

# THE COMMONWEALTH LAWYERS ASSOCIATION (CLA)

## Activity Report April 2003 – July 2005

### GENERAL

1. The Commonwealth Lawyers' Association (CLA) exists to maintain and promote the rule of law throughout the Commonwealth, by ensuring that the people of the Commonwealth are served by an independent and efficient legal profession.
2. Commonwealth countries share a substantial common ground in their legal systems, and the lawyers of these countries have much to learn from the comparative experience of their colleagues in other jurisdictions. This common ground also extends to many aspects of legal education and legal practice, and here too there is much to be shared. The profession around the Commonwealth is committed to the preservation of the highest standards of ethics and integrity, and to the furtherance of the rule of law for the benefit of society. As a pan-Commonwealth organization, the CLA provides invaluable support in the pursuit of these ideals.
3. The CLA's objectives, as enshrined in its Constitution, are to maintain and promote the rule of law in the Commonwealth.  
This is achieved by: -
  - ensuring that the common bond of Commonwealth is preserved and fostered;
  - strengthening professional links between members of the legal profession;
  - maintaining the honour and integrity of the profession, and the promotion of uniformity in the standards of professional ethics; and
  - encouraging improved standards of education and the promotion of exchanges of lawyers and students.
4. The CLA moved into its new premises at the Institute of Commonwealth Studies (ICS), 28 Russell Square, London on the 7<sup>th</sup> June 2003. The office has the capacity for three full time staff although at present there is only one full time employee and one part time intern.
5. Several other Commonwealth organisations have their offices within the building and the CLA's relocation to these premises has enabled it to become re-engaged with the Commonwealth agenda. The CLA is now based within an academic institution and is also near the Institute of Advanced Legal Studies and the British Institute of International and Comparative Law.
6. The Secretariat, *inter alia*, provides administrative services to members, represents the CLA externally, develops projects, services the CLA's elected Council and promotes and supports the organisation of the Commonwealth Law Conference.
7. The President and Council are elected by the Association at its General Meeting held at the Commonwealth Law Conference and they hold office until the next Conference. CLA Council Members attend an annual meeting in London. There is an Executive Committee which meets quarterly in London. (A current list of Council and Executive Committee members is attached – Appendix 1).

8. As a professional association/non-profit organisation, the CLA is primarily reliant upon membership subscriptions for funding in order to maintain its office and conduct its project work. There are three types of membership available – individual, institutional and corporate. Most of the national law societies and bar associations throughout the Commonwealth are institutional members of the CLA.

## ***ACTIVITIES OF THE CLA 2003 - 2005***

### ***Projects:***

9. *Canadian Bar Association (CBA) Survey*  
At its meeting in April in Melbourne 2003, the Council of the CLA approved the joint project proposal. The aim of the survey was to gather information about the institutional members of the CLA. The results of the survey would provide the CLA with a comprehensive database on the current structure and functioning of the various legal associations, recognise the needs and challenges faced by its members, their capacities and current work and identify potential for engagement in legal and judicial initiatives in both domestic and international fora. Thus the CLA would be better informed, and better placed, to develop appropriate programs for support and collaboration amongst its members.
10. The CLA assisted the CBA with this survey, both in the drafting of the initial questionnaire and the identification of legal institutions and organisations who should be included in the survey.
11. The results of the survey were published in May 2005. These have been made available to the CLA and all of the institutions that participated in the survey. The survey will be formally launched at the 13<sup>th</sup> Commonwealth Law Conference in London in September 2005. Additional copies are available on request.
12. *Native Title to Land & Indigenous Peoples*  
The impetus for this project came from the Commonwealth Law Ministers Kingstown Declaration of 2002. An intern was recruited in September 2003 to research and produce a paper discussing various legal aspects of native title to land of Indigenous Peoples in 12 Commonwealth countries.
13. The paper entitled *Indigenous Land Rights in the Commonwealth – Legal Aspects* was completed and circulated in March 2004.
14. The background paper was used to determine whether or not the CLA should provide some start – up funding (£2000) to facilitate the appointment of a project development officer to draft a proposal for submission to large funding bodies with the aim of obtaining a grant for a joint, long-term project between the CLA and the Commonwealth Policy Studies Unit (CPSU).
15. The CLA subsequently committed itself to a 6-month inception phase of the proposed long-term project and provided its share of the start up funding.
16. A project development officer was recruited to work on the project. He was required to undertake an inception study, further research and develop funding proposals in

support of the project. He worked part time from June 2004 and was based at the CPSU within the Institute of Commonwealth Studies (ICS).

