



THE LAW REFORM COMMISSION

**Annual Report
2022**



The Law Reform Commission

Annual Report

January 1, 2022 – December 31, 2022

Contact Details:

The Law Reform Commission
91 Middle Street
Georgetown



Lawreformcommission21@gmail.com



+ (592) 231-4447/ 503-8097

Prepared by: The Secretary to the Commission in collaboration with Commissioners of the LRC

TABLE OF CONTENTS

Chapter 1 – About the LRC

1.0 Introduction	1
1.1 Establishment	1
1.2 Mandate	1
1.3 Functions	1-2
1.4 Mission Statement	3
1.5 Core Values	3
1.6 Fundamental Principles & Attributes	3
1.7 Structure & Administration	3-4

Chapter 2 – Law Reform Proposals

2.1 Database of proposals received	5-7
--	-----

Chapter 3 – Activities of the LRC

3.1 Number of meetings held	8-9
3.2 Matters arising from meetings	9-13

Chapter 4 – Challenges

4.1 Depleted number of Commissioners/ Chairperson	14
4.2 No budget/ finances	14

Chapter 5 – Financial Records

5.1 Update on Financial activities	15
--	----

Chapter 6 – Conclusion

16

Chapter 7 – Appendices

7.1 Administration of the LRC	17
-------------------------------------	----

LETTER OF TRANSMITTAL

The Hon. Mr. Mohabir A. Nandlall, SC, MP
Attorney-General & Minister of Legal Affairs
95 Carmichael Street
Georgetown

Dear Hon. Attorney-General,

Re: Annual Report for the Financial Year 2022

The Law Reform Commission (LRC) has a mandate to keep under review all the laws applicable to Guyana with a view to its systematic development and reform, including in particular the modification of any branch of the law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law.

We are pleased to officially present our second Annual Report for the twelve (12) months of operations for the financial year 2022. This report comprises a brief background to the first Law Reform Commission in Guyana, along with its activities, achievements and challenges during the reporting period.

We are optimistic that this report would inform future policy interventions and be useful in promoting feedback and building commitment in law reform work in Guyana.

Thanking you in advance for your continued support.

Yours faithfully,



Wendy Ann Denanath
Secretary

PREFACE BY THE SECRETARY

It is an honour of the Law Reform Commission (LRC) to publish its second Annual Report for the twelve (12) months of operations for the financial year 2022. This report comprises a brief background to the first Law Reform Commission in Guyana, along with its activities, achievements and challenges during the reporting period.

What began as a slow start to our operations which was characterised by many challenges, resulted in a few success stories, such as, the process for conducting stakeholder engagements and receiving proposals for law reform (*an important stage in the law reform process*).

One (1) of our greatest challenges during this period was the absence of a Chairperson and two (2) Commissioners which staggered operations during the last quarter of 2022. No budget allocation for the LRC following the transition from the SCJS Project to the Ministry of Legal Affairs also resulted in a few administrative challenges.

Support of the Hon. Attorney-General & Minister of Legal Affairs, along with the Management & Staff of the Ministry of Legal Affairs and Support for the Criminal Justice System Project, respectively, played a pivotal role in the continuous streamlining of operations at the LRC. We continue to be grateful for their support and guidance.

The LRC is equally grateful to the staff who have contributed to our success during the reporting period and has emerged stronger and wiser after enduring several challenges.

As we enter the financial year 2023, we are optimistic that it will be one of many more successes in law reform towards the social, cultural and economic development of Guyana.

Wendy Ann Denanath

Secretary

ACKNOWLEDGEMENTS

Sincere gratitude is extended to the Hon. Attorney-General & Minister of Legal Affairs whose support and guidance have been pivotal in the establishment of the LRC. Gratitude is also extended to the Management & staff of the Ministry of Legal Affairs and Support for the Criminal Justice System Project, respectively, for their assistance in the stabilization of the LRC. Their support was equally significant. The LRC is grateful to the staff who have contributed to our success during the twelve (12) months of operations and have emerged stronger and wiser after enduring several challenges.

