



Annual Report 2020

RESILIENCE & RECKONING



THE OFFICE OF THE HUMAN RIGHTS COMMISSION was established under the Human Rights Act 1981, and our statutory powers and duties are described in the Human Rights Act, 1981 and Commissions of Inquiry Act, 1935. As a non-Ministry office, we received a budget allocation from the Legislature and are subject to the standards enshrined in the Public Treasury (Administration and Payments) Act, 1969.

This is the Annual Report for the year 1 January 2020 to 31 December 2020. It includes details of the work we carried out during this period for the fulfilment of our statutory mandate.

Further information about the Human Rights Commission is available on our independent website <https://www.humanrights.bm>

RESILIENCE & RECKONING



◀ PHOTO COURTESY © TIM WHITE

THE BERMUDA SKINK AND COMMON ANOLE ARE FAMILIAR RESIDENTS OF THE BERMUDA LANDSCAPE. THE VITALITY OF THE SKINK, AND THE ABILITY OF THE ANOLE TO ADAPT TO THE FLUCTUATIONS OF A CHANGING ENVIRONMENT ARE KEY TO THEIR SURVIVAL. THEIR STRENGTH AND RESILIENCE ARE EMBLEMATIC OF THE BERMUDA COMMUNITY'S ABILITY TO RALLY TOGETHER AND NAVIGATE THE CHALLENGES OF THE COVID-19 PANDEMIC ENSURING THAT NO ONE IS FORGOTTEN.

◀ PHOTO: DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR). PHOTOGRAPHER: ALISON COPELAND

CONTENTS



MESSAGE FROM EXECUTIVE OFFICER	5
ABOUT THE HUMAN RIGHTS COMMISSION.	8
ACHIEVING OUR STATUTORY MANDATE IN 21ST CENTURY BERMUDA	14
ACCESSING HUMAN RIGHTS: COVID-19, NHRIs AND HUMAN RIGHTS.	16
COMPLAINT MANAGEMENT: STATISTICS	19
COMPLAINT MANAGEMENT: EXAMPLES OF COMPLAINTS, VOLUNTARY MEDIATION PROGRAMME AND REFERRALS	52
EDUCATION AND ENGAGEMENT	30
LEGISLATIVE UPDATES	43
ACCOUNTABILITY	49
IN REMEMBRANCE	50
ANNEXES I-VI	52

ACCESSIBLE FORMATS

This document is available for download from our website at www.humanrights.bm in an electronic text format (PDF). Please contact the Human Rights Commission at 295-5859 should you wish to request other accessible formats or other communication supports.

MESSAGE FROM THE EXECUTIVE OFFICER



2020 saw the world upturned by the COVID-19 pandemic. The impacts of the pandemic and the remedial measures to address it have raised urgent concerns about public health, collective and individual rights, structural oppression, and the ways in which these intersect in our community. The complex nature of COVID-19 and associated state responses reaffirmed the critical role of National Human Rights Institutions ('NHRIs') in promoting a human rights-based approach to managing the pandemic.

As the Government of Bermuda implemented its emergency regulations designed to protect the community and secure the island's future, the Office of the Human Rights Commission ('the Commission') issued a public statement reinforcing that while an effective response to the COVID-19 pandemic was necessary and may require the temporary concession of certain individual rights, addressing the risk to public health must be balanced with the safeguarding of

civil liberties and human rights. The challenge of navigating this delicate balance reaffirmed the important role of NHRIs in monitoring such actions and reinforcing that any curtailment to rights be proportional and necessary to manage the ongoing crisis.

As the pandemic reached our shores, the Commission conducted a risk assessment to ensure the public's access to human rights services and optimal service delivery while upholding public health protocols. The Commission provided regular promotions to keep the public informed of the status of services, methods of contact and related public health updates. Close to 15% of intakes received in 2020 concerned COVID-19, and, despite the lower rate of intakes during the first few months of the pandemic, the Commission saw almost a 9% increase in overall intakes in 2020 from the previous year. As the long-term economic and social impacts of the pandemic and associated public health measures escalate, the Commission anticipates an increase in COVID-19 related intakes.

While everyone has been impacted by the COVID-19 pandemic, the extent and severity differed dramatically. Marginalised and vulnerable groups around the world experienced disproportionate effects from the virus and associated public health measures. The impact of COVID-19

highlighted the structural inequities in our society, bringing systemic concerns to the forefront of public discourse. In Bermuda, the themes of 'Resilience and Reckoning' became emblematic of the year's unfolding. The necessity of considering each other was central to the national public health response, and advocacy and community-building emerged as defining features of the year.

The resurgence of the Black Lives Matter movement following the murder of George Floyd in the United States saw over 7,000 Bermudians converge in solidarity, resulting in one of the largest social justice demonstrations on record. Bermuda was challenged to confront our history of colonialism, segregation and slavery, and the resulting racist beliefs, systems and structures influencing our society today.

The Commission joined Bermuda in mourning the loss of racial justice advocate and educator Dr. Eva Hodgson. Dr. Hodgson dedicated her life to elevating the national consciousness to address the scourge of racism. Her remarkable example and body of work will continue to inform Bermuda's human rights education and influence the liberation of generations to come.

Against the tumult of the pandemic, the Commission worked with stakeholders across the public and private sector as they contended with the impacts on their operations together with the distinct human rights implications facing the individuals and groups they employ or serve. Stakeholders sought

guidance on myriad issues, including racial justice, disability and reasonable accommodations, mental health, and inclusive workplace practices to protect against discrimination and harassment.

It is imperative that as a Non-Ministry Office, the Commission's resources and autonomy are fortified to effectively fulfil its mandate, particularly given its responsibilities as an NHRI in safeguarding the rights of citizens during crises. The Commission continued its review of the Human Rights Act, 1981 to advance and strengthen statutory protections. The proposed legislative amendments will expand protections and improve the Commission's capacity to advocate for disadvantaged populations while protecting fundamental rights and freedoms under its NHRI duties. These operational and legislative developments will further assist the Commission to align with the Paris Principles, a set of international standards adopted by the Global Alliance of National Human Rights Institutions (GANHRI) to assess the extent to which NHRIs operate in practice without the influence of any political, economic or reputational agendas of states.

The COVID-19 pandemic began as a public health emergency and swiftly became an economic, social, constitutional and human rights crisis. As we enter the new year, there is an urgent opportunity to reconsider how we uphold the rights of all community members to secure a more inclusive social contract. There is a shared responsibility to rebuild the structures that operate within our society to prioritise access and collective agency.

On behalf of the Office of the Commission, I would like to extend heartfelt appreciation to the exceptional sacrifice and devotion of all those

involved in the pandemic's emergency and frontline response. Amidst the collective trauma and devastation of the past year, there has been an unrivalled abundance of humanity. The cooperation, collaboration and commitment across all sectors to sustain essential services for the country's benefit has been nothing short of extraordinary.

The team at the Office of the Commission is particularly grateful for the examples and guidance from local partner agencies and the global NHRI network. I wish to extend appreciation to the Officers of the Commission who adjusted to the fluctuating COVID-19 protocols and undertook the challenge of remote work and cost-saving measures to ensure accessible and inclusive service delivery. The startling experience of the pandemic and its human rights implications around the world has sharpened the significance of our mandate and underscored the responsibility and privilege in working to strengthen the capacity of Bermuda's National Human Rights Institution.

In accordance with our statutory mandate, we shall continue to work with the Government, industry associations, businesses and individuals, to help them achieve their obligations by embedding fundamental principles of participation, equality, non-discrimination, transparency, and accountability into their practices. Measures taken by decision-makers to combat the pandemic and recover from its impacts must protect the diverse needs of those most at risk.

Human rights considerations are critical not just in addressing the immediate COVID-19 crisis but in renewing our commitment to those

who continue to be marginalised in the economic, political, cultural and social spheres in Bermuda. A human rights-based approach to recovery will serve to strengthen our collective participation and resilience as we reimagine a more equitable and just future for all.



Lisa M. Reed | EXECUTIVE OFFICER

Office of the Human Rights
Commission for Bermuda

The Executive Officer of the Commission is the public officer charged with responsibility for the continuity of the internal operations of the Commission, the management of its public officers, and the proper expenditure of the budget allocation granted by the Legislature.

The post further shepherds sets of Human Rights Commissioners throughout their terms at the Commission through the delivery of formal reporting and provision of training opportunities. Apart from the formal adjudication of human rights complaints, the Executive Officer is directly involved or has direct oversight of all aspects of the Commission's activities for the fulfilment of its mandate established in the Human Rights Act, 1981.



ABOUT THE HUMAN RIGHTS COMMISSION

OUR VISION

The Human Rights Commission envisions a community that honours and protects human rights for all.

OUR MISSION

As the National Human Rights Institution in Bermuda, our mission is to eliminate discrimination and harassment through advocacy, education, and enforcement.

WHO IS OUR COMMUNITY?

The Commission considers all stakeholders in Bermuda to be part of our community, along with other international human rights bodies and advocates who enforce, develop and promote human rights aspirations, principles, law and policy.

WHY OUR VISION AND MISSION STATEMENTS MATTER

Our Vision and Mission Statements are closely intertwined with the purpose of the Human Rights Act 1981 (Act) and the persuasive rationale for the legislation receiving the Royal Assent on 7 July 1981 and becoming operative in Bermuda on 21 May 1982.

The Recitals to the Act reveal that purpose and its wider connections to the Bermuda Constitution and the adoption of international standards for human rights on the island.

The Recitals to the Act:

- recognise 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;
- recognise that the inherent dignity and the equal and inalienable rights of all members of the human family is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

- confirm that the European Convention on Human Rights applies to Bermuda; and
- acknowledge that the Constitution of Bermuda enshrines the fundamental rights and freedoms of every person whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedom of others and for the public interest:

The Recitals to the Act further accept that those rights and freedoms have been confirmed by a number of enactments of the Legislature, however:

IT IS EXPEDIENT TO MAKE BETTER PROVISION TO AFFIRM THESE RIGHTS AND FREEDOMS AND TO PROTECT THE RIGHTS OF ALL MEMBERS OF THE COMMUNITY THROUGH THE ENACTMENT OF THE HUMAN RIGHTS ACT, 1981.

In fulfilling the functions mandated in the Act, the Commission regularly reflects upon the purpose of its establishing legislation and shares the objectives of the Act by the adoption of a Mission Statement and Vision Statement. These statements embody both the historical legacy of the legislation and the evolving space that human rights concepts and principles develop throughout the World.

OFFICERS OF THE COMMISSION



Lisa Reed EXECUTIVE OFFICER | **Sonia Astwood** ADMINISTRATIVE OFFICER

Erlene Postlethwaite ADMINISTRATIVE OFFICER | **Sara Clifford** EDUCATION OFFICER

Darnell Harvey INVESTIGATIONS OFFICER | **Treadwell Tucker** INVESTIGATIONS OFFICER

Arion Mapp LEGAL COUNSEL

The Officers of the Commission consider it a privilege to serve as Public Officers and steward the Human Rights Act, 1981. The Office strives to model a collaborative working culture taking time to foster teamwork, community mindedness and fellowship wherever possible.

HRC OFFICERS

ACHIEVING OUR STATUTORY MANDATE IN 21ST CENTURY BERMUDA

OUR STATUTORY MANDATE

Part III of the Act makes provision for our functions in the community and confirms that the Office of the Human Rights Commission (Commission) is responsible to the Minister for human rights for the administration of the Act.

Originally, our statutory mandate consisted of three main functions, namely:



In addition, the Commission was responsible for encouraging an understanding of the fundamental rights and freedoms of the individuals guaranteed by Chapter 1 of the Constitution of Bermuda.

In 2010, the Government transferred the staff and functions of the Commission for Unity and Racial Equality (known by its acronym, CURE) to the Human Rights Commission and the Act was amended to incorporate additional functions of the Commission related to racial equality in Bermuda through a series of educational initiatives. These initiatives reflected the needs of the community and directly related to the empowerment of individuals.

These new functions included:

- promote equality of opportunity and good relations between persons of different racial groups;
- work towards the elimination of racial discrimination and institutional racial discrimination; and
- establish and maintain in such form as it considers appropriate, a register of employers from the information or data received from the Director of Statistics under subsection (2)(b).

AN EVOLVING PROCESS: THE INTERPRETATION AND ACHIEVEMENT OF OUR MANDATE

As Bermuda's National Human Rights Institution, the Commission seeks to take a leading role in the modern interpretation of its statutory mandate and the promotion of the indivisibility and interdependence of all human rights. This role extends to:

- **encouraging an understanding of Chapter 1 of the Bermuda Constitution** which guarantees the fundamental rights and freedoms of the individual in the jurisdiction and the constitutional limitations placed on those rights and freedoms;
- **scrutinising of existing laws and administrative acts**, as well as draft bills and policy proposals raised by the Government and advocacy groups, alike, to ensure that they are consistent with the requirements of the Act;
- **identifying international benchmarks for the realisation of the Act** and how to measure adherence to international obligations;
- **adopting proactive communication strategies** which utilise technological advancements and social media for wider outreach with the community and other jurisdictions;
- **providing technical advice, consultation and conducting surveys** in relation to human rights;
- **conducting research and inquiries** designed to ascertain the extent to which protection provided to particular protected characteristics are being realised in practice in specific areas, and in relation to particularly vulnerable communities; and
- **monitoring compliance with specific rights recognised under the Act and providing reports**, including the Annual Report.

The capacity of the Commission to achieve this interpretation of our mandate was bolstered in February 2019 with the introduction of Legal Counsel to its offices.

As we look towards the future, **the Commission plans to champion the continued evolution of our mandate, members and accountability practices to:**

- reflect the shifting needs of individuals and marginalised groups in Bermuda;
- accommodate international developments which continue to bring waves of economic, social and technological change to our shores; and
- respond to any emerging inequalities which arise from societal change in Bermuda.

ALIGNING THE ADMINISTRATION OF THE ACT WITH EVOLVING INTERNATIONAL HUMAN RIGHTS STANDARDS

A Global Perspective for an Island Community

TOO OFTEN, HUMAN RIGHTS HAVE BEEN NARROWLY REPRESENTED AS PERTAINING ONLY TO MATTERS OF INDIVIDUAL LIBERTY. THE COMMISSION'S MANDATE – TO PROMOTE EQUALITY, HUMAN RIGHTS AND GOOD RELATIONS – OFFERS US THE OPPORTUNITY TO TALK ABOUT RIGHTS IN ENTIRELY DIFFERENT TERMS, IN LINE WITH THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE VALUES AND STANDARDS THAT WE ARE CHARGED WITH PROMOTING AS A HUMAN RIGHTS INSTITUTION.

The Commission adopts a global perspective in the interpretation of its statutory mandate and seeks to align its administration of the Act with evolving international human rights standards. In this context, the Commission seeks for Bermuda's human rights enforcement to be achieved through the lens of the wider international systems of human rights which have been extended to the island:

Charter-based system

For many centuries, there was no international human rights law regime in place. In fact, international law supported and colluded in many of the worst human rights atrocities, including the Atlantic Slave Trade and colonialism. After the trauma of the Second World War, in particular Hitler's racially-motivated atrocities in the name of national socialism, 50 states gathered to adopt United Nations Charter (UN Charter). The main accomplishment of this human rights system is the elaboration and near-universal acceptance of the International Bill of Human Rights, comprised of three major international human rights instruments:

- 1 Universal Declaration of Human Rights, adopted in 1948 by all UN Member States, including Great Britain, has formed part of normative international human rights standards and is referenced in the recitals to the Act;
- 2 International Covenant on Civil and Political Rights, adopted in 1966 and extended to Bermuda on 20 May 1976; and
- 3 International Covenant on Economic, Social and Cultural Rights, adopted in 1966 and extended to Bermuda on 20 May 1976.



