GOOD GOVERNANCE AND CONSTITUTIONALISM IN EAST AFRICA

Questioning the Contemporary Relevance of the Commonwealth

Dan Ogalo
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<td>Acquired Immune Deficiency Syndrome</td>
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<td>APRM</td>
<td>Africa Peer Review Mechanism</td>
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<td>ARRF</td>
<td>African Research and Resource Forum</td>
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<td>ASP</td>
<td>Afro Shirazi Party</td>
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<td>ASU</td>
<td>Association of Commonwealth Universities</td>
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<td>AU</td>
<td>African Union</td>
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<td>CCGHS</td>
<td>Commonwealth Consultative Group on Human Settlements</td>
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<td>CCM</td>
<td>Chama Cha Mapinduzi</td>
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<td>CFTC</td>
<td>Commonwealth Fund for Technical Cooperation</td>
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<td>CHOGM</td>
<td>Commonwealth Heads of Government Meeting</td>
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<td>CHRI</td>
<td>Commonwealth Human Rights Initiative</td>
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<td>CMAG</td>
<td>Commonwealth Ministerial Action Group</td>
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<td>CMDF</td>
<td>Commonwealth Media Development Fund</td>
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<td>CMI</td>
<td>Chieftaincy of Military Intelligence</td>
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<td>COL</td>
<td>Commonwealth of Learning</td>
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<td>COMESA</td>
<td>Common Market for Eastern and Southern Africa</td>
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<td>CPA</td>
<td>Commonwealth Parliamentary Association</td>
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<td>CSAP</td>
<td>Commonwealth Service Abroad Program</td>
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<td>CSFP</td>
<td>Commonwealth Scholarship and Fellowship Plan</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>CUF</td>
<td>Civic United Front</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<td>CWF</td>
<td>Commonwealth Games Federation</td>
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<td>CYP</td>
<td>Commonwealth Youth Programme</td>
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<td>CYPTEC</td>
<td>Commonwealth Youth Programme Technology Empowerment Centres</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<td>EAC</td>
<td>East Africa Community</td>
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<td>EALA</td>
<td>East Africa Legislative Assembly</td>
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<td>EALS</td>
<td>East Africa Law Society</td>
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<td>ECK</td>
<td>Electoral Commission of Kenya</td>
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<td>ECOWAS</td>
<td>Economic Community for West African States</td>
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<td>EU</td>
<td>European Union</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>Foundation for Human Rights Initiative</td>
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<td>GB</td>
<td>Great Britain</td>
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<td>GIDD</td>
<td>Governance and Institutional Development Division</td>
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<td>HIPC</td>
<td>Heavily Indebted Poor Countries</td>
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<td>HIV</td>
<td>Human Immune Virus</td>
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<td>HRU</td>
<td>Human Rights Unit</td>
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<td>ICT</td>
<td>Information, Communication and Technology</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IPEP</td>
<td>Independent Panel of Eminent Persons</td>
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<td>ISO</td>
<td>Internal Security Organisation</td>
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<td>JATF</td>
<td>Joint Anti-Terrorist Task Force</td>
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<td>KANU</td>
<td>Kenya African National Union</td>
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<td>KCK</td>
<td>Kituo Cha Katiba</td>
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<td>KIFWA</td>
<td>Kenya International Freight Forwarders Association</td>
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<td>Acronym</td>
<td>Description</td>
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<tr>
<td>LDU</td>
<td>Local Defence Unit</td>
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<td>LHRC</td>
<td>Legal and Human Rights Centre</td>
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<td>LRA</td>
<td>Lords Resistance Army</td>
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<td>MDG</td>
<td>Millennium Development Goal</td>
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<td>MKUKUTA</td>
<td>Mpango wa Kukuza Uchumi na Kupunguza Umaskini Tanzania</td>
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<td>NARC</td>
<td>National Rainbow Coalition</td>
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<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
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<td>NEPAD</td>
<td>New Partnership for African Development</td>
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<td>NGO</td>
<td>Non Governmental Organization</td>
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<td>NRA</td>
<td>National Resistance Army</td>
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<td>NRM</td>
<td>National Resistance Movement</td>
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<td>NSGRP</td>
<td>National Strategy for Growth and Reduction of Poverty</td>
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<td>OAU</td>
<td>Organization of African Unity</td>
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<td>ODA</td>
<td>Overseas Development Assistance</td>
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<td>PRA</td>
<td>People’s Redemption Army</td>
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<td>PSRP</td>
<td>Poverty Reduction Strategy Paper</td>
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<td>SADC</td>
<td>South African Development Community</td>
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<td>TAC</td>
<td>Treatment Action Campaign</td>
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<td>TANU</td>
<td>Tanganyika African National Union</td>
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<td>TEMCO</td>
<td>TAnzania's Election Monitoring Committee</td>
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<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<td>UHRC</td>
<td>Uganda Human Rights Commission</td>
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<td>UK</td>
<td>United Kingdom</td>
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<td>ULS</td>
<td>Uganda Law Society</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNHCR</td>
<td>United Nations High Commission for Human Rights</td>
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<td>Acronym</td>
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<td>UPDF</td>
<td>Uganda People’s Defence Forces</td>
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<td>UPE</td>
<td>Universal Primary Education</td>
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<td>URT</td>
<td>United Republic of Tanzania</td>
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<td>US</td>
<td>United States</td>
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<td>VCCU</td>
<td>Violent Crime Crack Unit</td>
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<td>WB</td>
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Soon after independence, the East African Countries adopted a one party system of government. Uganda and Tanzania took another step of embracing socialist ideals. This had a profound effect on the relationship between these countries and the Commonwealth whose nominal head is the Queen of England. The cold war between the West and East only served to deepen the differences. Capitalism and Communism are based on governance principles impossible to reconcile. The weakening and eventual collapse of the Soviet Union led to a re-examination of the principles of democracy by the East African countries and with that a new relationship with the Commonwealth is emerging.

Finding the most appropriate ways in which the Commonwealth can advance its core ideals of democracy, human rights, the rule of law and good governance is only possible if the reasons for the strained relationship that existed soon after independence are thoroughly examined and if there is sufficient political will to do so. So far, very very little has been done by the Commonwealth to advance its ideals in East Africa.

A key institution in accountability is the Commonwealth Parliamentary Association which unites all Commonwealth

1 Dan Ogalo is an advocate of the High Court of Uganda and a member of the current East African Legislative Assembly (EALA).

Parliaments. But it has often limited itself to induction seminars for newly elected members of parliament and one or two annual general meetings with no requirement for compliance with principles which could further the ideals of the Commonwealth.

The Commonwealth Foundation could surely do more to achieve accountability and transparency. Its Governance and Democracy Programme is said to be the core of its work in its support of civil society organizations. It is however more in facilitating meetings than directly supporting civil society organizations (CSOs) which deal with the core principles of the Commonwealth on a daily basis.

The Commonwealth rarely intervenes in cases where Governments of the East African countries do not follow the rule of law. The invasion of the High Court by the Government of Uganda to prevent enforcement of a court ruling against it\(^3\) is a case in point. Where are the commonwealth benchmarks on the roles of an Attorney General, Director of Public Prosecution and the police?

The independence of the Judiciary is the cornerstone of democracy\(^4\). Examine this in light of the decision of the Prime Minister of Kenya not to submit his electoral grievance to the Kenyan courts on the ground that he did not trust Kenyan courts to reach a decision based solely on evidence. The Commonwealth Judicial Officers Association should have a mechanism in place to prevent loss of confidence in the judicial system. And this can be facilitated by the Commonwealth.

The violence which followed the Kenyan general elections of 2007, the fact that three out of seven judges declared the 2006 election in Uganda as one characterised by bribery, intimidation and

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non compliance of electoral laws,⁵ and the fact that courts cannot inquire into whether a president was validly elected in Tanzania⁶, point to the need for a major electoral reform. The practice of sending observer teams in an election is of no major impact. It is in this area of electoral reform that the Commonwealth Foundation can commission a study with a view to developing common electoral legislation for the region.

There is a lot to be done by the Commonwealth if it is to promote its core ideals in East Africa. It is imperative that it embarks on this journey with courage and determination. If it continues with its lukewarm approach, a heavy price will be paid by the next generation.

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⁵ Supreme Court elections petition No 1/2006/ Kiiza Besigye Vs Yoweri Kaguta Museveni & Electoral Commission

Background

Edith Kibalama

Conference Goal and Objectives

This is a synthesis of the proceedings of the Regional Conference on Good Governance and Constitutionalism in East Africa: The Contemporary Relevance of the Commonwealth which took place on Friday 2 November, 2007 at Grand Imperial Hotel, Kampala. The conference was supported by the Ford Foundation and was organized by the Eastern Africa Centre for Constitutional Development (Kituo Cha Katiba) under its project on Enhancing Accountability, Transparency & Good Governance in East Africa whose overall goal is to influence the promotion of good governance in East Africa through advancement of accountability, transparency and respect for human rights.

Organised against the backdrop of the Commonwealth Heads of States meeting (CHOGM) which took place in Uganda in 2007, the conference was an evaluation of the role of the Commonwealth in promoting its core ideals of promoting democracy, human rights, the rule of law and good governance in the East African region. The conference aimed to achieve two main objectives namely; to provide a forum for East Africans to dialogue on the contemporary relevance of the Commonwealth in promoting its core ideals particularly in East Africa, and to influence the process and progress of the EAC and of relevant national institutions in the promotion of human rights and good governance. The conference was in line with the general theme of the 2007 CHOGM of Transforming Commonwealth Societies to achieve Political, Economic and Human Development.
The conference provided a neutral platform for East Africans of diverse backgrounds and disciplines to reflect on the contemporary relevance of the Commonwealth, and to hold open and elaborate discussions on the subject.

**The Commonwealth: A Background Note**

Created in 1931, the Commonwealth is one of the oldest international groupings of nations. From an initial membership of only five,\(^7\) the Commonwealth today consists of 53 countries, the majority being developing countries.\(^8\) While original membership of the Commonwealth was limited to countries that owed allegiance to the British Crown, membership today is no longer contingent on allegiance to the British Crown or historical affiliation to Britain but is guided by consensus among existing member on the basis of present or past constitutional link with an existing Commonwealth member and compliance with Commonwealth values as outlined in its Harare Declaration of 20 October, 1991, as well as acceptance of its norms and Conventions. In Africa, Ghana was the first country to join the Commonwealth in 1957, followed by other African countries in the 1960s. Kenya, Tanzania and Uganda joined at the time of their independence.

Democracy, human rights, the rule of law and good governance are part of the core values and norms of the Commonwealth. Although it has no constitution, these values are encapsulated in the various declarations or statements of the Commonwealth Heads of Governments.\(^9\) To realize its norms and values, the Commonwealth has an institutional framework comprising three main institutions; the Commonwealth Heads of Government Meeting (CHOGM), the Commonwealth Secretariat and the Commonwealth Foundation.

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7 The five initial members were United Kingdom, Canada, Australia, New Zealand and South Africa.

8 Of the 53 countries 49 are developing countries.

The CHOGM\textsuperscript{10} brings together Commonwealth leaders to discuss global and commonwealth issues and to collectively agree on policies and initiatives. The Secretariat is the main intergovernmental agency of the Commonwealth headed by the Secretary General. It promotes cooperation among commonwealth members and supports policy development as well as offers policy advice and technical assistance to governments in support of the Commonwealth’s fundamental political values. In addition to having an autonomous Human Rights Unit (HRM), the Secretariat promotes democracy through the ‘Good offices’ role of the Secretary General and through the Commonwealth Ministerial Action Group (CMAG). The two mechanisms were established to primarily address political conflicts and serious or persistent violations of the Commonwealth’s fundamental political values. The Foundation is an inter-governmental organization established in 1965 to promote the involvement of civil society in the Commonwealth and it runs a Governance and Democracy Programme.

\textbf{Human Rights, Democracy and Double Standards}

Although the Commonwealth strongly subscribes to values of democracy, human rights, the rule of law and good governance and is backed by a strong institutional framework to promote these ideals, its role in actualizing these ideals in the daily lives of ordinary citizens in the member states has been questioned and has been described often as; invisible. While it is indisputable that the Commonwealth has been supportive of some of its members and has in the past adopted a carrot and stick policy, the consistency with which the ‘stick’ has been applied against serious human rights violators is debatable. While the stick was applied in the case of Idi Amin of Uganda when he was barred from attending the CHOGM of 1977 and most recently, with sanctions imposed on President Robert Mugabe of Zimbabwe, this has been done selectively, to the

\textsuperscript{10} The use of the term Commonwealth Heads of Government Meeting only began in 1971 at Singapore, to encompass Presidents, Prime Ministers and Monarchs. Earlier meetings referred to the meetings differently.
exclusion of some leaders. Indeed, incidents of bad governance, human rights violations and outright disrespect of the rule of law, continue to dog the East African region without intervention from the Commonwealth. It is not surprising that Uganda’s main opposition party recently castigated the Commonwealth for its double standards accusing it of favouring Uganda and penalizing Zimbabwe yet both were guilty of human rights violations.

**Putting East Africa in Context**

In spite its 30 year membership of the Commonwealth, the East African countries of Kenya, Tanzania and Uganda have had an unhealthy constitutional culture characterized by gross human rights violations. On gaining independence, the naissance of the ‘new era’ for the East African States visualized as putting the undemocratic and oppressive colonial states behind them, never materialized. Instead, the countries immediately lapsed into *de facto* one party states that intrinsically suppressed political freedoms, which developments the Commonwealth did not deter.

Interestingly, even with the wave of democratization over the African continent of the 1990s, characterized by constitution-making and constitutionalism, the Commonwealth did not adequately deal with suppression of human rights abuses and bad governance. Although Uganda’s constitution-making process was applauded for being a comprehensive exercise, for instance, the final product—the 1995 Constitution of Uganda—had several retrogressive provisions, like those that prohibited the right to politically organize.

The monolithic “Movement” government of President Yoweri Museveni became a disturbing and odd feature in the region in light of the multiparty systems operating in Kenya and Tanzania. More perturbing was the removal of presidential term limits from the Constitution of Uganda, opening up opportunities for

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11 Another member to receive the total wrath of the Commonwealth is Fiji following a military take-over recently.

life presidency. In Tanzania, beneath the peaceful handover of power, lies the quagmire of a single dominant political party, i.e *Chama Cha Mapinduzi* (CCM), which has remained in power since independence in 1961. Also, tensions in the Union between Tanganyika and Zanzibar continue to occupy centre stage in national and East African regional politics. In Kenya, the process of having a new constitution is in limbo after over a decade which has catapulted all manner of political manipulations and machinations that have threatened the country’s political stability.

Independence of the judiciary in the three countries has grossly suffered across the region, mainly at the hands of the Executive. Defiance and vitiated judicial decisions is common. In Uganda after the 2001 elections, verbal attacks were leveled at the judiciary by the President.\(^\text{13}\) This was aggravated by the siege of the High Court on November 16, 2005, by a group of para-military men,\(^\text{14}\) and the March 1, 2006 attack in which security personnel sealed off the High Court premises using dogs and damaged court property.\(^\text{15}\) No doubt, the occasion attracted criticism of the Commonwealth Secretariat by the political opposition in Uganda for ignoring the escalating break down of the rule of law in Uganda.\(^\text{16}\) The situation in the other East African countries has not been any better. In Tanzania for instance, police have arrested suspects who had been freed by the courts after being declared innocent. Also, the Executive has sponsored bills in Parliament, aimed at rendering the decisions of the courts of law meaningless.\(^\text{17}\)

\(^{13}\) Ibid, pp. 34-35. See also “State owns up to raid,” *The Standard*, 1 March, 2006.

\(^{14}\) See “Terror charge thwarts PRA bail intentions,” *The Sunday Monitor*, 20 November, 2005

\(^{15}\) See “Judges vote to continue strike”, *The Daily Monitor*, 8 March, 2007


\(^{17}\) For instance, following the historical 1993 decision of the High Court in the case of *Attorney-General v. Rev. Christopher Mtikila* in which the right of the citizen to stand for elections as a independent candidate was
Coupled with the above, the region has been dogged by gross human rights violations in form of torture, illegal arrests and detentions, political persecution, suppression of the media, and electoral violence and deaths. Electoral violence has become a prominent feature of elections in Uganda. During the 1980 elections in Uganda, the Commonwealth team of election observers, as is their tradition endorsed the Uganda 1980 elections as ‘free and fair’. This immediately sparked off the guerilla war by Yoweri Museveni, and which, on its completion and assumption of power by his National Resistance Movement (NRM), forced sections from the previous regime to start the northern Uganda war.

The two decade long northern Uganda war has destabilized the country, rendered the people of northern Uganda internally displaced persons (IDPs) living in camps for the entire period, where they have suffered immense human rights violations. The 2001 and 2006 Uganda elections were also characterized by assaults, illegal detentions, shootings and killings mainly instigated by state security agencies.\(^{18}\)

In Tanzania, Zanzibar suffered gross electoral violence during the 1995 and 2000 elections, with scores of people dying at the hands of the security forces.\(^{19}\) In addition, political persecution has also become a common feature of the East African politics. Furthermore, suppression of media freedom has become common place across the region. Newspapers in all countries have been clamped down and ‘errant’ journalists arrested. This was the case for the Monitor in October 2002 and the Standard Group in Nairobi in 2 March, 2006 where the whole production machinery of the company was upheld by the court, immediately the Executive engineered a Constitutional amendment to alter the qualifications of a candidate to parliamentary elections to include sponsorship by a registered political party.

\(^{18}\) The electoral violence was established by the Supreme Court in the Kizza Besigye v. Y.K Museveni and Electoral Commission, Election Petition No. 1 of 2001 and confirmed in a report of a parliamentary select committee tasked with investigating the electoral violence.

\(^{19}\) Makaramba V.Robert, The State of Constitutional Development in Tanzania 2001 in Onyango-Oloka J., (ed) op cit, pp.53-60
burnt down by the State with a cabinet Minister saying that they had ‘rattled’ a snake which had bitten them.

Sadly, the bad governance from the national level has metamorphosed to EAC level, as exhibited by the recent undermining of the independence and powers of the East African Court of Justice (EACJ) through the direct interference of the Kenya government. As a result, the powers and standing of the EACJ have been significantly diminished, painting a bleak picture for East African region integration. With such an assault on civil and political rights (CPRs), the less popular economic, social and cultural rights (ESCRs) have been accorded even more scant attention. Although some success has been registered with respect to the rights to free primary education, access to water and provision of health care and education, ESCRs in the region continue to suffer. The policies of liberalisation and foreign investment have further aggravated the situation by prompting the suppression of labour rights and unlawful possessions and evictions from public and private land, which have in turn jeopardised housing and the livelihood rights of East Africans. Increasingly, issues of profitability have taken precedence over social equity.

Paradoxically, with such incidents of bad governance, African leaders continue to be upheld as models of good governance by the Commonwealth at the expense of genuine democracy. Equally ironic, is the upsurge in importance of the Commonwealth that attracted non-English speaking countries such as Mozambique – a Portuguese speaking country and Rwanda – an originally French speaking country, which is expected to become a member in November 2009, to a forum traditionally for countries sharing English as their common language.

Kenya’s actions were triggered off by a unanimous ruling by the EACJ that granted an injunction against the Kenyan government restraining the Kenyan members of the East Africa Legislative Assembly (EALA) from taking office. See Application No. 5 of 2007, Arising from EACJ Reference No. 1 of 2006 Prof. Anyang’ Nyong’O & 10 others v. Attorney General of the Republic of Kenya & 2 Others.
The above state of affairs therefore begs key questions critical to the East African context; where has the Commonwealth been throughout the many travails the countries have experienced? What is the Commonwealth’s conceptualisation of its ideals of promoting democracy, human rights, the rule of law and good governance, particularly in the East African context? What role do East Africans expect the Commonwealth to play in addressing the day to day human rights and governance issues of East Africans in future?, and how does the Commonwealth see its role in promoting these ideals in future?

In the special case of CHOGM 2007, efforts by the government of Uganda to explain the benefits that would accrue, namely economic gain and international exposure for Uganda, were downplayed by some critics mainly in light of the immense time and resources expended in the CHOGM 2007 preparations, and the “minimal” role the Commonwealth has played in promoting and protecting its core values within East Africa. Accordingly, the choice of Uganda as host of CHOGM 2007 was perceived with equal skepticism, and therefore undeserving of such a noble role, more so on account of the accusation that the Ugandan government had itself failed to observe and respect the core values of Commonwealth.
Opening Ceremony: A Summary

Opening Remarks by the Chairperson of KCK

_Salum Toufiq_

Mr. Salum Toufiq welcomed participants and thanked them for honoring KCK’s invitation to the conference. He extended special gratitude to the Chief Justice of Uganda, Hon. Justice Benjamin Odoki for having accepted to officiate at the Guest of Honour and for his relentless support to KCK over the years. Mr. Salum also extended special thanks to Hon. Prof. Anyang’ Nyong’o, for finding time amidst his heavy schedule to deliver the keynote address.

The Chairperson of KCK reiterated the objectives of the conference and restated KCK’s mandate and role as a premier regional NGO and think-tank mandated to promote good governance, constitutionalism and democracy in the region. He provided the history and mandate of KCK as an organization established in 1997, with the mission of promoting constitution making and democratic governance in the East African region, and one that provides a mechanism and neutral forum for activists, academicians, and politicians to engage in dialogue, self reflection and critical debate over a wide variety of issues of critical contemporary relevance. The ultimate aim of the organization is to promote the active participation of civil society in good governance and to inculcate a culture of constitutionalism where the Constitution is a living document that reflects the aspirations and needs of the common people. KCK’s geographic focus was highlighted as covering the countries of Kenya, Tanzania mainland, Zanzibar, Uganda and Rwanda. He demonstrated that soon, it will cover Burundi. In conclusion, a call was made to
participants to objectively analyze the role of the Commonwealth in promoting good governance and constitutionalism in East Africa, and to propose ways in which the role of the Commonwealth could be enhanced for the betterment of the people in region.