The publication of our second Annual Report for the financial year 2022 has been made possible by the support of the four (4) current Commissioners and staff of the Secretariat led by the Secretary, Ms. Wendy Ann Denanath.

The LRC is also grateful to the several stakeholders who have acknowledged the establishment of the LRC and have begun to submit their respective proposals for law reform.

ABBREVIATIONS AND ACRONYMS

GOG	The Government of the Cooperative Republic of Guyana
IDB	Inter-American Development Bank
CCJ	Caribbean Court of Justice
LRC	Law Reform Commission
SCJS	Support for the Criminal Justice System
MOLA	Ministry of Legal Affairs
MOF	Ministry of Finance
PEU	Project Execution Unit
A-G	Attorney-General & Minister of Legal Affairs
GABI	Guyana Association of Bankers Inc.
NICIL	National Industrial & Commercial Investments Limited
CEO	Chief Executive Officer
LO	Legal Officer
RO	Research Officer
FO	Finance Officer

CHAPTER ONE (1)

ABOUT THE LAW REFORM COMMISSION

1.0 Introduction

This chapter introduces the Law Reform Commission. It consists of the mandate, functions, values, principles & attributes and mission statement of the LRC. It also presents the organizational chart of the LRC.

1.1 Establishment

The Law Reform Commission was established by the Law Reform Commission Act (2016), as amended, on July 1, 2022 when staff assumed duties. Staff were employed between the months of July to August 2021 and seven (7) Commissioners were officially sworn in on August 11, 2021, but commenced duties on September 1, 2021. On September 1, 2021, the LRC became fully operational. In December 2021, one (1) of its Commissioner tendered his resignation. The former Chairperson, the Hon. Mr. B.S Roy, together with another Commissioner also elected not to have their contracts renewed in August 2022. The Secretariat is currently located at 91 Middle Street, Georgetown and the LRC currently comprises of four (4) Commissioners and five (5) members of staff.

1.2 Mandate of the LRC

The LRC is a statutory body that was established to provide for the establishment of a Law Reform Commission for keeping under review the laws of Guyana for the purpose of their simplification, modernization, systematic development and reform and for connected matters.

1.3 Specific Functions of the LRC

The functions of the LRC are set out in Section 7 of the Law Reform Commission Act (2016), as amended, which provides that it shall be the duty of the Commission to keep under review all the law applicable to Guyana with a view to its systematic development and reform, including in particular the modification of any branch of the law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernization of the law and for that purpose-

- (a) to receive and consider suggestions for the reform of the law which may be forwarded to it either on the invitation of the Commission or otherwise, by Judges, public officials, lawyers and Commissioners of the general public;
- (b) to receive and consider proposals for changes in the law referred to it by the Minister or recommended by any law reform committee, association of lawyers or other learned bodies;
- (c) to prepare and submit to the Minister from time-to-time specific programmes for the examination of different branches of the law with a view to reform including recommendations as to whether such examination should be carried out by the Commission or some other body in relation to branches of the law that require technical expertise;
- (d) to undertake, in pursuance of any recommendation of the Minister, the formulation of draft Bills relating to the proposals for reform contained in such recommendation;
- (e) to undertake, pursuant to any recommendations approved by the Minister, the examination of particular branches of the law and the formulation, by means of draft instructions or otherwise, of proposals for reform therein;
- (f) to provide at the instance of the Minister advice and information to Ministries and Departments of Government and Statutory Authorities concerned with proposals for the amendment or reform of any branch of the law;
- (g) to obtain such information in regard to the laws and legal systems of other countries as in the opinion of the Commission is likely to facilitate the performance of any of its functions.

1.4 Mission Statement

“To continually review the Laws of Guyana to ensure their simplification, modernization and systematic development in keeping with the social, cultural and economic needs of Guyana”.

