



Annual Report 2010

Cayman Islands Human Rights Commission

Promoting, Protecting, and Preserving Human Rights



Contents

- i. Statement from HRC Chairman
 - ii. 2010 Milestones
-

Chapter 1: The Cayman Islands Human Rights Commission

- 1.1 Vision
 - 1.2 Mission
 - 1.3 Constitutional Guidelines
 - 1.4 Members
-

Chapter 2: Monitoring Human Rights in Legislative Development

- 2.1 Prevention of Gender Discrimination Bill (Draft)
 - 2.2 Police Bill (Draft)
 - 2.3 Witness Anonymity Bill
 - 2.4 The Evidence Law (2007 Revision), (Amendment)
 - 2.5 Criminal Procedure Code (2006 Revision), (Amendment)
 - 2.6 Public CCTV System: Code of Practice
-

Chapter 3: Responses to Enquiries from the Media and Members of the Public

- 3.1 Question of Public Meetings
 - 3.2 Concerns regarding the Criminal Evidence (Witness Anonymity) Bill 2010
 - 3.3 ILO Declaration on Fundamental Principles and Rights at Work
 - 3.4 ICCPR and Violation of Civil Liberties
 - 3.5 Economic Human Rights
 - 3.6 Right to Silence
 - 3.7 Changes to the Criminal Procedure Code (2006 Revision)
-

Chapter 4: Alleged Breaches or Infringements of Human Rights

Chapter 5: Local and Regional Human Rights Events

- 5.1 Logo Competition
 - 5.2 Constitution Week 2010
 - 5.3 Commonwealth Fund - Building Human Rights Capacity in the Overseas Territories
 - 5.4 Schools Education Initiative
 - 5.5 CEDAW Conference – Anguilla
 - 5.6 Monthly Talk Today Radio Show
 - 5.7 The Citizenship Project
-

Chapter 6: Moving Forward

Appendices:

Appendix 1: Cayman Islands Bill of Rights

Appendix 2: International Human Rights Treaties Extended to the Cayman Islands

Statement from the Chairman

The Human Rights Commission (HRC) has been formally created, in accordance with Section 116 of the Cayman Islands Constitution, to take responsibility for promoting the understanding and observance of the essential rights of persons in the Cayman Islands. These rights are considered necessary to maintaining a fair and just society and belong to all individuals regardless of their nationality and citizenship. The Bill of Rights, Freedoms and Responsibilities (Bill of Rights) details fundamental human rights and freedoms in Part One of the Constitution as well as the responsibilities for observance placed on all Government bodies and public sector officials.

There is an enormous amount of work to be done, particularly by the Cayman Islands Government, if we are to be compliant with the Bill of Rights by the time it comes into force on 6th November 2012. I know that training of public officers has begun and I commend Government for this. There will also be amendments required to many laws and regulations if we are to ensure that potential breaches of the Bill of Rights are rectified.

On behalf of the Commission I would like firstly to thank those persons in the community who have begun embracing the concept of Human Rights in various ways and I encourage all to continue to do so. I also wish to acknowledge the work of the Cayman Islands Government over the past year as they have begun taking the first steps towards ensuring compliance with the Bill of Rights. The HRC would like to express its gratitude to the assistance and support provided by Mr. Peter Gough, Strategic Advisor to the Deputy Governor and to the staff of the Commissions Secretariat for all of their hard work. Lastly, the HRC takes this opportunity to publicly acknowledge the advice and guidance of the late Dr. Philip Pedley who was so instrumental in the setting up of the Human Rights Commission and the Secretariat.

As Chairman I would also like to take this opportunity to say a big thank you to my Commission members who work tirelessly to ensure we as a Commission fulfill our Constitutional mandate.