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Opening Remarks by the Chief Justice of Uganda

*Hon. Benjamin Odoki*

In his remarks, the Chief Justice of Uganda thanked KCK for inviting him to officiate at the opening of the conference, which he commended as timely in light of the upcoming CHOGM scheduled for end of November 2007.

In a brief historical account, the Commonwealth was described as one of the oldest international groupings of nations. Whereas original membership of the association was limited to countries that owed allegiance to the British Crown, membership of the body these days is no longer contingent on allegiance to the British Crown or historical affiliation to Britain but is one guided by consensus among existing members on the basis of present or past constitutional links with an existing Commonwealth member country and compliance with Commonwealth values as outlined in its Harare Declaration of 20 October, 1991, as well as acceptance of its norms and Conventions. The core values and norms of the Commonwealth were spelt out as democracy, respect for human rights and the rule of law. The institutional framework for the realization of the Commonwealth’s core values is the CHOGM, the Commonwealth Secretariat and the Commonwealth Foundation.

Inspite of the said values and strong institutional framework, the Hon. Chief Justice expressed disappointment over the common occurrence of incidents of bad governance, human rights violations and disrespect of the rule of law in East Africa. In this context, participants were implored to objectively assess the role of the Commonwealth in promoting and actualizing its norms and
values in the traditional East African countries during their 30 year membership to the Association. Particular emphasis was placed on the need to thoroughly scrutinize the role of the Commonwealth in fostering free and fair elections, and in promoting economic, social and cultural rights (ESCRs), which are rights that directly touch the poorest of the poor in the region. Equally underlined is the imperative to assess the effectiveness of the methods the Commonwealth employs to achieve its norms and values such as sanctions, and the extent to which they have strengthened good governance and democratic development in the region. The Guest of Honour reiterated the need for more emphasis to be placed on the role of the Commonwealth in addressing the day-to-day human rights and governance issues of East Africans in future. He ended by making an appeal to participants to devise practical strategies for promoting the key tenets of constitutionalism, good governance and democratic practices in the region including for the East African Community (EAC), as the region moves towards a Political Federation.
A Summary of Keynote Address by Prof. Anyang’ Nyong’o

Prof. Anyang’ Nyong’o postulates that a large number of African countries including those in East Africa have failed the test for good governance which requires the creation of a system of administration that is democratic, efficient and development oriented. This failure is attributed to weak constitutional foundations that characterize most of these countries. Furthermore, he argued that despite the existence of written constitutions that clearly spell out how governance should be conducted and democracy entrenched, the norm in most African countries, is centralized structures that breed corruption and promote the evil rule of the elite.

Prof. Anyang’ Nyong’o summarized the historical antecedents of governance in Africa and traced the first major attempts at good governance on the continent to the formation of the Organization of African Unity (OAU), whose major objective was the promotion of international cooperation, with due regard to the Charter of United Nations (UN) and the Universal Declaration of Human Rights (UDHR). He however contends that good governance was circumvented by the ideology of developmentalism adopted by most African states and their leadership at the time, which in essence forced African leaders to advance nation building and development at the detriment of good governance. Accordingly, this approach led to the creation of unitary states under one-party political systems headed by dictatorial leaders across Africa, under which corruption, mismanagement and human rights violations flourished, marking

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21 Hon. Prof. Anyang’ Nyong’o was then Member of Parliament Kisumu Rural Constituency, Kenya and Director of African Research and Resource Forum (ARRF). He was the Keynoter
the naissance of the culture of bad governance in Africa. This state of affairs was worsened by the OAU’s inability to decisively deal with regimes that had violated human rights and the rule of law such as that of Jerry Rawlings in Ghana, Daniel Arap Moi in Kenya, Macias Nguema of Equatoria Guinea and Fredrick Chiluba of Zambia.

Prof. Anyang’ Nyong’o demonstrated an ardent belief in the African Union (AU)’s New Partnership for African Development (NEPAD) initiative as a solution to the governance problems of the continent. He advanced good governance as a prerequisite to development as spelt out under NEPAD and emphasizes that NEPAD strives to improve governance and promote democracy by undertaking political reforms and market-friendly economic policies. In the same context, he lauded NEPAD’s Africa Peer Review Mechanism (APRM) which aims at evaluating member countries’ performance in advancing the cause of good governance including democratic governance, respect for human rights and the rule of law. It is stressed that countries that disrespect or shun these virtues risk isolation and investment flows as the major sanctions of the APRM system. Consequently, Prof. Anyang’Nyong’o contends that through the APRM, NEPAD provides a plausible framework for stakeholders to hold their governments accountable in case of poor performance or non-compliance to the set governance benchmarks.

Some setbacks of the APRM were however highlighted such as; because of the implications of APRM, States are taking their time to become members of the system. As a result, only 17 countries out of the AU’s total membership of 53 had subscribed to APRM 2008. Nonetheless, it is the author’s contention that the slow uptake offers a big opportunity for current member countries to model APRM along the lines of the European Union (EU), where countries seeking membership have to comply with certain governance, social and economic conditions before they are admitted. Prof. Anyang’ Nyong’o argues that this is an area where the Commonwealth could make an intervention to help in achieving this goal.

Four major challenges facing NEPAD in promoting good governance and economic development were highlighted as well.
First, the perception that NEPAD is an acceptance by African leaders of neo-liberal economics, in a world in which powerful countries are strengthening their States while aggressively using neo-liberalism in search for and to penetrate foreign markets. Second, the NEPAD process is largely seen as a top-down approach to African development and therefore one bound to fail. Third, cognizant that APRM has great potential to improve and strengthen governance in Africa, this can only be achieved if it moves from voluntary level to compliance level. Lastly, the success of the Partnership is dependent on the good will of the G8 and other bilateral creditors in meeting their aid obligations. Africa’s biggest challenge however, is singled out as maintenance of peace and stability, in which the continent’s development potential lies. To this end, it was argued that Africa needs to build institutional mechanisms that restrain actions that lead to conflict. In particular, the imperative for governance systems that uphold the sanctity of constitutions and where power is devolved and shared, was underscored. In this regard, federal constitutions with regional revenue sharing arrangements were advocated as one of the most viable mechanisms for ensuring lasting peace and stability in Africa. A call was made for people-driven constitutions as well as for the use of external agencies of restraint and reciprocal arrangements where military units such as Economic Community of West African States (ECOWAS), to help in ensuring peace and stability.

By way of conclusion, Prof. Anyang’ Nyong’o underlined the major objects which the Commonwealth as a club of Heads of States of Commonwealth countries should pursue in the promotion of good governance and constitutionalism in East Africa and the African continent as a whole. The Commonwealth was seen as providing an opportunity for peer reviewing African countries’ experiences in governance and one that should embrace the role and mandate of the Blair Commission to help implement its objectives by;

- Training 20,000 more African peacekeepers;
- Tightening controls on trade in small arms;
- Working more closely with the AU and its NEPAD programme to make African Governments more accountable to their people;
• Pressing rich member countries to ratify the United Nations Convention on Corruption;
• Putting in place measures to return money looted by African dictatorial regimes and rulers (banked in banks in the West) to its legitimate owners; and
• Using export credit to clamp down on western companies that pay bribes.

Plenary Discussion

During the plenary discussion that followed, participants raised three important issues critical for making Commonwealth more relevant to African States’ needs and aspirations. First, they pointed out the need for the Commonwealth to play an active role in holding Governments accountable in fulfilling the various obligations states incur by virtue of being parties to the different regional and international human rights and governance related instruments. In this respect, it was argued that as long as the Commonwealth continues its silence on commenting on governance and human rights scenarios because of the principle of non-interference, it will remain irrelevant to African States needs and aspirations in promoting good governance. Second, there was a general consensus that Commonwealth should play a vital role in strengthening Parliaments to effectively play their oversight role especially over the Executive. It was observed further that unless this is done, the Executives in the different countries would continue to abuse their power and manipulate institutions and the Constitutions.

There was general dissent by participants to Professor Anyang’ Nyongo’s argument that bad governance in many African countries is as a result of weak constitutional foundations. In contrast, participants contended that a number of African states had strong constitutions derived from free, transparent and participatory constitutional making processes, which were largely reflective of the aspirations of the people. Nonetheless, one weakness mentioned was the fact that constitutions and participatory constitution making
processes are often hijacked and manipulated by selfish dictatorial regimes and leaders. The Commonwealth was therefore, urged to devote increased attention to strengthening the political opposition as a watchdog to governments, in the respective Member States. On the other hand, the emerging trend by the political opposition in most Member States including East Africa to relegate their promises of establishing democratic governments on assumption of power was decried. An appeal was made to the political opposition to, on assumption of political power, act more responsibly by adhering to democratic governance and work in the interest of the people.

Vote of Thanks

At the end of the session, Hon. Sarah Bagalaliwo, a Board member of KCK moved a vote of thanks to the Guest of Honour and the keynote speaker. Special gratitude was extended to the Chief Justice of Uganda, Hon. Justice Benjamin Odoki for officiating at the opening of the Conference, amidst his very busy schedule. His invaluable commitment to KCK manifested both through his opening remarks and continued support to the organization was very appreciated. The Chief Justice was assured of organization’s commitment to nurture its cherished relationship with him, in the continued struggle of molding constitutionalism in the region. In the same spirit, Hon. Professor Anyang’ Nyong’o was thanked for his stimulating keynote address which highlighted critical issues for governments in Africa and the Commonwealth in furtherance of the struggle for good governance and constitutionalism. Equally commended was Prof. Anyang’ Nyong’o s’ remarkable contribution to the general discourse of justice, accountability and equity in the management of public affairs.
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A Summary of Country Papers

Three papers on Kenya, Tanzania and Uganda were written for this conference. The author of the Kenya paper became a victim of the over zealous tight pre-CHOGM security however, was incarcerated by the Uganda Police in Kampala, and he was unable to attend the conference neither was he able to deliver his paper. Only the Tanzania and Uganda papers were presented and discussed at the conference.

**The Contemporary Relevance of the Commonwealth:**
**The Case of Tanzania***

*Ernest Mallya*

Mallya hinges his assessment of the contemporary relevance of Commonwealth in Tanzania on the “all-round” Mission statement of the Commonwealth Secretariat which states: *We work as a trusted partner for all Commonwealth people as a force for peace, democracy, equality and good governance; a catalyst for global consensus-building; and a source of assistance for sustainable development and poverty reduction.* Mallya however argues that the ideals encapsulated in the above mission statement are undermined by the association’s lack of a constitution or charter which renders it a mere club which members join and quit at leisure, and therefore one devoid of powers to enforce sanctions. Furthermore, Tanzania’s system which allows the President to wield enormous power, often leading to infringement of the powers of the other arms of government, is viewed as an unhealthy feature in the struggle for democracy in East Africa. The above notwithstanding, Mallya concludes that being a

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*This is a highlight of the paper delivered by Prof. Ernest Mallya of the University of Dar-es-Salaam.*
A Summary of Country Papers

A forum where issues of mutual interest are discussed, gives value and credence to the Commonwealth.

Various areas in which the Commonwealth has been relevant to Tanzania were enumerated. In accordance with its key concern of eradicating poverty, for example the Commonwealth has through its different programmes and institutions such as of the Commonwealth Parliamentary Association (CPA), the Commonwealth Consultative Group on Human Settlements (CCGHS), and the Commonwealth Heavily Indebted Poor Countries (HIPC) Ministerial Forum supported poverty eradication in Tanzania. A study by the Commonwealth Parliamentary Association which aimed at linking poverty with democracy, participation and conflict, noted the need for meaningful participation of key stakeholders including Tanzania’s parliament, as a representative institution, in the preparation of the country’s Poverty Reduction Strategy Papers (PRSP).* As a result, Tanzania’s parliament, although for a limited time, participated in discussing the first PRSP. In addition, the Commonwealth Consultative Group on Human Settlements (CCGHS) established in 1998, aims to ensure that human settlement issues given their linkage to poverty, should constitute part of the PRSPs. Com Habitat, a partnership between CCGHS and different stakeholders in Commonwealth countries works towards achieving the Habitat agenda and the Commonwealth goal of achieving adequate shelter for all by 2015. The Commonwealth HIPC is another forum in which the importance of PRSPs has been exemplified and the need for broad consultations stressed.

In a bid to promote gender issues, the Commonwealth Secretariat introduced a programme of gender budgeting in several countries including Tanzania. Under the programme, gender discriminatory laws in Tanzania were reviewed and seminars to understudy challenges of gender mainstreaming within the education sector organized. The Parliamentary Forum on Women and Leadership in Democracy is another programme supported by the Commonwealth to bring

* Also known as the National Strategy for Growth and Reduction of Poverty (NSGRP) and in Kiswahili, the Mpango wa Kukuza Uchumi na Kupunguza Umaskini Tanzania (MKUKUTA).
women legislators together and to strengthen their role. Other areas where the Commonwealth has been of value, is within the broadcast and print media. The Commonwealth Media Development Fund (CMDF) has supported programmes to strengthen capacity in the sector in Commonwealth developing countries to enable better programming and awareness in areas of good governance, democracy, HIV/AIDS, education, and poverty eradication. As part of its goal of attaining universal sustainable, high quality education for all citizens, the Commonwealth has played a big role in various programmes under the education sector, and a number of Tanzanians have been beneficiaries. The Commonwealth also plays a role in Tanzania’s development in strengthening the civil society. Also key, has been the Commonwealth’s contribution to a democratic and peaceful Tanzania through election monitoring. Although the Commonwealth brokered agreement between the ruling party *Chama Cha Mapinduzi* (CCM) and the main opposition party in Zanzibar, the Civic United Front (CUF) after the 1999 election, was crushed by the Zanzibar government with absolutely no consequences, and the subsequent 2001 CCM-CUF Accord only partly honoured, the fact that the Commonwealth played in devising a solution to the impasse in Zanzibar, its role in brokering an agreement and the fact that it worked with the government to facilitate the implementation of *Muafaka*—a peace agreement between the two political parties, were commended. In addition to diffusing tensions in Zanzibar, the Commonwealth Observer Group was lauded for monitoring the past three multiparty elections in Tanzania.

The benefits of the above programmes notwithstanding, Mallya observes the need for the Commonwealth to strengthen its role in delivering more lasting solutions to conflicts and in evaluating entire election processes rather than only the voting day. And while some of the programmes enumerated above, have yielded benefits and have had impact, they have fallen short of directly benefiting the ordinary woman and man in Tanzania. The author also castigates the Commonwealth for its double standards especially when it comes to imposing sanctions against errant Member States. A case
in point was the election mismanagement and violation of human rights during the 2001 elections in Tanzania, which left the Union government unpunished by the Commonwealth. Similarly, the persistent violation of human rights including unlawful deprivation of life, torture, delayed justice, denial of peaceful assembly and association, and suppression of the right to freedom of expression, as well as the appalling prison conditions, denial of access to justice due to corruption in the judiciary in Tanzania, have also gone unpunished by the Commonwealth.

As a strategy of achieving its goals, the Commonwealth is urged to act as a block in international fora in which its members participate. In addition to the establishment of the Commonwealth Ministerial Action Group (CMAG) to deal with governments that persistently violate commonwealth principles and norms, whose achievements were visible with the ending of apartheid in South Africa, the suspension of Nigeria in 1995, of Fiji in 2000, and of Zimbabwe in 2002, Mellya advised that the Commonwealth should be governed by a binding legal framework rather than a mere set of statements of belief by heads of government, if it is to effectively hold its members accountable to its values and beliefs.

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**Sleeping Giant or Stealthy Nicodemus?**

*A Review of the Role of the Commonwealth in Promoting the Rule of Law and Good Governance in Uganda*

*Daniel Ruhweza*

Before presenting a brief background of the Commonwealth, a historical account of Uganda from British colonial rule through independence to the successive post independence regimes, was given, ethnic, religious and regional cleavages were singled out as factors that have significantly affected the country’s governance over the years, making it prone to conflict and civil strife.

* This is a highlight of the paper delivered by Daniel Ruhweza of Makerere University Kampala
The core values of the Commonwealth were given meaning by defining the terms good governance, and the rule of law. The key characteristics of good governance namely participation, rule of law, transparency, responsiveness, consensus orientation, equity and inclusiveness, effectiveness and efficiency, and accountability were outlined. Also underlined was the fact that good governance ensures that corruption is minimized and that views of the minority and most vulnerable in society are taken into account in decision-making processes. The rule of law was defined as equal treatment of all before the law. It presupposes that no one is above the law and that the state and its organs have to exercise their authority within and accordance with the law. The basic tenets of the rule of law namely the principle of separation of powers; independence of the judiciary and the observance of basic and fundamental rights were also defined.

Apart from applauding the Commonwealth’s report on the 2006 Presidential elections, the author is sharply critical of the Commonwealth for its failure to advance its core values in Uganda. He blamed the Commonwealth for failing to condemn the so many incidents demonstrating disrespect for the rule of law, the independence of the judiciary and violation of human rights. In addition to the various incidents of disobedience of court orders by the executive arm of government, the assault on the High Court of Uganda by security personnel, the Black Mamba, who condoned the court premises in a bid to seek out suspects of the People’s Redemption Army who had earlier been given bail was singled out as one of the outstanding incidents of disrespect of the independence of the judiciary in the country’s history. The second cited, was the Commonwealth’s indifference to the almost two decade long conflict in northern Uganda, one of the longest and most brutal on the African continent, in which over three million people have been displaced, have suffered gross violations of their human rights including rape, murder, defilement, mutilation of persons and violation of property rights and high levels of HIV and AIDS infection. Nor was government assault on the freedoms
of association and assembly including blocking of political rallies of political opposition on flimsy grounds; use of unnecessary force in dispersing political rallies, harassment of political opponents condemned by the Commonwealth. Suppression of press freedom through harassment of journalists, closure of private radio stations leading to self censorship were cited as phenomenal.

The Commonwealth was also denounced for exercising double standards in the manner in which it applies its sanctions. While Zimbabwe was suspended from Commonwealth in 2002 for electoral fraud and violence, Uganda was left unpunished for the electoral malpractices that characterized the 2006 Presidential Elections, yet these transgressions were blatantly announced by the Supreme Court of Uganda. Instead, Uganda was rewarded and honored by hosting the CHOGM in 2007. Ruhweza concluded with a call to the CHOGM 2007 to take decisive action against Uganda for persistently violating the principles, values and norms of Commonwealth in order to avoid a situation that would confirm the Commonwealth as a sleeping giant and/or a stealthy Nicodemus or a mere club where British colonies get together for a glass of champagne and a photo opportunity with the Queen.

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**Old Dominions or New Territories: The Role and Relevance of the Commonwealth to Kenya Today**

*Otieno Aluoka*

In his background to the study, Aluoka places the roots of the Commonwealth in America, a fact the 1917-1919 revived Commonwealth seems to disregard. He goes on to trace the journey of the modern Commonwealth to the imperial conference with it’s characteristically “informal meetings” to the second Commonwealth when India, Pakistan and Ceylon joined, followed by the independent African countries during the late 1950s to 1960s. A brief articulation
is given of the workings of the modern Commonwealth, through the CHOGM and the Secretariat, but an acknowledgement is made that the Commonwealth remains a robust empire under the British monarchy. Africa’s relationship with the Commonwealth is described as a paradox, to which “Africa has given some of its best and illustrious stories as well as its worst.” The Commonwealth for example, is said to have played a role in liberating African countries from colonialism on the one hand, while the British government is cited to have aided the overthrow of President Obote in 1971 to pave way for Idi Amin in Uganda, on the other. Equally significant is the Commonwealth’s visible indifference to dictatorship, racism and war, demonstrated by its callous attitude to the 1970-1980 epoch in which about a third of the African regimes were under junta governments, and to South Africa’s apartheid system to which the Commonwealth quietly acquiesced until 1990.

Aluoka however observes that the Commonwealth was seen more as a flag bearer of good governance and tolerance after the Harare Declaration. At continental level, the Commonwealth is cited as an apex of modern relations between Africa and the rest of the world through its support of Africa’s position at the World Trade Organisation (WTO) talks, and in negotiating for economic partnerships with the European Union (EU). Its support to the African countries in the areas of health, education, public sector reform, information sharing and in strengthening democracy by addressing political problems and conflicts on the continent mainly through provision of experts on democracy and electoral observers, was also highlighted.

In the case of Kenya, the author commends the role of Commonwealth election observers who have been a common feature in the Kenyan elections of 1992, 1997, 2002 and most recently 2007, thereby contributing to the reduction of electoral malpractices and providing a pedestal for legitimizing elected governments. Sadly, the non enforceability of recommendations or sanctions for compliance of the electoral reports remains a point of concern. Extensive examples are given of the Commonwealth’s contribution
in the areas mainly of education, poverty reduction, health, trade, and strengthening good governance in Kenya.

Various initiatives by the Commonwealth in promoting formal and informal education for all; girl/women physically and mentally challenged children, and the youth, as well as programmes for the prevention and reduction of HIV & AIDS were cited. In the area of trade, reference is made to capacity building of trade institutions, legislation, policy and infrastructural improvement in Kenya, by the Commonwealth as measures aimed at strengthening trade facilitation and ultimately poverty reduction. As part of the culture of entrenching ethical governance, Kenyan civil society through the Commonwealth Foundation, has benefitted from a number of capacity building programmes.

The judiciary in Kenya has also benefited from capacity building programmes aimed at combating corruption in the institution. Efforts to promote the independence of the judiciary and rule of law in Kenya through training, experience sharing and institutional support programmes of the Commonwealth Lawyers Association and Commonwealth Magistrates and Judges Association were also reported. In spite of the foregoing interventions the excessive control of the judiciary by the presidency in Kenya, was singled out as a serious point of apprehension which continues to haunt contemporary Kenya.

Aluoka stresses the role of sports in fostering education, peace and democracy cannot be overstated, and in this context, that of the Commonwealth Games in elevating Kenyan athletes, including the crucial role they have played as ambassadors of peace and unity, including during the recent Kenya post election crisis.

