
The Report of the Parliamentary Delegation on the Commonwealth Parliamentary Association Conference on Human Rights in the Modern Day Commonwealth, "Magna Carta to Commonwealth Charter," United Kingdom, February 4 to 6, 2015.

*Mr. Fitzgerald Jeffrey, MP
and
Hon. Rodger Samuel, MP*

Contents

Travel Details and Courtesies..... 2

The Theme of the Conference 3

The aim of the Conference 4

The Objectives..... 4

What is the Magna Carta? 5

 The legacy of the Magna Carta 7

Rights, Democracy and the rule of Law 9

Universal Declaration of Human Rights 12

National Law, International Law and international organizations..... 12

The Commonwealth Charter: Can it have any impact? 13

The nexus between culture and rights 15

The International Parliamentary **Conference February 3rd to 6th 2015 in** **London.**

Travel Details and Courtesies

The two delegates from Trinidad and Tobago at the London February 2015 conference were Mr. Fitzgerald M Jeffrey and the Hon. Rodger Samuel.

Mr. Fitzgerald M Jeffrey and the Hon. Rodger Samuel departed Trinidad and Tobago on Monday February 2nd 2013. They arrived in London on Tuesday February 3rd 2013 and were met by officials from the Office of the High commissioner in London. They were transported to the Park Plaza Westminster Bridge in London. The delegates were registered at the Welcome desk at St. Ermin's Hotel on Tuesday afternoon 3rd February.

The Conference took place in the United Kingdom houses of Parliament, London. The Conference venue was Portcullis House adjacent to the Palace of Westminster while plenary sessions were conducted at the Attlee Suite.

For its outward journey, the delegation departed London with the usual professional and affable assistance from the officials of the office of the High Commissioner on Friday morning (6th February 2015) and returned to Trinidad and Tobago.

Apart from Trinidad and Tobago, delegates came from Australia, India, Bangladesh, Cameroon, Ghana, Jamaica, Kenya, Maldives, Malta, Namibia, Oman, Pakistan, Samoa, Seychelles, Sri Lanka, Tanzania, United Kingdom-Guernsey, United Kingdom Jersey, Northern Ireland, Scotland, Vanuatu, South Africa, Mauritius.

The Commonwealth Scholars came from Nigeria, Cameroon, Ghana, Sierra Leone, Pakistan, India, Sri Lanka, U.K., Bangladesh, Zambia, Kenya, Cyprus, and Malawi.

The Theme of the Conference

The theme ‘**Human rights in the Modern Day Commonwealth ‘Magna Carta to Commonwealth Charter’**’.

The aim of the Conference

The aim of the conference is to encourage open exchanges between parliamentarians on the fundamental importance of human rights and the protection of these rights in law from 1215 to 2015.

The Objectives

1. To explore the development of the Magna Carta through to the Commonwealth Charter and track its constitutional journey.
2. To support the role of Parliamentarians in their responsibility to uphold the personal freedoms of citizens.
3. To encourage open and frank discussion of the differing levels of rights and freedoms across the Commonwealth and through the world.
4. To advocate for the rights-based approaches to legislation and the role of parliamentarians as advocates.
5. To consider those members of society still living without the rights afforded by Governments who follow a constitution based on the fundamentals laid down in Magna Carta.

6. Encourage discussion between Parliamentarians on a national, regional and international basis on the continued development of rights for the individual.
7. Consider examples of progressive and innovative constitutional reform, exploring both the benefits and risks involved.
8. To discuss what whether or not the Commonwealth charter has any real significance for the Commonwealth and others.
9. To encourage young people to participate in politics as advocates for human rights.

What is the Magna Carta?

The Magna Carta (Great Charter) is one of the most important legal documents in the history of democracy. This legal document was written by a group of 13th century barons (in June 1215) to protect their rights and property against a tyrannical king. It is believed that Stephen Langton, the Archbishop of Canterbury was very influential in the preparation of the said legal document.