1.5 Core Values

In achieving its mission, the LRC strives to articulate and execute its functions with loyalty to the following core values:

- Integrity;
- Teamwork;
- Professionalism;
- Transparency and Accountability; and
- Courtesy and Equality

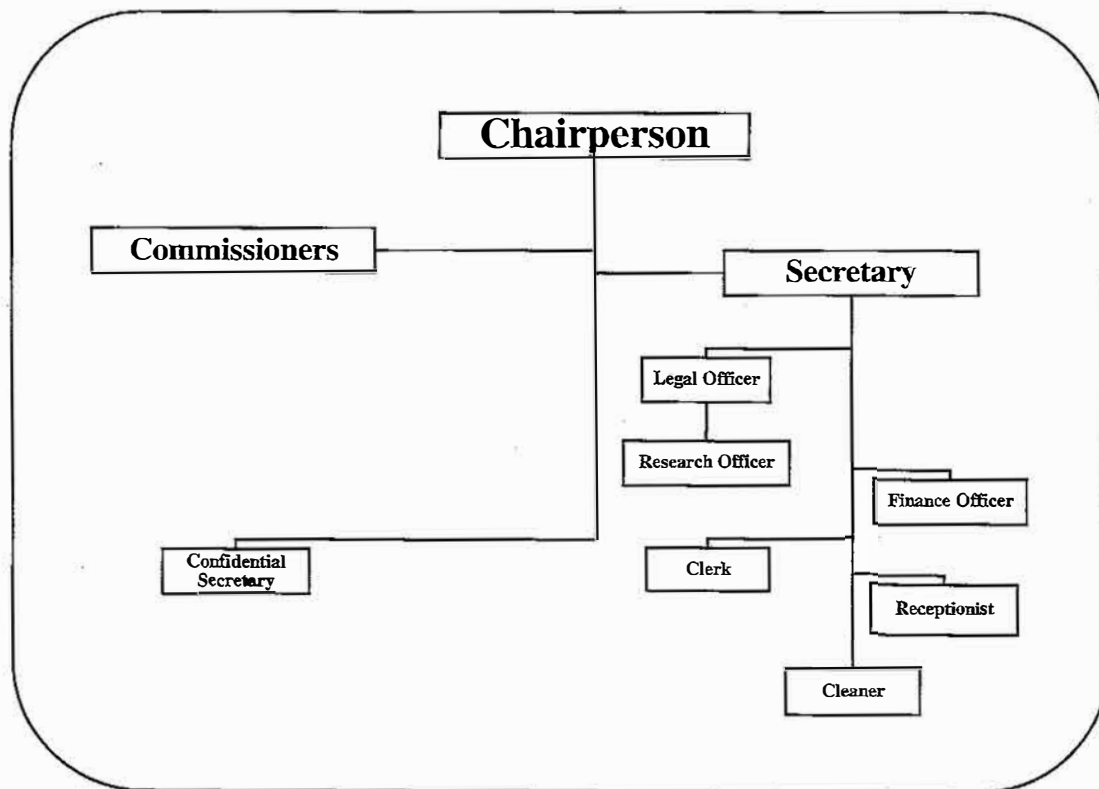
1.6 Fundamental Principles and Attributes

Like other Law Reform Commissions in the Commonwealth, the LRC appreciates the fact that a national law reform agency should possess certain distinguishing characteristics which are:

- Permanent;
- Authoritative;
- Full-time;
- Independent;
- Consultative;
- Implementation-Minded

1.7 Structure and Administration of the LRC

At the apex of the LRC stands the Commissioners, headed by the Chairperson. The Secretary to the Commission also serves as the Head of Administration and is responsible for the day-to-day administration of the Secretariat. The Commissioners meet once every week to assess progress and proposals received for law reform and to also provide appropriate direction to the Secretariat. The Chairperson serves on a full-time basis while all the other Commissioners serve on a part-time basis. The full organizational structure is captured in the chart below:




































CHAPTER TWO (2)



