

**ANNUAL REPORT  
OF THE  
HUMAN RIGHTS COMMISSION  
BERMUDA  
2006**



HUMAN RIGHTS COMMISSION  
Suite 301  
Mechanics Building  
12 Church Street  
Hamilton HM 11  
Bermuda  
(441) 295-5859  
(441) 295-6573  
[www.hrc.bm](http://www.hrc.bm)  
[hrcbda@ibl.bm](mailto:hrcbda@ibl.bm)

*Cover Note: 2006 marks the end of the United Nations Decade for the Eradication of Poverty. The Human Development Report 1997 describes the nature of poverty as the deprivation of the lives people lead. Poverty can mean more than a lack of what is necessary for material well-being. It can also mean the denial of opportunities and choice most basic to human development – to lead a long, healthy, creative life and to enjoy a decent standard of living, freedom, dignity, self-esteem and the respect of others. All countries are encouraged to commit to the goal of eradicating poverty in the world, through decisive national actions and international cooperation.*

*“It is meaningless to declare rights for people without giving them the tools to enjoy those rights... (Unknown).*

*For design- use image of children- a solemn child- report colours- black, white, navy blue and sepia of blue.*

**Human Rights Commission**  
**2006 Annual Report**

**CONTENTS**

<b>LETTER OF TRANSMITTAL</b> .....	4
<b>FORWARD: 2006 REPORT OF THE CHAIRPERSON</b> .....	5
<b>MEMBERS OF THE 2006 HUMAN RIGHTS COMMISSION</b> .....	7
<b>SUB-COMMITTEE MEMBERSHIP</b> .....	7
<b>OFFICE OF THE COMMISSION STAFF</b> .....	7
<b>COMPOSITION OF THE HUMAN RIGHTS COMMISSION</b> .....	8
<b>OUR MISSION</b> .....	8
<b>MANDATE OF THE HRC GENERAL COMMITTEES &amp; SUB-COMMITTEES</b> .....	8
Legislative .....	8
Education .....	9
Commemorative Dates .....	9
<b>AN OVERVIEW OF THE HUMAN RIGHTS ACT 1981</b> .....	10
Human Rights Protections .....	10
History of Amendments to the Human Rights Act, 1981 (as amended) .....	11
<b>OUR RESPONSIBILITIES UNDER THE HUMAN RIGHTS ACT 1981</b> .....	13
<b>OUR 2006 OBJECTIVES AND REPORT-IN BRIEF</b> .....	15
<b>INTAKE AND COMPLAINT STATISTICS 2006</b> .....	16
<b>2006 Formal Investigations by Grounds</b> .....	19
<b>2006 REPORT ON BOARDS OF INQUIRY</b> .....	22
<b>2006 SUB-COMMITTEE REPORTS ON LEGISLATION, PUBLIC INFORMATION, EDUCATION AND TRAINING PROGRAMMES</b> .....	24
<b>2006 and BEYOND: GOALS &amp; OBJECTIVES OF THE HRC</b> .....	28
<b>OUR STATEMENT ON HUMAN RIGHTS IN BERMUDA IN 2006</b> .....	29
<b>ANNEXES</b> .....	30
Intake and Complaints Processing .....	31
Human Rights Commission Complaints Management Process .....	33
Publications .....	35
Universal Declaration of Human Rights .....	37
Simplified Version of the Universal Declaration of Human Rights .....	44
The United Nations and its relationship to the Human Rights Commission, Bermuda .....	46
National Human Rights Institutions: .....	48
Guidelines for establishing and strengthening national institutions for the Promotion and Protection of Human Rights .....	48
The Paris Principles: Principles Relating to the Status of National Institutions .....	53
United Nations International Days, Years, Decades and other Observances .....	62
More than 50 ideas for commemorating the Universal Declaration of Human Rights .....	70

## LETTER OF TRANSMITTAL



1<sup>st</sup> May 2007

The Hon. Wayne N. Perinchief  
Minister of Community and Cultural Affairs  
Ministry of Community and Cultural Affairs  
2<sup>nd</sup> Floor, Perry Building  
Church St.  
Hamilton

Dear Minister,

On behalf of the members of the Human Rights Commission, it is with pleasure that I present the Annual Report for the year ending 31<sup>st</sup> December 2006.

The Human Rights Act 1981 requires, that the Human Rights Commission submit a report to the Minister, by 30 June in each year. This report should describe the activities of the Human Rights Commission in the preceding year, and the report must be laid before Parliament.

Promoting human rights and educating on anti-discrimination are important and critical responsibilities. This report reflects upon and highlights the issues and the many opportunities the Commission has had to address the challenges that have arisen throughout the year and those which are ahead of us.

This report also presents our overall strategic objectives for 2007-08.

Sincerely,

**Venous Memari**  
**Chairperson**

## **FORWARD: 2006 REPORT OF THE CHAIRPERSON**

This year, the office of the HRC has been a very busy place, with its efforts to execute its two-fold mandates, namely to educate the public on the principles of human rights and to conciliate human rights complaints; in some cases by investigating an allegation of discrimination, and in others, via referral to a decision-making body or authority.

2006 has proved to be a year of much change and dialogue on human rights. It has been the year where the community has rallied in response to a number of concerns for constitutional rights and freedoms such as protections based on sexual identity, the equality and protection of women, violence amongst different ethnicities residing in Bermuda, sustainable development, and maladministration.

Although we engaged in a number of education and public awareness activities throughout the year, presentations to several stakeholders, and hosted a series of four public forums which opened up courageous dialogues on the sensitive issue of protection from discrimination on the basis of sexual orientation, addressing complaints and exploring areas for legislative amendment, continued to be our priority.

The International Human Rights Day 10<sup>th</sup> December was commemorated with a rousing key note address from Mr. Sujit Chowdhury, President and CEO of the World Trade University (Global Secretariat), a branch of the United Nations which enhances the development of executives working in emerging markets. Mr. Chowdhury is also the Secretary General of the World Trade Forum, a Global Public-Private Partnership Platform with the Agencies of the United Nations. Mr. Chowdhury eloquently deliberated the challenges for human rights in a century of global leadership. The forum, held at the Bermuda Underwater Exploration Institute, attracted almost 100 guests.

With regard to intake and complaint management, the data presented in this report represents the outputs generated by the HRC's relatively new case management system. The HRC had committed to updating its administrative processes and the efficient and accurate use of the system is now evident. The case management system, now fully operational, has improved our ability to report on the number of contacts with the community, as well as the nature of those contacts.

The efforts of the Commissioners in reviewing human rights cases, promoting and educating on protections and services, modernizing the office and introducing voluntary mediation, go a long ways towards resolving complaints and ensuring the protection of all of our human rights in a participatory and meaningful way. Promoting the protection of human rights, and increasing awareness of these protections, are challenges to which the members of the

HRC rise each year. Commissioners are members of the community, our community, who are committed to advocating for and ensuring human rights protections in Bermuda.

I also thank the members of the HRC for their steadfast commitment to fulfilling the HRC's mandate, and its team of Officers, for their efforts this year. I am very thankful to Chairperson, Mr. Rod Attride-Stirling for his dedication to this community, for his years of service to the HRC and for his unwavering concern for human rights in this country. Mr. Kamal Worrell, who worked with endless energy as the Education sub-committee Chair, must also be recognized.

I would like to express my great appreciation for the work and efforts of members Matthew Clifford, Kirsty Anderson, Megan Lewin, Tammy Richardson, Lucinda Woolridge, Lionel Raynor, Major Leslie Lowe, and Elliot Hubbard, for their service and commitment to human rights, as demonstrated by their membership.

I thank the Hon Minister Dale Butler, Minister of Community Affairs and Sport, for his commitment to ensuring human rights issues were at the center of Bermuda's social landscape.

We welcome Hon Minister Wayne N. Perinchief, Minister of Community and Cultural Affairs, who assumed the human rights portfolio on October 30<sup>th</sup>, 2007, and immediately demonstrated his keen enthusiasm and concern for human rights advocacy by attending at presenting at our series of public forums.

The one area which has generated the most interest is that of legislative reform. The results of many years of consultations on the human rights regime in Bermuda, from how to better enhance protections to how to better manage complaints, have been steadily documented and shall contribute to the growing movement for change in these areas.

The HRC is extremely grateful to the strong leadership provided by the Department of Human Affairs, under the leadership of its Directors, former Head, Ms. Brenda Dale, and currently, Dr. Myra Virgil and their team members Jane Brett, Sonia Astwood and Carol Edwards. Their expertise and direction have been critical in our work to fulfill the mission.

**Maryanne Scott**  
**Acting Chairperson**



## **COMPOSITION OF THE HUMAN RIGHTS COMMISSION**

The Governor of Bermuda, acting in accordance with the advice of the Premier, who shall first have consulted the Opposition Leader, appoints the Chairman and members of the Human Rights Commission.

Members are appointed annually with terms not to exceed three years. A Commissioner may be re-appointed after serving the initial period. The Commission is a statutory body, responsible to the Minister of Community and Cultural Affairs for the administration of the Human Rights Act.

## **OUR MISSION**

We pledge to faithfully and vigorously serve all persons residing in Bermuda. We are committed to protecting the rights and welfare of everyone by thoroughly addressing complaints of unfair and discriminatory practices contrary to the provisions of the Human Rights Act 1981.

## **MANDATE OF THE HRC GENERAL COMMITTEES & SUB-COMMITTEES**

The Human Rights Commission of Bermuda has two mandates. The first mandate is to educate the public on the human rights protections available to them and human rights issues, in general. The second mandate is to investigate, conciliate and settle allegations of discrimination.

In working towards this end, the General Committee typically comprises three groups; the “Legislative”, “Education” and “Commemorative Dates” sub-committees. Each sub-committee is assigned a technical officer (a civil servant who works in the offices of the Commission) whose role is to advise the sub-committee, and to report on projects to the team of civil servants, who, as a whole, carry out the Commissioners’ visions and plans.

In addition to their common responsibility to deliberate the merits and demerits of investigations before reaching the General Committee, the subcommittees have the following responsibilities.

### **Legislative**

The Legislative Sub-committee is responsible for discussing the pros and cons of proposed amendments to the Human Rights Act 1981 which may have been

initiated by the Executive Officer, the General Committee or persons or agencies outside the offices of the Human Rights Commission.

Additionally, the sub-committee reviewed government policy and laws of other jurisdictions with a view to assessing the Bermuda legislation.

### **Education**

The work of this sub-committee is directly related to the HRC's mandate to educate, inform and increase understanding of human rights protections and the spirit of the international human rights legislation and policy. This sub-committee plans forums, and considers the use of radio, television media or print-media to inform the public as to the role of the HRC, its mandate and activities, and human rights issues and principles in general.

### **Commemorative Dates**

This Sub-committee coordinates all commemorative dates as highlighted by the United Nations. It is responsible for the confirmation of international human rights days and the involvement of the Human Rights Commission in planning to commemorate those occasions.

## OUR LEGISLATION

### AN OVERVIEW OF THE HUMAN RIGHTS ACT 1981

In 1981, Parliament passed the Human Rights Act 1981 (the “Act”). The Act became operative in May 1982. At that time, the Human Rights Commission was established to administer the Act. In its preamble, the Act declares the principles upon which the legislation is based as being:

*The recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the World and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;*

*That the European Convention on Human Rights (Rome, 4 November 1950; Treaty Series 71 (1953) UK Command Paper #8969) applies to Bermuda (by declaration of the United Kingdom under article 63 of the Convention);*

*That the Constitution of Bermuda enshrines the fundamental rights and freedoms of every person whatever his race, place of origins, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest;*

*That these rights and freedoms have been confirmed by a number of enactments of the Legislature; and*

*That it is expedient to make better provision to affirm the rights and freedoms and to protect the rights of all members of the Community (the “Community” meaning all persons lawfully residing in Bermuda).*

#### **Human Rights Protections**

The Act declares it unlawful to discriminate against individuals on the basis (grounds) of:

- Race
- Sex (including the right to equal pay)
- Place of origin
- Colour or ethnic or national origins
- Religion or beliefs
- Political opinions
- Marital status
- Family status/pregnancy (has or is likely to have a child, whether born in lawful wedlock or not)
- Disability (see Part I of the Human Rights Act 1981 for definition and interpretation of the condition of being disabled.
- Pregnancy
- Criminal Conviction

The corresponding **areas** of protection under the Act are:

- Employment
- Accommodation
- Supply of goods, facilities and services
- Contracts
- Public notices
- Membership in clubs, organizations, and
- Membership in trade unions

The Act also seeks to protect individuals from racial incitement, harassment based on race, color, ancestry or place of origin, sexual harassment and reprisal action. The latter protection assures that persons may not be treated prejudicially if they lodge a complaint, or participate in any way in a proceeding under the Act.

The right to ‘equal pay for equal work’ is also provided for under the Act, which must be made out with one of the grounds above. The right to equal pay for equal work is operationalised with the understanding that individuals are regarded as employed for substantially the same work if their work is broadly similar in nature and the differences (if any) are not of practical importance vis-à-vis the terms and conditions of employment. A determination on the “value” of the work is made with regard to the demands of skill, experience, effort and responsibility.

#### **History of Amendments to the Human Rights Act, 1981 (as amended)**

The area of human rights protections is a dynamic emerging process, and one that the Commission aims to keep pace with in a changing society. To this end, Bermuda’s Act has been amended several times.

The first amendment to the Human Rights Act was a single amendment in 1988, when the Act provided protection from discrimination for persons with disabilities (physical and mental). Under the principal Act, a disabled person was newly defined as one “who by reason of injury, disease or some congenital cause substantially handicapped in seeing, hearing, speaking, breathing, moving, learning or working”<sup>1</sup>.

The Act states that “a disabled person shall not be considered disqualified for any employment by reason of his disability if it is possible for the employer or prospective employer – without unreasonable hardship – to modify the

---

<sup>1</sup> This definition of disability was to be amended once again in 2000.

circumstances of the employment so as to eliminate the effects of the disabled person's disability in relation to the employment”.

The second amendment to the Act was in 1992 and involved the Binding of the Crown to all the provisions of the Act. This amendment meant that the enforcement provision of the Human Rights Act 1981 (as amended) was extended to the Government. In 1992, further significant amendments to the Act included:

- the broadening of the definition of sexual harassment; and
- the ability of the HRC to entertain a complaint up to two years after an alleged contravention, if it could be satisfied that there were good reasons for the delay.

