the 2009 Affirmation of Commonwealth Values and Principles (which updates and expands on the earlier 1971 Singapore Declaration and 1991 Harare Declaration and the 2003 Commonwealth [Latimer House] Principles on the Three Branches of Government) should be deemed to be “core Commonwealth priorities” about which the Secretary-General shall speak out publicly as appropriate.
5 The Secretary-General should develop a clear strategy, marked by identified priorities, to maximise the Commonwealth's contribution to the achievement of the development goals of its member states. Such enhanced development work, informed by Commonwealth values and aspirations, by Commonwealth positions, and with guidance from member governments, should include: (i) advocacy and consensus building on pertinent issues as required; (ii) networking between all member governments for co-operation; and (iii) provision of assistance for institutional development.

6 Commonwealth governments should collectively work for a review of the criteria used by international financial institutions to determine the economic well-being and entitlements of a country. Such criteria should take account, additionally, of factors such as a country's level of indebtedness; its fiscal capacity to finance development programmes; and the higher costs it pays for trade because of its remoteness.

7 The Secretary-General's mandate should be renewed to: (i) explore the potential for partnerships between the Commonwealth, the World Bank and others to provide specific programmes of support to vulnerable economies; and (ii) convene an Expert Group to provide a study to advance the Lake Victoria Climate Change Action Plan, including which programmes are a priority, how they could be structured, and how they could be financed and implemented. Such a study should be started immediately after the CHOGM in Perth and completed as soon as possible thereafter.

8 Heads of Government should take steps to encourage the repeal of discriminatory laws that impede the effective response of Commonwealth countries to the HIV/AIDS epidemic, and commit to programmes of education that would help a process of repeal of such laws.
9 Heads of Government should agree to the creation of a Commonwealth Youth Corps (CYC), organised by the Commonwealth Foundation and managed by a board made up of existing and appropriate Commonwealth organisations experienced in the movement of young people, to provide the opportunity for thousands of Commonwealth young people to learn about each other’s cultures and aspirations while contributing to education, mentoring, development, democracy education and sport skills development.

10 At the national level, all Commonwealth governments should ensure that: (i) the specific needs of women are addressed in all aspects of law, public policy and allocation of public resources; (ii) women are not discriminated against in law or practice and that remedies for discrimination are provided; (iii) machinery is established to encourage and promote the active participation of women at all levels of decision-making; and (iv) social victimisation, leading to crimes against women and tolerance of harmful traditional practices and economic disempowerment, is brought to an end by the force of law and well-targeted administration. The Secretary-General should monitor and report on these reforms to CHOGMs.

11 Heads of Government should consider authorising the Secretary-General to examine the existing work programmes of the Secretariat using the following criteria to recommend to governments, through the Board of Governors, areas that could be retired: (i) work that enjoys no specific Commonwealth advantage; (ii) work where the size of the Commonwealth Secretariat’s resources, compared to those of other organisations involved in the same field, such as the UN, World Bank, regional development banks and major bilateral donors, is too small to make a significant
impact; and (iii) work that overall has demonstrated no significant impact. Further, the operations of the Secretariat should be reviewed by the Secretary-General to improve the integration, cohesion and efficiency of its divisions, and their capacity to deliver the mandates set by member states.

12 The Commonwealth Foundation should be given an explicit mandate to mobilise Commonwealth civil society around global issues. This would be another expression of the Foundation’s existing mandate to be a focal point for drawing together the strands of Secretariat-accredited Commonwealth civil society organisations including non-governmental bodies and professional associations.

13 The Secretary-General should be mandated to invite appropriate organisations throughout the Commonwealth to offer themselves for selection to carry out a full review and overhaul of the Secretariat’s information processes that will result in a more effective, open, and timely communication strategy and the establishment of machinery to implement it.

14 Ministers should continue to consider the relative usefulness of stand-alone Commonwealth meetings as against meetings coinciding with larger international conferences. If meetings are held alongside other international events, Ministers should commit themselves to attending them fully. The duration and programme of such sessions should reflect the special Commonwealth dimensions and produce an action-oriented set of initiatives.

Through these core recommendations and the others in our report, we have aimed to identify options for reform that sharpen the impact, strengthen the networks and raise the profile of the Commonwealth. An essential consideration has been to identify not only what needs to
be done differently or better, but how the necessary changes should be achieved. The key to success, in our view, is to achieve stronger partnerships with external partners; stronger internal networks; greater use of twenty-first century technologies; and recognition that an investment of resources is required.

Above all, we have concluded that the success of reform is in strengthening the role and connectivity of the people of the Commonwealth – hence our recommendations for a Charter and a Youth Corps, and for consideration of greater openness across borders for persons doing business or on holiday.

The core question addressed in the discussions of the EPG was simple and precise: “How best to increase the effectiveness of the Commonwealth, its institutions and activities so that member states and their citizens are well-served by an association that is greater than the sum of its parts, justifying continued affiliation, participation and collaboration of all of its member states?”

The answer to this question is reflected in the recommendations in this report. The recommendations map the road that the Commonwealth must take if it is to re-establish itself as an instrument for the progress, prosperity and fundamental rights of its peoples, and as a strong influence for good in the world.

We are aware that applying these recommendations will not be easy. However, we are convinced that their time has come, and there is now a need for urgency in their implementation. Reinvigoration and refocus do not happen through complacency or inertia. It is complacency and inertia in vital aspects of the Commonwealth’s values that currently pose the most serious threats to the continued relevance and vitality of the Commonwealth itself.

