

## 18<sup>th</sup> Session of the Human Rights Council, Wednesday, 21 September 2011

Answer to the recommendations of the Working Group on the 4<sup>th</sup> May 2011 by the Republic of Seychelles.

Honorable President of the Council  
Distinguished representatives of member States  
Distinguished representatives of observer States of the Council and of the United Nations Agencies  
Ladies and gentlemen

On behalf of the Government of Seychelles, it is indeed a great honour for me to be once again before the Council, this time to present the answers of our Government to the recommendations of the Working Group on the 4<sup>th</sup> May 2011.

Some years ago, reflecting on the way ahead of the nation President James Michel stated:

*"Our destination is clear; we should work harder, we should be more productive in order to live a happier life in the beautiful little country that it is ours. A reinvigorated economy will bring more benefits and opportunities to our young people so that they can go further. [And then he added] Measures and strategies divorced from the human element have no real sense."*

In Seychelles the concept of a great nation is not defined by its budget surplus or bank reserves, but by the happiness index of each one of its citizens: we call that people-centered development. A development that takes into consideration the individuals that make up the workforce and take special care of the people they too care about.

Concomitant with the development in tourism, fisheries, financial services and others we have, since the beginning, kept focus and without failure provided the required elements for the development of the most valuable resource a country could have: the human resource.

The legislative framework in Seychelles encompasses the necessary mechanisms to secure economic growth and the implementation of social programs whilst the fundamental rights and freedoms of the people are safeguarded.

In this endeavor we have welcomed the assistance of numerous partners, from friend States to regional and international organizations such as the African Commission on Human and Peoples' Rights and the European Union.

The Government of Seychelles wishes to convey its special gratitude to the Human Rights Council for being one of these partners. The Council has provided guidance throughout the whole procedure of the Review and even assisted with funds for the participation of Seychelles delegates in the sessions.

## RESPONSES TO THE RECOMMENDATIONS OF THE WORKING GROUP

### Ratification or accession to international Human Rights treaties

#### Recommendations

Recommendation of general character: to continue efforts with regard to the ratification and implementation of core human rights treaties, and develop further the institutional framework for the implementation of human rights standards contained therein.

1. International Convention for the Protection of All Persons from Enforced Disappearances: This Convention, done in December 2006 is fairly new. Seychelles has not signed it nor ratified it.
2. Optional protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution and child pornography: Seychelles signed this Protocol in 2001 but has not ratified it. There are two Optional Protocols to the CRC, both done in May 2000. Seychelles is party to the one of them: the Protocol on the Involvement of Children in Armed Conflicts.
3. Optional protocols to the International Covenant on Civil and Political Rights: There are two Optional Protocols to the Covenant on Civil and Political Rights: The First Optional Protocol establishes an individual complaints mechanism. The Second Optional Protocol abolishes the death penalty; Seychelles became party to both Protocols in 1992 and 1994 respectively.

4. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: This Protocol establishes complaint and inquiry mechanisms for the Covenant. Seychelles has not signed it.
5. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Seychelles ratified the Optional Protocol to the CEDAW in March 2011.
6. Optional Protocol to the Convention on the Rights of Persons with Disabilities: The Optional Protocol, opened for signature in March 2007, establishes an individual complaints mechanism for the Convention similar to those of the International Covenant on Civil and Political Rights. Seychelles signed it in March 2007 but has not ratified it.
7. Optional Protocol to the Convention against Torture: Seychelles is not party to the Protocol.
8. 1954 Convention relating to the Status of Stateless Person: Seychelles is not party to this Convention. In a nutshell the Convention intends to protect stateless persons from mistreatment, abuses and discrimination linked to their status of not being citizens of any country.
9. The 1961 Convention on the Reduction of Statelessness: Seychelles is not party to this Convention. The Convention intends to avoid the incidence of statelessness therefore recognizing the right of every person to a nationality.

