

# Press Release

7 September 2020



## FOR IMMEDIATE RELEASE

### CLARIFICATION ON THE GOVERNOR'S ROLE IN ASSENTING TO THE CIVIL PARTNERSHIP LAW

*Colours Cayman* would like to remind the public that the Cayman Islands is a **constitutional democracy** with a codified written Constitution and, hence, it is *not* a parliamentary based democracy like that of the United Kingdom. Therefore, the Legislative Assembly and the Premier have a legal duty to act in accordance with the Constitution, *regardless* of the will of the people who elect them.

To recap, In November 2019, the Court of Appeal declared that the Constitution of the Cayman Islands requires a legal framework for same-sex couples. The Court of Appeal had no choice as the *European Convention on Human Rights* requires so since 2015 and the Bill of Rights of the Constitution of the Cayman Islands incorporates and reflects domestically the Convention's fundamental commitment to respect for human dignity and the equal value and worth of every individual.

Then, on 27 July 2020, the Premier introduced the Domestic Partnership Bill, not as a matter of policy of his government but in order to comply with the Constitution.

On 29 July 2020, the Members of the Legislative Assembly who voted against the Domestic Partnership Bill introduced by the Premier to comply with the Constitution not only acted contrary to the declaration of the Court of Appeal—which in itself is a serious constitutional breach of **Section 107** of the Constitution of the Cayman Islands—but essentially acted *against* the Cayman Islands Constitution's requirement that a legislative framework for same-sex couple *must* be put in place.

The irresponsible and *illegal* actions of the legislators triggered an unprecedented **constitutional crisis** and consequently, as the Court of Appeal had anticipated, it would be expected that the UK government would have to step in to resolve. As a result, **HE the Governor was instructed by the Secretary of State pursuant and under Section 31(2) of the Constitution of the Cayman Islands to use his reserved powers under Section 81**. This instruction is not reviewable by any court notwithstanding the jurisdiction of the court to review acts of the government, including the governor. This is by imperative of the Cayman Islands Constitution itself [**Section 31(4)**].

The Governor acted not only in light of the constitutional crisis created by the members of the Legislative Assembly who rejected the Domestic Partnership Bill but also and more fundamentally under his duties pursuant to **Section 55** to ensure the Cayman Islands comply—especially considering the Legislators had stated publicly that they would not—with an international obligation of the UK under the *European Convention on Human Rights*.

Note that the Cayman Islands are largely a self-governing territory of the UK, but it is non-independent in that **the UK retains the constitutional ability to step in and secure good governance for the territories**. As such, the UK Parliament and the Crown, by Order in Council, have unlimited powers to legislate in the Cayman Islands as they deem fit, in any matter, even those devolved. (This was recently illustrated with the Anti-Money Laundering Act 2018.)

In short, any attempt to review the governor's actions would be futile and a waste of the public's money.

Ultimately, we're disgusted by the Cayman Islands Government's decision to financially assist an effort that has no hope of gaining any ground. We're also, frankly, appalled by the ignorance of the Constitution of the Cayman islands demonstrated by Katina Anglin and her legal representatives.

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