CAYMAN ISLANDS HUMAN RIGHTS COMMISSION

Promoting, protecting and preserving human rights

REPORT

1 JANUARY 2018 - 31 MAY 2019

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Glossary of Terms

APF	Alex Panton Foundation
ARC	Arts and Recreation Centre (Camana Bay)
BoR	Bill of Rights (Cayman Islands)
BPW	Business Professional Women's Club
CAL	Cayman Airways Limited
CBC	Customs and Border Control
CICC	Cayman Islands Crisis Centre
CIG	Cayman Islands Government
CICDBA	Cayman Islands Criminal Defence Bar Association
CILRC	Cayman Islands Law Reform Commission
CIRC	Cayman Islands Red Cross
Constitution	Cayman Islands Constitution Order 2009
DOI	Department of Immigration
DPL	Data Protection Law 2017
ECA	Early Childhood Association
ECAP	Early Childhood Assistance Programme
ECHR	European Convention on Human Rights
FCO	Foreign and Commonwealth Office
HMCIPS	Her Majesty's Cayman Islands Prison Service
HMIP	Her Majesty's Inspectorate of Prisons
HMP	Her Majesty's Prison (Northward)
IAT	Immigration Appeals Tribunal
ICCPR	International Covenant of Civil and Political Rights
IDC	Immigration Detention Centre
IDPWD	International Day of Persons with Disabilities
IESCR	International Covenant on Economic, Social and Cultural Rights
IHRD	International Human Rights Day
IMB	Independent Monitoring Board
LA	Legislative Assembly
MHC	Mental Health Commission
MoE&BC	Ministry of Employment and Border Control
MoHR&I	Ministry of Human Resource and Immigration
MOU	Memorandum of Understanding
NAU	Needs Assessment Unit
ODG	Office of the Deputy Governor
OPCAT	Optional Protocol for the Convention against Torture
OT	Overseas Territory
PIB	Prisons Inspection Board
PLC	Public Lands Commission
PSG	Prisons Steering Group
PSH	Protection Starts Here
RCIPS	Royal Cayman Islands Police Service
RPAT	Refugee Protection Appeals Tribunal
TAYA	Teens And Young Adults Lounge
ToR	Terms of Reference
UCCI	University College of the Cayman Islands
UDHR	Universal Declaration of Human Rights
UK's IMB	United Kingdom Independent Monitory Board
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNODC	United Nations Office on Drugs and Crime
WHO	World Health Organization
YSU	Youth Services Unit

STATEMENT FROM THE CHAIRMAN

This report covers the period 1 January 2018 – 31 May 2019 which was an extremely busy time for the Commission and in some respects demonstrated how far the Cayman Islands had come in terms of recognising and respecting human rights.

The Commission continued to work on enhancing resources in order to engage with the public in more meaningful ways. The Commission recognised that building and strengthening relationships with the CIG as a whole as well as entities such as the Alex Panton Foundation and the TAYA Lounge; and participating in highlighting important events in our community such as the Anti-Bullying Fair and the Silent Witness March, were important opportunities for community engagement and as a means to reinforce the importance of human rights in the Cayman Islands.

The CIG continued to develop its policies, procedures, and legislation. During the reporting period the CIG recognised the need to enhance the processing of immigration matters in various ways – from permanent residency to asylum applications; and established a committee to ensure the protection of the rights of refugees.

In some respects however we still have a long way to go and there are still advancements to be made. The adherence to lawful administrative action by public officials as they go through their day-to-day work documenting reasons for their actions and decisions remained a concern for the Commission as did the promotion of equality and protections for minorities.

I would like to take this opportunity to thank all those who have served on the Commission for their dedication and commitment to considering these very important issues. Equally, and invaluable to the work of the Commission, has been the tireless work of the Commissions Secretariat. I cannot overemphasise how vital the support provided by Deborah Bodden and her team has been – without their assistance the Commission simply could not function.

The five years I spent on the Commission saw significant changes in the human rights landscape in Cayman as the Bill of Rights came into force and the public, the courts and CIG learned to use it (and to work with the Commission). Much of the work of the Commission was spent protecting the rights of minorities in cases which were controversial or unpopular - I make no apology for this – the appointment as a member of the Commission came with the *legal obligation* of "promoting the understanding and observance of human rights in the Cayman Islands". Those who work in human rights accept that we cannot always take on cases which are universally popular – indeed, there is little point; by definition such cases already have the support they need. As a result the Commission frequently found itself

protecting the rights of minorities and some of the most vulnerable in our society in cases which did not always attract universal support. Invariably these cases attracted the most publicity and, regrettably, this eclipsed a vast amount of the other work of the Commission which went unnoticed.

When the Commission members take on their role they are explicitly protected by the Constitution. For this reason I would particularly like to acknowledge the work of all those resident in Cayman who have, whether in partnership with the Commission, as part of NGOs, or in an official capacity, supported human rights in the Cayman Islands without this shield. The protection of human rights cannot be done solely by the Commission and these Constitutional rights are illusory unless people across society are prepared to stand up and be counted – your efforts are what will ensure the continuing realisation of rights for all in Cayman.

It was a privilege to serve on the Commission and work with so many highly professional and dedicated members of the public and public servants – it was an immensely positive experience and an opportunity for which I am hugely grateful. Nevertheless, there was a disappointing undercurrent during my time as Chairman of the Commission; that of frequent abusive personal attacks. As Chairman I was repeatedly slandered, accused of multiple criminal offences, threatened with arrest, imprisonment and deportation, and even received physical threats. Regrettably many of these attacks were initiated from within the Legislative Assembly and even the Government itself. That lies and defamatory attacks were invariably personal; *always* failed to address the actual arguments in question; and were frequently published anonymously on social media or by those unprepared to repeat them outside legally privileged positions (where they could not be sued) is perhaps an indication of the intellectual rigour with which they were considered.

Equally concerning was the inescapable fact that attacks on the Chairman and members of the Human Rights Commission acting in that Constitutional role were an attack not on the individuals but upon the Commission and the Constitution itself. Far more disappointing than the ill-considered personal vilification was the silence of some who could, indeed should, have spoken out and challenged these comments and supported the Commission but remained silent. As John Stuart Mill noted: “Bad men need nothing more to compass their ends, than that good men should look on and do nothing.” This silence stood in stark contrast to the courage of those members of Cayman society who, without any legal obligation or compulsion, spoke out to protect human rights in Cayman.

As the Commission moves forward under the guidance of a new Chairman, I encourage the public to stay involved. Visit the website www.humanrightscommission.ky, follow us on Facebook www.facebook.com/cihrc, call us at 244-3685, or email us at info@humanrightscommission.ky to get involved in promoting and protecting human rights in the Cayman Islands.

James Austin-Smith
Chairman, Human Rights Commission

Chapter 1:

THE CAYMAN ISLANDS HUMAN RIGHTS COMMISSION

1.1 Goals

The goals of the Commission are *promoting, protecting and preserving human rights.*

1.2 Mission

To lead in promoting, protecting and preserving human rights in the Cayman Islands by:

- 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, Freedoms and Responsibilities and the principles of democracy; and
- empowering all persons to understand and exercise their rights.

1.3 Constitutional Guidelines

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

1. *There shall be in and for the Cayman Islands a Human Rights Commission (referred to 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.

For more information about the Commission please visit http://www.humanrightscommission.ky.

Chapter 2:

MONITORING HUMAN RIGHTS IN POLICY, PRACTICE AND LEGISLATION

2.1 Prisons

Cayman's prison system is overcrowded, chronically underfunded and in need of urgent investment. In 2012 and again in 2015 Her Majesty's Inspectorate of Prisons ("HMIP") visited the Cayman Islands in announced inspections at Northward (the male prison) and Fairbanks (the female prison). HMIP's findings on both occasions were damning. In 2015 HMIP found, *inter alia*[1].

- Northward was in a "very poor condition" and was "squalid".
- Accommodation at Northward was "in an appalling state and hardly fit for human habitation".
- Accommodation was "dark decrepit and dingy, with leaking roofs, a cockroach infestation graffiti and dirty cells" there was a "vermin infestation".
- Toilets were "unscreened and filthy".
- Natural light "was severely restricted and ventilation poor".
- "The clinical care environment at Northward was poor" and "the health centre did no meet modern standards for primary care design and infection control".

HMIP recommended:

"Many of the current facilities at both Northward and Fairbanks should be demolished and the rest should undergo complete renovation. New prisoner accommodation should be developed that provides safe and secure accommodation commensurate with internationally accepted minimum standards."

