

BHRC ANNUAL REPORT

CHAIRMAN'S FOREWORD

This past year the Bar Human Rights Committee has continued to promote human rights in areas where we can effectively assist. Among the members of our Committee are people with an impressive range of expertise in human rights and public international law, and all our members have the enthusiasm which makes it possible to undertake the projects set out in this annual report. Some of the projects are the brainchild of individual members of the Committee who have developed an affinity and knowledge of a particular country or region; other projects are the result of requests from governments, lawyers or NGOs. We are able to call for assistance from members of the Bar (including academics) who have unrivalled mastery of their subject.

We occupy a unique status among committees at the English Bar. We are independent of, but supported by the Bar Council. This enables us to take a wholly independent stance on issues while retaining the professional integrity for which the Bar of England and Wales is rightly held in high regard. We work closely with the Bar Council on matters of mutual concern, but inevitably we become involved in international issues strictly outside the remit of the Bar Council. We are, for example, one of the permanent NGO members of a forum which periodically meets with government to discuss the compliance of proposed government action in the United Kingdom and overseas with international human rights standards.

I am very grateful to the members of the Committee and of the Executive who dedicate so much time selflessly to working on behalf of the BHRC. I am also grateful to the Bar Council for their support – in every sense. I am particularly grateful to our Coordinator, Jennifer Geen, without whom we simply could not function.

Peter Carter QC

BAR HUMAN RIGHTS COMMITTEE

ANNUAL REPORT 2003

Bar Human Rights Committee

The Bar Council of England and Wales represents over 12,000 independent practitioners, legal academics and lawyers in Government service in the United Kingdom. The Bar Human Rights Committee of England and Wales (BHRC) is an independent group of specialist advocates and experts who work on a voluntary basis to develop law and human rights protection throughout the world. BHRC objectives are:

- support and protection of practising lawyers and judges who are threatened or oppressed in their work;
- upholding the rule of law and internationally recognised human rights standards;
- furthering interest in and knowledge of human rights and the laws relating to human rights;
- advising, supporting and co-operating with other organisations and individuals working for human rights; and
- advising the Bar Council in connection with any human rights issue.

The geographical remit of BHRC extends to all countries, apart from its own jurisdiction of England and Wales. This reflects the need to maintain its role as independent but highly qualified observer, critic and advisor, with internationally accepted rule of law principles formulating the basis of its agenda. BHRC is divided into regional sub-committees with section heads responsible for organising activities. The sub-committees include Africa (North, South and Sub-Saharan), Asia (South, East), Russia and the former Soviet Union, America (Latin/South, North), Europe and the Middle East. BHRC has an international reputation of independence, integrity and professional skills that has developed significantly since it was founded in 1991.

The Human Rights Agenda

The countries in which we have worked share a common agenda of difficulties and issues faced by the legal profession and human rights non-governmental organisations (NGOs). These include:

- Access to justice
- Low professional standards
- Lack of judicial independence
- Continued use of the death penalty and other cruel punishments
- Prison conditions
- Police corruption
- Failure to comply with human rights treaty obligations

The issues are particularly acute for women, displaced persons, ethnic and religious minorities, children and other disadvantaged groups. The lack of resources is frequently a severe inhibition on the ability of the country to develop responses,

although this is sometimes a matter of choice rather than necessity. Progressive lawyers and human rights NGOs are often isolated, always under-resourced, and sometimes under threat in addressing this list of problems.

Africa

In recent years, BHRC has had an increasing focus on Commonwealth countries in Africa who share a common law tradition and, in the past, close professional ties. We have conducted missions and delivered a variety of programmes to many countries including South Africa, Zimbabwe, Botswana, Zambia, Uganda, Tanzania, Kenya, Malawi, Ghana, Sierra Leone, Nigeria and Sudan that have involved capacity-building projects within the legal sectors of individual countries. We work with judges, lawyers, human rights NGOs and the British Council and have built strong relationships of respect and confidence.

