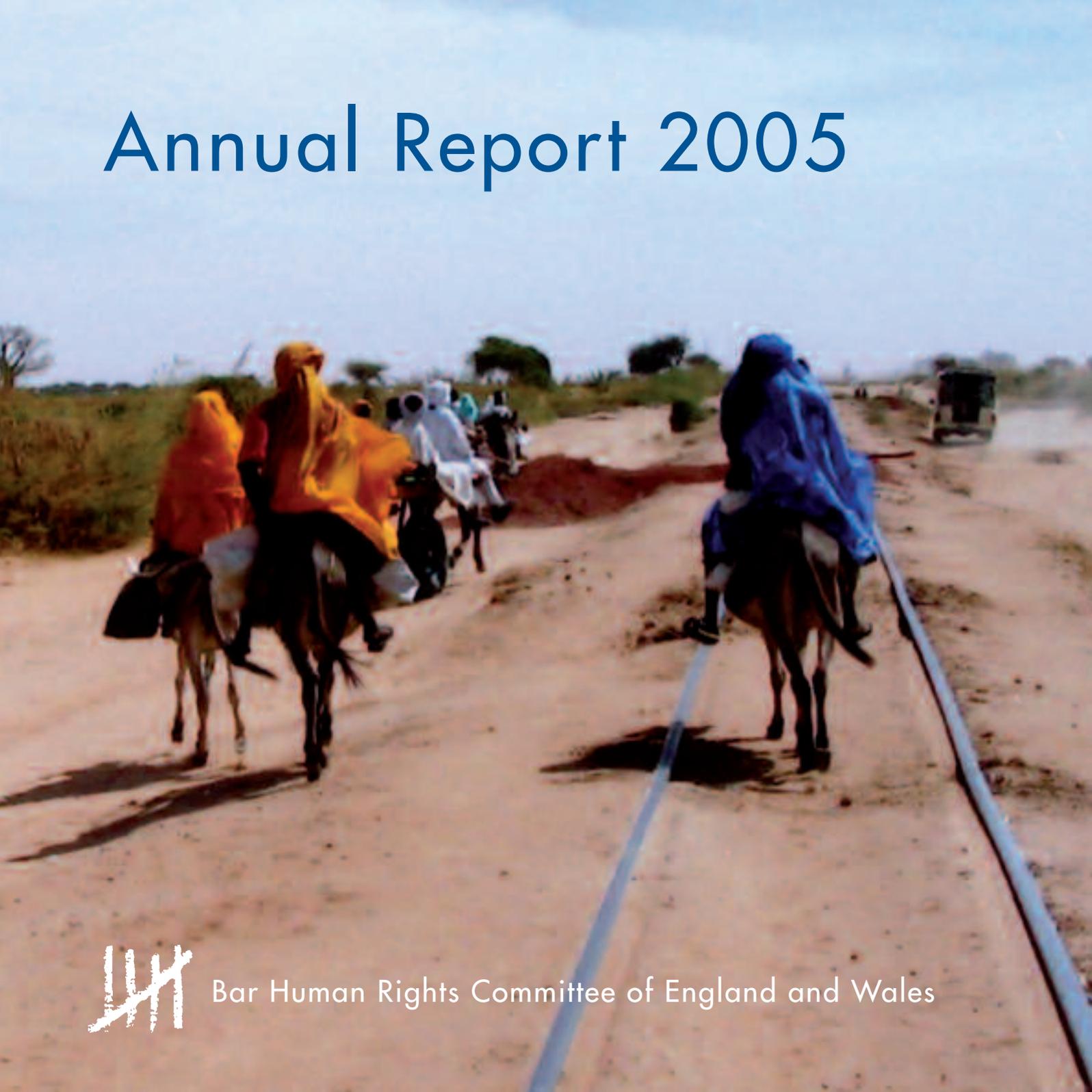


Annual Report 2005



Bar Human Rights Committee of England and Wales



Chairman's Foreword

2005 was another important year for both human rights and the work of the Bar Human Rights Committee. It was a year dominated by controversies surrounding the so-called "War on Terror" in which some of the most basic international human rights standards were called into question. It began with further harrowing accounts of life in Iraq and conditions of detention in US facilities at Guantanamo Bay, Abu Ghraib and Bagram. Huge concern was also expressed about the alleged "outsourcing of torture" and the practice known as "extraordinary rendition." In the UK, debate raged about the Government's anti-terror strategy and how to properly balance rights and security. Yet the year also witnessed another set of groundbreaking judgments by the House of Lords that reaffirmed the centrality of human rights, from the absolute nature of the legal prohibition against torture and the fruits of its use to the dangers of prolonged detention without trial. As retiring BHRC Chairman, Peter Carter QC, rightly reminds us in his personal concluding remarks at the end of this report, this Committee and its members have made a significant contribution in the fight to uphold the rule of law and respect for fundamental rights both at home and abroad. The recently lodged amicus brief in the case of *Hamdan v Rumsfeld* in the US Supreme Court, challenging attempts to remove the right of Guantanamo detainees to apply for habeas corpus in the federal courts is just one of the most recent examples of the Committee's work in this regard.

Yet despite these controversies and atrocities, 2005 was also a year of renewed hope that witnessed the emergence of international initiatives on poverty reduction, debt relief and greater investment in Africa. It is perhaps too early to judge whether the programme of the Africa Commission, launched so passionately by Sir Bob Geldof at the BHRC's biennial lecture at St Paul's Cathedral, will result in fundamental change for the ordinary people of Africa. However, few can doubt the sense of focus it gave both civil society and Western governments alike. 2005 saw the Committee implement one of the largest library resources and legal training initiatives ever undertaken across the African

continent. I believe the work of Andrew Hall QC and his team has made an enduring contribution to good governance and respect for the rule of law throughout Africa.