Richard Coles
Chairman, Human Rights Commission

2010 Milestones

- ❖ The Cayman Islands Human Rights Commission (HRC) was established by virtue of the Cayman Islands Constitution Order 2009, replacing the previous Human Rights Committee.
- ❖ On 2 January, 2010 the members of the HRC were formerly appointed as follows:
 - Mr. Richard Coles - Chairman for a term of four years
 - Miss Sara Collins - Member for a term of four years
 - Mrs. Cathy Frazier - Member for a term of three years
 - Rev. Nicholas Sykes - Member for a term of four years
 - Mr. Alistair Walters - Member for a term of three years
- ❖ On 15 February, 2010 the Commissions Secretariat was formed, managed by Ms. Deborah Bodden who leads a team of administrator/analysts to provide research and administrative support to various Constitutional Commissions including the HRC.
- ❖ In May 2010 the HRC finalized its official Policies and Procedures Manual which details the work of the HRC as a whole including administrative matters and the submission of formal complaints of alleged breaches or infringements of human rights.
- ❖ In July 2010 the HRC launched its official website www.humanrightscommission.ky and produced a brochure and banner to engage a wider audience at the local and international levels with the presentation of diverse information to keep the public informed of human rights issues and the work of the HRC. The website currently hosts a document library which holds all documents relating to the administration of the HRC.



- ❖ Also in July 2010 the Commission participated in the first ever Constitution Week and attended at various media outlets to help promote understanding of human rights issues. Members of the Commission interacted with the public, provided information to callers' specific concerns, and deciphered the intricacies of the Constitution, particularly the Bill of Rights.
- ❖ On 10 December, 2010 the HRC coordinated, in conjunction with OneWorld Entertainment and Camana Bay, a music concert of local independent musicians and other local artists as a strategy to promote the formal observance of International Human Rights Day in the Cayman Islands for the first time. International Human Rights Day marks the anniversary of the Assembly's adoption of the Universal Declaration of Human Rights in 1948. The family-friendly concert which included music, drama, and other arts was free-to-the-public.

Chapter 1:

The Cayman Islands Human Rights Commission (“HRC”)

1.1 Vision

This vision of the HRC is: *promoting, protecting and preserving human rights.*

1.2 Mission

Leaders in promoting, protecting and preserving human rights in the Cayman Islands through:

- ❖ Promoting the integration of human rights values into everyday life;
- ❖ encouraging government accountability to national and international human rights standards;
- ❖ embracing the Cayman Islands Bill of Rights and the principles of democracy; and
- ❖ empowering all persons to understand and exercise their human rights, freedoms and responsibilities.

The Commission’s mission is achieved through:

- ❖ listening, learning, researching, communicating and educating;
- ❖ fostering transparency, accountability and impartiality; and
- ❖ offering mediation and conciliation initiatives to resolve human rights complaints.

1.3 Constitutional Guidelines

The Constitutional guidelines for the HRC are found in Section 116 of the Cayman Islands Constitution Order 2009 (the Constitution) and reads as follows:

116.-(1) There shall be in and for the Cayman Islands a Human Rights Commission (referred to in this section as “the Commission”).

(2) The Commission’s primary responsibility shall be promoting understanding and observance of human rights in the Cayman Islands.

(3) The Commission shall consist of a Chairman and four other members appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, at least two of whom shall be experienced lawyers.

(4) In the exercise of their functions, the Commission and its members shall not be subject to the direction or control of any other person or authority.

(5) The Commission shall replace the Human Rights Committee.

(6) The Commission shall have power to –

- (a) receive and investigate complaints of breaches or infringements of any right or freedom contained in

the Bill of Rights or international human rights treaties that have been extended to the Cayman Islands, and investigate such possible breaches or infringements on its own initiative;

(b) provide advice to persons who consider that their rights or freedoms have been infringed;

(c) provide a forum for dealing with complaints by mediation or conciliation or by making recommendations;

(d) issue guidance on procedures for dealing with any complaints of breaches or infringements of rights and freedoms;

(e) contribute to public education about human rights;

(f) issue reports relating to human rights issues on its own initiative; and

(g) undertake such other functions, for the purpose of fulfilling its primary responsibility under subsection (2), as may be conferred on it by a law enacted by the Legislature.

(7) The Commission shall have no power to –

(a) represent or provide representation to parties to litigation;

(b) act in a judicial capacity or make binding determinations as to whether any right or freedom contained in the Bill of Rights or any international human rights treaty or instrument has been breached; or

(c) compel any person to do anything against his or her will;

but any public official to which the Commission addresses a recommendation must respond in writing within a reasonable time, and such responses shall be published by the Commission unless there is a good reason to withhold publication.

(8) The Commission shall make an annual report to the Legislative Assembly about its activities.

