

INTRODUCING THE EQUALITY & JUSTICE ALLIANCE



Introduction

During the Commonwealth Heads of Government Meeting in London in April 2018, UK Prime Minister Theresa May announced that as Chair-in-Office of the Commonwealth the UK would support Commonwealth governments that want to reform their laws that discriminate against women and girls and lesbian, gay, bisexual and transgender (LGBT) people, many of which are a colonial legacy. Mrs May acknowledged such laws were wrong then and are wrong now.

The Equality & Justice Alliance was formed to provide this support, with funding from the UK Foreign and Commonwealth Office. It is a consortium of international organisations with expertise in advancing equality, addressing the structural causes of discrimination and violence, and increasing protection to enable strong and fair societies for all Commonwealth citizens, regardless of sex, gender, sexual orientation or gender identity. We will work with a range of stakeholders – governments, policy-makers, political leaders and civil society – to help chart the path to reform towards effective laws that protect all citizens from discrimination, violence and abuse.

Members

The members of the Alliance are the Human Dignity Trust, Kaleidoscope Trust, The Royal Commonwealth Society and Sisters For Change. Together we bring expertise in law, diplomatic convenings and civil society strengthening to promote equality for and eliminate discrimination and violence against women and girls and LGBT people.

A Commonwealth Group of Experts will help guide and implement delivery and provide on-the-ground legislative and policy reform support. This group will include legislative drafters, policy advisers, civil society, criminal justice experts and diplomatic allies, among others. It will comprise experts from across the Commonwealth who have implemented the types of legislative reform being supported by the Equality & Justice Alliance.

Issues to Address

Discriminatory laws continue to blight the lives of many Commonwealth citizens. These laws are at odds with international and regional human rights norms and domestic constitutional law. They undermine human rights and perpetuate violence and discrimination. They particularly affect women and girls and LGBT people, and undermine the health and prosperity of entire societies.

Discriminatory laws are apparent in the sexual offences provisions in many Commonwealth criminal codes as well as in the absence of protective legislation. For example, many Commonwealth countries have different ages of consent for sexual relations and marriage for males and females. Rape provisions are often gender specific, and do not cover rape with objects. Marital rape remains lawful in half of Commonwealth countries. Laws protecting against domestic violence, sexual harassment, forced marriage and other forms of gender-based violence are uneven across the Commonwealth. In two thirds of Commonwealth member states, consensual same-sex sexual activity in private between adults is criminalised. Many countries have laws that are used to discriminate against transgender people including 'cross-dressing', impersonation and vagrancy laws. Very few Commonwealth countries have legislation to recognise, prevent and punish hate crimes including those committed on the basis of sexual orientation or gender identity.

HUMAN DIGNITY TRUST + KALEIDOSCOPE TRUST + SISTERS FOR CHANGE + THE ROYAL COMMONWEALTH SOCIETY

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Reason for Optimism

Several countries have made real progress in reforming their laws through wholesale updating of criminal codes, allowing multiple issues to be tackled together. Some of the most recent examples of this approach include:

- Nauru: with international assistance, a wholesale updating of the criminal law was carried out;
- Palau: with the assistance of a model law, the entire criminal code was updated; and
- Mozambique: the Portuguese penal code was used to update the local criminal law.

Other countries have enacted specific legislation to prevent and protect against violence against women and girls and to target hate crimes. For example, in India, the Criminal Law (Amendment) Act 2013 amended the Indian Penal Code and Code of Criminal Procedure to add new offences including acid attack, sexual harassment, voyeurism and stalking and to provide an expanded definition of rape based on the principle of consent. In 2016, Seychelles repealed a law criminalising consensual same-sex intimacy. In 2003, the UK provided for increased sentencing where violent crimes are motivated by hostility based on sexual orientation or gender identity, and in 2015 created a new offence of controlling or coercive behaviour in an intimate or family relationship.

Activities

The Equality & Justice Alliance will support Commonwealth countries that are similarly seeking to address structural discrimination and violence against women and girls and LGBT people through legislative reform, by:

Supporting Civil Society

Ensuring that local and regional civil society can productively engage in the legislative and policy process through:

- Supporting local civil society to build more cohesive and inclusive movements;
- Working with local stakeholders to build an evidence base for legal advocacy;
- Enhancing the capacity of civil society to engage meaningfully in the legislative reform process.

Convening Regional Dialogues

Engaging political and diplomatic leaders and relevant oversight mechanisms to help:

- Build the case for reform;
- Facilitate peer-to-peer dialogue among political leaders, civil society and international technical experts;
- Create a space to discuss how to approach and deliver reform of laws and policies.

Providing Technical Legal Assistance

Providing expertise and technical resources to successfully deliver law reform, for example through:

- Legal research, guidance and international best practice;
- Country and thematic policy papers;
- Technical assistance with consultation mechanisms, legislative drafting and related legal processes.

Timeframe

The first phase of the project will run for a period of two years, from April 2018 to March 2020, and will focus initially on a small number of countries, at their request.