CPA COMMONWEALTH PARLIAMENTARY ASSOCIATION

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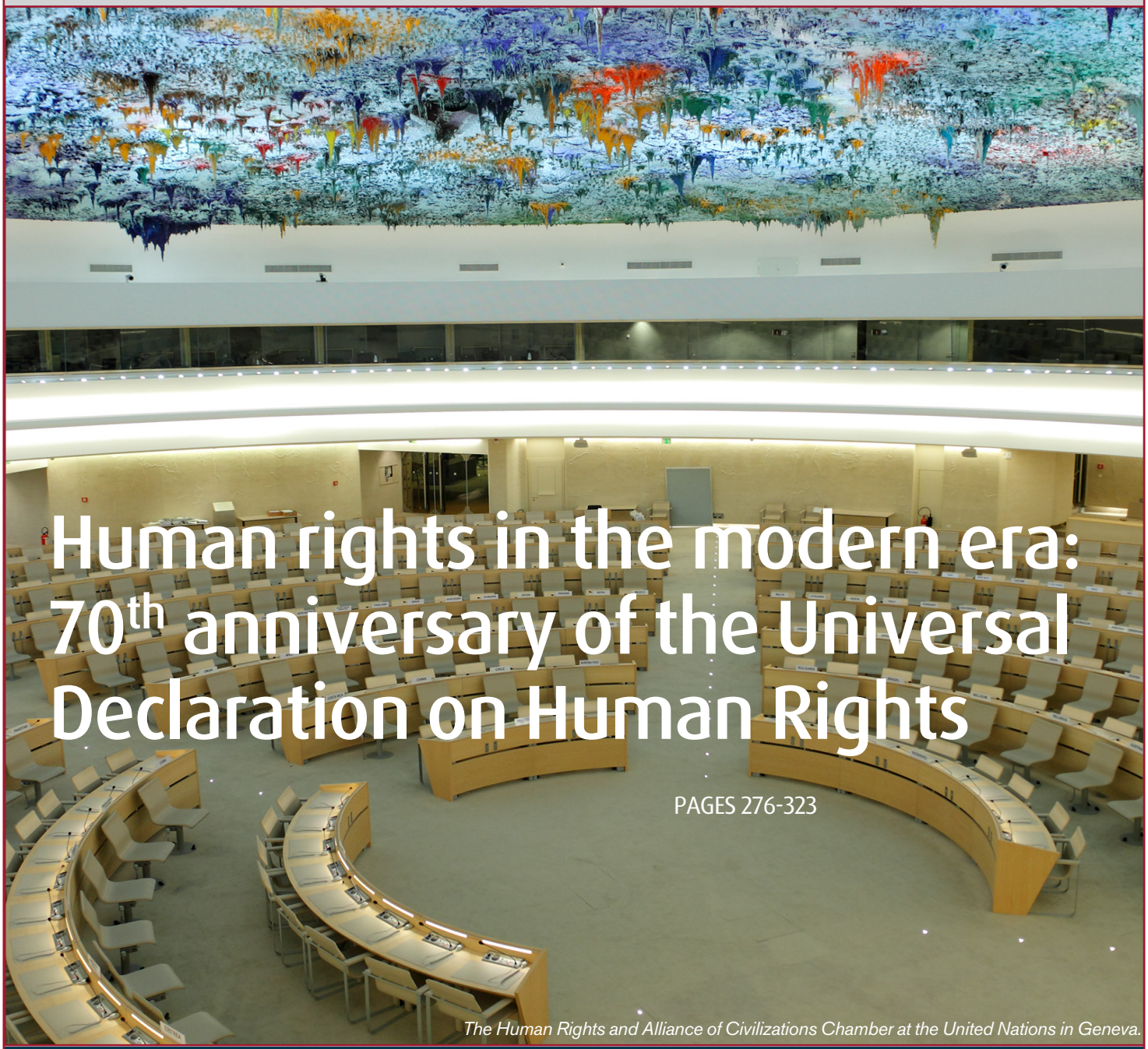

Human rights in the modern era: 70th anniversary of the Universal Declaration on Human Rights

PAGES 276-323

The Human Rights and Alliance of Civilizations Chamber at the United Nations in Geneva.

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STATEMENT OF PURPOSE

CPA COMMONWEALTH PARLIAMENTARY ASSOCIATION

The Commonwealth Parliamentary Association (CPA) exists to connect, develop, promote and support Parliamentarians and their staff to identify benchmarks of good governance, and implement the enduring values of the Commonwealth.

Calendar of Forthcoming Events

Confirmed as of 19 November 2018

2019

January

7 to 9 January	CPA Post-Election Seminar for the Parliament of Grenada, St George's, Grenada

March

Friday 8 March	International Women's Day 2019
Monday 11 March	Commonwealth Day 2019 – '*A Connected Commonwealth*', CPA Headquarters Secretariat and all CPA Branches

September

Dates to be confirmed.	64th Commonwealth Parliamentary Conference (CPC), Kampala, Uganda

The publication of a Calendar of Commonwealth Parliamentary Association (CPA) events is a service intended to foster the exchange of events and activities between Regions and Branches and the encouragement of new ideas and participation. Further information may be obtained from the Branches concerned or the CPA Headquarters Secretariat. Branch Secretaries are requested to send notice of the main CPA events and conferences to **hq.sec@cpahq.org** in advance of the publication deadline to ensure the Calendar is accurate.

Further information can also be found at www.cpahq.org or by emailing hq.sec@cpahq.org.

CONTENTS: *THE PARLIAMENTARIAN*
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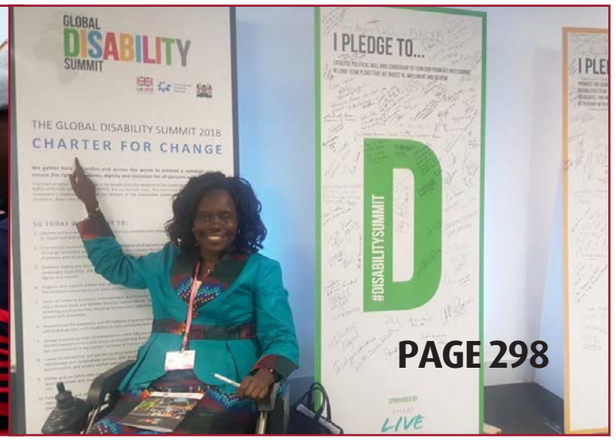
VIEWS & COMMENT

NEWS & PHOTOS

FEATURE ARTICLES

CONTENTS



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THE ROLE OF PARLIAMENTS AND PARLIAMENTARIANS IN IMPLEMENTING HUMAN RIGHTS AS WE MARK THE 70TH ANNIVERSARY OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS

The Editor's Note

The *Universal Declaration of Human Rights* (UDHR) continues to be a momentous document, which reinforces international human rights law and inspires us to continue to work to ensure everyone can gain their freedom, equality and dignity. The UDHR was drafted by representatives from all across the world with different legal and cultural experiences, and was proclaimed by the United Nations General Assembly in Paris in 1948. It is said to be one of the most translated documents in the world, available in more than 500 languages.

The UDHR has helped people across the world to gain greater freedoms and equality. It has prevented violations of human rights through its enforcement; in some places, independence and autonomy have been achieved. While there are many challenges remaining and not all of the UDHR articles have been fully reached, the Universal Declaration has been a vital tool in securing essential human rights and freedoms.

The Commonwealth Charter provides a commitment to the rights expressed in the Universal Declaration of Human Rights including the commitment to equality and respect for the protection and promotion of civil, political, economic, social and cultural rights, without discrimination.

The Commonwealth Parliamentary Association (CPA) has engaged in the global discourse on a strengthened role for Parliaments and Parliamentarians in the field of human rights for a number of years and this issue of *The Parliamentarian* explores a wide range of topics linked to human rights as we reach the 70th anniversary of the Universal Declaration of Human Rights.

The **Chairperson of the Commonwealth Parliamentary Association (CPA) Executive Committee, Hon. Emilia Monjowa Lifaka, MP** (Cameroon) in her *View* article looks at the role of Parliaments and Parliamentarians in implementing human rights.

The **Chairperson of the Commonwealth Women Parliamentarians (CWP), Hon. Dr Dato' Noraini Ahmad, MP** (Malaysia) examines women's economic rights in the light of the 70th anniversary of the Universal Declaration on Human Rights with particular examples from the South-East Asia Region.

Hon. Anġelo Farrugia, MP, Chairperson of the CPA Small Branches (Malta) highlights the impact of climate change on the world's smallest states and expresses the view that this is a human rights issue affecting the most vulnerable peoples of the world.

The **CPA Secretary-General, Mr Akbar Khan** in his *View* article writes about the evolving role of Parliamentarians and of Parliaments to step up as key enablers of human rights and *"to act as a check and balance on the policies of the Executive. This important role of Parliament sitting as it does at the centre of a nation's domestic and international affairs should not be overlooked or under-estimated."*

This issue of *The Parliamentarian* features many contributions from across the Commonwealth on human rights. **Lord Ahmad of Wimbledon** is the United Kingdom Minister for the Commonwealth and UN and he writes about human rights in the modern era from his unique perspective.

Jeffrey Hyland, Editor
The Parliamentarian,
Commonwealth Parliamentary Association

Rt Hon. Ann Clwyd, MP (United Kingdom) chairs the UK Parliament's All-Party Parliamentary Human Rights Group and she reflects on the role of Commonwealth Parliamentarians in safeguarding political and civil space.

Hon. Angela Thoko Didiza, MP (South Africa) pays tribute to Nelson Mandela: a true advocate for human rights when speaking to young leaders at a celebration event for Nelson Mandela International Day on 18 July 2018. *Nelson Mandela International Day 2018*, designated by the United Nations, marked 100 years since the birth of Nelson Mandela and was an occasion to reflect on his life and legacy.

The **Human Rights Unit of the Commonwealth Secretariat** provide an examination of '*The role of Parliaments in the promotion and protection of human rights*' as well as highlighting the launch of a new global report on this topic, in partnership with the Commonwealth Parliamentary Association (CPA) and the Universal Rights Group.

A group of academics have recently published a new book titled '*Contemporary Human Rights Challenges: The Universal Declaration of Human Rights and its Continuing Relevance*' and we feature their introduction.

A member of the Editorial Advisory Board for *The Parliamentarian* and Secretary-General Emeritus of the *Commonwealth Local Government Forum (CLGF)*, **Dr Carl Wright** has been involved in defending and promoting the protection of human rights across the Commonwealth for a number of years and he writes for this issue about his personal journey in this quest.

The renowned expert in election observation, **Dame Audrey Glover** looks at electoral rights and how to prevent fraud and manipulation when it comes to elections. The Chair of the *Commonwealth Press Union Media Trust*, **Lord Black of Brentwood** (United Kingdom) examines media rights and the battle for press and media freedom in the Commonwealth.

Hon. Dennitah Ghati, MP (Kenya) recently represented the CPA and the new *Commonwealth Parliamentarians with Disabilities (CPwD)* network at the first *Global Disabilities Summit* and she writes about the summit and disability rights for this issue. **Senator Dr Floyd Morris** (Jamaica) looks at human rights and persons with disabilities in the Anglophone Caribbean.

The **South African Human Rights Commission** looks at the status of human rights defenders in South Africa and argues that this is essential for ensuring the advancement of a peaceful, just and inclusive society for all.

Hon. Jim Shannon, MP (United Kingdom) is the Chair of the UK Parliament's All-Party Parliamentary Group (APPG) for International Freedom of Religion or Belief and he writes about realising the rights of freedom of religion and belief in the Commonwealth.

The **National Human Rights Institution of Samoa** provides an article contextualizing human rights from the perspective of a small state while **Dr Audrey Aumua**, Deputy Director-General of the *Pacific Community (SPC)*, a regional organisation representing 26 Pacific Islands and Territories, looks at human rights in the wider Pacific Region.

Rt Hon. Lord Kerr of Tonaghmore (United Kingdom) is a Justice of The UK Supreme Court and a Parliamentarian and he writes about the right to justice and access to legal aid in the United Kingdom. **Colin Nicholls, QC** (*Commonwealth Lawyers Association*) and **Genevieve Woods** look at privacy rights in the modern era and provide a Commonwealth perspective on this subject.

Deputy Emilie Yerby (Guernsey) writes about equality and human rights and the challenges of introducing relevant legislation for a CPA Small Branch like Guernsey.

This issue of *The Parliamentarian* also highlights a number of other topics. **Hon. Richard Graham, MP** (United Kingdom) introduces the new *Commonwealth Partnership for Democracy (CP4D)* and invites Commonwealth Members of Parliament to '*Be part of the change!*' The Commonwealth Parliamentary Association is a project partner in the CP4D project.

Lord Purvis of Tweed (United Kingdom) highlights a new report from the UK Parliament's All-Party Parliamentary Group on Trade Out of Poverty, focusing on how trade and investment can help to remove people in the Commonwealth '*out of poverty*' and provides an agenda for values-led trade, inclusive growth and sustainable jobs for the Commonwealth.

Over the last ten years, the State and Territory Branches of the Commonwealth Parliamentary Association (CPA) in the CPA Australia Region have participated in successful Branch-level '*twinning*' partnerships with CPA Branches in the Pacific Region. Following a recent '*twinning*' visit, **Hon. M. T. Rene Hidding, MP** (Tasmania) looks at the outcomes of the successful partnership between the CPA Tasmania and Samoa Branches.

Sir David Natzler is the eminent Clerk of the House of Commons in the Parliament of the United Kingdom and he writes in this issue of *The Parliamentarian* about the gathering of Parliamentary Clerks from across the Commonwealth in Toronto, Canada at the 54th General Meeting of the *Society of Clerks-at-the-Table* (SoCATT) of Commonwealth Parliaments.

This issue also features a report on business continuity for Commonwealth Parliaments and the establishment of the *Legislative Assemblies Business Continuity Network* (LABCoN) by a group of Parliamentary Clerks and staff.

Eminent Parliamentarian and University Professor, **Sugata Bose, MP** (Lok Sabha, India Union) writes about the 3Ds: Democracy, Diversity and Development in Indian political thought.

The Parliamentarian continues to report on a number of significant anniversaries this year in the history of women's suffrage and the passing of significant equality legislation across the Commonwealth.

Reports in this issue include: Commonwealth Women Parliamentarians in New Zealand celebrating 125 years of women's suffrage and historic milestones in politics; celebrating women's suffrage in the Isle of Man with the visit of the Suffrage Flag; Commonwealth Women Parliamentarians from across the CPA Pacific Region meeting in the Cook Islands; a report from the inaugural International Congress of Parliamentary Women's Caucuses in Ireland; Commonwealth African Women Parliamentarians helping to strengthen Women's Parliamentary Caucuses in Lesotho; CWP UK Members holding a panel discussion on empowering women's voices during *UK Parliament Week*.

This issue of *The Parliamentarian* also features many news reports

about the CPA's and Commonwealth activities including: the CPA Small Branches Climate Change Workshop at the United Nations Environment Programme (UNEP) Headquarters in Kenya; the launch of the updated CPA Benchmarks for Democratic Legislatures at the UK Parliament; the CPA International Executive Committee meetings taking place in London, UK to discuss governance matters; the 49th CPA Africa Regional Conference in Botswana on the threats to national and regional security; sustainability and gender equality on the agenda at 37th CPA Pacific and Australia Regional Conference in the Cook Islands; 40th CPA Canadian Regional Parliamentary Seminar in Nunavut focusing on representing indigenous peoples in Parliaments and strengthening the role of Parliamentarians; CPA Small Branches Chairperson highlighting trade barriers for small jurisdictions at 42nd Steering Committee of the Parliamentary Conference on the World Trade Organisation; CPA India Region Chairperson launching North East Chapter of the Speaker's Research Initiative at 17th annual CPA India Region Zone III Conference in Assam and backing simultaneous national Parliamentary and State Assembly elections at the CPA India Region Zone IV Conference in Himachal Pradesh; the focus on embracing evaluation for Agenda 2030 for Parliamentarians at *#EvalColombo2018* in Sri Lanka; CPA Canada Branch promoting Commonwealth partnerships in South Africa and Kenya; and the CAPAM Conference in Guyana highlighting climate governance and role of Parliamentarians.

The *Parliamentary Report* and *Third Reading* sections in this issue include parliamentary and legislative news from Canada Federal, British Columbia, India, New Zealand, Sri Lanka and Australia Federal. This issue also features an obituary for Somnath Chatterjee, the legendary Speaker of India (1929 – 2018).

We look forward to hearing your feedback and comments on this issue of *The Parliamentarian*, on the issues affecting Parliamentarians across the Commonwealth and to receiving your future contributions to this publication.

Jeffrey Hyland
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THE ROLE OF PARLIAMENTS AND PARLIAMENTARIANS IN IMPLEMENTING HUMAN RIGHTS

View from the CPA Chairperson

As institutions whose purpose is to make laws, Parliaments are the branch of government best placed to ensure that laws provide the means to remedy alleged violations, to take measures to prevent abuses and to give effect to human rights.

The Commonwealth Parliamentary Association has been developing the ability of Parliamentarians to promote and protect human rights nationally and regionally. Three seminars were organised together with the Commonwealth Secretariat to achieve this with the aim of exchanging information and experiences on the role of Parliaments and promoting the implementation of human rights obligations and commitments. The seminars looked at supporting the implementation of the recommendations of the UN human rights mechanisms through legislation; overseeing government policy and practice, ensuring consistency with the respective states' international human rights obligations; and ensuring sufficient budget allocations for human rights.

Hon. Emilia Monjowa Lifaka, MP, Chairperson of the CPA Executive Committee and Deputy Speaker of the National Assembly of Cameroon

The seminars resulted in three regional declarations: the *Mahé Declaration* for Africa in 2014; the *Pipitea Declaration* for the Pacific in 2015; and the *Kotte Declaration* for Asia in 2016. The declarations are a pioneering attempt by Parliamentarians to take a stronger role in ensuring that legislatures promote and protect universal human rights standards, including supporting the implementation of UN human rights recommendations, ensuring that governments implement those recommendations, and by overseeing government policy and practice to ensure they comply with the international obligations of the respective states. The declarations are important by themselves but are also possible contributions to eventual draft international principles or guidelines on the role of Parliaments in the promotion and protection of human rights.

Regional Commonwealth parliamentary human rights groups have been established, helping turn the declarations into reality. One of these is the Commonwealth Africa Parliamentary Human Rights Group (CAPHRG). As a national example, pursuant to the *Mahé Declaration*, a Kenyan Parliamentarian took steps to establish a national cross-party human rights caucus – the Kenyan Parliamentary Human Rights Association (KEPHRA).

During the 31st session of the Human Rights Council in March 2016, former Commonwealth Secretary-General, Kamalesh Sharma, said: *"We believe there is merit in considering the potential of a set of international principles or standards, such as the Paris Principles, for Parliaments."*

Currently, approximately 28% of Parliaments in the Commonwealth have established specialised Human Rights Committees. These Committees are well placed to assess human rights treaties and to hold government departments accountable for the implementation of the states' human rights commitments. Some Commonwealth Parliaments have adopted the approach to mainstream human rights, endeavouring to ensure that every Parliamentary Committee takes human rights into consideration as they go about their business. An alternative approach is to set up dedicated Human Rights Committees, dealing exclusively with human rights issues.

Also related to human rights, the CPA has established the Commonwealth Parliamentarians with Disabilities (CPwD) network. It was set up in 2017 at a CPA Conference for Disabled Parliamentarians in Nova Scotia, Canada. The network advocates for greater inclusion of people with disabilities in politics and parliaments.

Additionally, the Commonwealth Women Parliamentarians (CWP) was founded in 1989 to increase the number of female elected representatives in Parliaments and legislatures across the Commonwealth and to ensure that women's issues are brought to the fore in parliamentary debate and legislation. The CWP network provides a means of building the capacity of women elected to Parliament to be more effective in their roles; improving the awareness and ability of all Parliamentarians, male and female, and encouraging them to include a gender perspective in all aspects of their role: legislation, oversight and representation and helping Parliaments to become gender-sensitive institutions.

As Parliamentarians, we all have a responsibility and a role in ensuring that human rights are placed at the top of the agenda in all aspects of our work.

VIEW FROM THE
CPA CHAIRPERSON

Role of Commonwealth Parliamentarians and Parliaments in implementing the human rights agenda emphasised at launch of new report

The Secretary-General of the Commonwealth Parliamentary Association (CPA), Mr Akbar Khan has spoken of the key role of Commonwealth Parliamentarians and Parliaments in implementing the human rights agenda at the launch of a new report titled '*The Global Human Rights Implementation Agenda: The role of National Parliaments*' alongside the Commonwealth Secretary-General, Rt Hon. Baroness Patricia Scotland, QC. The report was published by the Commonwealth Secretariat's Human Rights Unit in partnership with the Commonwealth Parliamentary Association (CPA) and the Universal Rights Group.

Images: Commonwealth Secretariat.

The CPA Secretary-General, Mr Akbar Khan said: *"This publication, which recognises the longstanding collaboration of the Commonwealth Parliamentary Association and the Commonwealth Secretariat in the important area of building the capacity of national Parliaments in the implementation of human rights, is extremely timely as next month marks the 70th anniversary of the adoption of the Universal Declaration of Human Rights in 1948. It is therefore very appropriate for us to take a moment to reflect on this significant milestone in the context of the role of our Commonwealth Parliaments as the natural 'guardians' of the universal human rights of Commonwealth citizens. It is very much the role of Parliamentarians and of Parliaments to step up as the key enablers of human rights and to act as a check and balance on the policies of the Executive. The important role of Parliament sitting as it does at the centre of a nation's domestic and international affairs should not be overlooked or under-estimated."*

The Commonwealth Secretary-General, Rt Hon. Patricia Scotland, QC said: *"Commonwealth Parliamentarians have a central part to play in the promotion and protection of human rights. The Commonwealth Secretariat has been actively involved in strengthening the role of Parliaments and Parliamentarians in the work of the Human Rights Council. Over recent years, in collaboration with a number of partners - including some who are here today – we here at the Commonwealth Secretariat have been working to build the capacity of Commonwealth Parliamentarians in the area of human rights. This publication documents our distinctive Commonwealth contributions to global efforts which strengthen such engagement, and towards deepening respect and protection of human rights, and the human dignity of all people without distinction."*

The Commonwealth Parliamentary Association has engaged in the global discourse on a strengthened role for Parliaments and Parliamentarians in the field of human rights for a number of years. Between 2013 and 2016, the CPA, in partnership with the Commonwealth Secretariat, convened regional capacity building seminars for Parliamentarians, aimed at strengthening their understanding of their role in the promotion and protection of human rights at the national, regional and international levels. These seminars led to the adoption of three regional declarations: The *Mahé Declaration* (Africa), the *Kotte Declaration* (Asia) and the *Pipitea Declaration* (Pacific). The declarations commit Parliamentarians from the African, Asian and Pacific Regions to active engagement with international and regional human rights mechanisms.

Further outcomes and indicators of impact include the establishment of regional Commonwealth Parliamentary human rights groups; the rise of Parliamentary champions who have championed specific human rights causes such as child, early and forced marriage, equality and non-discrimination, and closer links between national human rights commissions and Parliaments; and the establishment of parliamentary human rights caucuses in Kenya and Australia.

This new publication will map and analyse contemporary debates, decisions and initiatives focused on Parliamentary engagement with the global human rights mechanisms, and documents the contribution of the Commonwealth to global efforts to strengthen that engagement, thereby improving respect for human rights and human dignity of people.

Please see page 285 for the Commonwealth Secretariat's article following the human rights report launch.

WOMEN'S ECONOMIC RIGHTS IN THE LIGHT OF THE 70TH ANNIVERSARY OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS

View from the Commonwealth Women Parliamentarians (CWP) Chairperson

Introduction

The Universal Declaration on Human Rights (UDHR) celebrates its 70th anniversary on 10th December 2018. The UDHR is a milestone document consisting of international human rights law based on the ideas of freedom, equality and dignity, a living text which is universal in scope and relevant to all individuals. Also, it contains a common standard of human rights protection for all peoples and all nations. All Member States shall promote and advocate the rights and freedoms contained therein. They shall have progressive measures and mechanisms to secure the effective observance of the UDHR. Over the years, most principles stated in the UDHR have been fulfilled, many lives have been changed, history has been impacted, and people have been able to secure essential rights and freedom.

Hon. Dr Dato' Noraini Ahmad, MP, Chairperson of the Commonwealth Women Parliamentarians (CWP) and Member of the Parliament of Malaysia.

Nevertheless, there are issues around human rights that remain contentious today, including women and gender issues such as the right to participate in the economy, pay inequality and exploitation. Thus, the primary objective of this article is to highlight the importance of ensuring human rights principles, in particular women's economic rights, for inclusive development.

Women's Economic Rights

The rights of women are recognised under various human rights treaties such as the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). These documents uphold the rights to equality between men and women in the enjoyment of all rights. Besides that, other materials like *The Convention on the Elimination of All Forms of Discrimination against Women*, the *Beijing Declaration and Platform for Action,* as well as *2030 Development Agenda for Sustainable Development* emphasise women's economic empowerment and integrating women's economic rights in government policies, programmes and strategic planning. It also promotes gender equality and accelerates the implementation of regional gender equality commitments including women's economic rights.

A stronger role for women in economics will contribute to gender equality and the sustainable development of the nation. Women's participation in the economy provides a crucial contribution to the economic growth of the country, where higher gender equality in economic participation, education, health and political empowerment has contributed to the Gross Domestic Product (GDP) per capita and development of the nation. According to the World Bank, women's participation in the economy would add up to US$28 trillion, or 26%, to annual global GDP by 2025 compared to business as usual. In Latin America and the Caribbean, for instance, female labour market income contributed to a 30% reduction in extreme poverty over a ten year period. Therefore, women played a crucial role in the reduction of the poverty rate in the region.

Commonwealth Women Parliamentarians (CWP) acknowledges that women's entrepreneurship is a way forward for gender equality as far as economic opportunities are concerned for women. The Commonwealth is at the forefront in promoting sustainable and inclusive development. A Business Survey by International Trade Centre (ITC), a company related to the implementation of the '*SheTrades*' Commonwealth programme, stated that one-fifth of exporting firms in 11 Commonwealth countries are women-owned and managed. A women-owned business tends to employ women, and the majority of the shareholders are also women. The '*SheTrades*' Commonwealth programme promotes women's participation in trade, particularly in the micro, small, medium-sized enterprises (MSMEs), as well as encouraging all governments and businesses to join its partnership in enhancing women's economic rights.

Women's Participation in the Economy in the ASEAN Region

According to the International Monetary Fund (IMF), the economy in the ASEAN region grew at an average of 6% annually between 1990 and 2015. ASEAN consists of 10 countries, including Malaysia and Singapore, and is the third largest labour force in the world. ASEAN's economy is forecasted to further grow at an average 5% annually until 2020, and its middle-class population is projected to increase by around 70 to 194 million by 2020. The region is also one of the most attractive destinations for foreign investment and trade corporations, and it has embarked on an economic integration project through the ASEAN Economic Community (AEC) since 2015. AEC Blueprint 2025 serves as the main guidelines for the implementation of AEC.

The World Bank's report on '*Gender Dimensions of the ASEAN Economic Community*' published in 2016 regards gender equality as part of the '*smart economics*' agenda. The report emphasised gender equality as an important contributing factor to economic efficiency and to achieving other key development outcomes. However, women's participation in economics in the region is persistently low across ASEAN, measured by the low level of human capital among women, education attainment and influenced by specific social or cultural factors that hinder women's participation in the economy.

The World Economic Forum disclosed that the majority of women entrepreneurs run MSMEs, with women owning more than 30% of MSMEs in the ASEAN region. A report jointly published by OECD, the ASEAN Committee on Women (ACW) and the ASEAN Coordinating Committee for MSMEs in September 2017, concluded that *"… to tackle remaining gaps in outcomes between men and women in the region, the AEC has begun to increase its focus on supporting women's entrepreneurship, in particular, within the context of the ASEAN Strategic Action Plan for SME Development 2016-2025."* The report highlights that the average rate of self-employment for women in ASEAN region is about 50%.

However, there are challenges that women have to face such as gaps in education, the labour market and barriers to women's entrepreneurship. Better access to markets, financial resources, business support services and integration of ICT tools in business operations are essential to boosting women's participation in the economy in the region.

The Role of Women Parliamentarians

As CWP Chairperson, I am of the view that women Parliamentarians in the region play a vital role in promoting women's participation in the economy. Their participation in Parliament is significant to legislating and to addressing issues on women's economic rights. They shall stand together to discuss the barriers that impede maximising women's full economic potential in finance, markets, human capital development and leadership. Women Parliamentarians shall promote women's participation and skills development in science, technology, engineering and mathematics (STEM). Empowerment of women entrepreneurs and promotion of ICT as enabling tools for the advancement of women are also crucial in their activities.

Women Parliamentarians in the region play a crucial role in promoting women to invest in programs which provide enabling environments for women MSMEs. The Parliamentarian shall address the constraints that limit their integration in the international markets and global value chains. The proper measures and mechanisms should be adopted, such as business initiatives, incentives and favourable tax regulations to assist women to participate in an inclusive and innovative business environment.

"As CWP Chairperson, I am of the view that women Parliamentarians in the region play a vital role in promoting women's participation in the economy. Their participation in Parliament is significant to legislating and to addressing issues on women's economic rights."

There is a need to increase women's representation and leadership both in the workforce and at the executive and managerial positions. Intensifying human capital development and capacity building programmes that empower women to bear equal roles in all sectors, enhance gender equality policies and strategies to close the gender pay gap.

Furthermore, partnerships are a meaningful way to achieve the *2030 Development Agenda for Sustainable Development* and to set a direct path towards gender equality, poverty eradication and inclusive economic growth. Strengthening partnerships with other parties is significant to advancing women's economic rights, building evidence-based and sex-disaggregated data on gender analysis in the economy. Besides that, engagement with young people which constitute 60%, or 2.4 billion, of the population of the Commonwealth is significant to promoting gender equality and women's economic rights.

In this regard, the CWP South East Asia Region had organised a seminar as a platform of engagement to identify strategies, to reduce the gender gap and promote gender equality in all aspects in the South East Asia Region. Members of Parliament from the Region emphasised the crucial role that CWP plays in supporting women Parliamentarians to raise issues on gender equality in their work. The CWP provides a platform for capacity building to women Parliamentarians in upholding gender equality and women's economic rights in their role to legislate, maintain oversight and represent their constituents.

Conclusion

In conclusion, the CWP calls for all stakeholders to promote gender equality in all aspects to exercise rights over their lives that will end discriminatory norms, behaviours and regulations. Parliamentarians should play an effective role in creating enabling environments for the economic participation of women towards inclusive economic growth and implementing policies and frameworks, as well as monitoring changes from time to time in line with current developments.

A HUMAN RIGHTS ISSUE: THE IMPACT OF CLIMATE CHANGE ON THE WORLD'S SMALLEST STATES

View from the CPA Small Branches Chairperson

Climate change is considered the greatest existential threat facing our planet today. It is non-discriminating in its reach and impacts every nation in the world. However, given that 31 of the 53 countries of the Commonwealth are deemed small states, which include many island states too, the impact of climate change is acutely felt within the Commonwealth group of nations. It is therefore imperative that the Commonwealth remains at the forefront of global leadership to address climate change.

Campaigns such as the Blue Charter are a great example of this fight. Launched following the Commonwealth Heads of Government Meeting (CHOGM) held in London earlier this year, the Blue Charter seeks to protect the health of the world's oceans and promote the growth of blue economies. The Blue Charter serves as a platform of co-operation, connection and exchange to guide nations in sustainable ocean development.

Hon. Anġelo Farrugia, MP, Chairperson of the CPA Small Branches and Speaker of the House of Representatives of the Parliament of Malta.

Workshops for Parliamentarians, such as those organised by the Commonwealth Parliamentary Association and its partner organisations, are a true example of the collaborative spirit of the Blue Charter in action. This multi-faceted approach championed by Commonwealth member states provides a fresh and renewed method of combatting climate change tailored to Commonwealth countries.

As the heads of government of the world's largest countries gathered to try to mitigate the earth's rise in temperature with intergovernmental agreements such as the Paris Climate Accords and the recent Commonwealth Blue Charter, it is often forgotten that the world's smallest nations who are the least polluters are often the first victims of climate change.

Climate change is already acutely impacting states many of our Commonwealth Small Island Developing States (SIDS). According to the United Nations Development Programme, despite contributing less than 1% to the world's greenhouse gas emissions, SIDS are among the first to experience the worst impacts of climate change.

Climate change affects the development of all nations, regardless of location or size of economy. Yet, no other group of nations is more vulnerable to its devastating effects than the Small Island Developing States (SIDS), with one-third of the populations of these states residing on land that is less than five meters below sea level.

A stark example is the island nation of Tuvalu, with a highest point of 4.5 metres above sea level. Annual sea level rise beside Funfati, the capital, has been recorded at 0.8mm. The existential threat posed to Islands like Tuvalu is not a problem for the next generation. It is a problem for today. Its reality is tangible and severe. It is indeed a fundamental human rights issue that is increasingly gaining attention and importance.

I will take a minute to explain what the European Union is doing on climate change. As a Union, the Commission proposes a number of Climate Change proposals in collaboration with the Paris Agreement, creating the required conditions to continue work in the framework of the reduction of CO2 emissions within a stipulated timeframe, that was adopted. The EU has pledged that it *"will work together and take joint actions"* to contribute towards the objectives of the Paris Agreement and to reduce greenhouse gas emissions.

In March of this year, the European Council asked for a long-term strategy for reducing emissions and a consultation was launched in July. The EU is also working closely with other countries such as Canada and the US.

"According to our preliminary analysis, this raising of ambition would enable the EU to reduce its emissions by at least 45% by 2030", Anna-Kaisa Itkonen - Spokesperson for climate action and energy stated.

An Environment Council, convening in October, will discuss these issues on an EU-wide level, with a view to the COP24 scheduled to be held in Katowice, Poland in December.

Similarly, one should take the example of the EU, of which Malta is a member, to work jointly, as having a structure of principles and goals makes achievements more reachable as a group rather than to each his own. The CPA should take the opportunity to learn from the initiatives organised by the EU so that we can achieve tangible results as an Association and work together with the Commonwealth as a whole.

The CPA Climate Change Workshop for Small Branches convened in Kenya with the United Nations Environment Programme (UNEP) presented an invaluable opportunity to understand our role in this fight and enhance our capacity to do our duty as Parliamentarians. As Chairperson of the CPA Small Branches Network, it is always a privilege to meet fellow Members from small jurisdictions to discuss shared challenges and see this dynamic network in action.

The support and input we have received from our UNEP colleagues has been instrumental to the development of the programme and the collaboration between our two prestigious organisations, the CPA and UNEP – both respected organisations in their respective fields - demonstrates our joint-commitment to global partnership working, and to the goal of assisting Parliaments and Governments to address the grave threat posed by Climate Change.

The genesis for this workshop could be found within our CPA Small Branches Strategic Plan. In August this year, the CPA was proud to launch the inaugural CPA Small Branches Strategic Plan 2018-20, and mitigating the impact of climate change on small jurisdictions is a key focus of this ambitious new vision. Building capacity to counter the threat of climate change forms a key strategic pillar of the Plan, and alongside our international partners such as UNEP, we shall be working with our small Parliaments to strengthen their resilience to the threat of climate change.

The CPA Climate Change Workshop for Small Branches has generated fresh ideas and fresh perspectives on this issue and stimulated healthy and lively debate between us all. This workshop also fostered the spirit of solidarity and a mutuality of learning that is the heartbeat of the Commonwealth, the CPA and the CPA Small Branches network.

This article is based on a speech given by the CPA Small Branches Chairperson at the opening of the CPA Climate Change Workshop for Small Branches held in partnership with the United Nations Environment Programme (UNEP) in Nairobi, Kenya from 10-13 October 2018.

Commonwealth Parliamentarians find that the world's smallest nations can be global innovators in combatting the impacts of climate change

Commonwealth Parliamentarians representing the Small Branches Network of the Commonwealth Parliamentary Association (CPA) have examined the global implications of climate change and its impact on the smallest nations and territories in the world. Climate change is of great concern to the 53 Commonwealth countries, especially its 31 small and developing states which are often the least polluting but the first casualties of climate change. At the recent Commonwealth Heads of Government Meetings (CHOGM) in Malta in 2015 and in the United Kingdom in 2018, Commonwealth leaders committed themselves to tackling climate change and addressing the unique challenges of small states to ensure their full participation in and contribution to a more prosperous future.

Parliamentarians from eight CPA Small Branches representing five CPA Regions met in Kenya from 10 to 13 October 2018 for the CPA Small Branches Climate Change Workshop at the United Nations Environment Programme (UNEP) Headquarters. The workshop heard from experts in the field and discussed ways to introduce renewable energy, waste reduction with a specific focus on plastics, marine protection, the best scientific resources for action, electric transport, the involvement of non-state actors, fiscal policy, regional integration, and technological innovation. Parliamentarians also examined the specific challenges of smaller jurisdictions in overseeing the implementation of the 2015 Paris Agreement and in the development of appropriate national legislation dealing with the prevention and impact of climate change.

Through this partnership, the CPA Small Branches network and UNEP will continue to examine the role of legislators in combatting climate change and support Parliamentarians in the Parliaments and Legislatures of the Commonwealth to further pursue these goals.

The CPA's Small Branches, which are jurisdictions with a population of under 500,000 people, are particularly well placed in trialling innovation in combatting climate change due to their smaller population and landmass. For developing nations, there are resources available to assist small jurisdictions in assuming a leadership role in this area. The areas of engagement are vast and range from implementing innovations in terrestrial ecosystems, technology, transport, energy, emission trading, climate finance, legal response initiatives and environmental law making.

"The need for action on climate change is a given. The evidence is overwhelming. Our focus now needs to be on the how – finding the right solutions and making global issues relevant at the national and local level. We need behavioural change, policy change and business change. Everyone can take positive action to combat this global problem," said Erik Solheim Head of UN Environment (UNEP).

At the closing of the workshop, the CPA Small Branches Chairperson, Hon. Angelo Farrugia, MP, Speaker of the Parliament of Malta said: *"As former UN Secretary-General Ban-Ki Moon says, when it comes to climate change, there is no plan B, since we do not have a planet B. Now that we have come together as a network of CPA Small Branches Parliamentarians to discuss these pressing matters, to compare action plans and to engage with top experts in the field, it is time for action. Climate change is not just a threat to humanity - it is a tremendous, unique opportunity in our history to show what humans have done best throughout the centuries: champion innovation and growth."*

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AT 70 YEARS OLD AND THE ROLE OF PARLIAMENTS

View from the 7th CPA Secretary-General

Mr Akbar Khan
Secretary-General of the Commonwealth Parliamentary Association

First Lady Eleanor Roosevelt, the United States delegate to the United Nations in 1946 is famously quoted to have described the 1948 Universal Declaration of Human Rights (UDHR) '*as a Magna Carta*' for all mankind. She also said to the UN General Assembly that her government considered the UDHR document to be a *"good document even a great document and this is why the United States intends to give it our full support."*

Fast forward some 70 years and the careful consensus reached in the UDHR on the importance of respecting the inalienable rights of man seems to be under significant stress, with fractures amongst global players including, between the five permanent members of the Security Council, all of whom participated with other nations as the founding fathers of the UDHR.

This is not just an isolated geopolitical 'standoff' amongst world leaders but is symptomatic of the wider breakdown of the international rules-based order that has for so long underpinned western liberalism in the post-Second World War period.

The seriousness of the situation was exemplified this year by the early departure of His Excellency Ambassador Zeid Ra'ad Al Hussein, from the key position of United Nations High Commissioner for Human Rights who unusually chose not to stand for a second term of office. In giving his reasons, he said, *"After reflection, I have decided not to seek a second four-year term. To do so, in the current geopolitical context, might involve bending a knee in supplication; muting a statement of advocacy; lessening the independence and integrity of my voice — which is your voice."*

> **"My hope that this ambition still remains possible is based on the fact that the promotion and protection of human rights is no longer the sole preserve of governments or the Executive. Rather, the evolving role of Parliamentarians and of Parliaments is to step up as key enablers of human rights and to act as a check and balance on the policies of the Executive. This important role of Parliament sitting as it does at the centre of a nation's domestic and international affairs should not be overlooked or under-estimated."**

In a global era that appears increasingly hostile to upholding human rights, some commentators have observed that the High Commissioner's stepping down is indicative of this bleak reality. This may well be true, and if so, it calls for an urgent redoubling of our individual and collective efforts to renew our commitment to ensuring respect for human rights for all citizens, especially the marginalized and vulnerable who are often the first casualties in any erosion of human rights protections.

The ambition set out in the preamble of the UDHR must be our shared guiding light, namely, the UDHR representing '*a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.*'

My hope that this ambition still remains possible is based on the fact that the promotion and protection of human rights is no longer the sole preserve of governments or the Executive. Rather, the evolving role of Parliamentarians and of Parliaments is to step up as key enablers of human rights and to act as a check and balance on the policies of the Executive. This important role of Parliament sitting as it does at the centre of a nation's domestic and international affairs should not be overlooked or under-estimated.

Over the past 70 years of the UDHR, the national and international role of Parliamentarians and Parliaments has grown significantly, not only in the breadth and depth of topics that routinely form the legislative programme of a 21st century Parliament, but there has been an increasing focus on international human rights issues.

Current examples include the role of Parliaments across the Commonwealth in the implementation of the 2015 UN Sustainable Development Goals and in the UK, the gradual erosion of the use of the royal prerogative as an Executive blanket power regarding decisions on the use of force. Increasingly, these latter decisions, except in the most urgent of circumstances, are being taken by Parliament resulting in a modification of traditional conventions and the narrowing in scope of the prerogative powers in the field of international law and human rights.

The upturn in the overall work of Parliaments in their scrutiny of human rights matters is welcome. But it also represents the complexity of and increasing inter-connectedness between national and international issues and the importance of parliamentary accountability through the scrutiny and monitoring of executive action.

As law-makers, Parliaments help design the national legal framework that enables human rights to be promoted and protected at national levels and promotes adherence of human rights at the international level through the ratification of international instruments and the monitoring of treaty bodies. In this way, Parliaments are cornerstones of the national protection systems and play a critical role in ensuring a State's compliance with their international human rights obligations and, critically share a responsibility with other branches of the state to protect, respect and fulfill human rights.

Human rights constitute a cross cutting issue that should be considered by all Parliamentary Committees. In order to put human rights at the centre of their work, many Parliaments need to further develop the necessary institutional structures, processes and mechanisms and establish Parliamentary Committees as oversight bodies with exclusive human rights mandates.

These oversight bodies should focus first and foremost on national human rights issues in their own jurisdictions, and should be composed in a representative manner to include, women, men, ethnic, religious and other minority groups. Diversity and inclusion is essential for proper oversight.

Parliaments' overarching oversight functions gives Parliamentarians a central role to identify and address possible violations of human rights and ensure that sufficient funding is allocated to allow for the effective implementation of human rights norms and standards.

Even though the human rights climate may appear bleak, the opportunities for Parliaments and Parliamentarians to step up and realise the ideals of the UDHR for their citizens through the adoption of national progressive measures has never been greater.

In this context, the UN Secretary General has stated (*GA Report A/72/351*) each of the UN Sustainable Development Goals (SDGs) are closely intertwined with human rights. In effect each of them seeks to realize human rights for all by leaving no one behind. In that regard, a human rights-based approach to the goals helps to ensure a non-selective and impartial process based on participation, inclusiveness and transparent governance. This leads to better synergies among the three core pillars of the United Nations; human rights, development and peace and security and therefore an opportunity to capitalize on the SDGs as universally accepted commitment and valuable road map to guide development efforts in line with international human rights standards and norms.

In summary, the opportunity exists for Parliaments and Parliamentarians to play a greater role in promoting adherence to human rights norms and standards, including integrating the SDGs within a national human rights plan. Such action offers huge transformative potential to nations and their citizens, even against a bleak backdrop regarding the global respect in some quarters for human rights. As Eleanor Roosevelt wisely once said '*It isn't enough to talk about peace. One must believe in it. And it isn't enough to believe in it. One must work at it*' The same sentiment must apply to our collective ambition to fully realise the goals of the UDHR for all peoples. Respect for human rights must be a constant but to ensure this we must never become complacent.

Mr Akbar Khan
7th Secretary-General
Commonwealth Parliamentary Association (CPA)

International Democracy Day 2018 recognises democracy is 'under strain' and calls for parliamentary solutions for a changing world

***"Democracy is showing greater strain than at any time in decades. That is why this International Day should make us look for ways to invigorate democracy and seek answers for the systemic challenges it faces."* — United Nations Secretary-General, António Guterres**

In 2007, the United Nations General Assembly reaffirmed the Universal Declaration on Democracy by instituting the International Day of Democracy on 15 September each year.

The United Nations theme for International Day of Democracy 2018 was '*Democracy under Strain: Solutions for a Changing World*'. This year's International Day of Democracy was an opportunity to look for ways to invigorate democracy and seek answers to the systemic challenges it faces. This includes tackling economic and political inequalities, making democracies more inclusive by bringing the young and marginalized into the political system, and making democracies more innovative and responsive to emerging challenges such as migration and climate change.

The Commonwealth Parliamentary Association (CPA) network marked this special day and many of its 180 Branches in Parliaments and Legislatures across the Commonwealth celebrated International Day of Democracy with different events and activities. The CPA connects and supports Commonwealth Parliamentarians and their staff to identify benchmarks of good governance to promote democracy and offers its membership a range of opportunities to enhance their parliamentary knowledge and networking. It provides both established and newly elected Parliamentarians and Parliamentary staff with continuing professional development and encourages them to share experiences and knowledge with other Parliaments in the wider pursuit of democracy in the Commonwealth. As in previous years, the CPA also supported the IPU's *#StrongerDemocracies* campaign and online petition.

With this year's 70th anniversary of the Universal Declaration of Human Rights, the International Day of Democracy was also an opportunity to highlight the values of freedom and respect for human rights as essential elements of democracy. The Universal Declaration of Human Rights, which states that *"the will of the people shall be the basis of the authority of government"* (*article 21.3*), has inspired constitution-making around the world and contributed to global acceptance of democratic values and principles. Democracy, in turn, provides the natural environment for the protection and effective realization of human rights.

Commonwealth Parliamentary Association (CPA)
CPA Photo Gallery

Left: Commonwealth partners – the Commonwealth Secretary-General, Rt Hon. Patricia Scotland, QC and the Secretary-General of the Commonwealth Parliamentary Association, Mr Akbar Khan met at Marlborough House to discuss ongoing engagement and Commonwealth collaboration.

Left: The Commonwealth Parliamentary Association Secretary-General, Mr Akbar Khan met with CPA Trustee, Robin Swann, MLA from the Northern Ireland Assembly at the CPA Headquarters Secretariat in London to update him on CPA activities and to hold a CPA Trustees meeting online with the CPA Treasurer, Mrs Vicki Dunne, MLA (ACT Legislature).

Left: The Commonwealth Parliamentary Association Secretary-General, Mr Akbar Khan met with Professor Sarah Williams from the University of New South Wales and Mr Michael Meyer, Head of International Law at the British Red Cross at the CPA Headquarters in London, UK to discuss joint projects for Commonwealth Parliamentarians and the British Red Cross to work together to strengthen the international rule of law.

Below: Members of the Commonwealth Parliamentary Association Africa Region Executive Committee including the CPA Africa Chairperson, Hon. Lindiwe Maseko, MP (South Africa) and the CPA Africa Treasurer, Rt. Hon Samuel Ikon, MP (Nigeria) met with the Speaker and Clerk of the National Assembly of The Gambia to discuss future cooperation following the country's return to the Commonwealth.

Right and below: The Commonwealth Parliamentary Association (CPA) welcomed Senator the Hon. Scott Ryan, President of the Australian Senate to the CPA Headquarters Secretariat. Senator Scott Ryan met with the Secretary-General of the CPA, Mr Akbar Khan together with staff from the CPA Headquarters Secretariat in London, UK to hear about CPA's programmes and new developments in parliamentary strengthening in the Commonwealth.

Above and below right: The Commonwealth Parliamentary Association welcomed Hon. Stacy Bragger, MLA and Hon. Mark Pollard, MLA from the Falkland Islands Legislative Assembly to the CPA Headquarters Secretariat in London, UK. The Falkland Islands MLAs met with the CPA Secretary-General, Mr Akbar Khan together with staff from the CPA Headquarters Secretariat in London, UK to hear about CPA's programmes and new developments in parliamentary strengthening in the Commonwealth and in particular, the CPA Roadshows for young people which are being planned for delivery on the islands.

Left: Members of the Commonwealth Parliamentary Association Co-ordinating Committee and the CPA Secretary-General, Mr Akbar Khan met with Rt Hon. The Lord Speaker, Lord Fowler, Joint CPA UK President at the House of Lords at the UK Parliament to discuss Commonwealth parliamentary strengthening ahead of the CPA Executive Committee meetings in London. The CPA Co-ordinating Committee who attended the meeting were: CPA Vice-Chairperson, Hon. Alexandra Mendès, MP (Canada Federal); CPA Small Branches Chairperson, Hon. Aġelo Farrugia MP, Speaker of the House of Representatives, Malta; Commonwealth Women Parliamentarians (CWP) Chairperson, Hon. Dr Dato' Noraini Ahmed, MP (Malaysia); and the CPA Treasurer, Mrs Vicki Dunne, MLA, Deputy Speaker of the Legislative Assembly of the Australian Capital Territory.

Below: The CPA Chairperson, Hon. Emilia Lifaka, MP, Deputy Speaker of the National Assembly of Cameroon and Members of the Commonwealth Parliamentary Association Co-ordinating Committee and the CPA Secretary-General, Mr Akbar Khan met with the United Kingdom's Commonwealth Envoy, Philip Parham in London to discuss Commonwealth parliamentary strengthening.

Left: Three members of the Royal Commonwealth Society Barbados visit the Commonwealth Parliamentary Association Headquarters in London to hear about the CPA Roadshows programme for young people and Commonwealth partnerships during their visit to the UK for the 150th anniversary celebrations of the Royal Commonwealth Society.

