



LGBTI Human Rights in the Commonwealth Conference Statement on Nelson Mandela International Day 18th July 2014

'LGBTI Human Rights in the Commonwealth' conference was held at the University of Glasgow on Friday 18th July 2014, to coincide with the opening of the Glasgow 2014 Commonwealth Games and to mark the challenging environment faced by lesbian, gay, bisexual, trans and intersex (LGBTI) people in Commonwealth states. The conference was led by Scotland's Equality Network, with partners including the Kaleidoscope Trust, Pride Glasgow and Glasgow Human Rights Network. It drew speakers from across the Commonwealth, and involved a range of activists, policy-makers and organisations in discussion of how to improve the realisation of human rights for LGBTI people in Commonwealth states, and the role of Commonwealth institutions themselves.

We note that:

The human rights record of Commonwealth Member States on sexual orientation and gender identity is poor relative to all states worldwide. There is a poor understanding of intersex. Due historically to the legal legacy of the British Empire, of the 53 member states, 42 criminalise some or all adult same-sex sexual behaviour. Ninety per cent of people in Commonwealth states live in countries where such criminalisation exists. Over half the countries in the world with laws banning same-sex sexual acts are in the Commonwealth. Across the Commonwealth lesbian, gay, bisexual, trans and intersex people are denied equal access to health services, employment, education, housing and human rights.

In 2013 the Commonwealth Charter was formally adopted by all member nations. The Charter states that the Commonwealth is "implacably opposed to all forms of discrimination, whether rooted in gender, race, colour, creed, political belief or other grounds." In 2013 the Secretary General of the Commonwealth, Kamallesh Sharma told the UN Human Rights Council: "With regard to sexual orientation and gender identity our position remains that, based on shared Commonwealth principles, we oppose discrimination or stigmatisation on any ground." This language of anti-discrimination is reiterated by the Commonwealth Games themselves. Article 7 states that, "there shall be no discrimination against any country or person on any grounds whatsoever."

CALL TO ACTION

The participants in the conference:

Declare the historical responsibility of the British Empire for the criminalisation of same-sex sexual behaviour and relationships; and call for the repeal of all British colonial laws which criminalise same-sex sexual acts between consenting adults.

Affirm that human rights on the basis of sexual orientation, gender identity and intersex status exist in the context of all forms of civil, political, social, economic and cultural rights as defined by the United Nations, and are to be claimed together with human rights related to other forms of discrimination such as in relation to racism and religion.

Affirm the United Nations Human Rights Council resolution 'Human Rights, Sexual Orientation and Gender Identity' of 2011 (A/HRC/RES/17/19) which expressed 'grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity'.

Affirm the Yogyakarta Principles on the Application of Human Rights Law in relation to Sexual Orientation and Gender Identity.

Affirm the resolutions of regional bodies that are co-extensive with the Commonwealth, in particular resolution by the African Commission on Human and People's Rights (275: Resolution on Protection Against Violence and Other Human Rights Violations against Persons on the basis of their real or imputed Sexual orientation or Gender Identity, 12 May 2014) and resolutions by the Organisation of American States from 2008 onward.

Affirm the 2011 United Nations Political Declaration on HIV and AIDS, which commits states to enabling legal, social and policy frameworks which promote equitable access to essential services, noting that the Commonwealth is over-represented in HIV/AIDS figures.

Condemn absolutely the recent extensions of criminalisation and state persecution in several states.

Recommend that all Commonwealth states:

- remove all laws that criminalise people or limit their human rights due to sexual orientation, gender identity or intersex status;
- work with local LGBTI civil society organisations and human rights defenders to understand better and to realise/claim these human rights.
- End the use of reparative therapies, the pathologisation of trans people and of intersex people.

Recommend that the Commonwealth, through its Secretariat and other relevant agencies:

- Work with member states to uphold the Charter in full by developing a shared understanding of “other grounds” as being inclusive of sexual orientation, gender identity and intersex status.
- Work with member states to meaningfully include LGBTI human rights into wider national and regional human rights frameworks, in particular with national and regional human rights commissions.
- Work closely with LGBTI civil society within and across Commonwealth member states to better understand the struggles faced by LGBTI people in realising rights.
- Work with Malta, the host government of CHOGM 2015, to include a discussion on equal rights for LGBTI citizens as a substantive agenda item.
- That the Secretariat and the Chair of the Commonwealth (Malta) to provide a public report at CHOGM 2015 on progress made towards these ends.

Recommend that the Commonwealth Games Foundation:

- Works with participating nations toward ensuring that Article 7, which prohibits discrimination on any grounds, is properly implemented.
- Work with participating national sporting bodies, to implement a framework of non-discrimination with respect to sexual orientation, gender identity and intersex status.

Recommend that the Glasgow Games Organisers:

- Express concern at the challenges faced by athletes who are, or who are presumed to be, intersex, including, trial by media (as in the case of Caster Semenya), coercive sterilisations and partial clitoridectomies (as reported in the British Medical Journal in April 2014).