In an era of changing economic circumstances and uncertainty, new trade and economic patterns, unprecedented threats to peace and
security, and a surge in popular demands for democracy, human rights and broadened economic opportunities, the potential of the Commonwealth – as a compelling force for good and as an effective network for co-operation and for promoting development – is unparalleled. For that potential to be achieved giving economic, social and political benefit to its 2.1 billion citizens, urgent reform is imperative for the Commonwealth. That is the urgent reform this report tackles.
Figure 1: A chart showing key recommendations and how to deliver them

**COMMONWEALTH VALUES**
- A Commonwealth Charter
- Enhancing Democracy
  - Commissioner for Democracy, Rule of Law and Human Rights
  - Strengthened CMAG
  - Co-operation with member states to strengthen democratic systems
- The Secretary-General’s mandate:
  - Good Offices role
  - Speaking out against violation of values

**COMMONWEALTH AND DEVELOPMENT**
- Development and Functional Co-operation
  - Delivering technical assistance
  - Building a Network of Networks for Investment
  - Providing assistance for disaster preparedness, mitigation and management
  - A Commonwealth Youth Corps
- Advocacy and Consensus Building
  - Reform of the international financial architecture
  - Advancing the rights of women

**DELIVERY MECHANISMS**
- Institutions fit for purpose
  - The Commonwealth Secretariat
  - CHOGM and Ministerial meetings
  - Commonwealth of Learning
  - Building strategic partnerships with private sector and philanthropic organisations
- A Commonwealth of People
  - The Commonwealth Secretariat and Commonwealth Foundation
  - Commonwealth Associated Institutions
  - Engagement between governments and civil society
  - Facilitating border crossings
  - Sport for Peace and Development

**COMMUNICATIONS**
- Improving the Commonwealth’s profile
  - Overhauling the Secretariat’s communications
  - Governments to play a more active role in information dissemination
Introduction

“... the United Kingdom, Canada, Australia, New Zealand, South Africa, India, Pakistan and Ceylon hereby declare that they remain united as free and equal members of the Commonwealth of Nations, freely co-operating in the pursuit of peace, liberty, and progress”.

Declaration by the Commonwealth Prime Ministers creating the modern Commonwealth (28 April 1949)

“The Commonwealth is not an organisation with a mission. It is rather an opportunity for its people to work together to achieve practical solutions to problems”.

Her Majesty Queen Elizabeth II, Head of the Commonwealth, December 2009

The two statements quoted above and made 60 years apart explain the nature of the modern Commonwealth. From the beginning it was, and it continues to be, a voluntary association of free and equal nations – of governments and of peoples – co-operating in various ways to achieve practical solutions to problems and co-operating in the pursuit of peace, liberty and progress.

For 62 years, the member states of the Commonwealth have co-operated in pursuit of their collective goals. Overall, they have done so with considerable success. It is adherence to these goals, and the collective actions of Commonwealth member states to demonstrate disapproval of their peers who deviate from Commonwealth values, that have distinguished the Commonwealth in the world.

In the course of its history, Commonwealth membership has grown from eight to fifty-four countries. Only three member states have withdrawn, with two of them returning in recognition that membership of the Commonwealth is a badge of honour – an acknowledgement that their admittance by the other members of the association bestows
upon them acceptance that they are committed to the broad ideals of peace, democracy, the rule of law, liberty, human rights and progress not only in their own countries, but also in the rest of the world.

We expect, in the fullness of time, that the third member state that withdrew, Zimbabwe, will also be welcomed back to the fold once a legitimate government of that country re-commits itself to the values of the Commonwealth and demonstrates that it is upholding them.

Since 1995, the Commonwealth has also suspended member nations for gross violations of its shared values. It is significant that all, but one, of the suspended members, have taken action to correct their behaviour with the active support of the Commonwealth, and have been re-admitted to the organisation. We also expect that Fiji, which is currently suspended, will return to the association when its government resumes adherence to Commonwealth values. We applaud the tireless efforts of the Secretariat and member states in the Pacific to make this possible.

Some countries, which have not historically been associated with the Commonwealth, have been admitted to the association, accepting its values and principles and agreeing that their continued membership will be judged by their adherence to these. This is a strong display of the high regard in which the Commonwealth is still held by many countries of the world.

Throughout its existence, the Commonwealth has given leadership to the international community on issues such as:

- Opposing racism in all its forms;
- Assisting a number of Commonwealth countries to transition to multi-party democracies;
- Promoting human rights;
- Setting an agenda for advocating and advancing the rights of small states and the vulnerable;
• Promoting equity and economic co-operation between states; and
• Ending international and interracial conflicts.

The Commonwealth has also given intellectual leadership in a variety of areas, including through the work of Expert Groups and in advancing the social, political and economic rights and potential of women. On all these issues, the Commonwealth has helped to close the gap between rhetoric and reality.

Still, despite all its successes, at the 2009 Heads of Government Meeting in Port-of-Spain, you specifically recognised that the Commonwealth now needs to "build a stronger and more resilient family of nations founded on enduring values and principles" if, as you put it in your Affirmation, the Commonwealth is to "remain relevant to its times and people in future". Your concerns arose from a growing opinion across the Commonwealth that the association could be much more effective than it is in delivering benefits for its members and as an influence for good in world affairs.

There is, therefore, an urgent need for a number of bold new initiatives not only to restore the Commonwealth to the respected source of strength and opportunity it represented for over half a century, but also to reform and strengthen it as a beneficial force for the future.