Right and below: The Commonwealth Parliamentary Association welcomed the Speaker of the House of Representatives of Belize, Hon. Laura Tucker-Longsworth and a delegation from the CPA Belize Branch to the CPA Headquarters Secretariat in London, UK. The Speaker was accompanied by Hon. Lee Mark Chang, Senate President; Hon. Dr Omar Antonio Figueroa, Minister of State in the Ministry of Fisheries, Forestry, the Environment and Sustainable Development; Hon. Beverly Diane Williams, Minister of State in the Ministry of Immigration; Hon. Jose Abelardo Mai, Opposition Member; and Mr Eddie Webster, Clerk of the Assembly. The Belize delegation met with the CPA Secretary-General, Mr Akbar Khan together with staff from the CPA Headquarters Secretariat in London, UK to hear about CPA's programmes and new developments in parliamentary strengthening in the Commonwealth and in the Caribbean Region. The Belize delegation were in London as part of an exchange programme with the CPA UK Branch and the Parliament of the United Kingdom.

Below: Commonwealth Parliamentary Association Secretary-General, Mr Akbar Khan met with His Excellency Euripides Evriviades, the Cyprus High Commissioner to the UK; Lord Chidgey, Co-Chair of the UK All Party Parliamentary Group on the Commonwealth and Rita Payne, William Horsley and David Page, representing the Commonwealth Journalists Association to deepen collaboration in support of our Commonwealth values especially freedom of expression.

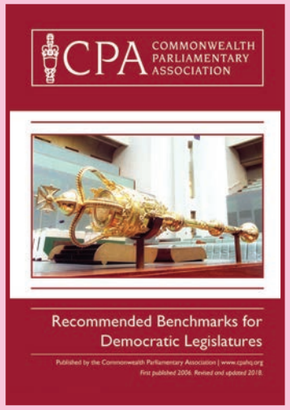
Updated CPA Benchmarks for Democratic Legislatures provide framework for Parliaments to meet contemporary challenges across the Commonwealth

A newly updated CPA Recommended Benchmarks for Democratic Legislatures has been launched at an event held by the Commonwealth Parliamentary Association (CPA) and the Westminster Foundation for Democracy (WFD). More than a decade on from the launch of the original CPA Recommended Benchmarks for Democratic Legislatures by the CPA and its partners, an updated Parliamentary Benchmarks has been developed to reflect the changed landscape in which democracies now operate. The updated CPA Benchmarks include measurements for Parliaments to support the implementation of the Sustainable Development Goals (SDGs) and the recommendations contained in the Commonwealth Charter. Effective parliaments are one of the principal institutions of any functioning democracy and they are central to the attainment of SDG 16 on the role of effective, accountable and inclusive institutions at all levels.

Speaking at the launch event for the new CPA Benchmarks, the Chairperson of the Commonwealth Parliamentary Association, Hon. Emilia Lifaka, MP, Deputy Speaker of the National Assembly of Cameroon, said: *"The pioneering Recommended Benchmarks for Democratic Legislatures is one of the CPA's most important pieces of parliamentary strengthening work and the updated CPA Benchmarks is vital as we seek to further strengthen Parliaments and Legislatures in line with the aspirations of the Commonwealth Charter, the SDGs and the changing demands of our citizens."*

Lord Ahmad of Wimbledon, UK Minister of State for the Commonwealth and UN said: *"The Commonwealth was founded to promote and instil democratic values, and these CPA Benchmarks offer clear standards for us all to adhere to, to help us to live up to the Commonwealth's founding principles. Maintaining, and indeed strengthening, our democratic standards was important twelve years ago when the first set of Benchmarks were launched. It is even more so now, when democracy and democratic values are under threat all over the world."*

Hon. Angelo Farrugia, MP, Speaker of the Parliament of Malta and CPA Small Branches Chairperson said: *"It has been a privilege to have been so intimately involved in this latest milestone for the CPA Benchmarks programme, which now spans over 10 years. The updated CPA Benchmarks have great importance to the Commonwealth's smallest Parliaments and, as the Speaker of the Maltese Parliament, I welcome this opportunity to further enhance the CPA Benchmarks and I would encourage other Presiding Officers to consider assessing their Parliaments against the CPA Recommended Benchmarks for Democratic Legislatures."*



Thomas Hughes, speaking on behalf of the Westminster Foundation for Democracy (WFD), said: *"We know that Parliaments are a crucial institution that embody representative democracy and are essential in the protection of human rights. In this sense, the updated CPA Benchmarks are an excellent tool to assist legislatures in their efforts to achieve this ambitious goal."*

Guests at the CPA Benchmarks launch event also heard from Dr Roberta Blackman-Woods, MP (United Kingdom) about the benchmarking experience of the UK Parliament and via video presentation, Hon. Juan Watterson, Speaker of the House of Keys at the Tynwald (Isle of Man) about how the Isle of Man Parliament had implemented parliamentary strengthening as a result of their self-assessment against the CPA Benchmarks.

Since the inception of the CPA Benchmarks, many Commonwealth Parliaments throughout the CPA membership of over 180 Legislatures have undertaken self-assessments using the Benchmarks or have incorporated the Benchmarks into their own parliamentary standards. The focus on measuring impact and the need to demonstrate the effectiveness of legislatures is critical at a time of increased scrutiny of Parliaments and of Parliamentarians and the CPA Recommended Benchmarks for Democratic Legislatures provide a key tool in assisting parliaments to demonstrate their performance, increase their self-awareness and prioritise areas for development.

To access the updated CPA Recommended Benchmarks for Democratic Legislatures please visit www.cpahq.org/cpahq/benchmarks.

The CPA Benchmarks for Democratic Legislatures will be implemented in some CPA Branches as an assessment tool in partnership with the new Commonwealth Partnership for Democracy (CP4D) - see page 324 for further details. CPA Branches can contact the CPA Headquarters Secretariat for more information.

Commonwealth Parliamentarians meet in London, UK for CPA Executive Committee meeting to discuss governance matters

Over 40 Commonwealth Speakers, Deputy Speakers and Members of Parliament have met in London, United Kingdom for the Executive Committee of the Commonwealth Parliamentary Association (CPA) from 5 to 9 November 2018. Members of Parliament representing the nine regions of the CPA – Africa; Asia; Australia; British Islands & Mediterranean; Canada; Caribbean, Americas & Atlantic; India; Pacific; and South East Asia – attended the CPA Executive Committee, the governing body of the Association. The CPA meetings enable Commonwealth Parliamentarians to reach beyond their own Parliaments to contribute in a global setting to the development of best parliamentary practices and the most effective policies for parliamentary strengthening.

The Chairperson of the CPA Executive Committee, Hon. Emilia Monjowa Lifaka, MP, Deputy Speaker of the National Assembly of Cameroon said: *"The CPA Executive Committee meetings are an essential aspect of the CPA's governance and also an opportunity for the CPA's Members to effect change within the organisation."*

A number of governance meetings took place including the Coordinating Committee; Performance and Review Subcommittee; Planning and Review Sub-Committee; and Finance Sub-Committee. The Chairperson of the Commonwealth Women Parliamentarians (CWP), Hon. Dr Dato' Noraini Ahmed, MP (Malaysia) also held a teleconference of the CWP International Steering Committee during the meetings held in London.

The CPA Vice-President, Rt Hon. Rebecca Kadaga, MP, Speaker of the Parliament of Uganda; CPA Vice-Chairperson, Hon. Alexandra Mendès, MP (Canada Federal); the CPA Treasurer, Mrs Vicki Dunne, MLA, Deputy Speaker of the Legislative Assembly of the Australian Capital Territory; and the CPA Small Branches Chairperson, Hon. Anġelo Farrugia MP, Speaker of the House of Representatives, Malta also attended the meetings along with the CPA Secretary-General, Mr Akbar Khan and staff from the CPA Headquarters Secretariat. The CPA Executive Committee meetings were attended by the CPA Regional Secretaries and a separate meeting of the Regional Secretaries also took place.

The Commonwealth Parliamentary Association (CPA) Executive Committee Members also heard a presentation by Jacques Chagnon, President of Assemblée Parlementaire de la Francophonie (APF) on the structure, constitutional arrangements and programmatic work of the APF.

During the week of the CPA Executive Committee, an official launch was held for the updated CPA Recommended Benchmarks for Democratic Legislatures at UK Houses of Parliament attended by the CPA Chairperson and Members of the CPA Executive Committee.

The CPA Executive Committee meetings were held in the absence of an annual conference and General Assembly for the CPA in 2018. The next annual conference will be the 64th Commonwealth Parliamentary Conference (CPC) and General Assembly due to be held in Uganda in September 2019.

Following the CPA Executive Committee, the CPA Treasurer, Mrs Vicki Dunne, MLA (ACT) and Hon. Russell Wortley, MLC (South Australia) joined the CPA Secretary-General at a special Remembrance Assembly at Twickenham Prep School in south-west London to commemorate the 100th anniversary of the end of the First World War and the contribution of Commonwealth soldiers and to unveil a special '*Tommy*' tribute statue.

For further images please visit www.cpahq.org/cpahq/flickr.

Threats to national and regional security is the focus for Commonwealth Parliamentarians at the 49th CPA Africa Regional Conference in Botswana

Commonwealth Parliamentarians from across Africa have discussed the increasing threats to national and regional security at the 49th Commonwealth Parliamentary Association (CPA) Africa Region Conference held in Gaborone, Botswana from 13 to 22 August 2018. The CPA Africa Regional Conference was hosted by Hon. Gladys K. T. Kokorwe, MP, Speaker of the National Assembly of Botswana and President of the CPA Africa Region, who welcomed Commonwealth Parliamentarians from across the Africa continent. The CPA Africa President said that she wished to reach out to the CPA Africa Region and to strive to achieve the Africa Agenda 2063 especially through education and awareness campaigns.

The CPA Africa Regional Conference was officially opened by the Vice-President of the Republic of Botswana, Mr Slumber Tsogwane who said: *"An effective Parliament is an important element of a vibrant democracy and good governance, all of which are desired principles of the Commonwealth as enshrined in the Commonwealth Charter. It is the principle of the CPA that stronger Parliaments mean stronger democracies, and greater capacity to deliver the benefits that people expect: such as employment opportunities, empowerment of women, food security, health care, education, rural development, a brighter future for children and protection of the environment."*

The opening ceremony heard speeches delivered by the Chairperson of the CPA Africa Region, Hon. Lindiwe M. Maseko, MP (South Africa); and the Chairperson of the Commonwealth Women Parliamentarians (CWP) Africa Region, Hon. Angela Thoko Didiza, MP (South Africa). The Chairperson of the CPA International Executive Committee, Hon. Emilia Monjowa Lifaka, MP (Cameroon) gave an address at the opening ceremony of the 49th CPA Africa Regional Conference on behalf of the wider CPA membership when she updated the membership on the work of the CPA Headquarters Secretariat and ongoing CPA programmes. The CPA International Vice-President, Rt Hon. Rebecca Kadaga, MP, Speaker of the Parliament of Uganda also attended the CPA Africa Regional Conference and highlighted the Uganda Parliament's hosting of the forthcoming 64th Commonwealth Parliamentary Conference in 2019.

The CPA Africa Regional Conference was held under the main theme of: '*The role of African Parliaments in fostering national and regional security*'. Conference workshops were held on several themes and topics including:

- A parliamentary agenda for combating human trafficking and modern-day slavery in Africa and the promotion of human rights (*gender topic*)
- Understanding the nexus between climate change and the incidence of farmers/herdsmen conflicts in Africa (*social, health, education and environment topic*)
- A legislative framework for the regulation of vigilante groups, private security and military companies in Africa (*political topic*)
- Food security and sustainable growth: the role of the agricultural revolution in triggering economic development in Africa (*economic topic*)

Conference delegates also heard the resolutions of the Fourth CPA Africa Region Youth Parliament, presented by youth delegates, which had been held in April 2018 in Uganda under the theme '*Securing a better future for Africa: Role of the youth*'.

The CPA Africa Regional Conference included a number of events and meetings including:

- Meetings of the CPA Africa Regional Executive Committee
- Meetings of the Commonwealth Women Parliamentarians (CWP) Steering Committee chaired by the CWP Africa Regional Chair, Hon. Angela Thoko Didiza, MP (South Africa)
- The Society-of-the-Clerks-at-the-Table (SoCATT) Africa Regional Steering Committee meetings chaired by Adv. Eric Phindela, Chairperson of SoCATT Africa Region.

The CPA Africa Regional Conference was held at the Gaborone International Convention Centre (GICC) and was organised by the CPA Africa Regional Secretariat and CPA Botswana Branch.

At the conclusion of the 49th CPA Africa Regional Conference in Botswana, Rt Hon. Justin B. Muturi, MP, Speaker of the National Assembly of the Republic of Kenya was elected as the new Chairperson of the CPA Africa Region in succession to Hon. Lindiwe M. Maseko, MP (South Africa). The new CPA Africa Chairperson was nominated by the Deputy Speaker of the Parliament of Zambia, Hon. Catherine Namugala, MP and was seconded by Hon. Kabiru Mijinyowa, MP, Speaker of Adamawa Region in Nigeria.

The CPA Secretary-General Mr Akbar Khan sent his congratulations to Rt Hon. Justin B. Muturi, MP, Speaker of the National Assembly of Kenya on being elected as the new CPA Africa Region Chairperson and said: *"Wishing you every success on behalf of the CPA and looking forward to working together to strengthen the CPA."*

For further images please visit www.cpahq.org/cpahq/flickr.

Sustainability and gender equality on the agenda for Commonwealth Parliamentarians at 37th CPA Pacific and Australia Regional Conference in the Cook Islands

Hon. Niki Rattle, Speaker of the Parliament of the Cook Islands and CPA Cook Islands Branch President has reiterated her desire to increase the number of women in the Cook Islands Parliament and across the CPA Pacific Region at the 37th Commonwealth Parliamentary Association (CPA) Pacific and Australia Regional Conference. The three-day regional conference was hosted by the CPA Cook Islands Branch in Rarotonga, Cook Islands from 22 to 24 October 2018.

Speaker Niki Rattle said: *"I am elated once again for the third time as the Speaker to warmly welcome delegates to Rarotonga for the 37th CPA Pacific and Australia Regional Conference. The Parliament of the Cook Islands is delighted to host this regional conference to discuss issues of mutual interests for the welfare of our people in our Regions. The theme of 'Towards a common future for growth and sustainability' at this regional conference gives us the mandate to have robust and meaningful deliberations for a better future for those we hold close to our hearts."*

"This week, I believe the topics for our regional conference are really relevant in talking about gender equality and my focus while I'm Speaker of Parliament is to increase the number of women in the Parliament. Out of 24 Members, we have four women and there are many women in the Cook Islands who could actually be sitting in the House and sharing the opportunity of making decisions on the welfare of the people of this country." A meeting of the Commonwealth Women Parliamentarians (CWP) Pacific Region also took place during the regional conference.

Speaker Rattle also paid tribute to the CPA Branches from the wider Australia and Pacific Regions for their assistance to their counterparts in the Pacific islands. The regional conference was co-chaired by Speaker Rattle and Hon. Peter Watson, MLA, Speaker of the Legislative Assembly of Western Australia.

Hon. John Ajaka, MLC, President of the Legislative Council of New South Wales, Australia and CPA Executive Committee Member gave the keynote address to the regional conference and said: *"The strategic direction established since the appointment of the current CPA Secretary-General is now evident with enhanced professional development opportunities for Members and regular communications from CPA Headquarters."*

Around 60 Members of Parliament and parliamentary staff attended the regional conference from 17 CPA Branches across the two regions. The CPA Branches attending the 37th CPA Pacific and Australia Regional Conference included: Australia Federal; Australian Capital Territory; Bougainville; Cook Islands; Kiribati; Nauru; New Zealand; Niue; New South Wales; Papua New Guinea; Queensland; Samoa; Solomon Islands; South Australia; Tasmania; Tuvalu; and Western Australia.

The regional conference held a wide range of workshops over three days including: Parliamentary engagement with the SDGs especially SDG 16 on good governance; climate change; resilient health systems to combat diseases; the separation of powers and the case for financial autonomy; sustainable Parliaments and succession planning for parliamentary staff; engaging young people through youth Parliaments; gender equality in Pacific Parliaments; Parliament's scrutiny role and tackling corruption; as well as national security and cybersecurity.

Delegates at the regional conference heard from a number of different international and regional organisations including the United Nations Development Programme (UNDP) Pacific Region; the Pacific Islands Forum; Climate Change Cook Islands; Cook Islands Health Department; Cook Islands National Youth Council; Cook Islands National Audit Office; and the Cook Islands and Australian Federal Police.

40th CPA Canadian Regional Parliamentary Seminar in Nunavut focuses on representing indigenous peoples in Parliaments and strengthening the role of Parliamentarians

Commonwealth Parliamentarians from across the Commonwealth Parliamentary Association (CPA) Canada Region have examined how Parliaments can reflect the indigenous peoples that they represent through their work and traditions. The workshop session was part of the 40th CPA Canadian Regional Seminar which was held in Iqaluit, Nunavut, Canada from 11 to 14 October 2018.

The annual seminar, organised by the CPA Canada Region, saw the participation of 31 Parliamentarians from nine provinces and territories across Canada and from the Canadian Federal Parliament as well as seven parliamentary staff. Delegates were welcomed to the regional seminar by CPA Nunavut Branch President, Hon. Joe Enook, MLA, Speaker of the Legislative Assembly of Nunavut. Speaker Joe Enook said: *"It was an honour to host fellow Parliamentarians from across the nation, and I was proud that our deliberations were conducted in three languages: Inuktitut, which is one of Canada's indigenous languages, as well as English and French. I am confident that my colleagues who were visiting the Arctic for the first time left with a greater understanding of our culture and environment."*

The seminar was attended by Hon. Yasmin Ratansi, MP (Canada Federal) who said: *"As Chair of the CPA Canadian Region, I attended the 40th CPA Canadian Regional Parliamentary Seminar in Iqaluit. The venue was important as Iqaluit is close to the Arctic Circle and Parliamentarians from across Canada got an opportunity to see first hand the challenges facing the Indigenous communities. The seminar allowed us to learn from each other, share best practices and enhance our understanding and respect for the indigenous way of life."*

The 40th CPA Canadian Regional Parliamentary Seminar provided an opportunity to exchange ideas amongst CPA Members on key issues and the delegates held workshops on a number of topics including: *Proportional Representation and the Prince Edward Island Referendum; life for a Parliamentarian after office; the impact of social media on the work of Parliamentarians; and mental health and its impact on Parliamentarians and parliamentary staff.*

CPA Small Branches Chairperson highlights trade barriers for small jurisdictions at 42nd Steering Committee of the Parliamentary Conference on the World Trade Organisation

The Chairperson of the CPA Small Branches, Hon. Angelo Farrugia MP, Speaker of the Parliament of Malta participated in the 42nd Session of the Steering Committee of the Parliamentary Conference on the World Trade Organisation (WTO) on behalf of the CPA, which took place in Geneva, Switzerland on 5 October 2018. The Parliamentary Conference on the WTO (PCWTO) is organised jointly by the Inter-Parliamentary Union (IPU) and the European Parliament, and its Steering Committee met ahead of the 2018 annual session of the PCWTO.

The CPA Small Branches Chairperson proposed the enhancement of the PCWTO through the alignment of its agenda with that of the WTO Ministerial Conference, with a view to informing the WTO Ministerial Conference on the parliamentary perspective and mobilising parliamentary action. He also spoke about the participation of the PCWTO in the Commonwealth and reported on discussions that took place on trade at the Commonwealth Heads of Government Meeting (CHOGM) earlier this year in London. The CPA Small Branches Chairperson also highlighted the greater impact of climate change on small states as an important issue in relation to non-discriminatory, multilateral trading systems and the impact of trade processes on smaller jurisdictions.

According to the rules of procedure for the Parliamentary Conference on the WTO, the Commonwealth Parliamentary Association (CPA) is one of the international organisations represented on the Steering Committee. The following CPA Branches are also currently represented on the Steering Committee of the PCWTO: Botswana, Cameroon, India, Singapore, South Africa, and Tanzania. The Co-Chair of the Steering Committee of the PCWTO is Hon. Mensah-Williams, Chairperson of the National Council of Namibia.

The Steering Committee also discussed recent developments at the WTO, the follow-up to the 2017 annual session, and the forthcoming 2018 annual session of the Parliamentary Conference on the WTO, due to take place in Geneva on 6 and 7 December 2018.

CPA India Region Chairperson launches North East Chapter of Speaker's Research Initiative at 17th annual CPA India Region Zone III Conference in Assam

On 8 October 2018, the North East Chapter of Speaker's Research Initiative (SRI) was inaugurated by the CPA India Regional Chairperson and Speaker of the Lok Sabha, India Parliament, Hon. Sumitra Mahajan, MP at the 17th annual CPA India Region Zone III Conference in Guwahati, the capital city of Assam. Inaugurating the SRI North East Chapter, the Speaker said that it is important for the legislators and Parliamentarians to be equipped with authentic and up-to-date information on critical issues of governance so as to reflect the hopes and aspirations of the people on the floor of the House.

Speaker Mahajan explained that the SRI was established in the Lok Sabha in July 2015 to focus on identifying core areas of long term, strategic policy; to generate high level research inputs; and to arrange interaction of Members of Parliament with domain experts for information dissemination and capacity building. The popularity of SRI has even reached beyond the shores of India. The Speaker reported that the Presiding Officers of North Eastern States had passed the Imphal Resolution in 2017 which urged the establishment of a Chapter of SRI based at Guwahati. The actualization of SRI North East Chapter would provide an opportunity to the legislators and policy makers of the North East Region of India to find acceptable solutions to the vexed issues and to take the region on the path of rapid development.

Earlier, in her inaugural address to the conference, the CPA India Regional Chairperson and Speaker of the Lok Sabha said that the North East Region occupies a pride of place in the country and is one of the most diverse regions of Asia and a meeting point of many communities, faiths and cultures. The entire North East Region of India has been richly endowed with the bounties of nature and blessed with a rich and composite cultural heritage. Thus, while safeguarding the distinctive ethnic and cultural identity of the people of the North East Region, it is equally important to bring about emotional integration between the people of the North East and the rest of the country.

Further, the connectivity of the North East Region by roads, railways and airports would greatly enhance the growth potential of this resourceful region. Appreciating the significant contribution

Report by Dr Jayadev Sahu, CPA India Union Branch/Parliament of India.

of the women of the North East in various fields, Speaker Mahajan highlighted the achievements of many sportspersons belonging to the North East Region.

The Governor of Assam, Prof. Jagdish Mukhi said that the Commonwealth Parliamentary Association is the fusion of diverse languages, values, culture, creed, colours, tastes, tradition and religion and would also be helpful in fostering the excellent bond amongst the Commonwealth partners. He also said that the North East Chapter of Speakers' Research Initiative will definitely pave the way for the holistic growth and progress of the Legislative System for the entire region and that the new initiative would play crucial role in helping the legislators in law making, parliamentary debates, good and responsive governance and respond to the ever-increasing complex issues of national and international importance.

The Speaker of the Assam Legislative Assembly and CPA Executive Committee Member for the India Region, Hon. Hitendra Nath Goswami attended the conference along with the Speakers of Tripura and Arunachal Pradesh, the Minister of Parliamentary Affairs for Nagaland and Tripura and many other Members. Two main themes, *Skills Development for Sustainable Growth of Organic Farming in North East Region* and *Connectivity for Economic Development of North East Region* were discussed in the working sessions of the two-day CPA India Region Zone III Conference.

CPA India Region Chairperson backs simultaneous national Parliamentary and State Assembly elections at CPA India Region Zone IV Conference in Himachal Pradesh

The Commonwealth Parliamentary Association (CPA) India Regional Chairperson and Speaker of the Lok Sabha, India Parliament, Hon. Sumitra Mahajan, MP has backed the concept of '*one-nation, one-election*', simultaneous national Parliamentary and state Assembly elections in India, stressing that it would be beneficial for the nation. It was recognised that such a move would not be without opposition and constitutional hurdles in order to align the different elections across India.

The CPA India Regional Chairperson was speaking at the opening of the two-day CPA India Region Zone IV Conference and workshops on 22 and 23 September 2018 in Shimla, Himachal Pradesh, India, hosted by the Speaker of the Legislative Assembly of Himachal Pradesh, Hon. Rajeev Bindal and the CPA Himachal Pradesh Branch.

The opening of the conference saw speeches by Hon. Jai Ram Thakur, Chief Minister of Himachal Pradesh and Hon. Mukesh Agnihotri, Leader of the Opposition. The CPA India Regional Conference also discussed the effects of the national e-legislative system in order to reduce assembly costs and the increased consumption of narcotics by the general public and its side-effects and solutions.

The CPA India Region comprises the national Parliament of India (Rajya Sabha and Lok Sabha) and thirty-one state and provincial legislatures across India as well as being one of the most populated regions of the Commonwealth. At the 6th biennial CPA India Regional Conference held in Patna, Bihar in February 2018, the CPA India Regional Chairperson announced that four new regional zones would be created in the India Region to conduct zonal regional seminars and conferences for legislators to interact with each regularly across the country in between the regional conferences.

Embracing evaluation for Agenda 2030 is the focus for Parliamentarians at *#EvalColombo2018* in Sri Lanka

Over 100 Members of Parliament from 70 Parliaments globally, with many Commonwealth Parliaments and Legislatures represented, as well as international agencies, evaluation experts and civil society organisations, attended the first Global Parliamentarians Forum for Evaluation (GPFE) *#EvalColombo2018* global conference in Sri Lanka from 17 to 19 September 2018 on the theme of '*Responsible Parliaments – Embracing Evaluation for Agenda 2030*'.

Over the last ten years, interest has grown steadily amongst Parliamentarians about the role of evaluation as a source of evidence for decision-making on national policy making and development and in appraising progress towards the Sustainable Development Goals. Evaluation provides Parliamentarians with robust evidence on the performance of policies and programmes and allows them to demonstrate achievements, learn from challenges and be accountable and effective leaders.

At the opening of the GPFE forum, Hon. Maithripala Sirisena, the President of the Republic of Sri Lanka said that *"As MPs, we have a great responsibility on our shoulders and a priority to the SDGs. For this data, information and statistics have to be used."* Hon. Ranil Wickremesinghe, the Prime Minister of the Republic of Sri Lanka said that *"evaluation is necessary. We will introduce an evaluation culture in Sri Lanka as policy without evaluation puts a huge taxation burden on the people and no return on investment."*

The Speaker of the Parliament of Sri Lanka, Hon. Karu Jayasuriya, MP addressed the forum and the Commonwealth Parliamentary Association (CPA) was represented by many Commonwealth Parliamentarians attending the forum along with Ms Meenakshi Dhar from the CPA Headquarters Secretariat. Hon. Kabir Hashim,

Minister of Public Enterprise Development in Sri Lanka and the Chair of the GPFE recalled the milestones of the Global Parliamentary Forum from 2008 where policy makers were engaged in evaluation and now there is representation from all over the globe. He said: *"Our vision is that evaluation becomes so embedded in good governance that no policy maker or manager will dare hold an important meeting or reach an important decision without having reviewed relevant evaluation information."*

The Global Parliamentarians Forum for Evaluation (GPFE) together with EvalPartners, the Sri Lanka Parliamentarians Forum for Evaluation, Prime Minister's Office of Sri Lanka, Parliament of Sri Lanka, and the Sri Lanka Evaluation Association, hosted *#EvalColombo2018* to promote demand and use of evaluation by Parliamentarians through dialogue and exchange, and to generate innovative approaches to policy making using evaluation as a tool.

Commonwealth Ministers set out plan for implementation of Leaders' CHOGM 2018 mandates in the margins of 73rd United Nations General Assembly

Commonwealth Foreign Affairs Ministers have reiterated their commitment to work with the Commonwealth Secretariat to deliver the range of initiatives agreed at the Commonwealth Heads of Government Meeting (CHOGM) in April this year. Chaired by Rt Hon. Jeremy Hunt, MP, the United Kingdom's Secretary of State for Foreign and Commonwealth Affairs, the Commonwealth Foreign Affairs Ministers Meeting (CFAMM) was held in the margins of the 73rd United Nations General Assembly (UNGA) in September 2018.

Commonwealth Ministers reflected on the CHOGM 2018 themes of a fairer, more prosperous, more sustainable and more secure future. They examined progress made with the implementation of leaders' mandates. These include boosting trade and investment through a connectivity agenda to support global growth, create employment and promote sustainable development, and addressing climate change through initiatives such as the flagship Commonwealth Blue Charter programme, set up to protect our ocean from the effects of climate change, pollution and over-fishing.

"The meeting of Commonwealth Foreign Ministers is a testament of the power of multilateralism in a week at the United Nations General Assembly where the big question of the value of multilateral organisations was asked and answered," said the Commonwealth Secretary-General, Rt Hon. Patricia Scotland. *"Clearly countries have seen for themselves the great socio-economic benefits of their Commonwealth membership: the convening power, comraderadeship, cooperation and the pool of resources to help them achieve their SDGs."*

During the week of the UNGA, a meeting of the Commonwealth Ministerial Action Group (CMAG), a group set up by leaders to provide support to member states with their efforts to uphold the Commonwealth's shared values and principles, also took place.

CPA Canada Branch promotes Commonwealth partnerships in South Africa and Kenya

The Canada Federal Branch of the Commonwealth Parliamentary Association (CPA) has promoted Commonwealth partnerships during bilateral visits to the Parliaments of South Africa and Kenya from 1 to 8 September 2018. The delegation was led by the CPA Canada Chairperson, Hon. Yasmin Ratansi, MP together with Hon. Anthony Rota, MP, Assistant Deputy Speaker of the Canada House of Commons and Hon. Kerry Diotte, MP. A statement from the CPA Canada Federal Branch said: *"The purpose of the bilateral visits to South Africa and Kenya is to strengthen bonds with our Commonwealth partners and exchange ideas of mutual significance. Our countries will benefit from this visit as Parliamentarians will build on and further develop common areas of interest including: people-to-people ties, governance and democracy, human rights, climate change, development cooperation, regional security and defence as well as trade and investment."*

The CPA Canada Federal Branch delegation visited the CPA South Africa Branch at the Parliament of South Africa where they met with Hon. Baleka Mbete, MP, the Speaker of the National Assembly of South Africa, together with Hon. Lechesa Tsenoli, Deputy Speaker of the National Assembly; Hon. Angela Thoko Didiza, MP, Chairperson of the Commonwealth Women Parliamentarians (CWP) Africa Region; and Hon. Lindiwe Maseko, MP to discuss many CPA and CWP issues and the strengthening of the ties between the two Parliaments.

The CPA Canada Federal Branch delegation also met with two House Chairpersons of the National Council of Provinces Committees (NCOP), Hon. Archibold J. Nyambi, MP and Hon. Masefako Dikgale, MP to discuss the functioning of the NCOP. The CPA Canada Federal Branch delegation discussed the political situation in South Africa with Hon. John Steenhuisen, MP, Chief Whip of the Official Opposition of the National Assembly of South Africa.

During their visit to South Africa, the three Members of the Canadian Federal Parliament also met a number of civil society organisations including the Institute for Justice and Reconciliation; African Institute for Mathematical Sciences; and the Parliamentary Monitoring Group of South Africa.

Following their visit to South Africa, the CPA Canada Federal Branch delegation travelled to the CPA Kenya Branch where they met with Hon. Justin B. N. Muturi, MP, Speaker of the National Assembly of Kenya and newly elected Chairperson of the CPA Africa Region to discuss the strengthening of ties between the two CPA Regions and both CPA Branches in Canada and Kenya.

The CPA Canada Federal Branch delegation met with Senator Hon. Ken Lusaka, Speaker of the Senate of Kenya, accompanied by other Senators, to discuss the functioning of the Senate of Kenya and reinforce the good relations between the Canadian and Kenyan Parliaments.

During a busy schedule, the CPA Canada Federal Branch delegation also met Members of the Departmental Committee on Defence and Foreign Relations at the Parliament of Kenya to discuss various issues of the bilateral relations between Canada and Kenya and the regional situation in East Africa; held a meeting with the Members of the Kenyan Branch of the Commonwealth Women Parliamentarians (CWP) to discuss gender equality and the various challenges facing the CWP in Kenya; visited the Aga Khan University Hospital Nairobi and had a meeting to discuss trade and investment opportunities in Kenya.

CAPAM Conference in Guyana highlights climate governance and role of Parliamentarians

The President of the CPA Guyana Branch and First Vice-President and Prime Minister of Guyana, Hon. Moses Verasammy Nagamootoo has spoken of the criticial role that Commonwealth Parliamentarians can play alongside governments, ministries and the public sector to ensure that climate considerations are not separated from economics to improve the lives of global citizens. Guyana's Prime Minister also spoke about the need for a combination of both international cooperation and local approaches to tackle these global issues.

Hon. Moses Verasammy Nagamootoo said: *"Climate change is real and all sustainable development will require partnerships and collaborations across borders. This reveals the reality of cross-border implications and the need for inter-state cooperation as climate change can affect countries that may not themselves be internally vulnerable. However, while CAPAM will invariably play its part in assisting with transformational change and international cooperation, a sustained, local multi-stakeholder approach to any green agenda is necessary for its effective and efficient implementation."*

With many regions experiencing both shared and unique climate challenges, the conference heard that effective and efficient climate governance must occur across government systems and through a multitude of sectors and industries in order to better tackle complex environmental matters. Within this context, nations and their public service professionals are increasingly being called upon to urgently address, mitigate and proactively manage this global transformation.

The Commonwealth Association for Public Administration and Management (CAPAM) 2018 Biennial Conference took place in Guyana from 22-24 October 2018 on the theme of '*Transforming the Public Sector for Climate Governance*'. The biennial conference also heard from Tan Sri Dr. Ali Hamsa, President of the CAPAM Board of Directors and former Chief Secretary to the Government of Malaysia; Ms Gay Hamilton, CAPAM Executive Director and Chief Executive Officer; and Ms Katalaina Sapolu from the Commonwealth Secretariat.

HUMAN RIGHTS IN THE MODERN ERA: THE VIEW FROM THE UK COMMONWEALTH MINISTER

Lord Ahmad of Wimbledon is the UK Minister for the Commonwealth and UN and the UK Prime Minister's Special Representative on Preventing Sexual Violence in Conflict. He has previously been the Minister for Aviation and Trade, for Skills and Aviation Security, for Countering Extremism, and Local Government and Communities. He was a Government Whip and Lord in Waiting to HM The Queen. He was previously a Councillor and Cabinet Member in the London Borough of Merton and had a 20 year career in the City of London working in banking and finance.

This year we celebrate the 70th anniversary of the Universal Declaration of Human Rights. Seven decades on, it remains the cornerstone of international human rights.

1948 laid the foundation of today's world in many ways. It was the year in which the UN World Health Organisation was founded. It saw the forerunner to NATO, the Western European Treaty, created in response to the rise of the Soviet threat. And it saw the General Agreement on Tariffs and Trade come into effect.

As many readers will know, it was also the year of the first Commonwealth Parliamentary Conference. For 70 years, Commonwealth Parliamentarians have come together in various member countries to discuss global political issues, share good practice, and build connections with our peers that reinforce the democratic foundations of our countries.

I believe one of the topics for the next Commonwealth Parliamentary Conference in Uganda should be the important and unique role of Parliamentarians in realising the ideals and aims of the Universal Declaration of Human Rights and the Commonwealth Charter.

As a Parliamentarian myself, as well as the UK's Minister for Human Rights, I feel a strong responsibility to ensure that the laws we draft, scrutinise, and enact help to enshrine human rights good practice into law. We are entrusted by the people we serve to make sure that human rights become legal rights, and that when those rights are breached, remedies are available and accessible to all.

My role is also about both promoting and protecting human rights and standing up for the inherent dignity of individuals around the world.

Standing up for human rights, whether at home or abroad, is not always an easy thing to do. But it is the right thing to do. It is also the smart thing to do, because there is a clear link between people's ability to enjoy their human rights and societies that are stable, secure and prosperous.

The UK's human rights work covers a broad range of areas.

Gender Equality

One of these is enhancing gender equality, to ensure more women can play an equal and positive role in society and have a say in the policies that affect their lives, communities and the progress of their countries.

Boosting girls' schooling is vital. Firstly and simply because it is the right thing to do. Also when girls are given a quality education, they are better equipped as adults to get involved in all walks of life and contribute as equals. With over 130 million of the world's girls out of school, and almost half of them living in Commonwealth countries, there is a huge amount of work to do.

That is why we were delighted that, at the Commonwealth Heads of Government Meeting (CHOGM) this year, leaders endorsed the goal of 12 years of quality education for all by 2030. The UK committed an additional £212 million in development funding for the '*Girls Education Challenge*', to help over a million girls in developing countries across the Commonwealth to receive 12 years of quality education. Together with Kenyan Education Minister, Amina Mohamed, the British Foreign Secretary is co-chairing a Platform for Girls' Education to support advocacy, action and accountability on this issue ahead of CHOGM 2020 in Rwanda.

There is clear evidence that peace processes are more successful and long lasting when women take part. That is why at CHOGM 2018, the UK also committed £1.6 million to increase their participation, including through the development of the Women Mediators across the Commonwealth Initiative. The work is being coordinated by the international peacebuilding NGO Conciliation Resources, and seeks to build networks within which women mediators can share best practice and learn from each other's experiences – both positive and negative. It will include over 50 peacebuilders from diverse backgrounds, including women's human rights defenders from across the Commonwealth.

> "Standing up for human rights, whether at home or abroad, is not always an easy thing to do. But it is the right thing to do. It is also the smart thing to do, because there is a clear link between people's ability to enjoy their human rights and societies that are stable, secure and prosperous."

Many welcomed the strong commitment made by the UK Prime Minister at CHOGM 2018 to support countries which want to address legislation that discriminates on the grounds of gender or sexual orientation. We are working closely with the Equality and Justice Alliance, a civil society coalition, to deliver that commitment.

Ultimately, we want to empower more women to drive change in their home countries and on the world stage. So I am pleased that, in this centenary year of women's suffrage in the UK, we are hosting the '*Women MPs of the World*' conference in the UK Parliament in November, to celebrate their achievements and discuss how to raise their profile, and encourage more women to follow in their footsteps.

Preventing Sexual Violence in Conflict

Our human rights work also includes preventing sexual violence in conflict and tackling the consequences of it. In the UN General Assembly last year, in my role as the UK Prime Minister's Special Representative on this issue, I launched the '*Principles for Global Action*', which are designed to prevent and address the stigma associated with conflict-related sexual violence.

Since then, a series of workshops have taken place in a range of countries, including within the Commonwealth. Each of these workshops has produced action plans on how to address the issue. The UK has continued to play a leading role in this field; UK funding is enabling landmark prosecutions, better trained peacekeepers, tools for the judiciary, and our focus on stigma has placed survivors at the centre of PSVI work.

Freedom of Religion or Belief

We also stand up for people's freedom to practice a faith, to change one's faith and to hold no faith at all. This universal human right is intertwined with other rights, such as freedom of expression and association. Where freedom of religion or belief is violated or constrained, other human rights are also threatened.

I believe that the religious diversity of a nation is a strength, not a weakness, and that the diversity of religious belief in Commonwealth countries enriches our societies. To emphasise that point, instead of talking about religious 'tolerance' and promoting understanding of faith, I would like us all to raise the bar and talk of religious 'respect', because we can only really benefit from our diversity if we respect each other's differences, no matter what they are.

Unfortunately, there are too many instances where this is not the case: 75% of the world's population are estimated to be living in countries whose administrations and governments restrict their religious freedoms. The terrible persecution suffered by the Rohingya community in Myanmar is the latest example - and one of the worst the world has seen.

When I travel to other countries in my role as UK Minister for Human Rights and the UK Prime Minister's Special Envoy on Freedom of Religion or Belief, I actively seek out those who hold different religious beliefs from my own. In doing so, I seek to highlight what we have in common as well as understand and learn from our differences.

It is something that we, as the Commonwealth of Nations, should collectively do: embrace our strength as a Commonwealth of Religious Diversity and offer it as a model for the world. Our Charter provides the basis, by emphasising that religious freedom is essential to the development of free and democratic societies – something that the Heads of Government reiterated in their communique in April. We should unite against bigotry and to those in our family of nations who do not respect those freedoms we should be clear in calling out such violations.

Modern Slavery, Forced Labour and Human Trafficking

Another priority area for the UK, and one that the UK Prime Minister has personally championed for many years, is tackling modern slavery. It is a sad fact that in this day and age, no country – the UK included - can claim to be free of this heinous crime. We are working very hard to tackle it at home and abroad.

That includes working with businesses to keep forced labour out of their supply chains; training public sector workers and others to spot the signs and report their concerns to a dedicated hotline; giving our police, prosecutors and

Above: UK Minister of State for the Commonwealth and UN, Lord Ahmad of Wimbledon speaks at the recent launch of the updated Commonwealth Parliamentary Association Recommended Benchmarks for Democratic Legislatures which provide a framework for Commonwealth Parliaments in line with the Commonwealth's founding principles and democratic standards.
See page 268 for news story.

judges access to training in how to deal with the criminals who carry out this disgusting trade in human lives. Crucially, it also involves tackling the stigma that survivors so often suffer, and which causes them to be rejected by their communities, their faith groups, and even their own families.

Modern slavery is an international criminal enterprise. The only way to stop it is to take coordinated action with countries at all points of the chain. At the UN General Assembly a year ago, the UK Prime Minister launched a 'Call to Action' to end forced labour, modern slavery and human trafficking. We asked governments around the world to sign a commitment to work together and take action against these crimes. So far, over 85 countries have signed up, including many in the Commonwealth. If your Government has not yet done so, I would urge you to use your influence to press it to join us.

Human Rights Defenders

As well as the 70th anniversary of the Universal Declaration of Human Rights, 2018 is also the 20th anniversary of the UN Declaration of Human Rights Defenders. These brave men and women work selflessly to protect the rights of others, and often become the target of prejudice, persecution or intimidation by those who feel threatened by their work. Every year, hundreds of human rights defenders are imprisoned, attacked or even killed.

This has to be unacceptable in any country that calls itself a democracy. This is why last year the UK issued updated guidelines on working with human rights defenders to all our diplomatic missions. We worked with civil society to draw up the guidelines, which provide practical advice to our Embassies and High Commissions on how they can take action to help and support the important work done by human rights defenders. Taking local circumstances into account, each post will use these guidelines to support human rights defenders, from making representations on specific cases to providing safe spaces for meetings.

The Future

Given all the human rights issues I have outlined above, and the many others I have not mentioned, it would be easy to argue that the UN Declaration of Human Rights has not had the effect its authors intended.

It is true that we have a long way to go to achieve the noble ideals expressed in it, about the *'inherent dignity and equal and inalienable rights of all members of the human family to enjoy freedom of speech and belief and freedom from fear and want'*. But no matter how distant our goal may seem, we must not lose heart. Those ideals are as worthwhile today as they were 70 years ago. As Parliamentarians representing nearly one in every three people on this planet, it is our special duty to strive to realise them.

We can draw on the enthusiasm, expertise and the appetite for action that I know exists among our governments, businesses and civil societies. I have seen it for myself at CHOGM, at the excellent Commonwealth Parliamentary Forum hosted by the CPA UK in February, at the UN Human Rights Council, at the UN General Assembly in New York, and elsewhere.

For our part, the UK, as Chair-in-Office of the Commonwealth, will continue to work hard to promote and defend the principles enshrined in the Universal Declaration. That includes working with the Commonwealth Parliamentary Association, the Commonwealth Local Government Forum and the Westminster Foundation for Democracy to promote more inclusive and accountable democracy; offering support to states who wish to change discriminatory legislation on the grounds of gender and sexual orientation; supporting the Commonwealth Forum of National Human Rights institutions as they share best practice; and supporting the voices of small states on the world stage.

As both a proud citizen of the Commonwealth and a strong advocate for it, I emphatically believe that our unique family of nations can be a powerful force for good. At CHOGM 2018, our leaders are committed to creating a world for our citizens that is fairer, more secure, more prosperous, and more sustainable. It is only by working together – business, Parliamentarians, civil society and government as one – that we can achieve that essential endeavour, and realise the noble ideals of the Universal Declaration and the Commonwealth Charter.

By putting together our wealth of common interests and common values, and our rich diversity of culture, faith, talent and experience, we can bring about positive change - not just in our own countries, but across the world.

"Those ideals are as worthwhile today as they were 70 years ago. As Parliamentarians representing nearly one in every three people on this planet, it is our special duty to strive to realise them."

REFLECTIONS ON THE ROLE OF COMMONWEALTH PARLIAMENTARIANS IN SAFEGUARDING POLITICAL AND CIVIL SPACE

Rt Hon. Ann Clwyd, MP is a Member of the UK Parliament, and has represented the Cynon Valley, a former mining community in the South Wales Valleys, since 1984, after a career in journalism and broadcasting. Whilst an MP, she has been particularly interested in human rights, foreign affairs, Parliamentary diplomacy, women's issues, health issues and the arts. She is currently the Vice-Chair of the Foreign Affairs Select Committee and has chaired the All-Party Parliamentary Human Rights Group (PHRG) since 1997. She was the Special Envoy to the UK Prime Minister on Human Rights in Iraq from 2003 to 2010.

The 70th Anniversary of the Universal Declaration of Human Rights is a welcome opportunity, not only to celebrate its adoption and the progress made since in realising the rights of millions of people the world over, but also to reflect on its continuing relevance today – including for Parliamentarians throughout the Commonwealth.

As Parliamentarians, we remain the guardians and protectors of fundamental rights, and always need to ensure we are fulfilling our many responsibilities, as legislators, representatives and role models, to uphold the rights set out in the Declaration, particularly as regards safeguarding political and civil society space.

The Universal Declaration was, of course, the product of a particular time in history - a way of coming to terms with, and envisioning an alternative to, the horrors of the Second World War, when the wholesale violation of fundamental rights in a number of countries dragged much of the world into an armed conflict which resulted in the death, abuse and exploitation of millions, and even an attempt to annihilate an entire people.

The Declaration was meant to herald the advent of a new world, one in which there would be a common understanding of, and respect for, fundamental rights, including the rights to life, liberty and security of the person; the right not to be subjected to torture or other cruel, inhuman and degrading treatment; equality before the law; the presumption of innocence; freedoms of religion, expression, assembly, and association; the right to education and the right to an adequate standard of living.

It was also one of the first real attempts to elaborate what human rights meant in practice – or as it says in the Declaration's preamble, to set out *"a common standard of achievement for all peoples and all nations."*

But the Declaration is not just a relic: it remains a contemporary benchmark for human rights today. Everyone, at all times, wants to be treated with dignity and to live in secure, peaceful, inclusive and prosperous societies.

The importance of these rights has also been universally recognised by states, which are now obliged to respect, promote and protect them, including through the adherence to an even more detailed treaty system and related mechanisms which have since evolved. And for all countries, the realisation of fundamental rights continues to be a work in progress.

There is much to celebrate: many more people can elect their representatives and participate in politics; many more can participate freely in peaceful demonstrations and come together with the like-minded to advance a particular cause or policy; many more children go to school; many more have an adequate standard of living; and many have access to some form of remedy or redress when their fundamental rights are violated.

And yet, rights continue to be systematically violated, resulting in many victims. Right now, the plight of the Rohingya, the Syrians, the Yemenis, and refugees come immediately to mind.

Parliamentarians have a special role to play in raising awareness of, upholding, and protecting the fundamental rights enshrined in the Universal Declaration, and the anniversary is an opportune time to remind ourselves of our duties in that regard, and particularly to keep political and civil space open and inclusive.

We cannot escape the growing trend of authoritarianism the world over which has resulted in peaceful dissent, criticism and scrutiny being crushed in too many countries – and the shrinking of space for political opposition and civil society.

"Parliamentarians have a special role to play in raising awareness of, upholding, and protecting the fundamental rights enshrined in the Universal Declaration, and the anniversary is an opportune time to remind ourselves of our duties in that regard, and particularly to keep political and civil space open and inclusive."

Democracy is, of course, built upon the non-violent mediation of competing needs, opinions and beliefs, as well as inclusive and participatory governance. That requires space for different people with different backgrounds and views to have a meaningful stake and part in their governance. Without this space being created and protected, underpinned by respect for the fundamental freedoms enshrined in the Declaration, such as freedom of expression, association, and assembly, democracy cannot exist.

Parliamentarians are, and must be, at the heart of any democratic system – as the elected representatives of the people. It is vital therefore that we ensure the political space in our Parliamentary systems is used for the benefit of all, and allows us to represent all our constituents, and to bring up and address their rights violations.

Effectively we are messengers and conduits – from our constituents to relevant authorities, who do not always get things right and who, whether intentionally or not, may be responsible for serious rights violations. We need to make sure we use our privileged access to speak out, particularly for those who may otherwise remain voiceless.

> **"If we as Parliamentarians truly value democracy and fundamental rights, we have to value opposition, criticism, and equality before the law. Peaceful political opponents and critics therefore need to be respected, as well as given the space within Parliament to be heard and to engage."**

As legislators, we must also check that our domestic legislation complies with our country's national and international human rights obligations, and fosters an open, inclusive and enabling environment for political activists and civil society.

Legislation which makes it harder – or even unlawful – for people to scrutinise and criticise Government policy, for civil society to organise and fund itself, for trade unions to protect their members does not respect fundamental rights, and does not result in freedom, security and equality.

As Parliamentarians we need to remember that whatever short-term gains a Government may have in rigging its legal system to shut down criticism and entrench itself in power – in blatant disregard of the Universal Declaration and related treaties, peace, security and prosperity are likely to be sacrificed in the longer-term. We have to be vigilant therefore against attempted and unwarranted encroachments by the Executive into political and civil society space.

The way we conduct our business in Parliament, whether as representatives or legislators, is also important. We have to ask ourselves whether our Parliamentary discourse is rooted in equality, liberty and justice for all, or is potentially inflammatory – seeking to divide, destabilise and endanger. Any attempt to single out any group or minority as less deserving of fundamental rights – and/or less worthy of political inclusion - should immediately ring alarm bells.