Yet Africa was by no means the whole story for 2005. Throughout the year the Committee worked tirelessly to secure its basic mandate by defending the rights of judges, human rights lawyers and activists who have come under attack, from Zimbabwe to Afghanistan to China. These activities continued to be supplemented by international judicial training courses, fact-finding missions, and international trial observations. On a broader level, the Committee was involved in numerous other international campaigns, from its traditional death penalty work to ensuring that Turkey fully complies with its human rights obligations under the EU accession process through the its membership of the EU-Turkey Civic Commission on Accession.

But perhaps the most significant expansion of the Committee's work in 2005 came through its efforts in the field of fragile state and post conflict justice reconstruction. Over the course of the last year the Committee has developed legal capacity building programmes in some of the most war torn countries of the world. The BHRC is now committed to rolling out innovative programmes with partner organisations in Palestine, Afghanistan, Sudan and Iraq throughout the course of 2006. Other new programmes for 2006 include a renewed and sustained effort to engage with Islamic communities across the world and the development of an international NGO defence unit to protect those bona fide organisations that have recently come under attack from authoritarian governments who oppose the efforts of civil society to entrench democracy and the rule of law in their countries.

To this end I have pleasure in announcing the creation of a number of new BHRC units that we hope will underpin the Committee's work in these crucial areas. These units include a new Post Conflict Legal Reconstruction Unit, an Islamic



Mark Muller, Kurdish village, Turkey

Engagement Unit, and an NGO Protection Unit led by Professor Bill Bowring. I have also asked our new Vice-Chair, Tim Otty, to set up an International Advocacy Unit to deepen our involvement in international litigation that entrenches the rule of law and protects fundamental rights. All these units will be supported by a revamped and proactive Media Liaison Unit dedicated to enhancing public awareness of both the Committee's traditional and new areas of work.

The Committee would like to pay homage to the work of both the outgoing Chairman, Peter Carter QC, and the BHRC Project Coordinator, Jennifer Geen, who have been instrumental in developing and securing the funding for many of these new projects. Peter Carter's remarks at the conclusion of this report demonstrate his remarkable commitment to ensuring justice for all. I would also like to take this opportunity to thank all those members of the Committee who

have given their time free of charge to make such a vital contribution to the protection and promotion of human rights across the globe.

Finally, no one should be in any doubt that the work of the Committee would not be possible without the annual grant from the Bar Council and the contribution of other major funders. We salute their financial commitment to our work. Yet, if we are to continue to maintain and expand our activities we also need your continued support and donations. I believe 2006 will be another vital year for both human rights and the work of this Committee and we urge you to get involved in any way you can.

The Committee thanks you for taking the time to find out about our important work and for any contribution that you feel able to make.

The Organisation

BHRC is a Committee of independent practitioners, legal academics and lawyers in Government service in the United Kingdom, founded in 1991 and based in London. BHRC is dedicated to protecting the human rights of people around the world and has an internationally respected reputation for independence, integrity and professional skill. BHRC offers a pool of specialist advocates and experts who play a leading role in the development of law and human rights protection worldwide.

The geographical remit of BHRC extends to all countries apart from England and Wales, in order to maintain our role as independent and highly qualified observer, critic and advisor with internationally accepted principles of the rule of law formulating the basis of our activities.

Aims

- To support and protect practising lawyers and judges who are threatened or oppressed in their work.
- To uphold the rule of law and internationally recognised human rights standards.
- To further interest in and knowledge of human rights and the laws relating to human rights.

- To advise, support and co-operate with other organisations and individuals working for human rights.
- To advise the Bar Council of England and Wales in connection with any human rights issue.

Methods

- Conducting international fact-finding investigations, trial observations and feasibility studies and reporting on human rights situations.
- Implementing capacity building projects through training in advocacy, human rights and humanitarian law.
- Providing legal resources that help strengthen institutions which have a direct impact on the promotion and protection of human rights and the rule of law.
- Monitoring human rights abuses and raising awareness of the plight of victims of human rights violations through the media and public meetings.
- Liaising with governmental and independent non-governmental organisations working in the same field and co-operating with judges, lawyers, academics, civil society activists and others concerned with human rights.
- Assisting individuals and groups to challenge governments and those holding power to end abusive practices and to respect international human rights law.

Africa



Delivery of books for libraries, Yaoundé, Cameroon

BHRC has been asked to participate in discussions led by the Attorney General and his office with respect to co-ordinating initiatives focussed on the rule of law, human rights and good governance in Africa. Other members of the group include representatives of the Bar Council of England and Wales, the Department for Constitutional Affairs, the Department for International Development, the Foreign and Commonwealth Office and the Law Society of England and Wales.

We have proposals for a number of programmes which could be delivered by the UK Bar and Judiciary – together with local partners - in a way that would provide a

sustainable legacy in terms of access to and the quality of justice. These ideas emerge from ongoing discussions with the professions and human rights NGOs in Africa and include:

- Programmes of advocacy skills training to enhance the professional standards, skills and ethical approach of lawyers prosecuting and defending in the courts. This contains a strong element of “training the trainers” in the hope that local professional bodies will continue training young lawyers in future years, applying the skills and techniques they have derived from our workshops.
- The establishment of a Pan-African Lawyers Website to provide a portal to current international and comparative sources of law, and to provide a vehicle for the publishing of local laws and materials.
- Assistance to strengthen and support the effective management of legal professional bodies, to drive up the ethical and professional standards of practicing lawyers, and to encourage them to facilitate pro bono advice and representation schemes by establishing legal aid clinics.
- Human rights training for the judiciary, police, lawyers and relevant human rights NGOs, to equip them to apply internationally accepted human rights standards and to make effective use of the courts and regional tribunals to challenge unlawful practices and abuses.