HMIP further recommended that the UK should extend The Optional Protocol for the Convention Against Torture (OPCAT) to the Cayman Islands.

Since the 2015 HMIP report was written some improvements (notably the refurbishment of the kitchen at Northward) have been made, however, the overall fabric of the buildings remains in dire condition with urgent investment needed.

Cayman's prison system has benefited over the last several years from professional and dedicated leadership, despite the lack of resources; successive Prison Directors have achieved commendable improvements in conditions. Equally, the Commission has been grateful for the invariably efficient and timely way in which the former and current Director of Prisons (Mr Niel Lavis and Mr Steve Barret) has responded to its enquiries and recommendations and sought to meet human rights concerns with such limited resources. Nevertheless, the fact remains that without immediate and significant investment those incarcerated within Cayman's prisons are at risk of their rights under the Cayman Constitution (ss.3 and 6) and under the ECHR (Art 3) being violated.

The Commission fully endorses HMIP's recommendations and urge that immediate steps be taken to remedy the current situation and prevent more severe human rights concerns developing.

2.2 Steering Group

The Government has recently

[1] https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/06/Cayman-Islands-prisons-web-2015.pdf

established a Prisons Steering Committee, on which the Commission is represented by the Manager of the Commissions Secretariat. The Committee is chaired by the Director of Prisons and includes various stakeholders from across Government including the Department of Community Rehabilitation, the Royal Cayman Islands Police Service and the Health Services Authority. The Steering Committee was created to oversee plans to provide a Strategic Outline Case and thereafter, an Outline Business Case, which it is hoped will eventually lead to the construction of a new prison for the Cayman Islands. The timetable for completion of these initial stages is two years. If approved the procurement and construction would take several more years, meaning that the project is both uncertain and unlikely to be completed for some considerable time; the Commission is of the view that this is an issue which needs to be addressed with greater urgency.

2.3 Meeting with Representatives of the UK's Independent Monitoring Board ("UK's IMB")

The Chairman and Manager were invited by the Office of the Deputy Governor (ODG) to meet (on 29 August 2018) with representatives from the UK's IMB who are assisting the CIG with enhancing the development of prisons inspections and monitoring locally. At the time the representatives were in the process of visiting places of detentions, meeting with stakeholders, and assessing the current legislative provisions against the actual needs and practices of the current inspection regime. A recommendation was accepted by the CIG for the development of a local monitoring regime as opposed to an inspection regime, which would be conducted by HMIP. As such, the representatives were also working on developing Terms of Reference (ToR) and a training regime (which would be delivered later in the year) for the new Prisons Inspection Board (PIB). It was expected that the assessment phase would be completed by the end of the year and legislative changes to the existing Prisons Law and Regulations completed in the first quarter of 2019.

2.4 Independent Monitoring Board (IMB) (formerly Prisons Inspection Board (PIB))

In correspondence dated 9 January 2019 the ODG advised that the PIB was replaced with a new IMB for prisons and places of detention and confirmed the appointments of 11 IMB Members (inclusive of a Chair and Deputy Chair who have all completed intensive training sessions). It was anticipated that commencements of visits to places of detention, by the new IMB, would occur by February 2019.

In May 2019 the Commission followed up on the status of the proposed amendments to the existing Prisons Law and Regulations. The ODG advised that the proposed legislative amendments had not yet been drafted. Subject to available resources, the ODG's intention is to complete these in time for consideration at the last sitting of the LA in November 2019. The ODG ensured it will consult the Commission so that it has an opportunity to provide any input before the amendments are finalised.

2.5 Booklet

Following a request for specialised sensitisation of the BoR for new recruits of HMCIPS, the Commission created an educational booklet entitled *Human Rights Essentials: A Guide for Places of Detention in the Cayman Islands.* The Commission has worked to address concerns within our

prisons and lock-up facilities such as improving the conditions in which detained persons are held, segregation of juvenile and adult prisoners, the possible extension of OPCAT to the Cayman Islands, the need to assess properly persons who are detained (including illegal migrants and asylum seekers) and ensuring that generally, all policies and procedures are written and in compliance with the Bill of Rights. The booklet was developed in order to provide specific guidance to those tasked with guarding some of our most vulnerable persons in places of detention throughout the Cayman Islands. An overview of its contents were delivered to Prison Officers in a presentation by the Chairman on 8 March.

2.6 Prohibited Immigrant Report/Letter

The Commission has received numerous complaints over the years on the issue of deportation of persons and the subsequent designation of those persons as prohibited immigrants. Many of these are historical but all allege breaches of the rights to private and family life, and lawful administrative action. After drafting a report on the topic, the Commission ultimately decided to put its primary concerns into a letter to the Chief Officer of the former Ministry of Human Resources & Immigration, now Ministry of Employment & Border Control (MoE&BC) dated 17 January 2019. The Commission's primary concerns included compliance with the BoR in developing policies for amending deportation/exclusion orders, or prohibited immigrant designations.

On 25 March 2019 the Chief Policy Officer ("the CPO") of MoE&BC responded to the Commission stating that they had prepared a draft policy which also addressed the Commission's concerns. Additionally, the MoE&BC sought feedback from the Foreign and Commonwealth Office ("the FCO") on compliance of the policy with UK frameworks, which was being incorporated into the policy. The draft policy would then be finalised and presented to Cabinet for its consideration.

2.7 Migrants

The Commission spent a large part of 2018 dealing with issues concerning migrants. In response to the number of complaints which repeatedly identified the same subject matters the Commission had previously addressed on a number of occasions, the Commission reviewed its previous recommendations made to the relevant public authorities since December 2015 and engaged in correspondence to follow-up with each of the public authorities as to progress made. Whilst concerns still exist in the handling of migrants the Commission is pleased for the most part with the dialogue with the CIG regarding the remedying of these situations. The below subsections summarise the specific matters raised in 2018 by the Commission regarding migrants.

2.8 Assessment of Seaworthiness of Vessels

The Commission remains extremely concerned about how vessels' seaworthiness is determined and is not aware of any cases where these vessels were equipped with navigation equipment, life jackets, flares, navigation lights, first aid facilities or radio communications (all of which are required by Cayman law to be part of the equipment of any vessel leaving the islands). Under the United Nations Convention on the Law of the Sea there is a duty to provide assistance to those in danger at sea.[2] Similarly,

under the ECHR (and the Cayman Constitution) the state has an obligation to protect the right to life of those within its territory. Permitting vessels to depart from Cayman waters in an unseaworthy state (or without adequate provisions or safety equipment) and continue a perilous journey across hundreds of miles of open sea is contrary to these obligations.

Under the Palermo Protocols to the 2000 Convention against Transnational Organized Crime states are required to adopt measures to prevent people trafficking and migrant smuggling. In order to assess properly whether individuals are being trafficked or smuggled a careful assessment needs to be made, this will frequently involve interviewing migrants privately. This is simply not possible at sea on vessels of the size which Cayman possesses. Permitting vessels to continue journeys without landing their passengers so they can be properly processed risks the facilitation of people trafficking or smuggling.

2.9 Blanket Detention Policy

The Commission has, on numerous occasions requested an explanation from, and expressed its concerns to, the CIG as to why the default position in regards to migrants is a blanket detention policy for those who chose to apply for asylum in accordance with Cayman's obligations under the 1951 Refugee Convention. Currently all migrants and asylum seekers are incarcerated in facilities run by the Prison Service, on the orders of the Department of Immigration, under a policy with a presumption that all asylum seekers will be detained unless extraordinary circumstances exist. The Commission regards this as arbitrary, unlawful and contrary to Article 31 of the 1951 Convention and the UNHCR guidelines on the detention of asylum seekers. The Commission has written to the Government expressing its concerns on a number of occasions – asylum seekers should only be detained where an assessment shows that it is necessary to protect them or the public or for some other pressing reason. The Commission has been asked to provide feedback on a draft Detention Policy for migrants and will do so early in the next reporting year.[3]

Due to the historic (and current) volume of human rights complaints received from Cuban migrants, on 10 December 2018, the Commission requested a copy of the updated version of the Customs & Border Control's (CBC) Continued Detention Policy (Draft Policy) for the Commission's review and comments. The Draft Policy was received on 11 December 2018. The Commission reverted to CBC with its ongoing concerns on 21 January 2019; the main concern being that the policy of allowing migrants to continue their journeys in often unseaworthy vessels, ill-equipped or provisioned for lengthy passages across open sea could potentially cause loss of life. The Commission also raised the issue of permitting vessels to continue journeys without landing their passengers so they can be properly processed also risks the facilitation of people trafficking or smuggling. The Commission recommended that the Draft Policy be reconsidered to address these concerns.

