VOICE FILE NAME: COHP Dr Kamal Hossain

Key:
SO: Dr Sue Onslow (Interviewer)
KH: Dr Kamal Hossain (Respondent)

SO: This is Sue Onslow talking to Dr Kamal Hossain at the Oxford and Cambridge Club in London on Monday, 8th December 2014. Sir, thank you very much indeed for agreeing to take part in the Commonwealth Oral Histories project. I wonder if you could please begin by reflecting on your view of the Commonwealth and the Commonwealth Secretary General's particular assistance at the time of international crisis, leading up to the independence of Bangladesh in 1971.

KH: Now, it was a very high profile role that the Commonwealth played. It was after the nine month military operations were over and the task of building the new state started. Recognition started to come in in early December. The military chapters were from 26 March to 16 December. On 16 December, the Pakistan forces surrendered and the process of recognition – which had already started in early December – accelerated. Sheikh Mujib, our first and founding President was in prison at the time in Pakistan, as was I. We both flew out together to London. We arrived here on, I think, 7 January 1972. That was our initial formal contact with the British government. We met Mr Edward Heath on that day. I think it was the 7th or 8th of January. Mr Harold Wilson was the Leader of the Opposition and he expressed solidarity. I don't think we met anyone from the Commonwealth in the course of that transit through London, but it was interesting that the very strong support we had received from Britain was expressed by the fact that Mr Wilson was possibly our first visitor, and Mr Heath, who was away in Chequers, came back the same evening. He received us at 10 Downing Street and was very warm. It was quite melodramatic, the way we came, because Pakistan said they would fly us out. We said we wanted a destination which was acceptable to us. The moment the possibility of London appeared, we jumped at it.

SO: Why not Delhi?

KH: Oh, yes, that's a relevant point. We wanted to go to Dhaka by the shortest possible route, but because of the hostilities that had gone on until December, Indian air space was closed for Pakistani aircraft. Now, I had said, "Alright, why don't we take a UN plane or a Red Cross plane?" And they said, "No, we want to take you on one of our planes" – Pakistan International Airlines – "and we can't fly over India, so choose some destination which would be acceptable." We said, "Any neutral country will be fine." The moment the possibility of London was presented, we just seized it and said that would be best, because many people who come out of exile to participate in the diplomatic efforts in support of Bangladesh were resident there, including the person who became our President.

SO: In deciding to come to London, had you made prior contacts with the British government?

KH: The melodramatic part comes in there if you are to consider how we came out of prison, and when Mr [Zulfikar Ali] Bhutto came to see Sheikh Mujib. That is the humorous part of it. When he came to this place where Sheikh Mujib was in detention, Sheikh Mujib said, "Have you been brought here in detention as well?" He said, "No, I'm the President." He said, "But how could you be? I got twice the number of seats in the central Parliament. How could you…?" He said, "Oh, right, you please take over the presidency." He said, "No, jokes apart, I want to get back to Bangladesh as quickly as possible." That's when this negotiation started. Oh, then he said, "I believe Kamal Hossain is also in prison somewhere, so would you arrange for him to be brought here." That's how on the 28th of December I came out of jail. I had been in for about nine months and was brought to where Sheikh Mujib was – which was a sort of guest house in the police academy, fifty miles out of Islamabad.

That's where he said, "Now look, I've arranged for us to get to Bangladesh by the quickest means possible." I was engaging with the person who was effectively the Foreign Minister, saying, "Look, we need to get to Bangladesh as quickly as possible." Then this whole issue came about we can't fly over India and so on. To cut it short, when the London possibility was presented, we immediately accepted that. Now, this was all done with very little disclosure. I think on 5 January, Mr Bhutto addressed a public meeting where he said, "Yes, it has been decided in principle that Sheikh Mujib will now return to Bangladesh," not mentioning at all the route or the means. There was a lot of suspense everywhere as to when he was coming, where he was coming from. We were then briefed that the plane from Pakistan would take off and only when it was approaching London – say, one or two hours before actually landing – a message would be given from the air to the British authorities, the British government.

SO: Ah, so they had very short notice; very little warning.

KH: That's right. That's why I was said it was quite dramatic. When we landed, it was quite moving, because we were then being directed to the VIP area and the British bobby on duty – all of 6ft tall – took a step forward and told Sheikh

Mujib, “Sir, we are very happy to see you. We have been praying for you.” It was so moving.

SO: That just took my words away, listening to you saying that.

KH: It was so moving to have someone who is normally otherwise statuesque expressing that kind of emotion. Then, when we stepped in, there was an announcement: “Is Sheikh Mujib here? Sheikh Mujibur Rahman? Would someone see if he is there? There’s a phone call for him.” So, I was asked to take the phone call. The voice at the other end said, “I’m Iain Sutherland from the Foreign Office.” Now, he’s someone I had met in Dhaka. He subsequently became Sir Iain Sutherland, Ambassador to the Soviet Union. I think he became a very senior person in the Foreign Office in due course. At that stage, I had known him because he had come to Dhaka early in 1971. When I said, “I’m Kamal Hossain,” he said, “Do you remember me? I had come to Dhaka in February.” I said, “Yes, I remember. I don’t know if you remember me?” He said, “Yes, I do remember you. Is Sheikh Mujib really here?” I said, “Yes, we are. This was the arrangement – this announcement that you would be informed a couple of hours before the plane,” and I said, “That’s exactly what happened.” Then he said, “We weren’t sure whether it was a practical joke or not. I mean, he is really here?” I said, “Yes, he’s really here.” He said, “Well, that’s a relief to hear that. I had made contingency arrangements. I have asked for a car to come which would enable me to reach the airport in about 40 minutes or so. I’m to inform you that the British government will be receiving Sheikh Mujib as the head of government and as head of state, and all protocol will be observed. I’m coming out personally to convey this to him and we’ll take it from there.” I immediately mentioned it to Sheikh Mujib and he said, “Tell them we want to contact our people here.”

The person who was effectively heading our whole diplomatic campaign was Justice Abu Sayeed Chowdhury, who was a judge of the High Court of the then-East Pakistan and also Vice Chancellor of the University of Dhaka. Interestingly, he had come for a Commonwealth conference. Before he left for the conference – it must have been a Vice Chancellor’s conference, it was an education-related conference – I had been asked to give him a file of papers of what had gone on, the negotiations before the military operations started. The idea was for some kind of negotiated transfer of power within a constitutional arrangement which was acceptable to us.

This possibility was kept dangling, but we began to realise towards the end they were just taking time, because I think the idea was to impose a military solution. The last week I remember coming back and saying, “I think they’re killing time because there has been much talking, just to prolong the discussion.” I had said on the last day that the former Chief Justice was negotiating on the other side, on the legal issues. I said, “Why are we losing so much time? The situation is getting more and more tense. Violent eruptions could begin.” The former Chief Justice said, “Well, when do you think we should do it?” I said, “We should have done it the day before yesterday, and completed the process.” This was 24 March, and we said, “Let’s meet tomorrow, on the 25th.” I said, “Let’s meet over breakfast and finalise the text and place it before the President and Sheikh Mujib.” He

showed an indication to agree, but the general who was participating was the President's military secretary and said, "No, we'll inform Kamal Hossain on the telephone if we can sit tomorrow." That telephone call never came, and then I left home and Sheikh Mujib was arrested on the night of 25 March. I was arrested four days later and both of us were flown to different prisons in Pakistan. That was a bit of a flashback.

Then, coming forward, I said to the Foreign Office official, Iain Sutherland, [that] we want to contact Justice Chowdhury, who was heading our mission. Sutherland said, "Well, you see, he's already left for Dhaka." They said, "Who's the next person?" He suggested the person who was the Deputy High Commissioner: "He's here." I said, "Can we get him on the phone?" He passed on the phone number, which I called and got him. He said, "I'm also coming immediately," and I informed him that the British Foreign Office official was already here and making arrangements. Then he also arrived. The Pakistan High Commissioner came and said, "Is there anything we can do for you?" I remember Sheikh Mujib's response was, "Thank you very much; you've done enough. I'm very grateful for what you've done." "Can we do anything more?" I said, "No, you can't. There's nothing more that you can do. I mean, I'm grateful that you've brought us as far as you have."

SO: Indeed. They had just committed to fly you to London? They weren't flying you from London down to Dhaka?

KH: No, I didn't expect that. We appreciated the way the British government was receiving us, saying that Sheikh Mujib was being accorded head of state protocol [and that] the Prime Minister, Mr Heath, would be receiving him. He was making arrangements at Claridge's, which is where heads of state stay. Sheikh Mujib said, "Look, on previous visits I've always stayed in Russell Square, because it's much easier for our Bengali people to come and I'm familiar with Russell Square." The reply was, "That's the one request we cannot accommodate, because our own security for heads of state can only be provided at Claridge's." We went straight from prison to Claridge's! Of course, thousands of people started turning up. Again, Sheikh Mujib had anticipated this, and I don't think that Sir Iain had understood the Bengali urge for this kind of response that was there. The whole area in front of Claridge's was packed with people.