(9) Further provision relating to the establishment and operation of the Commission may be made by the Legislature, but such legislation shall not derogate from any provision of this section.

(10) Nothing contained in or done pursuant to this section or any law made under subsection (9) shall –

(a) oblige a person to refer any complaint of a breach or infringement of any right or freedom referred to in the Bill of Rights to the Commission; or

(b) prevent a person from seeking redress directly from the Grand Court in relation to any breach or infringement of a right or freedom referred to in the Bill of Rights, and the fact that such person had previously sought the assistance of the Commission with respect to such breach or infringement shall not prejudice any legal action.

1.4 Members

❖ Mr Richard Coles – Chairman



An experienced lawyer both in England and in the Cayman Islands, being a Solicitor admitted in England and Wales, a Cayman Islands Attorney-at-law and former Attorney General for the Cayman Islands. He is a member of the Law Society of England, the Caymanian Bar Association, the Commonwealth Lawyers Association, the Commonwealth Parliamentary Association, a Fellow of the Caribbean Law Institute and the Institute of Advanced Legal Studies in London. He also has the distinction of being a Freeman of the City of London.

❖ Miss Sara Collins – Member



Miss. Sara Collins is a partner of Conyers Dill & Pearman in the Cayman Islands. A graduate of the London School of Economics she was admitted as a barrister of England & Wales (not currently practicing) as well as an attorney at law in the Cayman Islands.

❖ Mrs. Catherine Frazier – Member



A Caymanian of long lineage, Mrs. Frazier is a successful business owner, having started a property management company with her husband Jerry Frazier in 1994. She is actively involved in the community and is currently a member of the Steering Committee; PR Committee for Planning the Future for Persons with Disabilities in the Cayman Islands; Member of ICCI Board of Trustees and Member of Church of God, Chapel.

❖ Reverend Nicholas JG Sykes, B Sc., Dip Ed., MTS – Member



Rev. Sykes has taught science, mathematics and religious education for over 20 years in public schools and a teachers' college throughout Jamaica, the Cayman Islands and the United Kingdom. In 1979 he became Chairman of the Association of Science Teachers of Jamaica. Ordained as a priest since 1976, Rev. Sykes is currently the Rector of St. Alban's Anglican Church in George Town and Secretary of the Cayman Ministers' Association. He has authored the book "The Dependency Question" and numerous other articles.

❖ Mr. Alistair Walters – Member



Alistair Walters is an attorney at law and has been practicing for 20 years. He is the managing partner of Campbell's Attorney at Law and has been with the firm for 11 years, prior to working in London, England. Alistair is a member of The Rotary Club of Grand Cayman and former member of the Board of Governors of St. Ignatius Catholic School.

Chapter 2

Monitoring Human Rights in Legislation

The HRC has indicated its willingness to play a significant role in monitoring legislation and policy in the Cayman Islands to assess compliance with human rights principles. The HRC believes that the examination and reporting on issues indicative to the principles and values of human rights as presented in the Cayman Islands Bill of Rights and international human rights treaties extended to the Cayman Islands are extremely important. As such, the Commission has requested from the Deputy Governor that the Commission be provided with advance copies of any new legislation that the Cayman Islands Government intends to present to the Legislative Assembly which contains human rights implications.

This chapter speaks to the Commission's contribution to policy development and legislative review through the various submissions made during the reporting period. Many of these submissions sought to identify areas of concern at the drafting or consultation stage as a means in which to review the documents for potential breaches of human rights in legislation and proposed legislation. The Commission undertakes this role from the perspective of providing a support system for the Cayman Islands Government due to the fact that legislation produces far-reaching effects on the population.

The Commission maintains that the submissions play an important role in fostering public debate and an awareness of human rights principles. Thus, the Commission posts such submissions on the Commission's website for reference by anyone who has an interest in human rights issues.

2.1 Prevention of Gender Discrimination Bill (Draft)

The Commission supports the over-all objectives of the aforementioned bill. In an effort to provide constructive input for the improvement of the bill, the Commission submitted various recommendations to enhance the quality and impact of the bill. Additionally, the bill was subjected to a thorough review to ensure compliance with human rights standards. The HRC raised questions in the Bill pertaining to corresponding existing legislation including the Labour Law. Additionally, the Commission commented on aspects of policy in relation to issues including employer-employee relationships.