I understand the passion behind politics. It is what gets us, and keeps us, going day after day – despite the many challenges and set-backs we face. Most of us enter into politics because we are genuinely passionate about improving conditions for our constituents, communities and countries – and believe that our political approach is the best way to achieve this. We therefore want to persuade and encourage others to buy into our ideas, policies and programmes.

But for democracy to work, we need to be tolerant of diverse points of view. People have to be free to express these, to meet with others to discuss and explore these, and to join with others to criticise and protest peacefully when they do not agree with the Government's and/or our direction of travel.

If we as Parliamentarians truly value democracy and fundamental rights, we have to value opposition, criticism, and equality before the law. Peaceful political opponents and critics therefore need to be respected, as well as given the space within Parliament to be heard and to engage.

That means not delegitimising, stigmatising or demonising them – by referring to them in derogatory terms, such as idiots, enemies, traitors or even terrorists. That means arguing on the basis of opinions and policies, not about legitimate political affiliation, background, ethnic origin, faith or race. That means working together when an issue or concern transcends party politics.

I am sad to say that not all UK Parliamentarians have adhered to these stipulations, particularly in recent months during the particularly heated debate about the country's planned departure from the European Union. I am concerned that the disparaging language and violent imagery being used now will only serve to lower the bar in future in terms of what becomes the norm, and is deemed acceptable, in political debate.

As regards our Parliamentary procedures: we have to ask ourselves whether they allow the opposition and backbenchers to play a meaningful role in Parliament – can these Parliamentarians, for example, question Ministers, lead and participate in Select Committees, and table debates and questions?

We also have to ask ourselves whether they discriminate, purposefully or not, against any particular group or individuals. If so, we need to look again so we can allow the widest range of people to stand for Parliament and fulfill their Parliamentary mandates, and to follow and get involved in what Parliament is doing.

In the UK Parliament, diversity is improving, as is outreach, including through social media - but that doesn't mean we don't have further to go and a lot to learn. All of us within the Commonwealth should be identifying and sharing best practice in this area.

In terms of wider engagement with civil society in its broadest sense, such as academics, NGOs, community leaders, faith-based groups, indigenous groups, charities, and trade unions, I and many of my colleagues meet with as many of them as we can, as often as we can, to find out what they think about draft policies and how they are being affected by current policies. These exchanges with those with relevant expertise or experience are, in fact, welcomed because they allow us to develop broader perspectives and greater expertise on topical issues and concerns.

I understand the considerable time pressures that we as Parliamentarians face but strongly believe we have to make

THE ROLE OF COMMONWEALTH PARLIAMENTARIANS IN SAFEGUARDING POLITICAL AND CIVIL SPACE

the time and the space for civil society – and to constantly stress the legitimacy of their work. It is the right thing, and the smart thing: another very tangible way of upholding the fundamental rights set out in the Declaration, and also making us much better at what we do.

Like it or not, we are potential role models in our communities too, and must be mindful of using that influence in a positive way – including in how we speak to and treat each other, our constituents, civil society representatives and the wider public.

But being a role model is more than that: we have to be brave – by engaging with, and opening up political space for, those in our societies who are marginalised or persecuted, and championing their rights.

It takes courage and determination to support those who are looked down upon and even ostracised by wider society. Tragically every society seems to have engrained prejudices against certain people, often those on the margins, such as the homeless, substance abusers, refugees and/or prisoners.

It takes courage and determination to get people to recognise our common humanity, to understand the universality of rights, and to appreciate that political space has to be truly inclusive.

In this light, and in the centenary of his birth, let us remember and honour Nelson Mandela, an individual and latterly a Parliamentarian who personified the ideals of the Declaration and, in his own words, strived to uphold "*the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities.*"

There are also many invisible Mandelas, referred to more widely as human rights defenders, often risking their freedom and sometimes even their lives to uphold the rights of others, including the most vulnerable, who merit and require the recognition and support of Parliaments and Parliamentarians, particularly given the 20th anniversary of the UN Guidelines on Human Rights Defenders.

Finally, given that Parliamentarians are at the heart of democracy, and can do so much to ensure that fundamental rights are promoted and respected, I would like to emphasise the importance of Parliamentary solidarity, and the need to work together as Parliamentarians to support and help protect our colleagues elsewhere whose rights are being violated and who cannot defend themselves.

Governments intent on monopolising power do not want strong Parliaments and Parliamentarians, they want Parliamentary puppets, limited to peddling Government propaganda, rubber stamping directives, and imposing the Government's authority, however self-serving and whatever abuses and atrocities may result. Those Parliamentarians who resist, by striving to fulfil their mandates, exercise their fundamental rights and uphold those of others, in defiance of a Government's or leader's wishes, often become human rights victims themselves.

By raising awareness of and taking action on these cases, we, as fellow Parliamentarians, not only help our individual colleagues, but also their constituents and their wider communities. By upholding the fundamental rights set out in the Universal Declaration and protecting political space in these situations, we may also be helping to avert longer-term problems, and, in the worst cases, to prevent a gradual descent into full-blown dictatorship, kleptocracy or war.

We should speak up therefore for our Parliamentary colleagues around the world who are being persecuted, prosecuted on politically motivated charges, arbitrarily detained, ill-treated or tortured, or have even been disappeared or murdered, in the knowledge that the silencing of one Parliamentarian's voice is often the silencing of the constituents and communities they represent, and a brazen attempt to close down political space.

On the 70th anniversary of the Universal Declaration of Human Rights then, let us acknowledge and be inspired by all those Parliamentarians we know and know of, who have done so much to make the rights in the Universal Declaration really mean something. Let us also remind ourselves of our individual and collective responsibilities to keep the vision of the Universal Declaration of Human Rights alive, particularly by keeping political and civil space open, during a time when authoritarianism, and other damaging political trends, seem to be gaining ground.

A TRUE ADVOCATE FOR HUMAN RIGHTS: TRIBUTE TO NELSON MANDELA

Hon. Angela Thoko Didiza, MP is a former Minister of Agriculture and Land Affairs (1999) and Minister of Public Works (2006) in the South African Government. She was selected as one of the Young Global Leaders by the Forum of Young Global Leaders in 2004. She is currently a Project Consultant for the Archie Mafeje Research Institute at the University of South Africa. She has also served as a representative on the Judicial Services Commission since June 2014. She is also the Chairperson of the CPA Africa Region's Commonwealth Women Parliamentarians (CWP).

I bring you greetings from South Africa. On this day (18 July 2018), many people are spending time engaged in activities that honour Nelson Mandela that will make an impact in people's lives.

As a Member of Parliament, I am equally honoured that we, as the Parliament of South Africa, are hosting young people in partnership with Nelson Mandela Children's Fund in hosting a Youth Summit which is currently in progress. This Summit is part of the annual activities of our Parliament in which we listen to our children and young people on what their views are about our works as public representatives. They choose their Presiding Officers and run the Parliament on this day by themselves.

So, today I am privileged that I am with you today as young leaders of Kenya to reflect together on the life of late President, Nelson Mandela. Tata Nelson Mandela believed that the mirror in which a society can be seen is the way in which it treats its children. To quote him verbatim, he said: *"There can be no keener revelation of a society's soul than the way in which it treats its children."* He also said: *"Our children are our greatest treasure. They are our future. Those who abuse them tear at the fabric of our society and weaken our nation."*

Today, you have spoken to us and we have listened. We have heard your dreams, your aspirations and your concerns. We also heard your commitment on what you will do as part of your contribution to build a better world. Like Mandela, ours will be to create an enabling environment in which you can turn your dreams into visions and ensure that your vision of a better world becomes a reality.

Mandela was a child like you. Born of the Madiba Clan, amongst the nation of Abathembu, he was shaped by the history of his people. At the age of twelve, when he heard the elders tell of the stories of his ancestors' valour during the wars of resistance, he dreamt of making his own contribution to the freedom struggle of his people. As he grew up, he experienced the challenges of his own people, he understood their pain and committed himself to do something to change the course of history, and became a freedom fighter for his people and the oppressed people of the world.

To further his childhood dream, he joined the African National Congress and spent his entire life as a member working for the liberation of our country. It is this movement through its policies and values that shaped Madiba and many of his comrades before him and after to be the person we all celebrate today.

In reflecting on his life, there are few things that came to my mind. These are issues that in my young age and adult life, I have continued to grapple with. How was Mandela's childhood life, how did it contribute to the Mandela we later got to know? What moved him to sacrifice his all for humanity and be prepared to lay down his life if it was necessary? Where did he find the strength to forgive and work for peace even after his almost lifelong imprisonment? What can us as a collective do to create a better life for all our people inspired by the life of Mandela and those of his generation?

Education during his early life

Born in the Royal Household with a possibility of being a traditional leader, one could say he was privileged. But, growing up in that household, exposed him to life and conditions of his people. At an early age he was educated orally about his traditions, the history of his own ancestors and their contribution to the struggle for freedom. He learnt the skills of leadership as he observed the traditional court system and how it adjudicated cases and mediated on conflicts that finally required the intervention of the Royal Household. Through this traditional education, Mandela became conscious of his peoples struggles and aspirations. He was moved by their quest for a better life through their own struggles of resistance. Mandela was therefore rooted amongst his people.

> "Mandela believed in the power of education and its contribution to development. In his own words he said 'Education is the great engine of personal development. It is through education that the daughter of a peasant can become a doctor, that the son of a mineworker can become the head of the mines, a child of farm workers can become a president of a great nation'."

Formal Schooling

Peter Rule writing on what Nelson Mandela can teach us about lifelong, dialogue-rich learning says that the second layer was a formal primary and secondary schooling at Wesleyan mission institutions. Although he rebelled against colonial attitudes and authorities, he retained an abiding legacy mission education, a Christian value system of service, decorum and good conduct, and the English language as a unifying force against ethnic divisions.

At the University College of Fort Hare, he was exposed to African role models like academic, author and African National Congress stalwart, Z. K. Mathews. At the University of Witwatersrand in Johannesburg he met progressive law students of different races and backgrounds. His professional education included his law degree but more profoundly, his practical law experience.

As a legal clerk at the only white law firm that would take on black employees, he learnt from his mentor Lazar Sidelsky 'to serve our country' and that law could be used to change society.

Clearly, we can see from Peter Rule's study that Mandela's education was not only found in formal institutions of learning, but from the community and his engagement with their issues became his biggest classroom. It was in his political movement that he took part in political education which helped him to learn strategies and tactics of fighting apartheid. It was through dialogue and engagement with his peers in South Africa and abroad that he learnt through the struggles and triumphs of other nations like here in Kenya through your own armed struggle that was and is known as the Mau-Mau uprising.

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Today in our reflections we need to reflect how we can utilise education acquired in our homes, society and schools to change the lives of communities.

In his last speech at the United Nations General Assembly, at its celebration of the 50 years of the Universal Declaration of Human Rights, Mandela had this to say:

"For those who had to fight for their emancipation, such as ourselves who, with your help, had to free ourselves from the criminal apartheid system, the Universal Declaration of Human Rights served as the vindication of the justice of our cause. At the same time, it constituted a challenge to us that our freedom once achieved, should be dedicated to the implementation of the perspectives

contained in the Declaration.

Today, we celebrate the fact that this historic document has survived a turbulent five decades, which have seen some extraordinary developments in the evolution of human society. These include the collapse of the colonial system, the passing of a bipolar world, breath taking advances in science and technology and the entrenchment of the complex process of globalisation.

And yet, at the end of it all, the human beings who are the subject of the Universal Declaration of Human Rights continue to be afflicted by wars and violent conflicts. They have as yet not attained their freedom from fear of death that would be brought about by the use of weapons of mass destruction as well as conventional arms.

As I sit in Qunu and grow as ancient as its hills, I will continue to entertain the hope that there has emerged a cadre of leaders in my own country and region, in my own continent and the world which will not allow that any should be denied their freedom as we were; that any would be turned into refugees as we were; that any should be condemned to go hungry as we were; that any should be stripped of their human dignity as we were."

"I quoted Mandela's speech on the 50th anniversary celebrations of the Universal Declaration of Human Rights at the United Nations because in it, there is hope that Tata Madiba expressed. He was convinced that he leaves behind a calibre of cadres in this country, in this continent and in the world, who will not allow that any should be denied their freedom as we were; that any should be turned into refugees as we were; that any should be condemned to go hungry as we were."

I have quoted at length from our First President of a Democratic South Africa, Tata Mandela, as a reminder of how he thought about freedom and justice for all. It is also a reminder of the failures that we still have, albeit the advances in science and technology that globally we have made. It is also a reminder at how he felt that the human beings who are at the centre of the Declaration of Human Rights remain victims of violent wars, and how they continue to go hungry without food amidst plenty in the world.

It is this quest for human rights that moved Mandela to leave the comfort of his Royal Household to join the struggle for liberation. He understood that when we respect each other's right to humanity we can live in peace. His beliefs on the universality of human rights saw him speak against those who oppress others. He spoke against those who continued to fuel wars and conflict. He chose to work for peace amongst nations and his society. He believed in dialogue and negotiation in resolving problems. It is this belief that saw him forgive his oppressors and thereby liberating them.

Mandela understood that our struggle for freedom was waged by both men and women. He therefore believed that the struggle for women's emancipation was as important as the struggle for freedom and the attainment of human rights for all.

In 1995, President Mandela had this to say when he declared 9 August as a national holiday in South Africa honouring the women of our country: *"We have declared this day a national holiday. This is in celebration of the struggles of the women over the decades and a rejuvenation of our commitment to strive for a society free of all kinds of discrimination, more especially discrimination against women. The Constitution writing process is well underway. As a tribute to the legions of women who navigated the path of fighting for justice before us, we ought to imprint in the supreme law of the land, firm principles upholding the rights of women. The women themselves and the whole of society, must make this a prime responsibility."*

It is in part befitting that as we celebrate Mandela's centenary, we also celebrate Mama Albertina Sisulu's centenary who is one of those legions of women that Mandela referred to in his speech on 9 August 1995. A freedom fighter in her own right, who through her nursing career was moved by the plight of women and children in our country and dedicated her life in creating a better life for all in our country and the world. Common amongst these two noble souls was their quest for a world that honoured its children.

Mandela's life and times reminds us of the need for solidarity amongst nations because he understood the need for the impact of collective activism for change; he knew how solidarity with those who are less privileged in our society can move their struggles to greater heights, because he and the South Africa community benefited from the solidarity of many nations in order for our country to be free.

In his own words, he said: *"The road we have walked has been built by the contributions of all of us. The tools we have used on that road have been fashioned by all of us. The future we face is that of all of us."*

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Seated here, are the future leaders that Madiba believed would not allow that any should be denied their freedom as we were; that any should be condemned to go hungry as we were.

It is with humility that I stand in front of you today to celebrate Nelson Mandela International Day 2018. In conclusion, as we move out of this celebration let us be the legacy and learn from Mandela. Let us always remember his words to us when he said: *"As long as poverty, injustice and gross inequality persist in our world, none of us can truly rest."*

This article is based on a speech given by Hon. Angela Thoko Didiza, MP, (South Africa) to young leaders at a celebration event for Nelson Mandela International Day at the South African Mission in Kenya on 18 July 2018. Nelson Mandela International Day 2018, designated by the United Nations, marked 100 years since the birth of Nelson Mandela and was an occasion to reflect on his life and legacy.

THE ROLE OF PARLIAMENTS IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Seventy years ago, the UN General Assembly adopted the Universal Declaration of Human Rights (UDHR), proclaiming it '*a common standard of achievement for all peoples and all nations*'.[1] The Declaration is the formal expression of the human rights and fundamental freedoms referred to in the United Nations Charter, the promotion of which is identified as one of the purposes of the UN in Article 1(3) of the Charter. Unique for a General Assembly declaration, the UDHR has since gone on to assume a significant degree of weight under international law.[2]

There has long existed a broad consensus that, at minimum, some of the Declaration's provisions have evolved into customary international law.[3] The Declaration's 30 articles, combined with its special legal status, set the direction for the normative development of international human rights law in subsequent decades, resulting in the elaboration and adoption of the nine core international human rights treaties, a remarkable achievement given the geopolitical realities of the Cold War, decolonisation, and the increasing global sway of emerging markets. To this day the UDHR remains a universal yardstick by which to measure respect for and enjoyment of human rights. The success achieved in standard setting has not, however, been matched in the levels of implementation and realising the UDHR's *raison d'être*.

Parliamentarians are central to addressing this implementation gap. The legislature is the branch of government uniquely placed to give effect to human rights commitments and obligations, take practical measures to prevent abuses, and to ensure that law provides practical means through which remedies may be sought for alleged violations of rights. To this end, Parliamentarians are able to influence policies and budgets at the national level, exercise oversight on policy makers, monitor policy implementation programmes at local levels, address the needs and concerns of their constituencies, and act as a catalyst in the realization of human rights domestically and internationally.

From a parliamentary perspective this may seem obvious, yet this view has only recently gained broader traction at the international level as a means of addressing the implementation gap.[4] Take, for example, the work of the Human Rights Council and the Universal Periodic Review (UPR). To date in the third cycle of the UPR, the number of recommendations has grown and become more focused, with about 200 recommendations typically being made to a country by, on average, 90 States.[5] More than half of these recommendations require or involve parliamentary action.[6] Similar levels of parliamentary action were also required to give effect to first and second cycle recommendations. Yet it was only in June 2018 that the Council took initial steps to entrench the crucial role of Parliaments, adopting draft '*Principles on Parliaments and Human Rights*', with a view to eventually providing states practical steps to give effect to recommendations and strengthen parliamentary efforts in the effective and meaningful promotion and protection of human rights.[7] In its work with Parliamentarians over the past several years, the Commonwealth has been advocating for such principles and guidelines.[8]

Commonwealth contribution to date

The Commonwealth has a strong mandate for meeting the SDGs. At the 2018 Commonwealth Heads of Government Meeting (CHOGM), Heads affirmed their unwavering commitment to the Commonwealth's Fundamental Political Values, reflected in the Commonwealth Charter. They recalled the Commonwealth's proud history of acting to strengthen good governance and the rule of law, to protect and promote democratic principles and human rights, to promote peace and security and to strengthen democratic institutions. They emphasised that the full social, economic and political participation of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status, is essential for democracy and sustainable development to thrive. Heads also acknowledged the role of civil society organisations, including women's rights' organisations, in this context. Central to the role of ensuring strong democratic institutions, the Commonwealth Secretariat has undertaken a number of activities to advance the role of Parliamentarians in the promotion and protection of human rights.

From 2013 to 2016 the Commonwealth Secretariat,

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in partnership with the Commonwealth Parliamentary Association (CPA), convened regional seminars for Parliamentarians on their role in the promotion and protection of human rights. Seminars were held in Trinidad and Tobago (2013), Seychelles (2014), New Zealand (2015), and Sri Lanka (2016). The Commonwealth Secretariat's normative work in the latter three seminars resulted in commitments made by participating Parliamentarians framed in declarations: the *Mahé Declaration* (Africa), the *Pipitea Declaration* (Pacific), and the *Kotte Declaration* (Asia). The *Mahé Declaration* also established a regional parliamentary human rights group, the Commonwealth Africa Parliamentary Human Rights Group (CAPHRG). Subsequently, regional groups for the Pacific and Asia were also established. Through continued technical support, the Commonwealth Secretariat has ensured that the regional human rights groups progress popularization of the agreed declarations, promote better inter-parliamentary dialogue and ensure strengthened engagement with the UPR.

The aforementioned work has resulted in regional parliamentary champions who have been central to the international dialogue on human rights protections. Commonwealth parliamentary human rights champions have spoken at notable international gatherings, like the Glion Human Rights Dialogue in Geneva, hosted by the governments of Norway and Switzerland; the International Gay and Lesbian Association World Conference in Thailand; the Global LGBTI Human Rights Conference in Uruguay; in the margins of the Commonwealth Heads of Government Meeting in London and various side events in Geneva arranged by the Office of the High Commissioner for Human Rights as well as the Commonwealth Secretariat.

Additionally, the Commonwealth Secretariat has added its voice to global advocacy on the role of Parliaments in the work of the Human Rights Council and specifically the UPR. For instance, in 2013, the Commonwealth Secretariat supported the participation of a Commonwealth Parliamentarian in the Human Rights Council (HRC) panel discussion on the relationship between Parliaments and civil society actors and the added value of enhancing cooperation in the area of human rights and the role of Parliaments in the preparation and presentation of national reports and in the implementation of UPR recommendations. A Member of the Parliament of Antigua and Barbuda and Chairperson of the Commonwealth Caribbean Parliamentary Human Rights Group contributed to the discussion as a panelist. More recently, our advocacy efforts have included those undertaken through partnerships with Parliamentarians for Global Action, the Bingham Centre for the Rule of Law, the Universal Rights Group and the Convention against Torture Initiative.

The Commonwealth's increasing engagement on the role of Parliamentarians in the promotion and protection of human rights has coincided with a broader international push to develop a set of international guidelines and principles for Parliamentarians in the protection of human rights. Accordingly, the Commonwealth has undertaken advocacy work to this end. In September 2015, Professor Murray Hunt, Legal Adviser to the UK Parliament's Joint Committee on Human Rights, convened an international conference in

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Karen McKenzie, Head of the Human Rights Unit at the Commonwealth Secretariat.

London. The conference focused on the desirability and feasibility of developing a set of international guidelines. The Commonwealth Secretariat secured and supported the participation of Parliamentarians from Kenya, Seychelles, Tonga and Samoa. The conference concluded with general agreement that international guidelines would be useful for Parliaments. Professor Hunt has developed a set of draft principles and guidelines for Parliamentarians. It is important to note that these principles and guidelines were developed based on his research projects and not through consultation. They are offered to stimulate conversation and momentum on the topic, rather than form the basis of any effort to develop international standards.

In September 2015, at the 30th session of the Human Rights Council, *Resolution A/HRC/30/14* was adopted. In the resolution, the Council decided to convene a panel discussion on the contribution of Parliamentarians to its work. The panel discussion took place in June 2016 at the Council's 32nd session. On the margins of the Human Rights Council session, the Commonwealth Secretariat also convened a side event on international guidelines and the role of Parliamentarians in the protection of human rights.

This year, the Commonwealth Secretariat, in collaboration with the Universal Rights Group, launched a new publication, '*The Global Human Rights Implementation Agenda: The role of national parliaments*'. This new publication looks at, amongst others, the value and role of the regional parliamentary groups and the work they do in relation to salient thematic issues such as child marriage; freedom of expression, association and assembly; sexual orientation and gender identity; and torture prevention and prohibition. Moreover, the publication maps and analyses contemporary debates, decisions and initiatives focused on parliamentary engagement with the global human rights mechanisms and documents the contribution of the Commonwealth to global efforts to strengthen that engagement and thereby improving the respect for human rights and human dignity of all people. The publication provides a blueprint for Parliamentarians in the Commonwealth to effectively engage on important human rights issues.

Looking forward and over the next number of years, our work will continue with partners, aimed at increasing the Commonwealth cadre of parliamentary human rights champions; increasing the regional and international opportunities and platforms for Parliamentarians to advocate for strengthened protections of specific human rights in the Commonwealth; and advocating for a set of international principles for Parliaments similar to the Paris Principles for national human rights institutions.

We will also continue to support the strengthening of collaborations between Parliaments and national human rights institutions, according to and underscored by the Abuja Guidelines and the Belgrade Principles, as well as the relationship between Parliaments and civil society organizations and human rights defenders. We have already been able to publicise good practice examples and case studies of impact in both these areas. During the Human Rights Council Forum on Human Rights, Democracy and the Rule of Law which will convene in November 2018 in Geneva, we will be showcasing and discussing some of these examples of impact.

References:

[1] UDHR, last preambular paragraph.

[2] See e.g., Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran), Judgment of 24 May 1980, ICJ Reports, 1980 at 91.

[3] See e.g., Louis B. Sohn, 'The New International Law: Protection of the Rights of Individuals Rather Than States', American University Law Review, 32/1 (1982), 1-64 at 16-17; Louis Henkin, The Age of Rights (New York: Columbia University Press, 1990) at 19; John P. Humphrey, 'The Universal Declaration of Human Rights: Its History, Impact and Juridical Character', in B.G. Ramcharan (ed.), Human Rights: Thirty Years After the Universal Declaration (The Hague: Martinus Nijhoff, 1979), 21-37 at 29; and Nigel S. Rodley, 'Human Rights and Humanitarian Intervention: The Case Law of the World Court', International and Comparative Law Quarterly, 38/2 (1989), 321-33 at 321.

[4] See e.g. Human Rights Council resolutions 22/15, 26/29, 30/14 and 38/25. See also General Assembly resolutions 65/123, 66/261 and 68/272.

[5] UN Doc. A/HRC/38/25 at para. 5.

[6] Ibid., at para. 11.

[7] Annex I of UN Doc. A/HRC/38/25. Available at https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session38/Pages/ListReports.aspx.

[8] See e.g. Speech of Commonwealth Secretary-General Kamalesh Sharma to the 31st Regular Session of the Human Rights Council on 2 March 2016. Available at https://extranet.ohchr.org/sites/hrc/Pages/default.aspx.

[9] Murray Hunt, Parliaments and Human Rights: Redressing the Democratic Deficit, (London: Hart Publishing, 2015), Appendix.

[10] The Abuja Guidelines on the Relationship between Parliaments, Parliamentarians and Commonwealth National Human Rights Institutions, March 2004, Available at https://agora-parl.org/sites/default/files/guidelines_abujaworkshop.pdf.

[11] The Belgrade Principles on the Relationship between National Human Rights Institutions and Parliaments, February 2012, available at https://nhri.ohchr.org/EN/Themes/Portuguese/DocumentsPage/Belgrade%20Principles%20Final.pdf.

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CONTEMPORARY HUMAN RIGHTS CHALLENGES: THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND ITS CONTINUING RELEVANCE

To mark the 70th anniversary of the Universal Declaration of Human Rights, a new book brings together academics and experts in the field.

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly 70 years ago, on 10 December 1948. The Declaration epitomised the aspirations of the immediate post-war period and seized upon the collective desire to chart a new path based on universal respect for common values and recognition of the inherent dignity of the individual.

With the embers of war still burning, the UDHR boldly asserted the universality, indivisibility and interdependence of all human rights, the fundamental principles of equality and non-discrimination as well as a communitarian vision of mutual respect and solidarity. It signified a bold, moral shift in consciousness.

While not formally binding, the Declaration was designed to inspire a new code of behaviour and to serve as a blueprint for later binding treaties and national laws – in its own words, a *"common standard of achievement for all peoples and all Nations."*

The Declaration is an iconic and visionary text, but at the same time it is a product of the imperfect time in which it was drafted. A good part of the world was still under colonial rule. There was limited mutual respect for diversity in legal and political systems and disparities among cultures, ideologies, languages and religions. There were significant gaps in wealth and opportunity and deep imbalances between the recognition of the rights of men and women. Those and many other limitations continue to frame our understanding of the meaning, role and purpose of human rights and their relative importance in a world weighted down by power, politics, poverty, conflict and division.

The belief in the power of human rights as a positive regulating force is a key inspirer for the book '*Contemporary Human Rights Challenges: The Universal Declaration of Human Rights and its Continuing Relevance*', which assesses the impact of human rights in several areas of life. The authors have been motivated by the optimism of the UDHR drafters and their later adherents whom, they argue, were anything but naïve.

The drafters of the UDHR exhibited a fatalistic and prescient optimism – a pragmatic recognition that adherence to fundamental principles of universal human rights and dignity was and continues to be a necessary precondition for the human race to survive and to thrive in pluralistic societies and in a complex and increasingly inter-connected world. The hope for the human rights project is not a product of fervour or dogma.

Professor Bertrand Ramcharan, former UN High Commissioner for Human Rights, explains that *"the only moral glue that can unite humanity remains the Universal Declaration of Human Rights."* We are fated to hope and human rights because we are wed to the present and to the future. We simply must be.

As Lord Woolf reminds us, *"human rights, as they did in the past, will need the support of champions."* In this, the authors of the new book have been inspired by the life and advocacy work of Clemens Nathan, a philanthropist and humanitarian whose memory serves as the catalyst for the new book. The themes of dignity and hope, on which he talked often, pervade the new collection of essays.

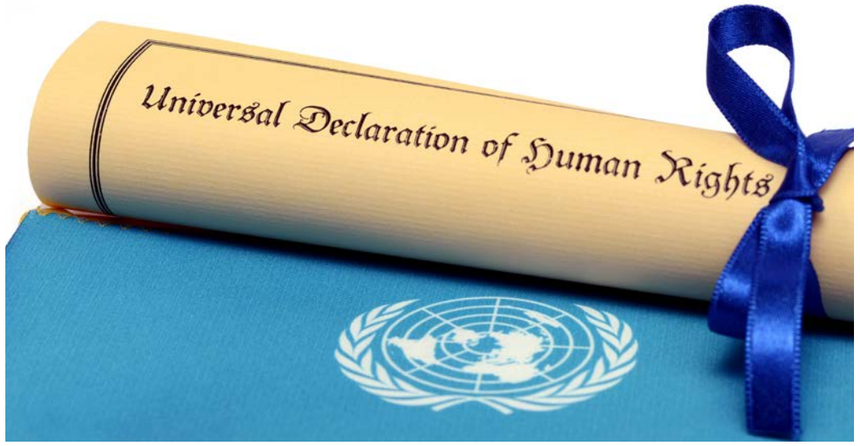
The book includes essays written on the UDHR drafting process, the precursors or antecedents to the Declaration and its philosophical underpinnings, and have sought to define and clarify the meaning of the different articles.

There have been important advances in protections, including the recognition of the obligations to respect, protect and fulfil human rights and the progressive understanding of the role of non-state actors. Yet clearly key blind spots remain.

Many of the ideals that the Universal Declaration espouses have continued to be subject to debate and are regularly thwarted in all parts of the world. Some of the themes explored in the new book include:

1. The significant disparities between and within countries and regions, which impede the realisation of rights for all. Despite the laudable statement in Article 1 of the Declaration that *"All human beings are born free and equal in dignity and rights"* - access to rights depends far too often on relative privilege defined by gender, race, class, wealth and where one is born.
2. The difficulty to keep pace with the practical and ethical challenges posed by modern technological advances, including cyber-warfare and information technology.
3. The extent to which the human rights framework has accounted for the evolution of public-private division is a key theme. The changing landscape of human rights actors, including the importance of securing both individual and group rights, is a constant theme. The complexity of how the world now operates means that there are now many more actors beyond the state which have the capacity to violate human rights, including private security companies, terror cells, corporations, the media and inter-governmental and non-governmental organisations. The human rights framework is only slowly adapting to capture these facets.
4. The impact of environmental degradation and climate change on natural habitats, causing competition over dwindling resources. These factors have contributed to poverty, increased inequities and conflict, and have fuelled the mass movement of people across borders and continents. The human rights framework has more to do to address practically the causes or consequences of displacement.
5. The work of the UN and other multilateral projects as agents for peace and promoters of human rights has been thwarted by selective application, political malaise and bureaucratisation. Equally, the resurgence and intensification of nationalism and xenophobia in many countries and regions has undermined the collective security agenda and impeded international solidarity. As noted by Professor Klug: *"A backlash against the post-war human rights architecture, with its universal, transnational ethic, is gaining momentum; not least amongst some of the democracies which played a crucial role in its creation."*
6. War, oppression and systemic violence are constant features of the international landscape. As is noted by Michael Newman: *"Stemming from a response to the atrocities of the Holocaust and the Second World War, the Declaration itself has not been enough to prevent further genocide in disparate areas of the world. The crimes perpetrated by the Khmer Rouge in Cambodia, against the Tutsis in Rwanda and against Muslims in Bosnia are three indelible stains on the post-war international community that has repeatedly called for 'never again'."*

> **"Many of the ideals that the Universal Declaration espouses have continued to be subject to debate and are regularly thwarted in all parts of the world."**



The extent to which the 30 articles of the Universal Declaration have been enforced by governments and other actors on the international plane is not the litmus test to assess the relevance of the text in the modern day. How one responds to the usual challenges of implementation depends on where one is situated on the pendulum of pessimism or optimism. While the gaps in enforcement can serve to de-legitimise the rules, the continued battle to secure basic human rights in all parts of the world underscores our collective responsibility to keep fighting. Not only must we keep our heads up above the parapet, but we must also be resolved to commit to a long-term vision of human rights protection that will never follow a simple or steady path of progressive successes.

Lord Alderdice explains in his chapter on terrorism that it is crucial in such times that we maintain our commitment to human rationality and human rights, but we must understand that they do not in themselves represent a sufficient understanding of the human condition, how we function as individuals and groups, and how we can evolve and progress to greater peace, stability and reconciliation in our world. Human rights is a long-term, messy project, but it cannot be understood in isolation. Lord Alderdice gives hope to the possibility that, we may also be standing on the threshold of a major step forward in our understanding of humanity; a paradigm shift that takes us beyond a rather legalistic, rationalistic, linear approach to human rights and into the complexity of large group relationships. We must work creatively on taking such a next step. Not only our rights and freedoms but our very survival as a species may depend upon it.

As President Jimmy Carter implores us, we must accommodate changing times, but cling to principles that never change. If we are to revitalise a global human rights movement, we must work to strengthen our societies' commitments to peace and human rights so that future generations inherit a less violent and more just world.

This article is based on the introduction to a new book titled 'Contemporary Human Rights Challenges: The Universal Declaration of Human Rights and its Continuing Relevance' (published by Informa, 2017).

The Editorial Board for the new book consisted of Dr Carla Ferstman, University of Essex; Alex Goldberg, Jewish Chaplain, London Jewish Forum; Dr Tony Gray, Director of Words by Design; Dr Liz Ison and Richard Nathan; and Michael Newman, Chief Executive of The Association of Jewish Refugees.

DEFENDING HUMAN RIGHTS AND DEMOCRACY IN THE COMMONWEALTH: A PERSONAL JOURNEY

Dr Carl Wright is Secretary-General Emeritus and Board member of the Commonwealth Local Government Forum (CLGF), which he helped to establish in 1995; he is also Trustee of the United Nations Association, the Ramphal Institute and holds a number of advisory positions, including the Editorial Advisory Board of *The Parliamentarian*, the Commonwealth Roundtable, Amnesty International and the Kent Business School. He worked previously at the Commonwealth Secretariat and Commonwealth Trade Union Council (CTUC) and has served on a number of high-level international expert groups and election observer teams.

Human rights have at their core the defence of individual freedoms and liberties as set out in the UN Charter and the 1948 *Universal Declaration of Human Rights*. They are also enshrined in the 2013 Commonwealth Charter and previous Commonwealth Declarations such as the 1991 *Harare Declaration* and a wide range of international instruments.

Human rights are defined in relation to security rights, for example protection against torture; liberty rights which protect belief/religion, association and assembly; political rights dealing with participation in politics; due process and legal rights; equality and non-discrimination rights; welfare or economic rights, which include protection against extreme poverty and employment rights; and group rights, especially protection against ethnic genocide. They, therefore, cover a broad range political, economic and social rights. The Commonwealth Charter explicitly affirms the right to participate in the democratic process, notably through free and fair elections; Parliaments and representative local government and other forms of local governance are deemed '*essential elements in the exercise of democratic governance*'.

My personal and professional journey in support of human rights started nearly 50 years ago with a focus on welfare and economic rights, especially in the defence of labour and trade union rights. On occasions, this entailed precarious missions to gather evidence about abuses on remote tea estates in Asia at the depth of night, followed by the launch of a global media campaign to improve plantation worker rights. I also soon met representatives of the black trade unions from South Africa and Namibia and sought to marshal global solidarity for their heroic fight against apartheid - a system whose extreme form of racial discrimination represented the ultimate denial of human rights.

In this advocacy, Parliamentarians were a key ally - in fact, in the case of the plantation workers, a British Parliamentary Committee was sent to investigate and produced a damming report of the conditions on the estates, calling for major improvements in wages and employment conditions. Likewise, I was to testify and provide evidence to a number of parliamentary and inter-parliamentary committees dealing with apartheid and racism.

This work brought me into close contact with the International Labour Organisation (ILO) in Geneva and its valuable work, notably seeking to enforce international conventions on fair labour standards. Core labour standards are set out in eight key ILO conventions, ratified by all of its 140 members, including most Commonwealth countries. They entail minimum working age/child labour regulations; prohibition of forced labour; non-discrimination in employment; freedom of association (right to form trade unions); and the right to collective bargaining. The ILO seeks to monitor and enforce these key conventions and over the years there have been repeated attempts to secure their incorporation in trade and other agreements, notably under the World Trade Organisation (WTO) though including so-called 'social clauses', a concept I helped to develop and popularise back in the 1970s.

Around this time, too, there was much discussion about 'basic human needs' and establishing a '*New International Economic Order*', where economic and social rights featured alongside the more traditional political and individual human rights. The concept of basic needs was agreed at the 1976 ILO World Employment Conference where I served on the drafting committee and was defined in terms of food, housing, education and public transportation, alongside employment. Significantly, it was proposed to pursue basic needs not just by economic growth, but also by income distribution, in other words, seeking greater equality within countries as well as between countries. The basic needs concept was to find its application in the work of the World Bank and other international agencies.

"Parliaments and representative local government and other forms of local governance are deemed 'essential elements in the exercise of democratic governance'. My personal and professional journey in support of human rights started nearly 50 years ago with a focus on welfare and economic rights, especially in the defence of labour and trade union rights."

However, the subsequent rise of neo-liberalism under the so-called '*Washington Consensus*' in the 1980s put up an ideological barrier to the pursuit of such ideas. The basic needs concept was however to find its reflection again in the annual UNDP Human Development Reports after 1990 and in the later Millennium Development Goals (MDGs) which addressed such core needs as education, health and shelter.

Human rights in their broadest sense are comprehensively addressed within the UN Sustainable Development Goals (SDGs) adopted under the 2030 Agenda for Sustainable Development. The latter has 17 Goals and 169 specific targets and encompasses both political rights - as under SDG 5 on gender and SDG 16 on inclusive institutions - and many social and economic rights, not least on climate action. Interestingly, it includes SDG 10 on reducing inequality within and among countries, thereby reflecting the concerns and language of basic needs and of the New International Economic Order of some 25 years earlier.

I was pleased that during the period 2012-15, I was able contribute to the negotiations on the SDGs, in particular the adoption of SDG 11 on cities and human settlements and recognition of the need of a bottom-up approach to SDG implementation - what the UNDP designated as the 'localisation of SDGs'. This involved frequent trips to New York, chairing various UN consultative meetings and working closely with Commonwealth UN Ambassadors.

Image: Commonwealth Secretariat

Above: Carl Wright (pictured third from the left) at the opening of the Commonwealth Sustainable Cities Network Conference with HRH The Prince of Wales and the Commonwealth Secretary-General, Rt Hon. Patricia Scotland, QC.

Back in 1980, I was Director of the then newly-established Commonwealth Trade Union Council (CTUC). Much of the work of the CTUC, alongside the Commonwealth Secretariat and other partners, dealt with the defence of human and trade union rights. Our focus was on situations, not uncommon, where trade union leaders had been imprisoned by their governments for purely political reasons. We also dealt with instances where labour basic rights were eroded by multinational companies which led to international attempts at regulation through codes of conduct with varying degrees of success.

In 1987, CTUC joined with other Commonwealth organisations in setting up the Commonwealth Human Rights Initiative (CHRI). Since 1993, CHRI has been headquartered in New Delhi, India and has gone from strength to strength - as shown by its daily comprehensive human rights email briefing, which should be essential reading for any Commonwealth Parliamentarian. It was later to lead to the formal establishment of the Human Rights Unit within the Commonwealth Secretariat, which has also done valuable work over the years.

Inevitably, a key issue in the 1980s was the on-going struggle for human rights in South Africa and Namibia. I recall my first visit to the apartheid state in 1987 to address the Congress of South African Trade Unions (COSATU) in Johannesburg: the COSATU office had just been bombed by the regime, its President had his arm in plaster after a beating by the police and other union officials were in jail - it was a tough time. One of my counterparts was a young Cyril Ramaphosa, who was heading up the Mineworkers Union and was at the forefront of the anti-apartheid struggle. My visit had only been agreed to by the Pretoria regime after much external pressure and was strictly limited to three days, but it achieved a lot in demonstrating global solidarity and gathering evidence about the appalling abuses of apartheid.

The CTUC was to take a lead in applying political pressure for sanctions on Pretoria and helping to organise trade union boycotts and other forms of support. Here again we worked closely with key Parliamentarians and Commonwealth Leaders like Prime Minister, Bob Hawke of Australia, who had earlier been a member of the CTUC Board of Directors.

By the middle of the 1980s, the Commonwealth under the leadership of Sir Shridath Ramphal was playing a major role in seeking to bring human rights to Southern Africa. In this, it built on the success it had had in helping to bring about majority rule in Zimbabwe. There was a two-pronged strategy of applying pressure on Pretoria through economic, sports and other sanctions, designed to force the regime to release Nelson Mandela and political prisoners, and to enter into meaningful negotiations about political change; and giving direct support to the Liberation Movements, SWAPO (in Namibia) and ANC and PAC (in South Africa). A key component of this strategy was the Commonwealth Eminent Persons' Group established at the 1985 Commonwealth Summit in Nassau, idea of which was first

mooted by my CTUC delegation in Nassau, as was generously noted by Sir Shridath in his memoirs.

As Assistant Director at the Commonwealth Secretariat (1988-94), I had direct responsibility for implementing the Commonwealth programmes to support the '*Victims of Apartheid*', aimed at giving support to ANC, PAC and SWAPO, including the black trade union movement. I was especially proud that during these years we provided extensive opportunities for the external and internal resistance to apartheid to come together in places like Harare. Here they agreed joint strategy and tactics and helped keep up the pressure through sanctions and solidarity actions. I was also closely involved in the provision of subsequent support, notably through the Commonwealth Expert Group on '*Beyond Apartheid: Human Resources for a New South Africa*'. Apart from these tasks, I joined Parliamentarians in important Commonwealth election observer teams to Ghana and Pakistan, which sought to smooth the democratic process in those countries.

From 1995-2016, I was the founding Secretary-General of the new Commonwealth Local Government Forum (CLGF). This brought me into direct professional and political contact with the drive to promote fundamental political rights at the grass roots through local democracy and popular participation. CLGF had been established in the aftermath of the collapse of communism and of apartheid; this was when many countries had abandoned One-Party structures and were establishing new, decentralised systems of democracy.

"It is my experience that human rights, whether trade union rights or the right to local democracy, are best guaranteed and defended through the establishment of strong, representative civil society, unions and local democratic structures."

Much of my work was to entail advocacy for local democracy, by helping its establishment and consolidation in many diverse instances ranging from Malawi, Tanzania and Pakistan to Guyana, The Maldives and the Solomon Islands. Malawi was a case where we paid special attention to the interaction with Parliamentarians. Here there were initial tensions between newly-elected councillors and local MPs and we were able to organise visits to Uganda and Zambia for the latter to expose them to neighbouring countries' systems of local democracy.

I also came across instances where tensions between local mayors and national Governments spilled over into major confrontation, especially if they were from opposing political parties. In some cases, this resulted in the arrest and imprisonment of local leaders and in extreme cases, the abandonment of local democracy itself. Where this took place, we sought to work with Commonwealth Governments and the Commonwealth Secretary-General to resolve matters amicably. On occasions, as happened with attacks on local democracy in The Maldives, we brought matter to the attention to the Commonwealth Ministerial Action Group (CMAG) as a direct infringement of Commonwealth human rights principles. In this respect we were helped by reference to the *Commonwealth Aberdeen Principles on Local Democracy and Good Governance* where principle 2 states '*The ability to elect local representatives: citizens should be able to elect their local representatives in conditions of political freedom*'. I had drafted these principles in 2005 and after their adoption by CLGF members, they were formally endorsed by Commonwealth Heads of Government and then incorporated and affirmed within the Preamble of the Commonwealth Charter.

CLGF is itself is a partnership of local and central government. Its members comprise not only councils or their associations, but also ministries of local government or rural and urban development. Indeed, the Board I was responsible to comprises elected mayors together with senior Parliamentarians, normally ministers of Cabinet rank, some of which went on to become Prime Minister as in the case of Hon. Portia Simpson Miller of Jamaica. This meant that the emphasis is on cooperation, not conflict, and addressing common issues, whether political or developmental, collectively. In the same fashion, I am pleased at the close links between CLGF and the CPA, in recognition, as stated in the Commonwealth Charter, that Parliaments and representative local government are essential for democracy.

It is my experience that human rights, whether trade union rights or the right to local democracy, are best guaranteed and defended through the establishment of strong, representative civil society, unions and local democratic structures. This is why much of my work at Commonwealth level, including through the CLGF, has been to help our members build their institutional capacity, as well as to disseminate international good practice policy. Like the CPA, CLGF has done this through high level conferences, held every two years, regional symposia and peer-to-peer learning and exchanges. It has also undertaken an active technical assistance programme involving direct assistance to both local and central government members, whether to help draft local government legislation, advise on systems for sub-national financing or provide direct institutional support.

In addition, CLGF has sought to strengthen local democracy by organising election observer groups where local elections were being held either for the first time or after a long time, such as groups I took part in Nigeria in 1998 and Pakistan in 2000. Over the years, CLGF undertook much advocacy to encourage recognition of the principles of local democracy and its practical application, at national and international level. Apart from the Commonwealth, this has meant interaction with key UN and regional intergovernmental organisations such as the EU, ACP, AU, CARICOM and SAARC. Most recently, we have sought to highlight the role mayors and local government have in combatting violent extremism, given that most terrorist attacks, designed to undermine our democratic values, take place in cities.

Since 2016, I have had the role of CLGF Secretary-General Emeritus which allows me to continue to provide support to the organisation and to its new Secretary-General, Dr Greg Munro. It has also allowed me to take on some modest external roles, whether it be with the UN Association, Amnesty International, the Ramphal Institute or indeed the CPA on its Editorial Advisory Board for *The Parliamentarian*.

Recent years have seen a rise of populism, xenophobia and extremism, fuelled by anti-immigrant and racist attitudes, including in many Commonwealth countries. I hope my work with CLGF, CPA and others will allow me to continue my journey in support of economic, social and political rights and to help warn about the grave dangers of undermining the fragile global structures set up for the defence of our fundamental freedoms.

ELECTION RIGHTS: PREVENTING FRAUD AND MANIPULATION

Dame Audrey Glover, DBE is a renowned expert in election observation and since 2004 she has headed 18 election observation missions on behalf of the Organisation for Security and Co-operation in Europe (OSCE) including the presidential elections in the USA (2016), Albania (2015), Spain (2015), Hungary (2014), Bulgaria (2014), Ukraine (2012) and Azerbaijan (2011). After reading law at King's College, London, Dame Audrey was called to the Bar where she practiced before joining the UK Foreign and Commonwealth Office as a legal adviser. In 1998 Dame Audrey left the ODIHR to become the Leader of the UK Delegation to the UN Human Rights Commission, a post she held for six years.

At the beginning of the 1990s a great deal of interest began to be shown in Presidential, parliamentary and local elections worldwide. They were regarded as the pathway to democracy based on the exercise of some human rights for which people had long suffered and striven. Elections were regarded as festive occasions and enthusiasm for them was palpable and infectious. The basic rights involved were those of association and assembly, freedom of the media and of expression and most critically the right to vote. Elections were recognised as an important step in a country's development

These rights translate into the voter having the opportunity to vote freely without any pressure; to make a real and informed choice of a candidate thanks to an independent media; and equally important all candidates being able to campaign on the same footing against a backdrop of equal and universal suffrage. Voters must be confident that their vote can be cast freely in secret and be assured that every vote will be kept secure and counted correctly. The voter must also have confidence that elections will be organised in a neutral and unbiassed manner with an independent and impartial judiciary which will swiftly hear complaints.

These are the basic principles which should apply to all elections worldwide – local, parliamentary and Presidential. Principles which ensure there are no 'cultural differences or traditions' or 'regional specificities' in regard to the basic requirements for an election.

At that time in the 1990s procedures for organising and conducting elections and the principles governing them began to emerge and evolve. Election observation missions were started and parliamentary organisations formed. Gradually, the practice developed that, after elections had been observed, recommendations were made to assist States in implementing and adhering to these principles. Large numbers of voters celebrated being able to vote for the first time.

However, nearly 30 years later times have decidedly changed. Many elections now do not see the large turnout of voters nor the same enthusiasm as before. For the first time we have heard some leaders claim that elections are too pivotal to be left to voters which is obviously the antithesis of what an election should be. So, what has happened since the initial euphoria gripped States in the 1990s and now? What has brought about the change? How has this happened and who has done it?

As a generalisation, I think it boils down to the fact that those who are in power want to stay in control and do whatever they think is necessary in order to do so. Corruption appears to be rife and truth in short supply. In addition, there seems to be an apparent lack of understanding by those in power of a very large number of voters particularly the younger ones – frequently highlighted by an absence of contact. There appears to be a gulf between the rulers and the ruled and a consequent feeling of disconnection and lack of representation. This, amongst other causes, has helped to fuel the rise of populism.

So what do those in power do in order to keep themselves there? Large scale ballot box stuffing or throwing their contents in the river and other obvious methods of interfering with an election to a large extent are no longer prevalent. The methods now used to arrange the outcome of an election are more sophisticated. In fact, the outcome of an election can often be determined long before election day.

Let us look now at some of the methods that are used

- Voter registration – By deleting bona fide voters from the electoral register, adding fictitious ones and not deleting 'dead souls' enables a governing party to

make use of those votes to their own advantage.

- Making it difficult for opposition candidates to register, or rejecting their applications on flimsy grounds, or intimidating them or even imprisoning them. All such methods reduce an opposition's ability to compete on a level playing field.
- Vote buying still takes place but a more sophisticated approach now prevails in the form of pressure. This is often targeted towards students, teachers, university lecturers, military personnel and factory workers by pressurising them to vote in a particular way or else they will suffer adverse consequences.
- Forcing the opposition to hold rallies on the outskirts of towns – thereby inhibiting supporters from attending – limits the opposition's ability to campaign.
- Feeding to voters slanted information, buying up media outlets, restricting the opposition's ownership of the press, seizing print runs, preventing reporters collecting and reporting information, imprisoning journalists or forcing them to self-censor by making libel a criminal offence and preventing candidates' access to paid advertising – these are all tactics calculated to reduce the ability of the opposition to campaign and voters to hear their campaigning.
- An ineffective legal system which does not deal with complaints swiftly may prevent people being able to vote and contributes to an overall lack of confidence in the system.
- The vote count at the polling station level gives the possibility of manipulation when votes might be changed from one pile to another. There is even greater opportunity to massage the figures when it comes to the tabulation. This again undermines confidence in the system.
- A candidate may have an unfair advantage if there is a lack of transparency and accountability in party funding.
- Another instance is the abuse of incumbency. A government has the responsibility not to abuse state resources in order to support the ruling party's candidate eg, using government vehicles, office space, opening roads and airports for campaign purposes. These are all forms of abuse
- Lack of training of election commissions so that mistakes are made and procedures are not followed properly or delayed is another method
- Fake news, social media, identity politics and even cyber-attacks can also affect election outcomes and referenda.