CBC responded on 24 January 2019 and thanked the Commission for its input which had been forwarded to the MoE&BC and Director of CBC for review. Once this feedback was received, CBC advised it would revert

[2] Art. 98: "Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:
(a) to render assistance to any person found at sea in danger of being lost..."
[3] This feedback was provided on 21 January 2018.

with the necessary amendments. The Commission subsequently followed-up with CBC, on 27 March 2019, and requested an update on the Draft Policy and when it is expected to be finalised. CBC responded on 27 March 2019 and advised that further amendments are to be made after formal discussions on the Draft Policy with the MoE&BC, after which CBC would forward the revised Draft Policy to the Commission for further input. Once the Commission is satisfied with the revised Draft Policy, CBC intends to implement it with immediate effect.

2.10 Inspections

In response to complaints about the conditions of the IDC from migrants, the Commission requested and reviewed the Prison's Inspection Board's most recent report documenting their inspection of the facility. The report was dated 3 August 2017 and after making enquiries the Commission learned that the Board was no longer constituted. In addition to requesting information regarding the timeframe in which new members to the Board would be appointed, the Commission also requested site of the Board's Terms of Reference. The Office of the Deputy Governor indicated, in June, that membership to the Board was being finalised however shortly after this it was agreed by CIG that the ToR and other operational and legal guidelines needed to be revisited. The Commission stressed the urgency and importance of reconstituting this Board to ensure for adequate inspections of places of detention.

In January 2019, the Commission became aware from a Cayman Compass article[4] that several detainees were on hunger strike complaining, amongst other things, that they did not have access to channels of communication with families. The Commission liaised with the Director of Prisons (DoP), on the matter, who confirmed on 2 March 2019 that internet services had been installed on the premises.

Subsequent to a Commission meeting on 22 March 2019, enquiries were made with the DoP (25 March 2019) as to whether migrants at the IDC had access to telephone calls through VoIP. The DoP confirmed on 28 March 2019 that Skype facilities are now operating at the IDC. To date, no formal complaints have been received by the Commission concerning this matter.

2.11 Immigration Appeals Tribunal and Refugee Protection Appeals Tribunal

The Commission continues to have concerns with the speed with which asylum claims are processed. In and of themselves these inordinate delays in determining claims give rise to human rights concerns regarding access to justice and expeditious determination of rights. When allied to a default position requiring incarceration of all asylum seekers, concerns about breaches of the right to liberty under the ECHR and Cayman's Constitution are engaged. The Commission corresponded with both the IAT and the former Ministry of Home Affairs and Immigration (now the Ministry of Employment and Border Control (MoE&BC)) regarding these concerns. Recent legislation has established the RPAT which is designed to expedite the appeals process but it remains to be seen when this body will be able to begin hearing matters and how effective it will be in resolving the current delays. On 19 December 2018,

[4] https://www.caymancompass.com/2019/01/15/detained-cubans-announce-second-hunger-strike-in-year/

the Commission received a response from the MoE&BC advising that recommendations for appointments to the RPAT had been received and it is expected that the appointments will be sent to Cabinet for approval in January 2019. Additionally, it is expected that the RPAT will be prepared to receive and consider asylum matters by the end of March 2019.

The Commission continued to carry out regular follow-ups with the MoE&BC, during the first quarter of 2019, regarding the RPAT's progress. As such, the Commission was informed that the establishment of the RPAT was progressing. The MoE&BC invited the Commission to meet on 20 February 2019 with facilitators Judge Michael Clements (President, First-tier Tribunal) and Judge Julian Phillips (head of training) from the UK providing specialist training to the CBC, RPAT and its secretariat on immigration and asylum seekers.The Chairman and Secretariat Manager attended on the Commission's behalf and were impressed with the high quality of training provided.

On March 22 2019, the MoE&BC advised that will continue to liaise with the Cabinet Office to finalise RPAT's policy and procedure manual given that the Cabinet Office provides administrative and other support to the RPAT. Subsequently on 15 May 2019, correspondence was received from the Cabinet Secretary advising that RPAT member training was held 15 – 21 February 2019. The Cabinet Secretary further indicated the RPAT was at that time reviewing the draft Procedure Rules and Guidance Notes. The Commission will continue to liaise with the MoE&BC and the Cabinet Office on the progress of the RPAT as necessary.

2.12 Legal Representation

There continue to be difficulties in obtaining legal representation for asylum seekers to assist with making claims and bring appeals through tribunals and the courts. Following a recommendation by the Commission, the Department of Immigration now maintains a list of lawyers willing to represent migrants in their asylum and appeal applications. This list is not extensive and the Commission is unaware of any applications, successful or otherwise, for legal aid for these proceedings. This lack of access to legal advice and representation also engages asylum seekers' right to a fair trial under the ECHR, the 1951 Refugee Convention and the Constitution.

2.13 House of Commons Report

On 29 January 2019 a submission was made on behalf of the Commission to the UK House of Commons Foreign Affairs Committee report titled *Global Britain and the British Overseas Territories: Resetting the Relationship.* The report was published on 13 February 2019. Whilst the Commission's submission was not included in the final House of Commons Report, it can be found on the Commission's website here: http://www.humanrightscommission.ky/upimages/publicationdoc/WrittenEvidencetotheHouseofCommonsForeignAffairsCommittee_290119_1549549515_1549549515.pdf.

2.14 Poor Relief Assistance

A review of the NAU's Policy on 'Eligibility Criteria for Poor Relief Assistance' was undertaken following discussions related to a complaint filed with the Commission. NAU accepted the recommendation to seek legal advice on the policy to ensure that the detailed eligibility provisions are compliant with the BoR.

[4] https://www.caymancompass.com/2019/01/15/detained-cubans-announce-second-hunger-strike-in-year/

2.15 Early Childhood Assistance Programme (ECAP)

As a result of various concerns expressed by the attendees of a presentation to the ECA, the Commission agreed to review the policies of the Department of Education Services ("DES") and the NAU for families to access the ECAP. Whilst the Commission had no concerns about the content of the policy, it did further request the number of children/parents who currently access ECAP services (180 children since 1 September) out of interest.

2.16 Education/Schools

2.16.1 Mother withholds child from School due to Alleged Assault

The Commission noted a media outlet's report of bullying and assault allegations by a mother of a year 2 student at a CIG primary school. The report indicated that the mother did not want the child to return to school due to the repeated bullying and victimisation she was being subjected to; and because child was "not getting any help from school officials." On 6 March the Commission enquired with the Department of Education Services ("the DES") about this specific matter and also in order to review the school's policies as they relate to handling allegations such as these. The DES provided a detailed account of the steps taken in the specific matter and its policy on bullying. The Commission agreed that both the response to the situation and the policy in general both appeared appropriate and in compliance with the BoR in regards to the safeguarding of students.

2.16.2 National School Uniform Policy

Following a request, dated 19 March 2018, from the Ministry of Education ("the Ministry") to review the Draft National School Uniform and Dress Code Policy, a number of comments were provided and guidance given on the concepts of reasonable accommodation and undue hardship. The Commission pointed out the appropriateness of having the same policy for boys as for girls as it related to the wearing of jewellery. The Commission also commended the Ministry for proactively approaching the Commission for its input, and for developing a policy which already references the BoR along with other relevant legislation and policy.

In August 2018 the Commission learned, through media reports, that a revised policy had been publicly issued. The Commission expressed to the Ministry that, whilst the review clarified the overall policy and strengthened the processes, there remained three significant concerns relating to: the now differentiated and restricted hair grooming standards based on gender; the unclear legal basis on which the respective School Principal could decide to withhold a student's personal property from a parent; and the failure to clarify the misrepresented concept of 'anti-discrimination' as outlined in the Constitution. The Commission recommended that for the revised policy to be considered compliant with the Constitution, and especially sections 19 (Lawful Administrative Action) and 20 (Education), these concerns should

be addressed and that the revised policy should incorporate a reasonable degree of flexibility.