BHRC welcomes the Attorney General’s initiative and looks forward to pursuing discussions on ways in which we can assist with capacity building initiatives in Africa, together with the Commission on Africa and other government departments.

Our joint project with the British Institute of International and Comparative Law (BIICL) on *Legal Tools for Commonwealth Africa: Application of the Death Penalty in Commonwealth Africa* culminated this year in the production of a Human

Rights Manual and Sourcebook for Africa and CD-Rom. The Manual and CD-Rom have thus far been distributed in Botswana, Ghana, South Africa, Sudan, Uganda and Zimbabwe. All the objectives for this project were met and included:

- To compile relevant legal materials on the death penalty in each of the 13 countries into one publication (Botswana, Cameroon, Ghana, Kenya, Lesotho, Malawi, Nigeria, Sierra Leone, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe);
- To strengthen knowledge and awareness regarding the application of the death penalty among legal professionals (defence lawyers, prosecutors, judges, NGOs, Ministries of Justice and other departments);
- To strengthen networks of lawyers representing people on death row or working within the criminal justice system; and
- To strengthen human rights values within the legal system.

We have continued to develop and manage legal capacity building projects independently and with partners throughout Africa this year, in countries including Cameroon, Kenya, Malawi and Sudan.

Cameroon

BHRC conducted a scoping visit to Cameroon in June 2004 which identified a number of ways in which we could provide support to members of the legal profession. We developed a joint project with the British Council and Lawyers' Rights Watch Canada (LRWC) which involved the establishment of three law libraries comprising over 10,000 books and 75 computers, training in research methods and international human rights and humanitarian law, and another week of advocacy training.



Delivery of books for libraries, Yaoundé, Cameroon

Library Resources

In February we launched the project at an exhibition at the British Council in Yaoundé in which a selection of the books and computers were displayed. We set up the libraries and delivered training on the use of digital texts and the internet for research to over 50 lawyers and students. The various resources we had installed on the computers include: Crime Desktop, All England Law Reports, Civil Court Practice and Human Rights Digest. After the training in Yaoundé we set up the other main library at the offices of the British Council in Bamenda, where we delivered the same training to 30 lawyers. A third party took responsibility for setting up the library in Douala. We have received very positive feedback from the trainees, some of whom had never used a computer before and all of whom were grateful for the opportunity to

have access to comparative legal materials both online and through the digital texts.

One of the most useful aspects of this part of the project is the extraordinary number of books and computers that we have been able to deliver to Cameroon. We had multiple copies of valuable common law materials - far more than was required to set up three main libraries. In addition to libraries in Yaoundé, Bamenda and Douala, we were also able to set up smaller resource centres with books and computers in the Ministry of Justice, the National Commission for Human Rights and Freedoms, ENAM (the school for magistrates) and the National Police Training School, as well as to offer texts and computers to individual lawyers and NGOs for their offices.

International Human Rights Training

We delivered training in international human rights and humanitarian law in Yaoundé in March, in partnership with LRWC who provided francophone experts to discuss issues surrounding the rule of law in a bilingual country. The combination of lectures and interactive exercises proved to be a successful forum for NGO activists and lawyers to discuss serious issues of human rights abuses with authorities and decision makers within the Ministry of Justice. Representatives from the Ministry of Justice, the Police School, National Security, National Commission for Human Rights and Freedoms, Penitentiary Administration, the Bar Association and various NGOs attended the training.

We have been asked to hold workshops in other provinces focusing on more specific issues such as Fair Trial, Right to Life, Torture, Corruption, and Conditions of Detention and to tailor training specifically for the police and prison administration officials. We had the opportunity to visit a prison in Yaoundé to assess ways in which we could follow up our programme with police and prison administration training.

Advocacy Training

A three day Advocacy Development Course was run in June in Bamenda, in the heart of the two Anglophone provinces. The purpose of the course was to support advocacy development within the Cameroon Bar by providing a structured introduction to key elements of advocacy and to methods of improvement that have proved successful in other jurisdictions. Within that context we sought to promote the importance of ethical practice and respect for human rights issues in all aspects of the law.

Some 40 members of the local Bar and Judiciary, and one minister of religion, attended the course. We were particularly encouraged that it provided an opportunity for members of the Bar and the career magistracy to meet and discuss issues of mutual concern, both informally and through organized activities. It was apparent that this aspect was particularly valued by the two groups, who seldom meet other than in Court. We were also pleased that, through the medium of the course, the minority of lawyers practicing in the Common Law tradition felt supported in their work.

Kenya

BHRC led a judicial Colloquium with BIICL in Lake Naivasha in April as part of the *Legal Tools for Commonwealth Africa* project. 18 judges attended the training, including the Chief Justice of Lesotho. A “train the trainers” approach was used to enable participants to develop similar colloquiums in their respective countries. Some judges have relayed the information to their jurisdictions, for which the Training Manual provided an added support tool. Feedback from the judges clearly indicated that the colloquium, the first of its kind on the death penalty in Commonwealth Africa, achieved its objectives with very significant success. The standing and expertise of participants was extremely high and much work was done throughout the Colloquium to share experiences and perspectives and to develop an original procedure for

incorporating international law into domestic courts. The judges have continued to circulate their decisions through an email network established during the training and are discussing the methodology they are using to incorporate international law into their judgments.

Malawi

BHRC continued to support Malawi by shipping out thousands of books for the legal profession. We no longer collect second hand legal texts to send to Commonwealth countries since the establishment of a dedicated charity, International Law Book Facility (ILBF), which is mandated to facilitate the donation of recent editions of legal textbooks to recipients overseas who are in desperate need of them.