LAW REFORM PROPOSALS

2.0 This Chapter highlights the proposals received for law reform during the reporting period.

2.1 Database of law reform proposals received.

No.	Legislation	Stakeholder/ Recommended by	Priority	Current Status
1	Summary Jurisdiction (Offences) Act via Report by Mr. Peter Pursglove	 The Hon. A-G  The CCJ  Ms. Joann Bond	No. 1	Please refer to comments below.
2	Record Retention and Disposal ([A] Record-keeping requirements of financial institutions, [B] Digitizing Customer Information – Evidence Act, and Recommendations)	 GABI	No. 2	Please refer to comments below.
3	Companies Act	 The Hon. A-G  GABI  The CCJ  Mr. Ronald Ally  Mr. Stephen Fraser	No. 3	Please refer to comments below.
4	Deceased Persons Estate	 The Law Reform Commission	No. 4	Please refer to comments below.
5	The Court of Appeal Act Cap. 3:01	 The Bar Association	No. 5	Please refer to comments below.
6	Summary Jurisdiction (Procedure) Act	 The CCJ	No. 6	Please refer to comments below.
7	Landlord and Tenant Act	 The Law Reform Commission	No. 7	Please refer to comments below.
8	Procurement Act via Report by Ms. Sabine Englehart	 The Hon. A-G  Ms. Mandie Mickle	No. 8	Please refer to comments below.
9	Legislation that make provisions for Qualified Independent/ Private Valuation Officers/ Surveyors	 Mr. Joel Freeman, Property Manager, NICIL	To be determined	Please refer to comments below.
10	Title to Land (Prescription & Limitation) Act	 Christopher Ram & Associates  The CCJ	To be determined	Please refer to comments below.

No.	Legislation	Stakeholder/ Recommended by	Priority	Current Status
11	Narcotic Drugs & Psychotropic Substances (Control) Act	 Director of Public Prosecutions	To be determined	Please refer to comments below.
12	Juvenile Justice (Amendment) Bill 2001	 Director of Public Prosecutions	To be determined	Please refer to comments below.
13	Management of unclaimed funds and Recommendation. Section 18 of the AML/CFT Act – Suspicious Transaction Report	 GABI	To be determined	Please refer to comments below.
14	Civil Procedure Rules under the High Court Act and Recommendations	 GABI	To be determined	Please refer to comments below.
15	E-commerce and Digital signatures and Recommendations	 GABI	To be determined	Please refer to comments below.
16	Income Tax Act	 GABI	To be determined	Please refer to comments below.
17	Draft Movable Property Security Bill	 GABI	To be determined	Please refer to comments below.
18	Criminal Law (Procedure) Act	 The Hon. A-G  The CCJ	To be determined	Please refer to comments below.
19	Deeds Registry Act	 The CCJ	To be determined	Please refer to comments below.
20	Amerindian Act No. 6 of 2006	 The Bar Association	To be determined	Please refer to comments below.
21	Review of the Evidence Act Cap 5:03 to reflect the modern realities of times.	 The Bar Association	To be determined	Please refer to comments below.
22	Revision of the Trade Marks Act Cap. 90:01 to allow registration of services and other modern amenities.	 The Bar Association	To be determined	Please refer to comments below.
23	Update of Patents and Designs Act Cap. 90:03 to allow for patenting of pharmaceuticals and other modern amenities.	 The Bar Association	To be determined	Please refer to comments below.
24	Civil Laws of Guyana to be updated to allow for the enforcement of mortgages in accordance with Common Law Principles.	 The Bar Association	To be determined	Please refer to comments below.

No.	Legislation	Stakeholder/ Recommended by	Priority	Current Status
25	Rice Farmers (Security of Tenure) Act.	 The Hon. A-G	To be determined	Please refer to comments below.
26	Plea Bargaining Act	 The Hon. A-G	To be determined	Please refer to comments below.