In addition the Commission indicated that it had received an enquiry regarding the revised policy as the version being issued to parents at Clifton Hunter High School ("CHHS") differed from the official revised policy as it detailed that boys must have their hair cut with a "number 2" and banned afros and extensions. The Commission informed the Ministry that where schools purport to issue guidance which deviates from the Revised Policy, especially where such guidance appears unreasonably to restrict personal appearance without apparent justification, possible violations of the Constitution could arise. Such guidance should not be issued or adopted without proper, reasoned, justification. To refuse a child access to education (as apparently happened in the matter at CHHS as reported to the Commission) based on such a policy, issued without any articulated justification, would appear be completely disproportionate; if so it would be in breach of the Constitution and unlawful.

The Commission had numerous enquiries and a formal complaint filed against the decision of the Education Council to not allow an exemption and to enforce the revised policy of boys having short hair. In December 2018 the Commission requested the reasons from the Ministry why male students are required to have short hair in order to prevent their constitutional rights to education being infringed and clarify why refusing to let them attend education is regarded as a proportionate response to the objective(s) identified. The Commission also queried why the revised policy was issued only two days before the new school year commenced. The Commission has not yet received a response to these queries.

2.17 Beach Access

Public access to beaches continues to be extremely topical. With the advertisement of the establishment of the new Public Lands Commission, the Commission enquired as to the timeline for addressing the concerns raised in the Beach Access Report 2017. Whilst the Commission was initially informed that the Commission's query would be raised at the next PLC meeting, no further information has been provided despite the numerous follow-ups the Commission has made. The protection of the environment (s.18) is a fundamental and exceptional right found in the Constitution. The Commission would have expected more substantive and timely responses from the PLC.

2.18 Cayman Airways Limited (CAL) Employee Handbook

As reported in the 2017 Annual Report, recommendations were made to CAL to clarify the policies related to the appearance and grooming standards of its staff and flight crew, in terms of both proportionality and the degree of discretion afforded to the CAL Management. A review of the revised handbook was undertaken and it was noted that some changes to the handbook appeared to be a result of previous recommendations but other concerns were left unaddressed. The Commission intended to again address such concerns but in the

interim has requested whether any further updates have been implemented.

2.19 Same-sex Unions

The issue of same-sex unions remains a topical one in the local community with one challenge to the CIG's refusal to issue the same-sex couple a marriage license currently before the courts. Tackling discrimination against LGBT+ persons remains an important challenge for the Cayman Islands. Whilst it remains extremely rare for this discrimination to manifest itself in physical violence or abuse, a culture of homophobic attitudes within the Legislature and vocal sections of the community (particularly some of the churches) has a potent and pernicious impact, with the capacity to encourage discrimination and bullying and lead to the denial of equal rights for members of the LGBT+ community. Following a November 2015 debate in the Legislative Assembly regarding marriage a protracted exchange of correspondence between the Commission and the Premier, the Commission, in accordance with its constitutional remit, recommended "... that the Government immediately:

1. Introduce legislation to recognise same-sex unions;
2. Introduce legislation to outlaw discrimination on the basis of sexual orientation; and,
3. Issue a statement condemning the statements made in the Legislative Assembly in the strongest possible terms and confirming its commitment to uphold the principles of non-discrimination enshrined in section 16 of our Constitution and required under our international treaty obligation."[5]

It is a source of regret that, over four years later, the Commission's recommendations have still not been adopted. Clearly, the provision of a framework for legal recognition for same-sex partnerships is now urgently required; it is undeniable that is unlawful under the ECHR to fail to provide equality to same-sex couples in areas as diverse as adoption, inheritance, pensions, next of kin visiting rights, access to welfare and even to residency in the Islands. At a speech to mark International Human Rights Day on 10 December 2018 Lord Ahmed, the UK government minister with responsibility for both human rights and Overseas Territories, noted that the United Kingdom will take over as co-chair of the Equal Rights Coalition, a grouping of 40 countries working together towards LGBT equality.

He was also explicit about the UK's commitment to human rights:

> "...the UK government has been a champion of human rights, fundamental freedoms, and democratic values. Let me assure you this will continue to be an absolutely integral part of what we do in Government as part of British foreign policy."

He concluded his speech noting:

> "Sitting back and saying, "Isn't this terrible, what more can be done?" On a point of personal reflection, more can be done and often the question lies within yourself.
>
> Because, if we collectively do more we will be able to start making the kind of differences we all wish to

[5] http://www.humanrightscommission.ky/upimages/publicationdoc/12320890_1468608882_1468608882.PDF

see. One of my biggest heroes in my life, who shaped many things in how I looked at the world was Ghandi. He famously said that "we must become the change we wish to see." Let us become that change, let us ensure we stand up with passion, with vigour, with commitment and emulate the bravery of human rights defenders around the world to ensure that we play our part..."

It is regrettable that, despite the clear breaches of an international treaty extended to the Cayman Islands (and other Overseas Territories), which creates directly-enforceable rights for individuals, the UK government has not taken action to remedy this ongoing human rights violation. The UK has the ability to end this legislative discrimination at the stroke of a pen by an Order in Council. The failure to do so arguably places the UK itself in breach of its legal obligations under the ECHR.

In an effort to better understand the landscape and to discuss overall experiences and lessons learned from the attempts to introduce legislation governing same-sex marriages and unions, the Chairman and Manager travelled to Bermuda on 27 May 2018. The visit was facilitated by the Bermuda Human Rights Commission. The agenda included meetings with the Bermuda Governor, the Minister responsible for Human Rights, the Bermuda Human Rights Commission, various community and activism groups, as well as other stakeholders. It was very clear from studying Bermuda's experience that community voice was important. The Commission agreed that this was an appropriate time to launch an equality campaign touching on the various matters identified and being dealt with by the Commission. Consideration has been given to how this can best be achieved and plans for the development of projects to be completed in 2019 agreed. In addition, the Commission will continue to monitor both the legal proceedings and the UK/CIG's actions to remedy these breaches.

2.20 Legislation

The Commission continues to review and provide feedback on draft legislation presented by the CIG for public consultation.

2.20.1 Family Law Reform Bills

In May 2018, the Commission became aware that the CIG was seeking public comment on three Bills which seek to reform the regulation of family matters and proceedings referred to as 'Family Law Reform'. Upon initial review of the Bills, the Commission identified significant issues and enquiries where made with the CILRC as to the public's feedback on the Bills. The Commission was informed that given the numerous objections from the community, the Bills are expected to undergo substantial re-writing. The Commission will review the revised legislation when it is published.

2.20.2 The Penal Code (Amendment) Bill 2018

The Commission undertook an initial review of this draft legislation in August but recognised that those members of the criminal bar would have useful input on concerns which have arisen during court matters. Whilst the Commission attempted to ascertain any such concerns it was unsuccessful in doing so and ultimately the legislation was passed prior to

the Commission being able to finalise its own review and comments on the draft legislation.

2.20.3 Data Protection Law (DPL) 2017

The Commission continued to follow the progression of the commencement of the DPL and the approval of the Draft Regulations. The Commission has previously expressed its concerns about the complexity of the DPL, with regards to s.9 of the BoR – the right to private and family life. Several members attended a sensitisation session hosted by the Office of the Ombudsman on 13 November in order to gain a better understanding of the provisions. It is expected that the DPL will now commence on 30 November 2019 and as such the Commission will continue to follow its progression.

2.21 Report to Foreign and Commonwealth Office (FCO)

The Commission learned, from a member of the public, of the open call by the FCO for feedback from all OTs on the evolving relationship between the UK and the OTs, with human rights being a particular area of concern. The Chairman noted his intention to submit a report and suggested some potential topics to include by the 18 September deadline. Unfortunately, the Commission was unable to file before the submission deadline, but was subsequently able to submit a report in early 2019 which was published by the FCO.

Chapter 3:

ENGAGEMENT WITH PUBLIC OFFICIALS, CIVIL SOCIETY AND THE MEDIA

3.1 Protection Starts Here (PSH)

Following a newspaper article on a multi-agency child abuse prevention project referred to as PSH, spearheaded since 2012 by the CIRC, the Secretariat met, on 1 March, with a representative of the CIRC to discuss the possibility of the Commission partnering with the CIRC on any upcoming initiatives/programmes which promote the protection of children. The CIRC welcomed the opportunity for the entities to collaborate and will provide further information on such opportunities as they become available.

3.2 Brac Artist Claims Right to Freedom of Expression

The Commission noted a matter reported in the media on 8 April in an article titled, "*Brac artist claims protected right of 'freedom of expression*"[6]. The matter was noted as a point of interest as the Commission will not generally become involved in cases which are before the courts.