Aluoka concludes by proposing a common agenda for the Commonwealth for the 21st Century, namely the formation of a regional bloc around the Commonwealth, relaxed immigration regulations, greater cooperation for strengthening public institutions and relentless defence for democracy. Specifically, rich members of the Commonwealth are urged to improve trade links and foster development of their underdeveloped counterparts.
There was a unanimous agreement by participants that the Commonwealth provides a useful forum for its Member States to deliberate on issues of national and international interest. Equally applauded were the various efforts undertaken by the Commonwealth in various sectors including election monitoring, education, peace and conflict, health, to achieve its goals and objectives. It’s few successes notwithstanding however, a number of areas which require the Commonwealth’s attention or strengthening if it is to fulfil its mandate of promoting democratic governance, the rule of law and respect for human rights in East Africa were pointed out. It was emphasized that the time was ripe for the Commonwealth to progress from a mere talking forum to an action oriented club especially in the area of enforcing its core values of democratic governance, respect for human rights and the rule of law. It was also stressed that there is need for the Commonwealth to devise mechanisms to ensure that the views of the ordinary persons are collected and brought to the attention of Commonwealth’s key decision making organs and institutions.

A number of recommendations were made calling for the urgent attention of the Commonwealth to respond to the needs and aspirations of its Member States especially in East Africa. First, the need for the Commonwealth to strengthen its role in peace building and conflict resolution, given that the East African region in particular and Africa in general are prone to conflict. Second, given that over 60% of the people living in the former African
British colonies live below the poverty line and experience extremely appalling and harsh conditions characterized by disease, poor sanitation, lack of clean water, poor health care and a daunting lack of infrastructure, the Commonwealth was challenged to heighten its efforts in the fight against poverty especially among its African Member-States. Such intervention also remains critical in light of the fact that poverty, in the majority of African states, is both a cause and consequence of conflict.

The third recommendation advanced is the need for the Commonwealth to put more emphasis on building strong institutions including strengthening the watchdog role of parliament and civil society. A clarion call was made for the Commonwealth, to deal with and treat the political opposition in Member States as equal partners and not foes in the development of their respective countries. Fourth, the oversight role of Parliament, a representative and peoples’ forum in member states, should be strengthened and legislatures given prominence in the management of the affairs of state, in order to deal with the overbearing executive in most African states. Fifth, participants called upon the Commonwealth to uphold and respect the principle of equality and equal treatment of its Member States when it comes to the application of sanctions for violating the association’s principles and norms. In this regard, the Commonwealth was advised to consistently and indistinctively speak out against incidents of flagrant abuse of human rights and the rule of law by governments of its Member States. As a way of encouraging good governance among its Member States, the Commonwealth was challenged to extend the privilege of hosting CHOGM to only those countries that comply with the core values of the Commonwealth, specifically those that uphold democratic governance and respect fundamental human rights and freedoms.

A rather radical view dissipated any meaningful hope in the Commonwealth on account that the body is an extension of colonialism, through which Britain as former colonial master, is struggling to hold onto its “former colonies” for selfish strategic,
economic and political reasons. Proponents of this view also argued that it is for this reason that Britain, despite its influence, is sluggish in pushing for sanctions against Member States of the Commonwealth that violate the association’s principles, values and norms, for fear of losing them to other super powers. The same group called for compensation of the poor African developing countries by Britain, for the abuse of human rights, exploitation and plunder of resources during the colonial era.

In order to strengthen good governance and constitutionalism within its Member States, a number of recommendations were made too. It was advised that the Commonwealth vigorously supports civic education programmes as a way of empowering the people to enable them make informed political decisions and take part in the governance of their countries. In this connection, the imperative for the criteria for admission of new members to the Commonwealth, to include a clear demonstration that they respect and uphold the core values of the Commonwealth, of democracy, rule of law and respect for human rights, was underscored. Lastly, given that the governance models in East Africa have failed, scholars and political scientists were challenged to think of new models that would guarantee good governance and constitutionalism. Think tank organizations such as KCK were encouraged to undertake further research and analysis to re-examine the relevance of Commonwealth and examine how its shared values such as democracy and respect for the rule of law and human rights can be reinforced and enforced in East Africa.

Concluding Remarks

The Conference was officially closed by the Chairperson of KCK, Mr. Salum Toufiq, who extended the organisation’s gratitude to participants for their active participation and objective assessment of the contemporary role of the Commonwealth in promoting its core values in East Africa. He commended participants for having made practical recommendations aimed at making the work of the Commonwealth more relevant to the needs and aspirations of the people of East
Africa. He pledged KCK’s commitment to forward the conference recommendations to the relevant institutions of the Commonwealth.

On their part, participants thanked KCK for a well thought out and timely conference that provided East Africans with a forum to reflect on and learn about the contemporary relevance of Commonwealth as well as on ways of making it more relevant in the advancement of good governance and constitutionalism in East Africa. KCK was encouraged to continue organizing such dialogues and was further urged to take them to the lower levels, within the countries of its geographical coverage. KCK was also requested to issue a communiqué on the outcome of the conference to the Commonwealth Secretariat and follow up on the Secretariat’s response, which should be publicised.
Annex 1

Speech of the Chairperson of Kituo Cha Katiba

Salum Toufiq

Our Guest of Honour, the Chief Justice of Uganda, Hon. Mr. Justice Benjamin Odoki;

Your Lordships the Justices of the Supreme Court, Court of Appeal & the High Court of Uganda;

Our keynote presenter, Hon. Prof. Anyang’ Nyong’o, Member of Parliament Kisumu Rural Constituency Kenya and Director, African Research and Resource Forum (ARRF);

Your Excellencies High Commissioners & Ambassadors to Uganda;

Chairpersons of Constitutional Commissions and Bodies;

Members of Parliament of Uganda, the East African Legislative Assembly, and the Pan Africa Parliament;

Distinguished Guests, Ladies & Gentlemen.

On behalf of Kituo Cha Katiba, I would like to warmly welcome all of you to this regional conference on “Good Governance & Constitutionalism in East Africa: The Contemporary Relevance of the Commonwealth. I would like to extend Kituo Cha Katiba’s gratitude to the Guest of Honour, the Chief Justice of Uganda, Hon. Benjamin Odoki for honoring us with your presence, for accepting to officiate at this occasion and for your continued support to Kituo Cha Katiba. Our special thanks also go to Hon. Prof. Anyang’ Nyong’O, Member of Parliament Kisumu Rural Constituency Kenya and Director, African Research and Resource Forum (ARRF), for accepting to deliver the lead paper. I also would like to welcome our sisters and brothers and guests from the region.
KCK as a think-tank mandated to promote good governance, constitutional development and democratic development in the region, organized this conference against the backdrop of Uganda’s hosting the Commonwealth heads of government meeting (CHOGM) this month. The Conference aims at critically examining the contemporary relevance of the Commonwealth in advancing its core ideals of promoting democracy, human rights, the rule of law and good governance. The conference is focused on the situation in East Africa and its subject matter is in line with the general theme of CHOGM of *Transforming Commonwealth Societies to achieve Political, Economic and Human Development*. 

This programme is part of Kituo Cha Katiba’ project on “Enhancing Accountability, Transparency & Good Governance in East Africa, whose overall goal is to influence the promotion of good governance in the region through advancement of accountability, transparency and respect for human rights. The specific objectives of the conference are to:

1) To provide a forum for East Africans to dialogue on the contemporary relevance of the Commonwealth in promoting good governance, human rights & constitutional development in their region.

2) To influence the process of the relevant national institutions in the promotion of human rights and good governance.

**About Kituo Cha Katiba**

KCK was established in 1997 with the mission of promoting constitution making and democratic governance in the East African region. KCK provides a mechanism and neutral forum for activists, academicians, and politicians to engage in dialogue, self reflection and critical debate over a wide variety of issues that are of critical contemporary relevance. The ultimate aim of the organization is to promote active participation of civil society in good governance and to inculcate a culture of constitutionalism where the constitution is a living document that reflects the aspirations and needs of the
common people. KCK currently carries out its activities in Kenya, Tanzania mainland, Zanzibar, Uganda, most recently Rwanda and soon Burundi. Although Zanzibar is part of the United Republic of Tanzania, Kituo Cha Katiba accords special attention to Zanzibar because it has its own President, Constitution, Parliament, Judiciary and anthem.

KCK is currently governed by a 10 member Board comprising of 3 from Uganda, 3 from Kenya, 3 from Tanzania and 1 from Zanzibar. We soon hope to incorporate members from Rwanda and Burundi.

Our Guest of Honour, distinguished ladies and gentlemen, allow me to introduce to you the members of KCK’s governing Board. Present from Uganda, we have Hon. Sarah Bagalaaliwo, Ms. Jane Nabunya. Prof. Rev. John Mary Waliggo is unable to be here with us due to ill health. From Tanzania, the KCK board members are Dr Rose Shayo, Prof. Chris Maina Peter and Ms. Ummy Mwalimu and from Kenya, Mr. Lawrence Mute and Prof. Winnie Mitullah, all of whom are unable to be with us today. And myself, from Zanzibar.

As I conclude, it is our wish in Kituo Cha Katiba that this forum enables East Africans to comprehensively deliberate on and critically evaluate the Commonwealth’s role in promoting good governance, rule of law and constitutionalism in East Africa. It is our prayer too, that it proposes ways of enhancing its role for the betterment of East Africans.

I now take the opportunity to invite our guest of honor, the Chief Justice of Uganda, Mr. Justice Benjamin Odoki to deliver the opening address.

Thank you and I wish you fruitful deliberations.
Annex II

Speech of the Chief Justice of Uganda
Hon. Benjamin Odoki

Your Lordships the Justices of the Supreme Court, Court of Appeal & the High Court of Uganda;

Our keynote presenter, Hon. Prof. Anyang’ Nyong’o, Member of Parliament Kisumu Rural Constituency, Kenya and Director, African Research and Resource Forum (ARRF)

Your Excellencies High Commissioners & Ambassadors to Uganda;

Chairpersons of Constitutional Commissions and Bodies,

Members of Parliament of Uganda, the East African Legislative Assembly, and the Pan Africa Parliament;

The Chairperson Kituo Cha Katiba, Mr. Salum Toufiq

Distinguished guests, ladies & gentlemen.

First of all, I would like to thank Kituo Cha Katiba for inviting me as Guest of Honor to officiate at this important conference and for organizing the conference. The conference, whose aim is to provide a neutral forum for East Africans to dialogue on the role of the Commonwealth in promoting its core values and norms, is timely in light of the upcoming Commonwealth Heads of Government meeting scheduled for end of November this year.

As you may be aware, the Commonwealth is one of the oldest international groupings of nations which was created by the Treaty of Westminster in 1931. From an initial membership of only five
countries namely; United Kingdom, Canada, Australia, New Zealand and South Africa, the Commonwealth today consists of 53 countries, the majority being developing countries. (of the 53 countries 49 are developing countries). In Africa, Ghana was the first country to join the Commonwealth and this happened in 1957. It was followed in the 1960s by other countries. The East African countries of Kenya, Tanzania and Uganda joined at the time of their independence in 1963, 1964, and 1962 respectively. Whereas original membership of the Commonwealth was limited to countries that owed allegiance to the British Crown, today, membership of the body is no longer contingent on allegiance to the British Crown or historical affiliation to Britain but is guided by consensus among existing membership on the basis of present or past constitutional links with an existing Commonwealth member and compliance with Commonwealth values as outlined in its Harare Declaration of 20 October, 1991, as well as acceptance of its norms and conventions.

Democracy, human rights, the rule of law and good governance are part of the core values and norms of the Commonwealth. Although the Commonwealth has no constitution, these values are encapsulated in the various declarations or statements of the Commonwealth Heads of Governments among them are the Singapore Declaration of Commonwealth Principles of 1971; the Harare Commonwealth Declaration and the Millbrook Commonwealth Action programme on the Harare Declaration of 1995. To realize its norms and values, the Commonwealth has an institutional framework comprising three main institutions; the Commonwealth Heads of Government meeting (CHOGM), the Commonwealth Secretariat and the Commonwealth Foundation. The CHOGM brings together Commonwealth leaders to discuss global and commonwealth issues and to collectively agree on policies and initiatives. The Secretariat is the main intergovernmental agency of the Commonwealth headed by the Secretary General. It promotes cooperation among commonwealth members and supports policy development as well as offers policy advice and technical assistance
to governments in support of the Commonwealth’s fundamental political values. In addition, the Secretariat has an autonomous Human Rights Unit, and also promotes democracy through the ‘Good offices’ role of the Secretary General and through the Commonwealth Ministerial Action Group. The two mechanisms were established to primarily address political conflicts and serious or persistent violations of the Commonwealth’s fundamental political values. The last among the institutions, the Foundation; is an inter-governmental organization established to promote the involvement of civil society in the Commonwealth and it runs a Governance and Democracy Programme.

Distinguished ladies and gentlemen, it is noteworthy that incidents of bad governance, human rights violations and disrespect of the rule of law are not new to our region. The focus for discussion today is to assess how the Commonwealth has promoted and indeed actualized its norms and values in the three East African countries during their 30 year membership to the Commonwealth. Its role in fostering free and fair elections as well as in promoting economic, social and cultural rights, and rights that touch the poorest of the poor in the region, also need to be assessed. Equally critical, is the need to assess the effectiveness of the methods the Commonwealth employs to achieve its norms and values such as sanctions, and the extent to which they have strengthened good governance and democratic development in the region. Finally, it is important for this forum to consider the role the Commonwealth should play in addressing the day to day human rights and governance issues of East Africans in future.

It is my sincere hope that the deliberations of this conference shall provide important lessons for promoting the key tenets of constitutionalism, and for promoting good governance and democratic practices in the region including for the East African Community (EAC), particularly as we move towards the establishment of a Political Federation.

I thank you all and I wish you fruitful deliberations.
Annex III

Keynote Address

Bursting from the Seams? Re-examining the Role of the Commonwealth in Promoting Good Governance and Constitutionalism

Prof. Anyang’ Nyong’o

Introduction

A wave of democracy has swept Africa, following years of instability through civil wars. The post-war periods have been dominated by skepticism about the ability of countries to create the correct environment for democracy. Underpinning the correct environment, would be issues of good governance, conceived as a system of administration that is democratic, efficient and development oriented. A large number of countries have failed this governance test, largely because the constitutional foundation is weak. The weakness quite often emanates from design problems that do not articulate clearly the human political philosophy, political blueprint and political will and action. Success stories of a sound constitutional framework are few, but the United States (US) constitution is often cited as “best practice”.

The basic assumption underlying the creation of the US constitution in 1789 continues to inform all subsequent attempts at creating a modern state; the belief that it is possible to design and invent a viable system of governance by writing down on paper certain basic principles, rules and structural guidelines. This is the basic idea of “constitutionalism”. The central problem that faced the founding fathers of America was the belief that all men are evil and self-centred and a governing system was needed to curb the evil that men are prone to, hence government. This belief was certainly
reinforced by the civil war that had just ended. Because all men were evil “men” governing “men” would simply create a tyranny of rulers over the people. The solution was seen in the division of power which resulted in the executive, legislative and the judiciary with each having oversight over the three branches so as to offer “checks and balances”.

Back in Africa, the same system of governance is well documented on paper but in practice, the governance environment in some countries is perceived as difficult and in others hostile. The difficult countries are characterised as weak in human and property rights and also on environmental issues. To a large extent, these countries have constitutions that clearly spell out how governance should be conducted and democracy entrenched but, to a large extent, the practice is a centralised structure that breeds corruption and evil rule by a few elites. The hostile countries are those where rampant insecurity is prevalent. In these countries the threat of civil war or the incidence of civil war is high. Under such circumstances there is a complete breakdown of law and order. On this measure, between 1960 and 1992, the average African country had 76% more incidents of civil war than the average non Africa developing country.

**A Historical Review of Governance in Africa**

Attempts at good governance can be traced to the formation of the Organisation of African Unity (OAU) in 1963; the genesis of Africa’s independence campaign after the governance structures established by the colonialists, that placed constraints on the exercise of political power except for a few settler elites, had been abolished. These governance structures were favourable to themselves, but deleterious for larger society. The OAU’s objectives were “the promotion of international cooperation, having due regard to the charter of the United Nations and the Universal Declaration of Human Rights.” Its main aim was the speedy decolonisation of Africa, the unity of the continent and the defense of the territorial integrity of states. Thus, its freedom mandate curtailed greatly the promotion of good governance.
The silence on good governance was not helped by thinking about development, which as the top priority of government, which enjoyed greater prominence from a collective welfare perspective at the national level as opposed to an individual or community level. Thus the rights of individuals and communities were largely ignored. This approach created unitary states under one-party political systems, headed by dictatorial leaders, across Africa, under which corruption, mismanagement and human rights violations flourished.

But more notable was the OAU’s inability to deal decisively with regimes that violated human rights yet continuously urged governments to practice good governance. The regimes of Jerry Rawlings of Ghana (especially between 1982 and 1992), Daniel Arap Moi of Kenya, Frederick Chiluba of Zambia, Macias Nguema of Equatorial Guinea, Kamuzu Banda of Malawi, to name just a few, are classic examples in this regard. These rulers in independent Africa clamped down on opposition elements, inhibited press freedom and detained dissenting citizens.

In addition to repression, some leaders, like Mobutu Sese Seko in Zaire, Moussa Traore in Mali and Houphouet-Boigny in Ivory Coast, were irredeemably corrupt, accumulating personal fortunes huge enough to pay off the entire external debts of their countries. Surrounded by sycophants and opportunists, many of these post-independent rulers ran their countries as private estates. The OAU did little about these regimes though, objectively speaking, if the mandate of the OAU was the liberalisation of Africa, it clearly achieved this.

**Current State of Governance**

The OAU was replaced with the African Union (AU). Modelled after the European Union (EU), the AU sought to address the many challenges facing Africa through the broad framework of New Partnership for African Development (NEPAD). These challenges were notably the emerging forces of globalisation; the dominance
of neo-liberalism; the unending civil wars and collapsed states; the threats of national and international terrorism; and the deepening crisis of Africa’s development, along with its marginalisation in the global economy. Under a partnership programme established between Africa and the G8 countries, NEPAD was expected to ensure three types of governance; economic and corporate governance, political governance, peace and security. NEPAD would strive to improve governance and promote democracy by undertaking political reforms and market-friendly economic policies, while the G8 would undertake to assist African countries committed to good governance, the promotion of human rights, poverty eradication, and economic growth. Such assistance would be given through a programme of “enhanced partnership” established by the G8 at the Kananaski (Canada) Summit in June 2002 in the form of development aid i.e. assistance for building institutions, improving education and health care and combating HIV/AIDS as well as granting access to western markets.

Recent discourses on NEPAD have criticised the concept as, essentially, nothing new, citing lofty plans that preceded NEPAD. Others see it as a cowardly acceptance of neo-liberal economics by African leaders in a world in which powerful countries are strengthening their states while aggressively using neo-liberalism to search for and penetrate foreign markets; that in Africa, the Republic of South Africa is the client state for this creeping neo-liberalism, hence President Thabo Mbeki’s strong championing of NEPAD; and finally, that the process is a top-down approach to African development, and therefore civil society is duty-bound to reject it and look for more people-based approaches to African economic integration and exit from poverty.

On the basis of good governance, NEPAD has instituted a peer review mechanism emphasising good governance and upholding of human rights. A country shunning these virtues risks isolation and cessation of investment flows. Thus, under this new framework, advocacy groups across much of sub-Saharan Africa have been, with
varying degrees of success, able to confront the state, keep it on its toes and prevent government abuses.

It is this new space that, for example, emboldened the Treatment Action Campaign (TAC) to press for the rolling out of anti-retroviral drugs to persons living with AIDS in South Africa; women’s groups to demand representation in many African governments; opposition elements to demand the freedom to form political parties in Swaziland; and a general demand for accountability and transparency by governments across Africa. The new global culture regarding governance thus provides optimism about NEPAD’s capacity to propel African politics from the old and familiar traditions of rent-seeking, referred to over a decade ago by scholars as “constitutions without constitutionalism,” to cultures of accountability, transparency and responsibility.

Yet, NEPAD still has a long way to travel on the governance road. Six years after it was launched, in most African countries good governance is yet to be demonstrated. This is evident in declining Official Development Assistance (ODA) and Foreign Direct Investment (FDI) flows to developing countries, particularly to sub-Saharan Africa. For example, although total ODA to Africa stood at US$23.5 billion in 1994, this plummeted to US$18.7 billion in 1997. Similarly, total FDI to sub-Saharan Africa fell from US $8.6 billion in 1997 to US $6.5 billion in 2000. This has been caused by external factors but also by uncertainties in Africa generated by corruption, bad governance and conflicts.

But, more perilously, NEPAD faces yet another hurdle linked to the commitment of the G8 and other bilateral creditors to meeting aid obligations. The terrorist attack of September 2001 may have induced a policy shift by the US, taking Africa off its priority list. The campaign against international terrorism requires a huge amount of resources, which will affect the proportion of aid given to Africa. The recurring threat posed by the remnants of the Taliban in Afghanistan, the Ba’ath establishment in Iraq and the vast number of fanatic and anti-western organisations in the Middle East and South Asia could
combine to refocus western and especially US attention away from Africa, to combating these threats. The war on terrorism is likely to overshadow the NEPAD agenda in the foreseeable future.

**Africa’s Potential: The Peace Dividend**

Africa’s development potential requires first and foremost, lasting peace. Africa is not intrinsically prone to instability as a result of its ethnic diversity, but the continent has experienced many civil wars, primarily because of poor leadership. In addition to promoting ethnic diversity that leads to nationalistic consciousness and the general acceptance of each other among different ethnic communities and economic growth to reduce the risk of unrest, Africa needs to build institutional mechanisms that restrain actions that lead to conflict. One such action is establishing governance systems that ensure good governance and uphold the sanctity of constitutions where power is devolved and shared. Quite often the most credible form of devolution of sovereignty is a federal constitution with regional revenue-sharing rules. Peripheral regions have some constitutional guarantees because the government has no power to change the constitution unless the citizenry is consulted and is in agreement. Clearly, such a devolved system of government is only as robust as the institutions of the constitutional government.