CHAPTER THREE (3)

ACTIVITIES OF THE LRC

3.0 This chapter presents the activities of the LRC during the reporting period.

3.1 Number of meetings held

A total of forty-eight (48) meetings were held during the reporting period on the following dates:

- January 16, 2022 – Virtual
- January 27, 2022 – Virtual
- February 3, 2022 – Virtual
- February 10, 2022 – Virtual
- February 17, 2022 – Virtual
- February 24, 2022 – Virtual
- March 3, 2022 – Virtual
- March 10, 2022 – Virtual
- March 17, 2022 – Virtual
- March 24, 2022 – Virtual
- March 31, 2022 – Virtual
- April 7, 2022 – Virtual
- April 14, 2022 - Virtual
- April 21, 2022 – Virtual
- April 28, 2022 – Virtual
- May 3, 2022 – Virtual
- May 12, 2022 – Virtual
- May 19, 2022 – Virtual
- June 2, 2022 – Virtual
- June 9, 2022 – Virtual
- June 16, 2022 – Virtual
- June 23, 2022 – Virtual
- June 30, 2022 – Virtual
- July 7, 2022 – Virtual
- July 15, 2022 – Virtual
- July 21, 2022 – Virtual
- July 28, 2022 – Virtual
- August 4, 2022 – Virtual
- August 11, 2022 – Virtual
- August 25, 2022 – Virtual
- September 1, 2022 – Virtual & Face-to-face

- September 8, 2022 - Virtual & Face-to-face
- September 15, 2022 - Virtual & Face-to-face
- September 22, 2022 - Virtual & Face-to-face
- September 29, 2022 - Virtual & Face-to-face
- October 6, 2022 - Virtual & Face-to-face
- October 13, 2022 - Virtual & Face-to-face
- October 20, 2022 - Virtual & Face-to-face
- October 27, 2022 - Virtual & Face-to-face
- November 3, 2022 - Virtual & Face-to-face
- November 10, 2022 - Virtual & Face-to-face
- November 17, 2022 - Virtual & Face-to-face
- November 24, 2022 - Virtual & Face-to-face
- December 1, 2022 - Virtual & Face-to-face
- December 8, 2022 - Virtual & Face-to-face
- December 15, 2022 - Virtual & Face-to-face
- December 22, 2022 - Virtual & Face-to-face
- December 29, 2022 - Virtual & Face-to-face

In addition to those forty-eight (48) statutory meetings, a meeting was held with the LRC and the Hon. A-G on January 29, 2022.

3.2 Matters that arose from meetings

During the reporting period, the following matters arose and were addressed:

1) The Summary Jurisdiction (Offences) Act and the Pursglove Report

In 2022, the LRC commenced a review of Mr. Pursglove's report through his "*Consultancy to review existing legislation (Decriminalising of Offences: Summary Jurisdiction (Offences) Act) and propose recommendations of amendments*". This exercise entailed seeking the views of stakeholders, identifying relevant case law, examining consequential existing and pending legislation; as well as considering similar legislation in other Commonwealth countries.

The findings have been categorised as:

- Provisions to be retained;
- Provisions to be repealed;
- Provisions to be amended; and
- Provisions for which further consultation is required.

The LRC's report on recommendations for amendments to this Act was finalised and submitted to the Hon. Attorney-General & Minister of Legal Affairs on February 9, 2023.

2) The Evidence Act

The LRC, during the reporting period, reviewed the following aspects of the Evidence Act:

- An amendment to Section 91;
- The inclusion of provisions pertinent to the admissibility of computer records in Criminal Proceedings; and
- The omission from the Evidence Act, Cap 5:03 of provisions giving legal effect to electronic documents, electronic records, electronic signatures and electronic transactions, thus, the necessity for the prompt passage into law of the Electronic Communications and Transactions Bill of 2019 after the completion of consultation with all internal and external stakeholders.

A report on the LRC's recommendations for reform of this Act was prepared and submitted to the Hon. Attorney-General & Minister of Legal Affairs on March 13, 2023.