3.3 Meetings with His Excellency the Governor

The Chairman met with His Excellency Anwar Choudhury on 5 June 2018 and His Excellency Martyn Roper, OBE on 12 December 2018. Both meetings were introductory in nature and the Chairman provided an overview of the work, resources, challenges, and successes of the Commission. Both Governors supported the work of the Commission. The Chairman will meet with Governor Roper on an ongoing basis as appropriate.

3.4 Youth Directory Initiative

Throughout 2018, the Secretariat contacted various organisations which provide services to youth which aim to protect them in some manner in order to compile a youth protection services resource directory on the website and to explore opportunities for engagement. Opportunities to participate in Child Month were explored as well as the ordering of promotional items to be handed out during events. Orange coloured wristbands with the Commission's 2018 educational theme '#youthrightsarehumanrights' were ordered and a number were passed out to attendees of the Anti-bullying Prevention ARC Fair on 6 October (see s.4.7 on page 25 for details).

3.5 Radio Appearances

In each of the items below the Chairman participated in interviews on various talk shows bringing awareness and support.

3.5.1. Child Month

The Chairman appeared on a segment of Radio Cayman's 'Talk Today', on 15 May, in honour of Child Month. Topics discussed included the provision of s.17 of the BoR (Protection of children) and the two youth-related projects which the Commission embarked on to raise awareness of human rights amongst youth - 1) compilation of a directory on your protection services and 2) partnering initiatives with youth organisations.

3.5.2 International Human Rights Day (IHRD)

To mark IHRD 2018, and the 70th Anniversary of the UDHR on 10 December, the Chairman appeared on Rooster 101.9's 'Cayman Cross Talk' morning talk show. In the afternoon, the Chairman was a

[6] https://www.caymancompass.com/2018/04/08/brac-artist-claims-protected-right-of-freedom-of-expression/

guest on Radio Cayman's 'Talk Today' show.

During both engagements the Chairman spoke to the significance of IHRD and the UDHR as it related to Cayman's own Constitution. Specifically, in the Cayman Islands our rights, freedoms and responsibilities are enshrined in Part One of the Constitution which came into force on 6 November 2012. The rights in the Constitution reflects those in the UDHR and two major human rights covenants: the IESCR and the ICCPR. The Commission also issued a press release on the day. See s.4.11. on page 25 for more details.

3.6 CICC's TAYA Lounge

On 3 May, the Secretariat staff met with the Coordinator of the CICC's TAYA Lounge ("the Lounge") to learn more about the Lounge's youth programme and to discuss partnering initiatives. Members were briefed on the programme, which allows youth and young adults to interact and connect with one another on both a social and emotional level. At the Lounge youth are taught basic life skills, participate in recreational activities and offered therapy sessions on health relationships, domestic violence and anger management amongst others.

Representatives of the Lounge asked the Chairman to participate, on 18 October, in the Silent Witness March and also give remarks to attendees on domestic abuse and bullying. The march is an annual event that is organised by the Business Professional Women's Club ("the BPW") to bring awareness to domestic abuse.

3.7 Chairman's Interview with UCCI - Human Rights Documentary

The Chairman attended an interview with students at UCCI on 7 November which focused on questions generally related to s.11 – freedom of expression, as a cornerstone of human rights. The request by the students resulted from media and public attention of a local court case in which human rights and freedom of speech were highlighted.

3.8 Alex Panton Foundation

The Commission worked with the Alex Panton Foundation to create a flyer which highlighted the available resources and options for those persons who may suffer from depression over the holiday season.

3.9 Ask Auntie

The Chairman responded to questions from Cayman News Service' readers 'Ask Auntie' feature on freedom of speech, protection of genetic information, hate speech, and data protection.

Chapter 4:

HUMAN RIGHTS EDUCATION, EVENTS AND PRESENTATIONS

4.1 Early Childhood Association ("ECA")

The Commission facilitated a presentation on 9 June on the BoR focusing specifically on the rights of a child for members of the ECA. Members actively participated in the discussion, asking questions, raising concerns, and giving examples of scenarios faced in their daily interaction with children. The Commission agreed to explore the policies surrounding access to financial assistance for pre-school aged children.

4.2 World Refugee Day

The Commission joined the UN and other countries, on 20 June, by issuing a statement to support for World Refugee Day. This year's theme: "*#WithRefugees*" indicated how the responsibility of supporting families forced to flee their homes due to war or persecution is a shared one. The release detailed some of the work of the Commission in this area over the years and highlighted some of the ongoing concerns. Whilst significant improvements have been made by the Government, the Commission continues to urge public authorities to work alongside non-governmental organisations such as the Red Cross, churches, pro-bono legal services, etc. to continue to improve the treatment of refugees as a vulnerable group.

4.3 Malala Day

The Commission posted a blurb on its Facebook page in recognition of Malala Day on 12 July to remind the community of the importance of gender equality in education. It also noted that in Cayman children's rights are enshrined in the Constitution, both generally and in their right to education.

4.4 World Day Against Trafficking in Persons

On 30 July, the Commission joined the UNODC in recognising World Day against Trafficking in Persons by posting a piece on its Facebook page. This year's theme, 'responding to the trafficking of children and young people' raised awareness of the high incidence of the trafficking of children throughout the world. The Commission stressed that the CIG has a role to play in ending human trafficking by ensuring all persons entering our jurisdiction are properly assessed and that it has drawn the Government's attention to this responsibility.[7]

4.5 International Youth Day

The Commission issued a press release in support of International Youth Day which is annually observed on 12 August. The theme for 2018 was "Safe Spaces for Youth". The message raised awareness about protection of young people, which corresponds with the right to the Protection of Children (section 17 of our BoR). The Commission also noted the work of several government and non-governmental organisations in Cayman which strive to provide safe spaces for young people including: Big Brothers Big Sisters, the CICC's TAYA Lounge, the CIRC and the YSU.

4.6 International Literacy Day

The Commission posted a piece on its Facebook page in recognition of UNESCO's annual celebration of

[7] http://www.humanrightscommission.ky/upimages/publicationdoc/CorrespondencetoCOMoHAReProtocoltoPreventSuppressandPunishTraffickinginPersonsEspeciallyWomenandChildren_1470703227_1470703227.pdf; and http://www.humanrightscommission.ky/upimages/publicationdoc/CorrespondencefromMoHA_090715-140915_1470701442_1470701442.pdf

International Literacy Day on 8 September. This year's theme was "Literacy and skills development". The Commission applauded teachers and educators, community groups such as LIFE, Rotary, and others who seek to promote literacy throughout our islands as a stepping stone to better education, employment, health and more.

4.7 "Stood Up" Interscholastic Anti-bullying Fair

The Commission sponsored the annual bullying prevention campaign organised by the Family Resource Centre cause through both a donation and the purchasing of official recognition shirts. The Commission was represented by way of an informational booth at the annual interscholastic anti-bullying "Stood Up" on 6 October at the ARC at Camana Bay where the Commission's information pamphlets on the BoR, Bullying Prevention Guides, and #youthrightsarehumanrights wristbands were distributed (as noted in s.3.4 on page 22).

4.8 World Mental Health Day

The Commission joined the WHO in recognising the 10 October as World Mental Health Day under the 2018 theme 'young people and mental health in a changing world'. The release highlighted the efforts of local not-for-profit organisations such as the APF which provides counselling services and support to individuals who are experiencing mental distress and illness. Additionally, the Commission acknowledged the CIG's ongoing commitment to further improve and expand on its current mental health services.[8]

4.9 International Day for the Elimination of Violence Against Women

The Commission posted a blurb on its Facebook page on 25 November in observance of the UN's International Day for the Elimination of Violence against against Women and the 2018 theme 'Orange the World: #HearMeToo'. The day also marks the start of '16 Days of Activism Against Gender-Based Violence' which concluded on 10 December - IHRD.

4.10 International Day for Persons with Disabilities (IDPWD)

The Commission posted a piece on its Facebook page on 3 December in support of IDPWD and the 2018 theme 'Empowering persons with disabilities and ensuring inclusiveness and equality'.

4.11 International Human Rights Day (IHRD)

The Commission observed IHRD on 10 December. This year marked the 70th Anniversary of the UDHR and the UN's year-long campaign built on the UN's existing 'Stand Up for Human Rights' campaign. The Commission issued a release.[9]

[8] http://www.humanrightscommission.ky/upimages/ckeditor/Alex%20Panton%20Foundation%20-%20Letter%20to%20employers%20-%20World%20Mental%20Health%20Day%20Oct%2010%202018.pdf

[9] http://www.humanrightscommission.ky/international-human-rights-day-2018?ajax=y&PageNumber=3

Chapter 5:

ALLEGED BREACHES OR INFRINGEMENTS OF HUMAN RIGHTS

6 November 2013 marked the implementation of the final clauses of the BoR allowing any individual to bring allegations of breaches or infringements of the BoR in our local courts. (As was previously the case, individuals may still directly petition the European Court of Human Rights alleging breaches of the obligations under the ECHR.)