We are aware that the Commonwealth will never wield the same kind of influence as multilateral or treaty bodies with members that are rich and powerful and which exercise military or economic clout or both. Nonetheless, we have witnessed the Commonwealth’s influence and we place a high value on it. Commonwealth members constitute more than 25 per cent of the membership of the United Nations, nearly 40 per cent of the World Trade Organization, more than 35 per cent of the Organization of American States, just under 40 per cent of the African Union, 60 per cent of the South Asian Association for Regional Cooperation, around 90 per cent of the Caribbean Community and the Pacific Islands Forum, and over 20 per cent of the Organisation of
Islamic Countries. Commonwealth countries are members of a multitude of regional and/or other organisations in which they can act, individually and collectively, to promote tolerance and understanding between peoples and advance global peace and human development.

We are convinced that in a globalised world, characterised by the increasing interdependence of states, the Commonwealth remains well-placed to address the concerns of states and the societies within them. It can do this because of its shared values, structures and methods of working, provided it is seen to uphold them. This is especially so because the Commonwealth is not only an intergovernmental association, it is also a common gathering and wealth of citizens interconnected in countless ways – bonded by history; language; parliamentary, administrative and legal systems; sport; and a shared hope for a peaceful future founded on freedom, justice and economic progress. Beyond governmental interaction, this commonwealth of people is co-mingled in some 90 civil society organisations and professional groups, all operating under the single umbrella of “the Commonwealth” – even as they radiate its ethnic, religious and other diversities.

In this report, we try to identify the ways in which the Commonwealth could improve its activities in accordance with a set of priorities for which it is best suited to serve its member states and to contribute to global well-being. We have proposed ways to improve its existing machinery so as to maintain its reputation as an association whose moral authority in the world flows from its commitment to human progress through its core values proclaimed at successive Commonwealth Heads of Government Meetings.

We have a bold vision of what the Commonwealth could be: a strong association, valued and utilised by its members through its many networks, and underpinned by a family of intergovernmental organisations to which member governments can turn to take forward
major international issues that lie within the remit of the Commonwealth. For us, it is not just a Commonwealth of Nations but a Commonwealth of peoples freely associating with each other and enriching their lives and opportunities.

Nevertheless, we recognise that, in the global community as it now is, the Commonwealth competes with other and newer associations, regional bodies and economic realities. For many of the citizens of its member states the Commonwealth does not now have the significance that it had for earlier generations. Therefore, this report and the action that will be taken upon its recommendations constitute a unique opportunity to arrest a decline in the Commonwealth's influence and significance, and to reform it so that it plays a leading and beneficial role in the future. A similar opportunity may never again arise.
Part 1  Championing Values


Today’s Commonwealth exists in a world of sweeping changes where old orders no longer command their previous dominance; where power can no longer be measured only by military might or even financial resources; and where people are demanding greater participation in the manner in which they are governed and in fashioning the principles that guide their governance.

Tumultuous changes have recently occurred in the world driven by the aspirations of the people, who are no longer content to live under undemocratic and autocratic regimes, or under systems of economic injustice. People, and especially young people, are demanding a new social contract between governments and themselves.

Commonwealth countries must actively engage this mood of change, embracing its spirit in order to fashion the Commonwealth of the future and the constructive role the Commonwealth association can play in helping to create a more just and equitable global society.

In your Affirmation of Commonwealth Values and Principles in 2009, you recognised “the important role that civil society plays in our communities and nations as partners in promoting Commonwealth values and the interest of the people”. In this report, we have suggested ways in which the Commonwealth of Nations can be more of a “Commonwealth of the People” than it currently is. Member governments should institutionalise the machinery we have proposed for listening to Commonwealth civil society in structured and regular meetings from which agreed and measurable actions will flow.

We go one step further, mindful that in doing so, we propose building on foundations that you have laid in the evolution of the modern Commonwealth. We suggest that you consider the establishment of a
Commonwealth Charter. Such a Charter would establish a Commonwealth "spirit" – one that is shared by the people of the Commonwealth and their governments, and that would institute firmly the concept of a Commonwealth whose collective purpose is driven by the aspirations of its people.

Because we envisage such a Charter as a "Peoples' Charter", we believe that there should be wide consultation about its content and formulation within each Commonwealth country. In this connection, individual governments should undertake national consultations with the full participation of accredited Commonwealth civil society organisations. The results of these national consultations should then be fed into the Secretariat for analysis and recommendations to Heads of Government by a task force. At your meeting in Perth, you might consider authorising the Secretary-General to initiate arrangements for the national consultations as well as the establishment of the task force (drawn from the regions of the Commonwealth).

The Commonwealth-wide process of discussing the proposed Charter among the many civil society organisations and in schools, universities, and in town hall meetings could itself serve to renew and invigorate interest in, and commitment to, the Commonwealth. It would also source the values and aspirations in the will of the peoples of the Commonwealth.

In the event that you consider our proposal for a Charter favourably, we have appended to this report, a version drafted by one of our members, the Hon. Michael Kirby. We suggest that it might be used as a basis for the Commonwealth-wide consultations proposed in the previous paragraph. The draft derives substantially from the many declarations of Commonwealth values and principles issued by Heads of Government at the conclusion of CHOGMs since 1970 and which can now be said to be entrenched in the Commonwealth's modern culture.
We recognise that an option exists for the future expansion and development of the proposed Charter if, after consultations with them, the people of the Commonwealth feel such a course to be appropriate. The constitutive instruments of other intergovernmental organisations show the possibilities that could be developed. For example, they might include:

- The objectives of the Commonwealth;
- The principles upon which the association is founded;
- The criteria for admission to, and continuance of, membership;
- The organs, office bearers and decision-making processes; and
- External relations.

However, because the development of such a constitutive Charter might be seen as altering the character of the Commonwealth in fundamental respects, and would, in any event, require the widest possible consultation, we decided to do no more than to call this larger possibility to your notice.