I was given the task of clearing the visitors. That was our first day here: I think it was 8 January 1972. Then, when we met Prime Minister Heath, that's when the British involvement became very close, because apart from the fact that it was very cordial and we knew that London was being used as a place for diplomatic mobilisation, Mr Heath said very clearly that, "Yes, we are very sympathetic to your cause. Pakistan is also a Commonwealth member and we have relations, but as far as this business of the military response to your demands [is concerned], it's something that we have not supported. We have always wanted a politically negotiated settlement. Now, at least that military part is over and we have to look ahead." We said, "Of course, we would expect recognition." He said, "Yes, in principle, you can take it that that is done. We are receiving you as a head of state. Just give us a couple of weeks because we want to coordinate with the European Union so that we

can all formally do it together." Then he said, "Is there anything else I can do? Of course, we'll help with reconstruction and rebuilding and so on."

That's where we said that, "Another thing you can do to help is to help us to fly to Bangladesh by the quickest means possible." Mr Heath said, "Yes, I think I have a couple of planes at my disposal." He turned to his secretary and said, "See what can be done." And, of course, Sheikh Mujib shared with them his eagerness to get back as quickly as possible. He said, "We're very keen to get back as quickly as possible." The Secretary came back and said, "Yes, a plane could be ready by 7:00 in the morning tomorrow." It was already 5pm in the evening. Things thus got accelerated, and the news got around. We then got requests about stopping over in Delhi on the way, and stopping over in Calcutta on the way. From Dhaka, we were being told, "You must arrive here while there's still light, because people are waiting to receive Sheikh Mujib and hear him." We worked out the timing and it was decided that we could only stop in Delhi because if we stopped in both places, we couldn't get to Dhaka before dark. It was the month of January so the days were short.

That's how we stopped in Delhi and arrived in Dhaka on 10 January. There was a huge turnout, as was expected. It was very emotional on both sides, for us arriving in what was now a completely independent Bangladesh. I remember when we left home on 25 March, 1971, we didn't expect to come back alive. It was a tremendous day: a moving experience.

As I said, the Commonwealth relationship in a way started off with this very, very strong support that was expressed by the British government. It was not only expressed on that day. We had received support and help and every possible political and diplomatic support. Indeed, allowing people to stay – receiving hundreds and thousands of people here who came and got permission to stay. Certainly, at the elite level, there were a very large number of people – professionals, business people and others – who came to London. They started coming to see us. We could see how people who could afford it made it to London and were given the facilities to stay here for that period, and to function from here. Those who had a diplomatic background, they were able to operate from here, go to New York, and to go to other capitals. That was positive support.

Then the question arose about Commonwealth membership and, of course, we said, "Yes, of course we want to be in the Commonwealth." The majority of the population of Pakistan consisted of people from Bangladesh, so that Commonwealth membership is something that we certainly assumed we would succeed to. There were questions [as to whether] we needed fresh membership, and on whether the central government would continue as members. In this case, the central government of Pakistan made it easier for the Commonwealth, and that's where the personal role of Arnold Smith, the Secretary General of the Commonwealth, is a very important footnote in our history. [Smith] went to Islamabad and tried to say, as he himself claimed, he said that, "The Commonwealth was not happy about the fact that within the Commonwealth this kind of military operation had been launched and resulted in a million casualties" – it was now recognised that war crimes had been committed. "But, let's look forward. Instead of looking backward, why don't

you accept Bangladesh as a reality, and both of you can be independent members of the Commonwealth?"

That's when Mr Bhutto resorted to what I call 'the poor man's Hallstein Doctrine'. [He said] that Pakistan would sever relations with anyone who has anything to do with Bangladesh. He took a very obdurate stance, as was his wont. He told Arnold Smith, "Well, if you have anything to do with Bangladesh, we will come out of the Commonwealth." Arnold Smith, sitting in Islamabad, went to see him with a Bangladesh tie on and said, "We are going to admit Bangladesh as a member." He said, "In that case, you realise that we will leave the Commonwealth." He said, "That's your decision." Sitting in Islamabad, to have done that showed the intensity of his support for Bangladesh. He didn't prevaricate. He didn't say, "Yes, we'll think about it." He said, "Alright, it's your decision to come out, but then we have to do which is the right thing for us."

SO: Had there been any contact between Sheikh Mujib, yourselves, and Arnold Smith about this?

KH: I have a feeling his contact would have been with Justice Chowdhury and our diplomatic people who were there. I'm sure there had been an active contact, because the fact that Arnold Smith was such an early visitor to Islamabad and took such a strong position could only have happened because he had been kept informed and his support had been sought and extended. Then, as will be evident from what I'm going to say, we began to get positive support. It was very major political support: that act of political support when, in response to Pakistan's position, "We will walk out," he said, "You may do so"… This had enormous significance for us, because the whole Pakistan approach was, as I said, this Hallstein Doctrine: "If you have anything to do with Bangladesh, we will not have relations with you." He broke relations with a number of European states on that basis and came out of the Commonwealth on that basis.

SO: Well, it was contentious for the Commonwealth, particularly in Africa, because it came relatively soon after the Biafra war.

KH: That's right. Yes, of course. Yahya Khan played that card and so on, you see. That's when I say that we really have very strong feelings about Arnold Smith. He was a real friend of Bangladesh. He was a person who made a significant contribution in the consolidation of our independence. When you emerge as a state through the process that we did, getting recognition in the international community is a challenge. Your predecessor state, their whole diplomacy, all their efforts and resources were deployed for the next year or two in going around the world saying, "Bangladesh is not entitled to recognition. Bangladesh is a creature of Indian intervention." Our diplomacy had to really take this on – both for membership of international organisations and for recognition by states. Wherever Pakistan had any influence or ability to influence decisions, we found they were very aggressively taking the position that we should not be recognised.

SO: It was not simply, then, the active advocacy of the Secretary General? It was the fact that Bangladesh was in the Commonwealth and Pakistan was outside the association?

KH: This was what I think became very important for us, because, in a way, it recognised our legitimacy. I mean, this was the whole issue, because the Pakistan effort was to argue that we were born out of a process which was illegitimate. We asserted our right of self-determination; we asserted the fact that we had come through an election. The majority of people who were elected had the right to make a constitution. They had been prevented from doing so, and therefore the only course was to, a) defend themselves against military operations, and b) to assert our right to be independent and exercise our right of self-determination. The Commonwealth's action was the most positive message, I would say, to the international community. There were twenty-two members who were accepting Bangladesh, and that included Britain, Australia, [and] Canada, which were important countries. For us, it had very great significance, getting it at that moment. We certainly responded strongly to the support that we got by saying, "We would like to reach out to the Commonwealth and seek not only material support but we want support in state building" – that is, the making of our constitution and the building of other institutions in which we could receive expert help from the Commonwealth.

SO: Sir, you did indeed need help across the board, as you say, for administration, for your civil service, for reconstruction, infrastructure, agricultural development, and health support.

KH: Oh, absolutely. For state building and the rebuilding of the devastated economy. The Commonwealth became the first international body through which we wanted to further project our needs and mobilise support. The response was very positive, particularly, as I say, in this area of constitution-making, institution-building and, as you say, administration. We faced the challenge of providing an independent state with all the institutions that it needed. We had to draw upon the experience of other states. Since we had severed relations with the central government of Pakistan, we had to reach out to others. The Commonwealth became the means through which we could reach out. For constitution-making, the support was very, very concrete. They said, "Yes, we will be happy to make advisers available." Sir Kenneth Roberts-Wray, who has been important in giving advice to many former colonial states in Africa and elsewhere, was designated as a principal adviser and a parliamentary draftsman. Mr Richard Guthrie was made available to us. On 10 April, our Constitutional Drafting Committee was established.

SO: Were you chair of the Constitutional Drafting Committee?

KH: Yes, I was the law minister in the cabinet and was entrusted with chairmanship of that committee. It was quite a challenge. First, we had to get all the members together. Fortunately for us, most of the members who had been elected to the National Assembly and the Provincial Assembly had survived. I think more than twenty or so had been killed, but out of, say, 450, I think nearly 400 or so were there. We had to draft an instrument which

would provide that the members who had been elected from the eastern wing to the central legislature in Pakistan and the provincial legislature in East Pakistan would together be the elected representatives of the people of Bangladesh, and would then start functioning as members of the constitution-making body: the Constituent Assembly of Bangladesh. That was the law for that. We were making laws by proclamation. So, the Constituent Assembly Order was promulgated. I think it must have been 10 April or shortly before that. It was on 10 April we had the basic objectives resolution saying that there were four basic principles: nationalism, democracy, socialism, and secularism. [These] would be the fundamental principles of the constitution. The Committee embarked on its work with thirty-six members.

SO: In your designation of those criteria, were you drawing directly upon a Westminster model?

KH: Well, it's very interesting, because we had been working on a new constitution of Pakistan which was to have brought about significant changes in the relation between our state government and the central government. In order to do that, of course, we were drafting a new constitution because the constitution which then existed had been promulgated under martial law. We said that this was unconstitutional. Martial law had been proclaimed, so that in 1971 there was no constitution. We had, therefore, to form a Constituent Assembly in exercise of the sovereign power of the people. A democracy, based on universal adult franchise, had become an aspiration even in early 1970, when we wanted to move away from martial law. There should be an elected body which would be elected on the basis of one person one vote – men and women. That body would then adopt a constitution. Of course, following the election in 1970, on the basis of one person, one vote we justly claimed recognition: recognition in accordance with the wishes of the people.