As mandated under the Constitution, the Commission continues to receive and investigate complaints that decisions or actions of public officials have breached and infringed the BoR or that local legislation violates their human rights. The Commission receives: 1) complaints of breaches or infringements of any section of the BoR; 2) complaints of breaches or infringements of common law and statutory human rights and freedoms; and 3) complaints that any international human rights treaty extended to the Cayman Islands has been breached or infringed. In the Cayman Islands, constitutional human rights only have a vertical application. 'Vertical application' of human rights means rights can be enforced by a citizen against the CIG only - but not against other private individuals or companies.

It is important to the note that the Commission only accepts complaints of alleged breaches of the Bill of Rights, Freedoms and Responsibilities which have occurred after 6 November 2012. This may be a one-off event that has occurred after 6 November 2012 or may be continuing infringement of a right. In all cases, unless there is clear evidence that the alleged infringement is continuing, the Commission will not accept a complaint in relation to an alleged infringement that has taken place more than one (1) year prior to the date of the complaint.

During the reporting period (which was 17 months as opposed to the normal 12), the Commission received 55 complaints from members of the public alleging breaches of their human rights by public officials. Of those cases, 10 remain open at the end of this reporting period[10] and 45 were closed. Additionally, during the reporting period 2 cases from 2017 were closed (respectively an effective remedy was reached, and breaches of s.5 and s.19 of the Bill of Rights found and recommendations were made to the public authorities involved), and 1 case from 2015 was closed (with breaches of s.19 of the Bill of Rights found and recommendations made to the public authorities involved).

In addition to tracking formal complaints, this reporting period the Commission also tracked both formal and information enquiries [11]. As such, this reporting period saw 2 formal enquiries and approximately 45 informal enquiries. Of the 2 formal enquiries made, 1 resulted in a recommendation being made by the Commission.

[10] Of the cases remaining open at the end of May 2019, 6 were closed by end of August 2019 and 4 were closed by the end of November 2020.
[11] Formal complaints are instances where complaint forms are submitted to the Secretariat; enquiries are considered as instances where human rights questions are directed to the Secretariat. Furthermore, formal enquiries are enquiries which are referred to the Commission; informal enquiries are walk-in consultations, phone calls or emails fielded by the Secretariat staff that does not result in formal complaint or enquiry submissions.

5.1 Number of complaints received by alleged rights breached in the reporting period

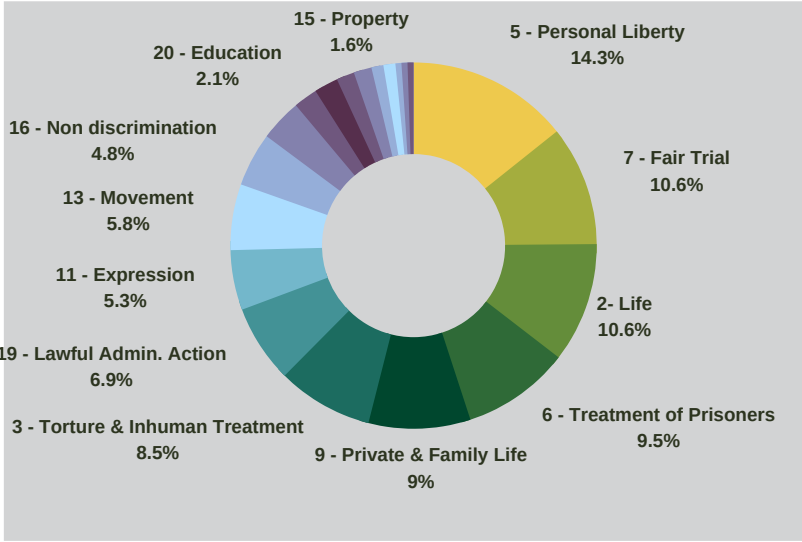
The chart and graph below illustrate the complaints received categorised by sections of the BoR where breaches are alleged by complainants.

It is important to note that the chart and graph below only represent the views of complainants regarding which of their rights they perceive may have been breached; it does not represent actual breaches. Therefore, the information below tells us which rights complainants perceive as affecting them in their particular situation, not which rights may be legally relevant to their particular situation. (NB: additionally, complainants may allege breaches of multiple rights).

***The Commission does not accept complaints regarding incidents that have taken place over one year prior to the complaint being filed, except in cases of ongoing breaches. Complaints reflected in this section may have been filed against public officials who were not still in office at the time the complaint was filed.**

COMPLAINTS RECEIVED BY ALLEGED RIGHTS BREACHES IN JAN 2018 - MAY 2019

Bill of Rights Section	Total Complaints	Percentage of Total
5 - Personal Liberty	27	14%
7 - Fair Trial	20	11%
2 - Life	20	11%
6 - Treatment of Prisoners	18	10%
9 - Private & Family Life	17	9%
3 - Torture & Inhuman Treatment	16	8%
19 - Lawful Admin. Action	13	7%
13 - Movement	11	6%
11 - Expression	10	5%
16 - Non-discrimination	9	5%
8 - No Punishment without Law	7	4%
20 - Education	4	2%
17 - Protection of Children	4	2%
14 - Marriage	3	2%
15 - Property	3	2%
21 - Public Emergencies	2	1%
4 - Slavery/Forced Labour	2	1%
12 - Assembly & Association	1	1%
10 - Conscience & Religion	1	1%
22 - Protection of Persons Detained Under Emergency Laws	1	1%
TOTAL	189	100%



5.2 Number of complaints by respondent entity

The chart below illustrates the public authorities against which formal complaints have been made to the Commission in this reporting period.

Public Entities	Complaints Received	Recommendations	Possible Breaches
DoI - Department of Immigration	25	0	0
Customs & Border Control	9	0	3
Director of Public Prosecution's Office	5	0	0
RCIPS - Royal Cayman Islands Police Service	4	0	0
HMCIPS - Her Majesty's Cayman Islands Prison Service	3	0	0
CIG - Cayman Islands Government	2	1	0
EC - Education Council	2	1	1
JA - Judicial Administration	2	0	0
LSD - Lands and Survey Department	2	1	0
CAL - Cayman Airways Limited	1	1	1
DHRS - Department of Health Regulatory Services	1	2	1
DLP - Department of Labour and Pensions	1	0	0
DPSC - Department of Public Safety Communications	1	0	0
Ministry of Health, Environment, Culture and Housing	1	2	0
Ministry of Human Resources, Immigration and Community Affairs	1	0	0
NAU - Needs Assessment Unit	1	0	0
DES - Department of Education Services	0 [12]	0	1
IAU - Internal Audit Unit	0 [12]	1	0
TOTAL	**61**	**9**	**7**

Number of complaints received, recommendations made and possible breaches identified by respondent entity from Jan 2018 - May 2019