2.2 Police Bill (Draft)

The Commission generally welcomes the introduction, into the Cayman Islands, of much of the Police and Criminal Evidence Act 1984 (PACE) of the United Kingdom- on which most of this particular draft Police Bill is based. Following review of the draft, the Commission found that the bill, in principle, will modernize the way in which the Royal Cayman Islands Police Service carries out its duties. Furthermore, the Commission is of the view that through proper implementation, the Police Bill has the potential to restore the necessary public

confidence and support. Specifically, the Commission welcomes the formal taping of interviews with respect to suspects as it is held that such processes will minimize allegations concerning police procedures regarding interviews and caution statements.

The Police Bill, however, does provide police officers with additional powers, which causes great concern from the Commission's perspective with regard to necessary and fundamental safeguards that are absent from this Police Bill and Cayman Islands legislation in general. In contrast, the United Kingdom's legislation supports such additional powers provided to the Police within the framework of a detailed Code of Practice for the Police and Criminal Evidence Act 1984; however, presently, such provisions and safeguards are lacking in the Cayman Islands.

2.3 Criminal Evidence (Witness Anonymity) Bill 2010

The Commission respects the Government's motivation behind implementing the Witness Anonymity Bill and recognizes the importance of protecting the rights of victims and witnesses in criminal proceedings. However, the Commission is of the opinion that there are important areas for concern in the Bill. Accordingly, the Commission offered constructive input from a human rights standpoint. In doing so, the Commission wishes not only to support the Government's endeavor to effectively implement the Bill of Rights in 2012 but we hope our advice regarding legislation will prevent not only the need to amend laws which may be incompatible with the Constitution, but also allow for greater transparency of governance over the long term.

The HRC asserts that the right of those being prosecuted to know who is making the accusation against them is a fundamental one. On the other hand, the HRC also recognizes the fact that it is only in very few and often exceptional circumstances that the need for witnesses to be granted anonymity in criminal proceedings exists. Therefore, in a submission, the HRC called attention to various sections of the Bill that raised concern from Cayman's constitutional, legislative and applicable human rights perspectives.

2.4 The Evidence Law (2007 Revision), (Amendment)

The Commission embarked on a review process, which resulted in a submission that highlighted potential concerns as well as potential benefits. It should be noted that the HRC endeavours to review proposals of draft legislation, including amendments to existing laws, with the intention of not simply criticizing content but also recognizing efforts that reflect a solid commitment to endorse human rights through the legal regime of the Cayman Islands.

To the preceding point, a particular section was pointed out with concern to the potential of the section possibly allowing exclusion of the Legislature from participating in its Constitutional right of making laws for the peace, order and good government in the Cayman Islands. On the other hand, a section of the proposed amendment was highlighted for its potential to strengthen the State's ability to provide security for an individual by extending

protection to an individual's right to life through allowing that individual to avoid providing evidence in person in cases that involve violent or sexual offences.

2.5 Criminal Procedure Code (2006 Revision), (Amendment)

The Commission offered a submission to the Attorney General's Chambers wherein various points were discussed including- Committal Hearings, Preliminary Enquiries, and Judge-Alone trials for all firearms offences. In the submission and consequently additional submissions on the draft, the Commission drew on English case law and judgments to embolden the concerns raised by the Commission.

2.6 Public CCTV System: Code of Practice

The Commission was requested to provide input and constructive feedback on the development and implementation of a Code of Practice envisioned to guide the processes and procedures of CCTV operators of a public system to be installed within the Cayman Islands. The Commission expressed to the Portfolio of Internal and External Affairs that the methodology of the public CCTV system is expected to reflect the Government's committal to the fundamental right to privacy under the European Convention on Human Rights [Article 8] in addition to individuals' rights, freedoms, and responsibilities embedded within Part 1 of the Cayman Islands Constitution Order 2009.

The most pressing concern for the Commission is to ensure that the use of the public CCTV system is subject to a statutory regulation and a statutory based licensing system. Without the implementation of a comprehensive data protection law to address the diverse nature of CCTV, a code of practice on its own is generally not considered a legal framework sufficient enough to support the delicate process of sustaining compatibility between human rights and the operation of CCTV. The Commission furthered its submission with presenting 'Article 8 Tests' by which to assist in guiding the development of the legal framework.