17. In April 2005, an application was submitted to the European union by the CPSU for a 3-year project focusing on Indigenous Land Rights and Resource Management in the Commonwealth. The project will focus on the following countries: Bangladesh, Botswana, Cameroon, Guyana, India, Papua New Guinea, South Africa, Belize, Tanzania and Uganda.
18. The project will build the capacity of Indigenous organizations and their legal representatives so that they may more effectively defend their land rights and manage their resources, thereby promoting their human rights and helping to reduce poverty and injustice for some of the most marginalized communities in the Commonwealth.
19. The project will identify, facilitate and exchange best practice in relation to Indigenous land rights and resource management in the Commonwealth. It will lobby intergovernmental and non-governmental Commonwealth bodies. It will promote the training of Indigenous lawyers and awareness among Indigenous communities of the scope for legal redress.
20. The CLA and Commonwealth Legal Education Association (CLEA) will be effectively subcontracted to complete various aspects of the project and the work will be carried out over the 3-year period.
21. A decision as to the outcome of the funding application is not expected until February 2006.
22. *Gender & Human Rights Toolkit*  
The CLA has assisted the Commonwealth Magistrates and Judges Association (CMJA) with the development of a 'toolkit' for utilisation by paralegals, lawyers and the judiciary throughout the Commonwealth, in order to sensitise and raise awareness of gender issues.
23. The toolkit was 'tested' at a workshop held in Nadi, Fiji on the 28<sup>th</sup> & 29<sup>th</sup> May 2004. The report of the workshop was published and distributed accordingly. Additional copies are available on request.
24. Ultimately, it is anticipated that the toolkit will be distributed across the Commonwealth and will result in improved delivery of appropriate legal services by both legal practitioners and the judiciary.
25. *Institute of Legal Executives (ILEX) Survey*  
It was proposed that the CLA and ILEX undertake a joint survey, similar to that conducted by the CBA, to identify the different types of people offering legal services throughout the Commonwealth, as well as their qualifications, regulation and the nature of the services they provide.
26. The Executive Secretary began initial work on a project proposal and funding application. It was envisaged that the project would be 12 months in duration and would require a project officer based within the CLA on a part time basis.

27. Unfortunately, however, to date, no further progress has been made in relation to this project.

### ***Seminars, Workshops & Meetings:***

28. *Commonwealth Heads of Government Meeting (CHOGM) Abuja, Nigeria 5 – 8 December 2003*

The CLA was represented by the President and Executive Secretary. Attendance at CHOGM was important because the Latimer House Guidelines (LHG) were likely to be endorsed by the Heads of Government and every opportunity needed to be taken to exploit this success. It was also necessary to ensure full participation in the peripheral civil society (CSO) events. Activities in which the CLA participated included:

- a) Opening Ceremony Commonwealth Heads of Government Meeting - 5 December 2003
- b) *Tuesday 2<sup>nd</sup> December 2003 – Talk by Colin Nicholls QC, President of the CLA, and reception organised by the CLA, CMJA and CLEA and held in the Supreme Court of Nigeria. Hosted by the Honourable Chief Justice of Nigeria, M L Uwais GCON.*
- c) *Thursday 4<sup>th</sup> December 2003 - Talk by Colin Nicholls QC, President of the CLA, ‘Law in the Commonwealth’ School of Law, Abuja*
- d) *Friday 5<sup>th</sup> December 2003- Talk by Colin Nicholls QC, President of the CLA, ‘Lawyers in the Commonwealth’ Abuja Branch of the Nigerian Bar Association (NBA)*
- e) *Commonwealth Peoples Forum - Civil Society Meeting on Development and Democracy - Commonwealth Foundation 1 – 3 December 2003; Commonwealth Human Rights Forum – Commonwealth Human Rights Initiative (CHRI) 3 – 4 December 2003; Dialogue on Indigenous Rights in the Commonwealth - Commonwealth Association of Indigenous Peoples (CAIP) 5 December 2003*

29. Overall, the trip was a success. We succeeded in holding joint events with the CMJA and CLEA and publicising the CLA, the Latimer House Guidelines and the CLA brief on Guantanamo Bay. The events at the Supreme Court, the Law School and the NBA increased local awareness of the CLA and its activities. It promoted a suitable environment for the CLA to get further involved in West Africa.