In 1995, the Act was again amended to provide for:

- special programmes designed to relieve hardship;
- harassment free work environment;
- HRC initiated investigations, based on a belief that there has been an infringement on the Act;
- timely resolution of complaints;
- compensation for injury to feelings; and
- an increase of fines and terms of imprisonment.

In 1998, the Act was yet again amended to provide for equal pay for equal work. Additionally, the condition that if another piece of legislation impinges on the Human Rights Act, the Human Rights Act prevails, was provided for under the Act.

In 2000, the Act was the subject of multiple amendments. The definition of “**disability**” was expanded to include persons who are infirmed, malformed or disfigured as result of bodily injury, birth defect or illness. Persons with hearing and seeing impairments and persons with AIDS were provided protection from discrimination under the Act.

Other 2000 amendments included having the term “ancestry” replace “**ethnic or national origins**”. “Religious beliefs” was removed as a ground and replaced with “**religion or belief**”. Persons with **criminal records** were now afforded human rights protections when seeking employment. The Act now requires that only where the position being sought is related to his or her previous offences can he or she be denied the employment.

With regard to disclosure of information gathered by the HRC, the term “secrecy” was replaced with “**confidentiality**”. This amendment allowed for the release of any information pertaining to a particular case, (provided that such disclosure in not pertaining to a sexual harassment) at the conclusion of the investigation of the case, if the HRC saw fit. With regard to sexual-harassment, employers were now expected to ensure a harassment-free workplace.

**The Human Rights Amendment Act, 2006 was passed and assented to on 26<sup>th</sup> May, 2006. Two Amendments were made; Section 5 and Section 6B.**

- **Section 5 was amended in subsection (3A) by deleting “defendant’ wherever it occurs and substituting “respondent”.**
- **Section 6B was amended by repealing subsection (1) and substituting the following subsection, which provides for protection from harassment in the workplace on all of the grounds listed in the Act—**

*“(1) No person who is an employee shall be harassed in the workplace by the employer or agent of the employer or by another employee on the basis of any ground referred to in section 2(2)(a)(i) to (vii)”.*

Human rights legislation is quasi-constitutional legislation and as such, it is also a fluid document, which must and does change with the social climate. It is expected, therefore, that there will be more amendments in the future.

## **OUR RESPONSIBILITIES UNDER THE HUMAN RIGHTS ACT 1981**

The HRC is mandated to 1) conciliate, 2) settle, 3) potentially investigate allegations of discrimination, or 4) otherwise cause a contravention to cease, which pursuant to section 15 of the Act, “appears to be genuine”. The HRC is required to educate, as well, as part of its primary mandate. Consequently, under Part III of its primary legislation, the HRC:

- Encourages an understanding of the fundamental rights and freedoms of the individual guaranteed by Chapter 1 of the Constitution and the principle that all members of the community are of equal dignity, have equal rights and have an obligation to respect the dignity and rights of each other;
- Promotes an understanding of, acceptance of and, compliance with this Act;
- Develops, conducts research and arranges educational programmes designed to eliminate discriminatory practices;

- Encourages organizations within the community and individual persons to carry out activities, which will attract all members of the community whomsoever;
- Encourages and coordinate any activities which seek to forward the principle that every member of the Community is of equal dignity and has equal rights; and
- Promotes the conciliation and settlement of any complaints or grievances arising out of acts of unlawful discrimination and, where in its opinion such good offices are inappropriate, institute prosecution for contravention of the Act.

The main aim of the Human Rights Commission's work is to promote an understanding and acceptance of the principle that all persons are of equal dignity, have equal rights, and have an obligation to respect the rights of each other. Education plays a vital role in the Commission's mandated responsibilities, and public programs are formulated and implemented on an ongoing basis.

One of the public services of the Human Rights HRC is the daily screening of media advertisements to ensure that in letter, and intent, advertisers comply with the Human Rights Act. Amongst other things, the HRC stresses that job titles should remain neutral to enable qualified male or female applicants to apply for positions for which they are qualified.

Public forums are also educational vehicles, and to this end, the HRC has worked with the Commission for Unity and Racial Equality (CURE), community organisations and the Department of Human Affairs to sponsor and produce them. For example, the HRC has collaborated with Amnesty International to observe Human Rights Day, as proclaimed by the United Nations.

The Human Rights Commission organizes regular educational programmes and workshops, screens newspaper advertisements daily, scrutinizes employment application forms, organizes public forums, prepares brochures (see Annexes) to provide guidelines for complaints processes, advertisers, respondents, and for those with disabilities, or who are the victims of sexual harassment.

As well, with regard to promoting human rights, the legislation is kept under review for potential and current amendments. A **Declaration of Management** policy (annexed), produced by the HRC, serves as a guide to all members of the public in the provision of equal rights and opportunities without discrimination.

## **OUR 2006 OBJECTIVES AND REPORT-IN BRIEF**

Our objectives for 2006 were to:

- Rejuvenate our research and promotional efforts by;
  - Revising and updating of all brochures to reflect the changes in the legislation
- Participate in a review of the Human Rights Act, 1981 (as amended) by;
  - Following-up on the research and the HRC's proposal for sexual orientation to become a protected diversity under the Human Rights Act
  - Investigating new human rights areas for public information and new policy formulation
- Review the human rights portion of the existing school curriculum by;
  - Reviewing the Amnesty International proposed school curriculum;
  - Introducing more relevant HR components to the school curriculum;
- Promote a community-wide educational awareness campaign designed to eliminate discriminatory practices; highlighting examples of discriminatory practices with suggestions on how to comply with the Human Rights Act 1981 by;
  - Reviewing our existing promotional campaign; developing new public information resources and new educational initiatives.
  - Networking with international human rights organizations to ensure Bermuda keeps abreast of new developments and initiatives in the field of human rights.
  - Collaborating with local community groups and organisations of similar mandate
  - Conducting more public workshops on the work of the HRC and the importance of a having a community free of discriminatory practices.
  - Providing training for staff and Commissioners
  - Visiting schools on an ongoing basis to discuss the provisions of the Human Rights Act, thus promoting a better understanding of rights & responsibilities.
- Ensure the publication of our outstanding annual reports and the preparation of all future reports on a timely basis.
- Ensure that we remain within our 9 month "cut-off" period for ALL investigations of complaints
- Ensure that front-end mediations are offered and take place within the first 6 weeks of all new proceedings.

***The following report details our work on these objectives from  
1<sup>st</sup> January – 31<sup>st</sup> December 2006.***

## INTAKE AND COMPLAINT STATISTICS 2006

GOVERNMENT REFERRALS		NON OR QUASI-GOVERNMENTAL REFERRALS		FORMAL COMPLAINTS (Intakes reported on the basis of a protected ground of discrimination)*		INFORMAL (Managed at front-line)		ENQUIRIES (Requests for Information on grounds protected by the legislation)
Labour Relations	278	Legal	45	Race	5	Job Advertisements	1	Accommodation
Accountant General	1	Employment Service	1	Sexual Harassment	3	Government House (UK Visa)	1	Accommodation/ Dentist
Social Insurance	12	Company President	1	Disability/ Equal pay/ Promotion	1	Vacation leave	1	Advertisement
Magistrates Court	3	BEC	1	Maternity Leave	1	Police	1	Age
Registrar General	2	Employer	5	Family Status (General)	2	Employment	2	Criminal Record
Housing Corporation	4	Company Management	3	Family Status (Maternity Leave)	1	School (parent/Teacher)	1	Disability
Consumer Affairs	4	Company Human Resource Department	5	Family Status (Pregnancy)	3			Drug testing
Legal Aid/ OSHA	4	Former Employer	1	Sex (Gender)	1			Employment
Human Resources	3	Property Administrator	1	Gender/ Place of Origin	1			Employment Act
Education	1	Royal Gazette	1	Place of origin	1			Family Status
Social Services	1	Landlord	3	Place of Origin/ Equal Pay	1			Gender
PTB	1	Doctor	1	Political Opinion/ Employment	1			Service- Beauty
Tourism	1	Company Policy	3	Condo Rules	1			Health Insurance
Financial Assistance	1	Insurance Co.	1	Criminal Record	1			Housing
Bermuda Customs	2	WRC	3					HRC Commission
Marine & Ports	2	Housing Corporation	1					HRC Process
CURE	2	Bermuda Laws	1					Labour
KEMH	1	Charities Commission	1					Learning Challenged

\* Of the number of complaints that proceeded through to the investigatory phase, 4 were on the basis of race/ethnicity/origin, 2 on sexual harassment, 2 on family status, 1 on disability and 1 on criminal record.

Rent Commission	28	Bermuda Industrial Union	6						Miscellaneous
Child & family Services	2	Tenant	1						National origins
NTB	3	Bermuda Bar Association	1						Neighbour dispute
Labour & Immigration	15								Place of Origin
Police	3								Political Opinion
Health	1								Pregnancy
Legal Aid	2								Pregnancy/ Disability
Cabinet	1								Race
Police Association	1								Race/ Application From
									Racial Incitement
									Religion
									Rental
									School/ Education
									Sex (Gender)
									Sex/ race
									Sexual Harassment (General)
									Sexual Harassment/ Housing
									Sexual Orientation/ Harassment
									Special programmes
									Time period (HRC Complaint)
									Traffic stoppage by Police
									Wages
									Workplace harassment
<b>TOTALS</b>	<b>379</b>		<b>86</b>			<b>23</b>		<b>7</b>	

Table 1 illustrates that during the year 2006, many cases were referred to a Government agency for follow-up (n=379<sup>2</sup>). The other major area of intake activity was where members of the public came to the offices to inquire (referred to as “enquiry”) about a human rights issue. Out of 21 formal complaints made in 2006, ten proceeded through to the investigatory phase of the complaints management process.

### **Intakes and Investigations over the Years**

Year	# of Intakes	# of Investigations	Successful Conciliations/ Mediations <sup>3</sup>	Dismissals under s. 15(8)	Withdrawn	Referrals to Boards of Inquiry
2002	587	24	Introduced in 2005	N/A	1	7
2003	670	86	Introduced in 2005	N/A	1	8
2004	651	7	Introduced in 2005	N/A	0	3
2005	471	6	3	1 <sup>4</sup>	2	0
2006	615	10	4	2 <sup>5</sup>	0	0

---

<sup>2</sup> Total includes advertisement reviews and follow-up. With the implementation of a new case management system, the Commission now reports on the breakdown of cases by grounds (i.e. race, sex, place of origin) and areas (i.e. employment, service).

<sup>3</sup> The Voluntary Mediation program was introduced as a pilot project in 2005; Mediation continues to be available to parties throughout the case management process.

<sup>4</sup> Case opened in 2004.

<sup>5</sup> One case commenced in 2005.

## **Report on Formal Investigations for the Period Ending 2006**

Section 2 of the Human Rights Act, 1981 details the grounds protected from discrimination. The Act also provides for protection of/for several isolated offences, such as sexual harassment. A complaint that appears to be genuine under the Act is approved by the HRC to proceed to the investigatory phase of the HRC's complaints management process. The investigation phase commences with a formal notification of the complaint, to a respondent party, and the provision of information on the HRC's mandate and program offerings (i.e. education and mediation). An investigation is based upon an alleged breach of a ground of discrimination or of an "isolated offence", such as sexual harassment in the workplace. There were 10 investigations (cases) undertaken by the HRC in 2006.

### **Status of 2006 Cases**

Commenced in 2005, investigated and concluded in 2006	3
Opened and concluded in 2006	5
Opened and Ongoing as at year end	2
<b>Total</b>	<b>10</b>

### **Disposition/ Outcomes**

Closed/Dismissed (including 2 unsuccessful mediations)	4
Ongoing	2
Successfully Mediated/Conciliated	4
Referred to Board of Inquiry	0
Withdrawn	0
<b>Total</b>	<b>10</b>

## **Case Examples, Highlights and Outcomes**

**Ground:** *Disability*

**Areas:** *Goods, Facilities & Services*

A complainant alleged discrimination against a local insurance company when they refused to insure his vehicle because of his disability. A formal complaint was served and based on the information provided in the response, to the effect that the complainants' driving history and claims were quite problematic, the HRC was satisfied that no act of discrimination had occurred. The matter was dismissed as lacking merit as per section 15(8) of the Human Rights Act.

***Allegation: Reprisal/ Retaliation***

The complainant joined with others in a complaint against their employer. The complainant alleged that because she was a party to a human rights complaint, she was treated prejudicially by being denied an opportunity to advance her career. The complaint was successfully mediated.

***Ground: Sexual harassment, workplace harassment; discrimination on the basis of place of origin***

***Area: Employment***

The HRC initiated an investigation in the matter of allegations of sexual harassment in a workplace. Allegations of sexual harassment, workplace harassment and refusing to employ persons on the basis of their place of origin, had been received. The employer investigated the matter, made a finding of its own, made recommendations to address the issue and actioned the recommendations. The HRC was satisfied with the outcomes and the matter was closed.

***Ground: Criminal Record***

***Area: Employment***

The complainant alleged that he was dismissed when a fellow employee complained about his working in the company because of his criminal record. A formal investigation was initiated and revealed that the employer had cause to address his work performance and that there were concerns about suspicious behavior during work hours that related to his criminal record. The matter was dismissed.

***Ground: Sex/ Sexual Harassment***

***Area: Employment***

The complainant was employed in a field of work, predominately staffed by men. She alleged that she was being sexually harassed and treated discriminatorily on account of her gender. The case was the first in the HRC's history to be investigated under s. 6B of the Human Rights Act, as amended in 2006. Also, section 9(3) of the Act was reported to have been violated.

***Ground: Race/ Place of origin***

***Area: Employment***

The complainant, a black Bermudian male alleged that his employer, Great International Ltd. did not train or promote him because of his race and place of origin (section 2(2)(a)(i) of the Act as read with section 6(1)(c) which speaks to

employment). He further alleged that the job description for a position to which he had applied, was changed subsequent to his application. The complainant stated that he had applied for several positions within the company that appeared to suit his abilities and educational qualifications but that he was denied these opportunities for advancement, purportedly for reasons of his performance, abilities or inabilities. The successful candidates for each of these positions were white.