These are some of the examples used by incumbent parties and their international allies to influence the results of elections. The suspicion by voters that the elections have been interfered with often leads to unpleasant violence.

Any suggestion of sustained and planned 'vote rigging' unfortunately calls into question the integrity of the electoral system of a country as a whole. How can these problems be removed in order that fraud and manipulation are at least reduced if not totally eliminated?

One way to do so is to have more accuracy and detail in reporting on the implementation of election standards. We all know of elections where there has been an unconvincing election assessment – whether because of cronyism or politicization – which is blatantly untrue, where the assessment does not fit the facts. To overcome this, I believe it is necessary to secure agreement to assess elections systematically against accepted international standards and to produce a report. Such reports must be based on verifiable data and be presented in a concise yet comprehensive manner. It should also include recommendations for improving the electoral process.

This most certainly is not rocket science because standards exist already in the Universal Declaration of Human Rights, regarded by many as customary international law, and in the International Covenant on Civil and Political Rights to which the majority of States around the world are parties and thereby bound by its provisions.

In addition, there are already regional agreements with provisions relating to elections. The OSCE has its commitments in the Copenhagen Document which all the participating States have committed to uphold – for their elections to be monitored and reported on by election observers. There is also the European Convention on Human Rights which the EU follows and the African Charter on Elections, Democracy and Governance. There are also the Bangkok Declaration for Free and Fair Elections and the Declaration of Principles for International Election Observation for Free and Fair Elections. There is even the Declaration of Global Principles for Nonpartisan Election Observation. It is obvious therefore, there is no lack of international standards.

It is also encouraging to see that there has been increasing interest in electoral integrity at the civil society and international organisation level drawing upon the wealth of material that exists to scrutinise elections more closely.

What would indeed also be effective is for observation to be taken more seriously. Men in dark suits strolling into a polling station on election day, staying for a few minutes and nodding that everything is satisfactory before going on to the next is not an acceptable standard of observation. Observation missions need to arrive in a country well in advance of an election in order to observe the whole electoral cycle and to stay long enough after the election to observe the complaints and appeals being addressed by the relevant judicial bodies.

Didactic though it may sound, the most effective way to observe an election is to complete a form in each polling station – a form which requires detailed information. When collected, these forms provide an accurate picture of what happens in polling stations throughout the country with regard to voter registration, the operation of the electoral commissions, if voters were influenced, counting the votes and other aspects of the election process. With this information it is possible to identify the shortfalls in the operation of the election and to make practical recommendations to improve the system.

"As citizens energetically demonstrate their commitment to democracy, so the authorities in different countries need to step up and make the effort to meet those demands."

Suggestions can also be made in relation to improving election legislation, executive decisions, the role of the judiciary and the actions of the government. This can assist the state concerned on its journey down the democratic pathway.

Unfortunately, recommendations that are made are rarely acted upon by the States concerned. In order for recommendations to be effective, there should be periodic reviews of the country concerned to see if and how they are implementing them, including visits and mid-term public reports. These reports on implementation compiled by observers should be discussed on a regular basis by their sending body in order to make observation efficacious

With the general turnout for elections seemingly dwindling for one reason or another and people not having the time to queue for hours to vote, what else can be done to reverse this trend? If this indifference continues countries are likely to store up difficulties and problems for themselves in the future.

Electronic voting and counting is one way of speeding up the electoral process and limits the ability of election staff to interfere in the process. But the important issue here is to ensure that the voters have confidence in the electronic system and can be sure that it has not been programmed to allow one party to receive more votes than others. In countries where there is such confidence the system works well and saves a great deal of time. Where confidence is lacking it obviously does not.

One of the reasons for the reduction in voter turnout is the disconnect which many voters feel exists between themselves and the politicians. To overcome this alienisation governing parties need to reach out more to the public to find out what are their concerns, what are their needs and requirements rather than rely on their own interpretation of what the voter wants This is particularly important with younger generations who in many instances do not find resonance with any party and feel discarded and abandoned.

Consideration could perhaps be given to allowing 16-year olds to vote to help reduce this disconnect. After all there are many things that 16-year olds can do legally. So why not have the right to vote? As potential future politicians in their country, they need the experience and opportunity to become involved in politics at an early age.

What one has to bear in mind however is that, despite the attempts to undermine, marginalise and even eliminate oppositions around the world, voters in many instances are making a greater effort than ever before to coordinate among themselves and to turn out and vote in order to seek more effective representation. The young, in particular, along with many other people in society are tired of being under represented in Parliament and are becoming more vocal in expressing their views. Their greater participation and engagement with elections gives us hope that corruption will not prevail in the long term.

International assistance should be given to them. We must not disappoint those who are prepared to fight for meaningful elections and integrity in the electoral process. We owe it to them to ensure that they will succeed. As citizens energetically demonstrate their commitment to democracy, so the authorities in different countries need to step up and make the effort to meet those demands.

Images: Commonwealth Secretariat Election Observation Missions.

MEDIA RIGHTS: THE BATTLE FOR PRESS AND MEDIA FREEDOM IN THE COMMONWEALTH

Lord Black of Brentwood has been a Member of the UK Parliament's House of Lords since 2010. He is the Chairman of the Commonwealth Press Union Media Trust amongst a wide range of positions in public life. He was the Director of the UK Press Complaints Commission (1996-2003) before joining the Telegraph Media Group in 2005.

The Commonwealth Press Union Media Trust was founded more than a century ago. As one of the oldest press freedom organisations in the world, our purpose is a simple yet profoundly important one: to seek to preserve, enhance and extend press freedom throughout the Commonwealth. Like a lot of organisations and institutions in the media world, times have been tough for us and it is a great deal more difficult than it ever was to keep the flame burning. But what we lack in resources, we make up for with a burning passion for the cause of media freedom. Much of our work is now based on partnerships with others who share our values – the International Press Institute, the Committee to Protect Journalists and the Commonwealth Journalists Association. Between us all, we do what we can to fight for free and independent journalism, to stand up for the safety of journalists, and to champion the investigative reporting which lies at the heart of any democratic society.

Media freedom matters in every Commonwealth country for three reasons. First, it is only a free press which has the power to hold Government, public authorities and other parts of the State – in other words, those who exercise power over citizens – to account. It is the watchdog of the public interest, a guardian against corruption, incompetence, waste, hypocrisy and greed. It is, to coin a phrase, the arsenal of democracy – and that's what the Commonwealth needs.

Second, unlike any form of regulated media, the free press has the ability to conduct long term investigations, unhindered for the most part by the fear of prior restraint. Campaigning on issues of real importance to citizens in Commonwealth countries is profoundly important.

And third, in any state where there are free and fair elections, the free press has a fundamental role in transmitting information to voters, independently of political interests, and explaining often complex policy issues in a way which is understandable to the great majority of electors. Free elections simply can't take place without a free media.

Those three issues go to the heart of what any democracy and free society in the Commonwealth should be about. It was in fact summed up so well by one of the founding fathers of the United States, Thomas Jefferson, when he said: *"Our liberty cannot be guarded but by the freedom of the press, nor that be limited without danger of losing it."* He said that two centuries ago but the reality of his words for us in the UK and throughout the Commonwealth is timeless.

But tragically media freedom is under direct – even deadly – attack in so much of the Commonwealth, every day, every week and every month of the year. A culture of widespread impunity now flourishes in many places. In 2017, eight Commonwealth journalists were killed in the line of duty, including four in India and one – the fearless campaigner Daphne Caruana Galizia, the crusading scourge of official corruption, cronyism and incompetence – right at the heart of Europe, in Malta, the victim of an assassin's car bomb. In the five years from the start of 2013 to the end of 2017, as many as fifty-seven journalists in Commonwealth countries were killed in the course of their work, according to UNESCO. Elsewhere in the Commonwealth, harassment and intimidation is daily fodder for many journalists struggling to do their job.

Of 180 nations in the World Press Freedom Index, only two Commonwealth countries, Jamaica and New Zealand, make the top ten, and including these two only thirteen countries make the top fifty – while many such as Uganda, Rwanda, The Gambia and Bangladesh languish near the bottom.

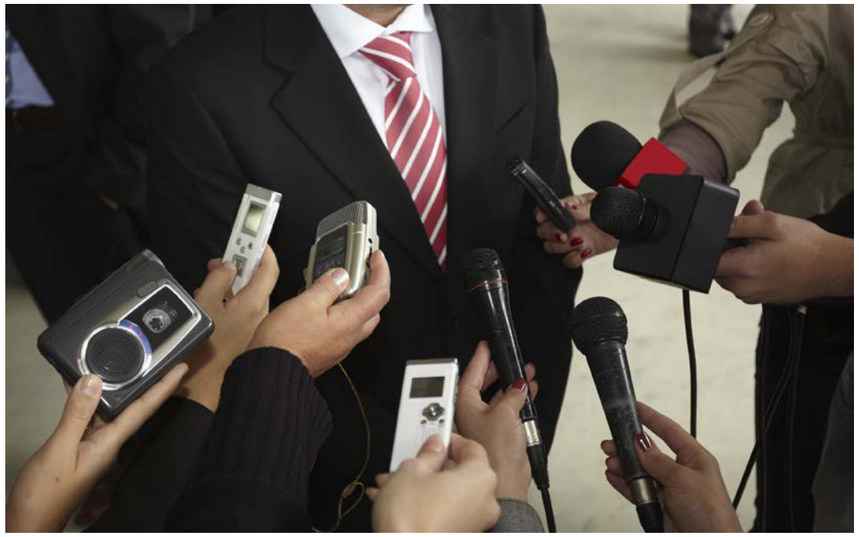
In so many of them state regulation, criminal libel (an abhorrent legacy of Empire), sedition laws, intimidation and bullying all make public debate and freedom of expression well-nigh impossible. Even in the United Kingdom, which ever since the Leveson Inquiry has shockingly been slipping down the world press freedom rankings, we continue to live in the shadow of the odious 'Section 40' which sits malevolently on the Statute Book, a Damocles Swords over the heads of the British press, and one which sets an appalling example to the rest of the world.

"Media freedom matters because it is the engine of democratic growth and renewal, and also a crucial spur to economic development. Both of these should be key priorities for the Commonwealth."

All this is completely at odds with the shining commitment in the Commonwealth Charter which offers 2.4 billion people – a third of the world's population – a panoramic vision of liberty with free speech and freedom of expression at its heart. It is surely now time for the Commonwealth's leadership to take action to turn the noble words about media freedom into action. I think it can do so in four different areas.

First, there must be an end to the harsh laws in so many countries which date back to the colonial era. There is, for instance, no need anywhere for criminal libel or sedition laws: no one should ever go to jail for writing something that is true. There have been some positive gains on this front in recent years in countries such as Ghana and Sri Lanka, which have repealed criminal libel, but serious problems remain. The majority of Caribbean island states maintain such laws and only recently we had the threat of criminal defamation actually being introduced in The Maldives.

Second, the press where possible needs to establish its own effective regulatory systems to make clear to their Government that there is no need for repressive state regulatory controls and that where they exist they should be dismantled. Effective and independent self regulation is one of the best antidotes to state censorship.



Third – and this is an area where I believe the Commonwealth can really help – we need to ensure resources are put into the training of journalists, particularly with the skills they need to equip them for the digital future. A free press needs to be a commercially successful press, as well as a responsible one, and the training of journalists and editors is a vital component of that.

And finally, we need renewed commitment from all Governments to safeguarding the safety of journalists. Bullying, intimidation and harassment of those seeking to report the news should never be tolerated, and those who perpetrate these crimes should be prosecuted and punished. Justice for journalists must be seen to be done. It is unacceptable that the killers of Daphne Caruana Galizia, whom we were privileged to honour with the CPU's Astor Award earlier this year, and of Lasantha Wickrematunga from Sri Lanka, murdered on his way to work in January 2009, still walk free. UNESCO statistics show that fewer than 10% of all killings of journalists in Commonwealth countries have resulted in those responsible being brought to justice. A first step to ending this unacceptably high rate of impunity should be for all Commonwealth states to pledge to open investigations into the scores of unresolved cases and report any progress to the United Nations.

It is against that background that the publication at the time of CHOGM 2018 in the spring of the '*Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance*' – an initiative of the Commonwealth Journalists Association, strongly supported by the CPU and with input from the CPA – was so important. With its emphasis on effective protections for the independence of the media and its role in informing the public, it provides a universal Code for the Commonwealth which will protect both freedom of expression and the activities of journalists.

What is vital now is that this initiative of the CJA and the other Commonwealth organisations involved is followed up by concrete action – in other words that it is adopted by the Commonwealth in the manner of the Latimer House Principles. It needs to become a road map to improving governance and media freedom right across the world. We also need to measure success against it and hold people to account for delivering it.

Media freedom matters because it is the engine of democratic growth and renewal, and also a crucial spur to economic development. Both of these should be key priorities for the Commonwealth. By the time we get to the next Commonwealth Heads of Government Meeting (CHOGM) in Rwanda – a country which has had its fair share of media freedom challenges – we need to have seen concrete progress. The CPU – working in tandem with other Commonwealth organisations – will do all we can to ensure that the spotlight is kept on this vital issue, and that the noble words in the Commonwealth Charter become not just rhetoric, but reality for millions of citizens.

GLOBAL DISABILITY SUMMIT AND DISABILITY RIGHTS: A WAKE UP CALL TO PUT DISABILITIES AT THE CENTRE OF DEVELOPMENT

Hon. Dennitah Ghati, MP is a Member of the National Assembly of Kenya. She represented Migori County (2013-17), before she was nominated as a special representative for Persons with Disabilities in the Kenya Parliament. She is the Founder and Executive Director of Education Center for the Advancement of Women and has previously worked at the African Network for Health Knowledge Management & Communication and The League of Kenya Women Voters. She was also a journalist at the East African Standard Newspaper, based in Nairobi.

In July 2018, representatives from across the world were in London, UK for the first ever Global Disability Summit 2018, a summit that was graciously hosted by the UK and Kenya governments. I was privileged to attend and participate as the Member of Parliament in the Kenya Parliament, representing persons with disabilities and as the Executive Member of the CPA Kenya Branch, and as a member of the newly formed CPwD (Commonwealth Parliamentarians with Disabilities) Network.

The summit brought together dignitaries from all spheres including: a President with a disability, a female Vice-President with a disability, more than 25 Ministers of various Governments, Permanent Secretaries, Senators, MPs, the World Bank, Heads of UN Agencies, International NGOs, Disabled Peoples' Organisations (DPOs) and other actors. The Kenya delegation included MPs, Senators, the Ministry of Labour and Kenyan DPOs.

It was hosted by the UK and Kenya Governments in collaboration with the International Disability Alliance (IDA) and the UK Department for International Development (DFID). The summit helped achieve new levels of global commitment in mainstreaming disability into development cooperation as per article 32 of the Convention on the Rights of Persons with Disabilities (CRPD), the Sustainable Development Goals (SDGs) and Agenda 2030 which is an important opportunity to promote the rights of persons with disabilities globally.

The main objectives of the #Global Disability Summit were:

- To raise global attention and focus on a neglected area – Disabilities
- To bring in new voices and approaches to broaden engagement on disability issues
- To mobilize new global and national commitments to the realization of Article 32 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

The meeting also saw signing of the #Charter for Change – a document pledging to put disability at the centre of the development agenda.

It is estimated that one in every eight persons is living with some form of disability (15% of the world's population), corresponding to over 1 billion in the world having a form of disability. A majority of these people with disabilities are living in the developing and mid-income countries, particularly in Africa. These disabilities are varied in nature from physical, hearing, seeing, speaking, and many other hidden disabilities.

Amongst all of these global statistics, women with disabilities are disproportionately represented, with the majority of the disabled women and girls rejected by family and the community, illiterate and unemployed.

For far too long, disability has remained absent from the international, and even national, discourses in many countries. Many countries of the world are still 'developing countries' when it comes to disability issues and the Global Disabilities Summit gave us the forum to lay forth strategies on how best to harness the relevant strategies. To date, 177 countries, including Kenya, have ratified the UN Convention on the Rights of Persons with Disabilities. This is a legal framework that provides commitment to the advancements of the rights and welfare of persons with disabilities.

There are many challenges in raising awareness of the rights of persons with disabilities in the international arena. Unfortunately, the Millennium Development Goals (MDGs) in 2000 made no actual mention of disability in its discourse. Dialogs around the subsequent Sustainable Development Goals (SDGs) have tried tremendously to discuss disability.

Kenya has approximately 6.5 million persons with disabilities. Kenya has ratified the UNCRPD and the Constitution of Kenya, through *Chapter 4: Bill of Rights*, extensively outlines the rights of persons with disabilities. Kenya has also established the National Council for Persons with Disabilities through which issues around disabilities is addressed.

There is no shortage of laws in Kenya and many other countries of the world. However in some countries, the political goodwill in their implementation is still lacking and it needs to be strengthened.

As with many other recommendations that have been made, we need to invest in improving the availability of disability data - segregated by age and gender among other variables - to ensure that appropriate interventions are designed. Household surveys and national censuses will, for instance, need to be conducted to strengthen these interventions.

Kenya is preparing to undertake a national census in 2019 and thus, there is a need to mobilize communities to ensure that persons with disabilities are counted in this census. I have launched in Kenya, a project dubbed '*You can't count if you are not counted*' which is aimed at mobilizing persons with disabilities to come out in their highest numbers and participate in the census next year.

As an Executive Member of the CPA Kenya Branch and a Member of the CPA, the opportunity accorded to me to attend the Global Disability Summit and the chance to discuss further the new Commonwealth Parliamentarians with Disabilities (CPwD) network, with an aim to domesticate it in Africa and promote the network to the East Africa and Southern Africa sub-regions of the Commonwealth Parliamentary Association. I am spearheading the actualization of this network in the wider CPA Africa Region to promote the advancement of Parliamentarians with disabilities across the CPA Africa Region.

It is therefore my wish that Commonwealth governments ensure the inclusivity of persons with disabilities (PWDs) in all our development agendas, making sure that persons with disabilities are fully engaged. This can be achieved by:

- Catalyzing political will towards change and building collective responsibility
- Improving disability data and evidence to raise awareness of the scale of the problem and learning on how to address barriers and ensure proper programming
- Supporting the leadership and representation of people with disabilities to increase voice, choice and control
- Disaggregating disability data in the basis of gender, nature of disability and age for proper programming.

Moving forward, I will be seeking the actualization of a regional disabilities hub to be created and hosted in Kenya with the aim of providing a one-stop shop for disability issues, including the implementation of the Persons with Disabilities Act of Kenya. The creation of regional groups of the Commonwealth Parliamentarians with Disabilities (CPwD) network will also provide opportunities for legislators of each CPA Region to positively address disabilities issues in their region.

Commonwealth Parliamentarians at first ever Global Disability Summit

On 24 July 2018, the first ever Global Disability Summit was hosted in London by the UK Department for International Development (UK DFID), together with the International Disability Alliance and the Government of Kenya. The summit took place at the Queen Elizabeth Olympic Park in London and brought together more than 1,000 delegates from governments, donors, private sector organisations, charities and organisations of persons with disabilities. Delegates gave 170 ambitious commitments from all over the world to take action on stigma and discrimination against people with disabilities and 301 organisations and governments have signed the Charter for Change – an action plan to implement the UN International Convention on Disability.

Rt Hon. Penny Mordaunt, MP, UK Secretary of State for International Development, who made her introduction using British Sign Language, said: *"For too long, people with disabilities in the world's poorest countries have not been able to fulfil their potential due to stigma or lack of practical support. Today, we give focus to this long-neglected area. This event is about all of us working together, sharing ideas and good practice to ensure that as we work towards a more prosperous world no one is left behind. This is not just the right thing to do for a common humanity - it is the smart thing to do. When disabled people are included great things happen."*

Hon. Dennitah Ghati, MP from the National Assembly of Kenya represented the Commonwealth Parliamentary Association at the summit. The Kenya MP is a special representative for persons with disabilities in the Kenya Parliament and has been an advocate for inclusion.

HUMAN RIGHTS AND PERSONS WITH DISABILITIES IN THE ANGLOPHONE CARIBBEAN

Senator Dr Floyd Morris is the Director for the University of the West Indies (UWI) Centre for Disability Studies based at Mona, Kingston, Jamaica. He is a former President of the Senate of Jamaica, the first blind person to hold the position. He is a specialist in Political Communication and Disability Studies. His research looks at the inclusion of persons with Disabilities in Jamaican life. He runs an international consultancy, presents a talk radio show and is a member of the National Advisory Board for Persons with Disabilities in Jamaica. He is married to Shelley-Ann, is a sports enthusiast and a deft domino player. His motto is "It is nice to be nice."

Introduction

According to the United Nations (UN), all citizens are entitled to certain inalienable rights and freedoms. These rights and freedoms were enshrined in the Universal Declaration of Human Rights and the International Covenants on Human Rights (United Nations, 1948). Persons with disabilities are entitled to these fundamental rights and freedoms as they are human beings (*Gill & Schlund-Vials, 2014*). However, their rights and freedoms have been violated in countries that have signed and ratified these UN conventions.

Countries within the Anglophone Caribbean have signed and ratified the UN Convention that enshrines these fundamental rights and freedoms. As a matter of fact, these countries have gone as far as entrenching these inalienable rights and freedoms in their constitutions. But in spite of this constitutional entrenchment, we are still seeing blatant violation of the indispensable rights and freedoms of certain groups within Caribbean societies. One such group is persons with disabilities.

In this article, I will examine the situation of persons with disabilities from a human rights perspective in the Anglophone Caribbean. These are countries that were once subjects of the British Empire and who adopted the British Westminster System. They form the core of the regional body known as the Caribbean Community (CARICOM). I will focus on certain fundamental rights and freedoms that are of significant importance to the development of persons with disabilities and examine how these rights are being violated in the context of the Anglophone Caribbean. I have populated the article with some suggestions for action.

Persons with Disabilities in the Anglophone Caribbean

It is estimated that there are approximately 750,000 persons with disabilities living in the Anglophone Caribbean. This is approximately 15% of the population of individuals living within the region. For clarity, the countries within the Anglophone Caribbean include: Jamaica, Bahamas, Cayman Islands, Turks and Caicos, Antigua and Barbuda, Dominica, St Lucia, St Kitts and Nevis, St Vincent and the Grenadines, Grenada, Trinidad and Tobago, Guyana, Belize and Montserrat.

All these countries came out of a certain colonial experience as they were all under British hegemony. They all subscribe to a democratic tradition that has been very rich in the region. They all embrace the inalienable rights and freedoms contained in the UN Covenant on Civil and Political Rights and most recently, the UN Convention on the Rights of Persons with Disabilities (CRPD).

The CRPD

In 2006, the UN established a specific treaty to deal with the rights and freedoms of persons with disabilities. The CRPD has not accorded any new rights to persons with disabilities. Neither has it taken away any of the rights articulated in the previous conventions (*Equality and Human Rights Commission, 2010b*). According to the CRPD, its purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity (*United Nations, 2006*).

Since its formation, most countries within the Caribbean Community (CARICOM) have signed and ratified this global treaty, signalling their commitment to preserving and protecting the rights and freedoms of persons with disabilities (*ECLAC, 2017*).

Regional Support for Human Rights

The CARICOM Members (as in Member Countries) have developed their own frameworks for supporting the human rights of persons with disabilities. The *Kingston Accord* that was formulated in 2004, even though preceding the CRPD, expressed its support for the process that would ultimately lead to the development of this global treaty (*MLSS, 2004*). Subsequent to the Kingston Accord, Member Countries of CARICOM gathered in Haiti in 2013 and formulated the *Declaration of Petion Ville* (*CARICOM, 2013*). This regional roadmap to transform and empower persons with disabilities, also reiterated the government's commitment to the human rights of persons with disabilities.

But what is the reality of the human rights situation of persons with disabilities in the Anglophone Caribbean today? In answering this question, I will examine five fundamental areas that are germane to the sustainable development of persons with disabilities. These are: right to education, right to work and employment, right to information, right to justice and the right to political participation and public affairs.

Right to Education

Education is a quintessential means to empowerment and transformation. It is the best means of empowering citizens within a society (*Mandela, 1994*). This is even more so for persons with disabilities who are poor and vulnerable. This is why the CRPD of 2006 re-affirmed the right of persons with disabilities to a decent education. It states: '*States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:*

a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
c. Enabling persons with disabilities to participate effectively in a free society' (*CRPD, 2006, p. 13*).

Both the *Kingston Accord* and the *Declaration of Petion Ville* that enjoy support of governments within the Anglophone Caribbean embrace the right of persons with disabilities to education. However, the reality in countries across the Caribbean is that they are not in keeping with this right. Most of the schools across the Caribbean are inaccessible to persons with disabilities (*ECLAC, 2017*).

A 2010 study by the University of the West Indies (UWI) Centre for Disability Studies for example, revealed that over 77% of schools in Jamaica were inaccessible to persons with disabilities (*Morris, 2010*). It must be noted that most of our educational institutions in the Anglophone Caribbean were built in an era when there was little or no emphasis on the development of persons with disabilities (*Anderson, 2014*). Consequently, schools were constructed without the requisite support mechanisms for members of this vulnerable community.

The ECLAC 2017 report on the situation of persons with disabilities in the Caribbean also adumbrates this fundamental challenge to the rights and dignity of persons with disabilities in the Caribbean (*ECLAC, 2017*). If persons with disabilities are not able to access educational institutions, then they will continue to be among the poorest in the region. World Bank data is showing that over 85% of persons with disabilities within the region are poor (*World Bank, 2016*).

Objectively, some efforts are being made to create greater access to educational institutions for persons with disabilities within the region. More persons with disabilities are graduating from tertiary institutions and this is an indication that persons with disabilities are being included at different levels of the education system. However, the majority of persons with disabilities are not at the level educationally that can cause Caribbean countries to boast of any major accomplishments in this regard. Caribbean countries will therefore have to redouble their efforts to make educational institutions throughout the region more accessible and inclusive of persons with disabilities in order for their rights to education to be respected.

Image credit: Aurelie Marrier d'Unienville/Sightsavers

Above: Julius lost his sight after an operation went wrong and left him blind. He thought he would never find love until he met his now wife Najiba on a programme run by SightSavers. They now own a DVD shop and tailoring business in Kampala, Uganda as well as having a farm. They now have 3 children together. They are currently planning to set up a skills training centre for other people with disabilities in Kampala.

Right to Work and Employment

Every citizen has the right to work and employment according to the United Nations Covenant on Civil and Political Rights. Work and employment are also rights declared under the CRPD. The CRPD opines '*States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation…*' (*CRPD, 2006, p. 15*).

If persons with disabilities are not working or employed, then they will be unable to take care of themselves and their families (*Berthoud, 2011*). When this happens, they will become dependent on the State and others within society to survive. This is an undesirable outcome.

In the Anglophone Caribbean, the employment situation is very disturbing as the right to work and be employed, by persons with disabilities is being consistently violated. Data from ECLAC is

showing up to 90% of persons with disabilities unemployed (*ECLAC, 2017*). This is a crisis situation and explains the reason why members of this vulnerable community are among the poorest in the region. If they are not able to access the educational institutions and to get employment, then perpetual poverty will be the ultimate result. Governments within the region, therefore have to take immediate and practical steps to correct this violation of the human rights of persons with disabilities. Some of these practical steps should involve affirmative actions that will see entities within the private and public sectors, employing specific percentage of persons with disabilities in their workforce (*Berthoud, 2011*).

Right to Information

We are living in a globalised world where information is one of the most significant assets that anyone can possess. Having information and access to it is a major tool in today's burgeoning global society because most of the goods and services that are provided are subject to the availability of information. Take for example, most companies and individuals who provide goods and services are doing so through the Internet. But for one to have access to the Internet, one must have the equipment that will allow you to be connected. This is where the challenge lies for persons with disabilities.

Most persons with disabilities in the Anglophone Caribbean are extremely poor and I have cited some factors that have contributed to this above. The extreme form of poverty that exists among these individuals makes it difficult for them to generate the requisite funding to purchase the equipment and software that would allow them to access the Internet. On average, a laptop or desktop computer can cost US$500. For some persons with disabilities such as the blind, they have to purchase assistive software that would allow them to effectively interact with the computer and the Internet. These pieces of assistive technology can cost as much as US$1,400. Cumulatively, a desktop or laptop with the requisite assistive software can cost a person with disability between US$1,000 to US$2,000. The majority of persons with disabilities in the Anglophone Caribbean does not earn this level of income on an annual basis and is therefore unable to secure what has now become a basic tool for survival in a globalized world. This is a human rights violation.

According to Article 9 of the CRPD, persons with disabilities have the right to access information. It states: '*To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure that persons with disabilities have access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas*' (*United Nations, 2006, p. 6*).

Countries in the Anglophone Caribbean that have signed and ratified the CRPD are therefore duty bound to put in place measures to ensure that persons with disabilities have access to these modern technologies that are so axiological to their development. We must always be reminded that the situation that confronts persons with disabilities is not a fault of their own. They are poor because schools are not built with the necessary access features to accommodate them and thus they are not able to get the education that would cause them to receive jobs so that they can purchase these modern technologies that would assist their development.

Right to Justice

In any democratic society, justice is of paramount importance. It is that built-in institutional mechanism that has been created to protect citizens from the abuse of power and to ensure that fairness and balance is maintained in society. Attention has to be given to persons with disabilities because of the various challenges that confront them. The CRPD recognizes these challenges and in Article 13 states: '*States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages*' (*United Nations, 2006, p. 8*).

Despite this commitment by countries within the Anglophone Caribbean, we are still seeing persons with disabilities having difficulties accessing the justice system. Court houses are still inaccessible to persons with disabilities; staff of the police force and the court houses do not know how to relate with persons with disabilities; Sign Language for deaf persons is not readily available; and the absence of these basic services for persons with disabilities in the justice system within the Caribbean makes a mockery of the rights of these individuals to justice. This is not to say that none of these services are available to these vulnerable individuals. However, it is not an entrenched or standardised feature of the system, where once a person with disability has a problem with the law, these services will be provided automatically.

Right to Participate in Political and Public Life

Another indispensable right that is entrenched in various UN treaties is that of the right to participate in the political process. Every citizen in a democratic society has this right. Persons with disabilities also have this right and it must be preserved and respected. In the CRPD, this right is reaffirmed. Article 29 states: '*States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:*

a. Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice…' (*United Nations, 2006, p. 16*).

Interestingly, this is one of the areas that the Anglophone Caribbean has seen reasonable progress for persons with disabilities. Constitutions and legislation have made provision for the preservation of the right of persons with disabilities to vote, once they reach the voting age. In democracies, every vote counts and so political organisations in the Anglophone Caribbean will go the extra mile to ensure that the votes of persons with disabilities are preserved. But there are still social and structural impediments that persons with disabilities have to face in participating in the political process. Buildings that act as voting centers are still not accessible to persons who are wheelchair users. Similarly, blind persons will have to depend on others, whilst of their own choice, to cast their votes for them.

If the right to participate in political and public life is to be protected, governments within the Anglophone Caribbean must ensure that they implement modern measures that will allow for members of this community to participate independently in the political process.

It must be noted that in the Anglophone Caribbean, we have seen individuals actively participating in the political process at a leadership level. Persons with disabilities have been elected or appointed to the Legislature and Executive arms of government in the Anglophone Caribbean. Significantly, within the past 10 years (2008-2018), two persons with disabilities have been elevated to the top position in the Senate of Barbados and Jamaica. Additionally, it must be noted that wherever persons with disabilities have participated at a leadership role in political or public life, legislative advances have been made to protect the rights and dignity of persons with disabilities. This has been the experiences of Barbados, Jamaica, Antigua and Trinidad and Tobago.

Conclusion

It is without doubt that persons with disabilities are human beings and are therefore entitled to the human rights that are prescribed in various international treaties. Notwithstanding this fact, we are seeing the transgressions of these rights in the Anglophone Caribbean today.

In areas of education, employment, access to information, justice and political and public life, we are still seeing fundamental human rights violations. Governments within the Anglophone Caribbean will have to make a deliberate effort to ensure that educational institutions are more accessible and inclusive of persons with disabilities. They have to ensure that persons with disabilities are included in the labor-force through initiatives such as affirmative action.

Greater inclusion and participation in the justice and political process is a must if the human rights of these vulnerable citizens are to be preserved. And, they must be provided with the means to access information so that they can make pragmatic decisions in a globalised world where access to information is quintessential.

Human rights are for all in Anglophone Caribbean societies and these must include persons with disabilities.

Image credit: Jeffrey DeKock / VSO/TCS

Above: Dickson Juma marches in a deaf awareness march in Kapsabet, Kenya, co-organised with volunteers from the UK who spent three months working with the rural deaf community in Nandi county, Kenya training them in Kenyan sign language.

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ENSURING THE ADVANCEMENT OF A PEACEFUL, JUST AND INCLUSIVE SOCIETY FOR ALL: THE STATUS OF HUMAN RIGHTS DEFENDERS IN SOUTH AFRICA

Introduction

The year 2018 marks 20 years since the United Nations General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (*UN Declaration on Human Rights Defenders*). In recognition thereof, the South African Human Rights Commission (SAHRC) released its first report on the '*Status of Human Rights Defenders in South Africa*' in April 2018.[1]

The *Constitution of the Republic of South Africa, 1996* (Constitution) is widely celebrated for its progressive content, and recognises the equal protection of civil, political, economic, social and cultural rights. Yet, South Africans frequently experience numerous human rights violations by the State. In the 2015/2016 financial year, the South African Human Rights Commission (SAHRC) recorded 2,307 complaints specifically with regard to civil and political rights. These violations related to issues of personal privacy and surveillance, political violence, excessive use of force during protests, freedom of association, access to justice, just administrative action and freedom of expression. The cross-cutting nature of these violations affects individuals and organisations working to advance civil, political, social, economic and cultural rights in South Africa, and contributes to the closing of political space.[2] This has become increasingly more worrying as the country grapples to deal with the triple threat of unsustainable levels of inequality, high unemployment and extreme forms of poverty.

Concern has also been expressed by international and regional human rights bodies regarding racism, xenophobia and associated violence, the treatment of prisoners and conditions of detention, the rights of migrants and the rights of indigenous communities in South Africa. Gender-based violence remains rife, with sparse information available on the prevalence and forms of domestic violence, inadequate national statistics, and a lack of accountability for victims of violence. Children and people with disabilities continue to bear the brunt of extreme forms of violence, and are unable to access a host of socio-economic rights, such as education, health care and basic services.[3]

The work of human rights defenders (HRDs) is universally recognised as fundamental for the establishment of a society rooted in peace, stability and security. Through strategic activism, they contribute toward the development of new ideas, deepening the human rights framework and making human rights a lived reality.[4] The State has a duty to protect, promote and implement all human rights and fundamental freedoms, and ensure that all persons under its jurisdiction are able to enjoy those rights and freedoms in practice.[5] This obligation is derived from the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights*, 1966 (ICCPR), the *International Covenant on Economic, Social and Cultural Rights*, 1966 (ICESCR), the *Convention on the Elimination of all Forms of Discrimination against Women*, 1979 (CEDAW), and the *African Charter on Human and People's Rights*, 1981 (African Charter).

In addition, the *Sustainable Development Goals* (SDGs), specifically SDG 16, calls for the promotion of peaceful and inclusive societies for sustainable development, providing access to justice for all and the establishment of effective, accountable and inclusive institutions at all levels.[6]

It is in this context that the SAHRC aimed to highlight the current landscape of human rights activism in South Africa. The SAHRC was concerned that despite the recognition and protection of rights afforded in the Constitution, due to the lack of a clear domestic legal definition as to who constitutes an HRD, there is a glaring lack of information on the status of HRDs in South Africa. This gap creates difficulty in monitoring the State's obligation to promote and protect the rights of HRDs. The SAHRC report further highlights the complex manner in which the deliberate application of a number of laws, policies and practices by the government limit citizens' enjoyment of various constitutionally guaranteed human rights, particularly as it relates to freedom of assembly, association, expression, access to information, and access to justice.

Freedom of Assembly

The right of everyone to freedom of assembly includes the right to assemble, demonstrate, picket and present petitions, peacefully and unarmed.[7] The State has a duty to actively protect assemblies that are lawful and peaceful, including protecting participants when threatened with violence.

However, civil society organisations (CSOs) interviewed by the SAHRC have highlighted the criminalisation of protest action undertaken by citizens seeking to hold the government accountable to delivering on its obligations. Protestors demanding the delivery of housing, education, and basic services such as water, sanitation and electricity, are shot at by the police with water cannons, tear gas, stun grenades, and rubber bullets.[8] Between 2004 and 2014, media reports estimate that at least 43 protestors were killed by police.[9]

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Public demonstrations in South Africa are regulated by the *Regulations of Gathering Act, 1993* (RGA).[10] In terms of the RGA, legitimate use of force by the police against protestors is only applicable in instances where it is necessary to prevent injury or death to a person or destruction of property, and when negotiation and all other measures have failed.[11] Flowing from the country's apartheid past, the RGA was drafted with the intention of recognising public demonstrations as essential forms of democratic expression, requiring the State to facilitate rather than repress gatherings, and to be handled with tolerance and empathy to avoid provoking confrontation that may result in violence.[12]

Yet, rather than facilitating the right to freely assemble, many local government authorities apply the provisions of the RGA in a manner that restricts its intended implementation. Bureaucratic obstacles and misinterpretations of the RGA have led to an increasing number of unauthorised and unregulated gatherings taking place, thus deemed 'illegal'.[13] The failure to allow protected demonstrations and the breakdown in police community relations has had devastating consequences, including the destruction of both private and public property, such as schools,[14] libraries and hospitals, and increasingly more loss of lives.

In order to address these regulatory challenges, the SAHRC has recommended that the Minister of Police and South African Police Service take the necessary measures to halt the excessive and disproportionate use of force by law enforcement officials in the context of public protests through strengthening front line supervision and officer accountability mechanisms, so that public ordering policing is improved. In addition, the government must prioritise training for civil servants to ensure that the RGA is understood in the context of facilitating the right to freedom of assembly.

Freedom of Association

The right to freedom of association,[15] involves the right of individuals to interact and organise among themselves to collectively express, promote, pursue and defend common interests. The protective scope is broad, and includes political parties, human rights organisations, trade unions, business associations, religious societies, and social recreation clubs.[16] States cannot interfere or prohibit the founding of associations or their activities, and people should be able to freely exercise their freedom of association without fear of violence or intimidation.[17]

In recent years, reports have emerged of threats and intimidation by political party actors and State authorities levelled at a number of human rights CSOs and those critical of the government in South Africa. In 2016, for example, then State Security Minister David Mahlobo stated that he had evidence of non-governmental organisations (NGOs) involved with State and non-State actors that have allegedly tried to 'destabilise the country' and influence political affairs.[18]

Freedom of association further entails the right to solicit, receive and utilise resources (including international resources) for the express purpose of promoting and protecting human rights.[19] States are therefore obliged to adopt legislative and other measures to facilitate, and not hinder, the ability for human rights organisations to access funding required to perform their activities.[20] In addition to monitoring the advancement of human rights,

non-profit organisations (NPOs) play a crucial role assisting the State in the provision of services to communities, particularly in the care sector and to vulnerable groups. While it is recognised that non-profit organisations (NPOs) should be held publicly accountable in terms of its governance structures, CSOs have cautioned that the legislation regulating the non-profit sector in South Africa may become a tool used by the government to restrict community activism.[21]

Freedom of Expression and Access to Information

A central to the right to freedom of expression is the ability to access information. The right of access to information (ATI) entails the right to know, seek, receive and hold information about all human rights. In addition, everyone has the right to freely publish, impart or disseminate to others their views, information and knowledge on all human rights, and draw public attention to these matters. These rights are essential for citizens to make informed decisions when claiming rights toward the advancement of a democratic society.[22]

Numerous challenges have been identified with South Africa's existing access to information laws, including that information from public and private bodies is only available on request as opposed to proactive release. The legislative challenges inherent to the *Promotion of Access to Information Act, 2000* (PAIA) include the formalised nature of the process that has limited the ability of communities to utilise the right independently without assistance from lawyers; the inconsistency and uncertainty of grounds of refusals of disclosure of information; and the lack of an independent, swift and inexpensive appeal mechanism.[23]

Consequently, not only is information to which communities are entitled denied as a result of bureaucratic failures, but the uncertainty surrounding reasons for the lack of disclosure presents fertile ground for secrecy, leading to individuals and groups taking risks at great personal cost to ensure that the public is able to make an informed assessment of the current status of South Africa's democracy.

During 2016, the South African Broadcasting Corporation (SABC), a public broadcaster tasked with providing a platform to all in the country to participate in the country's democracy, has come under scrutiny amidst claims of political interference. In September 2016, the Supreme Court of Appeal found that the use of a 'signal jammer' by the State Security Agency to prevent journalists from screening scenes of disorder in

Parliament, to be unconstitutional and unlawful, amounting to censorship.[24]

The media has also been used as a tool to advance political agendas and sow division in South African society. In 2017, it was revealed that British public relations firm Bell Pottinger was driving a secret campaign in South Africa to divide South Africa along racial lines.[25] The controversy caused the firm's Chief Executive Officer to resign and led the British Public Relations and Communications Association to ban the firm, on the basis that it had brought the industry into disrepute.[26]

While freedom of the press is essential to ensure a transparent and accountable democracy, the media also has an educational role to play in highlighting to the public the plight and vulnerability of HRDs seeking to advance human rights. An inability to do so effectively can reinforce the negative stereotypes often associated to HRDs in the mainstream media. Moreover, cognisance must be given to language and discourse used by political leaders and other authoritative members of society that may lead to the perpetuation of violations meted out towards HRDs and other vulnerable groups.

Access to Justice

Obtaining justice for victims of human rights violations is dependent on the ability of victims to access the courts or independent tribunals, and exercise the right to just administrative action and procedural fairness.[27] However, access to justice in South Africa remains slow and inefficient.

HRDs are dependent on human rights lawyers (who are themselves HRDs)[28] to protect their rights. The SAHRC has found that access to legal resources, has however, become increasingly difficult. Donor-funded organisations have less funding and attorneys to assist in matters concerning individuals seeking redress for violations and *pro bono* services offered by corporate law firms is limited. Communities and lawyers representing them thus face significant barriers in accessing legal representation as a means of resolving human rights disputes and rectifying avoidable situations.[29]

There has also, in some cases, been a lack of accountability for HRDs that have been killed as a result of their activism. In March 2016, land rights activist Sikhosipi Radebe, Chairperson of a community-based organisation opposing mining activity on communal land, was shot dead at his home in the Eastern Cape Province by two men claiming to be police officers. The trial of a police officer charged with killing 17-year-old housing rights activist Nqobile Nzuza during a protest in Durban in 2013, was scheduled to begin in February 2017. In May 2017, two councillors representing the governing African National Congress (ANC) and a co-accused hitman were found guilty and sentenced to life imprisonment for murdering housing rights activist Thulisile Ndlovo in 2014.[30]

The SAHRC has recommended that the government should provide adequate resources to Legal Aid South Africa to ensure that *pro bono* legal services are available to all HRDs. In addition, alternative dispute resolution (ADR) mechanisms should be utilised to ensure the speedy resolution of avoidable disputes and relieve the burden of the criminal justice system. The SAHRC has further called on all HRD-related killings must be thoroughly investigated, and perpetrators must be prosecuted and held accountable for the killings.

Conclusion

The South African experience demonstrates that even when the rights of HRDs are guaranteed in the Constitution, the manner in which democratic laws are conceptualised and implemented can have the adverse impact of violating those rights. Moreover, despite the establishment of strong institutions of justice, access to justice for victims of human rights violations remains slow and at times inaccessible, resulting in a lack of accountability for perpetrators of violations. It has thus become crucial that South African citizens remain resolute in their support and protection of HRDs, who are the drivers of ensuring that we achieve the vision of a democratic society infused with the values of justice, equality and peace.

Article on behalf of the South African Human Rights Commission by Ms Thandiwe Matthews, Senior Researcher: Civil and Political Rights. In 2018, she was selected as a PhD candidate to participate in a joint scholarship programme between the International Institute of Social Studies, Erasmus University Rotterdam and the University of the Witwatersrand's School of Law. Her research will explore the role of constitutions in reducing social inequalities.

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REALISING FREEDOM OF RELIGION AND BELIEF IN THE COMMONWEALTH

Hon. Jim Shannon, MP is the UK Member of Parliament for Strangford in Northern Ireland and the Democratic Unionist Party (DUP) Spokesperson for Human Rights. He is the Chair of the UK All-Party Parliamentary Group (APPG) for International Freedom of Religion or Belief. The APPG is a cross-party group of 120 Parliamentarians in the UK Parliament and 25 human rights and faith-based organisations.

Acts of intolerance involving religion or belief across the Commonwealth and wider world have emerged as a critical issue of our time. A climate of intolerance has been fostered in many nations by xenophobic and nationalistic narratives. As a result, the general public across the Commonwealth is ever more de-sensitised to stigmatisation and incitement to hostility against those with different beliefs.

In such a climate, Article 18 of the *Universal Declaration of Human Rights* and *International Covenant of Civil and Political Rights* has never been so vitally needed. Article 18 upholds the right to Freedom of Religion or Belief (FoRB), giving everyone the right to have and to practice their beliefs in private or public. FoRB does not, however, allow believers to disregard the interests of those around them, nor does it grant any rights or privileges to religions or beliefs themselves. These limitations ensure that this right cannot be justifiably used by groups to suppress or harm others. FoRB is therefore a powerful tool in tackling stigma, hate and violence towards those with other beliefs and there are an increasing number of those within the Commonwealth who are working hard to ensure that this is recognised.

Sadly, violations of FoRB remain truly global, occurring in most continents and in many different cultures - from the systematic crimes committed against Rohingya Muslims in Myanmar, mass-scale violence between predominantly Muslim herdsmen and Christian farmers in Nigeria's Middle Belt to the large number of abductions and rape of religious minority women in Pakistan. There is no one type of perpetrator or victim. Groups that face persecution in one country may be the persecutors in others. Perpetrators may also be State or non-State actors, both condoning mob violence in some incidents to enforce religious or social norms.

The Commonwealth is a unique and extensive family of nations bonded by history, embodying a commitment to free, open and democratic societies. With more than 2.4 billion people in 53 countries spanning six continents, ensuring that all people within the Commonwealth's right to FoRB is critical for its flourishing. Failing to uphold this right could be a serious impediment to the future that we hope to build together.

Research by US academics Finke and Martin highlights the damaging effect of targeting individuals based on their religion or belief by mapping its close correlation with high levels of social conflict. Eleven of the Pew Research Center's top sixteen countries with 'very high' government restrictions on FORB rank within the bottom 18% of countries in the Global Peace Index. Ten out of eleven of Pew's 'very high' social hostilities countries rank within the top 25% of the Global Terrorism index. Conversely, the online Association of Religious Data Archives resource found that none of the countries with low government restrictions had widespread violence related to religion, whereas 45% of countries with high government restrictions had widespread religious-related violence across the country.

Statistics within the Commonwealth itself are also concerning. Around 70% of the people living in the Commonwealth currently experience high or very high levels of government restrictions on FoRB according to the Pew Center. And even more alarming, 88% of the Commonwealth live in countries where there are high or very high levels of social hostility towards and between religious groups. This is a wide-scale problem that is affecting people in all nations of all beliefs.

Tackling this problem is crucial for the Commonwealth's

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Tackling this problem is crucial for the Commonwealth's future generations. More than 60% of the Commonwealth are under 30 years old, an important fact that the 2018 Commonwealth Summit in London recognised through its '*Towards a common future*' theme. Too many young people across the Commonwealth are growing up without their Article 18 rights and thinking of those who hold no faith or have a different faith as 'other.'

Ensuring children obtain a quality education (Sustainable Development Goal 4) helps enable them to not fear but respect others, breaking down future exclusion and marginalisation. Many children from religious minority and indigenous groups, however, still face barriers to education. For example, the Aurat Foundation finds that the 1,000 or so Christian and Hindu girls who are kidnapped, raped and forcibly converted in Pakistan each year has led to many families being too afraid to send their girls to school.

The Commonwealth Charter includes a pledge to promote human rights which, in turn, include FoRB. To be a member of the Commonwealth, governments have to commit to this pledge. As the balance of world power shifts away from Europe, Commonwealth member states are increasingly important, empowering these states to take a lead on human rights on the world stage.

Parliamentarians have a key role to play in holding their respective Executives to account to fulfil their pledges to protect the human right of their citizens to FoRB. Parliamentarians are the voice of the people that they represent and should speak on behalf of the diverse range of religions within the Commonwealth. As leaders within their communities, they have an opportunity and a duty to promote religious tolerance and freedom within their respective communities and legislators.

There are lessons that citizens of the Commonwealth can learn from each other to make FoRB a reality for all, safeguarding the Commonwealth's peace, stability and prosperity in the future. The Commonwealth has many problems concerning FoRB but there are shining examples from every corner of the globe. Jamaica, Ghana, Mozambique, Malta and New Zealand all have extremely low levels of government restrictions and social hostility towards religions. The strength of the Commonwealth lies in its ability to share best practice between these and other nations, harnessing the role of governments, civil society and peoples.

In July 2018, the UK Prime Minister appointed Lord Ahmad as her Special Envoy for FoRB, joining special envoys or rappoteurs on FoRB in the United States, Denmark, Norway, Germany and at the United Nations and European Union. Lord Ahmad begins his role at a time in which there are serious FoRB issues in the UK. Between April 2017 and March 2018 there was a 40% increase in reported religious hate crime in the UK, the number of offences recorded hitting a record high of nearly 95,000. The Home Office's statistics showed that more than half of religiously-motivated attacks in 2017/18 were directed at Muslims, with Jewish people as the next most commonly targeted group.