Our primary aim has been strengthening and supporting the professions as well as re-enforcing respect for the rule of law and the protection of basic human rights and freedoms. We have provided local judges and lawyers with the skills, resources and motivation they need to be a force for change in their own countries. Respect for the rule of law, the independence of the judiciary, access to justice, high professional and ethical standards, and the enforcement of international human rights standards are all key development issues.

In Africa, inadequate networking within the region results in the lack of a regional system that inhibits consistency and efficiency. It prevents the progress of effective local solutions and strategies. We strongly support the development of regional responses to these issues; encourage the growth of a distinct regional jurisprudence and aim towards the strengthening of African human rights tribunals and commissions.

There would be enormous benefit in addressing these issues in a comprehensive way across all of the African Commonwealth countries. It would enable the development of a regional response, with individual countries sharing experiences and drawing upon sources of comparative and international law and practice from the wider Commonwealth. Peer review by other regional states is likely to prove more acceptable and may lead to wider respect for international human rights norms across the continent.

In order to begin this dialogue, we are seeking funding for a major regional conference to be held to discuss these issues. Delegates would be invited from the legal and human rights sectors of each of the participating countries. The UK Bar and international human rights organisations working in Africa would provide speakers and workshop facilitators. The major themes of the conference will be the ways in which states might be encouraged and enabled to comply with international human rights norms and treaty obligations, and the development of a real agenda for change in respect of key areas of difficulty. The Conference will provide an opportunity for the launch of the Bar Human Rights Committee's CD-Rom of International Human Rights Law, to be published shortly, which is to be distributed free to lawyers and human rights NGOs throughout Africa through their delegate representatives.

Activities

Library Resources for Lawyers

This initiative is currently in its sixth year and has resulted in the establishment of over a hundred computerised library workstations for lawyers in Tanzania, Botswana, Uganda, Malawi, Zambia, Sierra Leone and Sudan. Over 400 lawyers, judges and NGO staff have been trained in the use of digital texts and accessing the Internet for legal research. In addition, we have created six specialist libraries containing modern comparative law and human rights materials for use by lawyers. The leading UK law publishers have generously supported, and continue to support, this work that has been conducted in partnership with the British Council. A website has been created for one of the leading human rights organisations in Botswana to act as a portal for lawyers working on death penalty and other human rights issues. Lawyers within the region are now being brought into the digital age and are being encouraged to use the equipment to network and as a means of publishing and distributing local law. A regional website for African lawyers is a long-term plan and funding is being sought for this.

We established library resources in Sudan and Sierra Leone this year. A feasibility visit to Khartoum was conducted in September 2002 as part of a series of capacity building and human rights reform initiatives by the British Council. Having an English criminal lawyer speaking about human rights standards to a council of 100 Sharia Judges was an unprecedented event. Two volunteers delivered the Library Resources Project in Sudan in February and at the request of the Chief Justice of Sudan, BHRC sent another delegation in October to provide a series of seminars and lectures on commercial law subjects. Both the Chief Justice and the Director of the Institute for Legal Reform have been involved in discussions with BHRC on recent Foreign and Commonwealth Office (FCO) sponsored visits and thus a real breakthrough has been achieved in creating a dialogue between lawyers in both countries. The importance of such work in the context of current difficulties in the Middle East and the Islamic world is enormous.

In Sierra Leone, we have made a significant contribution to the establishment of the Special Court of Sierra Leone (SCSL) in Freetown. This will shortly begin trials of those bearing the greatest responsibility for genocide and atrocities committed during the civil war. With Department for Constitutional Affairs (DCA) and FCO funding as well as strong support from the publishers, we have established a first rate library of specialist criminal, human rights, and international law texts based at the SCSL which will provide a substantial legacy to the judiciary and legal profession once the Court's mandate ends. Over one metric ton of new and donated law books were shipped as a contribution from the Bar, and we hope that the SC Library will eventually rival that in The Hague. Volunteer trainers have provided specialist technical and research skills training for local lawyers and judges who staff the Special Court, as well as providing seminars and skills training programmes for the wider profession (which was almost wholly destroyed during the conflict). BHRC participated in a week long residential training programme and an intensive advocacy training programme run in partnership with the international NGO No Peace Without Justice and the British Council.