The other requirement is what eminent scholars on conflict have proposed, deploying the use of external agencies of restraint. In the case of a civil war, this would be a foreign military power, as is currently the case in Somalia. External agencies of restraint can also rely on devolved sovereignty. This approach was used in attempts to resolve the conflict in Northern Ireland. Another approach would be a reciprocal arrangement, where a military unit like Economic Community for West African States (ECOWAS) guarantees the peace of its members. The North Atlantic Treaty Organisation (NATO) is also an example of this arrangement. Generally, reciprocal arrangements enhance sovereignty since the government is participating in the creation of new agencies of
authority. The countries affected by on-going wars on the borders of the Democratic Republic of Congo (DRC), Uganda and South Sudan could be beneficiaries of such an approach if they could accept to part with their sovereignty and create a military unit like ECOWAS to maintain peace in the region.

The benefits of a peace that lasts is the commencement of a growth phase that is powered by reconstruction. This growth can be rapid, creating employment and business opportunities within the country and among its neighbours. Having maintained the peace settlement in South Sudan, the region’s reputation for peace has been established and this is demonstrated by regional and foreign investors seeking opportunities in the area. Where peace is maintained and the effect of a civil war gradually declines, regional integration through bodies like EAC and Common Market for Eastern and Southern Africa (COMESA) would be the next logical step.

Two main reasons justify the option of regional agreements, the first is security. There may be perceived benefits from using regional agreements as a basis for increasing security for Member States. A regional agreement may also enhance a country’s security in relation to other members, an important argument in the early days of European integration. These security arrangements are driven by a variety of mechanisms; Interlocking economies can make conflict more expensive; regular political contact can build trust and facilitate other forms of cross-border cooperation. The second political effect is bargaining power; unity creates strength. COMESA would probably be able to achieve more in international negotiations than could its Member States acting independently. Of course these benefits depend on members being able to formulate a common position on relevant issues, a goal that has often proved elusive.

The African Peer Review Mechanism (APRM) is also a concept of devolved sovereignty that would greatly strengthen governance in Africa if it moved from a voluntary level to a compliance level. Under the APRM, designated institutions periodically review the progress of states in matters of governance. This is achieved by
assessing how African nations comply with certain principles of governance set out by both NEPAD and the AU. The key purposes are to ensure the compliance of nations with set standard practices of governance agreed upon by the AU summit in July 2002; as well as to assist states to improve upon their policies and policy-making and maximise the attainment of their commitment to acceptable codes of conduct. The key benchmarks of good governance include democracy, respect for human rights and the adoption of sound economic policies.

The APRM represents a radical departure from previous practices when commitments to good governance remained just commitments, undertaken through the appending of signatures to multilateral agreements. The APRM is a bold step by African states to subject their regimes to a monitoring and evaluation process administered by fellow African states. The peer review process opens up new opportunities for strengthening democracy, to ensure that the basis of governance transcends the narrow confines of personal rule, patron-client relations or ethno-religious politics. Through the establishment of an Independent Panel of Eminent Persons (IPEP) who conduct the review and assess performance, APRM presents new perspectives on the largely slow, if not static, move towards good governance that has never before been attempted in Africa.

Though APRM is voluntary and completely dependent on the goodwill of countries, it acts as a strong signal to potential investors. Of the AU’s 53 members, 17 are members of the APRM. This slow uptake justifies modeling it in the lines of the EU, where countries seeking entry had to comply with certain governance, social and economic conditions before they were admitted. This group of 17, committed to better governance and experiencing higher investment flows, would force non member countries into conforming before joining the “club”. The role of institutions like the Commonwealth could help achieve this goal by mobilizing a collective commitment to standards set by group members and setting mechanisms for dealing with default.
Creating Prosperous African Societies

From a constitutional and governance perspective, the building blocks for the creation of prosperous African societies are the human political philosophies as enshrined in constitutions. Kenya however, offers a contrary example of this experience. In Kenya, the current governing constitution was not made directly by the people; neither were they consulted and the constitution itself was adopted by the British parliament and not by Kenya’s legislature.

Since adoption, Kenya’s constitution has changed many times, though some changes have been reversed. The people have had no say in these changes, most of which were rushed through parliament. No public discussions have been allowed. In the making of the Bomas Draft, the spirit and approach has been fundamentally different. The Constitution of Kenya Review Act 2000 places people at the centre of the review process, referred to in popular terms as “people-driven”. The review process has been a participatory and inclusive process since the constitution is a contract between the people and the state.

During the review process, many complaints were lodged against the current constitution, the most prominent being that it made the government too bureaucratic; placing the convenience of the rulers over the needs and preferences of the ruled. More and more Kenyans (Africans in the larger context) are demanding that they be treated like citizens instead of faceless subjects. More often than not, the prerogative of the president has been executed in his interest and not the interest of Kenyans. This is demonstrated in the recent appointees to the electoral commission made during the run up to the Kenya general elections, in which the president himself is also a competitor.

The other complaint was that governance structures for presidential systems are undemocratic, thwarting the participation of many people while favouring certain groups and individuals. When citizens are not permitted to participate directly in all major policy decisions impacting them which a truly democratic system
must do, then the nation fails to harness the collective potential of its people for nation building. The result is appalling deprivation and disenfranchisement of the majority of citizens in African post-colonial states.

Another serious complaint made during Kenya’s review process, was that governments were repressive, unnecessarily using and causing both direct and structural force on their citizens. The very definition of a “government” was often seen as “the institution which possesses the legitimate monopoly on the use of violence”. Until it was repealed, detention without trial used to be possible under the law in Kenya. More recently, extra-judicial killings have occurred under the guise of dealing with proscribed youth groups.

Finally, unitary governments lack a vision for the future, utterly ignoring their obligations to future generations while concerning themselves with, at best, immediate and, in many instances past issues. As Kenya prepares itself for general elections, there was an obsession with past achievements, with the current regime forgetting that the promised land is where Kenyans want to go, without necessarily being reminded of past enslavement. When setting public policy, how can the needs of present generations be balanced with the needs of future generations? What constitutional order is needed?

A Leap into the Future

The Bomas Draft Constitution of 2004 provides answers to some of these questions. It is first and foremost a constitutional framework that is people-oriented. The participation of the people in creating it redefines governance as more than just formal government. It allows individuals, families, communities, educational and social systems, the media, religious groups, the economy, to confront all issues hindering the prosperity of Kenya and Africa within and for Africans.

Second, it envisions the creation of independent public institutions, designed, structured and arranged with the Kenyan as an individual or Kenyans as a group in mind. This institutional
framework will nurture people so that they utilise their capability for their own individual progress, and for that of the nation. This framework provides a springboard for the leap into the future that Kenyans have been yearning for.

The Commonwealth as a “club” of heads of states and a body that brings together societies which share history, culture and common aspirations should provide an opportunity for peer-reviewing our experiences. Indeed, the Commonwealth should inherit the role of the Blair Commission and help to implement the objectives of the Commission in some of the areas that have an impact on good governance and the maintenance of peace. These areas are training 20,000 more African peacekeepers; tightening controls on the trade in small arms; working more closely with the AU and its New Partnership for Africa (NEPAD) programme to make African governments more accountable to their people; pressing rich nations to ratify the UN Convention on Corruption; putting in place measures to return cash looted by dictators, from Western banks to the legitimate owners; and using export credits to clamp down on Western companies who pay bribes.

After the G-8 summit at Gleneagles in July 2005 there was very little information on the report of the Blair Commission and it is as yet unclear whether the Commission’s recommendations will be implemented. This East African regional conference provides an opportunity to revive the report and come up with practical steps for its implementation.
Annex IV
Country Papers

The Contemporary Relevance of the Commonwealth:  
The Case of Tanzania  
*Ernest Mallya*

**Introduction**

The mission statement of the Commonwealth Secretariat, the central organising organ of the activities of the Commonwealth, states that:

> We work as a trusted partner for all Commonwealth people as a force for peace, democracy, equality and good governance; a catalyst for global consensus-building; and a source of assistance for sustainable development and poverty eradication.

This is an all-round statement whose targets are a dream for any country that seeks to build a democratic society with an economy that is vibrant and that caters for everybody in an equitable manner. The statement contains all the ideals we hear from different quarters – whether the United Nations (UN) and the Millennium Development Goals (MDGs) and its wider agenda in general, the African Union (AU) and its Constitutive Act or the East African Community (EAC) and its Treaty and so on. This forum has principles which, if followed, could make a difference, in many ways, to the diverse situations that exist in the Commonwealth itself. These good ideals however, are bogged down by other facts about the forum, which include the lack of a charter or constitution, the fact that it is a voluntary “club” which members can join or quit as they wish and the lack of enforcement powers when it comes to sanctions and the like.
This situation notwithstanding, forums that provide leaders and peoples with a stage for discussing matters of common interest are important; sometimes, even the symbolic capacity of such forums to its members can contribute towards some political, economic or social benefit. It would seem, therefore, that it is important for eligible countries to be members of the Commonwealth. The Commonwealth is talking the same language that other forums are speaking and therefore something good can come out of it all.

**Tanzania and the Commonwealth: A Historical Note**

The United Republic of Tanzania is comprised of the Mainland Tanzania (formerly Tanganyika) and Zanzibar. The Mainland attained its independence from the British under the leadership of the Tanganyika African National Union (TANU) on 9 December, 1961. Exactly a year later, the Westminster constitution was replaced by a republican one. In Zanzibar, the Afro-Shirazi Party (ASP) staged a revolution on 12 January, 1964 three months after the British handed power to an Arab-dominated coalition. A Union between Tanganyika and Zanzibar was formed on 26 April 1964. By the operation of law, TANU was the sole political party on the Mainland from 1965, while ASP was the only political party in Zanzibar after the Revolution. On 5 February 1977 TANU and ASP merged to form Chama cha Mapinduzi (CCM) and the two governments came under a single political party, the CCM. Constitutionally there have always been two governments: the Union Government and the Revolutionary Government of Zanzibar. The government of the United Republic has jurisdiction over Union matters throughout the United Republic and over non-Union matters on the Mainland. The Revolutionary Government of Zanzibar has jurisdiction over all non-Union matters in Tanzania Zanzibar. Foreign Affairs is a Union matter therefore it is Tanzania (United Republic) that deals with the Commonwealth and not Zanzibar as a country.

The Tanzanian system of political leadership is part presidential and part parliamentary. Some see the Tanzanian form of government
as being parliamentary or even having the Westminster format, since the cabinet is chosen from among legislative representatives and the executive forms part of the legislative process. The head of government in Tanzania is however chosen directly by the people, which is not the case in a strictly Westminster model, giving Tanzania’s case features that deviate from the known Westminster model: Upon electoral victory by his or her party, the party leader becomes the chief executive and the leader of government business in the legislature. The chief executive also plays an active role on a day-to-day basis in the legislature. Often, someone else will be the head of state. When Tanganyika gained her political independence that was the model. For a year, the head of state was the Queen as Tanganyika remained a Commonwealth realm until the 1962 constitutional change. A year into Tanganyika’s independence, the constitution was changed into a republican one – and the structure we now see came into being. Tanganyika remained a member of the Commonwealth. There is an executive president as well as a prime minister who heads government business in parliament, among other duties.

In presidential systems, the leader of the government is given a mandate by popular vote. He/She is both the head of government and the head of state. In Tanzania, as is the case with France, for example, the president appoints a prime minister, often from a majority party who, among other things, becomes the leader of government business in the legislature. In cases such as Tanzania, if the majority party in the legislature is not that of the president, the prime minister can then truly share executive power with the president. In both this type and the “pure” presidential kind, such as that of the USA, the chief executive wields a lot of power. These powers have been said to infringe on the powers of the other arms of government – the legislature and the judiciary.

A lot of the power of the executive president (in a presidential system) comes from the deliberate combination of the functions of head of government and head of state which, in practice, means that there is no check or balance of power within the executive in the
sense in which the prime minister in a typical parliamentary system is limited by the presence of the head of state. Whereas the cabinet is a body of peers formed more or less by the party caucus to assist the prime minister in a parliamentary system, such a body is often the creature of the president alone in a presidential system. The fact that the president is usually popularly elected adds to this power, since he/she will be as legitimate as the legislators, perhaps even more legitimate on account of his/her national constituency. Countries such as Tanzania, which choose presidential systems, deliberately wish to give its chief executive a lot of power within the executive branch. This has not been seen as a healthy feature in the attempt to build democracy in countries such as those in East Africa, and Tanzania in particular (Mallya, 2000: 38 – 40).

The Commonwealth, Poverty Reduction and Good Governance in Tanzania

Poverty Reduction in Tanzania

The Commonwealth has the reduction of poverty as one of its key concerns. In his address to the UN General Assembly in September 2005, the Commonwealth Secretary noted:

One third of the Commonwealth’s 1.8 billion people live on less than one dollar a day. Almost two thirds of the world’s HIV/AIDS cases and maternal deaths take place in Commonwealth countries. More than half of the world’s 115 million children without education are to be found in the Commonwealth. That is why the Commonwealth not only has an interest in achieving the MDGs but also a responsibility to do so.

Several strategies have been laid down to address poverty in and by the Commonwealth. One of these has been the support the “club” has had for the Poverty Reduction Strategy Papers (PSRPs). These papers have been produced in some of the member countries of the Commonwealth, including Tanzania. I will briefly look at the Tanzanian PRSPs and the way they link to efforts by the Commonwealth to reduce poverty through the various fora available
within the organisation. There are also other ways in which poverty is being fought by the Commonwealth. According to Muna (2000: 1), the World Bank (WB) and the International Monetary Fund (IMF) jointly, in September 1996, agreed and launched the Heavily Indebted Poor Countries (HIPC) initiative. The central aim of the HIPC initiative has been to enable, initially, 41 countries classified as HIPCs to achieve a sustainable debt level within a six-year period and thus offering them an exit from the rescheduling process. In October 1999, Tanzanian officials, consulted officials from these two financial institutions, and conditionally spelt out (by the institutions) that, under the new Cologne Terms, for an HIPC to quality for debt relief, there must be a Poverty Reduction Strategy Paper (PRSP) which will indicate the commitment to using debt relief for poverty reduction. Furthermore, it was decided that, in order to have a country-owned PRSP, then, a broad range of stakeholders must be included in the preparation of that particular paper. This range would include, for example, Civil Society Organisations (CSOs) including non-governmental organisations (NGOs), community groups, faith-based organisations, academics, the private sector, political parties and so on. Briefly, it was supposed to be a participatory process.

The PRSPs are valid for between three to five years and the government is supposed to present a progress report every year. Tanzania did that and there were two reports in March 2003 and April 2004. Tanzania’s PRSP-I had a three-year cycle. In 2005 Tanzania had to come up with the second PRSP after the first had expired over a year earlier. The second PRSP was named National Strategy for Growth and Reduction of Poverty (NSGRP). It was also named in Kiswahili as Mpango wa Kukuza Uchumi na Kupunguza Umaskini Tanzania (MKUKUTA). The MKUKUTA was approved by the cabinet in February 2005 for implementation over a five-year period. As stated in the introduction: "The NSGRP is a second national organising framework for ensuring the focus on poverty reduction is high on the country’s development agenda." Again, as was the case with other poverty-reduction strategies before it, the
NSGRP is informed by the aspirations of Tanzania’s Development Vision (Vision 2025) for high and shared growth, high-quality livelihood, peace, stability and unity, good governance, high-quality education and international competitiveness. It is also committed to the Millennium Development Goals (MDGs), as internationally agreed targets for reducing poverty, hunger, disease, illiteracy, environmental degradation and discrimination against women by 2015. It strives to widen the space for country ownership and effective participation by civil society, private sector development and fruitful local and external partnerships in development and commitment to regional and other international initiatives for social and economic development.

Three fora come to mind when trying to link PRSPs and the Commonwealth: The Commonwealth Parliamentary Association (CPA), The Commonwealth Consultative Group on Human Settlements (CCGHS) and its executing hand, the ComHabitat, and the Commonwealth HIPC Ministerial Forum. I will try and relate these to the PRSPs to show that the Commonwealth is taking the poverty problem seriously.

**The Commonwealth Parliamentary Association**

The Commonwealth Parliamentary Association (CPA) provides the means for regular communication between members of Commonwealth parliaments. It seeks to promote understanding and cooperation among countries, and study of and respect for parliamentary institutions. The Association pursues these objectives through annual general conferences, regional conferences and seminars, interchange of delegations, and through publications. The CPA and the World Bank Institute (BWI) carried out a research trying to link poverty, democracy, participation by representation, and conflict and noted that adequate progress towards establishing peace and security is necessary prior to embarking on the PRSP process; and it needed meaningful participation from all stakeholders, including parliament, civil society, trade unions, and the private
sector. The study concluded that countries emerging from conflict frequently face particularly acute poverty that is complicated by internally displaced populations, war-wounded and demobilisation of combatants, disrupted production and social infrastructure, a weak security situation and a lack of trust in public institutions. As they emerge from conflict, these countries often face a high degree of political and economic uncertainty that can impede preparation of a full PRSP. As conflict often arises from exclusion from the policy process, it was obvious that parliament, as a multi-party representative institution, has a key role to play in the nexus between conflict and poverty reduction. The study noted that, regrettably, parliament has hitherto neither been seen as a key stakeholder in poverty reduction, nor in conflict prevention and post-conflict reconstruction. Suffice it to say, however, that where parliaments are key institutions in participatory governance, the voices of the poor people more often hear and are taken up in the development of pro-poor polices. The conclusion is that the CPA wanted parliament, as a representative institution, to be given more space in the preparation of the PRSPs as well as having a role in post-conflict scenarios. In Tanzania, the parliament was given the chance to discuss the first PRSP but the time was perhaps too short.

Commonwealth Consultative Group on Human Settlements

In 1998, the Secretary-General established the Commonwealth Consultative Group on Human Settlements (CCGHS). The CCGHS has adopted a Commonwealth goal of Demonstrated Progress towards adequate shelter for all with secure tenure and access to essential services in every community by 2015 and made it a point that shelter should be part of the PRSPs. This goal and objective are indicative of a widespread concern about human settlement issues (including access to basic services), and their link to poverty, and it was thought that the issue of shelter was not being given enough attention in the PRSPs. A partnership between CCGHS, supported in practical ways by agencies from government, local government, civil society and the private sector, was created
and called ComHabitat. It aims to assist Commonwealth countries to work towards implementing the Habitat Agenda and achieving the Commonwealth Goal and the related Millennium Development Goals (MDGs) through networking and advocacy; research and information sharing; and making the CCGHS ministerial process accessible to other partners implementing the UN’s Habitat agenda.

**The Commonwealth HIPC Ministerial Forum**

The Commonwealth also provides for a forum for ministers from the HIPC; the Commonwealth HIPC Ministerial Forum. In this forum, ministers from the HIPC, among other things, try to see how they can advance the achievement of the UN’s MDGs. In one such forum held in Dar es Salaam, Tanzania, in February 2003, the ministers underscored the importance of PRSPs as a national strategy to achieve the MDGs. Although significant progress had been made in many Commonwealth HIPCs in preparing and implementing PRSPs, ministers recognised the challenges facing establishment of the PRSPs as national expressions of medium-term development priorities. Ministers highlighted the importance of broad consultations as a basis for national consensus and agreed to embed future consultations in the existing institutional framework of the country, including parliament, local and community governments, and civil society organisations. They emphasised the need for costing PRSPs and ensuring their alignment with the budgetary cycle, the macroeconomic framework, and the medium-term expenditure framework. So, it is clear that the Commonwealth helps to bring together policy makers to share experiences and generate ideas on how to forge ahead with national development plans – but with a wider international development agenda, like the MDGs, being in focus.

**Gender Issues and Gender Budgeting**

The Secretariat also pioneered a programme which provides a method of funding for gender equality, the fourth MDG. Gender
Responsive Budgeting was launched in 1996 and has since been launched by 30 Commonwealth as well as 30 non-Commonwealth countries, including Tanzania. The aim of gender budgeting is, inter alia, to make sure that the government budget considers the roles played by the two sexes in the socio-economic processes and allocates the “right” amounts to the right efforts directed towards national development. Meena (2004: 3) defines a gender-sensitive budget as one which “demonstrates sensitivity to the differences between men and women, which translate into different privileges, rights and obligations”. The initial purpose of introducing such budgets is to qualify and quantify the impact of different elements of national expenditure for both men and women. The next stage ensures that resources are relocated where necessary to benefit both sexes. In Tanzania, the programme has prompted the review of a number of gender-discriminatory laws. The Commonwealth Secretariat has also run seminars in which executives from institutions of higher learning have been initiated into the processes and challenges of mainstreaming gender in curricula and other educational processes of their institutions. Such a seminar was conducted for the Southern and Eastern African countries in Lesotho in November 2005 and the theme was; Promoting Good Governance and Gender Equality in the Public Sector: The Role of Training and Research Institutions.

Related to the gender dimension of Commonwealth activities is another forum for women; the Parliamentarians Forum on Women and Leadership in a democracy. This normally operates under the Commonwealth Parliamentary Association because many of its members are women lawmakers from member countries. One such forum was held in Uganda in June 2007 with the support of the parliament of Uganda and the Uganda Women’s Parliamentary Association. The two-day activity was designed to bring together key women parliamentary leaders and key women political leaders to address a number of key issues concerning participation in democratic decision-making within Commonwealth countries. Participants considered international frameworks and commitments and assessed progress, as well as identified gaps and challenges still
remaining. There was particular focus on parliamentary initiatives and strategies undertaken, not only to increase the number of women in the legislatures, but to go beyond numbers, to identify ways women can make a greater impact once they enter parliament. The Forum enabled a greater understanding of gender, leadership and democracy within the Commonwealth framework.