OUR STATUTORY

Treaty-based system

The treaty-based system developed even more rapidly than the Charter-based system. The first treaty adopted in 1948 addressed the experience of the Nazi Holocaust. Since then, a huge number of treaties have been adopted, covering a wide array of subjects, eight of them on human rights—each comprising a treaty monitoring body—under the auspices of the United Nations:

- 1 International Convention on the Elimination of All Forms of Racial Discrimination adopted in 1966 and extended to Bermuda on 7 March 1969;
- 2 Convention on the Elimination of All Forms of Discrimination against Women adopted in 1979 and extended to Bermuda on 16 March 2017;
- 3 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted in 1984 and extended to Bermuda on 8 December 1992;
- 4 Convention on the Rights of the Child adopted in 1989 and extended to Bermuda on 7 September 1994;
- 5 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted in 1990, not extended to Bermuda as of yet.
- 6 Convention on the Rights of Persons with Disabilities adopted in 2006, not extended to Bermuda as of yet.
- 7 International Convention for the Protection of All Persons from Enforced Disappearances adopted in 2010, not extended to Bermuda as of yet.

Regional-based system

Since the Second World War, three regional human rights regimes—norms and institutions that are accepted as binding by States—have been established. Each of these systems operates under the auspices of an intergovernmental organisation or an international political body. Most notable in this regard is The Council of Europe, which adopted its primary human rights treaty in 1950: European Convention of Human Rights and Fundamental Freedoms (ECHR), which was extended to Bermuda on 23 October 1953.

HOW OLD ARE HUMAN RIGHTS?

The United Nations pinpoint the origin of Human Rights to the year 539 BC.

When the troops of Cyrus the Great conquered Babylon, Cyrus freed the slaves, declared that all people had the right to choose their own religion, and established racial equality. These and other precepts were recorded on a baked-clay cylinder known as the Cyrus Cylinder. The provisions of the Cyrus Cylinder served as inspiration for the first four Articles of the Universal Declaration of Human Rights adopted in 1948 by the United Nation's General Assembly.



MANDATE

NOT BY STATES ALONE: THE COMMISSION AS A NATIONAL HUMAN RIGHTS INSTITUTION

HUMAN RIGHTS ACTIVISM CAN BE DESCRIBED AS A STRUGGLE TO ENSURE THAT THE GAP BETWEEN HUMAN RIGHTS AND HUMAN RIGHTS LAW IS NARROWED DOWN IN ORDER TO ENSURE THE FULL LEGAL RECOGNITION AND ACTUAL REALISATION OF HUMAN RIGHTS. HISTORY SHOWS THAT GOVERNMENTS DO NOT GENERALLY GRANT RIGHTS WILLINGLY BUT THAT RIGHTS GAINS ARE ONLY SECURED THROUGH A SUCCESSFUL CHALLENGE TO ABSOLUTIST AUTHORITY.

Advancements in human rights are not dependent only on States. This concept was **officially recognised by the UN General Assembly in its 1993 resolution** which addressed the need for all States in the World to set up independent national human rights institutions (NHRIs) for the promotion and protection of human rights at the national level.

Annexed to this resolution were *Principles relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights, known as the “Paris Principles* (Paris Principles). The Paris Principles are endorsed by the World Conference on Human Rights and constitute a set of internationally recognised standards. These standards are adopted by the Global Alliance of National Human Rights Institutions (GANHRI) to independently assess the credibility, independence



and effectiveness of NHRIs, without the influence of any political, economic or reputational agendas of States.

In this vein, **a balance in power for the benefit of the Global Community is established:** States are free to decide the best type of NHRI for their domestic purposes, however, the NHRI established by the State will be judged by an independent international body in accordance with international standards.

International Accreditation: 2022 Objective for the Commission

IN THE NEAR FUTURE, THE COMMISSION WILL BE A BRIDGE BETWEEN THE NATIONAL AND INTERNATIONAL ARENA, REPORTING TO INTERNATIONAL HUMAN RIGHTS MECHANISMS AN ACCURATE PICTURE OF THE HUMAN RIGHTS SITUATION IN BERMUDA, WHILE APPLYING INTERNATIONAL HUMAN RIGHTS STANDARDS AT THE NATIONAL LEVEL, WITH A FULL UNDERSTANDING OF THE LOCAL CONTEXT.

NHRIs are periodically accredited before the Sub-Committee on Accreditation (SCA) of GANHRI with one of the following statuses:

“A” status – NHRI is fully compliant with Paris Principles;

“B” status – NHRI is partly compliant with Paris Principles; or

No status – NHRI is not compliant with Paris Principles.

OUR STATUTORY MANDATE

An “A” status NHRI will have:

Mandate and Competence: A fully effective “A” status NHRI will have a broad mandate based on universal human rights norms and standards and the competence necessary to effect this mandate.

Autonomy from Government: In order to properly challenge an elected Government, fully effective “A” status NHRI will have autonomy from that elected Government.

Independence: A fully effective “A” status NHRI will have independence from all stakeholders, both in law and in practice, as guaranteed by statute or Constitution.

Pluralism: A fully effective “A” status NHRI will have an inclusive and transparent selection and appointment process for their leadership to provide for broader representation of national society and to ensure the integrity and quality of its members.

Adequate Resources and Staffing: A fully effective “A” status NHRI will have an appropriate level of funding in order to guarantee its independence and its ability to determine its priorities and activities. It will also have the power to allocate funding according to its priorities, while complying with financial accountability requirements applicable to other independent agencies of the State. It will further be legislatively empowered to determine the staffing structure and skills required to fulfil the mandate and select staff in accordance with national law.

Adequate Powers of Investigation: Where provided with a mandate to receive, consider and/or resolve complaints alleging violations of human rights, a fully effective “A” status NHRI should have the necessary functions and powers to adequately fulfil this mandate.

FULL COMPLIANCE WITH THE PARIS PRINCIPLES HAS LONG BEEN ACCEPTED AS THE BEST OUTCOME FOR THE COMMISSION FOR THE BENEFIT OF THE RESIDENTS OF BERMUDA BY MEMBERS OF THE COMMISSION, THE GOVERNMENT AND INDIVIDUAL ADVOCATES FOR HUMAN RIGHTS ENFORCEMENT.

Since the establishment of the Commission in 1982, its public officers have made various attempts to commence the accreditation process for an independent assessment of the Office’s alignment with the Paris Principles.

In 2014, the Office of the United Nations High Commissioner for Human Rights also underscored to the Commission that a specific process would need to be followed for any such accreditation due to Bermuda being a British Overseas Territory. At that time, the predominant view of the accreditation body considered that a strong national human rights protection system in a State would have one consolidated and comprehensive national human rights institution and the Commission would need to have certain arrangements in place with the United Kingdom for its application to be considered.

Challenges related to appropriate staffing, independence and resources, however, prevented the completion of this process. **Our greatest challenge, to date, has been the achievement of sufficient autonomy from the Bermuda Government and other stakeholders.** Notably:

The Commission was originally established by the Act to operate as part of the Government, from within the Department of Human Affairs. Complaints of discrimination were received outside of the jurisdiction of the Commission and the Department of Human Affairs administered the Boards of Inquiry which adjudicated on those complaints.

In 2012, the complaints screening process was legislatively amended to provide greater autonomy from the Government and to reflect the technical capacity of the public officers of the Commission (in comparison with appointed Commissioners).

In 2016, the Commission was transferred to a Non-Ministry Office to further bolster autonomy from the Government.

From 2016 - 2018, the Commission focused on investing significant time to educate and change the nature of its relationships with all stakeholders, including the Government, to reflect the current Non-Ministry status.

In February 2019, the Legal Counsel post (originally created in December 2015) was filled after the Commission received its first approval to recruitment for that post from the Head of the Public Service in August 2018.

Against this backdrop, it is clear that the transfer of the Commission to a Non-Ministry Office by the Government and Legislature was the catalyst for the series of events that followed leading to the Commission's greater autonomy from the Government.

There remain significant changes to be made to our Act and our internal working practices to place the Commission in the best position to serve the community, however:

THE BOLSTERING OF OUR CAPACITY AND AUTONOMY BETWEEN 2012 - 2019 NOW ENABLES THE COMMISSION TO PROPERLY SET AN ACHIEVABLE OBJECTIVE FOR THE COMPLETION A FULL INDEPENDENT REVIEW OF OUR ACCOUNTABILITY PRACTICES AND THE COMMENCEMENT OF OUR ACCREDITATION PROCESS WITH GANHRI BY THE END OF 2022.

ACCESSING HUMAN RIGHTS: COVID-19, NHRIs AND HUMAN RIGHTS

On 11 March 2020, the World Health Organisation declared COVID-19 a global pandemic. The international community called upon the critical role of National Human Rights Institutions (NHRIs) to advise on human rights considerations in implementing public health measures. NHRIs play a vital role in protecting and promoting human rights, and during a crisis such as the COVID-19 pandemic, this becomes even more essential. Human rights must not be an afterthought in times of national emergency. NHRIs are tasked with reiterating the non-negotiable rights that citizens are still entitled to under international and domestic law, including in Bermuda's Human Rights Act, 1981.

The global community has faced the challenge of balancing public health measures to tackle the pandemic against the safeguarding of civil liberties and human rights. While states of emergencies are temporary, they can have human rights consequences that endure beyond the initial crisis. NHRIs should be involved at every stage of the national response, up to and including the recovery process.

One of the primary rights-based concerns of the COVID-19 response has been the potential for discriminatory and disproportionate impacts on vulnerable and historically marginalised sectors of society. Within the Bermuda community, there are individuals without stable housing, living in shelters, on the street or at risk of homelessness, adults and children facing domestic violence, those with chronic health conditions, those facing food insecurity and socio-economic exclusion, unemployment and underemployment, individuals with mental health issues, older individuals living alone or in care facilities, and individuals in correctional institutions. Some people are in low-paying, hourly-wage, benefit-free and otherwise precarious jobs that make them unable to provide care or interrupt work. These individuals

are also more likely to have limited access to stable, healthy housing, child care, transportation and health insurance. Adults, children, youth and older persons, people with disabilities, LGBTI+ individuals, among others, were all being affected differently. We must ensure everyone is protected and included in our response to this crisis.

COVID-19 and associated public health regulations resulted in access to the physical office of the Commission being temporarily restricted. The Office of the Commission conducted an organisational risk assessment to mitigate any potential impacts on the public's access to our services and identify ways to optimise our service delivery while protecting the health and safety of the Officers and the people we serve. The Office of the Commission's paperless environment enabled an effective transition to work from home, allowing for the progression of operations and deliverables. Digital and phone access allowed for the receipt of queries and complaints electronically. Ensuring access to clear and transparent information was a vital component of our COVID-19 response. The Commission issued regular public announcements to keep the public informed of how to access the Commission services. Nonetheless, the closure compromised accessibility.

The Office of the Commission's walk-in service is a necessary feature of our operations as not all service-users will have access to computer or phone services. Groups who may be excluded from digital forms of engagement include the elderly, citizens reentering public life after incarceration, the homeless, people with physical and mental disabilities, people with low incomes without digital access, working several jobs or working nontraditional hours, and people who are English-language learners. The pandemic may have expanded the list to include people who have had to take on additional child care, work, or schooling

AS EFFORTS TO MANAGE THE COVID-19 CRISIS CONTINUE AND WE BEGIN TO IMAGINE LIFE BEYOND THE PANDEMIC, WE MUST KEEP HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AT THE FOREFRONT OF OUR NATIONAL RESPONSE AND PUBLIC SERVICE.

responsibilities to support their family and people who have lost their jobs, become food insecure, or become housing unstable.

As public health guidelines allowed for the gradual reopening of the physical office, the Commission issued updates and prioritised walk-in services to those without access to phone or email. The Commission continues to incorporate recommendations from the risk assessment including: monitoring impacts on service provision; tracking fluctuations in the number and nature of intakes; maintaining health and safety protocols for Officers, vendors and the public; facilitating remote and rotational workplace arrangements to support health and safety measures; and strengthening data collection systems to inform the analysis of COVID-19 related impacts. The Commission will continue to monitor impacts on its operations and adapt and innovate its service provision to meet the heightened needs of those we serve while fulfilling essential NHRI monitoring and advisory duties.

At the close of 2020, Bermuda, and the world, remains in the grip of the pandemic, with the only certainty being that the divergent impacts on various sectors and

individuals in our community will be amplified in the year to come. Human rights place binding obligations upon the government to abide by the commitments it has made to its citizens, but equally places responsibilities on individuals to their communities. The COVID-19 crisis has affirmed human rights are not just about 'me' and individual rights, but 'us' and collective rights. The past year gave rise to significant demonstrations of solidarity and community building in Bermuda to support those most at risk and shine a light on the profound inequities compounding those effects.

As efforts to manage the COVID-19 crisis continue and we begin to imagine life beyond the pandemic, we must keep human rights and fundamental freedoms at the forefront of our national response and public service. The opportunity to recalibrate and ensure a more equitable and human-centred recovery is now. A human rights lens puts everyone in the picture and ensures that no one is left behind. Upholding the fundamental dignity and worth of our diverse community must be central to the work of the Human Rights Commission and Bermuda's ongoing COVID-19 response and recovery efforts as a whole.

ACCESSING HUMAN RIGHTS

Human Rights must be at the centre of the post COVID-19 world.

The COVID-19 crisis has been fuelled by deepening poverty, rising inequalities, structural and entrenched discrimination and other gaps in human rights protection. Only measures to close these gaps and advance human rights can ensure we fully recover and build back a world that is better, more resilient, just, and sustainable.

End discrimination of any kind: Structural discrimination and racism have fuelled the COVID-19 crisis. Equality and non-discrimination are core requirements for a post-COVID world.

Address inequalities: To recover from the crisis, we must also address the inequality pandemic. For that, we need to promote and protect economic, social, and cultural rights. We need a new social contract for a new era.

Encourage participation and solidarity: We are all in this together. From individuals to governments, from civil society and grass-roots communities to the private sector, everyone has a role in building a post-COVID world that is better for present and future generations. We need to ensure the voices of the most affected and vulnerable inform the recovery efforts.

Promote sustainable development: We need sustainable development for people and planet. Human rights, the 2030 Agenda and the Paris Agreement are the cornerstone of a recovery that leaves no one behind.



WWW.OHCHR.ORG

COMPLAINT MANAGEMENT

STATISTICAL ANALYSIS

INTAKES AND PRELIMINARY INQUIRIES

Where a person wishes to submit a complaint or query to the Office of the Human Rights Commission they can do so, in accordance with section 14H (1) of the Human Rights Act, 1981.

An intake consists of any form of contact made by a member of the public, whose intent it is to bring to the attention of the Office of the Human Rights Commission a complaint or query. Any member of the public who contacts

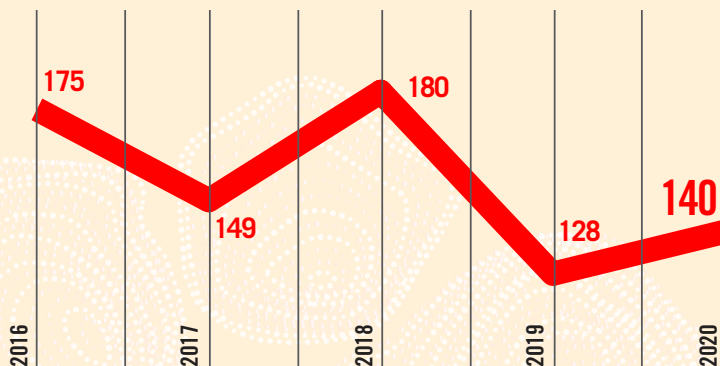
the Commission and is recorded as an intake is classified as a Complainant for the Commission's procedural purposes. Where an appropriate individual, company or organisation are identified within a complaint they are then listed and referenced throughout as a Respondent.

When an intake is filed, the Executive Officer in the first instance is responsible for screening the complaint to determine whether it appears to disclose a prima facie case of discrimination. At this stage, appropriate referrals are made where applicable, and the matter may

either be dismissed where a complaint does not disclose a prima facie case of discrimination, or where a complaint discloses a prima facie case of discrimination, notice of the complaint is forwarded on to the Respondent(s) with an invitation to reply. This is referred to as the 'Complaint Received Stage.' When appropriate to do so, the Executive Officer may also conduct a preliminary inquiry in accordance with section 14I of the Act for the purpose of determining whether to undertake an investigation.