Human Rights CD-Rom

The DCA provided funding for the production of a comprehensive digital library of international humanitarian law on CD for free distribution throughout Africa and the Commonwealth. This will contain all of the international instruments and key authorities from around the world arranged thematically with commentaries from leading UK human rights specialists at the Bar. The publication has now been prepared for production and will be launched in the UK shortly. We are working in partnership with the British Council and Commonwealth lawyers' and judges' organisations that are assisting on distribution. A suitable launch event in Africa is being sought for later in the year. The editorial group of barristers who have created this work provided their time for free and contributing authors and the legal publishers have waived copyright on their materials so that the text can be provided without charge.

Advocacy Training

Criminal practitioners have played a key role in this work over many years in several jurisdictions including China, Hong Kong, Malaysia, Russia, Mauritius, and the Caribbean. In more recent years we have extended existing programmes run by the Bar Overseas Advocacy Committee, the SEC and the Inns to various locations in Africa, and to the UN tribunals established in The Hague (for war crimes in the former Yugoslavia) and in Arusha (for Rwanda). Specialist courses have been provided to lawyers in Tanzania and more recently, Malawi where a rolling programme of twice-yearly residential courses for law students and practising lawyers began in August and is to continue. We collaborate with the judiciary, Bar and academic institutions to deliver these programmes to ensure "local ownership" and to encourage the profession to continue with this in future years as a regular part of professional education. We hope Malawi will be a model for delivery of such programmes in other African countries in the future.

Death Penalty Work

The Criminal Bar has traditionally played a key role in supporting death penalty trial and appellate work in the United States and Caribbean. This has included advisory and amicus work abroad in addition to extensive pro bono representation in capital appeals in the Privy Council. A major new initiative is presently being developed to extend this work to Africa where the problem remains acute and resources are virtually non-existent. BHRC worked with the Institute for International and Comparative Law and the Centre for Capital Punishment Studies to design programmes of work that attracted substantial European Commission funding. The initiative made possible for the next three years will include an extensive internship programme which will enable young members of the UK Criminal Bar to participate in and support the work of local NGOs in the field of capital trials, appeals and abolition policy work. In addition, we intend to produce and freely distribute a Capital Trials and Appeals Pack that will be in CD format throughout the Commonwealth. This will be a publication of considerable international importance in terms of properly equipping capital trials lawyers to conduct these extremely difficult cases, and enable them to take constitutional and human rights arguments to the relevant international bodies. The Criminal Bar Association has provided two Scholarships in 2002 to enable this work to begin in Malawi and a further 3 to provide the Special Court in Sierra Leone with much needed support in 2003. We hope to

place the first young lawyers in Freetown by the end of the year. We encourage the extension of schemes currently provided by some criminal chambers to provide placements for young African lawyers for them to experience the practice of law here and build on their skills and experience.

Americas

BHRC has continued monitoring the threats of human rights defenders in Mexico and the investigation of the death of Mexican human rights defender Digna Ochoa in October 2001. We are working in conjunction with Lawyers' Rights Watch Canada and have sent two joint fact-finding missions to Mexico City to raise the concerns of the international community and encourage the authorities to adhere to international human rights standards. On Guatemala, we have worked with Guatemalan NGOs and UK experts to monitor the violence and threats surrounding witnesses, judges and lawyers involved in cases arising out of prosecutions brought against members of the armed forces in relation to their actions during the civil war. BHRC observes the situation in Colombia and meets regularly with Colombian lawyers, human rights activists and NGOs to sustain strong links with the human rights community and legal profession.

The FCO has granted a year of funding to BHRC to send UK lawyers to Kingston to support Jamaican lawyers undertaking death row cases at first instance and on appeal. Volunteers will help prepare cases and assist at court during the presentation of the case, at the appeal and in remaining cases at Privy Council. There will be a two-week programme of seminars on human rights and advocacy training for universities, law schools and the local Bar. The volunteers will work with the Jamaican Bar to establish IT back up for case preparation to improve access to internet law services, build up an internet law library and publish a Jamaican Criminal practice and procedure textbook. We anticipate expanding this scheme to other States in the Caribbean.