The All-Party Parliamentary Group for International Freedom of Religion and Belief (APPG FoRB) in the United Kingdom has empowered Parliamentarians to advocate consistently for FoRB in the UK and globally. This includes speaking out against the rise in UK hate crime. The APPG has also been instrumental in developing a one-day compulsory training module for all Home Office caseworkers dealing with asylum claims in the UK on grounds of religious persecution, ensuring that these claims are assessed fairly. UK Parliamentarians have also succeeded in changing the UK's Syrian Vulnerable Person Resettlement Scheme to allow non-Syrian nationals, including the persecuted Yazidis, to be resettled in the UK.

The APPG has worked with its 25 human rights and faith-based stakeholder organisations to draft a resource on FoRB for country desk officers in the UK Foreign and Commonwealth Office, Department for International Development and High Commissions globally. This resource aims to equip civil servants working in countries with high FoRB violations to understand and address these violations. The need for a government's country specialists to understand tensions between religious or belief groups in the countries they work is crucial for governments to be able to effectively respond to and prevent religious discrimination or persecution.

The FoRB resource complements the excellent work carried out by other bodies such as the International Panel of Parliamentarians for FoRB.* IPPFoRB is a network of Parliamentarians and legislators from around the world committed to combatting religious persecution and advancing FoRB. Several national and regional Parliamentarian groups now exist, allowing the sharing of good practice between different international colleagues. IPPFoRB have just developed a toolkit for Parliamentarians to advance FoRB, a useful resource for anyone interested in taking up this issue.

As Chair of the UK APPG for FoRB, it is heartening that so many colleagues in the UK are committed to working on this issue. It is also heartening to know that other Parliamentarians from across the Commonwealth are serious advocates for FoRB. In Pakistan, the Religious Freedom Caucuses in Punjab and Sindh Provincial Assemblies helped the passing of the *Hindu Marriage Act (2017)* and supported the *Sindh Criminal Law (Protection of Minorities Bill)*. While these were positive measures, the need for constant work on FoRB is clear: these measures were sadly rejected later by the Governor after opposition from Islamist parties.

With 19 Commonwealth member states in Africa, the African Parliamentarians Association for Human Rights (AfriPAHR) is also working hard to be a beacon of hope for FoRB throughout Africa. AfriPAHR Chairperson, South African MP, Nqabayomzi Kwankwa, states that: *"Fifty years after many African countries celebrated freedom from colonialism, many African countries have hardened into autocracies, leaving the peoples of Africa to face criminalisation of FoRB and other rights. In many parts of the continent, the universality and indivisibility of human rights is still contested, questioned and often treated as a Western construct or unwelcome inconvenience. This is quite ironic given that African leaders fighting for the liberation of their countries used human rights as the fundamental basis of their cause. While there are some working for FoRB in Africa, it has largely been overlooked or forgotten to this point."*

It is against this background that AfriPAHR – a network of 80 young African Parliamentarians - working together with IPPFoRB, seeks to promote the right to FoRB in Africa. Over the past few months, a number of programmes have been undertaken to raise awareness about the state of FoRB in Africa. In June 2018, a Symposium was held in Lilongwe, Malawi. Its purpose was to work with the 20+ AfriPAHR Members of Parliament to become Ambassadors of FoRB in their countries. In October, a fact-finding and solidarity mission was made to the Democratic Republic of Congo to persuade MPs and political leaders to include FoRB in the December 2016 *'New Year's Eve Agreement'*. This aimed to ensure that all the peoples of the DRC enjoy this right. This work to advance FoRB, founded within South Africa, joins the other examples of inspirational work across the Commonwealth.

The Commonwealth's shared networks and cultural ties keep it alive and fulfil a vital purpose of enabling it to be a vital platform for tackling the global issue of discrimination and persecution of people because of their beliefs. The Commonwealth's diversity provides the ability to learn and share good practice. Those at all levels within Commonwealth nations have the power to address the challenges to the right to FoRB. Through supporting the increasing good work globally or starting initiatives, which the UK APPG and others would be delighted to support, the Commonwealth can truly become a beacon for FoRB.

For more information on the work of the UK APPG for International Freedom of Religion or Belief, please email katharinee.thane@parliament.uk.

IPPFoRB: http://www.ippforb.com

CONTEXTUALISING HUMAN RIGHTS IS CRUCIAL FROM THE PERSPECTIVE OF A SMALL STATE

The Independent State of Samoa located in the Pacific Islands gained its independence in 1962. It has a total population of 199,243.[1] The Constitution of the Independent State of Samoa (1960) is the supreme law with Part II setting out the fundamental rights recognized by Samoa which includes the right to life, personal liberty, freedom from inhumane treatment, freedom from forced labor, right of fair trial, rights concerning criminal law, freedom of religion, rights concerning religious instruction, freedom of speech, assembly, association, movement and residence, a person's rights regarding property and freedom from discriminatory legislation. These fundamental rights also correspond directly with the rights enshrined in the Universal Declaration of Human Rights (UDHR)[2] and the international human rights instruments already ratified by Samoa.

Despite its Constitution declaring the protection of fundamental rights, dialogues and discussions on human rights as a foreign construct remain a challenge. The introduction of the UDHR and other International Instruments in Samoa saw the idea of individualism introduced and continues to meet with mixed responses and feelings of fear of threat to the *Fa'asamoa*. These discussions are not new and the dialogue had already taken place long before the inception of NHRI Samoa in 2013 which is mandated under the *Ombudsman Act 2013* to promote and protect human rights of all Samoans. Since its establishment, NHRI Samoa has worked alongside its partners and the community to develop mechanisms that continue to push and promote contextualizing human rights to suit the Samoan context. This is done by weaving together foreign concepts and principles of *Fa'asamoa* to demonstrate and reflect that the combination of both can be mutually reinforcing; that is, they work together to uphold and protect both the Fa'asamoa and the human rights of the individual which can ultimately lead to collective good and safer and harmonious communities.

Fa'asamoa is a unique way of life to Samoa. It prescribes an all-encompassing traditional system of roles and responsibilities that spell out different relationships within the family and community. The traditional *fa'amatai* system (village councils) is central to the organization of Samoan society. Over the decades, the authority of village councils[3] has played a vital role in maintaining and preserving peace, harmony, security, and stability through customary law and traditions, especially in the rural areas where the majority of Samoans reside[4] The state relies heavily on this effective system for the maintenance of law and order throughout Samoa. This is the environment and context in which the individual exercises his/her rights and freedoms.

Survey and village consultations held across Samoa in 2015 as part of NHRI Samoa's first *State of Human Rights Report to Parliament*[5] saw many accepting human rights as a slow process, as ingrained practices within the *Fa'asamoa* inhibit its full realization. This ranged from substantial issues like restrictions on the establishment of new religions and banishment to more general statements around village rules and punishments being too severe and burdensome.[6] It also points to the clash between village council decisions and individual freedoms within the village. Additionally, the clash between the family matai and members of the families where individuals feel that they are not consulted and are expected to adhere to decisions made by their family *matai*.

Under *Fa'asamoa*, the individual is as conscious of self and personal rights and is as desirous of personal dignity as any other individual, but recognizes and accepts the role and ultimate authority in the village in which she/he is represented by her/his matai.[7] However, it is paramount for village councils to properly exercise their authority while also taking into account the individual's human rights and strike an important balance between communal rights and individual rights. While it is desirable not to precipitately undermine the authority of *Ali'i* and *Faipule* in the village communities, NHRI Samoa firmly believes that when the individual is protected against unjust or unfair governance or other unreasonable interference, society is also protected.

The Constitution declares the protection of fundamental rights and individual freedoms, but it is less explicit on communal rights. Due to this imbalance, village councils have felt that their right to make governing decisions in the interests of communal welfare have been unreasonably trumped in the Courts by claimed individual freedoms. Recently, there have been issues with communal regulations violating fundamental rights under the Constitution that have been heard at the Supreme Court. The most common cases involve village councils exercising collective opposition over the banishment of villagers or to the establishment of new churches.[8] The Supreme Court has been strict in upholding individual fundamental rights as required by the Constitution. Hence, while there is a divergence in the origin of human rights beliefs between Europeans and Samoans, they are equivalent in nature and complement each other by sustaining human dignity and entitlements and improving the welfare of individuals and their families.

"Despite its Constitution declaring the protection of fundamental rights, dialogues and discussions on human rights as a foreign construct remain a challenge. The introduction of the UDHR and other International Instruments in Samoa saw the idea of individualism introduced and continues to meet with mixed responses and feelings of fear of threat to the Fa'asamoa."

It is clear from the decisions of the Court that individual rights will supersede communal rights as long as it is shown that there is a breach of fundamental rights within the Constitution. However, it has not done so without respect for the village system.[9] For example, with regards to banishment, the Court has upheld the decisions of the *Ali'i* and *Faipule* when there is a reasonable restriction imposed by existing law on the exercise of the rights of freedom of movement and residence, in the interests of public order.[10] The activities and decisions of the *Ali'i* and *Faipule* within a village must always be undertaken and made subject to the Constitution, even if it is feared that some unrest or disharmony may result.[11]

It is the view of NHRI Samoa that Human rights are underpinned by core values of respect, dignity, equality, and security for everyone. Similarly, *Fa'asamoa* holds core values that guide social interaction such as respect, inclusivity, dignity, love, protection, and service, which mutually reinforce human rights. It is no surprise that the relationship between human rights and *Fa'asamoa* can be mutually reinforcing given they are both rooted in the dignity of the person, love and respect. An example, looking at the issue of family violence – human rights are based on the notion of rights and responsibilities – you cannot have rights without the responsibility to uphold the rights of others. *Fa'asamoa* is based on reciprocity and mutuality. Mutual protection cannot be achieved by one person alone, it requires people to meet their own responsibilities towards one another to enjoy the protection the *Fa'asamoa* affords them. When it is not a two-way process, abuse and violence can occur. Human Rights apply universally and equally to each and every one of us. Family violence violates a range of human rights including the right to life, freedom from punishment and torture amongst others. Whilst human rights approaches see protection and promotion from an individual perspective (the very nature of them being indivisible, interrelated, and interdependent, meaning that if you protect one individual you are also helping to protect the rights of a community and vice versa. By better-protecting rights of individuals from violence, we will also be protecting the collective rights of others including women and children.

The NHRI acknowledges that:

1. Continuing education and awareness on the topic of human rights and its application to Samoan way of life is critical particularly the interconnectedness of its principles as it can lead to an understanding and ultimately set us on the track to fully customizing human rights.
2. It takes time to get past the hurdles of misunderstanding and pure resistance but the work we are doing now through human rights education and awareness can lead to new attitudes and realization of human rights in our society
3. Increased awareness of responsibilities that go hand in hand with exercising of rights and universal rights at village level can heighten understanding and can allow people to grasp how human rights can/might benefit the *Fa'asamoa* rather than undermine it.

The article is by the National Human Rights Institution Samoa. The Office of the Ombudsman was established in 1990 by virtue of law to investigate complaints about decisions,[12] actions or inaction of government agencies[13] in matters of administration. The good governance core function of the Office promotes transparency, accountability, integrity, and fairness in public administration. The Samoan Parliament repealed the Office's founding law in 2013 and replaced it with the Ombudsman (Komesina o Sulufaiga) Act 2013.[14] This new Act re-establishes the original good governance function and mandated the Office with two additional core functions:

1. Promotion and protection of human rights; and

2. Investigation of complaints concerning officers of a disciplined force.

The Act gives the Office wide-ranging duties and powers to promote and advocate for the protection of human rights in Samoa, qualifying it as a National Human Rights Institution (NHRI). In May 2016, it was graded 'A Status' NHRI by the Global Alliance of National Human Rights Institutions (GANHRI) as a 'Paris Principles"[15] compliant institution. For further information email: info@ombudsman.gov.ws or visit www.ombudsman.gov.ws.

References:

[1] http://www.sbs.gov.ws/index.php/population-demography-and-vital-statistics

[2] For example, protected within the Universal Declaration of Human Rights (UDHR) are the following: the right to life (Article 3), freedom from inhumane treatment (Article 5), the right to a fair trial (Article 10), freedom of thought and religion (Article 18), rights regarding speech, assembly, association, movement and residence (Articles 20 and 13, respectively), and freedom from discriminatory legislation (Article 7).

[3] Consisting of Ali'i and Faipule (high chiefs).

[4] See generally Samoa Law Reform Commission (SLRC), Final Report for the Village Fono Act 1990 and Freedom of Religion [includes portions of the Commission of Inquiry Report (COI) Report] available at: http://www.samoalawreform.gov.ws/wp-content/uploads/2014/08/Final-Report-for-the-Village-Fono-Act-1990-and-Freedom-of-Religion.pdf [accessed 26 June 2015]; See also, Lafaialii v Attorney General [2003] W.S.S.C 8 (24 April 2003).

[5] State of human rights report 2015

[6] In the majority of village consultations, participants often expressed frustration with village councils making decisions without consulting the families or person involved.

[7] See note 27.

[8] See e.g. Tutuila v. Punitia [2012] W.S.S.C. 107 (21 June 2012); Ibid. at 4.

[9] Nelson, J. in Su'a Rimoni Ah Chong v Mulitalo Siafausa Vui an unreported decision dated 1 August 2006 ("... the power of the village and Matai is important and ought to be respected by this court. But the power is not greater than the power of the Constitution, the Legislative Assembly, the Supreme Court of Samoa or the rule of law."). His Honour Chief Justice also shared the same view in the case of Lafaialii v Attorney General [2003] W.S.S.C. 8 (24 April 2003).

[10] In re the Constitution, Taamale v Attorney-General [1995] W.S.C.A. 1; 02 1995B (18 August 1995); affirmed by Article 13(1)(d).

[11] Commission of Inquiry (COI), Commission of Inquiry Report 2010, on file at the Office of the Ombudsman.

[12] Including recommendation made to a Minister of Cabinet.

[13] Officers, employees or members exercising a function or power under a legislation are included in the investigation.

[14] The new Act commenced on 6 June 2013

[15] Principles relating to the Status of National Institutions (The Paris Principles), General Assembly resolution 48/134, 20 December 1993, https://nhri.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx.

HUMAN RIGHTS IN THE PACIFIC ON THE 70TH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: THE PACIFIC COMMUNITY'S VIEW

Dr Audrey Aumua is the Deputy Director-General of the Pacific Community (SPC), a regional organisation representing 26 Pacific Islands and Territories. Based in Suva, Fiji, Dr Aumua has oversight of SPC's work in geoscience, energy & maritime, land resources, education, social development and regional rights. Her previous roles in the Pacific have included WHO Regional Representative in Samoa and Director of Knowledge and Innovation at the University of Queensland.

Introduction

Tiny specks cast wide across the vast expanse of water, each Pacific Island Country or Territory (PICT) is distinct yet forever bound to each other by the Pacific Ocean as well as by commonalities in culture, traditions and values. Covering the largest area of the globe, with the smallest and most isolated populations, the Pacific is home to a diversity of cultures which speak one quarter of the world's languages. The region comprises 22 countries and territories of which 15 are former colonies and seven are overseas territories of the United Kingdom, the United States and France.

While the Pacific evokes images of sun, surf, sand, friendly faces, and a way of life encapsulated by 'Pacific time', this popular image only tells part of a story – a story which includes complex sub-plots covering issues like inequality, gender-based violence, sustainability, globalisation, ethnic tensions, and the ever growing threats arising out of climate change. Where does human rights fit into the Pacific narrative and where is this story headed?

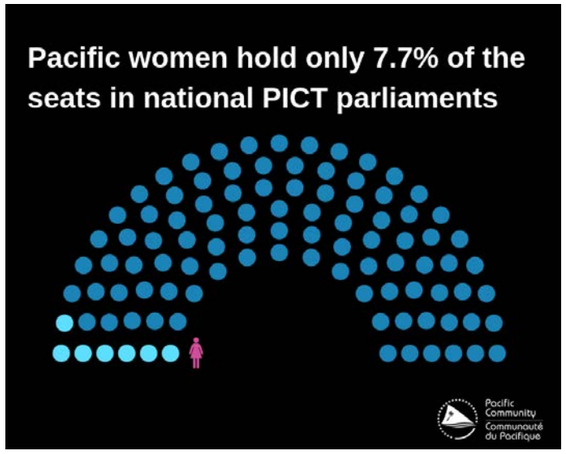
Human Rights in the Pacific

Human rights as a concept is relatively new to the Pacific and the question of its place amongst the region's cultures, traditions and values has prompted much discussion. Ratu Joni Madraiwiwi, the late High Chief and former Vice-President of Fiji and Chief Justice of Nauru, spent much time thinking about this issue: *"Customs and human rights both concern rights. Human rights are understood to be the rights that are innate and inherent to each of us as individuals. Customary, traditional and cultural rights relate to our social mores as a distinct people or community. They include the ownership of land and natural resources, folk lore, traditional knowledge and social systems. Both these species of rights belong to us by virtue of who and what we are."*[1]

Today, the appreciation amongst Pacific Island governments of the importance of human rights and the positive role they can play in helping to achieve sustainable development outcomes, appears to be escalating. From 2019-2021, for example, Fiji will sit on the United Nations Human Rights Council, the first PICT to do so, while the Republic of the Marshall Islands has announced its candidacy to be a Council member from 2020-2022.[2]

Interest amongst PICTs in establishing national human rights institutions (NHRIs) has also increased in recent years – for example, Samoa (2013) and Tuvalu (2017) have joined Fiji[3] in establishing an NHRI while several other PICTs are investigating whether they should establish NHRIs. The rate of PICTs' reporting against treaties has increased significantly in recent years while participation in the Universal Periodic Review process has been positive although implementation of recommendations from the Human Rights Council and treaty bodies remains a challenge, as has the domestication of human rights treaties into national legislation.

Perhaps the clearest early articulation of Pacific Leaders' commitment to human rights is in the 2005 Pacific Plan for Strengthening Regional Cooperation and Integration which included the ratification and implementation of core human rights treaties as key goals for the region. In 2012, the Pacific Leaders' Gender Equality Declaration emphasised the need to implement specific national policy actions to increase women's participation in all levels of leadership and decision making. Commitments included the adoption of temporary special measures to accelerate women's full and equal participation in governance reform and women's leadership at all levels of decision making, and advocacy for increased representation of women in private sector and local level governance boards and committees. The 2014 Framework for Pacific Regionalism, which replaced the 2005 Pacific Plan, embraced *"good governance, the full observance of democratic values, the rule of law, the defence and promotion of all human rights, gender equality, and commitment to just societies"* as well as *"full inclusivity, equity, equality for all people of the Pacific."* In 2015, Members of Parliaments from 11 PICTs[4] adopted the *Denarau Declaration on Human Rights and Good Governance* which recognised that human rights (and good governance) are essential cornerstones for social, economic and cultural development in the region. And in 2016, the *Pacific Framework on the Rights of Persons with Disabilities* was adopted by Pacific Leaders as their commitment to build a Pacific which is inclusive and equitable for all persons with disabilities.



Key human rights issues

While governments appear to increasingly appreciate human rights, much still needs to be done to address certain human rights concerns in the region. Key regional issues with significant human rights dimensions and implications include high rates of violence against both women and children, the rights of persons with disabilities, and climate change.

The Family Health and Safety Studies in 11 PICTs[5] since 2008 show that 63% of women in Melanesia, 44% in Micronesia and 43% in Polynesia, have experienced physical and sexual violence at least once in their lifetime. Notwithstanding some progress towards women's empowerment and participation in decision making[6], Pacific women hold only 7.7% of seats in national parliaments in PICTs[7], the lowest percentage of Parliamentary seats worldwide. Laws still exist in the Pacific which treat women and girls differently and restrict their opportunities and rights in areas such as employment, social protection, decision making, land ownership, education, and social, health and family status. Women's labour force participation rates remain low across the Pacific – in a number of countries, men's participation in the formal economy is almost double that of women (in Melanesia, the ratio is three to one in favour of men).

Despite the commitments made by Pacific Leaders under the 2012 Gender Equality Declaration and the signing or ratification of the *Convention on the Elimination of All Forms of Discrimination against Women* by 12 PICTs, budgets for national women's ministries / departments across the region to address the situation of women are less than 1% of national appropriations and most ministries do not make budget allocations to address gender issues.[8]

It is estimated that about 1.5 million Pacific islanders are living with some form of disability. In the Pacific, persons with disabilities are among the poorest and most marginalised in their communities. They are over represented among those living in poverty and under-represented in social, economic and public life, including in national decision-making. Women and girls with disabilities are two to three times more likely to be victims of physical and sexual abuse than those without a disability. Despite the commitments made by Pacific Leaders under the 2016 Pacific Framework on the Rights of Persons with Disabilities and the signing or ratification of the *Convention on the Rights of Persons with Disabilities* by 13 PICTs, national governments allocate only 0.2% of national appropriations to initiatives in support of persons with disabilities.[9]

The *Boe Declaration on Regional Security,* agreed by Pacific Leaders at the 2018 Regional Leaders Meeting in Nauru, prioritises climate change as *"the single greatest threat to the livelihoods, security and wellbeing of the peoples of the Pacific".*[10] A host of human rights implications (right to life, right to an adequate standard of living, etc) are linked to the already well-documented current and future impacts of climate change, including economic impacts such as a decrease of 20% and 30% respectively in fisheries and tourism earnings.

The Pacific Community and Human Rights

The Pacific Community (SPC) is a regional inter-governmental organisation comprising 22 PICTs, as well as Australia, New Zealand, France and the United States. SPC shares the vision for the region adopted by Pacific Leaders under the Framework for Pacific Regionalism of *"a region of peace, harmony, security, social inclusion and prosperity [in which] all Pacific people can lead free, healthy and productive lives."* One of the ways in which SPC seeks to achieve this vision is through *"advancing social development through the promotion of human rights, gender equality, cultural diversity and opportunities for the young."*[11]

In 2017, and with the endorsement of its membership, SPC adopted an integrated, people-centred approach to its work. The integrated approach ensures that SPC responds to the development issues of the region in a holistic, multi-sectoral way, and combines the scientific and technical elements of its work with the human dimension of the development issues being addressed. The focus on the human dimension of development is achieved through mainstreaming human rights, gender and social inclusion across the SPC work programme.

The Regional Rights Resource Team (RRRT) is the human rights division of SPC. Supported by donors like the Governments of the United Kingdom, Sweden and Australia, and comprising human rights advocates from across the Pacific, RRRT provides a comprehensive suite of policy and legislative advice, technical assistance and capacity building services, to support PICTs to respond effectively to regional human rights priority areas. RRRT's work ranges from helping to create and operationalise national human rights institutions (for example, through the Commonwealth Pacific Equality Project, funded by the Government of the United Kingdom) to helping to draft and implement legislation addressing gender-based violence. An independent evaluation of RRRT commissioned by the Australian Government in 2016 found that

"RRRT has significantly contributed to a steady shift toward a deeper culture of human rights in Pacific countries and throughout the region, and has been instrumental in developing human rights advocates across government and civil society. RRRT's mix of accessibility, expertise, cultural competency, responsiveness, flexibility, and 'brand' reliability, is singular in the Pacific."[12]

Whether human rights is compatible with Pacific cultures, traditions and values, including religion, and how it fits within the Pacific context more generally, has been at the forefront of RRRT's work since its inception in 1995. Traditional community and religious leaders have been important partners in effectively responding to the argument that human rights is a foreign concept. A greater emphasis on the instrumental value of human rights to assist countries achieve sustainable development, has also contributed to the growing appreciation of human rights in the region.

Conclusion

The Pacific and its peoples deserve to be afforded the protections and opportunities which a strong human rights framework offers. Human rights confirms the worth of each of us as individuals and as members of our communities and a global human family which should never leave anyone behind.

While a lot of progress has been made, much more needs to be done to de-mystify human rights in the Pacific; to develop a human rights culture in the region which preserves and celebrates all that is good about the Pacific way. Human rights is very much about respect and dignity, and progressing a culture of human rights in the Pacific must be underpinned by these values. Many Pacific communities are still unclear of what human rights means, are still very much immersed in and justifiably proud of their cultures, values and traditions, and are grappling with globalisation and all it entails. Care must therefore be taken to ensure that progressing human rights in the region is done in a way which respects and applies the Pacific context, while at the same time remains faithful to the fundamental truths of the human rights ideal.

References:

[1] Ratu Joni Madraiwiwi, 2016, Human Rights in the Pacific: A Situational Analysis; Pacific Community.

[2] The Republic of the Marshall Islands has highlighted the human rights dimensions of climate change for many years now, including to the Human Rights Council from as early as 2009.

[3] The Fiji Human Rights and Anti-Discrimination Commission was created by Presidential Decree in 2009, succeeding the Fiji Human Rights Commission established as an independent statutory body under the Fiji Human Rights Commission Act in 1999.

[4] Fiji, Kiribati, the Republic of the Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tuvalu, Tonga, and Vanuatu.

[5] First Quadrennial Pacific Sustainable Development Report, 2018, page 12.

[6] For example, two PICs have a women as Head of Government and one has a female Deputy Prime Minister, while two PICs have appointed women as Speakers of the House. Two of the Pacific's regional organisations are led by women with an increasing number of women executives in the private sector across the region.

[7] The Federated States of Micronesia, Papua New Guinea and Vanuatu are three of only four countries globally that currently have no women representatives in their national parliament.

[8] First Quadrennial Pacific Sustainable Development Report, 2018, page 6.

[9] Ibid.

[10] The Boe Declaration for Regional Security succeeds the 2000 Bikatawa Declaration which paid greater emphasis to good governance, democracy and human rights. Boe Declaration; Pacific Islands Forum Secretariat; https://www.forumsec.org/boe-declaration-on-regional-security/.

[11] Pacific Community Strategic Plan 2016-2020, page 4.

[12] Independent Evaluation of SPC's Regional Rights Resource Team, February 2016, page 5.

Above: The UNTF, bringing together local and international stakeholders, meet to discuss projects working to improve access to justice in the Solomon Islands.

Left: The launch of the Pacific Commonwealth Equality project in Kiribati funded by the UK Government and implemented by the Pacific Community (SPC).

STATUS OF TREATY RATIFICATION AND REPORTING IN THE PACIFIC (OCTOBER 2018):

The chart below shows PICTs which are parties (indicated by the date of adherence: ratification, accession or succession) or signatories (the date of signature) to the United Nations human rights treaties. Self-governing territories which have ratified any of the treaties are also included in the chart.

	ICESCR	ICCPR	CERD	CEDAW	CAT	CRC	CRMW	CRPD	CPPED
COOK ISLANDS				11 August 2006		6 June 1997		8 May 2009	
FIJI	16 August 2018	16 August 2018	11 January 1973	28 August 1995	14 March 2016	13 August 1993		7 June 2017	
KIRIBATI				17 March 2004		11 December 1995		27 September 2013	
MARSHALL ISLANDS	12 March 2018	12 March 2018		2 March 2006	12 March 2018	4 October 1993		17 March 2015	
FEDERATED STATES OF MICRONESIA				1 September 2004		5 May 1993		7 December 2016	
NAURU		12 November 2001	12 November 2001	23 June 2011	26 September 2012	27 July 1994		27 June 2012	
NIUE						20 December 1995			
PALAU	20 September 2011	20 September 2011	20 September 2011	20 September 2011	20 September 2011	4 August 1995	20 September 2011	11 June 2013	20 September 2011
PAPUA NEW GUINEA	21 July 2008	21 July 2008	27 January 1982	12 January 1995		2 March 1993		26 September 2013	
SAMOA		15 February 2008		25 September 1992		29 November 1994		2 December 2016	27 November 2012
SOLOMON ISLANDS	17 March 1982		17 March 1982	6 May 2002		10 April 1995		23 September 2008	
TONGA			16 February 1972			6 November 1995		15 November 2007	
TUVALU				6 October 1999		22 September 1995		18 December 2013	
VANUATU		21 November 2008		8 September 1995	12 July 2011	7 July 1993		23 October 2008	6 February 2007

KEY TO TREATIES:
ICESCR = International Covenant on Economic, Social and Cultural Rights
ICCPR = International Covenant on Civil and Political Rights
CERD = Convention on the Elimination of All Forms of Racial Discrimination
CEDAW = Convention on the Elimination of All Forms of Discrimination Against Women
CAT = Convention Against Torture and Other Cruel, In human or Degrading Treatment or Punishment
CRC = Convention on the Rights of the Child
CRMW = Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD = Convention on the Rights of Persons with Disabilities
CPPED = Convention for the Protection of all Persons from Enforced Disappearance

Indicates the date of adherence: ratification, accession or succession

Indicates the date of signature

THE RIGHT TO JUSTICE: ACCESS TO JUSTICE AND LEGAL AID IN THE UNITED KINGDOM

Rt Hon. Lord Kerr of Tonaghmore is a Justice of The UK Supreme Court, a position he has held since 2009. Lord Kerr served as Lord Chief Justice of Northern Ireland from 2004 to 2009, and was the last Lord of Appeal in Ordinary appointed before the creation of The Supreme Court. Lord Kerr was called to the Bar of Northern Ireland in 1970, and to the Bar of England and Wales at Gray's Inn in 1974. In 1993 he was appointed a Judge of the High Court and knighted. He became Lord Chief Justice and joined the Privy Council in 2004.

'*Access to justice*' is a rubric deployed by many commentators, but not always with the same connotation. So far as concerns access to the courts, *au fond*, it must mean that those who have resort to the law for the redressing of wrongs done to them, or to defend themselves against accusations made against them should have unimpeded entrée to the judicial system. Or, if not unimpeded access, at least access with no unwarrantable impediment, which, as we shall see, is at the heart of contemporary debate on this subject.

Two principal themes emerge. First, the need to ensure that excessive court fees are not imposed which prevent or unduly discourage litigants from bringing a claim. The second, interrelated, theme is that litigants should have available to them legal representation in appropriate cases, where they cannot afford that representation from their personal resources.

Excessive court fees

The courts have been prepared to intervene when satisfied that excessive court fees operate to deny or even impede access to justice. In *R v Lord Chancellor ex p. Witham*[1], Laws J described access to the courts as *"a constitutional right"*, well-recognised by – indeed, enshrined and deeply embedded in – the common law. That right could only be denied by the government *"if it persuades Parliament to pass legislation which specifically – in effect by express provision – permits the executive to turn people away from the court door."*[2]

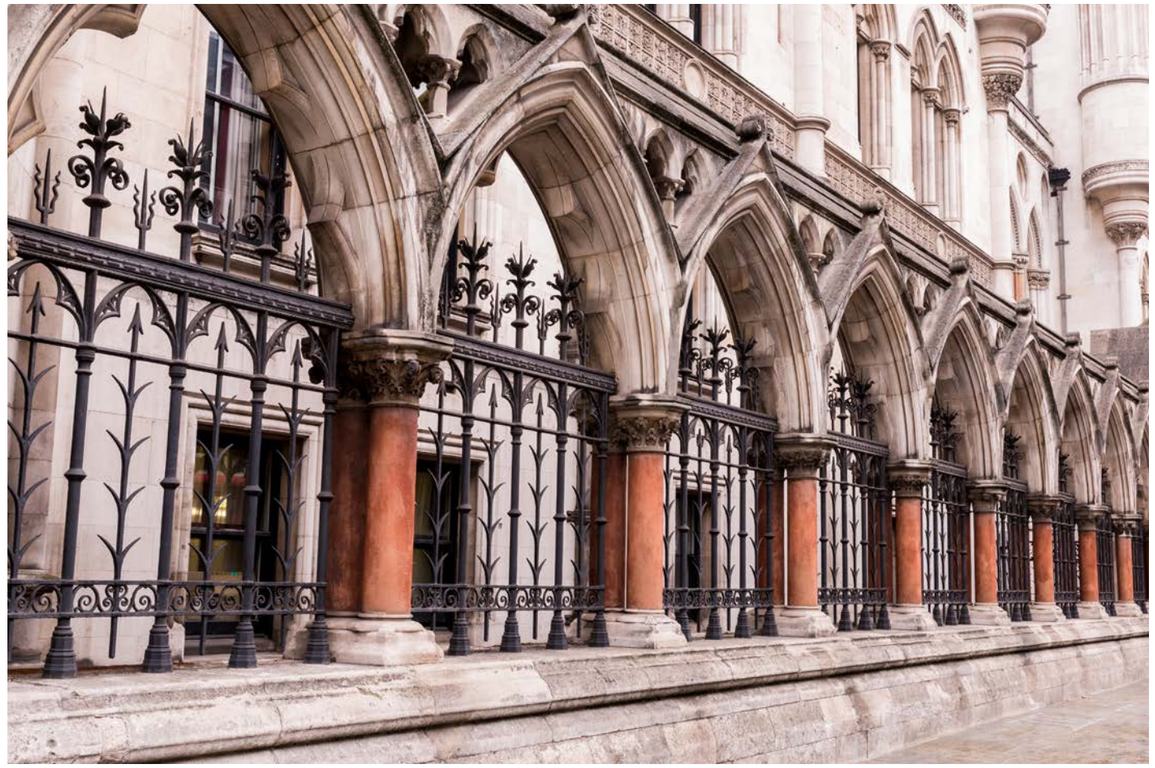
In that case, Mr Witham, who was unemployed, challenged the decision of the Lord Chancellor to amend the Supreme Court Fees Order 1980 by imposing fees of £120 or £500 for bringing relevant claims. Laws J said: *"In my view, it is clear on the evidence before us that there is a wide-ranging variety of situations in which persons on very low incomes are in practice denied access to the courts to prosecute claims or, in some circumstances, to take steps to resist the effects of claims brought against them."*[3]

While, in general, it is for the Executive and Legislature to decide how public resources are to be expended and replenished, provisions such as that which amended the 1980 Order required explicit Parliamentary authorisation in the form of legislation. Since there had been no such authorisation, the amendment to the 1980 Order was held to be unlawful.

A recent example of the common law principle in play is to be found in the unanimous decision of the Supreme Court in *R (Unison) v Lord Chancellor*.[4] In that case the trade union challenged the lawfulness of the Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013, which had introduced charges of £390 or £1,200 to bring a case before an Employment Tribunal.

The judgment of Lord Reed (now the Deputy President of the court) repays careful study. What follows is but a short summary of the principal findings. Lord Reed reasserted the importance of the right at stake. The right of access to the courts was, he said, a constitutional right *"inherent in the rule of law."*[5] And, at the heart of the concept of the rule of law is the idea that society is governed by law. In a telling passage, Lord Reed said this: *"Courts exist in order to ensure that the laws made by Parliament, and the common law created by the courts themselves, are applied and enforced. That role includes ensuring that the Executive branch of government carries out its functions in accordance with the law. In order for the courts to perform that role, people must in principle have unimpeded access to them. Without such access, laws are liable to become a dead letter, the work done by Parliament may be rendered nugatory, and the democratic election of Members of Parliament may become a meaningless charade. That is why the courts do not merely provide a public service like any other."*[6]

> **"While, in general, it is for the Executive and Legislature to decide how public resources are to be expended and replenished, provisions such as that which amended the 1980 Order required explicit Parliamentary authorisation in the form of legislation. Since there had been no such authorisation, the amendment to the 1980 Order was held to be unlawful."**



Lord Reed emphasised the importance of the role of the courts in society. As he said, the significance of judgments frequently extended well beyond the interests of those whose case was resolved by individual decisions. Lord Reed pointed out that people and businesses need to know, on the one hand, that they will be able to enforce their rights if they have to do so, and, on the other hand, that if they fail to meet their obligations, there is likely to be a remedy against them. As he said, *"[i]t is that knowledge which underpins everyday economic and social relations."*[7]

The importance of the right of access to the courts is therefore, at least, two-dimensional. It provides resolution of individual disputes. More importantly from a societal viewpoint, it charts the way forward for clients and their lawyers who wish either to avoid contentious litigation or who want to know whether their rights have been infringed.

As it happens, the UK Supreme Court in *Unison* held that the imposition of the relevant fees by the Executive, without the express sanction of Parliament, effectively prevented access to justice and was therefore unlawful. I venture, however, that the decision will resonate for reasons other than those directly associated with the particular circumstances of the case, not least in its championing of the role of the common law and the importance of the right of access to justice within it.

Legal Aid

Challenges to legal aid provisions have proved more problematical. The lack of success of such challenges is perhaps most evident in the Family Court.

In *Re K (Children) (Unrepresented Father: Cross-Examination of Child)*[8], the father of two children was accused of having sexually abused their older half sibling. The key issue in the case was the level and type of contact which the father should have with the two younger children. The judge felt unable to reach a conclusion on that without first deciding whether the allegation against the father was true. A hearing to determine this question was listed, therefore. The older half-sibling was to give evidence at the hearing. The father did not have legal aid for representation in the proceedings and did not meet the 'means test' set out in the relevant regulations. The judge considered that it would not be appropriate for the father to cross examine the child directly. Since the father could not afford to pay privately for legal representation, the judge directed that a legal representative should be appointed by the court to cross-examine the child on behalf of the father. He ordered that the costs of legal representation of the father should be borne by Her Majesty's Courts and Tribunals Service. He considered that the court had jurisdiction to make such an order because of observations made by the President of the Family Division, Sir James Munby P in two earlier cases: *Q v Q (No 2) (Practice Note)*[9] and *Re D (A Child)*.[10]

The judge's decision was appealed to the Court of Appeal. That court decided that the judge did not have power to make the order. Lord Dyson MR explained: *"As the judge acknowledged, LASPO [the Legal Aid, Sentencing and Punishment of Offenders Act 2012] provides a comprehensive code for the funding of litigants whose case is within the scope of the scheme. It is a detailed scheme. I do not consider that it is possible to interpret either section 1 of the 2003 Act [the Courts Act 2003] or section 31G(6) of the 1984*

Act [the Matrimonial and Family Proceedings Act 1984] as giving the court the power to require the Lord Chancellor to provide funding for legal representation in circumstances where such funding is not available under a scheme as detailed and comprehensive as that which has been set up under LASPO. The court must respect the boundaries drawn by Parliament for public funding of legal representation. In my view, the interpretation adopted by the judge is impermissible: it amounts to judicial legislation."[1]

The Court of Appeal considered that the father's rights under the European Convention on Human Rights (ECHR) had not been infringed in this instance. But it sounded a cautionary note that this might well be an issue in a future case, Lord Dyson observing that, *"…to avoid the risk of a breach of the Convention, consideration should be given to the enactment of a statutory provision for (i) the appointment of a legal representative to conduct the cross-examination and (ii) the payment out of central funds of such sums as appear to be reasonably necessary to cover the cost of the legal representative …"*[2]

Article 6(1) of ECHR provides that in *"the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law …"*

But, even where legal aid is provided as of right, a recipient is not given an absolute right to choose his or her legal representative.

In a judgment of the UK Supreme Court handed down earlier this year, *In the matter of an application by Kevin Maguire for Judicial Review (Northern Ireland)*[13], it was held that the right to choose one's counsel was a feature of the overall right to a fair trial. Article 6 did not confer on an individual the right to insist on counsel of his choice at the expense of the public, unless it could be shown that this was required in the interests of justice. The judgment contains a review of Strasbourg jurisprudence such as *Correia de Matos v Portugal*[14]; *K v Denmark*[15]; *Mayzit v Russia*[16]; and *Dzankovic v Germany*[17] and concludes that, on the basis of that case-law, *"[t]he wishes of a defendant as to his choice of counsel must be taken into account but these are properly subordinate to the overall aim of achieving a fair trial. Thus, it is not a question of the defendant enjoying a right to choose his own counsel which is freestanding of the fair trial goal. Rather it is as an element of the objective of a fair trial that the right to have counsel of one's choice arises."*[18]

The review of legal aid legislation

LASPO is undergoing review at present. It is to be expected that judicial commentary on the potential iniquities of the current scheme will form a crucial part of that review. Among the more important of those are the observations of District Judge Read, sitting in the family court in Middlesbrough. Having conducted a fact-finding hearing in the matter of *JY v RY*[19], the judge said: *"Neither parent could afford a lawyer, and neither was eligible for Legal Aid. I found this surprising in the mother's case in particular, given that I was told that she was dependent entirely on state benefits and yet failed the means test, despite the nature of the case"… "I therefore think there is a very strong likelihood that the outcome of the fact finding would have been different, and most probably a truer reflection of what really happened, had the parents been represented. It would surely have concluded sooner, more fairly, and at far less expense to the public purse than ultimately was the case, with two wasted days at Court. It may also have been less painful for the participants."*[20]

It is to be hoped that these pertinent comments will inform those whose solemn task it is to decide where the proper balance is to be struck between conserving public resources and ensuring that the fundamental principle of access to justice, firmly rooted as it is in the rule of law, is respected and preserved.

I wish to acknowledge the considerable help that I have had from my Judicial Assistant, Abigail Bridger, in the preparation of this article.

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HUMAN RIGHTS IN THE MODERN ERA: PRIVACY RIGHTS: A COMMONWEALTH PERSPECTIVE

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Introduction

The doyens of 20th century human rights declarations and conventions could never have envisaged a world so interconnected as ours, where information is shared globally and instantaneously, and many people live their lives online.

As the digital age expands into homes, between businesses and across borders, legislators are struggling to strike a balance between guaranteeing freedom of expression and protecting privacy, respecting the limits of international jurisdiction, and ensuring that citizens remain safe online. Achieving an effective balance will be one of the great human rights challenges of the 21st century.

The use of bilateral and multilateral mutual legal assistance treaties (MLATs), with their inbuilt protections against violations of the right to privacy and freedom of speech, is an essential part of that process, but as international organised crime escalates and requests for assistance become more numerous and complex, these systems have become overburdened and other solutions are being sought.

The Commonwealth cybercrime and privacy framework

On 20 April 2018, at their meeting in London, 53 Heads of Commonwealth Governments, including the Heads of 31 Small Commonwealth and Island States, unanimously adopted a landmark *Commonwealth Cyber Declaration* committing themselves to:

- A cyberspace that supports economic and social development and rights online;
- Building the foundations of an effective national cyber security response; and
- Requiring cyber security frameworks to promote stability in cyberspace through international cooperation.

The Declaration, which has been described as *"the world's largest and most geographically diverse inter-governmental commitment on cybersecurity cooperation"*[1], followed immediately after the UK Government's announcement to pledge up to £15 million to help Commonwealth countries strengthen their cybersecurity capabilities. It was accompanied by an Implementation Plan for the Period 2018—2020, in which the Heads of Governments agreed to examine and assess their cybersecurity frameworks and to determine their capacity needs.[2]

Commonwealth countries have long recognized the importance of the right of the public to access information held by the government and the need to protect the privacy of individuals whose personal information is held by public or private organisations. Between 2002 and 2005, Law Ministers adopted three inter-related bills to assist Commonwealth member countries, which had yet to enact laws providing for access to information: *The Model Privacy Bill (2002)*; *The Model Freedom of Information Bill (2002)*; and *The Model Bill on the Protection of Personal Information (2005)*. Each of them draws largely from the core principles set out in the OECD Privacy Guidelines 1980, updated in 2013.[3]

The Commonwealth also has *The Harare Scheme*[4] an established framework of mutual legal assistance, updated in 2011 to include preservation of computer data, interception of telecommunications and covert electronic surveillance. The Scheme has clear built-in safeguards to protect the sovereignty of Commonwealth states and the privacy of Commonwealth citizens. The Commonwealth also has in place the *Commonwealth Network of Contact Persons*, which provides investigators and prosecutors with practical and legal advice and enhances informal cooperation; the *Commonwealth Cybercrime Initiative*, a consortium of 35 international organisations including Interpol, the Council of Europe, UNODC, and the Commonwealth Telecommunications Organisation, which provides member countries with technical assistance on cybercrime and cybersecurity capacity building on request.

In 2011, Law Ministers adopted *The Commonwealth Model Law on Computer and Computer Related Crime*, which is currently being reviewed by a Commonwealth Expert Group, and provides a legislative framework of cyber related offences based upon the Council of Europe's *Convention on Cybercrime (The Budapest Convention)*[5], the Preamble of which specifically recognises:

"… the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, and the rights concerning the respect for privacy" and *"the right to the protection of personal data…"*

The *Budapest Convention* has been ratified or acceded to by 61 states. Eight Commonwealth countries[6] are Parties to it and others have introduced legislation

based upon it. It sets out an MLA framework similar to the Harare Scheme, with provision for states to impose restrictions ensuring that data disclosed is not used for purposes other than those contained in the MLA request.

Mutual Legal Assistance: the need for change

The Commonwealth privacy framework is comprehensive and like the *Budapest Convention* is subject to review, but as technology has advanced and requests for MLA assistance have soared, the bureaucracy involved in responding to requests has led to delays which are unacceptable if the destruction of incriminating data is to be avoided, and serious crime, particularly economic and international organised crime, is to be effectively investigated and prosecuted.

In 2013, a UN study found that the MLA process takes, on average, 150 days from request to response.[7] In April 2017, Google noted in its *Transparency Report* that it received 45,549 government requests for user data in the second half of 2016 of which 31,000 (approximately 70%) were from non-US governments. Not surprisingly it called for a more efficient legal process than the current MLA treaties.[8]

The Commonwealth model bills on privacy and freedom of information are at least twelve years old and a Working Group is currently reviewing the *Commonwealth Model Law on Computer and Computer Related Crime*. Investigators and prosecutors are challenging the effectiveness of MLA treaties and seeking other solutions. The US has enacted and the UK is enacting legislation to make it easier for law enforcement agencies to obtain electronic evidence, including emails and documents stored on the Cloud, and they are negotiating an international cooperation agreement to give it effect. Similarly, a European Union instrument that would allow Member States to obtain data directly from companies in other Member States is making its way through the European Parliament, although the UK will need to forge fresh agreements with Member States post-Brexit.[9]

Two recent cases, one in the US and one in the UK, illustrate the difficulties which have arisen in resolving issues of territoriality in pre-Internet age statutes and which demonstrate the need for legislative intervention.

The US Solution: The Microsoft Litigation and the CLOUD Act

On 14 July 2016, in *Microsoft v US 829 F 3d* (2d Cir. 2016), the Court of Appeals for the Second Circuit in a majority judgment allowed an appeal by Microsoft against a decision of the United States District Court, which had held Microsoft in contempt for failing to comply with a warrant requiring it to produce the contents of a US customer's email account stored in Ireland.

The warrant had been issued under the *Stored Communications Act, 18 USC 2701* (*"the SCA 1986"*); a pre-Internet age statute. The Court of Appeals accepted Microsoft's argument that the issue of the warrant constituted an unlawful extraterritorial application of the SCA 1986, and held that in the absence of express contrary intention in the statute, warrants under the SCA could only apply within the jurisdiction.

The US Government obtained leave to appeal to the US Supreme Court, but on 23 March 2018 the President signed the *Clarifying Lawful Overseas Use of Data Act (the CLOUD Act)*, which amended the SCA 1986 by expressly providing that the Act had extraterritorial application subject to certain conditions. The Government obtained a fresh warrant under the new law and the issue under appeal being no longer moot, the Supreme Court declined to consider the original appeal.

The CLOUD Act created an alternative route to that provided by MLA treaties, empowering the President to make 'executive agreements' with 'qualifying' foreign governments enabling them to obtain requested data of their citizens in a streamlined manner. Governments, which are parties to such agreements, can issue orders which are binding on US providers after the orders have been approved by their domestic judiciaries and without requiring judicial approval in the United States. The 'executive agreements' are confined to 'serious crime and terrorism' and can only be made if the Attorney General and Secretary of State certify that among other things, the foreign government provides 'robust substantive and procedural protections for privacy and civil liberties' and that it has adopted procedures to 'minimize the acquisition, retention, and dissemination of information concerning United States persons.'[10]

The UK Solution: Overseas Production Orders

On 27 June 2018 the UK Government introduced in the House of Lords the *Crime (Overseas Production Orders) Bill ("OPO")*, which, if enacted, will enable UK law enforcement agencies to apply to a domestic court for an order authorising them to obtain electronic data directly from service providers based outside the UK. As with the CLOUD Act, an order may only be made where an agreement, in this case called an 'international agreement' is in place with the country where the provider is based.

The order is limited to indictable offences and terrorist investigations. It must specify the data that is being sought, and the judge must be satisfied that the data is likely to be of substantial value to the proceedings or the investigation, and that its production will be in the public interest. It may also include a requirement that no other person shall be informed of its existence. The Bill provides that the server '*and any person affected*' by the order may apply to the domestic court for all or part of the order to be revoked, but makes no provision for the executing state to make any objection.

At the time of writing, the Bill has passed the Report Stage in the House of Lords and after a Third Reading, will be considered by the House of Commons. The Government has asserted that the Bill is compatible with the *Human Rights Act 1998*[11], stating that although it overrides Articles 8 and 10 of the European Convention on Human Rights, *"these intrusions into ECHR rights can be justified as necessary in a democratic society for the prevention of disorder and crime and in the interests of national security and public safety, and are proportionate in light of the requirements that must be met before a judge can make an overseas production order, and the other safeguards set out in the Bill."*

> **"There is no question that legislative changes are needed to bring prosecutorial powers up to date with new technology and to supplement the current system of mutual legal assistance. However, the risks to privacy and sovereignty in creating alternative frameworks are apparent and there are no easy answers."**

While the Bill includes safeguards; like the CLOUD Act, it has raised serious human rights concerns. The Bill contains provisions protecting personal, confidential and journalistic data, and the allows persons affected by the order to apply for it to be revoked or amended, but the process of review is one-sided and places considerable trust in the law enforcement agencies of the requesting state. Executing states have played a vital role in safeguarding citizens' rights in the application of existing MLATs, but will have no power to scrutinise OPOs.

A judicial solution: KBR v SFO

On 6 September 2018, while the OPO was progressing though Parliament, the UK High Court handed down its judgment in the case of *KBR v SFO*, holding that section 2(3) of the *Criminal Justice Act 1987*, a pre-Internet statute which grants the Serious Fraud Office (SFO) power to compel the production of documents, can have extraterritorial application.