It is concerned with many practical matters and specific grievances relevant to the feudal system under which they lived. It was signed between the barons of Medieval England and King John. It was signed (by Royal Seal) between the feudal barons and king John near Windsor

Castle. This document was a series of written promises between the king and his subjects that he, the king would govern England and deal with its people according to the Customs. It was an attempt by the barons to stop a king-in this case king John- abusing his power with the people of England suffering.

Two of the principles from the Magna Carta that still resonate up to now are:-

‘no freeman shall be taken ,imprisoned ,disseised, outlawed, banished, or in any way destroyed, nor will we proceed against or prosecute him, by the lawful judgement of his peers or by the law of the land.

‘To no one will we sell, to no one will we deny or delay, right or justice’

During the American Revolution, Magna Carta served to inspire and justify action in liberty’s defense. The colonists believed they were entitled to the same rights as Englishmen rights guaranteed in Magna Carta. They embedded those rights into the laws of their states and later into the Constitution and the Bill of rights.

The Fifth Amendment to the constitution (‘no person shall...be deprived of life ,liberty, or property, without due process of law’) is a direct

descendent of Magna Carta's guarantee of proceedings according to the law of the land.

The United Nations Declaration of Human Rights and the British Commonwealth are heavily influenced by the spirit of the Magna Carta. Fundamentally, no one is above the Rule of Law.

All 54 countries which form the British Commonwealth of Nations honours the significance of the rule of law-though some more than others. The democratic way of governance and the protection of all citizens are more or less very evident in the constitutions of all member countries.

The legacy of the Magna Carta

On Tuesday 3rd February 2015, we had our Opening lecture on the Legacy of the Magna Carta. The opening lecture was done by Rt. Hon. John Bercow MP., Speaker of the House of Commons and followed by the Rt. Hon. Baroness Scotland of Asthal and former Attorney General.

The Speaker urged the Commonwealth Parliamentarians present to take inspiration from the authors of the Magna Carta and to continue the distillation process and develop the principles of democracy outlined in the Magna Carta.

Baroness of Scotland showed that the Commonwealth is circumscribed by the rule of law and the other values from the Magna Carta. She informed the conference that the Magna Carta was a statement of aspiration to which all good government will ascribe to.

The Magna Carta has transcended the distinction between law and politics and its legacy represents a joint commitment by parliamentarians, the Courts and Monarchy to the rule of law. It proclaimed the fundamental nature of individual liberties, notwithstanding that many of the liberties it protected would not found in modern democratic states.

The due recognition for law and order as well as the protection of human rights has its genesis in the Magna Carta.

The Magna Carta played a pivotal role in the development of theories of natural rights. Indeed the spirit of Magna carta played an important role in the conception of modern human rights documents and continues to resonate through them.

We looked at the development of Parliamentary democracy and its influence in modern day legal systems whilst also exploring its relevance in the 21st Century.

Wednesday 4th February

Rights, Democracy and the rule of Law

Our first presentation featured Rights, democracy and the rule of law. Chairing this session was constitutional expert Lord Norton of Louth. He saw democracy and the rule of law as critical to any functioning democracy but recognized that upholding democracy and the rule of law can lead to conflict between the legislature and the judiciary. Lord Norton believes that in any democracy, there need to involve consensus between the governed and those who are governing.

Parliaments are among the most important institutions for accountability in any democracy . Magna Carta incorporates the principles which have greatly influenced the establishment of parliamentary democracy and the development of the legal system in the United Kingdom and around the world limiting arbitrary power, curbing the right to levy taxation without consent, holding the executive to account and obeying the rule of law. He advises that the courts and parliaments to recognize the critical role of each other and as a consequence should support each other as far as humanly possible.

As a general rule, democracy is recognized where the majority views prevail but the rights of minorities have to be protected.