**Recommendation**

**R1** A “Charter of the Commonwealth” should be established after the widest possible consultation in every Commonwealth country. Civil society organisations should be fully involved with national governments in the process of pan-Commonwealth consultation, including in the organisation of the process and assessment of its results. A task force should be appointed to analyse the findings of the national consultations and to make recommendations, on that basis, to Heads of Government. If the findings favour a Charter, the task force should be authorised to draft the final text.
2. **Enhancing Democracy, the Rule of Law and Human Rights**

We are mindful that throughout the Commonwealth’s existence, you and your predecessors, as Heads of Government, have sought to maintain it as a values-based association. We know you have done so because you recognise the invaluable influence for good that the Commonwealth has played and can continue to play within its own member countries and in world affairs if it maintains an ethical stand and highly visible standards.

In the case of the Commonwealth, this has not just been a matter of declarations or of rhetoric. The Commonwealth has suspended member states on a number of occasions because of an overthrow of constitutional government that was incompatible with its values. Moreover, the Commonwealth Ministerial Action Group (CMAG) was created as a result of serious human rights violations in one member state and the perceived need to create a mechanism that would facilitate action where and whenever appropriate in future years.

Nevertheless, there has been growing criticism that CMAG has only shown real interest, and responded, when there has been a coup d’état or a military seizure of power in a member state. We emphasise that, in terms of CMAG’s remit, it is required to consider serious or persistent violations of other values too, such as the rule of law and of human rights. Indeed, it is worth recalling that when Heads of Government met and created CMAG in 1995, they were acutely conscious at that time of the need for the Commonwealth to respond meaningfully to the concurrent execution of nine environmental activists following gross abuse of the rule of law and denial of fundamental human rights by the Nigerian military government of the day. Yet, since then, CMAG has rarely, if ever addressed an issue unless it involved an unconstitutional abuse of government. Inevitably, this has led to unfavourable comparisons with the period when the Commonwealth led the world struggle to achieve the rule of law, respect for human rights, and the end of apartheid in South Africa.
Submissions to us have emphasised that the Commonwealth is in danger of becoming irrelevant and unconvincing as a values-based organisation. They have stressed that unless the Commonwealth reforms its machinery and enforces the values it has espoused, it will stand condemned as hypocritical or indifferent, willing to proclaim commitment to a broad set of values but unwilling to invoke its own machinery to ensure that those values are maintained except in the case of the unconstitutional overthrow of a government. We have concluded that these concerns are valid.

At your meeting in Port-of-Spain in 2009, you reaffirmed the Commonwealth’s core values, and you did so with admirable clarity and firmness. You confirmed that the core values are international peace and security, democracy, human rights, tolerance, respect and understanding, separation of powers, rule of law, freedom of expression, development, gender equality, access to health and education, good governance and civil society. You also reaffirmed your commitment to the core principles of consensus and common action, mutual respect, inclusiveness, transparency, accountability, legitimacy and responsiveness.

It is now obvious that to ensure its relevance and to secure its future the Commonwealth needs to put in place effective machinery to deal more appropriately with challenges to its values, particularly violations of human rights and religious freedom, and to provide the assistance necessary for its members to uphold them.

We should say a specific word here about what we mean by “human rights”. Human rights are about the rights of people. Proclaimed in 1948 by the UN General Assembly in the Universal Declaration of Human Rights, they have been elaborated by two International Covenants adopted in 1966: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. They have since been further refined by additional Conventions and
A Commonwealth of the People

Declarations of broad application. As core values we regard them as inseparable, which is why we deal with democracy and the rule of law in this section of the report, and economic development, religious, social and cultural rights in subsequent sections. We are equally concerned about the wretchedness of the weak under despotism regimes as we are about the degradation of the poor under inequitable national and international structures.

At present, when the Commonwealth’s political values are challenged in a member state, the Commonwealth responds in a number of ways:

- The CMAG can place the matter of the conduct of a member state on its agenda for consideration at its next regular bi-annual meeting, or if deemed necessary, immediately, through a specially convened meeting. Ultimately, CMAG’s choice has been to decide whether the member state should be suspended only from the ‘Councils of the Commonwealth’ (effectively prohibiting it from participation in official meetings) or be fully suspended (preventing attendance at meetings, ceasing provision of technical assistance, and removing the country’s flag and signage from Commonwealth settings, as well as other measures);
- The Commonwealth Heads of Government Meeting can make a statement, or take a decision to suspend a member state; and
- The Commonwealth Secretary-General can make a statement about the situation.

This restricted range of options has presented the bodies responsible for upholding democratic values with difficult and sometimes unappealing choices.

To deliver on upholding its democratic values, we believe that the Commonwealth needs to use all the tools at its disposal. The Commonwealth should seek to work with a country that is deemed to be violating Commonwealth values at the earliest possible stage with the aim of significantly reducing the need for more drastic measures. It
should use political judgement to respond to violations in a manner that is proportionate to the seriousness of the violation and the frequency of its occurrence. The levels of response should include:

- Working with all Commonwealth members that request assistance with regard to human rights, democracy and the rule of law;
- Working behind the scenes through discreet interventions and quiet diplomacy to ensure that a member that is violating, or is in danger of violating, Commonwealth values moves toward compliance;
- Deploying Ministerial-level teams or missions of eminent Commonwealth citizens to investigate a national situation and report back to CMAG;
- Openly working with the member in a co-operative attempt to address the issues;
- Expressing public concern by either CMAG or the Secretary-General, or both; and
- Suspending a member country from the Commonwealth by resolution of CMAG.