Nigeria

BHRC has been approached by the British Council in Nigeria to assist with the Security, Justice and Growth (SJG) Programme established in July 2004. The SJG Programme has established an internet facility at the Bwari campus of the Nigerian Law School, consisting of 20 computers with internet connection and is in the process of setting up similar facilities in the 3 other law school campuses (Lagos, Enugu and Kano). Now that law texts and law reports are available on CD-Rom and via the internet, BHRC has been asked to develop IT and internet research skills in staff and students as well as to include some element of this in the law school curriculum. BHRC is planning to train law lecturers in all the 4 campuses of the law school on basic IT skills in early 2006 as part of the work it is doing with the Nigerian Law School.

Sudan

Following the successful library resources and commercial law training initiatives we implemented in Sudan in 2003, BHRC developed a strong relationship with the Sudan

Organisation Against Torture (SOAT) with a view to collaborating with Sudanese lawyers to initiate dialogue and develop legal capacity building projects focusing on rule of law and human rights issues. This led to a one week training programme for Sudanese lawyers on 'Strengthening African Regional Mechanisms' in Khartoum in November, followed by a scoping visit to Nyala, South Darfur.

African Mechanisms Training

BHRC conducted a legal training workshop in partnership with SOAT, the Khartoum Centre for Human Rights and Environmental Development (KCHRED), the Redress Trust and independent experts. The workshop covered substantive law, procedure, advocacy skills and the practicalities and procedures of submitting cases to the African Commission for Human and Peoples' Rights. It also included analyses of the African Union and Special Procedures associated with the African Commission and the African Union. The training resulted in 4 cases being submitted to the African Commission during the November-December session, 2 of which were granted immediate admissibility. The other 2 require further information but are also likely to be granted admissibility.



*Amel Centre volunteers,
Kalma IDP camp, Nyala, South Darfur, Sudan*



Kalma IDP camp, Nyala, South Darfur, Sudan

Over 85 people attended the workshop, including representatives from local civil society groups, academics, legal experts, lawyers and journalists. Representatives from the Advisory Council for Human Rights, Ministry of the Interior, the British Embassy in Khartoum and the European Commission also attended.

The workshop promoted discussion and understanding of the remedies available to Sudanese lawyers working on human rights issues through domestic, regional and international avenues. Participants made the following recommendations:

- For the Government of Sudan to ratify all international human rights instruments not yet ratified and to incorporate

those standards into domestic legislation;

- For the Government of Sudan to implement the Interim Constitution, and particularly Article 27, which calls for the incorporation into domestic law all international instruments that Sudan has ratified;
- For the Government of Sudan to implement all decisions concerning Sudan that have been passed by the African Commission on Human and Peoples' Rights; and
- For civil society to form special committees to monitor and lobby for the implementation of those decisions and others issued by regional and international human rights bodies.

Scoping Visit

Following the African Mechanisms training, BHRC held intensive meetings with lawyers in Khartoum and Nyala, South Darfur, to identify ways in which we can continue to provide support and practical assistance to the Sudanese legal profession. The lawyers we met are part of the legal aid network of the KCHRED and the Amel Centre for Rehabilitation of Victims of Torture and Violence (Amel Centre) in Nyala. The main aims and objectives of the visit were to:

- Assist in developing a successful litigation strategy;
- Explore the challenges the lawyers face in bringing cases against members of the National Security Forces, Military, Police and other authorities, particularly with respect to the numerous immunity laws, decrees and acts;
- Analyse the conditions under which the lawyers operate, particularly within the Internally Displaced Person (IDP) camps;

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- Discuss regional and international mechanisms accessible for Sudanese lawyers including the African Commission, the African Union and UN/AU Special Procedures;
 - Create a dialogue between legal experts, academics, and activists between the UK and Sudan in order to identify areas for projects, co-operation and exchanges including the provision of resources; and
 - To consider with our partners and funders what scope might exist for education, training and resource provision in relation to human rights issues in Sudan.

We have developed a number of initiatives as a result of the visit which will be explored in 2006, including legal exchange visits and challenges to the constitutionality of the immunity laws.

Uganda

BHRC was contacted late in 2005 by the Ugandan Law Society with respect to the impact of recent events on the independence of the Judiciary and the rule of law. We are exploring ways in which we can provide technical assistance and advice by way of trial observations, monitoring and advising on Constitutional Petitions due to be filed in 2006.

Zimbabwe

BHRC has continued to raise the issue of maintenance of the rule of law in Zimbabwe, often acting in conjunction with the Bar Council. The Committee took a prominent role in objecting to the confiscation of passports of activists by the Zimbabwean government. The Committee plans several activities for 2006

Americas/Caribbean



Antigua and Barbuda

BHRC donated 107 boxes of legal texts to Antigua and Barbuda. The books were delivered by banana boat to the new Antigua and Barbuda Law Library and the librarian has reported that it was an extremely timely donation as the Library recently relocated to new spacious quarters in the High Court. Copies of Blackstone's were distributed to a number of judges.

Colombia

BHRC maintains a strong interest in Colombia and we are currently working with the International Bar Association on developing a judicial and legal human rights training programme for 2006. We met a number of Colombian human rights activists this year in London including, the President of CAJAR, the 'José Alvear Restrepo Lawyers' Collective in Bogotá which brings many high profile cases against agents of the Colombian State. She participated in BHRC's workshop at the Bar Conference which focused on war crimes tribunals and truth and reconciliation commissions. CAJAR's caseload is varied, involving massacres, extrajudicial killings, torture, forced disappearances, and displacements. The CAJAR lawyers face constant harassment and intimidation and the President herself has received death threats and has been shot at.

BHRC submitted an amicus brief to the Colombian Supreme Court on the Justice and Peace Law, 975/2005. The brief supported the petitions of the Comisión Colombiana de Juristas and the Movimiento de Crimenes de Estado and focused on the right to truth, the right to justice, duty to investigate and the right to reparation.