Honourable Edward Garnier Q.C ., M.P. who placed both in his own situation having to be a lawyer and parliamentarian and identified three areas that are critical to protect an independent judiciary, an executive and the rule of law that acts with respect for citizen's rights and a free and open press. He encouraged the parliamentarians present to be very observant and make sure that governments do not abuse the rights of citizens and the rule of law in the name of national security.

Professor Vernon Bogdanor, an outstanding constitutional historian, linked the Magna Carta and our modern constitutions. He recognized three purposes of constitutions in modern democracies. Firstly, giving citizens a sense of purpose. Secondly, providing an organizational chart for a government and finally and very critical protecting individuals and minorities from the tyranny of the majority. He made passing reference to the unwritten constitution (unwritten common law) of the United Kingdom and those written constitutions from other jurisdiction. He opined that each that individually each nation must decide what is the best constitutional system to operate under.

In the discussion on parliamentary strengthening, Hon. Sir Malcolm Bruce M.P. referred to the findings of the International Development Select Committee's report on parliamentary strengthening, particularly the importance of parliamentarians and parliamentary staff sharing information on a global level. He noted that the international community spends twice as much time promoting elections as it does on subsequent support to the parliament once elected.

The Overseas Development Institute representative at the CPA London Conference- Ms. Alina Rocha suggested that global figures often do not see parliaments as political institutions but rather see them as technocrats - which are grave errors.

Dr. Sharmin Chaudhary M.P. and Speaker of the Bangladesh Parliament looked at the legislature and parliamentary democracy, oversight and representative roles of parliamentarians. She suggested that parliaments should always be reviewing and developing systems to overcome challenges created by globalization in such areas as protection of the environment and the existence of low lying island states whose future existence is predicated by global warming.

Universal Declaration of Human Rights

Our next session commenced with the Universal Declaration of Human Rights chaired by M.P. Virendra Sharma, Sir Nigel Rodley- Chairman of the United Nation Human Rights Committee, referred to Eleanor Roosevelt declaration that the Magna Carta as a must for all mankind with the rule of law. He showed that many states had given due recognition to the underpinnings of the Declaration in recent times.

Dr. Corinne Lennox of the Institute of Commonwealth Studies on one area in which the UNDHR is not very clear- ie- minority rights and showed ways in which it should be used to protect minority rights.

Baroness O'Neil looked at the relationship between human rights and parliamentary democracy. She listed three preconditions for democracy- ;the rule of law, order and the elementary rights of the person. She was emphatic when she said that democracy cannot exist without respecting those rights.

National Law, International Law and international organizations

Baroness Berridge, as part of a panel, examined the relationship between international law and national law as well as the role of international

organizations. She reminded the Conference of delegates that national sovereignty is a principle of international law, but so too is human rights and as a consequence must be taken together.

David Hobbs, Secretary General Parliamentary assembly of the North Atlantic Treaty Organization (NATO) explained the role played by NATO in conflicts from the period of the Cold War to recent times. He pinpointed some of the challenges faced as for example when the UN has not supported their action.

Finally, we had the very emotional presentation by Ruth Mumbi, an Amnesty international defender. She was harassed, falsely charged and abused during peaceful protests for maternal health care. She used her experience to show the wide gap between the theory of the rule of law and human rights and what is actually happening in practice.

Thursday 5th February

The Commonwealth Charter: Can it have any impact?

Hon. Hugo Swire M.P. from the United Kingdom was adamant that even though the Commonwealth Charter whose foundation is the Magna Carta

has played a pivotal part in improving the lives of Commonwealth citizens, protecting their rights, a lot more work needs to be done.

Yes, the Commonwealth Charter is an aspirational document, it will be of nuisance value if we cannot implement in our commonwealth countries.

Hon. Swire supported the plans of the Commonwealth Ministerial action Group to use their next meeting to examine countries compliance of the principles of the Commonwealth Charter.

Professor Phillip Murphy of the Institute for Commonwealth Studies expanded on the point of that the Commonwealth Charter has no ‘teeth’ to enforce compliance.

