**Session 1 - Value & Usefulness of Law Reform Agencies to Legal Policy Development**

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Let me first of all thank the Executive Committee of the ALRAESA for having permitted the Commonwealth Secretariat to participate again in an ALRAESA Conference as an observer, as well as to also to speak. I must confess to having been caught a little bit off guard, though, as I wasn’t aware that I would have to speak on this topic! I was going to speak on another matter, but I’m sure I will have the opportunity in the course of this morning to do so. Thank you very much to the Executive Committee of the ALRAESA, and thank you very much indeed to the Law Reform Commission of Mauritius for having welcomed us all, and for welcoming the Commonwealth Secretariat so warmly. Our thanks, as the Commonwealth Secretariat, also go to the Government of Mauritius - we’ve been received so warmly, so generously. Thank you very much indeed.

I’m not going to repeat what has already been said by the previous speaker but will add to what was indicated when she spoke. I’m going to speak, on this topic, from the perspective of the Commonwealth Secretariat. We recognise, in the Secretariat, the great value that law reform agencies contribute to the development of our member countries. As we are all aware, the family of Commonwealth Nations is made up of 52 nations and the majority of these are small developing countries, such as the various countries represented around the table.

The mission statement of the Commonwealth is to work as a trusted partner for all Commonwealth people as a force for peace, democracy, equality and good governance, and to be a catalyst for global consensus building, and a source for assistance for sustainable development. As already indicated, within the small member countries of the Commonwealth, there are various challenges which are faced. One of these challenges is that although some of the smaller member countries have law reform entities, whether in the form of a small unit or a department in their Ministry, they sometimes lack the necessary capacity to deal with the issues which they must in order to ensure that the many things that we heard in the presentation happen. We are happy to hear, in the Commonwealth Secretariat, that Botswana and Swaziland which until now have not had law reform agencies, are in the process of setting them up. We are very interested as the Commonwealth Secretariat in that development because one of the things that we desire is that legal frameworks and institutions within Commonwealth countries are strengthened or set up where they are not in existence to facilitate robust legal policy and sustainable development in those nations. We would like to help achieve these things in various ways, one of them being an exchange program which we hope can be established between countries such as Botswana and Swaziland who are in the process of setting up these valuable institutions, and a country such as Mauritius which has had a Law Reform Commission for many years, and which can assist in building the capacity of law reform practitioners from those countries. The exchange programme would be for an agreed amount of time to mentor and build the capacity of law reform practitioners from small jurisdictions which don’t have law reform entities in place. The recipient country would bear the financial burden of sending its officers to the host country in order to benefit from that capacity building, and then the host country at some point could also send its officers over to the recipient country to go and assist in strengthening the latter’s institutional framework. This is because we recognise the value and the usefulness of law reform agencies in the development of legal policy.

We are excited at the very positive feedback that we have received from the member countries we have spoken to, and that are willing to partner with the Commonwealth Secretariat to hold hands with member countries in coming to the place where these positive developments take place. We would play an oversight role in those kind of arrangements, prepare the necessary documentation, such as the MoUs to ensure that the collaboration between member States would be fair and equitable, and not result in unpleasant consequences.

The Commonwealth Secretariat, in recognition of the fact that law reform agencies play a critical role in developing and assisting to have robust policy development in its member countries, has also developed a law reform guide, which we hope will be of particular assistance to the smaller jurisdictions, especially where these agencies do not exist or are in their infancy. This document will be launched at the upcoming Law Ministers Meeting which will take place in the Bahamas in October, and then it will be distributed to all the member countries of the Commonwealth, including of course countries around the table.

The Commonwealth Secretariat has always been very active in the area of technical assistance to member countries including in the area of law reform, in collaboration with the Commonwealth Association of Law Reform Agencies, CALRAS, where CALRAS has provided training and assistance in the setting up of law reform agencies in some of our member countries. The Commonwealth Secretariat has also assisted law reform agencies in various countries to develop legal policy in order to facilitate the reform of legislation in those countries. Recently, the Commonwealth Secretariat, in recognition of the fact that Botswana and Swaziland do not have law reform agencies, rendered law reform assistance to them. We assisted Swaziland to reform its broadcasting sector. The Commonwealth Secretariat was also able to render technical assistance to Botswana in the development of its legal policy regarding the cybercrime legislation which it needed to amend. The Commonwealth Secretariat also rendered technical assistance in respect of the drafting instructions because there was also need in that area. The Secretariat will, in the near future, be working with 30 member countries in the area of gender related laws, particularly looking at areas such as early child marriages, domestic violence, to ensure that the values and principles which are also important to ALRAESA, of good governance, rule of law, etc., are reflected through the legislative reforms and of course the policy development process as it takes place in those countries.

The Commonwealth Secretariat as I have indicated, has over the years among other things, also assisted member countries in strengthening their administration of justice, independence of the judiciary, supporting constitutional and legal reforms, promoting good governance and access to justice, preventing and combating transnational crimes, including terrorism, corruption, anti-money laundering. So the spectrum is very broad in the areas in which we have assisted member countries, assisting them to develop their legal policy and ensuring that reforms of the law take place which result in the rule of law being more firmly rooted and established.

Yvonne raised an issue about the tension between the needs of the people on the one hand and the growing need of the ease of doing business. I think it is an important point that she raised, and which we in the Commonwealth also take very seriously and take into consideration when we render technical assistance. That is why for example when we were assisting Botswana and Swaziland we were very mindful of the fact that consultation needed to take place with relevant stakeholders to ensure that the very issues raised are taken into consideration and result in expected outcomes, because in a lot of small Commonwealth jurisdictions, law reform tends to happen through government agencies rather than law reform agencies. We are therefore always very careful about consultation taking place between the agencies responsible for law reform within government where there are no law reform agencies and the stakeholders whoever they happen to be. In Botswana for example, what happens in so far as the consultative process in concerned, is that when decisions are taken by central government to reform the law, the chiefs of the various tribes or various communities are consulted about the reforms to be put in place, so that at the end of the day, they have no complaints regarding the outcome of reforms made. They are also part of the solution or finding the solution, and owning the outcomes which come out of these law reform efforts. The Commonwealth Secretariat has also assisted Mauritius in its efforts to reform its Police Act and put in place a new Police and Evidence Act as well as Codes of Practice to support the reform in that area. The Commonwealth Secretariat has therefore played a significant role in the area of law reform, and in the area of legal policy development. Thank you very much.