**Answer or comment:**

In general, the Government finds no impediments to acceded or ratify these international instruments, however it was noted that concerning the conventions and protocols that have not been ratified, the Government will maintain its policy. This entails that treaties will be submitted for approval in accordance with the "Seychelles Procedure for Execution of Treaties", whereby, by implementing the appropriate provision of the Constitution, all relevant ministries, departments and national stakeholders are consulted, the treaty is submitted to the scrutiny of the executive and the legislative and the recommendations for approval are based on national socio-economic conditions, plans, priorities, etc.

## National Human Rights Commission

### Recommendations

- Ensure that the National Human Rights Commission accords in full with the Paris Principles and provide it with adequate resources.
- Ensure that the National Human Rights Commission is independent, and has civil society representation
- Strengthen the role and capacity of initiative of the Chair

### Answer or comment:

Seychelles National Human Rights Commission already abides to some of the Paris Principles, which are contained in Resolution 48/134 of 20 December 1993 of the United Nations General Assembly. A change on the scope of its functions, powers and membership would require an amendment to the "Protection of the Human Rights Act, 2009". It may also convey other administrative measures such as budget allocation, or increase of it.

The Government of Seychelles has taken note of this recommendation and it will review the proposal in due time.

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## Elections

### Recommendations

1. Ensure that the Election Advisory Board is balanced and representative in order to ensure the independence of the Electoral Commissioner.
2. To set up a comprehensive electoral commission.
3. To transform the post of Electoral Commissioner, an official appointed by the government, into a truly independent and collegiate Electoral Commission;
4. Invite the National Human Rights Commission to monitor the elections

### Answer or comment:

**Items 1-3:** The Six Amendment of the Constitution and amendments to the Elections Act have already been enacted. These amendments followed the 2009

Constitutional Review Report where the Constitutional Review Committee recommended the establishment of an Electoral Commission in place of the Electoral Commissioner.

The Sixth Amendment to the Constitution gives provisions to Article 115 for the creation of an Electoral Commission. The Commission, of five members, has already been appointed; the members sworn into office on the 2<sup>nd</sup> August 2011.

According to the new procedure, for the appointment of the chairman and members of the Election Commission, the Constitutional Appointments Authority (CAA) recommended seven candidates to the President and the President appointed five members including the Chairman.

**Item 4:** The Government welcomed this recommendation and decided that the Human Rights Commission may be invited to monitor the elections.

## Media

### Recommendations

1. Ensure that the Seychelles Media Commission is balanced and representative and fully independent.
2. Better ensure freedom of the press.
3. To amend the legal code that applies to media licensing and libel allegations, allowing for greater liberalization of the media and the availability of media to all parties and candidates during election seasons.
4. Facilitate greater diversity in radio broadcasting in the context of the current review of the Constitution.

### Answer or comment

**Items 1 and 2:** In January 2011, following the enactment of the Seychelles Media Commission Act, the President appointed the members of the Seychelles Media Commission (SMC); this is the chairman and 6 members.

The membership is made up of representatives of the National Assembly, the Department of Information, the National Council for Children (NGO), the National Commission for UNESCO and a retired Headteacher. It is to be noted that the member from the Seychelles National Commission for UNESCO exercises the post at the SMC in her personal capacity only.

The SMC Act also provided for the appointment of a Member nominated by the Seychelles Media Association.

The Seychelles Media Commission is an independent regulatory body, which oversees, promotes and protects media activities in Seychelles, protect the rights of consumers, as well as the rights of journalists to freedom of expression, in accordance with Article 22 of the Constitution, and their right to access to information as per Article 28 of the Constitution.

It is also mandated to ensure that media in Seychelles is accountable to the public, and to act as an arbiter in conflicts between newspapers, TV and radio and citizens who have valid complaints against them, without the need to undertake expensive and lengthy court proceedings, etc.

#### **Items 3 and 4:**

The Government has taken note of these recommendations, which will mainly imply amendment of the existing legislation and will give consideration to them in accordance and within the context of the current review of the legislation.

#### **Reporting commitments under human rights treaties**

##### **Recommendations /answer or comment**

1. To ensure that the strategy to address the preparation and submission of outstanding reports to Treaty Monitoring Bodies is successfully implemented.