FIGURE 1

TOTAL INTAKES FOR THE PERIOD, 2016 - 2020



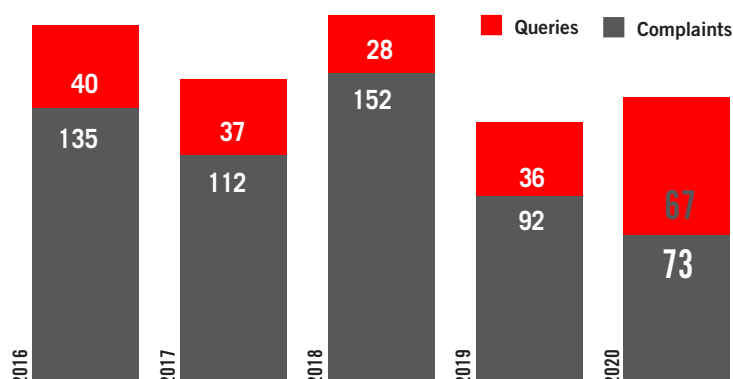
Intakes are comprised of complaints and queries.

- A complaint is classified by the Office as any concern brought to the attention of the Commission by a member of the public who believes their rights have been contravened under the Human Rights Act.
- A query is classified by the Office as a request for information or any question regarding the Act.

In 2020, a total of one hundred forty (140) intakes were reported to the Office of the Human Rights Commission by members of the public.

FIGURE 2

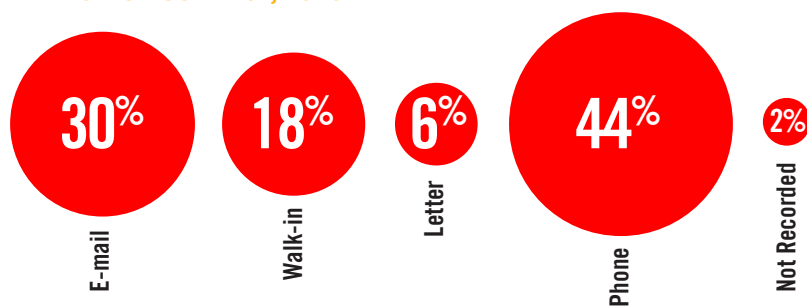
INTAKES BY TYPE FOR THE PERIOD, 2016 - 2020



When considering queries and complaints in 2020, complaints comprised the largest portion of intakes received by the Office. Of the total one hundred forty (140) intakes received, seventy-three (73) were classified as complaints, while the remaining were classified as queries (67) as illustrated in Fig. 2.

FIGURE 3

PERCENTAGE DISTRIBUTION OF INTAKES RECEIVED BY METHOD OF CONTACT, 2020



Intakes by Method of Contact, 2020

Members of the public may contact the Office of the Commission to log a complaint, query, or request for information by telephone, mail, email or by walk-in.



INTAKE HIGHLIGHTS

140 new intakes were lodged by Complainants in 2020. (Figure 1)

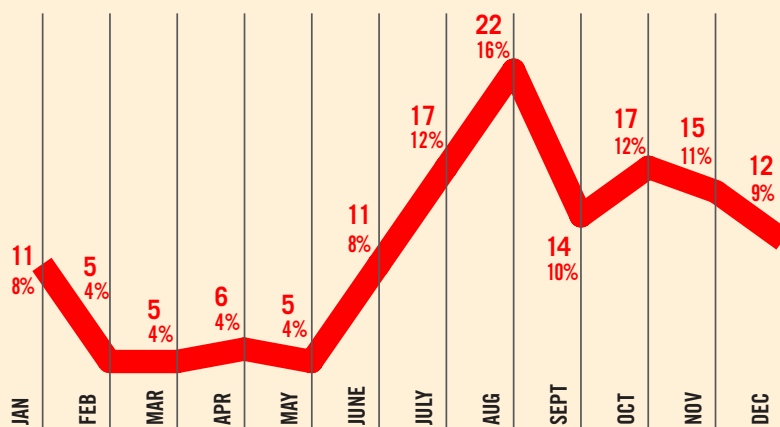
67 vs. 73 During the five year reporting period, 2020 recorded the highest amount of queries and the lowest amount of complaints in comparison to previous years. (Figure 2)

44% of intakes in 2020 were received by telephone. (Figure 3)

FIGURE 4

ANNUAL INTAKES BY MONTH, 2020

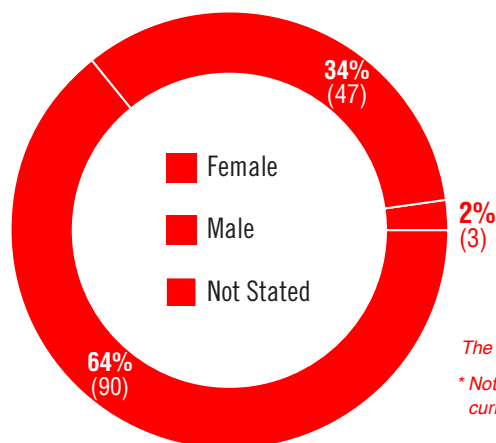
As shown in Figure 4, of the total monthly intakes, the highest number was received in August 2020 representing 16%. The lowest number of intakes were recorded in the months of February, March, April and May whose percentages when rounded up equaled 4% each, of the yearly total. The average number of intakes per month was 11.7 intakes.



The percentage total may not equal 100% due to rounding.

FIGURE 5

PERCENTAGE DISTRIBUTION OF INTAKES BY GENDER OF THE COMPLAINANT, 2020



As illustrated in Figure 5, females approached the Office more frequently than males. Female complainants represented 64% of complainants, whilst males comprised 34%. Three (3) complaints were recorded whereby the gender was not stated.

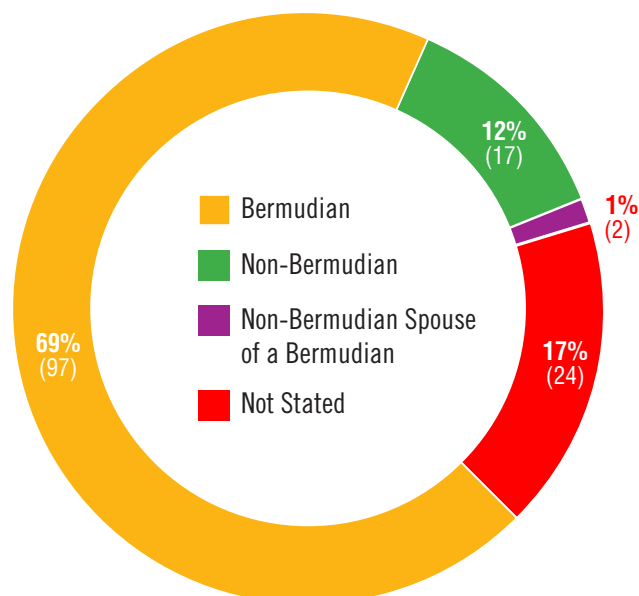
The percentage total may not equal 100% due to rounding.

* Note figure 5 reflects declared gender. Note, gender is not currently a protected ground.

FIGURE 6

PERCENTAGE DISTRIBUTION OF INTAKES BY THE BERMUDIAN STATUS OF THE COMPLAINANT, 2020

Figure 6 illustrates the Bermudian Status of complainants for intakes received by the Office. Bermudians represented (69%) of the total number of complainants in 2020. Complainants that indicated they were of non-Bermudian status represented 12%, while the number of Spouses of Bermudians who contacted the Commission represented 1% of intakes. There were twenty-four (24) complainants that did not identify their status. In 2020, there were no permanent residence certificate holders on record as contacting the Office to lodge a complaint or make a query.



INTAKE HIGHLIGHTS

16% the largest percentage of intakes received in 2020 were during the month of August. (Figure 4)

64% of complainants identified their gender as female. (Figure 5)

69% of complainants that contacted the Commission in 2020 were Bermudian. (Figure 6)

2% of complainants that contacted the Commission in 2020 were Non-Bermudian Spouses of Bermudians. (Figure 6)

FIGURE 7

PERCENTAGE DISTRIBUTION OF INTAKES BY GROUND OF DISCRIMINATION CITED, 2020

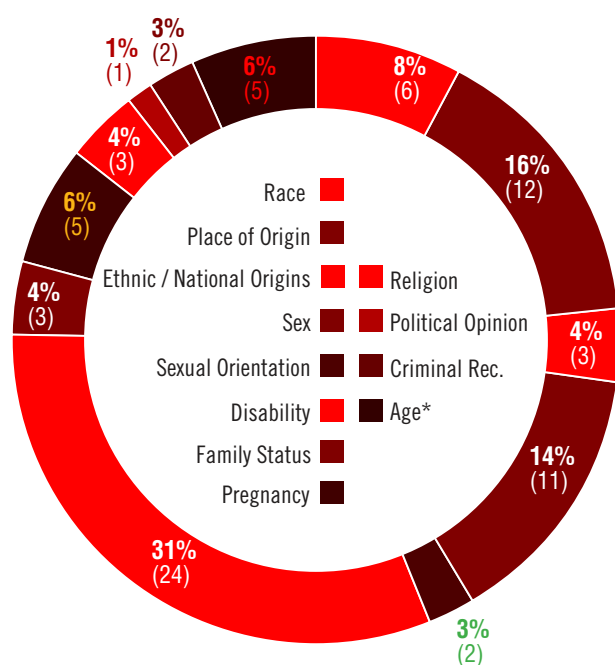


TABLE 7

Ground of Discrimination (section 2(2)(a))	Number (#)	Percent (%)
i) Race	6	8
i) Place of Origin	12	16
i) Colour	-	-
i) Ethnic or National Origins	3	4
ii) Sex	11	14
(ii) Sexual Orientation	2	3
(iii) Marital Status	-	-
(iiiA) Disability	24	31
(iv) Family Status	3	4
(4) Pregnancy	5	6
(vi) Religion	3	4
(vi) Beliefs	-	-
(vi) Political Opinion	1	1
(vii) Criminal Record	2	3
* Age	5	6
Total	77	100

Note 1: * Protection afforded in section 4 and section 5

Note 2: Not included within the statistics for intakes are those where a ground was not identified. The numbers provided merely reflect statistics for grounds as self-identified by individuals.

The majority of complaints logged in 2020 cited claims of discriminatory difference in treatment on the grounds of disability 31%, place of origin 16%, and sex 14%.

All other grounds represented a combined total of 39% of the total identified grounds of discrimination as depicted in Table 7.

FIGURE 8

PERCENTAGE DISTRIBUTION OF INTAKES BY AREA OF DISCRIMINATION CITED, 2020

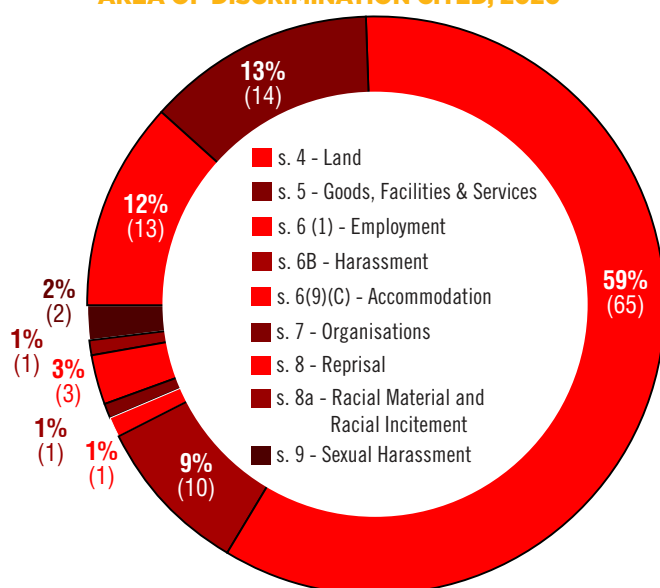


TABLE 8

Area of Discrimination	Number (#)	Percent (%)
Sec. 3 - Notices	-	-
Sec. 4 - Land	13	12
Sec. 4A - Bermudians and Land	-	-
Sec. 5 - Goods, Facilities & Services	14	13
Sec. 6 (1) - Employment	65	59
Sec. 6A - Special Programmes	-	-
Sec. 6B - Harassment	10	9
Sec. 6(9)(C) - Accommodation	1	1
Sec. 7 - Organisations	1	1
Sec. 8 - Reprisal	3	3
Sec. 8A - Racial Material and Racial Incitement	1	1
Sec. 9 - Sexual Harassment	2	2
Sec. 10 - Discriminatory Covenants	-	-
Sec. 11 - Law that sanctions discriminatory covenants	-	-
Sec. 12 - Contracts	-	-
Total	110	100

Note: Not included within the statistics for intakes are those where an area of discrimination was not identified. The number provided merely reflects statistics for declared areas of discrimination.

Figure 8 illustrates that the majority of complaints logged in 2020 cited claims of discrimination within the protected area of employment at 59%. A large majority of these employment related matters identified discrimination in the area of employment broadly, however, there were also allegations of unfair termination and allegations of refusals to recruit or employ or continue to employ in the workplace identified.

Claims of discrimination within the protected area of the provision of goods, facilities and services amounted to 13% of intakes, while claims of discriminatory workplace harassment amounted to 9% of intakes.

Allegations of workplace reprisal, instances where it is alleged that someone is penalised for making a human rights complaint, amounted to 3% of intakes.

Workplace related sexual harassment claims accounted for 2% of intakes. Accommodation of a disability in the workplace, discrimination by an organisation and the distribution of racial material and racial incitement were identified in 1% each, of the total identified areas of discrimination in 2020. (See Table 8)

Sexual Harassment

In accordance with section 9 of the Act, employees have the right to be free from any form of sexual harassment within the workplace by their employers and their fellow employees. Employers are further required by the Act to ensure that such harassment does not take place which means that employers may be found liable in the event that the organisation, including fellow employees, are found to have sexually harassed an employee. This means that employers should have effective policies and procedures in place that demonstrate the organisations commitment to their employees' right to be free from sexual harassment including consequential mechanisms and disciplinary measures.

Preliminary Inquiries

Preliminary inquiries may be conducted to attempt to resolve and clarify specific aspects of a complaint prior to a decision being made on whether an intake can proceed onward to an investigation.

During 2020, preliminary inquiries were conducted into two (2) matters. Both matters were ongoing at the end of 2020. The preliminary inquiry stage, provides the Commission with an opportunity to clarify, examine and better understand certain issues prior to the investigation stage.

COVID-19 STATISTICS

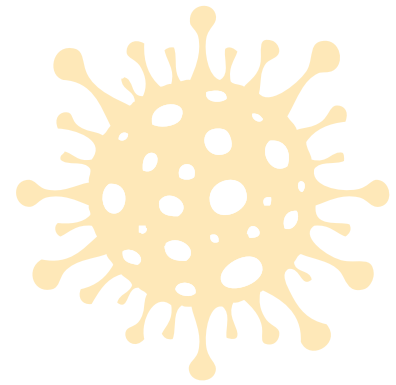
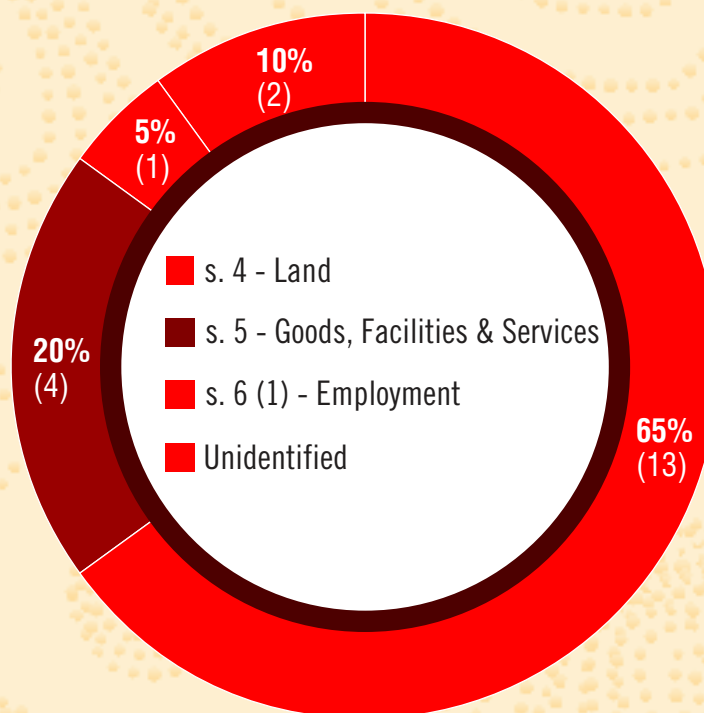


FIGURE 9

**PERCENTAGE DISTRIBUTION OF COVID-19 RELATED INTAKES
BY AREA OF DISCRIMINATION, 2020**



In 2020, there were twenty (20) matters presented to the Human Rights Commission by Complainants related to the Coronavirus (COVID-19) pandemic. Many of the intakes received by the office were related to employment. Complainants alleged unfair practices by employers such as the initiation of mandatory COVID-19 testing, disputes over whether employees were entitled to wages during the lockdown period and any quarantine periods, and unfair terminations which in some cases, were presented as necessary redundancies or layoffs.

