**Terms of Reference**

**Title:** Consultant (Development of strategic guidelines on ensuring diversity in Commonwealth countries’ judiciaries)

**Organizational Section/Unit:** Governance and Peace Directorate

Commonwealth Secretariat

**Duty Station:** Home based

**Proposed period**: 25 April - 24 June 2022

**Consultancy days** 14 days of work within proposed period

1. **Background**:

The Commonwealth is a voluntary association of 54 countries with a combined population of 2.2 billion. Thirty-one Commonwealth member countries are classified as small states with most having populations of 1.5 million or less. Of these, 25 members are small island developing states.

Article VII of the Commonwealth Charter recognises the rule of law as an essential protection for the people of the Commonwealth. In furtherance of the organisation’s goals on the rule of law, the Secretariat convenes meetings of Law Ministers of all Commonwealth countries every two years. These are preceeded by meetings of Senior Officials of Commonwealth Law Ministries (SOLM). The Secretariat also convenes separate meetings of Law Ministers of the thirty-one small Commonwealth jurisdictions. These key meetings provide an opportunity for the Secretariat to report to Law Ministers and Senior Officials on progress on the realisation of strategic outcomes, as well as for Law Ministers and Senior Officials to exchange views and experience on contemporary and emerging legal issues and to take decisions on key matters.

The Secretariat uses policy papers to apprise Commonwealth Law Ministers and Senior Officials of key developments and to inform key decisions. In October 2018, Senior Officials of Law Ministries, in response to a paper prepared by the Secretariat, expressed interest in having the Secretariat conduct a study on diversity in the judiciary, which would include a comparison of approaches taken in different regions and would identify good practice, as well as practical recommendations on implementing diversity for both judicial and non-judicial staff. Senior Officials took note of how the meaning of diversity in the context of judicial appointments can vary from country to country and can cover a range of criteria such as gender, age, ethnicity, and background, among others.

In November 2019, Law Ministers meeting in Colombo, Sri Lanka, noted that judicial diversity represented an important element of access to justice and expressed strong support for the continuation of the Secretariat’s work in this area.

The Secretariat designed a survey, which was sent out to courts and judicial services commissions across the Commonwealth in 2021. The Secretariat has recently received the results of the survey and is now seeking to produce a paper to be presented to Law Ministers, providing an analysis of the survey results and identifying trends, challenges, and good practices. The analysis is expected to inform discussions on and recommendations for the promotion of representative judiciaries and equal access to justice for all, within the Commonwealth.

1. **Purpose of the assignment:**

The Consultant is expected to review and analyse the results of the survey, and develop a paper which will inform Law Ministers on current judicial diversity trends in Commonwealth countries and on challenges and opportunities. In developing the paper, the Consultant should take into account the *Compendium and Analysis of Best Practice on the Appointment, Tenure and Removal of Judges under Commonwealth Principles*, and design the paper as a complement to it. A copy of the *Compendium* is available at: <https://www.biicl.org/documents/689_bingham_centre_compendium.pdf?showdocument=1>.

The survey consists of quantitative and qualitative components addressing the representation of minority groups, as well as issues, challenges, opportunities and good practices in attaining and maintaining judicial diversity.

The analysis and recommendations will contribute to the Commonwealth Secretariat’s body of knowledge, and will be be presented to Law Ministers at their next meeting.

1. **Specific tasks to be performed by the consultant:**

Under the guidance of the Rule of Law Section, Commonwealth Secretariat, the Consultant is required to prepare a report as outlined above. The report should:

1. provide a complete analysis of the survey results, including regional analysis and specific analysis for Small Commonwealth States;
2. examine the reasons behind the lack of representation of specific groups and identify areas of progress;
3. outline effective initiatives that have directly contributed to increasing diversity in the judiciary;
4. outline the main challenges to increasing diversity and propose potential solutions, based on examples from Commonwealth countries;
5. outline the benefits of a more representative judiciary and its impact on access to justice, based on examples from Commonwealth countries.
6. present recommendations to Law Ministers as to how to effectively measure and increase diversity in the judiciary.

**4. Expected tangible and measurable output(s):**

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| **Deliverable** | **Timeline** |
| 1. Draft outline of paper
 | 29 April 2022 |
| b) First draft of paper | 27 May 2022 |
| c) Final version of paper, which takes into account comments provided by the Secretariat | 20 June 2022 |

1. **Indicators to evaluate the consultant’s performance:**

All outputs shall be assessed in accordance with the following indicators:

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| --- | --- |
| **Deliverable** | **Indicators** |
| 1. Draft paper
 | * Comprehensive background information
* Clear identification of the key deliverables outlined in paras. 3(1) to (6) above, ensuring that the report can be used as useful guidance by Commonwealth countries.
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| 1. Final paper
 | * All Secretariat comments reflected appropriately
* Excellent English drafting style and suitability for audience of judges and law ministers across the Commonwealth
* Technical excellence
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1. **Qualifications/expertise sought (required educational background, years of relevant work experience, other special skills or knowledge required):**
* Degree in law;
* Minimum of 10 years of professional expertise in law, ideally with experience in multiple Commonwealth jurisdictions;
* Practical professional experience in provision of legal or policy advice, analysis and legal drafting, or academic publications;
* Excellent academic or practical knowledge of the judiciary;
* Experience of analysing data and statistics would be an asset;
* Experience of diversity and inclusion programmes would be an asset;
* Proven ability to work well under pressure and meet strict deadlines;
* Fluency in English required.
1. **Administrative arrangements**

The assigned tasks are to be performed on a part-time, remote basis over a contract period of 8 weeks.

The total budget payable under this contract will be up to £7,000 (including VAT and other charges). Payment will be made upon satisfactory completion of work signed off by the Commonwealth Secretariat and within 30 days upon submission of the invoice.

Applicants should send a CV and a quote (including the number of consultancy days) to Ms Marie-Pierre Olivier, Legal Adviser, Rule of Law Section, at m.olivier@commonwealth.int before 17:00 BST on Tuesday 19 April 2022.

Evaluation will be based on competency and cost. Priority will be given to consultants that are Commonwealth citizens or entities registered in a Commonwealth country. The maximum rate payable in accordance with the Secretariat’s policy is £500 per consultancy day.

The cover letter should show how the consultancy would be carried out to meet the specific objectives set out in the TOR. It should include a short statement of the candidate’s relevant expertise and experience along with the total bid amount, inclusive of all taxes and charges.