3) The Companies Act

In September 2022, the LRC reviewed the following aspects of the Companies Act:

- An amendment to Section 44(1);
- The inclusion of provisions covering Non-Profit Companies;
- Steps of the amalgamation process; and
- Virtual and Hybrid Shareholder meetings.

A report on the findings of this review which included recommendations for reform was submitted to the Hon. Attorney-General & Minister of Legal Affairs on December 6, 2022. Following a response from the Hon. Attorney-General & Minister of Legal Affairs, the LRC embarked on a second round of stakeholder consultations in the financial year 2023. Additional requests for proposals for reform to this Act were sent to the Bar Association of Guyana, The Registrar of Commerce and Christopher Ram & Associates. A further report would be finalised and submitted to the Hon. Attorney-General & Minister of Legal Affairs in the financial year 2023.

4) The Procurement Act

At a meeting held with the Hon. A-G on January 29, 2022, he stressed that the area of Procurement required strengthening in Guyana. He explained that though tedious, the procurement process which requires transparency needed to be expedited swiftly to effectively execute the 2022 budget. The LRC therefore agreed to prioritize the Procurement Act, along with the Summary Jurisdiction (Offences) Act. Following the discovery of a previous study of this legislation by Ms. Sabine Englehart who made recommendations for reform, the LRC decided to review Ms. Englehart's report to avoid the duplication of efforts. A thorough analysis of the report and actions based on the recommendations made by Ms. Englehart was done during the second and third quarters of 2022. Requests for recommendations for amendments to this legislation were sent to eighteen (18) stakeholders and to date, the LRC is still awaiting feedback. Engagements with the National Procurement and Tender Administration Board were also done but no recommendations were submitted to date as well. As a result, this matter was moved down the LRC's agenda pending stakeholder feedback.

5) The Deceased Persons Estates' Administration Act

The LRC in 2022, conducted a review of this Act and recognised that the amendment of 2021 made no provisions for the accessibility of pensions nor gratuity. The LRC's findings on this legislation would be submitted to the Hon. Attorney-General & Minister of Legal Affairs in the financial year 2023.

6) The Court of Appeal Act

In the final quarter of 2022, the LRC commenced a review of this Act and in so doing, wrote to twenty-one (21) stakeholders, including the Chancellor of the Judiciary, seeking recommendations for amendments. To date, no response was received from the stakeholders but a second request for proposals for amendments was sent to the Chancellor of the Judiciary on January 17, 2023. It is anticipated that a report on recommendations for amendments to this Act would be finalised and submitted to the Hon. Attorney-General & Minister of Legal Affairs in the financial year 2023.

7) The Summary Jurisdiction (Procedure) Act

The LRC, in reviewing the Summary Jurisdiction (Procedure) Act, commenced research on;

- Judicial considerations of the Act;

- Legislative context of the Act, i.e. where the Act was derived from;
- Jurisdictions in which the Act had been incorporated and is currently being used (where it has been retained and the manner of retention); and
- Comparative adjustments/ amendments to the Act in Guyana and other jurisdictions that have taken place.

During the reporting period, cases from the Guyana Law Reports, West Indian Law Reports and the Law Reports of British Guiana were reviewed and a list of those applicable were compiled. It is anticipated that a report on recommendations for amendments to this legislation would be finalised and submitted to the Hon. Attorney-General & Minister of Legal Affairs in the financial year 2023.

8) The Landlord & Tenant Act

The LRC in the last quarter of 2022, completed an interim review of the Landlord & Tenant Act and engaged the Chief Magistrate for possible recommendations for amendments. To date, the LRC is still awaiting feedback from the Chief Magistrate but during the reporting period, a decision was made that an interim report on the LRC's views would be submitted to the Hon. Attorney-General & Minister of Legal Affairs in the financial year 2023.

9) Qualified Independent/ Private Valuation Officers/ Surveyors.

