

MINUTES
4th MEETING OF THE HUMAN RIGHTS COMMISSION
APRIL 7, 2010
CONFERENCE ROOM
COMMISSIONS SECRETARIAT

PRESENT: Richard Coles Chairman
Sara Collins (via phone) Member
Catherine Frazier Member
Rev. Nicholas Sykes Member
Laura Jackson Analyst, Commission Secretariat

APOLOGIES: Alistair Walters Member
Deborah Bodden Manager, Commissions Secretariat
Jason Webster Analyst, Commissions Secretariat

1. Meeting called to order

The meeting was called to order at 3:40 p.m.

2. Confirmation of previous minutes

The minutes of 3 March, 2010 meeting were approved by the Commission.

3. Business brought forward from previous meeting

N/A

4. New Business

a. and f. Human Rights Complaints

Human Rights Complaint 005/2009

Complainant was interviewed by the Manager of the Secretariat detailing three specific requests. Complainant had received consultation for similar issues in 2007 by the former Human Rights Committee. Copies of some documentation and correspondence with the former Human Rights Committee (25, June 2007) and an Inspector from the Royal Cayman Islands Police Force (4 Nov, 2008) were provided to the Secretariat for review. The complainant was advised that she would present the material for review to the Commission at the next monthly meeting and revert to her the next step.

Human Rights Complaint 006/2009

- i. As this was related business it was moved forward on the agenda.
- ii. An e-mail detailing a complaint was received on behalf of the complainant. The e-mail cites an explanatory outline of the potential reasons for the complaint but does not provide adequate details as to the complainant's request to the Commission.

Issues to address when dealing with complaints:

- i. Once the complaints procedure is in place, both persons will be contacted to complete a complaint and the Commission members will have the opportunity to review any complaint received.
- ii. It was expressed that the Commission must be aware of the confidentiality issue at the core of obtaining complaints either on behalf of other persons or outstanding complaints that refer to documentation and actions from previous and/or other institutions such as the former Human Rights Committee.

- iii. The Commission expressed that this confidentiality issue also extends to the receipt of the complaints records from the former Human Rights Committee and the expectation that any outstanding and/or unresolved complaints should be addressed by the Commission.
- iv. The Commission members believe that the HRC should update the community by giving guidance on how to file human rights complaints and advice to those whom wish to reinstate unresolved or pending complaints.

Recommendations for addressing complaints:

- i. The Commission agreed that before it can begin to go through the appropriate means with which to address complaints, and communicate to the public, it must first wait for the legal advice of Professor Jowell pertaining to the powers of the Commission to investigate complaints prior to the implementation of Section I of the Constitution.
- ii. Upon obtaining this advice and defining the powers and functions of the Commission, it was recommended that a proper policy and procedures manual be instated before any outstanding human rights complaints are dealt with.
- iii. The commission also suggested that a filtering process be set up to determine what complaints are private litigation matters versus actual human rights infringements. It was agreed that this would be revisited in greater detail when compiling the draft policies and procedures manual.
- iv. Lastly, the question of whether or not the existing and pending human rights complaints have been filed with the Complaints Commission was raised. The HRC concluded that it was imperative that this be questioned when initially reviewing the complaints received at the Commissions Secretariat.

b. Commonwealth Foundation's Challenge Fund for Building Human Rights Capacity in the British Overseas Territories

- i. The Commission discussed the project "Building Human Rights Capacity in the British Overseas Territories", that is currently funded by the UK Department for International Development (DFID) and being carried out by the Commonwealth Foundation and its project partners, the Commonwealth Legal Education Association and the Commonwealth Human Rights Initiative.
- ii. The HRC agreed that it met the necessary guidelines for application and expressed its wish to draft a grant proposal for submission prior to the next deadline of June 30 2010.
- iii. The Secretariat has been asked to assist in creating a project proposal based on public education and media initiatives that could be presented to the Commission for discussion at the next meeting.

c. Request for Information from Brent Fuller

- i. On behalf of the HRC, the Commissions Secretariat referenced the minutes of the first meeting when responding via email to Brent Fuller's questioning regarding Commission meetings being open to the public.
- ii. The Commission also stated that it will be engaging with the public in various education initiatives on human rights and the HRC would welcome any feedback where appropriate on reports written by the Commission.
- iii. It was agreed upon that all Commission members should receive copies of press and media statements for their records.