The complainant also alleged that he had requested training within the employing company to advance his career in the company. The training was promised but never provided. The employer provided various reasons for the lack of delivery in this area, most having to do with staffing availability.

To assist in resolving the matter, and with terms of reference involving a concern for issues of systemic discrimination, the company was asked to submit several documents to the HRC: a copy of the company's comprehensive plan that showed its Succession Planning management process; the most recent statistics of their promotion of black Bermudian males to managerial positions; and the most recent statistics of non-Bermudians who occupied managerial positions within the company. The company was later asked to produce specific documentation for each of the positions to which the complainant had applied. These submissions included job descriptions, the selection and hiring recruitment files, the resumes, cover letters, and applications of all who had applied, the letter of regret sent to the complainant, the performance reviews of the complainant and of the successful applicants. The employer was also asked to submit the job description and job advertisements for the position that the complainant had alleged had changed.

The information provided by the respondent was thoroughly analysed. For example, the education and experience of the successful applicants and the complainant were compared to the required tasks of each position to which the complainant had applied.

A report on the results of the investigation was submitted to the Human Rights HRC Members for their review. The Members reviewed the report and based on its contents found that on a balance of probabilities the complainant was discriminated against on the grounds that he had alleged. They offered mediation to the parties to resolve the matter.

The offer was accepted and the matter was successfully resolved in mediation.

## **2006 REPORT ON BOARDS OF INQUIRY**

The majority of disputes with which the Human Rights Commission is seized, and fails to settle, are referred to the Minister with a recommendation that a Board of Inquiry be established to hear the case. If cases are grave and potentially warrant prosecution, a referral is made to the Department of Public Prosecutions (DPP).

In 2006, no cases were referred to the Minister for the appointment of Boards of Inquiry, possibly as a consequence of the implementation of the voluntary mediation pilot project.

The **voluntary mediation** scheme is a program whereby parties to a complaint are invited to attempt to resolve the situation that gave rise to the complaint, with the assistance of a mediator. Mediation has proven to be a cost-effective and relatively quick process. Parties to human rights complaints have indicated that the outcomes of a mediated settlement have proven to be creative and more satisfying than going through a Board of Inquiry proceeding. Further, mediation is available to parties of a human rights complaint, at any stage of the investigation process; potentially until a final decision is made by a Board of Inquiry. More information on the Voluntary Mediation Pilot Scheme is available through the Ministry of Community and Cultural Affairs' Department of Human Affairs.

Table 2 cites the number of human rights cases that have been referred for a Board of Inquiry since 2002, and their disposition. At the Board of Inquiry level, cases may still be resolved via a method of alternative dispute resolution such as mediation. Once cases are referred for a Board of Inquiry, the Human Rights Commission no longer has conduct of their outcomes. However, it is important to us that the public know the outcomes of human rights cases, from beginning to end, and thus, the state of the Boards of Inquiries are noted in our Annual Reports.

At the beginning of 2006, there were eight outstanding human rights Boards of Inquiry to be heard.

### **Table 2: Case disposition via Boards of Inquiry 2006**

				Cases Closed							In Progress		In Supreme Court
	Outstanding Cases	Referrals during the year	BOI's Approved	BOI's Not Approved	Complaint withdrawn	BOI's Heard	Settled through Mediation	Decision signed	BOI Quashed	Unable to Process	In / Agreed to Mediation	In Progress	
2002	6	7	5	1	1	0	0	0	0	0	0	0	
2003	11	8	7	1	1	0	0	0	0	0	0	0	
2004	17	3	3	1	0	2	0	0	0	1	0	0	
2005	19	0	0	1	2	0	3	2	1	0	2	4	3
2006	8	0	0	0	2	3	5	2	0	1	1	7	1

## **2006 SUB-COMMITTEE REPORTS ON LEGISLATION, PUBLIC INFORMATION, EDUCATION AND TRAINING PROGRAMMES**

The HRC has two mandates – to educate and to conciliate. In 2006, the HRC organised its work under two general categories: Education/Commemorative Dates/ and Legislation. Both sub-committees took responsibility for reviewing intakes for potential investigation.

The **Legislation Sub-committee** is responsible for reviewing the current legislation, proposing amendments, and making representations to Government bodies regarding policy that is in conflict with human rights principles. The legislative sub-committee was unable to fully move forward with some of its specific projects in 2006 due to changes in membership and administration. However, the Legislation sub-committee and its technical officers are responsible for the initial orientation of Commissioners with regard to an introduction on policy, procedure and programming.

### **HRC Orientation Workshop**

Each year, new and returning Commissioners participate in a training and orientation session. The program this year was held on 14<sup>th</sup> January 2006, at the Salvation Army Hall on North Street.

The **Education sub-committee** is responsible for compiling information on the HRC's role, promoting its mission and mandate, making presentations, organizing and attending events, public relations. Mr. Kamal Worrell led the work of the education sub-committee and assisted by HRC technical officers engaged in the following activities:

#### **Presentations (conducted by Officers of the HRC)**

- Bank of Butterfield
- Police Training Centre
- Office of the Rent Commission
- Mount Saint Agnes Academy
- Bermuda High School
- Bermuda Institute

For several years, the HRC has worked with the Women's Resource Centre (WRC). An Officer of the Commission presents a lecture on sexual harassment during the WRC's annual 10 week course. This collaborative work has also been represented in the joint publication of a handbook, "Sexual Harassment, What It is, What You Can Do...".

#### **Public Forums**

The HRC hosted a series of public forums which aimed to highlight special and public interest topics of human rights.

- October 12- General Information
- October 19- Workplace Discrimination
- November 2- Racial/ Ethnic/ Cultural Tolerance?
- November 30- Open session with Wayne Caines, Elisabeth Christopher, Lucy Attride-Stirling and Jeff Chant
- UN International Human Rights Day 10<sup>th</sup> December 2006 (details in next section)

The forums were taped and recordings of the meetings are to be made available at [www.hrc.bm](http://www.hrc.bm).

### **Radio Talk Shows**

- October 9- General information on human rights and the HRC
- October 16- Workplace Discrimination/ Dignity and Diversity in the Workplace
- October 30- Racial/ Ethnic/Cultural Tolerance- Shirley Dill with Alan Doughty
- November 27- Open session with Shirley Dill, Lynne Winfield, Lucy Attride-Stirling, and Kamal Worrell

•

### **Public Education**

- YouthNews sponsorship: the HRC co-sponsored this supplement which is circulated to all of the middle and senior schools
- Newspapers in Education co-sponsorship- The HRC co-sponsored a supplement on 'Bermuda's Diversity' which was distributed throughout schools and is available to the public.
- HRC Public forum and education advertisements: Posters, radio ads and other publications were distributed to schools and publicly broadcast on the following themes:
  - The role and responsibilities of the HRC
  - Encouragement of tolerance?
  - Right to an opinion and to express that opinion
  - Equal Opportunity in Employment

*Special thanks to the students, teachers, families and administrators of Sandys Secondary Middle School, Sandys Secondary Community Centre, Heron Bay Primary School and St. David's Primary School for participating or assisting in our 2006 education campaign.*

### **PARTNERSHIP, COLLABORATION & COMMEMORATION**

In addition to its own educational initiatives, the HRC participates in and seeks information on the work of agencies of similar mandate.

### **ACCESS BERMUDA 2006- "Nothing About Us- Without Us!"**

On 7<sup>th</sup> June 2006, the HRC hosted Mr. Shuaib Chalken, from South Africa, at its general meeting. Mr. Chalken heads the Secretariat for the African Decade of Disabled Persons and is a member of the Working Group drafting the UN Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities. Mr. Chalken has been described as a visionary

leader in disability decisions and is an advisor on the integration of disability concerns with strategic planning. The official guest of the Ministry of Health and Family Services and the Bermuda Physically Handicapped Association, the HRC was honoured to meet with Mr. Chalken, who delivered the key note address as part of ACCESS BERMUDA 2006 commemorations.



## **Human Rights Day 2006**

On 10 December 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights, which has become a universal standard for defending and promoting human rights. Every year on 10 December, Human Rights Day marks the adoption of the Universal Declaration. On Human Rights Day it is celebrated around the globe that "All human beings are born with equal and inalienable rights and fundamental freedoms".

Human Rights Day has been earmarked by the United Nations as a day on which communities around the world can participate in activities which 'promote universal respect for and observance of human rights and fundamental freedoms' a key tenet in the preamble of the Universal Declaration of Human Rights.

The theme of Human Rights Day 2006 in Bermuda was "Human Rights in a Century of Global Leadership". Human Rights Day and the HRC's 25<sup>th</sup> Anniversary were commemorated with a key note address by Mr. Sujit Chowdhury.

Mr. Chowdhury is the President and CEO of the World Trade University, Global Secretariat, a branch of the United Nations, which enhances the development of executives working in emerging markets. Mr. Chowdhury is also the Secretary General of the World Trade Forum, a Global Public-Private Partnership Platform with the Agencies of the United Nations.

He was the first to internationally coordinate and engage the top Ministerial officials of the China Insurance Regulatory Commission with ACE Insurance, a leading multinational insurance company based in Bermuda and was responsible for the Chinese Ministry's first ever visit to Bermuda two years ago. Mr. Chowdhury, who has extensive experience in economic empowerment and development, spoke about leadership, management, entrepreneurship and trade with regard to disenfranchised groups with communities. A political refugee himself, Mr. Chowdhury spoke of his work and how his life experiences have led to his commitment to enhancing human rights around the world.

"In previous years celebration of Human Rights Day has been limited to a proclamation reading on the steps of the City Hall," said Kamal Worrell, Chairperson of the Human Rights Commission's sub-committee on education during the run-up to the event. "We now hope to be able to invite someone of Mr. Chowdhury's calibre to help us celebrate Human Rights Day every year, as we step up our efforts to deepen the public's appreciation of the need for a robust culture of human rights in Bermuda while providing a global context. As a political refugee, dedicated to empowering marginalized communities around the world, Mr. Chowdhury is an excellent choice for inaugural keynote speaker."

The Human Rights Day celebration was held at the Bermuda Underwater Exploration Institute on Friday, 8<sup>th</sup> December, 2006. A short reception was followed by the keynote address by Mr. Chowdhury and a reading of the Proclamation of Human Rights Day by the Hon. Wayne N. Perinchief, Minister of Community and Cultural Affairs. The addresses of the event highlighted the need for creating nurturing environments through policy frameworks, for developing economic freedom.

## **International Association of Official Human Rights Agencies**

Founded in 1949 in New York, the International Association of Official Human Rights Agencies (IAOHRA) is a non-profit membership organisation with its headquarters in Washington, DC. The primary members are statutory human rights and human relations agencies with authority for enforcing a variety of civil rights laws in their respective jurisdictions. The goals of IAOHRA are to:

- Promote civil and human rights around the world, by providing leadership in the development and enforcement of laws, at all levels of government, protecting the civil and human rights of all persons.
- Foster human and inter-group relations.
- Enhance human rights practices under law.

IAOHRA provides opportunities and forums for the exchange of ideas and information among member agencies and other human rights advocates. It (in part):

- Provides assistance in the development of programs for eliminating illegal discrimination in employment, housing, education, public accommodations, public services and commercial transactions, including banking and lending practices.
- Develops educational programs on human rights and civil rights issues.
- Serves as a clearinghouse for information exchange between human rights agencies around the world.
- Offers a variety of services, including: comprehensive training programs for agency personnel; representation to and liaison with international, regional, national, and other appropriate government bodies; and technical assistance in defining rights, drafting legislation, establishing human rights commission/agencies, and building community support for and participating in human rights activities.

The Human Rights Commission of Bermuda has re-established its membership IAOHRA and will be drawing on its programs and services in the future, particularly with regard to training and educational initiatives.

## **STAFF TRAINING AND PROFESSIONAL DEVELOPMENT 2006**

The Human Rights Commission is committed to the professional development of its staff. Officers to the HRC undertook training in the following areas:

- Project Management
- Conflict Resolution
- Presentation Skills
- Dignity at Work
- Human Rights Mediation Clinic
- Computer Class- General
- PowerPoint
- Excel
- Handling Difficult People

## **2006 and BEYOND: GOALS & OBJECTIVES OF THE HRC**

Our work continues from 2005 and 2006 in the following areas:

- Rejuvenating our research and promotional efforts;
  - Revising and updating of all brochures to reflect the changes in the legislation;
- Via the print and electronic media, promoting a community-wide educational awareness campaign designed to eliminate discriminatory practices. We will be highlighting examples of discriminatory practices with suggestions on how to comply with the Human Rights Act 1981.
  - Reviewing our existing promotional campaign and prepare new public information resources.
  - Developing new educational initiatives.
- Working more closely with CURE and other community organizations such as Citizen's Uprooting Racism in Bermuda (CURB) and the Diversity Institute of Bermuda (DIB);
- Visiting schools on an ongoing basis to discuss the provisions of the Human Rights Act, thus promoting a better understanding of rights & responsibilities.
  - Review the human rights portion of the existing school curriculum.
  - Review the Amnesty International proposed school curriculum.
  - Look towards introducing more relevant HR components to the school curriculum.
- Providing ongoing training for Commissioners and staff
- Networking with international human rights organizations to ensure Bermuda keeps abreast of new developments and initiatives in the field of human rights.
- Following-up on the research and the HRC's proposal for sexual orientation to become a protected diversity under the Human Rights Act; and
- Participating in a review of the Human Rights Act, 1981 (as amended) with a view to proposing a complete legislative overhaul.
  - Investigating new human rights areas for public information and new policy formulation.

## **OUR STATEMENT ON HUMAN RIGHTS IN BERMUDA IN 2006**

Promoting human rights is not always easy work, administratively and in practice. Administratively, what are often considered tedious bureaucracies are in fact, safeguards to human rights. Yet the critical work of conciliation, education and advocacy is urgent and seemingly does not lend itself to bureaucratic processes. There is a delicate balance between the rights of one versus the rights of many- a balance that is inherently critical, urgent but also in need of a steady and objective process. Therefore, when the Universal Declaration of Human Rights was adopted in 1948, after months of discussion and debate, the world embarked on what is probably the most ambitious and idealistic project ever devised by the international community.