Jamaica

BHRC continued to send junior barrister volunteers to Kingston to support Jamaican lawyers undertaking death row

cases at first instance and on appeal. The project is administered through the Bar Caribbean Pro Bono Committee, a sub-committee of BHRC established in 1999 by a small group of barristers aware of the difficulties faced by local attorneys in representing defendants charged with capital murder and alert to concerns over the establishment of the Caribbean Court of Justice.

BHRC works with the Independent Jamaican Council for Human Rights, a grassroots NGO in whose offices the volunteers are based. The project received significant core funding in 2003 which enabled 4 UK barristers to assist in Jamaica over the year and permitted organization of an advocacy and human rights conference. A number of Chambers have generously contributed funds to allow the scheme to continue. The project has received positive feedback from the Jamaican Bar, judiciary, press and human rights community.

The success of the project is reflected in the ever-increasing workload of volunteers. A record number of cases have been prepared for trial and the first acquittal was granted this year. In preparing these cases the volunteers were able to identify and pursue legal and evidential points that would not have been taken were it not for their presence. There have been occasions where points raised by volunteers but not pursued at trial, for whatever reason, have enabled successful appeals to be mounted. Volunteers have also reported that their presence has had indirect beneficial effects. A number of attorneys have asked volunteers to accompany them to court when making applications, believing that judges would be less ready to dismiss those applications if aware of the attorneys' affiliation to a human rights association of the UK Bar. The scheme has developed a strong reputation for the quality of assistance provided amongst attorneys, defendants and others in the community, evident from the fact that both attorneys and defendants are approaching volunteers for assistance.



Legal Aid Centre, Kingston, Jamaica

The scheme has attracted considerable interest elsewhere in the Caribbean, particularly in Trinidad and Tobago, and we have had communications from a number of lawyers in Trinidad requesting that we extend and replicate the scheme there. It is anticipated that the project will assume even greater importance as Caribbean countries withdraw from the Privy Council and establish a Caribbean Court of Appeal.

United States of America

Representatives of BHRC submitted an amicus brief to the US Supreme Court in the case of *Hamdan v Rumsfeld et al.* The brief emphasised the centrality of the writ of habeas corpus to United Kingdom law, and noted that any legislative attempt to oust such review of detention would likely be declared unconstitutional. It advised that were it the UK, not the US which controlled the Guantanamo Bay Naval Base, the writ of habeas corpus would be available before the courts to challenge the jurisdictional propriety and fundamental fairness of detention.

In a separate brief in the cases of *Sanches-Llamas v State of Oregon* and *Bustillo v Johnson*, members of BHRC urged the Supreme Court to affirm and give effect to US obligations under the Vienna Convention in order to uphold the rule of law domestically and ensure reciprocal protection for US citizens abroad. We joined with others to insist that foreign nationals who are detained must be informed of their right to seek consular assistance.

Asia

Afghanistan

BHRC has made significant progress this year in our Access to Justice in Afghanistan project. This project aims to promote the dissemination of legal skills and knowledge to key actors in the legal sector by providing materials and legal training. We conducted a scoping visit in May to identify Afghan partners, to organise the logistics of the training programme due to take place in April 2006 and to visit libraries and universities to assess the security situation for books. The scoping mission found that there was a particular demand for training and capacity building in relation to children's and women's rights. Broader advocacy training and the building up of grassroots human rights organisations are all needed and the overall impression was that there is a huge demand for practical assistance.

We are stocking ten libraries with legal, historical and political books in Dari/Farsi, Arabic, Pashto and English. Over 8000 Dari/Farsi books from Tehran and 800 Arabic books from Damascus have been shipped to Kabul. The English books will be shipped in early 2006 and the Pashto books have been bought in Kabul. We are assisting with labels, protective materials, cataloguing and training librarians in Kabul in collaboration with other organisations



Library, Kabul, Afghanistan

including the Afghanistan Research and Evaluation Unit.

We are working in partnership with the Afghanistan Independent Human Rights Commission (AIHRC) on the legal training programme. The AIHRC has the capacity to organise such events, has good contacts in the provinces through its provincial offices, and is aware of the challenges as well as the needs and priorities involved in addressing human rights issues in the context of Afghanistan. They will be responsible for the logistics of identifying participants and arranging travel, accommodation and a venue for the training. We have developed the programme in co-operation with the AIHRC and are working on a manual that will be distributed to the participants for use during the training. It is envisaged they will implement further cascade dissemination training when they return to the provinces.

Nepal

BHRC conducted a scoping mission to Kathmandu in August to meet with the Bar Association, NGOs and the international community to pursue discussions that began in London on developing a capacity building project with the Nepalese legal profession. BHRC noted that many previous programmes of human rights training and education in Nepal have focused on the general protection of international law, rather than on how it can be used in practice. This means that human rights arguments are rarely used in courts in a persuasive way, other than as a general recitation of the rights protected.

The proposed project will ensure that lawyers in Nepal can use human rights practically to effect change. This will be done by providing the necessary resources, training in the use of them, and by providing litigation support to ensure concrete results.



The proposed project covers 3 phases:

- Provision of legal resources - there is a severe lack of basic texts on human rights and no ability to develop human rights arguments with the case law and soft law required.
- Training in practical application of human rights law and international humanitarian law - the training would initially be in Kathmandu but in the interests of sustainability could be repeated in different locations around the country. The following topics were identified: Practical application of human rights law; the UN Human Rights Committee

Optional Protocol 1; Combating Torture and the Law of Armed Conflict.

- Litigation support - we will develop links between key organisations in Nepal and law firms in the UK who will be able to provide legal research and administrative backup to the litigation on a pro bono basis.

