

***The choice for the Commonwealth remains stark:***

***Reform or Wither***

**A Presentation by Sir Ronald Sanders<sup>1</sup>**

**at the opening of the Commonwealth Advisory Bureau  
Conference on**

***“100 days after CHOGM”***

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Let me first say how honoured I am to be asked to share with you my views on reform of the Commonwealth 100 days after the Commonwealth Heads of Government meeting in Perth.

You will recall that the Eminent Persons Group (EPG) was specifically mandated by the 2009 CHOGM “to undertake an examination of options for reform”.<sup>i</sup>

Heads did so because, as they said in the *Affirmation* issued at that meeting, they were “resolved to make the Commonwealth an even stronger and more effective international organisation as (they) look ahead to the rest of the 21<sup>st</sup> Century”.<sup>ii</sup>

In truth, at the time they took the decision, the Commonwealth was in serious danger of becoming irrelevant.

Its ability to hold itself out as a significant organisation for its own member states was in doubt, as was its capacity to be influential in the world community.

The Commonwealth Secretariat was underfunded; its staff complement had been reduced over time; the quality of its staff in crucial areas was limited by its inability to compete with other international organisations in recruitment; and it had too large a mandate in a variety of fields without the resources to deliver effectively.

None of that has yet changed.

Unless the recommendations of the EPG on institutional reform are implemented, including the retirement of some non-effective programmes in the Secretariat’s present mandate, the situation will remain unchanged.

It was in the area of honouring its own values that the Commonwealth was found most wanting and manifestly hypocritical.

Unlike other organisations, the Commonwealth has proclaimed itself as 'values-based', and its governments have given joint expression to that assertion in a series of declarations.

Despite this, when serious or persistent violations of Commonwealth values have occurred, the response is silence except in cases of the unconstitutional overthrow of a government.

The prevailing impression is that the inter-governmental Commonwealth had become a club for the shelter of governments even when the behaviour of some of them is inconsistent with the declared values of the organisation.

The organ that was most criticised in the run-up to Perth was the Commonwealth Ministerial Action Group (CMAG).

CMAG was established as the guardian of Commonwealth values and empowered to take action against governments that violated them.

Yet, it has failed to tackle anything more than unconstitutional overthrows of government.

Consequently, the moral authority of the Commonwealth, that has long been its strength, has been eroded.

In the 'Concluding Remarks' of our Report to Commonwealth Heads of Government, the EPG said:

*Now is the time for the Perth CHOGM to authorise the urgent reform this report recommends... There may not be another chance to renew, reinvigorate and revitalise the*

*Commonwealth to make it relevant to its times and people in the future".<sup>iii</sup>*

Regrettably, the Perth CHOGM was a squandered opportunity.

It failed to embrace the mood for reform that had energized the Commonwealth association as a whole.

Action of the road map for urgent reform that was set-out by the EPG after wide consultation with 330 organisations and individuals across the Commonwealth was deferred.

The opportunity to send a signal to the world that the Commonwealth was re-asserting its strengths, and addressing its weaknesses was lost.

In the result, the need for urgent reform of the Commonwealth to which the EPG drew attention is more pressing after the Perth CHOGM than it was before it.

The fixation, by some vocal countries, with only three of the 106 EPG recommendations resulted in little or no attention to 103 of them.

The three recommendations that dominated their thinking and to which they were most resistant were:

- A Commissioner for the Rule of Law, Democracy and Human Rights;
- An educational process leading to the repeal of discriminatory laws that impede effective responses to the HIV/AIDS epidemic; and
- Broad consultation among the publics of each Commonwealth country on a Charter for the Commonwealth, and, if findings favour a Charter, the establishment of such a Charter.

The truth is that some governments do not want a Commissioner for Democracy, the Rule of Law and Human Rights because they fear that their record would not stand-up to scrutiny.

They do not regard the Commissioner as a tool that could be used to remedy violations of Commonwealth values.