It marked a significant turning point in our modern political history – a milestone which signified a willingness to shift our collective value system and a geopolitical global order which had brought untold death and destruction through two world wars to an order centered upon the rights of the individual by virtue of one’s humanity.

Today the concept of the universality and indivisibility of human rights is well entrenched and accepted around the world. But Bermuda is not alone in negotiating exactly what that and other such concepts mean for our society and how exactly they should be implemented.

What is certain is that the international human rights legal regime, which was spawned by the Universal Declaration of Human Rights is more than a political construct, it is a fundamental moral force and imperative with which all of us are challenged to come to terms.

Since its inception, the Human Rights Commission of Bermuda has worked with community leaders, educators, religious groups, professional organizations, civic groups, students, and the business sector in educating persons on the denigrating effects of discrimination within our society, and towards the resolution of complaints of discrimination.

The HRC believes human rights to be fundamental to the building and maintenance of the social order. To this end, it is our mission to persist in efforts to achieve justice for all and effective social change.

## ANNEXES

1. Intake Processing and Complaints Management
2. Human Rights Commission Complaints Management Process
3. Publications of the Human Rights Commission, BERMUDA
4. The Universal Declaration of Human Rights
5. Simplified version of the Universal Declaration of Human Rights
6. The United Nations and its Relationship to the Human Rights Commission, Bermuda
7. National Human Rights Institutions: Guidelines for establishing and strengthening national institutions for the Promotion and Protection of Human Rights
8. The Paris Principles: Principles Relating to the Status of National Institutions
9. United Nations International Days, Weeks, Decades and other Observances
10. 50+ Ideas for Commemorating the Universal Declaration of Human Rights

## Intake and Complaints Processing

Members of the public bring a wide range of concerns to the Human Rights Commission. The following seeks to explain a few of the terms and processes involved in the intake and complaints management process.

The HRC categorises any form of rights-based contact (complaints, queries, requests for information or other) with its offices, as “**intakes**”. Contact with the office of the HRC can be made in-person, via telephone, or e-mail. Information may be taken over the telephone, but often members of the public are invited to come in to the office for a meeting with an Investigations Officer. The HRC can self-initiate an action, thus internally mobilising an intake process.

The substance of an intake may prove to be one that requires formal handling by the HRC, via a conciliation and investigatory process, and becomes referred to as a **formal investigation**. A “**formal**” matter is one that has been operationally defined as falling within the jurisdiction of the Human Rights Act, 1981. In the handling of a formal matter, an allegation is put into writing in the form of what the HRC calls a “particulars of complaint”. The Particulars of Complaint is served upon a “Respondent”, notifying him or her of the complaint and the HRC’s intention to investigate.

The decision to proceed with an investigation takes into consideration whether or not:

- a. On the face of it, the complaint meets the basic criteria, under the human rights legislation;
- b. There is another piece of legislation or body, which is more appropriate for dealing with the matter;
- c. The HRC is the best vehicle for pursuing the complaint;
- d. There is a stated trivial or vexatious component to the complaint;
- e. The complaint is within the HRC’s jurisdiction; and
- f. The complaint has been made within the specified time limits.

There are some matters that may be handled informally, treated as inquiries to which the HRC responds or referred for service to a section of the Government of Bermuda (i.e. the Department of Labour and Training, Labour Relations) or a non-Governmental agency, such as a community service.

“**Informal**” intakes are contacts with the office of the HRC that are either from a person who is reluctant to initiate a formal investigation or where he or she has the

intention to initiate a formal investigation, but the allegation falls short of satisfying criteria under the Act.

An “**Intake**” that the HRC endeavours to settle “informally”, may offend the spirit of the human rights legislation, but cannot be deemed to be a contradiction of the Human Rights Act, 1981 (as amended), itself.

An “**Inquiry**” is a request for information from a member of the public to the HRC.

Matters that are referred (referrals) are those that upon some exploration, it is determined that neither the HRC, nor the human rights legislation, has jurisdiction.

In some instances where the HRC is unable to settle a complaint, the HRC may recommend that the case be referred to a **Board of Inquiry**. Boards of Inquires are administrative bodies that are established to hear cases and make final decisions. The appointment of a Board of Inquiry is at the discretion of the Minister.

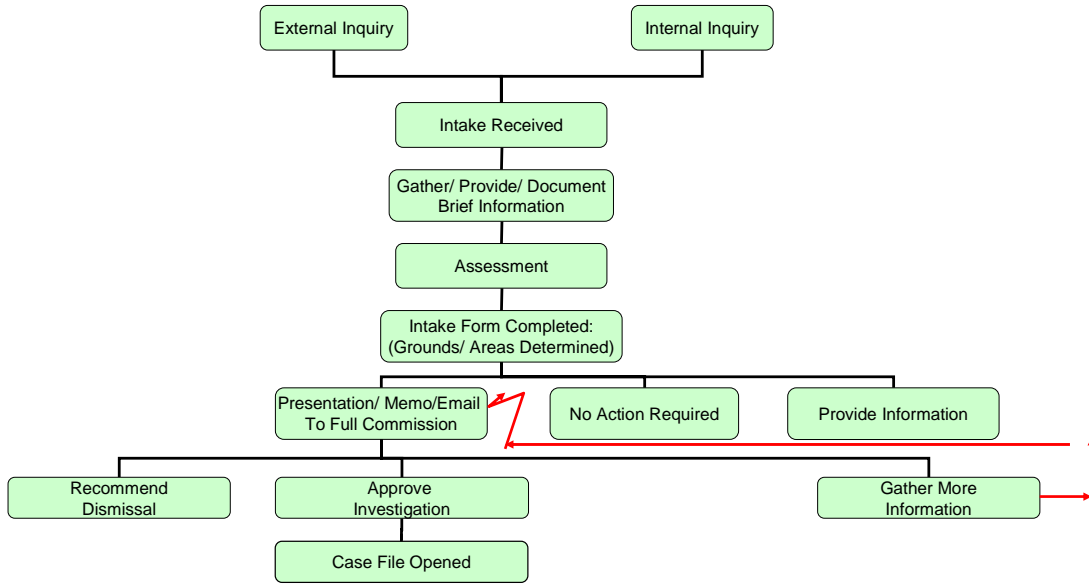
The administration of the Boards of Inquiry falls under the mandate of the Department of Human Affairs. At the point of referral of a case to the Minister, requesting appointment of a Board of Inquiry, the Human Rights Commission ceases to have jurisdiction over the case. This means that if a case is forwarded to a Board of Inquiry, the Human Rights Commission is no longer involved in matters of its settlement. Yet the HRC does remain responsible for some fiscal matters pertaining to the Boards. For example, under the Act, the Commission may consider an application for financial assistance from a complainant whose case has been referred to a Board of Inquiry. The budget for such assistance is administered by the HRC.

Where a complaint is perceived to be grievous in nature, and/or has a criminal component to it, the HRC may refer a complaint to the Department of Public Prosecutions.

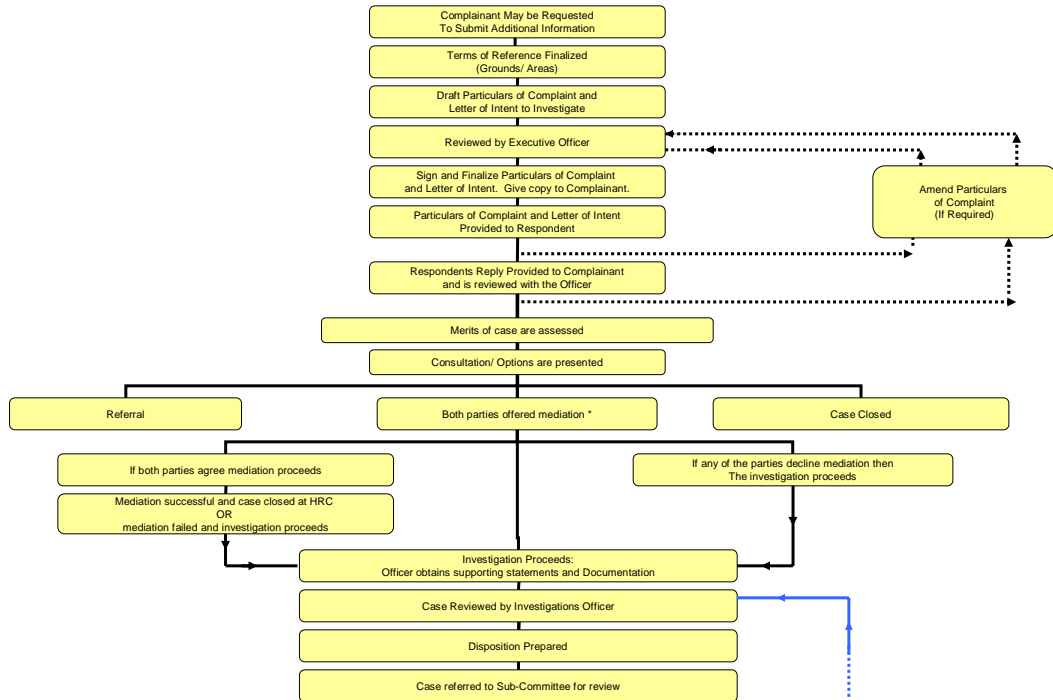
Throughout the entire intake and complaints management process, the HRC places an emphasis on **conciliating** the resolution of a complaint. The HRC’s technical Officers are expected to spend a great deal of time informing and educating parties to a complaint, on the meaning of human rights and discrimination. The objective of this exercise is to improve understanding and to change perspectives. The HRC is committed to improving and streamlining its processes, in collaboration with the Bermuda Government, local and overseas partners of similar mandate.

# Human Rights Commission Complaints Management Process (under review)

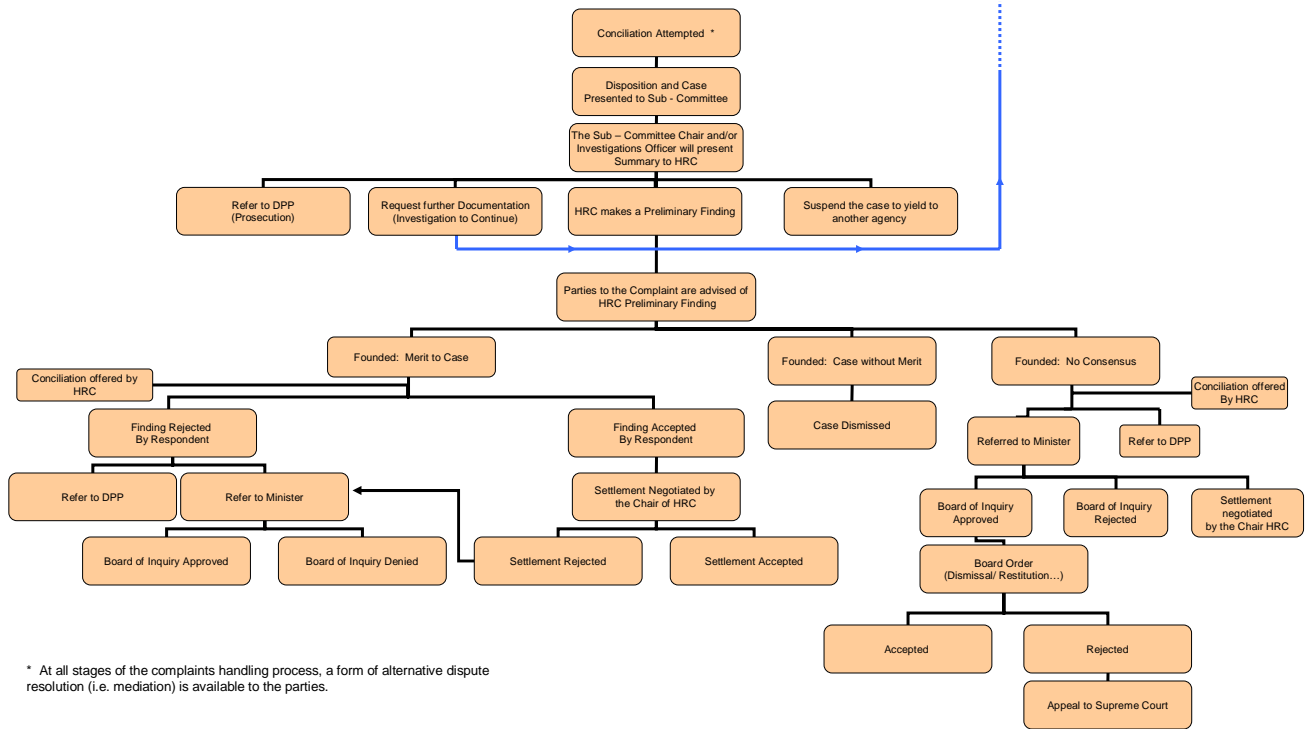
## Intake Process



## Investigation Process



## Concluding Process



The complaint’s management process is currently under extensive review. However, the HRC is guided by the process as detailed to manage concerns arising from allegations of discrimination and violations of protected human rights.

## **Publications**

The Human Rights Commission has produced brochures to assist the public in understanding their rights and responsibilities under the Human Rights Act. These brochures are distributed at all seminars and workshops, and are also forwarded via mail to concerned persons.

**COMPLAINT PROCEDURES FOR COMPLAINANTS**

**ADVERTISING PROCEDURES**

**COMPLAINT PROCEDURES FOR RESPONDENTS**

**SEXUAL HARASSMENT**

**DISABILITY – INFORMATION & GUIDELINES**

In addition to these brochures, the HRC has published a **DECLARATION OF MANAGEMENT POLICY** poster that has been distributed to numerous government and private sector offices. This poster notes that it is public policy in Bermuda to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law.

# B E R M U D A

## HUMAN RIGHTS COMMISSION

### Declaration of Management Policy

We observe and uphold the

## HUMAN RIGHTS ACT, 1981

**I**t is public policy in Bermuda to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law.

**T**he Human Rights Act, 1981, provides for equal treatment in the areas of services, goods and facilities, accomodation, contracts, employment, and membership in trade unions without discrimination on the grounds of race, sex, place of origin, color, ancestry, disability, pregnancy, marital status, religion/beliefs and political opinion, equal pay and criminal record.

**T**he Act provides for freedom from sexual harassment in employment.

**I**t is the priviledge and responsibility of every person in Bermuda to honour and adhere to the letter and spirit of the Act, and to support its aim of creating a climate of understanding and mutual respect for the dignity and rights of each individual.

