

Ending sexual apartheid

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The whole world knows that the Commonwealth of Nations has a problem securing action on the legal issues of sexual orientation and gender identity. It is a specific Commonwealth problem, let there be no mistake.

Of about 80 countries that still criminalise same-sex, adult, private, consensual conduct, more than half (41) are members of the Commonwealth. Given that there are 54 Commonwealth countries, that means three-quarters of them still impose criminal penalties on gay people. The fact that such laws exist leads to stigma, discrimination, violence and an awful lot of personal misery.

In the past year, there have been many reports of physical and verbal violence in several Commonwealth countries, including Cameroon, Ghana, Jamaica, Malawi and Uganda. Although all of the original Commonwealth countries have abolished such laws (the UK, Canada, New Zealand, Australia and South Africa) and India has witnessed a strong court decision holding them unconstitutional, most of the "New Commonwealth" has ignored or rejected reform. This includes even modern Singapore, where a Law Society committee recommended change but a bill was defeated in Parliament in 2008. So how do we move the logjam so that the river of reform will begin to flow again?

It will not happen just because proponents of change feel angry, heap abuse on opponents and jump up and down. Nor will it happen because other countries of the Commonwealth have changed their laws.

Changes we have seen in Australia in the area of racial discrimination bear witness to the pace of reform. It took many years to come about, but the process was definitely helped by the strong voice of leadership from the Commonwealth Heads of Government addressed directly to apartheid South Africa. And inferentially also to Australia and other "settler" countries.

Until 1966, Australia observed the "White Australia" policy. This totally excluded non-Caucasian immigration. We were specially frightened of the Asian "yellow peril". We even imposed constitutional restrictions on our Aboriginal people, partly repaired by a referendum in 1967. Until 1992, Australians did not recognise the claim by indigenous peoples to legal recognition of their traditional lands. However, that logjam was dislodged. In my lifetime I have witnessed a major change for the better. It came about by quiet persuasion, good example and a bit of international pressure.

So it will be with sexual orientation. It forces a kind of sexual apartheid. It divides people into strict categories. It ignores their basic natures (sexuality not racial). It imposes harsh legal restrictions. It makes them second-class citizens. It denies them full entitlement as human beings in fundamental matters such as love, sex and identity.

So what can be done when Commonwealth leaders choose to ignore cruel laws still in place from colonial days that are one of the least lovely legacies of the old British Empire? Laws

against gays were not a feature of other European empires. The French, Portuguese, Spanish, Dutch and Belgian empires did not have such laws. Nor did their colonies. So this is a peculiar British legacy. It is ours, in the Commonwealth, to deal with.

Decriminalisation of same-sex conduct deserves to be addressed at CHOGM. Getting rid of the criminal laws is the way to remove the worst aspect of the present logjam. Heterosexual people must ask themselves how they would feel if they were sent to prison simply for expressing their love in private to a consenting adult. Religious opponents of change need to catch up with the emerging science.

The Eminent Persons Group has examined many issues of human rights in the Commonwealth. It is proposing a Charter of Commonwealth values, expressed in the name of the people of the Commonwealth. It is also proposing structural reform to the institutions of the Commonwealth so that they take serious or persistent infringements of human rights more seriously.

Just as sexuality is a special Commonwealth problem, so is HIV/AIDS, which is twice as prevalent in Commonwealth countries as elsewhere in the world. Part of the reason for this may be the difficulty which the Commonwealth has demonstrated in tackling frankly and openly issues of sex and sexuality. In the absence of a vaccine or a cure for HIV, it is virtually impossible to halt this Commonwealth problem. Giving attention to the discriminatory laws against Commonwealth citizens for no reason other than their sexual orientation, as the Eminent Persons Group recommends, should be a high priority of the Perth CHOGM. At stake are the lives of millions of our fellow Commonwealth citizens. If the Commonwealth is truly a values-based organisation, it will act and secure the repeal of those foolish and ineffective laws. The Commonwealth has reached a moment of truth.

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