The Commission provided substantial commentary on a draft version of the Cayman Islands Data Protection Law as presented by the Data Protection Working Group tasked with producing a draft data protection bill.

Chapter 3

Responses to Enquiries from the Media and Members of the Public

Over the past year the Commission has also sought to respond to enquiries from both the general public and from the media on topics such as:

3.1 Question of Public Meetings

Enquiry from a member of the media:

Will all meetings of the Human Rights Commission will be open to the public and if not the reasons why?

Response from the HRC:

At the first meeting of the Human Rights Commission on 3 February, 2010 it was decided that

"The minutes of any meeting of the Commission shall be posted on the Commission's website after they have been confirmed however any information that is sensitive and exempt under the FOI law will be redacted prior to the posting of the said minutes."

The decision to generally hold closed meetings was taken to preserve the confidentiality of complainants' details which will be discussed during the said meetings.

The Human Rights Commission will be engaging the public in various education initiatives on human rights and we will welcome feedback where appropriate on reports written by the HRC.

3.2 Concerns regarding the Criminal Evidence (Witness Anonymity) Bill 2010

Enquiry from a member of the media:

Can you provide a statement on the concerns held by the Commission on the Criminal Evidence (Witness Anonymity) Bill 2010?

Response from the HRC:

Whilst the HRC is as concerned as every other resident in the Cayman Islands with the increase in violent crime, we have called the attention of the Government to the following sections of the Criminal Evidence (Witness Anonymity) Bill (2010) that are concerning from Cayman's constitutional, legislative and applicable human rights perspectives:

Part II, Section 4: Qualifying Offences

In the United Kingdom law of the same name, the list of qualifying offences is limited to Murder and Manslaughter committed using a gun or knife, whereas the Cayman Islands law includes a number of so called 'lesser' offences. These qualifying 'lesser' offences include robbery, attempted robbery and rape committed using a firearm or other offensive weapon. This list of qualifying offences classified within the Bill can be amended by order of the Governor in Cabinet in Cayman. The Governor in Cabinet has also been given the authority to amend the list of individuals who may submit an application for an Investigation Anonymity Order to a Magistrate and also the conditions necessary for making such an order as found in Sections 7 and 8 respectively of the Bill

The HRC is concerned that the Governor in Cabinet's power to make amendments to the law may not be constitutionally valid and therefore open to challenge by way of an appeal against conviction. Section 59(2) of the Cayman Islands Constitution Order 2009 bestows the Legislature with the authority to make laws for the peace, order and good government of the Cayman Islands. There is no explicit power for the Legislature to delegate such power and as far as we are aware no implicit power either. By including such provisions in the Bill, the HRC is concerned that a) the Bill may not be in compliance with the Cayman Islands Constitution because it empowers the Governor in Cabinet to amend primary legislation and b) the Government is setting a bad precedent that may lead to further delegation by the Legislature in a similar manner. In the UK the Secretary of State is given similar delegated power to add to the list of qualifying offences under the UK Act but the constitutional position of the UK is different to the Cayman Islands and there is no written Constitution.

Section 5: Qualifying Criminal Investigations

Another area of concern for the HRC is the potential ambiguity found in Section 5 regarding qualifying criminal investigations. The Commission would prefer that an explicit definition for "any other investigative authority" be included in the law rather leaving it to the discretion of the Governor in Cabinet.

Part III Section 11: Witness Anonymity Order

In common with the UK Act this section explicitly prevents the anonymity order from screening the witness from the judge or the jury. How can anonymity be preserved in Cayman if the witness' identity is revealed to the jury? This may not be a problem in a large jurisdiction such as the UK but if a jury in Cayman knows the witness' identity, the HRC believes anonymity will be seriously compromised. The HRC is concerned that in an attempt to remedy such potential shortcomings the Government may consider introducing new legislation that seeks to dispense with jury trials. This would be a further erosion of defendants' rights and the HRC must emphasize that the granting of a Witness Anonymity Order, should never be to the detriment of the guarantee of a right to a fair trial.

Part III Section 24: Regulations

Section 24 of the Bill gives the Governor in Cabinet the authority to make regulations for all matters that are required or permitted in order for carrying out or giving effect to the provisions of the Bill. The HRC would have preferred to see much of these prescribed in the primary legislation.