We received encouragement from DFID and the British Embassy in Nepal in support of our proposal and will be exploring funding options in 2006.

Europe



War crimes training, Sarajevo, Bosnia and Herzegovina

Bosnia Herzegovina

A BHRC representative has continued as Director of Odsjek Krivicne Odbrane (OKO), the Criminal Defence section of the Registry of the Court of BiH, designed to offer professional support to defence advocates in order to ensure equality of arms. In 2005 OKO set up a new office separate from the Court, staffed it with local and foreign lawyers, built a website, trained 75 advocates from BiH in the relevant law for war crimes tribunals, created a system for the licensing of advocates, agreed the 'Additional Rules of Procedure' that apply to the defence and provided detailed legal advice in all the war crimes cases currently before the Court. A Bosnian lawyer working for OKO participated in BHRC's workshop at the Bar Conference. The Court has begun two trials, and has received referrals from the ICTY. There are currently 16 people in custody including 10 for conspiracy to commit genocide.

Poland

BHRC attended the annual Human Dimension Implementation Meeting (HDIM) held by the Organization for Security and Cooperation in Europe (OSCE). Hundreds of governmental and non-governmental representatives from OSCE member states discussed implementation of OSCE human dimension commitments during the two week meeting. BHRC was present for the sessions focusing on rule of law and torture and made a statement on the absolute prohibition of torture.

Turkey

BHRC has continued to closely monitor the constitutional reform process in Turkey in light of the EU Accession negotiations and has participated in fact-finding missions, trial observations and training programmes in partnership with the Kurdish Human Rights Project (KHRP).



Turkish police, Istanbul, Turkey

In March BHRC conducted training in Diyarbakir on women's rights, focusing on CEDAW, shadow reports and the Beijing Platform for Action. In May we held a training programme in Batman on 'Taking a Case to the European Court of Human Rights' and conducted a fact-finding mission in Istanbul, Diyarbakir, Dersim (Tunceli) and Batman. Our aim was to investigate the rights of certain groups involved in the protection of civil and political rights, who have faced violations of freedom of expression and association. The mission accordingly investigated the protection currently afforded to journalists, writers, artists and human rights defenders, particularly since the recent enactment of wide-ranging pro-EU reforms.

In June we sponsored a meeting in Diyarbakir on the situation of internally displaced persons and the law and on compensation for damage arising from terror and combating terror (Law 5233) together with Human Rights Watch, KHRP and the Diyarbakir Bar Association. BHRC also participated in the Second Annual Conference on EU, Turkey and the Kurds in Brussels in September.

We conducted a fact-finding mission to the Ardahan region of northeastern Turkey to investigate complaints about violations of property rights and related issues pertaining to the construction of the Baku-Tbilisi-Ceyhan pipeline. In October we followed this up with a joint fact-finding mission, trial observation and training programme on 'Taking a Case to the European Court of Human Rights' in that same region for both local lawyers and affected villagers. We observed the trial of four police officers responsible for the killing of a father and son aged 12 and the fact-finding mission concentrated on taking statements from relatives and friends of persons killed by the security forces in 1993 during a demonstration in Digor, northeastern Turkey.

In December a BHRC representative observed the trial of leading Turkish novelist Orhan Pamuk, who is charged with "denigrating Turkishness" for remarks he made to a Swiss newspaper about the death of Armenians and Kurds in Turkey. This was Turkey's most important test of free speech for years and the judge adjourned the trial until February 2006, shifting the onus to decide whether or not to prosecute Pamuk onto the Turkish government. The case was subsequently dropped after the EU said it raised questions about Ankara's commitment to free speech.



Conference on Kurds, Turkey and the EU, European Parliament, Brussels, Belgium

Middle East



Barrier, Qalandia, Israel and the Occupied Palestinian Territories

Iraq

A BHRC member is based in Basra working as a Justice Advisor and among his duties are analysing and identifying justice and security sector reform initiatives. BHRC has been in discussions with government about providing training for visiting Iraqi judges, lawyers and police in 2006. A participant in the BHRC workshop has been involved with training Iraqi judges, prosecutors and defence lawyers on the war crimes statute that provides the legal basis for the Iraqi Special Tribunal. This training focused on human rights law and international humanitarian law. We are collaborating with KHRP on initiatives focusing on the Kurds in Northern Iraq and intend to conduct training in 2006.

Israel/Palestine

In January 2005, the Israeli High Court considered a petition for an injunction to stop the Israeli State's "targeted

prevention" policy of deliberately killing Palestinians believed to have taken part in hostilities or belonging to militant groups. At the request of the petitioners, the Public Committee Against Torture in Israel (PCATI), a member of the BHRC attended the hearing. During his visit, he met Israeli and Palestinian lawyers and human rights activists. He also visited a section of the "barrier" being constructed by Israel in the Occupied Palestinian Territories.

A variety of different methods have been used in the Israeli operations. These include sniper fire, helicopter launched missiles, bombs dropped from warplanes, tank fire and explosive devices planted in cars and telephone boxes. According to PCATI, hundreds of intended targets have been killed in addition to hundreds of bystanders who have also been killed or seriously injured.

PCATI argues that in accordance with the Fourth Geneva Convention, which applies because of Israel's occupation of



Bosra, Syria

the Palestinian Territories, such individuals are civilians and are therefore “protected persons” who cannot be attacked unless they take a “direct part in hostilities”. In response, the government relies on a very wide definition of “direct participation in hostilities” and argues that the individuals are legitimate targets under international humanitarian law.

After hearing brief submissions, the High Court stayed the petition because Israel had agreed not to carry out any further operations pursuant to the Sharm el Sheikh agreement. Following the renewal of the policy, a new hearing was held on 11 December 2005 and judgment is expected shortly.