They see the post as investigative and punitive, even though it was envisaged by the EPG as one that would encourage and help them to adhere to the values to which they have declared a firm commitment.

While the EPG called for a "Commissioner", there is no reason why the name should be retained.

What is important is the mechanism.

It has to be an entity that is not within the Commonwealth Secretariat or CMAG.

At the moment there is no mechanism that provides separate advice to either the Secretary-General or CMAG about violations of Commonwealth values.

That is a serious void and it is the void that paralyses action on anything other than the unconstitutional overthrow of a Government.

That is the void that has to be filled, to lift the Commonwealth out of its paralysis on this issue.

In Perth, Heads of Government accepted proposals from CMAG to make it more effective.

This was hailed as a major change.

However, a close study of the adopted CMAG changes reveal that the more some things change, the more they remain the same.

There is still no external body that can bring serious or persistent violations of Commonwealth values to the attention of CMAG for action. The mechanics for doing so remain what they were before, and they have not worked effectively in the past.

Only time will tell whether new wine in old bottles can produce the machinery, strategies and approaches that are required if the Commonwealth's moral authority in the world is to be restored with CMAG at its forefront.

The Secretary-General and CMAG have been "tasked to further evaluate relevant options" relating to the EPG's proposal for a Commissioner and to report back to Foreign Ministers at their September 2012 meeting in New York".

So, all is not yet lost.

But, it will be, unless serious preparation for that exercise is put in hand immediately by the Secretariat including more meaningful discussion of the matter than was facilitated before the Perth CHOGM.

The appointment of a Commissioner (or any other similar mechanism that may be agreed) remains a missing but vital link in the capacity of both CMAG and the Secretary-General to evaluate conditions in a country objectively and to take remedial action before any violations become serious or persistent warranting punitive action by CMAG or Heads of Government.

In the pre-CHOGM Foreign Ministers meeting, the courageous Chairman of CMAG, the Foreign Minister of Ghana, in a robust intervention said as much.

On the *Charter*, as the EPG saw it, there would have been no added value to the Commonwealth if Heads of Government had signed yet another piece of paper in the name of the Commonwealth people about which they were not consulted and knew nothing.

We recommended a Commonwealth-wide process of discussing the proposed *Charter* among the many civil society organisations and in schools, universities, and in town hall meetings.

In our view such public consultation would serve to renew and invigorate interest in, and commitment to, the Commonwealth.

It would also source the values and aspirations in the will of the peoples of the Commonwealth – something that has not happened with any previous declaration.

Fortunately, the Heads of Government accepted this recommendation in its entirety, although in the meeting of Foreign Ministers that preceded CHOGM, there were many who, alarmingly, did not welcome the process of national consultation.

The Australian government deserves the congratulations of Commonwealth citizens everywhere for launching last month the process of public consultation in Australia. Australia is showing the way. Hopefully, others will soon follow its example.

The third matter about which many governments demonstrated considerable antagonism was the recommendation that governments “should take steps to encourage the repeal of discriminatory laws that impede the effective response of

Commonwealth countries to the HIV/AIDS epidemic, and commit to programmes of education that would help a process of repeal of such laws”<sup>iv</sup>.

This recommendation was, regrettably, interpreted as a call for Commonwealth countries to repeal all laws that outlaw homosexuality and lesbianism and what, in some countries, is described in their criminal laws as ‘buggery’.

The EPG had made the point that discrimination against people of a different sexual orientation is a human rights issue.

But we were not insensitive to the problems faced in many Commonwealth countries because of religious bigotry, intolerance and just plain fear.

That is why we called for a process of education that would help the repeal of discriminatory laws.

For us, there was no magic bullet to solve the problem.

We saw it as a journey, but one which requires accelerated steps.

The preoccupation with these three issues by officials and ministers of many countries resulted in a desire to bury them even at the expense of discarding the entire report.

The biggest losers were the Commonwealth institutions and the 32 small states of the Commonwealth.