We had prepared a draft which was to have been presented to the National Assembly which had been elected for Pakistan. Of course, there was a full-fledged draft which we were going to place on 3 March, but on 1 March abruptly this was postponed for an indefinite period. That's what precipitated the non-violent, non-cooperation movement. Everyone said, "We will not cooperate with the central government, because they are not allowing us to participate in the Constituent Assembly and exercise our democratic rights." That constitutional draft that we had prepared had addressed all of the basic issues: democratically-elected parliament, recognition of adult franchise, regular periodic elections and the parliamentary form, a multiparty system in which the majority party would be the government with an opposition formed by those who are not part of the governing party.

SO: This was to be a unicameral democracy?

KH: Yes, it was unicameral; that's right. That's interesting, we described it as being a federal state. You might have thought at that level there might have been consideration of a bicameral arrangement, but because the issues in relation to West Pakistan were so complicated, we did not want to get tied up with them.

SO: A bicameral arrangement was potentially even more divisive?

KH: Divisive and they had no agreements. We said, "Look, what about West Pakistan? You do an exercise of your own." This was before the whole thing blew up. We said, "You work out what you want, but we don't want to get involved." [We didn't want to] hold up our constitutional work on the basis of what would be the relations between the various components of what was then West Pakistan, which is now Pakistan. These issues have not yet been resolved. That apprehension was a very genuine one – that they would not be able to work it out easily – but we would therefore not allow ourselves to get stuck in that. Therefore, we didn't go for a bicameral legislature, although that would have been quite natural in a federal system. The draft we had done was unicameral. Then we basically were able to use as a working draft what we had done, with some more improvements. We provided for a very strong local government because our whole reaction to over-centralisation had been that we had suffered and directly experienced the ill effects of centralised exercise of power. We were saying that if a working democracy meant that people are to be empowered, they must be able to exercise power and participate in exercising powers of governance through strong local institutions, which should be based on adult franchise and which should also have powers of taxation and would even have powers over the police and so on.

SO: I was going to ask, which institutions would have had responsibility for security?

KH: That was certainly what we had in mind for internal security because, in our constitution, we put in a special article, Article 59, which talked about how local government, through elected representatives, would be ensured the provisions, resources and responsibility for maintaining law and order. These are still things which remain to be achieved, but the aspiration was very clearly reflected in the constitution.

SO: What about the question of secularism?

KH: Now, that's very important. Very important. I'll send you the book I have done in which these aspects have been very carefully traced. The issue of secularism goes back to the whole political development from the 1950s. In 1947, we had Indian independence and in Pakistan there was a Constituent Assembly for Pakistan. The state really took over from the Government of India Act, so there was the eastern province of what was called East Bengal, and then for the province on the western side, Punjab, North-West Frontier, Sindh and Baluchistan. Something that needs to be understood is the whole demographic challenge: 56% of the people were from the eastern wing – Bengal. The other four provinces together comprised 44%. Punjab was the largest among them, which had more than 50% of West Pakistan's part and then Sindh, Balochistan and the North-West Frontier province.

Now, the central government of course had the army and the civil bureaucracy for exercising control over the central state. Their means of, as it were, ensuring control by a minority of the population, was to emphasise this

was a state based on religion. That's also how, of course, the demand for partition was advocated: on the basis of areas where Muslims were in the majority, that they would want to separate out and not be in a state where they would not be in the majority. That's where the partition of Bengal and the partition of Punjab arose. The majority parts were saying, "We will not be part of India. We will be part of Pakistan." You're aware of that whole history, of how religion in the lead-up to independence in 1947 was a major issue, particularly in the National Congress, while Mahatma Gandhi was saying, "We don't want to see India divided."

I don't want to get into the whole history. Let me [tell] you in a very – what shall I say – oversimplified form that the central government's whole effort to use religion as a basis for state began to be challenged very early in what was then East Bengal/East Pakistan, around the issue of state language. 56% of the people were Bengali-speaking. Mr Jinnah clearly did not appreciate how intense the people's attachment to language and culture was.

SO: You are speaking of the central government's particular emphasis on Urdu, rather than Bengali?

KH: Yes, exactly. Urdu was no one's language, actually. Urdu was the language of people in the United Provinces in India. Of course, there was a large number of migrants over from the United Provinces who became an influential section of Pakistan, but large numbers had migrated to Pakistan. They were always flying the flag of religion. "We are a state: the Islamic Republic of Pakistan." The instrumental use of religion was really unfortunate. I mean, in denying Bangla's use as the state language, they were arguing that it was not the language of Muslims. They didn't realise how this, in a way, created a deep sense of injustice – that they're denying our language, its rightful status, [and] invoking religion in a completely unacceptable way.

SO: What about the question of the new Bangladesh being a republic? Was that at all contentious? Was there any thought to other constitutional arrangements?

KH: No, it wasn't contentious. If religion was to play a role in politics, then voting was also to be on the basis of lists based on religion: separate electorates for Hindus voting for Hindus and Muslims voting for Muslims. That's the position in Pakistan even today. Now, because of this language movement, a very strong movement which grew up in 1952… A very seminal event in the history of our state building, in the emergence of our nationalism, was the 21 February 1952 firing upon of students demonstrating in support of adopting Bangla as the state language. [This is where] the movement got its first martyrs.

In 1952, the language movement started and in 1954 there was an election for the provincial legislature. There, the United Front was formed, [with] all parties opposed to the Muslim League. The Muslim League was the party which led Pakistan. This United Front put up very young candidates where, for example, a 25-year-old student challenged the chief minister. Sheikh Mujib was only in his early 30s. Young United Front candidates challenged all

senior leaders of the Muslim League. Not only that, the Muslim League was the party which led the Pakistan nationalist movement. The United Front was formed by people who were formerly students wing of the Muslim League. They came out and said, "We are forming the Awami Muslim League." *Awami* means 'people's'. "We represent ordinary people. We are Awami Muslim League, the People's Muslim League." In 1954, there was a very significant change of name to the Awami League: it is People's League, nothing to do with religion. Hindus and Muslims will all be on the same electoral list.

That was the issue: to have a joint electorate or a separate electorate. There was a decision that the election will be under a joint electorate, [with] Muslims [and] Hindus voting on the same list and the result was dramatic. The Muslim League was wiped out completely. On the number of seats, they had maybe less than 10-15% and the rest were all won by the United Front, the young people defeating all the Muslim League stalwarts. The Chief Minister's house – they said we'll take it over and we'll dedicate it to be an institution to promote the Bengali language. That is what was done. The house was named Bangla Academy and so it remains today as a major institution. The role of language in generating secular nationalism was indeed seminal. It's not against religion, but it's the assertion of your identity based on language and culture.

SO: Another of the core principles embedded in your constitution was, as you said, socialism.

KH: Yes. Now, this is interesting, because in the 1960s socialism was of course what was current. In India and other countries, when they talked of socialism, it was essentially as a means of providing equal opportunity and ensuring social and economic equality, because the colonial legacy that all colonial societies emerged into was one of great inequalities. There was mass poverty, while resources were concentrated in the hands of a small ruling elite. Some of them had been protégés of the colonial power, having enjoyed privileges and also having had access to education and resources which were denied to the majority of the people. That inequality was a reality which is still continuing in some former colonial states the world over, in Africa and Asia. In our case, it had this additional dimension. The central government, again, which was seen as having exploited religion, had also used or abused power to create a ruling elite where twenty-two families controlled 80% of the economic resources, including banks and industries. That's where the urge for equality against discrimination, a growing discrimination, [and] demand for equal access to education, health and resources [became] a very powerful component of the movement, first for autonomy and then for independence.

That is where socialism was seen as something that promised social justice and equal opportunities, and an end to discrimination and inequality. The constitution speaks of developing a socialist society through the democratic process. In other words, social democracy. When we had meetings with people in Europe and so on, we were always identifying with social democracy. I think we had a special relationship with the Labour party. What we see in Sweden and in England, we felt a kind of affinity with social democracy. Socialism was very much within the democratic framework and

not socialism in the sense of communism. That, again, I think, is something that in the context of our historical experience from the 1950s, 1960s, and 1970s was the big issue in those days.

The issue of disparity was a very key issue in generating this sense of injustice and creating a broad-based unity which served as a goal – social and economic justice – through the democratic purpose. That's why democracy is the political framework. Social and economic justice through socialism, negating the use of religion to divide and discriminate: that is secularism. Nationalism, of course – the language-based identity, cultural identity – was another of the four basic principles.

SO: Dr Hossain, did the Secretariat provide any legal assistance in the form of advice or drafting?