30. The President subsequently wrote an article on Abuja and the Latimer House Guidelines. An edited version was published in *The Times Law Supplement*, 16 December 2003. The full article was published in the ‘*The Commonwealth Lawyer*’.

31. *Human Rights Defenders in the Commonwealth – What Can be Done? London, UK 22 April 2004*

The CLA and Interights held a joint event focusing on the issue of human rights defenders within the Commonwealth. It was a half-day seminar followed by a keynote address and reception and was held at the ICS.

32. Helena Kennedy QC delivered the keynote address. The Chairmen were Iain Byrne (Commonwealth Law Officer, Interights) and Colin Nicholls QC (President, CLA). Andrew Anderson (Deputy Director, Frontline), Jane Winter (Director, British Irish

Rights Watch) and Irene Petras (Coordinator, Zimbabwe Lawyers for Human Rights) were speakers.

33. The seminar was a good opportunity for the CLA to raise both profile and awareness about the organisation as a whole. The partnership with Interights was complimentary and is one that should continue to be utilised in the future. Participants rated the event highly, wanted to be kept informed of future events and felt that they had benefited from the seminar as a whole.
34. *Gender & Human Rights Toolkit - Pacific Region –Nadi, Fiji 28 - 29 May 2004*  
The CLA in partnership with the CMJA and the Legal and Constitutional Affairs Division (LCAD) of the Commonwealth Secretariat organised a 2 - day workshop which was held in Nadi, Fiji on the 28<sup>th</sup> & 29<sup>th</sup> May 2004. The Executive Secretary attended the workshop and was also a resource person.
35. Lawyers and judicial officers from Commonwealth countries in the Pacific took part in the workshop which focused on Gender & Human Rights and took place prior to the 7<sup>th</sup> Meeting of Commonwealth Ministers Responsible for Women's Affairs.
36. The focus was on the issue of women's rights and the overall aim was to develop a gender toolkit for utilisation by paralegals, lawyers and the judiciary. Recommendations were produced, identifying the role of the legal profession and the judiciary in promoting the equality of women.
37. At the end of the meeting, general recommendations were made on all of the issues that had been discussed over the two days. These were named the Tanoa Recommendations.
38. These Recommendations were publicised and also circulated to the 7<sup>th</sup> Commonwealth Women's Affairs Ministers Meeting that was held in Nadi, Fiji from the 29<sup>th</sup> May – 3<sup>rd</sup> June 2004. The CLA also held a joint briefing with the CMJA to the Ministers and was the Rapporteur for the working group on Gender, Human Rights & Law.
39. *Open Meeting – London, UK 10<sup>th</sup> June 2004*  
The annual Open Meeting was held on Thursday 10<sup>th</sup> June 2004 at the British Institute of International and Comparative Law (BIICL). The Rt. Hon. Lord Bingham of Cornhill, Senior Law Lord, delivered an address on 'An old constitution in a new world'. The meeting was followed by a reception.
40. *HIV/AIDS, Asylum & the Commonwealth – London, UK 20 January 2005*  
The CLA and Para 55 Commonwealth HIV/AIDS Action Group held a joint event focusing on the issue of HIV/AIDS & Asylum in the Commonwealth. It was an evening meeting was followed by a reception and was held at The Commonwealth Club.
41. The Chair was Stephen Knafler (Barrister, Two Garden Court Chambers) and the panel included Dr Anton Pozniak (Consultant Physician & Honorary Senior Lecturer St. Stephen's Centre, Chelsea & Westminster NHS Trust), Professor Alan Whiteside (Director Health Economics & HIV/AIDS Research Division (HEARD) University of

Natal) and Dr. Mandeep Dhaliwal (Head: Care & Impact Mitigation Team, International HIV/AIDS Alliance).

42. The event was well attended by lawyers, medial practitioners and activists. The meeting was a good opportunity for the CLA to raise both profile and awareness about the association. Participants rated the event highly, wanted to be kept informed of future events and felt that they had benefited from the seminar as a whole.

***Commonwealth Law Conference (CLC):***

43. The best known activity of the CLA is the Commonwealth Law Conference. The Conferences began in 1955. They were organised by an informal body called the Commonwealth Legal Bureau which included a member of the Secretariat and a number of prominent Commonwealth lawyers. Later, the Secretariat ceased to play a part and delegated organisation of the Conferences to the Law Associations of the host countries.

