



Commonwealth Human Rights Initiative's Oral Presentation at the Commonwealth Forum of NHRIs Meeting, Geneva. March 2012

Madame Chair, Commissioners and members of Commonwealth National Human Rights Institutions, (NHRIs) Commonwealth Human Rights Initiative (CHRI) would like to take this opportunity to thank the Commonwealth Forum of National human Rights Institutions (CFNHRI) for including civil society in their meetings.

CHRI hopes that Commonwealth NHRIs would build on this spirit and intensify their efforts to develop partnerships with civil society in their domestic jurisdictions. In this context CHRI also notes that substantial engagement between civil society and NHRIs is well entrenched in international standards and best practice. Furthermore, such engagement is also a fundamental aspect of the Commonwealth values of democracy and good governance.

Reiterating the findings of its 2011 CHOGM report: 'A Partnership for Human Rights: Civil Society and National Human Rights Institutions', CHRI would like to emphasise that, in the Commonwealth, partnerships between civil society and NHRIs is not to its optimum best. CHRI would like to call upon the CFNHRI and its member NHRIs to embrace the wealth of Commonwealth best practices in this area and realise the full potential of improved partnership with civil society.

In this context CHRI calls upon Commonwealth NHRIs to:

Engage with civil society in a substantial and substantive manner, regardless of an explicit mandate to this end in their founding legislation

Meet the standards laid down in the Paris Principles and the Kandy Program of Action, as well as the Commonwealth standards set out in the publication *National Human Rights Institutions: Best Practice*, in their engagement with civil society

Extensively consult and collaborate with civil society when fulfilling mandated duties.

Furthermore, CHRI calls upon CFNHRI to work with member institutions and encourage them to adopt Commonwealth best practices and create formal platforms designed to promote substantial and consistent engagement between civil society and NHRIs.

On a thematic level, CHRI would like to stress three broad areas that require the attention of Commonwealth NHRIs: LGBTI rights, UPR and human rights defenders.

Commonwealth NHRIs should take serious note of discrimination based on sexual orientation. Over 80% of Commonwealth countries have inherited and retained colonial anti-homosexuality laws that have criminalised same-sex sexual conduct and fuelled homophobia. Lesbian, gay, bisexual, transgender and intersex (LGBTI) people in the Commonwealth often face stigma and discrimination in social, cultural and economic arenas as well as threat to life, exclusion and marginalisation similar to those faced by any vulnerable group.

International human rights standards enshrined in the UDHR, ICCPR and Commonwealth values of non-discrimination as well as standards entrenched in most Commonwealth Constitutions oppose

discrimination and uphold the equal treatment of all human beings, including LGBTI people. As nodal human rights bodies, NHRIs have an important duty to harmonise national legislation with fundamental international human rights standards and to uphold national values enshrined in national Constitutions without fear of political interference or popular sentiments. In this context CHRI urges Commonwealth NHRIs to work towards a Commonwealth where same sex conduct is fully decriminalised.

CHRI further urges Commonwealth NHRIs to recognise LGBTI people as a vulnerable group and to record and document violations based on sexual orientation and Gender identity when handling complaints; partner with and support civil society working for the promotion and protection of LGBTI rights; and further mandates to spread human rights related education and awareness by sensitising the citizenry on LGBTI rights.

CHRI also calls upon CFNHRI to engage with its member institutions and encourage them to work on decriminalising same sex conduct in their jurisdictions.

Secondly CHRI calls upon Commonwealth Institutions to be actively involved in the UN Human Rights Council's Universal Periodic Review Mechanism (UPR). Under the UPR, the human rights record of every UN member State is reviewed every four and a half years. NHRIs that are fully compliant with the Paris Principles and accredited to the International Coordinating Committee of NHRIs have a unique role to play in this review process. Information provided by such institutions towards the review is treated distinctly and when the review concludes and final recommendations are adopted, such institutions are given the opportunity to speak immediately after States. After the review, NHRIs could play an important role in working towards implementation of accepted recommendations in association with the government and civil society

CHRI feels that it is imperative for Commonwealth NHRIs to fully participate in the UPR process; act as a catalyst for national debates and deliberations, both before and after the review in Geneva; and monitor the implementation of UPR recommendations and take all possible measures to facilitate implementations of such recommendations. CHRI also feels that CFNHRI should support NHRIs in these endeavours.

Lastly CHRI would like to stress that Commonwealth NHRIs should actively protect human rights defenders in their jurisdictions. In many jurisdictions of the Commonwealth human rights defenders are increasingly facing threats merely for working towards the promotion and protection of human rights. NHRIs have an important role to play in affording protection to such defenders and their work – especially in difficult operating environments where impunity thrives,.

CHRI urges Commonwealth NHRIs to adopt Commonwealth best practices such as the creation of focal points/specialised desk officers on human rights defenders and prioritise the protection of such defenders. CHRI also calls upon CFNHRI to assist Commonwealth NHRIs in formulating a policy on human rights defenders and prioritising their protection.

Finally, CHRI would like to emphasise that NHRIs should not be penalised by governments for their work on promoting and protecting human rights. In this context CHRI notes with concern emerging news that the Chair of the Malawi Human Rights Commission was reportedly arrested (and released on bail) on charges of sedition and illegal possession of foreign exchange, preventing him from attending this meeting and the meeting of the ICC. CHRI urges the government of Malawi to release the details of these charges, act in a transparent manner and observe all fair trial procedures. CHRI further calls upon CFNHRI and the Commonwealth Secretariat to closely scrutinise this case and report findings to the Commonwealth Ministerial Action Group.

Thank You