KH: Yes, very much so. I said Sir Kenneth Roberts-Wray was giving us background advice. Of course, our committee was meeting and doing its drafting, with Mr Guthrie helping as a technical draftsman. We had a 36-member committee and most of us were lawyers, so we were generating successive drafts. Commonwealth constitutions were a principle source: Australian, Canadian and Indian. Whatever Commonwealth sources were available were certainly the primary sources that we looked at. The British helped through the Commonwealth, and this is again very critical because all of this was channelled through the Commonwealth. In fact, I'm trying to go into the archives here tomorrow. I'll be speaking to someone to see if we can recover some of these from the archives because someone is trying to write this up. I've given him whatever papers I had. He said, "Surely the Commonwealth archives should have it," because we had Sir Kenneth Roberts-Wray and Guthrie and so on and people who are giving support from here. I'm told the Commonwealth archives are very good.

SO: Yes, the Secretariat archives over in Marlborough House or stored off-site are, I think, an extraordinary untapped resource.

KH: Excellent. Where we got help also was with regards to drafting our maritime jurisdiction, which has only now finally got resolved. The maritime boundaries have just been settled this year. We had Professor Daniel Patrick O'Connell, who was then in Australia. He was on his way to take over the Chair of International Law at Oxford. It's very interesting. One of the issues post-independence, because we were part of a larger state, was that of state succession: how you would succeed to the rights and liabilities. So, Professor O'Connell was the world's leading expert on state succession: the standard international book on state succession was his. I immediately sent a request to the Commonwealth and to him directly in Australia. He told us later that our High Commissioner came to him just one day before the Pakistan diplomatic representative approached him, so we secured his assistance. He said, "Well, now I'm advising Bangladesh." That was very, very important help that we [received]. Of course, then the Commonwealth said, "Yes, we'll make him available." He was informed that the resources that would be needed to support his work would be provided as part of Commonwealth technical assistance, under the Commonwealth Technical Assistance programme.

SO: Yes, TAG, the Technical Assistance Group, as well as the Commonwealth Fund for Technical Cooperation.

KH: That's right. We certainly reached out and got a very positive response and help. It was the quality of people, as I say, and that's what I've written about elsewhere. The great advantage of the Commonwealth as a source of technical cooperation was how non-bureaucratic it is. I identified Professor O'Connell – it's not that you're going through and people had written long notes and sent it up to the Secretary-General. We just made a request. "Look, we want O'Connell," and they said, "Fine." They got on the phone, O'Connell agreed and within a week he was in Bangladesh on his way to Oxford. He started advising us on state succession and on maritime issues because these issues were about to come up: the whole United Nations Law of the Sea Conference, the preparatory work had started on how you define territorial sea, maritime zones and the continental shelf. It's curious that we were very avant-garde in terms of maritime law. We announced these things before the UN conference formally adopted them. We announced contiguous and extensive economics zones, continental shelf and all of the components which emerged in the preparatory documents for the UN conference. Bangladesh in 1973 or 1974 did something before the UN convention, and that's thanks to the Commonwealth.

SO: I'm coming across this again and again: the Commonwealth acting as a pilot fish for other larger, international organisations.

KH: Very much so. The emergence of Bangladesh and its eagerness to draw upon this help also allowed the Commonwealth the opportunity to play that role. It was very mutually advantageous. The Commonwealth could play a very constructive and useful role, and Bangladesh enabled that to happen as a major state which asked for that.

SO: Was Bangladesh's relationship with India seen through the lens of the Commonwealth, or was that much more of a bilateral relationship?

KH: Well, clearly, [it was] the bilateral relationship, because of the proximity and [fact of] being a historical part of the greater British India. Bengal was a province of British India, and then it was split into West Bengal and East Bengal. East Bengal is what is Bangladesh. There are very special historical, geographical, and political associations with India. Happily for us, this Commonwealth framework made it easy for us to deal in these technical areas without India getting any impression that there was extraneous involvement in India's matters. If you are doing maritime boundaries and getting Commonwealth support, India could not perceive this as something opposed to it because they are also members of the Commonwealth. Therefore it was not a question that the Commonwealth would not be doing something that would be basically prejudicial against the interests of another Commonwealth country. The concept of a cooperative endeavour in these matters helped.

Of course, the whole maritime boundaries issue, that's another chapter I was very much involved with. Happily, it's now resolved this year. The Commonwealth assistance was important. O'Connell was involved in drafting the laws of 1974. The Maritime Jurisdiction Act was done with Commonwealth help, as was our strategy on state succession. That is again very, very important and critically important because it was in 1973, I think, that the World Bank sent its mission. The first opening position was, "You've split and you have to take over a substantial part of the international liabilities of Pakistan, otherwise you will not be eligible to receive any assistance." Now, thanks to our initial advice from Professor O'Connell, we had done preparations on state succession saying, "Yes, of course we take liabilities, but then we also have to have our share of the assets. You can't require a successor state to accept liabilities and not talk about assets." We said, "Let's sit down and talk about the whole issue of assets and liabilities. If we get our shares of the assets, we'll then see how liabilities can be shared."

That became very contentious. To date, we don't have the assets of Pakistan. A tremendous crisis arose because Pakistan's strategy was [that] they would use this leverage because they knew that Bangladesh was desperately short of resources for exchange, and these external resources needed were essential not only for rebuilding the state but for developing the empowerment institutions of a modern state. There were ten million refugees who came back: [there was] need to rehabilitate them, to provide means of getting their livelihood, sources of livelihood and provide food and shelter. There was a tremendous pressure on Bangladesh, which Pakistan thought they could use to get the liabilities issue resolved in their favour. Thanks to the Commonwealth giving us their technical support in a very timely fashion, we were able to negotiate efficiently on this issue. When we took up this position with the World Bank, they were rather surprised. They first said, "Well, you see, there's this whole matter of international law." I said, "Look, I'm a lawyer myself, but please don't think that it is my legal knowledge that I am invoking to support what I am saying. We have consulted some of the best people in this field." I think I mentioned O'Connell. I said, "He's the world's leading person on the law of state succession. This is his written opinion." There was a lot of tension in that meeting. The first approach was, "No, but these are technical international law matters." They were looking at me – and I was only thirty-six years old – saying that we were exuberant and overenthusiastic.

I told Sheikh Mujib this. We had briefed Sheikh Mujib and said, "Look, this is the line they'll take." But again, I said, "It's not my view." I said, "These are the opinions we've got. These are the best people in the world who we have consulted and they're very clear that we have an unassailable position on this. Yes, liabilities – of course, we have to take over, but the exercise of sharing must involve assets and liabilities." That was totally vindicated, subsequently, and in a way dramatically. There was a standoff. The mission was led by a vice president, Mr Cargill, [and] he said, "Well, I'm very sorry. We want to help, but there's a legal impediment now. Unless we can overcome [it], we are unable, even though we wish to help you." Sheikh Mujib, because we had also prepared ourselves, was also prepared. They thought that they might go and speak to him and that he would use his superior power and say, "Alright, forget about what these people are saying,"

– [i.e.] the Finance Minister and myself. Sheikh Mujib said, "No, Mr Cargill, do you realise that we've lost so many thousands – tens of thousands – of people's lives because we could not submit to injustice. What is now being proposed is unjust. We are 56% of the state, and you will say we will have no access to the assets – the gold reserves, the foreign exchange reserves, all the embassy buildings, of which, of course, Pakistan still enjoys? The ships, the planes of PIA, all of these have been completely appropriated by the central government, and we are being asked to take over the liabilities? I can tell you that this is not just a matter of technical international law. I am told that we have had this matter examined by international lawyers. Will you please, when you go back to Washington, have your lawyers look at it, because we have with a sense of responsibility consulted experts who have given us advice in this matter." I tell you, it was one of Sheik Mujib's finest performances. He said, "Look, apart from whatever technical positions lawyers may take, this is a question of basic justice. The whole existence of our state has been based on fighting injustice. We cannot be asked to submit to injustice." They couldn't get us to accept liabilities.

Ultimately, we achieved success. Two or three months later, we got a letter from the World Bank saying, "We have examined the legal position and we accept the position that you have taken." Many years later, about five years ago, the South African who was deputy legal adviser in Washington retired. I'm forgetting his name. I met him socially. He said, "It's good we are meeting. I remember way back in 1972 and 1973, I remember this note came saying that Bangladesh can't accept liabilities without assets. I had been asked to write the note and I had supported you." I said, "Yes, of course, all that is history." That, again, was a critically important contribution of the Commonwealth: support enabling us to take a principled position, successfully maintain it and then normalise our relation with the World Bank, open up foreign external resources, [and] have access to external resources.

To go back to the constitution again… In the meantime, Sonny Ramphal got elected. We had the benefit of two extraordinary friends. One was Arnold Smith. Whenever I used to see him, he had his Bangladesh tie on, because he said, you know, "This is what I faced Bhutto with in 1972!" [*Laughter*] I have a feeling that may have even prejudiced his re-election. The position Arnold Smith took in support of Bangladesh may well have alienated some of the people whom Pakistan may have mobilised against him, I'm not sure. Then Ramphal came in and he became a very strong friend of Bangladesh, because he continued the support that Smith had started and expanded that.