The case concerned the validity of a '*section 2 notice*' issued by the SFO which required KBR Inc., the USA-based parent company of KBR Ltd, which was accused of making corrupt payments, to hand over documents held outside the UK. The notice had been served on a representative of KBR Inc whilst she was in the UK.

The court held that the SFO may compel the production of documents by an overseas company *"when there is a sufficient connection between the company and the jurisdiction"* (at [71]) and that KBR Inc. had sufficient connection simply by authorising payments made by its subsidiary, KBR Ltd, which had originated in the UK.

Although KBR argued that giving section 2 extraterritorial effect would improperly circumvent the statutory mutual legal assistance framework and the safeguards put in place to protect and respect international sovereignty, the court held that the section 2 powers could be used as an alternative to MLA and that this was in the public interest in order to combat cross-border crime in the internet age. As Gross LJ stated: *"… The SFO's business is "top end, well-heeled, well-lawyered crime…" By their nature, most such investigations will have an international dimension, very often involving multinational groups conducting their business in multiple jurisdictions… It follows that the documents relevant to the investigation of a UK subsidiary of such a group may well be spread between the UK and one or more overseas jurisdictions. … there would be a very real risk that the purpose of section 2(3) would be frustrated… if, as a jurisdictional bar, the SFO was precluded from seeking documents held abroad from any foreign company…. There is, accordingly, an extremely strong public interest in the extraterritorial ambit of section 2(3)…"* [68].

There remain difficult questions about the logistics of enforcing section 2 notices on persons abroad and the High Court decision may yet be appealed, but the prospect of the SFO issuing section 2 notices threatening overseas corporations or individuals with fines or imprisonment for non-compliance may be regarded as a drastic incursion into international comity and could lead to the erosion of states' goodwill.

As in the *Microsoft Case*, the ruling in the *KBR Case* demonstrates the difficult issues which can arise in the interpretation of pre-Internet statutes and which may only be definitively resolved by the legislature. The SFO's section 2 powers are not subject to the MLA safeguards provided by the *Budapest Convention* and the Harare Scheme, which were carefully drafted to satisfy the need to balance law enforcement with respect for the sovereignty of foreign states. Instead, a domestic law enforcement agency has been empowered unilaterally to act internationally, seizing overseas materials and threatening foreign corporations with criminal sanctions without seeking the consent of the relevant state.[12]

Conclusion

There is no question that legislative changes are needed to bring prosecutorial powers up to date with new technology and to supplement the current system of mutual legal assistance. However, the risks to privacy and sovereignty in creating alternative frameworks are apparent and there are no easy answers.

The *OPO Bill* and the *CLOUD Act*, together with the proposed *European Production Order*, are important steps towards creating an effective international information-sharing scheme, but they are limited and lack the global response that is required. The pool of participating states is rightly restricted to those countries which are able to satisfy the respective governments that they are suitable treaty partners by demonstrating their compliance with the safeguards provided by MLATs and international agreements such as the *Budapest Convention*. However, as the UN warned in 2013, these emerging networks of selected countries are limited in scope and are not always well suited to the global nature of cybercrime.[13]

Small and developing Commonwealth countries may struggle to persuade the US, the UK, and the European Union to agree to their participation in agreements of the types proposed, in which case they must continue to use the current system of MLA, move towards the creation of regional networks to expedite information-sharing, or be tempted to launch challenges similar to those in the *Microsoft* and *KBR* cases.

A timely review of the relevant Commonwealth Model Laws, together with other Commonwealth schemes, may help to provide a solution to one of the most pressing human rights problems of the 21st century – the protection of citizens online and of their online rights.

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EQUALITY AND HUMAN RIGHTS: THE CHALLENGES OF INTRODUCING RELEVANT LEGISLATION FOR A CPA SMALL BRANCH LIKE GUERNSEY

Deputy Emilie Yerby was elected to the States of Deliberation in Guernsey in 2016, and is a Member of the Committee for Health & Social Care, the Committee for Employment & Social Security, and the President of the Overseas Aid & Development Commission. Prior to entering politics, she worked in the voluntary sector and in the civil service, principally on disability, health and welfare policies.

Guernsey is a flourishing community with levels of peace, safety and trust which could be the envy of many other nations. It has long enjoyed the prosperity born of a thriving finance sector, which it continues to carefully cultivate, although its national wealth of over £3bn[1] is far from evenly distributed among the 63,000 people who call this Island home. At the time of writing this article, the government's Committee for Employment & Social Security, of which I am a Member, had just warned that over 700 children in more than 200 households would remain in intolerable poverty unless undue restrictions on welfare benefits were lifted.[2]

The existence of material deprivation in Guernsey is important, and the particular place it occupies in our society is significant, but the overall picture is undoubtedly one of a small, comfortable community where people have the opportunity to thrive. Our average life expectancy is one of the highest in the world, free primary and secondary education is available to all children, and our unemployment rate hovers around one percent of the working population. In a world where scarcity, disease, violence and neglect still shape the lives of far too many, we have little if anything to complain of.

In that context, formal acceptance of human rights should have been the easiest thing in the world for Guernsey. The rights to live unharmed, and without unjust limits on individual liberty, which form the first half of the Universal Declaration on Human Rights, are seldom threatened here. Protections offered by the second half of the Declaration – including fair pay, social security, decent healthcare and access to education – would incur little new cost to the community, as well-established public services already deliver on many of those ambitions. Personal responsibility and duty towards the community, which concludes the Declaration, is a longstanding pillar of people's behaviour in an Island where almost five hundred voluntary organisations exist to give service at home and abroad.

The reality is somewhat different. For years, Guernsey's politicians and political commentators held a hesitant, if not begrudging, attitude towards making formal commitments to the protection of human rights. The island's Human Rights Law, incorporating the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, only came into force in January 2001. A framework for non-discrimination laws followed in 2004, but the only legislation made under it to date is a somewhat circumscribed provision offering some protection in the workplace against discrimination based on gender, married status[3], or gender reassignment. The argument runs that, because we are small and peaceful and prosperous, we have little need of the legal protections which safeguard citizens of other nations. A formal commitment to human rights, equality and non-discrimination has, until far too recently, been perceived only as box-ticking and bureaucratic red tape.

The tide is turning. In November 2013, to the cheers of more than two hundred disabled people gathered on the steps of Parliament with their families and friends, the States of Guernsey approved a Disability and Inclusion Strategy – the first time the government had made a comprehensive political commitment to improving the quality of life of disabled islanders, challenging prejudice and preventing discrimination. Among other commitments, the States pledged to introduce laws on non-discrimination and equality for disabled people and a local equivalent to the UK's Mental Capacity Act, and to seek an extension of the UN Convention on the Rights of Persons with Disabilities to the island.

These statutory changes might not have the same immediate impact on disabled people's day-to-day lives as improvements in services and benefits, but they offer an important backbone to our work on inclusion. They are a clear statement of disabled people's equal status and worth as members of our society; a map which shows how, through accessibility and adjustment, we can realise that equality in practice; and a tool which can be used by individuals to seek redress when they've been wronged.

Implementation of the Strategy got off to a painfully slow start. But a restructure of Guernsey's government around the 2016 Election placed responsibility for equality and non-discrimination work with the Committee for Employment & Social Security, which also leads on employment-related and anti-poverty policy – a natural fit. This change, together with the political will of Parliamentarians in the Committee and outside it, has led to a major focus on Disability and Inclusion this term, with a view to delivering the core commitments of the Strategy by 2020.

The Committee has taken the view, with the unanimous support of the States, that Guernsey should have a single Equality law, which will deliver the longed-for protection against discrimination on the grounds of disability, while also incorporating grounds such as race, religion and sexuality – grounds on which we know people experience discrimination, but for which there has never yet been any legal protection or recourse.

In order to shortcut what has already been a long and drawn-out process, we have also decided to adopt and adapt an equality and non-discrimination law from another country, rather than designing our own from scratch – a sensible decision for a small island with limited resources and limited expertise in this area. We believe this will give us much more than just a robust legal framework: it should also allow us, as a government and as a community, to draw on the knowledge, the case law, and the civil society insights of another jurisdiction in order to get the best out of our law. We kept our search to English-speaking countries, to avoid the risk of a law's best qualities being lost in translation. With the assistance of external experts, we narrowed our options down to five countries earlier this year, and eventually settled on Ireland and Australia (whose non-discrimination laws share a common ancestry) as the jurisdictions that would provide a model for our local Equality legislation.

The process of carefully reviewing the Irish and Australian laws, taking on board the latest thinking around the UN Convention and putting together a skeleton law for Guernsey is ongoing. We hope draft proposals will be shared for public consultation within months, and our aim – ambitious given Guernsey's limited law-drafting resources and the unknown impact of Brexit, but imperative if we are to avoid the slowdown that will follow another General Election – is to get Equality legislation for Guernsey on the statute books by 2020.

The role of civil society has been critical in getting us this far. It was only through campaigns led by disabled people's organisations and individual disabled people that the issue first made it onto the States' agenda, in around 2008. Civil society campaigns have done the most important thing of all, which is to raise public awareness of the realities of disadvantage, discrimination and exclusion experienced by some, even in our safe and comfortable community. Without that understanding born of personal stories, policies designed to promote equality and non-discrimination would barely have got a foothold among the government's priorities.

Civil society has also wrought changes in other areas of government policy. The sudden flourishing of an LGBT+ organisation on the island about five years ago led to the legalisation of same-sex marriage in 2016. The decision to do so, a few months before the last General Election, was in fact the catalyst that gave me the courage to stand – the political debate around the issue gave me comfort that my sexuality would not be received with hostility. My own experiences convince me that not only does representation in Parliament matter for minorities and marginalised people – so too does Parliament's role in creating a legal framework which actively embraces equality and inclusion. Policies which make it clear that you are wanted and you are welcome can make a profound change.

Matters of equality and human rights, by their very nature, touch on all aspects of human life. It goes without saying that an Equality law – itself complex and challenging enough to get right – is not the only solution to inequality or the structural disadvantages faced by some people in our society. Full inclusion for disabled people, for example, relies on investment in health and care services that provide tailored support, and in accessible environments that exclude no one. Equal recognition of LGBT+ families requires changes to our birth registration and adoption laws, which are still modelled on the idealised heterosexual household of the 1930s. A true commitment to gender equity calls for an effective package of parental benefits and rights to parental leave, which allow both men and women to play an equal part in the workplace and in the home.

These are policy issues which will continue to be tackled long after our legislation has been drafted, and Parliamentarians of all stripes will recognise that they are not challenges to be resolved overnight. The importance of developing a knowledgeable, independent institution – a local equivalent to an Equality Commission – to champion and advocate for equality and non-discrimination, and to give willing employers and service providers the information and advice they need to be inclusive, will also be apparent. We intend that this should be established before the Equality law comes into effect, to help smooth its introduction, and we have reason to be grateful to other Small Branches of the CPA who have so far been kind enough to share their own approaches and experiences in this matter.

Plans to introduce Equality legislation have been received with warmth, and indeed impatience, by much of the Island community. As a late adopter, we benefit from other jurisdictions having established a business case for equality and inclusion which even the sternest proponents of austerity, and the most textbook capitalists, may find compelling – after all, the profits foregone from excluding disabled shoppers, for example, far outweigh the one-off costs of making the shop environment accessible.

On the other side of that business case, we know that the lines of disadvantage converge on poverty. Not everyone who is poor experiences discrimination, and not everyone who is discriminated against ends up poor. But there is a powerful relationship nonetheless. From a disability perspective, persistent exclusion from employment opportunities, lower educational expectations, frequent negative attitudes and imperfect health and care services – together with the cost of aids and adaptations needed to compensate for inaccessible environments – combine at once to increase the cost of living and to diminish the resources available to meet it.

Placing responsibility for equality and inclusion with the Committee also responsible for social security puts Guernsey in an ideal position to understand how these things interrelate, and to take a comprehensive approach to mitigating disadvantage in our community. The knots of injustice, which don't show up in our headline statistics but which still colour the lives of too many of our citizens, are capable of being unravelled through careful legislative, practical and financial measures, one of which is effective Equality legislation. If the States of Guernsey invests sufficient resources in this work and holds fast to its determination to deliver in this term of government, we have the opportunity to make substantive progress in the way human rights are recognised and realised, for those who are still on the sharp end of ignorance, prejudice and discrimination, by the time 2020 comes around.

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INTRODUCING THE NEW COMMONWEALTH PARTNERSHIP FOR DEMOCRACY (CP4D): BE PART OF THE CHANGE!

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is a UK Member of Parliament and the UK Prime Minister's Trade Envoy to the ASEAN Economic Community, Malaysia, the Philippines and Indonesia. He chairs the All Party Parliamentary Groups for China, Indonesia and Marine Energy and Tidal Lagoons. He is the Chair of the Board of Governors for the Westminster Foundation for Democracy (WFD). Richard was previously an airline manager, a diplomat and an investment manager. He speaks eight languages, played squash for Indonesia and the Philippines and chairs a charity.

Colleagues reading this edition of *The Parliamentarian* will appreciate the challenge of improving citizens' lives through parliamentary processes. Change takes time to trickle down into everyday life. And faced with pressing emergencies, the fine-tuning of how democracy works too often takes a backseat.

I am sure colleagues will welcome the launch of a new Commonwealth Partnership for Democracy (CP4D). The initiative was announced earlier this year and is funded by the UK Government, as Chair-in-Office of the Commonwealth, with £4m over two years. Initially, it will work in 18 countries[1] and support public participation as well as improvements to parliamentary practices.

CP4D is implemented by the Westminster Foundation for Democracy (WFD) in partnership with project partners, the Commonwealth Parliamentary Association (CPA Headquarters), the CPA UK Branch and the Commonwealth Local Government Forum (CLGF). This will enable colleagues working at the national and, in some cases, subnational and local levels, to take part in activities. These include involving more women, young people, persons living with disabilities, religious minorities and the LGBT+ community in politics as well as improving Parliamentary practices. The CP4D partnership will offer support to share best practice among us.

Investing in democracy across the Commonwealth

Investing in democracy across our Commonwealth enables us to fight the apathy and lack of trust which undermines the work of democracy. It is also key to seizing opportunities for greater freedom and equality of opportunity.

Recently, I was in Malaysia where an unexpected and remarkable election has given the Opposition a first ever election victory in Malaysia's 60 years since Independence. The country's recent political history was dominated by corruption allegations and such a reduction of parliamentary democracy and scrutiny that the Economist Intelligence Unit dubbed the nation a *"flawed democracy."*

During my visit to the Malaysian Parliament in August, I was able to discuss tangible plans from the new Malaysian Government and Speaker to make the Parliament more independent from the machinery of government and increase transparency. It is now important to support our Malaysian colleagues as they work to make these important internal reforms a reality. When space for progress opens, initiatives like the CP4D project, offering practical support, can make all the difference.

What is the Commonwealth Partnership for Democracy?

The Commonwealth Partnership for Democracy (CP4D) brings together the expertise and knowledge of four organisations concerned with global democratic development: the Westminster Foundation for Democracy (WFD); the Commonwealth Parliamentary Association (CPA Headquarters); the CPA UK Branch; and the Commonwealth Local Government Forum (CLGF).

WFD is the UK public body responsible for supporting democracy around the world. We provide access to UK democratic culture by sharing how we engage citizens, make laws and hold government to account. This approach, combined with the expertise of our partners, means that the CP4D has a lot to offer to the Commonwealth over the next two years. And with your active participation and support, we can make sure this investment into our democracies continues well after 2020, when the President of Rwanda will assume the position of Commonwealth Chair-in-Office currently held by UK Prime Minister, Rt Hon. Theresa May, MP.

Working together to tackle challenges to democracy

CP4D recognises Parliamentarians have an important role to play if the international community is to meet the Sustainable Development Goals. We have specific responsibility towards SDG 16 - building effective and accountable institutions at all levels.

An important tool to help the Commonwealth legislator in this direction are the *CPA Recommended Benchmarks on Democratic Legislatures*, which have recently been revised and re-published (www.cpahq.org/cpahq/benchmarks - turn to page 268 for recent launch event). This provides a minimum standard for all Commonwealth Parliaments and a description of how a Parliament should act, behave and function. From direct universal suffrage and a secret ballot for elections, to establishing clear procedures for structuring debate, the benchmarks offer invaluable terms of reference and guidance for parliaments to monitor their performance and prioritise areas for development.

A deaf awareness march in Kenya calling for more support, rights and resources for deaf people, including better education and employment opportunities.

Image credit: Jeffrey DeKock / VSO ICS

The CP4D project will support partner Parliaments who wish to carry out assessments of their own parliamentary culture, functioning and development based on the CPA Benchmarks.

I believe much of our work for CP4D, as well as Goal 16 of the Sustainable Development Goals, underpins the sustainable development of the countries in which we work. Good governance means a more equitable distribution of resources.

However, the role of legislators goes beyond improving the process of democracy in Goal 16. Reducing inequalities (Goal 10) and achieving gender equality (Goal 5) are two additional Sustainable Development Goals our partnership will actively work towards.

Improving public participation in politics

Inclusion is vital to feeling valued in a democratic society. This is an area where we can all improve, for example by engaging minorities and vulnerable groups in politics. In many Commonwealth democracies the representation of women, young people, people with disabilities and the LGBT+ community remains limited. These facts give us all food for thought:

- Women are dramatically under-represented throughout Commonwealth legislative bodies, with only 12 countries having representation greater than the CEDAW-recommended minimum of 30%.
- Over 60% of the Commonwealth population is under the age of 30, meaning it is vital their interests are properly represented.
- Only 50% of Commonwealth Member States have ratified international commitments that prohibit all forms of discrimination based on disability.
- As many as 70% of Commonwealth Member States still have laws that discriminate against LGBT citizens.

So, we should all focus on encouraging more women to become politically active, on promoting political rights and engagement of youth, LGBT+ community, and people with disabilities, as well as defending Freedom of Religion and Belief. At a country level, the CP4D project will look to promote gender equality by providing support to local organisations campaigning for a Gender Equality Bill.

Work on equality will also take place at the regional level. In February 2019, CP4D will organise an international conference on Commonwealth Women's Political Leadership, building on the ambition of the 2018 Commonwealth Women's Forum dedicated to ensuring a better future for women and girls through the advancement of gender equality.

Where persons living with disabilities are concerned, CP4D initiatives in Kenya and Mozambique will ensure this community is not left behind by politics and institutions. In Kenya for example, WFD is working with the *Action Network for the Disabled* and local Disabled Persons Organisations to ensure legislators consult those living with disabilities on relevant legislation. In Mozambique, a partnership with the Human Rights Centre of the University of Pretoria and the National Association of People with Disability seeks to improve the social, political and economic inclusion of the many who do live with disabilities in the country.

Where possible, CP4D will complement existing efforts to strengthen youth representation and engagement. In Uganda, support to the Uganda Parliamentary Forum on Youth Affairs (UPFYA) is helping to advocate for youth interests.

How can Commonwealth Parliaments and Parliamentarians can get involved?

The Commonwealth Partnership for Democracy will organise activities open to all Commonwealth Parliaments. It will also organise regional conferences in addition to country-specific programmes in 18 countries in Asia and sub-Saharan Africa. This means virtually all Commonwealth Parliamentarians can get involved at various times.

In time, I hope CP4D will become a strong example of how we can all work together to achieve a democratic culture delivering security, prosperity and sustainable development for all. UK Parliamentarians have a lot to share and learn from Commonwealth colleagues and as Chair of WFD, I very much look forward to working with you all.

References:

[1] Bangladesh, Botswana, Cameroon, Ghana, India, Kenya, Malawi, Malaysia, Mozambique, Nigeria, Pakistan, Sierra Leone, South Africa, Sri Lanka, Tanzania, The Gambia, Uganda, Zambia.

CPA Branches and Members who would like to know how to get involved in the Commonwealth Partnership for Democracy (CP4D) can visit www.cpahq.org/cpahq/CP4D or www.wfd.org/CP4D for more information. Sign-up for e-updates on #CP4D activities by scanning the QR code on this page on your mobile phone.

AN AGENDA FOR VALUES-LED TRADE, INCLUSIVE GROWTH AND SUSTAINABLE JOBS FOR THE COMMONWEALTH

Lord Purvis of Tweed is a Member of the UK Parliament's House of Lords since 2013 and he is a Member of the House of Lords International Relations Committee. He was previously a Member of the Scottish Parliament for Tweeddale, Ettrick & Lauderdale (2003-2011). He is Co-Chair and Member of several UK Parliament All Party Parliamentary Groups (APPGs) on Constitutional reform, Global Goals, human rights, democratic participation and supporting Scottish industries such as textiles and whisky.

It seems that with every week there is greater tension within the global rules-based trade system. The US and China embarked on a trade war. The US applying tariffs on the EU which are unjustified and most likely illegal. An undermining of the WTO dispute system. Given the challenges and undoubted opportunities that exist in the new economy of the 21st century, the reversion to transactional and protectionist practices allows space for the Commonwealth to consider its role.

Earlier this year with Hon. Okechukwu Enelamah, the Minister of Industry and Trade of Nigeria, I chaired a geographically and gender-balanced eminent persons panel for the UK All-Party Group on Trade Out of Poverty, in partnership with the Overseas Development Institute, which focused on how trade and investment can remove people in the Commonwealth out of poverty. Our report was published on 3 April, in advance of CHOGM 2018. The inquiry was informed by a wide range of witnesses from across the Commonwealth and by many discussions that I had with a large number of Ministers of Trade from Commonwealth countries. Titled '*Our Shared Prosperous Future: An Agenda for Values-led Trade, Inclusive Growth and Sustainable Jobs for the Commonwealth*' is our response to the worrying trend we are seeing.

In essence, our report made the case for the summit to agree a new agenda for trade and development in the Commonwealth, with a series of recommendations to Commonwealth Members and to the Commonwealth Secretariat, and specifically to the UK Government as chair-in-office, leading to the next CHOGM in Rwanda in 2020. We also made the case for greater alignment of Commonwealth development to the global goals period leading up to 2030.

There is incredible value in taking the core principles of the Commonwealth: respect, equality and equity, common purpose and shared values, and seeing how a consensus body could also have a role in framing the tone of discussions in rule making bodies such as the WTO and the UN.

We recommended a step change in activity, with more targeted outcomes, to bring this about. It is worth remembering that 13 of the Commonwealth's Members are among the UN's least developed countries. Nearly one in five people - some 440 million women, men and children - in the Commonwealth live below the international poverty line of $1.90 a day. That is almost twice the global average, so, unless we take action, people born in the Commonwealth today are on average twice as likely to live a life in extreme poverty as people around the world as a whole.

Two-thirds of the world's small states - states with populations of less than 1.5 million people - are Members of the Commonwealth, but in one Commonwealth country, India, the workforce alone is expected to grow by 138 million people by 2030. That shows not only the breadth but the complexity of the Commonwealth. Many of the small states are also highly vulnerable to climate change. There are immense development challenges but opportunities of equal scale to utilise the regional networks of relationships for a better kind of trade and development relationship.

We should also recall that two of the G7 and a quarter of the G20 are Commonwealth Members. The Commonwealth as a network can lead at all the top tables of the economies around the world and be a conscience, setting the values for the development agenda. We therefore need to see a greatly enhanced cross-regional and cross-country level of participation in removing trade barriers, sharing legislative good practice and supporting wider economic participation. For example, in the World Bank's flagship index of ease of doing business, which captures a range of barriers, from corruption to bureaucracy at borders, Commonwealth countries ranked first, with New Zealand, but also 77th, with Bangladesh.

Our report focused on five areas where our many recommendations fell. The first is reducing the costs and risks of trade and investment and it is necessary for the Commonwealth to work with the WTO and other organisations around the world, assisting the development of trade facilitation support for vulnerable countries. We were delighted that some of our recommendations in this area were adopted by the UK Government at CHOGM 2018.

The second area was boosting services trade through regulatory co-operation, utilising the network characteristics of the Commonwealth and, in particular, its relations with APEC, ASEAN, the OECD and others. The respective regional summits next year are a real opportunity to spread this Commonwealth value.

The third area focused on making trade more inclusive. Quite rightly, we heard in our inquiry about the need for much more work to be done to support not just the Commonwealth's minorities but, in many respects, the majority, with economic participation by women and, of course, young people. The report highlights the International Trade Centre's '*SheTrades*' initiative, and scaling that up is critical. Quite frankly, the Commonwealth will not be relevant in the future if it does not focus on young people's and women's fair participation across the board - at the political and business levels and in society. We also proposed a Commonwealth fair and sustainable trade initiative, capturing not only fair trade and values but also the spirit of the Commonwealth Charter in the way businesses trade.

The fourth area addressed the special needs of small and vulnerable states, and in particular, the need to redefine vulnerability and offer continuing capacity building support.

The fifth and final area was one we can see progress most easily, but can be the most enduring: strengthening partnerships, through Governments, business and diaspora in particular. We need to move away from looking at the Commonwealth diaspora as one that simply sends remittances back to countries and instead see it as a network within each of the Commonwealth countries that can enhance our shared agenda - and of course including the valuable role of the CPA.

There should also be a greater focus on coordinating regulations, standards and capacity. We cannot forget that many of our Commonwealth countries have a very weak capacity in trade ministries and development ministries, and the larger and more developed economies can focus much more on that.

Finally, we also wanted to see values-led trade. I had the good fortune, through the support of the CPA, to attend the Ministerial Conference MC11 for the WTO in Buenos Aires last year and meeting many Commonwealth Members, I saw first-hand the fragmentation of the system. Perhaps it is the zeitgeist of the moment, and the Commonwealth has a critical opportunity if we focus, not only on trade, finance and economic co-operation but on that which is based upon values and a conscience.

The Commonwealth is not, nor should it be, nor will it ever be, a rules-making forum. But it can do more to co-ordinate on an equal basis, the least developed and the most developed, the smallest and the largest, in a consensual manner, with mutual respect, to make sure that the rule-making bodies around the world operate better. We should eschew the idea of country first and wealth for the few, and replace it with a Commonwealth for all in the world.

To access the report 'Our Shared Prosperous Future: An Agenda for Values-led Trade, Inclusive Growth and Sustainable Jobs for the Commonwealth' by the UK All-Party Parliamentary Group on Trade Out of Poverty in partnership with the Overseas Development Institute please visit http://tradeoutofpoverty.org.

TWINNING BETWEEN COMMONWEALTH PARLIAMENTS: TEN YEARS OF PARTNERSHIP BETWEEN TASMANIA AND SAMOA

Hon. M. T. Rene Hidding, MP is one of the Tasmanian Parliament's most experienced Members – now in his 23rd year as a Member of the House of Assembly. Elected in 1996 and following seven years as an Alderman of the City of Launceston, he was part of a substantial family business in the building and hardware industry. He has considerable international experience in the development of the Westminster Parliamentary system throughout the Commonwealth, through the Commonwealth Parliamentary Association and various representative roles throughout his career.

Over the last ten years, each State and Territory Branch of the Commonwealth Parliamentary Association (CPA) in Australian jurisdictions has taken up a Branch-level 'twinning' relationship with a jurisdiction in the CPA Pacific Region, some of them multiples.

Historically, closer relationships with these nations were mostly left to New Zealand to manage, however, in more recent years, the Australian Government has pursued a more active agenda of a focus on the Pacific Region, as its wider 'backyard'. The strong representation within Australia's multi-cultural population originating from our South Pacific neighbours suggests that our relationship with these nations is supported by wide family connections.

The idea of 'twinning' of two Branches of CPA Members was not unique to Australia. I first learned of this possibility at a CPA annual conference in Abuja, Nigeria, some 12 years ago, when the Scottish Parliament delegate advised that they were considering twinning with the CPA Malawi Branch. Since then, I am aware that an extraordinary, wider multi-lateral relationship has developed between these two CPA Branches, with the famous Scot and explorer of Africa, Dr David Livingston being the mascot for the program!

On returning from that CPA conference, we wrote to the Speaker of the Parliament of Western Samoa proposing discussions on a 'twinning' relationship between our two CPA Branches. Tasmania already had some strong connections with Samoa with a retired Supreme Court Justice serving on the Samoan Bench and the University of Tasmania being engaged then and since with the Samoan Parliament via a Professor experienced in South Pacific politics and the Westminster system. The twinning proposal was received with very warm interest and, once announced publicly, all other Australian jurisdictions moved to establish similar arrangements with other Pacific nations.

"Over the last ten years, each State and Territory Branch of the Commonwealth Parliamentary Association in Australian jurisdictions has taken up a Branch-level 'twinning' relationship with a jurisdiction in the CPA Pacific Region, some of them multiples."

The first ten-year period of our friendly, practical relationship between the Members of the Tasmanian and Samoan CPA Branches has seen organisations such as the UNDP, backed by AusAid and others, utilise this connection by being able to focus capacity building activities on a single Australian jurisdiction.

It is now a common sight to see smiling Samoan faces around the halls of the Tasmanian Parliament, some spending time in our Library, others in the research section and yet others with our Clerks at the Table. There are also regular exchange visits of delegations of MPs to their opposite Parliament.

It is not a one-way street. Samoan MPs who have visited Tasmania are given extra attention due to our relationship and those Tasmanian MPs lucky enough to have done an inbound visit to Samoa have become enchanted and inspired by the strong values-based nature of the local political discourse as well as the thought-provoking social and community structure of Samoa.

The twinning process has needed no formally documented structure and is conducted between the Presidents of the two respective CPA Branches directly.

I recently led the most recent delegation to Samoa, which acknowledged the 10 year anniversary of our partnership, and attracted some local media attention when they became aware that the Tasmanian Parliament recently, for the first time in its 162 year history, returned a majority of women to its House of Assembly (13 out of 25 Members), and currently has an overall percentage of 50% of women Members across both Houses of Parliament. We were able to congratulate the Samoan Parliament on its recent, ground breaking legislation ensuring a minimum number of women would be elected at its last national election.

We also proffered the opinion that, if this major policy breakthrough were to produce even more female MPs at the next election in 2021, then there needed to be active and practical development occurring in the meantime.

The early identification of talent, the promotion to the wider population of the innate value of having an elected body with gender balance, along with the encouragement to understand that this gender balance could enhance, not erode, the traditional and rich fa'a Samoa, the revered national culture.

Image: Vaitogi Asiusiu Matafeo/Samoa Observer.

Above: Hon. Craig Farrell, MLA, Hon. Kerry Finch, MLA, Hon. Rene Hidding, MLA and Catherine Vickers, Deputy Clerk of the Legislative Council from the Parliament of Tasmania meet with the Editor of the *Samoa Observer* newspaper, Mata'afa Keni Lesa to discuss issues of public policy during their visit to Samoa.

Of course, a CPA twinning relationship is not about providing commentary on each other's public policy settings. On the matter of gender balance in Parliament however, every member of the Samoan Parliament who has been to a CPA annual conference for the last 15 years will be only too aware that women in Parliament has been a key matter on the agenda almost every time especially through the work of the Commonwealth Women Parliamentarians (CWP).

The consistent aspiration of the CPA and CWP, to increase the participation of women in Westminster Parliaments around the world is bearing fruit and Samoa, and its twinned CPA partner Tasmania, are both examples of this positive outcome.

COMMONWEALTH PARLIAMENTARY CLERKS DISCOVER SHARED PARLIAMENTARY HERITAGE AND ASPIRATIONS FOR THE FUTURE

Sir David Natzler
is the Clerk of the House of Commons in the Parliament of the United Kingdom, a position he has held since 2014. He entered the House Service in 1975 and has held a number of senior appointments within the Departments of Chamber and Committee Services and as Clerk to a number of Select Committees. The Clerk of the House of Commons is appointed by the Crown as the chief adviser to the House on matters of parliamentary procedure, privilege and broader constitutional issues.

Although the *Society of Clerks-at-the-Table* (SoCATT) of Commonwealth Parliaments is a separate body from the Commonwealth Parliamentary Association (CPA), it normally holds its annual meeting at the same time and place as the annual Commonwealth Parliamentary Conference (CPC), not least because a number of those participating are also engaged in supporting their delegations at the CPC. But as will be well-known to readers of *The Parliamentarian*, no CPC has been held in 2018 and so SoCATT therefore decided to meet independently of the CPC for the first time in its history.

The Legislative Assembly of Ontario very generously agreed to host the 54th General Meeting of SoCATT from 4-7 September 2018 in Toronto, Canada including a meeting in the historic Chamber of the Ontario Legislature at Queen's Park. Sixty-eight delegates attended the event, from forty-six national and sub-national Commonwealth legislatures, for a packed programme, coinciding with an unexpected heatwave followed by a tropical downpour: truly Commonwealth weather!

SoCATT meetings start with a brief description of the hosting legislature's situation. Todd Decker, Clerk of the House in Ontario, set the conference going with an interesting sketch of recent events, notably the decimation of the former governing Liberal Party at the recent election, resulting in their having insufficient Members to gain formal recognition as a party within the Assembly. We had a lively discussion on this and other issues.

Parliaments: the wider context

On the first morning, two papers attracted much comment and subsequent discussion: the first from Amjed Pervez Malik, Secretary-General of the Senate of Pakistan on '*Social media: bane or boon for democracy*', underlining the exaggerated expectations originally entertained of the potential for social media to help Parliaments connect with the public, while noting the potential benefits for engagement.

The second paper from Susan Duffy, Head of Committees and Outreach at the Scottish Parliament on fairness, respect and equality, particularly in relation to women and the issue of sexual harassment. We spent some of the afternoon in breakout groups discussing these topics in depth and then reporting back the outcome of those discussions, which demonstrated the extent to which all Commonwealth Parliaments are affected by such issues and are dealing with them in broadly similar ways.

Foreign Powers and Family Ties

We were all fascinated by the account given by Catherine Cornish, Clerk Assistant (*Procedure*) from the Australian Federal Parliament's House of Representatives on the recent cases of the disqualification of Members and Senators in Australia by reason of dual citizenship. Like many parliamentary colleagues, I had read this in the press but not appreciated the details. The disqualifications affected a handful of people who were either unaware of having other (mainly British) citizenship or had made unavailing or ineffective attempts to divest themselves of it. *Section 44(i) of the Australian Constitution* disqualifies people *"under any acknowledgment of allegiance, obedience or adherence to a foreign power…"*. That section can itself only be amended by a complex super majority across a number of electorates, which is very hard to achieve. At the time of these provisions being agreed 120 years ago, nobody could have imagined that it would be held by the High Court to apply to British or Canadian or New Zealand citizens, as at that time they all shared the same status under the Crown.

As Clerks we are rigidly neutral on such political questions, but as a Commonwealth Clerk (and myself of mixed European heritage), I felt some dismay that Australian citizens who happened to have been born in the United Kingdom or Canada while their parents were working or studying there, were thereby disqualified to serve in the Australian Federal Parliament, especially given the multicultural nature of modern Australia. And of course, we are all now checking our own rules.

Parliamentary business: sitting frequency, non-government business, voting

We had several papers on broad aspects of parliamentary business, which stimulated not only immediate discussion but also subsequent reflection on the relevance to our own local circumstances.

Pradeep Kumar Dubey, Principal Secretary at the Uttar Pradesh Legislative Assembly, presented his thorough research on the pattern of the numbers of sittings of legislatures not only at national and provincial level in India, but also in other Commonwealth countries, drawing attention to a noticeable reduction in recent years in some such sittings, for a variety of reasons. It raised the question of how far a legislature should be able to control the number and times of its own sittings, independent of the Executive.

Vaughn Koops, Assistant Clerk, Procedure and Serjeant-at-Arms at the Legislative Assembly of Victoria, Australia spoke of the absence of opportunities for non-government business in the Assembly (that applies to both the Opposition parties and for backbenchers), reflecting perhaps the unintended consequences of past rules changes. And I gave a presentation on voting methods in the UK House of Commons at Westminster, noting the number of such methods used, and seeking experiences from others on electronic voting and the prospects for proxy voting for Members absent from the Chamber.

Provision of services

Smt. Snehlata Shrivastava, Secretary-General of the Lok Sabha, India spoke to us about the *Speaker's Research Initiative*, a broad programme giving Members direct access to academic and other expertise on topics of current concern, as well as embracing a fellowship programme for academics and an internship programme for gifted young people. In discussion afterwards, it was clear that this programme was of interest to many colleagues who would dearly love to be able to offer something similar in their Parliaments.

Vuyani Mapolisa, Secretary to the Eastern Cape Provincial Legislature, South Africa updated us on plans to provide a common framework covering the national and provincial legislatures in South Africa, with legislatures clustering to offer services to each other.

Other Topics

There are opportunities to make short oral reports on matters of interest, such as recent privilege cases which raise wider issues. Colleagues heard with particular concern from Mohammed Ataba Sani-Omolori, Clerk of the Nigerian National Assembly, about the violent theft of the mace during a sitting of the Senate, and expressed their sympathies: there are now a number of Parliaments who have been subject to physical attack and security is an ever-present worry.

We also heard of plans in the Canadian House of Commons to produce a plain English (and French) version of the Standing Orders. Some amendments to tidy up SoCATT's rules were passed unanimously - as might be expected of a gathering of Parliamentary Clerks.

The Commonwealth family

Anyone who doubts the strength of the Commonwealth in bringing and keeping people together from all over the world would have learned something from this SoCATT conference.

It is not just that a shared language means that we can communicate easily and frankly in formal and informal settings; it also springs from a shared parliamentary heritage and aspirations for the future. Meetings at mealtimes and at tea breaks reinforce that shared experience. Trusting connections are formed which can ripen into friendship sustained by email: for example, one Commonwealth colleague from a small legislature has an email group to consult on matters of difficulty, and we all benefit from the answers. As I write I have just had an exchange on a procedural dilemma with a Commonwealth colleague. I wish I could be in Kampala at the 64th Commonwealth Parliamentary Conference in Uganda in 2019. I am sure that SoCATT will continue to thrive for many years to come.

For further information about SoCATT please visit http://www.societyofclerks.org or email socatt@parliament.uk.

SoCATT 2018
CONFERENCE

Society of Clerks-at-the-Table in Commonwealth Parliaments
54th General Meeting Toronto, Ontario • September 4th - 7th, 2018

BUSINESS CONTINUITY FOR COMMONWEALTH PARLIAMENTS: ESTABLISHING THE LEGISLATIVE ASSEMBLIES BUSINESS CONTINUITY NETWORK (LABCoN)

A group of Commonwealth Legislatures have been working together over the last few years to create guidance that will help similar organisations in considering the necessary business continuity planning they need to undertake to maintain operations. This article will outline how that work has progressed and how readers of *The Parliamentarian* can get hold of the guide.

In May 2014, the Clerk of the Scottish Parliament, Sir Paul Grice, met with counterparts in Ottawa, Canada where the topic of business continuity cropped up. During the discussion it was clear that there would be mutual benefit in the House of Commons in Ottawa and the Scottish Parliament sharing information on strategy, plans, resources and issues on how both organisations approached business continuity.

Over the following months there were conference calls, regular email correspondence and the bilateral sharing of information between Ottawa and Edinburgh soon expanded to include representatives from the Canadian Senate, the UK Houses of Parliament in London, the Legislative Assemblies in Toronto and Victoria, Canada and, more recently, the House of Representatives in Wellington, New Zealand.

Early in the sharing of information it was clear there were areas of overlap and areas of strength from some legislatures that other participants could benefit from, so much so that representatives from most of the organisations agreed to meet in Toronto in June 2015. We also decided to give our group a name – Legislative Assemblies Business Continuity Network or LABCoN.

This first set of meetings focussed on direct comparison of our approaches to business continuity and sharing the good stories – and the lessons we've learned from work that could have gone better – around what we do. To help with this the group created a questionnaire that was based on the international standard for business continuity, *ISO 22301*. The meetings in Toronto were very positive and the group, as well as sharing expertise and enthusiasm for business continuity, also hit it off personally too. The amount of learning gained over those two days drove home to the group that there will undoubtedly be other legislatures that could benefit if the knowledge and experience of the participants could be captured and shared in some fashion.

Over the following months, it was agreed that creating a business continuity guide specifically created for legislatures was the way forward. It was recognised that this should be based on sound business continuity planning processes and that real value could be gained from exploring legislature-specific aspects of what has worked well and where things haven't quite turned out as planned in our various business continuity programmes.

Our technical guide was created by Martin Fenlon, previously of the UK Houses of Parliament and, by the summer of 2016, now working at the Emergency Planning College. This was reviewed and other areas to include in our guide were discussed by the group at a 3-day meeting in Edinburgh during August 2016. These days also included training on incident communications and incident management as well as exploring the welfare aspects of how to look after people - Members, staff and visitors – at the Parliament after a disruptive event.

As well as the technical element of guide one of the main outputs from the Edinburgh meetings were that we should all concentrate on capturing 'case study' information to help show the resources, approaches, challenges and benefits that business continuity thinking and planning could bring to a legislature.

These 'case study' materials were reviewed by the group when meeting in Victoria, British Columbia, Canada in August 2017 where the group also had the opportunity to explore the planning and resources that the Legislative Assembly use in their earthquake planning; we also got to discuss the impact of the 2001 Nisqually earthquake with colleagues from the State Legislature in Olympia, Washington State who had to carry out extensive repair work to their capitol building and decant their Chambers during that time.

The most recent LABCoN conference, which took place in Ottawa, Canada in July 2018, focussed on the finishing touches to the guide, which as well as a technical business continuity chapter, also includes chapters on:

- Governance & Resources
- Planning Approach
- Assessing Business Continuity plans

The content of the guide is now complete and we are applying the finishing touches to give it a bit of style, translate it into French and creating a hub website for the work we have been doing. The website will also have information to allow those interested in LABCoN to contact the authors and ask questions on what has been set out. We are aiming to 'publish' this guide in early 2019 and LABCoN members will be using contacts established by their own organisations to advertise the availability of the guide.

All participants in LABCoN have benefitted from the discussions, the sharing of information and the opportunity to work with cross-legislature colleagues in a very specialist area. Michelle Hegarty, Assistant Chief Executive for the Scottish Parliament says *"I hope that the information in our guide can help other legislatures plan for the delivery of their services and make their overall operations more robust, not just for their benefit but to also demonstrate that to politicians and to the public. I think all of us who have been involved with the work have learnt a lot and we look forward to making that available to others."*

Left: Members of the Legislative Assemblies Business Continuity Network (LABCoN) enjoy some fresh air during a break in the 2018 meetings in Gatineau, Canada.

Next Steps

LABCoN members would love to hear from other legislatures if this guide would be of interest to them and to take feedback on how the guide can be improved over time. LABCoN is also keen to continually improve the quantity and quality of knowledge and information available on legislature-specific aspects of business continuity, resilience and other related topics. Depending upon interest and feedback, LABCoN may look to schedule a conference focussed on education for interested legislatures, later in 2019.

For further information on LABCoN, you can contact the current members of the network:

- ***House of Commons in the Canada Federal Parliament (Jill Anne Joseph and Jose Cadorette) – labcon@parl.gc.ca***
- ***Senate in the Canada Federal Parliament (Marc Desforges and Mark Lavergne) – labcon@sen.parl.gc.ca***
- ***Legislative Assembly of British Columbia – labcon@leg.bc.ca***
- ***New Zealand House of Representatives (Steve Streefkerk) – labcon@parliament.govt.nz***
- ***Legislative Assembly of Ontario, Canada (Hugh McGreechan and Nancy Marling) – labcon@ola.org***
- ***The Scottish Parliament (Tommy Lynch and Michelle Hegarty) – labcon@parliament.scot***
- ***The new website will also be available soon at: www.labcon.network.***

Above: Members of the Legislative Assemblies Business Continuity Network (LABCoN) visit the rennovation works in the nearly completed House of Commons Chamber in Ottawa, Canada.

THE 3Ds: DEMOCRACY, DIVERSITY AND DEVELOPMENT IN INDIAN POLITICAL THOUGHT

Sugata Bose, MP is a Member of Parliament elected to the 16th Lok Sabha, India in 2014 from the Jadavpur constituency in Bengal. He is a Member of the Parliamentary Standing Committee on External Affairs. He is the Gardiner Professor of Oceanic History and Affairs at Harvard University and served as Founding Director of Harvard's South Asia Institute. He has contributed to a deeper understanding of the colonial and post-colonial political economy and the inter-regional arenas of travel, trade and imagination across the Indian Ocean, and he has written many books on these topics.

Democracy in India has always been closely intertwined with the creative accommodation of diversity and a resolute commitment to development. The founding fathers of the Republic of India took a leap of faith in introducing the principle of universal adult franchise in a country left impoverished and largely illiterate at the end of colonial rule. The Lok Sabha or the House of the People has been constituted sixteen times since independence through the exercise of this franchise in general elections. Yet the leaders of India's freedom struggle saw political freedom to be a means towards the larger goal of all-round social and economic development. They also knew that the success of the bold experiment with democracy depended on the ability to craft unity by respecting and thereby transcending India's myriad diversity.

Jawaharlal Nehru's famous '*tryst with destiny*' speech at the midnight hour of freedom began with a confession. The pledge of freedom was being redeemed *"not wholly or in full measure."* The claim that it was being realized *"very substantially"* was questionable if one reflected for a moment on the hefty human toll being taken by the tragedy of partition. Nehru made moving references to *"the architect"* of India's freedom. *"We have often been unworthy followers of his,"* he acknowledged, *"and have strayed from his message."*

Mahatma Gandhi's silence spoke louder than Nehru's eloquence. Far away from the celebrations in New Delhi, Gandhi chose to spend Independence Day in a Muslim home in Calcutta. The information and broadcasting department of the government of India asked him for a message. The Father of the Nation, never at a loss for words, simply said that *"he had run dry."*

It was the Mahatma's moral force that ensured peace prevailed in Calcutta on 15 August 1947. Gandhi published an editorial titled '*Miracle or Accident*' on 16 August, the first anniversary of the Great Calcutta Killing, in which he narrated how Hindus and Muslims chanted '*Jai Hind*' ('*Victory to India*') in unison. It was neither miracle, nor accident, but the willingness of human beings to dance to God's tune. *"We have drunk the poison of mutual hatred,"* Gandhi wrote, *"and so this nectar of fraternization tastes all the sweeter, and the sweetness should never wear out."*

The final five and a half months of Gandhi's life, whose 150th birth anniversary we have started celebrating, constitute a message for the challenges India faces today. While Nehru tended to blame religion for fomenting social and political conflict, Gandhi had a keener insight when he commented: *"Irreligion masquerades as religion."*

When the first session of the All India Congress Committee convened in post-independence India from 15 to 17 November 1947, Gandhi spoke with absolute clarity about the responsibility of the ruling party and government. *"No Muslim in the Indian Union,"* he told them, *"should feel his life unsafe."*

His final fast launched on 12 January 1948, was designed to assert that no one had a right to say India belonged to only the majority community and *"the minority community can only remain there as the underdog."*

On 23 January 1948 – just a week before his tragic assassination - Gandhi was *"very glad"* to take note of Subhas Chandra Bose's birthday, even though he *"generally did not remember such dates"* and *"the deceased patriot believed in violence"*, while he was wedded to non-violence. Subhas, according to the Mahatma, *"knew no provincialism nor communal differences"* and *"had in his brave army men and women drawn from all over India without distinction and evoked affection and loyalty, which very few have been able to evoke."*

"In memory of that great patriot", he called upon his countrymen to *"cleanse their hearts of all communal bitterness."*

The specter of a great communal divide has often obscured the other key dynamic – the interplay of center and region – that influenced the expedient decision to partition India and the provinces of Punjab and Bengal. Paying the price of partition enabled the Indian National Congress to inherit the centralized structure of the British Raj along with its accompanying ideology of unitary sovereignty. Yet anti-colonial thinkers had a different concept of layered and shared sovereignty. The preamble to the Indian Constitution named the country as *"India, that is Bharat."* Bharat, from whom the name Bharatvarsha is derived, had been described in ancient texts as rajchakrawarti. The Swadeshi leader Bipin Chandra Pal explained in his book *The Soul of India* that the *"literal meaning of the term is not emperor, but only a king 'established at the centre of a circle of kings'. King Bharata was a great prince of this order."* His position was *"not that of the administrative head of any large and centralised government, but only that of the recognized and respected centre"* which was the *"general character"* of all great princes in ancient times. Under Muslim rule, according to Pal, Indian unity, *"always more or less of a federal type,"* became *"still more pronouncedly so."*

"In an era of modern democracy the union government needs to see itself as a government at the centre of a circle of state governments in order to ensure unity in diversity."

Pal's compatriot Aurobindo Ghose analyzed the ideal type of the Dharmarajya described in the epics as *"not an autocratic despotism but a universal monarchy supported by a free assembly of the city and provinces and of all the classes."* The ancient ideal recognized that *"unification... ought not to be secured at the expense of the free life of the regional peoples or of the communal liberties and not therefore by a centralised monarchy or a rigidly Unitarian imperial State."* Aurobindo suggested that *"a new life"* that *"seemed about to rise in the regional peoples"* in the eighteenth century was *"cut short by the intrusion of the European nations."* The *"lifeless attempt"* to *"reproduce with a servile fidelity the ideals and forms of the West"* was *"no true indication of the political mind and genius of the Indian people."* In an era of modern democracy the union government needs to see itself as a government at the centre of a circle of state governments in order to ensure unity in diversity.

The theme of the federal unity of India that respectfully accommodated the myriad internal differences of language, region and religion was a general characteristic of the most sophisticated political thought in India during the early decades of the twentieth century. In a major speech to the Maharashtra Political Conference in 1928, Subhas Chandra Bose envisioned India of the future as *"an independent federal republic"* even as he called for *"cultural intimacy"* among India's different communities. Sidelined in 1947, the federal idea has acquired renewed urgency at present to maintain the link between democracy and diversity.

The federalist strand of thought permeated ideas about economic development as well. It is worth recalling that even a figure like Madan Mohan Malaviya, founder of Banaras Hindu University, subscribed to a notion of fiscal federalism. He told the Decentralization Commission of 1908: *"The unitary form of Government which prevails at present should be converted into a federal system. The Provincial Governments should cease to be mere delegates of the Supreme Government, but should be made semi-independent Governments."* As President of the Congress at its 1909 session in Lahore he declared: *"What is needed is that the Government of India should require a reasonable amount of contribution to be made [for Imperial purposes] and should leave the rest of the revenues to be spent for Provincial purposes."*

Two years before the passage of the landmark *British Colonial Development and Welfare Act* of 1940, the Indian National Congress set up a National Planning Committee to draw up blueprints for the economic and social development of India once independence was won. By contrast with Africa, the institutional expression of the concept of *"national development"* predated that of *"colonial development"* in India.

