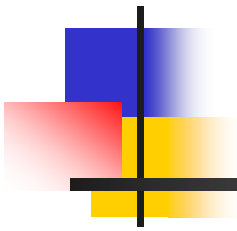




The Commonwealth Lawyers' Association

Value, Relevance, Achievements





VALUE

The CLA's purpose :

- **To maintain and promote the rule of law throughout the Commonwealth, by ensuring that an independent and efficient legal profession serves the people of the Commonwealth.**

Commonwealth lawyers share a common heritage and much can be gained by strengthening the links between them.



VALUE

The CLA achieves its purpose through:

- Strengthening professional links among members of the legal profession;
- Promoting the honour and integrity of the profession and uniformity in standards of professional ethics;
- Supporting improved standards of education and promoting exchanges of lawyers and students;
- Promoting the administration of justice and human rights in accordance with the principles enshrined in the Harare Declaration (1991), the Millbrook Action Programme (1995) and the Commonwealth (Latimer House) Guidelines on the Accountability of and the Relationship between the Three Branches of Government (2003);
- Fostering a common bond of Commonwealth

RELEVANCE



The CLA:

- Involves Bar Associations and Law Societies of developed Commonwealth countries in assisting those in developing Commonwealth countries.
- Establishes and maintains contacts between lawyers in all regions of the Commonwealth.

Continued...



RELEVANCE



The CLA's activities include:

- Organisation of biennial Commonwealth Law Conferences and other regional conferences
- Providing services to all members
- Facilitating the flow of information between Law Societies and Bar Associations.

Continued...



RELEVANCE



- Undertaking advocacy and project work of relevance to the legal profession throughout the Commonwealth
- Supporting the work of other Commonwealth and legal associations on matters of common interest
- Furthering the interests of the legal profession throughout the Commonwealth



PARTNERS



The CLA has worked closely with:

- the Commonwealth Magistrates' and Judges Association (CMJA)
- the Commonwealth Legal Education Association (CLEA)
 - including recovering and redistributing surplus legal materials (Commonwealth Law Book Programme)
- the Commonwealth Parliamentary Association (CPA)
- the Commonwealth Policy Studies Unit (CPSU)
- the Para 55 – Commonwealth HIV/AIDS Action Group - organising and holding joint events

Continued...

PARTNERS



- Institutional Members Including, In Particular,
 - The Canadian Bar Association (CBA)
 - The Law Society of Zimbabwe (LSZ)
 - The Law Society of England & Wales
 - The Bar Council of England & Wales
 - The New Zealand Law Society
 - The Malaysian Bar Council
 - Law Council of Australia (LCA)

- The International Bar Association (IBA)
 - including the promotion of a database of international projects, and
 - the provision of IT amongst Caribbean law associations



ACHIEVEMENTS

The CLA has:

- Sent delegations to the Commonwealth Heads of Government Meetings (CHOGM) in
 - Auckland, New Zealand – 1995
 - Edinburgh, United Kingdom – 1997
 - Durban, South Africa – 1999
 - Abuja, Nigeria – 2003

- Contributed to the suspension of Nigeria from the Commonwealth at the CHOGM held in Auckland, New Zealand in 1995.

- Made regular submissions to the Commonwealth Ministerial Action Group (CMAG) particularly in relation to Fiji & Pakistan.

Continued...



ACHIEVEMENTS

- The CLA is an official partner organisation of the Legal & Constitutional Affairs Division (LCAD) of the Commonwealth Secretariat
- The CLA also works closely with the Political Affairs Division (PAD) where appropriate
- The CLA has official observer status for Meetings of Commonwealth Law Ministers', Law Ministers and Attorneys General of Small Jurisdictions and Senior Officials of Commonwealth Law Ministries
- The CLA attended Commonwealth Law Ministers' Meetings in
 - Trinidad & Tobago (1999)
 - St Vincent & the Grenadines (2002)
 - Ghana (2005)
 - Edinburgh, Scotland (2008)

Continued...



ACHIEVEMENTS

- The CLA has, together, with the CLEA, CMJA and CPA, participated in the formulation of the *Commonwealth (Latimer House) Principles on the Accountability of and the Relationship between the Three Branches of Government* (the Principles) 2003.
- The Principles provide a roadmap for democracy and good governance. They emphasise the importance of the separation of powers between the three branches of government as guarantors of the rule of law, promotion and protection of fundamental human rights and the entrenchment of good governance based on the highest standards of honesty, probity and accountability.

Continued...