**W**e recognize that this applies to all employers, employees, employment agencies, trade unions, professional associations, landlords, tenants, realtors, those entering into a contract, and those providing goods, services and facilities.

BERMUDA HUMAN RIGHTS COMMISSION  
SUITE 301  
MECHANICS BUILDING  
CHURCH STREET  
HAMILTON, BERMUDA

TELEPHONE: (441) 295-5859  
FAX: (441) 295-6573



*all human rights for all*

FIFTIETH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

**1948-1998**

## **Universal Declaration of Human Rights**

*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948*

*On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."*

### ***PREAMBLE***

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

**Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS** as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

***Article 1.***

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

***Article 2.***

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

***Article 3.***

Everyone has the right to life, liberty and security of person.

***Article 4.***

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

***Article 5.***

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

***Article 6.***

Everyone has the right to recognition everywhere as a person before the law.

***Article 7.***

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

***Article 8.***

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

***Article 9.***

No one shall be subjected to arbitrary arrest, detention or exile.

***Article 10.***

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

***Article 11.***

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

***Article 12.***

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

***Article 13.***

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

***Article 14.***

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

***Article 15.***

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

***Article 16.***

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

***Article 17.***

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

***Article 18.***

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

### ***Article 19.***

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

### ***Article 20.***

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

### ***Article 21.***

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

### ***Article 22.***

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

### ***Article 23.***

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

***Article 24.***

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

***Article 25.***

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

***Article 26.***

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

***Article 27.***

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

***Article 28.***

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

***Article 29.***

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

***Article 30.***

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

## **Simplified Version of the Universal Declaration of Human Rights**

### **Summary of Preamble**

The General Assembly recognizes that the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, human rights should be protected by the rule of law, friendly relations between nations must be fostered, the peoples of the UN have affirmed their faith in human rights, the dignity and the worth of the human person, the equal rights of men and women and are determined to promote social progress, better standards of life and larger freedom and have promised to promote human rights and a common understanding of these rights.

### **A summary of the Universal Declaration of Human Rights**

1. Everyone is free and we should all be treated in the same way.
2. Everyone is equal despite differences in skin colour, sex, religion, language for example.
3. Everyone has the right to life and to live in freedom and safety.
4. No one has the right to treat you as a slave nor should you make anyone your slave.
5. No one has the right to hurt you or to torture you.
6. Everyone has the right to be treated equally by the law.
7. The law is the same for everyone, it should be applied in the same way to all.
8. Everyone has the right to ask for legal help when their rights are not respected.
9. No one has the right to imprison you unjustly or expel you from your own country.
10. Everyone has the right to a fair and public trial.
11. Everyone should be considered innocent until guilt is proved.
12. Every one has the right to ask for help if someone tries to harm you, but no-one can enter your home, open your letters or bother you or your family without a good reason.
13. Everyone has the right to travel as they wish.
14. Everyone has the right to go to another country and ask for protection if they are being persecuted or are in danger of being persecuted.
15. Everyone has the right to belong to a country. No one has the right to prevent you from belonging to another country if you wish to.
16. Everyone has the right to marry and have a family.
17. Everyone has the right to own property and possessions.
18. Everyone has the right to practice and observe all aspects of their own religion and change their religion if they want to.

19. Everyone has the right to say what they think and to give and receive information.
20. Everyone has the right to take part in meetings and to join associations in a peaceful way.
21. Everyone has the right to help choose and take part in the government of their country.
22. Everyone has the right to social security and to opportunities to develop their skills.
23. Everyone has the right to work for a fair wage in a safe environment and to join a trade union.
24. Everyone has the right to rest and leisure.
25. Everyone has the right to an adequate standard of living and medical help if they are ill.
26. Everyone has the right to go to school.
27. Everyone has the right to share in their community's cultural life.
28. Everyone must respect the 'social order' that is necessary for all these rights to be available.
29. Everyone must respect the rights of others, the community and public property.
30. No one has the right to take away any of the rights in this declaration.

Source: Resource Centre: First Steps: A manual for starting human rights education

## **The United Nations and its relationship to the Human Rights Commission, Bermuda**

The United Nations is engaged in a wide range of activities aimed at fulfilling one of its principal purposes—the promotion and protection of human rights. Of great importance is the complex machinery which has been set up under various international covenants and conventions to establish standards, monitor implementation, promote compliance and investigate violations of human rights. In addition to these activities, the United Nations also provides practical assistance to States (i.e. Bermuda) in their efforts to protect and promote human rights, and informs the public about the rights to which it is entitled.

These structures and activities permit the United Nations to play a pivotal role in the realization of human rights and fundamental freedoms. However, it is important to acknowledge that the United Nations has finite resources and inherent limitations on its capacity for direct action, particularly in individual cases. As a practical matter, one organization can never hope to keep an eye on every situation. Neither can it investigate every alleged violation of human rights or bring relief to all victims.

For these reasons, the international system relies heavily on the support it receives from regional human rights systems such as those operating in Europe, Africa and America. Additional support comes from Governments and from concerned non-governmental organizations. Each of these groups has a special role to play in the development of a universal culture of human rights. Non-governmental organizations, for example, by their very nature, have a freedom of expression, a flexibility of action and a liberty of movement which allow them to perform tasks which Governments and intergovernmental organizations are unable or may even be unwilling to perform. Regional human rights systems have reinforced international standards and machinery by providing the means by which human rights concerns can be addressed within the particular social, historical and political context of the region concerned.

The role of national Governments in the realization of human rights is particularly important. Human rights involve relationships among individuals, and between individuals and the State. Therefore, the practical task of protecting and promoting human rights is primarily a national one, for which each State must be responsible. At the national level, rights can be best protected through adequate legislation, an independent judiciary, the enactment and enforcement of individual safeguards and remedies, and the establishment of democratic institutions. In addition, the most effective education and information campaigns are likely to be those which are designed and carried out at the national or local level and which take the local cultural and traditional context into account.

When States ratify a human rights instrument, they either incorporate its provisions directly into their domestic legislation or undertake to comply in other ways with the obligations contained therein. Therefore, universal human rights standards and norms today find their expression in the domestic laws of most countries. Often, however, the fact that a law exists to protect certain rights is not enough if these laws do not also provide for all of the legal, powers and institutions necessary to ensure their effective realization. The Human Rights Act 1981, amended, is Bermuda's current domestic legislation for the protection of human rights.

This problem of effective implementation at the national level has, particularly in recent times, generated a great deal of international interest and action. The emergence or re-emergence of democratic rule in many countries has focused attention on the importance of

democratic institutions in safeguarding the legal and political foundations upon which human rights are based.

It has therefore become increasingly apparent that the effective enjoyment of human rights calls for the establishment of national infrastructures for their protection and promotion. Official human rights institutions have been set up by many countries in recent years. While the tasks of such institutions may vary considerably from country to country, they share a common purpose and for this reason are collectively referred to as *national institutions for the protection and promotion of human rights*.

## **National Human Rights Institutions: Guidelines for establishing and strengthening national institutions for the Promotion and Protection of Human Rights<sup>6</sup>**

The second International Workshop on National Institutions for the Promotion and Protection of Human Rights was held at Tunis from 13 to 17 December 1993, and brought together representatives of more than 28 institutions from around the world. Workshop participants discussed a number of topics of mutual concern, including relations between the State and national institutions, between national institutions themselves, and between national institutions and the Centre for Human Rights. As part of an effort to improve cooperative relationships, the workshop formally established a Coordinating Committee. It also adopted a number of recommendations, including one which called upon individual institutions to take measures to ensure that their laws and activities are consistent with the Paris Principles relating to the status of national institutions.

### **Defining a national human rights institution**

Despite the existence of comprehensive standards relating to practice and to functions, an analysis of activities conducted both within and outside the United Nations system reveals that there is not yet an agreed definition of the term "national human rights institution". The conceptual framework for early United Nations activities in the area was flexible enough to include virtually any institution at the national level having a direct or indirect impact on the promotion and protection of human rights. Accordingly, the judiciary, administrative tribunals, legislative organs, non-governmental organizations, legal aid offices and social welfare schemes were all given equal attention, along with national commissions, ombudsman offices and related structures.

This broad formulation, however, has been gradually pared down by the subsequent work of the United Nations on the subject to the point where a more narrow group of institutions has emerged on the basis of particular common functions, including: educational and promotional activities; the provision of advice to government on human rights matters; and the investigation and resolution of complaints of violations committed by public (and occasionally also private) entities. However, while operating to exclude previously included institutions such as the judiciary, the legislature and social welfare structures, this "functional" approach to categorization has not yet resulted in an ultimate definition of what constitutes a national institution for the promotion and protection of human rights.

The Paris Principles relating to the status of national institutions (see following annex) represent an important step in the evolutionary process. The Principles attempt to clarify the concept of a "national institution" by providing standards on the status and advisory role of national human rights commissions. If these standards are applied to the general class of national institutions, not only those designated as "commissions", then a national institution must be a body established in the constitution or by law to perform particular functions in the field of human rights. This process will then operate to exclude not only governmental instrumentalities with

---

<sup>6</sup> Excerpted from the Professional Training Series No. 4, National Human Rights Institutions, A Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection for Human Rights, United Nations, New York and Geneva, 1995.

more general functions (such as administrative tribunals) but also all organizations not founded in law.

Despite these refinements, it is evident that the concept of a national institution is not yet fully evolved. At the same time, the practical utility of establishing boundaries, however flexible, has been recognized. For the purposes of United Nations activities in this field, therefore, the term "national institution" is taken to refer to a body which is established by a Government under the constitution, or by law or decree, the functions of which are specifically defined in terms of the promotion and protection of human rights.

### **National institutions in practice**

In practice, the institutions included in the above definition are all "administrative" in nature-in the narrow sense that they are neither "judicial" nor lawmaking. As a rule, they are endowed with ongoing, advisory authority in respect of human rights at the national and/or international level. These purposes are pursued either in a general way, or through opinions and recommendations, or through the consideration and resolution of complaints submitted by individuals or groups. In some countries, the constitution will provide for the establishment of a national human rights institution. More often such institutions are created by legislation or decree. While many national institutions are attached, in some way or another, to the executive branch of government, the actual level of independence which they enjoy will depend on a number of factors, including composition, financial basis and the manner in which they operate.

#### *Classification difficulties*

The existence of such common characteristics has not prevented significant classification difficulties. At present, the majority of national institutions are identified as belonging to one of two broad categories: "human rights commissions" or "ombudsmen".

Human rights commissions are generally involved in one more specific function directly related to the promotion and protection of human rights, including an advisory function (with regard to law and government policy on human rights), an educative function (oriented towards the public), and what may be termed an impartial investigatory function. Differences between various commissions are often related to differences in the weight given to particular functions. The focus of a commission may range across a broad spectrum of rights or, conversely, may be restricted to protection of a particular vulnerable group.

From a comparative perspective, the institution of ombudsman is generally associated with an emphasis on the impartial investigatory function. Many long-established offices of the ombudsman do not concern themselves directly with human rights except in so far as they relate to their principal function of overseeing fairness and legality in public administration. Others, particularly the more recently created offices, have been given specific human rights protection mandates, often in relation to rights set forth in national constitutions or other legislation.

Despite the existence of such indicators, precise classification of a particular institution is complicated by the fact that functions implied in these designations are not always reflected in the work of institutions so categorized. An "ombudsman", for example, may be engaged in a broad range of promotional and protective activities generally recognized as characteristic of a

commission. An entity identified as a "human rights commission" may be operating exclusively within the sphere of public administration—a domain traditionally associated with the office of the ombudsman.

In view of such inconsistencies, it is clear that any attempt at nominal classification will be somewhat arbitrary and that a functional approach to defining national institutions may be more appropriate. It is in accordance with such a functional approach that the substantive parts of this handbook have been organized. However, as distinctions and categorizations continue to exist in practice, they cannot be ignored. In providing an overview of existing national institutions, the following sections outline the features, generally associated with national commissions, specialized commissions and offices of the ombudsman.

### *Human rights commissions*

In many countries, commissions have been established to ensure that the laws and regulations concerning the protection of human rights dependently of other organs of government, although they may be required to report to the legislature on a regular basis.

In keeping with their independent nature, commissions are generally composed of a variety of members from diverse backgrounds, each with a particular interest, expertise or experience in the field of human rights. Each country may have its specific requirements or restrictions for the selection of members, such as quotas on the number of representatives or candidates from various professional categories, political parties or localities.

Human rights commissions are concerned primarily with the protection of persons against all forms of discrimination and with the protection of civil and political rights. They may also be empowered to promote and protect economic, social and cultural rights. The precise authority and functions of a particular commission will be defined in the legislative act or decree under which it is established. This law or decree will also serve to define the commission's jurisdiction by, *inter alia*, specifying the range of discriminatory or violative conduct which it is empowered to investigate or otherwise act on. Some commissions concern themselves with alleged violations of any rights recognized in the constitution; others may be able to consider cases of discrimination on a broad range of grounds, including race, religion, gender, national or ethnic origin, disability, social condition, sexual orientation, political opinion, ancestry, age and marital status.

One of the most common functions vested in a human rights commission is to receive and investigate complaints from individuals (and, occasionally, from groups) alleging human rights abuses committed in violation of existing national law. In order to carry out its tasks properly, the commission will usually be capable of obtaining evidence relating to the matter under investigation. Even if used only rarely, this power is important in that it guards against the possibility of frustration through lack of cooperation on the part of the person or body complained against. While there are considerable differences in the procedures followed by various human rights commissions in the investigation and resolution of complaints, many rely on conciliation and/or arbitration. In the process of conciliation, the commission will attempt to bring the two parties together in order to achieve a mutually satisfactory outcome. If conciliation

fails to resolve the dispute, the commission may be able to resort to arbitration in which it will, after a hearing, issue a determination.

It is not common for a human rights commission to be granted authority to impose a legally binding outcome on parties to a complaint. However, this does not mean that the settlement or appropriate remedial steps recommended by the commission can be ignored. In some cases, a special tribunal, will hear and determine issues outstanding from an unresolved complaint. If no special tribunal has been established, the commission may be able to transfer unresolved complaints to the regular courts for a final and binding determination.