Subordinated social groups were the focus of development in Indian political thought. *"Let New India arise,"* Swami Vivekananda had proclaimed, *"arise out of the peasants' cottage, grasping the plough; out of the huts of the fisherman, the cobbler, and the sweeper."* His message of equality went beyond class to encompass gender and caste as well. *"In India there are two great evils,"* in his view, *"trampling on the women and grinding the poor through caste restrictions."* Vivekananda's vision was also fundamentally one of religious harmony that was respectful of diversity. It was this profound understanding that led him to proclaim in Chicago: *"We believe not only in universal toleration, but we accept all religions as true."* He suggested the possibility of *"harmonizing the Vedas, the Bible and the Koran."* Vivekananda

was a prophet of patriotism, but he was not inward looking. He was not a Swadeshi nationalist, but the pioneer among Swadeshi internationalists or Swadeshi universalists who went out to preach India's message to the wide world. *"And every Hindu that goes out to travel in foreign parts,"* he believed, *"renders more benefit to his country than hundreds of men who are bundles of superstition and selfishness."* The sage held a balanced view of ancient India which contemporary champions of India's past would do well to heed. *"There were many good things in the ancient times,"* according to Vivekananda, *"but there were bad things too. The good things are to be retained, but the India that is to be, the future India, must be much greater than ancient India."*

It was this quest for a better India of the future that guided the framers of the Indian Constitution. On 26 November 1949, the founding fathers of the republic adopted a set of principles enshrined in a lengthy written document that have guided India's political destiny for nearly seven decades.

The Indian Constitution was being drafted at roughly the same time as the Universal Declaration of Human Rights. The Chairman of the drafting committee was the redoubtable Dr B. R. Ambedkar. India was extremely fortunate that as stringent a critic of mainstream nationalism as Dr Ambedkar placed his intellectual prowess at the service of the nation for five crucial years from 9 December 1946 to 12 October 1951, when he resigned as Law Minister from Nehru's cabinet in protest against conservative opposition to the Hindu Code Bill.

It is pertinent to recall what Dr Ambedkar said on the question of minority protection while introducing the draft constitution on 4 November 1948. *"To diehards who have developed a kind of fanaticism against minority protection,"* Dr Ambedkar declared, *"I would like to say two things. One is that minorities are an explosive force which, if it erupts, can blow up the whole fabric of the State…The other is that the minorities in India have agreed to place their existence in the hands of the majority…It is for the majority to realize its duty not to discriminate against minorities."*

In the same speech, Dr Ambedkar tried to respond to critics who asserted that there was *"nothing new in the Draft Constitution, that about half of it has been copied from the Government of India Act of 1935 and that the rest of it has been borrowed from the Constitutions of other countries."*

Dr Ambedkar explained that he had borrowed and not plagiarized. He was only sorry that the provisions taken from the *Government of India Act*, 1935, related mostly to the details of administration. He agreed that ideally administrative details should have no place in the Constitution but argued that it was necessary in the Indian situation. It was in this context that Dr Ambedkar invoked the concept of constitutional morality described by Grote, the historian of Greece, as *"a paramount reverence for the forms of the Constitution, enforcing obedience to authority acting under and within these forms yet combined with the habit of open speech, of actions subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts."*

However, Grote had written of a situation where people were saturated with constitutional morality and could, therefore, take the risk of omitting details of the administration from the Constitution. In India of the late 1940s, Dr Ambedkar believed such a diffusion of Constitutional morality could not be presumed. *"Constitutional morality,"* he contended, *"is not a natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it."* As a mature democracy India has to ponder over this remark and embrace the value of constitutional morality as respect for forms and processes that enable us to negotiate, adjudicate and resolve differences by transcending what Grote described as *"the bitterness of party contest."* In the course of the constituent assembly debates, Zairul-Hassan Lari pointed out that constitutional morality was a value that not just citizens but also the government must learn.

If Dr Ambedkar had profound insights into freedom of conscience, minority protection and constitutional morality, he and the Constituent Assembly collectively fell somewhat short on the question of federalism. The Constitution was framed under the dark shadow of the dislocations wrought by partition. Dr Ambedkar candidly acknowledged that the Indian Constitution, unlike the American one, was not cast in the pure federal mold. *"Once the President issues a Proclamation which he is authorised to do under the Provisions of Article 275,"* he went on to say, *"the whole scene can become transformed and the State becomes a unitary state."*

We all know from an episode in subsequent history how this lacuna in the form of emergency provisions can allow authoritarianism to get the better of both federalism and democracy. Even fundamental rights are not as inviolable in the Indian Constitution as the Bill of Rights in the United States. *"Though imbibing the principles of democratic Constitutions,"* Asok Chanda wrote in his 1965 book Federalism in India, *"the Indian Constitution is not altogether free from authoritarian trends which it inherited in accepting the basis of the 1935 Act."*

The truly redeeming feature of the Indian Constitution is that the founding fathers conceived of it as a living organism that could take account of changing needs in the future. By elaborating three types of amendments, the constituent assembly bequeathed to the Indian Parliament some of the functions of a continuing constitutional body. If that legacy is used with wisdom to strengthen the features of federalism and democracy, the ends of respecting diversity and achieving development would be well served.

Commonwealth Women Parliamentarians in New Zealand unite to celebrate 125 years of women's suffrage and historic milestones in politics

New Zealand Members of Parliament, both male and female, and from all political parties of the left and right, gathered for a special event on 19 September 2018 to celebrate 125 years of women's suffrage in New Zealand. The breakfast event was convened by the Co-Chairpersons of the New Zealand group of the Commonwealth Women Parliamentarians (CWP), Louisa Wall, MP and Jo Hayes, MP, and the Deputy Speaker of the New Zealand Parliament, Hon. Anne Tolley, as a poignant start to an important day of celebration and reflection. New Zealand women first achieved the right to vote in 1893.

The CWP New Zealand is part of one of the largest international women's organisations in the world. Founded in 1989, with a mandate to work towards increasing women's participation in Parliament, the Commonwealth Women Parliamentarians act on gender-related issues, and mainstream gender considerations in the development of policy and legislation. It is a unique forum for women Parliamentarians from across the political spectrum to come together and promote gender equality.

The CWP New Zealand Co-Chairpersons, Louisa Wall, MP and Jo Hayes, MP said: *"We were privileged to hear from the first woman Prime Minister of New Zealand, Rt Hon. Dame Jenny Shipley, and Dame Ann Hercus, the first Minister for Women and the first woman to hold the Police Ministerial portfolio. All 48 current women Parliamentarians were presented with a symbolic gift commemorating their service in the New Zealand Parliament, along with their unique number representing their place out of the 149 women who have been elected to Parliament in our history."*

Above: Commonwealth Women Parliamentarians New Zealand celebrate 125 years of women's suffrage with current New Zealand Prime Minister, Rt Hon. Jacinda Ardern, MP and current MPs recreating a modern version of an iconic 1905 photograph of New Zealand's MPs.

Past and present New Zealand women MPs were presented with **#Suffrage125** brooches in the shape of a camellia, crafted by Whakatane artist Robyn Watchorn.

"We are heartened that in 2018, 40% of the New Zealand Parliament's MPs are women; a record for our Parliament, which places us at number 20 in the world for gender equality in Parliaments. We boast a woman Prime Minister, Governor-General, Chief Justice, Deputy Speaker, Deputy Leader of the Opposition, and two senior Whips are women, in addition to three Chairs of Select Committees. As we acknowledge all of the strong, pioneering women who have come before us, and reflect on their journeys, we must gather momentum to break inequalities and stereotypes that still hold us back today. Despite how far we have come in 125 years, there is still ground to be broken and this will only happen when women and men from all sides of the political spectrum come together and advocate for change."

A panel discussion was also held at the New Zealand Parliament for #Suffrage125 - please visit the following to view the video: https://www.facebook.com/NZParliament/videos/551222118645738/

Celebrating Women's Suffrage in the Isle of Man with the Suffrage Flag

The CPA Isle of Man Branch was proud to host the United Kingdom Suffragette Flag in September 2018, part of the Suffragette Flag Relay arranged by the UK Cabinet Office.

The flag relay was a component of the one-year campaign of events through the Suffrage Centenary Volunteer group and activities linked to the centenary of the UK's *Representation of the People Act 1918*: the law that gave some women the right to vote for the first time in the UK. The Suffrage Centenary Volunteer group won the Championing Gender Equality Award at the UK Civil Service Diversity and Inclusion Awards 2018.

The visit of the Suffragette Flag provided an opportunity for the Isle of Man to reflect on its own journey towards universal suffrage. It is still not widely known that the Isle of Man was the first place in the world where women could vote in a national election. As a result of its constitutional position as a Crown Dependency, the Island was able to enact reforming legislation a generation before the same changes were made in the United Kingdom. By 1918, women householders in the Isle of Man had been able to vote in elections to the House of Keys for 37 years, and women leaseholders had been able to for 26 years. A year later, in 1919, all women residents in the Isle of Man would be given both the vote and the right to stand for election, regardless of their property status.

Above: The UK Suffragette Flag during its tour of the Isle of Man pictured with Hon. Juan Watterson, SHK, Speaker of the House of Keys; Hon. Ann Corlett, MHK; Hon. Jane Poole-Wilson, MLC; Hon. Marlene Hendy, MLC; Hon. Kate Lord-Brennan, MLC; Hon. Kate Beecroft, MHK; Hon. Daphne Caine, MHK; Hon. Clare Bettison, MHK; and the President of Tynwald, Hon. Steve Rodan, MLC.

The 1881 Reforms

Unlike in the United Kingdom, there was no mass campaigning of the sort organised by the UK suffragettes and no Women's Suffrage Bill as such was ever brought before Tynwald, the Parliament of the Isle of Man. Giving women the right to vote was instead debated as part of wider reforms to elections in the Isle of Man - and it was achieved through the removal of a single word from a Bill. At the House of Keys Election Bill's Second Reading in the House of Keys (the Isle of Man's Lower House) on 5 November 1880, Richard Sherwood, MHK moved that the word '*male*' be removed from *clause 8*, which set out the qualifications for voters. After some debate, the House of Keys voted in favour of Sherwood's amendment by 16 votes to 3. This meant that the Keys had decided that householders, leaseholders, and lodgers - regardless of their gender - would have the right to vote.

However, the Lieutenant-Governor at the time, unwilling to give women the vote before it had been granted in the United Kingdom, later restricted the franchise to unmarried women householders. In early 1881, the House of Keys accepted this as a necessary compromise, resolving that '*the opinion already expressed by the House that male and female occupiers are equally entitled to vote, remains unaltered*'. Unmarried women householders were able to cast their first votes in an election to the House of Keys in November of that year.

'No taxation without representation'

Giving women householders the vote in 1881 was the first in a long line of extensions to the franchise, all of which can be summarised by the principle of '*no taxation without representation*'.

Today's Tynwald President, Hon. Steve Rodan, MLC, said: *"I am proud to have made my own contribution to the development of the Isle of Man's democracy when I successfully moved an amendment to the Registration of Electors Bill 2006. This lowered the voting age to 16 years old, making us the first country in western Europe to do so. The ability to influence government-introduced legislation in this way is a great strength of our consensus democracy and parliamentary system. The early enfranchisement of women in the Isle of Man has unfortunately not translated directly into parliamentary representation. Until the General Election in 2016 and the Legislative Council election in 2018, there had only been 12 women Members of Tynwald in total. While ability must remain the most important qualification of any Member of the Legislature, I hope that recent developments will not prove to be an anomaly in the history of Tynwald."*

Engagement and Equality

To celebrate enfranchisement and promote the commencement date of the *Isle of Man Equality Act 2017*, the UK Suffragette Flag was taken to Island secondary schools where the President of Tynwald and the Isle of Man's Equality Champion, Hon. Jane Poole-Wilson, MLC spoke to 16 and 17-year-olds to examine these important topics. The planned events were part of the outreach programme organised by Tynwald to encourage involvement in democracy and to promote the right to representation.

The UK Suffragette Flag was also the focus at a number of other events around the Island, including a talk with the Women of Mann discussing equality, a lunchtime seminar with the Employment & Skills Committee of the Isle of Man Chamber of Commerce and an activity session with members of Girl Guiding Isle of Man supporting the Vote 100 Girl Guiding badge.

Women in the Isle of Man may have had the right to stand for election for nearly 100 years but until the General Election in 2016 and the Legislative Council election in 2018, there had only been 12 women Members of Tynwald in total.

Hon. Jane Poole-Wilson, MLC was re-elected to the Legislative Council in 2018, one of five women to be elected in March. As Equality Champion, she attended many of the planned events for the week. She said: *"The opportunity to share the history of women's suffrage and the fight for equal representation is an important story to tell. The Isle of Man was pioneering in giving women the right to vote in the 19th century. As Equality Champion in the 21st century, I want to make sure discrimination is an issue of the past and we are an Island of opportunity and inclusion for all."*

A member of the Commonwealth Women Parliamentarians (CWP), Hon. Ann Corlett, MHK attended University College Isle of Man to chat with students about her role as a Member of the House of Keys and her journey to becoming a Parliamentarian. This has started a new educational and outreach relationship between Tynwald and University College as students were inspired by the story of suffrage and their direct engagement with Mrs Corlett. She explained: *"Visiting University College Isle of Man and meeting young people at the start of their careers was a great opportunity to answer their questions and share my story as a female Parliamentarian. Talking candidly to students has led directly to follow-up engagement efforts by staff at University College and the Office of the Clerk of Tynwald, which gives me great hope for future female candidates standing for the House of Keys or Legislative Council."*

When the UK Suffragette Flag was not touring the Island, it was on public display in the Tynwald Library with a small exhibition celebrating Women's Suffrage in the Isle of Man. The Tynwald Library is located inside Legislative Buildings in the centre of the Island's capital and is open to the public every weekday. The story of suffrage in the Isle of Man from 1881 through to 2018 was also shared on Twitter **@TynwaldInfo**.

Commonwealth Women Parliamentarians from across the CPA Pacific Region meet in the Cook Islands

The Commonwealth Women Parliamentarians (CWP) Pacific Region held a meeting of women Members from across the region in the Cook Islands in October 2018. The meeting was held in the margins of the 37th CPA Pacific and Australia Regional Conference where Members represented many Pacific jurisdictions including: Bougainville; Cook Islands; Kiribati; Nauru; New Zealand; Niue; Papua New Guinea; Samoa; Solomon Islands; and Tuvalu.

Hon. Niki Rattle, Speaker of the Parliament of the Cook Islands and CPA Cook Islands Branch President chaired the conference and reiterated her desire to increase the number of women in the Cook Islands Parliament and across the CPA Pacific Region. Speaker Niki Rattle said: *"I believe the topics for our regional conference are really relevant in talking about gender equality and my focus while I'm Speaker of Parliament is to increase the number of women in the Parliament. Out of 24 Members, we have four women and there are many women in the Cook Islands who could actually be sitting in the House and sharing the opportunity of making decisions on the welfare of the people of this country."*

For the full report of the 37th CPA Pacific and Australia Regional Conference in the Cook Islands, please turn to page 271.

Commonwealth Women Parliamentarians from across the world attend the inaugural International Congress of Parliamentary Women's Caucuses in Ireland

Images: Houses of the Oireachtas.

The inaugural International Congress of Parliamentary Women's Caucuses was held at Dublin Castle on 9 and 10 September 2018. The first-of-its-kind event brought together women Parliamentarians, leaders and experts from more than 45 Parliaments and Assemblies across the globe to discuss issues facing women and how Parliamentarians can work to address them. Parliamentarians came from more than 40 jurisdictions including Commonwealth Parliamentary Association Branches: Australia, Ghana, Kenya, Malawi, New Zealand, Northern Ireland, Pakistan, Scotland, Sierra Leone, South Africa, Tanzania, United Kingdom and Wales - and from non-Commonwealth countries like Argentina, Mongolia, Turkey and the United States.

Delegates to the congress were welcomed by The President of the Republic of Ireland, Mr Michael Higgins and Seán Ó Fearghaíl, TD, Ceann Comhairle of Dáil Éireann (Speaker of Dáil Éireann, Ireland's lower house of parliament). The Speaker said: *"Our aim in hosting this International Congress is to empower delegates, when you return home, to advance the cause of promoting women as agents of change, from the grass roots of political movements to the pinnacle of power. Our International Congress takes place at a significant moment in the history of Ireland, on the 100th anniversary year of women gaining the right to vote. Over the past century of dynamic change, women have attained many – but not all – of Ireland's highest positions of leadership. It is widely accepted that much work remains to lower barriers to participation and increase equity of opportunity."*

The Irish Parliament, also known as Houses of the Oireachtas, has two houses – the Dáil Éireann (lower house) and Seanad Éireann (upper house). At present, Ireland has a total of 208 Parliamentarians of which 63 are women.

In January 2017, sixteen of the sixty-three women Parliamentarians met to establish the first Irish Women's Parliamentary Caucus in the Oireachtas. The idea came from Green Party MP and Deputy Leader, Catherine Martin, TD, who became the first Chairperson of the Irish Women's Parliamentary Caucus. Catherine Martin said: *"It was the first time that women Parliamentarians had come together in a formal way to highlight, and campaign, in this manner. Even though there was jubilation that there were 35 women Dáil deputies, the highest ever, we were still very much a minority in the Oireachtas."* She also said that the gender imbalance was most visible during walk-through votes in Parliament when the relatively small number of female TDs became apparent among *"a sea of suits"*.

The Speaker of Dáil Éireann, Seán Ó Fearghaíl, TD, said: *"I want to pay tribute to the Irish Women's Parliamentary Caucus, a new force in Irish politics that did so much in recent months to transform this Dublin Castle gathering from dream to reality. Under its Chairperson, Catherine Martin, TD, the Women's Parliamentary Caucus has forged a persuasive all-party voice on policy matters of particular importance to Irish women. They are playing a leadership role in organising initiatives such as this International Congress to build socio-political alliances that will advance the goal of gender equality across the globe."*

The aim of the inaugural International Congress of Parliamentary Women's Caucuses was to:

- bring together representatives of international women's caucuses to provide an opportunity for learning and exchange and reflect on progress of women in politics.
- set the agenda for women's politics.
- launch a declaration for women in politics 2018.

The keynote speakers at the congress included Rt Hon. Harriet Harman, QC, MP (United Kingdom); the Taoiseach (Prime Minister) of Ireland, Leo Varadkar, TD; Hon. Dr Jessie Kabwila, MP (Malawi); and Professor Mary Beard. A panel chaired by author Martina Devlin discussed their vision for women in 2118, one hundred years from today.

Attendees at the International Congress of Parliamentary Women's Caucuses adopted the Dublin Declaration, a proposal for action on women in politics. The declaration includes a commitment to working across party and ideological lines in pursuit of gender equality.

A number of women Parliamentarians from Commonwealth jurisdictions attended the congress including the Commonwealth Women Parliamentarians (CWP) Vice-Chairperson, Joyce Watson, AM (Wales).

The Co-Chairs of the Commonwealth Women Parliamentarians New Zealand Branch, Jo Hayes, MP and Louisa Wall, MP reflected on their experiences at the congress: *"We were delighted that New Zealand was acknowledged at the congress for being the first country to give women the vote in 1893, although it would be another 25 years later that Ireland would follow suit. By this time, New Zealand had opened the opportunity for women to stand for election to Parliament, however it wouldn't be until fourteen years later that the first New Zealand woman would first enter Parliament.*

The extensive discussions, debates and speakers at the international congress demonstrated that all countries suffered similar issues, when it came to gender equality. Key observations included that women are a minority in most Parliaments; women have been and continue to be targets for abuse and slander predominantly from male Parliamentarians but also by a small number of female Parliamentarians; and often, there is no dedicated funding for women caucuses. A number of delegates suggested that national parliamentary surveys should be developed and undertaken to identify the common issues facing women in Parliament. We wish to also express our thanks to the Speaker of New Zealand, Rt Hon. Trevor Mallard, MP for supporting us to attend this milestone global congress for women. The learnings and networks have been invaluable."

Main congress images: Houses of the Oireachtas. Additional images: Jo Hayes, MP and Louisa Wall, MP (New Zealand).

For further information about this event please visit www.oireachtas.ie/en/inter-parliamentary-work/womens-caucus/programme/.

Declaration of the International Congress of Parliamentary Women's Caucuses Dublin, Ireland, 10 September 2018

Today in Dublin, Ireland, the International Congress of Parliamentary Women's Caucuses held its inaugural meeting.

As members of women's parliamentary caucuses and cross-party groups in Parliaments around the world, we came together to learn from each other, to strengthen global ties and to share information key to tackling issues which affect women across the globe.

Women represent more than half of the world's population and we are committed to work in order to build a fair society for all.

We are committed to working across party and ideological lines in pursuit of gender equality goals, to increase the capacity and influence of women Parliamentarians, and to lobby for adequate budgetary allocations for gender policies and for gender-equal reforms in political and parliamentary rules and procedures.

We are committed to equalising women's political representation and furthering women's policy interests at a global, national and local level.

We are committed to bridging the gap between women's civil society groups and the formal political system.

And most importantly, we are committed to advancing empowerment, equality, safety, security, dignity and respect for all women in every country in every aspect of life.

Today, in Dublin, the Congress committed to the following:

1. ***working towards the establishment of a Women's Caucus in every Parliament by 2020;***
2. ***the creation of a network of women's caucuses which can meet on a regular basis to further the aims of the Congress;***
3. ***that all Parliaments encourage the continuity of their caucuses by investing in institutional memory and adequate resourcing which would support their work;***
4. ***that each caucus would develop a clear plan of action aimed at influencing policies and actions which encourage greater participation by women in politics and other areas of relevance to each society;***
5. ***that each caucus would strengthen links with civil society groups working in areas that affect women;***
6. ***that each caucus and Parliamentarian will continue to strive in their representative roles to improve the lives of women throughout the world.***

Agreed by all attendees at the International Congress of Parliamentary Women's Caucuses.

Commonwealth African Women Parliamentarians help to strengthen Women's Parliamentary Caucuses in Lesotho

The Chairperson of the Commonwealth Women Parliamentarians (CWP) Africa Region, who is also the Deputy Chairperson of Committees in the South Africa Parliament, Hon. Angela Thoko Didiza, MP, has visited Lesotho to share experiences of gender equality and to help to strengthen the Women's Multi-Party Parliamentary Caucus. This initiative aims to help Commonwealth Women Parliamentarians to appreciate their role in advancing women's interests through legislation and to work across regional and national borders to share positive experiences that can advance women's interests and equality.

Addressing the Women's Parliamentary Caucus in Maseru, Lesotho on 31 August 2018 on the functions of national women's caucuses, Hon. Angela Thoko Didiza, MP said that women can achieve more when they work together even when it is across party lines. The CWP Africa Region Chairperson also spoke about the work of the CWP and its programmes across the Africa Region and beyond and concluded by saying: *"It might be the end of Women's Month in terms of the calendar, but every day must be Women's Month. Particularly with issues of gender-based violence, men need to partner with women to ensure that we actually remove this scourge in our society."*

In response, the Chairperson of the Women's Parliamentary Caucus in Lesotho, Hon Matšepo Ramakoae said that women play an important role in society although they are aware of the many challenges facing Basotho women and girls which include poverty, child marriage, gender-based violence and maternal death. Hon Matšepo Ramakoae said: *"We are many in numbers, we are the ones who go for elections, we are the ones who are bringing up families and if we don't do that, we are not going anywhere. So, if the Commonwealth has realised that, I think we are going somewhere else. We are going to go to a point where this region or the African continent will change from where it is, if we, as women, stand up to the point where we want to go."*

Commonwealth Women Parliamentarians UK Members hold a panel discussion on empowering women's voices during UK Parliament Week

Members of the Commonwealth Women Parliamentarians (CWP) from the CPA UK Branch held a panel discussion event on '*Empowering Women's Voices in Parliament*' in November 2018 as part of the UK Parliament's '*Parliament Week*'. The panel debate was held against the background of the Vote100 campaign celebrating the centenary of women's suffrage in the UK.

Images: CPA UK Twitter

The panellists were: Rt Hon. Maria Miller, MP, Chair of the Women and Equalities Select Committee who highlighted the Committee's work; Baroness Jenkin of Kennington who discussed the importance of encouraging and supporting women to stand for public office; and Hon. Angela Rayner, MP who spoke about her own journey in becoming an MP.

A key focus of the CWP's work is achieving representative democracies by helping women promote themselves in Parliaments across the Commonwealth, and developing the skills they need to succeed in their work. The panel event also looked at how women can effectively access, connect with and influence politics both outside and inside Parliament.

Parliamentary Report

NEWS AND LEGISLATION FROM COMMONWEALTH PARLIAMENTS

THIRD READINGS

With thanks to our *Parliamentary Report* and *Third Reading* contributors: Stephen Boyd (Federal Parliament of Australia); Ravindra Garimella (Parliament of India); Dr Jayadev Sahu (Parliament of India); Erin Virgint (Federal Parliament of Canada); Luke Harris (Parliament of New Zealand); Jennifer Arril (British Columbia Legislative Assembly); Neil Iddawala (Parliament of Sri Lanka).

Australia: Prime Minister Malcolm Turnbull removed by his party in week of 'madness' Page 346

CANADA

CANADA FEDERAL: AUTUMN LEGISLATIVE NEWS

Supreme Court Decision: *Mikisew Cree First Nation v. Canada*

In October 2018, the Supreme Court of Canada ruled that Parliament does not have a duty to consult with Indigenous peoples when making laws. The case centered around whether the Crown had a duty to consult Indigenous peoples when introducing laws that may affect their treaty rights, and whether the courts had a role in enforcing it.

Specifically, the case was about a provision in the 2012 federal budget that the Mikisew Cree First Nation (a band whose traditional territory is mostly in north eastern Alberta) said would limit their rights to hunt, trap, and fish on their land. The Mikisew held that the government had a legal duty to consult them, rooted in the honour of the Crown - which requires that the Crown act honourably towards Indigenous peoples. The majority of the Court said that the honour of the Crown was involved at the lawmaking stage in this case, and there is no binding duty to consult with Indigenous groups when making laws.

Legalisation of recreational marijuana use

On 17 October 2018, the *Cannabis Act* came into force and Canada became the largest country in the world with a legal marijuana marketplace. The same day, Minister of Public Safety and Emergency Preparedness, **Hon. Ralph Goodale, MP**, announced that the government intends to table legislation that will pardon Canadian who have past simple marijuana possession charges.

Prime Minister of Netherlands addresses Parliament

On 25 October 2018, the Prime Minister of the Netherlands, **His Excellency Mark Rutte**, addressed a joint session of Parliament in the House of Commons Chamber. This was the first time that a Dutch prime minister addressed the Canadian Parliament.

Legislation

Since Parliament resumed sitting on 14 September, two Bills have received royal assent:

- *C-79, Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation Act*, which implements the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, done at Santiago on 8 March 2018. This agreement includes Canada, Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.
- *C-65, An Act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act*, which protects all federal employees, including parliamentary staff from harassment and violence in the workplace. The Bill focuses on preventing harassment and violence in the workplace, creating timely and effective response measures and support for affected employees.

During the fall session, several government Bills were introduced, including:

- *Bill C-85, An Act to amend the Canada-Israel Free Trade Agreement Implementation Act,* which modernizes the text of the Act and reflect the amendments brought about by the Canada – Israel Free Trade Amending Protocol 2018 signed on 28 May 2018.
- *Bill C-84, An Act to amend the Criminal Code (bestiality and animal fighting)*, which broadens the definition of bestiality and expands protections for animals on activities related to animal fighting.
- *Bill C-83, An Act to amend the Corrections and Conditional Release Act*, which would end the Correctional Service of Canada's use of solitary confinement in Canadian prisons.
- *Bill S-6, Canada–Madagascar Tax Convention Implementation Act, 2018*, which implements the Convention between Canada and the Republic of Madagascar for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Committee Hearings and Reports

A number of reports were presented in the fall by House Committees, including:

- Experiential Learning and Pathways to Employment for Canadian Youth (Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities)
- Child Labour and Modern Slavery (Standing Committee on Foreign Affairs and International Development)
- The State of Canadian Museums (Standing Committee on Canadian Heritage)
- Organ Donation (Standing Committee on Health)
- Current State and Future of National Energy Data (Standing Committee on Natural Resources)

There were also substantive Senate Committee reports, including:

- Modernizing the Official Languages Act - The Views of Official Language Minority Communities (Standing Senate Committee on Official Languages)
- Canada: Still open for business? (Standing Senate Committee on Banking, Trade and Commerce)

Changes in the Senate

In the fall of 2018, the Prime Minister, **Rt Hon. Justin Trudeau, MP**, announced the appointment of seven Senators based on the advice of the Independent Advisory Board on Senate Appointments. The new independent Senators are:

- **Hon. Beverley Busson**, a long-serving laws enforcement officer and first woman to serve as Commission of the Royal Canadian Mounted Police, to fill a vacancy in British Columbia.
- **Hon. Martin Klyne**, a Cree Métis business leader, advocate and educator, to fill a vacancy in Saskatchewan.
- **Hon. Josée Forest-Niesing**, an established lawyer and advocate of access to justice in both official languages, to fill a vacancy in Ontario.
- **Hon. Brian Francis**, a long-serving public servant and respected member of the Mi'kmaq community, to fill a vacancy in Prince Edward Island.
- **Hon. Patti LaBoucane-Benson**, a Métis community leader, longtime academic and researcher, to fill a vacancy in Alberta.
- **Hon. Paula Simons**, an established print, television and radio journalist and producer, to fill a vacancy in Alberta.
- **Hon. Peter Boehm**, a long-serving foreign service officer and public servant, to fill a vacancy in Ontario.

On 11 August, independent **Senator Hon. Anne Cools** who served 34 years, retired upon reaching the mandatory retirement age of 75.

On 21 August, Conservative **Senator Hon. Betty Unger** who served six years, retired upon reaching the mandatory retirement age of 75.

On 28 September 2018, Liberal **Senator Hon. Art Eggleton** who served 13 years, retired upon reaching the mandatory retirement age of 75.

As of 26 October, party standings in the Senate were: Independent Senators Group 52; Conservative Party 31; Liberal Party 10; non-affiliated 8; vacancies 4. Currently, 45.5% of senators are women.

Changes in the House of Commons

On 23 August 2018, former Conservative Cabinet Minister, **Hon. Maxime Bernier, MP**, left the Conservative Party of Canada's caucus. In September, Mr Bernier announced he was forming a new federal party - the People's Party of Canada, which he said intends to run candidates in every federal riding in the 2019 federal election.

On 17 September, former Liberal Member of the House of Commons, **Leona Alleslev, MP**, crossed the floor and joined the Conservative Party caucus.

On 30 September, **Hon. Peter Van Loan, MP**, and the former House Leader for the Conservative Party retired after serving as a Member of the House of Commons for 14 years.

THIRD READING: BRITISH COLUMBIA

Opioid Damages and Health Care Costs Recovery Act

Bill 38, Opioid Damages and Health Care Costs Recovery Act establishes a new statutory tort of an opioid-related wrong and establishes that government has a direct cause of action to recover the cost of health care benefits from those who have committed an opioid-related wrong. This is similar to the Tobacco Damages and Health Care Costs Recovery Act which established a statutory tort of a tobacco-related wrong.

During the Second Reading debate, **Hon. David Eby, QC**, Attorney-General, explained that the legislation enables government to proceed with their class action lawsuit announced on 29 August 2018 against forty manufacturers, wholesalers and distributors of brand-name and generic opioid medications in Canada. The lawsuit seeks to recover health care costs incurred as a result of these companies' actions to market, promote and sell opioid products as less addictive and less likely to cause tolerance and withdrawal than other pain medications. He noted that the Bill permits government to proceed by way of an aggregate action, meaning that population-based evidence, including statistical data and budget information can be used to establish causation and quantify damages, rather than identifying and relying on the extent and magnitude of damages suffered by any one particular individual.

The Official Opposition critic for Public Safety and Solicitor-General, **Michael Lee, MLA**, expressed his support for holding those responsible for the opioid crisis to account for their actions. However, the Member also raised concerns about the length of time the lawsuit would take to proceed through the court system, noting that similar litigation against tobacco companies initiated in the late 1990s is still not concluded.

House Leader of the Third Party, **Sonia Furstenau, MLA**, voiced her caucus' general support for the legislation, describing the anticipated ability to recover costs as an important advancement. She also suggested that any remuneration recovered should go directly to helping the most vulnerable, including those impacted by the opioid crisis.

The *Opioid Damages and Health Care Costs Recovery Act* received Third Reading on 3 October 2018.

Miscellaneous Statutes Amendment Act (No. 3), 2018

Bill 36, Miscellaneous Statutes Amendment Act (No. 3), 2018 amends a number of statutes, including the College and Institute Act and the University Act, amongst others. The sections of the Bill related to post-secondary institutions removes certain restrictions which will result in allowing staff and faculty with negotiating and dispute adjudication roles or their respective staff or faculty associations to be eligible to serve on the boards of post-secondary institutions. Other provisions of the Bill include minor updates to number of statutes, including, but not limited to: *Milk Industry Act; Mental Health Act; Offence Act; Supreme Court Act*; and *Safety Standards Act*.

During the Second Reading debate, **Hon. David Eby, QC**, Attorney-General explained that the removal of the restrictions will support broader representation on public post-secondary institutional boards and enable greater efficiency in the board appointment process, especially at institutions with smaller populations from which to select board members.

During the Second Reading and Committee Stage debate, the Official Opposition Critic for Advanced Education, **Stephanie Cadieux, MLA**, noted that the current restrictions with respect to board membership serve to avoid real or perceived conflicts of interest amongst board members, and suggested that government look at alternative ways to ensure increased diversity, such as reserving board seats for Indigenous or female members.

The Leader of the Third Party, **Andrew Weaver, MLA**, voiced his support for the amendments, noting that they could streamline processes related to conflicts of interest and make it easier for post-secondary institutions, particularly those in rural regions of the province, to find qualified board members amongst staff who would otherwise be disqualified under the current legislation. Mr Weaver also noted that existing conflict-of-interest policies should suffice in providing adequate guidance to staff and those seeking board membership.

The *Miscellaneous Statutes Amendment Act (No. 3), 2018* received Third Reading on 4 October 2018.

AUSTRALIA

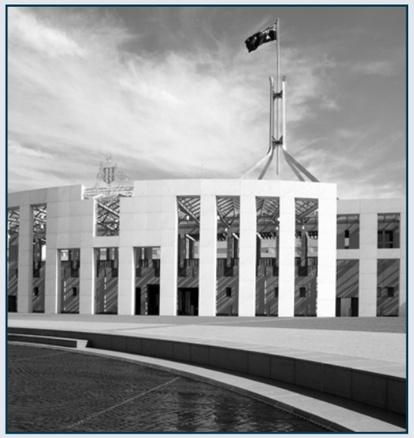
AUSTRALIAN PRIME MINISTER MALCOLM TURNBULL REMOVED BY HIS PARTY IN WEEK OF 'MADNESS'

Australia's recent sorry history of Prime Ministers being removed by their parties continues. The Australian Prime Minister, **Hon. Malcolm Turnbull, MP**, was deposed by his party on 24 August 2018 in what is possibly the ugliest leadership battle in living memory. Mr Turnbull's hold on his Prime Ministership was wounded following the dismal results of the super Saturday by-elections on 28 July. Ironically, the leadership of the Leader of the Opposition, **Hon. Bill Shorten, MP**, was under pressure going into the by-elections should he lose any Labor held seats. But not for long. Mr Shorten prevailed and the Prime Minister was now in serious trouble. In the Queensland seat of Longman, the Liberal primary vote fell to 29% and panic set in. If this vote was replicated at a Federal election, then the government could lose up to eight members in Queensland held seats.

On the policy front, Mr Turnbull was also under mounting pressure from his conservative Members opposed to the government's climate and energy policy – the New Energy Guarantee (NEG). The NEG, amongst other things, included an emissions target of 26% reductions against 2005 levels by 2030. This policy received party support but the conservative Members of the party were not prepared to support an emissions target. Their focus is on energy security and price even if this means the government underwriting coal fired powered stations. The conservatives indicated that they would cross the floor in the House of Representatives and, as a result, Mr Turnbull put the NEG on hold to ward off a challenge to his leadership, but he was deposed anyway.

A further factor contributing to Mr Turnbull's demise are the actions and ongoing criticism of the former Prime Minister, **Hon. Tony Abbott, MP**, who himself was deposed in a leadership contest by Mr Turnbull in August 2015. Mr Abbott was accused by Turnbull supporters of being a major part of the insurgency.

On Tuesday 14 August, at the regular Liberal Party meeting, Mr Turnbull sought to catch his detractors by surprise and spilled all leadership positions. In the ensuing leadership vote, Mr Turnbull went head-to-head with a leading conservative, the Home Affairs Minister, **Hon. Peter Dutton, MP.** Mr Dutton has a Queensland electorate and was mostly supported by Liberal/National Members in marginal seats who believed that Mr Dutton could garner more electoral support in Queensland than Mr Turnbull. In the ballot, Mr Turnbull defeated Mr Dutton 45 votes to 38 but this was not enough. As soon as the result was announced the Dutton camp were claiming that they would have the numbers to defeat Mr Turnbull by the end of the week.



On Wednesday 15 August, rumours were circulating Parliament House that a petition was being signed by Liberal MPs calling on the Prime Minister to call a party meeting for another leadership ballot. All of this was being heavily reported by the media to a shocked nation disbelieving that this was happening again. Mr Dutton called on Mr Turnbull to call another party meeting for Thursday. Mr Turnbull, however, is not a person that can be easily intimidated. He calmly fronted the media and called on Mr Dutton to produce the petition to him with at least 43 names on it which was the minimum number required to elect a new leader. This action had never been taken before in previous Prime Ministerial leadership contests. It resulted in a temporary stalemate because many Members in the Dutton camp were reportedly willing to vote for him in a secret ballot but did not want their names on a petition where they would be accountable to their electorates.

Throughout Thursday 16 August, Mr Turnbull would not budge on his demand that the petition with 43 names be provided to him. Only when that was fulfilled would he agree to call a party room meeting for noon on Friday 17 August. The pressure was building on both sides. Mr Dutton was having trouble getting the 43 signatures and Mr Turnbull was losing his front bench. Mr Dutton's supporters and fellow Ministers including Finance Minister, **Senator Hon. Mathias Cormann**; Minister for Trade, **Hon. Steve Ciobo, MP**; Minister for Communications, **Senator Hon. Mitch Fifield**; Minister for Jobs and Innovation, **Senator Hon. Michaelia Cash**; Minister for Health, **Hon. Greg Hunt, MP**; Minister for Human Services, **Hon. Michael Keenan, MP**; Minister for Citizenship and Multicultural Affairs, **Hon. Alan Tudge, MP**; and Minister for Law Enforcement and Cyber Security, **Hon. Angus Taylor, MP** all resigned. It was a parliamentary sitting day with Question Time due to start at 2.00pm as usual.

As Prime Minister Turnbull had lost a major part of his front bench in the House of Representatives, the Leader of the Government, **Hon. Chris Pyne, MP**, entered the chamber at about 11.30am and in an unprecedented action moved that the House do now adjourn ensuring that Question Time would not proceed. There was instant uproar from the Opposition and claims that the government could not perform its functions. The Senate was also impacted by these resignations but managed to convene for Question Time. The Ministers that resigned did so with the immediate objective of undermining the Prime Minister but what they also did was abdicate their responsibility to the Parliament and through it the Australian people who will judge them at the next election.

Notwithstanding these events, the Prime Minister did not budge on his demand for a petition to be provided to him with 43 signatures. It was reported that during Thursday, Mr Turnbull understood his Prime Ministership was finished so he put his support behind the Treasurer, **Hon. Scott Morrison, MP**, to contest the impending leadership ballot against Mr Dutton. Mr Turnbull's decision to insist on the petition and delay the party meeting until Friday gave Mr Morrison time to make the phone calls to shore up his numbers for the ballot.

The Dutton camp in seeking to get the 43 signatures was accused of bullying and coercing Turnbull supporters to change their vote. Turnbull supporter **Ms Sarah Henderson, MP**, claims she rejected an offer of a Ministry to defect to the Dutton camp. Ms Henderson stated that to be rewarded for *"an act of treachery would be a terrible thing."* Nationals Whip, **Ms Michelle Landry, MP**, said the tactics of some Members of the Dutton camp were disgraceful commenting that *"I think it is Tony Abbott and his mates that's doing this, it is a disgrace. It is revenge on him losing the prime ministership and I've had enough."*

Ms Julia Banks, MP, a Turnbull supporter, was also highly critical of the bullying and intimidation and was so disgusted that she will not contest the next election. She stated: *"I have always listened to the people who elected me and put Australia's national interest before internal political games, factional party figures, self-proclaimed power-brokers and certain media personalities who bear vindictive, mean spirited grudges intent on settling their personal scores. Last week's events were the last straw."*

Similarly, **Hon. Craig Laundy, MP**, a Turnbull supporter, was so appalled by the events that he chose not to sit on the front bench and is reportedly considering his future ahead of the next election.

On the morning of Friday 24 August, the petition was still not ready, and Mr Turnbull was holding fast to his threat not to call a party room meeting until he had a petition with 43 names. In the end, a few Members signed the petition to ensure that the matter would be resolved and so the meeting was held later that day. At the meeting, Mr Turnbull indicated that he would not stand and there were three nominees including the previous Liberal Deputy Leader and Minister for Foreign Affairs, **Hon. Julie Bishop, MP**; the Treasurer, **Hon. Scott Morrison, MP**; and **Hon. Peter Dutton, MP.**

Of the three contenders, Ms Bishop is the most well-known publicly and has the highest voter opinion polling. She is also along with Mr Turnbull a formidable fundraiser for the Liberal Party. Nevertheless, she received only 11 votes in the first ballot and was eliminated. In the deciding ballot, Mr Morrison triumphed over Mr Dutton by 45 votes to 40 and would shortly be sworn in as the 30th Prime Minister of Australia. The Dutton camp, while successful in removing Mr Turnbull, was in shock having clearly bungled the numbers and failing to have Mr Dutton elected. Ms Bishop chose not to be in the Ministry and returned to the backbenches.

Mr Turnbull commented that *"I think what we're witnessing, what we have witnessed at the moment is a very deliberate effort to pull the Liberal Party further to the right. And that's been stated by the number of people who have been involved in this."* Mr Turnbull indicated that he would be resigning from his seat imminently. In a message to his supporters, he said: *"I don't want to dwell on recent shocking and shameful events – a malevolent and pointless week of madness that disgraced our Parliament and appalled our nation."* In relation to Mr Abbott, Mr Turnbull stated that: *"as you know, I have always said that the best place for former PMs is out of the Parliament, and recent events amply demonstrate why."*

Since 2007, when the then Prime Minister, **Hon. John Howard** lost the 2007 election, no Prime Minister has managed to serve out a full three-year term in what is often referred to in Australia as the revolving door of Prime Ministers. The National MP, **Hon. Darren Chester** was so disillusioned that he apologised to the Australian people stating: *"Australia. We owe you an apology, I'm sorry. You deserve better than many of the things our Federal Parliament has served up to you for the past 10 years."*

The Liberal Party has damaged its electoral standing and faces defeat at the next election due by 18 May 2019. But more importantly to what extent have leadership coups of the last ten years damaged parliamentary democracy and contributed to people's growing mistrust of institutions. It is a problem caused by elected representatives and one which only they can fix.

Prime Minister Morrison and new Ministry sworn in

On 24 August 2018, following the Liberal leadership debacle, **Hon. Scott Morrison, MP**, was sworn in as Australia's 30th Prime Minster. Mr Morrison, 50, is the Member for Cook, an inner metropolitan seat in south-eastern Sydney which he has held since 2007. He was previously the Treasurer, the Minister for Social Services and the Minister for Immigration and Border Protection. In the latter portfolio, he is the Minister recognised as '*stopping the boats.*' Mr Morrison, in his first media presentation, appealed to the Australian people that we are on your side. He stated that *"there has been a lot of talk this week about whose side people are on in this building. And what Josh and I are here to tell you, as the new generation of Liberal leadership, is that we are on your side. That's what matters. We're on your side. We're on your side because we share beliefs and values in common, as you go about everything you do each day. Getting up in the morning, getting off to work, turning up onsite, getting the parent you're caring for up in the morning, exchanging that smile, each and every day. Getting the kids off to school, getting home at night – perhaps, if you're lucky, a bit of time together, those happy moments, too often too far between with the pressures that so many families face today."*

In relation to the outgoing Prime Minister, Hon. Malcolm Turnbull, MP, Mr Morrison stated that *"I have known Malcolm for a long time, as you know. He has been a dear friend. He has served his country in a noble and professional way. Josh and I have watched and worked with him as he has led our Cabinet and the achievements we have been proud to serve with him as a Government, whether it is in the economy, whether it is in all the other areas that Malcolm has outlined today at his earlier press conference. He is a great Australian who has contributed a great deal to this country and our party and our nation will be very grateful for his contribution. I also want to thank Julie Bishop."*

On 28 August, the new Ministry was sworn in. Mr Morrison's focus was economic leadership and reducing energy

prices, but the new Ministry was also notable for the winners and losers arising from the leadership spill. Some of the key appointments include **Hon. Josh Frydenberg, MP**, taking on the role of Treasurer. **Senator Hon. Marise Payne** becomes Minister for Foreign Affairs and **Hon. Chris Pyne, MP**, takes on her previous role as Minister for Defence. **Senator Hon. Mathias Cormann** continues as the Minister for Finance and the Public Service and as Leader of the Government in the Senate. **Hon. Steve Ciobo, MP**, a Dutton supporter, was removed as the Minister for Trade but remains at Cabinet level as the Minister for the Defence Industry. Similarly, **Hon. Michael Keenan, MP**, another Dutton supporter, was demoted from Cabinet but continues in his role as Minister for Human Services in the outer Ministry. **Hon. Stuart Robert, MP**, a Turnbull/Morrison supporter, was promoted from the backbenches to be the Assistant Treasurer. **Senator Hon. Michaelia Cash** takes on the Cabinet-level position of Minister for Small and Family Business, Skills and Vocational Education. **Hon. Melissa Price, MP**, enters the Cabinet as Minister for the Environment as does **Hon. Angus Taylor, MP**, who will join the Cabinet as Minister for Energy. Mr Morrison noted that *"Mr Taylor's primary focus will be on continuing to get electricity prices down for Australian households and businesses."* **Hon. Tony Abbott, MP**, a former Prime Minister, was not appointed to the Ministry.

Government loses Turnbull's seat of Wentworth in massive swing

Former Prime Minister, **Hon. Malcolm Turnbull** always said that if he was removed as Prime Minister he would resign as the Member for Wentworth immediately. And he did just that, bringing on a by-election for one of the safest Liberal seats in the country which he won at the 2016 election with a margin of 18%. For the Government the by-election was a high-stakes contest because if they lost then they would lose their one seat majority on the floor of the House of Representatives and then need to govern for the remainder of the Parliament with the support of the crossbench.

The threat to the Government did not come from Labor or the Greens but from a high profile independent, **Ms Karen Phelps**, a medical practitioner and former President of the Australian Medical Association. She is currently the Deputy Lord Mayor of the Sydney Council. In 2011, she was appointed a Member of the Order of Australia for her services to medicine. Ms Phelps benefitted from the loyal Turnbull supporters who were outraged that he was removed and were bent on delivering the Government a clear message that disloyalty will not be tolerated in the electorate. At the same time, Ms Phelps was able to connect with the progressive values of the electorate which include the need for action on climate change and support for renewable energy sources. These issues came together to deliver Ms Phelps a massive swing of 20% to win the seat. This is the largest swing ever recorded in a by-election against a government. It has sent an ominous warning to the Morrison Government ahead of the Federal Election which needs to be held by 18 May 2019.

THIRD READING: AUSTRALIA

Space Activities Amendment (Launches and Returns) Act 2018

In October 2015, the then Turnbull Government announced a review of the *Space Activities Act 1998*. The then Minister for Social Services, **Hon. Dan Tehan, MP**, explained that *"the aim of the review was to ensure that Australia's space regulation accommodates technological advancements and does not unnecessarily inhibit innovation in Australia's space capabilities."* The review found that *"the Space Activities Act should have additional flexibility to accommodate the changing operating environment for space activities and support innovation and investment in the sector."*

Mr Tehan noted that *"the global space sector is worth over US$345 billion, and growing at 10% annually. Australian businesses represent just 0.8% of this industry internationally: a disproportionately small share considering our immense capability in space-related sectors, including our immense advanced manufacturing capability, and our world-leading work in fields such as automated mining and precision agriculture."*

Mr Tehan commented that the legislation *"will bring us in line with agreed international practice and standards by streamlining the approvals process and insurance requirements for launches and returns."*

The Minister concluded that the legislation *"will allow our emerging space industry to keep pace with international and technological developments, while updating and streamlining regulation to encourage private investment."*

Criminal Code Amendment (Food Contamination) Act 2018

During September 2018, the Australian strawberry industry was sabotaged by people placing needles into random strawberries destined for consumers. There were reports of over 100 incidents of needles being discovered. As a result of the contamination strawberries were recalled from supermarkets and many farmers were forced to destroy their crop. The Federal Government, with support of the Opposition, acted quickly to amend the criminal code to increase the maximum penalty for food contamination.