SO: I believe you were there at the Kingston CHOGM when Ramphal was elected? Because I can see you were Minister of Foreign Affairs at that particular point…

KH: Yes, that's right. Yes, from 1973 onwards. The first [CHOGM], when we became independent, was Ottawa, and Pakistan didn't attend that because we attended it. Yes, Ottawa was the first and then the second one was Kingston in 1975.

SO: What was your particular view of the value of the Commonwealth Heads of Government Meeting in Ottawa? That was the first heads meeting which instituted the practice of the Retreat.

KH: Yes. Again, for us, very extraordinarily significant things happened at that. The whole South Africa thing is a very significant part of the Commonwealth's history. I think that a very major historical contribution has been made by the Commonwealth. Before that, I think one of the most significant things that has happened is the help we got from the Commonwealth in consolidating our independence: in building up our institutions and in getting support, so that we could take responsible decisions and we could pursue our objectives, and then the matter of resources and the matter of claims.

SO: How important were the professional bodies of the Commonwealth at this particular point in assisting Bangladesh's state building? Such as the Commonwealth Lawyers Association, the Commonwealth Medical Association, or the Commonwealth Nurses?

KH: Yes. Well, of course, that's coming to the next thing which should be our Human Rights Advisory Commission. But certainly, these were strong links that always existed among professionals. This was certainly true of lawyers – the fact that at least enough of them came here to be called to the English Bar. People who had that advantage were able to go back and play significant roles in Bangladesh, India and so on. Mahatma Gandhi, Pandit Nehru – they were all English barristers, and people who, in those days, thought of going into public life [and] looked upon this as a means of doing so. Therefore, this legal education in England – and generally, education in England – has been something sought after. In terms of other prominent people in our own state-building, most of the economists that we had were Cambridge-trained economists, and a couple of Harvard-trained. But mostly products of Cambridge or LSE.

SO: Did you find the Commonwealth Heads of Government meeting – its structures and networks – of use in any way, in terms of support or consultation?

KH: Yes, a couple of specific things. I vaguely remember two or three issues where that retreat in Ottawa became very significant. From Ottawa, we went to one of the lakes and the Foreign Minister was sent to one place and the heads of government went to another place. I got this message from Sheikh Mujib: "Please speak to the Foreign Ministers there" – Alec Douglas-Home was one – "Speak to them about our issue about assets." When I became Foreign Minister, the challenges that we saw we were facing were, a) there were large numbers of people of Bangladesh-origin stuck in Pakistan, wanting to come back. There were people in Bangladesh who said that they basically saw Pakistan as their state and wanted to be repatriated. There were almost 100,000 prisoners of war which went and, on their own appeal, were taken to India. They said, "We will not feel safe in Bangladesh so we want to be detained in India." Come 1973, already two years had gone by, and all of these are what we call the outstanding issues left over from the process through which Bangladesh had emerged.

And b) – this is all so long ago that you don't realise how important it is – we were vetoed in our application of admission to the UN by China in 1972. Pakistan was using this as what they thought was their biggest lever: that they would get the Chinese to block our admission to the UN. We were told, "If you would only settle these issues about our war crimes, if you settle the issue about the assets and liabilities, taking back these people and the prisoners of war. If we can resolve these issues, the Chinese will withdraw their veto." We took strong exception to the position. We could not accept Pakistan using this kind of pressure on matters of principle or other, to pressurise us in this way. So, we said, "If we never get into the UN, you will not be able to pressurise us into submitting to your unreasonable demands. On assets and liabilities, you have to work it out. On taking back people who have identified themselves as Pakistani citizens, and letting our people come back… And in terms of prisoners, you take back prisoners of war, subject to accepting that those who had committed war crimes should be dealt with according to law and should not escape justice." These became the dominant issues which affected the first years of our existence as a state. I was Foreign Minister for three years, between 1973 and 1975. These were critical issues which we faced. We were not in the UN until 1974, which is usually taken as an ultimate credential of having arrived as an accepted member of the international community. We went, of course, to the Commonwealth – the first multilateral international association of which we became a member. Next was the Non-Aligned Conference.

SO: In terms of importance, was the Commonwealth of greater importance to you than the Non-Aligned Movement? Or is it unfair to compare the two?

KH: It's in a way unfair to compare, because the two were in different contexts. I'm just thinking of the sequence…I think Commonwealth in Ottawa was before the Non-Aligned. Yes, I think so. It's in my book. I'll send you the book as soon as I go back, so at least these things I will be able to assist you by referring to the bits in my book. Yes, because…Yes, I'm quite sure that the Commonwealth [meeting] in Ottawa was before Algiers. They were in close succession, because in Algiers there was a resolution saying that our membership to the UN should be endorsed by the whole of that conference, because everyone recognised that this would have to be taken note of by China. We used the Commonwealth very effectively, I must say. This lobbying started in Ottawa. Ottawa and Kingston. Mr Gough Whitlam was the Prime Minister of Australia. Australia and Bangladesh sat next to each other, 'A' and 'B'. Whitlam was a very warm and genial person, and Sheikh Mujib and he hit it off tremendously well. Sheikh Mujib rang me saying, "Did you know Whitlam has said he'll give us all possible help in our UN efforts? So, talk to the Australian mission in New York and see how we can coordinate our efforts to make a bid for the UN and overcome the veto that blocked us in 1972."

SO: Were you still Foreign Minister when Sheikh Mujib was assassinated in August 1975?

KH: Yes.

SO: You were in Dhaka when this happened?

KH: No, I was in Yugoslavia, in order to share preparations for the Peru summit of the Non-Aligned Movement. I was asked to come there because Sheikh Mujib had developed very good relations with Tito. So, I got an instruction from the Foreign Minister of Yugoslavia, "Please come, let us prepare our resolutions and declarations for the Lima summit in August." On 10 August, I flew to Belgrade and I was there and Sheikh Mujib said, "Yes, since they're insistent, go," but come back in time to go to India with him. This maritime boundary [issue] which has gone on for 30 years would have been settled then, in my view, if that visit was not aborted as a result of the assassination. I was in Yugoslavia on 15 August in the morning when I got this message that something terrible has happened. A coup had taken place, Sheikh Mujib was apprehended [and] had been killed. I flew to Bonn where Sheikh Mujib's daughter, the present Prime Minister, was visiting, because her husband was a research fellow in Bonn.

Though I was to catch a flight to Dhaka, I said, "I must go to Bonn and see what the situation is there." I flew there and spent the whole of the day with Sheikh Hasina and Rehana, her sister. They said, "You're not going to leave us and go back?" I said, "No, I assure you I'm not going to do that. I'm going to go to London because I'll get more information. If I go back, I'll see that you can also come back safely and honourably and I'll not go back before that." On the 15th of August, this happened. The 16th, I was with her, [and] 17th of August I was in London. I handed in my diplomatic passport to the Bangladesh High Commission and said, "I have nothing to do with this government which has taken over." They said, "Oh, but they're wanting you to come back and become Foreign Minister," and I said, "No, the question doesn't arise." Of course, my family was there as quasi-hostages, so I didn't want to take a public position which would endanger them. The Yugoslavs had been very good. They had actually visited my family. They had left our official residence and gone and stayed with friends. The Yugoslav Ambassador said, "No, we visited your family. They're safe."

Sheikh Mujib's children were also killed, you see, so you can imagine one's state of mind [when] even children are not safe. They said, "No, your children" – who were four and six years old at that stage – "they're all safe." Then they said, "President Tito has said that he's perfectly happy if you stay here and bring your family here and you can stay as long as you like." I said to them, "I'm very grateful and appreciative of the fact that you visited my family and sent me a message." Looking back, this is where some kind of providence intervened. A call comes from Oxford, where I was invited to take up a Research Fellowship.

SO: This was from your former college?

KH: It was All Souls, because I had been a visiting fellow at All Souls early 1975, starting this book which I will send you. The Deputy High Commissioner said [to the Warden], "Not only is he safe, he was in Yugoslavia but at this moment he's right here." She said, "Put him on the phone." The Warden said, "I'm so

relieved to hear that you have survived. Feel free to come and resume your fellowship." It was a lifeline. I had £40 in my pocket, so I said, "This is incredible. No question, I'll come and immediately resume." My problem was then how to bring all the family, but all of that was achieved later.

It's interesting how these things get connected. Given the Commonwealth assistance with drafting, it was suggested that a symposium on the draft constitution be held in Oxford, and this took place in 1972. The fact that the Commonwealth stands for certain principles and values – these are reflected in the Commonwealth Charter of 2012. We were, in a way, the precursors of this. Members of the Commonwealth have shared values – of democracy, rule of law, human rights. In the constitutions of different member countries, these values had been reflected. Our constitution also reflects these shared values.

SO: Were there any other future independence leaders also there in Oxford, because you were obviously contributing as the father of the Bangladesh constitution which was already embedded in your state…

KH: This was only a draft then. No.

SO: I'm sorry. I thought your constitution had been signed by Sheikh Mujib in December of 1972.

KH: Wait a minute. No, but I think this was before that. Our Commonwealth workshop was before that. Yes, I'm pretty sure it was before that. We did it in 1972, December, and I think the meeting was well before that.

