

Submission from the Commonwealth Human Rights Initiative to the October, 1998 meeting of the Commonwealth Ministerial Action Group

1. The Commonwealth Human Rights Initiative (CHRI) welcomes recent changes in Nigeria which have led to the release of political prisoners and the latest programme for democratic transition in that country. It hopes that members of the Ministerial Action Group (CMAG) will have a forthright exchange with the Nigerian Foreign Minister at the coming meeting, focusing on what more needs to be done to entrench human rights and democracy before Nigeria can be readmitted to full membership of the Commonwealth. CMAG should point out to the Foreign Minister that the admission of the UN Special Rapporteur on Nigeria is one key international benchmark. The CHRI cannot forget that, prior to General Abacha's death, his fraudulent transition programme should have led to his regime's expulsion from the Commonwealth at this meeting.
2. In terms of Nigeria now, therefore, the Initiative would wish to see the country complete a fair sequence of elections leading to the installation of a civilian President. Only then should the Nigerian Government be fully readmitted to the Commonwealth (as per paragraph 16 of the Edinburgh CHOGM communiqué). Following the South African precedent (in 1993-4), Commonwealth nations which have imposed sanctions and other measures restricting normal Commonwealth fraternity should lift them by stages, in response to recognized progress within the country.
3. The immediate concerns of the Initiative are these: first, that all the remaining political prisoners are released; second, that a civil constitution is promulgated and all the military decree-laws (such as Decree 2, Decree 29 and the Failed Bank decree) are made void; third, that fundamental liberties (such as freedom of association and expression) are respected; and fourth, given the state ownership of the electronic media, that Nigerian broadcasters are required to observe the strictest political neutrality during the electoral phase which has now begun.
4. The CHRI would urge CMAG to take a long-term and holistic view, and to see how Commonwealth experience, both inter-governmental and non-governmental, could assist Nigeria over the next few years. In spite of the country's enormous human and economic resources it has had little successful experience of civilian democracy, is assailed by what the Secretary-General has described as "divisive pluralism", and has structural problems of corruption and the maldistribution of wealth. Over the last decade it has gone backwards in terms of economic, social and cultural rights and many young Nigerians are not optimistic that the present transition will yield genuine democratic and social progress. The forthcoming elections are likely at best to produce a transitional, rather than a fully democratic regime.
5. In this context the Commonwealth should stand ready to help Nigeria in ways which will strengthen a responsible human rights culture. Much experience exists in terms of negotiating processes, from South Africa to Northern Ireland, which could be useful in a future constitutional convention. If police and security forces are to be purged and retrained; if the education, health and public administration systems are to be reformed; if the civil society is to be strengthened – in all these areas there are Commonwealth countries, organisations and citizens with relevant means to help. What would be quite inadequate would be for CMAG to suppose that a Commonwealth election monitoring group, sent to Nigeria, would be sufficient to confirm the country on a secure path for the future.
6. In particular Commonwealth agencies may be able to help the next government in two fields – in looking for truth and restitution for the victims of crimes committed by recent military governments, and in tracing and returning the wealth stolen from the Nigerian people. South African and Ugandan experience may be helpful in the first area (there are also valuable non-

Commonwealth precedents from Chile and Argentina). Circumstantial evidence that Nigerian oil wealth has been misappropriated has been circulating for years. A democratic Nigerian government is entitled to help from its Commonwealth friends in regaining such funds and bringing the thieves to justice.

7. CMAG should also maintain its interest in Sierra Leone and The Gambia. The situation in Sierra Leone is still insecure, with problems over unrest, the return of refugees, of policing, of the economy and legal system. The Initiative is deeply concerned that journalists and others are under sentence of death by President Kabbah's government, and it is not clear that the parliament is yet working properly. CMAG should call for clemency for those facing the death penalty, and should help galvanise support for the reconstruction of the country.
8. After three years of CMAG operation, during which some serious human rights abuses have occurred outside West Africa, it is time that CMAG should review its own workplan. At the Edinburgh Commonwealth meeting, Heads of Government (paragraph 19)" agreed that in future CMAG's remit should extend to member countries deemed to be in serious or persistent violation of the Harare principles, on the basis of established guidelines." Serious violation now seems to be taking place in Malaysia.
9. In a previous submission the CHRI has proposed certain country situations worthy of CMAG review, and suggested that a key criterion of seriousness and persistence should be that if the country concerned was outside the Commonwealth it could not now meet the "Harare conditions" for an applicant. The Initiative believes that CMAG should at this October 1998 meeting invite governments and NGOs to make a case for other situations to be investigated and monitored. In this, the 50th anniversary year of the Universal Declaration of Human Rights, it would be right that such cases should be couched in relation to the internationally agreed covenants and conventions.
10. Further, in the light of Nigerian experience, CMAG should consider whether it is sufficient merely to operate in crisis mode after grave human rights abuse has occurred. The Commonwealth has a duty to try and consolidate human rights and democratic practices in all member countries, and particularly where regimes are transitional and could revert to abuse. CMAG should use its meetings to discuss with the Secretary-General and other Commonwealth bodies how best to strengthen human rights and civic responsibility in countries and sectors which are not in headline crisis.
11. Finally, CMAG should urge all member countries to support current efforts at the United Nations to strengthen the international framework for human rights; first, by ratifying the statute for an International Criminal Court (supported at Edinburgh in paragraph 27, and which requires 60 ratifications to become effective); second, by supporting the draft Declaration on Human Rights Defenders, now before the General Assembly, and the appointment of a Special Rapporteur to assist in its implementation.