

Litmus Test for Commonwealth Promises to Promote Civil Society

- R. Iniyan Ilango

Consultant

Human Rights Advocacy Programme, CHRI

With the Sixth session of the United Nations Human Rights opening on 10 September 2007 there is an urgent need for Commonwealth members to act together to promote civil society.

The Council's first year of work was centred on institution building. The Fifth session held in June 2007 marked the end of this process and concluded with the adoption of resolution 5/1 titled 'Institution Building of the United Nations Human Rights Council'. This resolution details procedures and rules for the functioning of the Council, including the Universal Periodic Review (UPR) mechanism- a system to review human rights records of United Nations (UN) member countries. Resolution 5/1 provides that states' records would be reviewed on the basis of their own documentation of their human rights records and of compilations prepared by the Office of the High Commissioner for Human Rights (OHCHR).

Although resolution 5/1 describes much of the Council's functions, it leaves vague the role of civil society in many crucial areas, including for the preparation of the UPR documentation. When setting out the underlying principles behind the UPR the resolution mentions that participation of all relevant stakeholders including non-governmental organisations and national human rights institutions has to be ensured. However, when describing the UPR documentation process, the resolution merely "encourages" states to hold a broad consultation with all relevant stakeholders before preparing their submission to the Council. Civil society input also seems to have been kept out of a parallel compilation to be prepared by the OHCHR based only on UN reports and documents. The only other process available for civil society is a provision that allows the OHCHR to prepare a second compilation of 'additional, credible and reliable information' provided by other relevant stakeholders.

An important task for the upcoming Sixth session is to decide on guidelines for documentation to be submitted by individual countries prior to their review. The documents to be prepared by the OHCHR are to be elaborated following the structure of the guidelines to be adopted for state submissions.

H.E. Mr. Loulichki, the Moroccan Ambassador and facilitator for deliberations on the UPR released a non-paper on guidelines for the UPR on 10 August 2007. The non-paper describes states' and OHCHR submissions but remains conspicuously silent on civil society inputs. This climate of vagueness is an indication of dangers that may emanate from the Sixth session.

For the 13 Commonwealth members of the Council (Bangladesh, Cameroon, Canada, Ghana, India, Malaysia, Mauritius, Nigeria, Pakistan, South Africa, Sri Lanka, UK and Zambia), civil society participation in the UPR has been a sensitive area with divided opinions. Negotiations preceding resolution 5/1 were tricky and worrying. One of the most contentious issues was civil society participation, with repeated attempts by some Commonwealth members to undermine civil society's access and role in the Council.

There is an urgent need to adequately include civil society views in all UPR deliberations. The in-country consultation process that resolution 5/1 'encourages' is as important as the summary to be prepared by OHCHR on 'additional, credible and reliable' information provided by other relevant stakeholders. Chance of participating in national consultations prior to the report will give greater space to national non-governmental organisations and human rights institutions. Any such national consultation should be a credible and transparent process and not a mere token gesture or face saving measure. Guidelines to be adopted in the Sixth session should reflect this and propose specific national consultation processes. At the same time it is equally important to

clarify the role of OHCHR in the preparation of summary/compilation of additional, credible and reliable information provided by other stakeholders. This neutral channel will provide a standing guarantee for civil society's intervention when national consultations ostensibly fail.

The 13 Commonwealth members of the Council should remember the commitments they undertook in the past four Commonwealth Heads of Government Meetings to promote civil society. Some of them had also promised to support civil society in their pre-election pledges to the Council. Keeping these promises in mind, Commonwealth Council members should act together to not only ensure that civil society input is adequately addressed in the UPR guidelines but also to uphold the value of civil society's participation repeatedly acknowledged by the Commonwealth. Any failure in this regard will only precipitate within the Commonwealth civil society, disenchantment with the Commonwealth and its ability to be an agent of democratic transformation and development.