**The Media**

The Commonwealth Media Development Fund (CMDF) offers financial support for programmes designed to help strengthen the broadcast and print media in Commonwealth developing countries. It works in partnership with specialised non-governmental agencies to develop capacity and improve skills and competencies at all levels. The CMDF is supported by contributions from some Commonwealth governments. The aim of the fund is to strengthen the capacity of the print and broadcast media sectors in member countries to raise awareness and inform their target audience on democracy, good governance, conflict resolution/avoidance, peace building; health, including basic health-care issues and HIV/AIDS awareness, prevention and treatment; education; economic development and poverty alleviation; human rights, including gender equality, the protection of children’s rights and the right to education. These are noble goals and the media have proven to be instrumental in the new democracies in unveiling such vices as corruption, mismanagement, and abuse of power by those in public office. As some (including media representatives themselves) have labeled it, this could be the fourth pillar of government, after the executive, the judiciary and the legislature. Support from the Commonwealth to this section of society is, therefore, very much welcome.

**Education and Training Programmes**

According to the Commonwealth Secretariat, its Education Section’s goal is to support Commonwealth governments in their efforts to attain universal, sustainable and high-quality education for all
citizens. The Commonwealth is working for a world in which every individual has access to high-quality universal education regardless of their age, gender, socio-economic status or ethnicity.

The education section aims to:

- Achieve successful Universal Primary Education (UPE) in the Commonwealth by 2015.
- Reduce gender disparities and promote equality in Commonwealth Education by 2015.
- Assist Commonwealth member countries at risk of failing to achieve the Millennium Development Goals.
- Strengthen the education sector’s response to HIV/AIDS in the Commonwealth and address its impacts on education.
- Improve the quality of education, in particular by addressing the shortage of qualified teachers, promoting tolerance, values of democracy, human rights, citizenship, peace and good governance.

Apart from this wider programme, the Commonwealth has other, smaller programmes tailored for special educational needs. These include the Association of Commonwealth Universities’ Scholarships for Academic Staff, which sponsor academics for further training, especially at PhD level. Many scholars from Africa and other developing countries have benefitted from this programme. But the issue again is “too little for too many”.

**Human Rights**

Human rights have long been at the centre of the Commonwealth’s values and its practical interventions, and the Commonwealth Secretariat’s work in the field has achieved growing prominence in recent years. The importance attached to human rights specifically is reflected in the enhanced autonomy of the Human Rights Unit (HRU) since its reconstitution in January 2002. The Harare Commonwealth Declaration of 1991 forms the foundation upon which current human rights efforts by the Commonwealth are anchored. The Harare Declaration reiterated the commitment of the Commonwealth to the promotion and protection of
democracy, democratic process and institutions, which reflect national circumstances, the rule of law, and the independence of the judiciary. It also committed itself to the promotion and protection of fundamental human rights, including equal rights and opportunities for all. There have been a variety of other germane declarations since then, on various aspects of the Harare Declaration, reinforcing the resolve of the Commonwealth to address the web of human rights issues that need attention in the Commonwealth nations.

Among the initiatives taken to make sure that the Commonwealth is at the forefront, has been the establishment of the Commonwealth Human Rights Initiative (CHRI). On its website, the CHRI says that its mandate is to promote awareness of and adherence to the Harare Principles, the Universal Declaration of Human Rights and other internationally recognized human rights instruments and declarations made by the Commonwealth Heads of Governments as well as domestic instruments supporting human rights in the Commonwealth. CHRI believes that the promotion and protection of human rights is the responsibility of governments but that the active participation of civil society, acting in concert, is vital to ensuring rule of law and the realisation of human rights. The Commonwealth has shown its resolve to adhere to the principles of human rights by suspending some of its members who fail to honour human rights, such as Nigeria (1995 -1999), and Zimbabwe (2003 – to date).

The CHRI programmes focus on four key areas which are crucial in human rights. These are (right to) information, constitutionalism, police reforms and prison reforms. Actually, the first two provide the basis for the rule of law, transparency, participation and accountability, which are necessary for any good governance. Information is fundamental to the realisation of economic and social rights as well as civil and political rights. Constitutions are the principal keepers of all rights and once the right constitutions are in place, abuses and contraventions are likely to be minimal and when they do occur, corrective measures would be readily available.
The other two key areas; police and prison reforms, target the two state apparatus which so graphically show the way states abuse (or adhere to) human rights principles. These are the instruments which implement orders that translate into action regarding the abuse of human rights. When these are reformed, the promotion of human rights becomes much more straightforward.

**Civil Society**

The Commonwealth Foundation is one of the institutions established to work for the enhancement of the role of civil society organisations in governance, democracy, sustainable development and culture by strengthening their institutional and human capacity, and creating opportunity and space for partnership, participation, advice and leadership thereby achieving lasting improvements in the lives of Commonwealth people. Its core values are underlined by the Harare Declaration of 1991, which include democracy and good governance, respect for human rights and opportunities for all, gender equality, access to education and training, poverty reduction, environmental protection and sustainable development. The Foundation has as its partners, governments, intergovernmental organisations, the private sector and civil society organisations.

**The Commonwealth Games**

The Commonwealth Games is the one event that brings together sportsmen and women from all over the Commonwealth. Economic, social, cultural and political benefits accrue from the Games, depending on who is doing what. The hosts will certainly have to invest a lot but there are also gains to be made. Those who congregate for the Games have the chance of creating networks for friendship as well as cooperation in areas of mutual benefit. The Games can also be used as a political weapon, whereby countries contravening the “club” norms can be suspended or denied cooperation as far as the Games are concerned. In general, one can say that the Games offer an opportunity for countries to share experience, cultures and friendship.
The Commonwealth, Elections and Conflict Resolution in Tanzania

The Commonwealth – through the Commonwealth Observer Group (COG) – has been one of the regular election observers in Tanzania (see the National Electoral Commission, 1997: 72, 2001: 79 and 2006: 78). The International Human Rights Group (1984: 13 - 20) notes that the justification for sending any observer mission to an election is fourfold. First, it relates to the fact that the mission is independent, impartial and objective; second, it encourages participation in the electoral process; third, it assists in ensuring the integrity of the electoral process, and finally and most importantly, it evaluates the human rights situation in the country, which may bear upon the legitimacy of the electoral process. The Commonwealth has done so in Tanzania without fail in the past three multiparty elections. The COG’s only criticism every time has been that they stay for too short a time. Preference is given to election monitors who stay on the ground from the start of the registration period to the time results are announced. They then have a better chance of evaluating the entire process and to give a more objective evaluation of the processes involved. However, observers do a good job on the voting day.

The Commonwealth Secretary-General has used his 'good offices' to successfully defuse tensions in a number of Commonwealth countries in recent years which include Zanzibar in the United Republic of Tanzania. Since 1995, the Commonwealth has been involved in the quest for a lasting solution to the political impasse in Zanzibar. In June 1999, the Commonwealth successfully brokered an agreement between the ruling Chama Cha Mapinduzi (CCM) and the main opposition party, the Civic United Front (CUF), only part of which was implemented. In the process, the Commonwealth worked with the government in facilitating the implementation of the peace agreement (Muafaka in Kiswahili) between the governing party and the opposition, and the Commonwealth remained the moral guarantor of that agreement. The agreement was not honoured though.
The CCM governments through the National Electoral Commission (NEC) and the Zanzibar Electoral Commission mismanaged the 1995 and 2000 Zanzibar elections. A standoff ensued between the ruling party CCM and the main opposition party, the CUF. There was a threat to peace. After the 1995 elections, which the Commonwealth observers labeled as a sham, various donor countries (especially in the European Union) froze aid programs to Zanzibar, but the government survived the aid freeze. The sanctions appeared to be merely a gesture of discontent and disappointment, it wasn’t really meant to be observed strictly. For once, Tanzania and Zanzibar in particular, continued to benefit from donor assistance offered to the United Republic of Tanzania with a Zanzibar component.

As a matter of fact, it was business as usual, as if nothing had happened. Moreover, while everybody knew that the Tanzanian (Union) government was also culpable for the failure of elections in Zanzibar, no country imposed aid sanctions on the Union government for the failed elections in Zanzibar, neither in 1995 nor in 2000. This kind of response from the international community did not contribute to make the two governments more responsible for guaranteeing subsequent “free and fair” elections. The 2005 elections were also controversial as far as Zanzibar was concerned. It seems the government of Zanzibar has found that it can get away with anything. It crushed the Commonwealth-brokered agreement of 1999 with absolutely no consequences. It has been sabotaging the CCM-CUF Accord of 2001 and wilfully failing to live to its promises of fully executing all the articles of the Accord. It was only in September 2007 that the main opposition party in Zanzibar presented an ultimatum to the Union government that, unless the government of Zanzibar implemented the 2001 Accord, especially the issue of government of national unity, it was going to withdraw from the talks about the implementation of the Accord by a government-sponsored bipartisan team (from CCM and CUF). Withdrawal from the talks was simply because the opposition felt that, among other things, the CCM was postponing the talks until
the 2010 elections became due, when they could postpone the key issue of a government of national unity and concentrate on new elections. The threat from the opposition was withdrawn after the Union president requested that the talks continue and an assurance that the Union government was serious about the Accord and the situation in Zanzibar. It is unclear when the talks will yield results that will diffuse the tensions in Zanzibar. The Commonwealth however, did intervene in the period after the first multiparty elections in Zanzibar, but it looks like more could have been done by the “club”.

**The Commonwealth and Tanzania: An Evaluation**

**A Success Story?**

At some point the former Malaysian prime minister, Dr Mahathir Mohammed, commented on the Commonwealth, saying it was a Commonwealth where wealth was not so common. This says a lot about the chasm that exists between the Member States of the Commonwealth when it comes to economic, political as well as social development. As indicated above, the Commonwealth has beautifully designed and well thought-out programmes. But the issue is the capacity to execute the ideas in all or in most of the needy member countries. The problem seems to be the number of able countries which contribute more to the coffers as opposed to the multitude of poorer countries which need every one of the programmes that are currently running, and any others that are likely to come up in the foreseeable future. Tanzania is one of those that contribute less in comparison, because contributions are pegged on national economic strength. There is, therefore, one big challenge facing the Commonwealth, and that is to make wealth common amongst the members.

Little is being gained from the Commonwealth by the poorer countries, but the benefits of cooperation should not be belittled by Commonwealth critics. First, the Commonwealth has provided the stage for peoples from all Member States to sit down and deliberate
The Contemporary Relevance of the Commonwealth

on issues of national and international dimensions which also touch each individual nation in one way or another. Such fora are very important. Talking is one of the first steps towards solving problems. Knowing what others think and knowing what has led some to do what the other side believes is inappropriate is important. It is from this knowledge that further steps can be taken. The dictum has always been that “one should not be judged before he/she has been given chance to defend his/herself”. This also applies to nations and their leaders and this opportunity is provided by the CHOGM that is held every two years.

Second, many of the programmes have had an impact on the lives of millions of people. These range from education and health to technical cooperation. In fact, many of the programmes address aspects of the UN’s Millennium Development Goals. There are the educational programmes that seek to increase the quality of education in the Member States. There are other programmes which offer specific training for participants, especially from poorer countries. These are, in some cases, invaluable, like training for Ph.D.s for universities in developing countries. Tanzania has had a good number of her citizens trained by such programmes under the Association of Commonwealth Universities. The problem is, of course, it has not been enough and maybe modalities need to be worked out so that universities in the more advanced member countries can offer more spaces for candidates from the developing countries. All these programmes are valuable, but the problem is that they do not impact on the common man and woman directly. Furthermore, the scope and extent of these programmes form part of a collective effort of which the results cannot be ascribed to the Commonwealth alone.

Third, the principles that Member States are expected to adhere to are all of value to their peoples. States have ready-made principles that, when followed, are likely to lead to gains and good governance. Issues related to human rights, transparency, fighting corruption, democracy, and gender equality are at the core of the principles of the Commonwealth. One of the most important conditions for
good governance to be realised is the presence of regular free and fair elections. The Commonwealth has always sent its observer missions to Tanzania’s elections (see URT, 1997, 2001 and 2006; as well as the Tanzania Election Monitoring Committee (TEMCO), 1997 and 2000), and the observers have expressed their opinions when they found that things were not being done according to the rules. The 1995 and 2000 general elections in Zanzibar are a case in point. The Commonwealth Observer Group labeled these elections; a sham.

Fourth, “naming for shaming” can be applied to sanction members who do not adhere to the principles of the association. While we know that the Commonwealth does not have an enforcement mechanism, actions, such as suspension are painful for states that face them. We are aware that, in some regional and world bodies where sanctions can be enforced, there have been cases of non enforcement as well. But the fact that the sanctions are internationally agreed upon, has some impact.

Fifth, the use of the good offices of the Commonwealth has had some impact in the diffusion of conflicts in various places, including Zanzibar, as was discussed above. There are several other cases where the Commonwealth has intervened too.

A Problem Case

Much as the Commonwealth is toothless, it has the symbolic stick of excluding those who do not adhere to the norms and practices that are acceptable. Yet this stick has not been used effectively against some members. In the case of Tanzania, the issue of election mismanagement and the suppression of civic liberties went unpunished. The 2001 police violence against peaceful demonstrators in Zanzibar, in which dozens of people died, went unpunished too. Although development partners suspended aid to Zanzibar, this did not have any significant effect because Tanzania (the United Republic) was receiving aid and passing it onto Zanzibar. In fact, the Union Government should not have remained unpunished because it could have done much to solve the problem. The National
Electoral Commission (for Union parliamentary elections) had a hand in the mess; the ministry responsible for the police force is a Union ministry; and the ruling party has extensive powers over the Zanzibari leadership. But there was no rebuke from the Union government about what was happening in the Islands! And, the Commonwealth did nothing to that effect either.

Violation of human rights in Tanzania has been the order of the day. But for some reason, Tanzania is seen as an “island of peace” by many outsiders. There may be no major events like civil war, political upheavals and so on which carry headlines in news bulletins across the world, but when it comes to human rights violations, it boils down to an individual, individual family or individual community suffering loss. Many individuals have suffered losses in Tanzania and little has happened in terms of the Commonwealth taking action. These violations range from disrespect for human dignity, denial of civic liberties, various types of discrimination, to suppression of workers’ rights. What needs to be noted here is that the Tanzania government has legislation in place that provides for punishment of offenders in this area, but the government’s enforcement machinery has let the people down, and little is being done to correct this anomaly. If one looks at the state of human rights in Tanzania, whether by external sources like Human Rights Watch and Amnesty International, or from internal human rights organisations like the Legal and Human Rights Centre (LHRC), all rights are being violated. These range from:

- Unlawful deprivation of life (by the police force or people’s militia as was the case in Zanzibar in 2001; cases of mob justice and people’s militia meting out punishment, leading to death, is common in some regions);
- Torture while under police custody (this has been made normal when the police wants to extract information from suspects);
- Exile (as was the case in Pemba after the 2000 elections for fear of the state);
• Delayed justice (people remain in custody for years rather than sixty days as stipulated by law on the pretext of the investigation being incomplete);
• Denial of peaceful assembly and association (opposition political parties are denied the right to hold rallies for lame excuses like “there are not enough police officers to keep peace”);
• Domestic violence is widespread (where enforcement of the relevant law has proven to be difficult, sometimes because of outdated customs);
• Denial of freedom of expression (the banning of a book in 2000 titled “Mwembechai Killings and the Political Future of Tanzania”. However, the book was posted on the Internet and anyone could access it);
• Appalling prison conditions (some cases have been reported of remandees dying while in jail, as was the case in November 2000, when 17 remandees died of suffocation while in a cell in Mbeya region, where 112 prisoners were accommodated in a 30-person cell);
• A judiciary that is riddled with corruption;
• Child labour and forced migration (with the influx of mining companies there has been forced removal of people from their traditional lands, and child labour is rife in the mining areas).

The list could go on but Tanzania is considered one of the “nice guys” by many international fora, including the Commonwealth. That is why she has not faced the stick, like some of the other members that have. More needs to be done to help the victims of such violations and to secure the country against further violations.

**A Future Commonwealth?**

It could be a simple exercise to advise the Commonwealth to institute standing orders to provide it with the authority to address transgressions like having a constitution, with binding conventions and so on. But the way things are, it will complicate matters further.
Taking East Africa as the case in point, this is a part of the world where economic development is wanting. If it is to make a difference, then the Commonwealth will have to engage more in economic activities, signaling the signing of some protocols that are binding. But we already have a complicated situation with the East African Community regarding the Common Market for East and Southern Africa (COMESA) and the South African Development Community (SADC). Getting more protocols especially for economic cooperation could throw the region into chaos. Belonging to too many blocs can be counterproductive. Maybe, the Commonwealth should remain as it is, for the moment. There are many issues on the Commonwealth agenda that overlap with the agendas of those world bodies with enforcement mechanisms. We have seen that the Commonwealth supports the attainment of the UN’s MDGs. One practical way the Commonwealth could advance the promotion of its core ideals as entrenched in good governance would be to act as a bloc in international bodies of which the members are part. Other actors on the international scene, like the major financial institutions and regional bodies like the AU and EAC emphasise the presence of good governance as well. So, supporting these actors would indirectly assure the Commonwealth of some movement towards attaining the ideals it is fighting for.

As it is, the Commonwealth has no constitution or charter, and as a result critics have given this as the reason for its lack of influence and enforcement capacity and/or mandate. In other world bodies like the UN, the Commonwealth rarely acts as a bloc. And unlike the United Nations, Commonwealth members have no contractual obligations, but members only commit themselves to the statements of belief set out by heads of government. This, therefore is a kind of “gentlemen’s club” where influence is attached to the possible socio-economic benefits one can reap from being “gentle”. Nevertheless, the stick and carrot are not applied equally to those who violate the norms. The decision, in 1995, to set up the Commonwealth Ministerial Action Group (CMAG), comprising eight ministers whose function is to deal with governments which persistently violate
Commonwealth principles, is a welcome step. As it is, the CMAG can propose punitive collective measures such as economic sanctions or suspending wayward members. Examples are available of cases where it has worked. The Commonwealth, for example, was in the forefront of fighting apartheid in the 1980s. In 1995 it suspended Nigeria’s membership after the military regime demonstrated high levels of human rights violations including passing a death sentence on a political activist, and in 2000 it suspended Fiji after the overthrow of the elected government. Zimbabwe was suspended in March 2002, after elections which observers said were marred with violence and intimidation. Later, in 2003, the suspension was extended after Zimbabwe’s land redistribution policy exhibited grave human rights violations. Comparatively, more countries should have been on this list, so that greater effort can be directed towards achieving good governance and the ensuing instances of observance of human rights, constitutionalism and democracy, rule of law, political inclusion, transparent and accountable governments.

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Bibliography


Introduction

The Commonwealth Heads of Government meeting (CHOGM) was held at the end of November 2007 in Kampala. It took centre stage and was the priority of all deliberations and programmes in progress in Uganda. Many activities were put on hold and many people were inconvenienced in the name of CHOGM.

Billboards all over the city and the nation announced how the artisans, musicians, farmers and heads of various parastatals were ready for CHOGM and challenged the rest of the people to get ready for the same. Billions of shillings was spent in renovating roads and repairing Entebbe Airport to welcome the guests who were due to visit the country. All over the capital city Kampala; hotels were built, and several apartments converted into hotels to enable the locals to cash in on the big money that was expected to flow into the country.

What then is Commonwealth and what role does it play in promoting good governance in this country? Is it a mere “Sleeping Giant” that occasionally wakes up to visit its former colonies, like...
Uganda, without doing anything to promote the proper governance of the country? or is it a stealthy Nicodemus\textsuperscript{24} working behind the scenes when everyone has gone to sleep, to negotiate for the good of others?

This paper seeks to answer some of these questions by reviewing the role that the Commonwealth plays especially with regard to the struggle for good governance, rule of law and constitutionalism. Specifically, this paper will look at the areas of media freedom, independence of the judiciary and the concept of human rights generally as provided in the Constitution of Uganda, 1995. It will then make recommendations for the way forward; particularly through consideration of what the Commonwealth can do to assist Uganda, and how the leadership of the nation can be challenged on the way forward.

**Uganda: A Brief History**

**Location**

Until the early 1970s, during the era of the then Field Marshall, Idi Amin Dada, very little was known about this small landlocked country in East Africa.\textsuperscript{25} It shares borders with Kenya, Tanzania, Rwanda, Sudan and the Democratic Republic of Congo.\textsuperscript{26}

\textsuperscript{24} Nicodemus was a Pharisee in the Gospel according to John 3: 1-15 NIV who approached Jesus Christ at night in order to understand his teachings.

\textsuperscript{25} For further details see John Rowe: Uganda, http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+ug0012) accessed on 24 June 2007.

**Ethnic Background**

The population of Uganda consists of Bantu-speaking people from Central and West Africa and the Nilotic region. The Bantu are believed to have migrated and occupied most of the southern parts of the country, bringing with them agriculture, ironworking skills and new ideas of social and political organisation. By the fifteenth or sixteenth centuries they had developed centralised kingdoms, including the kingdoms of Buganda, Bunyoro-Kitara and Ankole.

The Nilotic people are believed to have entered Uganda through north west probably beginning about AD 100. They were cattle herders and subsistence farmers who settled mainly in the northern and eastern parts of the country. Some Luo invaded the area of Bunyoro and assimilated with the Bantu there, establishing the Babiito (Luo-Biito) dynasty of the current Omukama (ruler) of Bunyoro-Kitara. Luo migration proceeded until the 16th century, with some Luo settling amidst the Bantu in eastern Uganda, and proceeding to the shores of Lake Victoria in Western Kenya and Northern Tanzania. The Ateker (Karimojong and Teso peoples) settled in the north-eastern and eastern parts of the country, and some fused with the Luo in the area north of lake Kyoga.

The way of life of the descendants of all these people who occupy present-day Uganda were largely influenced by Arab traders, British explorers and Christian missionaries before British influence was exerted with the declaration of Uganda as a protectorate in 1894.

