

REPORT AND SUBMISSION OF THE  
SEYCHELLES NATIONAL HUMAN RIGHTS COMMISSION  
& OMBUDSMAN  
TO THE UNIVERSAL PERIODIC REVIEW

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**INTRODUCTION**

The Ombudsman is appointed by the President of the Republic from candidates proposed by the Constitutional Appointments Authority, pursuant to Article 143(1) of the Constitution of Seychelles. The functions of the Ombudsman are prescribed in schedule 5 thereof.

The Protection of Human Rights Act No.3 of 2009, which came into operation on 12<sup>th</sup> January 2009, provided inter alia, for the establishment and appointment of the National Human Rights Commission (section 3). The Commission consists of a Chairperson and two other members. Section 3(3) of the Act provides that "The Chairperson shall be the person appointed as Ombudsman under Article 143(1) of the Constitution".

Hence in Seychelles, the Ombudsman and the National Human Rights Commission function separately with the Chairperson performing a dual role within the limits prescribed in the Constitution and The Protection of Human Rights Act. The fusion of these institutions under a broad mandate to protect and promote Human Rights in Seychelles, is under consideration.

**1. INTERNATIONAL TREATY OBLIGATIONS**

**(a) RATIFICATION**

Seychelles has ratified and brought into force several International and Human Rights Treaties and Conventions. Some of them are:

- (1). Convention on the Elimination of All Forms of Discrimination against Women (1992) E
- (2). United Nations Convention on the Rights of the Child (1990) E
- (3). International Convention on the Protection of the Rights of All Migrant Workers And Members of their Families (1995) E
- (4). Second Optional Protocol to the International Covenant on Civil and Political Rights Aiming at the Abolition of Death Penalty (1995) E

- (5). Convention on the Rights of Persons with Disabilities (2009) E
- (6). International Convention on the Elimination of All Forms of Racial Discrimination (1978) E
- (7). International Covenant of Economic, Social and Cultural Rights (1992) E
- (8). Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1992) E
- (9). International Covenant on Civil and Political Rights (1992) E

At a Regional level, Seychelles has ratified the following African Union Human Rights Treaties:

- (1). Treaty Establishing the African Economic Community (1991)
- (2). Constitutive Act of the African Union (2001)
- (3). Protocol to the African Charter on Human Rights of an African Court on Human and People's Rights (1998)
- (4). Protocol on the Pan-African Parliament (2003)
- (5). African Charter on Human Rights and Human Rights (1992)
- (6). Protocol on the Rights of Women (2006)
- (7). OAU Refugee Convention (1980)
- (8). Cultural Charter (1977)
- (9). African Children's Charter (1992)
- (10). 1968 Convention on the Conservation of Nature (1977)
- (11). Convention on the Prevention and Combating of Terrorism (2003)

**(b). REPORTING**

Seychelles is a party to eight out of nine of the core UN Human Rights Treaties, which all carry reporting obligations. It is recognized that Seychelles has faced difficulties in submitting reports, due to significant financial and human resource constraints. Seychelles is up-to-date with its reporting obligations under the Convention on the Elimination of Discrimination against Women and the Convention on the Rights of the Child. Since the last reporting period, Seychelles has submitted its Initial State Party Reports under the Convention on the Rights of Persons with Disabilities and the Convention on the Protection of the Rights of All Migrant Workers and their Families.

Seychelles has not signed the Convention on Enforced Disappearances but work is being done for signature and ratification of this instrument as well.

Outstanding reports are due under the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention against Torture, and the International Convention against Racial Discrimination.

In 2012, the Government set up the Seychelles Human Rights Treaty Committee, whose mandate included coordinating the reporting obligations of Seychelles. The Committee is co-chaired by the Foreign Affairs Department and the Attorney General's Office, and is composed of relevant representatives from governmental and non-governmental agencies, including the National Human Rights Commission and the Ombudsman offices.

## **2. EDUCATION**

The Government became responsible for teaching in 1944. Prior to that, teaching was done by missionaries. Now free primary and secondary education is provided by the state. Private education has been an option since the first schools started. It was only in 1994 that the demand for private schools started to increase dramatically. There are 3 private schools on the main island of Mahé, and 1 such school on Praslin. The University of Seychelles was established in 2009. There are currently 175 students.