d. Request for Interview from Wendy Ledger

Mr. Coles spoke in detail to Wendy Ledger on March 29 2010 discussing the role of the Commission and discussing the HRC's stand on various local issues such as double jeopardy (i.e. Perez case) and the Criminal Evidence (Witness Anonymity) Bill 2010. Excerpts from this interview were used to publish three articles thus far (18 March,

2010 –‘Human Rights Chair raises question of mandatory life’; 2 April, 2010 –‘Life loses ECHR appeal; and April 2 2010 –‘HRC seeks to clarify interim position’).

e. Request for Information from CS

- i. A request for information was made by the members of the public regarding the ILO Declaration on Fundamental Principles and Rights at Work (1998). It was queried as to 1) whether Part 1 of the Bill of Rights in the 2009 Constitution covers the same four fundamental principles and rights of the ILO Conventions and 2) how the HRC planned on handling the human rights complaints process.
- ii. These questions were researched and a response sent to CS explaining that any formal complaint may be filed with the Manager of the Commissions Secretariat and as soon as the HRC begins hearing complaints she would be contacted.

f. Human Rights Complaint made by NS on behalf of OP

Documented above in a.

g. Request for a Statement on the Criminal Evidence (Witness Anonymity) Bill 2010 from Kafara Augustine

- i. The Chairman participated in a scheduled interview with Cayman 27 which laid the groundwork for two news segments (16 March, 2010, addressed the impact of Part 1: the Bill of Rights (2009 Constitution) on the current interpretation of ‘Term of Life Imprisonment’; and 31 March, 2010 - the HRC’s response to the Criminal Evidence (Witness Anonymity) Bill, 2010).
- ii. Via an emailed statement, the Chairman focused in detail on the following sections of the legislation: Part II, section 4 Qualifying Offences; section 5: Qualifying Criminal Offences and Part II section 2: Witness Anonymity Order.

h. Human Rights Public Education Pamphlet and Poster

- i. The draft human rights pamphlet and poster was presented to the other Commission’s members.
- ii. The pamphlet is an easy to read guide explaining what the Commission is, the powers and functions bestowed on it by the 2009 Constitution, Part 1: the Bill of Rights, important milestones in the history of human rights in the Cayman Islands, and things to know about human rights in the form of frequently asked questions (FAQ’s). GIS assisted with a photo shoot of two Caymanian children dressed in ‘Made in Cayman’ t-shirts.
- iii. The draft poster details the Section One of the 2009 Constitution, Part 1: the Bill of Rights. GIS would be reformatting the poster, adding graphics and the appropriate typeface. They will also determine the cost of printing these materials.

5. Any Other Business

a. View of the Commission in relation to the next three (3) years pending the implementation of the Bill of Rights, specifically complaints about breaches and infringements of rights.

- i. The Commission was notified of Professor Jowell’s acceptance of the HRC’s request to provide a legal opinion on a pro-bono basis written on 22 March, 2010.
- ii. The request cited three specific queries concerning the functions and powers of the Commission in the interim three year period prior to Part I of the Cayman Islands Constitution Order to 2009 coming into effect on 6 November, 2012.

b. Human Rights Commission Website

- i. The Commission was updated on the completion of their website. The Manager of the Secretariat will arrange for the Chairman and then the Commission members to

- review the site detail and format in the near future before the agreed upon date the site goes live to the public.
- ii. It will be the responsibility of the Secretariat in conjunction with Computer Services to add and update material in a timely fashion and oversee maintenance of the website.

c. Creation of the Commission's Procedural Manual

- i. A draft document supplied by the Manager of the Commissions Secretariat that encompasses both the procedure manual and the complaints form was given to the Chairman for review. Mr. Coles is currently in the process of reviewing these documents.
- ii. Feedback will be provided to the Manager who will then distribute the draft document for all members for discussion at the next meeting.
- iii. The Commission expressed their concern that the complaint form be fitting and appropriate to the powers and functions of the HRC. The form used by the former Human Rights Committee was not deemed appropriate for the Commission's objectives. It should be noted that the form used by the old Committee has not been used in any way in the production of the draft document.

d. Liaison with the Office of the Complaints Commissioner

The meeting between the Chairman, the Complaints Commissioner Mrs. Nicola Williams and the Manager was rescheduled for April 13 2010 per the CC's request.

f. Commission Members' Terms of Appointment

- i. The Commission decided that by the next scheduled meeting of the HRC, all members would inform discuss their preferred length of terms of appointment but agreed upon a minimum of three (3) or (4) year terms for all members, given the timeline for Part I of the Constitution to take effect.
- ii. As agreed in the last meeting it was suggested that the commission members stagger their terms to ensure continuity.

g. Human Rights Conference held by the Legal Department on March 4 & 5, 2010.