Further steps to ameliorate the implementation of this strategy are being taken by the Government and works in the preparation of some outstanding reports have been initiated.

2. Work with OHCHR to prepare a Common Core Document as a way to streamline and reduce the burden of Treaty reporting.

Preparation of this document may be organized as the preparation of national reports under some of the HR conventions. However the lack of referral centers with sufficient and updated data impinges these kinds of exercises.

3. To submit the reports due to treaty bodies, especially of the ICCPR and ensure full cooperation with this mechanism and communicate needs in terms of technical assistance for this purpose to the competent organs of the United Nations.

Two consultants have already been contracted for the preparation of the national reports under the ICCPR and the ICESCR and works in their preparation are on its way.

### Special Procedures

#### Recommendations

- Consider the extension of an open and standing invitation to the United Nations Special Procedures as a way of informing and supporting human rights reforms.
- Respond to questionnaires of special procedure mandate holders.

#### Answer

The Government of Seychelles welcomes this recommendation which will allow Special Rapporteurs to visit Seychelles to monitor and report on human rights issues in the country. The standing invitation to the United Nations Special Procedures will be extended.

### Gender

#### Recommendations

1. Adopt laws and promote programmes aimed at eliminating gender inequality, especially as regards access to opportunities and remuneration for men and women.
2. Strengthen measures to systematically integrate gender in public policies and, where appropriate, through gender sensitive budgeting.

#### Answer or comment

In Seychelles men and women have equal opportunities where it comes to applying for studies, for a job, etc. Likewise remunerations are paid in accordance with the

specificities of the post and other relevant parameters, without considering whether the employee is a man or a woman.

Mainstreaming of gender is an ongoing process that still requires increased commitment. Measures and programmes are being implemented and the Government is committed to this process. The recommendation for introducing gender sensitive budgeting has been presented by the Department of Social Affairs.

### Domestic violence and protection of women and children

#### Recommendations

1. Develop programs to prevent, punish and eliminate all forms of violence against women and children, including domestic violence, rape, sexual exploitation and trafficking in persons;
2. Establish effective procedures and mechanisms to receive, monitor and investigate complaints on ill-treatment and abuse of children, including sexual abuse, through a child-sensitive inquiry and judicial procedure, including the protection of the right to privacy of the child;
3. Continue adopting practical measures for the implementation of protection of children, eradication of violence and abuse, particularly in homes, in schools and in other institutions involved in the care and protection;
4. Provide targeted training and capacity building to law enforcement officials;
5. Take steps to enhance access to counseling and related services for victims of domestic and sexual violence;

Strengthen the judiciary system in order to address violence against women and children and high rates of children facing sexual abuse;

#### Answer or comment

Statutory laws against domestic violence and for the protection of women and children are already in place. Also in place are the mechanisms for review of these laws as to make them more adapted to the needs of protecting women and children.

Moreover, the Government has approved the recommendation of the Department of Social Affairs to give full and due support and commitment to ensure the realization of the National Gender-Based Violence Strategy and costed plan of action, especially linked to:



- i) training of stakeholders such as judiciary and the police,
- ii) responding to the holistic needs of victims and perpetrators,
- iii) developing specific legislation and legislative structures,
- iv) developing specialist material and technical tools (e.g.records),
- v) rehabilitation programmes

### Age of Criminal responsibility

#### Recommendations

1. Establish a clear minimum age of criminal responsibility at an internationally acceptable level ;
2. Raise the minimum age of criminal responsibility in compliance with international standards;

#### Answer or comment

Section 15 of Seychelles Penal code expressly provides that a person below the age of seven is not criminally liable. Whilst those in between the age of seven and twelve would be liable if they know that they should not do the acts giving rise to the offences. This principle of limited liability depending on ones mental capacity is universal, at the same time there is no universally accepted age of criminal responsibility.

The Government considers that relevant provisions in the Penal Code should remain as they are. Therefore for the time being Seychelles will not raise the minimum age of criminal responsibility.