BHRC continues to work closely with Amicus assisting lawyers for justice on death row in the United States and will collaborate with them on the Jamaica project. We advise on death penalty cases, provide Amicus briefs and send trial observers to the US. We are working with other NGOs and lawyers to ensure that the detainees in Guantanamo Bay will have fair trials. We addressed the European Parliament expressing our concern regarding the proposed military tribunals and the conditions of the detainees and collaborated with the Commonwealth Lawyers' Association on writing an Amicus brief for the US Supreme Court to consider whether habeas corpus is available to foreigners on US ground. We are beginning to liaise with the Guyana Bar Association to establish human rights training programmes in Guyana.

Asia

BHRC sponsored Suraya Paikan, Afghan lawyer from the Afghan Women Lawyers and Professionals Association (AWLPA) to speak at the Bar Conference. During her time in London, BHRC organised discussions and meetings with various NGOs, the FCO and Members of Parliament. BHRC set up a fund to receive donations for AWLPA and is in close contact with AWLPA and other Afghan organisations. We

are submitting funding proposals to expand the library resources project to Afghanistan, Pakistan and India.

BHRC is currently seeking funding for a proposed one or two-week visit to Pakistan by British lawyers in 2004. They will work with Pakistani lawyers to provide international human rights standards training with a focus on human rights institutions/legislation/principles, the role of the lawyer (including professional code of conduct and ethics), conflict resolution and international trial observations through workshops, seminars and lectures. The lawyers will learn about the organisation, ethics and standards of the English Bar and the importance of strengthening these aspects in Pakistan. This will contribute to the building of a Bar that has a commitment to human rights, the rule of law and high professional standards. We recently met with Sri Lankan High Court judges to discuss the possibility of a similar project in Sri Lanka.

BHRC provided training to the Tibetan Centre for Human Rights and Democracy (TCHRD) in India. We have established a strong relationship with TCHRD and are working with Tibet Information Network in London to continue monitoring the Tibetan situation. We sent a fact-finding mission to Burma to establish contacts with the legal profession and intend to follow up when the political situation has stabilised. We have begun negotiations with the Special Advisor to the Prime Minister of Cambodia regarding the establishment of the Special Court to try Khmer Rouge members responsible for genocide. A planning visit is likely to take place in the near future.

Europe

BHRC advises the Council of Europe on legal issues and has conducted human rights seminars for judges, lawyers and police officers in Serbia, Croatia, Kosovo, Romania, Macedonia and Albania. We participated in a seminar in Paris focusing on Access to Justice in the Southern Mediterranean Region in conjunction with the Euro-Mediterranean Human Rights Network and Penal Reform International. We collaborate with the Northern Ireland Bar and have organised human rights conferences in Belfast, the most recent in September focusing on understanding, analysing and developing the Human Rights Act. Dr. Silvia Casale, President of the European Committee for the Prevention of Torture and inhuman or degrading treatment or punishment (CPT), spoke at our workshop at the Bar Conference about the work of the CPT in monitoring the 44 countries that are part of the Council of Europe.

BHRC has advised on Roma issues in Albania and established links with NGOs including the European Roma Rights Centre that are eager to institute ECHR training in Albania. A working group has been established to begin negotiations and fundraising.

Middle East

BHRC has maintained its strong links with the Arab region for over a decade. In April we sent a fact-finding mission to Palestine to meet with Government and

independent lawyers, human rights organisations and the Israel and Palestine Bar Associations; listen and learn about the problems currently faced; and assess the status of the Geneva Conventions and of human rights protections in the eyes of the parties to the conflict. This mission follows on from visits in 1994 and 1998 in light of a widely perceived crisis facing human rights and humanitarian legal protections in the region. BHRC has sponsored lawyers from Palestine and Israel to come to the UK for human rights training and to participate in the Bar Conferences. We have written legal opinions for Arab NGOs and liaise regularly with them as we continue to monitor the situation in Israel and Palestine.