Just as the Magna Carta has had a sustained effect on democracies, so too, the Commonwealth Charter can have similar effect if there is buy in from the public in commonwealth countries.

Ms. Karen Mc Kenzie of the Commonwealth Secretariat showed ways in which the Charter is being used on a practical level in improving the protection of human rights through the Secretariat’s programmes.

In this era of changing economic circumstances ad uncertainty, new trade and economic patterns, unprecedented threats to peace and security, and

a surge in popular demand for democracy, human rights and broadened economic opportunities, the potential of and need for the Commonwealth- as a compelling force for good and as an effective network for corporation and for promoting development - has never been greater.

The delegates were then divided **into two groups to explore two specific areas of human rights abuse; Group 1: Early and forced marriage and obstruction of the right to education.** In the early and enforced marriage session, Sophie Lott of the forced marriage unit shared the unit's work as an example of how governments can seek to prevent such abuses happening. Hon. Rodger Samuel was a member of Group 1.

In the Group 2, Delphine Dorsi of Action Aid's Education for all. Programme identified the ways in which parliamentarians can act to support the rights of these children to education. Honourable Fitzgerald M Jeffrey was a member of Group 2.

The nexus between culture and rights

In the next session, the rights of minorities were discussed. Crispin Blunt M.P. chaired this session addressing conflicts between cultural values and protecting human rights.

Professor Viljoen of the Pretoria Centre for Human Rights looked at the concept of culture, which is often aligned to mean the ‘views of the majority’. He stated that any claim to ‘cultural override’ of a human right could not stand without a proportionality test and then such test must be examined in a cultural framework.

Jonathan Cooper, CEO of the Human Dignity trust pleaded with parliamentarians in the conference to use their legislative power to protect the human rights of LGBTI individuals in the 41 Commonwealth countries in which homosexuality remains illegal. He told the Conference of delegates that criminalization has a very disastrous effect on the lives of victims. They are often subjected to persecution and violence.

There was no consensus here as many countries are violently opposed to open homosexuality as it runs contrary to deep spiritual and moral values. There is a feeling that acceptance of homosexual as an approved live style is a very long way off, particularly in Africa.

Valerie Vaz M.P. reiterated that fundamental human rights cut across religion, gender, sexuality, and race and every parliamentarian has a role to represent the most vulnerable or marginalized of their constituents.

Lord Black of Brentwood chaired the next session on freedom of expression against a backdrop of last January tragic events in Paris Hon. Bruce Scott M.P. Deputy Speaker of the Australian House of Representative spoke on the model Australia uses to balance concerns over national security with respect to freedom of expression. Steve Crawshaw, representing Amnesty International, pointed out the ways in which anti-terror legislation is often hijacked by repressive regimes to stifle freedom of expression and warned parliamentarians to oppose such measures. He made the point that freedom of expression will benefit all citizens in an open and stable society.

Henry Maina Article 19's East Africa Regional Director looked at freedom of expression as a political right, incorporating the right to be informed as well as the need for transparency on the part of government. Parliamentarians as well as commonwealth Scholars were taken on a tour in the House of Lords to look at 4 original copies of the Magna Carta. These 4 copies of the Magna Carta were locked away for 800 years. This is the first time in 800 years that these 4 copies have been reunited. Lord Cormack gave us a short history of the Magna Carta in the British Library.

Finally, Hon. Angelo Farrugia M.P. Speaker of the parliament of Malta, gave his country's total support for the continued relevance of the Commonwealth as a force for good. He urged parliamentarians to

remember the principles of the Magna Carta and the Commonwealth Charter . He informed members that the CPA should continue to address human rights infringements throughout the Commonwealth. He proposed a Human Rights Council or a Commonwealth Court of Human Rights.

Because of availability of flights, we were unable to participate in the highly anticipated debate on legislating for a moral issue as well as the debate between delegates and Commonwealth Scholars.

Submitted by,

Mr. Fitzgerald M Jeffrey

Member for La Brea