### Youth

#### Recommendations

Take steps to reform the system for juvenile justice to ensure it is brought in line with international standards set out in the Convention on the Rights of the Child (CRC).

### Answer or comment

The Standards set out in the CRC refer to the "United Nations Standard Minimum Rules for the Administration of Juvenile Justice" ("The Beijing Rules") approved on 29 November 1985.

The Government recommended, as an immediate measure, that there be dissemination of the "Rules", in particular to the institutions and agencies directly involved in juvenile justice.

In due time, the content of the "United Nations Standard Minimum Rules for the Administration of Juvenile Justice" will be separately submitted to the Executive as to obtain their formal approval and guarantee their introduction and implementation.

### Judiciary

#### Recommendations / Answer or comment

1. Take steps to increase the efficiency and transparency of its judicial institutions, and eliminate lengthy pre-trial detentions

**Item 1:** Whilst not admitting that there is any lengthy pre-trial detention within the current Constitution context, the Seychelles judiciary is actively carrying out reforms with a view to shorten pre-trial detentions.

2. Reinforce efforts in improving conditions in the penitentiary facilities

**Item 2:** the Prison Department is constantly engaged in improving and upgrading the prison facilities. A new prison was to be opened this month and the refurbishment on the current block was also to commence on this date.

3. Establish *de jure moratorium* on the use of corporal punishment.

#### **Item 3:**

Corporal punishment is illegal and unconstitutional in the Republic of Seychelles and none has been carried out by the Court since the promulgation of the 1993 Constitution.

## Sexual orientation

### Recommendations

1. Bring its legislation into conformity with its commitment to equality and non-discrimination, by prohibiting discrimination based on sexual orientation or gender identity;
2. Take appropriate steps to ensure that same-sex activity between consenting adults is not subject to criminal sanctions;
3. Decriminalize any discriminatory provisions with respect to lesbian, gay, bisexual and transgender persons;  
 Combat discrimination against lesbian, gay, bisexual and transsexual persons through political, legislative and administrative measures

### Answer or comment

The Constitution of Seychelles makes provision for all persons to be free from discrimination on all grounds. Article 27 of the Constitution states that *"Every person has a right to equal protection of the law including the enjoyment of the rights and freedoms set out in this Charter without discrimination on any ground except as is necessary in a democratic society."*

The one provision in the Penal Code for "sodomy" does not directly discriminate homosexuals as it is intended for penalizing the offence of sodomy as such. In any case this provision has never been applied against anyone.

The Government will decide as to when and to what extent the legislation could be amended to better guarantee the Constitutional precept that lesbian, gay, bisexual and transsexual persons are not to be discriminated in Seychelles.

## Health

### Recommendations /Answer or comment

1. Prioritize access to reproductive health education and contraceptives for adolescent girls, also without parental consent To increase young people's awareness of HIV/AIDS and on a wider basis to provide reproductive health counselling where necessary through the various Government social programmes;

**Item 1:** A national Sexual and Reproductive Health Policy (2011) is being finalized by the Ministry of Health, which is based on principles of gender equality and equity.

2. Step-up efforts to overcome social scourges, including the consumption of drugs.

**Item 2:** The development of custodial and voluntary rehabilitation programmes is currently ongoing.

## Water

### Recommendations

- Ensure universal access to safe drinking water and sanitation
- Redouble efforts to implement the recommendations of the Committee on the Rights of the Child concerning the application of environmental rules to ensure universal access to drinking water and sanitation.

### Answer or comment

Provisional statistics from the 2010 Census indicate that most households receive treated water from the Public Utilities Company's (PUC) mains supply. However during periods of prolonged low rainfall PUC implements its emergency plans which entail restrictions at different intervals and areas to ensure a reasonable stock of water.

The Public Utilities Company is also expected to set up 7 desalination plants which will increase the capacity supply to 17 million litres of water per day. One is already being connected which will yield 1 million litres of water and the rest are expected to be connected and be ready to produce water within the next two months. Parallel to this, the Company is also implementing its Drought Action Plan which is aimed at completing projects which maximise the use of the country's water resources.