SO: Sir, in terms of particular input from a Secretary General, I also wanted to ask you about Chief Emeka's request that you visit Cameroon, to see whether it was appropriate that Cameroon should join the Commonwealth.

KH: These were things that came [up during] my period of exile, because I chose not to go back to Bangladesh but to go to Oxford and take up the fellowship. I was there for five years. Happily, I was able to bring the children out. Looking back, as I said, those five years were a very good period for us in terms of being able to write and work on the book and other things. The Commonwealth gave me support for my research work in Oxford. I had the fellowship and I got outstanding resources for my research. The Commonwealth said, "Yes, this one we'll fund for technical cooperation. What would you like to do?" Happily, I had also been Minister for Energy, Petroleum and Minerals, and this was 1975. This was just after the oil revolution. The oil price hike was at the end of 1973, so 1974 was the year of the oil shock. As Energy Minister, I realised that there were huge gaps in my understanding and knowledge of the whole industry, and the legal policies relating to oil. When I was asked, "What will be your area of research?" I immediately said, "I'll work on oil and gas and the whole changing global environment of which countries will have to take stock and decide what needs to be done. I want to do comparative study on that." The Commonwealth said, "Yes, okay."

SO: Excellent. It was a very topical issue.

KH: It was very topical, and that book has been extremely well received and has given me a standing as an expert in oil and gas, and even in arbitrations I'm doing now and in other energy-related arbitrations. The most valuable outcome of my research was that in 1980, just as I was ready to go back, I got a call from the UN. "China has asked for experts on oil and gas to visit them because they want to get oil companies to come in. This is the first major interaction between them and the international economy and the UN. The UN is going to send its first technical mission, and we have two Americans, a Canadian and a Norwegian and you." So, I was amused. I said, "Look, I'm from Bangladesh. I'm not that sort of an expert." They said, "No, but you've written this book which has just been published. We find it very useful and that's the basis on which we want you to be part of that mission."

I went to China, and then in the Commonwealth list I became a resource person for the Commonwealth, because then I was asked to go to many countries as counsel, ranging from Trinidad and Tobago, Grenada, Cayman Islands, [and] then on the other side, the Solomon Islands and Fiji, leading Commonwealth missions on energy-related matters.

SO: You've become a Commonwealth resource.

KH: I became a sort of Commonwealth resource and served in the Commonwealth advisory commissions. I think I had a unique opportunity, having been Foreign Minister and then having found myself free to pursue these interests. The Cameroon mission was followed by one to Gambia. These missions were to evaluate whether basic principles of democracy, human rights, and rule of law were being responded to or not.

SO: Did you go alone?

KH: No, there were very high powered colleagues: a former British Minister, and an experienced retired diplomat. Neville Linton was in that mission

SO: **Please, could I ask you about your recollections of being a Commonwealth observer in the South African elections?**

KH: I was teamed up with the Major of Harare, Zimbabwe, for that mission. There was a very strong Commonwealth role in the election of 1994, both as observers and in providing technical support for the elections. I was one of the observers. We had the privilege of following President Mandela in his election meetings. That was really one of the most memorable experiences of my life.

SO: How was Mandela as a speaker at election rallies?

KH: A very extraordinary speaker. What one saw – and what those of us who went from Asia said – was what an incredible role he played in dealing with violence that was still there. While we were there, a candidate for election – a woman candidate – was killed near our hotel in Johannesburg.

SO: Oh my goodness!

KH: There was such tension that we went to this election meeting in Jamestown and we saw all the ANC members, many of them in their battle dress. You could see they were ready to have a violent reaction to this assassination. It was so outrageous: an assassination a week or two before elections. President Mandela arrived and he saw the situation was explosive. He seemed to have brought with him whole gallons of cold water to throw on the fire of violent reaction which was ready to erupt. He said, "I fully understand your emotions. I've been a victim of people who do these terrible things, having spent 27 years in prison. Don't think I don't understand exactly how you feel. Those who want violence to erupt are precisely those who want to deprive us of what we are about to achieve, which is a new South Africa through elections."

The other issue was the participation of Zulus, because the big mission with Kissinger and all sorts of other dignitaries that had come saying, "Postpone the election. The Zulus will come, but they want three months to talk things out." That's again when one saw the strength of the ANC and Mandela. We were all very concerned that here was such a high powered delegation, very high profile. They all came in and said, "Why should the election not be deferred for three months? It's not the end of the world," but then, not having the Zulus taking part in the election meant a significant chunk of people would be out, and the elections would not have the significance that it would have if everybody participated. We were observers who had gone and we were very anxious. Then the mission which came said, "Well, if you don't agree, we're leaving tomorrow." It was an ultimatum. It was tremendous pressure on Mandela and ANC. Their nerves held. They said, "No, we won't accept this. We want the Zulus, but not on these terms. Elections will not be postponed by a single day, not a single hour. This is non-negotiable. If you have to go, please go."

We saw the dramatic exit to the mission led by Kissinger and others. I think [that], among the members, there was a former British minister and a retired Indian Chief Justice. They left and then we talked to the ANC people and they said, "No, this is the thin edge of the wedge. Once we get into this postponement business, the whole election process can unravel, because the assassination was part of an entire election strategy, as was the explosion in the airport – all in order to derail the elections. So, we will not fall for that trap, nor will we accept any of these external pressures for postponement."

Then, of course, the magic of Mandela worked. After having calmed down the people, he said, "I have another challenge for me, and that is our brothers in Zululand. Now, the king of the Zulus, the father king of the Zulus, was someone to whom I was legal adviser, so I had the greatest respect for him as a father and I had seen His Majesty as a young boy. I have affection for him as I would for a nephew. Of course, he is the king, so I would now address him as 'His Majesty' with the greatest of respect. I said, 'I appeal to you, your Majesty, and also appeal to you as someone I have a long personal association with, that it is all in your hands now whether this election will be

inclusive, will involve you, which we want, all of South Africa wants. The new South Africa needs you. I appeal to you as one would to one's own son. Please, please do this. This will be a historic act.'" You wouldn't believe it: within 24 hours, the Zulus had said, "Yes, we're coming in."

SO: I also understand that Professor Washington Okumu flew down from Kenya and spoke to Buthelezi, to persuade him that Inkatha should take part in the elections.

KH: I'm sure, lots of positives things like that, but this appeal was so dramatic. And then to make it happen, of course, this is where the Commonwealth and the International Community had to come in. How do you amend the ballot papers one week before to include the Zulu candidates?

SO: The ballot papers were already all printed, yes.

KH: They were all completely done. They said, "Yes, you'll get stickers. Every ballot will then have stickers putting in the Zulu candidates. The printing will be done by the security printers in London" – the people who print currency notes.

SO: Yes, De La Rue?

KH: De La Rue – Thomas De La Rue. There would be a complete airlift – huge transport planes – contributed, I'm sure, by Commonwealth nations among others and I suppose the UN. They flew them in and then whenever they would land, planes and helicopters would take those stickers and go then into all the polling centres. It was the most incredible achievement.

SO: That would have been a logistical nightmare to get them out…

KH: It took a miracle the way it was done and achieved.

SO: Yes, exactly…to get them to every polling station and on every ballot paper.

KH: Yes, and they did it. This is why I say Mandela, South Africa and the process in which the whole community…And, of course, the Commonwealth was a very important component.

SO: Did Chief Emeka approach you to be on this election monitoring mission?

KH: Yes. We were also invited to the Secretariat, yes.

SO: How long did you spend in total in South Africa?

KH: One month. Yes, it was the most interesting mission that I've ever had, because I had a lot of opportunities to interact and explore. We opted to go to Jamestown, Queenstown and to President Mandela's birthplace, we went there as well.

SO: So, it was after this particular election monitoring mission that you then went, at Chief Emeka's request, to look at Cameroon to see whether it satisfied the criteria for Commonwealth membership?

KH: In retrospect, one saw the value of at least reassuring people who believed in these principles that these principles were something that outside people cared about, and within the Commonwealth there were people who took it seriously. The Commonwealth itself took it seriously. They had always expressed scepticism about those assurances given at the official level.

SO: Of course.

KH: Their scepticism was well-founded. It's interesting, I met someone from Cameroon. She was attending to someone who I went to see in hospital. She was saying she worked in Cameroon where no one respects anything.

SO: Why was Chief Emeka suggesting that Cameroon should be a member?

KH: Well, because every serious applicant for membership has to be given due consideration. I mean, you won't say, "No"; you welcome additions to the organisation.

SO: But it could be said, like Rwanda, that Cameroon didn't have the historic background of British colonialism. Obviously, part of Cameroon did, but the other part was notably part of the French empire. So, neither Cameroon nor Rwanda, despite their desire to join the Commonwealth, shared the historical background, the cultural legacies, shared values that come through education, practices of parliamentary democracy, etc.