The Commonwealth needs to establish a pan-Commonwealth system allowing for well-targeted, proportionate and timely responses. The objective should be to develop and implement an early warning mechanism that allows the 'good offices' of the Secretary-General to pre-empt violations of political values by member states and to put in place initiatives to enhance the process of consultation and co-ordination of action between the Secretary-General, CMAG and CHOGM.

In this regard, we recognise that the Secretariat is already engaged, as it should be, in practical capacity-building functions with individual member countries of the Commonwealth. We applaud this, as we congratulate those member states that, having recognised a deficiency, have acted to rectify it by seeking the Secretariat’s help before the problem developed. This is vital work that we encourage both member states and the Secretariat to intensify as necessary.
However, having considered the existing system, we believe that there is a significant gap that should be filled promptly so as to ensure that, in the words of your Affirmation in 2009, “the Commonwealth will remain relevant to its time and people in future”. The gap, as we see it, is two-fold: first, the need for full-time attention to be paid to determining when serious or persistent violations of the Commonwealth’s political values, particularly infringements of human rights, may have started to occur; and second, the need for exploration and analysis to advise both the Secretary-General, and CMAG when serious or persistent violations persist despite the Secretary-General’s ‘good offices’ interventions.

We are aware that the Secretariat now undertakes some of this work. However, full-time and separate assistance is required to address this issue properly.

**Commonwealth Commissioner for Democracy, the Rule of Law and Human Rights**

To fill this gap, the office of Commonwealth Commissioner for Democracy, the Rule of Law and Human Rights should be created, with the following responsibilities:

(i) Based on thorough investigation of the facts: (a) to render simultaneously to the Secretary-General and the Chairperson of CMAG advice on which an informed decision may be taken when a state is violating core Commonwealth values, particularly human rights, in a serious or persistent way; and (b) to indicate approaches for remedial action.

(ii) Work with the Secretariat to strengthen the existing early warning system that identifies member states in danger of violating core values, and to advise the Secretary-General and the Chairperson of CMAG and indicate possible corrective actions that could be taken.

(iii) Draw on the work and knowledge of the various Commonwealth civil society organisations and professional networks to establish
a pan-Commonwealth system to detect human rights violations, threats to religious freedom and other impending difficulties so that they can be pre-empted or quickly resolved.

(iv) Elaborate a graduated list of responses for consideration by the Secretary-General and CMAG;

(v) Investigate situations which the Secretary-General or CMAG draw to the Commissioner’s attention;

(vi) Establish a special rapporteur to identify the social victimisation of women (this matter is addressed in Part 3, Section 2 of this report); and

(vii) As part of the procedure for considering and deciding an application for membership of the Commonwealth, the Secretary-General should make use of the proposed Commissioner for Democracy, the Rule of Law and Human Rights to undertake inquiries and advise accordingly.

Where the Commissioner indicates measures to the Secretary-General to build capacity in a member state that has ceased serious or persistent violations of the Commonwealth’s values, the existing structures of the Secretariat charged with providing capacity building assistance should undertake that work as they now do. This capacity-building, therefore, ought not to be mingled with the political advisory work of the Commissioner in advising whether violations are taking place.

We believe that a Commissioner, such as we have described, would need to be a Commonwealth citizen of exceptional experience and reputation, with knowledge of the issues and capable of sensitive diplomacy. The Commissioner, once appointed, based on criteria determined by you, the Heads of Government, need not be based permanently in the Secretariat or indeed in the United Kingdom. He/she should be provided with office facilities and a small research staff and should be appointed for a six-year non-renewable term. Additionally, the Commissioner should seek support from bodies such
as the Commonwealth Lawyers Association, the Commonwealth Local Government Forum, the Commonwealth Human Rights Initiative and the forum of Commonwealth Human Rights Institutions.

We draw attention to the reality that the cost of this post, its attendant staff and operations would require additional contributions to the Secretariat’s existing budget. However, the costs envisaged would be modest. They need to be weighed against the very serious costs of doing nothing. We urge you to provide such contributions. The present institutional gap that we have identified cannot be filled within the current institutions and resources.

Commonwealth Ministerial Action Group

We are mindful that at your Port-of-Spain meeting, you agreed “that consideration be given to strengthening the role of CMAG in order to enable the Group to deal with the full range of serious or persistent violations of the Harare Principles”. We are also aware that you agreed “this examination should be confined to matters within CMAG’s existing mandate and that any proposals for going beyond that mandate should be referred to Heads”. We know that CMAG will be submitting the results of its own examination at the same time as this report.

However, given that a common criticism in the majority of submissions we received was that CMAG has tended to limit its work only to unconstitutional changes of government, particularly by military regimes, and that it is not tackling the full range of serious or persistent violations of Commonwealth values, we consider it important to offer you our view of how the work of CMAG might be made more effective.

We believe that CMAG needs to make choices that reflect the nature and gravity of violations of Commonwealth values. The mandate that has been given to CMAG is much broader than the current options of
response, namely suspension or inaction. In the modern age of instant communications, CMAG must act in a more decisive, nuanced and timely fashion.

CMAG’s current mandate is to uphold Commonwealth values as set out in the *Harare Declaration* of 1991, in particular dealing with serious or persistent violations. To ensure that CMAG acts on the latest agreements of Commonwealth Heads of Government, its mandate should be revised to include any subsequent CHOGM statements. In particular, CMAG should become the guardian of the 2009 *Affirmation of Commonwealth Values and Principles* given that this updates and strengthens the earlier commitments to values found in the 1971 *Singapore Declaration* and the 1991 *Harare Declaration*.