## Miscellaneous

### Recommendations/ Answer or comment

1. Implement the recommendations of the 2008 Constitutional Review.

**Item 1:** The Constitutional Review recommendations are being implemented, on a case to case basis, examples of this are the Public Order Bill and the Sixth Amendment to the Constitution, which is already in force.

2. To bring, in the context of a constitutional review, the Public Order Act governing public assemblies in line with the principles of the Constitution.

**Item 2:** The new Public Order Bill is before the National Assembly waiting for the Members' discussion and approval.

3. Continue the adoption and implementation of public policies aimed at protecting the persons with disabilities and ensure their equal access to dignified housing, employment and health

**Item 3:** authorities in the Ministry of Health, responsible for the implementation of the Convention on the Rights of Persons with Disabilities, have initiated preparations in the drafting of the national report under the Convention. Outcomes of the report will assist the Government in continue to adopt policies that protect persons with disabilities.

4. Consider the possibilities of adopting non-custodial sentences where feasible as well as measures to reintegrate the prison population into society

**Item 4:** the adoption of non custodial sentences is a prerogative of the courts in the exercise of their discretion.

Works to reintegrate offenders into society are undertaken by specialized staff at the prison. Also, the Rehabilitation of Offenders Act of 1996 affords an offender the opportunity to start fresh after a period of abstention from crime as it prohibits the unauthorised disclosure of the convictions in respect of these offences.

5. Put in place an independent Police Complaints Commission

**Item 5:** The Government is of the view that presently there is no necessity to establish a dedicated Police Complaints Commission, as complains against the Police are largely on the grounds of poor service delivery, rather than abuse of powers by the Police.

6. Put in place appropriate mechanisms to ensure that individuals and members of the political opposition are able to take part freely in public rallies and peaceful demonstrations, and to express their views without fear of reprisals, including via all forms of media.

**Item 6:** The Public Order Bill which is before the National Assembly for approval contains provisions intended to address demands related to this recommendation.

7. Consider devising and implementing a national strategy for Human Rights Education which would cover both the formal educational sector and a wider public for enhancing human rights awareness

**Item 7:** according to the Department of Social Affairs, Civic Education, which incorporates human rights education, is already part of the PSE Curriculum of the Ministry of Education. Moreover within the Social Renaissance Initiative, additional support/partners are seeking to reinforce in this activity. In any case the driving force, the organization that spearheads is the ministry responsible for education. The Government is ready to endorse the appropriate programmes.

8. Request necessary technical assistance and cooperation for implementation of the recommendations accepted in the Universal Periodic Review

**Item 8:** The Government of Seychelles welcomes this recommendation and will request technical assistance when implementing the recommendations of the UPR whenever necessary.

Mr. President

This First Universal Periodic has been a very fruitful and enriching experience for the Seychelles. From:

- the wide national consultation undertaken during the preparation of the National Report,
- the detailed scrutiny of the Report made by the participants in the Working Group, that conveyed to 77 recommendations,

- the presentation of these recommendations together with an Information Note lecturing on the steps in the process to the Cabinet of Ministers, including the Vice-president and the President of Seychelles,
- To the final outcome which will be the report produced by the Council on the UPR for Seychelles.

We are in the position now to say that we have made full use of this important process and learned more about good practices in the implementation and enforcement of human rights.

The objective of increasing human rights' awareness at all levels has been achieved and the government has been once more convinced of the need to keep in place the mechanisms that would allow continuity in human rights dissemination. No need is to say that for us neither this Session nor the publication of the report on Seychelles Universal Periodic Review will be the end of the process. We will be attentive to the views and recommendations of our national and international partners.

**Honorable President of the Council**  
**Distinguished representatives of member States**  
**Distinguished representatives of observer States of the Council and of the**  
**United Nations Agencies**  
**Ladies and gentlemen**

Thank you for accompanying us in the construction of the small great nation that Seychelles is. We look forward to also work together as to make of the Second Universal Periodic Review another rewarding and fruitful experience.

I thank you for your kind attention.