The HRC has the following comments which we hope will be taken note of in the drafting of regulations. In relation to the process and procedure that may be followed to apply for orders, seek discharges and deal with appeals, the HRC has an instinctive concern about the absence of a requirement that applications be made in writing and supported by sworn evidence from the applicant and the proposed witness. Without mandating the requirement of written applications and sworn statements the HRC questions how an Appeals court can properly follow Section 18(1) and review an order if the application was made orally with no record of the evidence that was given to the magistrate or judge.

3.3 ILO Declaration on Fundamental Principles and Rights at Work

Enquiry from a member of the public:

Can you tell me whether the four principles and rights covered in the ILO Declaration on Fundamental Principles and Rights at Work document are now being enforced through the Human Rights Commission?

Response from the HRC:

The declaration was in fact adopted at the end of an ILO Conference in 1998 and the four fundamental rights which the document references are covered by separate ILO Conventions. Of those rights referenced in the Declaration the first two (a) the freedom of association and the effective recognition of the right to collective bargaining and b) the elimination of all forms of forced or compulsory labour, are considered by the FCO to be related to human rights and are covered by the following conventions which have been extended to the Cayman Islands - ILO Convention No. 29 Forced Labour, ILO Convention No. 87 Freedom of Association and Right to Organise, ILO Convention No. 98 Right to Organise and Collective Bargaining, ILO Convention No. 105 Abolition of Forced Labour.

The remaining two rights referenced in the Declaration (c) the effective abolition of child labour and (d) the elimination of discrimination in respect of employment and occupation are covered by the following ILO Conventions - ILO Convention No. 111 Discrimination (Employment and Occupation) and ILO Convention No. 182 Worst Forms of Child Labour. These ILO's are also considered by the FCO to be under the purview of human rights, but are not amongst those extended to the Cayman Islands.

3.4 ICCPR and Violation of Civil Liberties

Enquiry from a member of the public:

Can you tell me if:

1. The HRC intends to present views on the proposed changes to Criminal Procedures Code; and
2. The Cayman Islands has a law which contravenes the International Covenant on Civil and Political Rights that says no one can be tried twice?

Response from the HRC:

At the time of the enquiry the HRC has previously presented views on two occasions in regards to the proposed changes in the Criminal Procedures Code (which were attached for ease of reference).

The second query related to the Crown's right of appeal under Section 28 Court of Appeal Law (2006 Revision). Article 14, Item 7 of Part III of the International Covenant on Civil and Political Rights (ICCPR) to is also reflected in the Cayman Islands Constitution Order 2009 in Clause 7 (4) (Bill of Rights, Freedoms and Responsibilities).

The right referred to is found in the ICCPR states that "no one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country." The Crown's right of appeal found in Section 28 of the Court of Appeal Law (2006 Revision) demonstrates that an acquittal verdict in certain circumstances is not necessarily the final stage of the judicial process under Cayman Islands Law.

3.5 Economic Human Rights

Enquiry from a member of the public:

Can you tell me whether the HRC has jurisdiction on investigating human rights violations which encompass economic human rights?

Response from the HRC:

The HRC can only promote observance of human rights contained in the Bill of Rights, Freedoms and Responsibilities in Part 1 Cayman Islands Constitution and in addition those found in the European Convention or other International Human Rights Treaties and Conventions extended to the Cayman Islands. None of these aforementioned include economic rights as such.

As far as the HRC is aware the Government has no plans to extend human rights to include economic rights. At this time we can only recommend that you write to the Government suggesting that they seek to extend these rights if you so desire.

3.6 Right to Silence

Enquiry from a member of the media:

Can you tell me whether the 'right to silence' had been abolished or eliminated by the provisions of the new Police Bill?

Response from the HRC:

The right to silence has not been abolished or eliminated but under the Police Law it is no longer an absolute right. Silence now carries adverse consequences for an accused. The accused may not be aware of these adverse consequences and under the Police Law these do not have to be explained to the accused by the Police. If the accused receives timely legal advice that may help the situation but the present legal aid system would not provide legal advice at this early stage because legal aid can only be granted during Court proceedings. To date, the HRC has been given no indication by the Government as to if and when a new legal aid scheme is to be brought in that would provide for such advice.

