
Annex 6

Commonwealth Secretariat Submission to Intergovernmental Working Group on the Review of the Human Rights Council

About the Commonwealth Secretariat

The Commonwealth is comprised of 54 member states in Africa, Asia, the Caribbean, Europe and the Pacific. We represent over a quarter of the world's countries, and since May 2010 our countries have made up one quarter of the membership of the Human Rights Council.

Since 2008, one of the biggest programmes of the work of the Secretariat's Human Rights Unit has been on Universal Periodic Review (UPR), engaging with almost all of our member states through UPR observations and seminars. A Commonwealth Mid-Term Review of UPR was held in March 2010 which brought together participants from government, NHRI and NGO representatives from 18 of the 27 Commonwealth countries who had by that point undergone UPR. We contribute to this important review of UPR on the basis of this experience.

The Commonwealth is pleased to make the HRC aware of the view of member states that the mechanism is seen as one of the most innovative and successful of the Human Rights Council. States have shown commitment to UPR and have approached it in a spirit of goodwill, seeing the Review as a means to strengthen in-country developments on human rights. It has been seen as both exacting and an opportunity to share good experiences. It has been welcomed, as has the possibility to progress conversations on multi- and bi-lateral co-operation of implementation.

The Commonwealth Secretariat offers the following points for consideration:

Objective of review

The mechanism has been perceived in some quarters as an 'examination', which must be passed. HRC Resolution 5/1 sets out the objectives of UPR as including 'the improvements of the human rights situation on the ground'. Greater profiling of this objective might serve to deepen the nature of state engagement with the process.

Timelines

One of the most significant successes of the UPR is that all states scheduled to do so

have attended Geneva for their Interactive Dialogue. A momentum has built in the first cycle that might be endangered by any lapse in the process, for example a year's break. The Commonwealth Secretariat considers an immediate move to the second cycle to be desirable.

Domestic NGO involvement

Our work shows that national civil society in various parts of the Commonwealth is not aware of UPR and the potential therein to promote national human rights aims. This is evidenced by the absence or small number of national stakeholder reports from several Commonwealth countries. The Commonwealth Secretariat has raised such awareness and would be pleased to work with the HRC and OHCHR to explore ways in which such initiatives might be enhanced.

Recommendations

Strength of recommendations

The formal commitment of states to international human rights standards, for example through ratifications, provides a set of legal obligations that might be made explicit when they form the basis of recommendations.

Constructive recommendations

It is noted that some individual recommendations can present challenges for either being too vague or cover a too wide range of issues. Individual recommendations that refer to too many themes at once, or are of a very general nature are not easy to understand nor easy to use by government actors and civil society representatives during UPR follow-up. We encourage recommendations to be constructive, specific and measurable.

Clustering of recommendations

Many states have received and accepted a large number of recommendations. It has been suggested that they might be clustered by theme before the adoption of the report. The Commonwealth Secretariat lends its support to this proposal, whether done with the assistance of the Troika or the OHCHR or both. Any editorial changes would need to be agreed by the receiving and the recommending states.

Response to recommendations

The Commonwealth Secretariat would like to encourage States to make use of the 'Addendum 1' document to record definitive responses to recommendations. In this way responses are clearly articulate and provide guidance for UPR follow-up.

In addition, the Commonwealth Secretariat highlights HRC Resolution 5/1 which provides that "Recommendations that enjoy the support of the State concerned will be identified as such. Other recommendations... will be noted".

Implementation of recommendations

At the advanced stage of the first UPR cycle attention is turning to the implementation phase. Some states have chosen to report back to the HRC on progress. This seems to be a helpful way both to encourage scheduling of a state's follow-up work as well as allowing the HRC to have a sense of in-country progress on UPR. Such practices could be further encouraged by the HRC.

Involvement of small states

The Commonwealth membership includes 32 small states; hence we have a particular interest in their challenges and needs. Small missions and states with no mission in Geneva struggle to engage with various stages of the UPR process. Based on discussion with our small states, the Commonwealth Secretariat encourages the HRC review to consider ways in which to enhance opportunities for small states' engagement with the UPR. This could be done, for example, by allowing states and stakeholders to make oral interventions via video submissions or video link.

The Commonwealth intends to open a Small States Office in Geneva in 2011. A human rights programme there will enhance support for small Commonwealth States to engage in human rights processes, including UPR.

It is unlikely that this stage of the HRC review will receive many views from small states without missions in Geneva, although more may participate when discussion moves to the General Assembly in New York. The Commonwealth considers there to be a need for further exploration of the ways in which small states' engagement can be facilitated. Again, the Commonwealth Secretariat is ready to participate in any such future discussions.

Speakers' list

The Commonwealth Secretariat is aware that the challenges relating to the speakers' list is one of the most contentious in relation to the HRC review. We do not wish to add our voice to the many on this issue, apart from to say this challenge deserves attention to ensure it does not continue to detract from the potential the UPR holds to improve the human rights situation on the ground.