With regard to services, complainants indicated issues with not being allowed to enter the hospital to witness the birth of their child because of the COVID-19 restrictions implemented by the hospital in response to the Government lockdown or being allowed to attend ultrasound appointments with a pregnant partner. A - A Sec 4, Land, complaint was linked to a tenant being asked to vacate rental premises during the coronavirus outbreak.

Investigations

Once a decision is reached that a complaint discloses a prima facie case of discrimination, notice is sent to the Respondent(s) with an invitation to respond to the allegations made. The Executive Officer reviews the information provided throughout the Complaint Received Stage with a view to determining whether to investigate the intake. In accordance with section 15(1) of the Act, the Executive Officer shall investigate a complaint where it appears to be genuine that unlawful discrimination has occurred by reason of any alleged contravention of the Act or where the Executive Officer has reasonable grounds for believing that any person has contravened any provision of the Act.

Where a decision is made to investigate, the Executive Officer provides all parties with notice of her decision and in accordance with section 15(4) of the Act, determines the terms of reference for the investigation. The Executive Officer delegates her authority over investigations to an Investigations Officer who conducts the investigation and who objectively seeks such information from the parties and any witnesses that are deemed to be appropriate.

At all stages of the investigation, parties are aware of the opportunity to resolve the dispute by way of the Commission's Voluntary Mediation Programme and are encouraged to do so. At the conclusion of the investigation, the Investigator provides the Executive Officer with the details obtained throughout the investigation prior to a decision being made by the Executive Officer with respect to the disposition of the complaint.

During the investigation, the Executive Officer provides all parties to the complaint with an opportunity to provide documents, witnesses and their own perspectives on the complaint.

The Executive Officer by way of section 16 of the Act, has the power to collect, inspect and examine records, subject to any just claim of privilege. Throughout the entirety of the complaint process, Officers evaluate whether or not they have a conflict of interest in the relevant matter and understand that it is imperative for the Commission to maintain neutrality as an advocate for fairness throughout the investigative process.

In 2020, there were twenty (20) investigations assigned to Investigations Officers, of which, four (4) were approved for investigation in 2020 and sixteen (16) were approved previously and remained ongoing in 2020. Section 15(6)(b) of the Act grants the Executive Officer the power to consolidate two or more investigations if she deems it fit. In 2020, four (4) investigations were merged into two (2) investigations each. Two (2) matters were against the same respondent and the complainants agreed to have their matters merged into one (1) investigation. The remaining two (2) investigations were the same complainant and respondent, and it was agreed that the allegations would be merged into one (1) investigation.

STATISTICAL ANALYSIS

FIGURE 10

PERCENTAGE DISTRIBUTION OF ACTIVE INVESTIGATIONS
BY GROUND OF DISCRIMINATION, 2020

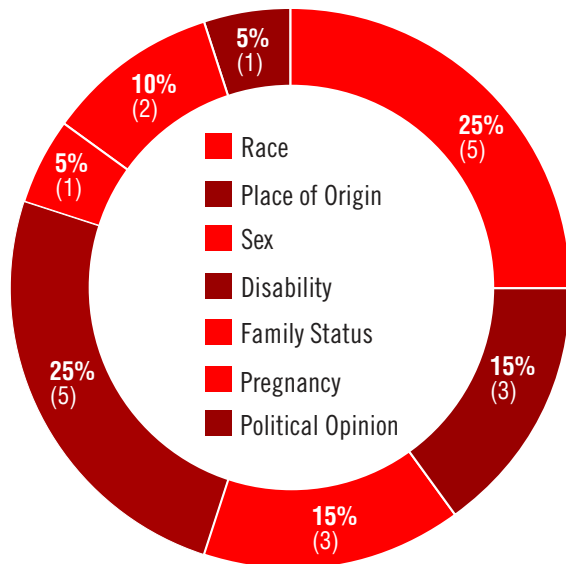


Figure 10 illustrates that race and disability were identified as the grounds of discrimination in five (5) matters, representing 25% respectively.

Of the investigations, those based on place of origin and sex represented 15% or a total of three (3) cases each, while pregnancy, family status, and political opinion represented 10%, 5% and 5%, respectively.

Complainants may have multiple grounds of discrimination and thus, the total may be greater than the total number of investigations.



INVESTIGATION STATISTICS HIGHLIGHTS

25%

of active investigations were on the grounds of race and disability respectively. (Figure 10)

35%

of active investigations were in the area of employment. (Figure 11)

2

investigations were deemed without merit by the HRC Executive Officer and closed.

FIGURE 11

PERCENTAGE DISTRIBUTION OF ACTIVE INVESTIGATIONS BY AREA OF DISCRIMINATION, 2020.

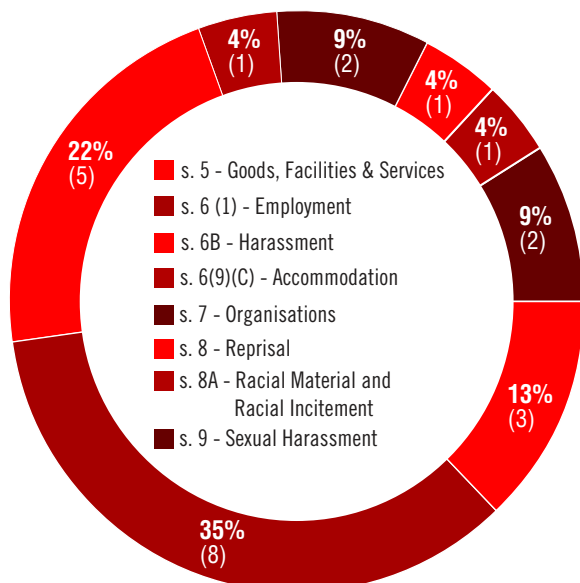


Figure 11 shows that most allegations of discrimination were identified as occurring in the area of employment at 35% with eight (8) Complainants alleging that they were the victims of discrimination in the workplace under section 6(1) of the Act, citing such practices as unfair dismissal and failing to recruit, etc.

Also alleged in the workplace was harassment at 22%, workplace reprisal at 4% and an allegation of a failure to accommodate a disability at 4%. Remaining allegations cited were discrimination in the provision of goods facilities and services (three (3) or 13% of matters), sexual harassment in the workplace and in an accommodation (two (2) or 9% of matters), discrimination by organisations in the deliberate omission to accord the same benefits as accorded other members to individual members (two (2) or 9% of matters), and one matter with an allegation regarding the distribution of racial material and racial incitement (4%).

It should be noted that for a few investigations, Complainants alleged discrimination under multiple areas. Consequently, the total for the areas of discrimination is larger than the number of investigations.

Disposition of Investigations

During 2020, there were two (2) investigation closures. Both matters were dismissed and deemed without merit by the Executive Officer of the Human Rights Commission.

SUMMARIES, VOLUNTARY MEDIATION PROGRAMME AND REFERRALS

COMPLAINT SUMMARIES

This section aims to provide a few examples of complaints of discrimination that were filed with the Office of the Human Rights Commission through the reporting period. In order to preserve confidentiality, details have been modified and identifying information has been omitted from each summary below.

COVID-19 Complaint Screened and Referred to Workforce Development

A Complainant contacted the Commission to inquire into whether they were entitled to paid sick leave for periods of time spent on quarantine due to positive COVID-19 cases traced to their place of employment. Another member of the public contacted the Commission after being laid off with the basis of the layoff being the COVID-19 global pandemic. The Human Rights Act, 1981 was discussed with the individuals and they were provided with a referral to Workforce Development to obtain advice related to the Employment Act 2000. The Complainants were subsequently notified that the complaint was dismissed as the details provided did not appear to disclose a prima facie case of discrimination.

Complaint Dismissed: Age Discrimination

A Complainant reported that they were forced to retire from their employment after they attained the age of sixty-five (65) years. The Complainant identified section 6(1)(b) of the Human Rights Act, 1981 as being applicable and alleged that their age was a factor in the decision to dismiss them from their employment. The individual was provided with referrals to agencies that were deemed appropriate to assist them and the provisions of the Human Rights Act, 1981 were discussed with them. Following a review of the material provided by the Complainant, the Executive Officer dismissed the complaint as 'age' is not currently a protected ground within the area of employment. The Commission intends to propose legislative amendments to ensure that adequate protection is in place to protect members of the public on all ends of the spectrum relating to age discrimination.

Complaint Progressed Until Withdrawn: Criminal Record

A Complainant alleged that they were denied from receiving a service due to their criminal record. They

sought to subscribe to a service provided by the business, however, they were allegedly denied from doing so with reference made to their criminal record. Based on the information provided by the individual, section 5(1) of the Human Rights Act, 1981 was identified in addition to the protected ground set out within section 2(2)(2)(vii) of the Human Rights Act, 1981. The Commission attempted to obtain sufficient details from the individual to assist in the screening of the complaint, however, the Complainant provided the Commission with notice that they were able to resolve their issue and withdrew the complaint.

Complaint Progressed until Deemed Abandoned

A Complainant reported that they were terminated from their employment in unfair circumstances. During the screening of this complaint, the Commission endeavoured to assist the Complainant in better understanding the Human Rights Act, 1981. Efforts were made to obtain additional details from the Complainant relating to the circumstances of the termination. Several attempts were made to contact the Complainant to obtain the additional information sought, however, the Complainant did not respond to the correspondence. The Executive Officer determined that the Complainant had abandoned their complaint and the matter was closed in accordance with section 15A(2)(a)(ii) of the Human Rights Act, 1981.

Sexual Harassment Complaint Progressed to Complaint Received Stage

A Complainant reported that they were sexually harassed in the workplace by a colleague and alleged that the organisation violated their right to a workplace free of sexual harassment and that they failed to act in a reasonable manner to ensure that sexual harassment did not occur. The individual highlighted that the organisation did not have a sexual harassment policy in place and alleged that they were unfairly targeted by the organisation after submitting a complaint. The Executive Officer was satisfied that the complaint disclosed a prima facie case of discrimination and the Respondents have been provided with notice of the complaint and offered an opportunity to provide their perspective prior to a determination being made to investigate the complaint.

VOLUNTARY MEDIATION PROGRAMME

In accordance with section 14(f) of the Act, the Human Rights Commission has a statutory obligation to assist parties in reaching a resolution. One means by which the Office is able to assist the parties in resolving their differences is through the Commission's alternative dispute resolution service called the Voluntary Mediation Programme.

Conciliation is a "user friendly" means of dispute resolution which involves having a neutral Conciliator meet with the parties to a dispute to assist them in resolving the issues and to reach a settlement agreement. The role of the Conciliator includes assisting the parties to a dispute by suggesting plausible solutions aimed at resolving the issue. Whereas the role of a Mediator is to act as a facilitator who initiates dialogue and communication between the parties in an entirely neutral manner.

The benefits of conciliation are that it allows for both parties to work towards a mutually agreeable solution prior to a matter being referred to a Tribunal. Where a matter is referred to a Tribunal, parties are still permitted access to the Commission's Voluntary Mediation Programme by way of mediation. In addition to achieving a resolution in a more expeditious manner, conciliation and mediation also allows the parties to remain in control of the decision-making responsibilities. The Conciliation and Mediation process is confidential which means that all discussions held during a conciliation meeting cannot be relied upon should the matter proceed to a Tribunal. If parties are able to reach an agreement during the respective Conciliation or Mediation meeting(s), a binding agreement may then be signed.

The Conciliation and Mediation processes are at all times voluntary and if either party is uncomfortable at any stage with how Conciliation or Mediation is proceeding, that party may end the process without penalty.

CONCILIATIONS AND MEDIATIONS IN 2020

There were nine (9) matters in various stages of the conciliation process in 2020. There were four (4) conciliation offers provided to parties of complaints in 2020, two (2) of the offers were declined, the remaining two (2) offers were accepted by parties and remained ongoing at the end of 2020. There were five (5) other conciliation matters in various stages of the conciliation process where offers had been provided in previous years. Of these matters, three (3) were reported as not resolved in 2020. One (1) was ongoing in 2020 and reported as ongoing at the end of the year while, one (1) offer was reported as declined in 2020. There were no mediations held in 2020.

REFERRALS TO OTHER AGENCIES

The Commission provides a robust triage and referral process to assist the public in finding resolution to their query or complaint in the event their matter does not appear to fall under the jurisdiction of the Human Rights Act, or where another organisation may be of assistance. In 2020, the majority of referrals were made to the **Department of Workforce Development**.

Additional referrals were made as follows:

Public Authorities:

- His Excellency, the Governor of Bermuda
- Ombudsman for Bermuda
- Bermuda Police Service
- Police Complaints Authority
- Parole Board
- Treatment of Offenders Board

Government Departments and Quangos:

- Ministry of Education
- Department of Immigration
- Department of Social Insurance
- Department of Consumer Affairs and Rent Commission
- Department of Health, Aging and Disability Services and Staff Medical Review Board
- Bermuda Health Council
- Department of Financial Assistance
- Department of Transport
- Bermuda Small Business Development Corporation
- Charities Commission
- Bermuda Housing Corporation

Labour Unions:

- Bermuda Public Services Union
- Bermuda Industrial Union

Advocacy Groups and Non-Profit Organisations:

- Bermuda Hospital Boards Patient Advocacy Association
- Women's Resource Centre
- Centre Against Abuse
- Age Concern
- La Leche League of Bermuda
- Citizens Uprooting Racism in Bermuda

Legal Guidance or Legal services:

- Department of Legal Aid
- Bermuda Bar Association
- Free Legal Clinics at the Centre on Angle Street (Central Zone) and the Western Zone Clinic at Sandy's Community Centre.

EDUCATION AND ENGAGEMENT

ALL RESIDENTS OF BERMUDA HAVE RIGHTS AND RESPONSIBILITIES WHICH ARE ENSHRINED UNDER THE BERMUDA CONSTITUTION ORDER 1968 AND WHICH ARE EXTENDED THROUGH THE HUMAN RIGHTS ACT, 1981. AMONGST OTHER PROTECTIONS, THESE FUNDAMENTAL RIGHTS FORBID DISCRIMINATION BASED ON CERTAIN PERSONAL CHARACTERISTICS IN AREAS OF DAILY LIFE. DISCRIMINATION MAY BE ROOTED IN IGNORANCE AND THUS, IT IS INTEGRAL THAT HUMAN RIGHTS EDUCATION PROGRAMMES PROVIDE RESIDENTS WITH UNDERSTANDING ABOUT THE FUNDAMENTAL RIGHTS AND FREEDOMS ALONG WITH THEIR DUTIES AS CITIZENS.

Fulfilment of the Commission's educational mandate is necessarily dynamic and adaptable. Educational delivery is enabled through research, policy development, strategic guidance, facilitated dialogues, training and development, networking, tailored presentations, consultations, and stakeholder partnerships. Human rights education is designed to enhance legislated protections, beyond enforcement, to help inspire a culture with shared responsibility to consider, balance, evolve, and uphold rights.



RIGHTS IN THE COMMUNITY

A YEAR OF RESILIENCE AND RECKONING

**YOU HAVE TO ACT AS IF IT WERE POSSIBLE
TO RADICALLY TRANSFORM THE WORLD.
AND YOU HAVE TO DO IT ALL THE TIME.**

ANGELA DAVIS

2020 unfolded against the trauma and uncertainty of the pandemic, which brought to the fore fundamental considerations around individual and collective human rights. The year was shaped both by the global health crisis and the extraordinary responses to it. COVID-19 laid bare social, political, economic, and environmental inequities in communities around the world, and Bermuda was no exception. While everyone was affected by the COVID-19 crisis and related public health measures, there was, and continues to be, significant divergence in people's experience.

Early on, Bermuda leaned into the best of itself, our Hurricane Spirit rising, recognising that 'we are all in the same storm, but we are not all in the same boat.'