3.7 Changes to the Criminal Procedure Code (2006 Revision)

Enquiry from a member of the public:

The HRC received a very thought out and informative view on the changes to the Criminal Procedure Code (2006 Revision) from a member of the public who also enquired how to present their views to the United Kingdom.

Response from the HRC:

The Commission shares some of your concerns and has expressed those to the Cayman Islands Government on various occasions. In order to direct these views to the United Kingdom you would need to address your concerns to His Excellency the Governor, Mr. Duncan Taylor, CBE and ask that they be forwarded to the Foreign and Commonwealth Officer responsible for the Cayman Islands.

Chapter 4:

Alleged Breaches or Infringements of Human Rights

The Commission continually performs its overriding responsibility under section 116 (2) of the Constitution, to promote 'understanding' and 'observance' of existing human rights and freedoms. However, until 6 November 2012, when the Bill of Rights comes into force, the Commission cannot receive or investigate complaints regarding the decisions or actions of a public official that has potentially breached or infringed the Bill of Rights as such. Nor can it receive or investigate complaints that any local legislation violates human rights and freedoms except in cases where any international human rights treaty extended to the Cayman Islands requires all legislation to conform to its provisions.

The Commission will receive 1) all complaints of breaches or infringements of human rights and freedoms committed by public officials; and 2) all complaints that any international human rights treaty extended to the Cayman Island has been breached or infringed by the actions of public officials or by legislation to which the treaty applies.

In the instance that an individual is of the belief that his or her rights and freedoms outlined in any of the International Human Rights Treaties extended to the Cayman Islands have been breached or violated, the Constitution reflects provisions to assist the individual in two ways:

- (a) by making a complaint to the HRC who can give guidance and or investigate and deal with the complaint by mediation or conciliation or by making recommendations; or
- (b) by applying independently to the Grand Court, for a judgment concerning any alleged breach of the human rights under the Bill of Rights.

Chapter 5:

Local and Regional Human Rights Events

Representatives of the Commission attended various conferences and training programs to engage in the exchange of information pertaining to human rights issues including, although not limited to, policy development, gender equality, human rights reporting, research, and educational initiatives in schools.

5.1 Logo Competition

As part of the initial public relations efforts of the Commission, the HRC engaged young school children with the opportunity to present ideas for a new Human Rights Commission logo. The project was well received, and in return the HRC obtained numerous submissions of artwork. Each submitting student was rewarded for their efforts, enthusiasm, and creativity.

5.2 Constitution Week 2010

During the first ever Constitution Week 2010 the Human Rights Commission participated in various activities held by the Commissions Secretariat including radio shows, assisting with the production of media related brochures, open houses, and a presentation in Cayman Brac.

5.3 Commonwealth Fund - Building Human Rights Capacity in the Overseas Territories

The HRC was a participant in a training program offered by the Commonwealth Challenge Fund titled 'Building Human Rights Capacity in the Overseas Territories in the Caribbean'. The aim of the week-long training programme was to provide participants with the foundation and building blocks to understand the importance of human rights. The program sought to address various entities of the civil society in the Cayman Islands and the sessions were utilized as a means in which to address the particular needs of the individual groups in order to enable them to apply rights in practice/in their work.

5.4 Schools Education Initiative

In July 2010 the Commission engaged in dialogue with the Ministry of Education in an effort to review the national curriculum from a human rights education perspective and explored strategies in which to further implement the values of human rights into the curriculum from an integrated approach.

5.5 CEDAW Conference: Anguilla

The Cayman Islands was represented by four individuals, of which one individual represented the Commission when the conference was held in Anguilla on the Convention for the Elimination of all forms of Discrimination against Women. Representation by the Cayman Islands for this particular conference was crucial as the Cayman Islands is currently not signed onto the obligations of CEDAW. The Commission continues to voice its qualified support for the convention and the benefits in which the convention affords to the Cayman Islands as a whole in the promotion of gender equality and human rights. The Commission has undertaken to research the implications for the Cayman Islands should the Government choose to sign up to CEDAW.