- i. The Commission members were updated by the Chairman on his opening speech during day one (March 4th 2010) of the Human Rights lecture Series held in conjunction with the Legal Department and the FCO.
- ii. The Chairman expressed that it was in this forum that the HRC first stated the Commissions' need to see draft legislation prior to implementation to ensure that all bills are in accordance with human rights principles entailed in the 2009 Constitution.
- iii. Ms. Claire DeThan was the noted guest speaker and delivered lectures on the following topics:
 - Lecture 1: Managing the Incorporation of Human Rights: Issues of Constitutional Change
 - Lecture 2: Human Rights in Law Enforcement
 - Lecture 3: Civil Law Application in Human Rights
 - Lecture 4: Criminal Law Application in Human Rights
- iv. Members of the Secretariat were in attendance over the two (2) day seminar and per the Commission's request, agreed to provide its members with scanned copies of Professor De Than's Power Point presentation notes.

h. Receipt of an advanced copy of the Draft Police Bill 2010

- i. The Chairman received an electronic copy of the Draft Police Bill, 2010 from the Legal Department on 6 April, 2010. Following the conclusion of the meeting, copies were to be circulated to Commission members for review and commentary.
- ii. The HRC are asked to make a formal statement to the Legal Department by 20 April, 2010 deadline advising on any human rights implications of the legislation.
- iii. The Commissions Secretariat has been tasked with reading the Bill and researching prior UK legislation and cross referencing with Part 1 The Bill of Rights (Part IV and

- X) in relation to the powers, offences and penalties with the existing Police Law and the relevant UK legislation.
- iv. The Commission's main concerns with the new Draft Police Bill revolve around the increased powers given to police officers. There is no code of practice accompanying this draft legislation and the HRC believes that the training of police officers is imperative to not only this bill maintaining its human rights compliance but the methods of the police (in their increased power of authority carrying out duties) to uphold the rights and responsibilities of Part 1 of the 2009 Constitution.

i. Training for conciliation and mediation of human rights complaints.

- i. The Chairman wishes to research training opportunities for Commission members and the Secretariat in these areas to facilitate effective handling of complaints as no member of the HRC has prior experience or expertise in these specified areas.
- ii. The Secretariat offered to research training opportunities via the appropriate and applicable institutions dealing with human rights.

j. HRC requested to meet with FCO/Overseas Territories Representative for Prisons

- i. The Governor's Staff Officer has requested a meeting between himself, the Chairman of the HRC, the FCO/Overseas Territories Prisons Reform Coordinator Stephen Fradley.
- ii. Reverend Sykes stated that there is currently no chaplain at the prison and asked that this issue be raised at the meeting as he felt it imperative that a chaplain be reappointed to the post.

j. Commission Members Vacation Bids

It was agreed that summer vacation scheduling be submitted to the Manager of the Commissions Secretariat via email as to plan the accommodation of meetings with maximum attendance during this period.

6. Items to be discussed at the next meeting

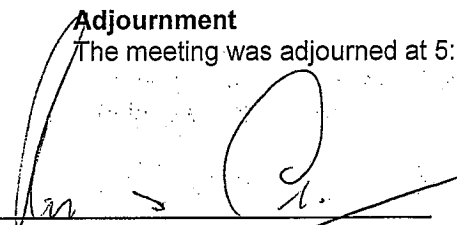
- i. Policy and Procedures Manual
- ii. The Commonwealth Foundation 'Challenge Fund'.
- iii. Training for conciliation and mediation of human rights complaints.
- iv. Draft Police Bill 2010.
- v. HRC website
- vi. Final copy of HRC's public education pamphlet and poster.

7. Next meeting

The next meeting will be held on Tuesday 4 May, 2010 @ 3:30pm in the Commissions Secretariat Boardroom.

8. Adjournment

The meeting was adjourned at 5:10pm


Mr. Richard Coles
CHAIRMAN
HUMAN RIGHTS COMMISSION