The Attorney-General, **Hon. Christian Porter, MP,** commented that *"the consequences we have witnessed from the contamination of strawberries demonstrate the public anxiety, the economic loss and the terrible real-world harm that one rogue actor can cause. This harm has been amplified by a rapid escalation in copycat offenders and the perpetrators of hoaxes. This Bill is intended to send the simplest, clearest and strongest of messages. The behaviour we are now witnessing is not a joke. It is not funny. It is a serious criminal offence, and we denounce it, and offenders of it will face very serious consequences."*

The current penalty for intentionally contaminating food with the intention of causing public harm is 10 years imprisonment. The legislation increases this penalty to 15 years imprisonment. Mr Porter commented that this increase *"will send a strong signal to would-be offenders by placing the penalty at an equivalent level to offences dealing with matters such as child pornography and the funding of terrorist organisations. The clear and manifest risk we also see demonstrated by recent events appears to be inspiring hoaxes and copycat offenders. These people need to know that if they engage in such conduct they will be committing a very serious crime."*

In addition, Mr Porter noted that new offences will be created *"that apply where a person contaminates goods, threatens to contaminate goods or makes false statements about the contamination of goods and is reckless as to the causing of public alarm or anxiety, of economic loss, or of harm to public health."* These offences will attract a maximum penalty of 10 years imprisonment. The legislation also expands the *"sabotage offences so that they would cover the sabotage of Australia's food supply, where such conduct is intended to prejudice our national security."*

Mr Porter concluded that *"strong action is required to deter and punish those who would target our food supply infrastructure. Their actions hurt the Australian community. They sabotage the livelihoods of growers, communities, towns and whole regions. They unnecessarily frighten people away from enjoying the beautiful, fresh and healthy produce our farmers grow. This Bill demonstrates that the government will not stand for it."*

The Leader of the Opposition, **Hon. Bill Shorten, MP**, noted that this was a serious matter and the Opposition would support the legislation, Mr Shorten stated *"to all Australians, I simply say: we have encountered food scares before and we've come through the other side with no worries whatsoever. So, on the way home tonight, or if you're in the supermarket on the weekend, we encourage people to grab a punnet for yourself and a punnet for the nation. We encourage them to have them fresh or to go into the favourite recipe, to put them to use. We would encourage the major supermarket chains: now is not the time to be hunting the best bargains you can off strawberry growers, but, instead, to recognise that we need to reassure people about the quality and confidence of our food chain. So we say to Australians: cut your strawberries up; don't cut your farmers out. Chop the strawberries up; don't throw them out."*

The Prime Minister, **Hon. Scott Morrison, MP**, thanked all Members for their support of the legislation and the prompt passage of the legislation through the Parliament. Mr Morrison stated that *"the Criminal Code Amendment (Food Contamination) Bill is a powerful denunciation of the deplorable, cowardly and idiotic conduct that we've seen. It's not just about the initial intentional act that has caused this crisis and this anxiety and concern, but it is also the follow-up actions of people who should know better, and if they don't know better they should now know better. It's important for our law enforcement agencies, whether at the state level or at the Commonwealth level, to have the powers, the tools, the penalties and the support of this Parliament and of the government to get on and do their job and keep our community safe, keep Australian families safe, keep kids safe, and also keep our farmers' livelihoods safe."*

Senator Nicholas McKim, Australian Greens, commented that the *"Australian Greens utterly condemn any tampering with food in a dangerous way in our country, as we have seen recently around strawberries. We regard that kind of action as completely unacceptable. As such, we are very open to supporting reasonable legislative change to do what we can to ensure a strong legislative framework in this area. But, let's face it, to describe the Criminal Code Amendment (Food Contamination) Bill 2018 as a rushed job would be an understatement."*

NEW ZEALAND

THIRD READING: NEW ZEALAND

Electoral (Integrity) Amendment Bill

The Electoral (Integrity) Amendment Bill passed its Third Reading in the New Zealand House of Representatives on 27 September 2018 with 63 votes in favour to 57 opposed. The Bill amends the *Electoral Act 1993* and aims to enhance public confidence in the integrity of the electoral system by upholding the proportionality of political party representation.

Mr Greg O'Connor, MP (Labour) explained to the House that the Bill: *"provides that the seat of a Member of Parliament, either electorate or list, will become vacant when the Member ceases to be a parliamentary Member of a political party for which he or she was elected."*

The Bill's sponsor, the Minister of Justice, **Hon. Andrew Little, MP** (Labour), added: *"a balance has to be drawn between the freedom of individual MPs to act on their own judgment, which is important, and the principle that voters and only voters … should determine the parties represented in this House. The Bill draws a better balance by providing a means to correct distortions of proportionality where an MP leaves the party under whose banner they stood for Parliament."*

The Bill provoked significant opposition, with **Hon. Dr Nick Smith, MP** (National) claiming: *"It is an affront to New Zealand's core values of freedom of speech, of respect for democracy, and of tolerance of dissent."*

Former Speaker **Rt Hon. David Carter, MP** (National) commented: *"no one comes into this Parliament with all the answers. Politics is a contest of ideas … we respect each other's points of view, we respect the philosophies and the convictions, and … until today, we respected individual consciences of Members of Parliament."* Dr Smith added: *"It is also incorrect to assume that voters of a party agree with their leader rather than with the dissenting MP, when history tells us … that often those MPs are more representative of the views within that party than … the leaders."*

The Opposition also argued that an electorate MP should not be subject to the will of a caucus. **Hon. Maggie Barry, MP** (National) stated: *"If the North Shore electorate, who elected me … was told … that I'd been kicked out of Parliament, they would feel - and rightly so - that their democratic rights as voters had been completely overruled and overturned."*

However, **Ms Kiritapu Allan, MP** (Labour) rebutted this, saying of her electorate: *"of those 14,000 people that voted for the Labour Party, probably about 13,999 of them didn't really know who Kiri Allan was … What was important to them was the values of our party."*

Mr Darroch Ball, MP (NZ First) added: *"if they truly believe that they got there because of that, then they should take their differences … when they leave that party, and take it back and get a mandate."*

The Green Party supported the Bill; however, Ms Golriz Ghahraman, MP (Green) explained: *"To be clear, we do not think that this is a particularly good Bill. We don't think it addresses a pressing issue in New Zealand today, and we do have concerns about party caucuses being able to remove MPs from Parliament. … Our confidence and supply agreement includes a commitment to act in good faith to allow Labour and New Zealand First to implement their coalition agreement. Mostly, that doesn't involve the kind of proactive support in the House, but this Bill does."* She celebrated the successes of the Bill, which she indicated were conditional on their continuing support.

Some Members indicated concerns around electoral changes being made without cross-party agreement. **Mr Chris Bishop, MP** (National) said: *"there is a convention in Parliament that when we make changes to electoral law, it is done on a bipartisan basis. … Parliament needs to reflect and consider very carefully when it changes things like the Electoral Act … here we are again, considering a radical change to our electoral law, and it is being forced through by a bare majority of the three parties."* He added: *"the Greens openly admit they do not support the legislation, yet they will vote for it anyway. So we have a majority of Parliament opposed to a constitutional statute, but we are passing it anyway. It is a constitutional outrage."*

However, Mr Little commented: *"the Committee of the Whole House expended more than 21 hours examining this piece of legislation, and for very good reason too. It's an amendment to our Electoral Act and where there is not consensus across the House on changes to our Electoral Act, it is important that the legislation is very closely scrutinised, and Members opposite certainly did that."*

Hon. Tim Macindoe, MP (National) expressed his discontent at the Committee of the Whole House stage: *"National MPs, including myself, put forward numerous amendments to try to improve this Bill to mitigate against its worst effects, and no one other than Minister Little even engaged … and none of those amendments were adopted or even considered."*

The Bill received the Royal Assent on 3 October 2018.

National Animal Identification and Tracing (NAIT) Amendment Bill

On 16 August 2018, the National Animal Identification and Tracing (NAIT) Amendment Bill passed its Third Reading. The Bill went through the House under urgency, bypassing the usual Select Committee process. The Bill amends the NAIT Act to improve traceability of animals and their movements in the wake of last year's Mycoplasma bovis outbreak and gives NAIT officers the authority for lawful seizure when noncompliance is suspected. The Mycoplasma bovis outbreak was described by MPs from across the House as a "crisis" in a sector that brings in around $20 billion of revenue a year for New Zealand.

The Minister of Agriculture, **Hon. Damien O'Connor, MP** (Labour) said the Bill will correct *"technical deficiencies"* in the NAIT Act that meant that compliance with the NAIT system was previously between 30% and 50%: *"we need identification and NAIT numbers connected to land blocks, we need to have all movements recorded, and we need to have all animals recorded."* He said that *"unless we have robust traceability, we won't be able to trade products into the future. This is about the future of New Zealand agribusiness."*

The Bill was supported by both sides of the House; however, the National Party questioned the need for the legislation to pass under urgency, with **Rt Hon. David Carter, MP** (National) stating, *"this side of the Chamber passionately believes this legislation should have gone to a Select Committee."*

New Zealand First Member, **Mr Mark Patterson, MP** said that spring milk testing, which had already begun: *"is the period of time when this particular disease is going to be at its most identifiable."* He explained that this will be a *"key part"* of the response to investigating potential outbreaks of Mycoplasma bovis - *"So we need the NAIT officials to have every tool in the toolbox that they require and we can provide for them at this point."*

The National Party also expressed concerns around the extension of NAIT officers' powers under this Bill. **Hon. Amy Adams, MP** (National) conceded that: *"there is no objection on this side of the Chamber whatsoever to improving the National Animal Identification and Tracing (NAIT) legislation to ensure that the NAIT legislation is properly complied with, that the officers have the appropriate range of powers, and that our response to M. bovis is robust and effective."*

However, **Hon. Gerry Brownlee, MP** (National) asked: *"why is it necessary for a NAIT officer to have search and seizure powers greater than a police officer conducting a criminal investigation?"*

Green Party Member, **Mr Gareth Hughes, MP** said that the Bill *"simply aligns the legislation with the existing search and surveillance legislation"* to *"make sure that our Ministry for Primary Industries (MPI) officials have the exact same powers and functions as they have for fisheries, as they have for wine, as they have under the Waste Minimisation Act."* He accused the Opposition of *"scaremongering."* Minister O'Connor stated that the amendments in this Bill *"are technical issues not related to policy"* and that there will be legislation in the near future that will go through policy changes for NAIT and biosecurity in greater detail.

Questions were raised by the National Party about whether these changes were, in fact, technical, about how the immediate commencement date would be implemented, and whether the currently *"struggling"* NAIT system could cope with an increase in transactions.

The Government agreed to a tabled amendment from former Minister for Primary Industries, **Hon. Nathan Guy, MP** (National), which introduced a review by the Minister of Agriculture 12 months after commencement. Mr Guy stated, *"That will give us some comfort, on this side of the House, that it is working as indeed intended by the Government."*

The Bill received Royal assent on 22 August 2018.

Domestic Violence: Victims' Protection Bill

On 25 July 2018, the Domestic Violence: Victims' Protection Bill passed its Third Reading. The Bill is an omnibus Member's Bill that amends the *Domestic Violence Act 1995, the Employment Relations Act 2000, the Health and Safety at Work Act 2015, the Holidays Act 2003*, and the *Human Rights Act 1993*.

The purpose of the Bill is to provide workplace protections for victims of domestic violence, through proactive employer obligations. The Bill prohibits an employee from being adversely treated as a result of domestic violence. It achieves this by giving employees up to 10 days paid domestic violence leave per year. It allows victims of domestic violence to request flexible working arrangements, such as a variation in hours, days, place of work, or duties. The expectation is that these changes will help victims by providing confidence in employment and economic security, thereby assisting a victim's journey out of violence. The Bill also introduces '*being a victim of domestic violence*' as a new ground of prohibited discrimination under Human Rights Act 1993 and the Employment Relations Act 2000.

The sponsor of the Bill, Parliamentary Under-Secretary to the Minister of Justice, **Ms Jan Logie, MP** (Greens), commented at the Bill's Third Reading that *"Domestic violence isn't restricted to the home; it reaches into workplaces all over our country. Stalking, constant emails, attacks or threats in and outside of the workplace, making her late or making her miss work altogether, punishing her for being late - these are common tactics of abuse … All too often, victims have to leave their jobs because of this, and it makes them more reliant on their abusive partner and means their employer has to recruit and train up new staff. It's a lose-lose situation … This Bill is a win for victims, a win for business, and, ultimately, a win for all of us."*

Hon. Andrew Little, MP (Labour), in his role as Minister of Justice, shared his concerns for the impact that domestic violence is having on the criminal justice system, saying: *"unless we get on top of domestic violence … we are just going to keep filling up our criminal justice facilities - whether the youth justice facilities or the big prisons - with more and more people."*

Highlighting the financial implications of the Bill, **Hon. Judith Collins, MP** (National) commented: *"There is no doubt about it: this will add costs and responsibilities to small-business owners"* and that *"There is no funding attached to it [the Bill] - not a scrap of Government funding attached to it - and instead they are taking the cheap way out by asking mum and dad business owners to pay for it. That is not the responsibility of people in small business. It is great if big employers can help fund that, but actually it is the responsibility of the Government before it is the responsibility of small-business owners. It is simply not fair to add this burden yet again to them."*

The Minister for Children, **Hon. Tracey Martin, MP** (NZ First) stated that NZ First shared the Opposition's concerns about the financial burden placed on small to medium business but said: *"we have a commitment from the Minister of Finance that the Tax Working Group will, as part of the work they are doing, be looking at the tax deductibility of any leave taken under this piece of legislation."*

The Bill passed with 63 votes to 56 and received Royal Assent on 30 July 2018. The commencement date for the Bill is 1 April 2019, allowing time for employers and payroll providers to learn about and implement these new obligations under the Holidays Act.

THIRD READING: SRI LANKA

Female Workers Rights Enhanced

Two important Bills for the benefit of female workers, namely *Maternity Benefits (Amendment)* and *Shop and Office Employees (Regulation of Employment and Remuneration) (Amendment)* were introduced in Parliament on 11 May 2018.

Maternity Benefits Ordinance, which was enacted in 1939, has provision to grant maternity benefits, maternity leave and such other facilities to female workers during pregnancy and immediately following confinement.

Likewise, the *Shop and Office Employees (Regulation of Employment and Remuneration)* which was enacted in 1954 to grant maternity benefits to female workers employed in shops and offices.

These two Acts have different kinds of maternity benefits for the female workers, which led to different treatment of same category of people.

The purpose of amending the two Bills is to rectify the anomalous provisions that had been existed in these two Bills and to minimize the gaps between the municipal laws and the Conventions of the International Labour Organization in the area of maternity benefits to female workers.

These Bills were taken up together for Second Reading on 6 June 2018.

At the beginning of the Second Reading debate, **Hon. Malik Samarawickrama, MP**, Minister of Development Strategies and International Trade briefly explained the purpose and contents of the Bill. The Minister stated because of basic differences in the nature of work, maternity benefits have been provided unequally under these Acts and female workers engaged in manual labour underwent hardships owing to several discriminatory provisions. The Minister pointed out that although Sri Lanka has ratified Maternity Protection Convention of the ILO in April 1993, there are gaps in these two Acts compared to the international standards of ILO.

He stated that there are provisions in the existing law for granting maternity benefits for twelve weeks (two weeks before confinement and ten weeks after confinement) for giving births to first and second live children only; and for the third child or more children and for the stillborn child, maternity benefits were granted only for 42 days. He further pointed out that the anomaly prevailed for female workers under the Maternity Benefits Ordinance when counting the 84 days maternity leave, which includes weekends and any other Poya Days or public holidays, also removed by amending the said Act.

Now, maternity leave will be counted only for the working days enabling women workers entitled to maternity leave and wages in intervening holidays. The Minister pointed out that the discriminatory provision on payment of alternative maternity benefits to female workers in estates is removed by deleting Sections 5(4) and 15 (2) (f) of the Act of the Maternity Benefits Ordinance.

Sri Lanka has ratified the International Labour Organization Maternity Protection Convention (No. 103) concerning maternity protection in 1993. Article 4 of the Convention indicates that during maternity leave women employers should be provided with cash and medical benefits. Article 4.4 of the Convention states that cash and medical benefits are to be provided either by means of compulsory social insurance or by means of public funds as a matter of right to all women who comply with the prescribed conditions and Article 4.8 indicates that in no case shall the employer be individually liable for the cost of such benefits due to women employed by him.

Under the Maternity Benefits Ordinance, Shop, and Office Employees Act, cash benefits are paid in terms of payment of wages or salaries and there is no generalized insurance fund created to pay women workers because of pregnancy.

However, certain private companies including some Government corporations, boards and banks have their own insurance schemes to cover the workers in general, but not for a particular category of women workers for the reason of pregnancy. The Minister hence appreciates that the employers would realize the difficulty in creating a fund to cover countrywide women workers in pregnancy by the Government and requests that the employers, the trade unions and all stakeholders would cooperate with the Government to establish a suitable fund at a future date for this benevolent purpose.

Another benefit proposed through this Bill is that providing two nursing intervals, each not less than half-an-hour where a crèche is provided and where a crèche is not available two nursing hours of which one shall not be less than one hour, to feeding mothers who governed by the *Shop and Office Employees Act*.

He concluded his speech by stating these amendments initiate the process of equalizing the standards, removing prevailing anomalies based on granting benefits on number of children, at the request of OLO, several labour organisations, trade unions and women organisations.

Hon. Eran Wickramaratne, MP, State Minister of Finance appreciates the amendments conferring equal rights to all female employees who are governed by the two Acts under discussion. The amendments are progressive recommendations on maternity benefits, which remove the limitation of 84 days maternity leave only for the first two children. With amending these Acts, female employees will be entitled for 84 days maternity leave for issue of any number of live child.

The Minister stated that according to a World Bank report in 2017 titled '*Getting to Work: Unlocking Women's Potential in Sri Lanka's Labour Force - 20 Between 2006 – 2016*', the female workforce in Sri Lanka has decreased 10% due to the reason of disparity in household responsibility sharing and gender discrimination. He further stated these legislations would be beneficial for the business and for the finance sector of the country as they have provisions to increase the maternity benefits for the female workers, which would increase the female workforce of the country. The Minister proposed for paternity leave.

Hon. Dr Nalinda Jayathissa, MP stated that the world has progressed and Sri Lanka is late in adopting these provisions. He pointed out the insufficient legal provisions prevailing in the apparel, tea and foreign employment where women are mostly employed. He further added that in Sri Lanka, with a low birthweight rate is 18% and this situation correlates to maternity leave and stressed that leave before delivery is very important as it relates to child weight. He also suggested for paternity leave.

Hon. Rauff Hakeem, MP, Minister of Water Resource and Management pointed out that Maternity Benefits Ordinance did not cover the casual workers and therefore an anomalous treatment prevailed for casual workers who have been working in factories and other industries, as they do not get the Maternity benefits. He highlighted the plight of casual female workers largely employed in many garment factories as they do not get the maternity benefits and most of these casual workers tend to be hired and fired at the whims and fancies of the factory owners and they are also in an unfortunate situation where their causal period is extended without making them permanent. This denies them their rights. He drew the attention of the Minister to bring the necessary amendments to the Maternity Benefits Ordinance in order to remove the anomalous situation that prevailed for the casual female workers who work in the factories and in the industries.

Hon. Dr S. Sivamohan, MP, while appreciating the Minister for bringing these legislations as women are respected through these amending Acts, pointed out that a mother who delivers a stillbirth child is granted only six weeks of leave which is not sufficient as the health condition and mentality of such mother is more complicated than a live birth mother and requested that the Parliament take action to extend the leave days of a stillbirth mother in the future.

Hon. Thilakaraj, MP thanked the Government and the Minister for increasing the maternity benefits for female employees and making provisions for nursing intervals for the mothers. However, he stated that only 30 minutes is provided for nursing the child if there is a crèche and pointed out that the field where the female employees are working is three to five kilometres away from the crèche or the child development centre and it is impossible for the plantation sector female employees to utilize this benefit and requested the Minister to look into this matter and bring the necessary amendments in this regard.

The above two Bills were passed by Parliament on 6 June 2018 without a division and came into operation with effect from 18 June 2018.

HUMAN TRAFFICKING BILL IN THE PARLIAMENT OF INDIA

On 26 July 2018, the Lok Sabha passed the *Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018*. The Bill provides for the prevention, rescue, and rehabilitation of trafficked persons and the establishment of a National Anti-Trafficking Bureau to investigate trafficking cases and implement provisions of the Bill. The functions of the Bureau include: (i) coordinating and monitoring surveillance along known routes, facilitating surveillance, enforcement and preventive steps at source, transit and destination points, maintaining coordination between law enforcement agencies and non-governmental organizations and other stakeholders, and increasing international cooperation with authorities abroad for intelligence sharing, and mutual legal assistance.

The State Nodal Officer to be appointed by the State government will be responsible for follow up action under the Bill, as per the instructions of the State Anti-Trafficking Committee, and for providing relief and rehabilitation services.

The Bill provides for the setting up of Anti-Trafficking Units (ATUs) at the district level which will deal with the prevention, rescue, and protection of victims and witnesses, and for the investigation and prosecution of trafficking offences. It also provides for establishment of Anti-Trafficking Relief and Rehabilitation Committees (ATCs) at the national, state, and district levels. These Committees will be responsible for providing compensation to victims, repatriation of victims, and re-integration of victims in society, among others. The Bill requires the central or state government to set up Protection Homes for providing shelter, food, counselling, and medical services to victims. The central government will also create a Rehabilitation Fund, which will be used to set up the Protection and Rehabilitation Homes. The Bill provides for setting up designated courts in each district, which will seek to complete trial within a year. The Bill also specifies the penalties for various offences.

Moving the motion for consideration of the Bill on 26 July, Smt. Maneka Sanjay Gandhi, the Minister of Women and Child Development, said the government cannot sit silent and let women and children to be bought and sold. Relief and rehabilitation of the rescued person is a matter of right. Since human trafficking is a borderless crime, a National Anti-Trafficking Bureau will be set up to effectively address this aspect. The setting up of special Anti-Human Trafficking Units all over the country is an important step. The Bill also provides for freezing and confiscating illicit assets, born out of trafficking crimes. Since the crime of trafficking is hugely organized and largely invisible, its backbone needs to be targeted, said the Minister.

Initiating the debate, Dr Shashi Tharoor (INC) termed the Bill as a rehash of existing laws and does not provide a clear-cut strategy to deal with trafficking. He termed the Bill as a Bill of the bureaucracy, drafted by the bureaucracy and for the bureaucracy. The Bill talks about the repatriation of victims of trafficking, while it should have actually prescribed restoration which mandates the government to help the victims reunite with their family from which they have been separated. Trafficking is not merely a law and order issue and has its roots in socioeconomic realities of our country. Therefore, the need is to improve the socioeconomic condition of women and children. The Bill overemphasizes the criminal response and does not give due consideration to the rights and needs of victims and their effective protection and rehabilitation. He requested for referring the Bill to a Standing Committee to address the deficiencies.

Shri Om Birla (BJP) described the Bill as a comprehensive one which will be able to check human trafficking effectively in the country. The Bill carries several provisions relating to welfare of the victims and their protection and rehabilitation. However, the problems of poverty and lack of education need to be

addressed for checking human trafficking effectively.

Smt. Pratima Mondal (AITC) said while the Bill proposes to address one of the most pervasive crimes affecting the most vulnerable persons, it does not propose much new things than what already existed. The new anti-trafficking Bill appears to be flawed as there are provisions that are both problematic and make no sense. Instead of streamlining enforcement, the Bill encourages institutional bureaucracy by creating different agencies which will result in chaos, policy indecision as well as passing the buck on the question of accountability.

Thanking the government for bringing the anti-trafficking Bill, **Smt. V. Sathyabama** (AIADMK) urged the union government to ensure that the provisions of the Bill are not misused or abused for personal vengeance or vendetta.

For **Shri Tathagata Satpathy** (BJD) the Bill seems to have two main angles. One is the rehabilitation of unwanted bureaucrats who will be adjusted in various Anti-Trafficking Committees and the other is the excessive powers given to the police to search, seize, rescue, investigate, collect evidences, etc. Although the intention of the Bill is extremely good, it does not focus on human rights and lacks a victim-centric approach.

Shri Vinayak Bhaurao Raut (Shiv Sena) gave emphasis on proper implementation of different provisions of the Bill.

Shri M. Srinivasa Rao (TDP) welcomed the provision of designated courts in each district for the speedy trial of the cases. Highlighting that poverty, lack of education and lack of awareness in society contribute to trafficking, he suggested for referring it to the Standing Committee for further improvement.

Smt. Kavitha Kalvakuntla (TRS) welcoming the Bill said the Bill provides for a proper legal framework to prevent trafficking, protect the victims and witnesses, prosecute the offenders in a time bound manner and also a mechanism for rehabilitation and repatriation of victims. The best part of the Bill is that offenders would be brought to justice within a period of one year.

For **Shri Md. Badaruddoza Khan** (CPI-M) the absence of a comprehensive definition of trafficking is the biggest lacuna in the Bill. There is a need to create awareness about trafficking among school children through teachers and special educators. He extended his support with a request to refer the Bill to the Standing Committee for examination.

Supporting the Bill, **Smt. Supriya Sule** (NCP) said trafficking is a social issue and when anybody is trafficked, it is merely a compulsion on that person. The police and anti-trafficking units need to be sensitized about the sensitivity of the issue as women who are victims of trafficking go through a lot of mental trauma.

Shrimati Kothapalli Geetha (YSR Congress) said the Bill goes a step further in addressing the issues of trafficking from the point of view of prevention, rescue and rehabilitation. She wanted an MP to be the Chairperson of the District Anti Trafficking Committee instead of the District Magistrate as this is mostly a social evil.

Dr Dharam Vira Gandhi (AAP) emphasized on creating an equitable society for eliminating trafficking. He was apprehensive that the powers given to the police and the bureaucracy may be misused for political reasons.

Smt. Meenakshi Lekhi (BJP) said the Bill will tighten the screws on the traffickers involved in the sex trade and bring them to book. It is inevitable to involve bureaucracy in it and at the same time a mechanism is required to be evolved where MPs, State Governments and District Committees will have to discharge their respective duties.

Shri Vincent H. Pala (INC) wanted the Bill to be sent to the Standing Committee for examination framing of rules and regulations in consultation with the State governments and other stakeholders.

Shri N.K. Premachandran (RSP) observed the Bill is more crime-centric than human right-centric. The amount provided for the Rehabilitation Fund for the victims of trafficking is not sufficient and there should be more clarity about coordination among various agencies to prevent, investigate, prosecute and provide care and protection. He also wanted the Bill to be referred to the Standing Committee.

Shri Jay Prakash Narayan Yadav (RJD) congratulated the Minister for bringing such a good piece of legislation.

Dr Heena Vijaykumar Gavit (BJP) said while the Bill is silent on prevention of re-trafficking, it is good that a dedicated team of police officers will be working on this issue. The need is to dismantle the entire syndicate rather getting hold of one person.

Shri Dushyant Chautala (INLD) welcomed the provision of giving decision in a time-bound manner. He suggested that the onus of investigating the cases should be entrusted to the police of other districts instead of local police.

Shri Kaushalendra Kumar (JD-U) believed the legislation will be able to halt human trafficking and facilitate care and rehabilitation of the victims. The Bill will be an effective instrument in dismantling the organized nexus at national and international level.

Smt. Satabdi Roy (AITC) requested the government to ensure that there is time-bound rescue of victims of trafficking.

Shri Ravindra Kumar Pandey (BJP) wanted some monitoring system at railway stations, bus stands and airports to identify the traffickers. **Dr Prasanna Kumar Patasani** (BJD) pointed out that people working in the field of anti-trafficking face a lot of threats.

Smt. Butta Renuka (YSR Congress) said vulnerable sections should be identified and offered various welfare schemes so that they do not fall into the trap of traffickers.

Shri E. T. Mohammad Basheer (IUML) said human trafficking situation is very alarming and stringent action should be taken against the offenders.

Smt. P. K. Shreemathi Teacher (CPI-M), supporting the Bill, said the biggest lacuna in the Bill is the absence of a comprehensive definition of trafficking, which should also include forced marriage. She requested for referring the Bill to a Select Committee.

Smt. Jayshreeben Patel (BJP) said the best thing about this Bill is that the rehabilitation of the victim is not subject to the outcome of the case. The Bill will be of great help in providing protection to women and children. For **Shri Rajesh Ranjan** (RJD) poverty is the biggest reason for human trafficking. He stressed upon effective implementation of the law for better results.

Replying to the debate, the Minister, Smt. Gandhi assured that the Bill is very victim-centric and takes a compassionate view of people who become victims in the sex trade. Begging is an aggravated crime because it involves extreme violence and extreme suffering. The Fund amount will be increased hugely. Childline is one of the best helplines in the world and the response time to picking up a child or woman or anybody in trouble is one hour. We have started something new called Railway Childline. There is something called Track Missing Child. The Bill covers and is applicable to foreigners as well. Officers and persons in-charge of shelter homes are punishable if they do not discharge their duties. The sensitization of the officers is the most important things. Accountability has been in built in the law. She requested the Members to give her an independent assessment about shelter homes. Skills training will be given to the rescued girls and women which hopefully will work so that they do not come back again into the same problem. She said whatever concerns have arisen and are not in the Bill will go into the rules and the Government will still try and make it better.

THIRD READING: INDIA

The Fugitive Economic Offenders Bill, 2018

There had been several instances of economic offenders fleeing the jurisdiction of Indian courts anticipating the commencement of criminal proceedings or sometimes during the pendency of such proceedings. The absence of such offenders from Indian courts had several deleterious consequences, such as, it obstructed investigation in criminal cases, it wasted precious time of courts and it undermined the rule of law in India. Further, most of such cases of economic offences involved non-repayment of bank loans thereby worsening the financial health of the banking sector in India. It was felt that the existing civil and criminal provisions in law were inadequate to deal with the severity of the problem.

In order to address the said problem and lay down measures to deter economic offenders from evading the process of Indian law by remaining outside the jurisdiction of Indian courts, the Government proposed to enact a legislation, namely, the *Fugitive Economic Offenders Bill, 2018* to ensure that fugitive economic offenders return to India to face the action in accordance with law.

Broad outline of legislative proposals Bill

- The definition of the fugitive economic offender has been provided to mean as an individual who has committed a scheduled offence or offences involving an amount of one hundred crore rupees or more and has absconded from India or refused to come back to India to avoid or face criminal prosecution in India.
- Provision has been made for attachment of the property of a fugitive economic offender and proceeds of crime.
- The powers of Director relating to survey, search and seizure and search of persons have been provided for.
- Provision has also been made for confiscation of the property of a fugitive economic offender and proceeds of crime.
- It has been provided for disentitlement of the fugitive economic offender from putting forward or defending any civil claim.
- There is provision for appointment of an Administrator for the purposes of the proposed legislation.

Enumeration of main provisions of the Bill

Chapter II of the Bill pertains to declaration of fugitive economic offenders and confiscation of property. Detailed provisions have been made in regard to application for declaration of fugitive economic offender and procedure therefor; attachment of property; powers of Director and other officers; power of survey and search and seizure and search of persons. Provisions have also been made for service of notice, procedure for hearing application, declaration of fugitive economic offender, supplementary application; power to disallow civil claims and management of properties confiscated under the legislation.

In Chapter III of the legislation, provisions have been made in regard to rules of evidence; appeal; bar of jurisdiction, protection of action taken in good faith; power of the Central Government to amend schedule to the legislation; power to make rules; laying of rules before Parliament etc.

Debate

There were detailed deliberations on the clauses of the Bill in both Houses of Parliament. The Minister in-charge of the Bill in his reply to the debates in Parliament *inter alia* stated as follows.

The Minister at the outset thanked all the Members for expressing their concerns that stringent actions should be taken in this matter and all these fugitive offenders should be brought back to the country and their properties be confiscated. It should also be ensured that the money involved in such offences should be brought back to the exchequer of the country at the earliest. It is very natural that certain stringent law is required to carry out all these things.

The Minister further stated the objective behind bringing in the Bill was that the first of all action should be taken against big offenders without clogging the courts and tribunals. The Government's view was that first of all the persons perpetrating the offence involving the value of Rs. 100 crore and more should be brought to book. That would serve as a deterrent. This would ensure that no one will run away and those who have already run away perhaps will come back after having seen the properties being confiscated and will face the consequences of the law. Referring to questions raised by some Members about the ceiling of Rs. 100 crore, the Minister clarified that the intention of the Government was very clear, that big offenders should be caught first and action be taken against them as soon as possible. An effort was being made under the new system to ensure that no big offenders go scot-free. All such cases have been brought in the ambit of this law in order to put them on fast track trial.

In regard to questions raised by Members about the provision of search and seizure, the

INDIA

Minister stated this provision has been taken from the *Money Laundering Act, 2002*. The provision of two or more than two witnesses had been made for search and seizure in the Section 9(e) of the Bill. As far as the disposal of the confiscated properties was concerned, the Minister clarified that Section 15(3) especially provides for the manners in which the properties confiscated or attached will be disposed of. An administrator would be appointed for this purpose which will manage the property under the directions of the court. A special court would be constituted to focus on big cases.

The Minister also stated that by going through the clause 3 of the Bill it could be understood how the Government is going to clamp down on the offenders by bringing the prospective law. The clause 3 of the Bill clearly provides that the provisions of the Act shall apply to any individual who is or becomes a fugitive offender. As regards the question raised as to how the order of Indian court will be effective on the foreign land, the Minister stated that Government of India signs treaties with foreign Governments and through these treaties they would execute such orders. India had already signed such treaties with 39 countries and would continue to sign such treaties with other countries. At the same time, the Minister assured the Members that there will be no denial of human rights as there is unshakable faith in courts and tribunals of the country.

The Bill was passed by Lok Sabha on 19 July 2018 and by Rajya Sabha on 25 July 2018. The Bill as passed by both Houses of Parliament was assented to by the President of India on 31 July 2018.

The Prevention of Corruption (Amendment) Bill, 2018

The *Prevention of Corruption Act, 1988* provided for prevention of corruption and for matters connected therewith. The ratification by India of the *United Nations Convention Against Corruption*, the international practice on treatment of the offence of bribery and corruption and judicial pronouncements had necessitated a review of the existing provisions of the Act and the need to amend it so as to fill in gaps in description and coverage of the offence of bribery so as to bring it in line with the current international practice and also to meet more effectively, the country's obligations under the aforesaid Convention. The Government, therefore, brought forward the Amending Bill.

Highlights of the Amending Bill

- Section 7 of the Principal Act at present covered the offence of public servant taking gratification other than legal remuneration in respect of an official act. The definition of offence has been substituted by a new comprehensive definition which covers all aspects of passive bribery, including the solicitation and acceptance of bribe through intermediaries and also acts of public servants acting outside their competence.
- The Principal Act did not contain any provisions directly dealing with active domestic bribery, that is, the offence of giving bribe. Section 12 of the Principal Act which provides for punishment for abetment of offences defined in section 7 or section 11, covers the offence indirectly. Section 24 provides that a statement made by a bribe giver in any proceeding against a public servant for an offence under sections 7 to 11, 13 and 15 of the Act shall not subject him to prosecution under section 12. Experience had shown that in a vast majority of cases, the bribe-giver goes scot free by taking resort to the provisions of section 24 and it becomes increasingly difficult to tackle consensual bribery. The aforesaid Convention enjoins that the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, be made a criminal offence. Accordingly, a new section 8 to meet the said obligation had been proposed to be inserted.
- As the proposed new definitions of bribery, both as regards the solicitation and acceptance of undue advantage and as regards the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, are found to be comprehensive enough to cover all offences presently provided in section 8 which covers taking gratification, in order, by corrupt or illegal means, to influence public servant; section 9 which covers taking gratification, for exercise of personal influence with public servant; section 10 which provides for punishment for abetment by public servant of offences defined in section 8 or section 9; and section 11 which provides for public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant; and also the offences presently defined in clauses (a), (b) and (d) of sub-section (1) of section 13 of the Act which covers criminal misconduct by a public servant, these sections had been proposed to be omitted.
- It had been proposed to substitute section 9 to provide punishment for the offence relating to bribing a public servant by a commercial organisation. A commercial organisation would be guilty of this offence if any person associated with it offers, promises or gives a financial or other advantage to a public servant intending to obtain or retain business or some advantage in the conduct of business for the commercial organisation. The proposed section 10 provides for punishment of persons in charge of a commercial organisation which had been guilty of the offence under the proposed section 9.
- Section 12 provided for punishment for abetment of offences defined in section 7 or section 11. It had been proposed to substitute section 12 of the Act to provide punishment for abetment of all offences under the Act.
- It had also been proposed to substitute sub-section (1) of section 13 with a new sub-section so as to omit the existing clauses (a), (b) and (d) of sub-section (1) as mentioned above; to incorporate the element of intentional enrichment in the existing clause (e) relating to possession of disproportionate assets by a public servant; and to modify the definition of 'known sources of income' as contained in Explanation, to mean income received from any lawful source, that is, by doing away with the requirement of intimation in accordance with any law, rules or orders applicable to a public servant.
- Section 14 in Principal Act provided for habitual commission of offences under sections 8, 9 and 12. The Amending Bill proposed to substitute section 14 of the Act to provide punishment for habitual commission of all offences under the Act.
- The *Prevention of Corruption Act,* did not specifically provide for the confiscation of bribe and the proceeds of bribery. A Bill, namely, the Prevention of Corruption (Amendment) Bill, 2008, to amend the *Prevention of Corruption Act, 1988*, providing, *inter alia,* for insertion of a new Chapter IVA in the Prevention of Corruption Act for the attachment and forfeiture of property of corrupt public servants on the lines of the *Criminal Law (Amendment) Ordinance, 1944*, was introduced in the Lok Sabha on 19 December 2008 and was passed by the Lok Sabha on 23 December 2008. However, the said Bill lapsed due to dissolution of the Fourteenth Lok Sabha. It had accordingly been proposed to insert similar provisions on the lines of the 2008 Bill in the *Prevention of Corruption Act.*
- The *Prevention of Corruption (Amendment) Bill, 2008* had proposed an amendment to section 19 of the Act on the lines of section 197 of the *Code of Criminal Procedure, 1973* for extending protection of prior sanction of the Government or competent authority after retirement or demittance of office by a public servant so as to provide a safeguard to a public servant from vexatious prosecution for any bona fide omission or commission in the discharge of his official duties. The said Bill having lapsed, this protection was, not available for a person who had ceased to be a public servant. It had, therefore, been proposed to amend section 19 to provide the said protection to the persons who ceased to be public servants on the lines of the said Bill. Further, in the light of a recent judgment of the Supreme Court, the question of amending section 19 of the Act to lay down clear criteria and procedure for sanction of prosecution, including the stage at which sanction can be sought, timelines within which order had to be passed, was also examined by the Central Government and it had accordingly been proposed to incorporate appropriate provisions in section 19 of the Act.
- It had, therefore, been proposed to amend section 6A of the *Delhi Special Police Establishment Act, 1946* contains a protection of prior approval of the Central Government in respect of officers working at policy making levels in the Central Government before any inquiry or investigation is conducted against them by the Delhi Special Police Establishment. The basic principle behind the protection under section 19 of the *Prevention of Corruption Act, 1988* and section 6A of the *Delhi Special Police Establishment Act, 1946*, being the same, namely, protection of honest civil servants from harassment by way of investigation or prosecution for things done in bona fide performance of public duty, it was felt that the protection under both these provisions should be available to public servants even after they cease to be public servants or after they cease to hold sensitive policy level positions, as the case may be. Accordingly, it was proposed to amend section 6A of the *Delhi Special Police Establishment Act, 1946* for extending the protection of prior approval of the Central Government before conducting any inquiry or investigation in respect of offences under the *Prevention of Corruption Act, 1988*, to civil servants holding such senior policy level positions even after they cease to hold such positions due to reversion or retirement or other reasons.

Debate

The Amending legislation underwent detailed deliberations during debate thereon in both Houses of Parliament. The Minister in-charge of the Bill while replying to the debate *inter alia* summed as follows.

The Minister observed that all the Members had expressed their concerns as to how to curb corruption in the country. This legislation was enacted way back in 1988. Since then 30 years had elapsed and the dimension and style of corruption had also changed in all these years. So, the Government had also decided to change their stand as per the need of the hour to deal with it. The Government would be laying guidelines for the decision to be given within two years. The commercial organisations offering bribes would also be included whereas the charitable institutions are kept outside. Strict measures against corruption had been put in place in the Bill and at the same time Government would also ensure provision of a work friendly environment to a Government officer or public servant so that he can perform to the best of his ability.

The Bill was passed by Rajya Sabha on 19 July 2018 and by Lok Sabha on 24 July 2018. The Bill as passed by both Houses of Parliament was assented to by the President of India on 26 July 2018.

The Specific Relief (Amendment) Bill, 2017

The *Specific Relief Act, 1963* was enacted to define and amend the law relating to certain kinds of specific relief. It contains provisions, inter alia, specific performance of contracts, contracts not specifically enforceable, parties who might obtain and against whom specific performance might be obtained, etc. It also conferred wide discretionary powers upon the courts to decree specific performance and to refuse injunction, etc. As a result of wide discretionary powers, the courts in majority of cases awarded damages as a general rule and granted specific performance as an exception.

The tremendous economic development since the enactment of the Act had brought in enormous commercial activities in India including foreign direct investments, public private partnerships, public utilities infrastructure developments, etc.; which had prompted extensive reforms in the related laws to facilitate enforcement of contracts, settlement of disputes in speedy manner. It had been felt that the Act is not in tune with the rapid economic growth happening in the country and the expansion of infrastructure activities that were needed for the overall development of the country.

In view of the above, the Government took a considered view to do away with the wider discretion of the courts to grant specific performance and to make specific performance of contract a general rule than exception, subject to certain limited grounds. Further, it had also been proposed to provide for substituted performance of contracts, where a contract is broken, the party who suffers would be entitled to get the contract performed by a third party or by his own agency and to recover expenses and costs, including compensation from the party who failed to perform his part of contract. It was felt that this would be an alternative remedy at the option of the party who suffers the broken contract. It had also been proposed to enable the courts to engage experts on specific issues and to secure their attendance, etc. Towards this end, the Government brought forward the *Specific Relief (Amendment) Bill, 2017*.

Salient features of the Amending Bill

- For existing Section 10 of the Principal Act, a new Section 10 had been inserted providing specific performance of a contract shall be enforced by the concerned court. Subject to provisions of Section 11 (cases in which specific performance of contracts connected with trusts are enforceable) and Sections 14 (contracts not specifically enforceable) and 16 (personal bars to relief), respectively in the Principal Act.
- For the existing Section 20 and new Section 20 has been substituted which inter alia provides that: -
  - (1) Without prejudice to the generality of the provisions contained in the *Indian Contract Act, 1872*, and, except as otherwise agreed upon by the parties, where the contract is broken due to non-performance of promise by any party, the party who suffers by such breach shall have the option of substituted performance through a third party or by his own agency, and, recover the expenses and other costs actually incurred, spent or suffered by him, from the party committing such breach.
  - Further, a new section 20A has been inserted for infrastructure project contracts which provides that the court shall not grant injunction in any suit, where it appears to it that granting injunction would cause hindrance or delay in the continuance or completion of the infrastructure project. The Department of Economic Affairs, Government of India has been made the nodal agency for specifying various categories of projects and infrastructure sub-sectors, which is provided as Schedule to the Bill and has been proposed that the said Department may amend the Schedule relating to any such category or sub-sectors.
  - Finally, it has also been provided that special courts be designated to try suits in respect of contracts relating to infrastructure projects and to dispose of such suits within a period of twelve months from the date of service of summons to the defendant and also to extend the said period for another six months in aggregate, after recordings reasons therefor.

Debate

During the discussion of the Amending Bill in both Houses of Parliament, the Minister in-charge of the Bill while commending the Bill for consideration inter alia observed that the *Specific Relief Act* was enacted in the year 1963.

With the passage of time, infrastructure had become a big issue in India. In many cases, errant parties were creating problems. It was, therefore, considered that the matter requires to be addressed. So, a three-Member Committee of eminent people was formed and that Committee recommended that this requires proper amendment. Hence, the Government came up with the amending legislation. During the discussion, some broad points which emerged are as follows: -

- Since the Bill of 1963 is old and after that infrastructure projects and PPP projects had come up on a large scale; so, there is a need for a new law in accordance with them so that they can be completed in time.
- The Amending Bill would rectify one of the major defects of the existing laws. This Amendment is for the simple and speedy enforcement of the contractual obligations. It is supportive of the real parties. Violation and non-fulfilment of contractual agreements are increasing every day. This Amendment will put an end to such a phenomenon.

The Minister in-charge while replying to debates on the Bill, while appreciating suggestions put forth and views expressed by Members during the debate observed that in the present times infrastructure is the most important point and the issue as to how an errant contractor can be stopped from running away and how to ensure his/her obligations.

The Amending Bill is an agent to recognise the changing needs of India. Minister also observed that there is a need to take care of the independence of judiciary while in present times if infrastructure is important, faster adjudication of dispute too is becoming a pre-condition. The Government's efforts are that adjudication of dispute through arbitration, through conciliation, through alternative dispute mechanism and also through court proceeding in case of infrastructure is expedited. In the endeavour to make the country progressive, there is a need to resort to the legal ways and means in order to resolve the disputes.

The Amending Bill was passed by Lok Sabha on 15 March 2018 and by Rajya Sabha on 23 July 2018. The Bill as passed by both Houses of Parliament was assented to by the President of India on 1 August 2018.

Somnath Chatterjee, the legendary Speaker of India (1929 – 2018)

Somnath Chatterjee, the Speaker of the 14th Lok Sabha (2004-2009), the House of the People, India, who was born on 25 July 1929, passed away on 9 May 2018 at the age of 89. On his unanimous election as the Speaker, he assured the House to discharge the functions *"more as a duty rather than as an authority."* A ten term Member of Parliament, he was widely adulated as an articulate Parliamentarian, a great debater and an eminent leader respected for his dignified conduct, erudition and husbandry over practice and procedure of Parliament, for which he was adjudged Outstanding Parliamentarian in 1996.

His Speakership was tumultuous in many ways and yet, on hindsight, despite courting controversies, he discharged his duties as Speaker conscientiously without succumbing to any external interference. He unflinchingly believed that the principle of separation of powers is not an optional feature to be *"selectively recognized by the organs of the State, but one of the most essential directive of the Constitution[..] otherwise the Constitutional basis of our Republic and the credibility of our democratic institutions itself will be questioned."*

He ensured that the Lok Sabha Secretariat remained free from the control of the Executive branch as per the imperative of Article 98 of the Constitution and steadfastly upheld the dignity and authority of the House. As Speaker, and the Chairman of the Presiding Officers Conference, he called an emergency meeting on 20 March 2005 when a three-Judge bench of the Supreme Court passed an interim order, fixing the agenda, and ordered video recording of the proceedings, of the Jharkhand Legislative Assembly (one of the 29 States of India) related to the vote of confidence. The Conference reiterated the supremacy of the Legislature sending the unmistakable signal that the Judiciary refrain from meddling in the internal affairs of the legislature. In the infamous *'cash for query case'*, he directed the Lok Sabha Secretariat not to accept any notice when the Supreme Court directed that notices be issued to the ten expelled MPs and the Speaker, Lok Sabha on the grounds that the votes given by the Members cannot be questioned in any judicial proceedings. The writ petition was later dismissed by the Supreme Court observing that the Legislatures have the right to take disciplinary action against the Members but in certain cases (though left unspecified) the Courts may intervene.

He was unsparing when any act of misconduct of any Member came to his notice. Four Members were suspended from the service of the House for a certain period for improper conduct in the implementation of their Local Area Development Fund. He saw to it that any act of misdemeanor, whether misuse of privileges or facilities provided to the Members, if established by the Inquiry Committee, was visited by condign punishment. In exercise of the power under the Tenth Schedule of the Constitution, he disqualified two Members under the anti-defection law which earned him all round admiration for erudition and judicious temper. He never arrogated to himself the power of the Chairmen of Parliamentary Committees, more so, and notably of the House Committee. He declined to allot official accommodation to any MP, a work entrusted to the House Committee.

In order to see that the recommendations of the Department Related Standing Committees receive earnest consideration by the Executive, he issued a new Direction, making it incumbent upon every Minister to make once in six months a statement in the House regarding the status of their implementation. He also started the practice of laying the reports of the Indian Parliamentary delegations attending international conferences and gave a distinct orientation to parliamentary diplomacy. He instituted the Prof. Hiren Mukerjee annual lecture. Nobel Laureate Prof. Amartya Sen, Noble laureate Mohmmad Younus and internationally acclaimed economist, Prof. Jagdish Bhagwati delivered the lectures in the consecutive years. It was under his towering speakership that the statues of Sardar Bhagat Singh, Maharana Pratap, and the statues, busts and portraits of other eminent national leaders and icons were installed/unveiled in the Parliament Estate.

He set up the Lok Sabha Channel, the first dedicated parliamentary television channel, and the state-of-the-art Lok Sabha Museum but never interfered in their administration and allowed complete professionalism and transparency in their working. On becoming the Speaker, a fleet of luxury cars were lined up before him, but he outright rejected them, and preferred the spartan Ambassador car. No MP, not even a Minister could take him for a ride. He refused to relax the period of notice required for introduction of a Bill by any Minister and shot letters to Ministers not to leave the headquarters during the currency of Parliament. He promulgated guidelines for the tours of Parliamentary Committees putting restrictions which obviously antagonized many. Any Member speaking out of turn or without permission would receive his voluble commentaries often causing disenchantment. Earlier, as Chairman, he would not allow any Committee Member to put irrelevant questions. One Member expressed his angst: *"I have not seen such a Chairman."* Quick came the retort: *"You will see neither."* As Chairman, he would see the draft report critically, edit and amend where necessary and take care to renumber the paragraphs until the end.

As Speaker, he refrained officials from highlighting any portion of the official 'noting', considering it an attempt to influence the competent authority. He read the whole note and passed clear and appropriate orders. He returned the files which ended, *"Submitted for the perusal of the Honourable Speaker"* by observing that files may be submitted for *"order or decision and not for perusal."* He abhorred carelessness and would not rest content without seeking written apology and assurance that the lapse will not recur, but was, in the end, magnanimous enough to pardon. A great legal luminary, renowned for his erudition, powerful articulation, wide ranging knowledge, unwavering commitment to democratic principles and values, he was, undoubtedly, the most sought after as a public speaker. He had politically withdrawn and remained aloof (politically) after demitting office in 2009. As a testament of abiding commitment to be of service to the people, as willed by him, his mortal frame was handed over to a Kolkatta Hospital so that each part of his body is used for donation and research. He is dead, but his legend will live on.

By Devender Singh, Former Additional Secretary, Lok Sabha and author of many books, including The Indian Parliament: Beyond the seal and signature of democracy. Currently, Adviser to Minister of State for Health and Family Welfare, GoI.

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