CMAG should also expand its focus from looking solely or mainly at the values of democracy, to including the other core values of the Commonwealth enabling the rule of law, serious or persistent human rights violations, and other issues to be addressed as was surely originally envisaged by Heads when they established CMAG in 1995. It should retain room for political judgement, but enlarge its work to encompass potential infringement of all of those values.

Importantly, we believe that civil society groups and Commonwealth organisations should be afforded the opportunity to make representation to the CMAG through oral hearings, when appropriate, in addition to the current practice of receiving written submissions.

**Freedom of expression**

All individuals are entitled to information from unbiased sources relating to the conduct of their country’s affairs. In too many instances, attempts at silencing those whose job and duty it is to report the information have become prevalent. We are concerned that there is abuse, including killings, of journalists and broadcasters in several
Commonwealth countries and that many of these abuses go uninvestigated and unpunished. The values of the Commonwealth demand that the media and their representatives be allowed to operate with responsibility, in freedom and without fear. Serious and persistent abuse of media representatives should be cause for inquiry by CMAG.

**Objective criteria for CMAG**

We also regard it as necessary that CMAG adopt objective criteria, which would trigger its engagement with a member state to put corrective measures in place. Examples of such criteria would be:

- An adverse report by a Commonwealth Observer Group concerning, for example, a significant aspect of an election;
- The existence of credible and significant evidence of unconstitutional and arbitrary actions by a government, including postponing national elections without agreement by all national political parties;
- The violation of the rights of the Opposition;
- The violation of the rights of vulnerable groups;
- Any compromise of the independence of the judiciary;
- Problems arising before elections, including electoral registration and boundary processes; and
- Serious and persistent violations of the Aberdeen Principles relating to local democracy and good governance.

But, we do not leave it there. It is as important to employ a 'good offices' role in preventing and reversing serious violations, as it is in taking strong action when good offices interventions do not succeed. Therefore, in order to encourage adherence to the Commonwealth's political values, we urge that CMAG, in collaboration with the Secretary-General, should strengthen its structures for engaging with suspended or former members, and both the Secretariat and CMAG should enhance the existing process of sharing information. We consider it
very important that CMAG should be perceived in a positive light, ready for constructive engagement and not only as a body authorised to impose sanctions.

In order to respond quickly to emerging difficulties in member states, CMAG needs to meet more frequently. In this regard, we suggest that teleconferencing could be used for meetings called at short notice to respond promptly and effectively to serious situations.

**National human rights institutions**

We recall that through the UN, international recognition has been given to the importance of establishing and strengthening independent national institutions for the promotion and protection of human rights consistent with the ‘Paris Principles’ relating to the status of national institutions for the promotion and protection of human rights.

International recognition has also been given to the important role that such institutions play and will continue to play in promoting and protecting human rights and fundamental freedoms, in strengthening the rule of law, and in developing and enhancing public awareness of those rights and fundamental freedoms. In this connection, we encourage all Commonwealth countries to establish, or where they already exist, strengthen, national human rights institutions in accordance with the Paris Principles, including by providing adequate resources to ensure their independence.

We also believe that the mandate of the Secretary-General to speak out against violations of the Commonwealth’s values must be strengthened. The actions that we propose the Secretary-General can take are set out in Section 3 of this Part of the report entitled: “Silence is not an option: The Secretary-General’s mandate”.

The Commonwealth needs to be, and seen to be, more proactive in upholding its core values.
Recommendations

R2 A Commonwealth Commissioner for Democracy, the Rule of Law and Human Rights should be appointed to provide well researched and reliable information simultaneously to the Secretary-General and the Chairperson of the Commonwealth Ministerial Action Group (CMAG) on serious or persistent violations of democracy, the rule of law and human rights in member states, and to indicate approaches for remedial action.

R3 Where the Secretary-General chooses a non-public, “good offices” approach to reports of serious or persistent violations of the Commonwealth’s core values, he should advise the Chairperson of CMAG promptly as to the rationale, methodology and likely results of his approach and the time-frame required to determine its impact or viability. He should continue to advise the Chairperson of CMAG regularly thereafter until any new decision is made to deal with the issue.

R4 Where the Secretary-General refers any matter to CMAG, he should recommend short, medium and long-term actions, initiatives or sanctions to CMAG, and CMAG should consider and act upon the recommendation immediately.

R5 CMAG should develop objective criteria (such as we have set out in this report) for determining serious or persistent violations of the Commonwealth’s core values, including human rights, that would trigger its engagement with a member state to put remedial measures in place.

R6 CMAG should react more quickly to events. It should develop a range of responses that will allow it to address serious or persistent violations in ways that correspond to the nature and gravity of a violation. If members of CMAG, for whatever reason, are affected
by, or are unable or unwilling to take part in, consideration of a particular instance, those members should stand aside. CMAG should adopt effective procedures to fill the vacancy promptly with ad hoc members as authorised by Heads of Government.

R7 CMAG should invite the proposed Commissioner for Democracy, the Rule of Law and Human Rights, or deploy Ministerial-level teams or missions of eminent Commonwealth citizens, to investigate promptly serious or persistent violations of the Commonwealth's core values including human rights, within a member state and report to CMAG.

R8 CMAG should meet more frequently. It should make use of teleconferencing for meetings arranged at short notice to respond to worsening or urgent situations.

R9 CMAG, in consultation with the Secretary-General, should strengthen its structures for engaging with suspended or former members and for tackling emerging difficulties before they escalate.

R10 All Commonwealth countries should establish, or, where they already exist, strengthen, national human rights institutions in accordance with the UN-adopted Paris Principles, including by the provision of adequate resources to ensure their independence.