ACHIEVEMENTS

- The CLA, together with the CLEA, CMJA and CPA organised a Commonwealth (Latimer House) Colloquium which took place in July 2008. The Colloquium was held ten years after the drafting of the Principles, and five years after their adoption.
- The Colloquium monitored and assessed commitment to the Principles and built upon the Nairobi Plan of Action for Africa, which set out practical measures required to implement the Principles in the African context and specific activities in relation to the adoption of the Principles through such mechanisms as activities undertaken in order to strengthen the capacity and independence of the legal and judicial professions. This will be utilised in establishing a comprehensive pan-Commonwealth action plan over the next 10 years.

Continued...



ACHIEVEMENTS



Commonwealth Human Rights Initiative

- The CLA is a Founder and Trustee of the Commonwealth Human Rights Initiative (CHRI), an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth.
 - CLA has participated in CHRI missions
 - CLA is represented on the CHRI Advisory Committee
 - CLA has provided input to CHRI projects on
 - Police & Prison reform
 - Right to Information
 - Constitutionalism

Continued...



ACHIEVEMENTS

The CLA has:

- Sent letters of intervention to governments and law societies in defence of lawyers who have been prevented from performing their duties in accordance with the United Nations Basic Principles on the Role of Lawyers (adopted in 1990).
- Participated in missions to:
 - Malaysia
 - The CLA was an observer at the 2001-2 trial of Karpal Singh
 - Pakistan
 - Sierra Leone



ACHIEVEMENTS – GUANTANAMO BAY

- ***Amicus Briefs – 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 3rd October 2003.
 - 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.
 - Judgement was awarded in favour of the CLA's brief (6/3) with the judges adopting some of the Commonwealth argument in their judgement.

Continued...



ACHIEVEMENTS – GUANTANAMO BAY

- ***October 2005 Intervention – House of Lords Use Evidence Obtained by Torture***
 - CLA was permitted to intervene on behalf of the Home Department in the House of Lords in the case of *A & Others v. Secretary of State*. The intervention was a joint petition, together with the Human Rights Institute of the International Bar Association (IBA) and the International Commission of Jurists (ICJ). The case concerned two issues related to terrorism- the use of evidence obtained by a foreign state through means of torture, as well as indefinite incarceration without charges, legal resources, or a hearing.

Continued...



ACHIEVEMENTS – GUANTANAMO BAY

- ***January 2006 Amicus Brief – United States Supreme Court – Habeas Corpus***
 - The CLA and BHRC submitted a joint amicus brief in the U.S. Supreme Court Appeal in *Salim Ahmed Hamdan v. Rumsfeld et al* relating to issues of habeas corpus. The appeal was heard in March 2006 and the court held that military commissions must comply with the ordinary laws of the U.S. and the laws of war.

Continued...



ACHIEVEMENTS – GUANTANAMO BAY

- ***August 2007 Amicus Brief – United States Supreme – Habeas Corpus***
 - The CLA submitted an amicus brief drafted by Sir Sydney Kentridge QC, Colin Nicholls QC, Timothy Otty QC and John Townsend Rich in the case *Boumediene v Bush & Al Odah v. United States*. The consolidated cases addressed, amongst other issues, whether the provisions of the Military Commissions Act of 2006 that bar Guantanamo detainees from pursuing habeas corpus petitions violate the Suspension Clause of the U.S. Constitution, and whether the detainees are entitled to pursue habeas claims in federal court.

Continued...



ACHIEVEMENTS – GUANTANAMO BAY

- ***January 2008 Amicus Brief – United States Supreme – Child Prisoners of War***
 - The CLA was party to an amicus brief submitted to the U.S. Supreme Court in the case of *U.S. v. Omar Ahmed Khadr*. The amicus holds that the detention was wrong because Khadr was a child soldier and, historically, these children have been protected from imprisonment. Children have limitations on their ability to consent to recruitment and participation in armed conflict, allowing their protection. The amicus relied on the protection granted to child soldiers in the Geneva Convention.

ACHIEVEMENTS – RULE OF LAW



■ **PAKISTAN**

- A resolution in relation to the situation in Pakistan was adopted in September 2007, following the 15th Commonwealth Law Conference. The resolution commended the action of the legal fraternity during the recent judicial crisis, which had contributed to the reinstatement of Chief Justice Iftikhar Mohammad Chaudhary on 20 July 2007.
- On 3 November 2007, General Musharraf declared a State of Emergency in Pakistan, suspended the Constitution and placed independent judges, including the Chief Justice, under house arrest. Accordingly, the Commonwealth Ministerial Action Group (CMAG) met to discuss the situation and subsequently decided to suspend Pakistan from the Councils of the Commonwealth.
- In May 2008, CMAG agreed that the Government of Pakistan had taken positive steps to fulfill its obligations in accordance with Commonwealth fundamental values and principles and, therefore, decided to restore Pakistan to the Councils of the Commonwealth.