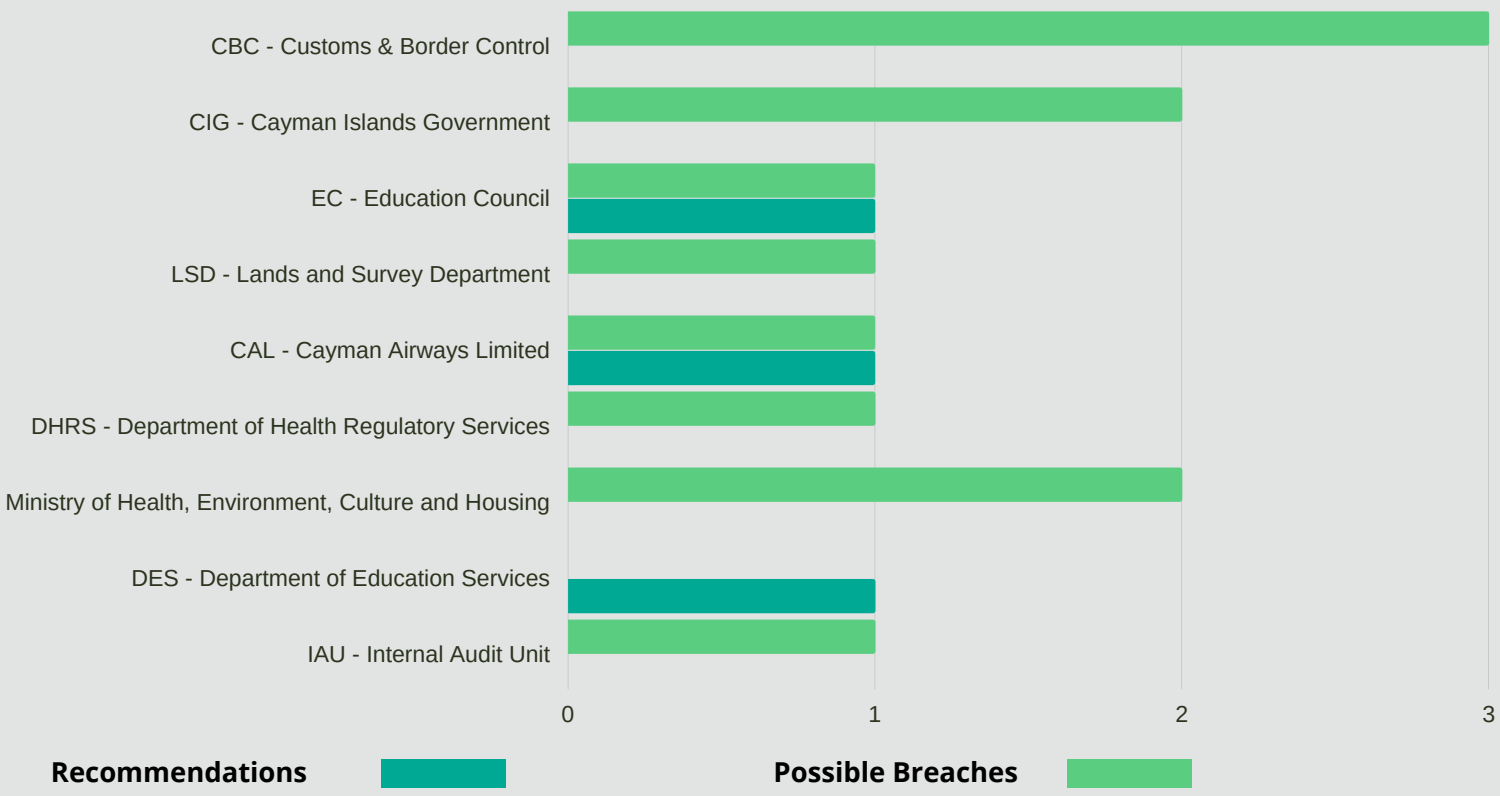
[12] The Department of Education Services and Internal Audit Unit were not implicated directly in any complaint; rather, a recommendation was made/potential breach was identified as a result of a complaint against another entity. After investigation of the primary complaint by the HRC it was deemed that these entities had a secondary role in the issues presented to the point that warranted action on their part.

5.2 Number of recommendations made and possible breaches identified by respondent entity

The chart and graph below capture instances where possible breaches have been deemed to have taken place by the Commission, with the context of a specific complaint, based on the evidence presented. Only data for cases which were opened and closed in this reporting period have been included. Recommendations were only made in instances where there were opportunities for policies/procedures/processes to be improved.

RECOMMENDATIONS MADE AND POSSIBLE BREACHES IDENTIFIED BY RESPONDENT ENTITY FROM JAN 2018 - MAY 2019

**The Commission does not accept complaints regarding incidents that have taken place over one year prior to the complaint being filed, except in cases of ongoing breaches. Complaints reflected in this section may have been filed against public officials who were not still in office at the time the complaint was filed.*

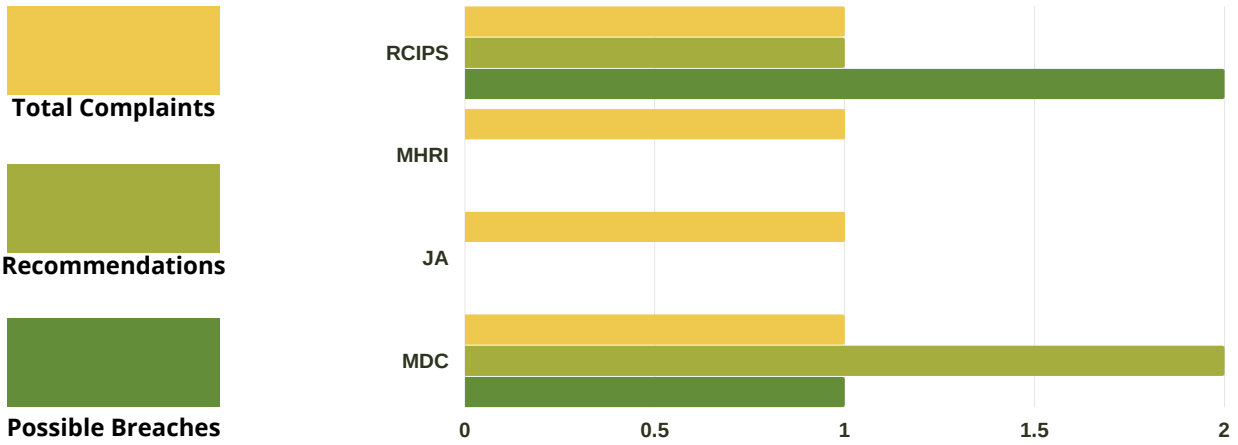


N.B.: In maintaining the confidentiality of the complainants, detailed information pertaining to complaints is not published by the Human Rights Commission.

Notwithstanding that complaints opened in years prior to the reporting year which are closed in the present reporting year are typically not reported in charts in the annual report, a separate chart has been provided to illustrate these instances in this year's report due to the quantity of these instances. Like the chart above the chart below illustrates the public authorities against which formal complaints have been made to the Commission. It also summarises instances where recommendations were made and possible breaches were deemed by the Commission to have taken place, within the context of a specific complaint, based on the evidence presented.

CASES OPENED PRIOR TO 2018 BUT CLOSED IN 2018-2019

Respondent Entities	Total Complaints	Percentage of Total	Recommendations	Possible Breaches
RCIPS - Royal Cayman Islands Police	1	25%	1	2
MHRI - Ministry of Human Resources & Immigration	1	25%	0	0
JA - Judicial Administration	1	25%	0	0
MDC - Medical and Dental Council	1	25%	2	1
TOTAL	**4**	**100%**	**3**	**3**



Additionally, during the reporting period 2 cases from 2017 were closed (respectively an effective remedy was reached, and breaches of s.5 and s.19 of the Bill of Rights found and recommendations were made to the public authorities involved), 1 case from 2016 was closed (as the matter was dealt with by way of legal proceedings) and 1 case from 2015 was closed (with breaches of s.19 of the Bill of Rights found and recommendations made to the public authorities involved).

Chapter 6:

ACKNOWLEDGEMENTS

The Commission has worked hard over this reporting period to promote human rights in the Islands; however, it would have been impossible for it to have carried out its work without the assistance of many members of the public, private entities and CIG employees. There is not space here to list all those who the Commission would wish to thank, however, we do wish to acknowledge the following individuals, companies and public authorities, who over the past year have provided particular assistance to our endeavours to promote compliance with the BoR:

- Alex Panton Foundation
- Ministry of Employment & Border Control
  - Kathryn Dinspel-Powell, Deputy Chief Officer
- Her Majesty's Cayman Islands Prison Service
  - Steven Barrett, Director of Prisons
- Cayman Islands Customs & Border Control
    - Joey Scott, Assistant Chief Immigration Officer (Enforcement & Asylum)
    - Mervin Manderson, Acting Assistant Chief Immigration Officer (Compliance)
- Needs Assessment Unit
  - Tamara Hurlston, Director
  - Matthew Hylton, Deputy Director

Each of the Commission members are employed by private entities in the Islands and particular thanks should go to each of them for allowing us to take what is sometimes significant time away from our jobs to perform our Constitutional roles. Without the support of Campbells, the United Church in Jamaica and the Cayman Islands, Walkers and Caribbean Utilities Company we would not have been able to dedicate the time necessary to this Commission.

We are grateful to the media, and members of the public who have taken the time to engage with us, seek our views and report and provide feedback on the Commission's initiatives and human rights generally. The Commission also wishes to thank Lisa-Ann Hurlston-McKenzie who contributed to the Commission as a member and whose term expired on 30 June 2018.

