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GOVERNMENT NOTICES

The following Government Notice is published by Order of the President.

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GAZETTE SUPPLEMENT

The following Bill is published as a Legal Supplement to this number of the Official Gazette.

Gazette	Description	Price
53	The Truth, Reconciliation and National Unity Commission Bill, 2018. (Bill No. 6 of 2018)	12.00

**THE TRUTH, RECONCILIATION AND NATIONAL UNITY
COMMISSION BILL, 2018**

(Bill No. 6 of 2018)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and the Commencement
2. Interpretations
3. Mandate and Purpose
4. Appointment of the Commissioners
5. Removal of the Commissioners
6. Meetings, Hearings and Decisions
7. Functions of the Commission
8. Powers of the Commission
9. Secretary, Staff, and Experts
10. Status of Evidence and Testimony
11. Reports and Recommendations
12. Amnesty
13. Offences
14. Duration
15. Budget and Auditing of the Commission

**THE TRUTH, RECONCILIATION AND NATIONAL UNITY
COMMISSION BILL, 2018**

(Bill No. 6 of 2018)

OBJECTS AND REASONS

The Bill seeks to make provisions to enable the President to establish a Truth, Reconciliation and National Unity Commission to promote National Unity and Reconciliation.

The Bill comprises of 15 sections.

Section 1 and 2 provides for short title, commencement and interpretation.

Section 3 provides for the mandate and purpose of the Act.

Section 4 provides for the appointment of Commissioners.

Section 5 provides for removal of Commissioners.

Section 6 provides for the meetings, hearings and decisions of the Commission.

Section 7 and 8 provides for the functions and powers of the Commission.

Section 9 provides for the appointment of Secretary, staff and experts of the Commission.

Section 10 provides for status of evidence and testimony.

Section 11 provides for Reports and Recommendations of the Commission.

Section 12 provides for amnesty.

Section 13 provides for offences and penalties.

Section 14 provides the duration of the Commission; and

Section 15 provides for the budget and auditing of the Commission.

Dated this 20th day of June, 2018.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

**THE TRUTH, RECONCILIATION AND NATIONAL
UNITY COMMISSION BILL, 2018**

(Bill No. 6 of 2018)



A BILL

OF

**AN ACT to enable the President of the Seychelles to
establish a Truth, Reconciliation and National Unity
Commission to Promote National Unity and Reconciliation**

ENACTED by the President and the National Assembly.

1. This Act may be cited as the Truth, Reconciliation
and National Unity Act 2018, and shall come into operation on
such date as the President may determine, by notice in the
Gazette appoint.

Short title and
commencement

2. In this Act —
- (1) "Commissioner" means a member of the Commission and includes the Chairperson and Vice-Chairperson;
 - (2) "Perpetrator" means a person who the Commission has found to have committed any violation and includes a person who has given an order, or materially assisted someone, to commit such a violation;
 - (3) "Rehabilitation" means the psychological or mental support offered to both victims and perpetrators in need of such support, with a view to their achieving complete closure, including restoring their credibility in society;
 - (4) "Reparation" means the compensation, facility or concession made available to the victim;
 - (5) "Suspect" means a person who is suspected of having committed any violation and includes a person who is suspected of giving orders, or materially assisting someone, to commit such violations;
 - (6) "The Commission" means the Truth, Reconciliation and National Unity Commission established by the President, pursuant to this Act;
 - (7) "Victim" means a person having suffered any significant harm or detriment as a result of any violation;
 - (8) "Violation" means a human rights abuse committed during, or in relation to, the Coup

D'état of 5 June 1977 and includes the following acts —

- (a) unlawful killing;
- (b) unlawful imprisonment or other deprivation of physical liberty;
- (c) torture;
- (d) rape;
- (e) enforced disappearance of persons;
- (f) kidnapping;
- (g) forceful eviction from legally owned house or land;
- (h) illegal acquisition of property or business;
- (i) wrongful denial of the right to employment;
- (j) wrongful termination of employment;
- (k) forced exile;
- (l) other acts of a similar character causing suffering, or injury to body or to mental or physical health.

3.(1) The Mandate of the Commission shall be to receive complaints in respect of alleged violations and to gather, collate and analyse information and evidence with respect thereto, and to make findings.