The community rallied to support the Government and Third Sector's crisis response, providing supplementary resources and services impacted by the pandemic and COVID-19 protocols. As the year progressed and pressures mounted against our healthcare and social support systems, the challenge of balancing public health measures against civil liberties and human rights sharpened. It was a year of social justice reckoning ignited by the public health crisis, its diverse impacts, and the Black Lives Matter movement. The urgency of considering each other became central to the national response, and advocacy emerged as a defining feature of the year.

With traditional support systems compromised, the crisis fostered community-building in new and distinct ways. Virtual communities were cultivated and, while an imperfect ally, social media became an essential portal for critical public health advisories and knowledge exchange. Some accounts morphed into socio-political forums promoting civil and government accountability. Others offered much-needed comic relief, creativity, storytelling and, amidst the tragedy, perpetual reminders from around the world of the resilience and fortitude of our shared humanity.



It is impossible to quantify the social, economic, spiritual and psychological toll of the ongoing pandemic. Bermuda's national response over the last year, together with the breadth of public advocacy, has reinforced that we are only as safe and secure as our most vulnerable. The following are just some of the examples of rights in action from this extraordinary year.



MENTAL HEALTH

Mental health emerged as a public health imperative in 2020. While the long-term impacts continue to unfold, the collective fear and anxiety triggered by the onset of the pandemic centred the need to promote mental health awareness and support. Members of our community faced compounded and diverse pressures, including the tragedy of lost lives, the threat of job loss and unemployment, food insecurity, isolation, loss of access to healthcare and public and private support services, relational crises, compressed and unsafe living environments, substance abuse and more.

Efforts to adapt and provide accessible support were swift. The Employee Assistance Programme (EAP) transitioned its in-person services to telehealth and launched a series of public outreach webinars, which the Commission participated in. As Executive Director Latisha Lister-Burgess emphasised, “The goal of EAP is to make sure that Bermuda’s community is given the tools and resources to be emotionally healthy during these changing times. The more that we can deliberately invest in our own mental health, the better we will navigate and emerge healthier on the other side.”

Employee Assistance Programme: 292-9000
www.eap.bm

The COVID-19 Emotional Well-Being Hotline: 543-1111

24-hour Mental Health Crisis Line of Mid-Atlantic Wellness Institute (MWI): 239-1111



INTERNATIONAL WOMEN'S DAY

MAR

‘An Equal World is an Enabled world’ was the 2020 International Women’s Day (IWD) theme commemorated annually on 8 March. The Commission joined government, business and third sector partners at a convening hosted by the Women’s Resource Centre to recalibrate collective commitments to accelerate gender parity and stay the course in working together to ensure a more equitable Bermuda. The IWD theme proved prescient as the impacts of COVID-19 continued to reveal the devastating consequences of upholding prolonged, institutional, and intersectional inequity.



Annual Report 2020

BLACK LIVES MATTER



IT IS MY WISH THAT BERMUDA WOULD
BECOME A MODEL SOCIETY OF RACIAL
HARMONY THROUGH INDIVIDUAL EFFORTS
AS WELL AS THROUGH COLLECTIVE
COMMITMENTS OF ALL BERMUDIANS TO
UPROOT RACISM FROM OUR ISLAND HOME.

DR. EVA HODGSON



On Sunday, 7 June 2020, an estimated 7000 people made their way into Hamilton to participate in the Black Lives Matter (BLM) march. Bermuda joined in solidarity with millions around the world to support this historic human rights movement. Two young Bermudians, Jasmine Brangman and Dynera Bean organised the local event, culminating in one of the largest social justice marches of its kind in Bermuda. The BLM movement has been the catalyst for the world to confront structural racism as a systemic international human rights crisis.



BLACK LIVES MATTER

Having first emerged in 2013 following the acquittal of George Zimmerman in the death of 17-year-old Trayvon Martin in the United States of America (USA), the BLM Movement gained momentum in 2020 following the murder of George Floyd by a police officer in Minneapolis, USA. The uprising that followed sparked global advocacy against racially motivated violence. Public campaigns emerged calling for defunding of police and redistribution of community resources, socioeconomic policy changes to enable Black liberation together with inspiring efforts to support radical well-being and repair in the fight for justice.

The scale and synergy of the movement and the collective call to eliminate oppressive systems worldwide was no coincidence. As the late Dr. Eva Hodgson often emphasised, colonialism and transatlantic slavery have informed systemic practices around the world, including law enforcement, and these legacies continue to drive contemporary structures of racism. The experience of this urgent call for justice demands that we stay the course in confronting the experience of race and racism in Bermuda, including our history of enslavement and segregation, and the deeply embedded racist practices and beliefs impacting all aspects of life.



PHOTOS COURTESY OF MEREDITH ANDREWS





EDUCATION AND ENGAGEMENT

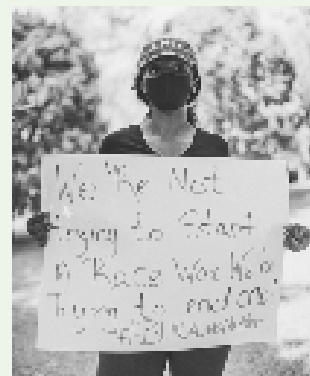
JUNE

SOCIAL JUSTICE BERMUDA

Social Justice Bermuda (SJB) formed on the weekend of Bermuda Day 2020. It emerged in response to the uprising that started in the United States after the murder of George Floyd, and the international call to dismantle oppressive systems of injustice and racism. As communities around the world leveraged the energy of the Black Lives Matter movement in America to examine social justice issues close to home, a group of Bermudians were inspired to do the same. To think globally and act locally. SJB became a beacon for purposeful action in a time of excruciating tumult.

Social Justice Bermuda is a non-hierarchical collective of Bermudians with no political affiliation. In June 2020, SJB coordinated several public events in protest to the political appointment of Leandro Rizzuto Jr. as United States Consul General for Bermuda. As a representative shared, 'Over the past year, our dedicated group of volunteers have been vocal advocates on several issues including criminal justice, education, food security and healthcare. As well we have been hosting online discussions, issuing press statements, meeting with community and political leaders, and conducting research towards the development of policy papers. There is much more work to do, and we continue to be inspired by Bermuda's long history of activism.'

PHOTOS COURTESY OF MEREDITH ANDREWS



MARY PRINCE DAY

JULY

The island celebrated its inaugural Mary Prince Day on 31 July 2020 with the renaming of Devonshire Bay Park to Mary Prince Emancipation Park. Born in 'Brackish Pond', Devonshire, this significant renaming was heralded by the Minister of Community Affairs and Sports, "This site not only reflects her connection to Devonshire, but the park's access, central location, tranquillity and proximity to the ocean, facing south, is an acknowledgement of the parts of her life spent in the Caribbean."



Mary Prince's autobiography, 'The History of Mary Prince', published in 1831, is a first-hand account of the brutality of slavery in Bermuda. This seminal text is recognised as adding impetus to the emancipation movement throughout the former British Empire. The renaming of the park offers a poignant remembrance of Bermuda's ongoing emancipation from the legacy of enslavement and the extraordinary examples of activism that continue to shape Bermuda.

I AM OFTEN MUCH VEXED, AND I FEEL GREAT SORROW WHEN I HEAR SOME PEOPLE IN THIS COUNTRY SAY, THAT THE SLAVES DO NOT NEED BETTER USAGE, AND DO NOT WANT TO BE FREE,

They believe the foreign people, who deceive them, and say slaves are happy. I say, Not so. How can slaves be happy when they have the halter round their neck and the whip upon their back?

Thought no more of than beasts and are separated from their mothers, and husbands, and children, and sisters, just as cattle are sold and separated.

This is slavery. I tell it, to let English people know the truth; and I hope they will never leave off to pray God, and call loud to the great King of England, till all the poor blacks be given free, and slavery done up for evermore.

ALL SLAVES WANT TO BE FREE, TO BE FREE IS VERY SWEET
MARY PRINCE





AUG

PRIDE BERMUDA

Pride 2020 was a stark contrast to the inaugural 2019 Pride event with its jubilant outpouring of public celebration; however, it was no less significant. The convening was held on 8 August, marking the seventh anniversary of the amendment to include 'sexual orientation' in the Human Rights Act, 1981. The Commission was honoured to participate in an evening of socially-distanced reflection with featured speakers from OUTBermuda and Citizens Uprooting Racism in Bermuda. The Bermuda Pride organisers opened the conversation around what it means for Black lives to matter in Bermuda, particularly the importance of the BLM movement for LGBTQI+ black and brown people. As the organisers stated, 'Against the backdrop of the pandemic, the "We Belong" theme from 2019 is even more relevant, highlighting the need for empowerment for LGBTQI+ folk to act, both individually and collectively, to make things better in our home.'

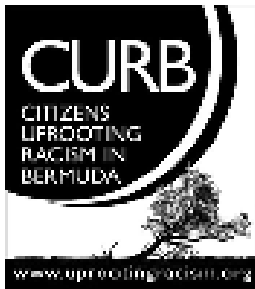
The Executive Officer's remarks emphasised the significance of the 2013 amendment in reinforcing the intersectional nature of rights protection, 'The inclusion of sexual orientation as a protected ground strengthened legal remedies not just for the LGBTQ+ community but all protected categories. The expanded protection enhanced Bermuda's human rights framework as a whole and fortified our stated commitment to the fundamental rights and freedoms of all members of our community.'



THE COMMISSION IS GRATEFUL TO BERMUDA PRIDE FOR THE INVITATION TO REFLECT, AND TO REMEMBER THAT THE PATHWAY TO PROGRESS IS NEVER LINEAR. THE ARC OF SOCIAL CHANGE AND TRANSFORMATION IS BARBED AND UNCERTAIN, BUT ESSENTIAL TO REALISING A JUST FUTURE FOR ALL.

FACED WITH A COLLECTIVE FORGETTING, WE MUST FIGHT TO REMEMBER.

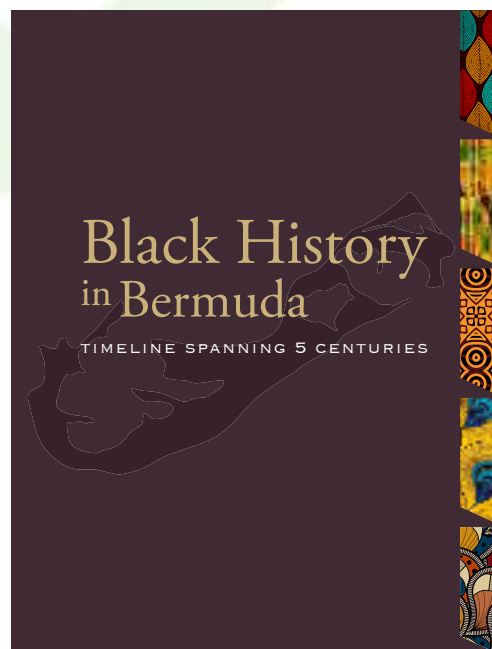
RENI EDDO-LODGE



BLACK HISTORY IN BERMUDA: TIMELINE SPANNING 5 CENTURIES

SEPT

The Commission partnered with Citizens Uprooting Racism in Bermuda (CURB) to produce the Black History in Bermuda Timeline. The absence of substantive Black history in most published literature, educational curricula and texts readily available in Bermuda and the educational system was the impetus for creating this public resource. **Contemporary books by Black historians and academics continue to fill a massive research void left by earlier historians who focused on select descriptions of Bermuda's colonial history while omitting and thus erasing the Black narrative.** The timeline sought to collate research and references, primarily sourced by Black historians, in an accessible format. **This timeline is intended to be an evolving resource that will benefit from additional contributions from researchers, historians and knowledge-bearers.** The public is encouraged to contact CURB to share additional contributions. The publication is dedicated to the life and racial justice advocacy of Dr. Eva Naomi Hodgson.



EDUCATION AND ENGAGEMENT

Annual Report 2020

NOV

INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN

The Executive Officer participated in a roundtable facilitated by Government House to examine the impacts of the pandemic on women and families in Bermuda. Data published by UN Women early in the COVID-19 outbreak revealed that gender-based violence, particularly domestic violence against women and girls, had intensified worldwide. The pandemic and resulting public health restrictions have heightened economic and social vulnerabilities and led to increased isolation and dependence, with devastating consequences. This hit close to home with the disappearance and suspected murder of Chavelle Dillon-Burgess, a young mother who went missing on 11 April 2020 and remains missing at the time of this report. Community advocates joined forces with the Bermuda Police Service to bring 'Justice for Chavelle' and called for Bermuda to work together to target the culture of impunity, discrimination, shame and silence that continues to uphold gender-based violence. Safe Space Bermuda was founded in Chavelle's name.

Safe Space Bermuda is a charity dedicated to assisting domestic violence and abuse victims and their children by turning fear into safety, helplessness into strength, and isolation into hope.
<https://www.facebook.com/SafeSpace.BDA>

Women's Resource Centre: www.wrcbermuda.com

Centre Against Abuse: 24-hour hotline: 441-297-8278
www.facebook.com/CentreAgainstAbuse

Family Support Family Centre Bermuda: 232-1116

**Vulnerable Persons Unit of
Bermuda Police Service:** 211



Safe Space Bermuda

End the silence build an alliance

HUMAN RIGHTS DAY: 'RECOVER BETTER, STAND UP FOR HUMAN RIGHTS'

The annual 10 December commemoration fell just as Bermuda was grappling with a resurgence in COVID-19 cases and associated restrictions under the Emergency Powers (COVID-19 Shelter In Place) Regulations. The United Nation's 2020 theme of 'Recover Better', focused on the urgent need to embed human rights considerations in all responses to the pandemic in order to build a better, more resilient world for all. The sharp failures exposed and exploited by COVID-19 reinforced the need to reimagine and fortify efforts to tackle systemic, inequalities, exclusion and discrimination.

The spirit of advocacy invoked by the events of the year inspired a new initiative to support women and girls, and the Executive Officer attended a socially distanced community event at Government House to celebrate its launch.



Panel moderator and participants: Maya Palacio, McKenzie-Kohl Tuckett, Malay Robinson and Christianna Warren

Video Link featuring United Nations High Commissioner for Human Rights Michelle Bachelet: https://www.youtube.com/watch?v=7nY2NrJLlk&feature=emb_imp_woyt



HUMAN RIGHTS GUIDANCE

While the Commission is a complaints-handling authority, it also serves as a public resource to support understanding of human rights obligations and compliance with the Human Rights Act, 1981. Against the uncertain terrain of the pandemic, the Commission also worked with stakeholders to consider the potential disproportionate impacts of COVID-19 on the diverse individuals and groups that they employ or serve. Stakeholders across the public and private sector sought guidance on a variety of issues including racial justice, disability and reasonable accommodations, mental health, and inclusive workplace practices to protect against discrimination and harassment. Educational engagement was largely limited to virtual or teleconferencing due to COVID-19 protocols.

A few examples of guidance over the past year include*:

Organisational Practices: The Commission consulted with a large service provider to address concerns about specific practices that may result in discriminatory and harassing treatment of some of their service users. The extensive consultation allowed for a balanced review of the issues, with the Commission reinforcing the duty of employers and service providers to address the potentially discriminatory impact, irrespective of intent, of policies and practices on their diverse employees, community or service users. The Commission provided recommendations related to inclusive organisational practices to assist in the elimination of potential harassment or discriminatory conduct.

Programme and Policy Development: The Commission supported a membership body in their initiative to encourage members to establish mental health strategies in the workplace. The Commission joined a panel to address the importance of integrating mental health as an organisational priority. Members were encouraged to align workplace policies with relevant practices with their organisation to support mental health promotion and to identify and promote reasonable workplace accommodations.

Presentations: Organisations relied upon virtual engagement not just for training and development, but to create platforms for employees to process pertinent issues facing the workplace and the wider world. The Commission joined a panel to discuss the

Black Lives Matter movement and its significance for Bermuda. The organisation sought to offer their employees' space to share their diverse experiences and learn more about Bermuda's history of race and racism. Employees were invited to review internal policies and practices to support anti-discrimination and equity initiatives. The team also generated ideas for contributing to racial justice efforts on the island as part of the company's corporate citizenship commitments.