5.6 Monthly Talk Today Radio Show

The HRC frequently participates in the Talk Today radio show the first Monday of each month which has been dedicated to discussing the each part of the Constitution in order to assist the public to become more educated on the document

5.7 The Citizenship Project

In the summer of 2010 the Commission was asked to participate in the Red Cross's Citizenship Project. The Citizenship Project is a pilot project created to inspire and educate the young people of the Cayman Islands to become better citizens through presenting an active learning platform on topics including drugs and violence, discrimination, climate change, human rights, sex, sexuality and gender, cost of living, and other topics relative to everyday-life. While the project has been placed on hold twice thus far, the Commission is prepared to participate in the future when the programme is up and running.

[illegible]

Chapter 6: Moving Forward

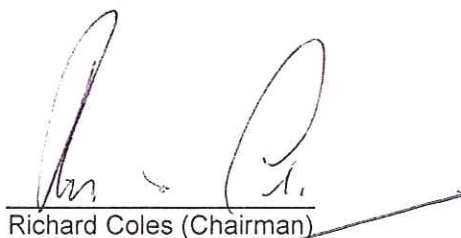
In the next year the HRC intends to increase public awareness of the Bill of Rights Freedoms and Responsibilities and will continue to promote the concept of human rights generally.

The Commission will continue to work with the Cayman Islands Government to ensure that new and existing legislation is compliant with the Bill of Rights and will continue to speak out on topics of importance to the Cayman Islands. We will also continue to answer questions posed by the media and the general public in an effort to assist the community with gaining a better understanding of the Bill of Rights.

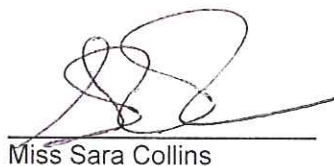
Investigations into alleged breaches or infringements of human rights filed by complainants will continue to be conducted by the Commission as will research into other general areas of interest which contain human rights implications for the Cayman Islands as a whole.

The HRC encourages you to visit our website (www.humanrightscommission.ky) and get involved in promoting human rights in the Cayman Islands. We, as a Commission, are dedicated to this cause and we hope that you will join us in making sure that the Cayman Islands continues to be the welcoming and friendly country we all love.

Dated this 31st day of December, 2010.



Richard Coles (Chairman)



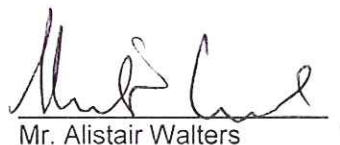
Miss Sara Collins



Mrs. Cathy Frazier



Rev. Nicholas Sykes



Mr. Alistair Walters

Appendices

Appendix 1: Cayman Islands Bill of Rights

1. Guarantee of Rights, Freedoms and Responsibilities
2. Life
3. Torture and inhuman treatment
4. Slavery or forced or compulsory labour
5. Personal liberty
6. Treatment of prisoners
7. Fair trial
8. No punishment without law
9. Private and family life
10. Conscience and religion
11. Expression
12. Assembly and association
13. Movement
14. Marriage
15. Property
16. Non-discrimination
17. Protection of children
18. Protection of the environment
19. Lawful administrative action
20. Education
21. Public emergencies
22. Protection of persons detained under emergency laws
23. Declaration of incompatibility
24. Duty of public officials
25. Interpretive obligation
26. Enforcement of rights and freedoms
27. Remedies
28. Interpretation of the Bill of Rights

Appendix 2: International Human Rights Treaties Extended to the Cayman Islands
(as at 1 May, 2010 based on information provided to the HRC by outside sources).

- ❖ European Convention on Human Rights
- ❖ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- ❖ Convention on Consent to Marriage, Minimum Age and Registration
- ❖ Convention on the Abolition of Slavery
- ❖ International Convention on the Elimination of All Forms of Racial Discrimination
- ❖ Convention on the Rights of the Child
- ❖ Convention relating to the Status of Stateless Persons
- ❖ Convention on the Political Rights of Women
- ❖ Registry of the European Court of Human Rights September 2003
- ❖ International Labour Organisation Convention 29
- ❖ International Labour Organisation Convention 87
- ❖ International Labour Organisation Convention 98
- ❖ International Labour Organisation Convention No. 105
- ❖ International Covenant on Civil and Political Rights
- ❖ International Covenant on Economic, Social and Cultural Rights
- ❖ United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education