BHRC has been granted funding for a project in 2006 to train Palestinian lawyers in international human rights and humanitarian law, evidence gathering and documentation. The purpose of the project is to strengthen the capacity of Palestinian lawyers, judges and activists to identify and document violations of human rights and to prepare effective cases for domestic and international mechanisms, to identify through a survey of the laws and procedures in force, the recognition given by the law in force to human rights and the

possibilities for legal action against any violation of these and to take test cases through the local court system.

The project will include a scoping visit in February to identify partner organisations and to begin planning for a one-week training programme on international human rights and humanitarian law, mechanisms and remedies, highlighting their applicability to the Occupied Palestinian Territories (OPTs), due to take place in Ramallah in April 2006. BHRC will also be producing a handbook setting out a procedure for preparing complaints about human rights abuses. We are establishing volunteer placements for English barristers to work in the OPTs with members of the Palestinian Bar, to record human rights violations and to strengthen the capacity of Palestinian lawyers to represent victims of human rights violations through the domestic court system.

BHRC met with President Aharon Barak of the Israeli Supreme Court during a recent speaking tour in London and discussed various cases currently before the Supreme Court as well as general human rights issues in Israel and the OPTs.

Jordan

In June, a joint BHRC/KHRP delegation was sent to Amman with the intention of going to Northern Iraq to conduct training on women’s rights and the new Iraqi constitution, CEDAW and shadow reports and the Beijing Platform for Action. Unfortunately the closure of Baghdad Airport meant that they were unable to go to Iraq and instead attended a conference on the role of women in drafting the Iraqi Constitution which brought together members of the Iraqi National Assembly, including members of the Constitutional Committee, Iraqi civil society leaders and women’s rights advocates. The mission met with civil society activists from Iraqi Kurdistan to discuss the importance of engaging with international bodies, and the difficulties which women and civil society organisations in Northern Iraq face when trying to utilise the mechanisms available.



Qalandia checkpoint, Israel and the Occupied Palestinian Territories

Syria

Following a scoping visit to Damascus in December 2004 in partnership with the British Council, BHRC implemented a number of training programmes in Syria in 2005. In March we sent a delegation to train on international humanitarian law with a focus on the International Criminal Court (ICC). The workshop introduced public international law, international criminal law, the history of international criminal tribunals and explored serious crimes within the jurisdiction of the ICC.

One of the issues we were invited to consider during the scoping visit was how Syrian law could be developed to assist the establishment of NGOs and civil society. We analysed amendments to the Association Law No.93 of 1958 and identified administrative and legal challenges. We followed this up by sending a BHRC representative to participate in a workshop organised by the Syrian Commission for Family Affairs in March, on reviewing the Syrian Association Law. He presented a paper on the legal framework within which NGOs operate in the UK and highlighted the differences in the legal framework between the common law and civil law jurisdictions. Concluding observations recommended the need for the promotion and protection of the right to freedom of association in practical

and effective means in order to encourage a vibrant civil society.

In April another delegation provided training on 'Protecting the Rights of Women and Children Using International Human Rights Standards'. This workshop introduced sources of human rights law, regional inter-governmental human rights mechanisms, discrimination, equality and violence against women. Discussions were held with reference to the existence of numerous laws which aim to protect women's rights and problems of enforcement mechanisms.

BHRC has ordered a supply of comparative law materials for libraries in strategic locations, including the Faculty of Law at Damascus University. We will be conducting two workshops in early 2006 focusing on international commercial law and UN conventions regarding arrest, trial and imprisonment of vulnerable people. We are in negotiations over funding for a major 3-year initiative focusing on support for the rule of law that will contribute to legal capacity building by increasing awareness of international legislation and practice, international law, domestic law and other comparative jurisprudence among key individuals in the legal sector - lawyers, prosecutors, judges, academics, civil society/human rights activists.

Proposed activities include young lawyer exchanges, in-country training for legal professionals, a professional development tour for senior Syrian legal professionals, advocacy training and roundtable discussions led by BHRC and attended by senior government and active non-government persons to discuss issues pertaining to human rights infringements. It is envisaged that this project will create a wide group of legal professionals within Syria who understand and can implement international human rights standards within their local judicial system, supporting opportunities and reforms encouraged by the EU Association Agreement. This group of people can then further encourage and facilitate the reform process.

Russia and the former Soviet Union



EHRAC training group, Moscow, Russia

Armenia

BHRC and KHRP conducted training in Armenia in May and October 2005 on Article 41 of the European Convention on Human Rights (ECHR) and on building awareness of remedies available under the ECHR system. After the training we met with applicants in Yerevan to gather further information about their cases before the European Court of Human Rights (ECtHR) and about the current human rights situation in the region.

Azerbaijan

In July a BHRC expert was instructed on a pro bono basis to investigate the circumstances of a British national recently sentenced to 12 years imprisonment.

Georgia

In October a BHRC representative acted as an expert for the Council of Europe Round Table on the European Languages Charter, and in November a BHRC representative conducted

training in Tbilisi on the ECHR, on behalf of the Council of Europe for Parliamentary Ombudsmen.

Moldova

In December a BHRC representative conducted training for human rights lawyers for the European Centre for Minority Issues (ECMI) in Chisinau.

Russia

BHRC's partnership with the European Human Rights Advocacy Centre (EHRAC), based at London Metropolitan University, continues. EHRAC is mandated with assisting individuals, lawyers and NGOs within the Russian Federation in taking cases to the ECtHR. EHRAC is working to develop a sustainable network of linked NGOs within the Russian Federation to provide ongoing support for victims of human rights violations. Activities include training on various aspects of human rights law and procedure as well as dissemination of training materials to participants and the wider human rights community in Russia.