Mandate and purpose

(2) The objectives of the Commission are —

- (a) to ascertain the truth with respect to complaints of alleged violations;
- (b) to create an accurate and objective public record of the complaints of alleged violations;
- (c) to help bridge divisions caused by any violations;
- (d) to provide closure for the victims and perpetrators of the violations;
- (e) to determine—
 - (i) the appropriate reparations for victims;
 - (ii) the appropriate rehabilitation for victims and perpetrators; and
 - (iii) whether or not to grant amnesty;
- (f) to unite the people of Seychelles around a common agenda that will help them move forward in confidence and with a sense of common purpose and ensure that such violations do not reoccur.

(3) The Commission shall carry out its functions in an open, impartial and transparent manner.

(4) The Commission shall abide by universally recognised legal principles and human rights norms.

4.(1) The Commission shall consist of seven Commissioners, namely, a Chairperson, a Vice-Chairperson and five other Commissioners. Two Commissioners shall be non-Seychellois. The Commissioners shall be appointed by the President, as follows—

- (a) the President shall select the Chairperson and the two non-Seychellois Commissioners from persons proposed by the Constitutional Appointments Authority;
- (b) the remaining four Commissioners shall be selected by the President from candidates proposed by the following representative bodies; the Citizens Engagement Platform Seychelles and the Seychelles Inter-faith Council. Each of the representative bodies shall propose five candidates from which the President shall appoint two Commissioners. The Commissioners shall designate the Vice-Chairperson from amongst their number.

(2) The Commissioners shall be persons of recognised good standing and high moral character, capable of performing their functions independently, impartially and in compliance with the highest ethical standards.

(3) Every Commissioner shall, prior to assuming office, take the following oath before the President:

"I solemnly declare that I will perform my duties and exercise my powers as a Commissioner of the Truth and Reconciliation Commission honourably, faithfully and impartially without fear or favour, affection or ill will. (So, help me God)".

(4) No Commissioner shall be liable to any investigation, prosecution, action, or suit in respect of any matter or thing done by him or her in the discharge of his or her functions and duties under this Act.

5.(1) A Commissioner may, at any time, resign as Commissioner with one month's notice by tendering her or his resignation, in writing, to the President.

(2) The President may, after consulting the Speaker of the National Assembly and the Chief Justice remove any Commissioner from the Commission for negligence or gross misconduct.

(3) Where a Commissioner dies, resigns or is removed from the Commission, the vacancy shall be filled in the same manner as that appointment was made under section 4.

(4) The Commission may discharge its functions notwithstanding one vacancy in its membership.

Meeting,
hearings and
decisions

6.(1) The meetings and hearings of the Commission (collectively "meetings") shall be held at such place and on such date and time as designated by the Chairperson.

(2) The quorum for the meetings shall be four commissioners, including the Chairperson or Vice-Chairperson.

(3) The meetings shall be chaired by the Chairperson and, in his or her absence, by the Vice-Chairperson.

(4) The meetings of the Commission shall generally be open to the public. The Commission may hold non-public meetings if the Commission is of the opinion that —

- (a) it is in the interest of justice;
- (b) there is a likelihood that harm may ensue to any person; or
- (c) reconciliation may not be achieved by the proceedings being open.

(5) In making decisions, the Commission shall make every effort to reach consensus. However, if consensus cannot be reached, the Commission may make decisions by a simple majority of the quorum.

(6) The Commission may, if it so desires, invite experts to its meetings to assist the Commission, provided that the Commission shall not be bound to accept the opinion of such experts.

(7) The Commission shall keep written records of its proceedings. At the discretion of the Commission, the public shall be entitled to have access to the records of proceedings of the Commission.

(8) In the discharge of its functions, the Commission shall —

- (a) observe applicable and appropriate rules of natural justice and international fair trial standards;
- (b) not be bound by evidentiary rules that may undermine the object and purpose of the Commission;
- (c) reach its decisions on a balance of probabilities; and
- (d) respect the right to dignity of suspects, perpetrators, victims, and witnesses.

7. The Commission shall perform such functions as are necessary to enable it to achieve its objectives, including, but not limited to —

- (a) gathering evidence pertaining to the violations, including hearing live witness testimony;
- (b) determining the responsibility of individuals in respect of any violations, providing its reasons and proposing measures to prevent the recurrence of such violations;

Functions
of the
Commission

- (c) preparing reports of its activities and findings, based on evidence it has assessed to be credible and reliable and submitting the same to the President;
- (d) determining and recommending appropriate remedies;
- (e) discharging other functions referred to in this Act.

Powers of the Commission

8.(1) The Commission may make such rules of procedure and evidence as it thinks fit, in particular for the conduct and management of its inquiries and investigation.