44. During the Conference there is a meeting of the Presidents, Officers and Executive Secretaries of Commonwealth Bar Associations and Law Societies. There are also meetings of Commonwealth Chief Justices, Commonwealth Attorneys General and specialist Commonwealth legal groups, such as the Parliamentary Draftsmen, Military Lawyers and Public Sector Lawyers.

45. *CLC 2005:*

The CLA has been heavily involved in all aspects of the organisation of the 14<sup>th</sup> Commonwealth Law Conference that will take place in London from 11 – 15 September 2005 and preparations are well underway. The conference will be the jubilee celebrating 50 years of Commonwealth Law Conferences and the first time that the conference has been held in London since 1955. The theme for the conference will be *Developing Law & Justice*.

46. The Executive Secretary is Secretary to the Organising Committee. In addition to this, she was Secretary to the Finance, Marketing & Sponsorship Committee until its dissolution in 2004. She was also Secretary to the Papers Committee from February 2004 until February 2005.

47. A separate conference website was set up and individuals have been able to register for the conference online. This includes a facility to register for membership of the association at the same time.

***Other:***

48. *Amicus Brief – United States Supreme Court - Guantanamo Bay detainees*

The CLA submitted an *Amicus* brief in the US Supreme Court Appeal relating to the Commonwealth detainees at Guantanamo Bay on 3<sup>rd</sup> October 2003. *Certiorari* was granted and a further brief as to the merits was submitted on 14<sup>th</sup> January 2004. The authors of the brief were Sir Sydney Kentridge QC, Colin Nicholls QC and Timothy Otty together with the CLA's US attorneys, Shea & Gardner. The team travelled to Washington DC, in April 2004 to attend the hearing. Judgment was awarded in favour of the CLAs brief (6/3) with the judges adopting some of the Commonwealth argument in their judgment.

49. *Opinion - Malaysian Bar Council*

The CLA assisted in the drafting of an *Opinion* for the Malaysian Bar Council on the Council's right to convene meetings to discuss issues of judicial accountability in Malaysia in April 2004.

50. *Intervention – A & Others vs SSD*

The CLA has been granted Leave to Intervene and invited to deliver its oral argument in the House of Lords from 17<sup>th</sup> – 20<sup>th</sup> October 2005. The case relates to the use of evidence obtained by means of torture. This is a joint petition, together with the Human Rights Institute of the International Bar Association and the International Commission of Jurists.

51. *Latimer House Guidelines*

The CLA is one of four organisations that formulated the Latimer House Guidelines on Parliamentary Supremacy and Judicial Independence. The Guidelines were endorsed by Commonwealth Heads of Government at their meeting in Abuja, Nigeria in December 2003 and were renamed the '*Commonwealth (Latimer House) Principles on the Accountability of and the Relationship between the Three Branches of Government.*'

The CLA assisted with the publication of the Principles in April 2004 and attended the formal launch of the Principles that was held at Marlborough House on the 12<sup>th</sup> May 2004. The CLA has since disseminated copies to all of its individual and institutional members.

52. A Pan African Forum on the Commonwealth (Latimer House) Principles was held in Nairobi, Kenya from the 4<sup>th</sup> – 6<sup>th</sup> April 2005. It was organised by the LCAD of the Commonwealth Secretariat and was convened to consider ways and means of promoting and advancing the Principles following their adoption in 2003. The CLA was invited to participate and was represented by the President who delivered a paper focusing on 'The Role of an Independent Legal Profession'.

53. *Gibraltar Human Rights Symposium 2- 3 September 2004*

The CLA supported the Gibraltar Human Rights Symposium that was held in Gibraltar on the 2<sup>nd</sup> and 3<sup>rd</sup> September 2004. The CLA was invited to participate and the President presented a paper on 'Security Laws and Human Rights – Getting the Balance Right'.

54. *Governance Workshop for Law Societies/Bar Associations of Africa 4 – 6 May 2005*

The Commonwealth Lawyers Association (CLA) was invited to participate in a Governance Workshop for Law Societies/Bar Associations of Africa that was held in Entebbe, Uganda from 4<sup>th</sup> – 6<sup>th</sup> May 2005. The Workshop was organised by the Canadian Bar Association (CBA) and hosted by the Uganda Law Society (ULS) and East Africa Law Society (EALS). The Executive Secretary attended the workshop and represented the CLA.

55. *'Official' Commonwealth*

The CLA submitted an application for re-accreditation to the Commonwealth in June 2004. This was granted on the 8<sup>th</sup> December 2004.