KH: True. Since then and since before and since after that, also, there was a continuing debate whether these standards that are set and the principles to which you are expected to adhere. Nigeria was tested on that, Pakistan was tested on that, Fiji was tested on that and so on. In Nigeria, we had an interesting Commonwealth experience at the Commonwealth summit in Auckland. This was the Human Rights Advisory Commission's most important mission, when they said that the leader of the Ogoni people, Ken Saro-Wiwa, was sentenced to death as he was campaigning to protect the environment from the pollution caused by oil exploration without proper safeguards. We launched a mission to try to see if we could have that execution averted. We went in strength to New Zealand, where President Mandela was going to attend the summit. We had Ken Saro-Wiwa's son with us. Richard Bourne was there and other members were with us. We had a fairly full complement of members. We made this appeal to President Mandela: "Please speak to President Abacha, asking him to stay the execution." Ken's son was also there and he made the appeal. The Nobel Laureate novelist from Nigeria, Wole Soyinka, had also joined us. He arrived and we all made this very strong appeal. The media, of course, gave full support. President Mandela called Abacha who said, "We'll get back to you." When they got back, they said, "But the execution has been carried out. I'm sorry, there's nothing that

can be done." This led to the membership of Nigeria being suspended. It also had an ultimate impact because, in subsequent cases filed in the courts, substantial compensation claims were made and awarded against oil companies. In a way, his life was not lost in vain. The whole issue became international. Obviously, it's a continuing struggle.

SO: It is. It's an ongoing question of the political rights of the Delta people, and the despoliation of that environment.

KH: That's right.

SO: And the extent to which the oil revenues should be kept by the Delta provinces.

KH: Yes. That is, of course, one of the biggest continuing scandals: the fact that Nigeria's experience has led to this book called *The Curse of Oil*. You go to Hampstead and you find all the Nigerians own the houses.

SO: Well, indeed. The extent to which there is such corruption and venality and stark inequalities between the kleptocratic elites and ordinary Nigerians.

Sir, if I could just go back to the Cameroon mission, you said that even looking at Cameroon then the Commonwealth had yard sticks: it had values to which it expected its members to adhere. But it was evident – even on your mission – that Cameroon wasn't particularly democratic.

KH: They had not been complying – that was [clear]. But what was being put forward were expressions of good intention: "We intend to, we are serious, we will do this." They didn't say 'no' to anything: "Of course we'll comply," and so on. We pointed out where there were gaps between the principles and the actual practice that we found in reality. The promises were made. I think if you look at that report, we said that there are these gaps, there are these promises, but it remains to be seen whether these promises are fulfilled.

SO: So, the predominant tone then in that report was scepticism.

KH: Well, scepticism, and to make membership conditional. I think even the resolution said that membership was being recommended on the premise that these commitments would be fulfilled. There's always the implication that if they're not fulfilled, they might lose their membership or the membership could be suspended.

SO: Were you surprised, then, when Cameroon did join?

KH: Well, in a way we are happy that it had a positive outcome – that they've come in. In a way, you kid yourself that they say these things, that they're complying or they're trying. When it comes to power, it's amazing how power considerations prevail over principle.

SO: You think it was a political calculation on Chief Emeka's part?

KH: Yes, very much so. No, no…By the head of…

SO: Oh, by the President of Cameroon, Paul Biya?

KH: The head of Cameroon, who I think is still there. Thirty years later, or something.

SO: He certainly doesn't believe in parliamentary democracy.

KH: Frequent elections and so on. They have elections which are a kind of charade.

SO: Yes, indeed. Sir, when did you become actively involved in the Commonwealth Human Rights Initiative?

KH: The dates are in my book and also in the archives, or Richard would be the best one [to ask] – just give you the dates, yes: when I started and when I finished. The other major issue that we pursued was General Obasanjo, the former President of Nigeria, who was imprisoned. Obasanjo had also been a colleague in Transparency International while he was out of office. He had been with us in launching the big challenge of trying to take on corruption in Nigeria and so on. His finance minister, the woman, was also there. What was her name?

SO: Ngozi Okonjo-Iweala, who later became the deputy director of the World Bank?

KH: Yes. She went back with him and they went back with the hope that they'll do something about corruption, but I think corruption got the better of them. When he was in jail, that was the Commission making its big appearance before the Foreign Ministers Conference. We stated our positions, "Look, this election that Abacha has offered is a fake. It's a complete mockery to call this an election, and he's just trying to legitimise himself because he has created half a dozen fake parties. The real parties are all in jail. Obasanjo is in jail. All the other genuine people are either in jail, exile or dead. He set up a multiparty election, but they're all creations of Abacha." There was a very interesting dialogue. They said, "Isn't some election better than no election? Half a loaf of bread is better than no bread." I took that up when speaking for the Commission and I said, "No, in this sort of a situation, no election is better than a fake election because a fake election gives the government a fig leaf. It gives it a means to deceive both the people and others, something which they can claim to be democracy when it is not."

SO: Who was arguing this? Was it Tom Ikimi, the Nigerian Foreign Minister, who was arguing this?

KH: Yes. Well, there were other foreign ministers as well. I forget who the others were, but they were all raising this question: do you really think that it's safe to say that… On the face of it, it's a multiparty election, they were saying. All these steps have been taken. The other alternative is that he continues in

power without any form of election, any attempt to go and get people's endorsement. I remember being very strong, [drawing on] my experience from our own country: these are just the words – like 'voterless election' – [that] came into our glossary in Bangladesh. People don't vote, but you take the ballot boxes into the military headquarters and then manufacture results and announce them. The word 'media coup*'* came into our glossary as well. I said, "Look, we've had a bitter experience of [this]." The world gives importance – and that's of course the current issue, as well – that you give importance to elections. These people don't really respect democracy but want some kind of a fig leaf, through the show of [an] election – a mask with which to deceive people. Today I was reading about the Sudanese president. It's the same thing: 30 years and so on, you carry on going through election after election. In Bongo, in Gabon and others – all securing 90% of the votes.

SO: Saddam Hussein gained 99.99% of the vote in the 1995 presidential referendum.

KH: 99%, that's right. It's this sad story about how democracy has, in a way, been devalued and demeaned by elections having been manipulated and devious techniques have been developed to do this. Even observers are deceived, and in a way become complicit when they certify such 'elections' as being free and fair.

SO: When you were making this presentation to the Commonwealth Foreign Ministers, you submitted a report – a submission first, as a summary of the arguments?

KH: Yes.

SO: Then you were given the opportunity to make a 20 minute presentation?

KH: That's right. Then they adjourned and they called us in. We talked across the table and I said exactly what I'm telling you: that it's very dangerous to give this kind of fig leaf, a mask to those who want to deceive the people. It's much better that this mask and fig leaf is not there, and people see that what they're doing is not an election [and] what they're running is not a democracy.

SO: Were some on that Commonwealth Foreign Ministers committee openly supportive of your criticism? I'm just wondering if the Canadians took a particularly strong stance.

KH: There was sympathy. The fact that they adjourned and called us in and were willing to hear us…I mean, they put the pro-forma points about, "Isn't it better to have some election than no election? After all, there's some attempt to recognise that people have a role to play in governance." What I said then, in a way, has been vindicated by subsequent experience in all our countries: that you make a big thing about an election and the whole media, international media, etc., gets hooked on to the idea of elections. Even observers go in. Now, I'm happy to say, in a number of cases observers are refusing to go. Even I have refused to go once or twice to observe some so-called elections.

SO: Well, it makes no sense to be parachuted in two weeks before the polling date.

KH: Exactly. That I've written in my reports, also: this parachuting in just before, when it's all stage-managed. As a result of this, in Sri Lanka, they did respect our recommendations, our saying, "We will choose where we go and we will tell you the evening before where we're going and you make the helicopters available. We're not going to go according to a pre-arranged plan that you'll go and stage manage." In that sense, the Sri Lankans were better in the way they allowed genuine observation to take place, in those days.

SO: Sir, what do you see for the future of the Commonwealth?

KH: Well, this is a subject on which I like very much to hear from people like you, who have been working so closely and up-to-the-minute looking at it. I remember some of the very best days of the Commonwealth: this whole South Africa thing, I think, is a huge historical achievement. I remember when the UN almost seemed to have failed: you get the veto and that would be it. I was part of a UN hearing just before Mandela was released, and that was a useful UN initiative, but I think the ground had been prepared by the Commonwealth and the Commonwealth's efforts by that time. Ramphal had a very, very positive role. Judith Hart, yes, she was a colleague on that tribunal. Again, I remember her as a very, very strong and effective person in mobilising opinion. Also, it's at the people's level, because we found we were taking evidence in Geneva and business people from South Africa – white business people from South Africa – were saying, "Yes, it's hurting. The boycotts are hurting. The citizen's movements, particularly against banks [are hurting]." Disinvestment. Young people not opening accounts in Barclays. They said, "Barclays realises that all these young people are the people in the city tomorrow, so if they don't establish their links now and they start boycotting us now, then they will have a dismal future." Then they, too, started taking positive positions and that really began to have an impact. Our basic bottom line was, "Release Mandela. Start negotiations. Hold an acceptable election," and that paved the way to 1993. That was the citizens' initiative. That was the hearing held under a UN umbrella of which I was a member. Judith Hart was a very important member. President Canaan Banana of Zimbabwe was the chair. I was a member. I forget the number of other members from Australia and other Commonwealth countries. The Commonwealth role was complementary. That's how I got drawn into the election in 1994, having had this involvement with the UN fact-finding tribunal. Those were the kind of roles of the Commonwealth Secretariat which I find… On the multilateral level, South Africa. On the bilateral, Bangladesh, through the technical assistance provided for it the consolidation of our independence. The positive role of the Commonwealth in promotion of human rights, respect for rule of law through technical support, and – very interesting, this, of course, my own little corner – in the whole post-1975 dealing with national resources: giving countries support for developing law and policy which will give them better control over natural resources and to protect the environment. Now, these were very, very positive roles, and the resources

that the Commonwealth was able to give [were] not only material resources but the human resources, the experts.