For, the issues of greatest and pressing importance to them in the EPG Report were denied even the most perfunctory consideration.



These issues included:

- Reform of the Commonwealth institutions;
- Critical development issues such as the overwhelming debt of small states and how to deal with it;
- Reform of the criteria of the international financial institutions for “graduating” middle income developing countries from concessionary financing;
- The threats of Climate Change to the existence of small island states; and
- The creation of strategic partnerships to make the Commonwealth effective in delivering benefits to its people.

The preoccupation with the three issues also led to the decision not to release the EPG Report publicly well ahead of the Perth CHOGM so that it could be digested, understood and discussed by all interested Commonwealth citizens.

Refusing to release the EPG report publicly was a dark moment in the history of the modern Commonwealth; a moment in which some governments opted to treat the Commonwealth like a secret society hiding from their own people a document which placed at the heart of its concerns the people themselves.

Nonetheless, the report on urgent reform of the Commonwealth dominated the Perth meeting.

At the insistence of more progressive governments particularly the government of Canada, and of Secretary-General, Kamallesh Sharma, it had a better hearing by Heads of Government than it did at the preceding Foreign Ministers meeting.

Several Heads and the Secretary-General recognised that had the Report been discarded to suit the desire of a few, the Commonwealth's already waning credibility would have been struck a mortal blow.

The Report is now a seminal document in the Commonwealth's history, and will remain the focus of attention for much needed change in the Commonwealth over the next few months.

The report reflects the views and aspirations of more than 90 civil society and professional organisations from all over the Commonwealth set out in 330 written submissions to the Group.

Now that the Report has codified these views and aspirations, it will become the benchmark for judging the effectiveness and worth of the Commonwealth as a values-based organisation concerned equally with development and democracy.

A Task Force of Ministers has now been established, and, in the coming months, work will be done on the recommendations other than the 11 that were not accepted and the 30 that found immediate favour.

Let me sound a warning.

For the Task Force to address the recommendations fully and effectively, the Secretariat has to invest resources in preparing technical papers and working-out costs of each of the recommendations.

If the resources are not invested in such preparation, the work of the Task Force will fail before it begins

The Commonwealth will languish in the quagmire of inertia in which it is now stuck.

On a happier note, every EPG member is delighted that the government of Canada has appointed Senator Hugh Segal, who was a member of the EPG, as a Special Envoy for Commonwealth Renewal.

If the Ministerial Task-Force takes advantage of his participation in their work, he will bring to their discussions clarity and context of the EPG recommendations.

We must all urge that they do so.

As this Conference considers the progress and priorities since Perth, I end my remarks with the message the EPG members tried to convey to Heads of Government in the Executive Summary of the Report.

We said this:

“In an era of changing economic circumstances and uncertainty, new trade and economic patterns, unprecedented threats to peace and security, and a surge in popular demands for democracy, human rights and broadened economic opportunities, the potential of the Commonwealth - as a compelling force for good and as an effective network for co-operation and for promoting development - is unparalleled.

For that potential to be achieved giving economic, social and political benefit to its 2.1 billion citizens, urgent reform is imperative for the Commonwealth.”<sup>v</sup>

100 days after the Perth CHOGM, urgent reform remains imperative. The Commonwealth must act if it is to retain a role and remain relevant to its people.

Thank you very much.

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<sup>i</sup> Affirmation of Commonwealth Values and Principles by Commonwealth Heads of Government at their Meeting in Port-of-Spain, 2009, para.13

<sup>ii</sup> *Ibid.*, para.3

<sup>iii</sup> A Commonwealth of the People: Time for Urgent Reform, The Report of the Eminent Persons Group to commonwealth Heads of Government, Perth, October 2011, Commonwealth Secretariat, London, p.152

<sup>iv</sup> *Ibid*, Recommendation 60, p. 102

<sup>v</sup> *Ibid*, pp. 23-24