

COMMONWEALTH HUMAN RIGHTS FORUM

November 20th and 21st, 2005, Valletta, Malta

CONCLUDING STATEMENT AND RECOMMENDATIONS

KEY RECOMMENDATIONS

- 1 That there should be a formal report-back to the next CHOGM on the implementation of Heads' commitments for human rights in Valletta
- 2 That governments should ensure that human rights norms are not compromised using security as an excuse
- 3 That the Commonwealth Ministerial Action Group should investigate the situations in Uganda and the Maldives, and the Commonwealth should stay engaged with Zimbabwe
- 4 That there should be a Commonwealth Expert Group on the future of policing
- 5 That the Commonwealth should agree that all members should offer a standing invitation to UN Rapporteurs and other UN investigators as a commitment to transparency

Introduction

On 20th and 21st November 2005 – just prior to the Commonwealth Heads of Government Meeting (CHOGM) on November 25th to 27th - human rights activists from across the Commonwealth met in Valletta, Malta, for the second **Commonwealth Human Rights Forum**¹.

Members of human rights non-governmental organizations, National Human Rights Institutions and other civil society actors participated in the meeting, as well as a representative of the Commonwealth Secretariat as observer².

Complementing the official CHOGM theme of “Networking the Commonwealth for Development”, participants focused on “Networking for Human Rights” and examined the reality of space available to civil society for human rights within member countries and the Commonwealth as an association. Participants shared experiences and discussed how to raise the profile of human rights within the Commonwealth system.

Participants of the 2005 Commonwealth Human Rights Forum:

Note that the association has always acknowledged that principles of human rights, democracy, good governance and the rule of law are central to the Commonwealth, as outlined in varied Commonwealth declarations, most importantly the Harare Commonwealth Declaration.

¹ The Forum was facilitated by the Commonwealth Human Rights Initiative, in collaboration with Amnesty International Malta Group and financially supported by the Commonwealth Foundation and British Council.

² The following Commonwealth countries were represented at the meeting: Australia, Bangladesh, Cameroon, Canada, Fiji, Ghana, India, Jamaica, Maldives, Malta, Sierra Leone, Tonga, Trinidad and Tobago, Uganda, UK. Representatives of the former Commonwealth country Zimbabwe also participated in the meeting. Other countries were to be represented at the meeting, however approximately 15 delegates were denied visas.

Note that the Commonwealth has repeatedly recognized the importance of civil society participation, and yet civil society involvement in Commonwealth processes such as CHOGM remains limited or tokenistic.

Note that for civil society to play its full role in human rights issues, an enabling environment must be provided through legislation, policies and processes by the association and its members.

Note that the existence of democracy is not sufficient in itself for guaranteeing human rights and space for civil society.

Note that constitutional protection for human rights is important.

Recognise the importance of raising awareness of human rights in Commonwealth countries to enable the development of local ownership over these issues; and the value of sharing human rights experiences across the Commonwealth.

Reaffirm that economic justice, sustainable development and the eradication of poverty are pressing human rights issues and require a rights-based approach with the active engagement of civil society.

Note that a lack of information leads to a lack of accountability.

Note the importance of an independent judiciary to the realization of human rights, and that therefore the judiciary must be sensitized to human rights.

In addition, participants agreed that for free and effective networking and activism for human rights, some particular thematic areas of concern must be considered, namely: a rights framework that ensures enjoyment of rights that facilitate this activism; the provision of an enabling environment through rights-friendly laws and practices; and ensuring that the excuse of security concerns is not used to justify restrictions on civil liberties and civil society space.

In relation to an enabling rights framework, participants:

Recognise that the genuine realization of a range of rights is essential for the health of civil society, including: freedom of association, assembly, expression and information.

Note that all government policies must conform to international and national human rights standards.

Note that as well as an enabling legislative framework to provide space for civil society, the broader environment must be conducive to the full enjoyment of these rights.

Note the importance of varied players in civil society, including the importance of the media to freely source and impart information, which is crucial to the development of a genuinely democratic form of governance.

In relation to the legislation, rules and regulations that regulate civil society, participants:

Recognize that abiding by good governance principles ensures the legitimacy of civil society.

Note that legislation must contain clear definitions, objective criteria and open processes for the creation and working of civil society organizations, and is not designed to control the breadth of their activities.

Note that the process of developing legislation must include civil society in a meaningful way.

Note that certain countries' laws, such as those relating to the funding of organizations, particularly related to receiving foreign funding, place undue restrictions on the work of legitimate civil society organizations.

Further note the disturbing practices in some Commonwealth countries to deregister or limit the activities of civil society organizations that focus on advocacy and human rights activities, particularly when they have taken a critical stance.

In relation to security issues, participants:

Recognize the duty of the state to provide safety and security, but were deeply concerned at the trend of governments to curb civil liberties and civil society activities and particularly target dissenting voices on the excuse of terrorism and security. Such attacks on civil liberties of citizens can never be justified.