Strengthening democratic culture and practices

In your Affirmation of Commonwealth Values and Principles, you confirmed your "commitment to the Commonwealth Secretariat’s work in strengthening democratic institutions, processes and culture through election observation" and you "endorsed the proposed Commonwealth Network of National Election Management Bodies" (Network). You said the Network, through its activities, would enhance
“member countries’ capacity to hold credible elections which enjoy the confidence of the people”. We share your hopes and expectations of the Network and look forward to its work in advancing the highest electoral standards throughout the Commonwealth. We call on all Commonwealth governments to support the Network.

We also believe that the present system of strengthening democratic institutions, processes and culture should be improved by broadening the Secretariat’s mandate on election observation to include assessment of political transition arrangements and the promotion of civic education. We are mindful that some governments, including members of the Commonwealth, have defied the will of the electorate by disregarding the results of elections and either seeking to maintain, or maintaining, themselves in power. Although the cases are comparatively few, flawed political transitions are destabilising. They trigger political violence, undermine peace, intensify individual and group insecurity, and can cause humanitarian crisis. Apart from the adverse effects on the countries concerned, flawed political transitions also have a tendency to affect neighbouring and other states through, for example, the flight of refugees.

We are also aware that, since 1990, the Commonwealth has been observing general elections in member countries in support of the core value of open and democratic elections, as proclaimed by the Harare Declaration of 1991. To date, the Secretariat has organised some 100 Commonwealth Observer Groups (COGs) or other similar election observation activities.

We have been advised that the findings of observer teams are not always followed-up sufficiently, or at all, thereby limiting their impact. In some instances, the shortcomings from one election are observed again in the next. The reasons for this can include a lack of resources on the part of the Secretariat to follow-up adequately on recommendations of COGs between election periods, or limited
political will by the member government concerned to redress identified deficiencies.

In any event, the present system of election observation by the Commonwealth should be improved and strengthened. There is a danger that the present system could lead, in some circumstances, to flawed elections being given an apparent Commonwealth stamp of approval simply because relevant failings occur prior to the arrival of an Observer mission and are not evident while the mission is on the ground.

In your Affirmation of Commonwealth Values and Principles, you strengthened your commitment to free and fair elections by stating that "…not only governments but all political parties and civil society also have responsibilities in upholding and promoting democratic culture and practices as well as accountability to the public in this regard…". In this connection, we feel that civil society should play a greater role in monitoring elections in their own countries. To do so effectively and with maximum utility, their representatives need to be trained.

The Commonwealth now undertakes some training as does the International Institute for Democracy and Electoral Assistance (IDEA) based in Sweden. So do a number of other agencies and organisations around the world. One-third of the 27 member countries of International IDEA are Commonwealth countries and we note that there is on-going exchange and collaboration between International IDEA and the Secretariat. We encourage this collaboration. It affords a good basis for the two organisations and other relevant organisations to work together in devising and implementing such training programmes for Commonwealth countries that request them.

This work could be valuably expanded, ideally in co-operation with relevant partner organisations, through the development of an Academy for Democracy and Electoral Training, based within a Commonwealth country.
While existing institutions provide training in technical skills such as election management and parliamentary process, we envisage an Academy for Democracy and Electoral Training that would reach beyond the physical processes of democratic government to instil the ideals and culture of democracy, and the foundations of democratic leadership. No such Academy exists, and it would be a path-breaking service for the global community if a Commonwealth country were to establish such an institution, to which governments, election commissions, civil society and other relevant organisations could send people to be trained in best practices on a fee-for-service basis. We encourage one or more Commonwealth governments to consider setting-up such an Academy which could be done within an existing institution.

**Recommendations**

*R11* The Commonwealth should broaden its election observation mandate beyond the existing period (which is now ordinarily two weeks prior to the date on which the elections are held). The Secretariat should provide Commonwealth Democracy Observer Teams that arrive in some strength, optimally two months in advance of a planned election day (where this is possible), or where the election is called suddenly, as close as possible to the date on which the election is called to meet electoral officials, political parties and civil society to ensure, through promotion and engagement, an open and democratic electoral process leading up to, including, and following, election day.

*R12* Observer Teams should report publicly at regular intervals leading up to, during, and after voting day on relevant issues particularly the freedom of political parties, legitimacy and fairness of election financing rules; freedom of the media in reporting on the electoral process; the integrity of electoral lists; and the efforts by all parties to avoid violence and intimidation.
R13 To ensure that there is sufficient and effective capacity to carry out these observation functions, the Secretariat should: (i) in the lead-up to elections identified as potentially problematic, establish and maintain at least three deployment-ready observer teams made up of individuals with relevant political and administrative experience, comprised of a regionally representative group and staffed by both the Secretariat and competent electoral officials from Commonwealth countries; and (ii) review on a regular basis the availability of such teams as a ready-to-deploy facility.

R14 Where an adverse report is made by a Commonwealth Observer Group concerning a significant aspect of a general election, a report should be made by the Secretary-General to CMAG immediately and a joint course of action adopted. The Secretariat should systematically follow-up the implementation of the recommendations made by the Commonwealth Observer Groups so that observed deficiencies can be rectified well in time for the next electoral cycle, and be provided the necessary resources for this purpose. Member governments, for their part, should demonstrate their commitment and willingness to address deficiencies identified by Commonwealth Observer Groups in timely fashion before an ensuing election.

R15 The remit of the Commonwealth Democracy Observer Missions should be expanded to include an assessment of the adequacy of institutional and operational arrangements for post-election political transition and to advise the Secretary-General on actions that may be required to improve such arrangements and to ensure that political transitions respect the results of elections.