Another important function of many commissions is systematically to review the Government's human rights policy in order to detect shortcomings in human rights observance and suggest ways of improving it. Human rights commissions may also monitor the State's compliance with its own legislation and with international human rights laws and, if necessary, recommend ability of a commission to initiate inquiries on IU own behalf is an important measure of its overall strength and probable effectiveness. This is particularly true in regard to situations involving persons or groups who do not have the financial or social resources to lodge individual complaints.

The full realization of human rights cannot be achieved solely through adequate legislation and appropriate administrative arrangements. In recognition of this fact, commissions are often entrusted with the important responsibility of improving community awareness of human rights. Promoting and educating about human rights may involve informing the public about the commission's own Functions and purposes; provoking discussion about various important questions in the field of human rights; organizing seminars and training courses; arranging counseling services and meetings; and producing and disseminating human rights publications.

#### *Specialized institutions*

Vulnerable groups differ from country to country, but the most common problem affecting them all is discrimination. Members of the community who are most often recognized by Governments as needing specialized human rights bodies to protect their interests are persons belonging to ethnic, linguistic and religious minorities, indigenous populations, non-nationals, migrants, immigrants, refugees, children, women, the poor and the disabled.

Specialized human rights institutions are generally established to promote government and social policy which has been developed for the protection of one or more of these groups. For the most part, these institutions perform functions similar to those of the less specific human rights commissions described above. They are usually authorized to investigate instances and patterns of discrimination against individuals in the group and against the group as a whole. While generally able to investigate complaints brought by a member of the group against another person or against a government body, these specialized institutions are, like other national human rights institutions, rarely empowered to make binding decisions or to initiate legal action.

As well as providing material and consultative assistance on an individual and collective basis, such institutions will frequently be responsible for monitoring the effectiveness of existing laws

and constitutional provisions as these relate to the group. In this way, they often act as consultants and advisers to parliament and the executive branch of government.

## The Paris Principles: Principles Relating to the Status of National Institutions

# Administrative Law Requirements of Independence and Statutory Interpretation: *The Role and Functioning of Effective Human Rights Commissions*<sup>7</sup>

### Paris Principles and International Law

In Canada and internationally, there is an increasing recognition that strong and effective human rights institutions can contribute substantially to the realization of human rights and fundamental freedoms.

The International Bill of Human Rights, which consists of the Universal Declaration of Human Rights<sup>8</sup>, the International Covenant on Economic, Social and Cultural Rights<sup>9</sup>, and the International Covenant on Civil and Political Rights<sup>10</sup>, and several other Covenants ratified by Canada<sup>11</sup> require States parties to enact laws prohibiting discrimination and to ensure that persons are protected from human rights infringements by either private entities or governments.

In addition, these international instruments to which Canada is a party confirm that everyone should be entitled to a fair hearing by a competent, independent and impartial tribunal established by law that has the power to provide effective remedies. For example, Articles 7 and 8 of the Universal Declaration of Human Rights provide that:

#### Article 7

*All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.*

#### Article 8

*Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by constitution or by law.*

In a similar vein, Article 2 of the convention on the Elimination of All Forms of Discrimination against Women provides:

---

<sup>7</sup> Taken in part from a summary prepared by the Ontario Human Rights Commission and CASHRA's Research and Policy Group (December 2001)

<sup>8</sup> 10 December 1948, General Assembly resolution 217A (III), UN Doc. N810.

<sup>9</sup> 993 U.N.T.S. 3, Can. T.S. 1976 No. 46.

<sup>10</sup> 999 U.N.T.S. 171, Can. T.S. 1976 No. 47.

<sup>11</sup> Most notably, the Convention on the Elimination of All Forms of Discrimination Against Women. 1249 U.N.T.S. 13, Can. T.S. 1982 No. 31 and the Convention on the Elimination of All Forms of Racial Discrimination, Can. T.S. 1970 No. 28. See also the Limburg Principles on the Implementation of the international Covenant on Economic, Social and Cultural Rights, U.N. Doc. E/CN.4/1987/117 under the international Covenant on Economic, Social and Cultural Rights.

*States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:*

*(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;...*

*(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;...*

**Article 6 of the Convention on the Elimination of All Forms of Racial Discrimination provides:**

*States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.*

For several years, the United Nations has been actively promoting independent and effective human rights institutions, recognizing that this is the best way to ensure respect for human rights in the domestic sphere. The most important standards in this regard are the Principles Relating to the Status of National Institutions<sup>5</sup> (the "Paris Principles"), which were developed at a UN international workshop held in Paris in 1991 and subsequently endorsed by the Commission on Human Rights in 1992 and by the UN General Assembly in 1993. Canada took a leading role in the development of the Paris Principles.

**Definition of a National Human Rights Institution**

A 'national human rights institution'<sup>12</sup> can be defined as a body that is established by a government under a constitution, or by law or decree, the functions of which are specifically defined in terms of promotion and protection of human rights.

Promotion and protection of human rights includes an advisory function (with regard to law and government policy), an educative function (oriented towards the public) and an impartial investigatory function. In a federal system such as Canada's, there is no single body responsible for human rights across the country. Rather the federal human rights commission and each provincial and territorial human rights agency is responsible for human rights issues within its respective jurisdiction. Therefore, the principles that apply to an effective and well-functioning human rights institution apply equally to federal, provincial and territorial commissions in Canada.

---

<sup>12</sup>Commission on Human Rights resolution 1992154 of 3 March 1992, annex (Official Records of the Economic and Social Council, 1992, Supplement No. 2 (E11992122), chap. II, sect. A); General Assembly resolution 481134 of 20 December 1993, annex.

The *Paris Principles* call for human rights commissions to have as broad a mandate as possible, ideally one that protects a range of rights including economic and social rights. The other elements that are considered essential to the effective functioning of human rights institutions can be categorized as follows:

- Independence;
- Defined jurisdiction and adequate powers;
- Accessibility;
- Cooperation;
- Operational efficiency; and
- Accountability.

A chart interpreting how each of these principles can be applied in the context of the system of human rights that has evolved in Canada appears on the pages that follow. Particular consideration has been given to the key elements of the requirement of independence. For the purposes of this chart, references to human rights commissions/institutions have been abbreviated to "HRC".

<b>PARIS PRINCIPLE</b>	<b>KEY ELEMENTS</b>
Independence	An effective HRC will be one which is capable of acting independently of government or party politics and all other entities and situation which may be in a position to affect its work (allowing for limitations around reporting and finances as long as such requirements do not interfere with the HRC's ability to discharge its responsibilities effectively.
Autonomy	Legal, operational, financial and the independence of action to appoint and dismiss members. Ideally, the HRC answers directly to Parliament, has its own rules and procedures, and distances itself from participating in the work of Government officials responsible for human rights matters. The HRC should reflect a degree of sociological and political pluralism to ensure representation of all relevant social forces.
Defined jurisdiction and adequate powers	An effective HRC will have a clearly defined power or jurisdiction, usually set out in founding legislation. The subject matter will describe the nature and extent of what rights can be

	<p>addressed by the institution in meeting its goals of protecting and promoting human rights. Founding legislation should grant the HRC as broad a mandate as possible: 1) to advise government on any matter concerning the protection and promotion of human rights; 2) to ensure the harmonization of domestic legislation and practices with international human rights obligations; 3) to cooperate with UN agencies, regional and other national institutions in protecting and promoting human rights; 4) to assist in developing programs for teaching and research in human rights in schools, universities and professional circles.</p>
<p>Accessibility</p>	<p>An effective HRC will be one that is readily accessible to the individuals/groups it is established to protect or whose interests it exists to promote: awareness of the institution, physical accessibility, open working methods and procedures, transparent hiring processes and credibility and efficiency.</p>
<p>Cooperation</p>	<p>HRCs “should cooperate with the UN and other organisations in the UN system, the regional institutions and other national institutions of other countries...” An effective HRC will not function alone but will establish and strengthen cooperative relationships with a wide range of organisations and groups including other HRC’s, government and the judiciary. The HRC should draw on the resources and expertise available within intergovernmental organisations.</p>
<p>Operational Efficiency</p>	<p>An HRC’s method of work should be as efficient and effective as possible, in all aspects of procedures: sufficient resources for staff and premises are available and the HRC sets an example non-discriminatory hiring. New and existing staff receive training</p>

	with respect to their domestic and international functions. Programs and activities are evaluated and monitored.
Accountability	Institutional effectiveness requires the development of a system of accountability based on specific ascertainable goals: specified reporting requirements, the publication of official reports for scrutiny, comment and debate; and making processes and procedures visible and transparent.

### The Status of the Paris Principles in Domestic Law

As a United Nations General Assembly Resolution, the Paris Principles may be considered as a source of international law<sup>13</sup>. The Paris Principles have not been directly incorporated into Canadian law; however, an argument can be made that they form part of customary international law. For international law to be customary international law, there must be evidence of sufficient and settled state practice and consent and uniform usage, accepted as law by the state itself as *opinio juris*<sup>14</sup>. The forward to the UN's handbook on national institutions states:

*United Nations efforts to encourage the creation and strengthening of national human rights institutions can be traced back to 1946. However, it is only over the past few years that the international community has come to agreement as to the optimal structure and functioning of these bodies. A landmark in this process was the formation of the [Paris Principles]...*

Generally, Canadian courts have accepted the "adoption" theory in relation to customary international law." This means that a rule of custom is automatically incorporated into domestic law without an act of incorporation, unless there is a conflict with statute or common law.

Indeed, domestic law should be interpreted consistently with the customary rule. Moreover, it is presumed that legislation is meant to be consistent with international law and that the Legislature intends to respect international law values and principles and to comply with Canada's international obligations.

An interpretation that produces compliance with international law is preferred over one that does not." As such, whether or not the Paris Principles have attained the status of customary international law, human rights codes should be interpreted to be consistent with them.

<sup>13</sup> See, e.g. C. Giraud-Kinley, "The Effectiveness of International Law: Sustainable Development in the South Pacific Region" (1999) 12 Geo. Intl. Env'tl. L.R. 125.

<sup>14</sup> Asylum Case (Columbia v. Peru), [1950] I.C.J. Rep. 266 at 276.

Canadian courts, in particular the Supreme Court of Canada, have confirmed the interpretive value of international law, even where it has not expressly been made part of domestic laws, particularly in the areas of Charter interpretation and the interpretation and application of administrative law. In *Slaight Communications Inc. v. Davidson*, the Supreme Court stated that the Canadian Charter of Rights and Freedoms is to be interpreted in such a way as to give effect to a presumption that the Charter offers at least as much protection of rights as Canada is bound to ensure under international human rights law.

Recently, the Supreme Court has reaffirmed the *Slaight Communications* interpretive presumption in the context of both Charter interpretation but also the interpretation and application of administrative law. Simply put, the courts have made it clear that an interpretation of domestic laws that reflects values and principles contained in international law is to be preferred:

*... the values reflected in international human rights law may help inform the contextual approach to statutory interpretation and judicial review ...[International law] is also a critical influence on the interpretation of the scope of the rights included in the charter*  
...<sup>15</sup>

With respect to human rights statutes in particular, the Saskatchewan Court of Appeal has noted that the province's human rights legislation gives effect, in a general sense, to Canada's and Saskatchewan's international obligations<sup>16</sup>.

Applying all of the forgoing, human rights codes should be interpreted to be consistent with the values contained in the Paris Principles. Paramount among those values is the requirement of independence from government. With respect to reporting requirements, independence means that a commission should be answerable to the Legislature and not subject to review by another entity unless specified in the founding legislation itself. In some cases, a commission may report to the Legislature through a Minister, however, the reporting requirements should not become more onerous by the interposition of a Minister.

### **Administrative Law Requirements of Independence**

In addition to international law principles, there are requirements of independence in administrative law. Administrative agencies such as commissions carry out critical governmental functions. One of the most significant reasons they are created, as opposed to having the function simply carried out by a government ministry, is because of a need for independence from government.

---

<sup>15</sup> *17 Baker v. Canada (Minister of Citizenship and Immigration)*, [1991] 2 S.C.R. 817 at para. 7.0.

<sup>16</sup> *18 Canadian Odeon Theatres Ltd. v. Saskatchewan Human Rights Commission and Huck*, [1985] 3 W.W.R. 717, 6 C.H.R.R. D12682 (C.A.) at 736 (W.W.R.).

Administrative bodies are creatures of statute and the constituting statute governs all aspects of the relationship between the body and government. The following sums up the situation:

*[Administrative tribunals and agencies] were created to be "independent"-independent of the courts but also independent of government. If they were not intended to be independent of government, their functions could and should be exercised directly by governmental departments which are accountable through the ministers responsible for those departments. Instead, Parliament has established them to be independent of such departments and ministers. Accordingly, these independent bodies are accountable to the statutes which have created them. This legislation delineates the responsibilities which each body is assigned, the powers which it has to carry out its mandate and the status of the members who are the flesh and blood of the institution<sup>17</sup>.*

The provisions of human rights statutes that describe the relationship between a commission and the government are therefore critical. Other important provisions are the sections that define the commission's mandate.

### **Independence in Administrative Law**

Through fact-finding, adjudication, the development and application of policy as well as through recommending functions, administrative tribunals are expected to act fairly and independently<sup>18</sup>.

### **Applicable Principles of Statutory Interpretation**

Both administrative law requirements and the Paris Principles make it clear that the founding legislation is a critical consideration in determining the extent of a commission's legal autonomy. In other words, the specific provisions of each human rights code will determine the requirements of independence etc. for each commission. These provisions must be interpreted using applicable principles of statutory interpretation as well as the values contained in the Paris Principles.

Although the normal rules of statutory interpretation apply, as human rights codes are unique and quasi-constitutional legislation several additional interpretative rules must be adhered to.

### **Regular Rules of Statutory Interpretation**

The specific wording chosen to describe the relationship between the commission and government, the appointment of commissioners and so forth is significant in determining requirements of independence. The way in which reporting requirements, appointment and tenure of commissioners etc. are described will indicate the degree of independence and the nature of the relationship intended by the Legislature. The

---

<sup>17</sup> *Canadian Bar Association Task Force Report, The independence of Federal Administrative Tribunals and Agencies in Canada (Ottawa: Canadian Bar Association, 1990) at 155 [hereinafter CBA Report].*

<sup>18</sup> United Nations Centre for Human Rights, National Human Rights Institutions: A Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights, HR/P/PT/4 (United Nations Publication: Geneva, 1995) at v.

doctrine of statutory interpretation *expressio unius est exclusio alterius* - to express one thing is to exclude another<sup>19</sup> - operates to restrict requirements to those described in the human rights statute and to exclude other possible interpretations.