56. The CLA attended the Commonwealth civil society consultation on Development and Democracy on the 12<sup>th</sup> June 2003.
57. The CLA attended the Commonwealth civil society meeting on the Committee of the Whole on the 10<sup>th</sup> November 2003.
58. The CLA attended a Consultative meeting on the Commonwealth Gender Programme and New Plan of Action on Gender & Development (2005 – 2015) on the 17<sup>th</sup> November 2003.
59. The CLA was represented at the Opening ceremony and the Secretary General's Reception that was held at the Commonwealth Heads of Government Meeting (CHOGM) that took place in Abuja, Nigeria in December 2003.
60. The CLA participated in the 7<sup>th</sup> Meeting of Commonwealth Ministers Responsible for Women's Affairs that took place in Nadi, Fiji from 30<sup>th</sup> May – 2<sup>nd</sup> June 2004.
61. The CLA was granted official observer status and attended the Meeting of Senior Officials of Commonwealth Law Ministries and the Meeting of Law Ministers and Attorneys General of Small Jurisdictions that took place in London, UK from the 18<sup>th</sup> - 22<sup>nd</sup> October 2004. A written report on CLA activities since their last meeting was submitted prior to the meeting and subsequently included in the materials distributed to delegates. The Executive Secretary also made an oral presentation highlighting the CLA's recent successes to the delegates.
62. The CLA participated in the following civil society consultations organised by the Commonwealth Foundation:
  - 17 March 2004
  - 24 November 2004
  - 23 May 2005
63. At the Consultation on the 17<sup>th</sup> March 2004, the Executive Secretary made a presentation on the CLA's attendance and experience of the CHOGM 2003 meeting.
64. The CLA was also represented at the annual Commonwealth Day celebrations.
65. *Commonwealth Human Rights Initiative (CHRI)*  
The CLA is a Founder and Trustee of the Commonwealth Human Rights Initiative (CHRI) and is also represented on the Advisory Commission of the CHRI. The CLA regularly attends meetings of the Trustee and Advisory Commission, as well as providing ongoing support for programme activities.
66. The CLA has been involved in the ongoing redrafting of CHRI's Memorandum of Understanding.
67. *Para 55*  
The CLA is a member of the Para 55 Group in the fight against HIV/AIDS and regularly attends meetings of the group, as well as participating in their activities.
68. *Collaboration*

The CLA has continued to work closely with the Commonwealth Magistrates and Judges Association (CMJA), the Commonwealth Legal Education Association (CLEA), and other Commonwealth professional associations, non - governmental and civil society organisations. The CLA has also continued to work with the Legal and Constitutional Division of the Commonwealth Secretariat (LCAD) on matters of mutual interest and concern.

**Membership:**

69. The CLA has been heavily involved in the drafting of current proposals to restructure the membership system. In line with these proposed changes, the existing membership database has been overhauled and the Executive Secretary is currently in the process of updating the records contained therein.
70. A facility to register for membership at the same as registering for the Conference was set up. This has enabled people to join the association and still be entitled to receive the discounted registration fees to which members are entitled.
71. The corporate membership criteria and benefits have been defined and will be launched shortly.
72. Electronic application forms have been created and will make the application process more efficient, particularly bearing in mind the fact that our membership is spread across the Commonwealth.

**Website:**

73. The CLA website was re-launched on the 10<sup>th</sup> June 2004 and includes information on forthcoming events, publications and also facilitates online registration for membership.
74. Development of the site is ongoing.

**Publications:**

75. *The Commonwealth Lawyer*

The CLA publishes a journal three times a year that is circulated free of charge to members. The journal is also circulated to the law societies and bar associations across the Commonwealth, as well as partner organisations and other related organisations. *The Commonwealth Lawyer* provides a topical and provocative forum for discussion of issues relating to the legal profession. A wide range of Commonwealth views and developments is reflected in in-depth articles, case reports, short notes and book reviews.

76. *The Clarion*

The CLA publishes a newsletter three times a year that is circulated free of charge to members. The journal is also circulated to the law societies and bar associations across the Commonwealth, as well as partner organisations and other related organisations. The newsletter provides information on current legal issues of interest around the Commonwealth and the CLA's activities.

*77. Directory of Members*

The CLA publishes jointly with the Legal Division of the Commonwealth Secretariat a Directory of Members, listing all individual and institutional members of the Association. A new edition was published before the Melbourne Conference and another will be prepared for the London Conference.

Claire Martin  
Executive Secretary  
29<sup>th</sup> July 2005