**Independence and its aftermath**

**Forging an Independent Uganda**

The independence of this country was in a sense a gift from the British because it came without a struggle (Rowe, 1990). This was

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28 Ibid.
not the case for Kenya and Tanzania, who had to engage in bitter and violent struggles championed by the Mau Mau and Maji Maji rebellions in order to be granted independence in 1963 and 1961 respectively. In the case of Uganda, independence was granted in 1962 after the Lancaster Constitutional Conference on more or less a silver platter.\textsuperscript{30} It should be noted that the deliberations of this Conference revolved mainly around the demand for the lost counties by the kingdom of Bunyoro-Kitara and the demand for autonomy by the kingdom of Buganda, which had aided the colonial government in spreading its influence in the region, all at the expense of the other regions. As such, when independence was granted, Buganda and Bunyoro and the territory of Busoga in the east of Uganda enjoyed a semi-federal status as compared to the rest of the country, which led to numerous litigation involving authority and jurisdiction of these federal governments in the aftermath of independence.\textsuperscript{31} The Independence Constitution has therefore been considered by some authors as a tool of divisionism and regionalism rather than an avenue to unify the country.\textsuperscript{32}

Thus Uganda did not have the unique opportunity, like its aforementioned neighbours, to develop a sense of nationalism and unity prior to the attainment of independence. In the succeeding years, supporters of a centralised state vied with those in favour of a loose federation and a strong role for tribal-based local kingdoms. Political maneuvering climaxed in February 1966, when Prime Minister Milton Obote suspended the constitution, assumed all government powers, and removed the president and vice president from office. In September 1967, a new constitution proclaimed Uganda a republic, gave the president even greater powers, and


abolished the traditional kingdoms.33

**Post-Independence Uganda**

It was not long before the Obote government was toppled by its own army commander, Idi Amin Dada, who declared himself president, dissolved the parliament, and amended the constitution to give himself absolute power. It is during his eight-year rule that the country experienced economic decline, social disintegration, and massive human rights violations.34 On 11 April, 1979, the Amin regime was overthrown with the help of the late Julius Nyerere of Tanzania. A series of short-lived governments ensued in which Yusuf Lule, Godfrey Binaisa, Paulo Muwanga, Milton Obote and Tito Okello were placed at the helm of this nation albeit for a short period until president Yoweri Kaguta Museveni over-threw the Okello junta in 1986.

It is worth mentioning that, during this time, the presidents of Kenya and Tanzania attempted to resolve the civil strife in Uganda but without much success. Like Nyerere, the Kenyan president Daniel arap Moi, chaired negotiations in Nairobi between the National Resistance Army and the Okello government with the hope of ending the conflict. Inspite of the ceasefire agreement that was signed in 1985 however, massive human rights violations continued as the Okello government carried out a brutal counter-insurgency in an attempt to destroy the NRA’s support, and the NRA continued fighting, seized Kampala and the country in late January 1986, forcing Okello’s forces to flee north, into Sudan.

It is from here that the remnants of Okello’s forces put an armed resistance against the government. The northern region has since been the base for rebel groups like the Uganda People’s Democratic Army (UPDA), the Holy Spirit Movement, and currently the Lord’s

Resistance Army, (LRA) led by Joseph Kony, which has carried out gross violations of human rights against the people, leading to an indictment by the International Criminal Court (ICC).

**Museveni and the National Resistance Movement (NRM)**

President Yoweri Kaguta Museveni and the NRM or “the Movement”), has largely put an end to the human rights abuses of earlier governments, initiated substantial political liberalisation and general press freedom, and instituted broad economic reforms after consultation with the International Monetary Fund (IMF), World Bank and donor governments. Various institutions like the Inspectorate of Government, the Human Rights Commission, the National Environmental Management Authority (NEMA), Uganda Investment Authority (UIA) and others have been created by the NRM government to foster development and good governance.

This is confirmed by Freedom House Country report when it states as follows;

> Uganda has always been a difficult country to govern democratically. It is deeply fragmented into ethnic, religious, and regional cleavages that greatly complicate the formation and maintenance of a legitimate ruling coalition. As authority over coalition members declined, each former ruler increasingly resorted to patronage and intimidation at the expense of support for the rule of law. By the time Museveni and the National Resistance Army (NRA) seized power by defeating the national army in 1986, Uganda had become a failed state without an effective constitution, fair elections, protection from terror, autonomous judges, or honest officials.35

Government however, has not escaped criticism. It has been involved in clamping down on the right to associate when it put

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a freeze on multi party activities for very many years. Reports by human rights organisations like Amnesty International, Human Rights Watch, the Foundation for Human Rights Initiative (FHRI) and the Uganda Human Rights Commission (UHRC) have also criticised the government of various other human rights violations especially in Northern Uganda. Criticism has also been levied on the government for the atrocities in northern Uganda just like the rebels of Joseph Kony, together with the mass killings in Luwero, the hot-bed of the civil war between Museveni and the Obote and Okello regimes. Further still, Uganda has been criticised for destabilising the great lakes region. In 1994, Uganda was reported to have supported the Rwandese Patriotic Front which overthrew the government of President Juvenile Habyarimana in Rwanda. In 1996, Uganda was as well, reported to have supported the overthrow of the former Zairean President Mobutu Sese Seko, and it has been blamed and found liable by the International Court of Justice for plundering and destabilising eastern Congo. This is in addition to supporting

36 Multi party democracy was only reintroduced in the last two years after a referendum.
40 DRC v. Uganda ICTJ, Democratic Republic of the Congo v. Uganda - Case
the Sudanese People’s Liberation Movement (SPLM).

Similarly, president Museveni and his government have been faulted for reneging on their earlier promise to restore democracy, constitutionalism and the rule of law in the country. To confirm this, in August 2005, parliament voted to change the constitution to lift presidential term limits, allowing president Museveni to run for a third term (locally known as “kisanja”). In a referendum in July 2005, 92.5% of voters supported restoring multiparty politics, thereby scrapping the no-party or “movement” system which interestingly, was a creature of the same government which had won an earlier referendum to allow the Movement system to continue. Rt. Col. Dr Kizza Besigye, who was president Museveni’s political rival, returned from exile in October 2005, and declared himself a presidential candidate for the 2006 elections. President Museveni won the February 2006 presidential election although he was accused of orchestrating the arrest of Dr Kizza Besigye on charges of rape and terrorism. This victory was however challenged by Kizza Besigye in the supreme court which found that there was violence


and cheating during the elections. The lifting of the presidential term limit leaves president Museveni now free to stand for office for as many times as he pleases.

As explained above, Uganda had to, unfortunately degenerate into civil strife mainly because of the divide- and- rule policy that was used by our colonial masters. The language gulf between the Nilotic speaking people and the Bantu tribes, the economic divide between the pastoralists and the agriculturalists, the long-standing division between the centralised kingdoms on one hand and the other tribes on the other, the historical hatred amongst some of the kingdoms which were further fuelled by the colonial masters, (particularly with regard to control of land as was the case between Bunyoro and Buganda), the predominance of Christianity over Islam, the use of Nubians to serve as a colonial coercive force to suppress local tax revolts, and the domination of commerce by the Asian community, all made Uganda very vulnerable and susceptible to the civil strife and anarchy that engulfed it immediately after independence.

History of the Commonwealth

Formation of the Commonwealth of Nations

The Commonwealth of Nations, usually known as the Commonwealth and sometimes as the British Commonwealth, is a voluntary association of 53 independent sovereign states, most of which are former British colonies (the exceptions being the United Kingdom itself and Mozambique). The Commonwealth

45 Ibid.
is an international organisation through which countries with diverse social, political, and economic backgrounds cooperate within a framework of common values and goals, outlined in the Singapore Declaration. These include the promotion of democracy, human rights, good governance, the rule of law, individual liberty, egalitarianism, free trade, multilateralism and world peace.

Although performing a vastly different function, the Commonwealth is the successor of the British Empire. In 1884, whilst visiting Adelaide, South Australia, Lord Rosebery described the changing British Empire, as some of its colonies became more independent, as a “Commonwealth of Nations”. The formal organisation of the Commonwealth developed from the imperial conferences, where the independence of the self-governing colonies and especially of dominions was recognised, particularly in the Balfour Declaration at the Imperial Conference in 1926, when Britain and its dominions agreed they were equal in status, in no way subordinate to one another in any aspect of their domestic or external affairs, though united by common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations. MacKenzie King, Prime Minister of Canada during the 1920s, wished that all countries in the British Empire were equal and that the British Empire did not interfere in their governance. Canada is considered one of the proponents of the formation of the Commonwealth of Nations.

**London Declaration**

In April 1949, the Commonwealth prime ministers’ meeting in London dealt with the issue of countries which were to become independent from the British Crown; had their own constitutional structures, but who wished to remain members of the Commonwealth. These countries were now to be regarded as republics of the Commonwealth.

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49 "Background Information on India and The Commonwealth“ available at http://www.meaindia.nic.in/pressbriefing/2007/06/background.pdf
the Commonwealth. Under the London Declaration, India agreed that, when it became a republic in January 1950, it would accept the King as symbol of the free association of its independent member nations and as such Head of the Commonwealth. The other Commonwealth countries, in turn, recognised India’s continuing membership of the association. The London Declaration is often seen as marking the beginning of the modern Commonwealth, and, following India’s precedent, other nations moved to become republics, or constitutional monarchies under a different royal house.50

**Membership**

The criteria for membership of the Commonwealth of Nations has developed over time. The Statute of Westminster (1931), as the fundamental founding document of the organisation, laid out that membership required dominionhood of the crown of England. The 1949 London Declaration ended this, allowing republican and indigenous monarchic members on the condition that they recognised the British monarch as the head of the Commonwealth.51

In the wake of the wave of decolonisation in the 1960s, these constitutional principles were augmented by political, economic, and social principles. The first of these was set out in 1961, when it was decided that respect for racial equality would be a requisite of membership, leading directly to the withdrawal of South Africa’s reapplication (which they were required to make under the formula of the London Declaration upon becoming a republic). The fourteen


points of the 1971 Singapore Declaration dedicated all members to the principles of world peace, liberty, human rights, equality, and free trade.\(^52\)

These criteria were unenforceable for two decades,\(^53\) until, when 1991, the Harare Declaration was issued, dedicating the leaders to applying the Singapore principles to the completion of decolonisation, the end of the Cold War, and the fall of apartheid in South Africa.\(^54\) The mechanisms by which these principles would be applied were created, and the manner clarified, by the 1995 Millbrooke Commonwealth Action Programme, which created the Commonwealth Ministerial Action Group (CMAG), which has the power to rule on whether members meet the requirements for membership under the Harare Declaration.\(^55\) Also in 1995, an inter-governmental group was created to finalise and codify the full requirements for membership. Upon reporting in 1997, as adopted under the Edinburgh Declaration, the Inter-governmental group ruled that any future members would have to have a direct constitutional link to an existing member.\(^56\)

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53 Williams, Paul D. (2005), Blair's Britain and the Commonwealth, The Round Table, 94 (380), pp. 381–391.
In addition to this new rule, the former rules were consolidated into a single document. These requirements, which remain the same today, are that members must:

- Accept and comply with the Harare Principles.
- Be fully sovereign states.
- Recognise the monarch of the Commonwealth realms as the head of the Commonwealth.
- Accept the English language as the means of Commonwealth communication.
- Respect the wishes of the general population vis-à-vis Commonwealth membership.\(^57\)

Membership is open to countries that accept the association’s basic aims and have a present or past constitutional link to a Commonwealth member. Not all members however, have had direct constitutional ties to Britain: Some South Pacific countries were formerly under Australian or New Zealand administration, while Namibia was governed by South Africa from 1920 until independence in 1990. Cameroon joined in 1995 although only a fraction of its territory had formerly been under British administration, through the League of Nations mandate of 1920–46 and United Nations Trusteeship arrangement of 1946–61.\(^58\)

Only one member of the present Commonwealth has never had any constitutional link to the British Empire or a Commonwealth member: Mozambique, a former Portuguese colony, was admitted in 1995 on the back drop of the triumphal readmission of South Africa and Mozambique’s first democratic elections, held in 1994. The move was supported by Mozambique’s neighbours, all of whom were members of the Commonwealth and who wished to offer assistance in overcoming the losses incurred from the country’s opposition to white minority regimes in Rhodesia (now Zimbabwe)


\(^{58}\) Ibid.
and South Africa.

In 1997, amid some discontent, Commonwealth Heads of Government agreed that Mozambique’s admission should be seen as a special case and not set a precedent. Bangladesh (formerly East Pakistan) joined in 1972 in its own right after breaking away from Pakistan (formerly West Pakistan), which was a member until it left later in the same year. In the same vein, although not a former colony of Britain, Rwanda continues to make a strong case to join the commonwealth and break away from France. We are yet to see whether it shall be admitted and under what criteria it will be so admitted.

Objectives and Activities

The Commonwealth has long been distinctive as an international forum where highly developed economies (the UK, Australia, Canada, New Zealand) and many of the world’s poorer countries seek to reach agreement by consensus. This aim has sometimes been difficult to achieve, like when disagreements over Rhodesia in the late 1960s and 1970s and over apartheid in South Africa in the 1980s led to a cooling of relations between Britain and African members.

An important statement of the Commonwealth’s principles is the 1991 Harare Declaration, which dedicated the organisation to democracy and good governance, and allowed for action to be taken against members who breached these principles. Before then, the Commonwealth’s collective actions had been limited by the principle of non-interference in the internal affairs of other members.

The organisation is celebrated each year on Commonwealth Day, the second Monday of March.

Commonwealth Heads of Government Meeting
The main decision-making forum of the organisation is the biennial

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59 Ibid.
Commonwealth Heads of Government Meeting (CHOGM), where Commonwealth presidents or prime ministers assemble for several days to discuss matters of mutual interest. CHOGM is the successor to the Prime Ministers’ Conferences and earlier Imperial Conferences and Colonial Conferences dating back to 1887. Regular meetings of finance ministers, law ministers, health ministers, are also held.

Uganda and the Commonwealth

We shall now analyse the role of the Commonwealth in fostering good governance and the rule of law in Uganda. We shall analyse whether the Commonwealth has been a sleeping giant that has failed in its role, or whether it has been a biblical Nicodemus, working behind the scenes with the government to ensure that it respects the rule of law and good governance.

Good Governance Defined

Good governance can be understood as a set of eight major characteristics. These include; participation, responsiveness, consensus orientation, equity and inclusiveness, effectiveness and efficiency, rule of law, transparency, and accountability. Good governance accomplishes these objectives in a manner essentially free of abuse and corruption, and with due regard to the rule of law. Good governance is important for countries at

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61  Ibid.
62  http://www.unhchr.ch/development/governance.html available as at 21 June 2007
all stages of development, and development partners are necessary to achieving this. According to Michel Camdessus, the approach of Uganda’s development partners, like the IMF, is to concentrate on those aspects of good governance that are most closely related to surveillance over macroeconomic policies namely, the transparency of government accounts, the effectiveness of public resource management, and the stability and transparency of the economic and regulatory environment for private sector activity.

As such, in the foregoing discussion, we shall have the aforementioned in mind whilst analysing the situation in Uganda.

**Rule of Law in Uganda**

As mentioned earlier, the rule of law is one of the core values of the Commonwealth. This, together with observance of principles of democracy, human rights and good governance, are crucial to the workings of the Commonwealth as stipulated in its declarations.

The rule of law demands that all subjects be treated equally before the law (Maina, 2005: 5). This means that there must be equal treatment of all persons before the law regardless of political affiliation, sex, colour, tribe, race or status in life. The rule of law therefore requires that the state and its organs should act according to and within the authority conferred by the law. (see Maina, 2005 at 6). Indeed, the struggle for the rule of law, which has its roots in democratic values and respect for human rights, did not appear suddenly nor was it just granted as a favour by benevolent people or governments. It is a result of accumulated struggles, some visible, others silent; some armed and others peaceful (Mushega, 2007).

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64 Ibid.

65 for example, the Harare Commonwealth Declaration.

The rule of law is therefore enshrined in the Commonwealth principles and declarations and in the Constitution of Uganda as seen through the following principles:

i) The principle of separation of powers,

ii) Independence of the judiciary, and

iii) Observance of the basic and fundamental rights of the individual.

Separation of Powers

In any democracy worth the name, three arms of government shall be in existence; the executive arm, the legislature and the judiciary, which are all separate but seen to be working together (Maina 2005:6).

In this regard, it is important to ensure that public officers enjoy security of tenure, so that they are able to carry out their functions without fear or favour. In Uganda, members of parliament are appointed to represent their constituencies for five years, unless removed from office under the Leadership Code Act or upon the recommendation of the Inspectorate of Government.67 A recent attempt to amend the constitution and give the president power to dissolve parliament was not only vehemently opposed, but it failed.68

Independence of the Judiciary

Equally important is the concept of independence of the judiciary. This institution is revered in any democratic society worth its name and has the function of interpreting the law of the land (Maina 2005: 7). The notion of separation of powers also means that this institution is given the opportunity to carry out its functions without interference from mainly the executive arm of government.


Unfortunately, the reverse has been true throughout the time that the judiciary has been in existence in Uganda. Oloka Onyango lists how successive governments in this country have been removed from office (Onyango, 1993:48) in unconstitutional ways.

The actions of the executive have been mainly misconceived, that the president is above the law (Onyango, 1993: 49) but also as a result of misconception among the people about the office of the president. After the findings of the court in *Fox Odoi Oywelowo & James Akampumuza v. Attorney General*,\(^69\) for example the petitioner was excited that the powers of the president had been left intact.\(^70\)

Be that as it may, on 1 March 2007, and for the first time in Uganda, the judiciary went on strike, suspending all its activities throughout the country.\(^71\) The reason for the said action, according to the then acting chief justice, Hon. Laetitia Mukasa Kikonyogo, was the repeated violation of the sanctity of the court premises, disobedience of court orders with impunity and constant threats and attacks on the safety and independence of the judiciary and judicial officers.\(^72\) The judiciary had decided to take this move in order to protest the re-occurrence of events of two years earlier, when the Anti-Terrorism Urban Hit-Squad (Black Mambas) had cordoned off the high court premises in Uganda and crippled business in the high court, allegedly because they sought to protect People’s Redemption Army suspects from being kidnapped when they were granted bail.

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72 Ibid.
by the Court.⁷³

On this day, the leader of the Forum for Democratic Change (FDC), Dr Kizza Besigye, stated that what had happened was an ongoing expression of the breakdown of the rule of law in this country.

These statements were made in the presence of the representatives of the British High Commission and the Irish Embassy.⁷⁴ As stated earlier, this was not the first time that the court as the fountain of justice had, in the words of the principal judge, been raped. We are thus left to ask the question of what use is the Commonwealth and its Secretariat in these matters that are supposed to be at the very heart of its mandate? Indeed, many an institution spoke up to condemn the actions of the executive, and these included the East African Law Society (EALS),⁷⁵ Amnesty International,⁷⁶ Uganda Law Society (ULS)⁷⁷ and others. Surprisingly, the Commonwealth remained silent, which invited a rebuke from the main opposition party⁷⁸. We cannot decipher whether there was a secret meeting

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⁷³ At that time, the principal judge, Justice James Ogoola described the 2005 Black Mamba raid as the ugliest and most lethal of these attacks and Siege of the High Court. See also Attacks on Justice-Uganda available at http://www.icj.org/IMG/UGANDA.pdf


⁷⁵ The Executive of the East African Law Society met the president of Uganda to discuss the repercussions of the actions of the State( Interview of former ULS general secretary Cheborion Barishaki).


⁷⁷ The Uganda Law Society had earlier filed Constitutional Petition No. 18 of 2005 against the attorney general and the Court had found the actions of the state unconstitutional.

which was held between the state and the Secretariat. Therefore, by keeping quiet or ignoring these happenings, the Commonwealth or its leaders, abdicated its crucial role protecting the rule of law.

**Human Rights**

In a broad context, human rights are those rights a person simply has because he or she is a human being. Such rights are held by all persons equally, universally and forever. These rights are enshrined in our constitution and it is up to the state to recognise them but not to grant them. These rights encompass economic, social and cultural rights of each person and group in society, political and civil rights of each individual and group, and the duty of the government and individuals to ensure and enforce these rights.

Uganda continues to experience difficulty in advancing respect for human rights in matters concerning torture, child labour, and liberties. There are many “security” organisations in the government which have not been properly established by law. This is unfortunately in following with the former governments. These include the Anti Terrorism Urban Hit Squad (nicknamed Black Mamba), the Kiboko Squad, the Local Defence Units, Chieftaincy of Military Intelligence (CMI), Internal Security Organisation (ISO), Violent Crime Crack Unit (VCCU) and ad hoc agencies such as the Joint Anti-Terrorist Task Force (JATF), the Military Police (nicknamed Valentine Boys

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79 In any case the adage is that, ‘justice must not only be done, but must be seen to be done.’

80 Articles 22, 24, 25, 44, 27 and 128 on the right to life, freedom from slavery, servitude and forced labour, right to personal liberty, movement of person, security of person and so on, in the constitution of Uganda.