### **Special Nature of Human Rights Legislation**

Human rights statutes are quasi-constitutional legislation:

*In approaching the interpretation of a human rights statute, certain special principles must be respected. Human rights legislation is among the most preeminent category of legislation*<sup>20</sup>.

Accordingly, human rights codes must be given a broad and purposive interpretation that promotes their anti-discriminatory goals and best ensures that their objects are attained<sup>21</sup>.

Most human rights codes grant commissions the power to receive complaints against government and to review and comment on government action. Many human rights codes contain a provision stating that the code binds the Crown and/or a primacy or paramountcy provision that states that where a law requires or authorizes conduct that is in contravention of the human rights code, the code prevails unless the code itself or the offending law expressly provides otherwise.

Accordingly, the special nature of human rights codes, and their ability to be used to challenge government acts, policies and legislation, must be considered when interpreting them.

### **Summary**

The Paris Principles represent a shared international understanding of the elements that are essential to effective functioning of human rights commissions. Foremost among these are **independence**, which includes legal and operational **autonomy**, financial autonomy and independence through appointment and dismissal procedures, **adequate powers**, and **operational efficiency**, which includes adequate resources.

An argument may be made that the Paris Principles are developing customary international law, which would mean that they are automatically incorporated into domestic law without an act of incorporation unless there is a conflict with statute or common law. These emerging norms of customary international law require structures and operating rules that enhance rather than diminish the independence, capacity and efficiency of human rights agencies.

Even if the Paris Principles are not yet customary international law, they are nevertheless a critical consideration for human rights bodies and their governments

---

<sup>19</sup> *R. Sullivan, Driedger on the Construction of Statutes*, 3rd ed. (Toronto: Butterworths, 1994) at 168.

<sup>20</sup> *Zurich Insurance Co. v. Ontario (Human Rights Commission)*, [1992] 2 S.C.R. 321 at 339.

<sup>21</sup> *Canadian National Railway Co. v. Canada (Human Rights Commission)*, [1987] 1 S.C.R. 1114 at 1134; *Ontario Human Rights Commission v. Simpson Sears Ltd.*, [1995] 7 C.H.R.R. D13102 at 3150 (S.C.C.); *Gould v. Yukon Order of Pioneers*, [1996] 1 S.C.R. 571.

and, consistent with what the Supreme Court of Canada has said with respect to the interpretive value of international law, human rights codes should be interpreted to be consistent with the Paris Principles.

In addition to the Paris Principles, the requirements of administrative law make it clear that the relationship between a commission and its government is based on the provisions of the founding legislation. Unless the founding law explicitly says otherwise, the rules of natural justice apply. The rules of natural justice require independence and impartiality, particularly in light of the nature of the function being performed by a commission.

In examining relevant provisions of a human rights commission's founding legislation, the usual rules of statutory interpretation apply. However, in addition, those that are specific to quasi-constitutional legislation, such as the need for a broad and liberal interpretation and the notion of primacy, must also be taken into account.

Applying the forgoing analysis, information about certain administrative issues such as financing and budgetary matters; business plans; human resources matters; statistics with respect to the profile of the case load (*e.g.* closings, openings, age of the caseload, etc.); and information technology can in most instances be appropriately shared with the minister responsible for a human rights agency.

Conversely, depending on the constituting statute, there will likely be a sphere of matters that are integral to a human rights agency which relate to the affairs of the agency, and should not be subject to reporting requirements, except as providing for in the statute. Many statutes contemplate reporting primarily or only through an Annual Report, which is retrospective only. This includes all matters over which commissioners exercise their decision making powers such as: decisions on individual complaints, inquiries, special programs, plans and programs to promote awareness of human rights, policy research and decisions, communication with ministers about government policies, programs and legislation and settlements.

Anything beyond this, and which is not consistent with the founding statute, could have the very real potential to compromise, or to be seen to compromise, the independence of a commission. This, in turn, may give rise to court challenges, may impact on the effectiveness of the commission and may result in an apprehension that the commission does not comply with international standards for human rights institutions as embodied in the Paris Principles.

## United Nations International Days, Years, Decades and other Observances

### United Nations International Days

Since the early days of the United Nations system, the UN has established a set of Days and Weeks (as listed below), Years and Decades to help focus the world on the issues in which the UN has an interest and commitment. The UN calls on Member States and other organizations to mark these days in ways which reflect their priorities.

#### January

27 [International Day of Commemoration in memory of the victims of the Holocaust](#)

#### February

21 [International Mother Language Day](#)

#### March

8 [International Women's Day and United Nations Day for Women's Rights and International Peace](#)

21 [International Day for the Elimination of Racial Discrimination](#)

21-28 Week of Solidarity with the Peoples Struggling against Racism and Racial Discrimination

22 [World Water Day](#)

23 [World Meteorological Day](#)

#### April

4 International Day for Mine Awareness and Assistance in Mine Action

7 [World Health Day](#)

23 [World Book and Copyright Day](#)

#### May

3 [World Press Freedom Day](#)

15 [International Day of Families](#)

17 [World Information Society Day](#) (formerly World Telecommunication Day)

21 [World Day for Cultural Diversity for Dialogue and Development](#)

22 [International Day for Biological Diversity](#) (formerly December 29, changed in 2001)

25-June 1 [Week of Solidarity with the Peoples of Non-Self-Governing Territories](#)

29 [International Day of United Nations Peacekeepers](#)

31 [World No-Tobacco Day](#)

#### June

4 International Day of Innocent Children Victims of Aggression

5 [World Environment Day](#)

17 [World Day to Combat Desertification and Drought](#)

20 [World Refugee Day](#)

23 [United Nations Public Service Day](#)

26 International Day Against Drug Abuse and Illicit Trafficking **and**  
International Day in Support of Victims of Torture

## July

First Saturday International Day of Cooperatives

11 World Population Day

## August

9 International Day of the World's Indigenous People

12 International Youth Day

23 International Day for the Remembrance of the Slave Trade and its Abolition

## September

8 International Literacy Day

16 International Day for the Preservation of the Ozone Layer

21 International Day of Peace (formerly the opening day of the UN General Assembly, changed to a set date as of 2002)

During last Week World Maritime Day

## October

1 International Day for Older Persons

4 - 10 World Space Week

5 World Teacher's Day

First Monday World Habitat Day

Second Wednesday International Day for Natural Disaster Reduction

9 World Post Day

10 World Mental Health Day

16 World Food Day

17 International Day for the Eradication of Poverty

24 United Nations Day **and**  
World Development Information Day

24-30  
Disarmament Week

## November

6 International Day for Preventing the Exploitation of the Environment in War and Armed Conflict

16 International Day of Tolerance

Third Sunday World Day of Remembrance for Road Traffic Victims

20 Universal Children's Day, **and**  
Africa Industrialization Day

21 World Television Day

25	<u>International Day for the Elimination of Violence against Women</u>
29	<u>International Day of Solidarity with the Palestinian People</u>
<b>December</b>	
1	<u>World AIDS Day</u>
2	<u>International Day for the Abolition of Slavery</u>
3	<u>International Day of Disabled Persons</u>
5	<u>International Volunteer Day for Economic and Social Development</u>
7	<u>International Civil Aviation Day</u>
9	<u>International Anti-Corruption Day</u>
10	<u>Human Rights Day</u>
11	<u>International Mountain Day</u>
18	<u>International Migrants Day</u>
19	<u>United Nations Day for South-South Cooperation</u>
20	<u>International Human Solidarity Day</u>

## UN International Years

Since 1959 the UN has designated International years in order to draw attention to major issues and to encourage international action to address concerns which have global importance and ramifications. There is a concerted effort not to designate every year - for fiscal reasons and to avoid any process of trivialization. The following is the chronological list of years designated to date:

<b>1959/60</b>	World Refugee Year
<b>1965</b>	International Cooperation Year
<b>1967</b>	International Tourism Year
<b>1968</b>	<u>International Year for Human Rights</u>
<b>1970</b>	International Education Year
<b>1971</b>	<u>International Year for Action to Combat Racism &amp; Racial Discrimination</u>
<b>1974</b>	World Population Year
<b>1975</b>	<u>International Women's Year</u>
<b>1978</b>	<u>International Anti-Apartheid Year</u>
<b>1979</b>	International Year of the Child
<b>1981</b>	<u>International Year of Disabled Persons</u>
<b>1982</b>	International Year of Mobilisation for Sanctions Against South Africa
<b>1983</b>	World Communications Year
<b>1985</b>	International Youth Year
<b>1986</b>	<u>International Year of Peace</u>
<b>1987</b>	International Year of Shelter for the Homeless

1990	International Literacy Year
1992	International Space Year (endorsed, not declared)
1993	International Year for World's Indigenous People
1994	International Year of the Family; <i>and</i> International Year of Sport & Olympic Ideal
1995	United Nations Year for Tolerance
1996	International Year for the Eradication of Poverty
1998	<u>International Year of the Ocean</u>
1999	<u>International Year of Older Persons</u> ; <i>and</i> Centennial of the First International Peace Conference
2000	<u>International Year for the Culture of Peace</u> ; <i>and</i> <u>International Year of Thanksgiving</u>
2001	<u>International Year of Volunteers</u> ; <i>and</i> <u>United Nations Year of Dialogue among Civilizations</u> ; <i>and</i> <u>International Year of Mobilization against Racism, Racial Discrimination, Xenophobia and Related Intolerance</u>
2002	<u>International Year of Mountains</u> ; <i>and</i> <u>International Year of Culture Heritage</u> ; <i>and</i> International Year of Ecotourism ( <a href="http://www.world-tourism.org/index.htm">http://www.world-tourism.org/index.htm</a> or <a href="http://www.uneptie.org/pc/tourism/ecotourism/iyec.htm">http://www.uneptie.org/pc/tourism/ecotourism/iyec.htm</a> )
2003	<u>International Year of Freshwater</u>
2004	<u>International Year to Commemorate the Struggle against Slavery and Its Abolition</u> ; <i>and</i> <u>International Year of Rice</u>
2005	<u>International Year of Microcredit</u> ; <i>and</i> <u>International Year for Sport and Physical Education</u>
2006	<u>International Year of Deserts and Desertification</u>
2008	International Year of the Potato; <i>and</i> International Year of Planet Earth

## United Nations International Decades

As well as the annual celebration of certain UN-designated days and weeks, we find ourselves in the midst of celebrating several on-going internationally-declared decades (proclaimed by the UN General Assembly). Often, an international decade is launched by either an international year or on an international day.

1993-2002	<u>Second Industrial Development Decade for Africa</u>
1993-2002	<u>Asian and Pacific Decade of Disabled Persons</u>
1993-2003	<u>Third International Decade to Combat Racism and Racial Discrimination</u>
1994-2003	<u>International Decade for the World's Indigenous People</u> (following 1993 International Year for World's Indigenous People)
1995-2004	<u>United Nations Decade for Human Rights Education</u>
1997-2006	<u>United Nations Decade for the Eradication of Poverty</u> (following 1996 International Year for the Eradication of Poverty)

2001-2010	<u>International Decade for a Culture of Peace and Non-violence for the Children of the World</u> (following 2000 International Year for the Culture of Peace)
2001-2010	Second International Decade for the Eradication of Colonialism
2001-2010	Decade to Roll Back Malaria in Developing Countries, Particularly in Africa
2003-2012	<u>United Nations Literacy Decade: Literacy for All</u> (from 8 September 2003 - International Literacy Day)
2005-2014	Second International Decade of the World's Indigenous People
2005-2014	<u>United Nations Decade of Education for Sustainable Development</u>
2005-2015	<u>International Decade for Action, "Water for Life"</u> (from 22 March 2005 - World Water Day)

## Human Rights-Related UN International Days commemorated in, or of special interest to Bermuda...

### Human Rights Day 10 December



On 10 December 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights, which has become a universal standard for defending and promoting human rights. Every year on 10 December, Human Rights Day marks the adoption of the Universal Declaration. On Human Rights Day it is celebrated around the globe that "All human beings are born with equal and inalienable rights and fundamental freedoms".

The theme of Human Rights Day 2005 is "End Torture Now!". Torture is a crime under international law. According to all relevant instruments, it is absolutely prohibited and cannot be justified under any circumstances. This prohibition forms part of customary international law, which means that it is binding on every member of the international community, regardless of whether a State has ratified international treaties in which torture is expressly prohibited. The systematic or widespread practice of torture constitutes a crime against humanity

### International Day for the Elimination of Racial Discrimination 21 March

The International Day for the Elimination of Racial Discrimination is observed annually on 21 March. On that day, in 1960, police opened fire and killed 69 people at a peaceful demonstration in Sharpeville, South Africa, against the apartheid "pass laws". Proclaiming the Day in 1966, the General Assembly called on the international community to redouble its efforts to eliminate all forms of racial discrimination (resolution 2142 (XXI)).

### International Women's Day 8 March

Putting women and women's rights to equality on the global agenda is the moving force behind International Women's Day. The idea of a day for women, celebrated all over the world, began at the beginning of this century in America and Europe. The focus was the movement for women's rights and achieving universal suffrage for women. International Women's Day really took hold between 1913 and 1917 when women held rallies either to protest the war or to express solidarity with their sisters. In December 1977 the UN General Assembly adopted a resolution proclaiming a United Nations Day for Women's Rights and International Peace.

Since those early years, much progress has been made for women in developed and developing countries alike: in many countries, provisions guaranteeing the enjoyment of human rights without discrimination on the basis of sex have been included in constitutions; legal literacy and other measures have been introduced to alert women to their rights and to ensure their access to those rights; the world community has identified violence against women as a clear violation of women's rights; incorporating gender perspectives into regular programmes and policies has become a priority at the United Nations and in many member states.

Although much remains to be done to achieve full equality, the voices of women are being heard. March 8<sup>th</sup> provides an opportunity to pay tribute to the achievements of women and to highlight the needs and concerns of women on national, regional and global agendas.

