

Report - Commonwealth Secretariat Plan of Action on Rome Statute and other ICC-related work

Commonwealth commitment to end impunity for perpetrators of genocide, crimes against humanity and war crimes is partly reflected in the steady rise in the number of Commonwealth countries who are parties to the Rome Statute. The Commonwealth continues to attach great importance to building national capacity through, inter alia, the implementation of the Rome Statute and other international humanitarian law instruments (IHL), such as the Geneva Conventions to ensure effective domestic prosecutions. In this context, the Commonwealth Secretariat was mandated since 2002 to assist Member Countries specifically with the ratification and implementation of the Rome Statute of the International Criminal Court (ICC) and to work collaboratively with other partner organisations such as the International Committee of the Red Cross (ICRC) and the British Red Cross Society in promoting implementation of related IHL instruments. In response, a variety of activities have been conducted, most notable of which is the development of a Commonwealth model law on implementation of the Rome Statute, which was developed in 2004 to assist member countries in the implementation of the Rome Statute.

In view of their shared legal tradition, Commonwealth countries share valuable experiences and expertise in assisting with the process of integrating the Rome Statute into domestic law. Judges, prosecutors and other criminal justice officials continue to benefit from the Secretariat activities on ICC which has increased significantly in the last few years. Below are some of the ICC related Commonwealth activities.

Commonwealth Stocking conference and expert group meeting 2010-2011

Following the ICC Kampala Conference in 2010, a Commonwealth stocking conference was hosted by the Secretariat held in October 2010. The aim of the conference was, among others to assess the feasibility of the revision of the 2004 Commonwealth implementing legislation on the Rome Statute. The conference provided an opportunity for interaction between key stakeholders such as government officials, policymakers and civil society organisations. This was followed in February 2011 by a Commonwealth expert group meeting convened to review the 2004 Commonwealth model law, taking into consideration developments since 2004. The revised draft went through a consultation process between March/April 2011.

2011 Revised Commonwealth Model law

The Revised Commonwealth Model Law was adopted by Commonwealth Law Ministers at their meeting in Sydney (Australia) in July 2011. Law Ministers also mandated the Secretariat to undertake further work to promote the model law and to provide the necessary technical assistance to Member Countries in the implementation of the Rome Statute.

MoU between ICC and the Commonwealth Secretariat

At the meeting of Commonwealth Law Ministers in July 2011, President Song and Commonwealth Secretary General Kamallesh Sharma signed a MoU on collaboration between the ICC and the Commonwealth Secretariat. The memorandum provides for collaboration and cooperation between the two organisations on ICC matters within Commonwealth Countries.

Education and Awareness

In order to achieve the aim of the universality of the Rome Statute, the Secretariat continue to support and participate in education and awareness activities. For example a conference of the Caribbean region was supported in May 2011. The Secretariat has also supported the work of institutions such as the Africa Legal Aid (AFLA) and the Institute for International Humanitarian Law (IIHL). Further activities are scheduled in other Commonwealth regions such as the ICC Justice for All? conference of the Pacific region to be hosted by Australia in February 2012.

Participation at ICC and Other Related Meetings

The Secretariat continues to participate at ICC meetings and ASP meetings. The outcome of these meetings has informed the organisation's work with its member countries. The Secretariat also participates at other relevant meetings such as the ICRC meeting. Between November/December 2011, a team led by the Commonwealth Secretary General is to participate at the 31st Conference of the ICRC in Geneva.

Information Dissemination

The Secretariat has multiple information dissemination tools but the Commonwealth Law Bulletin (CLB) remains its main source of legal information. It comprises judicial decisions, articles, legislation, law reform and reviews. This provides an excellent opportunity to share knowledge and information on legal developments between member countries and serves as a one-stop reference manual, particularly for jurisdictions where a wide range of Commonwealth legal journals are unavailable.

Special issues of the CLB are periodically published and devoted to emerging and important areas which includes ICC-related areas. Areas of focus have included International Humanitarian Law (IHL). This provided a key reference on the role of the Commonwealth and its member countries in relation to IHL. It provided insights into the implementation of IHL treaties in Commonwealth states and, particularly, the challenges faced by small states. It examined the progressive development of IHL in the Commonwealth and provided an analysis of some of the landmark decisions emerging from the Special Court for Sierra Leone. The Commonwealth model law on the Rome Statute to be featured in the next issue of the CLB. The CLB serves multiple audiences such as government officials, judicial officers, academics and practitioners among others.

Technical Assistance

Under the aegis of a special fund – the Commonwealth Fund for Technical Cooperation (CFTC) – the Commonwealth Secretariat is providing a variety of needs-based and focussed technical assistance to its members States. Countries such as Sierra Leone have benefitted from this and other countries have benefitted through the Secretariat's Partners such as the Institute for International Humanitarian Law (IIHL) which provides specialised trainings. Particular attention is given to small states. For example there is ongoing assistance being provided to Seychelles.

International Cooperation

The Commonwealth recognises that international cooperation is key to effectiveness of the work of the ICC. In this context, the related Commonwealth instruments on international cooperation continue to be revised to address current trends. For example in July 2011, Commonwealth Law ministers at their meeting approved the revised Harare Scheme Relating to Mutual Legal Assistance in Criminal Matters Within the Commonwealth. Further work is being undertaken on the Harare Scheme such as the developing of a model law, providing capacity building and technical assistance to Member Countries as well as developing a strong network of criminal justice professionals for cooperation purposes.

Conclusion

Given that the mandate of the Secretariat on the Rule of Law has considerable focus on criminal law and justice, there is ample opportunity to integrate ICC related work into other activities such as victims of crime, prosecution disclosure obligations, legislative drafting and judicial development assistance. The Secretariat's work on the rule of law can be found on <http://www.thecommonwealth.org/subhomepage/190714/>