Following proposals by Mr. Joel Freeman, Property Manager, NICIL for legislation that would make provisions for Qualified Independent/ Private Valuation Officers/ Surveyors, Mr. Freeman was invited to an engagement with the LRC on March 24, 2022. At that meeting, it was highlighted that there is currently a Diploma in Valuation Programme being offered by the University of Guyana of which Mr. Freeman is a student. Having supported the recommendations proposed by Mr. Freeman, the LRC reached out to the University of Guyana for a copy of the syllabus (course content and training) and other supporting information applicable to the Programme, which may be of assistance in the drafting of the proposed legislation. The LRC and Mr. Freeman would continue to have frequent engagements until this matter is tabled for drafting.

10) Judicial Decisions

In December 2022, the LRC decided to add an item on its agenda concerning judicial decisions which may be applicable to the reform of legislation considered in the case under review. During the reporting months, two (2) decisions were reviewed:

- 1) Research was conducted on the CCJ's judgement in the case of Orwin Hinds and Cleon Hinds v. The State. It was concluded that the case was not relevant to the Parole Act, but rather S100 (a) of the Criminal Law (Offences) Act.
- 2) Research was conducted on the CCJ's judgement in the case of Basil Williams v. Prithima Kissoon. The case related to the issue of judicial impartiality and the applicability of the Judicial Code of Conduct and the Bangalore Principles.

CHAPTER 4

CHALLENGES

4.0 This chapter highlights the challenges faced by the LRC during the reporting period.

4.1 Depleted number of Commissioners, including a Chairperson

- ✦ Following the resignation of a Commissioner in December 2021, another Commissioner and the former Chairperson, The Hon. Mr. B.S Roy elected not to have their contracts renewed in August 2022. This resulted in four (4) Commissioners remaining which posed as a challenge since there was no Chairperson to guide the operations of the LRC. The absence of a Chairperson, who is expected to serve on a full-time basis staggered operations during the last quarter of 2022.

4.2 No Budget/ Finances

- Since the establishment of the LRC, there has been no fixed budget allocation, not under the SCJS Project nor at the Ministry of Legal Affairs. Following the transition of the LRC from the SCJS Project to the Ministry of Legal Affairs in September 2022, the LRC was deemed as a department within the Ministry which unfortunately had no budget allocation. The acquisition of supplies for the Secretariat during the last quarter of 2022 was an administrative challenge.

CHAPTER 5

FINANCIAL RECORDS

5.1 Since the LRC had no budget allocation for the reporting period, an update on the financial activities cannot be provided.

CHAPTER 6

CONCLUSION

The LRC during the twelve (12) months of its operations for the reporting period was faced with many challenges which affected its operations. Despite these challenges, the LRC able to successfully pave the foundation for its methodology and operations in 2023.

CHAPTER 7

APPENDIX

7.1 Administration of the LRC

Commissioners

At the end of the reporting period, the LRC comprised of the following Commissioners:

- 1) Ms. Emily Dodson - Commissioner (Part-time)
- 2) Mr. Teni Housty – Commissioner (Part-time)
- 3) Ms. Deenawati Panday - Commissioner (Part-time)
- 4) Ms. Clarissa Riehl - Commissioner (Part-time)

✿ The Hon. Mr. B.S Roy, Former Chairperson, elected not to renew his contract in August 2022.

✿ Dr. Brian O'Toole, Former Commissioner, elected not to renew his contract in August 2022.

✿ Mr. Roopnarine Satram, Former Commissioner, resigned in December 2021.

The Secretariat

- 1) Ms. Wendy Ann Denanath –Secretary to the Commission
- 2) Mr. John Fraser – Legal Assistant
- 3) Ms. Reshma Budhram – Research Officer
- 4) Ms. Carmelita Rampertab – Finance Officer
- 5) Ms. Liloutie Rampersad – Clerk to the Commission
- 6) Ms. Nyasha Walcott – Secretary to the Chairperson
- 7) Ms. Ashley James – Receptionist
- 8) Ms. Bharati Hansraj - Cleaner