R16 One or more Commonwealth governments, preferably of developing member states, should consider establishing an Academy for Democracy and Electoral training for governments,
elections commissions, and civil society organisations on a fee-for-service basis. If established, the Academy should work co-operatively with the Network of Commonwealth Electoral Management Bodies established by the Secretariat.

R17 The Secretariat should continue actively to explore, with the International Institute for Democracy and Electoral Assistance and other relevant institutions, ways in which the Commonwealth could co-operate with them in training programmes for Commonwealth countries.

3. **Silence is not an option: The Secretary-General’s mandate**

The Commonwealth has had a proud record in past times in responding to serious violations of human rights within its member countries, including apartheid in South Africa and Southern Rhodesia, the excesses of Idi Amin in Uganda, and military coups in Nigeria, Fiji, Sierra Leone and Pakistan. In each case, the Commonwealth has intervened in one form or another – ranging from condemnation and extending to sanctions including suspension.

In recent years, however, there has been growing criticism that the Commonwealth does not take a stand, at least in public, on violations of its values by member states, other than in the case of the unconstitutional removal of governments.

We know that turbulence occurs when one or more of the core values, for which the Commonwealth has said it stands, and by which it is judged, have been breached. When such turbulence occurs it can create tension between members and the Commonwealth institutions that should speak out when the values are abused or imperilled. We are convinced that, at such times the Commonwealth must not remain silent. Our conviction is shared by many of the over 300 organisations that made submissions to
us, and by many organisations and individuals in Commonwealth countries with whom we have engaged. For example, the failure of the Commonwealth to speak out when its values are violated was a strongly recurring theme in the Royal Commonwealth Society’s “Conversation” – a widespread public consultation conducted in 2009.

This failure by the Commonwealth is seen as a decay that has set in to the body of the organisation and one that will occasion the association’s irrelevance – if not its actual demise – unless it is promptly addressed.

In the 1995 Millbrook Commonwealth Action Programme on the Harare Declaration, you made it clear that “where a member country is perceived to be clearly in violation of the Harare Declaration, and particularly in the event of an unconstitutional overthrow of a democratically elected government, appropriate steps should be taken to express the collective concern of Commonwealth countries...”. The first of these steps that you authorised was the “immediate public expression by the Secretary-General of the Commonwealth’s collective disapproval of any such infringements of the Harare principles”.

We agree entirely with the decisions you made and the authorisations you gave in the Millbrook Action Programme. These have been observed when there has been the overthrow of a democratically elected government. But the Millbrook Action Programme expressly authorised a public response by the Secretary-General when a member state is perceived to be clearly in violation of the Harare Declaration, and this specific authorisation evidently extends beyond the overthrow of constitutional government. Nonetheless, often the Secretary-General’s ‘good offices’ role is deployed without any public statement of concern being made because of the risk of compromising this behind-the-scenes activity. This has led to a void in communication over what actions the Secretary-General has actually taken when violations of the Commonwealth core values occur in member states. The absence of such information has led to scepticism about the Commonwealth’s commitment to its own values.
Therefore, we believe that when the Secretary-General employs a 'good offices' role, this should be publicly announced immediately. Further, reports about the results of these efforts should be given to the media and posted on the Secretariat's website. The present void of information serves only to create doubt about the efficacy of 'soft diplomacy', and, as has been pointed out to us, advantage has been taken of unpunished, behind-the-scenes diplomacy to continue to violate the Commonwealth's values. This has substantially weakened the fabric of the association and the promise of vigilance and action it has held out to the people of the Commonwealth.

In today's world of instant communication – and particularly of sometimes unstructured communication via the Internet and the social networks – the Secretary-General should exercise more forcibly and openly the mandate you have given to him in the Millbrook Action Programme where there is a “serious or persistent violation” of the Commonwealth's fundamental political values in an individual member country, by speaking in a pre-emptive way, where the stated intentions or actual moves by a government could – if followed through – constitute such a violation. The Secretary-General should speak out expressing concern to the extent appropriate to the level of any serious or persistent violation. Silence should not be an option. The Secretary-General should also speak out when a gross violation occurs. In both cases, the Secretary-General should be able to express concern including, where appropriate, in the period before the Commonwealth Ministerial Action Group (CMAG) meets to consider a Commonwealth response by its members.

This strengthened mandate, giving the Secretary-General the authority to speak out, should reflect the updated definition of values and commitments that you adopted in the Affirmation of Commonwealth Values and Principles in 2009. The Secretary-General should also be afforded the authority to announce publicly when the potential actions of a government may oblige him to draw a matter to the attention of CMAG.
Between CHOGMs, it is imperative that the Secretary-General, as the voice of the Commonwealth and as a leader on behalf of the organisation, should have the freedom, autonomy and responsibility to speak out publicly in defence of Commonwealth values.

**Recommendations**

**R18** The core values of the 2009 *Affirmation of Commonwealth Values and Principles* (which updates and expands on the earlier 1971 *Singapore Declaration* and 1991 *Harare Declaration* and the 2003 *Commonwealth [Latimer House] Principles on the Three Branches of Government*) should be deemed to be “core Commonwealth priorities” about which the Secretary-General shall speak out publicly as appropriate.

**R19** Aside from the deployment of ‘good offices’, the Secretary-General should be explicitly mandated, when serious or persistent violations appear in his judgement to be either imminent or actually occurring, to: (i) indicate concern publicly to the extent appropriate; (ii) where necessary, refer any matter urgently to CMAG or to the proposed Commissioner for Democracy, the Rule of Law and Human Rights for advice; and (iii) take such other action as he considers appropriate.