Legislative and Policy Development: States have the legal responsibility to protect and promote human rights and ensure that people can realise their rights without discrimination. Incorporating human rights standards into policy and legislation development is vital to ensuring compliance and integrating rights considerations into national decision-making mechanisms. Government is an essential stakeholder in upholding domestic and international human rights obligations. The Commission consulted with a range of Government Departments throughout the year, providing recommendations to support compliance and best practice. Implementing a human rights framework became crucial as the Bermuda Government sought to navigate the balance between protecting public health and safety with safeguarding civil liberties, human rights and individual needs.

Networking and Knowledge Exchange: In one of the last in-person visits before the public health restrictions were implemented, the Commission welcomed Mr. Adam Pile, Deputy Director and Head of the Caribbean and Southern Oceans Department, and Mr. Paul Scullion, Legal Adviser of the Foreign and Commonwealth Office (FCO). Hosted by Government House, the consultation was an opportunity to learn more about the FCO's role and responsibilities across the region and to continue to dialogue on rights issues facing Bermuda.

** Confidential consultation and engagement can allow for frank dialogue to strengthen understanding of and compliance with the Human Rights Act, 1981 and help prevent potential violations of the law. The Commission emphasises that consultations do not replace or represent formal legal advice.*

TRAINING AND DEVELOPMENT

Given the dynamic sociocultural realities facing the island, rights protection and promotion is an evolving field. As representatives of Bermuda's National Human Rights Institution, Officers are committed to advancing their skills and awareness of the local and international human rights landscape, as well as ensuring administrative efficacy to optimise responsible and impactful service delivery.

Osgoode Hall Law School Certifications: Officers Treadwell Tucker and Erlene Postlethwaite both achieved certifications in 'Human Rights Theory and Practice' from the Osgoode Hall Law School at York University in Canada. Designed to be hosted at the University's campus, the pandemic forced a pivot to online engagement with Officers participating in a 5-day virtual intensive with human rights practitioners from around the world. Despite being limited to virtual interaction, Officer Tucker reflected, 'It is always interesting to see that despite the huge variation in scale and cultural or geographical experiences, the fundamental challenges of addressing human rights violations as national human rights institutions are largely the same.' The practical curriculum was developed to assist human rights and human resource personnel in assessing, balancing and resolving human rights issues. The programme addressed the complexities and challenges involved in interpreting and applying human rights legislation and provided a forum for participants to share their experiences.

Team Forward Planning and Performance Indicators: Officers participated in virtual planning sessions to reflect upon organisational successes, current challenges, opportunities for improvement, and to capture organisational goals and priorities. Along with other Non-Ministry Offices, the Commission participated in workshops, facilitated by the Management Consulting Services, in support of the operational objectives of the Commission. The workshops provided Officers the opportunity to consider redefining performance metrics from outputs to outcomes. Performance metrics are recognised amongst Officers as a powerful motivator to see their direct effect on performance and upon which they derive considerable personal purpose from working for the common good. Officers identified measures to enhance performance reporting aimed at steering the Commission towards the achievement of strategic priorities and the implementation of indicators to highlight areas for improvement or where there has been deterioration of human rights observances in Bermuda.

Annual Report 2020

Budgetary Practices: The Office continued to enhance and streamline its fiscal management processes including the identification of several new performance measures during this budget cycle while transitioning the entire financial management function into a paperless environment. These efforts reinforced the objective of strategically improving the efficiency, efficacy, and effectiveness of the Commission.

Sharpening the Saw: The transition to digital platforms for training and development in the workplace improved access for some while providing cost-saving and expanded learning opportunities. The Commission's Officers participated in a wide range of local and international webinars and presentations focused on examinations of Bermuda's history, racial justice, human rights implications of COVID-19, mental health, together with capacity building guidance.

TEAM SPIRIT!

Through the startling experience of 2020, the Human Rights Commission team sought to optimise the accessibility of our services to the public, while modeling a safe and supportive work environment.

BPSU Christmas Hamper: The team welcomed the chance to support the Bermuda Public Service Union's annual Christmas Hamper Food Drive which provides for families throughout the community over the holiday season.



Paperless Environment: In 2020, the Commission made the successful leap to a paperless processing environment strengthening security protocols, ensuring data integrity, and improving cost-saving measures and decreasing waste. This essential exercise was well underway when the work from home mandate was enacted, which enabled a more efficient transition to the remote working environment.



Communing and Zooming: The team worked together with the expertise of Officers within the Department of Information and Digital Technology to limit disruption to services in the transition to work from home. We sought to foster fellowship where possible, offering encouragement and understanding in recognition of the distinct circumstances facing each team member.

APR

LEGISLATIVE UPDATES

The Human Rights Act, 1981 (Act) received minor amendments by way of section 11(l)(iii) of the Computerisation and Revision of Laws Act 1989. Amendments were made to section 13B(2) and section 18(1A) of the Act and the purpose of the amendment was to resolve the two remaining references within the Act to “the department responsible for Human Rights” to further align the Human Rights Act, 1981 with the responsibilities of the Office of the Human Rights Commission in light of its status as a Non-Ministry Department.

CORONAVIRUS PANDEMIC

In April 2020, the coronavirus (COVID-19) pandemic created a global crisis which directly impacted the population of Bermuda. In response, the Governor, in consultation with the Premier, took action by passing a “shelter in place” order to slow the spread of the disease. Although this was an extraordinary exercise of the Governor’s power, in that it temporarily curtailed residents’ rights to freedom of movement and assembly as guaranteed by the Bermuda Constitution Order 1968 (Constitution), the Office of the Human Rights Commission (Commission) was of the view that the actions taken by the Governor at that time were expressly permitted by the Constitution and were appropriate in the circumstances.

HRC: Protect the Vulnerable

The Human Rights Commission had concern that the homeless, abuse victims and people with mental health challenges were among those most at risk from changes to the law to limit freedom of movement to combat COVID-19. The Commission was available to provide guidance and work with the Government, industry associations, businesses and individuals in accordance with our statutory mandate. The exercise of powers by Government officials under the emergency coronavirus legislation needed to be in alignment with human rights principles and the Commission undertook an independent review of the legislation from this perspective.

What this means for residents of Bermuda?

The Government’s emergency coronavirus legislation has been designed to protect those in vulnerable situations and safeguard our future. Such measures have significant implications for all of us, however it is particularly important to consider carefully the specific impacts they may have on groups who are already disadvantaged in other ways.

Within our community, there are individuals living in shelters, on the street or at risk of homelessness, adults and children seeking refuge from domestic violence, persons with disabilities and those with health conditions, individuals with mental health issues, older individuals living alone or in care facilities, and individuals in correctional institutions. There are individuals who are disproportionately in low-paying, hourly-wage, benefit-free and otherwise precarious jobs that make them unable to provide care for their families or interrupt their work. They are also more likely to have limited access to stable healthy housing, child care, transportation and health insurance. As a society, we must ensure that they are not forgotten or ignored.

Human rights provide a clear and practical framework to help our leaders – within the Government, trade and industry associations, charities and businesses – determine what are reasonable restrictions and what are not, ensuring they can navigate the delicate balance between protecting public health and safety (including the need to address evidence-based risks associated with COVID-19) and safeguarding our vital freedoms, human rights and individual needs.

AMENDMENTS TO PARLIAMENTARY ELECTION ACT 1978

On 27 July 2020 the Parliamentary Election Amendment Act 2020 (the Act) was assented to and came into operation on the same day. This important amendment has expanded the right to vote in several significant areas.

1. Tactile Audio Devices Adopted for Elections

According to the 2010 Census, 2371 persons in Bermuda were identified as vision-impaired; that is, having difficulties in seeing even when wearing corrective lenses. A significant portion of this population consists of potential voters who, although entitled to exactly the same rights as others to cast their ballot in secrecy, are unable to see the ballot paper and are therefore unable to exercise their voting rights in the same way as other citizens.

Vision Bermuda (formerly the Bermuda Society for the Blind) has spent the past three years collaborating with the Parliamentary Registrar's Office to enable the vision-impaired or blind to make their mark for the candidate of their choice without assistance. This collaboration culminated in the development of a Tactile Audio Device (TAD) which has been specially designed to be used along with an audio labelling device. Using the TAD, any vision-impaired or blind voter is able to use their sense of touch and of hearing to mark the candidate of their choice. How this works is that each candidate is represented by a label and a cut-out square. When the audio labelling device touches the label, the name of the candidate is announced and voters are then able to make their mark in the corresponding cut-out square once they hear the name of the candidate they wish to select.

The TAD was tested for accuracy, usability, and privacy and the results show that 100 % of those using the TAD for the first time successfully marked their ballots as they had intended. The users also found the TAD audio labelling device user-friendly and that they were able to cast their vote without assistance.

The new amendment alters Section 52 of the Act by allowing any vision-impaired or blind voter to make application to vote using the TAD and to enable such ballot to be marked and placed in the ballot box without revealing the choice of candidate to anyone, including to electoral officers. Previously, vision-impaired and blind voters required an officer to oversee them as they marked their ballot to ensure that it was not spoiled. Although the intention was to ensure that the voter was not prevented from exercising their right to vote by inadvertently spoiling their paper due to their disability, this was neither ideal nor independent.

Vision Bermuda is thrilled that its collaboration with the Parliamentary Registrar's Office has resulted in a method of voting that is both independent and private that enables the vision-impaired and blind to vote just the same way as everybody else does.

Prior to last year's General Election, vision-impaired and blind voters were reassured, in case they were apprehensive about using this new technology, that Vision Bermuda offered training sessions leading up to the General Election. In addition, Returning Officers were on hand at polling stations to provide any guidance that may have been required.

What this means for residents of Bermuda

This roll-out of TAD and the accompanying legislative amendments are a milestone for Bermuda. There are no other similar devices provided to visually-impaired or blind voters in either the United States or United Kingdom (other than a polling machine that allows people to vote independently and in private).

Vision Bermuda would like to encourage all those who feel they would benefit from using the TAD to register for it prior to the next election. In addition, the Parliamentary Registry website (www.elections.gov.bm) contains a webpage explaining the use of the TAD as well as the Sighted Assistance that will be available to them on polling day.

2. Parolees' Vote

The Act has also been amended so as to grant those out on parole the right to vote. In Bermuda, those individuals who are incarcerated do not generally enjoy the right to vote, because voting is considered to be one of the rights and privileges of those who live among society and in a community, which incarcerated persons have forfeited for the period of their incarceration. Prior to the amendments, a parolee still did not enjoy the right to vote until the expiry of their full sentence, even though they had retaken their place in the community. This amendment now entitles those out on parole to vote in all elections.

What this means for residents of Bermuda

Extending the right to vote to parolees is part of the overall expansion of the right to vote. Parolees have served part of their sentence and are out on licence, living back in the community. This amendment allows these individuals to integrate into society more readily and enables them to feel part of the community by granting them back one of their forfeited privileges which had previously been denied.

3. Advance Polls: Travellers

Previously, voters that expected to be away on Election Day had to apply to the Registrar of Elections in advance to be able to vote. After the new amendment to section 40 of the Act it is now possible for any voter who is registered on the final Register of Electors for any given Parliamentary Election and who intends to be absent from Bermuda or to travel to or from Bermuda on that day to become eligible to vote in an Advanced Poll for Travellers. Such voters will of course need to prove their intended absence from Bermuda or their travel plans on Election Day, but need no longer register in advance: all they have to do is simply turn up at the polling station to vote in advance with the correct documents. Upon arrival they will have to produce a valid photo ID as well as a hard copy of their confirmed airline ticket/reservation. Voters intending to make use of this Advanced Polling for Travellers must ensure that they keep their own hard copy of the confirmed airline ticket as the Electoral Officers will be keeping the hard copy that is brought along. Please also note that 'soft copy' or cell phone photos of any airline reservations are not acceptable: you must print and provide these in hard copy at the polling station.

What this means for residents of Bermuda

In the past, travellers had to take their proof of travel to the Registrar days before the Advanced Poll and they would then receive a certificate. On the Advanced Polling day, they would take this certificate along with them to cast their vote. This process has now been simplified: voters need only bring along their photo ID and hard copy of airline reservations with them to the Advanced Poll. Provided that these documents are valid and in order, they will be issued a certificate on site and allowed to vote immediately. Travellers need not be concerned that their right to vote will be affected by their travel plans.

4. Advanced Poll: Residential Votes

A new provision has been inserted into section 40 of the Act that allows a registered voter who has been certified by a medical practitioner to be prevented from leaving their place of residence to attend an Advanced Poll by reason of any illness, infirmity or disability, to apply to be registered as such. If the Registrar is satisfied, the person may then record his or her vote at home on a date designated by the Registrar prior to Election Day.

A further general provision was inserted dealing with *"exceptional circumstances...in the interests of public health or safety"* to designate other categories of voters (for example seniors or those whose possible exposure to COVID-19 might pose a serious risk to their health or wellbeing) to vote in the Advanced Poll.

This amendment was effected during the height of the pandemic in 2020 but well in advance of the General Election in November 2020, in an attempt to reassure seniors and to reduce any risks to their health and wellbeing.

What this means for residents of Bermuda

This option had been considered and subsequently included in the legislative amendment, after the Government consulted with the Parliamentary Registrar and health officials and concluded that this would be the best way in which to balance the exercise of voting rights with the exercise of caution. The major benefit of this was seen in that there were significantly fewer people at polling stations on Election Day, in keeping with social distancing requirements, and this also enabled officials to give assistance to seniors at the Advanced Poll.

LEGAL MATTERS



BRITISH COLUMBIA'S OFFICE OF THE HUMAN RIGHTS COMMISSIONER

The Office of the Human Rights Commission wishes to highlight British Columbia's Office of the Human Rights Commissioner, which is Canada's first fully independent human rights commission. The human rights commission in British Columbia was previously dismantled in 2002 and throughout that period of time, British Columbia was the only province in Canada without a human rights commission.

Following a thorough consultation, the *Human Rights Code Amendment Act, 2018*, established the Office of the Human Rights Commissioner, which received royal assent on November 27, 2018. The British Columbia Office of the Human Rights Commissioner operated for its first full year in 2020 after the appointment of Human Rights Commissioner, Kasari Govender on September 3, 2019.

The establishment of the British Columbia Office of the Human Rights Commissioner occurred in line with the consultation report recommendations and the international criteria such as the *Paris Principles*, which define the benchmarks for human rights institutions, the following values were incorporated into the new British Columbia human rights commission:

- Mandate and competence: a broad mandate, based on universal human rights norms and standards;
- Autonomy from government;
- Independence guaranteed by statute or constitution;
- Pluralism;
- Adequate resources; and
- Adequate powers of investigation.

The re-establishment of the human rights commission and the appointment of the Human Rights Commissioner have changed the justice landscape in British Columbia. Efforts remain ongoing to restore and invigorate a key access to justice instrument for those who encounter discrimination or a violation of their rights and dignity.

[HTTPS://BCHUMANRIGHTS.CA](https://bchumanrights.ca)



Privacy Commissioner
Bermuda



WELCOME PRIVACY COMMISSIONER

The Human Rights Commission welcomes the appointment of Bermuda's first Privacy Commissioner, Alexander M. White, as of January 2020. With the appointment of the Privacy Commissioner, Bermuda's Personal Information Protection Act 2016 (PIPA) is anticipated to be fully enacted in short succession. The Office of the Privacy Commissioner is integral to Bermuda's continued advancement of rights in the current world climate as an international jurisdiction. With the enactment of the European Union's GDPR (General Data Protection Regulation) in 2016 providing all European Union member states with equal privacy rights, Bermuda similarly created PIPA in 2016. Now that the Privacy Commissioner has been appointed we look forward to witnessing the full enactment of PIPA and the furthering of privacy rights in Bermuda.

WWW.PRIVACY.BM

ACCOUNTABILITY IN ACTION

This section of our Annual Report addresses the accountability of the:

- Bermuda Government;
- Governor of Bermuda, as a representative of Her Majesty's Government;
- Executive Officer and technical public officers employed by the Commission;
- Human Rights Commissioners appointed to the Commission on a fixed term basis; and
- statutory Selection and Appointment Committee responsible for the selection and appointment of Human Rights Commissioners

For the governance and staffing of the Commission;

For the effectiveness of human rights recognition, advocacy and enforcement in Bermuda, in accordance with the *Paris Principles*;

For funding and expenditure in connection with the remuneration of Commission members and the operation of our organisational structure.