Note with concern the many countries, recently including Australia and United Kingdom, where anti-terrorism legislation has been passed or proposed that violates human rights standards and that increases repressive measures such as prolonged detention without charge and risks criminalizing certain communities.

Note that the lack of adequate oversight of police and security forces in many countries means that these agents of the state continue to act with impunity, which in turn leads to a loss of trust by the community.

Participants discussed the human rights situation in a number of Commonwealth countries, but felt that the crisis in some specific countries deserved particular mention and as such draw the attention of the Commonwealth to Uganda, Maldives and the former Commonwealth country Zimbabwe:

In relation to Uganda, participants:

Note that the human rights situation in Uganda has recently deteriorated with the recent attacks on free political expression and intolerance of opposition.

Further note that the next CHOGM is expected to be hosted by Uganda in 2007 and that holding a CHOGM in a country where the Harare Commonwealth Principles are being disregarded risks making a mockery of the Commonwealth's commitment to its founding principles and standards.

In relation to the Maldives, participants:

Note that the Maldives has persistently failed to fulfill its obligations in the Commonwealth by not abiding by the Harare Principles, and should be on the agenda of the Commonwealth Ministerial Action Group.

Note the ongoing engagement by the Commonwealth with the reform processes in the Maldives, but state that more is needed to be done by Commonwealth groups and other actors.

Further note that on some points there have been improvements on paper, but that these have not always been implemented; for instance concern was raised over the refusal to register non-governmental organizations, and the restrictions on freedom of expression, particularly political expression.

In relation to Zimbabwe, participants:

Note the ongoing crisis situation in Zimbabwe, the deteriorating state of human rights evidenced by restrictive media laws, politically targeted evictions, unreasonable restrictions on the right to associate and assemble and harassment and intimidation of civil society.

Recognize that while the government of Zimbabwe has withdrawn from the Commonwealth to avoid continued suspension it is important that the Commonwealth and civil society groups remain engaged with the Zimbabwean government, opposition and people.

Participants of the 2005 Commonwealth Human Rights Forum made the following recommendations to the Commonwealth Heads of Government, that they:

Call on all member governments to ratify and domesticate core human rights treaties.

Implement past commitments to human rights to ensure that the realization of human rights is a reality in all Commonwealth countries.

Further their past recognition of the value and importance of civil society by providing appropriate Commonwealth fora and processes for engagement and partnership with civil society.

Consider practical suggestions for such engagement, such as meeting with civil society as part of the CHOGM events to develop a joint statement with agreed action by both government and civil society to be reported on by both parties after two years.

Develop a mechanism to keep members accountable for commitments made in Commonwealth fora, such as reporting at CHOGM on progress made since last CHOGM.

Provide the in-country environment required for the effective functioning of civil society groups, particularly those engaged in human rights and advocacy. This involves:

- updating legal frameworks (using participatory processes) to ensure they are in accordance with international standards and best practices; and
- not using registration processes as a means of restricting the voices of civil society.

Issue a standing invitation to United Nations rapporteurs and relevant human rights bodies as an indicator of their commitment to openness.

In accordance with their commitment in 2003 to the right to information, pass laws in compliance with international best practice to provide citizens with access to information.

Mandate the Commonwealth Secretariat to develop and implement an information disclosure policy in compliance with international good practice.

Ensure that human rights are not compromised on the excuse of "security". In particular Commonwealth governments should not derogate from internationally accepted norms on detention without charge and fair trial.

Develop effective in-country mechanisms to stop the abuse of power by the police and security forces, including the development and sustainability of civilian oversight bodies.

Ensure, in conjunction with National Human Rights Institutions, greater protection for human rights defenders.

Establish a Commonwealth Expert Group on policing to develop guidelines on training, accountability mechanisms, legal regimes and mutual professional support to ensure democratic policing.

Investigate and keep under review the situation in Uganda and ensure that it is complying with the Harare Commonwealth principles and the expected 2005 Declaration on Tolerance as a condition for hosting CHOGM in 2007.

Expand engagement with the Maldives to encourage genuine and time-bound and verifiable reform to ensure that the Maldives abides by the Harare Principles.

Include the Maldives on the agenda of the Commonwealth Ministerial Action Group.

Continue dialogue with the Zimbabwean government - as occurred during the suspension / withdrawal periods in Nigeria and South Africa – and not abandon the people of Zimbabwe.

Encourage Heads of State of SADC countries in particular, to demand greater adherence to human rights norms by the Zimbabwean government.

In addition, participants recommended that civil society should:

Provide support and solidarity to human rights defenders and other civil society groups in other Commonwealth countries and Zimbabwe.

Publicise their efforts to advocate on human rights issues within the Commonwealth.

Monitor member states' implementation of Commonwealth commitments.

Conduct a fact-finding mission to Uganda to assess compliance with international human rights standards and the Harare Principles, as a matter of priority in the context of Uganda's proposed hosting of CHOGM in 2007.

Investigate and report on the objectives and financing of Commonwealth agencies, in the context of the diminishing funding provided to the Commonwealth agencies to conduct their activities.