The level of education attainment is very high in Seychelles. Many students have excelled in foreign examinations, at various levels from advanced level to Degrees, both Bachelor and Masters. The University of Seychelles is affiliated to some of the most prestigious British universities.

However, the quality of education offered at primary and secondary levels in state schools has declined over the years with a scarcity of local teachers, increased dependence on expatriate teachers and degradation in the levels of student behaviour and discipline.

## **3. FAIR TRIAL**

Article 19 of the Constitution of Seychelles provides that "Every Person charged with an offence has the right, unless the charge is withdrawn, to a fair hearing within a reasonable time by an Independent and Impartial Court established by law". Article 19(2)(a) provides that "Every person who is charged with an offence – is innocent until the person is proved or has pleaded guilty".

The Constitution provides for the appointment of independent judges through a Constitutional Appointments Authority. Up to 2009 there were only 5 judges in the

Supreme Court, and 4 judges in the Court of Appeal. Since 2009, there are 9 judges in the Supreme Court, and 5 in the Court of Appeal.

The increase in the number of judges in the Supreme Court has not reduced the backlog of cases. This is due to several factors:

1. Increase in the number of piracy cases. The trials take about one month due to long lists of witnesses, both local and foreign.
2. Increase in the number of murder trials.
3. Increase in the number of drug cases.
4. Concentration of cases among a limited number of lawyers resulting in their inability to undertake civil cases.

Hence there are delays in the disposal of mainly civil cases. Measures are being taken to minimise this situation.

In the Court of Appeal, out of the 5 judges, only 2 are resident in Seychelles. Hence that court sits only thrice a year. Two weeks per each session. This has also caused delays in the Appellate Division. With the possible appointment of one more judge resident in Seychelles, the delays may be able to be reduced.

Similar delays are experienced in the Magistrates' Courts. Lawyers give preference to their cases in the Supreme Court and the Court of Appeal. In Tribunals, such as the Family Tribunal, Employment Tribunal and the Rent Board, there are no delays, as parties mostly appear in person or are being represented by junior lawyers. In general, trial delays in Seychelles are not so serious as to warrant any Constitutional Court challenge under Article 19 of the Constitution.

#### **4. CHILDREN'S RIGHTS**

Seychelles acceded to the UN Convention on the Rights of the Child (CRC) on 7<sup>th</sup> September 1990, ratified the optional Protocol on the involvement of Children in Armed Conflict on 10<sup>th</sup> August 2010, and signed, but not ratified the Optional Protocol on the Sale of Children, Child Prostitution and Pornography on 23<sup>rd</sup> January 2001.

Regionally, Seychelles has also ratified the African Charter on the Rights and Welfare of the Child (ACRWC). This charter is more comprehensive as it considers The African Socio-Cultural and Economic Realities more closely. It also emphasises the need to include African cultural values and experiences when dealing with the rights of the child, in matters such as child marriage, definition of "child" as a person under 18 years of age, granting the right to return to school after pregnancy, and protecting handicapped children.

The Children Act of Seychelles, which was enacted in 1982, was amended in 1998 to establish a Family Tribunal, with jurisdiction over issues of custody and maintenance of children. By a further amendment in 2005, the Family Tribunal was mandated to order maintenance to children between the ages of 18-21 years who were pursuing further studies. This amendment further provides that in determining questions with respect to the upbringing of a child, the child's well being shall be the primary

consideration. A statutory check-list was provided wherein it states that the ascertainable wishes and feelings of the children should be taken into consideration by the Tribunal.

Child Protection is regarded by the Government of Seychelles as a central priority. The Child Protection Unit was created in 1999, and works in partnership with the child protection partners such as the National Council for Children, The Family Squad of the Seychelles Police, and social workers.

The National Commission for Child Protection was established by Children (Amendment) Act 2005. This Commission advises the Minister on matters of policy regarding to child protection and also recommends policies and procedures for review and coordination of activities of various bodies concerned with child protection. Seychelles has also appointed an Ambassador for Children's and Women's Rights.

## **5. DOMESTIC VIOLENCE**

In 2000, the Government of Seychelles felt the need for a law for the Prevention of Domestic Violence, and enacted The Family Violence (Protection of Victims) Act. This Act empowers the Family Tribunal to entertain applications for Protection Orders and also orders that will ensure the protection of members of families and their property against domestic violence.