APPOINTMENT AND ACCOUNTABILITY PRACTICES

The Governor, acting upon the recommendation of the Premier of Bermuda, appoints the Minister responsible for human rights. Furthermore, the Governor, acting upon the recommendation of the Public Service Commission, is empowered under the Act to appoint the Executive Officer to the Commission.

The Minister responsible for human rights

The Minister with responsibility for human rights represents the elected Bermuda Government's interests and policy objectives to the Commission and the international community. The Commission considers those interests and objectives in advancing its own independence and long-term goals for the adoption of human rights standards in Bermuda.

The Commission is responsible to the Minister for the administration of the Act however the State remains responsible for the adherence to international human rights standards and obligations, as enshrined in the conventions and other legal instruments extended to Bermuda.



Selection and Appointment

Selection and Appointment Committee

A statutory Selection and Appointment Committee (Committee) is responsible under the Act to invite applications from the general public to serve on the Commission as Commissioners, review all applications, interview applicants and appoint candidates to serve as Commissioners for fixed three year terms. This public application process was implemented in 2012, following the advocacy of the Commission to implement a more open and inclusive process for Commissioner appointments and to replace the former model of Ministerial appointments.

In September 2018, Nadine Francis was appointed as the Head of the Selection and Appointment Committee by the Hon. Lovitta Foggo JP, MP, who was the Government Minister with responsibility for human rights issues at that time. The other members of the Committee responsible for the appointment of the current set of Commissioners are: Linda Foggo Franks, Willie Ferguson, Dean Williams and Mr. Lorren Wilson.

ACCOUNTABILITY

The Executive Officer and Accounting Officer

The Executive Officer

The Executive Officer is the Head of the Department under the Public Access to Information Act, 2010 (PATI) and the Accounting Officer under the Financial Instructions issued by the Minister of Finance. The Executive Officer is responsible for (i) the full oversight of all human resources functions involving technical public officers, (ii) the strategic development and execution of the Commission's interpretation of human rights enforcement, education and advocacy mandates, (iii) oversight of programmes internal to the Commission for the intake, investigation, and mediation of human rights complaints, involvement in Court proceedings and wider education and communication opportunities with the public, (iv) expenditure by the Commission as the Accounting Officer for the Commission and (v) correspondence with any representatives, inclusive of those from the elected Bermuda Government and the UK Government.

The Executive Officer is intended to submit reports solely and directly to the Commission through the Chairperson. This accountability practice was approved on 1 April 2015 to bolster the Commission's independence from both the Bermuda Government and Government House.

Previously, the Executive Officer had a dual reporting obligation to both the Chairperson and the Director of Human Affairs. This dual reporting responsibility was in force for over three (3) decades, from the inception of the Commission in 1982 to the 31 March 2016.

Once Commissioners have been appointed by the Committee, the Office of the Commission is responsible for on-boarding the appointees. In practice, the Executive Officer shepherds the various sets of the Commissioners through their fixed terms at the Commission, arranges training and, where appropriate, facilitates the provision of legal advice from external service providers for the Commissioners.

Financial Accountability

Accounting Officer

Lisa Reed was appointed by the Governor on 1 March 2010 as the Executive Officer of the Commission and has served as the Accounting Officer for the Non-Ministry Office since her appointment.

In delivering this role, the Executive Officer is supported by the Accountant General, the Non-Ministry Comptroller, the Director of Project Management and Procurement, and the Director of Internal Audit who operate independently of the Commission.

IN ACTION

The Department of the Accountant General has responsibility for the administration of the Consolidated Fund which is audited annually by the Office of the Auditor General. The Commission receives a budget allocation from the Legislature out of the Consolidated Fund on an annual basis. The Non-Ministry Comptroller provides advice on strategic planning, budget processes, financial and managerial accounting as well as internal controls for the office.

The Office of Project Management and Procurement provides guidance to public authorities regarding project management and procurement activities to ensure that contracts are awarded to providers of goods and services based on the principles of transparency, competition and the use of objective criteria in decision making.

The Department of Internal Audit is classified as a Non-Ministry Office and provides, amongst other things, reasonable assurance that persons entrusted with public funds carry out their functions effectively, efficiently, economically, ethically, equitably and in accordance with international standards for the professional practice of internal audit.

What is an Accounting Officer?

This role is assigned to an officer of a department or office whom the Minister of Finance regards as responsible for the custody and control of funds appropriated by the Legislature and for the collection of revenues due to that department or office.

In delivering this role, an Accounting Officer has responsibility for maintaining a sound system of internal control that supports the delivery of policies, aims and objectives, whilst safeguarding the public funds and assets.

Statement of Accounting Officer's responsibilities

The responsibilities of the Accounting Officer of the Commission including keeping proper records of expenditure of the budget funding allocation received by the Commission from the Legislature. At 31 March of each fiscal year, our Accounting Officer is required to certify that balances on the accounts in our office are correct and provide a reconciliation of those balances to supporting documentation.

The Legislature approved the Commission's Operational Budget for the 2020/21 fiscal year at \$1.26M. Performance reports are issued by the Executive Officer on a quarterly basis and are available to the public as may be requested.

ACCOUNTABILITY

2019 – 2021 Body of Commissioners

On 24 February 2019, the statutory Selection and Appointment Committee (Committee) confirmed its appointment of to the Commission of the 2019-2021 set of Human Rights Commissioners.

In accordance with section 13(1A) of the Act, one third of the persons appointed by the Committee could be in possession of a legal qualification and knowledge of human rights law. The Chairperson is required by the Act to possess these qualifications and be a member of the Bermuda Bar in good standing.

The 2019 – 2021 body of Commissioners appointed by the Selection and Appointment Committee are:

Chairperson | Vaughan Caines

Member of the Bermuda Bar in good standing in accordance with section 13(1A) of the Act.

Deputy Chairperson | Ed Ball Jr.

General Commissioners

Rajeev Goonewardene | Mary Lodge | Charleda Mahon Gibbons
James McCulloch | Kai Musson | Ravi Pachai | Alex Potts | Cristen Seuss
Jessica Steede | Stacey-Lee Williams

IN ACTION

Challenges to Independent Governance and Achieving Mandate

Legislative Amendments

In recent years, much of the Commission's focus on amendments to the Act has been spent on continuing to identify gaps in protection and planning for the further development of statutory protections. Expansion of the protected categories, inclusive of age in the area of employment and protection from discrimination by association are some of the areas identified by the Commission as recommendations to the Government of Bermuda.

THE BOLSTERING OF CAPACITY AND AUTONOMY BETWEEN 2012-2020 NOW ENABLES THE COMMISSION TO PROPERLY SET AN ACHIEVABLE OBJECTIVE FOR THE COMPLETION OF A FULL INDEPENDENT REVIEW OF THE ACT, ACCOUNTABILITY PRACTICES AND THE COMMENCEMENT OF OUR ACCREDITATION PROCESS WITH GANHRI BY THE END OF 2022.

Challenges raised by the statutory Selection and Appointment Committee

In March 2019, the statutory Selection and Appointment Committee (Committee) determined that there was no procedure in the Act for the Committee to make decisions pertaining to the removal of Commissioners for any reason other than death. This procedural gap was deemed to undermine the expectation that Commissioners be accountable for their conduct during their appointment to the Commission. The Executive Officer is of the view that this procedural gap needed to be rectified in accordance with good governance standards.

The Committee determined it would advise the Minister responsible for human rights to propose recommendations for legislative amendments to the Act to effect a procedure to remove Commissioners who had:

- inappropriately served or advocated their law firm or employer's interests in the course of carrying out their duties as a Commissioner;
- used the Commission for the purpose of self-promotion;
- breached confidentiality standards; or
- engaged in criminal behaviour.

In the final quarter of 2019, challenges involving possible breaches of confidence by one or more members of the 2019-2021 set of Commissioners caused the Committee to reaffirm their view that the Act did not empower the Committee to perform the removal of individual Commissioners or a full set of Commissioners.

Challenges raised by a Respondent to a Human Rights Complaint

In the final quarter of 2019, the Commission become involved in the early stages of civil proceedings before the Supreme Court of Bermuda.

These proceedings were initiated by a respondent to a human rights complaint seeking the judicial review of the decision to appoint Commissioners to determine that complaint in circumstances where the complainant is receiving financial assistance from the Commission pursuant to Section 18(1A) of the Act. The respondent has sought the quashing of that decision and declarations from the Court to the effect that the Act is inconsistent with Commissioners sitting on tribunals.

To date, the Commissioners' performance as members of the tribunal has been considered by the Commission as part and parcel of their statutory functions as appointees and has not been the subject of judicial scrutiny. These judicial review proceedings, however have caused the Commission to consider the involvement that Commissioners can have in the adjudication of human rights complaints which the Executive Officer has referred to a tribunal.

At the date of the publication of this Annual Report, all on-going tribunals have been suspended to avoid wasted costs and the civil proceedings remain on-going before the Court.

ACTIVISM IS...

‘ACTIVISM IS NOT ISSUE-SPECIFIC.

**IT’S A MORAL POSTURE THAT, STEADY STATE,
PROPELS YOU FORWARD, FROM ONE HARD
HOUR TO THE NEXT.**

**BELIEVING THAT YOU CAN DO SOMETHING
TO MAKE THINGS BETTER, YOU DO**

SOMETHING, RATHER THAN NOTHING.

**YOU ASSUME RESPONSIBILITY FOR THE
PRIVILEGE OF YOUR ABILITIES.**

YOU DO WHATEVER YOU CAN.

**YOU REACH BEYOND YOURSELF IN YOUR
IMAGINATION, AND IN YOUR WISH FOR
UNDERSTANDING, AND FOR CHANGE**

**YOU ADMIT THE LIMITATIONS OF INDIVIDUAL
PERSPECTIVES.**

YOU TRUST SOMEBODY ELSE.

YOU DO NOT TURN AWAY.’

JUNE JORDAN

In Remembrance DR. EVA HODGSON, OBE

The Human Rights Commission joined Bermuda in mourning the passing of Dr. Eva Naomi Hodgson. We expressed our condolences to her family, together with our immense gratitude for her exceptional example.

Dr. Hodgson devoted her brilliant mind, tenacity and courage to the pursuit of racial justice.

As Premier David Burt shared in his tribute, ‘In clear and unmistakably honest terms, Dr. Hodgson told the story of Bermuda and the impact of its tortured history of race relations and economic inequality. She was devoted to enlightening and inspiring generations of Bermudians to not repeat the mistakes of the past but to strive for a better society in which race was no barrier to success.’

Dr Hodgson’s academic and literary achievements were vast. She was educated at Queen’s University, where she received her undergraduate degree, followed by her Diploma in Education and an Honours degree in Geography from London University. Dr Hodgson also studied at Columbia University completing two Master’s Degrees and her PhD in African History and Black American History. She taught at The Berkeley Institute and was the first President of the amalgamated

Bermuda Union of Teachers. She was an acclaimed author whose works examined Bermuda’s political and social conditions from its settlement to current day. Her pointed ‘Letters to the Editor’ detailing Bermuda’s experiences of racism, and her anti-racism efforts inspired the founding of the Commission for Unity and Racial Equality (CURE) in 1998, which was amalgamated with the Human Rights Commission in 2010.

It is Dr. Hodgson’s advocacy and adamant courage in pursuit of racial justice that is her greatest legacy.

Regardless of her personal or political affiliations, she was unflinching in holding to account those who failed to advance the cause of racial equality, whether organisations, governments or individuals. This condemnation was neither personal nor petty; it was rooted in the urgent recognition that racism is the scourge of our time. The impact on Black Bermudians and the Bermuda community as a whole was simply too great to allow it to be excused and maintained without challenge. She used all the tools at her disposal to educate and enlighten, to condemn and critique. No matter the cost.

No one can know the full extent of the private and professional toll it took to pursue justice with the steadfast integrity

Dr. Hodgson applied for over 80 years. She set the standard for speaking truth to power, even in the face of frequent and pervasive vilification. Over the years, her consistent advocacy saw her publicly targeted and maligned as a so-called ‘troublemaker’. **Dr. Hodgson was committed to elevating the national consciousness, despite ridicule and resistance.**

Those fortunate enough to have known Dr. Hodgson speak of her sharp wit and humility. Her formidable mind greeted you first, but it was her endless curiosity that drove her engagement, even more so when met with opposing or challenging perspectives. She was present and generous in conversation, believing she could learn from and with those around her, despite the scale being so obviously tipped in the other direction!

As alternative platforms opened up for engagement, Dr. Hodgson’s style of advocacy evolved, but the fundamental principles of her education remained alarmingly relevant through the years. **It is bittersweet that her work, undervalued and even condemned during most of her life, is now widely heralded as a fundamental lynchpin in deconstructing Bermuda’s experience of racism and informing Bermuda’s racial justice framework.**

**9 OCTOBER 1924
TO 29 MAY 2020**

We lost Dr. Hodgson in a year defined by the Black Lives Matter movement and a global call to dismantle the structural inequalities laid bare by the pandemic. It was a poignant occasion when just days after her passing, over 7000 Bermudians converged in solidarity with the world to confront the anti-Black racism she dedicated her life to addressing. The conversations Dr. Hodgson had been urging us to hold for decades entered the national discourse in a distinct way. Was this the racial justice reckoning Dr. Hodgson envisaged? Might she have felt some relief at complacency being shed? Or in her judicious fashion, would she recognise it as a galvanising moment to be channelled into staying the course and remaining vigilant in our efforts?

Dr. Eva Naomi Hodgson was a remarkable advocate whose contributions to racial justice will influence the liberation of generations to come. We are grateful for the chance to honour her legacy, and rise to the challenge she always knew was ours to face: to *understand* racism, and to do the work, together, to eliminate its violent and insipid manifestations to create a reparative and just Bermuda.

Rest in peaceful power, Dr. Hodgson.



LETTER OF TRANSMITTAL

Miller Place, Ground Floor | 32 Victoria Street | Hamilton HM 12
 P.O. Box HM 734 | Hamilton | HM CX | Bermuda
 T: (441) 285-5855 | humanrights@gov.bm



17 June 2021

The Hon. Tinee Furbert J.P., M.P.
 Minister with Responsibility for Human Rights
 Ministry of Social Development and Seniors
 Government Administration Building
 30 Parliament Street
 Hamilton HM 12, Bermuda

Dear Minister Furbert,

**Letter of Transmittal: Annual Report of the
 Human Rights Commission For the Year Ending 31st December 2020**

It is my pleasure to transmit the Annual Report of the Office of the Human Rights Commission for Bermuda (**Commission**) for the calendar year 2020 (January 1, 2020 to December 31, 2020). This Report is made pursuant to Section 30A of the Human Rights Act 1981 (**Act**) for you to lay before the Houses of the Legislature in accordance with the statutory procedure established by the Act.

This Report addresses the activities of the Commission during the above-mentioned reporting period and specifically focuses on the experience of the COVID-19 pandemic in Bermuda, and the role of National Human Rights Institutions (**NHRIs**) in monitoring and supporting State responses to the pandemic to align with human rights obligations. The Report also documents the confluence of public health, human rights and social justice initiatives that defined the past year. As well, the Report addresses efforts to continue fortifying the Human Rights Act, 1981 together with the operations of the Commission to align with the international standards for NHRIs (known as the *Paris Principles*).

- i) As 2020 unfolded against the trauma and uncertainty of the COVID-19 pandemic, the Government of Bermuda (**Government**) faced the challenge of balancing the implementation of public health measures in response to the pandemic against the safeguarding of civil liberties and human rights. The complex nature of the COVID-19 crisis and associated State responses reaffirmed the critical role of NHRIs like the Commission in promoting a human rights-based approach to managing the pandemic and its divergent impacts. The challenge of navigating this delicate balance reaffirmed the important role of NHRIs in monitoring such actions and reinforcing that any curtailment to rights be proportional and necessary to address the ongoing crisis.
- ii) Fundamental considerations around individual and collective rights accompanied the unfolding crisis, as Bermuda recognised we are only as safe and secure as our most vulnerable. While everyone has been impacted by the COVID-19 pandemic, the extent and severity of these impacts differed dramatically. Marginalised and vulnerable groups around the world experienced disproportionate effects from the virus and associated public health measures. The pandemic highlighted the structural inequities in our society, bringing systemic concerns to the forefront of public discourse. In Bermuda, the themes of 'Resilience and Reckoning' became emblematic of the year's unfolding. The



necessity of considering each other was central to the national public health response, and advocacy and community-building emerged as defining features of the year. The resurgence of the Black Lives Matter movement following the murder of George Floyd in the United States saw over 7,000 Bermudians converge in solidarity with the global response, resulting in one of the largest social justice demonstrations on record in Bermuda.

