

STATEMENT OF SARA COLLINS ON BEHALF OF THE HUMAN RIGHTS COMMITTEE

PRESS CONFERENCE ON THE CONSTITUTION 16.2.09

The position of the HRC is simple. No one of our members has anything at stake personally in this constitutional process save our vision of what we hope our country will be. I never intend to seek election and have no re-election chances to be concerned about. I have no church to run. All members of the committee are volunteers stealing time from our daily lives to try to give a voice to the powerless members of our society.

I was appointed by the honourable Minister McLaughlin. I was reluctant at first to accept but he persuaded me with his words. He persuaded me that it would be a tragedy for us all if our country does not embrace human rights in full and that as young Caymanians we all have a responsibility to avert that tragedy. Our terms of reference require us to seek the best possible protection of the rights of the people of the Cayman Islands. The idea of protecting the rights of human beings is not new. It comes from ancient wisdom. As Jesus himself said: *"Verily I say unto you, inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me."* (Matt. 25:35-40).

History has shown that our collective conscience doesn't always spur us on to do the right thing. For that reason, we pass laws to regulate our behaviour. The Constitution is the supreme law in any land. All other laws and the behaviour of the government and the citizens will be guided and shaped by it. It is important to get it right and not just to make a half hearted attempt. I am not sure that I can think of any other constitutional process where the people drafting the document stepped away from it at some point and said "Well, there it is. It's not ideal but it's the best we can do for now so let's just leave it half finished and come back to it later". I believe the Caymanian people want us to aim for perfection, to achieve the ideal.

And so we come to the story of section 16. Many people in the country are asking what happened here. Because of the convoluted language in the document and the lawyer like way in which it says everything a lot of people don't understand what the issue is. This is what happened. The draft we had been working with in the negotiations all along said the government could not discriminate against anyone at any time. Full stop. The Hon. Minister McLaughlin told us that the churches could not accept such a wide ranging right applying to gays and lesbians. On the other hand, the UK and the HRC could not condone gays and lesbians being left out altogether. So the plan was formed and this question was put to us: what if we reduce the right or cut the right in half so it is limited only to the basic things like the right not to be tortured and doesn't go so far as to include everything? That way we can put everyone in but they are not getting as much as the original version of the right gave them.

It is important to understand this because we are not saying that any one group is left out of rights that other people are enjoying. The list of the groups did not change, except to include gays and lesbians. Women and the disabled and the elderly and everyone else will still be included in the right, but the right itself was changed so that the Government could discriminate against all of those people in certain areas.

This is why the Hon Leader is asking the country to accept half a loaf on this; because the other half was chopped off and may now be thrown away. But, let's be clear. Everyone gets only the half loaf. It is not like some of us have to settle for half and the others get the whole loaf if they are hungry for it. The other half is being taken away from the other vulnerable groups too, who will lose the protection against discrimination that is being taken out of the right. That is why the HRC were duty bound to explain to the public what this means for them. The government will be able to discriminate against anyone in the areas of healthcare, housing, employment, provision of social services, access to public spaces and many others because these are no longer covered. The UK said, as I believe did the Hon Minister McLaughlin, that what the HRC wants (which is the original s.16 that said the government could not discriminate against anyone at any time) is the ideal solution, but the country is not ready to do more than take baby steps towards that ideal on some distant horizon. If it is the ideal solution why can't we have it



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now? Why stop at the first step if you can complete the whole journey? How do we know that our people don't want to walk together now down that road?

I want to be clear. The HRC is not determined to campaign against the Bill of Rights. We support advancement and agree that the alternative is worse if the alternative is nothing. However, that doesn't have to be the choice.

What we are asking for is simple: let the people choose. You say that we are not ready, but perhaps we can show you that we are. You think that most of the people are crippled by fear, but perhaps we can show you their fears are allayed. In a true democracy, on an issue like this, the voice of the people should and can be heard. If the referendum allows people to choose whether they want a full right to be free from discrimination by our government, or would only prefer the limited right our government proposes it is a win win situation for everybody. That doesn't derail the process. That is democracy in action. We will have a Constitution in the end, but we will be sure that the wishes of the people, the heart and soul of our Caymanian people went into it.

During the process, we were forced to compromise several times. No obligations of any kind for the private sector, so we have to accept that the Constitution itself won't prevent us from discriminating against each other. No change on the overly complicated language. Delay of enforcement for 2 (or now we are told 3?) years and 4 years on the obligation not to put children in adult jails. And on and on. We could not compromise to the point where there was nothing left. On this issue, it is not for us to compromise nor, we respectfully suggest, can the government or the church leaders do it for us either. This is the people's issue. How it is decided will cause them to suffer or thrive. Let them decide.

This statement was issued on behalf of the Human Rights Committee. Although appointed by Cabinet, we function as an independent body and our terms of reference can be viewed at www.humanrights.ky.