### **World Day for Cultural Diversity for Dialogue and Development 21 May**

Further to the adoption of the Universal Declaration on Cultural Diversity by UNESCO on November 2001, the General Assembly, in Resolution 57/249, welcomed the Declaration and the main lines of an Action Plan for its implementation, and proclaimed 21 May the World Day for Cultural Diversity for Dialogue and Development.

The Day provides us with an opportunity to deepen our understanding of the values of cultural diversity and to learn to "live together" better. UNESCO continues to promote greater awareness of the crucial relationship between culture and development and the important role of information and communication technologies in this relationship.

### **International Day for Tolerance 16 November**

In 1996, the General Assembly invited Member States to observe the International Day for Tolerance on 16 November, with activities directed towards both educational establishments and the wider public (resolution 51/95 of 12 December). This action came in the wake of the United Nations Year for Tolerance, 1995, proclaimed by the Assembly in 1993 (resolution 48/126). The Year had been declared on the initiative of the General Conference of UNESCO; on 16 November 1995, the UNESCO member States had adopted the Declaration of Principles on Tolerance and Follow-up Plan of Action for the Year.

The 2005 World Summit Outcome document (A/RES/60/1), outlines the commitment of Heads of State and Government to advance human welfare, freedom and progress everywhere, as well as to encourage tolerance, respect, dialogue and cooperation among different cultures, civilizations and peoples

### **International Day for the Abolition of Slavery 2 December**

The International Day for the Abolition of Slavery, 2 December, recalls the date of the adoption, by the General Assembly, of the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (resolution 317 (IV) of 2 December 1949).

By resolution 57/195 of 18 December 2002, the Assembly proclaimed 2004 the International Year to Commemorate the Struggle against Slavery and its Abolition.

## **2004 International Year to commemorate the Struggle against Slavery and its Abolition**

The proclamation by the United Nations General Assembly of the year **2004 as International Year to commemorate the Struggle against Slavery and its Abolition** marks, on the one hand, the bicentenary of the proclamation of the first black state, Haiti, symbol of the struggle and resistance of slaves, and triumph of the principles of liberty, equality, dignity and the rights of the individual, and, on the other, the fraternal reunion of the peoples of Africa , the Americas, the Caribbean and Europe.



*Toussaint Louverture (1743-1803) © UNESCO*



# More than 50 ideas for commemorating the Universal Declaration of Human Rights

## Introduction

This paper has been developed in the framework of the United Nations Decade for Human Rights Education (1995-2004) by a group of human rights education experts from the five continents, who met in January 1997 at the United Nations High Commissioner/Centre for Human Rights in Geneva, as their contribution to the preparations for the 50th Anniversary of the Universal Declaration of Human Rights.

More than 50 ideas have been grouped under the following headings: [General Activities](#), [Governments](#), [Parliaments/Political Parties](#), [Schools and Youth Organizations](#), [Universities or Institutes](#), [Cultural Sector](#), [Religious Sector](#), [Media and Internet](#), [Corporations and Business Community](#), [Professional Organizations](#), [Trade Unions](#), [Health Sector](#), [Town Councils and Community Organizations](#), [Libraries](#), [NGO's](#), [Social Service Agencies](#), [Community Service Organizations](#), [Women's Groups](#), and [Advocacy Groups](#). This list is not exhaustive and it is hoped that it may serve as inspiration for other ideas which could be shared with all interested partners.

## General Activities:

1. Logo: Develop a national UDHR 50th Anniversary logo for widespread general use (e.g., public documents, publications, banners, tee shirts, pins).
2. Postage stamp and coins: Issue UDHR 50th Anniversary commemorative postage stamp and coins.
3. "A UDHR in every pocket": During the anniversary year, make one-page copies of the UDHR available in every public place (e.g., post offices, libraries, polling places, schools). Where possible, include in official mailings (e.g., with tax notices, telephone bills). Include a copy when issuing public documents (e.g., marriage licenses, birth certificates, driver's licenses, passports, telephone books, telephone cards, etc.). Reproduce the Declaration using various formats (bookmarks, brochures, etc.). Introduce the Declaration into everyday life by printing the entire text/selected articles on public transit, milk containers, etc.
4. A UDHR 50th Anniversary national calendar: Select two or three UDHR articles on which to focus each month during the anniversary year. Coordinate these with local, national, and international holidays (e.g., Article 15 during the month of a national independence day; Article 18 during a religious holiday period; Article 23 in May).
5. A UDHR 50th Anniversary award (annual award): Institute an award honouring national human rights heroes/defenders. These might be categorized by specific areas (e.g., an "Article 14 award" for contributions to refugee rights). Interested organizations would be best able to find ways to honour the contributions of local human rights heroes. Celebrate your own heroes, particularly the un-sung ones. Invite leaders, peace laureates, and others who have struggled publicly and internationally for human rights to your country to be honoured.

6. An international moment for the UDHR: Plan a specific date and time, perhaps on 10 December 1998, at 12 noon, when all citizens will honour the UDHR. Let citizens across the country unite in a common symbolic action (e.g., lighting of candles, a moment of silence, ringing of bells or sirens, raising of flag, half-an-hour human rights programmes at schools, concerts for children).
7. "Human rights communities": Encourage communities or sectors of all sizes (e.g., a village, a school, a university, a workplace, a senior citizens' centre) to declare themselves to be "human rights communities". As such they will promote the observance of and respect for human rights and evaluate how their community lives up to the standards set out in the UDHR. These may form into a network of "human rights communities".
8. "Human rights spaces": Dedicate a "human rights space" for UDHR 50th Anniversary activities in every village, town, or city neighbourhood (e.g., a meeting hall, a gallery, a display area or bulletin board at the market, a public garden). Individuals or community groups could use it in a variety of ways to express/illustrate/discuss how they experience human rights in their professional, religious, cultural, or personal lives.
9. Human rights walkways/murals: Designate a public walkway where each article of the UDHR is illustrated in some way. Such a walkway might be designed around sculpture, stepping stones through a public garden, or graphics in any frequently used public place (e.g., transportation centers, shopping areas, sports centers). Murals could also be developed.
10. UDHR "Traveling textbooks": Paint or decorate public vehicles (e.g., trains, streetcars, utility vehicles) with UDHR celebration information; a fleet of vehicles or series of train cars could each bear a different article of the UDHR. Offer an award for original design (e.g., the best decorated UDHR taxi).
11. December 10 -public holiday: Declare December 10 a public holiday (each year from 1997 onwards).
12. Public readings: Organize public readings of the UDHR (in schools, parliaments, meetings of ministers, markets, etc.).
13. Twinings: Organize twinings between countries/cities or sectors in different countries which will contribute to raising the profile of activities in the respective countries in order to share ideas and to provide mutual support for twinned entities.
14. Fund-raising: Fund-raise for national/international human rights funds (as a part of national income).

**Governments:**

15. Plans of action: Adopt national plans of action for advancing human rights into the 21st century. In particular, Governments could consider adopting a national plan of action for human rights education, as a contribution to the United Nations Decade for Human Rights Education (1995-2004).
16. Host a national/ international conference on the implementation of the UDHR in your

country.

17. Strengthen national infrastructures for the promotion and protection of human rights.

**Parliaments/Political Parties:**

18. Form a non-partisan all-party human rights caucus in Parliament.

19. Declare a Human Rights Year (1998), week (around 10 December), or a Human Rights Day (10 December).

20. Organize parliamentary debates and pass resolutions concerning the UDHR.

21. Review national legislation in order to bring it into conformity with international human rights standards/Ratify international human rights treaties.

22. Pass appropriate budgets for human rights education.

23. Request that Government convenes a meeting of ministers responsible for human rights and human rights education.

24. "Appoint" human rights ambassadors on a voluntary basis (celebrities).

**Schools and Youth Organizations:**

25. Train youth to teach the contents of the UDHR to younger children in schools, youth organizations, on the streets and to the population in general (for instance through summer employment programmes, volunteer work, etc.).

26. Develop oral history projects where children interview elders, especially those born before 1948, about their experience of human rights (e.g., how are their lives different because of the UDHR?). These oral histories could be published, broadcast, or turned into dramatic presentations.

27. Organize a "youth caravan" or cross-country walk where young people will travel to rural areas to make presentations on the UDHR for both children and adults.

28. Sponsor school art and writing competitions on the UDHR with the winners' work being published, printed on calendars, used on postage stamps, or otherwise widely distributed.

29. Organize programmes relating to the UDHR aimed at integrating "marginalized youth" into the mainstream of society.

30. Organize street theatre, dance and other popular presentations relating to the UDHR and human rights created and presented by youth for a variety of audiences.

31. Encourage children to create songs relating to the UDHR that may be performed or published.

32. Organize conferences, seminars, pre-service and in-service training for teachers on the UDHR and human rights education.

33. Have Ministries of Education set a minimum number of school hours to be devoted to human rights education.

34. Use literacy programmes as a means to teach about human rights.

**Universities or Institutes:**

35. Award honorary degrees to human rights activists.

36. Organize exhibitions.

37. Organize workshops, seminars, lectures, debates and symposia on human rights inside and outside the institution.

38. Promote a national human rights research award/prize.

39. Promote the establishment of university chairs for human rights education and research.

**Cultural Sector:**

40. Sponsor lecture series, concerts, exhibits and other cultural events relating to the UDHR and human rights education.

41. Commission works of art especially for the UDHR anniversary (e.g., an oratorio based on the UDHR, public monuments) and provide a setting for their presentation.

42. Sponsor a UDHR art, poetry, music or essay competition for adults, students or children, with winners presented at UDHR celebration events.

43. Organize UDHR 50th Anniversary traveling exhibits and performing tours to reach rural communities.

44. Organize sports competitions with a 50th Anniversary Cup.

45. Arrange for the creation of a national human rights quilt with participating communities creating one square of the quilt.

46. Use local festivals (multicultural, arts and music, etc.) to promote the Universal Declaration.

47. Benefit from existing events (Women's Day, Labour Day etc.) to draw attention to human rights issues and the UDHR.

48. Organize a cross-country tour of a major music group promoting the UDHR.

49. Have a "human rights stand" at international/national book fairs to disseminate

materials and to encourage publishers to publish human rights materials.

**Religious Sector:**

50. Hold conferences and seminars on the role of religious communities in the promotion of the UDHR.

51. Use religious communities as a setting for human rights education.

52. Organization of cultural and social events by religious communities with the UDHR as a celebration theme.

**Media and Internet:**

53. Ensure the help of public personalities in media appearances to promote respect for human rights and to raise consciousness of human rights problems.

54. Establish an award for excellence in human rights reporting (e.g. juried prize at national and regional levels for journalists covering domestic and international human rights issues over the course of the year).

55. Establish a regular place in printed publications for UDHR 50th Anniversary information and commentary (e.g., an on-going section for essays, editorials, comments from people of all ages, stories about national and international human rights heroes).

56. Establish a regular time on radio and television for human rights programming (e.g., a human rights film series, a radio show featuring human rights discussion, plays and documentaries based on national/cultural human rights heroes or historical events reinterpreted in human rights terms, spots by children and youth talking about the UDHR, series of children's television programmes based on the UDHR) and human rights education themes.

57. Publish the UDHR in all national/local newspapers on 10 December 1997 and 1998.

58. Create a national web site for the UDHR 50th Anniversary with information, documents and a calendar of events, and publicize it.

59. Plan a national communications strategy, placing emphasis on making human rights a familiar issue -using mediums such as posters and logos on buses, streetcars, etc.

**Corporations and Business Community:**

60. Introduce human rights themes and figures in publicity and advertising (e.g. on food products, soda cans, cereal boxes, etc.).

61. Establish foundations for the promotion and protection of human rights.

62. Organize high profile functions with a human rights theme (may be fundraising functions, presentations of awards, etc.).

63. Support initiatives at the community and provincial level with backing and donations from banks. Involve small businesses as well.

#### **Professional Organizations:**

64. Hold conferences and seminars or introduce courses on human rights and the profession.

65. Raise awareness of human rights among users of the services rendered by the profession (e.g., distribution of accessible information materials to users; holding workshops and public education sessions on various human rights issues).

66. Issue a "special issue" of professional newsletter on the UDHR.

67. Promote special events in educational establishments (such as police academies, schools of journalism, etc.).

#### **Trade Unions**

68. Hold conferences and seminars or introduce courses on human rights and labour; organize grass-roots human rights training for trade unionists and other workers' groups.

69. Organize, in collaboration with unions, a special workers' day celebration marking the UDHR.

#### **Health Sector:**

70. Solidarity Day with patients.

71. International Human Rights Day Babies (born on 10 December) and Human Rights Anniversary Babies for those born in 1998.

72. Promote/advocate inclusion of human rights and medical ethics in professional training.

#### **Town Councils and Community Organizations:**

73. Establish a community human rights award for local contributions to human rights.

74. Have communities involved in creating community murals on public or private walls with the Declaration theme.

75. Sponsor UDHR 50th Anniversary celebrations and human rights education activities.

76. Promote the idea of raising human rights issues in cities through their national organizations.

77. The city hall could be asked to plan a day of speakers and activities, such as a "Festival of Human Rights".

#### **Libraries:**

78. Distribute bookmarks recommending books on human rights for both young and adult readers.

79. Display books and magazines on human rights subjects, especially around 10 December.

80. Organize lecture series, film series, or book discussions on the UDHR and human rights topics.

81. Organize a "UDHR bus" to travel through the countryside bringing information, training, materials and speakers to rural areas.

82. Organize exhibits displaying developments from 1948 to 1998 in the field of human rights. The exhibit could be mobile and used in various frameworks.

**NGO's, Social Service Agencies, Community Service Organizations, Women's Groups, and Advocacy Groups:**

83. Redefine daily life/work in human rights terms.

84. Educate membership and the community on how an organization's activities relate to human rights.

85. Distribute information and educational materials (e.g., publicity posters, fliers, calendars showing human rights events, UN pictures) to constituencies.

(**Source:** ST/SGB/1997/10, 15 September 1997, SECRETARY-GENERAL'S BULLETIN, ORGANIZATION OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS)

© [The Office of the High Commissioner  
for Human Rights](#)  
Geneva, Switzerland

OHCHR-UNOG  
8-14 Avenue de la Paix  
1211 Geneva 10, Switzerland  
Telephone Number (41-22) 917-9000