"Family violence" is defined in the Act as:-

"Conduct, whether actual or threatened, by a person towards, or towards the property of a member of the person's family that causes that or another member of the person's family to fear for or to be apprehensive about, the personal safety, or well being of that or the other member of the person's family".

The Protection Orders issued by the Family Tribunal cover a wide area. Some of them are, prohibiting the offending member from premises or even the locality, prohibiting contacting, harassing, threatening or intimidating a family member, prohibiting damaging of property, both movable and immovable. These orders are valid for the period specified in the order, but does not exceed 24 months. Intentional violation of such an order is punishable, upon conviction, with a fine of SR30,000 or to imprisonment for 3 years or to both fine and imprisonment.

The police rarely intervene in a domestic dispute unless it involves a weapon or a major assault. Police services however has a "Family Squad" to investigate domestic violence and other family issues. The Social Affairs Division of the Ministry of Social Development and Culture and "The Women in Action and Solidarity Organisation" (WASO) a local NGO, provides counselling services to victims of rape and domestic violence.

Since 2010, the Gender Secretariat in the Ministry of Community Development conducts an information campaign to end gender based violence, using spots on TV and other related media.

## **6. THE NATIONAL HUMAN RIGHTS ACTION PLAN 2015-2020**

The plan was initiated in 2012 by the Ministry of Foreign Affairs, with the support of the Commonwealth as well as the Seychelles Human Rights Treaty Committee (SHRTC): the latter is composed of various ministries (such as the Ministry of Environment), the judiciary, the Bar Association of Seychelles as well as representatives from Commissions, the civil society and non-governmental organisations. This resulted in a concise two part documentation: the first part being a situational analysis of human rights locally and its second part consisting of action plans that the participating institutions have voluntarily committed to implement over its duration. In line with other regional action plans, it represents seven broad areas of focus: international and regional treaty obligations, human rights institutions, human rights awareness, education and training, vulnerable groups, civil and political rights, economic, social and cultural rights and environmental rights. The plan will most likely be formally validated prior to the end of this year.

## **7. RIGHTS OF WOMEN**

Seychelles is member of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), oftentimes described as an international bill of rights for women. Seychellois women enjoy a wide range of rights enshrined in local legislations and have a high level of representation in governmental institutions: the National Assembly is ranked second worldwide in terms of the highest female members in its parliament, without any affirmative action in place. Seychelles is considered a strongly matriarchal society with a large majority of households being led by women. There are provisions in the constitution protecting the maternal role of women, particularly in the employment setting, and employment laws further prohibit discrimination on the grounds of gender so that women effectively contributes to the country's economy and eradication of poverty.

## **8. ELECTORAL REFORMS**

In October 2011, the Electoral Commission of Seychelles commenced the Electoral Reform process in line with its mandate under Article 116 of the Constitution (6<sup>th</sup> Amendment). The objective of the reform was to reflect the wishes of the Government and the electorate to enshrine acceptable modern democratic principles in the electoral laws of Seychelles. Thereafter works were carried out to review other legal instruments that have an impact on elections such as the Elections Act 1995 and the Political parties Act 1991, both of which had been

promulgated in the early years of Seychelles' migration to a multiparty democracy with the aim of encouraging citizens to take part in the political life of the country and in elections.

These initiatives constitute far-reaching changes and great strides in electoral integrity, transparency and accountability in Seychelles. The Electoral Reforms has managed to instil nationwide a greater degree of trust among stakeholders through a party liaison engagement. One of the most tangible results of the electoral reforms was the transition of the Office of the Electoral Commissioner to that of the Electoral Commission, recommended by the Commonwealth as an international best electoral practice. Membership of the commission is pluralistic and must undergo a competitive recruitment process. The Commission is endowed with additional mandate to carry out electoral reforms, hence the creation of an Electoral Reform Forum comprising political parties' representatives in consultation with the public.

