

CHOGM in Sri Lanka: A Human Rights Perspective

By Paula Gerber

Before every Commonwealth Heads of Government Meeting (CHOGM), approximately 500 civil society delegates from around the world gather together to discuss and agree on recommendations to be presented to the Commonwealth Heads of Government. In November 2013, I was fortunate enough to attend the Commonwealth People's Forum in Sri Lanka. My goal in attending was to try to get respect for the rights of lesbian, gay, bisexual, transgendered and intersex (LGBTI) persons incorporated into the recommendations to Heads of Government.

The modern Commonwealth consists of 53 nations, 41 of whom still criminalise homosexuality - an odious legacy of the British Empire. These 41 states represent 80% of all Commonwealth countries, a stark contrast to non-commonwealth countries where only 25% continue to criminalise homosexuality. Britain decriminalised consensual sex between men in 1967, but by then its influence over the Commonwealth had diminished considerably, such that only a dozen nations have chosen to follow suit since. There is, therefore, a concerted effort within many civil society organisations to make the 2013 CHOGM a catalyst for more nations to decriminalise homosexuality.

Kaleidoscope Human Rights Foundation, of which I am a board member, is an Australian NGO that is working towards the decriminalisation of homosexuality. It worked with its UK counterpart, the Kaleidoscope Trust to produce a report - *Speaking Out: the rights of LGBTI citizens from across the Commonwealth* - that gives voice to LGBTI people in Commonwealth countries in Africa, Asia, Oceania and the Americas. This Report was prepared as a response to criticism at the 2011 CHOGM that the calls to promote and protect the rights of LGBTI people, and to decriminalise homosexuality, were made primarily by rich, "white" countries purporting to speak on behalf of others.

The Speaking Out report gives voice to LGBTI persons from almost all Commonwealth nations. It includes, for example, the following accounts of rights abuses:

Tanzania

Alex, a transgender man, was sexually assaulted by the police at Buguruni Police Station in Dar es Salaam in 2009.

He was 18 at the time. The manager at the bar where he worked, who accused him of being a lesbian and having a "bad attitude," turned him in to the police. When Alex arrived at the police station, he said, police told him to take off his clothes and touched his breasts and vagina. They beat him on his arms and back with a belt and then forced him to wear women's clothing and clean the police station. He was released after six days, and said, "I did not make a complaint. I was afraid."

Belize

Caleb Orozco, Executive Director, United Belize Advocacy Movement (UNIBAM) says: I have lost two teeth, had my family property invaded and car damaged by two mask men ... I have had stones thrown at me, experienced simulated gun shots, insults and physical harm on public transportation, (and) threats (like) "Caleb, you have no right to breathe!"

I arrived at the Commonwealth People's Forum in Hikkaduwa in Sri Lanka armed with copies of the *Speaking Out* report and ready to distribute it to delegates and staff of the Commonwealth Secretariat and Commonwealth Foundation. However, I quickly realised that the conduct of the Forum was very prescribed; delegates were told what they were to discuss and when they were to discuss it, and there was little opportunity to raise LGBTI rights within this timetable. Indeed, the only real opportunity to raise LGBTI rights was in the single session devoted to discussing regional issues.

It was also concerning to learn that local LGBTI groups had been warned by police not to attend the Forum. Many international LGBTI groups has also stayed away: Sri Lanka, as a country that punishes same-sex sexual conduct by up to 10 years imprisonment, is not an attractive destination for LGBTI activists (indeed, in a rare example of equality between the sexes, Sri Lanka amended the law in 1995, so that it applies to both gay men and lesbians.)

I was able to locate only one other person who was at the Forum to talk about LGBTI rights: president of the Tongan Leitis Association, co-founder of the Pacific Sexual Diversity Network and delegate for Oceania at the International Lesbian and Gay Association Joey Jolene Mataele. Joey and I worked together in the Small



Dr Gerber (left) worked closely with Joey Jolene Mataele (right) to get LGBT rights included in the recommendations

States group to successfully lobby for the inclusion of a provision calling on Heads of Government to respect the rights of people of all sexual orientations and gender identities.

The final report to Heads of Government is divided into four sections: one relating to recommendations common to all members of the Commonwealth, and three others dealing with recommendations relating to African nations, Asian nations, and small states respectively. We were keen to see the call to respect and promote the rights of people of all sexual orientations and gender identities included within the common section of the recommendations. However, because delegates from Africa did not see this as an issue relevant to their region, the recommendation was limited to the recommendations relating to small states, namely those in the Pacific and Caribbean.

Although Joey and I succeeded in getting the rights of sexual minorities included in the outcome report, we were disappointed that it was limited in this manner. We were further disappointed that Heads of Government appear to have otherwise completely avoided discussing LGBTI rights at CHOGM.

The work to decriminalise homosexuality around the world will continue long after CHOGM, and has important allies such as Hugo Swire, The British Minister of State for the Foreign Office. I was pleased to see that Mr Swire, who gave the closing address at the Commonwealth People's Forum, used that opportunity to specifically refer to the 41 states that continue to criminalise homosexuality - and to declare that he will be urging these countries to repeal these laws that violate human rights and dignity.