In February a BHRC representative was a judge at the Russian National Round for the Philip C. Jessup International Law Moot Court Competition. He also acted as an expert on Russian law in two extradition cases in the UK in March and October. In June BHRC collaborated with Front Line, the International Foundation for the Protection of Human Rights Defenders to send a fact-finding investigation to Nizhnii Novgorod to investigate the situation concerning the actions of state bodies in relation to the Russian-Chechen Friendship Society and Nizhnii Novgorod Society for Human Rights.

In September BHRC conducted training together with EHRAC and Memorial, a Moscow based NGO, on Strategic Litigation using ECHR rights. A BHRC expert was a guest lecturer at Moscow State University and gave a presentation

to over 100 students on 'The Theory of Human Rights'. He represented the Council of Europe in Abakan, Republic of Khaskassia, at the International Conference on 'Siberian Indigenous Languages and Cultures in a Changing Russia' and presented a paper on the status of the European Charter for Regional or Minority Languages which included commentary on current signatures and ratifications, countries recently monitored and the results of that monitoring.

In October BHRC sent a trial observer to Nizhnii Tagil to observe a judicial hearing within Corrective Colony No.13,

the hearing of Mikhail Trepashkin's renewed application for release on parole. On returning to observe trials in Nizhnii Novgorod in November, however, he was refused entry to Russia and then deported. We are currently pursuing this through diplomatic avenues and requesting explanation of the deportation.

Ukraine

BHRC sent a representative to Kyiv in October to act as an expert for the Council of Europe at a Round Table meeting on the draft Law on National-Cultural Autonomy.

Outgoing Chairman's Concluding Remarks



Peter Carter QC, Lake Naivasha, Kenya

How strange that a humanitarian organization should seem to be subject to a type of market economics. The projects we have carried out in the last few years have led to more and more requests for our assistance. Has the world taken a turn for the better or for the worse? It's hard to tell. There have been developments on both sides of the equation. The war on terror is an absurd concept. For those caught up in terror – either as victims of terrorist atrocities or as victims of executive power flexing its muscles in defiance of internationally recognized principles of legality – it is terrifying. One of the principal reasons why an acceptable international definition of terrorism has been so hard to achieve is because any definition puts many states in the dock.

Guantanamo Bay would be a blot on any state claiming to promote democratic values. We know, or at least can have some slight insight, into what must be the constant torment of imprisonment with no prospect of justice, and less of release. And this despite the ruling of the Supreme Court in *Rasul v. Bush* to which members of our committee contributed by way

of amicus briefs. Our statesmen rightly condemn terrorists who kidnap people. We can do no less when the perpetrators are the most powerful of states.

Despite the worthy utterances at Gleneagles during the G8 summit, words are slow to turn into effective action on poverty and the misery that haunts Africa. We have been involved in Africa for several years, and will continue to be involved, helping those many people in different states who seek access to constitutional government, free of corruption, amenable to legal reason and susceptible to arguments based upon international human rights law. We do not exist simply to empower lawyers in the techniques of using human rights law. But it is often true that by training lawyers (including judges) the message is brought to the community. Sometimes, as in Zimbabwe, practicing lawyers and judges are most at risk and need whatever support we can deliver without making their plight even worse.

As this annual report demonstrates, our activities span many continents. Are we too optimistic to think that we can effect some change for the better in Sudan, Turkey, Syria, Afghanistan, and Palestine? Even if we are, we will try. The fact is we are asked for help by representatives of reforming arms of those states and by NGOs within them and we believe that we can make a difference. My experience in Africa and the Caribbean this year has led me to believe that human rights training is welcomed by those who undertake it. It promotes greater understanding of the often competing interests that confront post-conflict states and states where resources are scarce. It also helps us to realise that there is no quick solution, and those politicians who claim there is are fools or charlatans.

The International Criminal Court is moving into action. It will no doubt be slow and spasmodic, given its purely residual jurisdiction. But it sets an important tone for international justice. Another positive move is the increasing interest, particularly by our own Foreign Office, in creating real

programmes to create or reinvigorate systems of justice in post-conflict states. Doing so has led them to recognise that it is far better if a state can be prevented from falling apart in the first place – but that is a formidable task. It is gratifying that BHRC has been involved in such major policy moves and is regarded as having an important role to play.

I am now stepping down as Chairman after three years. I was daunted by the task I took on three years ago and I was right to be so. I'm not sure I can claim to have achieved anything. I think my greatest contribution to this Committee has been to let others get on with what they have done so magnificently. They are people of enormous principle and courage. It has been the most enjoyable three years of my time at the Bar. I wish the new Chairman, Mark Muller, every success. I know he has the complete support of the Committee and vice versa. It can only go from strength to strength.

I am very grateful to all the Committee, but particularly the Executive, for making my time so rewarding and for bringing hope and the prospects of justice to places where they must have seemed remote. My enduring gratitude goes to Jennifer Geen, our Project Co-ordinator, who is simply magnificent and humbles us all with her intelligent enthusiasm.

Thanks also to the Bar Council who have been consistently supportive. Without their backing we could not enjoy the status that the Bar of England and Wales brings to our projects. We sometimes send members of the Bar to unfriendly places. The respect in which the Bar is held throughout the world is the best protection they can have. HM Government might be wise to think about that.

Peter Carter QC

Chairman / Vice Chair until 2006

Mark Muller

Chairman 2002-2005

Peter Carter QC

Vice Chair 2006

Tim Otty

Treasurer

Brendan Finucane QC

Executive Committee

Nadeem Ahmad
 Zubair Ahmad
 Michael Birnbaum QC
 Bill Bowring
 Sarah Lucy Cooper
 Rufus D'Cruz
 Alex Glassbrook
 Samantha Knights
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