## **9. HOUSING AND LAND REDISTRIBUTION**

The housing situation in Seychelles, whilst not free from issues, is manageable. The Government has undertaken to provide housing and has in fact honoured such undertaking. The Government is to be commended for embarking on an ambitious housing programme with the aim of empowering the citizen to own his own home. This is impressive for a country with limited means given its recent colonial past, where land tenure was in the realm of very few privileged individuals and religious entities such as the Catholic Mission or the Anglican Diocese. Few ordinary citizens could aspire to own land and most were predestined to remain submissive tenants to arbitrary landlords.

Land tenure in Seychelles has changed dramatically over the last 40 years. In 1975 at least 26% of land in Seychelles belonged to the Government with the remainder belonging to a few private landowners. From 1975 Government has bought and sold more than 5,000 plots of land mainly for housing purposes. This has been achieved whilst maintaining a balance with protecting the environment and the natural and cultural heritage of the people. 51% of the total land area of Seychelles has been dedicated to Nature Reserves, Special Nature Reserves and Areas of Outstanding Beauty.

Home ownership in Seychelles stands at an impressive rate of 71%. A total of 25931 houses were counted in the population census of 2010 of which around 92% were occupied. The occupied dwellings comprised 24770 households. Out of these, 70.7% are owner occupied, 10.55% are rented from Government, 8.7% are rented privately, 0.6 % are rented from private employers and 9.5% are rent free.

The proportion of dwellings constructed of stone or blocks has increased from 29% in 1971 to 85 % in 2010. The fact that there are no slums in Seychelles is noteworthy. This

does not detract from the fact however that there may be negligible cases of home overcrowding. The National Human Rights Commission has recorded only one case of house overcrowding in the past 5 years. The average household size in the 2010 population census was 3.7 persons (3.7 per household) compared to 3.9 persons in 2002. Noteworthy are the facts that 93% of households access treated water, 4.5% harvest rainwater and 97% of households have flush toilets.

The high rate of home ownership is in part attributable to an extensive Social Housing programme under which the Government continues to construct low cost houses and accommodation for the needier citizen. This is coupled with loans, concessions and subsidies offered to facilitate land acquisition and home ownership for the abler citizen. Challenges nevertheless remain and the need to address long waits on housing allocation lists and on the state land allocation lists are high priorities on the national agenda.

## **10. PRISONS**

Currently, the following facilities make up the prisons in Seychelles. The main and biggest prison is situated on Mahé, the biggest and most populous island in the archipelago. Other penitentiary facilities are located on the outer islands of Marie Louise and Coétivy. The prison services has adopted a non-coercive style of management of prisoners, based on a model that is recommended by most correctional literary authorities and adopted by most modern developed and civilised countries. This approach is based on the premise that whilst prisoners must be contained against their will, yet they will be managed with their consent. While subscribing to that model, the service envisions the rehabilitation of inmates as its ultimate goal.

With challenges such as a massive growth in prison population and dwindling local manpower, the service has managed to keep the prisons in Seychelles in a safe and manageable state by recruiting foreign labour. In 2012 the Prison service drafted the Prison Strategic plan 2012-2016. The service aspires to provide a service which exceeds international minimum standards. This is no small task for a service of 148 staff catering to the needs and demands of 784 prisoners. The National Human Rights Commission notes the following achievements by the prison service for improving the general living conditions in prisons: With a rapidly growing prison population, the prison service has managed to avoid overcrowding by swiftly employing a multi-thronged approach of transferring male convicts to Coétivy Prison on a voluntary basis, expansion of Coétivy facility, and the introduction of a licence release for Coétivy prisoners. Other achievements impacting the living conditions include the construction of a Secure Incarceration Unit, the expansion of the Female Prison and the refurbishment of the Male Prison.

Prison life has markedly improved by the refurbishment of the Male Prison, construction of a prison bakery, improved medical services resulting from better medical facilities and the prison employing a full-time Doctor, a full-time nurse and two full-time clinic assistants. A balanced diet under the supervision of the prison doctor is ensured and two cooks are employed to prepare prisoners' meals. Breakfast, lunch and dinner are provided on a daily basis and special meals to cater for special needs are prepared daily. This caters for prisoners on special diets due to medical or religious issues or because they do not eat the type of food prepared. The prison currently caters for the cultural diversity as the religious practices of the prison population.