I remember Vince Cable, for example, as a young economist with whom we interacted. Brilliant people like that, and there were many others – like Gerry Helleiner from Canada – outstanding economists of that time, [who] were all drawn in and made available for advocacy for economic reforms, global economic reforms which were not immediately implemented but which at least made people aware of the malfunctioning of the global economy, from which – after 2008 – everyone is suffering the consequences. This is why I'm saying that my concern is that the Commonwealth doesn't seem to be playing this kind of role.

SO: Well, certainly. To start with, the Secretariat is a shadow of its former self under Ramphal. There has been a dramatic diminution of its resources, of its personnel and also, I would say, the level at which it has been recruiting. It is, to me, contracting more and more into being a conference service…

KH: Exactly. Effacing itself basically as an effective organisation, which is sad, because the world needs it. The UN, in a way, because of its size, also has a role which it is not able to deliver the way the Commonwealth was able to deliver in the past.

SO: Sir, it's a question of the leadership, certainly, of the Secretary General, but it's also a question of the input and leadership from individual heads and the need for activism from a core group, as well as financial resources. In contrast, it has to be said that the professional Commonwealth and civil society is indeed strong and active.

KH: It's a huge resource in the world, yes.

SO: It is a resource. The balance then seems to tip more towards the civil society angle and away from the Secretariat as a small but still capable international organisation.

KH: And civil society also being professionals [and] journalists, in particular, and then of course lawyers, human rights people, teachers. It's interesting that you're researching into the Commonwealth to find out why there has been this secular decline.

SO: Well, I would say in part it's because the international system has changed. During the Cold War era, the Commonwealth had a particular identity and role. It was helping newly independent states find their feet in the international community and supporting state-building. The Commonwealth was very much a supportive system and resource for nation-building. Racial justice in Southern Africa gave it also…

KH: Yes, and Mandela himself was a great resource of the Commonwealth.

SO: Well, indeed, but then the Commonwealth, with its grand strategy of promoting development, started to run up against an increasing drift towards economic liberalisation and globalisation at a time when the Commonwealth's own resources were contracting.

KH: Yes, and the Commonwealth under Ramphal was trying to say that globalisation still had to be regulated and the excesses of liberalisation had to be guarded against. That was unpopular in the 1990s. The Joseph Stiglitz book, *The Roaring Nineties* [2003], was followed by one entitled *Freefall* [2010]. We are now in the 'Post-*Freefall*' phase.

SO: The Commonwealth Secretariat was very pleased to get Joseph Stiglitz to contribute to not only a key meeting of Finance Ministers, but also his input into their intellectual thinking.

KH: Good. You see, the Commonwealth and the role that it had in the 1980s and 1990s has continued. It can't take the blame for what the 1990s has left the world with.

SO: No, but the other thing is, of course, the amount of time heads are prepared to devote to the Commonwealth. The Commonwealth biennial heads meeting has contracted dramatically, down from being ten days long with an extended break at the Retreat for heads to form genuine bonds of friendship, trust [and] to sound out among their peers what it was that was concerning them. Now, a heads of government meeting lasts two and a half days. There is the elaborate and excessively-expensive opening ceremony. Heads may disappear for perhaps an afternoon on retreat. If you're a busy head and you can possibly delegate [responsibility] to somebody else – be it your high commissioner or your foreign minister – you will do that, which is further indication of the lack of importance attached to the Commonwealth.

KH: No, that's right. You had some countries which could be seen as playing an active role. I suppose even countries like India had their role in the Commonwealth. Australia had their role in the Commonwealth, Canada had their role in the Commonwealth. They've all changed, and the heads of government from those [countries] don't seem to see the Commonwealth as being used as an instrument.

SO: Indeed, which makes then the contest for the next Secretary General – which is already starting to heat up – of particular importance. The next Commonwealth heads meeting next year in Malta is also going to be particularly…

KH: In Malta?

SO: It's going to be in Malta, which, I think, will help to claw back some of the damage of the decision to host it in Colombo in 2013. That truly was a spectacular own goal.

KH: [*Laughter*] Own goal! That's very well put.

SO: Having just signed up to the Charter as a values-based organisation and then holding the heads meeting in a country that is still emerging from a prolonged and brutal civil war, hosted by a government with a very questionable human rights record…

KH: It was.

SO: Also, of course, it meant that – for the international press – that becomes the only story in town, which completely eclipsed the other good work the Commonwealth is doing.

KH: Yes. There are still experiences from the Commonwealth which can be of great value, not only to other Commonwealth countries. For example – this is, of course, a little bit beyond the scope of your question – we, in Bangladesh, did the constitution with the help of the Commonwealth. Areas like independence of judiciary is something where Commonwealth experience can be enormously valuable, where these are seen to be eroding.

SO: Well, exactly, given the Latimer House declaration of 2003 and its three pillars, with the independence of the judiciary as a critical…

KH: Critical. I, in fact, wanted to get this charter of 2012 – which is *their* independent judiciary, rule of law, and so on – but these should not just become mere slogans.

SO: Well, these are not slogans as far as Karen Brewer and her Commonwealth Magistrates' and Judges' Association are concerned!

KH: That's right. This is what I mean: that these are the things that need to be kept going. The Secretariat is the one which should be orchestrating this: coordinating them, seeing that within the countries, the professional bodies are getting support. In a very concrete way, I want to do this. In fact, I'll be speaking tomorrow to say, "Why don't you shake yourselves out of your present position and do something?" Send a mission to those countries where you think the independent judiciary needs to get a shot in the arm, where this kind of extrajudicial killing in Sri Lanka and in Bangladesh, in Pakistan and elsewhere, is reaching alarming proportions. Blasphemy in Pakistan also needs serious consideration.

SO: I find that deeply worrying, what's happening there.

KH: My last point is this whole business of counter-terrorism. It was America which espoused this, because on 9/11 they were the targets, but this is [an area] where a lot of wisdom is needed, a lot of practical understanding is needed, a lot of political sensitivity is needed. My great sorrow is that Britain blew it through Tony Blair.

SO: Blair used up an enormous amount of moral capital through his support for the Iraq war in 2003.

KH: I was so happy that Blair was getting this opportunity to curb Bush's indiscretion and his lack of understanding.

SO: In my personal view, Blair became deluded in terms of the political influence that he genuinely convinced himself that he could exercise in the Oval Office.

KH: It's such a shame, because in Britain you have a whole history and knowledge of understanding the dynamics of change in this society. The British diplomats are best informed about that region – the knowledge of the language, of the culture, and so on. All of that was just lost and not used. Today, also, I see that counter-terrorism…which is such a high profile issue and I'm troubled now by what I'm reading in the press. I am very troubled now by reading the daily press. These British-born Muslims stupidly going to Islamic State or whatever. It's important to analyse who they are, and why they are moved to respond to efforts to involve them. It's not just putting someone in prison for twelve years, that is not the answer. It is part of the answer, because we have to deal with that, but question why is this happening? I can't understand why, in Britain, boys and girls are being attracted. I mean, of course, they may be the usual suspects – these people who are brain washing them – and it calls for an in-depth analysis.

SO: Well, Sir, I think this is genuinely the source of enormous input, concern and introspection among the British security services and political leadership.

KH: Yes, introspection and capacity for Britain and the Commonwealth to do something.

SO: Senator Hugh Segal talked about collaboration in the Commonwealth on counter-terrorism and, as you say, these are networks which definitely exist and which should be exploited.

KH: This latest book by Karen Armstrong – *Fields of Blood: Religion and the History of Violence* [2014] – she's written very substantially about how they're getting it wrong, getting simplistic explanations.

SO: I agree. Well, this is in part also what is troubling about the press: that they inevitably simplify complex debates.

KH: That's right. That's why I think one expects much more of the British press, and the good things that come out as well, but then the simplistic things are the ones that get Page One. These are the things that the Commonwealth could engage: a serious analysis and study of counter-terrorism. A Commonwealth assessment could contribute in a significant way, on the basis of which something useful could be done.

SO: Genuinely I do believe it is happening, but I don't know the extent to which it is being actively coordinated. I don't know whether this is just a question of incidental connections – of, say, Sir Malcom Rifkind as

chairman of our Intelligence Committee in the House of Commons with the Canadians, the Australians? I don't know whether these are ad hoc arrangements or if there is much more systematised information-sharing with other Commonwealth countries, outside the Five Eyes alliance. That, I cannot answer.

Sir, thank you very much indeed for your time.

[END OF AUDIOFILE]