BHRC participated in a Human Rights Education summer school course in Beirut with NGO members of the Euro-Mediterranean Human Rights Network and advised the Palestinian Human Rights Organisation NGO on a photo pack project they are developing on Sabra and Shatilla Palestinian refugee camps. We are working with the UK Embassy in Algeria to send a delegation to establish links with the Algerian Bar Association with a view to developing projects and a relationship between the legal professions of Algeria and UK. We envisage a planning visit taking place early next year.

BHRC works closely with the Kurdish Human Rights Project (KHRP) and several of the Committee members act on the legal team taking cases to the European Court of Human Rights. We co-sponsored Noam Chomsky to speak at St. Paul's Cathedral with KHRP for its tenth anniversary. We have a strong relationship with Turkish human rights NGOs and regularly send missions and observe trials in Turkey. Fact-finding missions that have taken place over the last year have investigated internal displacement, the state of emergency and the human rights situation of the Kurds in Southeastern Turkey during the attack on Iraq. We are presently in discussion with the Attorney General as to the contribution we might be able to make to the international effort to re-build the legal infrastructure in Iraq. We sponsored an Iraqi lawyer and human rights advisor to the governing council to speak at the Bar Conference. We will be working with her to assist with human rights training in Iraq.

We will send a delegation to Iran that aims to increase understanding of certain aspects of the UK legal system amongst the Iranian legal sector through training in the form of workshops, lectures and seminars. It will enable links to be established between the UK and the Iranian judiciary and Bar Association with a view to future support of Iranian judges and lawyers and further visits and training programmes. The project is sponsored by the FCO and follows on from a high level visit by the Iranian judiciary to the UK in 2002 and will provide initial training on matters that the Iranian judiciary has itself requested. It is not intended or assumed that this one project will lead to a major overhaul of the Iranian criminal system, but rather that it is one step in a process to increase the awareness and understanding of a different type of criminal legal system. It focuses on strengthening our relationship with the Iranian legal sector.

BHRC has met with FCO sponsored delegations from Kuwait and the UAE to discuss human rights training for judges and lawyers in the Gulf. We have worked with Bahraini organisations and intend to send a fact-finding mission to Bahrain in the near future.

Russia and the Former Soviet Union

The Committee has maintained a consistent interest in this region since its inception, and its members have participated in a wide range of activities. The European Commission has granted funding for a joint BHRC and London Metropolitan University project "Strengthening the Capacity of Men and Women in Russia to Bring Cases to the European Court of Human Rights". The European Human Rights Advocacy Centre (EHRAC) has been established within the Research Institute of Human Rights and Social Justice at the University to carry out this project which will assist individuals, lawyers and NGOs within the Russian Federation to take human rights cases to the European Court of Human Rights. The project will be based at the university and involves a manager, a bookkeeper, lawyers and backup staff in Moscow as well as field-workers in Chechnya and Ingushetia.

We have continued training and expert work on the European Convention on Human Rights, United Nations human rights standards and minority rights in Russia, Ukraine, Belarus, Kazakhstan, Tajikistan, Turkmenistan, Uzbekistan, Georgia, Armenia and Azerbaijan for the Council of Europe, the United Nations Office of the High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe and the Kurdish Human Rights Project. BHRC continues as Access to Justice and Human Rights adviser to the Department for International Development, with responsibility for projects in judicial reform, penitentiary system reform, reform of police, juvenile justice including restorative justice, and ADR in social services. BHRC sponsored a Chechen lawyer to address the Bar Conference on the Human Rights Panel and regularly sends experts to observe trials in Russia.

Other Initiatives

Much of our focus in recent years, deservedly, has been on Africa. We have built a strong partnership there with the British Council and we hope to extend that work in future years to ensure a sustained engagement with the legal community there and the opportunity to help generate real change.

We are a small profession and under funded organisation with a strong tradition of protecting civil liberties and human rights and of international pro bono work. The Bar Human Rights Committee administers all of this work on a budget of £23,000 per annum that pays the salary of one full-time Coordinator. We are provided with rent-free accommodation and access of telephones by one generous set of chambers. The work is entirely dependent on the voluntary efforts of members of the Bar who give their time generously and without complaint. We are grateful to our sponsors who support our initiatives and we are proud of a contribution that is wholly disproportionate to our size and resources.

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