- iii) Collective and collaborative action is required by all stakeholders to aid in navigating the challenges faced by the pandemic and its impacts. The significant social justice events of the past year and the public health response of the Government reflected the importance of raising awareness and respect for human rights and constitutional freedoms and underscored the vital role that an elected Government has in preserving the protections afforded by domestic and international human rights frameworks.
- iv) The 2020 Annual Report also references the significance of the ongoing independent review of the Human Rights Act, 1981. It is imperative that as a Non-Ministry Office, the Commission's resources and autonomy are fortified to effectively fulfil its mandate, particularly given its responsibilities as an NHRI in safeguarding the rights of citizens during crises. The Commission continued its review of the Human Rights Act, 1981 with the view to advance and strengthen statutory protections. Proposed operational and legislative developments will further assist the Commission to align with the Paris Principles, a set of international standards adopted by the Global Alliance of National Human Rights Institutions (GANHRI) to assess the extent to which NHRIs operate in practice without the influence of any political, economic or reputational agendas of States.
- v) The experience of the COVID-19 crisis has emphasized the significance of achieving GANHRI accreditation. The Commission remains on target to achieve its objective for the completion of its independent review of the Act and accountability practices with the view to seeking GANHRI accreditation by the end of 2022.

As efforts to manage the COVID-19 pandemic and associated impacts continue into its second year, we encourage the Government to firmly keep human rights and fundamental freedoms at the forefront of the national response. The opportunity to recalibrate and ensure a more equitable and human-centred recovery is now and the Commission looks forward to supporting our working relationship with you as the Minister with responsibility for human rights, and the Government, as we build back a more equitable and just future for all.

Respectfully,

Lisa M. Reed
Executive Officer
Office of the Human Rights Commission for Bermuda

PG. 2

HOW TO LODGE A COMPLAINT OR ADDRESS A QUERY

Anyone who believes they may have a complaint that contravenes the protections in the Human Rights Act have the right to contact the Office of the Human Rights Commission. The public may also contact the Office with any general queries, requests or concerns. You can choose to call, email or visit the Office to make contact.

● WALK-IN	Human Rights Commission Milner Place Ground Floor 32 Victoria Street Hamilton HM 12
● MAIL	P.O. Box HM 734 Hamilton HM CX
● PHONE	(441) 295-5859
● EMAIL	humanrights@gov.bm
● WEB	www.humanrights.bm

A complaint must:

1. Be made orally, electronically or in writing.
2. Be made within six months after the alleged discrimination occurred (and up to two years if there is sufficient reason for the delay and that no one would be prejudiced due to the delay)
3. Be made by the Complainant, although the Act also allows for someone to make a complaint on behalf of another person, if that person consents and is unable to do so.

If assistance is required, the Officers can help with drafting the particulars of the complaint. Commission staff further contact the Complainant to clarify any issues raised in the complaint.

If the complaint does not fall under the jurisdiction of the Human Rights Act, the Complainant will be notified and the complaint may be closed however, where appropriate, referrals will be provided to other agencies which may be suited to assist in resolving the matter.

COMPLAINT PROCESS

- 1. Complaint Received** – The complaint is received by any of the methods outlined in Annex II, and then appropriately logged. The Administrative Intake Officer is assigned to obtain as much relevant information as possible to clarify the complaint. There may be instances where a preliminary inquiry is conducted in accordance with section 14I of the Human Rights Act, 1981, which notifies the Respondent(s) of the complaint with a view of determining if there is sufficient information to justify further examination. Once all relevant details are obtained, the Executive Officer must be satisfied that the complaint discloses a prima facie case of discrimination prior to the Respondent(s) being requested to formally respond to the complaint. Once in receipt of a response by the Respondent(s), the Executive Officer makes a determination with respect to whether or not the complaint appears to be genuine.
- 2. Investigation and Conciliation** – Where the Executive Officer determines that a complaint appears to be genuine in accordance with section 15(1) of the Human Rights Act, 1981, the matter is referred onward to an investigation. Parties to a complaint are also provided the opportunity to resolve their dispute by way of the Human Rights Commission's Voluntary Mediation Programme.
- 3. Determination of Merit** – Following an investigation, the Executive Officer considers the information obtained throughout by both the Complainant and the Respondent and determines whether the complaint, which alleges a contravention of the Human Rights Act, 1981, appears to have merit. Where a determination is made that the complaint does not appear to have merit, the Complainant is offered the opportunity to be heard prior to the matter being dismissed.
- 4. Referral to Tribunal** – Following an investigation, if the Executive Officer determines that a complaint appears to be meritorious and where the matter is unresolved, or is unlikely to be settled, the matter is referred for adjudication to a Human Rights Tribunal.

HUMAN RIGHTS TRIBUNAL PROCESS

A Human Rights Tribunal is an independent body empanelled to resolve complaints of alleged discrimination in a fair, impartial and timely manner. Presently, the Tribunal is comprised of three (3) individuals; a legally qualified Tribunal Chair and two (2) members. Where a matter is referred to a Tribunal, the members have no previous knowledge, involvement or information pertaining to the investigation process. The onus is on the parties to a complaint to supply the Tribunal with all evidentiary materials to support their claim, which is inclusive of witness statements.

The Tribunal is the trier of fact and are empowered to determine whether unlawful discrimination has occurred. Where a Tribunal determines that discrimination has occurred, the Tribunal may award damages, issue recommendations and make such orders that are enforceable and subsequently registered with the Supreme Court.

Where a party wishes to appeal a decision of the Tribunal they may do so by way of the Supreme Court. The Human Rights (Appeals) Rules 2018 provide guidance for parties wishing to appeal a Tribunal decision.

TRIBUNAL PROCESS PHASES

The below sections describe the human rights complaint adjudication process. It is the role of a Human Rights Tribunal to ensure the process is fair and relatively quick.

Case Management Hearings

A case management hearing is a hearing held to discuss the complaint process. A Tribunal may give directions or orders regarding the steps that may be held.

The Tribunal may:

- Schedule dates for another case management hearing, a preliminary hearing, a substantive hearing, a judgment hearing or a costs hearing
- Determine whether there is any further opportunity for settlement before a hearing
- Determine whether other issues need to be resolved before a hearing

- Set a schedule for submissions on an application made by either party
- Confirm that the participants are prepared to proceed to a hearing and that the hearing can be completed within the dates scheduled for the hearing
- Determine whether the participants will produce an agreed statement of facts
- Confirm or set dates for a party to take steps, including:
 - produce a list of the witnesses the participant intends to call at the hearing
 - produce witness statements
 - produce a list of documents the participant intends to submit into evidence at the hearing
 - produce a brief statement of the factual and legal basis for the remedy or order sought.

Directions Ordered by the Tribunal

The Tribunal will give instructions to the parties on how they are to prepare the case which are known as “directions.” The directions are intended to ensure that all matters pertaining to the case are made known to the Tribunal and to all parties to the complaint before the substantive hearing. There are several purposes behind this. One is so that it becomes clear which parts of the case are disputed and which are not – only the disputed issues will need a Tribunal’s decision. Another is so that the Tribunal can make the right arrangements for the hearing, including allowing enough time for it to be heard. A third reason is so that the parties themselves are able to get a full understanding of each other’s case. This third purpose enables the parties to the complaint to concentrate their preparation on the disputed issues, which will help the Tribunal to reach a decision on those issues. It also makes it easier for the parties to “settle” the case or to come to a sensible agreement which would make a hearing unnecessary. The parties have duties both to assist and cooperate with the Tribunal and to try to reach an agreement where possible.

Tribunals may direct parties to participate in the Commission’s Voluntary Mediation Programme where there is a possibility of resolving the dispute before the hearing. In those circumstances, the Office will arrange for mediation services which are at no cost to the parties.

The directions given by a Tribunal are issued to assist the parties in understanding what they are required to comply with in the preparation of their case.

AREAS OF PROTECTION UNDER THE HUMAN RIGHTS ACT, 1981

In addition to the Grounds of Protection set out within section 2(2)(a) of the Act, the following areas apply:

Section 3: Notices – this section provides protection as no one is allowed to display, publish or post any discriminatory sign, symbol or notice against any person or persons based on the protected grounds.

Section 4: Disposal of Premises – this section provides protection for persons seeking to rent accommodation, acquire land or other premises – whether as a renter or as an owner. Persons cannot discriminate because of your race, place of origin etc.

Section 5: Goods, Services and Facilities – where a person is seeking to obtain goods, facilities or services, whether on payment or not, persons are protected from discrimination by others that would be a violation of any of the grounds set out in section 2(2).

Section 6: Employment, Special Programmes & Harassment – this section provides protection against discrimination in Employment. Employers are barred from discriminating in hiring, training, promoting, dismissing or demoting any person because of his race, etc. Employers and employment agencies are barred from discriminatory advertising.

Section 6B: Harassment – employees are protected against harassment from their employers. Harassment is persistent, vexatious and the employer, agents of employers or other employees should know or ought to know that it is not welcome by the employee.

Section 7: Organisations – protection against discrimination in clubs and other organisations, whether a member or not.

Section 8: Proceedings under the Act – persons are barred from treating someone who made a complaint under the Act, differently. For example, where an employer fires an employee, or punishes them, or intimidates such employee, because they made a complaint under the Act.

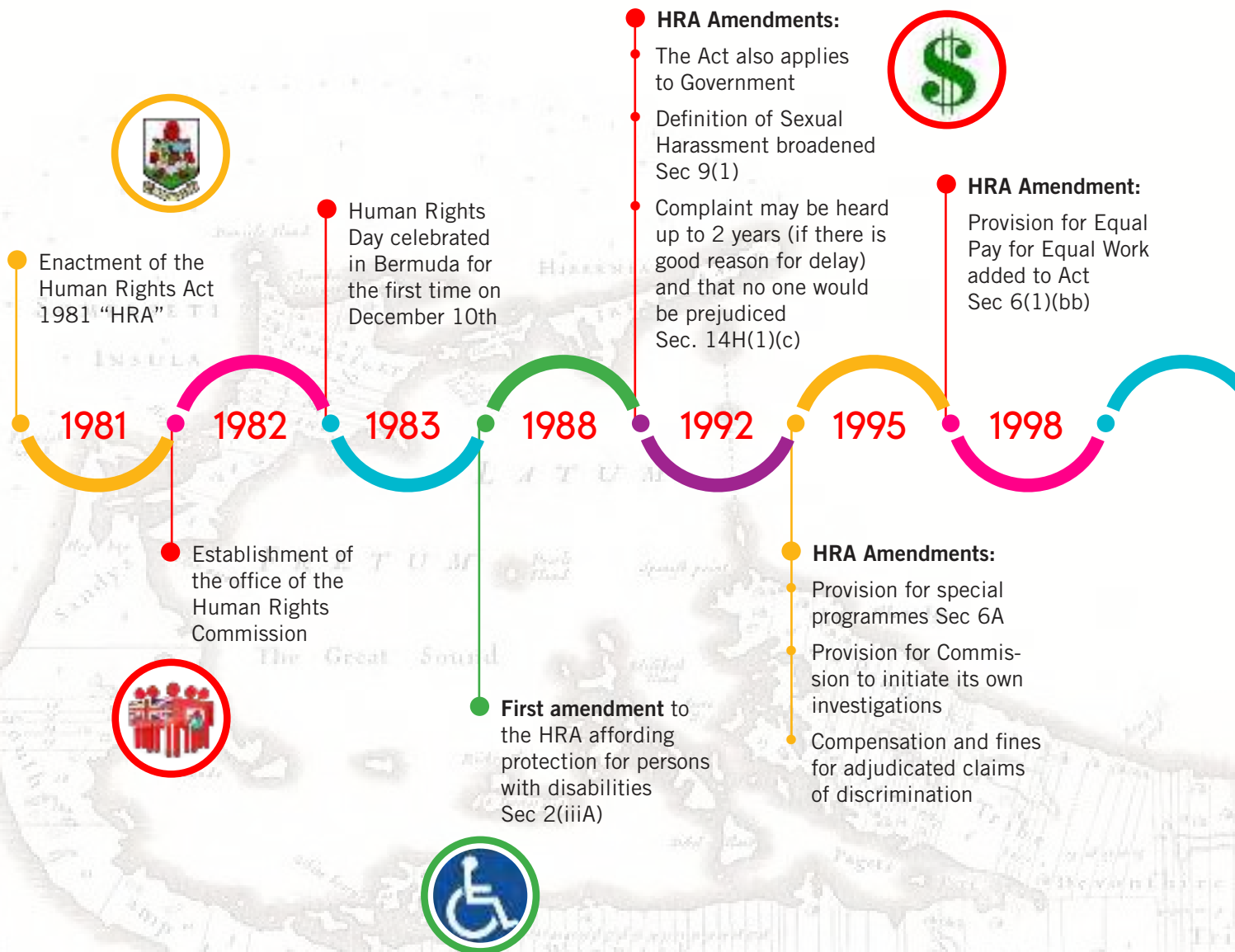
Section 8A: Racial Material & Harassment – persons are not allowed to publish racial material to incite or promote ill will against any part of the community because of their race or colour. No person should incite a breach of the peace against any part of the community, because of race, etc.

Section 9: Sexual Harassment – this section provides protection from sexual harassment from employers, agents of employers, other employees, and landlords. The employer must protect against sexual harassment in the workplace.

Section 10: Discriminatory Covenants – where there is a legal instrument passing property, such as a Deed, if it is drafted in a discriminatory way so as to contravene the grounds as stated in section 2(2) of the Act, the instrument would be deemed null and void. It would have no legal effect.

Timeline of the Human Rights Act

est. 1981



Human
Rights
Commission
Bermuda

HRA Amendments:

- Definition of physical disability expanded Sec 2(1)(a)
- Terms such as “ancestry” replaced with “ethnic or national origins” and “religious beliefs” replaced with “religion or belief” Sec 2(2)(vi)
- Provision for protection in the area of employment for persons who have criminal records Sec 2(2)(a)(vii)
- The term “secrecy” was replaced with “confidentiality”
- Expanded protection for employees with employers expected to ensure a workplace free from harassment and discrimination

HRA Amendment:

Expanded protection for persons with disabilities in the area of employment with the provision for employers’ duty to accommodate up to the point of unreasonable hardship (Schedule 1)



Amendment to the structure and function of the Commission:

Replacement of the Boards of Inquiry process with Human Rights Tribunals and independent appointment of Commissioners

HRA Amendments:

- Expanded protection for persons who have or have had a mental impairment Sec 2(1)(b)
- Further protection to prohibit the publication of racist material and racial incitement to include all protected grounds of discrimination Sec 8A(1)(a)
- Expansion of the definition of a public place to include any other premises or place to which the public has access, whether on payment or otherwise Sec 8A(3)(aa)

2000

2005

2010

2011

2012

2013

2016

Amalgamation:

The functions of the Commission for Unity & Racial Equality (CURE) were transferred to the Human Rights Commission and the CURE Act repealed



Voluntary mediation introduced as the primary means of settling complaints

HRA Amendments:

- Protection from discrimination afforded to persons on the basis of sexual orientation Sec 2(2)(a)(ii)
- Protection afforded to persons on the basis of age in the areas of goods, facilities and services and accommodations (except in the area of employment) Sec 4(1) & Sec 5(1)
- Terms ‘not born in lawful wedlock’ and ‘has or is likely to have a child whether born in wedlock or not’ replaced with the term ‘family status’ to cover a range of family forms Sec 2(2)(a)(iv)
- Expansion of communication formats e.g. use of social media, as a form of publication – Sec 8A
- Expanded description of available dispute resolution methods added Sec (14J)
- Human Rights Tribunals adjudicate complaints of discrimination, with judgements enforceable through the Supreme Court





Milner Place, Ground Floor | 32 Victoria Street | Hamilton HM 12, Bermuda
Tel: (441) 295-5859 | Email: humanrights@gov.bm | www.humanrights.bm