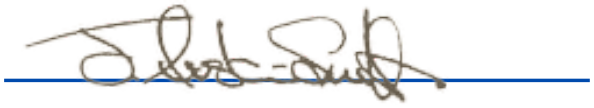
Chapter 7:

MOVING FORWARD

Under the guidance of the new Chairman the Commission will agree its focus for the remainder of 2019, in particular, its efforts on human rights issues related to equality, data protection, and lawful administrative action continue to be progressed.

The Commission encourages the public to visit our website www.humanrightscommission.ky, join us on Facebook at www.facebook.com/cihrc, or email us at info@humanrightscommission.ky to learn more or get involved in promoting, protection, and preserving human rights in the Cayman Islands.

Dated this 26 day of April 2021.



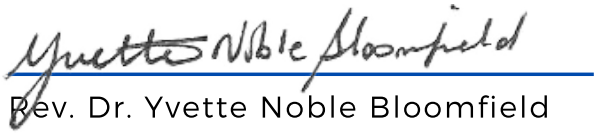
James Austin-Smith (Chairman)



Lisa-Ann Hurlston-McKenzie



Joni Kirkconnell



Rev. Dr. Yvette Noble Bloomfield



Dorothy Scott

Appendices

Appendix 1:

HUMAN RIGHTS COMMISSION MEMBERS



MR. JAMES AUSTIN-SMITH (CHAIRMAN)

James Austin-Smith completed a degree in International Politics in 1997. He completed the postgraduate law conversion course and was called to the Bar of England and Wales by Inner Temple in 1999. He practised at the Bar in London until 2004 when he was admitted in Cayman. He specialises in commercial litigation and dispute resolution. He is a former member of the Cayman Islands Human Rights Committee. Effective 1 April 2014 James was appointed as a member until 1 January 2015, after which time he assumed the role of Chairman until 31 May 2019.



MS. LISA-ANN HURLSTON-MCKENZIE

Lisa-Ann Hurlston-McKenzie is an Environmental & Sustainability professional with a Master's degree in Environment and Development from the University of Cambridge. Formerly the Manager of the Cayman Islands Department of Environment's Sustainable Development Unit, Lisa later managed GreenTech Environmental Ltd as an accredited LEED professional and green building consultant. She served on the judging panels for the Governor's Award for Design & Construction Excellence and Governor's Conservation Awards, and chaired both the National Assessment of Living Condition's Institutional Analysis Sub-Committee and National Climate Change Committee. Lisa has presented at the UK Overseas

MS. LISA-ANN HURLSTON-MCKENZIE (CONTINUED)

Territories Conservation Forum, EU Overseas Countries and Territories Association Workshops, Caribbean Heads of Judiciary Conference and Cayman Islands Law School focusing on environmental impact assessments, environmental law and climate policy, and is a frequent lecturer on sustainable development, climate change and renewable energy for the United World Colleges Cayman Islands' *Toward a Sustainable Future* short course. She has also co-authored publications on and facilitated numerous national and regional meetings related to climate change impacts, vulnerability, adaptation and mitigation in small island states. Lisa currently chairs the National Conservation Council's Climate Change Committee. Effective 1 April 2014 Lisa-Ann was appointed as a member for a period of four years.

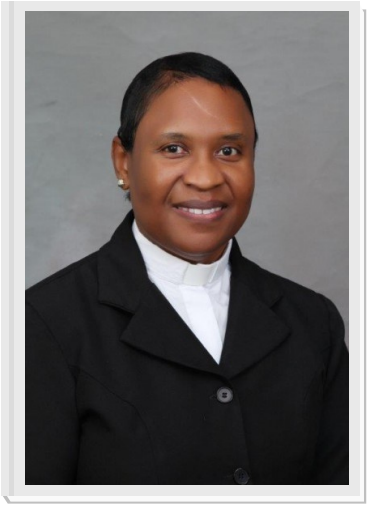


MS. JONI KIRKCONNELL

Joni Kirkconnell is the current Manager for Environment, Health & Safety (EHS) at Caribbean Utilities Company, Ltd. (CUC) and has been with the company for 6 years. Prior to joining CUC she worked with the Cayman Islands Government Department of Environment (DoE) for over ten years in the Sustainable Development Unit as well as the Marine Turtle Programme. Joni obtained her bachelor degrees in Marine Biology and Ecology and a Master's degree in Environmental Resource Management from Florida Institute of Technology. She is a certified lead internal auditor for the ISO 14001:2004 Environmental Management System standard as well as for OHSAS 18001:2007 Occupational Health and Safety Management System standard. She is also a certified Master Trainer

MS. JONI KIRKCONNELL (CONTINUED)

under the National Centre for Construction Education and Research (NCCER). In her time at CUC her department has spearheaded numerous programmes and policies to ensure the protection of both people and the environment. These included the establishment of a health and safety management system, providing training to first responders, launching the MoveSafe programme to reduce musculoskeletal injuries, hosting the annual Contractor Safety Workshop, instituting the employee recognition programme the Orange Ribbon Safety Award, and ensuring that CUC remained certified and registered to the ISO 14001:2004 standard for their environmental management system. One of her proudest achievements was when CUC went two years without an employee losing time due to work related injuries – the previous record had been only months prior to her joining the company. Joni also contributes to numerous CUC related community involvement projects including Junior Achievement, working with children at the Lighthouse School and George Town Primary School, as well as environmental improvement projects. Joni is married with two children. Effective 1 September 2017 Joni has been appointed as a member for a period of three years.



REVEREND DR. YVETTE NOBLE-BLOOMFIELD

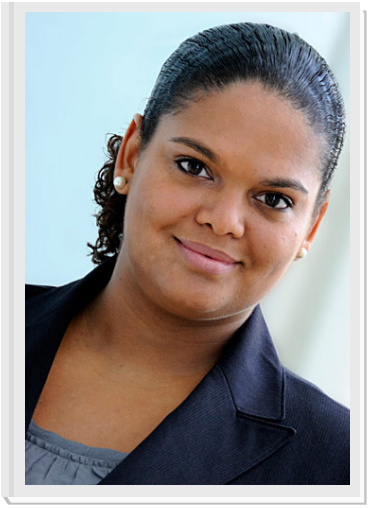
Ordained to the Ministry of Word and Sacraments on July 8, 1984, Rev. Dr. Yvette Noble-Bloomfield is currently the Regional Deputy General Secretary of the Cayman Islands Regional Mission Council of the United Church in Jamaica and the Cayman Islands, a post she has held since December 1, 2015. Rev. Dr. Yvette Noble-Bloomfield

REVEREND DR. YVETTE NOBLE-BLOOMFIELD (CONTINUED)

candidated for the full time pastoral ministry in the late 1970's and started her preparation at the United Theological College of the West Indies (UTCWI) in 1979, from which in 1983 she received a Diploma in Ministerial Studies. Simultaneously, she was a student at the University of the West Indies from which she graduated with the Bachelors of Arts (Theology) Upper Second Class Honours degree. She also obtained the Certificate in Radio; Magazine Format from the Caribbean Institute in Media and Communication (CARIMAC) - University of the West Indies in 1987 and in 2001 the Doctor of Ministry Degree from the Columbia Theological Seminary, Decatur, Georgia USA .

In the field of education, Rev. Dr. Yvette Noble-Bloomfield has made significant contributions. She served as Part-time Lecturer and Advisor to the final year students of the Institute for Theological and Leadership Development (ITLD). Over a ten-year span she served as a Religious Education teacher at the St. Andrew High School for Girls, Camperdown High and Wolmer's High School for Boys. She has also served as Chaplain at Camperdown High and the St. Paul's Basic School.

Rev. Dr. Yvette Noble-Bloomfield has made significant contributions to the Church and the community as a whole. She is married to Denver, an educator, and they are blessed with two children both university graduates and working young adults. Effective 15 September 2017 Rev. Dr. Yvette Noble-Bloomfield has been appointed as a member for a period of three years.



DOROTHY SCOTT

Dorothy Scott is a partner at Walkers whose practice covers all aspects of investment fund formations and related corporate transactions. Dorothy graduated with a dual honours degree in Anthropology and Law from the London School of Economics and has extensive experience in advising a broad range of clients including major institutions, family offices and emerging managers. Dorothy has served on a number of statutory and charitable boards and is a recognised leader in the establishment of diverse community development programs. Effective 27 February 2018 Dorothy has been appointed as a member for a period of three years.

Appendix 2:

CAYMAN ISLANDS BILL OF RIGHTS, FREEDOMS AND RESPONSIBILITIES (BoR)

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