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ACHIEVEMENTS – RULE OF LAW

■ **ZIMBABWE**

- December 2005 - CLA issued a joint statement expressing concern at the travel ban imposed upon critics of the Zimbabwe Government.
- February 2006 - CLA wrote to the Attorney General of Zimbabwe expressing concern about reports of the prolonged detention of women activists from Women of Zimbabwe Arise (WOZA) who were arrested during peaceful protests on 14 February 2006. He called for their immediate release and urged the Government of Zimbabwe to conform to the provisions of the 1998 UN Declaration on Human Rights Defenders.
- September 2006 - CLA and the Bar of Human Rights of England & Wales secured funding to send a trial observer to Zimbabwe in order to monitor the trial of the Trustees of the Voice of the People (VOP).

Continued...



ACHIEVEMENTS – RULE OF LAW

■ **ZIMBABWE**

- A resolution on the legal profession in Zimbabwe was adopted in September 2007, following the 15th Commonwealth Law Conference. The CLA condemned the ongoing harassment, direct and indirect attacks on lawyers by the government of Zimbabwe. It renewed previous calls upon the government to respect the independence of the legal profession and the role of lawyers.
- In June 2008, the CLA expressed concern at the arrest and detention of Mr. Eric Matinenga, an Advocate of the High Court and former President of the Administrative Court of Zimbabwe. The CLA reiterated its earlier condemnation of the ongoing harassment and attacks on lawyers by the government of Zimbabwe and renewed its commitment to provide support and work with the legal profession and Law Society in their efforts to maintain the rule of law in Zimbabwe.

Continued...



ACHIEVEMENTS – RULE OF LAW

- ***KENYA***

- In January 2008, the CLA issued a statement on events in Kenya. The statement addressed the civil unrest following the election results of 27 December 2007. The CLA called on the government of Kenya to resolve the issues relating to the disputed elections in accordance with the provisions of the Constitution of the Republic of Kenya and to bring an end to the current violence.

- ***UGANDA***

- In December 2005, the CLA, together with other legal societies and associations, expressed concern about recent events impacting the independence of the Judiciary and rule of law in Uganda.

ACHIEVEMENTS – LEGAL PROFESSION



Bar Standards Board

- The CLA made a submission to the Consultation on Deferral of Call by the Bar Standards Board in November 2006. One of the main proposals put forward was the deferral of call to the bar until after completion of a pupillage.
- Following the consultation, the Bar Council decided that the proposed changes to deferral of call were a disproportionate response to the risk of public detriment caused by the present rules. As a result, they will introduce an online register for all barristers who hold a current practising certificate and all barristers undergoing a pupillage will have the title 'pupil barrister' until they are called to the bar.

Continued...

ACHIEVEMENTS – LEGAL PROFESSION

Solicitors Regulation Authority Consultation

- In April 2008, the CLA made a submission to the Solicitors Regulation Authority Consultation in relation to proposed interim changes to the system for qualified lawyers from outside England and Wales.
- The CLA noted that the QLTR mechanism was important to many lawyers in the Commonwealth. It was a vital means of enabling lawyers who have already qualified in other jurisdictions to enter the profession in England and Wales without being required to 're-qualify'.



Regulated by the SRA

THE FUTURE...



- The 25th Anniversary Conference for the CLA will be held 16-19 October 2008 in Montego Bay, Jamaica. The conference will take place at the Ritz-Carlton hotel. The event is being held to celebrate the decision made at the Commonwealth Law Conference held in Hong Kong in 1983 to form the Commonwealth Lawyers' Association (CLA) and the subsequent adoption of the first Constitution of the CLA in 1986.
- The 16th Commonwealth Law Conference will be held from the 5th – 9th April 2009 at the Hong Kong Convention and Exhibition Centre. The theme of the conference is the *Dynamics of Law in a Rapidly Changing World*. The 4 main streams of the conference programme include:
 - Constitutional Issues, Human Rights and the Rule of Law
 - Corporate/Commercial Law
 - Judges, the Legal Profession and the Community
 - Contemporary Legal Issues

Continued...

THE FUTURE...

- The CLA and CMJA have developed a joint project to establish how well Commonwealth countries are exercising good governance, upholding the separation of powers and the rule of law and to develop simple indicators to assess their performance. The basis of the project is the implementation and monitoring of the Principles and will adopt a number of approaches in sensitising the public, conducting and compiling the research. It will both encourage and facilitate participatory democracy thereby better enabling citizens to hold their governments to account.



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THE FUTURE...

The Commonwealth Lawyers' Association looks forward to your continual support as the Association continues to grow and take on an increasingly important role in the future of the Commonwealth.