Several rehabilitation programmes such as the Restorative Justice Initiative (to reconcile offenders with their victims with a view to reintegrate them into society), an outreach program, a capacity building programme for female prisoners to teach them skills to start their own home-based industry upon release and even allowing them to have control over their revenue while learning the skills to keep their own books in a home based industry, are in full swing at the prison.

Prisoners are encouraged to actively take up sports and amenities are provided for volleyball, soccer, basketball and domino games. They are also encouraged to pursue academic studies up to diploma level and the prison service has facilitated inmates to successfully sit for IGSCCE examinations. Vocational training in welding, carpentry, masonry, farming, husbandry, performing arts, office work and record keeping are also provided.

There is still room for improvement and the National Human Rights Commissions calls on the Government to support the prison service to address the remaining challenges of dealing with toxic mixes of prisoners, managing both male and female prisons on the same grounds, and managing a youthful prison population (67% being aged 18 – 37 years). Attention should also be directed towards the roles of stakeholders in impacting on the already stressed correctional facilities, namely the judicious imposing of custodial sentences by adjudicators. Although the Probation Act was amended to permit the judiciary to impose community service orders as an alternative to imprisonment in appropriate cases, inferior tribunals and adjudicating bodies such as the Family Tribunal continue imposing custodial sentences which further strain prison facilities in cases where neither the offender nor the victims stand to benefit from such sentence.

## **11. HUMAN RIGHTS CHALLENGES**

### **HIGH CRIME RATE**

Over the last five years, Seychelles has unfortunately witnessed its prison population increase at an alarming rate of 93%. This increase in prison population places

Seychelles at the top of the list of countries having the highest incarceration rate in the world and translates into it having more people per 100,000 persons in the prisons. The high prison population brings its own challenges notably increasing pressures to bear on existing detention facilities. It also has negative economic impact and brings undesirable social repercussions.

There is undisputedly a dire and urgent need for Government to study this dilemma and to address the factors influencing crime rate such as spiralling cost of living and narcotics abuse and the need for its timely intervention.

## **EFFICIENCY OF POLICE**

A marked reduction in the quality of policing services was observed nationally over the past decade and this has been heavily criticised by the public. 16% of households or 1 in every 6 households reported to have been victims of crime in 2010. Out of these 4,062 households, only 73% or 2979 households reported the incident to the police. A significant percentage of cases registered by the National Human Rights Commission alleged unprofessionalism by police officers. The National Human Rights Commission has also observed that there is room for improvement of the state of detention cells in some police stations. Lighting, ventilation, and maintenance issues were observed in some instances as was the issue of security of police officers.

It is encouraging to note that the Government has taken steps to address the challenges and weaknesses in its police force. Since 2014, a major restructuring exercise was initiated and is still ongoing. This has yielded results. Police Response Time within 10 minutes has reached 80%, crime has started to drop, and the rate of crime detection is just above 60%. Other achievements include the setting up of a Marine Police Unit for law enforcement on the seas, the establishment of a Dog Unit on Praslin to aid crime detection on that island, the reconstruction and renovation of select police stations and the improvement of detention facilities.

## **SUBSTANCE ABUSE**

Seychelles faces unprecedented challenges in regards to drugs use, misuse, abuse and illicit trafficking. For many years the main problem had been the use of cannabis. However, since 2006 the country's drug consumption patterns have changed dramatically with Heroin being the first drug of choice amongst people seeking rehabilitation services. The injection of heroin has brought new problems, including the sharing of drug paraphernalia such as needles and syringes. Heroin is now intricately linked to the serious public health issues of HIV AIDS and Hepatitis C. Drug dependent persons who are injecting heroin are also engaged in transactional and commercial sex to feed their habits. By doing so, this group has numerous

contacts with others in society who choose to engage with them, exposing all to higher risks of contracting HIV and other blood-borne viruses.

Cognisant of the public health and social integrity dangers that these behaviours pose to the country, the Government drafted a new National Drug Control Master Plan for the period 2014 to 2018 and has channelled much effort into introducing or reinforcing measures to reduce demand for drugs in the most vulnerable section of the population – the children and youth. It has also established and reinforced strong supply reduction measures to disrupt the illicit trade of drugs. The new Master plan gives prominence to the key issues of rehabilitation and social reintegration of recovering drugs addicts.

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