81 http://sunsite.berkeley.edu/meiklejohn/meik-peacelaw/meik-peacelaw-5.html


due to their Red Berrets), the Presidential Guard Brigade, and others. As seen in the station of the siege of the high court, some of the members of the Anti-terrorism Urban Hit Squad were seen dressed in police uniforms when the PRA suspects next appeared in court. The decisions handed down by the Uganda Human Rights Commission clearly show that security forces torture people all over the country. Indeed, often persecution of those opposed to the government is rampant and abductions of individuals, disappearances, extra-judicial killings and torture occur.\textsuperscript{84}

In one of its reports, the Amnesty International related the incident:

On 14 June [2003] [Violent Crime Crack Unit] officers arrested Nsangi Murisidi, aged 29, on suspicion that he had facilitated friends to commit robbery and for alleged possession of a gun. Relatives tried in vain to visit him in detention. On 18 June the lawyer representing the family received confirmation of his death in custody while at the VCCU headquarters at Kireka, a suburb of Kampala. The death certificate established the cause of death as extensive loss of fluid and blood, severe bleeding in the brain and extensive deep burns on the buttocks. The body also bore 14 deep wounds. In October the Minister of Internal Affairs informed AI that an inquiry had been ordered, but no progress was subsequently reported.\textsuperscript{85}

Equally, the war in the north between the Ugandan People’s Defense Force (UPDF) and the LRA has led to economic, social and political retardation of the people in the northern parts of Uganda. Since Mr. Yoweri Museveni became president in 1986, more than 1.2 million Ugandans have been displaced and tens of thousands have


\textsuperscript{85} http://web.amnesty.org/report2004/uga-summary-eng.a
been killed. An estimated 20,000 children have been kidnapped by the LRA for use as child soldiers and slaves since 1987. To avoid abduction, thousands of children leave their villages every night to hide in forests, hospitals, and churches. In the bloodiest incident in the history of the conflict, more than 330 civilians were killed by the LRA in Barlonyo internally displaced person’s camp in February 2004. Whereas we applaud the role played by our development partners in assisting the peace process that is now ongoing, the slackness of the Commonwealth needs to be mentioned once again. Indeed, apart from the active participation of Joachim Chissano, who was only recently appointed to intervene in the situation, the Commonwealth Secretariat has largely remained docile. A more active role is expected from an association of this magnitude.

Political and Press Freedom

As in many African countries, government agencies continue to impinge on the freedom of the press in Uganda. The main opposition newspaper Daily Monitor has on many occasions been closed down and so has its sister radio station K-FM. Journalists Andrew Mwenda and Charles Onyango Obbo have on several occasions been charged with offences ranging from sedition to sectarianism. It is worth mentioning however that in February 2004, the Supreme Court ruled the offence of publication of false news void and unconstitutional. Be that as it may, the state has continued to influence the way private media is run and journalists are continuously harassed and beaten.

86 The Supreme Court ruled that the language of Section 50 of the Penal Act of Uganda, providing for the offence of “publication of false news” was too vague and therefore “imprecise” as “precision and clarity in definition of a criminal offence is essential”. See http://www.lreporters%20sans%20fron ti%C3%A9ti%C3%A8res%20-%20Uganda.htm as at 1 November 2007.

87 See for example the exit of Conrad Nkutu from The New Vision and then from Daily Monitor, the exit of Charles Onyango Obbo and Andrew Mwenda from Daily Monitor, the closure of Crusader Newspaper and others. This information is available at the following sources: www.freedomhouse.org/uploads/PFS/Draft country Reports/PR27April/06.p2f; http://www.edudevdays.eu/files/media/Events/Natali.nominees.EN.Pdf; http://www.fde.uganda.org/index.pjp?option=com-content & talk=view & id=251 & stemid=84.

88 Hadija Nakitende, a reporter for CBS radio and vice-president of the
Members of the opposition continue to suffer at the hands of state functionaries. Some members have been tried for murder, like Ronald Reagan Okumu and Michael Nyeko Ocula, who represent the FDC, and the government is reported to have believed that they posed a threat to the reelection of president Museveni in 2006. Equally, Dr Kizza Besigye has been tried for the rape of a woman who was residing in State House, Entebbe, for four years before the trial began. Many opposition leaders have been blocked from rallies by the use of tear gas and water cannons and many have been arrested for demonstrating against the give-away of Mabira forest.

Unfortunately, the Commonwealth has been quiet and inactive when this happened as such failing in its role as of ensuring the respect for the rule of law and good governance.

**Election Processes in Uganda**

The two past presidential elections in Uganda in 2001 and 2006, returned the incumbent president after violent campaigns and rigged results, as ruled by Uganda’s supreme court and observed by local and international election observers. We applaud the role of the Commonwealth observers in the last elections. The Commonwealth observer mission to Uganda stated in their report: The environment in which the elections were held had a number of negative features which meant that the candidates were not competing on a level playing field; the failure to ensure a clear distinction between the ruling party and the State, the use of public resources to provide an advantage to the ruling party, the lack of balance in media coverage, the harassment of the main opposition presidential candidate, Association of Ugandan Journalists, was attacked in a Kampala hotel on 7 December, 2003 while covering a meeting of the Young Ugandan Democrats (YUD), the youth wing of the opposition Democratic Party (DP). Some 15 people suspected of being members of the ruling party burst in, beat Nakitende and other people present, and smashed a camera belonging to the commercial TV channel WBS. See also http://www.Reporters%20sans%20frontiers%C3%A8res%20-%20Uganda.htm. See New threats to press freedom in Uganda available at http://www.afrol.com/articles/10682; see also Radio Journalist Assaulted, Media Censored. http://www.ifex.org/en/content/view/full/55503 last accessed 1 November 2007.
the creation of a climate of apprehension amongst the public and opposition party supporters as a result of the use of the security forces, and the alleged use of financial and material inducements are all indicators of unbalanced ground.

However, as stated by Anne Mugisha, a member of FDC, the Commonwealth has suspended Zimbabwe for electoral fraud and violence, yet Uganda is being honoured by hosting CHOGM 2007. This is indeed a clear show of double standards and needs to be addressed. This is because one of the tenets of the Commonwealth is equal treatment of all Member States regardless of the color or race of their citizenry. It is therefore incumbent on the members to act justly by either equally punishing Uganda or rethinking the Zimbabwe situation.89

In most of these situations, the Commonwealth has remained largely silent. Our neighbouring countries, with which we share a common background, have remained silent as well. This is either because we do not have anything useful to offer, or we seem to have the same set of problems and issues by its non-action however, the commonwealth has greatly hindered the call for accountability and given the current government a go-ahead to do as it pleases.90

Recommendations and Conclusion

In the fore-going presentation, we have seen that the trend in the Commonwealth is to respect the principles of the Harare and Singapore Declarations. However, the Commonwealth has remained largely docile with regards to Uganda. This cannot be said for other nations like Zimbabwe, Iran or Iraq, where Australia, United Kingdom and other commonwealth nations are involved. Whereas one cannot speculate on the reasons for this attitude, one can only assume that the situation in Uganda, does not seem to be priority for the commonwealth or at most, its leaders.

Therefore, there is need for the Commonwealth to act decisively with regard to Uganda and the best opportunity is this November 2007 when the country hosts the CHOGM. It should be clearly stated that acts by the state functionaries which abuse the rights of the individual should not be tolerated.

At the very least, the Commonwealth should be a stealthy Nicodemus, working behind the scenes inorder to ensure that its members respect the rule of law and good governance. The Harare Declaration of CHOGM 1991 states;

…we pledge the Commonwealth and our countries to work with renewed vigour, concentrating especially in the following areas: the protection and promotion of the fundamental political values of the Commonwealth: democracy, democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary, just and honest government; fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief…

The commonwealth therefore should ensure that action is taken against those in Uganda's government that do not uphold these values. If not there will be no lessons learnt from history and we shall judge the Commonwealth harshly, especially with regard to its selective treatment of Zimbabwe.

If we do not hear any statements or any specific action by the Secretariat in this matter, the Commonwealth remains, at most, a sleeping giant, a mere club of heads of mainly former colonies coming together for a glass of champagne and a photo opportunity with the Queen.

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Old Dominions or new Territories: The Role and Relevance of the Commonwealth to Kenya Today

Otieno Aluoka

Introduction

This paper presents a discussion of the role and relevance of the Commonwealth to contemporary Africa and particularly Kenya.
It is a discourse based on the history, performance, standards and behavior of the Commonwealth and its 53 Member States as the institution enters the 21st Century.

Interestingly, the achievements of the Commonwealth are concerned with its history, values and standards, and not formalities of a treaty, a constitution or rules bringing its membership together. The Commonwealth today is widely understood to be an association of free, independent states spread over every continent and ocean from Asia to Africa. The 53 Commonwealth countries make up close to 2 billion people, or a third of the world’s population. This contingent of nations also exhibits an array of cultures, traditions, races and faiths, but is bonded by the use of English and the recognition of the Queen of England as the head of the association.

The origin of the Commonwealth is traceable to colonial history encapsulating the British heritage. As a matter of fact, the Commonwealth is still largely a Pax Britannica entente or alliance. The modern Commonwealth is a result of this history. In 1926, the imperial conference ended with the United Kingdom and its dominions agreeing that they were equal in status and in no way subordinate to one another. They also agreed that they were united through a common allegiance to the Crown, and are freely associated as members of the British Commonwealth of Nations.

At the time, most of Africa was still under a colonial yoke and London made decisions on its behalf. Still, African Member States of the Commonwealth participated in some of the activities held under the association since 1931, when the British parliament enacted the Statute of Westminster, which officially proclaimed the Commonwealth a free association of self-governing dominions united by a common allegiance to the British Crown. In 1949 (after World War II), the Commonwealth prime minister issued the London Declaration, changing membership in the Commonwealth from one based on common allegiance to the British Crown to one in which members agree to recognise the British monarch as the head of the Commonwealth, rather than their head of state. It was not until 1965 that the Commonwealth secretariat was set
up in London. By then, many African states had assumed self-rule and were on the path to independence. Some of them, like Ghana and Kenya, gained membership to the Commonwealth when they became independent.

**Historical Background**

The idea of the British Commonwealth as being in its essential nature a group of states “equal in status, in no way subordinate to one another in any aspect of their domestic or external affairs, though united by a common allegiance to the crown, and freely associated as members of the British Commonwealth of Nations” was first conceived by American colonists at the time of the country’s independence in 1774.

This is the famous 1926 Balfour definition of the Commonwealth that has applied to date. It refers to a people trying to find a way by which the link between the colonies and the motherland would continue on a basis acceptable to each, while securing their inalienable rights to life, liberty and pursuit of happiness. It was reckoned that the liberty sought could be maintained within the empire only if the colonies were constitutionally equal in status to the mother country (Underhill, 1956).

The modern Commonwealth has grown from this early seed in an orderly and evolutionary manner, and as such has astounded many writers who, ignoring the history, conveniently locate the establishment of the commonwealth well after the end of colonialism. This early Commonwealth included the legislatures and people of Massachusetts, North Carolina, Virginia and Pennsylvania which, after separating from the British Empire, concentrated on the new task of building a continental nation. In this way, the irony of American architecture in the political philosophy of the Commonwealth has remained, even though America is not a member of the modern Commonwealth of Nations.

In the century between the American Independence and the colonisation of Africa, a second British Empire was gradually built up by trade and settlement, in Canada by British North American
colonists, in the Caribbean area, in Australia and New Zealand; and by trade and war in India; South East Asia and various parts of Africa. This formed the catchments for the first Commonwealth. The reign of Queen Victoria saw the suppression of Canadian rebellion in 1837, but it taught British Empire the lesson that the colonies had a passionate determination to leave the Empire at one point or the other.

The Empire begun to experiment with the idea of establishing “a responsible government” in the colonies, governed under the monarch by a cabinet responsible to a popularly elected house of commons, to restore political order and peace in the colonies, and preserve the imperial connection by removing colonial grievances. This gave birth to a period of a liberal British Empire, later to form the basis of the first Commonwealth.

According to Underhill, it was predictable that “England wanted to be the mother of free nations, with her national character, commercial energy, aptitude for law and government and the English language.” The free nations would possess the essence of England’s constitution, free legislation, self-taxation, ministerial responsibility, personal liberty and trial by the jury. The World War of 1914-1918 was the point in history at which the self-governing white colonies of European stock broke away “from the colonial chrysalis; tested their wings and begun to fly freely as full-fledged sovereign states” (Underhill, 1956:31). This period can be referred to as the era of the “White Commonwealth or the first Commonwealth” to be followed by eventual absorption of the other former British colonies in the new World into the modern commonwealth.

Interestingly, when the idea of the Commonwealth was revived by Jan Smuts and Robert Borden in the years 1917 – 1919, nobody ever remembered the American roots of the Commonwealth. In the first place, the word Commonwealth had all the connotations of a government based on consent and the equal participation of all citizens in the making of communal decisions – a basic favourite among American colonists. But it also implied the building of
common riches, deciphered from the meaning of the alternate word “commonweal”.

With the War a part of history, and the peace treaties of 1919 signed, the colonies had achieved a new status in the empire and a new status in the world of the time. By sending out contingents of soldiers to fight in a war, in which they had no stakes whatsoever in the first place, the colonies actions were recognised and Britain realised it had some responsibility for the maintenance of British power in the world, and the purpose to which that power is directed. Until 1937, the Imperial Conference (changed from Colonial Conference in 1907), continued to meet at irregular intervals, with the meetings being friendly and informal but increasingly emphasising the value of imbibing Commonwealth opportunities and exchange of ideas.

The second Commonwealth, coming towards the end of the Elizabethan age\textsuperscript{91} included nations from oriental backgrounds like India, Pakistan and Ceylon. African states began to take part in Commonwealth matters, through the cabinet office, which opened membership of the organisation to representation from young overseas nations – but it was Africa that was to give the modern Commonwealth its definitive character when African countries started to join it upon attaining their independence, beginning with Ghana in 1957.

The new Commonwealth is a term used to describe the association, particularly since the 1960s, when some of the members attempted but failed to stop the newly independent African and Asian countries from joining it. Deep differences between the old (white) Commonwealth countries and their new

\textsuperscript{91} The Elizabethan era refers to the period of the reign of Queen Elizabeth I (1558-1603) and is often associated with the golden age in British history. Not only did the English Renaissance flourish, with remarkable developments in poetry and literature, but it was also the age of exploration and expansion abroad. Britain succeeded to edge out France in countries like Canada, controlled many parts of Europe including the Baltics. Moreover, England made laws and edicts and appealed to rulers of the commonwealth to enforce acceptable standards in social and economic affairs (Whitney; 2000).
African Commonwealth nations, particularly with regard to the issues of racism and colonialism; the heated debates on Rhodesia (now Zimbabwe) in the 1960s and 1970s and the imposition of sanctions against apartheid-era South Africa in the 1980s almost derailed the unity of the Commonwealth. Newly decolonised states joining the Commonwealth were predominantly non-white and underdeveloped. These issues kept simmering until they were resolved through various diplomatic measures such as the eventual dismantling of apartheid in South Africa in 1990.

It is important at this stage to explain briefly how the modern Commonwealth works. The Queen as head of the Commonwealth plays a very important role in shaping the modern Commonwealth. She is the head of the Commonwealth (the monarch) but not the head of state of the member countries. Indeed, most of the member countries are independent republics that no longer pledge to the “God bless the Queen” mantra witnessed under the colonial regime. The Queen has no formal powers to decide the affairs of the Commonwealth.

Instead, the Commonwealth Head of Government Meetings (CHOGMs) are crucial organs and events to the Commonwealth, where leaders meet every two years to discuss matters of common interest and world affairs. They also discuss and agree on the policies and activities of the association over the next two years. This is normally a very high-profile event in the calendar of the Commonwealth. In addition the Council of Commonwealth Ministers also meets from time to time to discuss and pass recommendations on matters of interest to the progress of their countries.

It is the work of the Commonwealth Secretariat to carry out the plans and decisions of the CHOGM. The Secretariat is the operational arm of the Commonwealth. A Secretary-General heads the Secretariat. It arranges meetings, carries out programmes and publicises the work of the Commonwealth. The vast network and groupings of countries in the Commonwealth makes the association come together as a “family”. Indeed the Commonwealth
enables world leaders to build relationships, gather and talk about issues, and since the leaders meet as equals, it is expected that the Commonwealth has facilitated a stronger moral voice in raising concerns of small, isolated nations to the attention of the world, where otherwise the wishes of developed nations would reign supreme. The last CHOGM meeting was held in November 2007 in Kampala, Uganda.

Nevertheless, the Commonwealth is still a robust empire under the monarchy. With a population of close to 2 billion people, positive social relations among leaders and citizens remain critical to the survival of the Commonwealth. The association today boasts of retaining in its membership two of the largest countries in the world; first in terms of geography (Canada) and second, population (India) – contributing experience for peer learning by its members. At the same time, small countries of the world like Tavalu, Maldives and Gambia are also members of the organisation. Membership of the Commonwealth is open to countries with a constitutional association with an existing Commonwealth state, who comply with Commonwealth values and principles and the priorities set out in the Harare Commonwealth Declaration of 1991 (Edinburgh Declaration).

Kenya comes of Age: The Commonwealth and Africa Today

Africa, it seems, is inextricably connected to the Commonwealth in certain baffling ways. This can be referred to as the Commonwealth paradox. Africa has always given the Commonwealth some of its best and illustrious experiences as well as its worst. To start with, while visiting Adelaide, South Australia, Lord Roseberry described the changing British Empire, as some of its earlier colonies gained independence, as a “Commonwealth of Nations”. This statement determined the Commonwealth agenda at a time when the Berlin Conference was reshaping Africa. Indeed, the continent was shaped together with the modern Commonwealth.
Surprisingly, the Commonwealth was at the forefront of liberating African countries from colonialism. Commonwealth envoys took part in negotiations for the independence of a number of African countries, and when they gained self-governance, these countries joined the association. Today, 18 Commonwealth members are found in the African continent. For South Africa's first independence elections, the Commonwealth marshaled its largest observer mission in history, after which South Africa was re-admitted to the institution and given the mandate of its chairmanship for two years in 1999.

Awarding the pro-democracy Africa Leadership Award of the Mo Ibrahim Foundation to ex-president Joachim Chissano of Mozambique is an example of this paradox, as Zimbabwe, a neighbour to Mozambique, is regarded as the pariah of the Commonwealth nations for its derogation of democratic principles. Zimbabwe withdrew its membership from the body in 2003 after facing consistent censure for its tyrannical administration. Ironically, the Harare Declaration, one of the two main foundation stones of the existence of the Commonwealth (in addition to the Singapore Principles), by which members of the organisation agree to be bound together in adherence to democracy, human rights and good governance, was agreed upon in Harare, Zimbabwe's capital city and seat of government in 1991.

The Singapore Declaration in 1971 presented a code of shared principles including commitments to individual liberty, freedom from racism, commitment to peace, economic and social development and international cooperation. However, for Uganda, this time presented another story. It is during the Singapore meeting that former president Milton Obote was overthrown and consequent events in the country almost brought it down to its knees, defeating the democratic founding principles of the Commonwealth. Ironically, it has been suggested that the military putsch led by dictator Idi Amin Dada was backed by the British intelligence. Two decades earlier, in 1952, Queen Elizabeth II had ascended to the throne upon the death of her father King George V while on holiday in Kenya, thereby becoming the head of the Commonwealth.
Still, the Commonwealth is easily one of the most influential international groups on African political and economic system. Its 53 strong state membership is directly comparable to that of the African Union and, with members like South Africa and Nigeria, the Commonwealth is very important for Africa’s business and political relationship with the rest of the world.

According to the Commonwealth rules, when the Queen passes away or abdicates the throne, her heir would not automatically become head of the Commonwealth, but the heads of governments in the Commonwealth will decide what they want to do with this role. As such, the next head of the association could hypothetically, well, be an African! The above episodes show some of the interesting associations between the African continent and the Commonwealth.

When she ascended to the throne, Queen Elizabeth stressed the sense of a new Commonwealth by proclaiming that:

> The Commonwealth bears no resemblance to the empires of the past. It is entirely new conception built on the highest qualities of the spirit of man: Friendship, loyalty and the desire for freedom and peace.

Yet the Commonwealth continued to be plagued by the evils of intolerance, dictatorship, war, hate and racism. When the barrel of the gun reigned in Africa, with about a third of the African regimes under junta governments, especially between 1970 and 1980, the Commonwealth was hardly perturbed. Apartheid was the official government policy in South Africa until 1994. In opposing the apartheid policy, different sanctions were unsuccessfully applied to South Africa. Nigeria boycotted the Commonwealth Games in 1978 in protest of New Zealand’s sporting contacts with the apartheid South Africa and more than half of the African countries participating in Commonwealth Games boycotted the 1986 event due to the British government’s callous attitude towards South African sporting contacts.
In any case, South Africa had withdrawn from the association in 1961 after it was criticised by many of its members for apartheid. It only rejoined the Commonwealth following the end of apartheid.

In the aftermath of the Harare Declaration, 1991, the Commonwealth is looked up to by many of the world’s countries as the flag bearer of good governance and tolerance. The Harare Declaration established a Commonwealth Ministerial Action Group (CMAG), which has the power to rule on members’ compliance with the Declaration and recommend action in case of any violations. Within the secretariat, the Governance and Institutional Development Division (GIDD) of the Commonwealth has the responsibility to promote public sector administration and management. In doing this, the Division interfaces with civil society as well as the private sector institutions.

The multinational Commonwealth is at the apex of modern relations between Africa and the rest of the world. It must remain so, as it adds to the honor, influence and power of the continent’s members to assume leadership among the community of nations. According to the Secretary-General of the organisation, the Commonwealth supports Africa’s position at the Doha rounds of World Trade Organisation (WTO) talks; is negotiating economic partnership agreements with the EU and is channeling US $186 worth of investments annually into Africa through the Commonwealth Private Investment Initiative. It is helping many African countries to manage their national debt and has entered into bilateral health and educational programmes with the respective ministries.

In 1997, the Commonwealth Business Council was formed in Edinburgh, Scotland. The aim of the group was to bring together business and government leaders to explore innovative ways to increase global trade and investments as well as forge new partnerships. Since its founding, intra commonwealth trade has increased from US $2 trillion to US $3 trillion, with investment flows reaching US $180 billion. Commonwealth trade and investments now accounts

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92 Speech by Donald McKinnon, Secretary-General of the Commonwealth to the Kenyan business community in Nairobi on 24 January 2007.
for 20% of the world’s total. This indicates the potential of the Commonwealth to benefit Kenya and the rest of the Commonwealth countries. The Commonwealth factor has therefore become a great pillar in improving the trading process of its Member States.

The Commonwealth Fund for Technical Cooperation has been a long-standing partner of many African governments with regard to civil service reform and facilitating information sharing between Commonwealth member governments.