(2) The Commission may —

- (a) visit any establishment or place, enter on land or premises to gather information or inspect property;
- (b) have access to public or private archives regardless of restrictions contained in the laws of Seychelles and make copies of any documents found therein;
- (c) hold any hearing it deems necessary;
- (d) summon any witness or suspect, examine him or her on oath, and compel the production of any document or article. A spouse of a suspect may not be compelled to testify against the suspect;
- (e) seek assistance from relevant authorities, including the Police and Judiciary to achieve its objectives, including the provision of security to any witness;

- (f) establish such sub-committees as it deems necessary and determine the seat thereof;
- (g) hold meetings at any place, within or outside the Republic;
- (h) in consultation with the appropriate government authorities, obtain permission from a foreign country to receive evidence from, or gather information in, that country.

(3) For the purpose of clarity, in exercising its powers, the Commission shall be vested with all the powers of the Supreme Court.

9.(1) The Commission may appoint such national or international staff or experts as it deems necessary to assist it in the discharge of its functions.

Secretary, staff and experts

(2) The appointment, functions, duties, conditions of service and benefits of the staff or experts shall be established by the Commission.

10. Evidence given before the Commission shall not be admissible in any civil or criminal proceedings, other than in a prosecution for perjury.

Status of evidence and testimony

11.(1) The Commission shall submit its reports outlining its investigations and findings to the President.

Reports and Recommendations

(2) The Commission may submit interim reports and shall submit a final report within a reasonable time after it has completed its inquiries.

(3) The final report shall include findings and recommendations with a view to achieving justice and national unity.

(4) The President shall make the final report public and lay a copy before the National Assembly, within two months of receiving it.

(5) At the end of its mandate, the Commission shall submit all the documents and files in its possession to the President.

Amnesty

12.(1) Any perpetrator seeking an amnesty ("petitioner") shall file a petition for amnesty with the Commission within the time-limit set by the Commission.

(2) The petitioner shall disclose in the petition all facts relating to the incident for which the amnesty is being sought, including and not limited to the following —

- (a) the scene of the incident;
- (b) a description of the incident, including the date it occurred;
- (c) any loss suffered by any person.

(3) The petition shall include a statement of sincere apologies to the victim or victims. The Commission shall, as far as reasonably practicable, require the perpetrator to provide the apologies to the victim or victims in person;

(4) A perpetrator, who has provided a full and frank disclosure of his or her culpable acts in relation to any violation and has offered sincere apologies to the victim or victims, shall be granted an amnesty in relation to the acts or omissions that were part of the disclosure and apology.

(5) In determining whether —

- (a) the petitioner has provided full disclosure of his or her culpable acts; and

- (b) the apology is sincere, the Commission may hear testimony from the victim or victims, perpetrator, or any other person it deems appropriate.

(6) A person who has been granted amnesty in respect of a violation shall not be criminally or civilly liable in respect of the acts or omissions that were part of the disclosure and apology. The amnesty shall not affect any order by the Commission for reparations or rehabilitation.

13. A person who —

Offences

- (a) fails to attend the Commission after having been summoned to do so;
- (b) refuses to take an oath before the Commission;
- (c) refuses, except in the exercise of his or her right against self-incrimination, to answer fully and satisfactorily to the best of his or her knowledge and belief, any question put to him by the Commissioners during the hearing;
- (d) refuses to produce any document when required to do so by the Commission;
- (e) knowingly gives false evidence, or evidence which he or she knows to be misleading;
- (f) insults a Commissioner during a hearing;
- (g) does anything in relation to the Commission which, if done in relation to a court of law, would constitute contempt of court,

commits an offence and shall be liable to a fine not exceeding SCR50,000 and to imprisonment for a term not exceeding 10 years.

- Duration** **14.**(1) The Commission shall be a statutory corporation.
- (2) The mandate of the Commission shall commence upon the Commissioners taking the oath in accordance with Section 4(6) and shall end upon the delivery to the President of its final report.
- Budget and auditing of the Commission** **15.**(1) The Commission shall be allocated a budget from the Consolidated Fund to cover its operation, including the remuneration of Commissioners and support staff.
- (2) The Commission shall prepare a budget and submit it to the Minister of Finance for approval.
- (3) The Commission may receive donations through the Ministry of Finance from local and foreign agencies or associations that do not have any vested interest in the outcome of any proceedings of the Commission.
- (4) The remuneration, allowance and other benefits, if any, of the Commissioners shall be prescribed by the minister responsible for Public Administration prior to the appointment of the Commissioners.
- (5) The accounts of the Commission shall be audited by the Auditor General.