**The Commonwealth and Kenya**

The Commonwealth in tow with the Harare Declaration is at the core of adherence to democratic principles. In the past, the Commonwealth suspended Fiji following a coup in that country (1987). Petitions to CHOGMs on violation of democratic principles in member countries is a popular tool of censure by activists and politicians when citizens’ rights are abused. The Commonwealth has a pool of experts on democracy who work with countries in democratic transition to promote democracy and strengthen democratic principles and institutions. The Commonwealth is at the forefront of addressing political problems and conflicts where they arise, and the role of Commonwealth electoral observers in elections has become a significant handbook for democratic elections in Africa.

In Kenya, after years of popular pressure for pluralistic politics, the one-party Kenya National Union (KANU) state succumbed to local and international pressure in 1992 to introduce a multi-party democracy. This singular event heightened the relations between the Commonwealth and Kenya, particularly on the political front. The Commonwealth election observer group became a consistent feature in Kenya’s subsequent elections, with its election experts working occasionally with the Electoral Commission of Kenya on technical assistance measures to improve the ECK’s capacity and performance.

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In a democracy, citizens are encouraged to know their rights and how to protect it. Freedom of expression and freedom of assembly are therefore very important tenets of democratic citizenship in the Commonwealth. Kenyan NGOs have been on the forefront of promoting human rights education and ensuring that elections are free and fair. In this contribution, the activities of the Commonwealth in Kenya have been noted. The Commonwealth usually sends a team of observers to every aspect of an election and conclude by presenting a report, giving an opinion on how free and fair the election was. This is done to minimise fears about electoral rigging and to substantially reduce it’s occurrence.

In the experiences of Kenya in 1992, 1997 and 2002, the Commonwealth observer reports agreed that the electoral process was credible and reflected the wishes of the people of Kenya. However, the sanctions for non compliance with the report recommendations are nil or non-enforceable and in any case, characteristically only comes after the fact. Nevertheless, such reports help to strengthen a country’s electoral institutions. Over time, the Commonwealth in collaboration with other partners, like United Nations Development Programme (UNDP) and International Foundation on Election Systems (IFES), has supported the ECK, through technical assistance initiatives aimed at strengthening the electoral body and make it effective and efficient to manage free and fair elections in the country.

The Commonwealth’s election observation reports are a globally respected measure of whether an electoral process passed accepted international standards or not. Such approval is essential for legitimising an elected government and can serve as a stabiliser for the country’s democratic process given that disputed polls are very disruptive to a country’s development. In cases where electoral rigging is suspected, negative sanctions can be expected to follow.

To observe an election in a country, observers have to be invited to the country in the first stage. The Commonwealth’s observers are highly respected, independent and held to be persons of utmost integrity. Consequently, when a Commonwealth observer mission
starts the observation process; they expect to obtain access to all aspects of the elections. The ensuing reports therefore, offers authoritative censure or approval of the process of the elections.

Challenges to the promotion of the rule of law, good governance and democracy have also received multi-faceted interventions from the Commonwealth. In the field of judicial development and legal review, the Commonwealth provides several opportunities for international cooperation that fosters capacity development and the necessary infrastructure for good governance and legal advancement. Specifically, the Commonwealth Foundation has pursued different levels of cooperation with a number of Kenyan civil society organisations in various areas.

It can also be argued that, as a result of the two commonwealth declarations (Singapore and Harare principles), the organisation is on the forefront of entrenching a culture of ethical and democratic governance in Africa through regional workshops conducted by the Secretariat. These workshops acknowledge the role of civil society organisations, professions, unions and individuals, together with national human rights institutions, in ensuring the reality of the Commonwealth’s principles of open, accountable, responsive and rights-based societies.

The Commonwealth provides assistance for capacity building for judges through judicial training and by combating corruption in the judiciary, among other judicial reforms in Kenya; promotes accountability of and relationship between the three arms of government – the judiciary, executive and the legislature; fights against terrorism and corruption, and enhances the realisation of gender and human rights in the country. A pan African forum held in Nairobi in 2005 sought to raise awareness of the implementation of these principles in Africa. In the same year, the Secretariat, together with the Foundation for Human Rights, organised a meeting in Kenya in support of the African Union’s Court of Justice (now merged with the African Court of Human Rights).

The Commonwealth is also largely a society of social relations. Just as American unilateral influence in the war against terror is
today the obvious explanation for the volatile military relations with Iran, Korea and the presence of U.S’s military personnel in countries like Iraq and Afghanistan, the Commonwealth contrastingly affords an alternative to expanding a global Anglo-alliance for peace and development. In her role of developing the Commonwealth tradition of peace, the Queen is involved in a number of symbolic functions that enhance the sense of family and the dynamism of the Commonwealth connection.

The Queen’s attendance is a good opportunity for inter-state bonding and for high profile functions like CHOGMs, which convene every two years. The Commonwealth presence comes alive with positive/negative sanctions to those countries that are seen to deviate from Commonwealth values. This action enhances peace and tranquility in nations interfacing with the Commonwealth. Sometimes the actions are hardly subtle, such as when the Queen visits neighbouring Uganda and skips Kenya. The political elite often uses such symbolic events to show the isolation of a country in order to push for political reforms in the country.

The Commonwealth is dedicated to a set of fundamental rules set out in the Harare Commonwealth Declaration of 1991. At the core is the belief in and adherence to democratic principles. The Declaration gives mutual assistance to improve democratic arrangements through observation of elections and provision of technical assistance and training. This fortifies the practice of the rule of law. Through workshops, seminars and conferences involving institutions of the Commonwealth in member countries, best practices are shared, as are action-plans to strengthen democratic values and culture.

Commonwealth institutions promoting the independence of the judiciary and the rule of law in countries in Africa include the Commonwealth Lawyers’ Association and Commonwealth Magistrates’ and Judges’ Association. These institutions largely work to promote judicial education, establish networks to assist with sharing experience and the delivery of judicial programmes and support the development of the judiciary in member states.
As such, through the establishment of high ethical standards and codified practices (such as codes of conduct), judicial management procedures, cooperation in court administration, and regular consultations with and assistance to legislative review bodies in these countries, Commonwealth institutions, including the secretariat itself, works to effect institutional and individual independence of judicial officers in the host jurisdictions. The Commonwealth today restricts itself to encouraging compliance within the nations and to placing moral pressure on members who violate human rights or abandon democratic principles, including the rule of law.

The Commonwealth Magistrates’ and Judges’ Association designs and assists members in the development and regular programmes to strengthen the independent operations of the judiciary of a member country. The judicial colloquia held by the Association, and Commonwealth Law Conferences of the Commonwealth Lawyers’ Association are paramount platforms for such reviews. These Associations also provide a unique opportunity for members of Commonwealth countries’ senior judiciary to discuss ways of enhancing judicial independence and observing the rule of law in the Commonwealth. Although Kenya launched a “judicial purge” in 2003 that saw a number of judges and magistrates sent packing for compromising the judiciary, lawyers in the country have called for more autonomy for the judiciary.

A set of Commonwealth principles setting out the relationship between parliament, the judiciary and the executive in member countries was launched by the Secretariat in May 2004. The Commonwealth (Latimer House) principles on accountability between the three arms of government are designed to develop an effective framework for implementation by governments, parliaments and judiciaries of the Commonwealth’s fundamental values in this area, relying on the Commonwealth Harare Declaration. The issue of separation of powers remains an area of debate in Kenya within the ongoing constitutional review process since the judiciary is still seen to be under the control of the executive. The Kenyan chief justice as
well as the attorney-general, for instance, is appointed by the president, meaning that they are theoretically subordinate to the executive.

Periodic consultations with civil society, are integral to strengthening the rule of law in Africa and other countries. More formal consultations with civil society take place on a semi-annual basis and have been held in June and November since June 2002. NGOs and professional groups involved in such meetings, and accessing proceedings and publications of the Commonwealth, builds a groundswell for checks and balances of judicial performance and monitoring in affected countries. In 2007, the biennial Commonwealth Law Conference was held in Kenya, concluding with a number of recommendations to strengthen the practice of corporate and commercial law in the Commonwealth94.

The sports function of the Commonwealth is legendary; the multinational, multi-sport Commonwealth Games are held every four years and involve elite athletes of the Commonwealth. The Commonwealth Games Federation (CWF) is responsible for the direction and control of the Commonwealth Games. The first such event was held in Hamilton, Ontario, Canada in 1930 and it relied heavily on the tradition of the Pax Britannica festivals that were held every four years. When the games were started, it was designed according to the Olympic model and “be merrier and less stern”. Later game arrangements have been promoted to enhance coexistence with other nations in a spirit of unity and friendship.

After the incident at the 1972 Munich Olympic games, when a number of Israeli athletes became victims of terrorism, the crucial question to ask is to what extent sports and celebrations of this nature can be used to conquer hatred, supremacist ideologies and fears that encourage terrorist tendencies. This is an important area for discussion today for Commonwealth and non-Commonwealth countries caught up in the new war against terror such as Pakistan, Iraq, Jordan and Afghanistan. In Kenya, national sports heroes have become crucial ambassadors of Kenya’s national values of peace, love

94 The conference was held from 9 – 13, September 2007 in Nairobi on the theme “Governance, Globalization and the Commonwealth”.
and unity, especially after the post-election violence of early 2008.

In addition to physical benefits, sports are important for the promotion of education, development of leadership and economic growth of communities. The Commonwealth should review immigration policies within the bloc in tandem with its interests to promote mobility of talent and social capital within its member countries. Indeed, the Commonwealth Sports Ministers’ meetings held every two years, prior to the Commonwealth Games and the Summer Olympic and Paralympics games, have lately indicated that they would concern themselves more with investigating doping in sports and the development of sports in the Commonwealth.

The Commonwealth is built on core values of democracy, good leadership and development. As such, it strives to generate ideals for a better world. Still, in contemporary society, education remains the most viable tool for changing people’s lives. The Commonwealth therefore has an elaborate history of promoting education within its Member States. It has always been at the forefront of fighting for universal access to high quality education and training that benefits both women and men in its Member States. It has worked closely with ministries of education and various partners to address several inhibitive areas in this sector.

For the Commonwealth, it has been important that Member States improve access to literacy for the majority of citizens and to ensure that universal access to sustainable quality education is achieved, including for women and the girl child. The work of the Commonwealth Secretariat and its sister organisations; the Commonwealth of Learning (COL), the Association of Commonwealth Universities (ACU), the Commonwealth Foundation, the Commonwealth Scholarship and Fellowship Plan (CSFP), and the many civil society networks active in education in the country constitute valuable partnerships towards understanding the role played by the Commonwealth in achieving education for all in Kenya.

Respect for human rights and prevention of the exploitation of children’s rights is at the centre of the work of the Commonwealth
in Kenya. With the assistance of Commonwealth NGOs like Action Aid and Oxfam, a teacher’s guide and a curriculum on human rights was compiled for adaptation and use in Kenya. These resources are now part of the materials used in schools to help students understand their rights, civic duties and responsibilities regarding nation building.

In Kenya, the Commonwealth supports improving quality in education, supports education in difficult circumstances, uses open and distance learning to overcome barriers and reduces the impact of HIV/AIDS on education systems. As one of its objectives, the Commonwealth aims to reduce gender disparities and promote equality in Commonwealth education by 2015. To this end, the Commonwealth developed a Teacher Recruitment Protocol to facilitate the international migration of skilled professionals between recruiting and source countries so as to address the problems of lack of professional teachers in some countries. The Commonwealth in partnership with the Kenya’s Ministry of Health, is following progress on the HIV/AIDS vaccine initiative and the role of male circumcision in preventing the spread of the disease in Kenya. Some of these objectives complement the targets of the UN Millennium Development Goals.

The civil society partners of the Commonwealth Education Fund in Kenya, Oxfam GB and Action Aid, focus on action areas to expand education platforms, bring together diverse voices from across society to hold governments accountable for delivering education for all, monitor the implementation of policies, promote gender equality in education and stimulate public debate – hoping to secure such gains as the abolition of user fees and the enrolment of millions of children in schools in the implementing countries.

As such, the Commonwealth is still faced with a tremendous task of not only revolutionising learning systems in some of these countries but also having to encourage societies to embrace the basic principles of education. The Commonwealth Education Fund has, since 2002, together with Oxfam GB, Action Aid and Save the Children, and
a US $20 million grant from DFID, been supporting education advocacy work in 16 countries across Africa and Asia. The long-term aim of the Commonwealth Fund is to support the sector sustainably, encouraging both bilateral and multilateral donors to provide sector support within a framework supported by civil society in accountable, effective and efficient ways.

The Commonwealth Fund in Education supports both informal and adult education. In Kenya, parent-teacher institutions are beneficiaries of capacity building programmes as are mentally handicapped children (autistic children, children with mental disabilities etc). National Commonwealth scholarships have contributed to expanding skills transfer in Kenya, enabling academic to pursue specialised education at Commonwealth universities and colleges. Apart from Commonwealth- sponsored studies to support the sustainability of Universal Primary Education (UPE) in Kenya, another of the Commonwealth’s sister organisations concerned with education, the COL is supporting the expansion of education in the North Eastern Kenya, taking into account the nomadic interests of these communities. The introduction of UPE in Kenya in 2003 received British backing of UK 10 million.

The contemporary world is held together by technological advancements that have made travel faster, learning easier, innovation and development rapid and endless. Yet in many African educational systems, this is still hampered by lack of resources to expand available facilities to reach rural areas. The internet and the world wide web are bringing global ideas and concerns into schools and homes. As such, the Commonwealth is behooved to increase investment in this sector to train more Information Technology (IT) compliant citizens and equip more countries with modern communication infrastructures. Infact, the Commonwealth has invested about US $175 million shillings in various development schemes in Kenya.

95 Speech by Donald McKinnon, Commonwealth former secretary-general, to Kenyan business community in Nairobi on 24 January, 2007 during a visit to the country.
On the same point, it is the young people of the Commonwealth, those for whom initiatives like the Commonwealth Young Forum are meant, and whose challenges tomorrow will have very little to do with embracing British values and accepting the language, but relate to how well trained they are regarding ICT and its use, who should be looking to the Commonwealth with promise. This is because the reality of globalisation is presenting new fronts of competition to the Anglocised Commonwealth citizens as other non-commonwealth nations also muster the cultural and technical advantages intricate upon the Commonwealth. The tremendous growth and modernization of China (almost the population of the entire Commonwealth) for example means that young Chinese would soon be competing for similar opportunities with their Commonwealth counterparts. A Plan of Action for Youth Empowerment underpins the plans of ministries of youth affairs of Commonwealth members, although without adequate resources to back up such plans, no tangible empowerment can be achieved.

The Commonwealth Youth Program (CYP) Africa Centre has worked with the government of Kenya on various aspects of the national youth policy review process. The government and young NGO officials trained in youth empowerment and environmental awareness must now take leadership in these roles. The CYP Technology Empowerment Centres (CYPTEC), initiated by the same programme, provide a number of rural women in Kenya with ICT skills to access markets and improve the operation of their businesses.

Finally, the role and relevance of the Commonwealth in Kenya relates to its fight against poverty. Between 1992 and 2002, Kenya’s economy was weighed down by tumultuous cases of corruption and maladministration. In the Goldenberg Scandal, for example, Kenya lost about US$1 billion in phony export compensation schemes to unscrupulous syndicates of politically-backed businesses. Official corruption involved grabbing of strategic public land, fraud and wasteful public programmes (white elephant projects) and was
abetted with bureaucracy in business. The new National Rainbow Coalition (NARC) regime that was introduced in 2003 tried to reverse this situation. From a tottering negative out-turn, by 2007, the economic growth rate had increased to 7%, although the widespread poverty in the country had been barely scratched. Over half the country still lives below the poverty line.

The Commonwealth believes that sustained growth is the most effective route to poverty reduction. With the intervention of the Commonwealth, trade collaboration between Kenya and its trade partners has improved. The Commonwealth is involved in facilitating trade and improving the capacity of trade institutions in Kenya to improve their efficiency and consultation frameworks with other stakeholders. It is instructive to note that Kenya’s International Freight Forwarders Association (KIFWA) is a keen partner in Commonwealth development cooperation and has been working to reduce the cost of conducting business in Kenya through improvements in legislation, clearance and movements of commodities, and strengthening the general operations of trade infrastructure and policies in the country. The Commonwealth Fund for Technical Cooperation (CFTC) is a long-running partner in this contribution.

The Commonwealth’s family of civil society, including agencies like DFID, Action Aid and Oxfam, has also assisted to achieve this goal. Priority areas for developing countries, such as agriculture and the urban informal sector; and investments in the social infrastructure including roads, electricity, water supply, education and other MDG related investments, have benefited from direct sponsorships and advocacy activities. In this regard, the Commonwealth Business Council has been involved in the progress on private-public partnership activities in Kenya.

As it improves its politics and governance, the economy and environmental standards of Kenya remains the focus of the interventions of the Commonwealth. The organisation has been particularly emphatic about tackling socio-economic issues that
can improve living standards and the quality of life of citizens in Commonwealth member countries, including Kenya. This explains the Commonwealth’s active involvement in supporting partners in working to achieve the health-related MDGs – to address gender parity in education, HIV/AIDS, maternal and infant mortality and human resources in health. One of the Commonwealth’s projects in Kenya is about rehabilitation of abandoned street children who originate from HIV/AIDS devastated families. The Commonwealth Service Abroad Program (CSAP), together with the Ministry of Home Affairs, targets children’s institutions and their management to develop capacity to handle children under their care.

**Conclusion**

The Commonwealth is growing and so should be the opportunities it offers. New applications for membership have been submitted by Rwanda and Yemen and, once considered, these would be additional indications of the Commonwealth’s enlarging markets, boundless friendships and invaluable solidarity of the human spirit in challenging the problems that face the world today.

From India’s position as the “Jewel in the Crown” at the beginning of the history of the dominions due to its highly profitable trade exports, remote villages in the country are getting the taste of internet today, with the help of the Commonwealth, via motorbike couriers. Internet reports are down-loaded onto laptop computers and taken to remote rural areas far from the modern infrastructure in the country. Buoyed by the commonwealth links, India is steadfastly looking to the future as a new economic and technological empire, this is positive. In the ambit of the Commonwealth, trade opportunities must be fostered to spur national development. Trade, aid, development and human solidarity are still the indispensable elements in the Commonwealth fabric, as it enters into the modern era to exploit new opportunities of this IT driven millennium, and Africa is not staggering behind.
The Commonwealth is a family of nations drawn together by a common past, culture, language, institutions, political processes and ideals. A large number of members today practice successful Westminster democracies. Given this tradition, most of the laws, political customs, beliefs and values within the commonwealth are similar. It is imperative therefore for the wealthy members of the Commonwealth, those with superior national incomes and institutions, such as Canada and Britain, to lead areas of cooperation that would improve trade links and development of their underdeveloped counterparts. This is a moral issue, and in essence, it has been such moral standards and historical ties that provide the main bond in knitting the Commonwealth together.

A common voice from the Commonwealth has allowed it to influence world events and protect British interests over a long time. New recommendations for a regional trade bloc around the orbit of the Commonwealth, relaxed immigration rules and regulations, greater cooperation for the strengthening of public institutions and the relentless defense of democracy in member countries should provide the common agenda for the association as it takes a look at the 21st Century. Countries with uncertain economies and democratic transition credentials, such as Kenya, would so much benefit from associating with the Commonwealth. With that, the Commonwealth Business Council should have sufficient agenda items on their tables in the days to come to spur global trade and investment in the interest of the economic underdogs of the Commonwealth.

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# Annex V

## Conference Programme

### November 2, 2007, Grand Imperial Hotel Kampala

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<tr>
<th>Time</th>
<th>Event</th>
<th>Speaker/Details</th>
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<tbody>
<tr>
<td>8:30-9:00 am</td>
<td>Arrival and Registration</td>
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<tr>
<td>9:00-9:05 am</td>
<td>Welcome Address</td>
<td>Mr. Salum Toufiq, Chairperson KCK</td>
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<tr>
<td>9:05-9:15 am</td>
<td>Opening Address:</td>
<td>Hon. Mr. Justice Benjamin Odoki, The Chief Justice of Uganda</td>
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<td>9.15-10.00 am</td>
<td>Keynote address</td>
<td>Hon. Prof. Anyang’ Nyong’o Member of Parliament Kisumu Rural Constituency, Director, African Research and Resource Forum (ARRF) and a Fellow of the African Academy of Sciences</td>
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<td></td>
<td>Chair of Session: Uganda</td>
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<tr>
<td>10.00-10.15 a.m</td>
<td>COFFEE BREAK</td>
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<tr>
<td>10.15-10.45 am</td>
<td>Tanzania Country Paper</td>
<td>Prof. Ernest Mallya, Lecturer, Department of Political Science, University of Dar es Salaam</td>
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<tr>
<td>10.45-11.15 a.m</td>
<td>Discussion</td>
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<td>Chair of Session: Kenya</td>
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<tr>
<td>11.15-11.45 am</td>
<td>Kenya Country Paper</td>
<td>Mr. Otieno Alouka, National Programme Officer, Netherlands Embassy, Nairobi, Kenya</td>
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<tr>
<td>11.45-12.15 pm</td>
<td>Discussion</td>
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<td>Chair of Session: Tanzania Zanzibar</td>
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<tr>
<td>12.15-12.45 am</td>
<td>Uganda Country Paper</td>
<td>Mr. Daniel Ruhweza, Lecturer, Faculty of Law, Makerere University</td>
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<tr>
<td>12.45-1.15 pm</td>
<td>Discussion</td>
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<tr>
<td>1.15-1.30 p.m</td>
<td>Way forward</td>
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<td></td>
<td>Chair of Session: Tanzania Mainland</td>
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<tr>
<td>1:30-2.30 pm</td>
<td>Lunch &amp; Departure</td>
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## Annex VI

**List of Participants**

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<tr>
<td>1</td>
<td>Achen, Sarah</td>
<td>Faculty of Law, Makerere University</td>
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